

**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  
Daniel T. Tardy, a member of the Ontario College of Trades.

PANEL: Kate Poultney, Chair

BETWEEN:	)	
	)	Robin K. McKechney,
	)	Steinecke Maciura LaBlanc,
	)	for Ontario College of Trades,
<b>ONTARIO COLLEGE OF TRADES</b>	)	
	)	
	)	Lisa Thompson,
-and-	)	Chown Cairns LLP,
	)	for Daniel T. Tardy
	)	
<b>DANIEL T. TARDY</b>	)	
(Member #13226399)	)	Elyse Sunshine,
	)	Rosen Sunshine LLP,
	)	Independent Legal Counsel
	)	
	)	Heard: October 25, 2016

**REASONS FOR DECISION**

1. A hearing of this matter took place before a panel of the Discipline Committee (the “Panel”) on October 25, 2016 at Victory Verbatim, Court Reporting Services, 222 Bay Street, Toronto, Ontario.
2. A Notice of Hearing (Exhibit 1) issued June 7, 2016 was served on counsel for Mr. Daniel T. Tardy (the “Member”) on June 8, 2016. A first appearance in this matter took place by teleconference on June 22, 2016 and the hearing of this matter on its merits was subsequently scheduled for

October 25, 2016.

## **THE ALLEGATIONS**

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

**“IT IS ALLEGED** that Daniel T. Tardy 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) knowingly provided false information or documents to the College or any other person with respect to his trade qualifications, which is defined as professional misconduct under Ontario Regulation 97/13, subsection 1(4);
- b) 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);
- c) 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); and
- d) misappropriated or otherwise dealt dishonestly with the money or property of a client or another party, or otherwise engaged in fraudulent conduct, which is defined as professional misconduct under Ontario Regulation 97/13, subsection 1(12) .

## **PARTICULARS OF THE ALLEGATIONS ARE AS FOLLOWS:**

1. Daniel T. Tardy (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 Plumbing, Journeypersons class, which was issued by the College on April 8, 2013.
3. The Member obtained his certificate of qualification in the trade of Steamfitter,

Journeypersons class, on April 7, 2014.

4. It is alleged that the Member fraudulently obtained his certificate of qualification in the trade of Steamfitter as a result of fraudulent and/or misleading representations that he made to the College in his Trade Equivalency Assessment (TEA) application dated March 25, 2014. Particularly, the application contained the following false, improper or misleading information and statements:
  - a. The Member provided a forged letter of endorsement from Mike Bannister on United Association Local 67 letterhead, dated March 23, 2014, with his TEA application.
  - b. The Member falsely and/or improperly claimed on his TEA application that he had accumulated 130 hours of applicable work experience while working for Trademark Industrial Inc. during the period of February 2007 to March 2007.
  - c. The Member falsely and/or improperly claimed on his TEA application that he had accumulated 422 hours of applicable work experience while working for Canal Marine and Industrial Inc. during the period of September 2007 to December 2007.
  - d. The Member falsely and/or improperly claimed on his TEA application that he had accumulated 2,023 hours of applicable work experience while working for Comstock Canada Ltd. during the period of February 2008 to December 2008.
  - e. The Member falsely and/or improperly claimed on his TEA application that he had accumulated 1,689 hours of applicable work experience while working for Ganotec Inc. during the period of March 2009 to January 2010.
  - f. The Member falsely and/or improperly claimed on his TEA application that he had accumulated 1,017 hours of applicable work experience while working for Roberts Onsite Inc. during the period of October 2010 to April 2011.
  - g. The Member falsely and/or improperly claimed on his TEA application that he had accumulated 488 hours of applicable work experience while working for E.S Fox Ltd. during the period of April 2011 to July 2011.

- h. The Member falsely and/or improperly claimed on his TEA application that he had accumulated 146 hours of applicable work experience while working for Aecon Group Inc. (Industrial Central – Cambridge, ON) in January 2012.”

