



Justice and
Public Safety

Justice et
Sécurité publique



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April 2, 2024

VIA EMAIL

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Dear Mr. Geldert & Ms. Davison:

**RE: Appeal by Atlantic Environmental Systems Inc. (dba Maritime Home Services)
pursuant to the *Direct Sellers Act***

Atlantic Environmental Systems Inc. doing business as Maritime Home Services (the “Appellant”) has appealed a decision of the Registrar of Direct Sellers (the “Registrar”) pursuant to subsection 8.2(2) of the *Direct Sellers Act*, RSPEI 1988, c. D-11 (the “Act”). In the August 31, 2023 decision, the Registrar cancelled the Appellant’s vendor license and the licenses of all salespersons acting on behalf of the Appellant (the “Decision”).

For the reasons that follow, I deny the appeal of the August 31, 2023 Decision. In accordance with section 8.2(1) of the *Act*, I find that it is in public interest to cancel the Appellant’s vendor license and the licenses of all salespeople acting on behalf of the Appellant. The Appellant and its salespeople shall forthwith return their respective licenses to the Registrar, as required by section 8.2(3) of the *Act*.

Procedural Background

On or about August 31, 2023, the Registrar issued his decision to cancel the Appellant’s vendor license and the licenses of all salespersons acting on behalf of the Appellant.

On or about September 27, 2023, the Appellant, through its legal counsel, submitted a Notice of Appeal to my office, in accordance with subsection 8.2(2) of the *Act*. The notice was provided in writing and made within thirty days of the Decision, as required by the *Act*.

On or about October 6, 2023, I wrote to the Appellant and the Registrar. The purpose of my correspondence was to acknowledge receipt of the Notice of Appeal and to explain the process that would be followed with respect to this appeal.

Although the parties were given the opportunity to request an oral hearing, neither the Appellant nor the Registrar has requested a hearing with respect to this appeal. As a result, I will issue my decision based on the record before me. The record consists of the following:

1. Notice of Appeal and initial written submissions on behalf of the Appellant (submitted September 27, 2023);
2. Appeal Record compiled by the Registrar (submitted October 26, 2023);
3. Further written submissions on behalf of the Appellant (submitted November 8, 2023);
4. Submissions on behalf of the Registrar (submitted November 16, 2023); and
5. Appellant's response to the submissions of the Registrar (submitted November 21, 2023).

I have reviewed the entirety of the record and the submissions of the parties prior to issuing this decision.

Standard of Review

The first issue to be determined on this appeal is the appropriate standard of review. The statutory right of appeal arises from section 8.2(2) of the *Act*, which states as follows:

Appeal

(2) The decision of the Registrar regarding refusal, cancellation or suspension may be appealed to the Minister by giving to him notice in writing within thirty days.

Both the Appellant and the Registrar agree that this appeal should proceed as a *de novo* consideration of the evidence, rather than a review of the Decision. I agree with this position. In my correspondence to the parties dated October 6, 2023, I gave the Appellant and the Registrar the opportunity to submit both legal arguments and any additional documents that were not included as part of the record.

As this is a proceeding *de novo*, I will consider and decide the matter anew without deference to the decision of the Registrar.¹

Factual Background

Following is an overview of the facts giving rise to this appeal. Although I have read and considered the entirety of the record, I will not summarize every piece of evidence that has been submitted as part of this appeal. The following is intended to be an overview only.

The Appellant was a licensed vendor under the *Act* to sell water treatment equipment, sales and services in Prince Edward Island. There were also more than 100 salespeople licensed to conduct direct selling business on behalf of the Appellant.²

¹ Section 14(1) of the *Island Regulatory and Appeals Commission Act (Re)*, 1997 CanLII 4578 (PE SCAD) at para. 9

² Appeal Record, tab 9

Michael Daniel Goldman has owned the Appellant company since approximately September 2021. Mr. Goldman was also a licensed salesperson authorized to conduct direct selling under the *Act*.³

On or about May 3, 2021, staff of the Financial and Consumer Services Division (the "Division") received a written complaint from the owner of a local water treatment system business (herein referred to as the "initial complainant").⁴ The initial complainant reported receiving a complaint from a PEI resident alleging that the Appellant had sold a water treatment system at an inflated price and used high pressure sales tactics.

