



# Bulletin

Motor Vehicle Sales Authority of British Columbia



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## **Mall Licensing**

### Industry, Compliance and Licensing - cooperation works

Cooperation between Industry and the VSA's Compliance and Licensing departments often leads to a successful outcome. Compliance activities don't only focus on unlawful activities and offences; they can help dealers improve their business practices in some situations.

Ten years ago, the original concept for creating the VSA by industry stakeholders, was to improve the vehicle sales marketplace. This bulletin illustrates some results of that original concept.

Off-site permits have often been a source of controversy with dealers. The VSA listened to the issues, and in order to find a solution, worked with dealers who are involved with off-site operations on a regular basis.

In the first hearing reported in this bulletin, the dealer's professional business practice of keeping detailed documentation protected the dealership. In the other hearing case, the VSA's investigative abilities and the dealer's actions helped defend against the allegations levied at the dealership.

#### **Mall Licensing**

To assist dealers in operating a secondary off-site mall location, the VSA has created a new license category. In the past, a dealer operating a second location in a mall store-front would need to obtain an off-site licence from the VSA. Due to the recent increase in dealerships operating in mall locations for extended periods, this licence makes the process easier and more cost effective for dealers.

The VSA developed the following guidelines to make it easier to licence mall store-front dealerships:

- Such mall store-front dealerships are to be associated with an already established dealership but will be issued a separate Motor Dealer Licence.
- The mall dealership can be registered under the small new dealer category comprising the \$788 annual fee, the application fee and the lower mainland assessment if applicable.
- The VSA will consider waiving the need for a letter of credit on a case-by-case basis.
- The VSA will consider accepting a simplified business plan requirement on a case-by-case basis.
- The VSA will allow the dealership to use the section 15 MDA Regulation exemption (new

#### **Recent VSA Hearing Decisions**

##### **O'Neils v Woodgrove Chrysler**

This case illustrates the distinction between a misrepresentation by the seller, and a misunderstanding by the consumer. In this case, the buyers misunderstood the implications of the price manipulation that was used to enable them to obtain financing. Consistent and thorough documentation was provided to the O'Neils by the dealer. This evidence showed that the price manipulation was fully explained to the O'Neils, and that the dealership staff made no misrepresentations about the price of the vehicle or conditions of the financing. The decision of the Registrar was to dismiss the O'Neils' complaint against Woodgrove Chrysler.

**\*Link to more on this case @ bottom of page.**

##### **Taylor v Vernon Toyota**

This unique case involves a Business Manager, Lisa Lynne Probyn, who used her position at Vernon Toyota and her access to her parents' personal information and bank account to arrange transactions. Ms. Probyn provided her parents with a vehicle as a gift, but it was actually financed in their name. Assuming the vehicle was a gift, the parents made no payments and Ms. Probyn made the payments in the background. Eventually, Ms. Probyn defaulted on the payments and the vehicle was seized by the bank. Vernon Toyota investigated and uncovered other issues of concern about Ms. Probyn and ended her employment. There was no evidence of profit by the dealer in the transactions by Ms. Probyn, and as the vehicle was presented as a gift by her as a daughter and not as the business manager, the dealer was not found to have committed a deceptive act. The Taylors noted the cooperation and assistance of Vernon Toyota in this matter. Criminal charges against Ms. Probyn were recommended to crown counsel. This case illustrates the unique time when an employer was not vicariously liable for their employee's conduct.

**\*\*Link to more on this case @ bottom of page.**

vehicles only, carries no inventory) regarding business premises requirements under section 3 (1)(a)(vi) of the MDA. The dealer is responsible for ensuring proper zoning and that they have a business licence.

- If the dealership terminates their mall lease (short-term lease) the VSA will allow that dealership to move their registration or allow it to sit in a "pending" status for up to six months, or until the expiration of the registration, whichever is shorter. Section 10 of the MDA requires immediate surrender of registration upon ceasing business as a motor dealer.

Several dealers who followed this process have expressed their satisfaction.

To obtain a licence to operate in a mall location, contact the VSA Licensing Department at 604-574-5050 loc 707, or email to [licensing@mvsabc.com](mailto:licensing@mvsabc.com).

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\* More on the O'Neil case can be found at [vehiclesalesauthority.com/compliance\\_decisions\\_11.08.2011.1.htm](http://vehiclesalesauthority.com/compliance_decisions_11.08.2011.1.htm).

\*\*More on the Taylor case can be found at [vehiclesalesauthority.com/compliance\\_decisions\\_25.07.2011.htm](http://vehiclesalesauthority.com/compliance_decisions_25.07.2011.htm).