

ONTARIO
SUPERIOR COURT OF JUSTICE



HONOURABLE MR

STANSON

WEEN:

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)

THURSDAY, THE 2ND DAY OF
FEBRUARY, 2012

COLLEGE OF OPTICIANS OF ONTARIO

Applicant

- and -

JEALOUSY BEAUTY INC.,
and JANE DOE

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, 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:

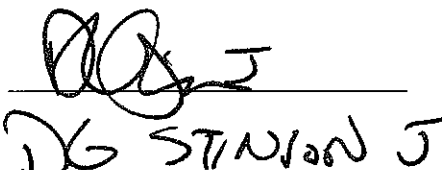
1. **THIS COURT DECLARES** that the respondent, Jealousy Beauty Inc., violated s 42(1) of the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18 (the "RHPA")

as it knowingly employed an individual who performed the controlled act of dispensing in the course of her employment while not being authorized to do so.

2. **THIS COURT ORDERS** Jealousy Beauty 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 Jealousy Beauty Inc. refrain from:

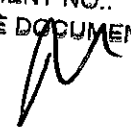
- i. Holding himself or herself out as a person who is qualified to practise in Ontario as an optician unless he or she is a member in good standing of the College of Opticians of Ontario; and
- ii. Performing the controlled act of dispensing subnormal vision devices, contact lenses or eye glasses unless he or she is legally authorized to do so.

3. **THIS COURT ORDERS** the respondent, Jealousy Beauty Inc., to pay costs to the applicant in the amount of \$3,000.00, payable in five (5) equal installments of \$600.00 each on or before February 1, 2012, March 1, 2012, April 1, 2012, May 1, 2012 and June 1, 2012.


D.G. STINSON J

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

FEB - 8 2012

AS DOCUMENT NO.:
À TITRE DE DOCUMENT NO.:
PER / PAR: 

Schedule 'A'

COURT FILE NO.: CV-11-438525

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

COLLEGE OF OPTICIANS OF ONTARIO

Applicant

- and -

**JEALOUSY BEAUTY INC.,
and JANE DOE**

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 Jealousy Beauty Inc. and Jane Doe (the "Respondents") for the relief set out in the Notice of Application in Court File No. CV-11-438525 (the "Application"),

AND WHEREAS the College and the respondent, Jealousy Beauty Inc., desire to resolve the issues raised in the application,

AND WHEREAS Jealousy Beauty Inc. has advised the College that the Respondent, Jane Doe, is no longer an employee of Jealousy Beauty Inc. and, to its knowledge, no longer resides in Canada,

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THE PARTIES, THE COLLEGE AND JEALOUSY BEAUTY INC., 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 September 17, 2010 and October 21, 2010, Jane Doe performed the controlled act of dispensing subnormal vision devices, contact lenses or eye glasses;
6. On or about September 17, 2010 and October 21, 2010, Jane Doe held herself out as a person who is qualified to practise in Ontario as an optician;
7. Jane Doe is not now and has never been registered to practise as an optician, optometrist or physician in the province of Ontario;
8. Jealousy Beauty Inc. is a corporation registered in the Province of Ontario;
9. Jealousy Beauty Inc. was the employer of Jane Doe at all material times;
10. Jealousy Beauty Inc. permitted Jane Doe to perform the controlled act of dispensing even though it knew or should have known that Jane Doe was not permitted to do so;
11. The Respondent, Jealousy Beauty Inc., agrees and acknowledges that the facts set out in paragraphs 5-10 above are true and that such events constitute a violation of sections 27(1) and 42(1) of the *Regulated Health Professions Act, 1991* and section 9(3) of the *Opticianry Act, 1991*.

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12. The Respondent, Jealousy Beauty Inc., agrees that it will immediately cease and desist the dispensing of eyeglasses and contact lenses unless the dispensing is done by a registered optician, optometrist or ophthalmologist.

13. The Respondent, Jealousy Beauty Inc., agrees that it will not permit the dispensing of eyeglasses and contact lenses unless the dispensing is done by a registered optician, optometrist or ophthalmologist.

14. The Respondent, Jealousy Beauty Inc., agrees to a court order as follows:

1. A declaration that the respondent, Jealousy Beauty 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 her employment while not being authorized to do so.
2. An order directing Jealousy Beauty 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 Jealousy Beauty 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.

15. The Respondent, Jealousy Beauty Inc., agrees that they will pay costs to the College in the amount of \$3,000.00, payable in five (5) equal installments of \$600.00 each on or before February 1, 2012, March 1, 2012, April 1, 2012, May 1, 2012 and June 1, 2012.

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16. The Respondent, Jealousy Beauty Inc., agrees, acknowledges and undertakes that the court order referred to above and these Minutes of Settlement may be used in any subsequent court or regulatory proceedings.

17. Jealousy Beauty Inc. acknowledges that it has been provided with an opportunity to consult with independent legal counsel and understands the meaning and consequence of entering into these Minutes of Settlement.

SIGNED AT TORONTO, ONTARIO, THIS 1st DAY OF ~~JANUARY~~ ^{February}, 2012

Melisse L. Willems
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

SIGNED AT MARKHAM, ONTARIO, THIS 30th DAY OF JANUARY, 2012

WITNESS:

Table

JEALOUSY BEAUTY INC.

Per: [Signature]
Name:

I have authority to bind the corporation

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COLLEGE OF OPTICIANS OF ONTARIO - and -
Applicant

JEALOUSY BEAUTY INC. et al.
Respondents

COURT FILE NO.: CV-11-438525

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceedings commenced at Toronto, Ontario

ORDER

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