

**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  
Peter Plummer, a member of the Ontario College of Trades.

Sherry Darvish, Chair

|                                  |   |                           |
|----------------------------------|---|---------------------------|
| BETWEEN:                         | ) |                           |
|                                  | ) |                           |
|                                  | ) | Bogdan Andronesi,         |
| <b>ONTARIO COLLEGE OF TRADES</b> | ) | College Counsel           |
|                                  | ) |                           |
|                                  | ) |                           |
| -and-                            | ) |                           |
|                                  | ) |                           |
|                                  | ) |                           |
| <b>PETER PLUMMER</b>             | ) | Matthew Langer,           |
| (Member #13301453)               | ) | Member’s Counsel          |
|                                  | ) |                           |
|                                  | ) | Robin K. McKechney,       |
|                                  | ) | Independent Legal Counsel |
|                                  | ) |                           |
|                                  | ) | Heard: November 16, 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 November 16, 2018 at Victory Verbatim, Court Reporting Services, 222 Bay Street, Toronto, Ontario.
2. A *Notice of Hearing* (Exhibit 1) issued April 4, 2018 was served on Peter Plummer (the “Member”) and a first appearance in this matter took place by teleconference on May 17, 2018; a Pre-Hearing

Conference was held on July 12, 2018; and the hearing of this matter on its merits was subsequently scheduled for November 16, 2018.

3. At the Pre-Hearing Conference on July 12, 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. The allegations against the Member in the *Notice of Hearing* are as follows:

**“IT IS ALLEGED** that Peter Plummer 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 undertook work that he knew, or ought to have known, he was not competent to perform by virtue of his certification, training and experience (Ontario Regulation 97/13, subsection 1(3)).

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

### **The Member**

- I. Peter Plummer, Membership No. 13301453 (the “Member”), is a member of the Ontario College of Trades (the “College”).
- II. At all material times, the Member held a Certificate of Qualification in the trade of Electrician Construction and Maintenance (309A), Journeyman class.
- III. At all material times, the Member did not hold a Certificate of Qualification in the trade of Plumber (306A).
- IV. At all material times, [NAME] (the “Complainant”) was the owner of a residential property located at [ADDRESS], Thornhill, Ontario (the “Property”).

### **Member Hired to Perform Home Renovation**

- V. In 2015, the Complainant retained the services of the Member to perform general home renovations at the Property.
- VI. The Member represented to the Complainant that he was qualified to perform all aspects of the renovation requested by the Complainant.

### **Member Performs Plumbing Work**

- VII. Over the course of summer 2015, the Member completed renovations in three separate bathrooms at the Property that fall within the scope of practice of a Plumber (306A) despite the Member not having a Certificate of Qualification in this trade. The work done by the Member included, among other things, the following:

Main bathroom, second floor:

- Installation of shower stall;
- Re-installation of toilet and sink.

Master bathroom I:

- Installation of shower stall;
- Re-installation of toilet and sink.

Master bathroom II:

- Installation of a bathtub, sink and toilet.”

### **MEMBER'S PLEA**

5. Both verbally at the hearing and in an *Agreed Statement of Facts* signed in counterparts on July 10, 2018 and July 11, 2018 (Exhibit 2), the Member admitted the professional misconduct set out in allegation of the *Notice of Hearing*.
6. 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**

7. College Counsel tendered evidence by way of an *Agreed Statement of Facts* (Exhibit 2). Exhibit 2 stated the following:

### **“FACTS**

#### **The Member**

1. Peter Plummer, Membership No. 13301453 (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 in the trade of Electrician-Construction and Maintenance (309A), which certificate was issued by the College to the Member in 2013.
3. The Member has never held, including at all material times, a certificate of Qualification or a statement of Membership in the trade of Plumber (306A).

#### **Member hired to perform home renovation**

4. At all material times, [NAME] (the “Complainant”) was the owner of a residential property located at [ADDRESS], Ontario (the “Property”).
5. In 2015, the Complainant retained the services of the Member to perform general home renovations at the Property.
6. The Member represented to the Complainant, explicitly or by implication that he was qualified to perform all aspects of the renovation requested by the Complainant and completed by the Member.

#### **Member performs plumbing work**

7. Over the course of summer 2015, the Member completed renovations in three separate bathrooms at the property, including the installation of shower stalls, sinks, toilets and bathtub-work

that falls within the scope of practice of the compulsory trade of Plumber (306A).

### **ADMISSIONS**

8. The Member admits he has never held, as a plumber or plumbing apprentice, any registration, certification, license or training agreement issued to him by the College or by any authority having jurisdiction in relation to the training, licensing or regulation of trades.

9. The Member admits the above facts as true; and that the facts and the admissions constitute the professional misconduct set out in the Notice of Hearing (File No: DC201805).

### **PRIOR DISCIPLINE**

10. The Member has no prior discipline history.

### **INDEPENDENT LEGAL COUNSEL ADVICE**

8. Independent Legal Counsel (“ILC”) 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 the allegation in the *Notice of Hearing* on a balance of probabilities.