#### **MEMBER’S PLEA**

4. At the opening of the hearing on October 25, 2016, counsel for the College advised that the College intended to proceed with allegations (a) to (c) of the Notice of Hearing and that portion of allegation (d) stating “*engaged in fraudulent conduct, which is defined as professional misconduct under Ontario Regulation 97/13, subsection 1(12)*”. The balance of allegation (d) was withdrawn.
5. In response, the Member admitted to each of the allegations of professional misconduct, as described above and as set out in an *Agreed Statement of Facts* dated October 25, 2016 which the parties intend 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 allegations, and the parties’ intention to proceed by way of an *Agreed Statement of Facts*, counsel for the College filed the *Agreed Statement of Facts* as an exhibit (Exhibit 2) and proceeded to make submissions thereon.
8. As part of the *Agreed Statement of Facts*, the Panel received and considered the following documents:
  - a. A copy of a Registrar’s Certificate in relation to the Member’s certification and membership in the College, dated March 18, 2015;
  - b. A copy of an unsigned, undated pre-written letter from Gary Ellerker to the Ministry of Training, Colleges and Universities;

- c. A copy of the Member's application for Trade Equivalency Assessment, dated March 25, 2014;
  - d. A copy of a forged letter of endorsement from Mike Bannister, dated March 23, 2014;
  - e. A copy of a letter from Gerald Phibrick on Ganotech letterhead, dated March 19, 2014; and
  - f. A copy of an email from Don Cressy, Operations Manager for Canal Marine, confirming the Member's 124 hours of work, dated May 29, 2014.
9. In addition, the Panel received and considered a Record of Employment dated November 25, 2009 stating that the Member worked a total of 1,589 insurable hours for Ganotec Inc. between March 9, 2009 and November 21, 2009 (Exhibit 3).
10. The Member has been registered with the Ontario College of Trades since April 8, 2013 at which time the College assumed responsibility from the Ministry of Training, Colleges and Universities for the regulation of skilled trades in Ontario.
11. The Member has been employed in the trades since 2006, and since that time has been a member in good standing with United Association Local 67<sup>1</sup> with no previous record of discipline.
12. The Member received his College-issued Certificate of Qualification in the trade of Plumber on April 8, 2013 and his Certificate of Qualification in the trade of Steamfitter on April 17, 2014.
13. One method of obtaining a Certificate of Qualification in the trade of Steamfitter is to submit a Trade Equivalency Assessment (TEA) application to the College<sup>2</sup> demonstrating 9,000 hours of relevant work experience. If the TEA application is approved, the applicant is eligible to write the qualification exam for that trade.
14. On or about March 19, 2014, the Member attended at United Association Local 67 at the office of the Joint Apprenticeship Training Committee (the "JATC") with a pre-written letter from Gary Ellerker to the Ministry of Training, Colleges and Universities endorsing 9,000 hours of work experience in the Steamfitter trade, in addition to the Member's plumbing experience. The

---

<sup>1</sup> United Association of Journeymen and Apprentices of Plumbing and Pipe Fitting Industry of the United States and Canada.

<sup>2</sup> On April 8, 2014, the College assumed responsibility for assessing TEA applications from the Ministry of Training, Colleges and Universities.

Member intended to speak with Gary Ellerker, an official with United Association Local 67 at that time, but ultimately spoke with another employee at the JATC who kept the pre-written letter.

15. The JATC refused to sign the pre-written letter. The JATC was concerned that the work experience outlined in the letter was not verifiable, particularly given the fact that the Member had only had his Certificate of Qualification as a Plumber for two years.
16. Following the refusal by the JATC to sign the pre-written letter, and on the same day, an employee from the JATC sent an email to an employee at the Ministry of Training, Colleges and Universities which, prior to April 8, 2014 was responsible for reviewing and approving TEA applications, enclosing the pre-written letter and supporting documentation. The employee at the Ministry of Training, Colleges and Universities replied that the Member did not qualify to write the Steamfitter exam as he had insufficient hours completed and did not have sufficient supporting documentation.
17. On March 25, 2014, the Member submitted a TEA application to the Ministry of Training, Colleges and Universities. The TEA application was approved and the Member subsequently wrote and passed the Steamfitter exam, thereby obtaining a College-issued Certificate of Qualification in the trade of Steamfitter.
18. Subsequent investigation, however, revealed that the Member falsified his TEA application by providing the following false and misleading information regarding his relevant work experience. In particular:
  - a. The Member provided a forged letter of endorsement from Mike Bannister on Local 67 letterhead, dated March 23, 2014, with his TEA application. The letter stated that the Member had “completed over 9000 hours of work experience in the steamfitting-pipefitting trade.” Mr. Bannister would testify that the signature on the letter is not his and was forged. Further, Mr. Bannister would testify that he had been retired for over one year as of March 23, 2014 and that he was in Florida at the time the letter was purportedly signed.
  - b. The Member provided a falsified letter of reference from Ganotec Inc., dated March 18, 2014, signed by Gerald Philbrik endorsing 5,155 hours of steamfitting experience. The

letter was false in the following material respects:

