

**DISCIPLINE COMMITTEE OF
THE COLLEGE OF CHIROPODISTS OF ONTARIO**

PANEL: Jim Daley, Public Member, Chair
Millicent Vorkapich-Hill, Professional Member
Aladdin Mohagheh, Public Member

BETWEEN:

| | | |
|------------------------------------|---|-------------------------------------|
| COLLEGE OF CHIROPODISTS OF ONTARIO |) | |
| |) | <i>Alex Wilbee</i> |
| |) | College of Chiropractors of Ontario |
| |) | |
| - and - |) | |
| |) | <i>Jonah Arnold</i> |
| |) | for the Member |
| |) | |
| DOMINADOR TOMINES |) | |
| |) | <i>Luisa Ritacca</i> |
| |) | Independent Legal Counsel |
| |) | |
| |) | |
| |) | Heard: November 29, 2017 |

DECISION AND REASONS

Introduction

A hearing before a Panel of the Discipline Committee (“Panel”) of the College of Chiropractors of Ontario (“College”) was held on November 29, 2017. The hearing concerned allegations of professional misconduct against a member of the College, Mr. Dominador Tomines (the “Member”). The College has a mandate to regulate the practice of the chiropractic profession and to govern its members and, in so doing, serve and protect the public interest.

Mr. Tomines was represented at the hearing by counsel, Mr. Arnold. Due to health issues, Mr. Tomines was not present, but participated via telephone.

Statement of Allegations

1. Dominador Tomines (the “Member”) was, at all material times, a chiropodist registered to practise chiropody in the province of Ontario.
2. Between in or about December 2011 and in or about July 2015 (the “Relevant Period”), the Member engaged in the practice of chiropody at Healthy Fit, first located at 99 City Centre Drive in Mississauga (the “Mississauga Location”) and subsequently at 333 Wilson Avenue, Suite 503 in Toronto (the “Wilson Location”). Mr. Tomines worked for a period of eight hours most weeks and twelve hours for one week each month.
3. In July of 2015, an investigation conducted by Toronto Police Services (“TPS”) led to criminal charges being laid against the owner of Healthy Fit. The charges alleged that Healthy Fit defrauded an insurance company (the “Insurer”) of upwards of four million dollars through a benefits scam. The scam involved employees and family members of the Toronto Transit Commission (the “TTC Employees”) being issued prescriptions for unnecessary medical treatments and devices. The TTC Employees were assisted in making insurance claims to the Insurer where services were not provided and/or medical devices were not dispensed. Healthy Fit then shared the insurance money with the TTC Employees.
4. The TPS investigation revealed that benefits claims were commonly made for orthotics, orthopaedic shoes and/or compression stockings which were often prescribed to TTC Employees as well as their family members in a manner which maximized the insurance claim.
5. As part of the TPS investigation, an undercover police officer posing as a TTC employee attended at Healthy Fit. She was referred to Mr. Tomines who, it is alleged, without examination or discussion, took foam box impressions and provided a prescription for orthotics. Tomines’ prescriptions were ultimately submitted to the Insurer for both orthotics and orthopaedic shoes for a total claim of \$750. The undercover police officer paid \$700 to Healthy Fit and received \$550 in cash.
6. During the course of the police investigation, Mr. Tomines provided an interview to police wherein he advised, and it is alleged, that while he was employed at Healthy Fit:
 - a. he was paid \$100 per orthotic prescription and was otherwise not remunerated;
 - b. he met with patients for a few minutes, watched them walk and took a foam box impression and then wrote them a prescription;
 - c. a typical examination lasted ten to fifteen minutes;
 - d. he told every patient that they required orthotics;

