

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

IN THE MATTER OF the *Ontario College of Trades and Apprenticeship Act, 2009*,
and Ontario Regulation 97/13 (Professional Misconduct) thereunder;

AND IN THE MATTER OF a discipline proceeding against
Jaswinder Singh, a member of the Ontario College of Trades.

Sherry Darvish, Chair

BETWEEN:)	
)	
)	Bogdan Andronesi
ONTARIO COLLEGE OF TRADES)	College Counsel
)	
)	
-and-)	
)	
)	
JASWINDER SINGH)	Ron E. Folkes
(Member #13254310))	Member’s Counsel
)	
)	Aaron Dantowitz,
)	Independent Legal Counsel
)	
)	Heard: August 9, 2018

REASONS FOR DECISION

1. A hearing of this matter took place before a panel of the Discipline Committee (the “Panel”) pursuant to section 46(1) of the *Ontario College of Trades and Apprenticeship Act, 2009* (the “Act”) on August 9, 2018 at Victory Verbatim, Court Reporting Services, 222 Bay Street, Toronto, Ontario.
2. A *Notice of Hearing* (Exhibit 1a) issued March 12, 2018 was served on Jaswinder Singh (the “Member”) and a first appearance in this matter took place by teleconference on April 26, 2018; a Pre-Hearing Conference was held on June 1, 2018; and the hearing of this matter on its merits was

subsequently scheduled for August 9, 2018.

3. At the Pre-Hearing Conference on June 1, 2018, the Panel confirmed the parties' consent that any agreement on the facts in this matter could be filed with the Panel in advance of the hearing. The Panel also obtained the parties' consent that the hearing may proceed before a one-member panel in accordance with section 4.2.1(2) of the *Statutory Powers Procedure Act*.

THE ALLEGATIONS

4. College Counsel advised that the College intended to proceed with allegations (a), (c), (d), (e) and (f) in the *Notice of Hearing*, and requested the Panel's permission to withdraw allegation (b), which was granted.
5. Allegations (a), (c), (d), (e) and (f) in the *Notice of Hearing*, along with particulars, were as follows:

"IT IS ALLEGED that Jaswinder Singh 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 a member or a person for whom the member 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) signed or issued in his capacity as a member of the College, a document he 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, the contravention of which is relevant to his suitability to hold a certificate of qualification or statement of membership (Ontario Regulation 97/13, subsection 1(9));

e) failed to maintain the standards of a trade (Ontario Regulation 97/13, subsection 1(10));

f) 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 [...] unprofessional (Ontario Regulation 97/13, subsection 1(11)).

PARTICULARS OF THE ALLEGATIONS ARE AS FOLLOWS:

Background

1. Jaswinder Singh, Membership No. 13254310 (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 ("C of Q"), Journeyman class, in the trade of Truck and Coach Technician (310T).
3. At all material times, the Member was the owner, director and the controlling mind of Ontario Corporation #1405759 o/a Toronto Truck Repair ("Toronto Truck Repair"), located at 225 Claireport Crescent, Etobicoke, Ontario.
4. At all material times, Toronto Truck Repair was licensed by the Ontario Ministry of Transportation ("MTO") as a Motor Vehicle Inspection Station and the Member, by virtue of being a C of Q holder, was licensed to issue Annual Inspection Certificates ("AICs") for motor vehicles pursuant to the *Highway Traffic Act*, RSO 1990, ch. 8 (the "HTA") and its Regulations.

Member Issues Improper AIC

5. On or about September 12, 2015, an individual, Richard Munroe, brought his 1995 Ford dump truck with the Vehicle Identification Number ("VIN") IFDZY90W2SVA61392 (the "Truck") to Toronto Truck Repair seeking to obtain an AIC.
6. On or about September 12, 2015, the Member signed and issued AIC #6992054 for the Truck to Richard Munroe. The Member had not performed an inspection prior to issuing the AIC, despite the requirement to do so pursuant to section 90(3) of the HTA.

Wheel-Off From the Truck leading to Death of a Bystander

7. On or about September 18, 2015, Richard Monroe was operating the Truck westbound on Meadowvale Boulevard in Mississauga, Ontario. At the same time, an individual, Diane Tsialtas, was walking eastbound on Meadowvale Boulevard on the south sidewalk.
8. As the Truck approached West Credit Avenue, two tires on the rear driver's side of the Truck detached from an axle.
9. One of the tires continued rolling in a western direction and struck Diane Tsialtas in the head area. She was transported to Sunnybrook Hospital and passed away the next morning.

