

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

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

**AND IN THE MATTER OF** a discipline proceeding against  
Yakup Yalcin, a member of the Ontario College of Trades.

**PANEL:** Raymond Ramdayal, Chair  
John Borlase, Panel Member  
Debbie Dunseath, Panel Member

BETWEEN:	)	
	)	
	)	Jordan Stone,
<b>ONTARIO COLLEGE OF TRADES</b>	)	Counsel for Ontario College of Trades
	)	
-and-	)	
	)	
<b>YAKUP YALCIN</b>	)	Fadi Matthew Kazandji,
(Member #13865572)	)	Counsel for Member
	)	
	)	Rebecca Durcan,
	)	Independent Legal Counsel
	)	
	)	Heard: January 9, 2020

**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 9, 2020 at Victory Verbatim, Court Reporting Services, 222 Bay Street, Toronto, Ontario.
2. At the hearing, the Member had the benefit of an interpreter, Mr. Korhan Aybas.
3. The following procedural steps took place prior to substantive and comprehensive settlement discussions between the parties: (i) A *Notice of Hearing* (Exhibit 1) issued January 10, 2019 was served

on Yakup Yalcin (the “Member”); (ii) an *Affidavit of Service* was executed of such *Notice* (Exhibit 2); (iii) a First Appearance in this matter took place by teleconference on February 19, 2019; (iv) an in-person Pre-Hearing Conference in this matter took place on May 2, 2019 at Victory Verbatim, Court Reporting Services, 222 Bay Street, Toronto, Ontario; (v) three subsequent Pre-Hearing Conferences in this matter took place by teleconference on July 3, 2019, July 26, 2019, and August 22, 2019; and (vi) the hearing of this matter on its merits was scheduled for January 9, 10, 13, and 14, 2020.

4. At the third Pre-Hearing Conference on August 22, 2019, the Panel confirmed the parties’ intent to engage in resolution discussions.
5. On January 6, 2020, the Panel Chair approved the parties' request to vacate the January 13 and 14, 2020 hearing dates on the basis that they had reached a settlement in the matter; as a result, the proceedings were re-scheduled for January 9 and 10, 2020.
6. The hearing on the matter, concluded on January 9, 2020, and the parties tendered an Agreed Statement of Facts (Exhibit 3) and Joint Submissions on Penalty and Costs (Exhibit 4).

#### **THE ALLEGATIONS IN THE NOTICE OF HEARING**

7. Mr. Stone, on behalf of the College, advised the panel of the allegations in the *Notice of Hearing*, namely:

**IT IS ALLEGED** that Yakup Yalcin 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) undertook work that the member knew or ought to have known that he is not competent to perform by virtue of his certification, training and experience or the member’s employees are not competent to perform by virtue of their certification, training and experience (Ontario Regulation 97/13, subsection 1(3));
- b) failed to maintain the standards of a trade (Ontario Regulation 97/13, subsection 1(10)); and
- c) 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)).

8. Yakup Yalcin, Membership No. 13865572 (the “Member”), was a member of the Ontario College of Trades (the “College”) in the Journeypersons class.
9. At all material times, the Member held a Certificate of Qualification in the trade of Electrician – Construction and Maintenance (309A).
10. At all material times, the Member was a director and officer, and the owner and controlling mind of Yalcin Electric Ltd., a corporation with its registered office address at 180 Mississauga Valley Blvd, Unit 147, Mississauga, Ontario (the “Member’s Business”).
11. At all material times, Orchard Villa operated as a long-term care and retirement home at 1955 Valley Farm Road, Pickering, Ontario. In 2017, Lumenshare Inc. was contracted to provide lighting and electrical services and supplies to Orchard Villa and it thereafter subcontracted the Member’s Business to undertake electrical work.

**The Member performs defective electrical work at Orchard Villa under false pretences**

12. In June 2017, the Member’s Business was subcontracted by Lumenshare Inc. to replace and install new energy-efficient LED lighting and other electrical fixtures at Orchard Villa (the “electrical work”).
13. During June and July 2017, the Member carried out and oversaw the Electrical Work at Orchard Villa on behalf of the Member’s Business.
14. While acting as a subcontractor in furtherance of the electrical work at Orchard Villa, the Member’s Business, and the Member, misrepresented to Lumenshare Inc. a registration and licensing status with the Electrical Safety Authority (ESA).
15. The Member used another individual’s name and ESA registration particulars in relation to an ESA inspection permit which were required to perform the electrical work (colloquially known as an ‘electrical permit’).
16. On July 21 and 28, 2017, the ESA conducted inspections of the Member’s Electrical Work at Orchard Villa. Numerous deficiencies were found by the ESA inspectors and the Member’s Business was provided with two separate Notices of Deficiency.

