THE DISCIPLINE COMMITTEE OF THE COLLEGE OF OPTICIANS OF ONTARIO

Panel: Ms. Janice M. Schmidt, Chair, Professional Member
Ms. Jane Rowe, Public Appointee Member
Ms. Frances-Clare Fraboni, Public Appointee Member

Between:

College of Opticians of Ontario	)	Ms. Karyn M. Wasserstein, Counsel for the College of Opticians of Ontario
- and -	)	Ms. Lisa Braverman, Independent Legal Counsel
Mr. William Paul Glazier, C-1816	)	Member, Self-Represented
	)	July 21, 2003

DECISION AND REASONS

This matter came on for hearing before a panel of the Discipline Committee on July 21, 2003 at the College of Opticians of Ontario in Toronto.

Preliminary Matter:

At the beginning, the chair of the panel disclosed that Mr. Glazier was a student several years ago and that they had met occasionally at continuing education events and seminars in the past. There was no objection raised.

The Allegations:

It is alleged that you have committed acts of professional misconduct pursuant to the provisions of both section 1, paragraphs 2 and 26 of Regulation 828/93, as amended, promulgated to the *Opticianry Act*, S.O. 1991, c. 34 (the "Act ") and subsection 5(2) of the Act in that on or about June 16, 2001 you:

(a) contravened a standard of practice of the profession by engaging in the practice of refractometry; and

(b) contravened section 5 of the *Opticianry Act*, S.O. 1991, c. 34 by dispensing eye glasses without the prescription of an optometrist or a physician.

The particulars of these allegations are:

(i) On or about June 16, 2001 you performed refractometry on Mr. Graham Rennie at Glazier Opticians, 1011 Upper Middle Road, Oakville, Ontario, contrary to the standard of practice and directive of the College of Opticians of Ontario, issued by the Council of the College of Opticians on March 9, 2001; and

(ii) On or about June 16, 2001 you dispensed eye glasses to Mr. Graham Rennie without the prescription of an optometrist or a physician, contrary to section 5 of the *Opticianry Act*.

Ms Wasserstein filed the Notice of Hearing dated July 15, 2002 as Exhibit 1 and the Statement of Agreed Facts and the Consent Disposition as Exhibit 2.

Member's Plea:

William Paul Glazier, C-1816 admitted the allegations set out in the Notice of Hearing. The panel was satisfied that the Member's admission was voluntary, informed and unequivocal.

Statement of Agreed Facts:

Counsel for the College advised the panel that agreement had been reached on the facts and introduced a Statement of Agreed Facts which provides as follows:

FACTS

1. The member, William Paul Glazier ("Mr. Glazier"), is a member of the College of Opticians of Ontario. His membership number is C-1816.
2. Mr. Glazier is the owner of Glazier Opticians at 1011 Upper Middle Road East, Oakville, Ontario L6H 4L2 ("the Store").

3. On June 16, 2001 the patient, Mr. G.R., attended at the Store seeking new eyeglasses. The patient did not have a prescription from a physician or an optometrist.
4. Mr. Glazier dispensed eyeglasses to the patient without a prescription from a physician or an optometrist.
5. Mr. R. was an existing patient who had attended at the Store a couple of years earlier to purchase eyeglasses, having presented Mr. Glazier with the prescription of an optometrist. On June 16, 2001, Mr. Glazier offered to conduct a refractometry test on the patient in order to determine whether there was a change from the patient's old prescription, which Mr. Glazier had in the patient's file. The patient agreed.
6. Mr. Glazier performed refractometry on the patient using the automated Eyelogic system. A copy of the results of the refractometry test is attached hereto under Tab 1. Mr. Glazier used the results of the refractometry test to order the lenses for one pair of eyeglasses and two pairs of sunglasses.
7. The patient re-attended at the Store approximately two weeks later to pick up the eyeglasses. The sunglasses were not ready yet, but Mr. Glazier dispensed the single pair of eyeglasses.
8. The patient had difficulty seeing with the eyeglasses dispensed by Mr. Glazier and attended at an optometrist's office for an eye examination. The optometrist, Dr. Mungar,O.D., wrote a prescription, a copy of which is attached hereto under Tab 2.
9. The patient returned to the Store on July 4, 2001 with the prescription from Dr. Mungar,O.D. Mr. Glazier changed the order for the sunglasses' lenses in accordance with Dr. Mungar's prescription and changed the lenses in the eyeglasses in accordance with Dr. Mungar's prescription.
10. Mr. Glazier was aware of the March 9, 2001 directive of the College of Opticians of Ontario which adopted a standard of practice that prohibits opticians from performing refractometry until effective and enforceable standards of practice for the performance of refractometry by opticians have been developed and adopted and which provides that opticians shall not use the results of a refractometry test to alter a prescription. The College directive is attached hereto under Tab 3.
11. The College directive was in force commencing March 9, 2001 and remains in force at the date of this submission.