Investigation Following the Incident

10. After the incident, the Truck's wheels were inspected by D. D. Perovic, a Professor of Material Science and Engineering at the University of Toronto.
11. Perovic's report concluded that the loose wheel condition existed prior to the date the AIC was issued by the Member.

Conviction Under the *Criminal Code of Canada* in Relation to the Truck Wheel-Off

12. On or about May 18, 2017, the Member was found guilty of an offence under s. 430 (5.1) of the *Criminal Code of Canada* for completing and certifying the AIC of the Truck causing actual danger to the life of an individual.
13. On or about June 1, 2017, a judge of the Ontario Court of Justice imposed a four-month custodial sentence and a two-year probation order on the Member.

MEMBER'S PLEA

6. Both verbally at the hearing and in an *Agreed Statement of Facts* signed in counterparts on July 4, 2018 and July 11, 2018 (later marked as Exhibit 1b), the Member admitted the professional misconduct set out in allegations (a), (c), (d), (e) and (f) of the *Notice of Hearing*.
7. The Panel conducted a plea inquiry with the Member, whereby 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; that he understood that the Panel was not obligated to accept any resolution achieved by the parties; and finally that the Member was aware of the range of penalties that the Panel could impose upon him.

THE EVIDENCE – AGREED STATEMENT OF FACTS

8. College Counsel tendered evidence by way of an *Agreed Statement of Facts* (Exhibit 1b). Exhibit 1b stated the following:

FACTS

Background

1. Jaswinder Singh, Membership No. 13254310 (the “Member”), is a member of the Ontario College of Trades (the “College”) in the Journeypersons class.
2. At all material times, the Member held a Certificate of Qualification (“C of Q”), in the trade of Truck and Coach Technician (310T), which C of Q was issued by the College to the Member on April 8, 2013. The Member had first qualified as a Journeyperson in this trade in 1999.
3. At all material times, the Member was the owner, director and the controlling mind of Ontario Corporation #1405759 o/a Toronto Truck Repair (“Toronto Truck Repair”), located at 225 Claireport Crescent, Etobicoke, Ontario.
4. At all material times, Toronto Truck Repair was licenced by the Ontario Ministry of Transportation (MTO) as a Motor Vehicle Inspection Station (MVIS). By virtue of holding the C of Q, the Member could be registered with MTO as a motor vehicle inspection mechanic, pursuant to the *Highway Traffic Act, RSO 1990, c. H. 8* (“the *HTA*”) and its regulations. Thus, the Member had authority to perform the prescribed motor vehicle inspections and to sign annual inspection certificates for vehicles he had inspected.

Member improperly signs and issues annual inspection certificates

5. On or about September 12, 2015, Richard Monroe brought a 1995 Ford dump truck with Vehicle Identification Number IFDZY90W2SVA61392, owned by One Touch Haulage Inc. (the "Truck") to the Toronto Truck Repair MVIS. The Truck was brought in for an annual inspection.
6. On or about SEptember 12, 2015, the Member signed and issued Annual Inspection Certificate #H6992054 (the "AIC") for the Truck, certifying that the Truck was inspected in accordance with the *HTA* and its regulations and that it met the safety standards prescribed therein.
7. The Member did not personally inspect the Truck. The employees who performed the inspection were not qualified to inspect the Truck or to sign the AIC.
8. Prof. D.D. Perovic, an expert in Materials Science and Engineering from the University of Toronto, concluded that at the time when the AIC was signed and issued by the Member, the Truck had a wheel assembly with overtightened wheel studs. Had a proper annual inspection been done, the Truck's wheel assembly should have been made safe prior to the AIC being issued.

Wheel off from the Truck leads to the death of a passerby

9. On or about September 18, 2015, Richard Moroe was operating the Truck westbound on Meadowvale Boulevard in Mississauga, Ontario. At the same time, an individual, Diane Tsialtas, was walking eastbound on Meadowvale Boulevard on the south sidewalk.
10. As the Truck approached West Credit Avenue, two tires on the rear driver's side of the Truck detached from an axle.
11. One of the tires continued rolling in a westerly direction and struck Diane Tsialtas in the head area. She was transported to Sunnybrook Hospital with life threatening injuries and passed away the next morning.

Member is convicted under the *Criminal Code of Canada* in relation to the Truck wheel-off incident

12. On or about May 18, 2017, the Member was found guilty of an offence under s. 430(5.1) of the *Criminal Code of Canada* for willfully omitting to do an act that it was the Member's duty to do in completing and certifying the AIC of the Truck, thereby committing a mischief causing actual danger to the life of Diane Tsialtas.

