

Tribunals Ontario

Tribunaux décisionnels Ontario

Licence Appeal Tribunal

Tribunal d'appel en matière de permis



Citation: *Ifill v. Registrar*, Real Estate and Business Brokers Act, 2002, 2021 ONLAT REBBA 12587

Date: 2021-06-28

File Number: 12913/REBBA

Appeal from a Proposal of the Registrar under section 13 of the *Real Estate and Business Brokers Act, 2002*, S.O. 2002, c. 30, Sch. C to Refuse a Registration.

Between:

Warren Ifill

Appellant

and

Registrar, *Real Estate and Business Brokers Act, 2002*

Respondent

AMENDED DECISION AND ORDER

ADJUDICATOR: Harriet Lewis, Member

APPEARANCES:

For the Appellant: Justin M. Jakubiak, Counsel

For the Respondent: Jonathan K. Harter, Counsel

Heard by Videoconference: April 27, 28, 2021

REASONS FOR DECISION AND ORDER

OVERVIEW

- [1] The applicant, Warren Ifill (“Mr. Ifill”), applied for registration as a real estate salesperson in July 2019. On September 25, 2020, the Registrar issued a Proposal (“the Proposal”) to refuse Mr. Ifill’s application. That Proposal is the subject of this appeal.
- [2] The Proposal states that Mr. Ifill is not entitled to registration for the following reasons:
- i) He does not meet the eligibility requirements for reapplication as set out in s. 17 of the *Real Estate and Business Brokers Act, 2002* (“the Act”).
 - ii) In the alternative,
 - (1) He is not entitled to registration because he cannot reasonably be expected to be financially responsible in the conduct of business [s. 10(a)(i) of the Act].
 - (2) His past conduct affords reasonable grounds for belief that he will not conduct business in accordance with the law and with integrity and honesty [s.10(a)(ii) of the Act]; and
 - (3) He has made a false statement or provided a false statement in an application for registration [s. 10(a)(iii) of the Act].
- [3] This is the second application by Mr. Ifill to become a licensed real estate agent. He first applied in April 2016. In June 2017, the Registrar issued a proposal to refuse his registration based on his past conduct (the “2017 Proposal”).
- [4] In its decision on the appeal of the 2017 Proposal, dated March 28, 2018, (“the 2018 Decision”), the Tribunal found that that the evidence given was not enough to overcome his past misconduct. The Registrar was directed to carry out the 2017 Proposal.¹
- [5] Section 17 of the Act establishes the eligibility requirements for re-application. As a re-applicant, Mr. Ifill must show both that one year has passed between his earlier refusal and his new application and that there is new or other evidence, or material circumstances have changed.

ISSUES

- [6] The issues I must decide are as follows:

¹ *Warren Ifill v. Registrar, Real Estate and Business Brokers Act, 2002*, 2018 CanLII 54775 ONLAT

Issue 1: Is Mr. Ifill eligible to re-apply for registration because the requisite time has passed and there is new or other evidence, or material circumstances have changed?

Issue 2: If he can reapply:

- (a) Can he reasonably be expected to be financially responsible in the conduct of business?
- (b) Does his past conduct afford reasonable grounds for belief that he will not carry on business in accordance with law or with integrity and honesty?
- (c) Did he make a false statement or provide a false statement in an application for registration?

Issue 3: Depending on the answers to the questions above, what is the appropriate outcome?

RESULT

[7] The requisite time has passed between Mr. Ifill's first refusal and his second application. Mr. Ifill has provided new or other evidence and has shown a material change in his circumstance, so he is entitled to reapply for registration. His current financial circumstances are stable. His past conduct occurred some time ago and has been adjudicated twice. I do not find it reasonable to conclude that he will not carry on business in accordance with the law and with integrity and honesty in the future. I do not conclude that he made a false statement on his application such that he is now barred from registration, but I find that this is an appropriate case for registration with conditions.

Issue 1: Mr. Ifill's eligibility to reapply for registration

Law

[8] Mr. Ifill's previous application for registration was refused in the decision on the appeal of the 2017 Proposal. Section 17 of the Act provides that in order to reapply for registration, the appellant has the burden to show on a balance of probabilities that the required time has passed since his registration was refused and that there is new or other evidence or his material circumstances have changed.