- i. Gerald Philbrick was not employed by Ganotec Inc. at the time the letter was signed.
  - ii. The letter states that the Member worked for 1,443 hours for Ganotec on the General Motors Transmission Line from October 19, 2010 to April 15, 2011. Joanne Langlois would testify that Ganotec did not work on the GM Transmission Line. The Member did work on the GM Transmission Line, however for Roberts Onsite, not Ganotec Inc.
  - iii. The letter states that the Member worked 1,689 hours at the Thorold Co-Generation site from March 9, 2009 to January 23, 2010. According to a Record of Employment from Ganotec for this period (Exhibit 3), the Member worked 1,589 hours.
- c. The Member falsely and/or misleadingly claimed on his TEA application that he had accumulated 422 hours of applicable work experience while working for Canal Marine during the period of September 2007 to December 2007. This was false and/or misleading in the following material respect:
- i. The Member was, in fact, employed at Canal Marine between September 12 and October 3, 2007 and had only 124 hours of applicable work experience.

19. The Member provided false and/or misleading information to the College in his letter of November 27, 2014 when he indicated that “my hours of experience are 100% real, and true and should absolutely not be discredited” and that the Member’s letters of reference are “truly legitimate.”

20. 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**

21. 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.
22. 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 4, 8, 11 and 12, namely:
  - a. The Member knowingly provided false information or documents to the College or any other person with respect to the Member's trade qualifications (paragraph 4);
  - b. 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);
  - c. The Member 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 other members of the College as disgraceful, dishonourable or unprofessional (paragraph 11);
  - d. The Member engaged in fraudulent conduct (paragraph 12).

## **REASONS FOR DECISION**

23. With regard to paragraph 22(a) above, the Panel found several instances in which the Member knowingly provided false information (and/or false documents) with respect to his trade qualifications, primarily to the Ministry of Training, Colleges and Universities as part of his TEA application. In particular:
  - a. In March 2014, the Member forged the signature of a member of his union, United Association Local 67, on a document that falsely claimed that the Member had accumulated over 9,000 hours of work experience in the steamfitter and/or pipefitter trades;
  - b. In March 2014, the Member falsified a reference letter, purportedly signed by an employee of

Ganotec Inc., that falsely stated that the Member had accumulated 5,155 hours of work experience in the steamfitter trade;

- c. The same falsified reference letter from Ganotec Inc. contained details with respect to the type of work performed, the number of hours worked, the companies for whom the work was performed, and when the work was performed, all of which was either exaggerated, fabricated or falsified;
  - d. The Member falsely or misleadingly claimed that he had accumulated 422 hours of work experience with Canal Marine between September and December 2007, when in fact he had worked only 124 hours between September 12 and October 3, 2007.
24. Also with respect to paragraph 22(a) above, the Panel found that the Member knowingly provided false information to the College in November 27, 2014 by claiming that “my hours of experience are 100% real, and true and should absolutely not be discredited” and that the Member’s letters of reference are “truly legitimate” when he knew, or ought to have known, this to be untrue.
25. In light of those findings, the Panel concluded that the Member engaged in professional misconduct, as defined in paragraph 4 of Ontario Regulation 97/13.
26. Having seen clear evidence to the contrary, the Panel found the Member’s assertions in November 2014, when he wrote to the College, to be particularly troubling. At a time when the Member could have admitted to his course of deceitful conduct, falsifications, forgeries, misrepresentations, exaggerations and purposefully misleading statements to both Ministry officials and his professional regulatory body, the Member instead chose to perpetuate his fraud.
27. Moreover, the Panel was deeply concerned that an experienced journeyperson member of the College, who ought to have been aware of his professional and ethical duties, would go to such lengths to obtain certification in a trade for which he did not have the requisite training, experience or hours worked. This put the public and other skilled trades professionals at risk.
28. The fact that the Member ultimately passed the Certificate of Qualification exam in the trade of Steamfitter, having fraudulently obtained the privilege to do so, is irrelevant. The Panel is of the view that many apprentices and TEA applicants work many years to obtain the training and

experience required to write qualification exams – for the Member to have skipped the queue through fraud and deception undermines the hard work of everyone taking the legitimate path to certification and jeopardizes the integrity of the certification system itself.

