

ONTARIO
SUPERIOR COURT OF JUSTICE



THE HONOURABLE

HAINES

) THURSDAY, THE 9th DAY OF
) FEBRUARY, 2012
)

BETWEEN:

COLLEGE OF OPTICIANS OF ONTARIO

Applicant

- and -

MUI MUI BOX INC.,
JANE DOE 1 and JANE DOE 2

Respondents

**APPLICATION UNDER SECTION 87 OF THE
HEALTH PROFESSIONS PROCEDURAL CODE**

ORDER

THIS APPLICATION, made by the applicant, the College of Opticians of Ontario, for certain declaratory and other relief under the *Regulated Health Professions Act, 1991* was heard this day at 393 University Avenue, Toronto, Ontario.

ON READING the Application Record, the Minutes of Settlement between the parties attached hereto as Schedule "A", and the consent of the parties, filed, and on hearing the submissions of counsel for the applicant:

1. **THIS COURT DECLARES** that the respondent, Mui Mui Box Inc., violated s 42(1) of the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18 (the "RHPA") as it

knowingly employed an individual who performed the controlled act of dispensing in the course of her employment while not being authorized to do so.

2. **THIS COURT DECLARES** that Yun Ying Su (named as “Jane Doe 1” in the title of proceedings):

- i. Violated ss. 27(1) of the RHPA by performing the controlled act of dispensing in the course of providing health care services to an individual while not being authorized to do so; and
- ii. Breached s. 9(3) of the *Opticianry Act, 1991*, S.O. 1991, c. 34 by holding herself out as a person who is qualified to practice in Ontario as an optician or in a specialty of opticianry while not being a member of the College of Opticians of Ontario.

3. **THIS COURT DECLARES** that Mabel Ye (named as “Jane Doe 2” in the title of proceedings):

- i. Violated ss. 27(1) of the RHPA by performing the controlled act of dispensing in the course of providing health care services to an individual while not being authorized to do so; and
- ii. Breached s. 9(3) of the *Opticianry Act, 1991*, S.O. 1991, c. 34 by holding herself out as a person who is qualified to practice in Ontario as an optician or in a specialty of opticianry while not being a member of the College of Opticians of Ontario.

4. **THIS COURT ORDERS** Mui Mui Box Inc. and anyone employed by or otherwise acting on its behalf to comply with the *Opticianry Act, 1991* and the RHPA, including that anyone employed by or otherwise acting on behalf of Mui Mui Box Inc. refrain from:

- i. Holding himself or herself out as a person who is qualified to practise in Ontario as an optician unless he or she is a member in good standing of the College of Opticians of Ontario; and

- ii. Performing the controlled act of dispensing subnormal vision devices, contact lenses or eye glasses unless he or she is legally authorized to do so.

5. **THIS COURT ORDERS** Yun Ying Su to comply with the *Opticianry Act, 1991* and the RHPA, including that she refrain from:

- i. Holding herself out as a person who is qualified to practise in Ontario as an optician; and
- ii. Performing the controlled act of dispensing subnormal vision devices, contact lenses or eye glasses.

6. **THIS COURT ORDERS** Mabel Ye to comply with the *Opticianry Act, 1991* and the RHPA, including that she refrain from:

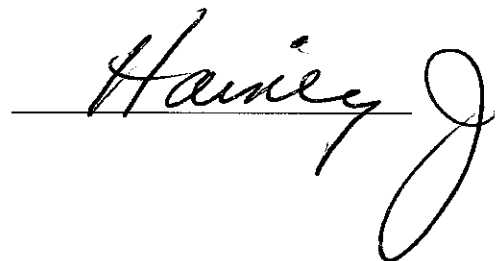
- i. Holding herself out as a person who is qualified to practise in Ontario as an optician; and
- ii. Performing the controlled act of dispensing subnormal vision devices, contact lenses or eye glasses.

7. **THIS COURT ORDERS** the respondent, Mui Mui Box Inc., to pay costs to the applicant in the amount of \$3,000.00, payable in three (3) equal installments of \$1000.00 each on or before February 15, 2012, March 15, 2012 and April 15, 2012.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

MAR 21 2012

PER / PAR:



SCHEDULE "A"

COURT FILE NO.: CV-11-438507

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

COLLEGE OF OPTICIANS OF ONTARIO

Applicant

- and -

MUI MUI BOX INC.,
JANE DOE 1 and JANE DOE 2

Respondents

**APPLICATION UNDER SECTION 87 OF THE
*HEALTH PROFESSIONS PROCEDURAL CODE***

MINUTES OF SETTLEMENT

WHEREAS the College of Opticians of Ontario (the "College") brought an Application against Mui Mui Box Inc., Jane Doe 1 and Jane Doe 2 (the "Respondents") for the relief set out in the Notice of Application in Court File No. CV-11-438507 (the "Application"),

AND WHEREAS the Respondent Jane Doe 1 has been identified as Yun Ying Su and the Respondent Jane Doe 2 has been identified as Mabel Ye,

AND WHEREAS the College and the Respondents desire to resolve the issues raised in the application,

THE PARTIES AGREE THAT:

