

**DISCIPLINE COMMITTEE OF THE  
ONTARIO COLLEGE OF TRADES**

**IN THE MATTER OF** the *Ontario College of Trades and Apprenticeship Act, 2009*,  
(the “Act”) and Ontario Regulation 97/13 (Professional Misconduct) thereunder;

**AND IN THE MATTER OF** a discipline proceeding against  
David Michael Boone, a member of the Ontario College of Trades.

PANEL: Hanno Weinberger, Chair

BETWEEN: )  
)  
) Louis Strezos,  
) College Counsel  
) Ontario College of Trades  
**ONTARIO COLLEGE OF TRADES** )  
)  
)  
-and- ) David Michael Boone, Self-Represented  
)  
)  
**DAVID MICHAEL BOONE** )  
(Member #13829468) )  
) Fredrick Schumann,  
) Independent Legal Counsel  
)  
) Heard: June 18, 2019

**REASONS FOR DECISION**

1. A hearing of this matter took place before a panel of the Discipline Committee (the “Panel”) pursuant to section 46(1) of the *Ontario College of Trades and Apprenticeship Act, 2009* (the “Act”) on June 18, 2019 at Victory Verbatim, Court Reporting Services, 222 Bay Street, Toronto, Ontario.
2. A *Notice of Hearing* in this matter (Exhibit 1) issued January 4, 2019 was served on David Michael Boone (the “Member”). A First Appearance in this matter took place by teleconference on March 5, 2019; two Pre-Hearing Conferences were held on April 15, 2019 and May 9, 2019; and the hearing of this matter on its merits was subsequently scheduled for June 18, 2019.

3. At the Pre-Hearing Conference on May 9, 2019, the Panel confirmed the parties' consent that any agreement on the facts in this matter could be filed with the Panel in advance of the hearing. The Panel also obtained the parties' consent that the hearing may processed before a one-member panel in accordance with section 4.2.1(2) of the *Statutory Powers Procedure Act*.

## THE ALLEGATIONS

4. Mr. Strezos ("College Counsel") advised that the College intended to proceed with allegations (a), (c), (d) and (f) in the *Notice of Hearing*, and requested the Panel's permission to withdraw allegations (b) and (e). Permission to withdraw allegations (b) and (e) was granted by the Panel.

Allegations (a), (c), (d) and (f) in the *Notice of Hearing*, along with the particulars, were as follows:

**"IT IS ALLEGED** that David Michael Boone has engaged in professional misconduct as defined in subsection 46(2) of the *Act* and/or Ontario Regulation 97/13 made under the *Act* in that he:

- a) failed to take reasonable steps to safeguard the life, health or property of a person who may be affected by the work of the member, when he knew or ought to have known that there was a risk to life, health or property (Ontario Regulation 97/13, subsection 1(1));
- b) failed to act to correct or report a situation that the member knew or ought to have known may endanger the safety or welfare of the public (Ontario Regulation 97/13, subsection 1(2));
- c) signed or issued, in his capacity as a member of the College, a document that he knew or ought to have known contained a false, improper or misleading statement (Ontario Regulation 97/13, subsection 1(8));
- d) was found guilty of contravening laws, the contravention of which is relevant to his suitability to hold a certificate of qualification or statement of membership (Ontario Regulation 97/13, subsection 1(9));
- e) failed to maintain the standards of a trade (Ontario Regulation 97/13, subsection 1(10)); and

- f) acted or failed to act, in respect to the practice of a trade, in a manner that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional (Ontario Regulation 97/13, subsection 1(11)).

**PARTICULARS OF THE ALLEGATIONS ARE AS FOLLOWS:**

**I. BACKGROUND**

1. David Michael Boone, Membership No. 13829468, (the “Member”) is a member of the Ontario College of Trades (the “College”), in the Journeypersons class.
2. At all material times, the Member held Certificates of Qualification in the trades of Automotive Service Technician (310S) and Truck and Coach Technician (310T).
3. At all material times, Annd Tire and Complete Car Care Inc., operating as an Active Green + Ross franchise (the “MVIS Licensee”), located at 2910 Eglinton Ave E., Scarborough, Ontario, M1J 3E6, was licensed by the Ministry of Transportation of Ontario (“MTO”) as a Motor Vehicle Inspection Station.
4. At all material times, the Member was employed by the MVIS Licensee. Further, by virtue of being a Certificate of Qualification holder, the Member was registered with the MTO as a motor vehicle inspection mechanic, and was authorized to sign Safety Standards Certificates (“SSC”). This allowed the Member to certify on behalf of the MVIS Licensee that inspected vehicles meet minimum safety standards, pursuant to the *Highway Traffic Act*, RSO 1990, Ch 8 (the “HTA”) and its Regulations.

