

**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  
Huseyin Mikyas, a member of the Ontario College of Trades.

PANEL: Pauline Faubert, Chair  
John Borlase  
Paul Sousa

BETWEEN: )  
)  
) John J. S. Park,  
) College Counsel  
) Ontario College of Trades  
**ONTARIO COLLEGE OF TRADES** )  
)  
)  
-and- )  
) Huseyin Mikyas,  
) Self Represented  
)  
**HUSEYIN MIKYAS** )  
(Member #13332805) )  
)  
) Rebecca Durcan,  
) Independent Legal Counsel  
)  
) Heard: October 23, 2017

**REASONS FOR DECISION**

1. A hearing of this matter took place before a panel of the Discipline Committee (the “Panel”) on October 23, 2017 at Victory Verbatim, Court Reporting Services, 222 Bay Street, Toronto, Ontario.
2. A *Notice of Hearing* (Exhibit 1) issued on January 17, 2017 was served on Huseyin Mikyas (the “Member”) on January 23, 2017. The parties participated in a first appearance in this matter by teleconference on February 23, 2017, which was continued on March 23, 2017.

3. Pre-hearing conferences were held on April 20, 2017, May 29, 2017 and August 2, 2017, and the hearing of this matter on its merits was subsequently scheduled for October 23, 2017.
4. The Member was assisted by a certified and independent Turkish interpreter to ensure that the Member understood the hearing process, the allegations against him, and the evidence presented.

## THE ALLEGATIONS

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

**“IT IS ALLEGED** that Huseyin Mikyas 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) 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 (Ontario Regulation 97/13, subsection 1(8));
- 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));
- 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:**

1. Huseyin Mikyas, Membership No. 13332805 (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 Auto Body and Collision Damage Repairer (310B), Journeyperson class, and carried on business as Mikyas Auto Body located at 30 Freshway Drive, Unit 2, Concord, ON, L4K 1S4.
3. At all material times, Mikyas Auto Body operated as an authorized motor vehicle inspection station by the Ontario Ministry of Transportation (“MTO”) where the Member had authority to issue Structural Inspection Certificates for vehicles pursuant to the *Highway Traffic Act*, RSO 1990, ch. 8 (the “HTA”) and its Regulations.
4. On or about May 10, 2014, a 2013 Mercedes-Benz bearing VIN [NUMBER] (the “Vehicle”) was involved in a collision.
5. On or about May 14, 2014, State Farm Insurance Company assessed the net total loss of the Vehicle from the collision to be \$35,412.25 and declared it a total loss.
6. Between May 14, 2014 and September 29, 2014, the Vehicle was purchased by Signature Motor Car Inc. at an automobile auction and under its ownership the Vehicle was extensively repaired by an unknown party.
7. On or about September 17, 2015, the Member issued a Structural Inspection Certificate #11011281 (the “SIC”) for the Vehicle attesting to the condition of the Vehicle as meeting the prescribed standards.
8. On or about September 18, 2015, the SIC was presented at and was relied on by a Service Ontario licensing office to rebrand the vehicle from “salvage” status to “rebuilt” status.

9. In October of 2015, Signature Motor Car Inc. sold the Vehicle to a customer for \$35,000.00.
  10. On or about January 10, 2016, the Vehicle was involved in a low speed accident causing damage to the front-end of the Vehicle
  11. On or about January 14, 2016, the Vehicle's damage from the low speed accident was assessed by the manager of Kennedy MB Autobody who discovered pre-existing damage unrelated to the recent (January 10, 2016) accident. The manager formed the opinion that the Vehicle should be declared a total loss due to the state of the pre-existing damage.
  12. On or about February 4, 2016, Intact Insurance Company contacted the MTO advising that the Vehicle was dangerous and unsafe in light of the pre-existing damage identified by Kennedy MB Autobody.
  13. Between February 5, 2016 and March 4, 2016, the Vehicle underwent a detailed inspection by the MTO. The inspection resulted in a conclusion that the Vehicle did not meet the minimum standards under the HTA and linked the Vehicle's deficiencies to the poor quality of repair from the earlier collision in May of 2014. The MTO inspector formed the opinion that the SIC should not have been issued for the Vehicle back in September of 2015.
  14. As part of the detailed inspection in February and March 2016, the MTO inspector also concluded that a Rebuilt Audit Form that the Member submitted to the MTO on or about September 23, 2015 falsely reported several structural elements of the Vehicle as undamaged and/or repaired.
  15. On or about March 14, 2016, the Member was charged by MTO pursuant to section 99(2) of the HTA for making a false statement on the SIC in relation to the Vehicle on September 17, 2015.
  16. On or about September 14, 2016, the Member was convicted of nine counts under HTA Regulation 601 for failing to submit documents to the Director of Vehicle Inspection Standards following the issuance of structural inspection certificates for various vehicles."
6. At the opening of the hearing on October 23, 2017, College Counsel advised that the College