Evidence and analysis

[9] The Registrar does not take issue with the first requirement for reapplication: that enough time has passed since the refusal. It does take issue with Mr. Ifill's claim that there is new or other evidence, or a material change in his circumstances.

- [10] In his appeal of the 2017 Proposal, Mr. Ifill filed character evidence in the form of letters from three individuals: Paul Mangion, principal broker and owner of The Mortgage Centre; Ryan D'Souza, CEO of Crossroads Financial Solutions Inc., an insurance and investment business; and Saab Sahota, owner and broker of record at King Realty, Mr. Ifill's proposed employer. Each of those individuals, all of whom are registered in regulated industries, appeared and testified at this hearing in support of Mr. Ifill's registration. Police Constable Lawrence Edwards, a friend of Mr. Ifill, and Mr. Ifill himself also provided sworn testimony on this issue.
- [11] Each of the four supporting witnesses had a been provided with a copy of the 2012 decision, [*Ifill (Re)*, [2012] OLATD No.1] terminating Mr. Ifill's licence as a motor vehicle dealer and salesperson. All but Mr. Edwards acknowledged having read it. Each of Mr. Mangion, Mr. D'Souza and Mr. Sahota confirmed the contents of the letters they had written for the hearing on the 2017 Proposal but provided additional evidence and were subject to cross-examination on their evidence.
- [12] Mr. Mangion has been in the mortgage business for 20 years and has owned and operated The Mortgage Centre for approximately 14 of those years. He employed Mr. Ifill in February 2013, first as an agent, and then as a broker and Mr. Ifill has been employed there ever since. Because Mr. Ifill maintains an office in The Mortgage Centre premises, Mr. Mangion and Mr. Ifill have almost daily contact. Mr. Mangion knew of Mr. Ifill's conduct as a motor vehicle dealer when he hired him so kept close oversight of Mr. Ifill's work for the first six or seven months, but since then has trusted him to perform his duties professionally and without supervision. He has neither received complaints nor heard of any other issues with Mr. Ifill's work. Mr. Mangion was formerly a licenced real estate agent and has no concerns about Mr. Ifill's holding a real estate salesperson's licence in addition to his responsibilities as a mortgage broker for The Mortgage Centre.
- [13] Ryan D'Souza has operated his insurance and investment business for 18 years. Mr. Ifill was referred to him by one of his senior employees and at the time of his hiring in 2014, Mr. Ifill told Mr. D'Souza about the termination of his motor vehicle sales licences. He was given a copy of the Tribunal's decision in that case, read it, and did both a background check and a credit check on Mr. Ifill before hiring him. He described Mr. Ifill's conduct while working with him as being "squeaky clean" with no issues, despite an external audit by the Financial Services Commission of Ontario which was conducted not long after Mr. Ifill joined his firm. Although Mr. Ifill is not located in his agency's office, Mr. D'Souza speaks to him two to three times each day. In his opinion, the mortgage practice and the insurance practice work smoothly together through referrals and he believes the same would be true if Mr. Ifill were also to have a real estate licence. He finds Mr. Ifill to be a committed employee who has set and met annual performance goals. He has met some of Mr. Ifill's clients and has never had cause for concern with his work. He described Mr. Ifill as being committed to his family, including his partner and children, and noted that he has been working to better himself through his enrollment in a two-year MBA program. He acknowledged that the decision on his motor vehicle sales licences is a "blemish" on Mr. Ifill but he believes that he "has moved on".

