

**DISCIPLINE COMMITTEE
OF THE COLLEGE OF OPTICIANS OF ONTARIO**

PANEL:

Ingrid Koenig, RO – Panel Chair
Mike Smart, RO
Margaret (Peggy) Judge
Samir Modhera, RO
Stephen Kinsella, Public Member

BETWEEN:

COLLEGE OF OPTICIANS OF ONTARIO)	
)	<i>Maya Pearlston</i>
)	College of Opticians of Ontario
- and -)	
)	Member, William Truong
)	Appearing for himself
WILLIAM TRUONG, No. 4292)	
)	<i>Luisa Ritacca</i>
)	Independent Legal Counsel
)	
)	
)	Heard: January 12, 2021

DECISION AND REASONS

This matter came for hearing before a Panel of the Discipline Committee the College of Opticians of Ontario (the “College”) on January 12, 2021. This matter was heard electronically, by way of video conference.

The Member was self-represented throughout the proceedings. He indicated at the outset that he was comfortable proceeding without legal counsel.

The Allegations

The allegations against the Member William Truong as stated in the Notice of Hearing dated June 15, 2020 are as follows:

The Member

1. William Truong, #4292 (the “Member”) registered with the College of Opticians of Ontario (the “College”) in or around 2008 as a Student Optician. In 2010 he became an Intern Optician and in 2011 he registered as a Registered Optician.

Failing to comply with an order of the Inquiries, Complaints and Reports Committee and failing to respond to the College

2. It is alleged that on or about August 22, 2018, the College sent the Member a registered letter to the address the Member provided to the College.
3. The registered letter enclosed a copy of the decision of the Inquiries, Complaints and Reports Committee (the “ICRC”) that ordered the Member to complete a specified continuing educational or remedial program (the “SCERP”) and attend for an oral caution. The SCERP mandated the Member to write and submit an essay to the College no later than 45 days from the date of the registered letter.
4. It is alleged that the Member or his authorized representative signed for the registered letter on or about August 23, 2018.
5. It is alleged that the Member did not respond to the registered letter and did not complete the SCERP in accordance with the deadline.
6. It is alleged that the College followed up with the Member on at least two occasions and requested the Member to successfully complete the SCERP.
7. It is alleged that the Member did not respond to the College.

Allegations of Professional Misconduct

8. As a result of the above, it is alleged that the Member engaged in the following acts of professional misconduct as set out in Ontario Regulation 828/93, section 1:
 - a. Contravening a standard of practice of the profession (paragraph 2);
 - b. Failing to reply without sufficient reason to a registered letter from the College (paragraph 16); and/or
 - c. Engaging in conduct or performed an act, in the course of practicing Opticianry that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional (paragraph 28).

The Member’s Plea

The Member pleaded guilty to the allegations of professional misconduct set out in the Notice of Hearing.

The Panel conducted a plea inquiry and was satisfied that the Member's plea was voluntary, informed and unequivocal.

Evidence

The parties advised the Panel that they had prepared an Agreed Statement of Facts, which was presented as evidence in support of the allegations and the Member's admissions.

The Member

1. William Truong, #4292 (the "Member") registered with the College in 2008 as a Student Optician. The Member became an Intern Optician in 2010 and he registered as a Registered Optician in 2011. A copy of the Member's Member Profile is attached at Tab "A".

Failing to Comply with an Order of the Inquiries, Complaints and Reports Committee and Failing to Respond to the College

2. It is agreed that on August 22, 2018, the College sent the Member a registered letter to the address the Member provided to the College.
3. The registered letter enclosed a copy of the decision of the Inquiries, Complaints and Reports Committee (the "ICRC") that ordered the Member to complete a specified continuing educational or remedial program (the "SCERP") and to attend for an oral caution. The SCERP mandated the Member to write and submit a reflective essay to the College on the importance of the College's Quality Assurance Program no later than 45 days from the date of the registered letter (on or about October 5, 2018). Attached at Tab "B" is a copy of the cover letter and decision of the ICRC dated August 22, 2018.
4. It is agreed that the Member or his authorized representative signed for the registered letter on August 23, 2018. A copy of the Canada Post-delivery confirmation is attached at Tab "C".
5. On September 17, 2018, the College wrote to the Member reminding him to successfully complete the SCERP. The College advised the Member to submit the completed SCERP by no later than October 12, 2018. A copy of this correspondence is attached at Tab "D".
6. It is agreed that the Member did not respond to the registered letter as described in paragraph 3 and did not complete the SCERP in accordance with the deadline.
7. On December 6, 2018, the College wrote to the Member again requesting that he submit the completed SCERP. A copy of this correspondence is attached at Tab "E".
8. It is agreed that the Member did not respond to the College.