intended to proceed with all six allegations set out in the *Notice of Hearing*.

## **MEMBER'S PLEA**

7. In response, the Member admitted each of the six allegations of professional misconduct in the *Notice of Hearing* and as set out in an *Agreed Statement of Facts* signed by the parties on October 23, 2017, which was eventually marked as Exhibit 5.
8. A plea inquiry was conducted and the Member confirmed that he understood the nature of the allegations against him and was voluntarily admitting them. He also acknowledged that by admitting to the allegations, the hearing would proceed on the basis of the facts agreed upon by the parties, and that the Discipline Panel was not obligated to accept the agreement. Finally, the Member confirmed that he was aware of the range of penalties that the Panel could impose upon him, and that the Panel need not accept an agreement on penalty, if any, achieved by the parties.

## **THE EVIDENCE – AGREED STATEMENT OF FACTS**

9. The evidence tendered was (i) an *Information* sworn March 11, 2016 by a Ministry of Transportation court officer regarding the commission of an offence by the Member under the *Highway Traffic Act* (Exhibit 2); (ii) an *Agreed Statement of Facts* dated February 2, 2017 signed by a representative of the Ministry of the Attorney General, Civil Law Division, Transportation and the Member (Exhibit 3); (iii) an *Information* sworn September 29, 2015 by a Ministry of Transportation court officer regarding nine counts of offences committed by the Member under the *Highway Traffic Act* (Exhibit 4); and (iv) the *Agreed Statement of Facts* in this discipline hearing signed by College Counsel and by the Member (Exhibit 5). Exhibit 5 stated the following:

### **“Facts**

#### **The Member**

1. Huseyin Mikyas, Membership No. 13332805 (the “Member”) has been a member of the Ontario College of Trades (the “College”) since April 8, 2013.
2. At all material times, the Member held a certificate of qualification in the trade of Auto

Body and Collision Damage Repairer (310B), Journey person class, and carried on business as Mikyas Auto Body located at 30 Freshway Drive, Unit 2, Concord, ON, L4K 1S4.

3. At all material times, Mikyas Auto Body operated as an authorized motor vehicle inspection station by the Ontario Ministry of Transportation (“MTO”) where the Member had authority to issue Structural Inspection Certificates for vehicles pursuant to the *Highway Traffic Act*, RSO 1990 ch. 8 (the “HTA”) and its Regulations.

#### **Mercedes-Benz Vehicle Accident #1**

4. On or about May 10, 2014, a 2013 Mercedes-Benz bearing VIN #WDDGF8JB9DA808669 (the “Vehicle”) was involved in a collision with the primary point of impact being the frontal right of the Vehicle.
5. This was a major collision, and on May 14, 2014, an appraiser for State Farm Mutual Automobile Insurance Company (which was the insurer for the Vehicle at the time) deemed the Vehicle to be a “total loss” as the cost for parts and labour to repair the Vehicle was estimated to be \$36,412.25.
6. Between May 14, 2014 and September 29, 2014, the Vehicle was purchased by Signature Motor Car Inc. at an automobile auction and under its ownership the Vehicle was extensively repaired.

#### **The Member Issues a Structural Inspection Certificate**

7. On September 17, 2015, the Member issued the Structural Inspection Certificate #11011281 (the “SIC”) for the Vehicle. The SIC was signed by the Member as the inspecting technician and as the licensee on behalf of Mikyas Auto Body. Pursuant to provisions of Ontario Regulation 601 (Motor Vehicle Inspection Stations) a Structural Inspection Certificate can only be issued following an inspection in accordance with and in compliance with the performance standards in Ontario Regulation 611.

