

**DISCIPLINE COMMITTEE
OF THE COLLEGE OF DENTAL TECHNOLOGISTS OF ONTARIO**

PANEL: Robert Shawyer, Chairperson. Public Member
Joanne Kranyak, Public Member
Daniel Choi, Professional Member

BETWEEN:

COLLEGE OF DENTAL TECHNOLOGISTS)	Jordan Glick for College
)	of Dental Technologists of Ontario
)	
- and -)	
)	
DAMIR-SLAVKO HANZEK)	Damir-Slavko Hanzek, self-represented
)	
)	
)	Andrea Gonsalves
)	Independent Legal Counsel
)	
)	Heard: March 23, 2020

DECISION AND REASONS

[1] This matter came on for hearing before a panel of the Discipline Committee (the “**Panel**”) of the College of Dental Technologists of Ontario (the “**College**”) on March 23, 2020, by teleconference.

[2] At the outset of the hearing, the parties confirmed to the Panel their consent to proceed with an electronic hearing and that they waived all procedural requirements in connection with the electronic hearing, including the requirement for a notice of electronic hearing.

The Allegations

[3] The allegations against Damir-Slavko Hanzek (the “**Member**” or the “**Former Member**”) as set out in the Statement of Allegations appended to the Notice of Hearing dated July 22, 2019, are as follows.

IT IS ALLEGED THAT:

1. Mr. Damir-Slavko Hanzek (the “**Member**”) committed an act or acts of professional misconduct as provided by subsection 51(1)(c) of the *Health Professions Procedural Code* of the *Dental Technology Act, 1991*, as amended, and

subsection 1(2) of *Ontario Regulation 798/93*, as amended, in that, while engaged in the practice of dental technology at Prestige Dental Studio (“**Prestige**”), he failed to maintain a standard of practice of the profession when he:

- a. failed to update his member profile to reflect that he was acting as the supervising RDT at Prestige; and/or,
- b. failed to maintain records as required including, but not limited to, in accordance with the supervisory standard; and/or,
- c. failed to supervise and/or design, construct, repair and/or alter a dental prosthetic, restorative and/or orthodontic devices and, in particular, the devices related to invoices issued between June 12, 2017 and October 13, 2017 as identified in Appendix “A”; and/or,
- d. failed to stamp the client and laboratory copy of invoices issued between June 12, 2017 and October 13, 2017 in accordance with standards as identified for the clients in Appendix “A” [to the Notice of Hearing – omitted from these Reasons for Decision].

2. The Member committed an act or acts of professional misconduct as provided by subsection 51(1)(c) of the *Health Professions Procedural Code* of the *Dental Technology Act, 1991*, as amended, in that while engaged in the practice of dental technology at Prestige, he contravened subsection 1(21) of *Ontario Regulation 798/93*, as amended by failing to keep records as required.

3. The Member committed an act or acts of professional misconduct as provided by subsection 51(1)(c) of the *Health Professions Procedural Code* of the *Dental Technology Act, 1991*, as amended, and subsection 1(22) of *Ontario Regulation 798/93*, as amended, in that while engaged in the practice of dental technology at Prestige, he falsified records relating to his practice and, in particular, in respect of the invoices for clients identified in Appendix “A” [to the Notice of Hearing – omitted from these Reasons for Decision].

4. The Member committed an act or acts of professional misconduct as provided by subsection 51(1)(c) of the *Health Professions Procedural Code* of the *Dental Technology Act, 1991*, as amended, and subsection 1(31) of *Ontario Regulation 798/93*, as amended in that while engaged in the practice of dental technology at Prestige, he contravened the *Dental Technology Act, 1991*, the *Regulated Health Professions Act, 1991*, and/or the Regulations under both those *Acts* by directing and/or permitting the design, construction, repair or alteration of a dental prosthetics, restorative or orthodontic device where he did not supervise the technical aspects of the design, construction, repair or alteration.