17. Moreover, a senior ESA inspector discussed the Electrical Work with the Member during the latter inspection and concluded that the Member had a lack of basic knowledge required by any Journey person electrician.

18. Shortly thereafter, Lumenshare Inc. ended their relationship with the Member's Business, upon discovering that the Member was not a Master Electrician and that his electrical work was substandard.

#### **The Member's deficient Electrical Work leads to multiple electrical fire incidents at Orchard Villa**

19. On or about August 2, 2017, an overheated lighting fixture that was part of the electrical work caught fire.

20. On or about August 5, 2017, a larger fire incident started and spread from an overhead light fixture in one of the lounge rooms at Orchard Villa.

21. A Fire Investigator from the City of Pickering Fire Department later concluded that the August 5 electrical fire was likely caused by an incompatible ballast installed in an LED lamp as part of the Member's Electrical Work.

22. In September 2017, a representative from the distributor of the lighting fixtures looked into the electrical work. The representative concluded that the lamps and ballasts were improperly matched.

#### **MEMBER'S PLEA**

24. At the hearing an *Agreed Statement of Facts* (Exhibit 3), was tendered by Mr. Stone on behalf of all the parties.

25. The Panel conducted a plea inquiry with the Member, whereby the Member confirmed that he understood the nature of the allegations against him and that he voluntarily admitted to the allegations. By admitting to the said allegations, the hearing proceeded on the basis of the facts agreed upon. The Member confirmed that he understood that the Panel was not obligated to accept possible resolutions put forth by the parties. Also, the Member was made aware of the range of penalties that the Panel could impose upon him.

#### **THE EVIDENCE – AGREED STATEMENT OF FACTS**

26. Mr. Stone tendered evidence by way of an *Agreed Statement of Facts* (Exhibit 3) and the said facts were read into the record and the Panel was satisfied to their accuracy and truthfulness.

- i. At all material times, Yakup Yalcin (the “**Member**”) was a member of the College in the Journey-persons class holding a Certificate of Qualification in the trade of Electrician – Construction and Maintenance (“**309A**”). The Member first obtained his Certificate of Qualification in June 2016.
- ii. At all material times, the Member was the sole director and officer, the principal shareholder, and the controlling mind of Yalcin Electric Ltd. (corporation number 10151874) (“**Yalcin Electric**”).
- iii. At all material times, Yalcin Electric was licensed by the Electrical Safety Authority (“**ESA**”) as an electrical contractor with Electrical Contractor Registration Agency Licence number 7012111.
- iv. The Member has never been licensed with the ESA as a Master Electrician. On the basis of holding a Certificate of Qualification issued to him by the College, the Member attempted, and failed to pass, the ESA’s Master Electrician Examination in 2019.
- v. Orchard Villa is a long-term care facility and retirement home located at 1955 Valley Farm Road in Pickering, Ontario. At all material times, Orchard Villa was managed by Extendicare (Canada) Inc. (“**Extendicare**”).
- vi. In or about May 2017, Extendicare entered into a contract with Lumenshare Inc. (“**Lumenshare**”) to upgrade Orchard Villa to energy-efficient LED lighting (the “**Project**”). Lumenshare did not employ electricians or perform electrical work as part of its business. In entering into the contract for the Project, Lumenshare indicated that it would subcontract all electrical work on the Project to a licensed electrical contractor.
- vii. In or about June 2017, Lumenshare subcontracted Yalcin Electric (as the licensed electrical contractor) to perform and oversee all electrical work on the Project (the “**Electrical Work**”). The Member negotiated the subcontract on behalf of Yalcin Electric.
- viii. In negotiating the subcontract with the Member, the Chief Operating Officer of Lumenshare (the “**COO**”) advised the Member that Lumenshare only awarded subcontracts to master electricians. In order to secure the subcontract for himself and his company, the Member misrepresented to the COO that he was the licensed master electrician at Yalcin Electric overseeing all electrical work, that he would oversee all Electrical Work at the Project, and that he was competent to do so.
- ix. The Member performed the Electrical Work on the Project from approximately June 26, 2017 to approximately July 28, 2017. During this period of time, no one other than the Member performed the Electrical Work on the Project.

