

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

BETWEEN:

ONTARIO COLLEGE OF TRADES

-and-

HUTTON PEARCE

NOTICE OF HEARING

THE COMPLAINTS COMMITTEE OF THE ONTARIO COLLEGE OF TRADES, pursuant to section 44, subsection (5) of the *Ontario College of Trades and Apprenticeship Act, 2009* (the “Act”), S.O. 2009, chapter 22, has directed that the matter hereinafter described regarding the conduct or actions of Hutton Pearce (Membership No. 13244095), a member of the College, be referred to the Discipline Committee of the Ontario College of Trades. The Discipline Committee, pursuant to section 46, subsection (1) of the Act, shall hear and determine matters referred to it by the Complaints Committee under section 44 of the Act.

IT IS ALLEGED that Hutton Pearce 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 the member, 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) failed to maintain the standards of a trade (Ontario Regulation 97/13, subsection 1(10)); and

- d) 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. Hutton Pearce, Membership No. 13244095 (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 Plumber (306A), Journeyman class.
3. At all material times, the Member owned, and carried on business as, Pearce Plumbing – a Brampton, Ontario-based sole proprietorship offering plumbing services to the public (the “Business”).

Member is hired to perform plumbing work

4. At all material times, [NAME] (the “Complainant”) was the owner of a residential property located at [ADDRESS] Toronto, Ontario (the “Property”).
5. On or about January 3, 2017, the Member was hired by the Complainant or his agent to resolve a venting problem that was causing a ‘sewer gas’ odour in the upstairs washroom of the Property (the “Original Venting Issue”). The Member received a deposit upfront.
6. At the time the Member was hired, both the upstairs washroom and the main floor kitchen were draining through a common drain leading outside to the backyard of the Property (the “Old Drain”).
7. While investigating the Original Venting Issue, the Member further suggested to the Complainant that the Member sever the Old Drain and replace it with a new drain that would allow both the upstairs washroom and the main floor kitchen to drain into the existing basement waste drain (the “New Drain”). The Complainant agreed.

Member performs inadequate plumbing work

8. On or about January 5, 2017, the Member severed and abandoned the Old Drain; and installed the New Drain, but failed to ensure that it was connected to the existing basement waste drain. The Member allowed the New Drain he installed to terminate and discharge waste water in the wall cavity between the main floor and the basement ceiling.

Member re-attends the Property and is paid in full, but problems remain

9. On or about January 9, 2017, the Complainant discovered flooding in the basement, apparently from the recent plumbing installation. The waste water had already caused damage to the Property. The Complainant called and communicated the above to the Member.
10. The Member re-attended the Property on January 10, 2017. He provided the Complainant with an invoice from the Member's Business (the "Invoice"), and demanded immediate payment of the outstanding amount.
11. The Member told the Complainant that he would shut off the Property's water supply, and would not address the cause of the flooding, if the Complainant did not forthwith pay the Member's Invoice.
12. Between January 10 and January 13, 2017, the Complainant paid the Invoice in full to the Member.

Member demands additional payment to rectify problem

13. On or about January 16, 2017, the Member re-attended the Property and inspected the plumbing work he had previously performed.
14. Immediately thereafter, the Member demanded that the Complainant pay him an *additional* \$2,000 in order for the Member to remedy the issues caused by the Member's own previous plumbing work.

Another plumber inspects and rectifies the issues

15. On or about January 17, 2017, the Complainant hired another plumber, [NAME] (the “Second Plumber”), to investigate and then remediate the Member’s previous plumbing work, as required.
16. On that day, the Second Plumber investigated and reported on the plumbing issues with the severed Old Drain and the improperly connected New Drain.
17. On or about January 18, 2017, the Second Plumber remedied the defects in the plumbing work the Member had performed, including connecting the New Drain to the waste drain in the basement. This resolved the issue.

A PANEL OF THE DISCIPLINE COMMITTEE WILL HOLD A HEARING pursuant to sections 46 and 48 of the *Act* for the purpose of deciding whether the Member has engaged in professional misconduct. A copy of the *Rules of Procedure of the Discipline Committee & Fitness to Practise Committee* is enclosed.

