

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE MR) THURSDAY, THE 31ST DAY OF
JUSTICE T. McEwon) MAY, 2012

BETWEEN:

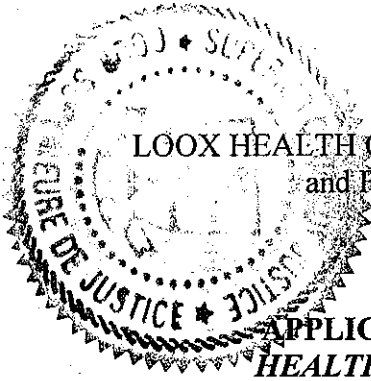
COLLEGE OF OPTICIANS OF ONTARIO

Applicant

- and -

LOOX HEALTH CARE INC. c.o.b. LOOX HEALTH CARE CENTER
and FARHAN SHAIK a.k.a. ISHAK SHAIK

Respondents



APPLICATION UNDER SECTION 87 OF THE
HEALTH PROFESSIONS PROCEDURAL CODE

ORDER

THIS APPLICATION, made by the applicant, the College of Opticians of Ontario, for certain declaratory and other relief under the *Regulated Health Professions Act, 1991* was heard this day at 393 University Avenue, Toronto, Ontario.

ON READING the Application Record of the applicant, the Minutes of Settlement between the parties attached hereto as Schedule "A", and the consent of the parties, filed, and on hearing the submissions of counsel for the applicant:

1. **THIS COURT DECLARES** that the respondent, Loox Health Care Inc., violated s 42(1) of the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18 (the "RHPA") as it

knowingly employed an individual who performed the controlled act of dispensing in the course of his employment while not being authorized to do so;

2. **THIS COURT DECLARES** that the respondent, Farhan Shaik a.k.a. Ishak Shaik ("Farhan Shaik"):
 - i. Violated ss. 27(1) of the RHPA by performing the controlled act of dispensing in the course of providing health care services to an individual while not being authorized to do so; and
 - ii. Breached s. 9(3) of the *Opticianry Act, 1991*, S.O. 1991, c. 34 by holding himself out as a person who is qualified to practice in Ontario as an optician or in a specialty of opticianry while not being a member of the College of Opticians of Ontario;

3. **THIS COURT ORDERS** Loox Health Care Inc. and anyone employed by or otherwise acting on its behalf to comply with the *Opticianry Act, 1991* and the RHPA, including that anyone employed by or otherwise acting on behalf of Loox Health Care Inc. refrain from:
 - i. Holding himself or herself out as a person who is qualified to practise in Ontario as an optician unless he or she is a member in good standing of the College of Opticians of Ontario; and
 - ii. Performing the controlled act of dispensing subnormal vision devices, contact lenses or eye glasses unless he or she is legally authorized to do so;

4. **THIS COURT ORDERS** Farhan Shaik to comply with the *Opticianry Act, 1991* and the RHPA, including that Farhan Shaik refrain from:
 - i. Holding himself out as a person who is qualified to practise in Ontario as an optician unless and until he obtains a certificate of registration as an optician from the College of Opticians of Ontario; and
 - ii. performing the controlled act of dispensing subnormal vision devices, contact lenses or eye glasses unless and until he obtains a certificate of registration from the College of Opticians of Ontario; and

5. **THIS COURT ORDERS** the Respondents pay to the applicant, the College of Opticians of Ontario, the costs of this application fixed in the amount of \$4,000.00 within 30 days of the date of this order.


THIS ORDER BEARS INTEREST at the rate of 3 per cent per year commencing on the date of this order.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

JUN 1 2012

AS DOCUMENT NO.:
À TITRE DE DOCUMENT NO.:

PER / PAR: 

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

COLLEGE OF OPTICIANS OF ONTARIO

Applicant

- and -

**LOOX HEALTH CARE INC. c.o.b. LOOX HEALTH CARE CENTER
and FARHAN SHAIK a.k.a. ISHAK SHAIK**

Respondents

**APPLICATION UNDER SECTION 87 OF THE
HEALTH PROFESSIONS PROCEDURAL CODE**

MINUTES OF SETTLEMENT

WHEREAS the College of Opticians of Ontario (the "College") brought an Application against Loox Health Care Inc. c.o.b. Loox Health Care Center and Farhan Shaik a.k.a. Ishak Shaik (the "Respondents") for the relief set out in the Notice of Application in Court File No. CV-11-438520 (the "Application");

AND WHEREAS the College and the respondents desire to resolve the issues raised in the application,

THE PARTIES AGREE THAT:

1. In Ontario, the dispensing of subnormal vision devices, including eyeglasses and contact lenses, ("Dispensing") is regulated by legislation;
2. Under the *Regulated Health Professions Act, 1991*, Dispensing is a controlled act.