- x. The Member applied to the ESA for inspections of the Electrical Work using the master electrician licence of Ibrahim Karacan as the designated master electrician. Mr. Karacan did not plan, supervise, oversee, inspect or perform the Electrical Work on the Project. Lumenshare had no knowledge of who Mr. Karacan was and subcontracted Yalcin Electric on the understanding that the Member was the master electrician overseeing the Electrical Work on the Project.
- xi. The Member's Electrical Work was inspected by the ESA on July 21 and July 28, 2017. During both inspections of the Electrical Work, ESA inspectors found numerous deficiencies and instances of non-compliance with the Ontario Electrical Safety Code, which created serious life and/or fire hazards.
- xii. During the July 28, 2017 inspection, a senior ESA inspector spoke at length with the Member about the deficiencies and determined that the Member lacked the basic knowledge expected of a Journeyman electrician. The ESA inspector subsequently confirmed that the Member was not a licensed master electrician and informed Lumenshare of this fact. Upon learning the Member was not a master electrician, Lumenshare terminated its subcontract with the Member and Yalcin Electric.
- xiii. On or about August 2, 2017, a lighting fixture that was part of the Electrical Work performed by the Member overheated and caught fire.
- xiv. On or about August 5, 2017, another lighting fixture at Orchard Villa installed by the Member caused a fire that led to the evacuation of Orchard Villa's residents.
- xv. A fire investigation of the August 5<sup>th</sup> fire was performed by a fire inspector from the City of Pickering Fire Services Department. The fire inspector concluded that the cause of the fire was electrical, with the likely cause being the installation of an LED lamp with an incompatible ballast. The fire inspector assessed the damage of the fire at \$100,000.
- xvi. Between July 28, 2017 and August 5, 2017, no electrical work was performed at Orchard Villa. The Electrical Work that caused the fire was performed by the Member and overseen by the Member on behalf of Yalcin Electric.
- xvii. Following the fire, Lumenshare sent the LED lamps used in the fixture that caught fire to the manufacturer of the ballast used. The manufacturer performed tests and confirmed that the LED lamps worked with the manufacturer's 2-lamp ballasts and that no irregularities were found. However, the manufacturer advised that if 2 lamps were installed incorrectly in the manufacturer's 4-lamp

ballast, this could create a fire hazard. The Member incorrectly installed 2 lamps in a 4-lamp ballast for the lighting fixture that caught fire.

### **Relevant Legislation and Regulations**

27. Section 3 of *O Reg 570/05* to the *Electricity Act, 1998* prohibits any person from operating an electrical contracting business unless they possess an electrical contractor licence issued by the ESA. Electrical contractors are required under sections 4(2) and 6 of *O Reg 570/05* to designate one or more master electricians to be responsible for the following duties on any electrical work performed on the electrical contractor's behalf:
- (a) The personal planning and direct supervision of electrical work carried out on behalf of the electrical contractor;
  - (b) Ensuring that the electrical work is carried out in accordance with the applicable law, including the Electrical Safety Code and the laws relating to health and safety and consumer protection on behalf of the electrical contractor; and
  - (c) Other matters of a similar nature.
28. Pursuant to section 5 of *O Reg 570/05*, master electricians must be licensed with the ESA. Only licensed master electricians can be designated by an electrical contractor to perform the duties described in paragraphs 16(a) to 16(c).
29. Pursuant to sections 4(3) and 7(2) of *O Reg 570/05*, a master electrician cannot be designated to perform the duties described in paragraphs 16(a) to 16(c) if it would result in the master electrician acting as a designated master electrician on behalf of more than one electrical contractor at the same time.

