

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

BETWEEN:

**ONTARIO COLLEGE OF TRADES**

-and-

**LUCIANO PANNUNZIO**

**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*, S.O. 2009, chapter 22 (the “Act” or “OCTAA”), has directed that the matter hereinafter described regarding the conduct or actions of Luciano Pannunzio (Membership No. 13244626), 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 Luciano Pannunzio 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) engaged in conduct that contravenes the Act, the regulations or the by-laws (the Act, paragraph 46(2)(a)), including but not limited to: (i) holding himself out to a client as able to install a commercial air-conditioning unit (the “Unit”) when he was not qualified to do so and without holding a Certificate of Qualification (“C of Q”) in the compulsory trade of Refrigeration and Air Conditioning Systems Mechanic (trade code 313A); (ii) installing the Unit outside the scope of practice (“SoP”) of his C of Q in the compulsory trade of Residential Air Conditioning Systems Mechanic (trade code 313D); and (iii) employing and directing an individual to diagnose and repair the Unit when the individual did not hold the required C of Q for the 313A compulsory trade;

- b) failed to take reasonable steps to safeguard the life, health or property of a person who may be affected by the work of the member and 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));
- c) undertook work that the member knew or ought to have known he was not competent to perform by virtue of his certification, training and experience and that his employee was not competent to perform by virtue of his certification, training and experience (Ontario Regulation 97/13, subsection 1(3));
- d) was found guilty of contravening laws, the contravention of which is relevant to his suitability to hold a C of Q (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:**

**I. BACKGROUND**

1. Luciano Pannunzio, Membership No. 13244626, (the “Member”) is a member of the Ontario College of Trades (the “College”). On June 23, 2015, an employee of the Member, [THE DECEASED], was directed by the Member to diagnose and repair a commercial air-conditioning unit. [THE DECEASED] was killed while doing so. He was found the next morning, June 24, 2015, near the heating, ventilation and air conditioning (“HVAC”) unit. The cause of his death was found to be electrocution.

**(A) THE MEMBER**

2. At all material times, the Member held C of Qs, Journeyperson class, in the compulsory trades of Sheet Metal Worker (308A) and Residential Air Conditioning Systems Mechanic (313D).

3. The Member never held any licence, C of Q or valid registered trade agreement (“RTA”) in the compulsory trade of Refrigeration and Air Conditioning Systems Mechanic (313A).
4. The Member applied for his Residential Air Conditioning Systems Mechanic (313D) C of Q in April 2013. As part of that application, he self-certified, in a document titled “Affirmation of Skills for Residential Air Conditioning Systems Mechanic - Branch 2” that he had read and possessed all the mandatory skill sets required for working on *residential* air conditioners as a Journeyperson. The self-certification process did not relate to the installation, repair or maintenance of commercial air-conditioning units.
5. At all material times, the Member carried on business as Pannunzio Mechanical, the registered business name of the Member’s sole proprietorship (the “Business”). The Business specializes in the installation and servicing of HVAC equipment for *residential and* commercial customers. The Business, based in Wheatley, Ontario, was registered in 2011; and has been in actual operation since 2012.
6. At the material times, the Member’s Business operated with two employees, plus the Member.

**(B) [THE DECEASED] – EMPLOYEE OF THE MEMBER’S BUSINESS**

7. At all material times, [THE DECEASED] held C of Qs, Journeyperson class, in the trades of Sheet Metal Worker (308A), and Residential Air Conditioning Systems Mechanic (313D). [THE DECEASED] never held any licence, C of Q or valid RTA in the compulsory trade of Refrigeration and Air Conditioning Systems Mechanic (313A).

**II. INSTALLATION OF COMMERCIAL HVAC UNIT FOR NEW-TEC TOOLS LTD.**

8. Between February 9-27, 2015, the Member, on behalf of his Business, sold and installed an HVAC unit, serial number #5614M06887 (the “Commercial HVAC Unit”) for client New-Tec Tools Ltd. (“New-Tec”). The Commercial HVAC Unit was installed by the Member on the rooftop of a building located at 5345 Brendan Lane in Oldcastle, Ontario, used by New-Tec as a machine shop and as commercial space.
9. The Commercial HVAC Unit is a combination heating-cooling unit supplied with electricity of 600

volts AC fused at 20 amperes, fed from an electrical disconnect inside the New-Tec building.

