

**DISCIPLINE COMMITTEE
OF THE COLLEGE OF OPTICIANS OF ONTARIO**

PANEL:

Ingrid Koenig, Chairperson
Dennis Tse, Member
Robert Vezina, Member
Jacalyn Cop-Rasmussen, Public
Member
Gordon White, Public Member

BETWEEN:

COLLEGE OF OPTICIANS OF ONTARIO)	
)	<i>Rebecca Durcan</i> for
)	College of Opticians of Ontario
- and -)	
)	No one appearing for the Member
LUAM TECLE)	
REGISTRATION #4633)	
)	<i>Luisa Ritacca</i>
)	Independent Legal Counsel
)	
)	Heard: June 11, 2018

DECISION AND REASONS

This matter came on for hearing before a panel of the Discipline Committee on June 11, 2018 at the College of Opticians of Ontario (“the College”) at Toronto.

The Member was not present at the start of the hearing. The Panel received information from the College confirming that the Member had been properly served with the Notice of Hearing and that she was aware of the start time for the hearing. The Panel was satisfied that the Member did not intend to appear at the hearing and so the hearing proceeded in the Member’s absence, approximately 30-minutes after the scheduled start time.

The Allegations

The allegations against Luam Tecle (the “Member”) as stated in the Notice of Hearing dated September 27, 2017, are as follows.

STATEMENT OF ALLEGATIONS

The Member

1. At all material times, Luam Tecele (“Ms. Tecele”) was a registered optician in Ontario.
2. Pursuant to the s. 82(1) of the Code and s. 9, 10 and 11 of the General Regulation under the *Opticianry Act, 1991*, members of the College are required to comply with the requirements of the College’s Quality Assurance program. Those requirements include the following:
 - a. Within 30 days of being notified of the request, a member shall provide accurate information to the Committee or an assessor about her self-assessment and continuing education or professional development.
 - b. Each year the Committee shall select at random ... the names of members required to undergo a peer and practice assessment.
3. On or about March 11, 2015, the Quality Assurance Committee notified Ms. Tecele:
 - a. to submit evidence of her annual continuing education and professional development activities which included a combined total of 16 CE hours which include 8 accredited hours and 8 non-accredited hours (the “Professional Portfolio”), no later than April 30, 2015; and/or
 - b. that she had been randomly selected to undergo a peer and practice assessment and to submit the Multi-Source Feedback (MSF) survey process by May 20, 2015.

Professional Portfolio

4. On or about April 30, 2015 the Quality Assurance Committee had not received any component of the Professional Portfolio. Several attempts were made to contact Ms. Tecele without success.
5. On or about May 22, 2015 the Quality Assurance Committee was able to speak with Ms. Tecele who advised that she would submit her Professional Portfolio immediately. Ms. Tecele did not submit her Professional Portfolio.
6. On or about May 29, 2015 the Quality Assurance Committee contacted Ms. Tecele who said she could not speak then but would call back later. It is alleged that Ms. Tecele did not call back nor submit her Professional Portfolio.
7. On or about June 9, 2015 the Quality Assurance Committee called Ms. Tecele. Ms. Tecele put the representative from the Quality Assurance Committee on hold and did not return to the call. Ms. Tecele did not submit her Professional Portfolio.
8. On or about June 22, 2015 the Quality Assurance Committee sent Ms. Tecele a letter advising that it had not received the Professional Portfolio. Ms. Tecele did not submit her Professional Portfolio.

9. On or about July 17, 2015 the Quality Assurance Committee called Ms. Teclé who advised the representative from the Quality Assurance Committee that she would submit her Professional Portfolio that evening. Ms. Teclé did not submit her Professional Portfolio.
10. On or about July 20, 2015 the Quality Assurance Committee emailed Ms. Teclé and advised that it had not received the Professional Portfolio. Ms. Teclé did not submit her Professional Portfolio.
11. On or about August 19, 2015 an email, regular letter and registered letter were sent to Ms. Teclé advising her that the Quality Assurance Committee had not received her Professional Portfolio. Ms. Teclé did not respond to the communications nor did she submit her Professional Portfolio.
12. As of today's date the Professional Portfolio has not been received by the Quality Assurance Committee.

MSF

13. It is alleged that Ms. Teclé completed 7 of the 16 required surveys as part of the MSF.
14. On or about June 2, 12 and/or September 2, 2015 the Quality Assurance Committee contacted Ms. Teclé and reminded her that she still needed to complete the MSF. It is alleged that Ms. Teclé did not respond and did not submit the required surveys.
15. On or about May 29, 2015 an email, regular letter and registered letter were sent to Ms. Teclé advising that she still needed to complete the MSF. The registered letter was returned. It is alleged that Ms. Teclé did not respond to the email or regular letter and did not submit the required surveys.
16. As of today's date the required surveys have not been received by the Quality Assurance Committee.
17. On or about October 6, 2015, the Quality Assurance Committee referred Ms. Teclé to the Inquiries, Complaints and Reports Committee for failing to comply with the Quality Assurance Committee direction on the Professional Portfolio and the MSF.

Acts of Professional Misconduct

18. As a result of the above, it is alleged that Ms. Teclé engaged in professional misconduct pursuant to s. 51(1)(c) of the Health Professions Procedural Code, being Schedule 2 to the Regulated Health Professions Act, 1991 (the "Code"), as set out in one or more of the following paragraphs of section 1 of Ontario Regulation 828/93:
 - a. She contravened a standard of practice of the profession (paragraph 2);
 - b. She failed to reply without sufficient reason to a registered letter from the College (paragraph 16);

- c. She contravened any provision of the Act, the Regulated Health Professions Act, 1991 or the regulations under either of those Acts, namely s. 82(1) of the Code and s. 9, s. 10, and/or s. 11(4) of the General Regulation (paragraph 26);and/or
 - d. She engaged in conduct or performed an act, in the course of practicing opticianry that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional (paragraph 28).
19. In addition, it is alleged that Ms. Teclé engaged in professional misconduct pursuant to s. 51(b.0.1) of the Code as she failed to co-operate with the Quality Assurance Committee.