**II. Member signs a SSC for an unsafe vehicle without performing a proper inspection**

5. [NAME] (the “Car Dealer”) is a used car dealership located at [ADDRESS], ON. In June 2017, the Car Dealer was seeking to sell, from inventory, a 2004 Ford Expedition bearing VIN [NUMBER] (the “Vehicle”).
6. Sometime before June 20, 2017, the Car Dealer brought the Vehicle to the MVIS Licensee to have an

SSC issued. During a cursory examination of the Vehicle, the Member observed multiple rocker panel holes and advised a representative of the Car Dealer that the holes had to be repaired prior to a SSC safety inspection.

7. On June 20, 2017, the Member signed SSC number [NUMBER] for the Vehicle ("Ford Expedition SSC"), despite the Vehicle continuing to exhibit rocker panel holes. Additionally, the Vehicle had multiple other safety-related defects that should have prevented it from passing the SSC inspection.
8. The Member never conducted the full *HTA*-mandated inspection required before signing the Ford Expedition SSC.
9. The Ford Expedition SSC was later used at a Service Ontario location for the Car Dealer to transfer ownership of the Vehicle to [NAME] (the "Complainant"), who purchased the Vehicle from the Car Dealer.

#### **Vehicle inspected and taken off the road by the MTO**

10. On July 26, 2017 the Vehicle was inspected by MTO Officer Michael KERR, who identified numerous safety defects, including:
  - a. leaking fuel system and filter held in with a black plastic strap;
  - b. insecure brake line;
  - c. parking brake, when fully applied, will not hold the vehicle in forward or reverse;
  - d. positive battery cable insulation missing and wires were exposed;
  - e. positive battery cable has replacement and installed cable is very short (abnormally high strain on cable when motor twists on motor mounts);
  - f. right side window hinge on tail gate broken and not able to open normally;
  - g. hole present, left side, front driver side floor pan;
  - h. hole present, left side, passenger floor at seat – approx. 1.5 x 2" in diameter;
  - i. hole present, right front passenger, floor – 14" x 5" in diameter;
  - j. hole present, right front, rocker panel
  - k. right front frame under passenger door frame has perforation;
  - l. left and right side rear at truck and bumper perforation by rust.
11. Officer Kerr recorded in his Official Vehicle Inspection Report that the Vehicle had been driven only

2915 km since the Ford Expedition SSC was issued by the Member, and that the listed defects would have been present at the time he issued it.

12. Based on his inspection, Officer Kerr immediately removed the plates from the Complainant's Vehicle. The MTO registration status of the Vehicle was changed to "unfit" and the Vehicle's operation on any public roads was prohibited.
13. On September 13, 2017, MTO Inspector WONG attended the premises of the MVIS Licensee to investigate the issuance of the Ford Expedition SSC for the Vehicle. Neither the Member nor the MVIS Licensee were able to produce the Member's HTA-mandated inspection report for the Vehicle.

**The Member is charged by the MTO and pleads guilty in Provincial Offences Court**

14. As a result of the MTO investigation, on September 19, 2017, the Member was charged with six HTA offences stemming from improper inspections and false statements in relation to three vehicles' SSC's, including the Ford Expedition SSC.
15. On January 4, 2018, the Member pled guilty to making a false statement in the Ford Expedition SSC.
16. On the same date, the Member pled guilty to three other charges, and was convicted of:
  - a. failing to accurately complete an inspection report in respect of a vehicle bearing VIN 1G1PF5FC8C7295712, for which the Member had issued SSC number 25787618;
  - b. making a false statement in a SSC number 25787620 in respect of a motor vehicle bearing VIN number 1GMDV03E450110426; and
  - c. failing to accurately complete an inspection report in respect of the vehicle and the SSC identified in subparagraph (b) above.
17. The Member was fined a total of \$1,800."

