

**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
Jack Ing, a member of the Ontario College of Trades.

PANEL: Ann Corbold, Chair

BETWEEN:)	
)	Jordan Stone,
)	College Counsel
)	Ontario College of Trades
ONTARIO COLLEGE OF TRADES)	
)	
)	
-and-)	Jack Ing, Self-Represented
)	
)	
JACK ING)	
(Member #13150634))	
)	Aaron Dantowitz,
)	Independent Legal Counsel
)	
)	Heard: July 9, 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 July 9, 2019 at Victory Verbatim, Court Reporting Services, 222 Bay Street, Toronto, Ontario; Jack Ing (the “Member”) attended the hearing by way of teleconference.
2. A *Notice of Hearing* in this matter (Exhibit 1) dated February 21, 2019 was issued to the Member and an *Affidavit of Service* (Exhibit 2) dated March 14, 2019 affirms that this was served on the Member. A First Appearance in this matter took place by teleconference on April 11, 2019, and a continuation of First

Appearance took place on May 9, 2019; a Pre-Hearing Conference was held on May 23, 2019; and the hearing of this matter on its merits was subsequently scheduled for July 9, 2019.

3. At the Pre-Hearing Conference on May 23, 2019, the Panel confirmed the parties' consent that any agreement on the facts in this matter could be filed with the Panel in advance of the hearing. The Panel also obtained the parties' consent that the hearing may proceed before a one-member panel in accordance with section 4.2.1(2) of the *Statutory Powers Procedure Act*, and that the hearing be conducted by a combination of electronic and oral hearing in accordance with section 5.2(1) of the *Statutory Powers Procedure Act*.

THE ALLEGATIONS

4. Mr. Stone ("College Counsel") advised that the College intended to proceed with allegations (a), (b), (c), (d), (e) and (f) in the *Notice of Hearing*.

Allegations (a), (b), (c), (d), (e) and (f) in the *Notice of Hearing*, along with the particulars, were as follows:

"IT IS ALLEGED that Jack Ing 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)).

PARTICULARS OF THE ALLEGATIONS ARE AS FOLLOWS:

The Member

1. Jack Ing, Membership No. 13150634 (the “Member”), is a member of the Ontario College of Trades (the “College”) in the Journeypersons class.
2. During the relevant period, the Member held Certificates of Qualification in the trades of Automotive Service Technician (310S) and Truck and Coach Technician (310T).
3. During the relevant period, the Member worked as a service manager at [COMPANY] located at [ADDRESS] (“COMPANY”).
4. At all material times, [COMPANY] was licensed by the Ontario Ministry of Transportation (“MTO”) as a Motor Vehicle Inspection Station. By virtue of being a Certificate of Qualification holder, the Member was registered with the MTO to issue Annual Inspection Certificates for vehicles and to certify that vehicles he inspects meet minimum safety standards, pursuant to the *Highway Traffic Act*, RSO 1990, ch. 8 (the “HTA”) and its Regulations.

The Member issues the Annual Inspection Certificate

5. On or about April 3, 2017, the Member issued Annual Inspection Certificate [NUMBER] for Bus [NUMBER], VIN: [NUMBER] (the “Bus”), certifying that he had inspected the Bus and that it met the prescribed safety standards.
6. The Member did not perform an adequate safety inspection and the Bus did not meet the prescribed safety standards at the time of the inspection.

April 26, 2017 incident involving the Bus

7. On or about April 26, 2017, the Bus was being operated on the Don Valley Parkway in Toronto with elementary school students on board. The police received numerous phone calls from motorists who reported that the Bus's rear wheels were shaking and appeared to be close to falling off.
8. Once the Bus was stopped and towed off the highway, the police performed a detailed inspection of the Bus. Upon inspection, the following deficiencies, among others, were discovered:
 - a. A wheel was missing 10 of 14 lug nuts and the 4 remaining lug nuts were loose and could be removed by hand;
 - b. A brake rotor was worn and/or damaged;
 - c. Brake pads were worn and/or cracked;
 - d. A brake caliper was seized;
 - e. No friction material was left on a brake shoe;
 - f. An air shock was leaking; and
 - g. The master cylinder brake fluid was half full.
9. During their inspection, the police recorded the odometer reading for the Bus, which showed that it had been driven for less than 1,500 km since the Member certified its safety.
10. After the failed inspection, the police removed the Bus's license plates and the registration status of the Bus was changed to unfit, prohibiting it from being operated on public highways.