9. ILC advised that unless accepting the *Agreed Statement of Facts* would bring the discipline process into disrepute, or that doing so would fail to deter the Member from similar conduct in the future, or that accepting it would negatively affect public confidence in the process, the Panel should accept an agreement achieved by the parties.

### **DECISION**

10. The Panel was of the opinion that accepting the *Agreed Statement of Facts* would not compromise the public’s confidence in the College’s discipline process; that it addressed the issue of deterrence on the part of the Member; and that it would be in the public interest to accept it, and accordingly accepted the *Agreed Statement of Facts* and found that the College had proven the allegations set out in the *Notice of Hearing* on a balance of probabilities.

11. Therefore, pursuant to section 46(2)(a) of the Act, the Panel found the Member guilty of professional misconduct.

#### **REASONS FOR DECISION**

12. The Panel was satisfied that by conducting and performing work outside of the scope of practice of his licensed trade, which he was not authorised to, the Member engaged in professional misconduct by contravening Ontario Regulation 97/13, subsection 1(3) as alleged in Exhibit 1 *Notice of Hearing*.
13. 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 disgraceful, dishonourable or unprofessional.

#### **PENALTY SUBMISSIONS**

14. College Counsel proceeded to make a joint submission with respect to penalty and costs (Exhibit 3), made oral submissions thereon, and asked the Panel to impose the following penalties:
  - (i) That the Member pay, within twenty-four (24) months of the order, a fine in the amount of \$1,250.00 to the Minister of Finance for payment into the Consolidated Revenue fund, pursuant to paragraph 46(5)(2) of the *Ontario College of Trades and Apprenticeship Act* (the "Act");
  - (ii) That the Member be reprimanded by the Discipline Panel at the conclusion of the hearing and the fact of the reprimand be recorded on the public register for a period of six (6 months), pursuant to paragraph 46(5)(1) of the Act;
  - (iii) That the finding and the order of the Panel 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) of the Act; and
  - (iv) That the Member pay the College's costs in the amount of \$1,750.00 within twelve (12) months of the date of the order pursuant to paragraph 46(5)(4) of the Act.

15. The Member confirmed that he would accept these penalties and costs, should the Panel decide to make an order accepting the parties' joint submission.
16. 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.

#### **INDEPENDENT LEGAL COUNSEL ADVICE**

17. ILC advised the Panel that both parties had reached an agreement and submitted a Joint Submission on Penalty ("JSP"). In light of the JSP (Exhibit 3), there was limited discretion for the Panel to depart from it unless, in the opinion of the Panel, not doing so would bring the administration of justice into disrepute or would be contrary to the public interest.

#### **PENALTY DECISION**

18. After considering the joint submission on penalty, the Panel accepted the submission and made the following orders:
  - (i) the Member shall pay a fine in the amount of \$1,250.00 to the Minister of Finance for payment into the Consolidated Revenue Fund within twenty-four (24) months of November 16, 2018, pursuant to section 46(5)2 of the Act;
  - (ii) The finding and the Order of the Panel shall be published in detail or in summary with the name of the Member in the official publication of the College, pursuant to section 46(5)3 of the Act; and
  - (iii) The Member, having waived his right to appeal under section 51 of the Act, (Exhibit 4), will be reprimanded by the Panel at the conclusion of the hearing, pursuant to section 46(5)1 of the Act.

## REASONS FOR PENALTY DECISION

19. In arriving at the above penalties, the Panel considered the College's submissions regarding the JSP and the advice provided by the Panel. In addition, the Panel took into account the basic principles of sanctioning as well as any mitigating and aggravating factors. The Panel finds that the order is fair, considered and appropriate.
20. 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, ensuring that a minimum standard is met by regulated trade's professionals. Serving and protecting the public's confidence in both the trades and the College's disciplinary process are paramount. It was the view of the Panel, that all aspects of the JSP did just that.
21. The Panel considered mitigating factors, as such that the Member had no previous history before the Discipline Committee. Further, the Panel 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.

## COSTS SUBMISSIONS

22. As noted above, College Counsel 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 \$1,750.00 within twelve (12) months of the hearing.

## COSTS DECISION

23. After considering the submissions on costs, the Panel ordered the Member to pay the College's costs in the amount of \$1,750.00 within twelve (12) 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

24. 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.
25. 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

26. 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. Plummer, 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 six (6) months 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:*

*You undertook work that you knew, or ought to have known, you were not competent to perform by virtue of your certification, training and experience (Ontario Regulation 97/13, subsection 1(3)).*

*The Panel takes this type of conduct seriously. The public needs to have confidence that its members are upholding high ethical and conducting themselves in accordance with the law. The College also needs to have confidence in its members.*

*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.”*

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

December 3, 2018  
Date:

Sherry Darvish  
Sherry Darvish, Chair

**End.**