29. With regard to paragraph 22(b) above, the Panel was satisfied that by submitting a TEA application to the Ministry of Training, Colleges and Universities predicated upon false information and forged signatures, 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.
30. With regard to paragraph 22(c) above, the Panel was satisfied that the Member's conduct in this matter, having regard to all the circumstances, would reasonably be regarded by other members of the College as disgraceful, dishonourable and unprofessional. The Panel was convinced that other members of the College would view the Member's fraudulent behaviour as highly unprofessional, dishonourable and disgraceful. In light of that finding, the Panel concluded that the Member engaged in professional misconduct, as defined in paragraph 11 of Ontario Regulation 97/13.
31. With regard to paragraph 22(d) above, and based on the agreed facts, the Panel concluded that the Member engaged in an intentional pattern of fraudulent conduct and therefore engaged in professional misconduct, as defined in paragraph 12 of Ontario Regulation 97/13.

## **PENALTY SUBMISSIONS**

32. The parties presented a *Joint Submission as to Penalty and Costs* (Exhibit 4) and asked the Panel to impose a penalty that included a reprimand, revocation of the Member's Certificate of Qualification in the trade of Steamfitter, a fine the amount of \$1,000, and publication of the Panel's finding and order.
33. 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.
34. Counsel for the Member submitted a letter of apology on behalf of the Member in which he

expressed his “profound regret” for his conduct and undertook to “be diligent in adhering to all Rules and Regulations of the Ontario College of Trades” in future (Exhibit 5).

## **PENALTY DECISION**

35. After considering the *Joint Submission as to Penalty and Costs*, the submissions of counsel, and the letter of apology from the Member, the Panel made the following order:

1. The Member, Mr. Daniel T. Tardy, having waived his right to appeal, was reprimanded by the Panel at the conclusion of the hearing on October 25, 2016 and the fact of the reprimand shall be recorded on the Public Register of the Ontario College of Trades for a period of one (1) year, pursuant to section 46(5)1 of the Act;
2. The Registrar is directed to revoke the member’s Certificate of Qualification in the trade of Steamfitter (307A) effective October 25, 2016, pursuant to section 46(4)1 of the Act;
3. The Member shall pay a fine in the amount of \$1,000.00 payable to the Minister of Finance (Consolidated Revenue Fund) within 12 months of the date of this Order, pursuant to section 46(5)2 of the Act;
4. The finding 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 section 46(5)3 of the Act.

## **REASONS FOR PENALTY DECISION**

36. 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.

37. The Panel also considered aggravating factors, such as the Member’s insistence in November 2014 that the documents supporting his TEA application were valid, truthful and accurate, when he knew they were not. The Panel also noted that the Member’s conduct in this matter was orchestrated over a period of time, with various points at which he made deliberate decisions to

manipulate the system, which was another aggravating factor.

38. At the same time, the Panel considered the mitigating factors of (i) the Member's letter of apology and undertaking to be compliant with College rules and the requirements of professional conduct in future; (ii) the fact that the Member has no prior disciplinary history with the College; (iii) the fact that the Member was contrite and cooperated with the College once his fraud was uncovered; and (iv) the Member's willingness to enter into an *Agreed Statement of Facts* and a *Joint Submission as to Penalty and Costs*, which together greatly reduced the time and resources that otherwise would have been spent on this matter.
39. 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 minimum standards are met by regulated trades professionals, and protecting the integrity of the TEA process that is now the responsibility of the College.
40. 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. In particular, the revocation of the Member's Certificate of Qualification as a Steamfitter, means that the Member can no longer practice that compulsory trade legally in the province of Ontario.

#### **COSTS SUBMISSIONS**

41. The parties also submitted a proposal in their *Joint Submission as to Penalty and Costs* that the Member pay costs to the College in the amount of \$2,000 within 12 months of the date of the Panel's order.

#### **COSTS DECISION**

42. 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 12 months of October 25, 2016, 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

43. 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 allegations and was prepared to make a joint submission on penalty and costs, which he did, and that he retained legal counsel early in this process and will presumably be responsible for those costs as well.

Date: December 21, 2016

"Kate Poultney"

Kate Poultney  
Chair, Discipline Panel

**End.**