Decision:

The panel deliberated and decided to accept Mr. Glazier's admission to the allegations in the Notice of Hearing. The panel reviewed and considered the Notice of Hearing, the Statement of Agreed Facts, the submissions of the parties and finds that the facts support findings of professional misconduct. In particular, the panel made findings:

(a) that Mr. Glazier committed an act of professional misconduct by violating section 5 of the *Opticianry Act, 1991* in that he dispensed eyeglasses without the prescription of an optometrist or a physician, having used the results of a refractometry test to alter a prescription

(b) that Mr. Glazier committed an act of professional misconduct by violating section 1, paragraph 2 of Regulation 828/93 in that he engaged in the practice of refractometry on or about June 16, 2001, contrary to the directive of the College of Opticians of Ontario issued by the Council of the College of Opticians of Ontario on March 9, 2001 and

(c) that Mr. Glazier committed an act of professional misconduct by violating section 1, paragraph 26 of Regulation 828/93 in that he breached section 5 of the *Opticianry Act, 1991.*

Penalty:

Counsel for the College advised the panel that a joint submission as to penalty had been agreed upon. Counsel for the College also advised the panel of a change in wording in paragraph 13(b) (iv) of the Consent Disposition.

Consent Disposition:

The parties agree to dispose of this matter in the following way:

(a) Mr. Glazier has signed an undertaking in the following terms:

  (i) Mr. Glazier shall undertake not to violate the directive issued by the Council of the College of Opticians on March 9, 2001 prohibiting the practice of refractometry until effective and enforceable standards of practice for the performance of refractometry by opticians are put in place; and

(ii) Mr. Glazier shall undertake not to dispense except in accordance with a prescription from a physician or an optometrist.

(b) In accordance with section 4.1 of the *Statutory Powers and Procedures Act*, the parties consent to the disposition of this proceeding without a hearing by an Order of the Discipline Panel in the form attached hereto, which contains the following terms:

(i) Mr. Glazier shall appear before the panel to be reprimanded, and the fact of the reprimand shall be recorded in the Register;

(ii) The Panel shall direct the Registrar to suspend Mr. Glazier's certificate of registration in Opticianry for a period of two (2) weeks commencing on July 27/2003;

(iii) The Panel shall direct the Registrar to place the following specified term condition or limitation on Mr. Glazier's certificate of registration for a period of two years commencing from the date of this Order:

a. The College of Opticians of Ontario may conduct random inspections of the member's health records to ensure that the member is not dispensing eyewear without the prescription of an authorized prescriber and the member agrees to co-operate with the random inspections;

(iv) Pursuant to section 53.1 of the Health Professions Procedural Code, Mr. Glazier shall pay part of the costs of the College of Opticians of Ontario in the amount of $8000, by way of 8 pre-authorized debits from his MasterCard in the amount of $1000 payable on the 15th day of each month, to commence on the 15th day of August, 2003 until final payment is rendered; and

(v) If any debit to his MasterCard cannot be processed on the payment date, the total of the amount remaining outstanding shall be due and payable forthwith.

Penalty Decision:

The panel accepts the Consent Disposition.

The panel reviewed and considered the Notice of Hearing, the Consent Disposition, the submissions of the parties, the Case brief, and the legal advice by Ms. Braverman and accordingly orders the following:

1. Mr. Glazier shall appear before the panel to be reprimanded, and the fact of the reprimand is directed to be included in the Register.
2. The panel directs the Registrar to suspend Mr. Glazier's Certificate of Registration in Opticianry for a period of two weeks commencing July 27, 2003.
3. The panel directs the Registrar to impose the following specified term, condition and limitation on Mr. Glazier's Certificate of Registration for a period of two years commencing from the date of this Order, July 21, 2003:

   > The College of Opticians of Ontario may conduct random inspections of the member's health records to ensure that the member is not dispensing eyewear without the prescription of an authorized prescriber and the member agrees to co-operate with the random inspections.

4. Pursuant to section 53.1 of the Health Professions Procedural Code, Mr. Glazier shall pay part of the costs of the College of Opticians of Ontario in the amount of $8000, by way of eight (8) pre-authorized debits from his MasterCard in the amount of $1000.00 payable on the 15th of each month to commence on the 15th day of August, 2003 until final payment is rendered and if any debit to his MasterCard cannot be processed on the payment date, the total of the amount remaining outstanding shall be due and payable forthwith.

Mr. Glazier waived his right to appeal and the panel issued the reprimand at the end of the hearing.

DATED THIS _____ DAY OF _____, 2003

Janice M. Schmidt

Janice M. Schmidt, Chair of the Panel