

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

Panel: Robert Vezina, RO
Frances-Clare Fraboni
Gloria Baltazar

Chairperson
Public Member
Public Member

Between)	Antonio Di Domenico, College Counsel
)	
)	
College Of Opticians of Ontario)	
)	
)	Luisa Ritacca, Independent Legal Counsel
)	
And)	

Bruce Bergez C-1192

This matter came on for hearing before a panel of the discipline committee on January 21 2010 at the College of Opticians of Ontario ("the College") at Toronto.

The Allegations

Counsel for the College advised the panel that the College was not proceeding with respect to the allegations set out in paragraphs 3 and 4 in the Schedule "A" of the Notice of Hearing dated April 23, 2009 (Exhibit 1). The remaining allegations as set out in the Notice of Hearing are as follows:

It is alleged that you have committed acts of professional misconduct as defined in section 1, paragraph 28 of Regulation 828/93, as amended promulgated pursuant to the Opticianry Act, S.O. 1991, c. 34 (the "Act"), in that you:

- (a) engaged in conduct in the course of practicing Opticianry, that, having regard to all the circumstances, would reasonably be regarded by members of the College of opticians as disgraceful, dishonourable or unprofessional.
 - (1) On or about May 2, 2008, you permitted, counselled, assisted or caused persons at the Great Glasses store located at 2501 Prince Michael Drive, Oakville, Ontario, to issue an invoice for prescription eyeglasses that falsely indicated that the eyeglasses had been dispensed by the member of the

College of opticians having the number C-404, being Mr. Donald Cook ("Mr. Cook").

- (2) On or about June 5, 2008, you permitted, counselled, assisted or caused persons at the Great Glasses store located at 220 North Service Road, Oakville, Ontario, to issue an invoice for prescription eyeglasses that falsely indicated that the eyeglasses had been dispensed by the member of the College of Opticians having the number C-404, being Donald Cook
- (3) On the above mentioned dates, you permitted, counselled, directed or caused persons at the above mentioned Great Glasses stores to submit insurance claims that you knew or ought to have known were false or misleading.
- (4) On the above mentioned dates, you permitted, counselled, directed or caused persons at the above mentioned Great Glasses stores to use Mr. Cook's registration number, being C-404, when submitting insurance claims without his knowledge.

The member entered a plea of not guilty.

Overview

The Member is a registered member of the College of Opticians. The Member acknowledged that Great Glasses has 24 stores and that to his knowledge there were no opticians licensed to practice at any of the Great Glasses locations at the time of the incidents as described in the Notice of Hearing were alleged to have taken place.

As a result of a complaint filed by Mr. Cook, an Optician, the College became aware of patients submitting receipts apparently from Great Glasses, which bear Mr. Cook's registration number. According to Mr. Cook – an optician who has never been employed or associated with Great Glasses - this was done without his knowledge or consent.

Having heard the evidence and reviewed the exhibits filed, this panel finds that Mr Bergez did not engage in professional misconduct as set out in the Notice of Hearing.

Evidence

The College called Mr. Tourangeau of Standard Life Insurance ("Standard Life"), who identified a series of documents that had been submitted to Standard Life by two separate patients. Exhibits 2 through 14 were documents submitted to Standard Life by the participant insured, Najat Hirmiz. The documents included a claim form apparently completed and filed by the insured, wherein she attached receipts from Great Glasses. Exhibit 9 is an Explanation of Benefits stating that in order for the insured's claim to be processed, she required receipts bearing the full name, license number and original signature of the dispensing opticians, present at the time of the dispensing. Exhibits 12, 13 and 14 is a resubmitted claim, which includes receipts from Dorval Optical showing an illegible signature with what appears to be registration number C-404.

Exhibits 15 through 19 were documents submitted to Standard Life by participant insured Randy Hart, which included a claim form with receipts from Great Glasses. Exhibit 18 is an

Explanation of Benefits stating that the receipts from Great Glasses were missing the Full name, license number and original signature of the Dispensing Optician present at the time of Dispensing, and therefore would not be processed until such information was provided. Exhibit 19 is a resubmitted claim which includes receipts from Doval Optical showing an illegible signature with the denotation C-404. The two insured involved in this matter were employed by different employers and attended different Great Glasses locations in Oakville. As explained by Mr. Tourangeau, Standard Life investigated these claims. The insurer followed up with the College of Opticians and Mr. Cook denied ever having written he receipts.

The Member did not dispute these facts nor did he deny that the documentation filed by the insured appeared to be fraudulent.

The College also called Mr. Cook to give evidence. He confirmed that he did not prepare or sign any of the documentation filed by the insured participants with Standard Life, that he has never been employed by or associated with Great Glasses and that he has never authorized any other persons to use his name and/or registration number. Further, Mr. Cook confirmed that upon learning from Standard Life that his name and registration number had been used on documentation filed with the insurer, he made a complaint to the College.

Submissions

The College told the panel that Mr. Bergez has the power to control what goes on in the Great Glasses stores. The College further argued that Mr. Bergez has put in place a system whereby persons at Great Glasses cannot include a valid registered optician number and that he permits invoices to be completed and issued improperly. The panel was told that Great Glasses is structured to operate in this manner and that a strong message must be sent that this conduct will not be condoned.

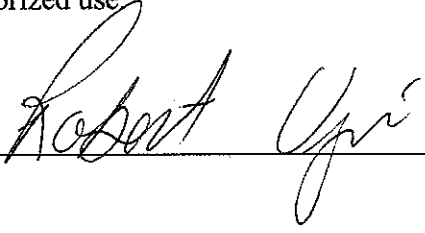
Mr Bergez submitted that Great Glasses had been paid in full and his staff had no reason to give out false receipts. He stated that the patient had the most to gain by submitting false receipts to his or her insurance company, and that perhaps they might be questioned. Mr. Bergez questioned why the College had not followed up with the individual patients and why they were not in attendance to give evidence at the hearing. Further, Mr. Bergez argued that there was no evidence before this panel that any employee of Great Glasses had any knowledge that these receipts had been submitted to Standard Life or that they were in anyway involved in the preparation of such receipts. Again, Mr. Bergez questioned why none of the Great Glasses employees had not been interviewed or present to give evidence.

Decision

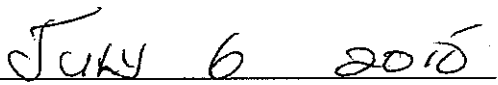
Having considered the evidence and the onus and standard of proof, the panel is unable to find that the Member has committed acts of professional misconduct as alleged in the notice of hearing. Accordingly, the panel dismisses the allegations against the Member.

Reasons

The College failed to establish on a balance of probabilities that the receipts submitted to Standard life bearing the name and registration number of Mr. Cook were in fact produced, or even signed at Great Glasses. While there is no question that the name and registration number were used without Mr Cook's authorization, the panel is unable to conclude based upon the evidence provided to us that Mr Bergez or anyone at Great Glasses was responsible for such unauthorized use.



Chairperson



Date

Frances-Clare Fraboni

Gloria Baltazar