

**DISCIPLINE COMMITTEE OF THE
ONTARIO COLLEGE OF TRADES**

IN THE MATTER OF the *Ontario College of Trades and Apprenticeship Act, 2009*,
(the “Act”) and Ontario Regulation 97/13 (Professional Misconduct) thereunder;

AND IN THE MATTER OF a discipline proceeding against
Douglas George Howard, a member of the Ontario College of Trades.

PANEL: Sherry Darvish, Chair
Ann Corbold
Vish Jadunauth

BETWEEN:)	
)	Bogdan Andronesi,
)	College Counsel
ONTARIO COLLEGE OF TRADES)	Ontario College of Trades
)	
)	
-and-)	No one appearing for Douglas George Howard
)	
)	
DOUGLAS GEORGE HOWARD)	
(Member #13823555))	
)	Rebecca Durcan,
)	Independent Legal Counsel
)	
)	Heard: January 21, 2019

REASONS FOR DECISION

1. A hearing of this matter took place before a panel of the Discipline Committee (the “Panel”) pursuant to section 46(1) of the *Ontario College of Trades and Apprenticeship Act, 2009* (the “Act”) on January 21, 2019 at Victory Verbatim, Court Reporting Services, 222 Bay Street, Toronto, Ontario.
2. An Affidavit of Service dated February 5, 2018 (Exhibit 2, Tab A) affirms that the *Notice of Hearing* in this matter (Exhibit 1) issued January 25, 2018 was served on Douglas George Howard (the “Member”) on

January 30, 2018. A First Appearance in this matter took place by teleconference on March 6, 2018 and subsequent Pre-Hearing Conferences were held on April 10, 2018 and April 26, 2018. A third Pre-Hearing Conference was scheduled to take place by teleconference on May 17, 2018, however, the Member did not participate; and finally, a fourth in-person Pre-Hearing Conference was scheduled to take place July 6, 2018, which the Member did not attend.

MEMBER'S ABSENCE

3. Upon presenting the Panel with the *Notice of Hearing* (Exhibit 1), College Counsel asked that the *Procedural History* be entered as Exhibit 2. College Counsel stated that the content and timelines contained within the *Procedural History* assured the Panel that the Member had been given proper notice of the hearing throughout the process. The *Procedural History* contained: (a) Affidavit of Service of the Notice of Hearing; (b) First Appearance Endorsement; (c) all four Pre-Hearing Conference Order's; (d) Affidavit of Service of the Pre-Hearing Conference Order of May 17, 2018; and (e) Affidavit regarding Communication served throughout the Procedural History.
4. The Pre-Hearing Conference Order of dated May 17, 2018, indicated that the Member failed to participate in the tele-conference and therefore, an order requesting an in person attendance for the date of July 6, 2018 was set to continue with this matter. Despite being given notice of the July 6, 2018 pre-hearing conference, the Member did not attend. Thus, the Pre-Hearing Conference Order from July 6, 2018 directed that the matter be set down for hearing, which hearing was subsequently set down for January 21, 2019 with notice to the Member of the hearing date, time and venue.
5. College Counsel presented a *Supplementary Affidavit* Exhibit 2 (Tab H) and requested for it to be entered as Exhibit 3. It indicated that on the afternoon of January 18, 2019, the College made one final attempt to contact the Member at his home and provided the time, date and location of the hearing scheduled for January 21, 2019.
6. College Counsel asked that a *Document of Service* be entered as Exhibit 4. It indicated the set date appearance, time and place for the January 21, 2019 hearing was served to the Member by e-mail and regular mail on December 3, 2018. College Counsel emphasized that this was made peremptory on the Member and drew the Panel's attention to the following:

