

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE MADA M)
LOW)
JUSTICE)

FRIDAY, THE 24th DAY OF
FEBRUARY, 2012



BETWEEN:

COLLEGE OF OPTICIANS OF ONTARIO

Applicant

- and -

2194951 ONTARIO INC. c.o.b. SPICY GIRL,
JANE DOE 1 and JANE DOE 2

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, 2194951 Ontario 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 DECLARES** that Wendy Huang (named as “Jane Doe 1” in the title of proceedings):

- 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 herself 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** 2194951 Ontario 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 2194951 Ontario 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** Wendy Huang to comply with the *Opticianry Act, 1991* and the RHPA, including that she refrain from:

- i. Holding herself out as a person who is qualified to practise in Ontario as an optician; and
- ii. Performing the controlled act of dispensing subnormal vision devices, contact lenses or eye glasses.

5. **THIS COURT ORDERS** the respondent, 2194951 Ontario Inc., to pay costs to the applicant in the amount of \$4,000.00, payable in six (6) installments as follows: \$600.00 each on or before March 1, 2012, April 1, 2012, May 1, 2012, June 1, 2012 and July 1, 2012 and \$1,000.00 on or before August 1, 2012.

Rm. Ittman

MAR 15 2012

R. Ittman, Registrar
Superior Court of Justice

THIS ORDER / JUDGMENT BEARS INTEREST AT THE
RATE OF 3.0 PER CENT PER YEAR ON ANY
PAYMENT OR PAYMENTS IN RESPECT OF WHICH
THERE IS A DEFAULT FROM THE DATE OF DEFAULT

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

MAR 21 2012

PER / PAR:

[Signature]

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

COLLEGE OF OPTICIANS OF ONTARIO

Applicant

- and -

2194951 ONTARIO INC. c.o.b. SPICY GIRL,
JANE DOE 1 and JANE DOE 2

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 2194951 Ontario Inc., Jane Doe 1 and Jane Doe 2 (the "Respondents") for the relief set out in the Notice of Application in Court File No. CV-11-438523 (the "Application"),

AND WHEREAS the College and the respondents, 2194951 Ontario Inc. and Wendy Huang, desire to resolve the issues raised in the application,

AND WHEREAS the respondent Jane Doe 1 has been identified as Wendy Huang,

AND WHEREAS the parties have agreed that Jane Doe 2 was not involved in the matters referred to herein and the matter shall therefore be dismissed against Jane Doe 2 on a without costs basis,

THE PARTIES, THE COLLEGE AND 2194951 ONTARIO INC., AGREE THAT:

1. In Ontario, the dispensing, for vision or eye problems, subnormal vision devices, contact lenses or eye glasses other than simple magnifiers ("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 November 4, 2010, Wendy Huang performed the controlled act of Dispensing;
6. On or about September 17, 2010 and November 4, 2010, Wendy Huang held herself out as a person who is qualified to practise in Ontario as an optician;
7. Wendy Huang is not now nor has ever been registered to practise as an optician, optometrist or physician in the province of Ontario;
8. 2194951 Ontario Inc. is a corporation registered in the Province of Ontario, carrying on business in Ontario as "Spicy Girl" located in the Pacific Mall at 4300 Steeles Avenue East, Unit A35 Markham;
9. 2194951 Ontario Inc. was the employer of Wendy Huang at all material times;
10. 2194951 Ontario Inc. permitted Wendy Huang to perform the controlled act of Dispensing even though it knew or should have known that Wendy Huang was not permitted to do so;

11. The Respondents, 2194951 Ontario Inc. and Wendy Huang, agree and acknowledge 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*.

12. The Respondents, 2194951 Ontario Inc. and Wendy Huang, agree that they will immediately cease and desist Dispensing unless the Dispensing is done by a registered optician, optometrist or ophthalmologist.

13. The Respondents, 2194951 Ontario Inc. and Wendy Huang, agree that they will not permit Dispensing unless the Dispensing is done by a registered optician, optometrist or ophthalmologist.

14. The Respondents, 2194951 Ontario Inc. and Wendy Huang, agree to a court order as follows:

1. A declaration that the respondent, 2194951 Ontario Inc. c.o.b. Spicy Girl, 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. A declaration that the respondent, Wendy Huang (named as "Jane Doe 1" in the title of proceedings):
 - i. Violated s. 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 herself 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. An order directing 2194951 Ontario 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 its behalf 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. An order directing Wendy Huang to comply with the *Opticianry Act, 1991* and the RHPA, including that she refrain from:
 - i. Holding herself out as a person who is qualified to practise in Ontario as an optician; and
 - ii. Performing the controlled act of dispensing subnormal vision devices, contact lenses or eye glasses.

5. An order dismissing the application against Jane Doe 2, without costs.

6. An order that the Respondent, 2194951 Ontario Inc., will pay costs to the College in the amount of \$4,000.00, payable in six (6) installments as follows: \$600.00 each on or before March 1, 2012, April 1, 2012, May 1, 2012, June 1, 2012 and July 1, 2012 and \$1,000.00 on or before August 1, 2012.

15. The Respondents, 2194951 Ontario Inc. and Wendy Huang, 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, 2194951 Ontario Inc. and *** acknowledge that they have consulted with independent legal counsel and understand the meaning and consequence of entering into these Minutes of Settlement.

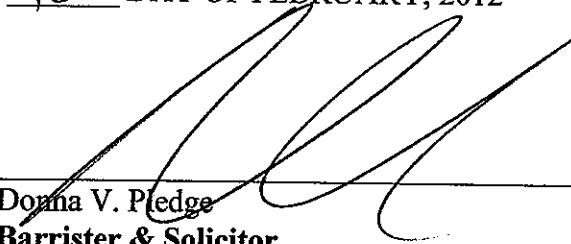
SIGNED AT TORONTO, ONTARIO, THIS 23 DAY OF FEBRUARY, 2012



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

Counsel for the Applicant, the College of Opticians
of Ontario

SIGNED AT TORONTO, ONTARIO, THIS 23 DAY OF FEBRUARY, 2012



Donna V. Pledge
Barrister & Solicitor
1013 Wilson Ave. Suite 203
Toronto, ON M3K 1G1
Counsel for the Respondents, 2194951 Ontario Inc.
c.o.b. Spicy Girl and Jane Doe 1

COLLEGE OF OPTICIANS OF ONTARIO - and -
Applicant

2194951 ONTARIO INC. et al.
Respondents

COURT FILE NO.: CV-11-438523

**ONTARIO
SUPERIOR COURT OF
JUSTICE**

Proceedings commenced at
Toronto, Ontario

ORDER

WAP

**COLLEGE OF OPTICIANS
OF ONTARIO**
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