

**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  
Sajjad Butt, a member of the Ontario College of Trades.

PANEL: Raymond Ramdayal, Chair  
Tom Carvin  
Paul Sousa

BETWEEN: )  
)  
) Louis P. Strezos,  
) Barrister & Solicitor,  
) for Ontario College of Trades,  
**ONTARIO COLLEGE OF TRADES** ) assisted by Peter R. Hamm  
) Barrister & Solicitor,  
)  
-and- )  
) Sajjad Butt was not represented  
)  
**SAJJAD BUTT** )  
(Member #13241812) ) Rebecca Durcan and Erica Richler,  
) Steinecke Maciura LeBlanc,  
) Independent Legal Counsel  
)  
) Heard: September 13-14, 2016

**DECISION AND REASONS**

A hearing of this matter took place before a panel of the Discipline Committee (the “Panel”) on September 13 and 14, 2016 at Victory Verbatim, Court Reporting Services, 222 Bay Street, Toronto, Ontario. The member, Mr. Sajjad Butt (the “Member”), was self-represented and was assisted by an accredited interpreter.

A Notice of Hearing dated March 3, 2016 was served on the Member on March 10, 2016.

## THE ALLEGATIONS

1. The allegations against the Member in the Notice of Hearing dated March 3, 2016 are as follows:

**IT IS ALLEGED** that Sajjad Butt 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:

- a) he signed or issued, in his capacity as a member of the College, a document that he knew or ought to have known contained a false, improper or misleading statement, which is defined as professional misconduct under Ontario Regulation 97/13, subsection 1(8);
- b) he was found guilty of contravening a law, the contravention of which is relevant to his suitability to hold a certificate of qualification or statement of membership, which is defined as professional misconduct under Ontario Regulation 97/13, subsection 1(9);
- c) he failed to maintain the standards of a trade, which is defined as professional misconduct under Ontario Regulation 97/13, subsection 1(10); and
- d) 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, dishonourable or unprofessional, which is defined as professional misconduct under Ontario Regulation 97/13, subsection 1(11).

### **PARTICULARS OF THE ALLEGATIONS ARE AS FOLLOWS:**

1. Sajjad Butt, Membership No. 13241812 (the "Member"), is a member of the Ontario College of Trades.
2. At all material times, the Member held a certificate of qualification in the trade of Automotive Service Technician, Journeypersons class, and carried on business as Discount Auto Service located on Dundas Street West in Toronto, Ontario.
3. At all material times, Discount Auto Service was licensed by the Ontario Ministry of Transportation as a Motor Vehicle Inspection Station and the Member was the licensee of

the Motor Vehicle Inspection Station.

4. On May 15, 2014, the Member conducted a safety standard certificate inspection on a 1988 Mercedes Benz 56L [sic] sedan (the "Vehicle") bearing the vehicle identification number [NUMBER] and following his inspection signed and issued a Safety Standards Certificate (#21010095) for the Vehicle, which confirmed that it met the basic safety standards to drive on public roads and highways in Ontario.
5. Less than four (4) weeks after the Safety Standards Certificate was signed and issued, the owner of the Vehicle, Gloria Mohammed, noted that the Vehicle's rear wheels were not functioning properly and appeared to be falling off the car and/or severely out of alignment which ultimately caused Ms. Mohammed and/or her husband, Mr. Krishundatt Persad, to return the Vehicle to the Member's business, Discount Auto Service.
6. On June 10, 2014, a Ministry of Transportation inspector inspected the Vehicle and made a determination that the Vehicle was unfit to drive on public roads and highways in Ontario and advised the Member that, due to safety concerns, the Vehicle must remain at the Member's business until repairs were complete.
7. On June 10, 2014, the Member authorized and/or allowed Mr. Persad to drive the Vehicle off the Member's business premises and onto a public road or highway in Ontario when he knew or ought to have known that the Vehicle was unsafe to operate.
8. On May 28, 2015, the Member was convicted under the *Highway Traffic Act*, RSO 1990, c H.8 for unlawfully issuing a Safety Standards Certificate (#21010095) for the Vehicle when the Vehicle did not comply with inspection requirements and performance standards prescribed by regulations.
9. On May 28, 2015, the Member was also convicted under the *Highway Traffic Act*, RSO 1990, c H.8 for failing to ensure that the inspection premises (Discount Auto Service) was equipped with proper inspection devices and for not complying with inspection requirements and performance standards prescribed by regulations.

