

## 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

BETWEEN:

REGISTRAR, MOTOR VEHICLE DEALERS ACT, 2002

- AND -

NORTHFIELD AUTO SERVICE LTD

- and -

KEVIN ROPP

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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:** June 24, 2019

**Findings:** Breach of Sections 6, 7 and 9 of the Code of Ethics

**Order:**

1. The Dealer is ordered to pay a fine in the amount of \$2,000 no later than **September 30, 2019**.
2. Ropp is ordered to successfully complete the Automotive Certification course (the "course") no later than **September 30, 2019**.
3. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the course. Current sales staff will be offered the course no later than **September 30, 2019**. Future sales staff will be offered the course within 90 days of being retained in this capacity. The Dealer will incur all costs associated with this. It is understood between the parties this clause does not apply to sales staff who have completed the course or who are otherwise required to do so pursuant to the Act.

4. The Dealer and Ropp agree to comply with the Act and Standards of Business Practice, 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. Northfield Auto Service Ltd (the "Dealer") was first registered as a motor vehicle dealer in around January 1984. Kevin Ropp ("Ropp") was registered as a motor vehicle salesperson in around August 2005. At all material times Ropp was an Officer, as well as the Person in Charge of the Dealer.

### **OMVIC publications:**

2. In the Winter of 2008, OMVIC issued a Dealer Standard publication which highlighted some of the changes that would take place when the *Motor Vehicle Dealers Act, 2002* (the "Act") came into effect, such as the requirement to provide written disclosure, of a vehicle's history and condition, such accident repair histories, previous daily rental histories, and out of province registrations ("disclosure").
3. The following Dealer Standard publications also reminded dealers of their disclosure obligations:
  - a) Summer 2011
  - b) Summer 2012
  - c) Winter 2013
  - d) 2014: Issue #4
  - e) 2016: Issue #3
4. In addition to this, OMVIC also issued the following bulletins which reminded dealers of their disclosure obligations:
  - a) January 2010

- b) September 2012
  - c) December 2013
5. In addition to the above referenced written publications, in December 2014 OMVIC hosted "disclosure webinar" which further explained dealer's disclosure obligations. The materials from this webinar continue to be available on OMVIC's website.

**Direct correspondence with Dealer:**

- 6. During an inspection on about April 16, 2014, a representative of the Registrar reminded Ropp of the Dealer's disclosure obligations.
- 7. By letter dated August 27, 2014, Ropp was again reminded of the Dealer's disclosure obligations.
- 8. During an inspection on about May 18, 2016, a representative of the Registrar again reminded Ropp of the Dealer's disclosure obligations.

**Dealer non-compliance:**

- 9. During an inspection on about November 14, 2018, the following non-compliant vehicle trades were discovered:
  - a. On about May 8, 2018, Ropp sold a 2005 Toyota Matrix (VIN 2T1KR32E05C552944) on behalf of the Dealer but failed to provide the purchaser with written disclosure of the vehicle's \$9,458 accident repair history. This is contrary to section 42(19) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. Ropp, on behalf of the Dealer, has since provided OMVIC with confirmation from the purchaser they are aware of their vehicle's accident history.
  - b. On about September 4, 2018, Ropp sold a 2006 Jeep Commander (VIN 1J8HG58N06C169981) on behalf of the Dealer but failed to provide the purchaser with written disclosure of the vehicle's \$3,244 and \$5,841 accident repair history. This is contrary to section 42(19) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. Ropp, on behalf of the Dealer, has since provided OMVIC with confirmation from the purchaser they are aware of their vehicle's accident history.
- 10. Ropp's failure to ensure the Dealer's motor vehicle trades were carried out in compliance with the law has caused him to personally breach sections 6 and 9 of the Code of Ethics.

By failing to comply with the following sections of the *Motor Vehicle Dealers Act, 2002*:  
Regulation 333/08:

42. Additional information in contracts of sale and leases:

(19) If the total costs of repairs to fix the damage caused to the motor vehicle by an incident exceed \$3,000, a statement to that effect and if the registered motor vehicle dealer knew the total costs, a statement of the total costs.

(25) Any other fact about the motor vehicle that, if disclosed, could reasonably be expected to influence the decision of a reasonable purchaser or lessee to buy or lease the vehicle on the terms of the purchase or lease.

It is thereby agreed that Ropp has breached the following section of the Code of Ethics, as set out in Regulation 332/08:

6 (2) A registered salesperson shall not do or omit to do anything that causes the registered motor vehicle dealer who employs or retains the salesperson to contravene this Regulation or any applicable law with respect to trading in motor vehicles.

It is thereby agreed that the Dealer has breached the following sections of the Code of Ethics, as set out in Regulation 332/08:

7. (1) A registrant shall ensure that all documents used by the registrant in the course of a trade in a motor vehicle are current and comply with the law.

It is thereby agreed that the Dealer and Ropp have breached the following sections of the Code of Ethics, as set out in Regulation 332/08:

9(3) A registrant shall use the registrant's best efforts to prevent error, misrepresentation, fraud or any unethical practice in respect of a trade in a motor vehicle.

### **Joint Submission on Penalty**

1. The Dealer agrees to pay a fine in the amount of \$2,000 no later than **September 30, 2019**.
2. Ropp agrees to successfully complete the Automotive Certification course (the "course") no later than **September 30, 2019**.
3. The Dealer agrees to offer all current and future sales staff the opportunity to complete the course. Current sales staff will be offered the course no later than **September 30, 2019**. Future sales staff will be offered the course within 90 days of being retained in this capacity. The Dealer will incur all costs associated with this. It is understood between the parties this clause does not apply to sales staff who have completed the course or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Ropp agree to comply with the Act and Standards of Business Practice, 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 6, 7 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 \$2,000 no later than **September 30, 2019**.
2. Ropp is ordered to successfully complete the Automotive Certification course (the "course") no later than **September 30, 2019**.
3. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the course. Current sales staff will be offered the course no later than **September 30, 2019**. Future sales staff will be offered the course within 90 days of being retained in this capacity. The Dealer will incur all costs associated with this. It is understood between the parties this clause does not apply to sales staff who have completed the course or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Ropp agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

Ontario Motor Vehicle Industry Council  
Discipline Committee



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*Paul Burroughs, Chair*