- e. he did not fit or dispense orthotics to any clients or engage in any follow-up at all;
 - f. he would prescribe orthotics to entire families including their children who were sometimes as young as four years old;
 - g. he would prescribe orthopaedic shoes to individuals provided they had coverage for shoes. If they did not have coverage, he would not prescribe them. He did not assist patients to select or fit the orthopaedic shoes;
 - h. he was aware that there was a room at Healthy Fit filled with orthotics and/or orthopaedic shoes that were never dispensed;
 - i. he did not know how Healthy Fit dealt with billing or what Healthy Fit charged for orthotics or orthopaedic shoes;
 - j. he did not retain or have access to any patient records relating to the clients that he provided services to at Healthy Fit.
7. The Insurer subsequently conducted its own undercover investigation. The Insurer's undercover investigator, who did not require orthotics or orthopaedic shoes, attended at Healthy Fit on or about July 11, 2014 wherein he met with Mr. Tomines for a period of less than ten minutes. It is alleged that during this appointment, foam box impressions were taken and the undercover investigator was issued a single prescription for orthotics. The undercover investigator never met with Mr. Tomines again. When the undercover investigator returned a few weeks later, he was invited to purchase a pair of orthopaedic shoes for \$250 and was advised that if he did not want the shoes, he would be paid \$350 in cash. The undercover investigator requested the cash and, after paying \$250 by interac, was handed \$350 without being dispensed orthopaedic shoes.
8. Healthy Fit submitted two claim forms to the Insurer regarding the undercover investigator: a \$500 claim for orthotics and a \$250 claim for orthopaedic shoes, both accompanied by prescriptions signed by Mr. Tomines and dated July 11, 2014. The prescription for orthopaedic shoes was never provided to the undercover investigator and it is alleged that it was signed and backdated.
9. The TPS and Insurer investigations uncovered that during the Relevant Period, Mr. Tomines' prescriptions led to insurance claims in excess of \$1,000,000, the vast majority of which were made by TTC Employees. Of approximately 5000 prescriptions submitted by Healthy Fit to the Insurer, more than 2000 were issued by Mr. Tomines (the "TTC Patients").
10. It is alleged that with respect to prescriptions issued to some or all of the TTC Patients, Mr. Tomines overprescribed and/or gave patients unnecessary prescriptions for orthotics and/or orthopedic shoes in that:

- a. The Member did not perform an adequate examination and/or assessment of the patient, but nonetheless prescribed and/or recommended orthotics, orthopedic shoes, and/or compression stockings for them; and/or,
 - b. The Member did not discuss other treatment options with the patient and/or determined if a different treatment was appropriate before prescribing orthotics and/or orthopaedic shoes as required per the standards.
11. With respect to prescriptions issued to some or all of the TTC Patients, Mr. Tomines prescribed and/or recommended orthotics and/or orthopedic shoes without:
- a. taking an adequate patient history;
 - b. performing an adequate chiropody assessment;
 - c. obtaining and documenting, in a timely manner, informed patient consent;
 - d. providing a range of treatment options;
 - e. using a casting or scanning procedure that meets the standards of practice;
 - f. personally evaluating the casts or scans to ensure they were accurate or ensuring a another designated chiropodist or podiatrist did so. In particular, the Member did not ensure that the patient's foot was compared to the cast or scan to verify that it was an accurate reflection of the patient's condition and the contours of the patient's foot, as outlined in the standards of practice;
 - g. personally fitting the orthotics and/or orthopedic shoes to ensure that the device met the prescription and the contours of the patient's foot and/or ensuring that those steps were performed by another chiropodist or podiatrist; and/or
 - h. offering and/or conducting a follow-up after the orthotics and/or orthopedic shoes had been dispensed.
12. The prescriptions issued to some or all of the TTC Patients were inadequate in that:
- a. the Member did not evaluate and/or record the patient's medical history;
 - b. a biomechanical examination was not performed;
 - c. a gait analysis was not performed;

- d. a foot exam with appropriate measurements and observations was not taken and/or recorded;
 - e. it did not contain the patient information required by the College's standards, including the weight, age, activity level, biomechanical data pertinent to the patient's deformity, and/or other information required for the creation of appropriate prescription custom foot orthoses under the College's standards;
 - f. it did not involve an assessment and recording of the activities and environmental requirements of use;
 - g. appropriate casting or scanning techniques were not used; and/or
 - h. it did not contain the necessary information including, but not limited to, information required under the College's standards related to the materials to be used in the fabrication of the orthotic, the required flexibility, the posting correction required and/or the depth of the heel seat.
13. The Member did not take all reasonable steps necessary to ensure that his patient records were being kept in accordance with the regulations governing records and/or the College of Chiropractors of Ontario's Standards of Practice pertaining to Records. In particular, with respect to some or all of the TTC Patients, the patient record:
- a. did not contain a complete medical history of the patient;
 - b. did not contain a treatment plan;
 - c. did not contain a copy of every written informed consent and/or reasonable information that an informed consent was obtained;
 - d. did not accurately document the date(s) of the patient's visit(s), the date(s) of various examinations, assessments, fittings, and/or castings, and/or the date(s) on which the orthotics and/or orthopedic shoes were dispensed to the patient;
 - e. did not contain reasonable information about every examination performed by the Member and reasonable information about every clinical finding, diagnosis and assessment made by the Member;
 - f. did not contain reasonable information about all significant advice given by the member;