On September 3, 2021, the Division Director sent correspondence to the Appellant. The correspondence was addressed to the salesperson identified in the complaint.⁵ The salesperson was advised of the complaint and was also advised that it is an offence to engage in unfair business practices, including making a consumer representation where the price greatly exceeds the price for similar goods or services.

The Appellant did not respond to the Director's correspondence of September 3, 2021.

On January 20, 2022, the initial complainant submitted additional information to Division staff.⁶ In particular, the complainant alleged that water testing performed by the Appellant did not correspond with results from the PEI Analytical Laboratories.

Following receipt of this additional complaint, the Director sent further correspondence to the Appellant on January 20, 2022.⁷ The Director requested information from the Appellant with respect to the complaints and asked for a direct telephone number for the Appellant.

On January 24, 2022, Division staff spoke with the Appellant's representative, identified as "Mr. LeBlanc", via telephone.⁸ Mr. LeBlanc advised Division staff that the reason for the difference in price between products sold by the Appellant and products sold by the initial complainant was due to differences in the type of equipment and water treatment systems, including the technologies used and the applicable service and warranty provided.

During the call, Mr. LeBlanc was asked to email a response to the Director's correspondence, including information about the Appellant's systems and pricing. Although Mr. LeBlanc advised that he would respond within two weeks, no response was provided by Mr. LeBlanc.

On July 18, 2022⁹ and September 14, 2022,¹⁰ the initial complainant submitted additional information to the Division, including letters of complaint from several other individuals alleging similar conduct against the Appellant.

The initial complainant also provided a copy of a notice he published in local newspapers warning consumers of "unrealistic" charges for water equipment and encouraging consumers to conduct their own research. The newspaper advertisement did not mention the Appellant by name.¹¹

³ Appeal Record, tab 8

⁴ Appeal Record, tab 10

⁵ Appeal Record, tab 12

⁶ Appeal Record, tab 13

⁷ Appeal Record, tab 14

⁸ Appeal Record, tab 15

⁹ Appeal Record, tab 16

¹⁰ Appeal Record, tab 17

¹¹ Appeal Record, tab 16

The initial complainant also provided a cease and desist letter, dated July 12, 2022, that he received from the Appellant's legal counsel.¹²

On December 20, 2022, Division staff received another complaint against the Appellant.¹³ This complaint was not submitted by the initial complainant. Instead, the complaint was submitted by a resident alleging that his elderly parents "fell victim" to the Appellant. According to the complaint, the Appellant forced the seniors into a water system they could not afford and did not need. The complaint alleged that the Appellant was "*targeting and scaring seniors into expensive [water treatment] systems*".

On February 3, 2023, the Director issued an Investigation Order pursuant to section 8.8 of the *Act* and section 12 of the *Business Practices Act*, RSPEI 1988, c. B-7.¹⁴ The Order appointed two members of staff to carry out an investigation within the scope of the *Act* and the *Business Practices Act*.

After the Investigation Order was issued, Division staff independently conducted ten (10) interviews with PEI residents who either purchased water treatment systems from the Appellant or were approached by the Appellant to do so.¹⁵ The record contains the notes from the investigators' interviews with each resident and, in some instances, a transcript of the interview has also been provided.¹⁶

Below is a summary of the information reported by the residents as it relates to their dealings with the Appellant and its salespeople:

- **Resident #1** was advised that he won a free first aid kit and water test. Two salespeople came to his house to take the water test. They advised that the water was high in iron and offered a product that would cost \$40 to \$105 per month. When the resident said he wanted to think about it, "*the friendliness went away*". The salesperson spoke to another person on the phone several times, and said they would wait in the driveway while the resident made his decision. The salespeople remained at the property for three hours. The resident eventually told the salespeople to take their materials and leave.¹⁷
- **Resident #2** was approached by a salesperson who came to her door and offered to test her water. The resident's home was serviced by municipal water. The salesperson remained at the property for a couple of hours with the resident and her husband, who was suffering from dementia. The salesperson completed a water test while on-site, and was frequently on the phone to someone else. The resident eventually "signed the papers" for a water filtration system and softener, including financing. The resident then told her daughter about the purchase and the financing. Her daughter called another water treatment company (owned by the initial complainant) and was advised that the same system could be provided for half the price. The complainant cancelled her agreement with the Appellant, including the financing.¹⁸

¹² Appeal Record, tab 16

¹³ Appeal Record, tab 18

¹⁴ Appeal Record, tab 19

¹⁵ Appeal Record, tabs 34-35

¹⁶ Appeal Record, tabs 34-35

¹⁷ Appeal Record, tab 35(b)

¹⁸ Appeal Record, tab 35(c)

- **Resident #3**, a senior living in rural PEI, received a call from a salesperson in or around February 2022. The complainant's elderly husband with Alzheimer's answered the phone. He understood that it was the government coming to take a water sample and that they were on their way. The resident was suspicious as they had no prior notice of the water testing and it was approaching 6:00 p.m. Two male salespeople arrived at the resident's home in the evening hours. The resident asked the salespeople if they were "with the province" and they said no. The resident instructed the salespeople to take a water sample from the porch bathroom, rather than entering the house. The salespeople refused and said they needed to test the kitchen water. The salespeople then came into the resident's home and did a demonstration, pouring chemicals into water.

The resident reported feeling scared and uncomfortable. In an effort to get the salespeople to leave, the resident told them she would think about buying a system and told them to call the following day. The salespeople refused to leave. They said they would wait in the parlour while the resident and her husband discussed it. The salespeople eventually left at around 9:00 p.m. They said they would return at 2:00 p.m. the following day. After the salespeople left, the resident contacted the company to advise that the salespeople were not to return to her home.

The resident reported being so stressed by the encounter that she slept for most of the following day. She also wanted to be home in case the salespeople returned and attempted to have her husband (who was suffering from Alzheimer's) commit to making a purchase.

While at the property, the salespeople tested the water and advised that there was a harmful chemical in the water. The resident reported having her water tested by the provincial laboratories approximately two weeks later. The samples were negative for the chemical.¹⁹

- **Resident #4** reported that his elderly mother received a phone call stating that she won a free first aid kit and free water test. At that time in May 2022, the resident's mother had been diagnosed with terminal cancer and was recently widowed. According to the resident, the salespeople remained at his mother's property for six hours. She eventually purchased a water treatment system at a cost of \$7,000, financed over 15 years. At the time, the resident's mother was heavily medicated. She passed away about eight weeks later. The resident eventually learned of the deal and was able to cancel it. The resident feels that his mother was taken advantage of as she was not physically or mentally able to make decisions.²⁰
- **Resident #5** received a call saying she won a free first aid kit and water test. A salesperson arrived at her home at approximately 7:30 p.m. The salesperson tested the water from every tap as well as a jug of reverse osmosis water that the resident had purchased from a local supermarket. After adding some drops to the water, the salesperson reported that all the water was "bad" – including the jug of purchased water.

The resident's home was serviced by municipal water and she had recently installed a water softener. The salesperson told the resident she really needed help. He then called his boss to see what they could do for her. The salesperson told her that a new system cost approximately \$4,000, but that it would only cost the resident approximately \$3,000

¹⁹ Appeal Record, tab 35(d)

²⁰ Appeal Record, tab 35(e)

if she signed up right away. When the resident said she was not going to buy the system, the salesperson “got really mad” and became loud. The resident and the salesperson “ended up in a screaming match”. The resident reported feeling fearful and threatened. The salesperson was in the resident’s home for approximately three hours before eventually leaving at some point after 10:00 p.m.²¹

- **Residents #6**, a husband and wife, received several phone calls from salespeople offering a free water test and first aid kit. When the residents eventually agreed, a salesperson came to their home. He arrived in the evening and remained at the property for three or four hours. The salesperson tested the residents’ water and told them it was low on something. After several hours, the residents felt like the salesperson tried every angle to get them to buy a system. He was using big words that the residents did not understand to explain what was allegedly wrong with their water.