The Member is charged by the MTO and pleads guilty in Provincial Offences Court

11. As a result of a follow-up investigation by the MTO, on or about September 15, 2017, the Member was charged with five *HTA* offences relating to improper annual inspections and/or improper inspection reports in relation to inspections performed by the Member between February and April 2017.
12. On or about November 21, 2017, the Member pled guilty and was convicted of improperly issuing/affixing Vehicle Inspection Sticker # [NUMBER] for the Bus when the Bus did not comply with inspection requirements and/or performance standards as prescribed by the *HTA* regulations.

13. On the same date, the Member also pled guilty and was convicted of failing to properly prepare annual inspection reports for two commercial motor vehicles other than the Bus.”

MEMBER’S PLEA

5. Both verbally at the hearing and in an *Agreed Statements of Facts* signed in counterparts on May 23, 2019 (Exhibit 3), the Member admitted the professional misconduct set out in allegations (a), (b), (c), (d), (e) and (f) of the *Notice of Hearing*.
6. The Panel conducted a plea inquiry with the Member, whereby the Member confirmed that he understood the nature of the allegations against him; that he voluntarily admitted to the allegations; that by admitting to the allegations, the hearing would proceed on the basis of the facts agreed upon; that he understood that the Panel was not obliged to accept any resolution achieved by the parties; and finally that the Member was aware of the range of penalties that the Panel could impose upon him.

THE EVIDENCE – AGREED STATEMENT OF FACTS

7. College Counsel tendered evidence by way of an *Agreed Statement of Facts* (Exhibit 3) and entered into the record that the “File No.” of the document should read “DC201817” and not the erroneous “DC201813”. Exhibit 3 stated the following:

FACTS

The Member

1. At all material times, Jack Ing (the “Member”) was a member of the College in the Journeypersons class holding Certificates of Qualification in the trades of Automotive Service Technician (310S) and Truck and Coach (310T).
2. At all material times, the Member was employed as a service manager at [COMPANY] located at [ADDRESS] Oshawa, ON (the “Company”).
3. At all material times, [COMPANY] was licensed by the Ontario Ministry of Transportation (“MTO”) as a Motor Vehicle Inspection Station. By virtue of being a Certificate of Qualification holder, the Member was registered with the MTO to issue Annual Inspection Certificates for vehicles and to certify that the vehicles that he inspected met the minimum safety standards, pursuant to the

Highway Traffic Act, RSO 1990, ch.8 (the “HTA”) and its Regulations.

The Member is issued the Annual Inspection Certificate

4. On April 3, 2017, the Member issued Annual Inspection Certificate [NUMBER] for a school bus bearing VIN: [NUMBER] (the “Bus”). In doing so, he certified that he had inspected the Bus and that it met the prescribed safety standards.
5. The Member did not perform an adequate safety inspection and the Bus did not meet the prescribed safety standards at the time of the inspection.

April 26, 2017 Incident Involving the Bus

6. On or about April 26, 2017, the Bus was being operated on the Don Valley Parkway in Toronto with elementary school students on board. The police received numerous phone calls from motorists who reported that the Bus’s rear wheels were shaking and appeared to be close to falling off.
7. Once the Bus was stopped and towed off the highway, the police performed a detailed inspection of the Bus. Upon inspection, the following deficiencies, among others, were discovered:
 - a) A wheel was missing 10 of 14 lug nuts and the 4 remaining lug nuts were loose and could be removed by hand;
 - b) A brake rotor was worn and/or damaged;
 - c) Brake pads were worn and/or cracked;
 - d) A brake caliper was seized;
 - e) No friction material was left on a brake shoe;
 - f) An air shock was leaking; and
 - g) The master cylinder brake fluid was half full.
8. During their inspection, the police recorded the odometer reading for the Bus, which showed that it had been driven for less than 1,500 km since the Member certified its safety.
9. The deficiencies identified in sub-paragraphs 7(b) to 7(g) above existed at the time of the Member’s inspection of the Bus, rendering it unsafe. Further, the Member had failed to torque or re-torque the

lug nuts on at least one wheel on the Bus at the time of his inspection.

10. After the failed inspection, the police removed the Bus's license plates and the registration status of the Bus was changed to unfit, prohibiting it from being operated on public highways.
11. Following the incident of April 26, 2017, but before the Member learned of the College's investigation into this matter, the Member had implemented new trackable procedures at [COMPANY] to ensure that lug nuts on all inspected buses were torqued and re-torqued at the time of any safety inspection.