### **Admissions**

30. By virtue of the facts described in paragraphs 4 to 17 of the submitted Agreed Statements of Fact (Exhibit 3), the Member admitted that he engaged in and is guilty of professional misconduct as defined in subsection 46(2) of the *Ontario College of Trades and Apprenticeship Act, 2009* (the "**Act**"), in that:
- (a) he undertook work that he knew or ought to have known he was not competent to perform by virtue of his certification, training and experience or that his employees were not

competent to perform by virtue of their certification, training and experience, contrary to *Ontario Regulation 97/13*, subsection 1(3);

- (b) he failed to maintain the standards of a trade, contrary to *Ontario Regulation 97/13*, subsection 1(10); and
- (c) he acted or failed to act, in respect of the practice of a trade, in a manner that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable and unprofessional, contrary to *Ontario Regulation 97/13*, subsection 1(11).

### **Acknowledgments**

- 31. The Member confirmed he understood the nature of the allegations that have been made against him.
- 32. The Member confirmed he understood that, by voluntarily admitting to these allegations, he waives his right to require the College to otherwise prove the case against him before the Discipline Committee.
- 33. The Member confirmed that he understood that the Discipline Panel can accept that the facts herein constitute professional misconduct.
- 34. The Member confirmed that he understood that the Panel's decision and reasons may be published, including the facts contained herein along with his name.
- 35. The Member confirmed that he understood that any agreement between him and the College does not bind the Discipline Panel.
- 36. The Member acknowledged that he had the opportunity to seek independent legal advice regarding this Agreed Statement of Facts and retain counsel and has done so.
- 37. The Member acknowledged that he has had this document translated to him by a certified interpreter.

### **INDEPENDENT LEGAL COUNSEL ADVICE**

- 38. Independent Legal Counsel ("ILC") advised that the Panel's task was to determine whether the evidence set out in the *Agreed Statement of Facts* supported the admissions of professional

misconduct under allegations (a), (b), and (c) in *the Notice of Hearing*. ILC further advised that if the Panel had questions on one or more of the allegations, the parties must be allowed to make additional submissions. The parties were given an opportunity to respond to the ILC comments and no issues were identified.

## **DECISION**

39. The Panel accepted the *Agreed Statement of Facts* and found that the College had proven allegations (a), (b), and (c) in *the Notice of Hearing* on a balance of probabilities.
40. Therefore, pursuant to section 46(2)(a) of the Act, the Panel found the Member guilty of professional misconduct.
41. The Panel was satisfied that the Member engaged in professional misconduct by contravening Ontario Regulation 97/13, subsection 1(3), 1(10) and 1(11) as alleged in Exhibit 1 *Notice of Hearing*, paragraphs (a), (b) and (c).
42. By engaging in the conduct described in the *Agreed Statement of Facts*, the Panel found that the Member undertook work that the Member knew or ought to have known that he is not competent to perform by virtue of his certification, training and experience or the Member's employees are not competent to perform by virtue of their certification, training and experience.
43. In Ontario, Master electricians must be licenced accordingly. The Panel finds that the facts in the ASF support the fact that the Member has never been licenced in such way. It is clear to the Panel that he undertook work that he was not qualified to perform.
44. By engaging in the conduct described in the *Agreed Statement of Facts*, the Panel found that the Member failed to maintain the standards of a trade.
45. The Panel does not take lightly the fact that the Member, through his dishonesty and failure to disclose his technical limitations, performed deficient work which caused life and fire hazards. Essentially, the Member demonstrated a blatant disregard for standards of the trade and the regulatory framework which exists for this very reason – the protection of the public. This action cannot and should not be accepted in order to maintain the integrity of the trade and the trust of the public.
46. By engaging in the conduct described in the *Agreed Statement of Facts*, the Panel found that the Member 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.

47. The evidence set out in the ASF confirms the Member's admission to conduct which he concedes is disgraceful, dishonourable and unprofessional. The Panel is satisfied that all three of the circumstances laid out in paragraph 46 apply in this case. The Panel takes into account the Member's admission to this unacceptable behaviour and hopes that it acts as a specific deterrence to him in his future professional conduct.
48. The only evidence received and reviewed by the Panel is Exhibit 3. Even though there is an ASF, the Panel must be satisfied that the allegations have been proven. In this case, the Panel is satisfied that this threshold has been reached.
49. The Panel has applied the following test in considering whether to accept or reject this joint submission. This Panel chose to rely on case law frequently referenced in similar cases as presented in R. v. Anthony-Cook [2016] 2 S.C.R. 204.