5. The Member committed an act or acts of professional misconduct as provided by subsection 51(1)(c) of the *Health Professions Procedural Code* of the *Dental Technology Act, 1991*, as amended, and subsection 1(34) of *Ontario*

Regulation 798/93, as amended, in that, while engaged in the practice of dental technology as the supervising RDT at Prestige, he engaged in conduct or performed an act or acts relevant to the practice of dental technology that, having regard to all the circumstances, would reasonably be regarded by members of the profession as disgraceful, dishonourable or unprofessional when he:

- a. failed to update his member profile to reflect that he was acting as the supervising RDT at Prestige; and/or,
- b. failed to maintain records as required including, but not limited to, in accordance with the supervisory standard; and/or,
- c. failed to supervise and/or design, construct, repair and/or alter a dental prosthetic, restorative and/or orthodontic devices and, in particular, the devices related to invoices issued between June 12, 2017 and October 13, 2017 as identified in Appendix “A”; and/or,
- d. failed to stamp the client and laboratory copy of invoices issued between June 12, 2017 and October 13, 2017 in accordance with standards as identified for the clients in Appendix “A” [to the Notice of Hearing – omitted from these Reasons for Decision].

Member’s Plea

[4] The Member admitted all of the allegations in the Statement of Allegations. The Panel conducted an oral plea inquiry and was satisfied that the Member’s admissions were voluntary, informed and unequivocal.

Agreed Statement of Facts

[5] Counsel for the College advised the Panel that the parties had reached an agreement on the facts. An Agreed Statement of Facts was presented to the Panel, which provided in relevant part as follows.

1. At all times relevant times, Mr. Damir-Slavko Hanzek (“**Mr. Hanzek**” or the “**Member**”) was a registered member of the College of Dental Technologists of Ontario (the “**College**”).
2. In June of 2018, the College received information regarding the Member and Prestige Dental Studio (“**Prestige**” or the “**Lab**”). In particular, the informant provided to the College an invoice from Prestige that was stamped by the Member. The informant advised that the original invoice was dated from 2017 and did not contain Mr. Hanzek’s stamp. The invoice copy that was stamped by the Member was received in 2018 as part of a litigation process involving a dentist and the owner of Prestige. As a result, the concern was raised that Mr. Hanzek did not directly supervise the outgoing case of Prestige.

3. A search of the College's public register in July of 2018 revealed that Prestige was not a recognized place of business and that Mr. Hanzek's member profile did not reflect that he was acting or had acted as an Registered Dental Technologist ("**RDT**") or as the Supervising RDT at Prestige.
4. In August of 2018, the dentist in the court proceeding involving Prestige made a formal complaint to the College regarding Mr. Hanzek. In particular, the dentist alleged that the invoices identified in Appendix "A", which are dated between June and October 2017, were not stamped by the Member when they were initially provided at the time that the work was completed. However, during the litigation, many of those same invoices, produced by Prestige, were stamped by the Member.
5. During the College's investigation, the College learned, and the Member acknowledges that:
 - A. Between June and August of 2017, The Member worked at Prestige. He did not update his Member profile or advise the College;
 - B. The Member was the only RDT at Prestige. As such, he assumed the role of Supervising RDT and was responsible for meeting the standards of practice as they relate to supervising a lab;
 - C. Prestige was a Lab that operated out of the basement of its owner's house between June and August 2017. The Lab was not able to grow its clientele and closed;
 - D. The Member worked on up to 50 cases produced by Prestige. However, he was not present for the fabrication of most devices. He did not supervise the technical aspects of the design, construction, repair or alteration of the dental devices. Rather, he was contacted by the owner of Prestige when a device was completed to be checked over and stamped;
 - E. The Member did not keep any records of any prescriptions, invoices or any other documentation relating to his work. There is no record of the time that the Member spent in the Lab. As a result, the Member has no knowledge of whether the Lab produced devices that he did not check;
 - F. The Member did not stamp invoices as identified for clients in Appendix "A" in accordance with the College's Supervision Standard. In some cases, the Member stamped invoices at a later date and/or in respect of dental devices where the Member did not personally supervise the design, construction, repair or alteration as the original invoices that were sent by Prestige to the dentist were not stamped.
6. In July of 2003, the College introduced its "Laboratory Supervision Standard" (the "**Supervision Standard**"). The Member acknowledges that the

Supervision Standard reflects the standard of practice as it relates to laboratory supervision during the Relevant Time.