- [14] Saab Sahota is the broker of record who has continued his commitment to hiring Mr. Ifill should he be licenced as a real estate salesperson. He first made that commitment in the letter he tendered in respect of the 2017 Proposal and stands by it. He has known Mr. Ifill since 2016 and has personally worked with him on mortgage and insurance referrals for his real estate clients. He has been aware of the details of Mr. Ifill's past misconduct since they first met, but he believes that Mr. Ifill has learned from his mistakes. Should Mr. Ifill be registered, Mr. Sahota intends to personally oversee his work for at least the first year of registration. In addition, his brokerage makes both one-on-one and group training available to all its 165 agents on a monthly basis.
- [15] Lawrence Edwards has been an Ontario Provincial Police Constable for 28 years and for 25 of those years has known and considered Mr. Ifill a good friend. He describes his friend as being "low-key, calm, a hard worker" for whom he has much respect. He believes he is a good father and a good partner to his spouse of ten years. He was provided with a copy of the decision concerning Mr. Ifill's motor vehicle dealer and salesperson licence but chose not to read it or to discuss it with Mr. Ifill, even when Mr. Ifill offered to do so. He has been advised by counsel of some of the details of Mr. Ifill's dishonest behaviour at that time. He makes no excuses for him, but he does not believe that Mr. Ifill would let him down by similar bad conduct in the future. He expressed his hope that Mr. Ifill would be given another chance to become licenced as a real estate agent.
- [16] The testimony of each of these four men displayed a strong commitment to Mr. Ifill's future and respect for the person that they find him to now be. This support and commitment appear to be far stronger than the documentary evidence that was before the Tribunal at the appeal hearing of the 2017 Proposal and I accept much of it as new evidence.
- [17] Mr. Ifill also testified to his changed circumstances. He is now 48 years old. He is the father of a grown daughter and of two other children, ages 13 and 7. He lives with his partner in Brampton, but keeps an address in Pickering, Ontario where his mother lives.
- [18] It was clear from Mr. Ifill's demeanour and the description of his attempts to redeem himself that he is not used to expressing his feelings and by the time he testified he appeared fatigued. Nonetheless, he described his commitment to education, to his family, to his friends, and to his community.
- [19] With obvious excitement, Mr. Ifill advised the Tribunal that he had just received word that he had passed the thesis course required as the last milestone to receiving his MBA from a U.K. university. He completed the degree on-line and in addition to carrying out his other professional duties. He sees his accomplishments as the basis on which he can become a role model for youth in his community and, through example, an unofficial mentor to them. He is a member of the board of a small non-profit organization and in that capacity has joined in an application for a grant to establish a program for marginalized youth in Scarborough.

- [20] Mr. Ifill repeatedly expressed shame over his past conduct, and attributed his behaviour to ignorance, greed, selfishness, placing his trust in others and his own poor time management. He has not sought formal psychological or spiritual counselling but said that he has privately reflected on his past conduct. In his words, he has “dealt with it for twelve years... [and is] not entitled to forgiveness” but by showing he has reformed should “receive some absolution”. He believes that his further education has been the key to his personal growth and understanding of himself as a person. He believes that he has demonstrated his ability to change for the better through his success in the mortgage and insurance business, and through his educational accomplishments. He said that he would never consider repeating his past behaviour because he couldn’t and wouldn’t let down the individuals who have supported him.
- [21] Three years have passed since his appeal of the 2017 Proposal and the 2018 Decision and nine years since his motor vehicle sales licences were terminated. Mr. Ifill has earned the respect and confidence of the individuals who provided character evidence on his behalf. Three of those witnesses are themselves registrants in highly regulated industries, the fourth is a long serving law enforcement official. Mr. Ifill has continued to try to improve himself through further education by studying for an MBA. As will be noted below, he has also taken some steps to clarify and address the issues of sales taxes arising from his failed motor vehicle dealership and he now has achieved an “excellent” credit rating
- [22] For those reasons, I have determined he has met the statutory criteria of material change as set out by s. 17 of the Act.

Issue 2 (a): Can Mr. Ifill reasonably be expected to be financially responsible in the conduct of business?

Law

- [23] Section 10 (1)(a)(i)(2) provides that an applicant is entitled to registration unless “having regard to the applicant’s financial position...the applicant cannot reasonably be expected to be financially responsible in the conduct of business”.

Evidence and analysis

- [24] The rationale in the Proposal for refusal of registration based on financial irresponsibility rests on Mr. Ifill’s failure to remit retail sales tax owed by Total Auto Sales Inc. (“Total Auto”) to Ontario’s Ministry of Finance (“the Ministry”).
- [25] The testimony about the amount shown on Ministry records as owing by Total Auto as of the date of this hearing, including penalties and interest, remains a matter of dispute, but is approximately \$70,000.
- [26] Ms. Bobbi Kramer, an Accounts Manager and Collection Specialist with the Ministry, gave detailed evidence on the issue of the outstanding sales tax debt.