AN APPEARANCE WILL TAKE PLACE BEFORE THE PANEL by teleconference on **MONDAY, JUNE 18, 2018 at 10:00 A.M. (Eastern)** to set a date for the hearing of this matter on its merits (the “Hearing”). The teleconference call-in details will be provided to all parties at least two (2) weeks prior to the teleconference. The Hearing, once scheduled, will be held at Victory Verbatim, 222 Bay Street, Suite 900, Toronto, Ontario or such other venue as the College may advise, on a date to be determined after consultation between College Counsel and the Member or his legal counsel/representative, and fixed by the Hearings Coordinator.

THE MEMBER IS ENTITLED AND ENCOURAGED TO PARTICIPATE IN THE ABOVE-NOTED APPEARANCE BY TELECONFERENCE AND AT THE HEARING, AND IS ENTITLED TO BE REPRESENTED BY LEGAL COUNSEL OR A REPRESENTATIVE THROUGHOUT THIS PROCEEDING.

The Member or his legal counsel/representative may contact College Counsel to discuss the scheduling of the Hearing or a pre-hearing conference to determine whether a date for the Hearing can be agreed upon. College Counsel’s contact information is provided below.

IF A DATE FOR THE HEARING IS NOT AGREED UPON AND THE MEMBER DOES NOT ATTEND THE APPEARANCE BY TELECONFERENCE ON Monday, June 18, 2018 at 10:00 a.m. (Eastern) TO SET A DATE FOR THE HEARING, THEN THE PANEL MAY PROCEED IN HIS ABSENCE TO SET A DATE FOR THE HEARING. NOTICE OF THE HEARING DATE WILL BE PROVIDED TO THE MEMBER IN WRITING AT HIS LAST KNOWN

ADDRESS AS SHOWN IN THE RECORDS OF THE COLLEGE.

IF THE MEMBER DOES NOT ATTEND THE HEARING ON THE DATE SCHEDULED, THE PANEL MAY PROCEED IN HIS ABSENCE AND HE WILL NOT BE ENTITLED TO ANY FURTHER NOTICE OF THE PROCEEDING.

IF THE PANEL FINDS THE MEMBER GUILTY OF PROFESSIONAL MISCONDUCT, the panel shall make one or more of the following orders, pursuant to subsection 46(4) of the Act:

1. Directing the Registrar to revoke the Member's certificate of qualification or statement of membership.
2. Directing the Registrar to suspend the Member's certificate of qualification or statement of membership for a specified period, not exceeding 24 months.
3. Directing the Registrar to impose specified terms, conditions or limitations on the Member's certificate of qualification or statement of membership.
4. Directing that the Registrar not carry out a direction made under paragraph 1, 2 or 3 for a specified period and not carry out the direction at all if specified terms are met within that period.

IN ADDITION, IF THE PANEL FINDS THE MEMBER GUILTY OF PROFESSIONAL MISCONDUCT, the panel may make an order doing one or more of the following, pursuant to subsection 46(5) of the Act:

1. Requiring that the Member be reprimanded, admonished or counselled by the panel or its delegate and, if considered warranted, directing that the fact of the reprimand, admonishment or counselling be recorded on the register for a specified or unlimited period.
2. Imposing a fine in an amount that the panel considers appropriate, to a maximum of \$2,000, to be paid by the Member to the Minister of Finance for payment into the Consolidated Revenue Fund.
3. Directing that the finding and the order of the panel be published, in detail or in summary, with or without the name of the Member, in the official publication of the College and in any other manner or medium that the panel considers appropriate in the particular case.

4. Fixing costs to be paid by the Member.

A member whose conduct has been directed or referred to a proceeding before the Discipline Committee or panels thereof may examine before the hearing any written or documentary evidence that will be produced or any report, the contents of which will be given as evidence at the hearing. The College must provide the member with complete disclosure at least fifteen (15) days before the hearing on the merits of all evidence in the College's possession or control relevant to the allegations that is not privileged. To obtain disclosure in this matter, the Member or his legal counsel/representative should contact John J.S. Park, College Counsel in this matter, using the contact information noted below.

Date: May 3, 2018

"George Gritziotis"

George Gritziotis
Registrar & Chief Executive Officer
Ontario College of Trades
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To: Hutton Pearce
[ADDRESS]
[ADDRESS]

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