The residents eventually “got kind of sick of him”. They finally agreed to buy a water system for approximately \$2,800. Another representative returned the next day to install it. The residents could not explain what the water system was, but identified it as a “big tap” and filters.²²

After learning of the encounter and the purchase, the couples’ son told them they paid way too much for the system and were “ripped off”. Their son then notified the Department of Justice and posted a potential scam alert on social media.

- **Residents #7** were contacted by phone and told they won a free first aid kit and water test. A salesperson visited their home and advised he was an engineering graduate. He tested the residents’ water and gave them several options to improve their water. They purchased a platinum condenser and ultraviolet light for \$6,052.00. The price they paid was a reduced price, suggesting the residents got a deal. The devices were installed soon afterwards. The residents financed the purchase through their bank.²³
- **Residents #8** were contacted by phone about having their water tested. A salesperson then visited their home. The salesperson told the residents he had a degree in science. He tested their water and the residents found him to be professional and thorough. The complainants purchased a water softener for \$2,400. The salesperson spoke to his manager in Nova Scotia before finalizing the price. The residents said the company was punctual with installation and the residents had no reported problems.²⁴
- **Resident #9** and his wife received a call telling them they won a free first aid kit if they had their water tested. At that time in June 2022, the resident was undergoing cancer treatment and described himself as being heavily medicated. A salesperson came to their home in the evening hours. The salesperson remained at the home for hours, and repeatedly went out to her car. The resident and his wife “couldn’t get rid of” the salesperson. Eventually, the resident and his wife signed the papers so that the salesperson would leave. By this time, it was approximately 2:30 a.m. to 3:00 a.m. and the resident was falling asleep in his chair.

²¹ Appeal Record, tab 35(f)

²² Appeal Record, tab 35(g)

²³ Appeal Record, tab 35(h)

²⁴ Appeal Record, tab 35(i)

The next morning, the company came to install the water system. The resident reviewed the paper work he signed and realized that he was charged \$6,959.80 plus interest over 15 years for a water purifier. The resident called his son, who then contacted legal counsel. The company was told they had 24 hours to remove the water system from the property. The company removed the water system. The resident had to hire a plumber to reinstall his existing water softener.²⁵

- **Resident #10** participated in a phone survey about her water quality. She then received a call saying she had been randomly selected for a first aid kit. When the salesperson came to drop off the first aid kit, he advised the resident that she also won a free water test. A different salesperson returned the following day at approximately 6:00 p.m. and remained at the home for almost five hours. After doing a water test and demonstrating "how dirty" the water was, the salesperson recommended a \$13,000 "water solution". The salesperson said he could "make a call" to see if he could get a better deal. The salesperson said he could sell them the system for just under \$10,000.

Eventually, the resident and her husband signed a financing agreement. The total cost for the water system, including financing over 15 years, was \$17,000. The company came the next day to install the system. After the system was installed, the water was "dirty". The resident described having to run the water in the morning because it was brown.

Shortly after, the resident and her husband decided to pay for the water system in full, rather than financing it. The resident mistakenly phoned another water treatment company owned by the initial complainant. The initial complainant went to see the resident. He told the resident that the system was installed improperly and that they were significantly overcharged for the water system.

The resident felt like her and her husband were "taken advantage of" and "swindled". They contacted their lawyer. Their lawyer wrote to the company. The company eventually removed the water system at no charge.²⁶

A recorded statement was also obtained from the initial complainant and a copy of the transcript is included in the Appeal Record.²⁷ The initial complainant said he felt compelled to contact the Department of Justice after receiving a number of complaints from residents about their dealings with the Appellant and its salespeople.