- [27] The Proposal states that as the only director of Total Auto, Mr. Ifill continues to owe the retail sales taxes which were collected but not remitted by Total Auto before its closure in 2011, plus any accrued interest and penalties. Mr. Ifill's failure to make good on a judgement issued by the Ministry is the basis of the Registrar's position that Mr. Ifill has shown himself to be financially irresponsible, and therefore not worthy of registration.
- [28] Mr. Ifill maintains that because he was not personally assessed for the outstanding obligations of Total Auto within a two year period from the dissolution of that corporate entity, s. 43 of the *Retail Sales Tax Act*, R.S.O. 1990, c. R.31 (the "Retail Sales Tax Act"), provides that any enforcement of the claim against him for debts of Total Auto is statute barred and he therefore is not bound to pay what the corporation owed.

Mr. Ifill's sales tax filings and arrears and dealings with the Ministry of Finance

- [29] Ms. Kramer's testimony covered the Ministry's dealings with Mr. Ifill about Total Auto. Ministry records for Total Auto, entitled "System Notes" and "Warehouse Notes", (the "System Notes"), filed as an exhibit by the appellant, record the Ministry's communications on the Total Auto file from June 30, 2000 through April 22, 2020.
- [30] Ms. Kramer testified that Total Auto repeatedly failed to make timely or accurate filings and to remit retail sales tax as required. An audit of Total Auto conducted in 2007 found arrears of retail sales taxes in the amount of \$36,784.67. The result of that audit was not appealed by either Total Auto or Mr. Ifill at that time.
- [31] Ms. Kramer also testified that on three occasions following the audit, Mr. Ifill made formal written commitments to the Ministry to pay Total Auto's tax arrears in installments and to make necessary filings. He made some filings and although he made some payments, in each case he failed keep to his agreements. His last payment was made in January 2011 and Total Auto stopped operating shortly thereafter. The Ministry registered a "judgement" against Total Auto, as she explained, without any judicial proceedings.
- [32] In 2010, the Ministry requested that the Ontario Motor Vehicle Industry Council ("OMVIC") terminate the licences of Total Auto and Mr. Ifill. Termination of Mr. Ifill's licences took place following a Proposal by the Registrar and a decision of this Tribunal in January 2012.

The information in the System Notes

- [33] The System Notes contain a record of some attempts by the Ministry to recover monies owing by seizure and sale of Total Auto's assets. The amount recovered is not clear from the materials filed and was not addressed in Ms. Kramer's testimony. However, Ms. Kramer stated that because it determined that collection efforts

against Mr. Ifill would not be fruitful, the Ministry decided in 2013 to not pursue him personally and did not assess him for Total Auto's tax arrears.

- [34] Ms. Kramer agreed that an assessment against a director of a corporate entity must be issued within two years of the dissolution of the corporation in order to recover any arrears from a director. Consequently, notwithstanding that Total Auto's debt for tax arrears, penalties and interest is still in the Ministry's records, it is not collectable against Mr. Ifill.
- [35] The System Notes record several contacts between Mr. Ifill and Ministry staff in 2016 which show that Mr. Ifill questioned the amount of the arrears and his personal liability for payment. These contacts appear to have occurred in connection with Mr. Ifill's first application for a real estate licence.
- [36] The last contacts shown on the System Notes include contacts with the Real Estate Council of Ontario ("RECO") in April 2020, again asking for information about the amount of Total Auto's debt.

Mr. Ifill's testimony about his financial responsibility

- [37] Mr. Ifill testified about his current financial status. He provided a letter from David Piccolo, his tax counsel, dated June 26, 2020, advising him that since he stopped being a director of Total Auto at the date of its dissolution in November 2016, and since no assessment was issued against him personally, the Total Auto debt is "uncollectable".
- [38] Included in Mr. Ifill's documents are copies of a July 21, 2017 notice from the Canada Revenue Agency confirming a GST/HST account balance for Total Auto of \$4,427.06, and a transaction receipt of the same date showing payment in full. He also testified that he currently has no outstanding judgements against him and provided a credit check statement from Equifax showing his current credit rating is "excellent".
- [39] Mr. Ifill's past failure to pay sales tax and his failure to honour his written commitments to the Ministry are evidence that Mr. Ifill has been financially irresponsible in the past. As such, there is some evidence that he cannot reasonably be expected to be financially responsible in the future. However, he is currently financially stable. His credit score is excellent. His current employers expressed no concerns about his handling funds while in their employ and as a real estate agent, he will not have control over the funds payable in a purchase or sales transaction. He has no legal obligation to make good the monies left owing by Total Auto. Considering all the evidence I am not satisfied, on a balance of probabilities, that he cannot reasonably be expected to be financially responsible in the conduct of his businesses should he now be granted a real estate licence.

