

**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
Jatinder Bansal, a member of the Ontario College of Trades.

PANEL: Catherine Poultney, Chair

BETWEEN:)	
)	
)	
)	Louis P. Strezos,
ONTARIO COLLEGE OF TRADES)	Barrister & Solicitor,
)	for Ontario College of Trades,
-and-)	assisted by Peter R. Hamm,
)	Barrister & Solicitor
)	
JATINDER BANSAL)	Jatinder Bansal was self-represented
(Member #13258794))	
)	
)	Heard: February 8, 2017

REASONS FOR DECISION

1. A hearing of this matter took place before a panel of the Discipline Committee (the “Panel”) on February 8, 2017 at Victory Verbatim, Court Reporting Services, 222 Bay Street, Toronto, Ontario.
2. A Notice of Hearing (Exhibit 1) issued June 27, 2016 was served on Mr. Jatinder Bansal (the “Member”) on June 27, 2016. A first appearance in this matter took place by teleconference on August 5, 2016; a pre-hearing conference was held on October 20, 2016 and January 12, 2017; and the hearing of this matter on its merits was subsequently scheduled for February 8, 2017.

THE ALLEGATIONS

3. The allegations against the Member in the Notice of Hearing are as follows:

“IT IS ALLEGED that Jatinder Bansal 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. 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 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);
- 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 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. Jatinder Bansal (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.
3. At all material times, Motor Vehicle Inspection Station #22 53200, operating as C.N. Auto Centre Ontario Inc., was licensed by the Ministry of Transportation (MTO) as a Motor Vehicle Inspection Station and the Member was an automotive mechanic of the Motor Vehicle Inspection Station.

4. On August 6, 2013, the Member conducted a safety standard certificate inspection on a 1994 Volkswagen Golf (the "Vehicle") bearing the vehicle identification number [NUMBER] and following his inspection signed and issued a Safety Standards Certificate [NUMBER] for the Vehicle, which confirmed that it met the basic safety standards to drive on public roads and highways in Ontario.
5. On August 11, 2013, [COMPLAINANT] (the "Complainant") purchased the Vehicle and drove the Vehicle for two (2) days. During the operation of the Vehicle the Complainant became concerned that the Vehicle was not safe to drive.
6. On August 15, 2013, the Vehicle was returned to C.N. Auto Centre Ontario Inc. due to the Complainant's concerns regarding the Vehicle's safety.
7. On September 18, 2013, an MTO inspector inspected the Vehicle and found several deficiencies respecting the roadworthiness of the Vehicle. Based on his findings, the MTO inspector made a determination that the Vehicle was unfit to drive on Ontario roads and that the Safety Standards Certificate should not have been issued.
8. On February 18, 2014, the Member was convicted under the *Highway Traffic Act*, RSO 1990, c H.8 for unlawfully issuing a Safety Standards Certificate [NUMBER] for the Vehicle when it did not comply with inspection requirements and performance standards prescribed by regulations."

MEMBER'S PLEA

4. At the opening of the hearing on February 8, 2017, counsel for the College advised that the College intended to proceed with allegations (a) to (c) of the Notice of Hearing, and that allegation (d) was being withdrawn.
5. In response, the Member admitted to each of the three allegations of professional misconduct, as described above and as set out in an *Agreed Statement of Facts & Joint Submission on Penalty* signed February 8, 2016 which the parties intended to enter as an exhibit in this proceeding.
6. A plea inquiry was conducted and 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; and that he was aware of the range of penalties that the Panel could impose upon him.

