

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

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

BETWEEN:

COLLEGE OF OPTICIANS OF ONTARIO)	
)	<u>Natasha Danson</u> for the
)	College of Opticians of Ontario
- and -)	
)	<u>Shamshood Zaman Ali</u> , Registrant,
)	Not present
SHAMSHOOD ZAMAN ALI)	
)	
)	<u>Luisa Ritacca</u>
)	Independent Legal Counsel
)	
)	
)	Heard: May 31, 2023

DECISION AND REASONS

This matter came on 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.

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 he 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 Shamshood Zaman Ali as stated in the Notice of Hearing dated March 24, 2023 are as follows:

STATEMENT OF SPECIFIED ALLEGATIONS

The Registrant

1. At all material times, Shams hood Ali (the "Registrant") was a registered optician working at Hakim Optical in Ottawa, Ontario (the "Clinic").

Inappropriate Conduct Towards a Colleague

2. It is alleged that, between in or about June and September 2018, the Registrant worked with a female colleague (the "Colleague") at the Clinic. The Colleague was a student optician at all material times.
3. It is alleged that, during the course of the Colleague's employment at the Clinic, the Registrant did one or more of the following at the Clinic:
 - a. Asked the Colleague if she was looking for a husband;
 - b. Asked the Colleague if she was married;
 - c. Asked the Colleague to give him her sales commissions;
 - d. Became upset when the Colleague did not understand how to complete a particular task and/or slammed trays down on a table and/or left the Clinic, saying, "student optician" or words to that effect;
 - e. Raised his voice at the Colleague when she asked him a question in front of a client and/or said, "Do not question me!" or words to that effect causing the client to leave the store without making a purchase;
 - f. Raised his voice at the Colleague when she asked him a question and/or said, "I have told you more than twice" or words to that effect, and/or banged his hands on the table and/or aggressively pointed his finger at her;
 - g. Became upset with the Colleague while teaching her to use the lensometer because her finger was in the wrong position, and/or pressed down hard on her finger while it was on the device causing her pain; and/or
 - h. Raised his voice at the Colleague and/or said, "This is a bunch of poop!" or words to that effect.
4. It is further alleged that, on or about September 17, 2018, the Registrant did one or more of the following at the Clinic:
 - a. Grabbed the Colleague's shoulders and pulled her toward him unexpectedly and without consent;
 - b. Kissed her on the face without consent while she attempted to get away from him; and/or
 - c. Asked her where she lived after grabbing and/or kissing her.

Allegations of Professional Misconduct

5. 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 May 11, 2023, the Registrant signed an Acknowledgment and Undertaking providing, among other things, that he:

- Resign his 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 he 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 his Acknowledgement and Undertaking in any registration or other similar proceeding as reason to deny his 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 himself out as a person who is qualified to practise in Ontario as an optician or in a speciality of opticianry.
- Understands that should he 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 his 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.

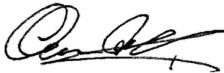
The Panel is satisfied that Mr. Ali's resignation and undertaking not to reapply will protect the public. As College counsel submitted and as advised by our Independent Legal Counsel, the undertaking and agreement not to reapply represents a greater consequence for the Registrant than could be imposed at a full hearing, since, even if his registration was revoked at a full hearing, he 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, **Omar Farouk**, 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:



Omar Farouk, Public Member and Panel Chair

Date: June 15, 2023

Issued: June 15, 2023

Diana Bristow, Public Member

Dorina Reiz, RO

Rob Vezina, RO

Tonya Nahmabin, RO