

**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
Hamid Sultan, a member of the Ontario College of Trades.

PANEL: Sherry Darvish, Chair
Vish Jadunauth, Panel Member
Jagjeevan (Raj) Jhajj, Panel Member

BETWEEN:)
)
) Jordan Stone,
) College Counsel
) Ontario College of Trades
ONTARIO COLLEGE OF TRADES)
)
)
-and-) Hamid Sultan, Self-Represented
)
)
Hamid Sultan)
(Member #13343765))
) Frederick Schumann,
) Independent Legal Counsel
)
) Heard: September 9 & 10, 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 September 9 and 10, 2019 at Victory Verbatim, Court Reporting Services, 222 Bay Street, Toronto, Ontario.
2. A Notice of Hearing in this matter (Exhibit 1) issued August 30, 2018 was served on Hamid Sultan (the “Member”).

3. At the hearing, the Member had the benefit of an interpreter, Mr. Raza Khan.

THE ALLEGATIONS

4. The Notice of Hearing alleges that Hamid Sultan 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 his work, 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 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));
- 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)).

REASONS

5. At the hearing, several witnesses testified on behalf of the College and Mr. Sultan. For the College, Mr. Goldman Chan testified. He is an acting supervisor in the by-law enforcement office with the City of Toronto. Mr. James Phillip also testified. He is a by-law enforcement officer in the vehicle for hire unit at the City of Toronto. On behalf of the Member, Mr. Sultan testified. Mr. Sultan also brought his cousin, Mr. Mazhar Sultan, to testify on his behalf. In addition, Mr. Mohammad Ashfaq, the driver of the taxicab in question,

also testified. The Panel notes that Mr. Sultan did not give the College prior notice that he intended to bring his cousin or the driver of the taxi as witnesses to the hearing. At the hearing, he surprised the College with these witnesses. Nonetheless, the College did not object to these witnesses in giving evidence, and since Mr. Sultan was self-represented, the Panel allowed Mr. Sultan to present his two witnesses. The Panel provided the College with additional time if it was required to prepare for the cross-examination of these witnesses, however, College counsel did not require it.

6. Having heard the witnesses of both the College and the Member, the Panel finds the evidence of the witnesses for the College to be more reliable. Both Mr. Chan and Mr. Phillips had no interest in the outcome of the case. They investigated the matter and took detailed notes of their investigations. More importantly, the objective documentary evidence supported their oral testimony. On the other hand, the testimony of the Member and his witnesses were not reliable because the documentary evidence contradicted their evidence and in regard to Mr. Mazhar Sultan, he admitted that the Member coached him as to what to say prior to his testimony.
7. Hamid Sultan, is a member of the College in the Journeypersons class, first qualified in 2011.
8. At all material times, the Member held a Certificate of Qualification in the trade of Automotive Service Technician (310S), which certificate was issued to him by the College on April 8, 2013. A Member Profile and a copy of the Certificate of Qualification was provided in this respect and marked as Exhibits 11 and 12, respectively.
9. At all material times, the Member was a director, and the general manager and controlling mind of 1768275 Ontario Inc. operating as Stars Auto Repair & Sales ("Stars Auto"), which business operated a public garage located at 405 Kennedy Road, Toronto, Ontario. A Corporation Profile Report for the said company was marked as Exhibit 13.
10. At all material times, Stars Auto was licensed by the Ontario Ministry of Transportation ("MTO") as a Motor Vehicle Inspection Station ("MVIS"). Further, by virtue of being a Certificate of Qualification holder, the Member was registered by the MTO as a Motor Vehicle Inspection Mechanic ("MVIM") at Stars Auto and he had authority to issue Safety Standards Certificates ("SSC") for vehicles, pursuant to the *Highway Traffic Act*, RSO 1990, c. 8 (the "HTA") and its Regulations.