ADMISSIONS

9. The Member admits the above facts as true and that they constitute professional misconduct as set out in the Notice of Hearing (File No. DC201804) in particulars (a), (c), (d), (e) and in that part of particular (f) which reads "failed to act, in respect to the practice of a trade in manner that, having regards to all circumstances, would reasonably be regarded by members as [...] unprofessional".

PRIOR DISCIPLINE

10. The Member has no prior discipline history.

INDEPENDENT LEGAL COUNSEL ADVICE

11. Independent Legal Counsel advised that the only evidence before the Panel in this matter was the *Agreed Statement of Facts*. The Panel's task was to determine whether the evidence set out in the *Agreed Statement of Facts* proved allegations (a), (c), (d) (e) and that part of particular (f) which reads "failed to act, in respect to the practice of a trade in manner that, having regards to all circumstances, would reasonably be regarded by members as [...] unprofessional" in the *Notice of Hearing* on a balance of probabilities.

DECISION

12. After hearing submissions from the College Counsel on the evidence, 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.

13. 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 a 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) signed or issued in his capacity as a member of the College, a document he knew or ought to have known contained a false, improper or misleading statement (Ontario Regulation 97/13, subsection 1(8));
 - (c) was found guilty of contravening a law, the contravention of which is relevant to his suitability to hold a certificate of qualification or statement of membership (Ontario Regulation 97/13, subsection 1(9));
 - (d) failed to maintain the standards of a trade (Ontario Regulation 97/13, subsection 1(10));
 - (e) failed to act in respect to the practice of a trade in a manner that, having regard to all circumstances would reasonably be regarded by members as unprofessional (Ontario Regulation 97/13, subsection 1(11)).

REASONS FOR DECISION

14. The Panel was satisfied that the Member engaged in professional misconduct by contravening Ontario Regulation 97/13 as alleged in Exhibit 1 *Notice of Hearing*, paragraphs (a), (c), (d), (e) and (f).
15. By engaging in the conduct described above, the Panel found that the Member failed to maintain the standards of a trade and acted, 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 unprofessional.

PENALTY SUBMISSIONS

16. College Counsel proceeded to make a joint submission with respect to penalty and costs (Exhibit 2). College Counsel made oral submissions thereon, and asked the Panel to impose the following penalties:
- (a) That the Member pay, within twelve (12) months of the order, a fine in the amount of \$2,000 to the Minister of Finance for payment into the Consolidated Revenue Fund, pursuant to paragraph 46(5)(2) of the Act;
 - (b) That the Registrar shall be directed to revoke the Member's Certificate of Qualification on the date of the order, pursuant to paragraph 46(4)(1) of the Act;
 - (c) That the Member shall be reprimanded by the Panel at the conclusion of the hearing and the fact of the reprimand shall be recorded on the Public Register for an unlimited period, pursuant to paragraph 46(5)(1) of the Act;
 - (d) That the findings and the order of the Panel shall be published in summary, with the name of the Member, in the official publication of the College and on the website of the Ontario College of Trades, pursuant to paragraph 46(5)(3); and
 - (e) That the Member shall pay to the College, within six (6) months of the order, costs in the amount of \$3,000, pursuant to paragraph 46(5)(4) of the Act.
17. The Member confirmed that he would accept these penalties and costs, should the Panel decide to make an order accepting the parties' joint submission.
18. College Counsel submitted that the proposed penalties were appropriate in light of the facts of this case. He also submitted that the courts encourage the acceptance of agreements made between parties unless doing so would bring the administration of justice or the disciplinary process into disrepute.
19. College Counsel also submitted for the Panel's consideration a previous decision of the Discipline Committee of the Ontario College of Trades, Decision No. DC201701, dated January 12, 2018, in which the discipline panel imposed a fine of \$2,000 to be paid within 12 months; directed the Registrar to revoke the member's Certificate of Qualification, and that the member not apply to the

Registrar to have a new Certificate of Qualification issued for a period of 12 months from the date of the order; and the finding and the order of the panel 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 its website.

PENALTY DECISION

20. After considering the joint submission on penalty, the Panel accepted the submission and made the following orders:

- (a) That the Member pay, within twelve (12) months of the order, a fine in the amount of \$2,000 to the Minister of Finance for payment into the Consolidated Revenue Fund, pursuant to paragraph 46(5)(2) of the Act;
- (b) That the Registrar shall be directed to revoke the Member's Certificate of Qualification on the date of the order, pursuant to paragraph 46(4)(1) of the Act;
- (c) That the Member shall be reprimanded by the Panel at the conclusion of the hearing and the fact of the reprimand shall be recorded on the Public Register for an unlimited period, pursuant to paragraph 46(5)(1) of the Act;
- (d) That the findings and the order of the Panel shall be published in summary, with the name of the Member, in the official publication of the College and on the website of the Ontario College of Trades, pursuant to paragraph 46(5)(3); and
- (e) That the Member shall pay to the College, within six (6) months of the order, costs in the amount of \$3,000, pursuant to paragraph 46(5)(4) of the Act.