ADMISSIONS

7. By virtue of the above conduct, the Member admits to having committed professional misconduct as provided by subsection 51(1)(c) of the *Health Profession Procedural Code* by contravening the following sections of *Ontario Regulation 798/93* to the *Dental Technology Act, 1991*:
 - A. Subsection 1(2) of *Ontario Regulation 798/93*, as amended, in that, while engaged in the practice of dental technology at Prestige, he failed to maintain a standard of practice of the profession when he:
 - a. failed to update his member profile to reflect that he was acting as the supervising RDT at Prestige; and/or,
 - b. failed to maintain records as required including, but not limited to, in accordance with the supervisory standard; and/or,
 - c. failed to supervise and/or design, construct, repair and/or alter a dental prosthetic, restorative and/or orthodontic devices and, in particular, the devices related to invoices issued between June 12, 2017 and October 13, 2017 as identified in Appendix "A" [Appendix "A" is omitted from these reasons]; and/or,
 - d. failed to stamp the client and laboratory copy of invoices issued between June 12, 2017 and October 13, 2017 in accordance with standards as identified for the clients in Appendix "A".
 - B. Subsection 1(21) of *Ontario Regulation 798/93*, as amended, in that, while engaged in the practice of dental technology at Prestige, he failed to keep records as required.
 - C. Subsection 1(22) of *Ontario Regulation 798/93*, as amended, in that while engaged in the practice of dental technology at Prestige, he falsified records relating to his practice and, in particular, in respect of some or all of the invoices for clients identified in Appendix "A".
 - D. Subsection 1(31) of *Ontario Regulation 798/93*, as amended in that while engaged in the practice of dental technology at Prestige, he contravened the *Dental Technology Act, 1991*, the *Regulated Health Professions Act, 1991*, and/or the Regulations under both those Acts by directing and/or permitting the design, construction, repair or alteration of a dental prosthetics, restorative or orthodontic device where he did not supervise the technical aspects of the design, construction, repair or alteration.

- E. Subsection 1(34) of *Ontario Regulation 798/93*, as amended, in that, while engaged in the practice of dental technology at Prestige, he engaged in conduct or performed an act or acts relevant to the practice of dental technology that, having regard to all the circumstances, would reasonably be regarded by members of the profession as disgraceful, dishonourable or unprofessional when he:
- a. failed to update his member profile to reflect that he was acting as the supervising RDT at Prestige; and/or,
 - b. failed to maintain records as required including, but not limited to, in accordance with the supervisory standard; and/or,
 - c. failed to supervise and/or design, construct, repair and/or alter a dental prosthetic, restorative and/or orthodontic devices and, in particular, the devices related to invoices issued between June 12, 2017 and October 13, 2017 as identified in Appendix “A”; and/or,
 - d. failed to stamp the client and laboratory copy of invoices issued between June 12, 2017 and October 13, 2017 in accordance with standards as identified for the clients in Appendix “A”.

Decision

[6] The Panel found that the Member committed acts of professional misconduct as set out in the Notice of Hearing. With respect to allegation 5, the Panel found that the Member engaged in conduct that would reasonably be regarded by members as unprofessional.

Reasons for Decision

[7] The Panel considered the Agreed Statement of Facts and the Member’s admissions and found that on a balance of probabilities the evidence supports findings of professional misconduct as alleged in the Statement of Allegations.

[8] In the Agreed Statement of Facts and again at the hearing, the Member admitted all of the allegations made by the College.

[9] In addition to the Member’s admissions, the Agreed Statement of Facts establishes that the Member engaged in conduct that was in contravention of subsection 51(1)(c) of the *Health Professions Procedural Code* of the *Dental Technology Act, 1991*, as amended, and subsections 1(2), 1(21), 1(22) and 1(31) of *Ontario Regulation 798/93*, as amended. Specifically:

- a. At all relevant times he was a registered member of the College. However, between June and October of 2017 while working at Prestige he did not update his member profile or advise the College that he was working at Prestige. Further, he did not update his member profile to reflect the fact that he was acting or had acted as a

RDT or as the Supervising RDT at Prestige. In failing to update his member profile or to advise the College of his role at Prestige, the Member failed to maintain the standards of the profession, which is an act of professional misconduct under subsection 1(2) of *Ontario Regulation 798/93*.