- (i) the *Notice of Hearing* included reference to the statute allowing for this matter to be referred to and heard by the Discipline Committee;
 - (ii) adequate time, notice and communication was provided to the Member of the third Pre-Hearing Conference via tele-conference on May 17, 2018; and of the fourth Pre-Hearing Conference via in person attendance on July 6, 2018 in order to set a date for the hearing;
 - (iii) adequate time, notice and communication was provided to the Member for the January 21, 2019 hearing; and
 - (iv) if the Member failed to attend the hearing on the date scheduled, the Panel could proceed in his absence.
7. Independent Legal Counsel (ILC) advised the Panel that it had the authority to proceed in the Member's absence, if it was satisfied that the notice of requirements set out in the *Statutory Powers Procedure Act* were met.
8. The Panel considered the information and timelines contained within the *Procedural History, Notice of Hearing, Supplementary Affidavit and Document of Service*. The Panel was satisfied that the Member had been duly served and informed of the hearing. Therefore, noting that it was 11:30 a.m. and an hour and a half since the appointed time of the hearing, the Panel directed that the hearing commence and invited College Counsel to make his opening address.

THE ALLEGATIONS

9. The allegations against the Member in the *Notice of Hearing* are as follows:

"IT IS ALLEGED that Douglas George Howard has engaged in professional misconduct as defined in subsection 46(2) of the *Act* and/or Ontario Regulation 97/13 made under the *Act* in that he:

- a) failed to take reasonable steps to safeguard the life, health or property of a person who may be affected by the work of any person for whom he is responsible, when he knew or ought to have known that there was a risk to life, health or property (Ontario Regulation 97/13, subsection 1(1));

- b) failed to act to correct or report a situation that he knew or ought to have known may endanger the safety or welfare of the public (Ontario Regulation 97/13, subsection 1(2));
- c) signed or issued, in his capacity as a member of the College, a document that he knew or ought to have known contained a false, improper or misleading statement (Ontario Regulation 97/13, subsection 1(8));
- d) was found guilty of contravening a law that is relevant to his suitability to hold a certificate of qualification (Ontario Regulation 97/13, subsection 1(9));
- e) failed to maintain the standards of a trade (Ontario Regulation 97/13, subsection 1(10)); and
- f) acted or failed to act, in respect to the practice of a trade, in a manner that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional (Ontario Regulation 97/13, subsection 1(11)).

PARTICULARS OF THE ALLEGATIONS ARE AS FOLLOWS:

The Member

1. Douglas George Howard, Membership No. 13823555, (the “Member”) is a member of the Ontario College of Trades (the “College”).
2. At all material times, the Member held a Certificate of Qualification in the trade of Auto Body and Collision Damage Repairer (310B), Journeyman class, and was employed as an Inspecting Technician at Adelaide Collision Inc. located at 210 Adelaide Street, London, Ontario.
3. At all material times, Adelaide Collision Inc. was authorized by the Ontario Ministry of Transportation (“MTO”) to operate as a Motor Vehicle Inspection Station, by virtue of which the Member had authority to issue Structural Inspection Certificates for vehicles pursuant to the *Highway Traffic Act*, RSO 1990, ch. 8 (the “HTA”) and its Regulations.

The Vehicle is Involved in a Collision

4. On or about July 1, 2016, a 2006 Pontiac G5 Pursuit 2-Door bearing VIN [NUMBER] (the "Vehicle") was involved in a collision.
5. On or about July 11, 2016, Certas Home and Auto Insurance Company assessed the Vehicle as a total loss and branded it as "salvage".

