

## 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 -

GERASIMOS YANNAKIS o/a AUTOTEC MECHANICAL

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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:** May 18, 2018

**Findings:** Breach of Section 7 and 9 of the Code of Ethics

**Order:**

1. The Dealer is ordered to pay a fine in the amount of \$1,500 no later than **October 15, 2018**.
2. The Dealer shall 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.



Ontario Motor  
Vehicle Industry  
Council

Conseil ontarien  
du commerce des  
véhicules automobiles

### **Agreed Statement of Facts**

The parties to this proceeding agree that:

1. Gerasimos Yannakis o/a Autotec Mechanical (the "Dealer") was first registered as a motor vehicle dealer in or around March 2013. Gerasimos Yannakis ("Yannakis") is the sole proprietor of the Dealer.
2. On or about March 20, 2013, Yannakis successfully completed the Automotive Certification Course.
3. On or about March 21, 2013, Yannakis executed terms and conditions of registration on behalf of the Dealer. As per condition 23, the Dealer agreed it is under a positive obligation to disclose in writing, on the bill of sale, all material facts about the vehicles it sells.

### **OMVIC publications:**

4. In the summer of 2013, OMVIC issued a Dealer Standard publication reminding dealers of the requirement to provide purchasers with written disclosure of a vehicle's accident repair history ("disclosure").
5. After the Act was proclaimed, OMVIC further issued the following publications reminding dealers of their disclosure requirements:
  - a. OMVIC bulletin: December 2013
  - b. Dealer Standard: Issue #4: 2014
  - c. Dealer Standard: Issue #4: 2016

### **Direct correspondence with Dealer:**

6. During an inspection on or about June 11, 2013, a representative of the Registrar reminded the Dealer of its obligation to provide purchasers with written disclosure of all material facts about the vehicles it sells, including but not limited to accident repair histories.
7. During an inspection on or about June 19, 2014, a representative of the Registrar reminded the Dealer of its obligation to provide purchasers with written disclosure of all material facts about the vehicles it sells, including but not limited to accident repair histories.
8. By letter dated February 9, 2015, the Dealer was further reminded of its obligation to provide purchasers with written disclosure of all material facts about the vehicles it sells, including but not limited to accident repair histories.
9. During an inspection on or about December 6, 2017, a representative of the Registrar found the following non-compliance issues:



- a. On or about May 2, 2016, the Dealer purchased a 2005 Mazda RX8 , (VIN JM1FE173950152030) with the following declarations:
1. Vehicle declared a total loss by the insurer
  2. Repair Estimate: \$9579.12
  3. Total distance driven is unknown, but as of 11/20//2015 it was believed to be 191179 km. The total distance driven is believed to be higher than the distance indicated. Odometer is: Unreadable

On or about November 23, 2015, the Dealer sold this vehicle without disclosing any of the information above. This is contrary to section 42(4), 42(19), 42(21) and 42(25) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. The Dealer has since reached out to the purchaser to inform them of their vehicle's history.

- b. On or about September 5, 2017, the Dealer purchased a 2007 Chevrolet Cobalt, (VIN1G1AL15F977293079) with the following declarations:
1. Vehicle declared a total loss by the insurer
  2. Repair Estimate: \$7549
  3. Total distance driven is unknown, but as of 8/21/2017 it was believed to be 166797km. The total distance driven is believed to be higher than the distance indicated. Odometer is: Good

On or about September 7, 2017, the Dealer sold this vehicle without disclosing any of the information above. This is contrary to section 42(4), 42(19), 42(21) and 42(25) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. The Dealer has since reached out to the purchaser to inform them of their vehicle's history.

10. In failing to make the required disclosures on the above referenced bills of sale, the Dealer has breached condition 23 of its terms and conditions of registration. This is contrary to section 9 of the Code of Ethics.

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

Regulation 333/08:

*42. Additional information in contracts of sale and leases:*

4. If the motor vehicle is a used motor vehicle and the registered motor vehicle dealer cannot determine the total distance that the vehicle has been driven but can determine the distance that the vehicle has been driven as of some past date, a statement of that distance and date, together with a statement that the total distance that the vehicle has been driven is believed to be higher than that distance.

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.



21. If the motor vehicle was declared by an insurer to be a total loss, regardless of whether the vehicle was classified as irreparable or as salvage under section 199.1 of the Highway Traffic Act, a statement to that effect.

It is thereby agreed that the Dealer has breached sections 7 and 9 of the Code of Ethics, as set out in regulation 332/08:

Compliance

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.

Professionalism

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, dishonourable, unprofessional or unbecoming of a registrant.

**JOINT SUBMISSION ON PENALTY:**

1. The Dealer agrees to pay a fine in the amount of \$1,500 no later than **October 15, 2018**.
2. The Dealer agrees 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 subsection 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 no later than **October 15, 2018**.
2. The Dealer shall comply with the Act and Standards of Business Practice, as may be amended from time to time.