THE EVIDENCE

7. In light of the Member's plea of guilty on each of the three allegations, and the parties' intention to proceed by way of an *Agreed Statement of Facts* for the liability phase of the hearing, counsel for the College filed the *Agreed Statement of Facts & Joint Submission on Penalty* as an exhibit (Exhibit 2) and proceeded to make submissions thereon.
8. The allegations of misconduct relate to a safety inspection undertaken by the Member, a licensed Automotive Service Technician (Journey person), of the subject vehicle, a 1994 Volkswagen Golf bearing vehicle identification number [NUMBER] (the "Vehicle"). The Member is the operator of C.N. Auto Centre Ontario Inc., licensed by the Ministry of Transportation as a motor vehicle inspection station.
9. On August 6, 2013, the Member conducted a safety standard certificate inspection of the Vehicle at Motor Vehicle Station #22-53200 operating as C.N. Auto Centre Ontario Inc. Following his inspection, the Member signed and issued a Safety Standard Certificate [NUMBER] for the Vehicle confirming that the Vehicle met the basic safety standards to operate on public roads and highways in Ontario.
10. On August 11, 2013, the Complainant, [COMPLAINANT], purchased the Vehicle (that had been certified by the Member on August 6, 2013) in a private sale. The Complainant began driving the Vehicle. After two days, the Complainant became concerned about the Vehicle's operational safety.
11. On August 14, 2013, the Complainant drove the Vehicle to KD Automotive Repair where it was inspected by [OWNER], owner. [OWNER] recommended that the Complainant alert the Ministry of Transportation to report the deficiencies he identified in the Vehicle. They included:
 - a. The front fender not being adequately fastened;
 - b. Brake light fuses would blow repeatedly as well as the lamps;

- c. The front and rear tires rubbed on the inner fender and would bottom out over bumps;
 - d. The front windshield was cracked on the front passenger side;
 - e. The horn activation mechanism was inoperable; and
 - f. The fuel cap treads were wrapped with electrical tape and stuffed into the fuel tank filling inlet.
12. On August 15, 2013, the Vehicle was returned to C.N. Auto Centre Ontario Inc. where the Safety Standards Certificate was issued by the Member. The Complainant understood after speaking with the Member in the presence of [OWNER] that the Member would examine the Vehicle and make any necessary repairs to make it roadworthy and to avoid any Ministry of Transportation involvement. The Vehicle remained with the Member at C.N. Auto Centre Ontario Inc. for a total of 28 days during which the Member and Complainant corresponded in regards to the required repairs to the Vehicle.
13. On September 11, 2013, the Vehicle was returned to KD Automotive Repair. Upon inspecting the Vehicle, the Complainant identified a number of defects that remained and determined that it was still unsafe to drive.
14. On September 18, 2013, the Vehicle was assessed at KD Automotive Reported by a Ministry of Transportation Inspector, Rui Vidal. Inspector Vidal identified numerous deficiencies with the Vehicle. The defects existed at the time of issuance of Safety Standards Certificate [NUMBER] by the Member.
15. Subsequently, Inspector Vidal recommended that the Member be charged under s. 90(3)(a) of the *Highway Traffic Act* or for issuing a Safety Standard Certificate in respect of a motor vehicle which did not meet performance standards prescribed by the regulations.
16. On February 18, 2014, the Member was convicted of the charge under s. 90(3)(a) of the *Highway Traffic Act* and a \$750 fine was imposed against him.
17. The Member admits the above facts as true and that they constitute the professional misconduct set out in particulars (a), (b), and (c) of the Notice of Hearing (File No. DC201603).
18. The Member has no prior discipline history.

19. It was agreed by Counsel for the College and the Member that, based on the above facts, the Member engaged in conduct that is defined as professional misconduct in Ontario Regulation 97/13.

DECISION

20. The Panel accepted the *Agreed Statement of Facts* and found that the College had proven the allegations set out in the Notice of Hearing, as revised and as set out in the *Agreed Statement of Facts*, on a balance of probabilities.
21. Therefore, pursuant to section 46(2)(c) of the Act, the Panel found the Member guilty of professional misconduct for having engaged in conduct that is defined as professional misconduct in Ontario Regulation 97/13, section 1, paragraphs 8, 9 and 10, namely:
 - a. The Member 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 (paragraph 8);
 - b. The Member was found guilty of contravening a law that is relevant to his suitability to hold a certificate of qualification (paragraph 9); and
 - c. The Member failed to maintain the standards of his trade (paragraph 10).