*Paragraph 32: Under the public interest test, a trial judge should not depart from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest...*

*and;*

*Paragraph 34: In my view, these powerful statements capture the essence of the public interest developed by the Martin Committee. They emphasize that a joint submission should not be rejected lightly, a conclusion which I agree. Rejection denotes a submission so unhinged from the circumstances of the offence that the offender that its acceptance would lead reasonable and informed person, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper functioning of the justice system had broken down. This is an undeniably high threshold – and for good reason...*

50. The panel finds that the joint submission, under the public interest test outlined above, is convincing and sufficient and that this panel does not wish to depart from the agreed statement of facts.
51. It also takes into consideration the aggravating and mitigating factors which were contemplated by the panel. Aggravating factors included that there was an act of dishonesty made to secure work which the Member was not competent to perform. This ultimately placed the public at harm. The panel also contemplated mitigating factors including the fact that the Member has no history of prior

disciplinary action and that has admitted to the allegations set out.

## **PENALTY SUBMISSIONS**

52. Mr. Stone presented a joint submission, signed by the Member and the College, with respect to penalty and costs (Exhibit 4), and asked the Panel to accept the following penalties:

- (i) Directing the Registrar to suspend the Member's Certificate of Qualification in the trade of Electrician - Construction and Maintenance ("**309A**") for a period of twelve (12) months, commencing on the date of the Order, pursuant to paragraph 46(4)(2) of the *Ontario College of Trades and Apprenticeship Act* (the "**Act**").
- (ii) Imposing a fine in the amount of \$2,000 to be paid by the Member to the Minister of Finance for payment into the Consolidated Revenue Fund within twelve (12) months of the date of the Order, in such manner as the Hearings Coordinator directs, pursuant to paragraph 46(5)(2) of the *Act*.
- (iii) Requiring the Member to be reprimanded by the Discipline Panel at the conclusion of the hearing and the fact of the reprimand to be recorded on the Public Register of the College for an unlimited period pursuant to paragraph 46(5)(1) of the *Act*.
- (iv) Directing the Registrar to impose terms, conditions, and limitations on the Member's 309A Certificate of Qualification pursuant to paragraph 46(4)(3) of the *Act*, commencing on the date of the Order. The specified terms, conditions and limitations to be imposed shall be as follows:
  - a. The Member shall not perform any work in the 309A trade unless employed or engaged by a licensed electrical contractor ("**LEC**"), as defined in *O Reg 570/05 to the Electricity Act, 1998*, who employs at all times at least one designated master electrician, as defined in *O Reg 570/05 to the Electricity Act, 1998*, who cannot be Ibrahim Karacan or the Member himself;
  - b. The Member shall not perform any work within the scope of practice of the 309A trade unless his work is directly supervised by a designated master electrician, who must be physically on site at all times when the Member performs work in the 309A trade;
  - c. The Member shall not again attempt the Electrical Safety Authority's ("**ESA**") Master Electrician Examination and pursue registration as a master electrician, on the basis of

his holding a 309A Certificate of Qualification, until twenty-four (24) months from the date of the Order;

- d. The Member shall provide a copy of the Order, within 30 days of its issuance, and a copy of the reasons for decision, within 30 days of their issuance, to the ESA by registered mail and shall provide a copy of the letters and proof of delivery to the College's Hearings Coordinator within 5 days of their respective delivery to the ESA;
  - e. The Member shall provide a copy of the Order and the Discipline Committee's reasons for decision to any LEC employing or engaging the Member and to all designated master electricians working for that LEC and/or supervising the Member's 309A work prior to the Member performing any 309A work for such LEC;
  - f. The Member shall not be entitled to use or rely on any work experience he gained as an electrician prior to the expiry of the suspension in paragraph 1 of this Order in an application for any certificate, statement, advanced standing as an apprentice, or for any similar credential, in relation to any other electrical trade, including but not limited to, Electrician—Domestic and Rural (309C) and Industrial Electrician (442A); and
  - g. While a 309A Certificate of Qualification holder, the Member shall not enter into or seek to enter into a training agreement referred to in subsection 65(1) of the *Act*, either as a sponsor of an apprentice in the Member's personal capacity, or by causing or allowing the sponsorship of an apprentice, directly or indirectly, by any employer sponsor which the Member owns or for which the Member is a partner, director, officer or shareholder who owns directly or beneficially more than 10% of the common shares thereof.
- (v) Pursuant to subsection 46(7) of the *Act*, fixing a period during which the Member shall not apply to vary the terms, conditions, and limitations listed in paragraph 4 of this Order until the later of: (i) the date the Member obtains a Master Electrician License from the ESA in accordance with the terms, conditions, and limitations in paragraph 4(c); or (ii) 24 months after the expiry of the suspension in paragraph 1.
- (vi) Directing that the finding and the Order of the Discipline Committee be published in detail with the name of the Member, online and/or in print, including, but not limited to, in the official publication of the College, on the College's website, and on the College's public register, pursuant to paragraph 46(5)(3) of the *Act*.