3. Only members of the College of Opticians of Ontario, the College of Optometrists of Ontario and the College of Physicians and Surgeons of Ontario are permitted to Dispense.
 4. Under the *Opticianry Act, 1991*, only members of the College of Opticians of Ontario are permitted to hold themselves out as persons who are qualified to practise in Ontario as opticians or in a specialty of opticianry.
 5. On or about March 7 and 21, 2011, Farhan Shaik performed the controlled act of dispensing subnormal vision devices, contact lenses or eye glasses.
 6. On or about March 7 and 21, 2011, Farhan Shaik held himself out as a person who is qualified to practise in Ontario as an optician.
 7. At all material times, Farhan Shaik was not registered to practise as an optician, optometrist or physician in the province of Ontario.
 8. Loox Health Care Inc. is a corporation registered in the Province of Ontario.
 9. Loox Health Care Inc. was the employer of Farhan Shaik at all material times.
 10. Loox Health Care Inc. permitted Farhan Shaik to perform the controlled act of dispensing even though it knew or should have known that he was not permitted to do so.
 11. The Respondents agree and acknowledge that the facts set out in paragraphs 5-10 above are true..
 12. The Respondents agree that they will not dispense eyeglasses and contact lenses unless the dispensing is done by a registered optician, optometrist or ophthalmologist.
 13. The Respondents agree that they will not employ persons who dispense eyeglasses or contact lenses unless they are authorized to do so.
 14. The Respondents agree to a court order as follows:
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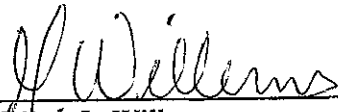
- (a) A declaration that the respondent, Loox Health Care Inc., violated s 42(1) of the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18 (the "RHPA") as it knowingly employed an individual who performed the controlled act of dispensing in the course of his employment while not being authorized to do so;
- (b) A declaration that the respondent, Farhan Shaik a.k.a. Ishak Shaik ("Farhan Shaik"):
- i. Violated ss. 27(1) of the RHPA by performing the controlled act of dispensing in the course of providing health care services to an individual while not being authorized to do so; and
 - ii. Breached s. 9(3) of the *Opticianry Act, 1991*, S.O. 1991, c. 34 by holding himself out as a person who is qualified to practice in Ontario as an optician or in a specialty of opticianry while not being a member of the College of Opticians of Ontario;
- (c) An interim and final order directing Loox Health Care Inc. and anyone employed by or otherwise acting on its behalf to comply with the *Opticianry Act, 1991* and the RHPA, including that anyone employed by or otherwise acting on behalf of Loox Health Care Inc. refrain from:
- i. Holding himself or herself out as a person who is qualified to practise in Ontario as an optician unless he or she is a member in good standing of the College of Opticians of Ontario; and
 - ii. Performing the controlled act of dispensing subnormal vision devices, contact lenses or eye glasses unless he or she is legally authorized to do so;
- (d) An interim and final order directing Farhan Shaik to comply with the *Opticianry Act, 1991* and the RHPA, including that Farhan Shaik refrain from:
- i. Holding himself out as a person who is qualified to practise in Ontario as an optician unless and until he obtains a certificate of registration as an optician from the College of Opticians of Ontario; and
 - ii. performing the controlled act of dispensing subnormal vision devices, contact lenses or eye glasses unless and until he obtains a certificate of registration from the College of Opticians of Ontario; and
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(e) The Respondents shall pay to the applicant, the College of Opticians of Ontario, the costs of this application fixed in the amount of \$4,000.00 payable within 30 days of the date of this order.

15. The Respondents agree, acknowledge and undertake that the court order referred to above and these Minutes of Settlement may be used in any subsequent court or regulatory proceedings.

16. The Respondents have consulted with independent legal counsel and understand the meaning and consequence of entering into these Minutes of Settlement.

SIGNED AT TORONTO, ONTARIO, THIS 30th DAY OF MAY, 2012


Melisse L. Willems
COLLEGE OF OPTICIANS OF ONTARIO
85 Richmond Street West, Suite 902
Toronto, ON M5H 2C9

Counsel for the Applicant, the College of Opticians of Ontario

BRAMPTON
SIGNED AT ~~TORONTO~~, ONTARIO, THIS 30th DAY OF MAY, 2012


MAY 30th 2012

ISHAQ SHAIK
A.K.A. FARHAN SHAIK

(ON BEHALF OF ALL RESPONDENTS)

I HAVE AUTHORITY TO BIND ALL RESPONDENTS

~~Jordan Goldblatt
SACK GOLDBLATT MITCHELL LLP
20 Dundas Street West, Suite 1100
Toronto, ON M5G 2G8~~

~~Counsel for the Respondents, Loox Health Care Inc.
and Farhan Shaik~~

COLLEGE OF OPTICIANS OF ONTARIO
Applicant

- and -

LOOX HEALTH CARE INC. et al.
Respondents

COURT FILE NO.: CV-11-438520

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto, Ontario

ORDER

COLLEGE OF OPTICIANS OF ONTARIO

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of Opticians of Ontario