11. As stated by Mr. Chan, a valid SSC is an attestation by the MVIS and the MVIM that a safety inspection was performed by the MVIM, who certifies that a motor vehicle is roadworthy and that it meets the minimum safety standards pursuant to the *HTA*.

Car accident involving Taxi [NUMBER]

12. Mr. Chan testified that in the morning of July 5, 2017, at approximately 9:45 a.m., a Toyota Camry with City of Toronto taxicab license [NUMBER] and bearing VIN [NUMBER] (the “Taxi [NUMBER]”) was involved in a collision.
13. Mr. Chan attended at the scene of the collision and he removed the plate from Taxi [NUMBER] after having formed the opinion that it was not roadworthy. Mr. Chan provided a copy of the Plate Removal form that he completed on July 5, 2017 and it was marked as Exhibit 4. In order to get the plate back, a SSC was required. Mr. Chan also provided copies of 3 pictures that he had taken of the said taxi and they were marked as Exhibit 3.
14. Mr. Chan testified that he observed the rear wheel of the taxi was dented, there was damage to the rear driver’s side quarter panel, and the rear bumper was almost off the car. The pictures marked as Exhibit 3 confirmed the damage to Taxi [NUMBER] that Mr. Chan described.

The Member signs the SSC without performing an inspection

15. A few hours after the collision, the Member signed and issued SSC [NUMBER] for Taxi [NUMBER], falsely attesting to it being roadworthy and meeting minimum safety standards. Exhibit 5 was a copy of the SCC signed and issued by the Member dated July 5, 2017. The Member did not personally see or inspect Taxi [NUMBER] prior to issuing and signing the SSC.
16. At approximately 1:05 p.m. on July 5, 2017, the operator of Taxi [NUMBER] attended at a City of Toronto Municipal Licensing & Standards (“MLS”) office and presented SSC [NUMBER]. MLS relied on the SSC so presented, and as a result, returned the plate for Taxi [NUMBER] to its operator, allowing the unsafe vehicle to be operated for hire.

17. Mr. Chan testified that he was notified by email on July 6, 2017 that Taxi [NUMBER] had been picked up within a few hours of the accident and this caused concern because the damage that he had observed on the taxi could not have been repaired in such a short amount of time. When Mr. Chan became aware that the plate had been retrieved with an SSC, he sent an email initiating an investigation into the matter. A copy of that email, dated July 6, 2017, was marked as Exhibit 6 and a copy of the incident report initiating the investigation was marked as Exhibit 7. Mr. James Phillip was assigned to investigate the matter. The purpose of the investigation was to have a city mechanic inspect the taxi to ensure that it was roadworthy.
18. Mr. Phillip testified that he works in the by-law enforcement vehicle for hire unit at the City of Toronto. His duties are to inspect taxis, limousines, cars used for Uber, and other vehicles for hire. He was been performing these duties for 3 years. He was assigned to investigate the issuance of SSC [NUMBER] for Taxi [NUMBER]. Mr. Phillip stated that he located the taxi at a garage called [NAME] on July 6, 2017 at 11:33 a.m. He attended at the garage with another by-law officer, Mr. Nick Brannan, to inspect the vehicle. When he arrived at the garage, he observed the taxi on a hoist. He took pictures of the taxi and those pictures were marked as Exhibit 8. He observed the same damage that Mr. Chan had observed on the taxi and in his opinion, the taxi was not roadworthy.
19. Accordingly, Mr. Phillip removed the plate once again from Taxi [NUMBER]. Exhibit 9 is a copy of the Plate Removal form that Mr. Phillip completed on July 6, 2017 when he removed the taxi plate.
20. Mr. Phillip stated that on July 6, 2017, he also spoke with the license agent for Taxi [NUMBER], Mr. Wasim Ahmed, who was not cooperative initially, but later that day, apologized for being uncooperative.
21. On July 7, 2017, Mr. Phillip attended at Stars Auto. He went with Rob Vallsorri, a city of Toronto mechanic. Mr. Sultan identified himself a mechanic and director of Stars Auto and stated that his father actually owned the business. Mr. Sultan was asked to provide the inspection form that was used to issue SSC [NUMBER] for Taxi [NUMBER], but he did not provide it. According to Mr. Phillip, Mr. Sultan admitted that the said SSC was fraudulently completed and that it was a practice of his to do such SSCs for \$50 per SSC for the taxi industry. Mr. Sultan also advised during that meeting that he had not inspected Taxi [NUMBER] prior to signing and issuing the said SSC.
22. Although the Member denied that he had told Mr. Phillip and Mr. Vallsorri that he had a practice of issuing false SSCs, it is noteworthy to point out that in his testimony, the Member stated that he charged people