- b. Between June and October of 2017, the Member did not stamp invoices provided to dentists for work done by Prestige. In 2018, during litigation between Prestige and a dentist who had retained Prestige, the Member disclosed invoices for work done by Prestige that he had stamped after the fact to make it appear that he had personally supervised the design, construction, repair or alteration work performed by employees of Prestige during the period of June to August of 2017 when in fact he had not. In stamping the invoices at a later date, the Member falsified records relating to his practice, which is an act of professional misconduct under subsection 1(22) of *Ontario Regulation 798/93*. Further, the Member's failure to stamp the invoices at the time they were issued amounts to a failure to maintain a standard of the profession.
- c. The Member worked on up to 50 cases produced by Prestige. However, he was not present for the fabrication of most devices, nor did he personally supervise the technical aspects of the design, construction, repair or alteration of the dental devices. Rather, admitted he was contacted by the owner of Prestige when a device was completed to be checked over and stamped. By failing to actually supervise the technical aspects of the design, construction, repair or alteration of those devices, and directing and/or permitting such design, construction, repair or alteration without supervising the technical aspects, the Member committed acts of professional misconduct under subsections 1(31) of *Ontario Regulation 798/93* and failed to maintain a standard of the profession under subsection 1(2).
- d. The Member did not keep any records of any prescriptions, invoices or any other documentation relating to his work while at Prestige that would prove that he spent time supervising the work being performed by Prestige's Lab. Therefore, he had no knowledge of whether Prestige's Lab produced devices that he did not personally check. Failing to keep records as required is an act of professional misconduct under subsection 1(21) of *Ontario Regulation 798/93*. It is also a failure to maintain a standard of the profession.

[10] With respect to the allegation of professional misconduct under subsection 1(34) of *Ontario Regulation 798/93*, and having regard to the findings set out above, the Panel found that the Member's conduct would reasonably be regarded by members as unprofessional. In addition to the facts that underpinned the Panel's findings on allegations 1 through 4 of the Notice of Allegations as summarised in paragraph 9 above, the Panel found in significant that Prestige was not a place of business recognized by the College. It was in fact a Lab that operated out of the basement of its owner's house between June and August of 2017; and the Member's College profile did not reflect the fact that he was working for Prestige. These additional contextual facts support the Panel's conclusion that the Member's conduct would reasonably be regarded as unprofessional.

[11] Disgraceful conduct is conduct that has the effect of shaming the Member and, by extension, the profession. Dishonourable conduct is similar in nature to disgraceful conduct. Dishonourable conduct, like disgraceful conduct, has an element of moral failing in that a Member ought to, or did, know that the conduct is unacceptable and falls well below the standards of a professional when they committed the acts alleged. While, as explained above, the the Member's conduct was certainly unprofessional, the Panel did not find that the Member's conduct would reasonably be considered to be disgraceful or dishonourable. The Panel was satisfied that, in the specific circumstances of this case, the Member's conduct does not demonstrate a moral failing or cast serious doubt on his moral fitness and inherent ability to discharge the higher obligations the public expects professionals to meet. This conclusion is supported by the fact that at the hearing the Member showed remorse and appeared to sincerely understand that his conduct had the potential to endanger the safety and wellbeing of the public.

[12] Unlike disgraceful or dishonourable conduct unprofessional conduct does not require any dishonest or immoral element to the act or conduct. Many courts have found that unprofessional conduct includes a serious or persistent disregard for one's professional obligations. The Panel finds that this is an apt description of the Member's conduct in all the circumstances.

Penalty Submissions

[13] Counsel for the College presented the Panel with a Joint Submission as to Order that the parties had entered into. The Joint Submission requested that this Panel make an order as follows.

1. Directing the Member to appear before the panel to be reprimanded and the fact of the reprimand to be recorded on the Public Register of the College.
2. Directing the Registrar to suspend the Member's certificate of registration for a period of six (6) months. The period of suspension will begin on the date that the Member is re-registered in the General Class.
3. Directing the Registrar to impose a term, condition and limitation on the Member's certificate of registration which will take effect subsequent to the completion of the suspension at paragraph 2:
 - a) requiring the Member to receive supervision of his practice for a period of two (2) years on the following terms:
 - i. the supervisor shall be appointed by the Registrar and shall be a professional member of the College;
 - ii. the supervisor shall visit with the Member on four (4) occasions at the Member's site(s) of practice. The first two site visits shall be announced while the latter two visits shall be unannounced;
 - iii. the supervisor shall determine the length of each visit;