The Member Issues a Structural Inspection Certificate

6. On or about September 15, 2016, the Member issued a Structural Inspection Certificate [NUMBER] (the "SIC") for the Vehicle attesting to the condition of the Vehicle as meeting the prescribed minimum standards pursuant to the HTA and being road-worthy.
7. On or about September 15, 2016, the SIC was presented at and was relied on by a Service Ontario licensing office to rebrand the Vehicle from "salvage" status to "rebuilt" status.
8. On or about September 15, 2016, a new vehicle registration was issued to the new owner of the Vehicle, [PURCHASER].
9. On or about September 19, 2016, a "Rebuilt File" pertaining to the Vehicle was received by the Mandatory Vehicle Branding Office of the MTO. A Rebuilt File is the inspecting technician's complete file record required to be kept and maintained for every inspection prior to issuing a SIC. The HTA requires every inspecting technician to submit the Rebuilt File to the MTO within seven days of inspection and is subject to random audit.
10. Sometime between September 15, 2016 and November 17, 2016, the MTO received information that the Vehicle did not meet the prescribed minimum standards.

The Vehicle and the Rebuilt File Inspected by MTO Officials

11. On or about November 17, 2016, MTO inspectors inspected the Vehicle. The MTO inspectors noted, among other things, that the Vehicle should not have passed the structural inspection on September 15, 2016.
12. The MTO inspectors also reviewed the Rebuilt File submitted by the Member, which included excerpts of

the manufacturer's specifications for a different vehicle model than the Vehicle, along with the actual measurements taken for the Vehicle. The MTO inspectors concluded that the Member had relied on and submitted manufacturer's specifications for a 2006 Pontiac G6 4-Door Front Wheel Drive cars, rather than specifications applicable to the Vehicle (i.e. a 2006 Pontiac G5 2-Door Coupe).

The Member is Charged by the MTO

13. On or about March 7, 2017, the Member was charged by the MTO pursuant to section 99(2) of the HTA for making a false statement on the SIC in relation to the Vehicle on September 15, 2016."

MEMBER'S PLEA

10. In light of the fact that the Member was neither present, nor represented by legal counsel, College Counsel recommended a plea of not guilty be entered to all the allegations on his behalf.
11. ILC advised that the Panel may proceed with this matter in the notion of a not guilty plea pursuant to the *Ontario College of Trades and Apprenticeship Act, 2009 (OCTAA)*, and accentuated that the onus rested with the College to prove the allegations levelled against the Member in the *Notice of Hearing*.
12. The Panel decided to proceed with this matter confident that the Member had been duly informed of the particulars of the allegations, and acknowledged that the onus lies with the College to prove the allegations.

THE EVIDENCE

13. College Counsel informed the Panel that it would rely on the *Affidavit of Steve Lesperence* (Exhibit 5) to provide an overview of the events in this matter. College Counsel stated that its concerns focused profoundly on the alleged misconduct regarding the issuing of a Structural Inspection Certificate ("SIC"); an SIC is required to certify salvaged motor vehicles have been repaired to satisfaction of the prescribed minimum structural and safety standards pursuant to the *Highway Traffic Act (HTA)* in Ontario.

14. The Member issued a SIC for the Vehicle attesting to the condition of the Vehicle as meeting the prescribed minimum standards pursuant to the HTA and being roadworthy, even though minimum structural and safety standards had not been met. The Member had used and relied on the manufacturer's specification for a different vehicle model to the vehicle, and did not perform actual measurements of the vehicle. Specifically, the Member used manufacturer's specifications for a 2006 Pontiac G6 4-Door Front Wheel Drive car, rather than specifications applicable to the Vehicle (i.e. a 2006 Pontiac G5 2-Door Coupe). By signing and issuing a SIC whereby no or minimal inspection was observed, the Member had contravened section 99(2) of the HTA.
15. In its submission, the College referred the Panel to Exhibit 5 as evidence of the following:
- (i) The Member has been a member of the Ontario College of Trades since April 8, 2015 with membership no. 13823555 and, at all material times, held a Certificate of Qualification, Journeyperson Class, in the trade of Auto Body and Collision Damage Repairer (310B) (Exhibit 5, Tabs B and C);
 - (ii) At all material times, Adelaide Collision Inc. was authorized by the Ontario Ministry of Transportation ("MTO") to operate as a Motor Vehicle Inspection Station ("MVIS"), by virtue of which the Member had authority to issue Structural Inspection Certificates for vehicles pursuant to the *Highway Traffic Act*, RSO 1990, ch. 8 (the "HTA") and its Regulations (Exhibit 5, Tabs I, J and K);
 - (iii) Sometime between July 1, 2016 and July 11, 2016, a 2006 Pontiac G5 Pursuit 2-Door (the "Vehicle") was involved in a collision and Certas Home and Auto Insurance Company declared the Vehicle as a total loss and branded it as "salvage" (Exhibit 5, Tabs L and M);
 - (iv) On September 15, 2016, the Member issued a Structural Inspection Certificate ("SIC") verifying that the vehicle condition met the prescribed standards pursuant to the HTA and being roadworthy (Exhibit 5, Tab N);