The Member is charged and convicted under the HTA

12. As a result of a follow-up investigation performed by the MTO, the Member was charged on September 15, 2017 with five HTA offences relating to improper annual inspections and/or improper inspection reports in relation to five commercial motor vehicle inspections performed by the Member between February and April 2017.
13. On November 21, 2017, the Member pled guilty and was convicted of:
 - a) Improperly issuing/affixing Vehicle Inspection Sticker [NUMBER] for the Bus when the Bus did not comply with inspection requirements and/or performance standards as prescribed by the HTA regulations, contrary to section 90(3)(a) of the HTA;
 - b) Failing to promptly complete annual inspection report [NUMBER] for a commercial motor vehicle bearing VIN: [NUMBER]; and
 - c) Failing to promptly complete annual inspection report [NUMBER] for a commercial motor vehicle bearing VIN: [NUMBER].

Admissions

14. By virtue of the facts described in paragraphs 4 to 13 above, the Member admits 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 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)).
8. College Counsel submitted that, although the Member had resigned ("cancelled") his Certificate of Qualifications and Membership with the College prior to today's hearing, the Member continues to be subject to the jurisdiction of the College for professional misconduct referable to any time during which he was an active Member of the College, pursuant to s.28(3) of the *Act*.

INDEPENDENT LEGAL COUNSEL ADVICE

9. Independent Legal Counsel (ILC) advised that the only evidence before the Panel in this matter was the *Agreed Statement of Facts*. The Panel's task was to review the evidence set out in the *Agreed Statement of Facts* and determine whether the allegations of misconduct (a), (b), (c), (d), (e) and (f) had been proven on a balance of probabilities. ILC further advised that when determining allegation (f), the Panel should decide which of the adjectives "disgraceful", "dishonourable" and "unprofessional" applies.

DECISION

10. Having deliberated and considered the submissions and evidence presented by the College, the Panel found that the College had proven allegations of misconduct (a), (b), (c), (d), (e) and (f) outlined in the *Notice of Hearing* (Exhibit 1), and as admitted by the Member in the *Agreed Statement of Facts*, on a balance of probabilities. With regard to allegation (f), the Panel found that all of the adjectives “disgraceful”, “dishonorable” and “unprofessional” apply.

11. Therefore, pursuant to section 46(2)(a) 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 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));
 - 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 and unprofessional (Ontario Regulation 97/13, subsection 1(11)).

REASONS FOR DECISION

12. The Panel accepted and found as fact that the Member:
 - i) issued an Annual Inspection Certificate when not all necessary inspection requirements had been completed;
 - ii) was charged under the *Highway Traffic Act*; and
 - iii) pleaded guilty and was convicted.
13. The Panel understood that the onus was on the College to prove its case based on a balance of probabilities, and the Panel accepted as fact the November 21, 2017 Ontario Court of Justice conviction of the Member. The conviction had been made based on the Member's admission of guilt using the higher benchmark of "beyond reasonable doubt".
14. The panel was satisfied that 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) when he issued the Annual Inspection Certificate certifying that the inspection had been done and that the Bus met the prescribed safety standards, when in fact the Bus had not been properly inspected and did not meet the prescribed safety standards.
15. By issuing the Annual Inspection Certificate without conducting a full inspection, 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. 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 he knew or ought to have known contained a false, improper or misleading statement.
16. 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 Notice of Hearing, paragraphs (a), (b), (c), (d), (e), and (f).
17. The panel accepted that the Member was found guilty of contravening a law that is relevant to his suitability to hold a certificate or qualification.

18. The vehicle involved in this incident was a school bus actively being used to transport elementary school children. 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 and unprofessional.