Issue 2 (b): Does Mr. Ifill's past conduct give reasonable grounds to believe he will not carry on business in accordance with the law and with integrity and honesty?

- [40] The circumstances of Mr. Ifill's past conduct set out in the Proposal pertain to his ownership and operation of Total Auto and include fraudulent transactions with respect to the importation and sale of used automobiles, and noncompliance with tax obligations as a director of that dealership. As noted, that bad conduct led to the termination of his motor vehicle sales licences and was also the basis for the 2017 Proposal and 2018 decision to deny his registration as a real estate salesperson on his earlier application.
- [41] According to the Ontario Court of Appeal in *Registrar, Alcohol and Gaming Commission of Ontario v. 751809 Ontario Inc. operating as Famous Flesh Gordon's*, [2013 ONCA 157], the "reasonable grounds to believe" standard requires something more than mere suspicion but less than proof on a balance of probabilities. In other words, to refuse registration the Registrar does not have to show that that the past conduct of an applicant makes it more likely than not that he will not carry on business as required. The Registrar need only show that there are reasonable grounds for belief that his business will not be carried on in accordance with law and with integrity and honesty.
- [42] At the time of the 2018 decision, Mr. Ifill had been employed as a mortgage broker for six years, and as an insurance agent/advisor for four years. Since that decision, a further three years have passed, in which time Mr. Ifill has continued to work successfully in both capacities. He has successfully worked for nine years in a regulated environment without any harm to the public. His extended period of good conduct is strong evidence that he will continue to act in accordance with the law and with integrity and honesty.
- [43] Through building trust with colleagues and friends and obtaining further education, Mr. Ifill has made a material change to his circumstances, which supports my view that he is unlikely to revert to previous unethical behaviour. I therefore find that Mr. Ifill's past conduct does not at this time afford reasonable grounds for belief that he will not carry on business in accordance with the law and with honesty and integrity.

Issue 2 (c): Are there false statements on the application for registration?

Law

- [44] Section 10(1)(a)(iii) of the Act is clear that if an applicant "makes a false statement or provides a false statement in an application for renewal or registration", the applicant is not entitled to be registered.

Evidence and analysis

- [45] Ms. Angela Volpe (“Ms. Volpe”), the Manager of Registration for RECO, provided evidence concerning the registration process. She commented on Mr. Ifill’s July 10, 2019 application for registration and explained why the Proposal states that false information was provided on Mr. Ifill’s application.
- [46] The application now includes a clear warning on the first page that “it is an offence to provide false information on this application”. She noted that Mr. Ifill had correctly answered “yes” to questions five and six on the application form which enquire about any problematic conduct.
- [47] Question five asks about unpaid judgements against an applicant or a corporation of which the applicant is an officer or director. Question six asks whether any registrations or licences have been refused to the applicant or a corporation of which she/he is a director or officer. Ms. Volpe’s issue is with Mr. Ifill’s explanations of the background for those answers, which she finds to be inconsistent and inaccurate.
- [48] Brief explanations are provided by Mr. Ifill in an appendix to the application. In response to question 5, he stated that there are no unpaid judgements or unpaid debts outstanding against him personally. He describes a Ministry of Finance judgement against his “defunct corporation Total Auto Sales Inc”. Those statements are true. However, he continued his explanation by stating that he “awaits the ministry of finance go ahead and instructions to file Nil Reports for a few years in question....these balances are based on assessed amount for those assessed years Total Auto Sales was not operating not actual funds received by the corporation and not remitted”. Ms. Volpe stated, and I agree, that Mr. Ifill’s depiction of the basis of the assessment is not entirely accurate. Ms. Kramer’s evidence was clear that the assessment was based on monies found to be owing as the result of an audit of Total Auto’s RST liability, although she also said that he had failed to make proper/timely filings.
- [49] In commenting on question 6, Mr. Ifill disclosed that his previous motor vehicle sales licences were terminated. He does not specifically state that his previous application for a real estate licence was refused but does refer to the previous RECO application by indicating that details about his vehicle sales licence termination were disclosed in respect to a previous RECO application.
- [50] After the current application was submitted, Mr. Ifill was given an opportunity by RECO to further elaborate on his answers. In a letter to Jackie Foster, a RECO registration agent, dated August 20, 2019, he elaborates in detail about the conduct that led to the termination of his motor vehicle dealer and salesperson’s licences.
- [51] In another note to Ms. Foster sent on October 2, 2019, he addresses the issue of the Ministry’s judgement against Total Auto. He states that he believes both the CRA and the Ministry assessed Total Auto for the same amount. He says that he owed filings to the CRA, made those filings and paid off the monies owing. He claims that