Member's Plea

In light of the Member's absence, the Chair of the panel entered a plea of not guilty on the Member's behalf.

The Evidence

The College introduced a number of documents in support of its position with respect to the allegations.

The documents, including two affidavits and oral testimony from Laura Briard, College staff, confirmed the following:

- Ms. Teclé was a registered optician at all material times.
- In March 2015, Ms. Teclé was advised that she was selected to submit her professional portfolio and multi-source feedback survey to the Quality Assurance Committee of the College.
- Ms. Teclé failed to submit the necessary information and documentation to the Quality Assurance Committee as requested.
- The College made at least ten attempts between May 2015 and September 2015 to contact Ms. Teclé on this issue.
- Ms. Teclé spoke with a College representative four times throughout this period, each time suggesting that she would forward her professional portfolio immediately.
- As of the date of the hearing, Ms. Teclé has still not provided the College with the information requested.

Decision

The Panel finds that Ms. Teclé engaged in professional misconduct as set out in the Notice of Hearing, except that the Panel makes no finding that she breached s. 11(4) of the General Regulation, as defined.

Reasons for Decision

On the strength of the evidence, the sworn affidavit and the testimony of the witness, the panel made a finding of professional misconduct as alleged in the Notice of Hearing.

Ms. Teclé as a registered optician in Ontario failed to:

- Comply with the requirements of the Quality Assurance program s. 82(1) of the Code and s. 9, 10 and 11 of the General Regulation under the Opticianry Act, 1991.
- Ms. Teclé failed to provide within 30 days of being notified of the request, accurate information to the Committee or an assessor about her self-assessment and continuing education or professional development.

As a result, Ms. Teclé engaged in professional misconduct pursuant to s. 51(1)(c) of the Health Professions Procedural Code, being Schedule 2 of the Regulated Health Professions Act, 1991 (the “Code”), as set out in one or more of the following paragraphs of section 1 of Ontario Regulation 828/93:

- a. She contravened a standard of practice of the profession (paragraph 2);
- b. She failed to reply without sufficient reason to a registered letter from the College (paragraph 16);
- c. She contravened any provision of the Act, the Regulated Health Professions Act, 1991 or the regulations under either of those Acts, namely s. 82(1) of the Code and s. 9, s. 10, and/or s. 11(4) of the General Regulation (paragraph 26);and/or
- d. She engaged in conduct or performed an act, in the course of practicing opticianry that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional (paragraph 28).

Furthermore, the Panel found pursuant of s.51 (b.0.1) of the Health professions Procedural Code Ms. Teclé engaged in professional misconduct by failing to co-operate with the Quality Assurance Committee. The evidence on this point was overwhelming. Ms. Teclé failed to engage with the Quality Assurance Committee at any level.

Penalty

The College filed a submission on penalty and costs wherein it sought the following order:

1. Should Ms. Tecele's certificate of registration be reinstated, Ms. Tecele is required to appear before the panel to be reprimanded within 60 (sixty) days of the date of reinstatement;
2. Should Ms. Tecele's certificate of registration be reinstated, the Registrar is directed to suspend Ms. Tecele's certificate of registration for a period of 5 (five) months, effective immediately following the reinstatement;
3. Should Ms. Tecele's certificate of registration be reinstated, the Registrar is directed to impose the following specified terms, conditions and limitations on Ms. Tecele's certificate of registration:
 - a) Within five months of reinstatement, Ms. Tecele must successfully complete a course in ethics/governability, pre-approved by the Registrar, which is to be taken at her own expense; and
 - b) Within six months of reinstatement, Ms. Tecele must review all College standards and provide the Registrar with written confirmation that she has reviewed all College standards; and
 - c) Within twelve months of reinstatement, Ms. Tecele must participate in two practice inspections conducted by a College-appointed inspector, the costs of which will be borne by Ms. Tecele. The cost of each inspection shall not exceed \$500.00.
4. Ms. Tecele is required to pay the College a portion of its costs in this matter in the amount of \$7,800.00 within 90 days of the date of this Order.

The College submitted that the penalty sought is appropriate in the circumstances. It addresses the need for both specific and general deterrence, rehabilitation and public protection. The penalty takes into account the importance of cooperating with the College's Quality Assurance Committee and the repercussions for failing to do so. The College also noted that at present the Member is suspended for non-payment of fees and so the penalty proposed would only come into effect once Ms. Tecele pays her outstanding fees and is reinstated.

Penalty Decision

The Panel is of the opinion that the penalty imposed appropriately addresses the principles governing penalty, which include public protection, general deterrence and specific deterrence.

Ms. Tecele's non-compliance with the requirements of the QAC and her failure to co-operate with College demonstrate a clear disregard for the College's mandate to govern its members.

As a result, the Panel found penalty necessary to uphold the College's mandate to protect the public. It is important that Ms. Teclé and members of the College understand the seriousness of these actions.

I, Ingrid Koenig, sign this decision and reasons for the decision as Chairperson of this Discipline panel and on behalf of the members of the Discipline panel as listed below:



July 14, 2018

Chairperson, Ingrid Koenig RO

Date

Dennis Tse, Member
Robert Vezina, Member
Jacalyn Cop-Rasmussen, Public Member
Gordon White, Public Member