## MEMBER'S PLEA

2. At the opening of the hearing on September 13, 2016, Counsel for the College advised that the College intended to proceed with all four allegations set out in the Notice of Hearing.
3. In response, the Member advised that he pleads not guilty to all of the allegations set out in the Notice of Hearing.

## AGREED FACTS

4. At the outset of the hearing, Counsel for the College filed an Agreed Statement of Facts that had been signed by the Member on August 30, 2016. The Agreed Statement of Facts provided as follows:

[1] The Respondent ("the Member") has reviewed and understands the Notice of Hearing DC201601 ("the Notice of Hearing") and this Agreed Statement of Facts ("this ASF").

[2] The Member voluntarily admits the truth of the facts as recounted in this ASF and accepts the documents included in this ASF as authentic.

[3] The College alleges, as detailed in paragraphs a) through d) of the Notice of Application [sic] that the Member:

a) Signed or issued, in his capacity as a member of the College, a document that he knew or ought to have known contained a false, improper or misleading statement, which is defined as professional misconduct under Ontario Regulation 97/13, subsection 1(8);

b) Was found guilty of contravening a law, the contravention of which is relevant to his suitability to hold a certificate of qualification or statement of membership, which is defined as professional misconduct under Ontario Regulation 97/13, subsection 1(9);

- c) Failed to maintain the standards of a trade, which is defined as professional misconduct under Ontario Regulation 97/13, subsection 1(10); and
  - d) Acted or failed to act, in respect to the practice of the trade, in a manner that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, which is defined as professional misconduct under Ontario Regulation 97/13, subsection 1(11).
- [4] The Member understands that if the Discipline Committee accepts the admissions in this ASF, it may make a finding of professional misconduct and would then consider the appropriate order to make under Section 46 of the *Ontario College of Trades and Apprenticeships Act* (the “Act”). The Member understands that the Discipline Committee might not accept a submission as to penalty or costs, even if the College and the Member make that submission together.

#### **FACTS**

- [5] At all material times, the Member was certified by The Ontario College of Trades (“the College”) as an Automotive Service Technician (310S), Journeyperson Class, and carried out his business at his automotive repair shop, Discount Auto Service, located at 2486 Dundas Street West, Toronto.
- [6] At all material times, Discount Auto Service was licensed by the Ontario Ministry of Transportation as a Motor Vehicle Inspection Station and the Member was the licensee of the Motor Vehicle Inspection Station.
- [7] On May 15, 2014, the Member undertook a Safety Inspection of a blue Mercedes Benz 56L sedan with Vehicle Identification Number [NUMBER] (“the Vehicle”). Following the inspection, the Member issued a Safety Standards Certificate # 21010095 for the Vehicle confirming its road worthiness for all public roads and highways in Ontario.
- [8] On May 20, 2014, the Vehicle was purchased from registered owner Nidal “Nick” Abu Awad by Krishundatt Persad (“the Complainant”) on behalf of his wife and the registered owner, Gloria Mohammad. The Member was not made aware of the purchase at the

time.