\$100 to issue SSCs. The Member's cousin, Mr. Mazhar Sultan, who was present during the July 7, 2017 visit from Mr. Phillip and Mr. Vallsorri also stated that the Member never told Mr. Phillip and Mr. Vallsorri that he had a practice of issuing false SSCs. However, in cross-examination, Mr. Mazhar Sultan admitted that the Member had spoken with him the evening prior to this hearing and told him what he should say on the stand. As such, the Panel placed no weight on the testimony of Mr. Mazhar Sultan since it came out in cross-examination that the Member had coached him on what to say at the hearing.

23. A copy of the MVIS Audit Report regarding the investigation into SSC [NUMBER] for Taxi [NUMBER] was marked as Exhibit 16 and it indicated that the Member was unable to produce a work order or any record of inspection for the said taxi.
24. Mr. Phillip indicated that Taxi [NUMBER] was again inspected by Mr. Vallsorri, a city mechanic, on July 10, 2017 and it was still deemed not roadworthy because it was missing an inner wall and certain stickers. The taxi was finally cleared and its plate returned on July 13, 2017. Mr. Phillip had no further contact with the Member. He referred the case to the Ministry of Transportation.
25. In his testimony, the Member disagreed with the findings of the city mechanic as to the roadworthiness of Taxi [NUMBER]. The Member alleged that Taxi [NUMBER] was roadworthy as of July 5, 2017. However, the Member had not himself inspected the taxi on July 5, 2017 prior to issuing the said SSC, and he had no evidence from any other mechanic who had inspected the said taxi. As such, there was no objective evidence before the Panel to challenge the evidence of the College and that of Mr. Chan and Mr. Phillip that Taxi [NUMBER] was in fact not roadworthy as of July 5, 2017. Thus, the Panel accepted the evidence of the College that Taxi [NUMBER] was not roadworthy on July 5, 2017 and that the Member should not have signed and issued SSC [NUMBER].
26. The Member also testified that he had worked on Taxi [NUMBER] on July 1, 2017 (a few days prior to July 5, 2017). The driver of Taxi [NUMBER], Mr. Mohammad Ashfaq, testified that he had the radiator repaired at Stars Auto sometime at the end of June or early July 2017, and he paid cash for the repair. However, neither the Member nor Mr. Ashfaq provided the Panel with any records to show the prior repair work that was done on the taxi. In any event, the fact that the Member worked on the taxi on prior occasions is not relevant to the issue in this hearing. The fact that the member did prior repairs on Taxi [NUMBER] does not excuse him from the fact that he should have inspected the vehicle on July 5, 2017 prior to issuing a SSC as

is required by law. The Regulations under the *HTA* are clear that prior to issuance of a SSC, an inspection must be done and copies of the inspection report must be kept at the auto shop.

27. The Member also admitted in cross-examination that a SSC should not have been issued on July 5, 2017, given the damage to Taxi [NUMBER] as shown in the pictures. We take it from this admission that the Member agreed that Taxi [NUMBER] was not roadworthy as of July 5, 2017.