**MEMBER'S PLEA**

5. Both verbally at the hearing and in an *Agreed Statements of Facts* signed in counterparts on May 14, 2019

(Exhibit 2), the Member admitted the professional misconduct set out in allegations (a), (c), (d) and (f) of the *Notice of Hearing*.

6. The Panel conducted a plea inquiry with the Member, whereby the Member confirmed that he understood the nature of the allegations against him; that he voluntarily admitted to the allegations; that by admitting to the allegations, the hearing would proceed on the basis of the facts agreed upon; that he understood that the Panel was not obliged to accept any resolution achieved by the parties; and finally that the Member was aware of the range of penalties that the Panel could impose upon him.

#### **THE EVIDENCE – AGREED STATEMENT OF FACTS**

7. College Counsel tendered evidence by way of an *Agreed Statement of Facts* (Exhibit 2). Exhibit 2 stated the following:

#### **FACTS**

##### **The Member**

1. David Michael Boone, Membership No. 13829468 (the “Member”) is a member of the Ontario College of Trades (the “College”), in the Journey Persons Class.
2. At all material times, the Member held a Certificate of Qualification in the trades of Automotive Service Technician (310S) and Truck and Coach Technician (310T).
3. At all material times, Annd Tire and Complete Car Care Inc., operating as an Active Green + Ross franchise (the “MVIS Licensee”), located at 2910 Eglinton Ave E., Scarborough, Ontario, M1J 3E6, was licensed by the Ministry of Transportation of Ontario (“MTO”) as a Motor Vehicle Inspection Station.
4. At all material times, the Member was employed by the MVIS Licensee. Further, by virtue of being a Certificate of Qualification holder, the Member was registered with the MTO as a motor vehicle inspection mechanic, and was authorized to sign Safety Standards Certificates (“SSC”). This allowed the Member to certify on behalf of the MVIS Licensee that inspected vehicles meet minimum safety standards, pursuant to the *Highway Traffic Act*, RSO 1990, Ch 8 (the “HTA”) and its Regulations.

**Member signs a SSC for an unsafe vehicle without performing a proper inspection**

5. [NAME] (the “Car Dealer”) is a used car dealership located at [ADDRESS], ON.
6. In June 2017, the Car Dealer was seeking to sell, from inventory, a 2004 Ford Expedition bearing VIN [NUMBER] (the “Vehicle”).
7. Sometime before June 20, 2017, the Car Dealer brought the Vehicle to the MVS Licensee to have a SSC issued. During a cursory examination of the Vehicle, the Member observed multiple rocker panel holes and advised a representative of the Car Dealer that the holes had to be repaired prior to a SSC safety inspection.
8. On June 20, 2017, the Member signed SSC [NUMBER] for the Vehicle (“Ford Expedition SSC”), despite the Vehicle continuing to exhibit rocker panel holes. Additionally, the Vehicle had multiple other safety-related defects that should have prevented it from passing the SSC inspection.
9. The Member never conducted the full HTA mandated inspection required before signing the Ford Expedition SSC.
10. The Ford Expedition SSC was later used at a Service Ontario location for the Car Dealer to transfer ownership of the Vehicle to [NAME] (the “Complainant”), who purchased the Vehicle from the Car dealer.

**Vehicle inspected and taken off the road by the MTO**

11. On July 26, 2017, the Vehicle was inspected by MTO Officer Michael Kerr, who identified numerous safety defects, including:
  - a) leaking fuel system and filter held in with a black plastic strap;
  - b) insecure brake line;
  - c) parking brake, when fully applied, will not hold the vehicle in forward or reverse;
  - d) positive battery cable insulation missing and wires were exposed;

- e) positive battery cable has replacement and installed cable is very short (abnormally high strain on cable when motor twists on motor mounts);
- f) right side window hinge on tail gate broken and not able to open normally;
- g) hole present, left side, front driver side floor pan;
- h) hole present, left side, passenger floor at seat – approx. 1.5 x 2” in diameter;
- i) hole present, right front passenger, floor – 14” x 5” in diameter;
- j) hole present, right front, rocker panel
- k) right front frame under passenger door frame has perforation;
- l) left and right side rear at truck and bumper perforation by rust.