- (v) On September 15, 2016, the SIC was presented at a Service Ontario licensing office to rebrand the Vehicle from “salvage” status to “rebuilt” status; and a new vehicle registration was issued to the owner of the new owner of the vehicle [PURCHASER] (Exhibit 5, Tabs O and P);
- (vi) On September 19, 2016, a “Rebuilt File” pertaining to the Vehicle was received by the Mandatory Vehicle Branding Office of the MTO (Exhibit 5, Tab Q). This is required to be kept on record for every inspection and submitted to the MTO within seven days of inspection and is subject to a random audit.
- (vii) Sometime between September 19, 2016 and November 9, 2016, MTO officers reviewed the “Rebuilt File” of the Vehicle. It was concluded that the file was incorrect and that the Vehicle was unsafe, and subsequently issued a Vehicle Report Notice to the Vehicle’s new owner directing her to submit the Vehicle for an inspection on November 10, 2016 (Exhibit 5, Tab R);
- (viii) On November 17, 2016, MTO officers inspected the Vehicle to examine whether the Vehicle met the minimum HTA standards and completed a Commercial Vehicle Inspection Report (Exhibit 5, Tabs S and T). This concluded that the vehicle had been structurally unsafe, explicitly citing that the “rear floor of trunk had not been repaired properly, still creased, holes in trunk floor”, and led to the Vehicle status being changed to “unfit” with a Defective Vehicle Certificate issued;
- (ix) On February 2, 2017, a MTO officer performed an inspection of inspection station Adelaide Collision Inc. and completed a MVIS Audit Report (Exhibit 5, Tab U) of the owner and manager regarding the “Rebuilt File” of the Vehicle. Specifically, the manager was interviewed regarding her respective involvement in the file; it was affirmed that she was registered as a stakeholder of the company and not an inspecting technician (Exhibit 5, Tab V);
- (x) On February 14, 2017, a MTO officer performed a follow-up inspection of the inspection station Adelaide Collision Inc. and performed a MVIS Audit Report (Exhibit 5, Tabs W and X) of the Member regarding his purported inspection and measuring of the Vehicle, his signing of the Member issued SIC, and his involvement with the “Rebuilt File” for the Vehicle. He admitted that he did not in fact measure the Vehicle on September 15, 2016 upon issuing the SIC for the Vehicle (Exhibit 5, Tab W, Page 5);

