

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

BETWEEN:

ONTARIO COLLEGE OF TRADES

-and-

DAVID MICHAEL BOONE

NOTICE OF HEARING

THE COMPLAINTS COMMITTEE OF THE ONTARIO COLLEGE OF TRADES, pursuant to section 44, subsection (5) of the *Ontario College of Trades and Apprenticeship Act*, S.O. 2009, chapter 22 (the “Act” or “OCTAA”), has directed that the matter hereinafter described regarding the conduct or actions of David Michael Boone (Membership No. 13829468), a member of the College, be referred to the Discipline Committee of the Ontario College of Trades. The Discipline Committee, pursuant to section 46, subsection (1) of the Act, shall hear and determine matters referred to it by the Complaints Committee under section 44 of the Act.

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.

III. 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.

IV. 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.

A PANEL OF THE DISCIPLINE COMMITTEE WILL HOLD A HEARING pursuant to sections 46 and 48 of the Act for the purpose of deciding whether the Member has engaged in professional misconduct. A copy of the *Rules of Procedure of the Discipline Committee & Fitness to Practise Committee* is enclosed.

AN APPEARANCE WILL TAKE PLACE BEFORE THE PANEL by teleconference on **Tuesday, March 5, 2019 at 10:00 a.m. (Eastern)** to set a date for the hearing of this matter on its merits (the "Hearing"). The teleconference call-in details will be provided to all parties at least two (2) weeks prior to the teleconference. The Hearing, once scheduled, will be held at Victory Verbatim, 222 Bay Street, Suite 900, Toronto, Ontario or such other venue as the College may advise, on a date to be determined after consultation between College Counsel and the Member or his legal counsel/representative, and fixed by the Hearings Coordinator.

THE MEMBER IS ENTITLED AND ENCOURAGED TO PARTICIPATE IN THE ABOVE-NOTED APPEARANCE BY TELECONFERENCE AND AT THE HEARING, AND MAY BE REPRESENTED BY LEGAL COUNSEL OR A REPRESENTATIVE THROUGHOUT THIS PROCEEDING.

The Member or his legal counsel/representative may contact College Counsel to discuss the scheduling of the Hearing or a pre-hearing conference to determine whether a date for the Hearing can be agreed upon. College Counsel's contact information is provided below.

IF A DATE FOR THE HEARING IS NOT AGREED UPON AND THE MEMBER DOES NOT ATTEND THE APPEARANCE BY TELECONFERENCE ON Tuesday March 5, 2019 at 10:00 a.m. (Eastern) TO SET A DATE FOR THE HEARING, THEN THE PANEL MAY PROCEED IN HIS ABSENCE TO SET A DATE FOR THE HEARING. NOTICE OF THE HEARING DATE WILL BE PROVIDED TO THE MEMBER IN WRITING AT HIS LAST KNOWN ADDRESS AS SHOWN IN THE RECORDS OF THE COLLEGE.

IF THE MEMBER DOES NOT ATTEND THE HEARING ON THE DATE SCHEDULED, THE PANEL MAY PROCEED

IN HIS ABSENCE AND HE WILL NOT BE ENTITLED TO ANY FURTHER NOTICE OF THE PROCEEDING.

IF THE PANEL FINDS THE MEMBER GUILTY OF PROFESSIONAL MISCONDUCT, the panel shall make one or more of the following orders, pursuant to subsection 46(4) of the Act:

1. Directing the Registrar to revoke the Member's certificate of qualification or statement of membership.
2. Directing the Registrar to suspend the Member's certificate of qualification or statement of membership for a specified period, not exceeding 24 months.
3. Directing the Registrar to impose specified terms, conditions or limitations on the Member's certificate of qualification or statement of membership.
4. Directing that the Registrar not carry out a direction made under paragraph 1, 2 or 3 for a specified period and not carry out the direction at all if specified terms are met within that period.

IN ADDITION, IF THE PANEL FINDS THE MEMBER GUILTY OF PROFESSIONAL MISCONDUCT, the panel may make an order doing one or more of the following, pursuant to subsection 46(5) of the Act:

1. Requiring that the Member be reprimanded, admonished or counselled by the panel or its delegate and, if considered warranted, directing that the fact of the reprimand, admonishment or counselling be recorded on the register for a specified or unlimited period.
2. Imposing a fine in an amount that the panel considers appropriate, to a maximum of \$2,000, to be paid by the Member to the Minister of Finance for payment into the Consolidated Revenue Fund.
3. Directing that the finding and the order of the panel be published, in detail or in summary, with or without the name of the Member, in the official publication of the College and in any other manner or medium that the panel considers appropriate in the particular case.
4. Fixing costs to be paid by the Member.

A member whose conduct has been directed or referred to a proceeding before the Discipline Committee

or panels thereof may examine before the hearing any written or documentary evidence that will be produced or any report, the contents of which will be given as evidence at the hearing. The College must provide the member with complete disclosure at least fifteen (15) days before the hearing on the merits of all evidence in the College's possession or control relevant to the allegations that is not privileged. To obtain disclosure in this matter, the Member or his legal counsel/representative should contact Louis P. Strezos, College Counsel in this matter, using the contact information noted below.

Date: January 24, 2019

"George Gritziotis"

George Gritziotis
Registrar & Chief Executive Officer
Ontario College of Trades
655 Bay Street, Suite 600
Toronto, ON M5G 2K4

To: David Michael Boone
[ADDRESS]
[ADDRESS]

From: Louis P. Strezos, College Counsel
Barrister & Solicitor
15 Bedford Road
Toronto, ON M5R 2J7
Tel: 416-944-0244
Email: lps@15bedford.com