

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

PANEL: Rob Vezina, RO and Chair
Omar Farouk, Public Member
Diana Bristow, Public Member
Dorina Rez, RO
Tonya Nahmabin, RO

BETWEEN:

COLLEGE OF OPTICIANS OF ONTARIO)	
)	<u>Natasha Danson</u> for the
)	College of Opticians of Ontario
- and -)	
)	
)	<u>Rhonda Shadlyn</u> , Registrant,
)	Not present
RHONDA SHADLYN)	
)	
)	
)	<u>Luisa Ritacca</u>
)	Independent Legal Counsel
)	
)	
)	Heard: May 31, 2023

DECISION AND REASONS

This matter came for a motion hearing before a Panel of the Discipline Committee on May 31, 2023 at the College of Opticians of Ontario (the “College”) at Toronto.

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This matter was heard electronically, by way of video conference. The Registrant was not present at the proceedings. The College advised the Panel that the Registrant did not intend to participate in the hearing, but that she consented to the College’s request. Given the circumstances described in more detail below, the Panel was content to proceed in the Registrant’s absence.

At the outset of the hearing, the College brought a motion seeking an indefinite adjournment of the allegations. The College advised the Panel that the Registrant had entered into an Undertaking to, among other things, resign as a member of the College and to never seek to re-apply in the future.

At the conclusion of the hearing, the Panel advised the College that it would grant the requested order. The Panel’s reasons for granting the motion are set out in brief below.

The Allegations

The allegations against the Registrant Rhonda Shadlyn as stated in the Notice of Hearing dated December 16, 2022 are as follows:

STATEMENT OF SPECIFIED ALLEGATIONS

The Registrant

1. At all material times, Rhonda Simmie Shadlyn (the "Registrant") was a registered optician in Ontario. The Registrant owns and works at Roshad Optical, currently located in Stouffville, Ontario (the "Clinic").

Client A and Family

2. Between approximately 2016 and 2018, Client A and/or his family attended at the Clinic on at least three (3) occasions.
3. It is alleged that the Registrant issued approximately fifteen (15) receipts indicating that she issued "lenses" and frames to Client A and/or his family, when in fact Client A and/or his family purchased non-prescription sunglasses from the Registrant.
4. It is alleged that the Registrant subsequently re-wrote the receipts described in paragraph 3 above and submitted them to Client A's insurer in or about 2020.
5. Despite including information about the lenses, the Registrant did not obtain a valid prescription for Client A and/or his family.
6. It is further alleged that the Registrant failed to keep records as required for Client A and/or his family, including by doing one or more of the following:
 - a. Failing to obtain and retain a copy of a valid prescription; and/or
 - b. Failing to record patient history, prescription details, the identity of the optician who performed various tasks, an ongoing management plan and/or other required information in the patient record; and/or
 - c. Failing to maintain records in a manner that ensures that a patient or investigator has access to the records, including by being unable to locate at least two (2) documents in the patient record; and/or
 - d. Failing to ensure that personal health information is retained, transferred and disposed of securely and in accordance with privacy legislation, including by storing patient records in a disorganized and unsecured manner.

Client B

7. On or about March 3, 2021, Client B, an undercover investigator posing as a client, attended at the Clinic and advised the Registrant that he wanted to purchase non-prescription sunglasses.
8. It is alleged that Registrant duplicated the prescription from Client B's eyeglasses.
9. It is alleged that the Registrant issued approximately two (2) receipts indicating that she dispensed "lenses" and frames to Client B, when in fact Client B purchased non-prescription sunglasses from the Registrant.