PENALTY SUBMISSIONS

19. College Counsel and the Member proceeded to make a joint submission with respect to penalty and costs by way of a *Joint Submission on Penalty and Costs* (Exhibit 4), as follow:
 - 1) The Registrar shall be directed to suspend the Member's Certificate of Qualification in the trade of Truck and Coach Technician ("**310T**") for a period of 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**"). The Registrar shall ensure that the suspension runs only during such periods of time when the Member holds a 310T Certificate of Qualification that is valid and not suspended for non-payment of fees. The suspension period does not run at any time during which the Member's 310T Certificate of Qualification is cancelled upon the Member resigning his membership in the College in accordance with section 28(2) of the *Act*.
 - 2) The Registrar shall be directed to suspend the Member's 310T Certificate of Qualification for an additional period of 12 months, pursuant to paragraph 46(4)(2) of the *Act*, commencing on the expiration of the suspension period in paragraph 1 above. Pursuant to paragraph 46(4)(4) of the *Act*, the Registrar is directed not to carry out the suspension in this paragraph if the Member resigns his membership in the College in accordance with subsection 28(2) of the *Act* by no later than 30 days after the date of the Order.
 - 3) The Registrar shall be directed to impose terms, conditions, and limitations on the Member's 310T Certificate of Qualification pursuant to paragraph 46(4)(3) of the *Act*, commencing on the date of the Order if the Member holds a valid 310T Certificate of Qualification on that date, or on the first date thereafter when the Member holds a valid 310T Certificate of Qualification. The specified terms, conditions and limitations to be imposed shall be as follows:
 - a) While engaging in the practice of his trade, the Member shall not perform any safety, annual or semi-annual inspections and shall not engage in activities related to any type

of inspection prescribed by Regulations 601 and 611 made under the *Highway Traffic Act*, R.S.O. 1990 (the “HTA”), as amended from time to time;

- b) While engaging in the practice of his trade, the Member shall not handle, sign, issue or participate in the issuing of any Safety Standards Certificates, Annual Inspection Certificates or Semi-Annual Inspection Certificates, and of any related Inspection Stickers or Vehicle Inspection Records, as those terms are defined or used in the *HTA* and its Regulations;
- c) The Member shall inform any person who contracts for the Member’s services or who employs, engages or supervises the Member in his capacity as a 310T Journeyperson of the terms, conditions and limitations imposed on his 310T Certificate of Qualification, by providing such person with a copy of the Order imposing the terms, conditions and limitations; and
- d) The Member shall not use his 310T Certificate of Qualification to become or continue to be registered as a Motor Vehicle Inspection Mechanic under the *HTA* and its Regulations.

The Registrar shall be directed to ensure that the terms, conditions and limitations above apply to any 310T Certificate of Qualification held by the Member from time to time.

- 4) The Member shall be reprimanded by the Discipline Panel at the conclusion of the hearing and the fact of the reprimand is to be recorded on the Public Register of the College for an unlimited period, pursuant to paragraph 46(5)(1) of the *Act*.
- 5) The finding and the Order of the Discipline Committee shall be published in summary, with the name of the Member, in the official publication of the College and on the College’s website, pursuant to paragraph 46(5)(3) of the *Act*.
- 6) The Member shall pay the College’s costs fixed in the amount of \$1,500, to be paid within twelve (12) months of the date of the Order, pursuant to paragraph 46(5)(4) of the *Act*.

20. College Counsel submitted that paragraph 2 of the *Joint Submission on Penalty and Costs* is no longer operative or in effect as the Member has since resigned his membership with the College prior to today’s hearing, with the effect that his Certificate of Qualifications was cancelled.

21. College Counsel submitted that the proposed penalties were appropriate in light of the facts in this case. He also submitted that the courts encourage the acceptance of agreements made between parties unless doing so would bring the administration of justice or the disciplinary process into disrepute.
22. College Counsel further submitted that in reaching the *Joint Submission on Penalty and Costs*, the College took into consideration both mitigating and aggravating factors. The misconduct of the Member was a significant aggravating factor which endangered the immediate lives of the public, however, the College noted that the Member has no prior disciplinary history. The College also considered the Member's proactive measures of implementing new trackable procedures in the immediate aftermath of the April 26, 2017 event, and the fact that he has since resigned his membership with the College prior to the hearing as mitigating factors.
23. College Counsel submitted that the twelve (12) month suspension of the Member's Certificate of Qualification in the trade of Truck and Coach Technician (310T) is punitive and would sufficiently act as a deterrent to the Member's future conduct.
24. College Counsel also submitted that the proposed terms, conditions and limitations specified on his 310T Truck and Coach Certificate of Qualification would sufficiently safeguard the public safety and confidence; essentially preventing the Member from performing any safety, annual or semi-annual inspections, or to handle, sign, issue or participate in the issuing of any Safety Standards Certificates, Annual Inspection Certificates or Semi-Annual Inspection Certificates, and of any related Inspection Stickers or Vehicle Inspection Records.
25. College counsel further submitted that specific and general deterrence would be achieved by the fact the reprimand is to be recorded on the College's public register for an indefinite time period.
26. Finally, College Counsel submitted for the Panel's consideration three previous decisions of the Discipline Committee of the Ontario College of Trades, in the matters of:
 - (i) *Ontario College of Trades v Mikyias*, Decision No. DC201701 dated October 23, 2017 (which although not identical, also involved the wrongful issuance of a vehicle certificate) the Discipline Panel imposed the following: a revocation of the Member's Certificate of Qualification; that the Member pay a fine of \$2,000 within twelve (12) months; that the