The Member was charged and convicted in Provincial Offences court for falsifying numerous SSCs

28. Following this incident, the Member was charged under the *HTA* with the offence of making a false statement on SSC [NUMBER] in respect of Taxi [NUMBER]. He was convicted of the charge in March 2018 and he was fined \$1,000 for this count.
29. A subsequent investigation by the MTO discovered numerous instances of the Member issuing false SSCs for various motor vehicles in the week following July 5, 2017. In total, the Member was charged by the MTO with 51 other *HTA* offences related to safety inspections. In March 2018, the Member plead guilty and was convicted of 27 offences. Exhibit 14 is a copy of the Information relating to these 51 other offences and Exhibit 15 is a copy of the transcript from the Guilty Plea Proceedings of March 1, 2018.
30. In particular, the Member was convicted of making the following false statements on SSCs:
 - (a) On July 6, 2017 the Member made a false statement on SSC [NUMBER] for a motor vehicle bearing VIN [NUMBER].
 - (b) On July 6, 2017 the Member made a false statement on SSC [NUMBER] for a motor vehicle bearing VIN [NUMBER].
 - (c) On July 6, 2017 the Member made a false statement on SSC [NUMBER] for a motor vehicle bearing VIN [NUMBER].
 - (d) On July 6, 2017 the Member made a false statement on SSC [NUMBER] for a motor vehicle bearing VIN [NUMBER].
 - (e) On July 6, 2017 the Member made a false statement on SSC [NUMBER] for a motor vehicle bearing VIN [NUMBER].
 - (f) On July 7, 2017 the Member made a false statement on SSC [NUMBER] for a motor vehicle bearing VIN [NUMBER].

(g) On July 7, 2017 the Member made a false statement on SSC [NUMBER] for a motor vehicle bearing VIN [NUMBER].

31. In this case, the Member attempted to use this hearing as a forum to dispute these prior convictions. However, as correctly submitted by Mr. Stone, counsel for the College, where an individual has been found guilty of an offence, proof of the conviction or the finding of guilt is admissible in evidence to prove that the person committed the offence. A certified copy of an information is sufficient proof that the person was convicted (*Evidence Act*, RSO 1990, c E.23, s 22.1). This rule applies equally to provincial regulatory offences as it does to criminal offences (*Andreadis v Pinto* (2009), 98 OR (3d) 701 at para 15 (ONSC)). Where an individual has been convicted of an offence on proof beyond a reasonable doubt and has not appealed the conviction, it will generally be an abuse of process for that individual to attempt to argue in a subsequent proceeding that they did not commit the offence (*Toronto (City) v C.U.P.E., Local 79*, 2003 SCC 63).
32. While the Guilty Plea Proceedings transcript, marked as Exhibit 15, did not clarify the exact nature of the false statements made by the Member in his prior convictions, it was clear that he was found guilty of making false statements nonetheless on the issuance of numerous SCCs. In the Panel's view, this is an important fact that shows the Member was engaged in a repeated and continuous pattern of conduct of issuing false SCCs.
33. The Panel finds that the issuance of a SCC is an aspect of the Member's "work" as that term is used in Ontario Regulation 97/13 of the *Act*, subsection 1(1). As such, by not performing an inspection on Taxi [NUMBER] on July 5, 2017, the date that SCC [NUMBER] was issued, the Member failed to take reasonable steps to safeguard the life, health, or property of a person who may be affected by his work, when he knew or ought to have known that there was a risk to life, health, or property. This finding is further supported by the evidence from both the Member and the College that the said taxi was not in roadworthy condition on July 5, 2017.
34. The Panel also finds that 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 pursuant to Ontario Regulation 97/13, subsection 1(2) of the *Act*, because he did not take any steps to correct the fact that he had issued a false SCC. It was only after the investigation by the City two days later, on July 7, 2017, that this matter came to light.