- g. did not contain reasonable information about every order made by the Member for examinations, tests, consultations or treatments to be performed by any other person;
 - h. did not contain every written report received by the Member with respect to examinations, tests, consultations or treatments performed by other health professionals or any other person that provided services to the client in relation to the fitting and dispensing of orthotics and/or orthopedic shoes;
 - i. inaccurately and/or misleadingly documented that casting for orthotics was performed, either in the Member's clinical notes, the patient invoice, the insurance documentation, or elsewhere in the patient record;
 - j. did not document any follow-up appointment(s) that were offered to patients who received orthotics and/or orthopedic shoes;
 - k. were not personally written by the Member at the time of the patient's appointment or within 24 hours thereafter; and/or
 - l. did not contain proof of payment for charges related to chiropody services.
14. The Member's record keeping practices were additionally inadequate in that:
- a. he did not keep a daily appointment book listing the names of the patients he examined, treated, and/or to whom rendered any services; and/or
 - b. he failed to maintain control over the location(s) and/or access to and/or manner of storage of his patients' files.
15. During the Relevant Period, for some or all of the TTC Patients:
- a. the patient invoice(s) and/or documents prepared for the patient's insurance company inaccurately and/or misleadingly represented that the Member had provided certain services to the patient when he had not done so; and/or,
 - b. the Member submitted, or allowed to be submitted, invoices and receipts to one or more patients' insurers that did not accurately reflect the services provided, the individual who provided the services, the date on which the services were provided, and/or the method used to obtain models of the patient's foot for the fabrication of orthotics.

16. The Member failed to ensure that he was aware of and maintained control over the manner in which Healthy Fit billed patients for his chiropractic services.
17. By reason of the conduct alleged in paragraphs 1-16 above, the Member engaged in professional misconduct in that he violated:
 - a. the following subsections of Ontario Regulation 750/93 under the *Chiropractic Act, 1991*:
 - i. 1.2 (Failing to meet or contravening a standard of practice of the profession), and, in particular, the standards pertaining to:
 1. Assessment and Management;
 2. Orthotics and/or Prescription Custom Foot Orthoses;
 3. Patient Relations
 4. Prescription Footwear; and/or
 5. Records;
 - ii. 1.3 (Doing anything to a patient for a therapeutic, preventative, palliative, diagnostic, cosmetic, or other health-related purpose in a situation in which a consent is required by law, without such consent);
 - iii. 1.14. (Providing treatment to a patient where the member knows or ought to know that the provision of the treatment is ineffective, unnecessary or deleterious to the patient or is inappropriate to meet the needs of the patient);
 - iv. 1.17 (Failing to keep records as required by the regulations);
 - v. *Allegation Withdrawn*;
 - vi. 1.20 (Signing or issuing, in the member's professional capacity, a document that contains a false or misleading statement);
 - vii. 1.21 (Submitting an account or charge for services that the member knows is false or misleading);

- viii. 1.30 (Contravening the *Chiropody Act, 1991*, the *Regulated Health Professions Act, 1991*, or the regulations under either of those Acts) and, in particular:
1. the provisions of Ontario Regulation 750/93 under the *Chiropody Act, 1991* specified in this Notice of Hearing,
 2. the provisions of Ontario Regulation 203/94 under the *Chiropody Act, 1991* specified in this Notice of Hearing; and/or
 3. section 51(1)(c) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*.
- ix. 1.33 (Engaging in conduct or performing an act, in the course of practising the profession, that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable, or unprofessional); and/or
- b. sections 13, 14, 16, and 17 of Ontario Regulation 203/94 under the *Chiropody Act, 1991*, pertaining to the required record-keeping practices.

Member's Plea

The Member admitted the allegations, as set out in the Agreed Statement of Facts (Exhibit 1, Tab 4), described below. The Panel conducted a plea inquiry and was satisfied that the Member's admissions were voluntary and unequivocal.

Agreed Statement of Facts

MEMBER

1. Dominador Macaso Tomines (the "**Member**") was at all material times a chiropodist registered to practise chiropody in the Province of Ontario. At all material times he

practised chiropody at Healthy Fit, which was first located in Mississauga and subsequently located in Toronto.