12. Officer Kerr recorded in his Official Vehicle Inspection Report that the Vehicle had been driven only 2,915 km since the Ford Expedition SSC was issued by the Member, and that the listed defects would have been present at the time he issued it.

13. Based on his inspection, Officer Kerr immediately removed the plates from the Complainant’s Vehicle. The MTO registration status of the Vehicle was changed to “unfit” and the Vehicle’s operation on any public roads was prohibited.

14. On September 13, 2017, MTO inspector WONG attended the premises of the MVIS Licensee to investigate the issuance of the Ford Expedition SSC for the Vehicle. Neither the Member nor the MVIS Licensee were able to produce the Member’s HTA mandated inspection report for the Vehicle.

**The Member is charged by the MTO and pleads guilty in Provincial Offences Court**

15. As a result of the MTO investigation, on September 19, 2017, the Member was charged with six HTA offences stemming from improper inspections and false statements in relation to three vehicles’ SSC’s, including the Ford Expedition SSC.

16. On January 4, 2018, the Member pled guilty to making a false statement in the Ford Expedition SSC.

17. On the same date, the Member pled guilty to three other charges, and was convicted of:

- a) Failing to accurately complete an inspection report in respect of a vehicle bearing VIN

1G1PF5FC8C7295712 for which the Member had issued SSC number 25787618;

- b) Making a false statement in a SSC number 25787620 in respect of a motor vehicle bearing VIN 1GMDV03E450110426; and
- c) Failing to accurately complete an inspection report in respect of the vehicle and the SSC identified in subparagraph (b) above.

18. The Member was fined a total of \$1,800.

#### **ADMISSIONS**

19. The Member admits the foregoing facts as true and accurate.

#### **PRIOR DISCIPLINE**

20. The Member has no prior discipline history.

#### **INDEPENDENT LEGAL COUNSEL ADVICE**

8. Independent Legal Counsel advised that the only evidence before the Panel in this matter was the *Agreed Statement of Facts*. The Panel's task was to review the evidence set out in the *Agreed Statement of Facts* and determine whether the allegations of misconduct (a), (c), (d) and (f) made in *the Notice of Hearing*, had been proven on a balance of probabilities.

#### **DECISION**

9. Having deliberated and considered the submissions and evidence presented by the College, the Panel found that the College had proven allegations of misconduct (a), (c), (d) and (f) outlined in the *Notice of Hearing* (Exhibit 1), and as admitted by the Member in the *Agreed Statement of Facts* (Exhibit 2), on a balance of probabilities, accepted the *Agreed Statement of Facts*.

10. Therefore, pursuant to section 46(2)(c) of the Act, the Panel found the Member guilty of professional misconduct for having engaged in conduct that is defined as being professional misconduct in Ontario Regulation 97/13, section 1, paragraphs 1, 8, 9 and 11, namely that the Member:

- (i) failed to take reasonable steps to safeguard the life, health or property of a person who may be affected by the work of any person for whom he is responsible, when he knew or ought to have known that there was a risk to life, health or property (subsection 1(1));
- (ii) signed or issued, in the Member's capacity as a member of the College, a document that the Member knew or ought to have known contained a false, improper or misleading statement (Ontario Regulation 97/13, subsection 1(8));
- (iii) was found guilty of contravening a law that is relevant to his suitability to hold a certificate of qualification (Ontario Regulation 97/13, subsection 1(9));
- (iv) acted or failed to act, in respect to the practice of a trade, in a manner that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional (Ontario Regulation 97/13, subsection 1(11)).

## REASONS FOR DECISION

11. The Panel accepted and found as fact that the Member:

- (i) issued an SSC when not all necessary inspections had been completed;
- (ii) was charged under the *Highway Traffic Act*; and
- (iii) pleaded guilty and was convicted and fined.