35. The Panel finds that the Member signed or issued on July 5, 2017, in the Member's capacity as a member of the College, a document, namely the said SCC, that he knew or ought to have known contained a false, improper, or misleading statement, contrary to Ontario Regulation 97/13, subsection 1(8) of the *Act*. In addition to the foregoing reasons, this finding is further supported by the Member's own admission that an SCC should not have been issued for Taxi [NUMBER] given the damage that it had sustained as evidenced by the pictures tendered into evidence.
36. The Panel finds that the Member was found guilty of contravening a law that is relevant to his suitability to hold a certificate of qualification, contrary to Ontario Regulation 97/13, subsection 1(9) of the *Act*, because he was convicted of 27 other offences under the *HTA*, several of which were for issuance of false SCCs.
37. The false SCC issued by the Member and his prior convictions are directly relevant to the determination of the Member's suitability to practice in his trade. They impact his honesty and integrity. As such, the Panel find that the Member failed to maintain the standards of a trade contrary to Ontario Regulation 97/13, subsection 1(10) of the *Act*, and he 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, dishonorable, or unprofessional, contrary to Ontario Regulation 97/13, subsection 1(11) of the *Act*.

REASONS FOR PENALTY AND COSTS

38. The Panel makes the following order regarding penalty and costs:
 - (a) The Member shall pay, within twelve (12) months of the Order, a fine in the amount of \$2,000 to the Minister of Finance for payment into the Consolidated Revenue Fund, pursuant to paragraph 46(5)(2) of the *Act*.
 - (b) The Registrar shall be directed to revoke the Member's Certificate of Qualification on the date of the order, pursuant to paragraph 46(5)(1) of the *Act*;
 - (c) The Member shall be reprimanded by the Discipline Panel in writing and the fact of the reprimand shall be recorded on the Public Register for an unlimited period, pursuant to paragraph 46(5)(1) of the *Act*;
 - (d) The findings and the order of the Panel shall be published in summary on the College's website, with

the name of the Member, pursuant to paragraph 46(5)(3) of the *Act*;

(e) The Member shall pay the invoice of his interpreter, Mr. Raza Khan, for his services during the two-day hearing on September 9 and 10. The Member shall make payment within 20 calendar days of this order, failing which that amount shall become immediately payable to the College, in trust for Mr. Khan and payable in the manner the Hearings Coordinator directs, pursuant to rule 5.01(1) of the College's Rules of Procedure; and

(f) The Member shall pay, within twelve (12) months of the Order, the College's costs in the amount of \$18,181.33, pursuant to paragraph 46(5)(4) of the *Act*.

39. In determining what penalty to impose, public protection is the ultimate consideration, but the Panel also considered the following principles: general deterrence (detering other members of the profession); specific deterrence (detering the Member from similar conduct); and remediation (whether the Member's practice can be improved). The Panel also considered mitigating or aggravating factors.

40. In the Panel's view, the only mitigating factor here was that the Member had no discipline history. However, the aggravating factors in this case were significant, as follows:

(a) The Member's conduct placed the public at a risk of harm. By issuing a false SSC without having inspected Taxi [NUMBER], the Member allowed for an unsafe vehicle to be placed on the road.

(b) The Member's conduct was repeated on numerous occasions. He was convicted of making false statements on eight SSCs over just three days. He was also convicted of 19 other offences for failing to accurately complete inspection reports for SSCs. This reflects a pattern of conduct, not an isolated incident.

(c) The Member's conduct involved dishonesty. He falsely certified the safety of a vehicle he did not inspect. He was convicted of making false statements on eight SSCs. Dishonesty erodes the public's confidence in the trade.

