



Dealer payroll records reveal licence evaders

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Dealers and salespeople who have failed to comply with compulsory licensing have been warned since 2004 that a day of reckoning was coming. When VSA (formerly MDC - the Motor Dealer Council) investigators and licensing officers discover unlicensed sales and customer-related business personnel (including managers and dealer principals) at dealerships, the administrative assessments can be severe, including backdated licence fees to June 1, 2004, or the date of first employment.

Despite these repeated warnings, evidence was clear by early 2006 that as many as 1,000 salespeople had been deliberately evading the licensing requirement since 2004; some with the help of their dealer principals and managers.

Outcomes of hearings before the Registrar included the realization that the only reliable way to truly verify compliance by any dealer is through a review of the payroll records and comparison of the salesperson licensing records.

Noncompliance is an insult to the vast majority of dealers and salespeople who have done their best to comply. The integrity of any licensing system lies in the assurance of uniform compliance.

Salesperson certification and standards of practice for dealers and salespeople were cornerstones of the voluntary Motor Dealer Standards Association (MDSA) created by the industry in 1999. This led to the foundation of the MDC (now VSA) in 2004 and compulsory salesperson licensing.

"It seems ironic to us that some of those same dealers who were leaders in creating the regulatory environment we have today, are now among those not in compliance," said Earl Manning, the VSA's Director of Licensing and, formerly, the MDSA's Executive Director.

The pilot project: payroll audits

During 2006, the MDC created a pilot project to conduct payroll audits of dealerships. This was carefully constructed to include dealerships small and large, all over the province, and including a representative sample of new car, independents, recreation vehicle and motorcycle dealers.

"Frankly, our licensing officers and investigators got tired of the lies and every excuse imaginable. Dealers pretended that they thought the salesperson was licensed, or that they weren't really selling, or that they were new, or that they forgot, or that someone else was supposed to have done it," said Ken Smith, the Registrar and President of the VSA.

"The Motor Dealer Act empowers the regulator to request business records when investigations indicate that violations may be occurring. We have clear legal advice that this includes payroll records."

The payroll audits have quickly separated the conscientious dealers from the evaders. It has been a costly lesson for the violators, who face backdated fees with administrative assessments attached.

The audits have generated a protest from some dealers and some complainants have sought legal opinions about whether the VSA has the right to examine payroll records.

"We welcome this challenge as it is another way for us to convince the industry that there is no way to escape compulsory licensing," Smith said. "If we had a better way than payroll audits to ensure compliance we would be using it. It is because of a few dealers and their devious methods of avoidance, that we are forced to go to these lengths."