According to the initial complainant, the salespeople targeted elderly and, in some cases, seriously ill residents. The residents told the initial complainant that, once inside the home, the salespeople were persistent and would stay for hours, sometimes until the early morning hours, in an effort to wear people down. The residents also reported paying excessive prices for water treatment systems sold by the Appellant, in addition to high financing costs. In one instance, the financing charges totalled about 50 percent of the cost of the water treatment system.

The initial complainant advised that the majority of the water systems sold by the Appellant to residents are a reverse osmosis ("RO") system. The initial complainant advised that he sells an RO kit for \$995. The Appellant was asking \$3,772.70. Similarly, the initial complainant stated that the Appellant was selling a water softener for close to \$7,000, while the initial complainant charged less than \$2,000. The initial complainant advised that the Appellant was selling comparable water

²⁵ Appeal Record, tab 35(j)

²⁶ Appeal Record, tab 35(k)

²⁷ Appeal Record, tab 35(a)

treatment systems for 3 to 4 times the price charged by the initial complainant, plus financing charges. Once he learned of the inflated prices and the tactics being used by the salespeople, the initial complainant published a notice in local newspapers.

On June 1, 2023, Division staff wrote to the Appellant to advise of the additional complaints alleging aggressive sales tactics and grossly excessive prices.²⁸ The Appellant was advised that Division staff were investigating the complaints to determine whether the alleged conduct was contrary to the public interest or in contravention of the *Act* or the *Business Practices Act*. The Appellant was reminded that it did not respond to the Department's previous request for information, and was asked to provide contact information for the representatives available to assist with the investigation.

On June 8, 2023, the Division received correspondence from the Appellant's legal counsel.²⁹ Counsel advised that the Division's previous correspondences were "received and replied to by Mr. Goldman".

After receiving the correspondence, Division staff wrote to the Appellant's legal counsel on June 8, 2023 to advise that there was no record of correspondence from Mr. Goldman regarding the earlier correspondence.³⁰ The alleged correspondence from Mr. Goldman was not provided to the Division.

On June 15, 2023, Division staff again wrote to the Appellant's legal counsel requesting additional information.³¹ In the correspondence, Division staff requested information relating to the process used by the Appellant's salespeople, the Appellant's pricing model, the training or certifications for the Appellant's salespeople, and copies of all relevant documents, including brochures, pamphlets, sales manuals, water testing materials and/or financing agreements/applications.

On June 29, 2023, Division staff received a brief written response from Mr. Goldman.³² The response was marked "without prejudice" and referenced a "package" of enclosed documentation. However, there was no documentation enclosed with the letter and none of the documentation requested by Division staff was provided by Mr. Goldman.

On July 6, 2023, Division staff again wrote to the Appellant's legal counsel.³³ Staff explained that Mr. Goldman's letter did not answer the questions asked and did not include the "package" of information that was allegedly attached to Mr. Goldman's letter. Division staff also issued a number of follow-up questions to the Appellant.

On July 19, 2023, Division staff received email correspondence from the Better Business Bureau ("BBB") Director of Operations.³⁴ In the email, the BBB advised that it had received complaint activity regarding the Appellant allegedly using predatory and high pressure sales tactics specifically targeting seniors. Similar complaints against the Appellant were being investigated in Nova Scotia.

The BBB also advised that the Appellant's owner, Mr. Goldman, was charged in Ontario under the *Consumer Protection Act* in 2017 for similar business practices. According to the BBB, Mr.

²⁸ Appeal Record, tab 20

²⁹ Appeal Record, tab 21

³⁰ Appeal Record, tab 22

³¹ Appeal Record, tab 23

³² Appeal Record, tab 24

³³ Appeal Record, tab 25

³⁴ Appeal Record, tab 27

Goldman then changed his name, moved east, and started the Appellant company. The BBB also provided a 2017 newspaper article reporting the conviction, as well as The Ontario Gazette showing Mr. Goldman's 2018 name change.³⁵

On July 21, 2023, Division staff received a letter from Mr. Goldman in response to the Department's July 6, 2023 request for information.³⁶ The letter was not signed and was again marked "without prejudice". According to Mr. Goldman, the water systems sold by the Appellant:

- are "*the 'Cadillac' of water treatment systems*";
- have a better warranty than a "conventional system"; and
- offer "*a far superior technology to the plumbers' grade equipment that is sold elsewhere in Prince Edward Island*".