(vii) Directing the Member to pay the College's costs fixed in the amount of \$4,000, pursuant to paragraph 46(5)(4) of the Act, payable in such manner as the Hearings Coordinator directs and in accordance with the following schedule:

- a. \$1,000 on the date of the Order;
- b. \$1,000 on or before July 15, 2020;
- c. \$1,000 on or before January 15, 2021; and
- d. \$1,000 on or before July 15, 2021.

a. Mr. Stone submitted that the proposed penalties were appropriate in light of the facts of this case, but also, that the Member had admitted responsibility, and that he had no prior discipline history.

b. Mr. Stone also submitted for the Panel's consideration two previous decisions in the matter of *Ontario College of Trades v. Christopher A. Pacquette*, [2017] and *Ontario College of Trades v. Lee Demelo*, [2018] in support of the proposition that a joint submission made by the parties should not be rejected by this Panel unless accepting it would bring the administration of justice or the disciplinary process into disrepute.

53. Mr. Kazandji submitted for the Panel's consideration certain mitigating factors with respect to the Member, specifically that there were no injuries to lives during the fires at Orchard Villa; the Member has accepted responsibility as demonstrated by the Agreed Statement of Facts (Exhibit 3); the Member has indicated a willingness to face consequences for his actions as demonstrated by the Joint Submission on Penalties (Exhibit 4); and the Member had no prior discipline history.

54. The Member indicated that he did not wish to provide additional submissions on penalty and costs thereafter, by written submissions or by way of another hearing date.

#### **INDEPENDENT LEGAL COUNSEL ADVICE**

55. ILC reminded the Panel to consider any mitigating or aggravating factors presented by the parties and to be satisfied that any penalty ultimately ordered should fall within the range of penalties ordered in other, similar, cases. Moreover, any penalty ordered should not be disproportionate to the severity of the misconduct.

56. The parties were given an opportunity to comment on the advice provided by ILC and no issues were identified.

## **PENALTY DECISION**

57. After considering the Joint Submission on Penalty and Costs, the Panel accepted the submission and made the following orders:

- (i) Directing the Registrar to suspend the Member's Certificate of Qualification in the trade of Electrician - Construction and Maintenance ("**309A**") for a period of twelve (12) months, commencing on the date of the Order, pursuant to paragraph 46(4)(2) of the *Ontario College of Trades and Apprenticeship Act* (the "**Act**").
- (ii) Imposing a fine in the amount of \$2,000 to be paid by the Member to the Minister of Finance for payment into the Consolidated Revenue Fund within twelve (12) months of the date of the Order.
- (iii) Requiring the Member to be reprimanded by the Discipline Panel at the conclusion of the hearing and the fact of the reprimand to be recorded on the Public Register of the College for an unlimited period pursuant to paragraph 46(5)(1) of the *Act*.
- (iv) Directing the Registrar to impose terms, conditions, and limitations on the Member's 309A Certificate of Qualification pursuant to paragraph 46(4)(3) of the *Act*, commencing on the date of the Order. The specified terms, conditions and limitations to be imposed shall be as follows:
  - a) The Member shall not perform any work in the 309A trade unless employed or engaged by a licensed electrical contractor ("**LEC**"), as defined in *O Reg 570/05* to the *Electricity Act, 1998*, who employs at all times at least one designated master electrician, as defined in *O Reg 570/05* to the *Electricity Act, 1998*, who cannot be Ibrahim Karacan or the Member himself;
  - b) The Member shall not perform any work within the scope of practice of the 309A trade unless his work is directly supervised by a designated master electrician, who must be physically on site at all times when the Member performs work in the 309A trade;
  - c) The Member shall not again attempt the Electrical Safety Authority's ("**ESA**")