Member shall not apply to the Registrar to have a new Certificate of Qualification issued for a period of twelve (12) months from the date of the order; and the finding and order of the Panel be published in summary in the official publication of the College;

- (ii) *Ontario College of Trades v Heitto*, Decision No. DC201707 dated February 13, 2018 (also involved the wrongful issuance of a vehicle certificate) the Discipline Panel imposed the following: a \$500 fine to be paid within twelve (12) months; a suspension of the Member's Certificate of Qualification for twelve (12) months; that the Member shall not apply for reinstatement of his suspended Certificate of Qualification for twelve (12) months; and that the finding and order of the Panel be published in summary in the official publication of the College; and
- (iii) *Ontario College of Trades v Howard*, Decision No. DC201802 dated January 21, 2019 (also involved the wrongful issuance of a vehicle certificate) the Discipline Panel imposed the following: a \$2,000 fine to be paid within twelve (12) months; a suspension of the Member's Certificate of Qualification for twenty four (24) months; and that the Member shall not apply for reinstatement of his suspended Certificate of Qualification for twelve (12) months.

INDEPENDENT LEGAL COUNSEL ADVICE

- 27. Independent Legal Counsel advised that at this stage, the Panel's role was to determine what order to make having regard to the findings of professional misconduct. ILC underscored the principles that when presented with a joint submission, the Panel should not depart from it unless making the order requested would bring the administration of the discipline process into disrepute or would be otherwise contrary to the public interest. ILC indicated that in these circumstances, the Panel's role was simply to screen the joint submission and be satisfied that it fell within the appropriate range, having regard to the principles that apply to penalty determinations, which were fairly set out by College Counsel.
- 28. ILC indicated that the Panel should consider item 6 of the joint submission, regarding costs, separately, as different principles applied to the matter of costs.

PENALTY DECISION

- 29. After considering the submissions of the College Counsel and deliberating during a recess, the Panel accepted the penalties set out in the *Joint Submission on Penalty and Costs* (Exhibit 4) with the exception of paragraph 2 which is no longer operative or in effect, and ordered the following penalties to be imposed:

- 1) The Registrar shall be directed to suspend the Member's Certificate of Qualification in the trade of Truck and Coach Technician ("310T") for a period of 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"). The Registrar shall ensure that the suspension runs only during such periods of time when the Member holds a 310T Certificate of Qualification that is valid and not suspended for non-payment of fees. The suspension period does not run at any time during which the Member's 310T Certificate of Qualification is cancelled upon the Member resigning his membership in the College in accordance with section 28(2) of the *Act*.

- 2) The Registrar shall be directed to impose terms, conditions, and limitations on the Member's 310T Certificate of Qualification pursuant to paragraph 46(4)(3) of the *Act*, commencing on the date of the Order if the Member holds a valid 310T Certificate of Qualification on that date, or on the first date thereafter when the Member holds a valid 310T Certificate of Qualification. The specified terms, conditions and limitations to be imposed shall be as follows:
 - a. While engaging in the practice of his trade, the Member shall not perform any safety, annual or semi-annual inspections and shall not engage in activities related to any type of inspection prescribed by Regulations 601 and 611 made under the *Highway Traffic Act*, R.S.O. 1990 (the "HTA"), as amended from time to time;
 - b. While engaging in the practice of his trade, the Member shall not handle, sign, issue or participate in the issuing of any Safety Standards Certificates, Annual Inspection Certificates or Semi-Annual Inspection Certificates, and of any related Inspection Stickers or Vehicle Inspection Records, as those terms are defined or used in the *HTA* and its Regulations;
 - c. The Member shall inform any person who contracts for the Member's services or who employs, engages or supervises the Member in his capacity as a 310T Journeyperson of the terms, conditions and limitations imposed on his 310T Certificate of Qualification, by providing such person with a copy of the Order imposing the terms, conditions and limitations; and
 - d. The Member shall not use his 310T Certificate of Qualification to become or continue to be registered as a Motor Vehicle Inspection Mechanic under the *HTA* and its Regulations.