The Appellant also alleges to provide better service than its competitors.

Mr. Goldman did not provide evidence in support of these claims.

In his July 21, 2023 correspondence, Mr. Goldman also advised that the financing companies used by the Appellant (namely, EcoHome Financial and Lendcare) do not register an interest in lands under the *Registry Act*.

However, according to the List of Notices of Security Interest, between March 16, 2022 and August 2, 2023, EcoHome Financial Inc. registered twenty-six (26) Notices of Security Interest against properties in Prince Edward Island.³⁷ The term of each Notice was twenty (20) years, and the collateral was described as "water treatment system".

Similarly, between March 16, 2022 and August 2, 2023, LendCare Capital Inc. registered eleven (11) Notices of Security Interest against Prince Edward Island properties.³⁸ The term of each Notice was five (5) years, and the collateral referred to water filtration, conditioning and/or purification systems.

On July 24, 2023, Division staff contacted the Ontario Consumer Services Operations Division requesting information of any enforcement action taken against Mr. Goldman and his water treatment companies in Ontario.³⁹

In August 2023, Division staff confirmed that Mr. Goldman (under his former name, Danny Shamon) pled guilty to an offence under the Ontario *Consumers Protection Act* in 2017 for unfair business practices.⁴⁰

On August 31, 2023, the Registrar issued the Decision to cancel the Appellant's direct sellers license and the licenses of all salespeople acting on its behalf.⁴¹

Decision

³⁵ Appeal Record, tab 27

³⁶ Appeal Record, tab 28

³⁷ Appeal Record, tab 32

³⁸ Appeal Record, tab 32

³⁹ Appeal Record, tab 36

⁴⁰ Appeal Record, tabs 38 & 45

⁴¹ Appeal Record, tab 41

For the reasons that follow, I deny the appeal of the August 31, 2023 Decision. In accordance with section 8.2(1) of the *Act*, I find that it is in public interest to cancel the Appellant's vendor license and the licenses of all salespeople acting on behalf of the Appellant. As stated at the outset, I have considered this matter *de novo*, without deference to the Decision of the Registrar.

A license under the *Direct Sellers Act* permits licensed salespeople to sell goods and services door-to-door in this Province. Often times, these salespeople are invited, unsolicited, into peoples' homes. The opportunity to sell door-to-door in this Province is a privilege, not a right. As stated by the Registrar, "[h]onesty, integrity and trustworthiness are essential character traits in the context of direct selling".⁴²

Both vendors and salespeople must be licensed under the *Act* to sell door-to-door in PEI. There is broad discretion under the *Act* to refuse, cancel or suspend a license when it is "*in the public interest*" to do so. In the context of the *Act*, it is in the public interest that individuals be protected from potential harm in the form of high pressure sales tactics and/or exploitation by direct sellers.

The evidence on this appeal clearly shows that the Appellant and its salespeople repeatedly engaged in exploitative and high pressure sales tactics while direct selling to PEI residents. These tactics included using the promise of a free first aid kit and/or water test to gain entry to peoples' homes, arriving at homes in the evening hours and staying for anywhere from two to up to six hours, refusing to leave the home until the resident made a decision, and becoming hostile or aggressive if a sale was refused. Some of these residents felt threatened and scared by the salespeople. In several cases, residents reported signing the papers solely so that salesperson would leave their home. In another case, a resident reported that a "*screaming match*" ensued after she refused to buy a water treatment system.⁴³

Many of these residents were seniors, and some were suffering from debilitating diseases, including cancer, Alzheimer's and dementia. Their age, coupled with the fact that these salespeople were present in their home – often at night and for several hours – made them particularly vulnerable.