#### **The MTO Registers the Vehicle as “Rebuilt”**

8. The SIC purported that the Vehicle complied with Ontario Regulation 611 and was used to register the Vehicle with the MTO as a “rebuilt” vehicle on September 18, 2015.

#### **The “Rebuilt” Vehicle is Re-Sold to a Consumer**

9. In October of 2015, the Signature Motor Car Inc. sold the Vehicle to a consumer for \$35,000.00.

#### **Mercedes-Benz Vehicle Accident #2**

10. On January 10, 2016, the Vehicle was involved in another collision with a different primary point of impact than the previous one, namely the front left-centre of the vehicle. This was a low speed collision with the Vehicle rear-ending another passenger vehicle (the “Toyota”).
11. While there was extensive damage to the Vehicle, the Toyota had no visible damage.
12. Between the time the Vehicle was purchased from Signature Motor Car Inc. and the second collision, it had been driven for less than 3 months and travelled about 3,800 km.

#### **Pre-Existing Damage to the Vehicle Discovered**

13. After the second collision, the owner of the Vehicle attended at the Kennedy Mercedes-Benz dealership for repair. On January 14, 2016, the Vehicle was inspected by Kurt Preinitsch, the dealership’s shop manager and a licensed auto body and collision damage repairer.
14. Preinitsch noted that the damage to the Vehicle resulting from the second collision would have been a repairable loss (estimating the combined cost of parts and labour to be \$8,185.18). However, Preinitsch also noticed a pre-existing combination of unrepaired and poorly repaired damage. The poor quality of the previous repairs was easily noticeable by Preinitsch during his inspection.

15. Preinitsch also noted that there were diagnostic faults on the Vehicle's on-board computer dating back to the first collision on May 10, 2014. Preinitsch also noted that the Vehicle had an aftermarket front bumper cover that did not match the original equipment manufacturer's specifications, and the front bumper energy absorber was missing.
16. In Prenitsch's opinion, the pre-existing damage and poor repairs combined with the damage from the second collision made the Vehicle a "total loss".
17. Preinitsch concluded that the Vehicle was unsafe to drive and declined to repair the Vehicle. Preinitsch also advised the owner's insurer, Intact Insurance Company, that the Vehicle was a possible total loss.
18. Andrea Kariotis, an appraiser from the Intact Insurance Company, also inspected the Vehicle on February 2, 2016 and reached a similar conclusion as Preinitsch regarding the poor quality of repairs and parts and the different bumper cover.

#### **MTO Inspection of the Vehicle**

19. On or about February 4, 2016, the Intact Insurance Company contacted the MTO advising that the Vehicle was dangerous and unsafe in light of the pre-existing damage identified.
20. As a result of the information received from the Intact Insurance Company, MTO Enforcement Officer Dan Ventura inspected the Vehicle on February 5, 2016. At all material times, Officer Ventura was also licensed as an auto body and collision damage repairer.
21. During his inspection of the Vehicle, Officer Ventura noted the following defects:
  - a. The left side suspension fastener had been welded in place;
  - b. The repair to the right frame rail was so bad that the structural integrity of the rail was severely compromised;
  - c. There was damage to the left frame rail;

- d. Some spot welds securing the right apron were broken;
- e. The upper apron support assembly (upper rail) had kinks from an accident. The repair was so poor that the Vehicle should not have been issued the SIC based on visual inspection;
- f. The right strut tower was buckled; and
- g. Repair to the right lower rail assembly was so poor that the Vehicle should not have been issued the SIC based on visual inspection.

22. Officer Ventura also reviewed the Rebuilt Audit Form for the Vehicle the Member submitted to the MTO back in September 23, 2015 as he was required to do under HTA. Officer Ventura concluded that the Member had falsely reported several structural elements of the Vehicle as undamaged and/or repaired.

#### **Provincial Offences Act Convictions**

23. On February 3, 2017, the Member was convicted by the Ontario Court of Justice for committing an offence under section 99(2) of the HTA – *Making a false statement on the SIC in relation to the Vehicle on September 17, 2015* and was fined \$17,000.00.