1. In Ontario, the dispensing of subnormal vision devices, including eyeglasses and contact lenses, ("Dispensing") is regulated by legislation;
2. Under the *Regulated Health Professions Act, 1991*, Dispensing is a controlled act;
3. Only members of the College of Opticians of Ontario, the College of Optometrists of Ontario and the College of Physicians and Surgeons of Ontario are permitted to Dispense;
4. Under the *Opticianry Act, 1991*, only members of the College of Opticians of Ontario are permitted to hold themselves out as persons who are qualified to practise in Ontario as opticians or in a specialty of opticianry;
5. On or about September 17, 2010 and October 21, 2010, Yun Sing Yu and Mabel Ye performed the controlled act of dispensing subnormal vision devices, contact lenses or eye glasses;
6. On or about September 17, 2010 and October 21, 2010, Yun Sing Yu and Mabel Ye held themselves out as persons who are qualified to practise in Ontario as opticians;
7. Neither Yun Sing Yu and Mabel Ye are now or have ever been registered to practise as opticians, optometrists or physicians in the province of Ontario;
8. Mui Mui Box Inc. is a corporation registered in the Province of Ontario;
9. Mui Mui Box Inc. was the employer of Yun Sing Yu at all material times;
10. Mui Mui Box Inc. permitted Yun Sing Yu and Mabel Ye to perform the controlled act of dispensing even though it knew or should have known Yun Sing Yu and Mabel Ye were not permitted to do so;
11. The Respondents agree and acknowledge that the facts set out in paragraphs 5-10 above are true and that such events constitute a violation of sections 27(1) and 42(1) of the *Regulated Health Professions Act, 1991* and section 9(3) of the *Opticianry Act, 1991*.

12. The Respondents agree that they will immediately cease and desist the dispensing of eyeglasses and contact lenses unless the dispensing is done by a registered optician, optometrist or ophthalmologist.
13. The Respondents agree that they will not permit the dispensing of eyeglasses and contact lenses unless the dispensing is done by a registered optician, optometrist or ophthalmologist.
14. The Respondents agree to a court order as follows:
 1. A declaration that the respondent, Mui Mui Box Inc., violated s 42(1) of the Regulated Health Professions Act, 1991, S.O. 1991, c. 18 (the "RHPA") as it knowingly employed an individual who performed the controlled act of dispensing in the course of her employment while not being authorized to do so.
 2. A declaration that the respondent, Yun Ying Su (named as "Jane Doe 1" in the title of proceedings):
 - i. Violated ss. 27(1) of the RHPA by performing the controlled act of dispensing in the course of providing health care services to an individual while not being authorized to do so; and
 - ii. Breached s. 9(3) of the *Opticianry Act, 1991*, S.O. 1991, c. 34 by holding herself out as a person who is qualified to practice in Ontario as an optician or in a specialty of opticianry while not being a member of the College of Opticians of Ontario.
 3. A declaration that the respondent, Mabel Ye (named as "Jane Doe 2" in the title of proceedings):
 - i. Violated ss. 27(1) of the RHPA by performing the controlled act of dispensing in the course of providing health care services to an individual while not being authorized to do so; and
 - ii. Breached s. 9(3) of the *Opticianry Act, 1991*, S.O. 1991, c. 34 by holding herself out as a person who is qualified to practice in Ontario as an optician or in a specialty of opticianry while not being a member of the College of Opticians of Ontario.

4. An order directing Mui Mui Box Inc. and anyone employed by or otherwise acting on its behalf to comply with the *Opticianry Act, 1991* and the RHPA, including that anyone employed by or otherwise acting on behalf of Mui Mui Box Inc. refrain from:
 - i. Holding himself or herself out as a person who is qualified to practise in Ontario as an optician unless he or she is a member in good standing of the College of Opticians of Ontario; and
 - ii. Performing the controlled act of dispensing subnormal vision devices, contact lenses or eye glasses unless he or she is legally authorized to do so.

5. An order directing Yun Ying Su to comply with the *Opticianry Act, 1991* and the RHPA, including that she refrain from:
 - i. Holding herself out as a person who is qualified to practise in Ontario as an optician; and
 - ii. Performing the controlled act of dispensing subnormal vision devices, contact lenses or eye glasses.

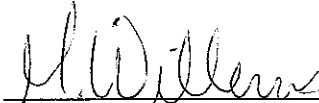
6. An order directing Mabel Ye to comply with the *Opticianry Act, 1991* and the RHPA, including that she refrain from:
 - i. Holding herself out as a person who is qualified to practise in Ontario as an optician; and
 - ii. Performing the controlled act of dispensing subnormal vision devices, contact lenses or eye glasses.

7. An order that the Respondent, Mui Mui Box Inc., will pay costs to the College in the amount of \$3,000.00, payable in three (3) equal installments of \$1000.00 each on or before February 15, 2012, March 15, 2012 and April 15, 2012.

15. The Respondents agree, acknowledge and undertake that the court order referred to above and these Minutes of Settlement may be used in any subsequent court or regulatory proceedings.

16. The Respondents acknowledge that they have consulted with independent legal counsel and that they understand the meaning and consequence of entering into these Minutes of Settlement.

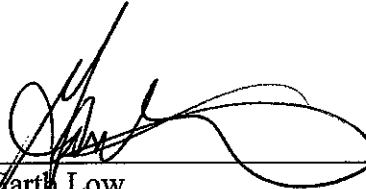
SIGNED AT TORONTO, ONTARIO, THIS 8th DAY OF FEBRUARY, 2012



Melisse L. Willems
COLLEGE OF OPTICIANS OF ONTARIO
85 Richmond Street West
Suite 902
Toronto, ON M5H 2C9

Counsel for the Applicant, the College of Opticians
of Ontario

SIGNED AT TORONTO, ONTARIO, THIS 7th DAY OF FEBRUARY, 2012



Garth Low
Barrister
Suite 200
70 Bond Street
Toronto, ON M5B 1X3
Counsel for the Respondents

COLLEGE OF OPTICIANS OF ONTARIO - and -
Applicant

MUI MUI BOX INC. et al.
Respondents

COURT FILE NO.: CV-11-438507

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceedings commenced at Toronto, Ontario

ORDER

WLF

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