- [9] On June 10, 2014, MTO Inspector Steven Wong and the Complainant attended at Discount Auto Repair where they met with the Member. The Vehicle was placed on a hoist and inspected for safety by the Member and Inspector Wong. Inspector Wong identified for the Member a rusted and cracked control arm that was causing the driver side rear wheel of the Vehicle to run at an angle. He also identified certain other safety issues with the Vehicle.
- [10] The Member agreed to replace the control arm by grinding out the affected rusted areas of the Vehicle and to perform the necessary welding. The Member also agreed to replace the defective ball joints located on the Vehicle by Inspector Wong.
- [11] On July 18, 2014, the Member was served with three<sup>1</sup> Summonses under Section 23 of the Provincial Offences Act for charges relating to the Member's issuance of Safety Standard Certificate #21010095 for the Vehicle.
- [12] On May 28, 2015, the Member entered a plea of guilty and was convicted under the *Highway Traffic Act*, R.S.O. 1990, ch. 8, for unlawfully issuing a Safety Standard Certificate (#21010095) for the Vehicle as the Vehicle did not comply with inspection requirements and performance standards prescribed by regulations.
- [13] On May 28, 2015, the Member entered a plea of guilty and was convicted under the *Highway Traffic Act*, R.S.O. 1990, ch. 8, for unlawfully issuing a Safety Standard Certificate (#21010095) for failing to ensure the inspection premises (Discount Auto Service) was equipped with proper inspection devices and for not complying with inspection requirements and performance standards prescribed by regulations.

## **ADMISSIONS**

- [14] The Member, while agreeing to the facts as outlined in this ASF, disputes that the fact support a finding of misconduct.

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<sup>1</sup> Three summonses were issued, however only two were ultimately served on the Member.

## **PRIOR DISCIPLINE**

[15] The Member has no prior discipline history.

## **HEARING IN PUBLIC**

[16] The parties agree that this matter will be heard in public pursuant to Rule 3.01 of the *Rules of Procedure of the Discipline Committee & Fitness to Practise Committee* made pursuant to Section 72.1 of the [Ontario] *College of Trades and Apprenticeships Act* and Section 9 of the *Statutory Powers Procedure Act*, subject to an order made by the Discipline Committee under Rule 3.

## **FILING IN ADVANCE**

[17] The parties agree that this Agreed Statement of Facts and a Document Book containing documents to which it refers may each be filed with the Hearings Coordinator and provided to the Discipline Committee in advance of the Hearing, in accordance with Rule 4 of the *Rules of Procedure of the Discipline Committee & Fitness to Practise Committee*.

5. The following documents were attached to the Agreed Statement of Facts and filed with the Panel:
  - a. Copy of Certified Information 2153879-115 dated January 15, 2014 and Certified Information 2145279-120 dated May 15, 2016; and
  - b. Transcripts in the matter of *R. v. Sajjad Butt* before His Worship Justice of the Peace J. Rosenfield in the Ontario Court of Justice on February 12, 2015 and May 28, 2015.

## **THE EVIDENCE**

6. The College called two witnesses. The Member testified on his own behalf.
7. The complainant, Mr. Krishundatt Persad, testified that he bought a 1988 Mercedes Benz 560 SEL from the registered owner, Nidal "Nick" Abu Awad on May 20, 2014. Prior to this in April and May of 2014, Mr. Persad made inquiries about the vehicle and negotiated on the price. The vehicle had

sustained some damage due to a collision with a tow truck. The repair of this damage and the safety certification of the vehicle were subsequently negotiated into the price.

8. After receiving a call on May 20, 2014, from Mr. Awad indicating the car was ready, Mr. Persad attended ZeZe Lube at 2492 St. Clair Avenue West, Toronto, to pick up the vehicle. Mr. Persad met someone he believed to be a mechanic. He was told that he would be given the safety certificate on the following day.
9. Soon thereafter, Mr. Persad became aware of deficiencies that would jeopardize the safe operation of the vehicle. After confirming the mechanical defects, Mr. Persad was told to return and speak with Mr. Awad. It was at this time Mr. Persad made a complaint to the Ontario Ministry of Transportation.
10. Ministry of Transportation Enforcement Inspector Steven Wong also provided testimony regarding his investigation of this case. He stated that a safety certificate was issued by the Member. However, an inspection of the vehicle by Inspector Wong on June 10, 2014, in the presence of the Member and Mr. Persad, revealed various defects, including that both the driver's and passenger's side upper and lower ball joints were in disrepair. There was also a crack in the lower control arm of the driver's side which deemed the vehicle unfit to drive. Inspector Wong testified that the Member was very cooperative during the course of the inspection. The Member offered to repair the vehicle.
11. Inspector Wong ordered that the car remain on the premises as it was not road worthy or safe. However, Inspector Wong would later discover the car being driven by Mr. Persad while Inspector Wong was stopped at an intersection in the vicinity of the garage. Inspector Wong directed Mr. Persad to return the vehicle immediately to the garage.
12. Mr. Persad testified that the Member told him to take the car after Inspector Wong left the Member's business premises, Discount Auto Service, on June 10, 2014. It was on or about this time that Mr. Persad complained to the College. The Member disputed this. The Member testified that Mr. Persad left the care at the Member's garage on June 10, 2014 so that the Member could make repairs.
13. There were some inconsistencies with the dates. The Panel heard conflicting dates on when the car