12. The Panel understood that the onus was on the College to prove its case based on a balance of probabilities. The Panel could accept as fact the January 4, 2018 Ontario Court of Justice conviction of the Member. That conviction had been made based on the Member's admission of guilt using the higher standard of proof of "beyond a reasonable doubt".

13. The Panel was satisfied that by issuing an SSC when a full *HTA* mandated inspection had not been conducted and not all necessary repairs had been completed, the Member engaged in professional misconduct by contravening Ontario Regulation 97/13, subsection 1(1), 1(8), and 1(11) as alleged in the *Notice of Hearing*, paragraphs a), c), and f).
14. By issuing the above SSC, the Member failed to take reasonable steps to safeguard the life, health or property of a person when he knew or ought to have known that there was a risk to life, health or property. Further, the Member signed or issued, in his capacity as a member of the College, a document that he knew or ought to have known contained a false, improper or misleading statement.
15. The Panel was satisfied that by being charged, convicted and fined by the Ministry of Transportation, the Member engaged in professional misconduct by contravening Ontario Regulation 97/13, subsection 1(1), 1(8), 1(9), and 1(11) as alleged in the *Notice of Hearing*, paragraphs a), c), d), and f).
16. The Panel accepted that the Member was found guilty of contravening a law that is relevant to his suitability to hold a certificate of qualification.
17. By engaging in the conduct described above, the Panel found that the Member failed to maintain the standards of a trade and acted in respect to the practice of a trade, in a manner that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

#### **PENALTY SUBMISSIONS**

18. College Counsel proceeded to make a joint submission with respect to penalty and costs by way of a *Settlement Proposal* (Exhibit 3), and made oral submission thereon and asked the Panel to impose the following penalties:
  1. The Registrar be directed to suspend the Member's Certificate of Qualification in the trade of Automotive Service Technician (310S) for a period of four (4) months, commencing on the date of this order, pursuant to paragraph 46(4)(2) of the *Ontario College of Trades and Apprenticeship Act* (the "Act");
  2. The Registrar be directed to impose terms, conditions and limitations on the Member's Certificates of Qualification in the trades of Automotive Service Technician (310S) and Truck and Coach Technician

(310T), commencing on the date of this order, pursuant to paragraph 46(4)(3) of the Act. The specified terms, conditions and limitations to be imposed to be as follows:

- i. “while engaging in the practice of his trades, the Member shall not perform any safety, annual or semi-annual inspections and shall not engage in activities related to any type of inspection prescribed by Regulations 601 and 611 made under the *Highway Traffic Act*, R.S.O 1990 (the “HTA”), as amended from time to time;
  - ii. “while engaging in the practice of his trades, the Member is not permitted to handle, sign, issue or participate in the issuing of any Safety Standards Certificates, Annual Inspections Certificates or Semi-Annual Inspection Certificates, and of any related Inspection Stickers or Vehicle Inspection Records, as those terms are defined or used in the *HTA* and its Regulations”;
  - iii. “the Member shall inform any person who contracts for the Member’s services or who employs, engages or supervises the Member in his capacity as a 310S and/or a 310T Journeyman of the terms, conditions and limitations imposed on his Certificates of Qualification, by providing such person with a copy of the order imposing the terms, conditions and limitations”;
  - iv. “the member shall not, on the basis of his Certificates of Qualification in the trades of 310S and 310T, become or continue to be registered as a Motor Vehicle Inspection Mechanic under the *HTA* and its Regulations”; and
  - v. “within two weeks of the date of this order, the Member shall inform the Ministry of Transportation of Ontario (MTO) of the terms, conditions and limitations imposed on his Certificates of Qualification in the trades of 310S and 310T, by sending a copy of the signed order by registered mail to the Motor Vehicle Inspection Station Unit of the MTO, at the following address: Ministry of Transportation MVIS Unit, 8<sup>th</sup> Floor, 301 St. Paul Street, St. Catharines, ON, L2R 7R4.”
3. The Member be reprimanded by the Discipline Panel at the conclusion of the hearing and the fact of the reprimand shall be recorded on the Public Register for a period of eighteen (18) months, pursuant to paragraph 46(5)(1) of the *Act*;
  4. The finding and the order of the Panel be published in summary, with the name of the Member, on the website of the Ontario College of Trades, pursuant to paragraph 46(5)(3) of the *Act*.
17. College Counsel submitted that the proposed penalties were appropriate in light of the facts in this case, which included that the Member had been charged and convicted under the *High Way Traffic Act*, the

Member had admitted responsibility, and that he had no prior discipline history. College Counsel also submitted that the courts encourage the acceptance of agreements made between parties unless doing so would bring the administration of justice or the disciplinary process into disrepute.