Although I have considered all of the evidence presented as part of this appeal, my decision is based primarily on the evidence of the 10 Island residents interviewed as part of the investigation. The mandate of the *Direct Sellers Act* is to protect the public interest, which I consider to be the interests of members of the public within this Province. Accordingly, I do not find the evidence regarding allegations or charges in other provinces to be determinative of the matters on this appeal. Instead, the 10 PEI residents provided ample evidence to find that reinstating the licenses would not be in the public interest.

As part of this appeal, the Appellant did not provide any evidence in response to the encounters reported by Island residents, despite having the opportunity to do so.

The Appellant argues that several of the statements from residents were "exculpatory". According to the Appellant, Residents #2, #8, #9 and #10 (as identified above) "*effectively had no issues in their course of dealing with the Company*". I have reviewed these residents' statements in detail and do not accept the Appellant's characterization of the encounters.

Residents #2, #9 and #10 each reported that salespeople were in their homes for between two to five hours. Resident #2 was at home with her husband, who was suffering from dementia.

⁴² Decision, para. 41

⁴³ Appeal Record, tab 35(f)

Resident #9 was undergoing cancer treatment and was highly medicated. The residents eventually signed the papers presented by the salespeople. In each case, the residents also agreed to finance the purchase, which significantly increased the out-of-pocket cost. The daughter of Resident #2 got involved and was able to cancel the agreement with the Appellant. Residents #9 and #10 required legal counsel to get them out of the agreements. The circumstances and experiences of these residents are not exculpatory.

Resident #8 generally reported a positive experience with the Appellant and its salesperson. However, this is not “exculpatory”. To “exculpate” means to free from blame or accusation.⁴⁴ One positive customer experience does not free the Appellant from blame or accusation. It also does not detract from the experiences of the other residents.

I find each of the witnesses who gave statements to the investigators to be credible. These witnesses were independently interviewed and recounted very similar dealings with the Appellant and various different salespeople acting on behalf of the Appellant. These witnesses voluntarily participated in the investigation. There is no evidence that they have any interest (financial or otherwise) in the outcome of this matter.

The Registrar in his Decision came to a similar conclusion regarding credibility. Although the Appellant argues that the Decision does not provide justification or rationale for the Registrar’s findings of credibility, I do not agree. In the Decision, the Registrar clearly states that “*given the Licensee’s lack of willingness to provide staff with information, and the volume, consistency and seriousness of the complaints and reported activity investigated by staff, I accept the information provided by the complainants and other individuals in this regard*”.⁴⁵

The Appellant also argues that the Registrar, in his Decision, “*did not address the potential for collusion amongst the complainants*”.⁴⁶ Collusion means “*an agreement to defraud another or to do or obtain something forbidden by law*”.⁴⁷ To be clear, there is no evidence of “collusion” before me, and the Appellant has not presented any evidence of collusion as part of this appeal.

In addition to the evidence of the 10 residents, the initial complainant provided evidence that the prices charged by the Appellant were anywhere from two to four times higher than the prices charged by his own water treatment company. These higher prices were confirmed by at least one resident who ultimately purchased a water treatment system from the initial complainant at a much lower cost.⁴⁸ The Appellant acknowledged that its prices are “*slightly higher*” than those quoted by its competitor, but argues that the cost is “*commensurate with a higher quality product*”.⁴⁹ However, no evidence was presented to support this statement.

The Appellant takes issue with relying on statements made by the initial complainant who the Appellant characterizes as its “principal competitor”.⁵⁰ However, the investigation giving rise to the Decision was not initiated based on information provided by the initial complainant. Instead, the investigation began after the Division received a complaint from another member of the public. As part of the investigation, Division staff interviewed 10 other Island residents in addition to the initial complainant.