Master Electrician Examination and pursue registration as a master electrician, on the basis of his holding a 309A Certificate of Qualification, until twenty-four (24) months from the date of the Order;

- d) The Member shall provide a copy of the Order, within 30 days of its issuance, and a copy of the reasons for decision, within 30 days of their issuance, to the ESA by registered mail and shall provide a copy of the letters and proof of delivery to the College's Hearings Coordinator within 5 days of their respective delivery to the ESA;
  - e) The Member shall provide a copy of the Order and the Discipline Committee's reasons for decision to any LEC employing or engaging the Member and to all designated master electricians working for that LEC and/or supervising the Member's 309A work prior to the Member performing any 309A work for such LEC;
  - f) The Member shall not be entitled to use or rely on any work experience he gained as an electrician prior to the expiry of the suspension in paragraph 1 of this Order in an application for any certificate, statement, advanced standing as an apprentice, or for any similar credential, in relation to any other electrical trade, including but not limited to, Electrician—Domestic and Rural (309C) and Industrial Electrician (442A); and
  - g) While a 309A Certificate of Qualification holder, the Member shall not enter into or seek to enter into a training agreement referred to in subsection 65(1) of the *Act*, either as a sponsor of an apprentice in the Member's personal capacity, or by causing or allowing the sponsorship of an apprentice, directly or indirectly, by any employer sponsor which the Member owns or for which the Member is a partner, director, officer or shareholder who owns directly or beneficially more than 10% of the common shares thereof.
- (v) Pursuant to subsection 46(7) of the *Act*, fixing a period during which the Member shall not apply to vary the terms, conditions, and limitations listed in paragraph 4 of this Order until the later of: (i) the date the Member obtains a Master Electrician License from the ESA in accordance with the terms, conditions, and limitations in paragraph 4(c); or (ii) 24 months after the expiry of the suspension in paragraph 1.

- (vi) Directing that the finding and the Order of the Discipline Committee be published in detail with the name of the Member, online and/or in print, including, but not limited to, in the official publication of the College, on the College's website, and on the College's public register, pursuant to paragraph 46(5)(3) of the *Act*.
- (vii) Directing the Member to pay the College's costs fixed in the amount of \$4,000, pursuant to paragraph 46(5)(4) of the *Act*, payable in such manner as the Hearings Coordinator directs and in accordance with the following schedule:
  - a) \$1,000 on the date of the Order;
  - b) \$1,000 on or before July 15, 2020;
  - c) \$1,000 on or before January 15, 2021; and
  - d) \$1,000 on or before July 15, 2021

#### **REASONS FOR PENALTY DECISION**

- 58. In making its order, the Panel considered the College's submission regarding the Joint Submission on Penalty and Costs and the advice provided by ILC. In addition, the Panel considered mitigating and aggravating factors. The Panel finds that the JSP is fair, considered and appropriate.
- 59. The Panel first and foremost took into consideration the safety of the public and, specifically, ensuring that minimum standards are adhered to. Serving the public interest and protecting the public's confidence in the both the trades, and the College's disciplinary process, are paramount. It was the view of the Panel, that all aspects of the JS Joint Submission on Penalty and Costs P fulfilled these objectives.
- 60. The Panel also considered general and specific deterrence. The conduct of the Member in this matter was unprofessional, and placed the public in danger, and this did not provide a positive example to other members who may be observing this case. As a result, there is the need for both general and specific deterrence to send a message to the Member, and the broader trades' community that this type of behaviour will not be tolerated.
- 61. The aggravating factors the Panel considered were that the Member ought to have known that permits are a means of safeguarding the occupants and the general public.
- 62. As mitigating factors, the Panel acknowledged that the Member had no previous history with the

Discipline Committee of the College. Further, the Panel noted that by entering into the Agreed Statement of Facts and a Joint Submission on Penalty and Costs, the Member helped to expedite the hearing process and resolve this matter in an efficient and timely manner.