18. College Counsel further submitted for the Panel's consideration two previous decisions of the Discipline Committee of the Ontario College of Trades, in the matters of: (i) Decision No. DC201802 dated January 21, 2019, in which the Discipline Panel imposed a suspension of the Member's Certificate of Qualification for twenty four (24) months and that the Member pay a fine of \$2,000.00 within twelve (12) months; and (ii) Decision No. DC20107 dated February 13, 2018, in which the Discipline Panel imposed a suspension of the Member's Certificate of Qualification for twelve (12) months, that the Member pay a fine of \$500.00 within twelve (12) months and that the finding and order of the Panel was published in the official publication of the College.
19. College Counsel also submitted that the four (4) month suspension of the Member's Certificate of Qualification in the trade of Automotive Service Technician (310S) is punitive and would sufficiently deter the Member given his profile, personal responsibilities and current economic circumstances, all mitigating factors taken into consideration by the College.
20. College Counsel also submitted that the public safety and confidence would be safeguarded by the terms, conditions and limitations specified on both his 310S Automotive Service Technician and 310T Truck and Coach Technician Certificate of Qualifications; essentially preventing the Member from performing any safety, annual or semi-annual inspections, or to handle, sign, issue or participate in the issuing of any Safety Standards Certificates, Annual Inspection Certificates or Semi-Annual Inspection Certificates, and of any related Inspection Stickers or Vehicle Inspection Records.

#### **INDEPENDENT LEGAL COUNSEL ADVICE**

21. ILC advised the Panel that both parties had reached an agreement and submitted a joint *Settlement Proposal*, and that the Panel should only depart from it if it was so out of line to a reasonable person that by accepting the agreement it would bring the administration of justice into disrepute or would be contrary to the public interest.
22. ILC further advised the Panel that in its deliberation, the Panel needed to consider specific deterrence,

general deterrence, protection of the public, maintenance of the profession's high standard and the public's confidence in the College's disciplinary process.

## **PENALTY DECISION**

23. After considering the submissions of the College Counsel and deliberating during a recess, the Panel accepted the penalties set out in the *Settlement Proposal* (Exhibit 3), and ordered the following penalties to be imposed:
1. The Registrar shall be directed to suspend the Member's Certificate of Qualification in the trade of Automotive Service Technician (310S) for a period of four (4) months, commencing on the date of this order, pursuant to paragraph 46(4)(2) of the *Ontario College of Trades and Apprenticeship Act* (the "Act");
  2. The Registrar shall be directed to impose terms, conditions and limitations on the Member's Certificates of Qualification in the trades of Automotive Service Technician (310S) and Truck and Coach Technician (310T), commencing on the date of this order, pursuant to paragraph 46(4)(3) of the Act. The specified terms, conditions and limitations to be imposed shall be as follows:
    - i. "while engaging in the practice of his trades, the Member shall not perform any safety, annual or semi-annual inspections and shall not engage in activities related to any type of inspection prescribed by Regulations 601 and 611 made under the *Highway Traffic Act*, R.S.O 1990 (the "HTA"), as amended from time to time;
    - ii. "while engaging in the practice of his trades, the Member is not permitted to handle, sign, issue or participate in the issuing of any Safety Standards Certificates, Annual Inspections Certificates or Semi-Annual Inspection Certificates, and of any related Inspection Stickers or Vehicle Inspection Records, as those terms are defined or used in the *HTA* and its Regulations";
    - iii. "the Member shall inform any person who contracts for the Member's services or who employs, engages or supervises the Member in his capacity as a 310S and/or a 310T Journeyman of the terms, conditions and limitations imposed on his Certificates of Qualification, by providing such person with a copy of the order imposing the terms, conditions and limitations";
    - iv. "the member shall not, on the basis of his Certificates of Qualification in the trades of 310S and 310T, become or continue to be registered as a Motor Vehicle Inspection Mechanic under the *HTA* and its Regulations"; and