24. On September 14, 2016, the Member was convicted by the Ontario Court of Justice of nine counts under HTA Regulation 601 for failing to submit documents to the Director of Vehicle Inspection Standards following the issuance of structural inspection certificates for various vehicles.

#### **Admissions**

25. The Member admits the above facts as true and that they constitute the professional misconduct set out in particulars (a), (b), (c), (d), (e) and (f) of the Notice of Hearing (File No. DC201701).

#### **Prior Discipline**

26. The Member has no prior discipline history.”

10. Independent Legal Counsel advised that the only evidence before the Panel in this matter was Exhibits 2-5, consisting of two *Informations* and two *Agreed Statements of Fact*. She advised that the Panel's task was to determine whether the evidence contained in Exhibits 2-5 proved, on a balance of probabilities, allegations (a)-(f) in *the Notice of Hearing*.

## DECISION

11. After hearing submissions from College Counsel on the evidence, and following a recess to deliberate, the Panel accepted the *Agreed Statement of Facts* and found that the College had proven the allegations in *the Notice of Hearing*, and as admitted by the Member in the *Agreed Statement of Facts*, on a balance of probabilities.
12. 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 being professional misconduct in Ontario Regulation 97/13, section 1, paragraphs 1, 2, 8, 9, 10 and 11, namely that the Member:
  - 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 (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 (subsection 1(2));
  - c) 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 (subsection 1(8));
  - d) was found guilty of contravening a law that is relevant to his suitability to hold a certificate of qualification (subsection 1(9));
  - e) failed to maintain the standards of a trade (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 (subsection 1(11)).

## **REASONS FOR DECISION**

13. With regard to paragraph 12(a) above, the Panel was satisfied that, by performing inadequate and substandard repairs on the Vehicle and subsequently issuing a Structural Inspection Certificate asserting that the Vehicle was structurally sound and safe for use on public roadways, the Member 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. In light of that finding, the Panel concluded that the Member engaged in professional misconduct, as defined in Ontario Regulation 97/13, subsection 1(1).
14. The Panel was particularly concerned with the seriousness of this matter and the potential for serious consequences that could have resulted from the Member's failure to carry out his trade as a journeyman Auto Body and Collision Damage Repairer in a manner that safeguarded the life, health, and property of persons affected by his work.
15. With regard to paragraph 12(b) above, the Panel was satisfied that by issuing a Structural Inspection Certificate for the Vehicle when he knew or ought to have known that such an attestation as to the safety of the Vehicle should not have been made, the Member 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. In light of that finding, the Panel concluded that the Member engaged in professional misconduct, as defined in Ontario Regulation 97/13, subsection 1(2).
16. The Panel was very concerned with the poor quality of the parts and repairs done on the Vehicle as reported by the MTO Officer. The Officer further reported that the repairs were so poor that the Vehicle should not have been issued a Structural Inspection Certificate.
17. With regard to paragraph 12(c) above, the Panel was satisfied that by issuing a Structural Inspection Certificate on the basis of flawed, improper and inadequate repairs performed by the Member, the Member 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. In

light of that finding, the Panel concluded that the Member engaged in professional misconduct, as defined in Ontario Regulation 97/13, subsection 1(8).