REASONS FOR PENALTY DECISION

21. In arriving at the above penalties, the Panel considered the principles of public protection, specific deterrence, and general deterrence.

22. The Panel considered aggravating factors such as the Member's previous warnings by the College's

Compliance Inspector.

23. The Panel considered mitigating factors such that this was the Member's first offence in regard to his trade before the Discipline Committee. The Panel also noted that the Member entered into an *Agreed Statement of Facts*, which helped narrow the facts that needed to be proven by the College, which in turn significantly expedited the hearing. The Panel also noted that the Member agreed to a joint submission on penalty, which again created efficiencies in the hearing process.
24. The Panel further agreed with submissions of College Counsel that the maximum penalty of \$2,000 and revocation of the Member's Certificate of Qualification was appropriate in this case given that the Member's conduct resulted in the death of another individual.
25. As a result of the 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 and ensuring that a minimum standard is met by regulated skilled trades professionals. The Panel is of the view that the penalty imposed serves the goals of public protection, specific deterrence, and general deterrence.

COSTS SUBMISSIONS

26. College Counsel also made a joint submission with respect to the costs of this proceeding, namely that the Member had agreed to pay costs to the College in the amount of \$3,000 within six (6) months of the order.

COSTS DECISION

27. After considering the submissions on costs, the Panel ordered the Member to pay the College's costs in the amount of \$3,000 within six (6) months, 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 intended to be an additional penalty or sanction.

REASONS FOR COSTS DECISION

28. The Panel finds that it is reasonable for the Member to defray some of the College's costs, provided that the costs are not disproportionate to the Member's current financial situation.

29. In ordering the amount of costs noted above, the Panel took into consideration that by cooperating with investigation and the hearing of this matter and entering into an *Agreed Statement of Facts* and joint submissions on penalty and costs, the hearing of this matter was significantly simplified. Nonetheless, a one-day hearing was needed to address this matter as well as one Pre-Hearing Conference.

REPRIMAND

30. At the conclusion of the hearing, the Member waived his right to appeal and, as such, an oral reprimand was delivered pursuant to section 46(5)(1) of the Act as outlined below:

“Mr. Singh, as you know, as part of its penalty order, this Discipline Panel has ordered that you be given an oral reprimand.

The fact that you have received this reprimand will be recorded on the Public Register of the College for an unlimited period and, as such, will form part of your record.

Although you will be given an opportunity to make a statement at the end of the reprimand, this is not an opportunity for you to review the decision made by the Discipline Panel, nor a time for you to debate the merits of its decision.

You have been found to have engaged in conduct that constitutes professional misconduct, including:

- (a) you failed to take reasonable steps to safeguard the life, health or property of a person who may be affected by the work of a person for whom you were responsible, when you knew or ought to have known that there was a risk to life, health or property (Ontario Regulation 97/13, subsection 1 (1));*
- (b) you signed or issued in your capacity as a member of the College, a document you knew or ought to have known contained a false, improper or misleading statement (Ontario Regulation 97/13, subsection 1(8));*
- (c) you were found guilty of contravening a law, the contravention of which is relevant to your suitability to hold a certificate of qualification or statement*

- of membership (Ontario Regulation 97/13, subsection 1(9));*
- (d) you failed to maintain the standards of a trade (Ontario Regulation 97/13, subsection 1(10));*
- (e) you failed to act in respect to the practice of a trade in a manner that, having regard to all circumstances would reasonably be regarded by members as unprofessional (Ontario Regulation 97/13, subsection 1(11)).*

The Panel takes this type of conduct seriously. The public needs to have confidence that the College's members are upholding high ethical and technical standards. The College also needs to have confidence in its members. Finally, employers need to be assured that their member employees are conducting themselves in accordance with the law, and employees of members need to know that they will be treated properly and fairly.

The Panel acknowledges that this is the first time you have appeared before the Discipline Committee of the Ontario College of Trades and that you co-operated with the investigation, as well as the prosecution of this matter, and the Panel took this into consideration when accepting the joint submission on penalty and costs today.

31. The Panel gave the Member an opportunity to make a statement at the conclusion of the reprimand, which the Member declined.

September 2, 2018
Date

"Sherry Darvish"
Sherry Darvish, Chair

End.