was picked up. There was also no official receipt for the purchase of this vehicle.

14. The Member testified that the car was driven for approximately 5,000 kilometers between the time that he provided the safety certification and when Mr. Persad returned to the garage with Inspector Wong. He maintains that he bears no responsibility for new damage which may have arisen as a result of the vehicle being driven poorly by Mr. Persad.
15. The Member performed repairs to the vehicle. He states that he was not properly compensated to perform the work which was ordered by Inspector Wong. The Member states that once Mr. Persad learned this, he voluntarily paid \$200.00 for the work that was performed.
16. The Panel reviewed and considered the following documents that were filed as exhibits during the course of the hearing:
  - a. Notice of Hearing
  - b. Agreed Statement of Facts and Consent Documents
  - c. Original business card of Member with handwriting on the back
  - d. MTO Safety Standards Certificate
  - e. Invoice dated June 26, 2014 issued by Discount Auto Service.
  - f. Letter from Member re: detailed events in response to the complaint
17. The Panel also received the following documents, but the Member did not ask that they be marked as exhibits:
  - a. Compliance & Enforcement Summary Inspection Report
  - b. Certificate of Recognition from the Toronto Professional Firefighters' Association
  - c. Certificate of Commendation to the Member
  - d. Letter of recognition to the Member
  - e. Certificate of Appreciation to the Member
  - f. Newspaper article regarding the Member's bravery
  - g. Statement of support for the Member
  - h. Vehicle abstract.

## **DECISION**

18. The Panel finds that the College has proven the allegations as set out in the Notice of Hearing, on a

balance of probabilities. Therefore, we find the Member guilty of professional misconduct as defined in Ontario Regulation 97/13, specifically:

- a. Ontario Regulation 97/13, subsection 1(8), signing or issuing, in the member's capacity as a member of the College, a document that the member knows or ought to know contains a false, improper or misleading statement;
- b. Ontario Regulation 97/13, subsection 1(9), being found guilty of contravening a law if the contravention is relevant to the member's suitability to hold a certificate of qualification or statement of membership;
- c. Ontario Regulation 97/13, subsection 1(10), failing to maintain the standards of the trade; and
- d. Ontario Regulation 97/13, subsection 1(11), acting or failing to act, in respect to the practice of a trade, in a manner that, having regard to all the circumstances, would reasonable be regarded by members as disgraceful, dishonourable or unprofessional.

## **REASONS FOR DECISION**

19. With regard to Ontario Regulation 97/13, subsection 1(8), it was discovered during the testimony that the Member was found to have issued a safety certificate for a vehicle that was unsafe. The Member admitted that he signed a false certificate and that he did so on purpose so that Mr. Persad would pay the Member for the services he had performed. Furthermore, these deficiencies caused a heightened danger to the public. The testimony provided by Inspector Wong was found to be reliable and clearly outlined the state of disrepair of some of the mechanical components of the vehicle. The Panel was particularly concerned with the driver's side lower control arm which was found to be rusted and cracked. This component could have failed completely resulting in a serious accident. In addition to this, rust was found in other areas of the vehicle suggesting a longstanding maintenance issue and not one that was the result of Mr. Persad driving the vehicle for approximately 20 days after first picking it up from Mr. Awad.
20. With regard to Ontario Regulation 97/13, subsection 1(9), the Member was found guilty on two counts of contravening the *Highway Traffic Act*. He pled guilty and was fined. This was proven through the Agreed Statement of Facts and attached court documents. The Panel heard submissions relating to the admissibility of the documents described in paragraph 17 above which would suggest a collateral attack on past convictions. The Panel carefully considered these

submissions and decided that any testimony to the contrary, or to rebut the past convictions, would not be heard. During the hearing, the Member clarified his position that it was not his intention to rebut the past convictions. As a result, the Panel also considered the question of relevance. The documents were not allowed for those two reasons.