41. In imposing a penalty, the Panel also reviewed previous cases of the Discipline Committee with similar facts and considered whether the proposed penalty falls within the penalty range established in those cases. Previous cases with similar facts include the following as summarized by Mr. Stone in his written

submissions:

Case	Summary of Facts	Penalty & Costs Order
<i>Ontario College of Trades v Howard</i>	Member issued a structural inspection certificate ("SIC") for a vehicle that did not meet prescribed safety standards. Convicted under Highway Traffic Act ("HTA") for offence of failing to submit required documents for the SIC within seven days. Member did not attend hearing and no agreed statement of facts (ASF) or joint submissions on penalty (JSP)	\$2,000 fine 24-month suspension \$5,399.05 in costs
<i>Ontario College of Trades v Mikyas</i>	Member issued a SIC for a vehicle that did not meet prescribed safety standards. Convicted under HTA for nine counts of failing to submit required documents for SICs and, subsequently, one count of making a false statement on a SIC. Resolved through ASF and JSP	\$2,000 fine Revocation Publication \$3,000 in costs
<i>Ontario College of Trades v Heitto</i>	Member issued a SSC for a vehicle that did not meet prescribed safety standards and invoiced his client an amount higher than his estimate, contrary to the Consumer Protection Act. Convicted under HTA for: issuing SSC that did not meet prescribed safety standards; failing to record defects and recommended repairs. Member did not attend hearing and no ASF or JSP.	\$500 fine 12-month suspension Publication \$1,500 in costs
<i>Ontario College of Trades v Singh</i>	Member issued an annual inspection certificate ("AIC") without inspecting a truck. Convicted under Criminal Code after wheel fell off of the truck and killed a pedestrian. Resolved through ASF and JSP	\$2,000 fine Revocation Reprimand Publication \$3,000 in costs

42. The Panel considered the Member's submissions on Penalty that his certificate of qualification is his only means of making a living and that losing his license would mean he would not be able to make money to support his family. In the Panel's view, the penalty is consistent with previous cases of the College where a member falsely and/or improperly issued a safety or inspection certificate. However, the Member's conduct was more serious in this case because his conduct in issuing false SSCs was part of a pattern of conduct that was ongoing and continuous, as evidenced by the fact that he was convicted of making 8 false statements on SSCs within a 3-day period. He was also convicted of 19 other counts of failing to accurately complete inspection reports within a 1-month period. As such, the Panel's view is that revocation is appropriate in the circumstances. The Member repeatedly and deliberately violated his obligations under the *HTA*, both as an inspecting mechanic and as the director of a MVIS, and was convicted of 27 offences. The Member's failure to abide by his regulatory obligations on a repeated basis suggests that his behaviour may continue and that attempts at remediation are unlikely to be successful.
43. With respect to costs, the Panel notes at the outset, that costs are not a penalty, but rather a means to recover the costs that would otherwise be borne by the general membership of the College. These proceedings required six hearing days as defined in the Rules of Procedure: a first appearance teleconference on October 23, 2018; an in-person pre-hearing conference on January 30, 2019; a second pre-hearing teleconference on March 20, 2019; a hearing date on April 18, 2019, which was adjourned, and two contested hearing dates which took place on September 9 and 10, 2019.
44. The College's total costs for legal fees and disbursements are \$27,295.30. The College is seeking to recover \$18,181.33, equal to 2/3 of its legal costs and the full cost of its disbursements. It is appropriate that the Member, having been found guilty of professional misconduct, be ordered to pay a portion of the College's costs. As Mr. Stone submitted, the Ontario Court of Appeal has recognized a "College's right and responsibility to protect its members from the weight of the expense of protracted disciplinary hearings." (*Reid v College of Chiropractors of Ontario*, 2016 ONCA 779, College's BOA, Tab 17, para 24). The Ontario Divisional Court has also recognized that it is appropriate for a member found guilty of professional misconduct to pay 2/3 of the College's costs (*Chen v College of Denturists of Ontario*, 2017 ONSC 530, paras 6-7; *Bayfield v College of Physiotherapists of Ontario*, 2014 ONSC 6570; *Reid v College of Chiropractors of Ontario*, 2016 ONSC 1041 (Div Ct), paras 217 and 225).
45. Similarly, the Divisional Court has routinely upheld costs orders significantly larger than what the College is requesting, including: (a) *Chen v College of Denturists of Ontario* (2017): \$70,000 following a two-day

hearing; (b) *Bayfield v College of Physiotherapists of Ontario* (2014): \$25,000 following a one-day hearing; and (c) *Reid v College of Chiropractors of Ontario* (2016): \$166,194.50 following a six-day hearing.