REASONS FOR DECISION

22. With regard to paragraph 21(a) above, the Panel was satisfied that by issuing a Safety Standards Certificate for the Vehicle when the Member knew or ought to have known that the Vehicle had several deficiencies that rendered it unfit to drive on the roadways of Ontario, the Member signed, 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(s). In light of that finding, the Panel concluded that the Member engaged in professional misconduct, as defined in paragraph 8 of Ontario Regulation 97/13.

23. With regard to paragraph 21(b) above, the Panel was satisfied that the Member, having been convicted under the *Highway Traffic Act*, RSO 10090, c. H.8 on February 18, 2014 of unlawfully issuing a Safety Standards Certificate for the Vehicle when the Vehicle did not comply with inspection requirements and performance standards prescribed by regulations, had been found guilty of contravening a law that is relevant to his suitability to hold a certificate of qualification as an Automotive Service Technician. In light of that finding, the Panel concluded that the Member engaged in professional misconduct, as defined in paragraph 9 of Ontario Regulation 97/13.
24. With regard to paragraph 21(c) above, the Panel concluded that by issuing and a false, improper or misleading Safety Standards Certificate, and being convicted under the *Highway Traffic Act* of having done so contrary to regulations made under that statute, the Member failed to maintain the standards of the trade of Automotive Service Technician and therefore engaged in professional misconduct, as defined in paragraph 10 of Ontario Regulation 97/13.

PENALTY SUBMISSIONS

25. Counsel for the College then made submissions as to the parties' *Joint Submission on Penalty* and asked the Panel to impose a penalty that included a fine the amount of \$750, a suspension of the Member's Certificate of Qualification for a period of seven (7) days, and publication of the Panel's finding and order.
26. Counsel submitted that the proposed penalty was appropriate for the facts of this case and that a joint submission should not be interfered with unless it would bring the process into disrepute.

PENALTY DECISION

27. After considering the *Joint Submission on Penalty* and the submissions of Counsel for the College, the Panel made the following order, with reasons to follow:
 - a. The Member shall pay a fine in the amount of \$750 to the Minister of Finance (Consolidated Revenue Fund) within six (6) months of February 8, 2017, pursuant to section 46(5)2 of the Act;

- b. The Member shall be suspended for period of seven (7) days commencing on February 9, 2017, pursuant to section 46(4)2 of the Act; and
- c. The finding and the Order of the Panel shall be published on the Ontario College of Trades' website and in the official publication of the College, including the name of the Member and the name and address of the Member's business, pursuant to section 46(5)3 of the Act.

REASONS FOR PENALTY DECISION

- 28. In arriving at the above penalty, the Panel considered the need for specific deterrence with respect to the Member, as well the general deterrent effect for the membership of the College at large.
- 29. The Panel also considered the following mitigating factors: (i) the fact that the Member has no prior disciplinary history with the College; (ii) the fact that the Member was contrite and cooperated with the College throughout this matter; and (iii) the Member's willingness to enter into an *Agreed Statement of Facts* and a *Joint Submission on Penalty*, which together greatly reduced the time and resources that otherwise would have been spent on this matter.
- 30. However, 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 that minimum standards are met by regulated trades professionals.
- 31. The Panel therefore believes that the penalty above will deter the Member from engaging in the same or similar conduct in future; will hopefully serve as a deterrent to other members of the College from doing the same; and will help protect the public interest.

COSTS SUBMISSIONS

- 32. The parties also submitted a proposal in their *Joint Submission on Penalty* that the Member pay costs to the College in the amount of \$2,000 within six (6) months of the date of the Panel's order.

COSTS DECISION

33. The Panel considered the proposal and ordered the Member to pay a portion of the College's costs in the amount of \$2,000 within six (6) months of February 8, 2017, pursuant to section 46(5)4 of the Act. This amount will 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

34. Although it represents only a portion of the College's costs incurred to date, the Panel was of the view that \$2,000 was reasonable in the circumstances, particularly in light of the fact that the Member admitted to the bulk of the allegations and was prepared to make a joint submission on penalty and costs, which he did.

Date: April 18, 2017

"Catherine Poultney"

Catherine Poultney
Chair, Discipline Panel

End.