21. With regard to Ontario Regulation 97/13, subsection 1(10), testimony and documentary evidence established that the Member did not have the appropriate tools to conduct an adequate safety inspection. Inspector Wong testified that during the course of his investigation he asked the Member to produce the tools which he uses to certify the vehicles. Two of these tools were past their expiry date. The Agreed Statement of Facts and attached court documents also established that the Member was found guilty, in part, for failing to ensure the inspection premises were equipped with proper inspection devices and for not complying with inspection requirements and performance standards prescribed by regulations.
22. With regard to Ontario Regulation 97/13, subsection 1(11), during testimony the Member admitted to have knowingly issued a false or incorrect document for the purpose of being paid for services. He also released the vehicle to Mr. Persad after being directed by Inspector Wong not to allow the vehicle to leave the premises. In essence, he placed the public at risk by allowing the vehicle to leave his premises. The Panel found that this could reasonably be regarded by other members as disgraceful, dishonourable and unprofessional.
23. The Panel found both Mr. Persad and Inspector Wong to be credible and reliable witnesses. They also did not have any connection to the Member prior to this incident. As such, there was no reason that they would be untruthful or malicious towards the Member.
24. The Panel accepted the version of events presented by the College's witnesses. Specifically, Inspector Wong holds a position of trust and carried out a detailed investigation which included collecting notes of his observations and interactions with the Member. During Inspector Wong's testimony, his evidence was presented in a clear and concise manner which corresponded and supported Mr. Persad's version of the events. Mr. Persad's testimony was also presented in a clear and pragmatic fashion. He appeared forthcoming with information and articulated, to the best of his recollection, his version of events. This evidence was plausible in the circumstances and not malicious toward the Member in any way.
25. The Panel was able to effectively assess the credibility of all witnesses in this case as they appeared

before the Panel to present their testimony. Witnesses were assessed based on their ability to recall the events and the plausibility of their evidence. There was no indication that the College's witnesses would have any motivation that might cloud their recollection. As well, the evidence presented by the College's witnesses was internally and externally consistent and also corresponded well when compared. The Panel was able to apply logic, experience and intuition on determining the credibility of the witnesses.

26. The Panel found the Member to be forthcoming with information, albeit concerning at times. The Member described a questionable practice of incorrectly noting certificate numbers on official documents. This was done on purpose and is something this Panel will not condone. The safety certificate is a critical document. The Member holds a position of trust and by knowingly falsifying a document, breaches that trust. In the end, the Member's desire to be paid should not be at the altar of public safety.
27. The Panel accepted some but not all of the Member's testimony. In the balance, more weight was placed on the testimony provided by the College's witnesses. The Panel found that the Member's testimony had several gaps in the information presented. In addition, the Member's credibility was reduced given his past behaviour and the concerning allegations which were subsequently proven by the College.

#### **PENALTY DECISION**

28. Under section 46(5)2, the Panel imposed a fine of \$1,000.00 to be paid within six (6) months to the Minister of Finance for payment into the Consolidated Revenue Fund.
29. Under section 46(4)2, the Panel directed the Registrar to suspend the Member's certificate of qualification for a period of two (2) weeks commencing on a date to be determined by the Registrar, which suspension was served October 1-14, 2016.
30. Under section 46(5)3, the Panel directed that the finding and the order of the Panel be published on the College's website and in the official publication of the College, including the name of the Member and his business address.
31. Under section 46(5)1, the Panel reprimanded the Member at the conclusion of the hearing, as

follows:

*Mr. Butt, you have been found guilty of professional misconduct. The actions you demonstrated were unbecoming of your profession. You showed disregard for public safety by your actions. This behaviour is unacceptable for a regulated professional. It is the Panel's hope that you will learn from this experience and act in a way that is more responsible in the future.*

32. The Panel ordered that the fact of this reprimand be recorded on the Public Register of the College for a period of one (1) year.