9. It is agreed that the Member never completed the SCERP as set out in paragraph 3.
10. It is agreed that it is a standard of the profession to comply with Quality Assurance Program requirements and College committee orders and to respond to College correspondence.
11. If the Member were to testify he would apologize to the College and acknowledge that he should have completed the SCERP and responded to the inquiries of the College.
12. If the Member were to testify, he would advise of the following:
 - a. He has been registered for approximately 9 years and is proud of being a part of the profession. He tries to bring excellence to his work every single day even on the most stressful days, but he struggles with continuing education (CE).
 - b. He knows this has been a longstanding issue. During 2016 the Member accepted a position as a Licensed Optician Store General Manager with Lenscrafters. This resulted in the Member putting a lot of effort into client care. However, he did not put the requisite time and effort into his CE obligations.
 - c. He recognizes that the College had made numerous attempts to contact him throughout 2018 and in 2019, and he admits he was wrong to not respond to those attempts.

Professional Misconduct

13. It is agreed that the above conduct constitutes professional misconduct pursuant to section 51(1)(c) of the Health Professions Procedural Code, being Schedule 2 to the Regulated Health Professions Act, 1991, as set out in the following paragraphs of section 1 of Ontario Regulation 828/93 made under the Opticianry Act, 1991:
 - a. Paragraph 2: He contravened a standard of the profession;
 - b. Paragraph 16: He failed to reply without sufficient reason to a registered letter from the College; and
 - c. Paragraph 28: He engaged in conduct or performed an act, in the course of practicing Opticianry that, having regard to all the circumstances would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.
14. By this document, the Member states that:
 - a. He understands fully the nature of the allegations against him;
 - b. He has no questions with respect to the allegations against him;
 - c. He understands that by signing this document he is consenting to the evidence as set out in the Agreed Facts being presented to the Discipline Committee;

- d. He understands that by admitting the allegations, he is waiving his right to require the College to prove the case against him and the right to have a hearing;
- e. He understands that the decision of the Discipline Committee and a summary of its reasons, including reference to his name, may be published in the College's annual report and any other publication or website of the College;
- f. He understands that any agreement between him and the College with respect to the penalty proposed does not bind the Discipline Committee; and
- g. He understands and acknowledges that he is executing this document voluntarily, unequivocally, free of duress, free of inducement or bribe, and that he has been advised of his right to seek legal advice and that he has had the opportunity to receive such advice.

Decision and Analysis

Based on the evidence received, the Panel finds that the Member engaged in professional misconduct as alleged in the Notice of Hearing.

The Member's failure to respond to the College's correspondence is a clear contravention of the standards of the profession and his conduct, which would reasonably be regarded by other members of the profession as disgraceful, dishonourable or unprofessional. The College and the public have the right to expect that members will provide timely responses to the College's requests. The Member's failure to respond to the ICRC's letter and direction to complete a SCERP was troubling. The Member was given ample time to respond and to comply with the ICRC's direction. The Member's failure to respond to the College's communications call into question his willingness to abide by the simple and clear obligations imposed on all regulated health professionals.

Joint Submission as to Penalty and Costs

Counsel for the College advised the panel that a Joint Submission on Order and Costs had been agreed upon (Exhibit #3). The Joint Submission provides as follows:

1. The Member is required to appear before a panel of the Discipline Committee following the hearing of this matter to be reprimanded, with the fact of the reprimand and a summary of the reprimand to appear on the public register of the College.
2. The Registrar is directed to suspend the Member's certificate of registration for a period of four (4) months, commencing on a date to be selected by the Registrar, two (2) months of which shall be remitted if the Member complies

with the term, condition and limitation set out in paragraph 4(a) within two (2) months of the date of the Order of the Discipline Committee.