for some time he was unaware of the Ministry's judgement against Total Auto but believes the amount it was owed was the same debt as was owed to the CRA. He states that he is trying to get more information from someone named Patrick "who will look into the process of filing my outstanding taxes so I may get Total Auto Sales owed amount adjusted to actual values for payment". He notes that he has no written information from the Ministry, or he would have attached it.

[52] When asked about that communication during his testimony, he attributes his confusion over what Total Auto owed to each of the CRA and the Ministry to the amalgamation of the tax system in 2010 which he understood assigned the collection of GST and PST to the CRA. He stressed that the documents provided to Ms. Foster were accurate reflections of how he understood Total Auto's tax situation at the time the communication was written.

[53] In his well reasoned argument, counsel for RECO referred to *Hadi Mahmoodi v. Registrar, Real Estate and Business Brokers Act, 2002*, 2017 CanLII 50049 (ON LAT), in which the Tribunal found that the applicant tried to mislead the Registrar by downplaying his role while he was a dealer and salesperson of used cars, and found that false statements were "knowingly made in an attempt to minimize his past misconduct in his application".

[54] I agree with Ms. Volpe's testimony that honesty in completion of an application is the first test of an applicant's integrity. However, taking all the evidence into consideration, although Mr. Ifill's understanding was wrong, I cannot find that Mr. Ifill intended to mislead in this case. He repeatedly acknowledged the details of his poor conduct and expressed remorse. He acknowledged that RECO had previously refused his application based on his prior conduct, the details of which conduct were known to RECO and described in his first letter to Ms. Foster. While the wording of his explanation in the second communication to Ms. Foster could be read as an attempt by Mr. Ifill to minimize the amount owing to the Ministry by Total Auto, he clearly took the position that he personally owed nothing. The fact that the Ministry records were only obtained after a Freedom of Information request is evidence that at the time of the application, neither Mr. Ifill nor RECO had a clear picture of the Ministry's dealings with the Total Auto account, how much was owing and why, or the basis of the Ministry's decision not to pursue Mr. Ifill. Those documents were released on May 5, 2020, some months after Mr. Ifill's application and seven months after the note to Ms. Foster. Only after the documents were released did Mr. Ifill receive an email from his tax counsel, Mr. Piccolo, advising that he had reviewed the documents and could confirm that Total Auto's tax balance was over \$70,000, "the bulk of it as the result of an audit for the period ending March 31, 2007". Mr. Piccolo further definitively advised Mr. Ifill that because of s. 43 of the *Retail Sales Tax Act*, Total Auto's debt was uncollectable.

[55] It is apparent from the wording on the application form that having signed it, Mr. Ifill gave RECO consent to make further enquiries of the Ministry. He confirmed his willingness that they do so in the October 2, 2019 note to Ms. Foster by providing her with his Ministry contacts' names and telephone numbers. Based on the wording

of the application form he would know or expect that RECO would be likely to follow-up to ascertain the facts as it did.

- [56] I am persuaded that until he heard from Mr. Piccolo, Mr. Ifill was not clear on the amount of Total Auto's tax debt nor was he clear about whether the debt was entirely the result of an audit, or also included filing responsibilities or penalties incurred after the auto business closed. He also does not appear to be certain that he did not have to pay any of the money owed by Total Auto until the lawyer's advice made that clear. I therefore cannot find that he knowingly made a false statement on his application by incorrectly assuming he may have to make further filings with the Ministry to settle Total Auto's account as he did with the CRA.