- (xi) On March 2, 2017 and April 21, 2017, MTO officers conducted a MVIS Audit Report of inspection stations BDS Enterprises of Dorchester (Exhibit 5, Tab Z) and Kemko Auto Body Ltd. (Exhibit 5, Tab Y) respectively. This was part of a broader investigation into the Vehicle's Member issued SIC and both inspection stations declared that at the time of inspection (November 2016 and August 25, 2016 respectively) the Vehicle had significant structural defects which did not meet the minimum structural and safety standards pursuant to the HTA, therefore, failed the structural inspection;
 - (xii) As a result of the MTO's inspection, on March 7, 2017 the Member was charged under section 99(2) of the *Highway Traffic Act* for making a false statement on the SIC in relation to the Vehicle on September 15, 2016;
 - (xiii) On February 14, 2018 the Member's defence Counsel pleaded guilty on behalf of the Member to an amended charge of "fail[ing] to submit required documents for [the Member-issued SIC] to [the MTO] within 7 days". On a joint submission, the court found the Member guilty of the lesser offence (Exhibit 5, Tabs AA and AB); and
 - (xiv) On March 7, 2017, Adelaide Collision Inc. was charged by the MTO with two offences (Exhibit 5, Tab AC – MTO Inspection Reports):
 - a) pursuant to s.90(3) of the HTA, for the MVIS's Member issued SIC in respect of the motor vehicle found not complying with O. Reg. 611, schedule 9; and
 - b) pursuant to s.9(1) of the HTA, for submitting a false or inaccurate document to the MTO in regards to the Member issued SIC.
16. College Counsel presented the court proceedings transcript of *MTO v Douglas Howard*, and asked for it to be entered as Exhibit 6; the document endorses the guilty plea to the lesser offence and the penalty imposed.
17. College Counsel concluded his submission by stating that the facts as alleged had been proven on a balance of probabilities and that the facts supported a finding of professional misconduct.

18. ILC advised the Panel that, pursuant to Rule 1.06 of the Rules of Procedure, the Panel is not bound by technical or legal rules of evidence and may admit any documents and statements as evidence if it is satisfied that the copy is authentic. ILC further advised the Panel that its role was to determine whether the factual allegations had been proven on a balance of probabilities, and if so, whether the facts amounted to professional misconduct.

DECISION

19. Having deliberated and considered the submissions and evidence presented by the College, the Panel found that the allegations outlined in the *Notice of Hearing* (Exhibit 1, (a) through (f)) had been proven on a balance of probabilities.
20. Therefore, pursuant to section 46(2)(c) of the Act, the Panel found the Member guilty of professional misconduct for having engaged in conduct that is defined as being professional misconduct in Ontario Regulation 97/13, section 1, paragraphs 1, 2, 8, 9, 10 and 11, namely that the Member:
- (i) failed to take reasonable steps to safeguard the life, health or property of a person who may be affected by the work of any person for whom he is responsible, when he knew or ought to have known that there was a risk to life, health or property (subsection 1(1));
 - (ii) failed to act to correct or report a situation that he knew or ought to have known may endanger the safety or welfare of the public (Ontario Regulation 97/13, subsection 1(2));
 - (iii) signed or issued, in the Member's capacity as a member of the College, a document that the Member knew or ought to have known contained a false, improper or misleading statement (Ontario Regulation 97/13, subsection 1(8));
 - (iv) was found guilty of contravening a law that is relevant to his suitability to hold a certificate of qualification (Ontario Regulation 97/13, subsection 1(9));
 - (v) failed to maintain the standards of a trade (Ontario Regulation 97/13, subsection 1(10)); and
 - (vi) acted or failed to act, in respect to the practice of a trade, in a manner that, having regard to all

the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional (Ontario Regulation 97/13, subsection 1(11)).

REASONS FOR DECISION

21. The Panel accepted and found as fact that the Member:
 - (i) issued an SIC when not all necessary measurements had been completed;
 - (ii) was charged under the *Highway Traffic Act*; and
 - (iii) pleaded guilty and was convicted and fined.

22. The Panel understood that the onus was on the College to prove its case based on a balance of probabilities. The Panel could accept as fact the February 14, 2018 Ontario Court of Justice conviction of the Member. That conviction had been made based on the Member's admission of guilt using the higher benchmark of "beyond a reasonable doubt".

23. The Panel was satisfied that by issuing an SIC asserting that the Vehicle was structurally sound and safe for use on public roadways, when in fact not all necessary repairs and observations had been completed, the Member engaged in professional misconduct by contravening Ontario Regulation 97/13, subsection 1(1), 1(2), 1(8), 1(9), 1(10), and 1(11) as alleged in Exhibit 1 *Notice of Hearing*, paragraphs a), b), c), d), e), and f).