3. If the remitted portion of the suspension referred to in paragraph 2 above is required to be served by the Member, the suspension shall continue until the Member completes the term, condition and limitation set out in paragraph 4(a) of the Order of the Discipline Committee.
4. The Registrar is directed to immediately impose the following specified terms, conditions and limitations on the Member's certificate of registration:
 - a. Requiring the Member to comply with the outstanding requirements as directed by the Inquiries, Complaints and Reports Committee of the College in its decision dated August 22, 2018, including that the Member complete a specified continuing educational or remedial program and attend for an oral caution, within three (3) months of the date of the Order of the Discipline Committee;
 - b. Requiring the Member to successfully complete, to the satisfaction of the Registrar and at his own expense, a pre-approved ethics course, within three (3) months of the date of the Order of the Discipline Committee;
 - c. Requiring the Member to successfully complete, to the satisfaction of the Registrar and at his own expense, the College's jurisprudence course, within three (3) months of the date of the Order of the Discipline Committee; and
 - d. Requiring the Member to respond to all College communication within 15 days.
5. For greater certainty, the Member's obligation to comply with the proposed terms, conditions and limitations on his certificate of registration contained in paragraph 4 is not relieved by serving the entire suspension referred to in paragraph 2 above.
6. The Member is required to pay to the College costs in the amount of \$3,000.00, to be payable in accordance with an installment plan authorized by the Registrar.
7. The Member acknowledges that this Joint Submission as to Penalty and Costs is not binding upon the Discipline Committee.
8. The Member acknowledges that he has had the opportunity to receive independent legal advice.

Order

The Panel accepted the Joint Submission and advised the parties that it would make an order accordingly

Reasons for Penalty and Costs Order

The Panel accepted the Joint Submission submitted by the College and the Member. The Panel is aware that it is required to accept a joint submission except where doing so would bring the administration of justice into disrepute or would otherwise be contrary to the public interest.

The Panel accepts the joint submission and acknowledges that Mr. Truong is remorseful and cooperated in this hearing in that a full trial was not required.

The penalty and costs order are in the range of similar cases, which were presented to the Panel by the College. Of note, the Panel was guided by the decisions of the Discipline Committee in *Chow* (2019) and *Wallner* (2018).

At the end of the hearing, the Panel delivered its reprimand to the Member, a copy of which is attached hereto as Schedule A

I, **Ingrid Koenig** sign this Decision and Reasons for the decision as Chairperson of this Discipline panel and on behalf of the members of the Discipline panel as listed below:



Ingrid Koenig, Chairperson and Professional Member



Date

Mike Smart, RO
Margaret (Peggy) Judge
Samir Modhera, RO
Stephen Kinsella, Public Member

Schedule A

REPRIMAND

As you know, Mr. Troung, as part of its penalty order this Discipline Panel has ordered that you be given an oral reprimand. You agreed to this term of order as part of your joint submission on penalty filed during the course of the hearing.

The fact that you have received this reprimand will be part of the public portion of the Register and, as such, part of your record with the College.

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.

The Panel has found that you have engaged in professional misconduct in a number of ways, including:

1. That you contravened a standard of the profession;
2. That you failed to respond to a registered letter from the College without sufficient reason; and
3. That you engaged in conduct that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

It is a matter of concern to this Panel that you have engaged in these forms of professional misconduct.

The public expects health care professionals to be responsive to their regulators. You have an obligation to respond to communications from your College. Failing to do so, puts the public trust in self-regulation at risk and makes it difficult for the College to do its job in the public interest.

Consequently, it is necessary for us to take steps to impress upon you the seriousness of the misconduct in which you have engaged.

We also want to make it clear to you that while the penalty that this Panel has imposed upon you is a fair penalty, a more significant penalty will be imposed by another Discipline Panel in the event that you are ever found to have engaged in professional misconduct again.

As I have already stated, this is not an opportunity for you to review the decision or debate the correctness of the decision, however, do you wish to make any comments?

Thank you.