- iv. in conducting site visits, the supervisor shall review the Member's documentation relating to supervision including, but not limited to, supervisory logs and invoices to ensure compliance with the College's supervision standard;
 - v. the supervisor shall prepare a report to the Registrar for every site visit that will be provided directly to the Registrar¹; and,
 - vi. the Member shall pay the costs of the supervision and report (to a maximum of \$500 per site visit and report) and shall fully reimburse the College for these costs within twenty (20) days of receiving an invoice from the College for the supervision.
- b) Directing the Member to draft an essay of no less than 500 words explaining the requirements, expectations and obligations of a member under the Supervision Standard to be provided to the Registrar within 1 month of being re-registered in the General Class.²
4. Directing the Member to pay the College's costs fixed in the amount of \$2,500 to be paid by certified cheque according to the following schedule and provided that this Joint Submission as to Penalty is accepted in its entirety:
- (i) \$1,250 to be paid by certified cheque or equivalent on the day of the oral hearing; and,
 - (ii) \$1,250 to be paid within 90 days thereafter.

In the event that the Member does not pay \$1,250 on the date of hearing, the payment of the entire \$2,500 becomes immediately due and enforceable.

[14] At the hearing, College counsel advised that Panel that, due to a change in the Member's financial circumstances, the College was agreeable to revising the payment terms of the costs portion of the joint submission (paragraph 4) to permit the Member to pay the full amount of \$2,500 within 12 months of the date of the hearing, with no requirement that any amount be paid

¹ For clarity, in the event that the supervisor's reports suggest that the Member is continuing to engage in professional misconduct, the reports may be relied upon by the Registrar in considering whether to appoint an investigator pursuant to section 75(1)(a) of the *RHPA Procedural Code*.

² The essay obligation must be fulfilled in a professional manner. If the essay is not completed in a professional manner to the satisfaction of the Registrar, the Registrar may, at her discretion, provide a further opportunity for the Member to complete the essay before a suspension is imposed.

on the date of the hearing. The Member agreed to the revised payment terms. The parties also agreed that if the Panel ordered a reprimand, it may be delivered electronically.

[15] College counsel made submissions in support of the Joint Submission as to Order. College counsel urged the Panel to accept the joint submission as it would meet all of the objectives of penalty and would not be contrary to the public interest.

Penalty Decision

The Panel accepted the Joint Submission and made the following order:

1. The Member shall appear before the Panel to be reprimanded and the fact of the reprimand will be recorded on the Public Register of the College.
2. The Registrar is directed to suspend the Member's certificate of registration for a period of six (6) months. The period of suspension will begin on the date that the Member is re-registered in the General Class.
3. The Registrar is directed to impose a term, condition and limitation on the Member's certificate of registration which will take effect subsequent to the completion of the suspension at paragraph 2:
 - a) requiring the Member to receive supervision of his practice for a period of two (2) years on the following terms:
 - i. the supervisor shall be appointed by the Registrar and shall be a professional member of the College;
 - ii. the supervisor shall visit with the Member on four (4) occasions at the Member's site(s) of practice. The first two site visits shall be announced while the latter two visits shall be unannounced;
 - iii. the supervisor shall determine the length of each visit;
 - iv. in conducting site visits, the supervisor shall review the Member's documentation relating to supervision including, but not limited to, supervisory logs and invoices to ensure compliance with the College's supervision standard;
 - v. the supervisor shall prepare a report to the Registrar for every site visit that will be provided directly to the Registrar³; and,

³ For clarity, in the event that the supervisor's reports suggest that the Member is continuing to engage in professional misconduct, the reports may be relied upon by the Registrar in considering whether to appoint an investigator pursuant to section 75(1)(a) of the *RHPA Procedural Code*.

- vi. the Member shall pay the costs of the supervision and report (to a maximum of \$500 per site visit and report) and shall fully reimburse the College for these costs within twenty (20) days of receiving an invoice from the College for the supervision.
 - b) directing the Member to draft an essay of no less than 500 words explaining the requirements, expectations and obligations of a member under the Supervision Standard to be provided to the Registrar within 1 month of being re-registered in the General Class.⁴
4. The Member is directed to pay the College's costs fixed in the amount of \$2,500 to be paid by certified cheque, the full amount being due on or before March 23, 2021.