Issue 3: What is the appropriate outcome?

Law

- [57] Pursuant to s. 14(5) of the Act, this Tribunal has the authority to substitute its decision for that of the Registrar, and to impose conditions. I have found that Mr. Ifill is entitled to a licence. I also believe this is an appropriate case for conditions.

Evidence and Analysis

- [58] Counsel for RECO argued against registration with conditions. He submitted that Mr. Ifill's background includes a history of dishonesty and that no terms and conditions can substitute for honesty. He made no further submissions concerning any conditions should the Tribunal determine registration with conditions would be appropriate.
- [59] A number of issues of about conditions were explored by the respondent's counsel in the cross-examination of Mr. Ifill and his witnesses. As I interpret them, one was the potential that there may be conflict problems were Mr. Ifill to practice as a real estate salesperson in addition to his mortgage and insurance work. A second was that Mr. Ifill may stretch himself too thin in managing the details required to practice in three distinct regulated industries. The third was the ongoing uncertainty as to whether Mr. Ifill has genuinely changed since Total Auto. These ongoing concerns of RECO as the regulator of the real estate industry, speak to the propriety of imposing some conditions on Mr. Ifill's licence and the conditions ordered below are intended to address those public interest concerns.
- [60] Every mortgage, insurance or real estate agent must be aware of and comply with the standards set by each industry for avoiding and handling conflicts of interest. Mr. Ifill is bound by those standards in respect to each industry in which he holds registration and will be as a real estate agent as well.
- [61] Each of Mr. Mangion and Mr. D'Souza were asked about the issue of three concurrent registrations. Neither thought an additional registration was an inherent

problem as the work in the practices aligned well with each other and believed having the registrations was helpful to their clients.

[62] Regarding managing the work-load of three registrations, Mr. Ifill contrasted that circumstance with his earlier experience when in addition to his personal failings, he had difficulty juggling responsibilities and focussing necessary attention on Total Auto while holding down his job as an electronics engineer.

[63] I am satisfied that Mr. Ifill has the motivation to conduct his business in keeping with required ethical standards. He will have taken the real estate courses which are a pre-requisite to registration, and which will include the details necessary to proper real estate practice, including avoiding and managing conflicts of interest. He will have the support of Mr. Sahota for the initial year of his registration, and access to the many in-house courses at that brokerage. If he remains working in mortgages and insurance as he is now doing, he will continue to have the support of Mr. Mangion and Mr. D'Souza.

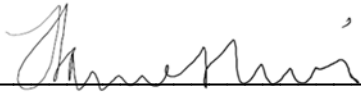
CONCLUSION AND ORDER

[64] Pursuant to s. 14(5) of the Act, I order the Registrar to not carry out the Proposal to refuse registration, and further order that Mr. Ifill be registered as a real estate salesperson, subject to the following conditions:

1. For a period of 4 years the applicant shall not be a partner, shareholder, officer, director, broker of record, or controlling mind of a real estate brokerage.
2. The applicant shall immediately advise the Registrar and the sponsoring broker of record in writing, of any action or proceedings in respect to his registration or status as a mortgage or insurance broker, and any changes in his agent's status with The Mortgage Centre or Crossroads Financial Solutions.
3. The applicant shall immediately advise the Registrar and his sponsoring broker of record in writing, of any actions against him under any law both in his personal capacity or as an officer or director of any corporation or member of a partnership.
4. The applicant shall advise the Registrar in writing as soon as is reasonably practicable of any statements of claim, judgements, bankruptcy, fines or material changes in his financial status.
5. The applicant shall immediately advise the Registrar in writing, of any changes to his residential address, e-mail address or addresses and personal and business telephone numbers from those shown on his application for registration dated July 10, 2019.

6. The applicant shall **not** commence employment as a salesperson with a brokerage other than King Realty for a for a period of 2 years from the date of registration without the prior written consent of the Registrar.

LICENCE APPEAL TRIBUNAL



**Harriet Lewis,
Member**

Released: June 28, 2021