24. By issuing the above-noted SIC, the Member failed to take reasonable steps to safeguard the life, health or property of a person when he knew or ought to have known that there was a risk to life, health or property. Further, the Member failed to act to correct or report a situation that he knew or ought to have known may endanger the safety or welfare of the public. And finally, the Member signed or issued, in his capacity as a member of the College, a document that he knew or ought to have known contained a false, improper or misleading statement.

25. The Panel was satisfied that by being charged, convicted and fined by the Ministry of Transportation, the Member engaged in professional misconduct by contravening Ontario Regulation 97/13, subsection 1(1), 1(2), 1(8), 1(9), 1(10), and 1(11) as alleged in Exhibit 1, the *Notice of Hearing*, paragraphs a), b), c), d), e), and f).
26. The Panel accepted that the Member was found guilty of contravening a law that is relevant to his suitability to hold a certificate of qualification.
27. By engaging in the conduct described above, the Panel found that the Member failed to maintain the standards of a trade and acted in respect to the practice of a trade, in a manner that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

PENALTY SUBMISSIONS

28. College Counsel proceeded to make proposed oral submissions with respect to penalty, and asked the Panel to impose the following penalties:
 - (i) That the Member pay, within twenty-four (24) months of the order, a fine in the amount of \$2,000.00 to the Minister of Finance for payment into the Consolidated Revenue fund, pursuant to paragraph 46(5)(2) of the *Ontario College of Trades and Apprenticeship Act* (the “Act”);
 - (ii) Revocation of the Member’s Certificate of Qualification in the trade of Auto Body and Collision Damage Repairer (310B), pursuant to paragraph 46(4)(1) of the Act; and
 - (iii) An order that the Member shall not apply to the Registrar to have a new Certificate of Qualification issued for one year.
29. College Counsel submitted that the lack of participation and communication from the Member as well as his absence from the Hearing made it difficult to file a Joint Submission on Penalties, and asked for an *Affidavit of Email Communication* to be entered as Exhibit 7. This affirms that the College and Member had not agreed on Joint Submission on Penalties, and indicates that the College will likely be seeking the revocation of his Certificate of Qualification if the misconducts were found.

30. College Counsel stated that the proposed penalties were appropriate in light of the facts of this case and presented a previous decision of the Discipline Committee of the Ontario College of Trades, Decision No. DC201701 dated October 23, 2017. The trade (310B Automotive Body and Collision Damage Repairer) and particulars of this case (the issuing of a Structural Inspection Certificate) are similar to the one in hand in which the discipline panel imposed a fine of \$2,000.00 to be paid within 12 months, directed the Registrar to revoke the member's Certificate of Qualification, and that the member not apply to the Registrar to have a new Certificate of Qualification issued for a period of 12 months from the date of the order.
31. ILC reminded the Panel that it had the authority to make any or all of the orders requested by the College. ILC advised that in its deliberations, the Panel needed to consider specific deterrence, general deterrence, protection of the public, and maintenance of the profession's high standard. The Panel also needed to consider any mitigating and aggravating factors in reaching its decision.

PENALTY DECISION

32. After considering the submissions of the College Counsel and deliberating during a recess, the Panel made the following orders of penalties to be imposed:
- (i) The Member shall pay a fine in the amount of \$2,000.00 to the Minister of Finance within twelve (12) months of January 21, 2019, pursuant to section 46(5)2 of the Act;
 - (ii) The Member's Certificate of Qualification in the trade of Auto Body and Collision Damage Repairer (310B) is suspended for twenty-four months effective January 21, 2019; and
 - (iii) The Member shall not apply for reinstatement of his suspended Certificate of Qualification for twelve (12) months from January 21, 2019.