### **REASONS FOR PENALTY DECISION**

33. Counsel for the College submitted that an appropriate penalty in the circumstances would be a \$1,000 fine; a three-week suspension; a reprimand; and publication of findings. The Member submitted that any fine should be limited to \$500.
34. The Panel considered the following principles in making a finding on the appropriate penalty in this matter: public protection, specific deterrence, and general deterrence.
35. The Panel considered aggravating factors such as the finding of guilt made against the Member under the *Highway Traffic Act* and the Member's submission to the Ministry of Transportation of a vehicle safety certificate with a digit intentionally missing.
36. The Panel considered mitigating factors such as the documents listed in paragraph 17 above which speak to the Member's character and social conduct outside of the workplace. This is also his first offence in regard to his trade. The Panel also recognizes the potential impact it may have on the Member's livelihood and family. Finally, the Panel noted that the Member entered into an Agreed Statement of Facts, which helped reduce the number of facts to be proven by the College, which in turn expedited the hearing.
37. As a result of the 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 and ensuring a minimum standard is met by regulated skilled trades professionals. The Panel is of the view that the penalty imposed serves the goals of public protection, specific deterrence, and general deterrence.

38. The Member waived his right to appeal at the conclusion of the hearing and the oral reprimand was delivered.

#### **COSTS DECISION**

39. In accordance with the Rules of Procedure of the Discipline Committee and Fitness to Practise Committee, the Panel orders the Member to pay partial costs of the hearing and pre-hearing conferences. This will defray some of the overall costs associated with this case. Specifically, the Member is ordered to pay:

- a. \$3,000.00 for one (1) day of the hearing; and
- b. \$400.00 for four (4) pre-hearing conferences.

#### **REASONS FOR COSTS DECISION**

40. The Panel finds that it is reasonable for the Member to defray some of the College's costs, providing they are not disproportionate to his current financial situation.
41. The Panel received written submissions on costs and considered the information carefully. Counsel for the College sought total costs in the amount of \$10,000.00. The Member retained counsel to provide written costs submissions. Counsel for the Member submitted that no costs should be ordered in light of the Member's personal and financial circumstances.
42. In ordering the amount above, the Panel took into consideration the College's request to end early on day one of the hearing. The Panel accommodated this request, as we did for the Member's request for a late start. The Panel believes that given a typical workday, this hearing could have convened and concluded on one day as opposed to two. Since both parties made their own requests, the Panel decided that the Member will pay for half (50%) of the College's request for costs for hearing days.
43. The Panel notes that, of the four (4) pre-hearing conferences that took place, only one (1) was held in person. The other three (3) were held via teleconference. It is also noted that the Member was required to attend the in-person pre-hearing conference. In considering the supporting

documentation provided in the Member's submissions on costs, the Panel determined that 20% of College's request of \$2,000.00 would be appropriate in the circumstances. This amount of \$400.00 added to \$3,000.00 for a total of \$3,400.00 represents approximately 25% of the Member's total taxable income reported to the Canada Revenue Agency in 2015.

44. The Panel took into consideration the Member's personal financial situation and the fact that he has a wife and children still living in the home.
45. The Panel placed weight on a letter received from the Member's medical practitioner who provided a qualified opinion on the Member's medical condition.
46. The Panel placed weight on the reliability of the document from the Canada Revenue Agency.
47. Given the supporting CRA document and the professional opinion of the Member's medical practitioner, the Panel determined that costs in the amount of \$3,400.00 were appropriate in this case. Based on the submissions, it is evident that the Member has limited financial resources coupled with health issues which may be exasperated by the stress of owing a large amount of money. Nonetheless, the Panel found that he does hold some partial responsibility for costs and should bear a burden which is appropriate and relative to his present circumstances.

Date: January 16, 2017

"Raymond Ramdayal"  
Raymond Ramdayal  
Chair, Discipline Panel

"Tom Carvin"  
Tom Carvin  
Member, Discipline Panel

"Paul Sousa"  
Paul Sousa  
Member, Discipline Panel

**End.**