Reasons for Penalty Decision

[16] The Panel understands that the penalty ordered should protect the public and enhance public confidence in the ability of the College to regulate dental technologists. This is achieved through a penalty that addresses specific deterrence, general deterrence and, where appropriate, rehabilitation and remediation. The Panel also considered the penalty in light of the principle that joint submissions should be respected unless they fall so far outside the range of an appropriate sanction that they would bring the administration of justice at the College into disrepute, or are otherwise contrary to the public interest.

[17] Having considered the Joint Submission and the submissions made by the parties, the Panel was satisfied that the penalty jointly proposed by the College and the Member was appropriate in the circumstances. The Panel was satisfied that the proposed joint penalty achieves general deterrence, specific deterrence and rehabilitation/remediation, and that the proposed penalty protects the public.

[18] The Panel is satisfied that penalty ordered achieves the goals of general deterrence, specific deterrence, rehabilitation/remediation, and that the penalty protects the public for the following reasons:

- a. The requirement that the Member appear before the Panel to be reprimanded and that the fact of the reprimand to be recorded on the College's Public Register serves the goals of specific deterrence and protection of the public. The reprimand communicates directly to the Member his conduct is unacceptable and discredits the entire dental technology profession. It singles out the Panel's member's conduct and publicly shames him by having the fact of the reprimand entered into the public portion of the Register, which should

⁴ The essay obligation must be fulfilled in a professional manner. If the essay is not completed in a professional manner to the satisfaction of the Registrar, the Registrar may, at her discretion, provide a further opportunity for the Member to complete the essay before a suspension is imposed.

discourage the Member from engaging in similar misconduct in the future to avoid being publicly shamed.

- b. The suspension of the Member's certificate of registration for a period of six months to begin if and when he is ever re-registered in the General Class serves the goals of specific deterrence, general deterrence, and protection of the public. The Member must face a significant suspension as a result of his misconduct. In addition, the suspension signals to other members of this College that professional misconduct will be addressed through meaningful penalties that are proportionate to the misconduct engaged in.
- c) The terms requiring that the Member's practice be supervised for a period of 2 years (at his expense) and that the Member draft an essay explaining the requirements, expectations and obligations of a member under the Supervision Standard serve the goal of rehabilitation/remediation and protect the public. These terms provide the Member with an opportunity to gain a better understanding of the College's standards with respect to laboratory supervision and to receive specific guidance from the practice supervisor with respect to issue that might arise in his practice. These terms will help ensure that in the future the Member has the tools and knowledge to avoid the pitfalls that led to his misconduct in this case.

[19] The appropriateness of the penalty is supported by the following mitigating factors in this case:

- a. Counsel for the College advised that the Member after initially being unresponsive to letters sent to him by the College during the course of its investigation began to fully cooperate with the College during the course of its investigation. The Member's cooperation demonstrates his acceptance of responsibility and sincere remorse. This is an important mitigating factor.
- b. The Member voluntarily entered into an Agreed Statement of Facts and Joint Submission. By admitting to the allegations, the Member waived his right to challenge the College's allegations and spared the College the cost and inconvenience of a contested hearing. The Panel observed the Member to demonstrate true remorse and accepted that he was sincere when he advised the Panel that he would not engage in misconduct in the future. The Member's willingness to admit to the professional misconduct alleged and to work with the College indicates that the rehabilitative measures in the penalty order are likely to be effective and that the Member is unlikely to engage in professional misconduct in the future.

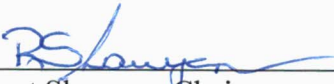
[20] In view of the parties' agreement that the Member should be given one year from the date of the hearing to pay the College's costs to accommodate the Member's change in financial circumstances, the Panel agreed to that change to the Joint Submission.

[21] Considering all the circumstances, the Panel was satisfied that the penalty is in the public interest and provides adequate protection of the public.

Reprimand

[22] At the conclusion of the hearing, the Member indicated that he was prepared to receive the reprimand ordered by the Panel. The Member confirmed orally, on the record, that he waived his right of appeal. Accordingly, the Panel delivered the reprimand.

I, Robert Shawyer, 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:



Robert Shawyer, Chairperson
Joanne Kranyak
Daniel Choi

June 11, 2020