10. It is alleged that the Registrant included a “prescription” or information relating to a prescription on the receipts described in paragraph nine (9) above.
11. It is further alleged that the Registrant failed to keep records as required for Client B, including by doing one or more of the following:
 - a. Failing to note the duplication of a prescription; and/or
 - b. Failing to include patient history, the identity of the optician who performed various tasks, an ongoing management plan, and/or other required information; and/or
 - c. Failing to maintain clear and legible financial records; and/or
 - d. Failing to ensure that personal health information is retained, transferred and disposed of securely and in accordance with privacy legislation, including by storing patient records in a disorganized and unsecured manner.
12. It is alleged that the receipts issued by the Registrant are records related to her practice.

Allegations of Professional Misconduct

13. As a result of the above, it is alleged that the Registrant engaged in the following acts of professional misconduct as set out in section 1 of Ontario Regulation 828/93:
 - a. She contravened a standard of practice of the profession (paragraph 2), including Standard 2: Professional Conduct and/or Standard 5: Record Keeping;
 - b. She falsified a record relating to her practice (paragraph 21);
 - c. She signed or issued, in her professional capacity, a document that she knows or ought to know contains a false or misleading statement (paragraph 23);
 - d. She submitted an account or charge for services that she knows or ought to know is false or misleading (paragraph 24); and/or
 - e. She 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 (paragraph 28).

Allegations of Professional Misconduct

1. As a result of the above, it is alleged that the Registrant engaged in the following acts of professional misconduct as set out in section 1 of Ontario Regulation 828/93 made under the *Opticianry Act, 1991*:
 - a. Paragraph 28: Engaging in conduct or performing 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.

Request for Indefinite Adjournment

The College submitted that in exchange for the Registrant's Undertaking, it was prepared to seek an indefinite adjournment of a hearing into the allegations as set out in the Notice of Hearing.

On March 31, 2023, the Registrant signed an Acknowledgment and Undertaking providing, among other things, that she:

- Resign her membership in and certificate of registration with the College immediately.
- Never re-apply for membership, registration, licensure or similar status as an optician with the College or any other regulatory body for opticians in Canada.
- Acknowledge that should she seek to re-apply for membership or similar status with the College or any other regulatory body for opticians in Canada in the future, the College will be entitled to rely on her Acknowledgement and Undertaking in any registration or other similar proceeding as reason to deny her application.
- Upon resignation, is not entitled to use the title "optician" or "ophthalmic dispenser" or any variation, abbreviation or equivalent in another language, or hold herself out as a person who is qualified to practise in Ontario as an optician or in a speciality of opticianry.
- Understands that should she violate any part of her Acknowledgement and Undertaking, the College is entitled to re-institute the prosecution of the allegations set out in the Notice of Hearing and will be entitled to pursue allegations for a breach of her Acknowledgement and Undertaking.

The College submitted that based on the Registrant's Acknowledgement and Undertaking, it was appropriate for the Panel to grant the indefinite adjournment as sought.

Decision and Analysis

The issue before this Panel is whether it would be consistent with the College's mandate to protect the public interest to resolve this proceeding by way of resignation and an undertaking not to

reapply, rather than a full hearing at which the allegations of professional misconduct would be adjudicated.

The Panel is satisfied that Ms. Shadlyn's resignation and undertaking not to reapply will protect the public. As College counsel submitted and as advised by our Independent Legal Counsel, the undertaking and agreement not to reapply represents a greater consequence for the Registrant than could be imposed at a full hearing, since, even if her registration was revoked at a full hearing, she would be entitled to reapply in the future.

The College's obligation of public transparency will be served by the orders sought regarding the public register, and by these reasons.

The profession and the public will also avoid the costs of a full hearing.

The Panel is satisfied that the proposed disposition is consistent with the public interest. Accordingly, the Panel orders that the disciplinary proceedings against the Registrant, as set out in the Notice of Hearing are adjourned indefinitely.

I, **Rob Vezina**, 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:



Rob Vezina, RO and Panel Chair

Date: June 15, 2023

Issued: June 15, 2023

Diana Bristow, Public Member

Dorina Rez, RO

Omar Farouk, Public Member

Tonya Nahmabin, RO