⁴⁴ *Black’s Law Dictionary*, 8th ed., page 608, definition of “exculpate”

⁴⁵ Decision, para. 53

⁴⁶ Appellant’s written submissions dated November 8, 2023 at page 7

⁴⁷ *Black’s Law Dictionary*, 8th ed., page 281, definition of “collusion”

⁴⁸ Appeal Record, tab 35(c)

⁴⁹ Appellant’s written submissions dated November 8, 2023 at page 3

⁵⁰ See, in particular, Appellant’s written submissions dated November 8, 2023 at pages 5-7

The Appellant further alleges certain procedural defects in the Division's handling of the complaints and the investigation. According to the Appellant, Division staff did not provide the Appellant with sufficient information to respond to the complaints in a meaningful way. This position is not supported by the record.

The Appeal Record clearly shows that Division staff contacted the Appellant numerous times between September 2021 and July 2023. In the correspondence, Division staff both advised the Appellant of the complaints received against it, and requested further information from the Appellant. The Appellant either did not respond, or provided incomplete information to staff. There is no evidence that the Appellant at any time asked for additional information to allow it to respond to the complaints.

Further, as part of this Appeal, the Appellant was provided with fulsome information about the complaints against it, including the names of the residents, the detailed nature of their complaints and (when available) transcripts of their interviews with the investigators. Despite having all of this information, the Appellant did not provide any response, explanation or its own version of events about the specific encounters with these residents.

The Appellant also alleges certain procedural defects arising from the Registrar's investigation. The Appellant argues that it was not aware that the Registrar intended to rely on third party sources, such as the BBB rating. The Appellant also alleges that the Registrar fettered his discretion by ending his investigation when he did.

Section 8.8(1)(c) of the *Act* gives the Registrar broad discretion to conduct an investigation when he has reasonable and probable grounds to believe that it is in the public interest. This includes the discretion to determine the scope and conclusion of his investigation.

Section 8.8(1) gives the Registrar the express power to inspect the Appellant's books and records, and to obtain "*any additional information he may require from whatever sources in order to complete the inquiry or investigation*".⁵¹ It was therefore open to the Registrar to obtain information from third party sources, including the BBB.

Further, a fair hearing before an intermediate appellate body, such as this statutory appeal, may cure procedural defects.⁵² As recently explained by the Honourable Justice Coady, "*the closer the appeal is to a fresh consideration of the matter, the more likely it is to cure the original defects*".⁵³

In this case, I have considered the matter *de novo* without deference to the Registrar's Decision. The Appellant had the benefit of the complete Appeal Record, which included the investigation conducted by Division staff. The Appellant also had the opportunity to present new evidence as part of this appeal. This means that the Appellant could have provided responses to the specific complaints raised by residents or to the third party evidence gathered as part of the investigation. However, despite having the opportunity to do so, the Appellant chose not to present any new evidence as part of this appeal.

Therefore, although I have not found any procedural defects in the handling of the complaints or the investigation, I am satisfied that any alleged procedural defects were remedied by the process followed on this appeal.

Conclusion

⁵¹ *Act*, section 8.8(1)

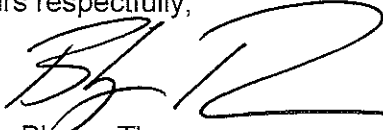
⁵² *Perry v Kings Square Affordable Housing Corporation*, 2023 PESC 32 at para. 37

⁵³ *Ibid.*

I have thoroughly considered all of the evidence and the legal arguments submitted on behalf of the Appellant and the Registrar. In accordance with section 8.2(1) of the *Direct Sellers Act*, I find that it is in public interest to cancel the Appellant's vendor license and the licenses of all salespeople acting on behalf of the Appellant. The Appellant and its salespeople shall forthwith return their respective licenses to the Registrar, as required by section 8.2(3) of the *Act*.

Accordingly, the appeal is denied.

Yours respectfully,

A handwritten signature in black ink, appearing to read 'Bryce Thompson', with a long horizontal flourish extending to the right.

Hon. Bryce Thompson
Deputy Premier
Minister of Justice and Public Safety
Attorney General