63. The Member willingly and actively participated in pre-hearing conferences leading up to the hearing. The Member also demonstrated that he was willing to take responsibility for his actions, via the Joint Submission on Penalty and Costs, and this negated the need to further adjudicate an appropriate penalty.
64. The fine and the reprimand also send a strong message to the Member, the profession and the public that the College will not tolerate conduct of this nature. These components of the Joint Submission on Penalty and Costs reinforce the seriousness of these actions and the sanctions that may follow. These components also provide a learning opportunity for younger professionals who are just entering the trade and becoming aware of the mandate of the College and the standard they will be held to.
65. The publication of the above outcome sends a clear and strong message to the Member, the profession and the public about the necessity of providing service in a safe manner.
66. The overall disposition of this case will send a clear message to the public that the College and its disciplinary process have responded seriously and appropriately to these proven transgressions. The fine, reprimand and publication further reassure the public that the College will respond to allegations of misconduct and that the public can continue to have confidence in the professional trade of Electrician - Construction and Maintenance (309A).
67. The Panel is satisfied that the penalties ordered will deter the Member from engaging in 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.
68. 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.

## **COSTS SUBMISSIONS**

69. As noted above, the joint submission presented by the parties also included a provision with respect to the costs of this proceeding, namely that the Member had agreed to pay costs to the College in the amount of \$4,000.00 within eighteen (18) months of the hearing.

## **INDEPENDENT LEGAL COUNSEL ADVICE**

70. ILC advised the Panel that usually, they should consider the issue of costs separately from the penalty. However, in light of the fact that the Joint Submission on Penalty and Costs included an agreement on the quantum of costs, the panel could consider it at the same time it considered the penalties. 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**

71. After considering the submissions on costs, the Panel accepted the agreement and ordered the Member to pay the College's costs in the amount of \$4,000.00 within eighteen (18) months, pursuant to section 46(5)4 of the Act.

## **REASONS FOR COSTS DECISION**

72. The Panel found that it was reasonable for the Member to defray some of the College's cost.

73. In ordering the costs noted above, the Panel took into consideration that by cooperating with the investigation and the hearing of this matter and by entering into an Agreed Statement of Facts and Joint Submission on Penalty and Costs, the hearing of this matter was significantly simplified. Nonetheless, four (4) Pre-Hearing Conferences as well as a one-day hearing was required in order to resolve this matter.

74. The Panel understood that while this amount would help to offset a portion of the costs associated with the investigation and prosecution of this matter, the amount ordered was neither a penalty nor sanction.

## REPRIMAND

75. At the conclusion of the hearing, the Member waived his right to appeal and, as such, an oral reprimand was delivered pursuant to section 46(5)(1) of the Act as outlined below:

*“Mr. Yalcin, as you know, as part of its penalty order, this Discipline Panel has ordered that you be given an oral reprimand.*

*The fact that you have received this reprimand will be recorded on the Public Register of the College for an unlimited time and as such, will form part of your record.*

*Although you will be given an opportunity to make a statement at the end of the reprimand, this is not an opportunity for you to review the decision made by the Discipline Panel, nor a time for you to debate the merits of our decision.*

*You have been found to have engaged in conduct that constitutes professional misconduct, including:*

- a) undertook work that the member knew or ought to have known that he is not competent to perform by virtue of his certification, training and experience or the member’s employees are not competent to perform by virtue of their certification, training and experience (Ontario Regulation 97/13, subsection 1(3));*
- b) failed to maintain the standards of a trade (Ontario Regulation 97/13, subsection 1(10));*  
*and*
- c) 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 its members are upholding high ethical and technical standards. The College also needs to have confidence in its members. Finally, employers need to be assured that their member employees are conducting themselves in accordance with the law, and employees of members need to know that they will be treated properly and fairly.*

*The Panel acknowledges that this is the first time you have appeared before the Discipline Committee of the Ontario College of Trades and that you co-operated with the investigation, as well as the prosecution of this matter, and the Panel took this into consideration when accepting the Joint Submission on Penalty and Costs today.”*

76. The Panel gave the Member an opportunity to make a statement at the conclusion of the reprimand, which the Member declined.

October 8, 2020  
Date

“Raymond Ramdayal”  
Raymond Ramdayal, Chair  
On behalf of the Discipline Committee

**End.**