The Registrar shall be directed to ensure that the terms, conditions and limitations above apply to any 310T Certificate of Qualification held by the Member from time to time.

- 3) The Member shall be reprimanded by the Discipline Panel at the conclusion of the hearing and the reprimand will be recorded on the Public Register of the College for an unlimited period, pursuant to paragraph 46(5)(1) of the *Act*.
- 4) The finding and the Order of the Discipline Committee shall be published in summary, with the name of the Member, in the official publication of the College and on the College's website, pursuant to paragraph 46(5)(3) of the *Act*.

REASONS FOR PENALTY DECISION

30. 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.
31. The Panel considered aggravating factors such as the fact the vehicle in this matter was a school bus that was actively being used to transport elementary school children. The police inspection report noted that the bus had been driven "less than 1500 km" from the time the Member issued the Annual Inspection Certificate until the incident on the Don Valley Parkway. This is a substantial distance for a school vehicle to be operating on the roads when it does not meet safety standards.
32. As mitigating factors, the Panel acknowledged that the Member has no previous history with the Discipline Committee of the College. Further, the Panel noted that by entering into an Agreed Statement of Facts and a Joint Submission of Penalty and Costs, the Member took responsibility for his actions and helped to expedite the hearing process and resolve this matter in an efficient and timely manner.
33. Following the April 26, 2017 incident on the Don Valley Parkway, but before the Member learned of the College's investigation into the matter, the Member implemented a new trackable procedure to ensure that lug nuts on all inspected vehicles were torqued and re-torqued at the time of inspection. This, too, was considered a mitigating factor.
34. A final mitigating factor considered by the Panel was the submission by College Counsel that the Member had voluntarily resigned his Certificate of Qualifications and Membership with the College, and retired from the profession. This lessened the concern for future public safety issues.

35. The Terms, Limitations and Conditions placed on the Member, and the twelve (12) month suspension of the Members Certificate of Qualification in the trade of Truck and Coach Technician (310T), reinforces the College's commitment to protecting public safety. The Terms, Limitations and Conditions also act as specific and general deterrence, as does the publication of the reprimand on the College's public register.
36. As a result of the Panel's finding of guilt, and after hearing submissions on the appropriate penalty, 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.
37. 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

38. As noted above, College Counsel submitted a joint proposal with respect to the costs of this proceeding, namely that the Member had agreed to pay costs to the College in the amount of \$1,500 within twelve (12) months of July 9, 2019, pursuant to section 46(5)4 of the Act.
39. College Counsel also submitted that the costs are not meant to be punitive or as a penalty, and that the amount covers only a small fraction of the costs and disbursements the College has expended in investigating and prosecuting in this matter.

COSTS DECISION

40. The Panel considered the proposal and ordered the Member to pay the College's costs in the amount of \$1,500 within twelve (12) months of July 9, 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

41. The Panel finds that it is reasonable for the Member to defray some of the College's costs.
42. 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 a *Joint Submission on Penalty and Costs*, the hearing of this matter was significantly simplified.

REPRIMAND

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

"Mr Ing, 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) *you failed to take reasonable steps to safeguard the life, health or property of a person who may be affected by your work, when you knew or ought to have known that there was a risk to life, health or property (Ontario Regulation 97/13, subsection 1(1));*
- b) *you failed to correct or report a situation that you knew or ought to have known may endanger the safety or welfare of the public (Ontario Regulation 97/13, subsection 1(2));*
- c) *you signed or issued in your capacity as a member of the College, a document that you knew or ought to have known contained a false, improper or misleading statement (Ontario*

Regulation 97/13, subsection 1(8));

- d) you were found guilty of contravening a law that is relevant to your suitability to hold a certificate of qualification (Ontario Regulation 97/13, subsection 1 (9));*
- e) you failed to maintain the standards of a trade (Ontario Regulation 97/13, subsection 1(10)); and*
- f) you 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 and 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 standards and conducting themselves in accordance with the law. 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 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.”

- 44. The Panel gave the Member an opportunity to make a statement at the Conclusion of the reprimand, which the Member declined.

Date: November 1, 2019

“Ann Corbold”

Ann Corbold
Chair, Discipline Panel

End.