

## DISCIPLINE DECISION

IN THE MATTER OF A DISCIPLINE HEARING HELD PURSUANT TO THE MOTOR  
VEHICLE DEALERS ACT 2002, S.O. 2002, C.30, Sch. B

B E T W E E N :

REGISTRAR, *MOTOR VEHICLE DEALERS ACT, 2002*

- AND -

CLASSIC DIESEL TRUCKS

- AND -

BRIAN KNILL

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Pursuant to Rule 1.07 of the Rules of Practice before the Discipline Committee and the Appeals Committee, I, the Chair of the Discipline Committee, have reviewed and considered the written Agreed Statement of Facts and Joint Submission on Penalty together with both Parties' waiver of a Hearing to this Proceeding and provide the following Order:

**Date of Decision:** March 4, 2019

**Findings:** Breach of Section 4 and 9 of the Code of Ethics

**Order:**

1. The Dealer is ordered to pay a fine in the amount of \$1,500.00 no later than **April 8, 2019**.
2. The Dealer and Knill agree to comply with the Act as may be amended from time to time.

Written Reasons:

### **Reasons for Decision**

#### **Introduction**

This matter proceeded on the basis of an Agreed Statement of Facts, Joint Submission on Penalty and the Parties' Waiver of Hearing, pursuant to Rule 1.07 of the Rules of Practice before the Discipline Committee and the Appeals Committee.

## **Agreed Statement of Facts**

The parties to this proceeding agree that:

1. 1669799 Ontario LTD. o/a Classic Diesel Trucks (the "Dealer") was first registered as a motor vehicle dealer in or around July 2014. Brian Knill ("Knill") was registered as a motor vehicle salesperson in or around July 2014. At all material times Knill was the Officer, Director, as well as the Person in Charge of the Dealer.
2. On June 3, 2014 Knill successfully passed the OMVIC Automotive Certification Course (the "Course"). The Course contained materials within it noting the requirements for registration.
3. On July 14, 2014 Knill executed Terms and Conditions of registration on behalf of the Dealer. Pursuant to condition 1 the Dealer agreed to comply with all requirements of the Act, the *Code of Ethics*, and the Standards of Business Practice. Pursuant to condition 6, the Dealer agreed to ensure that all personnel, agents, assignees or anyone acting on behalf of the Dealer to trade motor vehicles will be registered as a salesperson to the Dealer.
4. On or about May 24, 2017 OMVIC received an individual application for Mark Tylak ("Tylak"). Tylak's sponsoring employer was Knill on behalf of the Dealer.
5. On or about June 20, 2017 Knill called OMVIC to get a status update on Tylak's application. He was advised by a representative of the Registrar that the application was being reviewed by management.
6. On or about June 28, 2017 Knill called OMVIC and spoke with two different representatives of the Registrar regarding Tylak's application and was advised that the application was still under review.
7. Subsequently, the Registrar issued a proposal to refuse registration which was not appealed by Tylak.

## **Dealer non-compliance:**

8. Between about October 3<sup>rd</sup> and about October 11<sup>th</sup> of 2017, a representative of the Registrar determined Tylak had been engaging in trade on behalf of the Dealer without the benefit of registration. As such the Dealer has breached section 4 (3) of the Act, section 9 of the *Code of Ethics*, as well as conditions 1 and 6 of the Dealer's Terms and Conditions of registration.
9. In failing to ensure the Dealer conducted business in compliance with the Act and Regulations, Knill has personally breached section 9 of the *Code of Ethics*.

By failing to comply with the following sections of the Act:

*Unregistered salesperson*

4(3) A motor vehicle dealer shall not retain the services of a salesperson unless the salesperson is registered in that capacity.

It is thereby agreed the Dealer and Knill have breached the following section of the Code of Ethics:

9. (1) In carrying on business, a registrant shall not engage in any act or omission that, having regard to all of the circumstances, would reasonably be regarded as disgraceful, dishonorable, unprofessional or unbecoming of a registrant.

**Joint Submission on Penalty**

1. The Dealer agrees to pay a fine in the amount of \$1,500.00 no later than **April 8, 2019**.
2. The Dealer and Knill agree to comply with the Act as may be amended from time to time.

**Decision of the Chair**

Having reviewed and considered the Agreed Statement of Facts, the Chair of the Discipline Committee hereby concludes that the Dealer breached subsections 4 and 9 of the OMVIC Code of Ethics, as set out in Ontario Regulation 332/08, made under the *Motor Vehicle Dealers Act, 2002*. The Chair of the Discipline Committee also agrees with the Parties' Joint Submission on Penalty and, accordingly, makes the following Order:

1. The Dealer is ordered to pay a fine in the amount of \$1,500.00 no later than **April 8, 2019**.
2. The Dealer and Knill agree to comply with the Act as may be amended from time to time.

Ontario Motor Vehicle Industry Council  
Discipline Committee



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*Paul Burroughs, Chair*