

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

PANEL:	Peggy Dreyer R.O	Chairperson
	Ingrid Koenig R.O.	Professional Member
	Michelle Rivais R.O.	Professional Member
	Librado Ibe	Public Member
	Sandra Lawson	Public Member

BETWEEN:

COLLEGE OF OPTICIANS OF ONTARIO)	REBECCA C. DURCAN for
)	College of Opticians of Ontario
- and -)	
)	
)	
)	No one appearing for the Member
ADAM PLIMMER)	
REGISTRATION # C-2260)	
)	
)	LUISA RITACCA
)	Independent Legal Counsel
)	
)	Heard: SEPTEMBER 24, 2013

DECISION AND REASONS

This matter came on for hearing before a panel of the Discipline Committee on September 24, 2013 at the College of Opticians of Ontario (“the College”) at Toronto.

The Member was not present. The Member was given an additional 15 minutes to arrive for the hearing. The Member did not attend.

Counsel for the College provided the panel with evidence confirming that the Member had been duly served with the Amended Notice of Hearing and was aware of the date, time and location. In the circumstances, the panel determined that it could proceed with the hearing in the Member's absence.

The Evidence

The College presented certified documents confirming that Mr. Plimmer was convicted of assault on November 12, 2008 by Madame Justice B. Brown of the Ontario Court of Justice.

The trial transcripts revealed the following:

- (a) Prior to attending the business Mr. Silverman received a phone call from Mr. Plimmer inviting him to attend at his place of business to discuss a customer complaint.
- (b) Video recording of a series of exchanges between Mr. Silverman and Mr. Plimmer show that Mr. Plimmer opened the door somewhat abruptly into Mr. Silverman's face. There was a series of exchanges where Mr. Plimmer yelled at Mr. Silverman in an obviously angry tone.
- (c) From time to time Mr. Plimmer stepped out of the store and hit Mr. Silverman. There were a series of blows by Mr. Plimmer to Mr. Silverman.
- (d) There is nothing on the tape to show that Mr. Silverman ever struck Mr. Plimmer. The most he did was put up his hands in self defense.
- (e) The tapes shows Mr. Plimmer spitting on Mr. Silverman more than once.
- (f) The assault occurred while Mr. Plimmer was acting as a Registered Optician.
- (g) The assault occurred while Mr. Plimmer was serving a customer.
- (h) The assault was committed on a public sidewalk outside of Mr. Plimmer's store on King St. W

Mr. Plimmer testified at his criminal trial as follows:

- (a) he invited Mr. Silverman to his place to have a talk
- (b) he did not appreciate that Mr. Silverman would come to his store unauthorized
- (c) he was with a customer at the time and he was angry because someone had slammed down a parcel when it had been delivered to his business earlier
- (d) that when Mr. Silverman came to his store, he would not let him inside the store, that he would tell him off and "make sure not to hit him", the "him" referring to Mr. Silverman
- (e) he admitted that when he opened the door he did so too hard and hit Mr. Silverman in the head
- (f) he admitted going outside and hitting Mr Silverman with papers

At trial, Mr. Plimmer admitted that he had acted very badly and that he regretted it.

Decision

As set out above, the College called no evidence in support of allegations (a) through (c). As such, the panel makes no findings with respect to those allegations.

The panel has considered the evidence and finds the Member, Adam Plimmer guilty of professional misconduct as set out in paragraph (d) and (e) of the Amended Notice of Hearing and as particularized in paragraph 8 of schedule A as attached to the Amended Notice of Hearing.

The panel finds that Mr. Plimmer's behaviour was dishonourable, disgraceful and unprofessional.

As a registered Optician, Mr. Plimmer has a responsibility to follow the Code of Ethics. The panel finds that the criminal activity the member was found guilty of breaches the Code, specifically #8. "Will uphold the honour and dignity of the profession by standards of integrity and behaviour."

The panel is satisfied that the criminal activity for which Mr. Plimmer was found guilty of is relevant to his suitability to practise. The offence took place while Mr. Plimmer was acting as a Registered Optician, he testified at his criminal trial that he invited Mr. Silverman to the store and that he was with a customer at the time Mr. Silverman arrived. The offence happened on a public street in front of his place of business.

Given this, the panel finds that Mr. Plimmer breached the Code and is guilty of professional misconduct as his behaviour does not uphold the honour and dignity of the profession.

Penalty

1. Mr. Plimmer to appear before a panel of the Discipline Committee to receive a reprimand, the fact of which shall be recorded on the public register within 3 (three) months of the date of order.
2. The Registrar is directed to suspend Mr. Plimmer's certificate of registration for 5 (five) months, to commence on October 25, 2013.
3. The Registrar is directed to impose a specified term, condition and limitation on Mr. Plimmer's certificate of registration that:
 - a) Mr. Plimmer successfully complete a course, approved by the Registrar, in ethics and jurisprudence, within 7 (seven) months of the date of this order, the cost of which will be borne by the Member;
 - b) Mr. Plimmer successfully complete a course, approved by the Registrar, in communicating professionally with the public, within 7 (seven) months of the date of this order, the cost of which will be borne by the Member; and
 - c) Mr. Plimmer complete 3 (three) one-on-one anger-management counseling sessions ("the sessions"), with a duly qualified professional approved by the Registrar ("the counsellor"). The sessions shall be completed within 3 (three) months of the date of this order. The sessions shall

address the conduct that is subject to this hearing as it relates to the Member's suitability to practice opticianry. The cost of these sessions will be borne by the member:

- i. Prior to beginning the sessions with the counsellor, the Member shall:
 1. Provide the counsellor with a copy of the Amended Notice of Hearing and a copy of the Panel's Decision and Reasons in this hearing; and
 2. Deliver to the Registrar a letter signed by the counsellor confirming that the counsellor has received and reviewed the Amended Notice of Hearing and the Panel's Decision and Reasons in this hearing, and confirming the counsellor's agreement to provide the Registrar with the report referred to below in paragraph (c) (ii);
- ii. Within 3 (three) weeks of completion of the sessions, Mr. Plimmer must ensure that the Registrar receives a report from the counsellor outlining Mr. Plimmer's participation in the sessions as well as his/her assessment of Mr. Plimmer's insight into his behaviour.

4. Mr. Plimmer is required to pay the College a portion of its costs in this matter in the amount of \$10,000.00 within 7 (seven) months of the date of the panel's order.

Reasons for Penalty Decision

The panel accepted the College's penalty submission and agrees that the penalty is appropriate in the circumstances. With respect to the reprimand, the panel agrees that Mr. Plimmer needs to hear from his peers that his conduct is regarded as disgraceful, dishonourable and unprofessional.

The specified terms, limits and conditions the panel has placed on the Member's certificate of registration provide a level of assurance to the public that the conduct should not happen again, while also allowing for Mr. Plimmer's rehabilitation.

The suspension of the Member's certificate of registration acts as a deterrent to Mr. Plimmer and the Members of the College at large.

The College has requested costs in the amount of \$10,000 payable within 7 (seven) months of the date of this order. The panel agrees. These costs are modest in light of the costs incurred by the College to date.

I, **Peggy Dreyer**, 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:


Chairperson

Oct 10/13
Date

Peggy Dreyer R.O.
Ingrid Koenig R.O.
Michelle Rivais R.O.
Librado Ibe
Saundra Lawson

Chairperson
Professional Member
Professional Member
Public Member
Public Member