46. The College's Discipline Committee has almost always ordered costs against members found guilty of professional misconduct. To date, the largest costs order from the Discipline Committee is \$5,399.05 for a one-day hearing where the member did not attend and where no witnesses were called.
47. In this case, there was a two-day contested hearing, which required significantly more preparation, and thus resulted in higher costs. The costs claimed by the College reflect reasonable amounts of time to prepare for a two-day contested hearing, which followed several pre-hearing appearances and one hearing date which ended up being adjourned.
48. In considering an appropriate costs award, the Panel considered the following factors: the success of the College in proving the allegations; the Member's conduct lengthened the hearing; the number of lawyers used by the College, their hourly rate, and hours spent; the failure of the Member to comply with the Rules of Procedure; the underlying facts of the case; whether the Member failed to acknowledge obvious wrongdoing; and the Member's submission that he was not able to pay the costs.
49. The Panel finds that the costs requested by the College are reasonable and appropriate because:
 - (a) The College proved all allegations in the Notice of Hearing;
 - (b) The College used one lawyer at the hearing;
 - (c) The Member would not enter an agreed statement of facts despite many facts not being in dispute;
 - (d) The Member adjourned two hearing dates prior to the September 9 and 10 dates (one after the hearing had already begun and the second a week before the hearing);
 - (e) The Member put forward a meritless defence. He was convicted of making false statements on SSCs and admitted that he did not inspect the vehicle on July 5, 2017. Even if his version of events was accepted, it would still constitute professional misconduct;
 - (f) While the Member was self-represented, his conduct unnecessarily lengthened the hearing. He did not provide documents in advance of the hearing despite being advised he was required to do so. Likewise, he did not have his witnesses attend on time, which required several long breaks during the hearing;
 - (g) The Member was advised that the College would be seeking costs following a contested hearing and that those costs could easily exceed \$10,000; and

(h) While the Member submitted that he could not afford to pay \$28,000 in costs, the College is not seeking \$28,000 in costs, but rather \$18,181.33 in costs.

50. Lastly, with respect to both penalty and costs, the Panel did not find persuasive the Member's submission that because he attended the hearing, he should receive a lesser penalty and lower costs. Whether or not a member attends their discipline hearing is not the determinative factor in deciding on an appropriate penalty and costs. The Panel further notes that the Discipline Panel (*Mikyas and Singh*), has revoked a member's certificate of qualification despite the fact that the member attended the discipline hearing and entered into an ASF and a JSP.

REPRIMAND

51. The Member is reprimanded as follows:

"Mr. Sultan, as you know, as part of its penalty order, this Discipline Panel has ordered that you be given a written reprimand.

The fact that you have received this reprimand will be recorded on the Public Register of the College for a period of twenty four (24) months and, as such, will form part of your record.

You have been found to have engaged in conduct that constitutes professional misconduct, as defined in subsection 46(2) of the Act and/or Ontario Regulation 97/13 made under the Act in that you:

- (a) failed to take reasonable steps to safeguard the life, health, or property of a person who may be affected by his work, 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 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));*

- (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)).*

The Panel takes this type of conduct seriously. The public needs to have confidence that trades people are upholding high ethical standards in their professions and conducting themselves in accordance with the law. The Panel was concerned that the Member signed and issued a false SCC that put the public's safety at risk. Such unprofessional behaviour compromises the reputation and integrity of all honest and hard-working skilled trades people."

November 18, 2019 _____

Date:

"Sherry Darvish" _____

Sherry Darvish
Chair, Discipline Panel

Vish Jadunauth
Member, Discipline Panel

Jagjeevan (Raj) Jhajj
Member, Discipline Panel

End.