18. In addition to flawed and inadequate repairs made by the Member, the Panel heard that the MTO Officer concluded in his report, following his inspection of the Vehicle, that the Member had falsely reported several structural elements of the vehicle as undamaged and/or repaired.
19. With regard to paragraph 12(d) above, the Panel was satisfied that in light of the Member's various convictions for offences under the *Highway Traffic Act* in 2016 and 2017, the Member had, in fact, contravened a law that is relevant to his suitability to hold a certificate of qualification. In light of that finding, the Panel concluded that the Member engaged in professional misconduct, as defined in Ontario Regulation 97/13, subsection 1(9).
20. The Panel heard that in 2017 the Member was convicted by the Ontario Court of Justice of making a false statement on the Structural Inspection Certificate in relation to the Vehicle, contrary to the *Highway Traffic Act*, and was fined \$17,000.00. In addition, the Member was convicted by the Ontario Court of Justice in 2016 of nine counts under the *Highway Traffic Act* for failing to submit required information and documents to the Director of Vehicle Inspection Standards following the issuance of nine Structural Inspection Certificates for various vehicles and was fined \$9,000.00.
21. With regard to paragraph 12(e) above, the Panel was satisfied that by performing repairs on the Vehicle of such poor quality and workmanship; falsely declaring that he had performed repairs on the Vehicle that he had not in fact performed; falsely asserting that certain structural elements of the Vehicle had not been damaged when in fact they had been damaged; and making false statements on the Structural Inspection Certificate for the Vehicle; the Panel concluded that the Member failed to maintain the standards of the trade of Auto Body and Collision Damage Repairer. The Panel therefore concluded that the Member engaged in professional misconduct, as defined in Ontario Regulation 97/13, subsection 1(10).
22. Finally, with regard to paragraph 12(f) above, the Panel was satisfied that in view of all of the above actions and omissions by the Member, the Member acted, in respect to the practice of his trade, in a disgraceful, dishonourable and unprofessional manner which amounted to professional misconduct as defined in Ontario Regulation 97/13, subsection 1(11).

## PENALTY SUBMISSIONS

23. The parties filed a *Joint Submission on Penalty & Costs* (Exhibit 6), proceeded to make submissions thereon, and asked the Panel to impose the following penalties:
- a) a fine in the amount of \$2,000, payable to the Minister of Finance within 12 months;
  - b) revocation of the Member's Certificate of Qualification in the trade of Auto Body and Collision Damage Repairer (trade code 310B);
  - c) an order that the Member shall not apply to the Registrar to have a new Certificate of Qualification issued for one year; and
  - d) publication of the Panel's finding and Order in summary, including the Member's name and his business address, in the official publication of the College and on the College's website.
24. College Counsel submitted that the proposed penalties were appropriate in light of the facts of this case and that a joint submission should not be interfered with unless it would bring the College's discipline process and/or the administration of justice into disrepute.
25. College Counsel made further submissions and presented legal precedents to the Panel demonstrating that the courts encourage the acceptance of agreements made between parties, unless in doing so a panel would bring the process into disrepute. In this matter, both parties agreed that the penalties set out in Exhibit 6 were appropriate in light of the findings of professional misconduct. Counsel noted that the parties considered the mitigating and aggravating factors of this matter when formulating the *Joint Submission on Penalty & Costs* and came to the agreement set out in Exhibit 6.
26. In order to assess whether the Panel should accept the proposed penalties, College Counsel submitted, and Independent Legal Counsel confirmed, that the Panel should consider whether those penalties fall within an appropriate range. College Counsel provided the Panel with two court decisions that are similar in nature to the matter before the Panel, in that both cases concerned revocation of the registrant's authority to engage in a regulated profession (*Prestige Toys Ltd. (Re)*, [2007] OLATD No. 254 (Licence Appeal Tribunal) and *Kamali-Mafroujaki v. Registrar*,

*Motor Vehicle Dealers Act, 2002*, 2015 ONSC 3989 (Divisional Court, Ontario Superior Court of Justice)). The third decision provided by Counsel supported the proposition that a joint submission on penalties or sanctions should be accepted unless doing so would bring the administration of justice into disrepute or would otherwise be contrary to the public interest (*R. v. Anthony-Cook*, [2016] 2 SCR 204 (Supreme Court of Canada)).

27. Finally, the Panel was urged to consider the mitigating and aggravating factors in this case, as well as the four principles of sentencing in its assessment, namely specific deterrence; general deterrence; remediation; and serving and protecting the public interest.

### **PENALTY DECISION**

28. After considering the submissions of College Counsel and deliberating during a recess, and although the Panel would have preferred a more serious penalty for the Member, the Panel accepted the penalties proposed by the parties on the basis of the principles set out in *R. v. Anthony-Cook* and made the following orders:

- a) the Member shall pay a fine in the amount of \$2,000 to the Minister of Finance within 12 months of the date of this Order, pursuant to section 46(5)2 of the Act;
- b) the Registrar is directed to revoke the Member's Certificate of Qualification in the trade of Auto Body and Collision Damage Repairer (310B), Journeyperson class, effective on the date of this Order, pursuant to section 46(4)1 of the Act;
- c) the Member shall not apply to the Registrar under Part VI of the Act to have a new Certificate of Qualification issued for a period of 12 months from the date of this Order, pursuant to section 46(7) of the Act; and
- d) the finding and the order of the Panel shall be published in summary with the name of the Member and the name and address of the Member's business in the official publication of the College and on the website of the College, pursuant to section 46(5)3 of the Act.