Ontario Motor Vehicle Industry Council  
Discipline Committee



*Paul Burroughs, Chair*



**DISCIPLINE COMMITTEE OF THE ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL**

**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 -**

**GERASIMOS YANNAKIS o/a AUTOTEC MECHANICAL**

**AGREED STATEMENT OF FACTS AND PENALTY**

Gerasimos Yannakis o/a Autotec Mechanical has breached the following:


Section 7 of the Code of Ethics, Regulation 332/08

Section 9 of the Code of Ethics, Regulation 332/08

**SUMMARY OF AGREEMENT**

The parties to this proceeding agree that:

1. Gerasimos Yannakis o/a Autotec Mechanical (the "Dealer") was first registered as a motor vehicle dealer in or around March 2013. Gerasimos Yannakis ("Yannakis") is the sole proprietor of the Dealer.
2. On or about March 20, 2013, Yannakis successfully completed the Automotive Certification Course.
3. On or about March 21, 2013, Yannakis executed terms and conditions of registration on behalf of the Dealer. As per condition 23, the Dealer agreed it is under a positive obligation to disclose in writing, on the bill of sale, all material facts about the vehicles it sells.

  
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initials

It is thereby agreed that the Dealer has breached sections 7 and 9 of the Code of Ethics, as set out in regulation 332/08:

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*Professionalism*

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, dishonourable, unprofessional or unbecoming of a registrant.

**JOINT SUBMISSION ON PENALTY:**

1. The Dealer agrees to pay a fine in the amount of \$1,500 no later than October 15, 2018.
2. The Dealer agrees to comply with the Act and Standards of Business Practice, as may be amended from time to time.

By signature below, I acknowledge that I have read and understand the penalty outlined herein and agree to the said terms and/or conditions and that I exercised my right to be represented by Counsel or agent in this matter. I understand, acknowledge and consent to waive the requirement for a hearing and to request an Order from the Chair of the Discipline Committee that includes this Agreed Statement of Facts and Penalty as a final settlement of this matter.

DATED AT Lang Sav It THIS 9 DAY OF Apr, 2018

GERASIMOS YANNAKIS

(please print)

M.Y.

(signature)

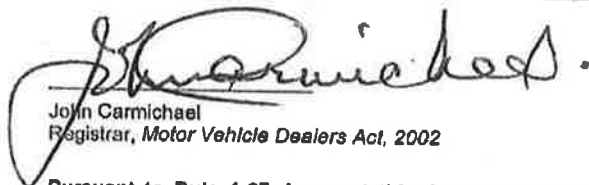
Gerasimos Yannakis o/a  
Autotec Mechanical

M.Y.  
initials



By signature below the Registrar agrees, acknowledges, understands and consents to the final settlement of this matter by way of this Agreed Statement of Facts and Penalty.

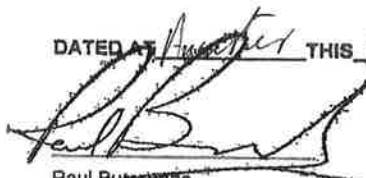
DATED AT Toronto THIS 10 DAY OF May, 2018



John Carmichael  
Registrar, Motor Vehicle Dealers Act, 2002

Pursuant to Rule 1.07, I accept this Agreed Statement of Facts and Penalty from the Parties identified above:

DATED AT Amherst THIS 2<sup>nd</sup> DAY OF May, 2018



Paul Burroughs  
Chair, Discipline Committee of the  
Ontario Motor Vehicle Industry Council



Initials

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 DAVID DALLIY  
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 CANADA CA

SHIP DATE: 22MAY18  
 ACTWGT: 0.20 KG  
 CAD: 100978087/NET3980  
 BILL SENDER

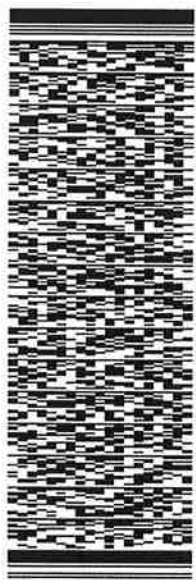
TO GERASIMOS YANNAKIS  
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LONG SAULT ON K0C1P0  
 REF: (613) 938-2273  
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We must receive your written notice of a claim for damage or delay, including perishable and spoilage damage claims due to late or delayed delivery, within 21 days after we deliver your shipment and in the case of loss, shortage, mis-delivery, nondelivery, misinformation or failure to provide information, within 90 days after we accept the shipment for carriage. The right to claim damages against us shall be extinguished unless an action is brought within two years from the date of delivery of the shipment or from the date on which the shipment should have been delivered or from the date on which the carriage stopped. Within 90 days after you have notified us of your claim, it must be documented by sending us all relevant information regarding your claim. FedEx is not obligated to act on any claim until all transportation charges have been paid. The claim amount may not be deducted from these charges. If the recipient accepts the shipment without noting any damage on the delivery record, FedEx will assume the shipment was delivered in good condition. In order for us to consider a claim for damage, the contents, original shipping carton and packing must be made available to us for inspection at the delivery location and you must retain all such items until the claim is concluded. RESPONSIBILITY FOR PAYMENT. Even if you give us different payment instructions, you, the shipper, will always be primarily responsible for all charges, including transportation charges, and all duties, assessments, governmental penalties and fines, taxes, and FedEx's legal fees and costs related to shipments tendered under this Agreement. You also will be responsible for any costs FedEx may incur in returning your shipments to you or warehousing them pending disposition. MANDATORY LAW. Insofar as any provisions contained or referred to in this Agreement may be contrary to any applicable laws, government regulations, orders or requirements, such other provisions shall remain in effect as a part of this Agreement to the extent that they are not overridden. The invalidity or unenforceability of any provisions of this Agreement shall not affect any other part hereof. The parties expressly agree that this Agreement be drawn up in the English language. FEDERAL EXPRESS CANADA LTD., Head Office, 5985 Explorer Drive, Mississauga, ON L4W 5K6.