

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

BETWEEN:

ONTARIO COLLEGE OF TRADES

-and-

TREVOR A. CLEARY

NOTICE OF HEARING

THE COMPLAINTS COMMITTEE OF THE ONTARIO COLLEGE OF TRADES, pursuant to section 44, subsection (5) of the *Ontario College of Trades and Apprenticeship Act, 2009* (the “Act”), S.O. 2009, chapter 22, has directed that the matter hereinafter described regarding the conduct or actions of Trevor A. Cleary (Membership No. 13838914), a member of the College, be referred to the Discipline Committee of the Ontario College of Trades. The Discipline Committee, pursuant to section 46, subsection (1) of the *Act*, shall hear and determine matters referred to it by the Complaints Committee under section 44 of the *Act*.

IT IS ALLEGED that Trevor A. Cleary has engaged in professional misconduct as defined in subsection 46(2) of the *Act* and/or Ontario Regulation 97/13 made under the *Act* in that he:

- a) failed to take reasonable steps to safeguard the life, health or property of a person who may be affected by the work of any person for whom he is responsible, 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) undertook work that he knew or ought to have known that his employees were not competent to perform by virtue of their certification, training and experience (Ontario Regulation 97/13, subsection 1(3));
- 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)); and
- e) 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. Trevor A. Cleary, Membership No. 13838914, (the “Member”) is a member of the Ontario College of Trades (the “College”).
2. At all material times, the Member held a Certificate of Qualification in the trade of Electrician – Construction and Maintenance (309A), Journeyperson class, which was issued by the College on March 7, 2014.
3. At all material times, the Member was employed by Cybertech Controls and Electric Inc. (“Cybertech”).

March 6, 2014 (Contravention Found and 1st Warning given to the Member)

4. On or about March 6, 2014, Cybertech was involved in a residential construction project at 2131 Mark Avenue, Windsor, Ontario. The Member was also working on site.
5. A compliance inspection was carried out by the College and found one individual, Corey Beaulieu, engaging in the scope of practice of the trade of Electrician – Construction and Maintenance (309A) without a Certificate of Qualification and without having a valid Registered Training Agreement.

6. The College inspector spoke to the owner/director of Cybertech in the presence of the Member. The owner advised the College inspector that Corey Beaulieu was on a 90-day try-out period with the company.
7. The College inspector advised the Member that all individuals engaging in the scope of practice of the trade of Electrician – Construction and Maintenance (309A) must have a Certificate of Qualification or a valid Registered Training Agreement. It is an offence under the *Act* to employ or otherwise engage an individual to perform the work of a compulsory trade unless the individual holds a Certificate of Qualification or is working pursuant to a Registered Training Agreement.
8. The College inspector left the inspection site after giving a verbal warning to the owner and the Member not to engage unauthorized individuals to perform the work of a compulsory trade.

August 5, 2015 (Contravention Found and 2nd Warning given to the Member)

9. On or about August 5, 2015, Cybertech was involved in a residential construction project at 13109 Riverside Drive East in Tecumseh, Ontario. The Member was present on site as the supervisor.
10. A compliance inspection was carried out by the College and the inspector found one individual, Aaron Beaton, engaging in the scope of practice of the trade of Electrician – Construction and Maintenance (309A) without a Certificate of Qualification and without having a valid Registered Training Agreement.
11. Aaron Beaton advised the College inspector that he was on a 90-day try-out period with the company.
12. The College inspector advised the Member that all individuals engaging in the scope of practice of the trade of Electrician must have a Certificate of Qualification or a valid Registered Training Agreement.
13. The College inspector left the inspection site after giving a verbal warning to the owner and the Member not to engage unauthorized individuals to perform the work of a compulsory trade.

November 11, 2015 (Contravention Found and Cybertech Charged and Convicted)

14. On or about November 11, 2015, Cybertech was involved in a residential construction project at 138 Decarlo Drive in Lakeshore, Ontario. The Member was the project supervisor.
15. A compliance inspection was carried out by the College and found one individual, Aaron Beaton, engaging in the scope of trade of Electrician – Construction and Maintenance (309A) without a Certificate of Qualification or having a valid Registered Training Agreement.
16. Aaron Beaton advised the College inspector that he was directed to work by the Member who is his supervisor.
17. On or about November 11, 2015, as a result of this inspection, Cybertech was charged with an offence of engaging an unauthorized individual to engage in a compulsory trade, contrary to section 4 of the *Act*.
18. Cybertech did not dispute the charge as laid and was convicted pursuant to section 9(2) of the *Provincial Offences Act*.

February 15, 2017 (Contravention Found and Cybertech Charged and Convicted for the 2nd Time)

19. On or about February 15, 2017, Cybertech was involved in a commercial construction project at 715 Sprucewood Avenue in Windsor, Ontario. The Member was the project supervisor.
20. An employee of Cybertech, Michael Caille, was engaging in the scope of trade of Electrician – Construction and Maintenance (309A) without a Certificate of Qualification and without having a valid Registered Training Agreement. Specifically, the work involved installing, wiring and connecting lighting fixtures which were located about 12 metres (40 feet) above the floor level (the “Electrical Work”).
21. While performing this Electrical Work, Michael Caille fell to the floor and sustained multiple serious injuries requiring medical treatment and hospitalization.

22. The Member was aware of the fact that Michael Caille was not authorized to perform the Electrical Work, but nonetheless instructed him to perform the work.
23. On or about November 29, 2017, in connection with this incident, Cybertech was convicted of an offence of engaging an unauthorized individual to engage in a compulsory trade, contrary to section 4 of the *Act*. Cybertech was fined \$2,500.00 and placed on probation for 12 months.

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

AN APPEARANCE WILL TAKE PLACE BEFORE THE PANEL by teleconference on **Tuesday, March 6, 2018 at 10:00 a.m. (Eastern)** to set a date for the hearing of this matter on its merits (the "Hearing"). The teleconference call-in details will be provided to all parties at least two (2) weeks prior to the teleconference. The Hearing, once scheduled, will be held at Victory Verbatim, 222 Bay Street, Suite 900, Toronto, Ontario or such other venue as the College may advise, on a date to be determined after consultation between College Counsel and the Member or his legal counsel/representative, and fixed by the Hearings Coordinator.

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

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

IF A DATE FOR THE HEARING IS NOT AGREED UPON AND THE MEMBER DOES NOT ATTEND THE APPEARANCE BY TELECONFERENCE ON Tuesday, March 6, 2018 at 10:00 a.m. (Eastern) TO SET A DATE FOR THE HEARING, THEN THE PANEL MAY PROCEED IN HIS ABSENCE TO SET A DATE FOR THE HEARING. NOTICE OF THE HEARING DATE WILL BE PROVIDED TO THE MEMBER IN WRITING AT HIS LAST KNOWN ADDRESS AS SHOWN IN THE RECORDS OF THE COLLEGE.

IF THE MEMBER DOES NOT ATTEND THE HEARING ON THE DATE SCHEDULED, THE PANEL MAY PROCEED

IN HIS ABSENCE AND HE WILL NOT BE ENTITLED TO ANY FURTHER NOTICE OF THE PROCEEDING.

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

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

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

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

A member whose conduct has been directed or referred to a proceeding before the Discipline Committee

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

Date: January 25, 2018

"George Gritziotis"

George Gritziotis
Registrar & Chief Executive Officer
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