### **REASONS FOR PENALTY DECISION**

29. In arriving at these penalties, the Panel considered the need for specific deterrence with respect to the Member, as well general deterrence to the membership of the College at large.
- a) The \$2,000 fine will act as a specific and general deterrent. It will have a direct and meaningful impact on the Member and will send a clear message to the membership at large about contravening or breaching professional codes of conduct and failure to maintain the standards of the trades.
  - b) Because of the seriousness of the Member's unprofessional conduct, and his contravention of the *Highway Traffic Act* on several occasions, the Panel concluded that revocation of the Member's Certificate of Qualification was in order. Revoking the Member's authority to practice his trade will have a clear and immediate deterrent effect on this individual member, as he will not be legally able to carry on the practice of his trade. It will also serve as a general deterrent to the membership at large, who will be on notice that revocation of one's Certificate of Qualification is among the sanctions available in a professional misconduct prosecution. It is important to emphasize that this revocation is permanent and will remain in place until such time as the Member applies for and is granted reinstatement under section 49 of the Act (i.e. a new Certificate of Qualification is granted). Until then, the Member is not legally authorized to perform the work of an Auto Body and Collision Damage Repairer, a trade for which certification is compulsory in Ontario. The Member is therefore encouraged to use this time to reflect on the seriousness of this matter and the potentially serious consequences of his conduct for members of the public. The Member is further encouraged to ensure that his skills meet the required standards of his chosen trade and that he seek to inform himself of the laws and regulations that govern his trade before applying for reinstatement.
  - c) The Panel was of the view that publication of the Member's name and business name and address is in the public interest.
30. The Panel also found that the following factors mitigated against imposing harsher disciplinary penalties on the Member: (i) the Member has no previous disciplinary record with the College; (ii) the Member has already twice been convicted of related offences under the *Highway Traffic Act* and ordered to pay fines in the amount of \$26,000; and (iii) the Member entered into an *Agreed Statement of Facts* with College Counsel, which helped reduce the number of facts to be proven by

the College, which in turn expedited the hearing and minimized associated costs.

31. However, the Panel considered aggravating factors as well, such as the Member's numerous convictions under the *Highway Traffic Act* and what appeared from those convictions to be a pattern of disregard for his legal and ethical obligations as a certified skilled tradesperson in this province.
32. On the whole, the Panel concluded that the agreed penalties fell within a reasonable range and would not be contrary to the public interest.
33. As a Panel of the Discipline Committee, our foremost duty was to consider and protect the public interest by ensuring that skilled tradespersons comply with the law and meet the minimum standards of their respective trade and, when they do not, that they are held to account. We believe that the penalties imposed in this case will achieve that objective and will advance the goals of public protection, specific deterrence, and general deterrence.

#### **COSTS SUBMISSIONS**

34. The parties also submitted a proposal in their *Joint Submission on Penalty & Costs* that the Member pay costs to the College in the amount of \$3,000 within 12 months.

#### **COSTS DECISION**

35. The Panel considered the proposal and ordered the Member to pay what is in effect only a portion of the College's investigation and prosecution costs in the amount of \$3,000 within 12 months of October 23, 2017, pursuant to section 46(5)4 of the Act. This amount will help to 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**

36. Although it represents only a portion of the College's resources allocated to investigate and prosecute this matter, the Panel is satisfied that the costs agreed to by the parties are fair and appropriate in the circumstances.

37. I, Pauline Faubert, sign these Reasons for Decision as Chair of this Discipline Panel and on behalf of the members of the Discipline Panel as listed below.

Date: January 12, 2018

"Pauline Faubert"  
Pauline Faubert  
Chair, Discipline Panel

John Borlase  
Member, Discipline Panel

Paul Sousa  
Member, Discipline Panel

**End.**