REASONS FOR PENALTY DECISION

33. In making its order, the Panel considered the College's submission, the advice provided by ILC, the basic principles of sanctioning as well as the mitigating and aggravating factors. The Panel finds that the order is fair, considered and appropriate.

34. As a result of the Panel's finding of guilt, the Panel must first and foremost take into consideration the safety of the public, ensuring minimum standards are met by regulated trades professionals. Serving and protecting the public's confidence in both the trades and the College's disciplinary process are paramount. It was the view of the Panel, that all aspects of its penalty decision did just that.
35. The fine and suspension sends a strong message to the Member, the profession, and the public that the College will not tolerate conduct of this severity. The fact that the order also contains language that the Member cannot apply for reinstatement for a period of 12 months further reinforces the College's and the Panel's concern about the Member's conduct in this matter.
36. The Panel understood that the onus of proof was on the College. The Member was not required to mount a defence. The fact of the Member's failure to participate was not seen as an aggravating factor by the Panel.
37. The Panel believes that the penalties ordered will deter the Member from engaging in the same or similar conduct in the future; will serve as a deterrent to other members of the College from engaging in the same or similar conduct; and will reduce the risk of harm to members of the public who retain the services of skilled tradespersons like the Member.
38. The Panel is satisfied that the penalty is fair, considered and appropriate. It speaks to the principles of sanctioning and ensures the public's trust in the profession, the College and the College's disciplinary process.
39. The Panel also finds that the penalty it imposed is in keeping with prior decisions of this discipline committee where a Member was found guilty of similar misconduct. The Panel is of the view that the College Counsel's request for a revocation was too severe particularly since no injury or death was involved.

COSTS SUBMISSIONS

40. College Counsel submitted a proposal with respect to the costs of this proceeding, and that the Member pay costs to the College in the amount of \$5,399.05 within twelve (12) months of January 21, 2019, pursuant to section 46(5)4 of the Act.
41. College Counsel further submitted that the costs the College is seeking in the amount of \$5,399.05 was notified to the Member by way of email and regular mail on January 15, 2019 and asked for this copy of Email *Document* to be entered as Exhibit 8.
42. College Counsel stated that \$5,399.05 was at the higher end of the spectrum, and only 70% reflective of the true costs of expenses incurred by the College as a result of the Member's failure to participate. The College has incurred substantial costs throughout the steps in this proceeding from the First Appearance's, Pre-Hearing Conference's and the full day Hearing today.
43. ILC advised the Panel to consider the issue of costs separately from the penalty. ILC stated that awarding costs recognizes that the members of the College as a whole pay for disciplinary matters. In light of that, it is regarded as fair and appropriate to ask the Member to cover a portion of the associated costs, when warranted.

COSTS DECISION

44. The Panel considered the proposal and ordered the Member to pay what is, in effect, only a portion of the College's investigation and prosecution costs in the amount of \$5,399.05 within (twelve) 12 months of January 21, 2019, pursuant to section 46(5)4 of the Act. This amount will help to offset some of the costs associated with the investigation and prosecution of this matter, and is not a penalty or sanction.

REASONS FOR COSTS DECISION

45. When it came to the issue of costs, the Panel accepted that the Member's lack of participation arguably increased the costs of the proceeding (ie the hearing itself was extended by one and a half hours as a result

of his absence). Although representing only a portion of the College's costs incurred in relation to this matter, the Panel was of the view that \$5,399.05 was fair and reasonable under the circumstances and consideration of this extensive proceeding. The Panel understood that this amount would help to offset a portion of the costs associated with the investigation and prosecution of this matter, and was neither a penalty nor sanction.

46. I, Sherry Darvish, sign these Reasons for Decision as Chair of this Discipline Panel and on behalf of the members of the Discipline Panel as listed below.

Date: February 7, 2019

"Sherry Darvish"
Sherry Darvish
Chair, Discipline Panel

Ann Corbold
Member, Discipline Panel

Vish Jadunauth
Member, Discipline Panel

End.