- v. “within two weeks of the date of this order, the Member shall inform the Ministry of Transportation of Ontario (MTO) of the terms, conditions and limitations imposed on his Certificates of Qualification in the trades of 310S and 310T, by sending a copy of the signed order by registered mail to the Motor Vehicle Inspection Station Unit of the MTO, at the following address: Ministry of Transportation MVIS Unit, 8<sup>th</sup> Floor, 301 St. Paul Street, St. Catharine’s, ON, L2R 7R4.”
3. The Member shall be reprimanded by the Discipline Panel at the conclusion of the hearing and the fact of the reprimand shall be recorded on the Public Register for a period of eighteen (18) months, pursuant to paragraph 46(5)(1) of the Act;
4. The finding and the order of the Panel shall be published in summary, with the name of the Member, on the website of the Ontario College of Trades, pursuant to paragraph 46(5)(3) of the Act.

#### **REASONS FOR PENALTY DECISION**

24. In making its order, the Panel considered the College’s submission (including two previous decisions of the Discipline Committee), the advice provided by ILC, the basic principles of sanctioning as well as mitigating and aggravating factors. The Panel finds that the order is fair, considered and appropriate.
25. The Panel understands that it should not interfere with a joint proposal on penalty unless accepting it would bring this discipline process into disrepute or otherwise be contrary to the public interest. In this instance, the panel had no trouble concluding that the proposed penalty and costs order was well within the public interest.
26. The Panel considered the aggravating factors which consisted of the following. The vehicle in question had numerous safety-related defects and the Member issued the SSC despite those defects. Also, the Member’s guilty plea to offences under the Highway Traffic Act indicates that similar conduct occurred in relation to more than one vehicle. Finally, after the Member certified the vehicle in question, it was sold by the dealer to a member of the public and was driven on the public roads for 2,915 kilometres.

27. As mitigating factors, the Panel acknowledged that the Member has no previous history with the Discipline Committee of the College. Further, the Panel noted that by entering into an *Agreed Statement of Facts* and a joint *Settlement Proposal*, the Member helped to expedite the hearing process and resolve this matter in an efficient and timely manner.
28. As a result of the Panel's finding of guilt, the Panel must first and foremost take into consideration the safety of the public, ensuring minimum standards are met by regulated trades professionals. Serving and protecting the public's confidence in both the trades and the College's disciplinary process are paramount. It was the view of the Panel, that all aspects of its penalty decision did just that.
29. The four month suspension, with its attendant financial hardship, sends a strong message to the Member, the profession and to the public that conduct of this nature will be taken seriously by the College.
30. The imposition of terms, conditions and limitations (TLCs) impact the Member directly, speak to the profession as a whole and sends a clear message to the public that it can have confidence in the trades.
31. The reprimand is a specific deterrent and provides an opportunity for the Panel on behalf of the profession and the public, to express its concern and disappointment to the Member for his misconduct. The fact of the reprimand acts as a general deterrent to the profession. It communicates to the profession that similar misconduct will result in similar sanctions. In this instance, the reprimand also addresses the principle of remediation. Further, the fact of the reprimand reassures the public that professional misconduct will be taken seriously by the College and its disciplinary process.
32. The publication in summary sends a clear and strong message to the Member, the profession and the public about the necessity to provide service in a safe, ethical and professional manner.
33. As previously stated, the suspension, TLCs and the publication of the Member's name are both specific and general deterrents. However, the fact of the suspension, TLCs and the publication of the Member's name addresses the issue of public confidence. This information is in the public domain and readily available, thereby assuring the public that the College takes seriously issues of professional misconduct and acts fairly and appropriately when such matters come before it.

