

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

BETWEEN:

ONTARIO COLLEGE OF TRADES

-and-

ERIC HALLING

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 Eric Halling (Membership No. 13213947), 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 Eric Halling 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, which is defined as professional misconduct under 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, which is defined as professional misconduct under 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, which is defined as professional misconduct under 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, which is defined as professional misconduct under 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, which is defined as professional misconduct under Ontario Regulation 97/13, subsection 1(11).

PARTICULARS OF THE ALLEGATIONS ARE AS FOLLOWS:

1. Eric Halling, Membership No. 13213947 (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, and carried on business as Halling Electrical & Mechanical located on [ADDRESS], Toronto, Ontario.
3. At all material times, Edgar Clark (the “Complainant”) was working towards obtaining his certificate of qualification as an electrician and was seeking to receive training as a registered apprentice and work pursuant to a registered training agreement.
4. Between October 2013 and May 2015, the Member agreed to sponsor the Complainant as a paid apprentice and engaged him to perform work as an electrician for various projects undertaken by the Member’s business. However, the Member did not enter into a registered training agreement as the Complainant’s sponsor during this timeframe.
5. At all material times, the Member instructed one of his employees, Lorenzo Fucili, to provide onsite training and oversight to the Complainant. However, Lorenzo Fucili also did not hold a

certificate of qualification as an electrician.

6. On May 23, 2015, the Complainant sent an email to the Member addressing his concerns regarding workplace safety and highlighted the following points:
 - a) that the Complainant was being asked to perform dangerous work without supervision most of the time and that he is concerned for his own safety on site;
 - b) that the Complainant has concerns for safety of the Member's co-op student who was also asked to perform dangerous work without supervision;
 - c) that the Complainant's supervisor on site, Lorenzo Fucili, was not a certified electrician; and
 - d) that the Complainant was working as the Member's apprentice but was not working pursuant to a registered training agreement.

7. On October 23, 2015, the Member was convicted under the *Act* for engaging Lorenzo Fucili to perform work as an electrician without a certificate of qualification.

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 **Monday, January 9, 2017 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 MONDAY, JANUARY 9, 2017 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, THEN 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, then 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: November 28, 2016

"David Tsubouchi"

David Tsubouchi
Registrar & Chief Executive Officer
Ontario College of Trades
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To: Eric Halling
[ADDRESS]
[ADDRESS]

From: John J.S. Park, College Counsel
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