10. Neither the Member nor [THE DECEASED] held a Refrigeration and Air Conditioning Systems Mechanic (313A) C of Q or RTA in respect of the installation, maintenance and servicing of the Commercial HVAC Unit.
11. At the time of the initial installation of the Commercial HVAC Unit, the Member, as the contractor and installer, did not apply for an electrical inspection as required by the *Electrical Safety Code*, being Regulation 164/99 under the *Electricity Act* ("Electrical Safety Code").

**(A) SERVICING OF COMMERCIAL HVAC UNIT BY THE MEMBER'S UNCERTIFIED EMPLOYEE AND RESULTING FATALITY**

12. On June 23, 2015, [THE DECEASED] was an individual employed by the Member's Business as a servicer and installer of HVAC units. At that time, [THE DECEASED] had been so employed by the Business for one year and seven months.
13. Throughout his employment with the Business and, more specifically, at the material times, [THE DECEASED] was acting on the instructions of the Member, who was his direct supervisor.
14. Upon employing [THE DECEASED], the Member was aware that the employee had never commenced or completed an apprenticeship in the Residential Air Conditioning Systems Mechanic trade (313D).
15. In or about early June 2015, the Member received a service call from New-Tec in regards to the improper functioning of the cooling function of the Commercial HVAC Unit. At that time, the Member performed himself an initial diagnosis of the unit.
16. On June 23, 2015, the Member instructed [THE DECEASED] to attend the New-Tec location, in order to further diagnose and then repair the cooling function of the Commercial HVAC Unit.
17. On that day, [THE DECEASED] arrived at New-Tec at approximately 12:30 p.m. After accessing the electrical disconnect inside the building and diagnosing the Commercial HVAC Unit on the rooftop, he phoned the Member and reported his observations: a fused contactor in the unit and blown fuses in the electrical disconnect in the shop area. This was the Member's last contact with [THE

DECEASED].

18. Throughout the day, [THE DECEASED] repeatedly accessed the electrical disconnect inside the New-Tec shop, and went up to and down from the building's rooftop. At 5:30 p.m. that day, when New-Tec workers left the shop, they observed that the Pannunzio Mechanical van driven by [THE DECEASED] was still present on location and the ladder used by him to access the rooftop was still in place.
19. At 6:30 a.m. on June 24, 2015, workers arrived back at New-Tec. They observed that the van and ladder were where they had been the night before. A worker went up to the roof to check things out and found [THE DECEASED]. He was lying on his back by the Commercial HVAC Unit. The unit was open and [THE DECEASED'S] tool bag was nearby. Emergency services arrived and pronounced [THE DECEASED] dead at the scene. He was observed to have a burn on one hand and the coroner later determined his cause of death to have been electrocution. No personal protective equipment for working on live electrical equipment, pad locks or lock out tags were observed at the scene.
20. The power to the Commercial HVAC Unit was on when [THE DECEASED] was last repairing the unit. He was working without the necessary safety equipment and he was electrocuted when he came into direct contact with the live portion of the 600 V AC electrical system within the HVAC control panel, while troubleshooting the equipment on the rooftop. This resulted in his death.

**(B) MEMBER PLED GUILTY AND WAS CONVICTED IN PROVINCIAL OFFENCES COURT**

21. As a result of a College inspection relating to the incident, the Member was charged in September 2015 with employing or otherwise engaging [THE DECEASED] to perform the work of a compulsory trade, without a C of Q or valid RTA, contrary to s. 4 of *OCTAA*.
22. As a result of investigations into the fatality by the Ministry of Labour ("MOL") and the Electrical Safety Authority ("ESA"), the Member was also charged with four counts, under the respective organizations' enabling legislation.
23. On April 13, 2017, as a result of a joint prosecution by the College, MOL and ESA, the Member pled guilty and was convicted by the Ontario Court of Justice of the following offences:

- a) employing or engaging an improperly licensed individual to perform the work of a compulsory trade, contrary to *OCTAA*;
- b) failing as an employer to ensure that health and safety measures and procedures were carried out by his employee at the New-Tec location, contrary to regulations under the *Occupational Health and Safety Act*, R.S.O. 1990;
- c) as a contractor, failing to request an inspection of electrical work performed at the New-Tec location, contrary to the Electrical Safety Code.

**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 **Thursday, December 14, 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 MAY 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 Thursday, December 14, 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, 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 Louis P. Strezos, College Counsel in this matter, using the contact information noted below.

**Date:** November 10, 2017

"George Gritziotis"

George Gritziotis  
Registrar & Chief Executive Officer  
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**To:** Luciano Pannunzio  
[ADDRESS]  
[ADDRESS]

**From:** Louis P. Strezos, College Counsel  
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