34. The publication in summary of the suspension and TCLs sends a clear message to the public that the College and its disciplinary process have responded seriously and appropriately to these proven transgressions. The suspension, TCLs and publication further reassure the public that the College will respond in a fair and reasonable manner to allegations of misconduct and that the public can continue to have confidence in the professional trade of Automotive Service Technician and Truck and Coach Technician.
35. The Panel believes that the penalties ordered will deter the Member from engaging in the same or similar conduct in future; will serve as a deterrent to other members of the College from engaging in the same or similar conduct; and will reduce the risk of harm to members of the public who retain the services of skilled tradespersons like the Member.
36. The Panel is satisfied that the penalty is fair, considered and appropriate. It speaks to the principles of sanctioning and ensures the public's trust in the profession, the College and the College's disciplinary process.

#### **COSTS SUBMISSIONS**

37. College Counsel also submitted a joint proposal with respect to the costs of this proceeding, namely that the Member had agreed to pay costs to the College in the amount of \$1,500 within eighteen (18) months of June 18, 2019, pursuant to section 46(5)4 of the Act.

#### **COSTS DECISION**

38. The Panel considered the proposal and ordered the Member to pay the College's costs in the amount of \$1,500 within (eighteen) 18 months of June 18, 2019, pursuant to section 46(5)4 of the Act. This amount will help to offset some of the costs associated with the investigation and prosecution of this matter, and is not a penalty or sanction.

#### **REASONS FOR COSTS DECISION**

39. The Panel finds that it is reasonable for the Member to defray some of the College's costs related to this matter.

40. In ordering the costs noted above, the Panel took into consideration that by cooperating with the investigation and the hearing of this matter and by entering into a joint *Settlement Proposal* on Penalty and Costs, the hearing of this matter was significantly simplified.
41. The Panel understood that while the amount ordered would help to offset a portion of the costs associated with the investigation and prosecution of this matter, the ordering of costs was neither a penalty nor sanction.

## REPRIMAND

42. ILC advised the Panel that, although there is no tangible document indicating the Member waives his right to an appeal, there is no legal obligation for this to be present for a reprimand to be delivered. ILC further advised that, if the Panel is satisfied with an oral statement from the Member that he does not intend to appeal, then this shall be deemed sufficient to proceed with the reprimand, however, such a statement would not be not legally binding and the Member is still eligible to appeal if he so wishes.
43. The Panel considered the advice from ILC, and having been satisfied with the Member's verbal statement that he did not intend to appeal, proceeded to deliver an oral reprimand pursuant to section 46(5)(1) of the Act as outlined below:

*"Mr. Boone, as you know, as part of its penalty order, this Discipline Panel has ordered that you be given an oral reprimand.*

*The fact that you have received this reprimand will be recorded on the Public Register of the College for a period of eighteen (18) months and, as such, will form part of your record.*

*Although you will be given an opportunity to make a statement at the end of the reprimand, this is not an opportunity for you to review the decision made by the Discipline Panel, nor a time for you to debate the merits of our decision.*

*You have been found to have engaged in conduct that constitutes professional misconduct, including:*

- a) *failed to take reasonable steps to safeguard the life, health or property of a*

*person who may be affected by the work of the member, when he knew or ought to have known that there was a risk to life, health or property (Ontario Regulation 97/13, subsection 1(1));*

- b) signed or issued, in his capacity as a member of the College, a document that he knew or ought to have known contained a false, improper or misleading statement (Ontario Regulation 97/13, subsection 1(8));*
- c) was found guilty of contravening laws, the contravention of which is relevant to his suitability to hold a certificate of qualification or statement of membership (Ontario Regulation 97/13, subsection 1(9));*
- d) acted or failed to act, in respect to the practice of a trade, in a manner that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional (Ontario Regulation 97/13, subsection 1(11)).*

*The Panel takes this type of conduct seriously. The public needs to have confidence that its members are upholding high ethical standards and conducting themselves in accordance with the law. The College also needs to have confidence in its members.*

*The Panel acknowledges that this is the first time you have appeared before the Discipline Committee of the Ontario College of Trades and that you co-operated with the investigation, as well as the prosecution of this matter, and the Panel took this into consideration when accepting the joint Proposal on Settlement today.”*

44. The Panel gave the Member an opportunity to make a statement at the Conclusion of the reprimand, which the Member declined.

Date: August 12, 2019

“Hanno Weinberger”  
Hanno Weinberger, Chair  
On behalf of the Discipline Committee

**End.**