HEALTHY FIT INVESTIGATION

2. In July 2015, the Toronto Police Services (“**TPS**”) laid criminal charges against the owner of Healthy Fit after conducting an investigation. The owner of Healthy Fit was alleged to have defrauded an insurance company (the “**Insurer**”) of upwards of four million dollars through misusing insurance benefits.
3. The Healthy Fit fraudulent scheme involved employees and family members of the Toronto Transit Commission (the “**TTC Employees**”) being issued prescriptions for unnecessary medical treatments and devices. Healthy Fit would assist TTC Employees in making insurance claims to the Insurer when services were not provided and/or medical devices were not dispensed and Healthy Fit would then share the insurance money with the TTC Employees.
4. The TPS investigation revealed that benefit claims at Healthy Fit were commonly made for orthotics, orthopaedic shoes and/or compression stockings. The Member’s chiropody services led to insurance benefit claims in excess of \$1,000,000, the vast majority of which were issued to TTC Employees. More than 2000 of the approximately 5000 prescriptions submitted by Healthy Fit to the Insurer were issued by the Member (the “**TTC Patients**”).

RECORD-KEEPING

5. Between December 2011 and July 2015, the Member provided chiropody services to the TTC Patients, including conducting initial chiropody assessments and prescribing and dispensing orthotics and orthopedic shoes. While providing chiropody services to some or all of the TTC Patients, the Member failed to:
 - (a) record a complete medical history;
 - (b) record a treatment plan;

- (c) record every written informed consent and/or reasonable information that an informed consent was obtained;
- (d) record the dates of patient visits, the dates of various examinations, assessments, fitting and/or castings, and the dates on which the orthotics and/or orthopedic shoes were dispensed to the patient;
- (e) record reasonable information about every examination he performed and reasonable information about every clinical finding, diagnosis and assessment he made;
- (f) record reasonable information about all significant advice given by him to his patients;
- (g) record reasonable information about every order he made for examinations, tests, consultations, or treatments to be performed by any other person;
- (h) record every written report he received with respect to examinations, tests, consultations, or treatments performed by other health professionals or any other person that provided services to the patient in relation to the fitting and dispensing of orthotics and/or orthopedic shoes;
- (i) record, accurately and truthfully, that casting for orthotics was performed, either in his clinical notes, the patient invoice, the insurance documentation, or elsewhere in the patient record;
- (j) record any follow-up appointments that were offered to patients who received orthotics and/or orthopedic shoes;
- (k) record patient records at the time of the patient's appointment or within 24 hours thereafter;
- (l) record proof of payment for charges related to chiropody services;

- (m) keep a daily appointment book listing the names of the patients he examined, treated, or to whom rendered any services; and
- (n) maintain control over the location, access, and manner of storage of his patient's files.

TREATMENT

6. Between December 2011 and July 2015, the Member failed to maintain the standards of practice of the profession in the provision of chiropody services to the TTC Patients by prescribing and/or recommending orthotics and/or orthopedic shoes without:
 - (a) performing an adequate chiropody assessment or examination of the patient;
 - (b) discussing other treatment options with the patient or determining if a different treatment option was appropriate;
 - (c) taking an adequate patient history;
 - (d) obtaining and documenting, in a timely manner, informed patient consent;
 - (e) using a casting or scanning procedure that meets the standards of practice;
 - (f) personally evaluating the casts or scans to ensure that they were accurate or ensuring another designated chiropodist or podiatrist did so;
 - (g) personally fitting the orthotics and/or orthopedic shoes to ensure that the device met the prescription and the contours of the patient's foot and/or ensuring that those steps were performed by another chiropodist or podiatrist; and
 - (h) offering and/or conducting a follow-up after the orthotics and/or orthopedic shoes had been dispensed.
7. Between December 2011 and July 2015, the Member failed to maintain the standards of practice of the profession in the provision of chiropody services by issuing inadequate prescriptions to the TTC Patients, in that he:

- (a) failed to evaluate and/or record the patient's medical history;
- (b) failed to perform a biomechanical examination;
- (c) failed to perform a gait analysis;
- (d) failed to take or record a foot exam with appropriate measurements and observations;
- (e) failed to include patient information required by the College's standards, including the weight, age, activity level, biomechanical data pertinent to the patient's deformity, and other information required for the creation of appropriate prescription custom foot orthoses under the College's standards;
- (f) failed to include an assessment and recording of the activities and environmental requirements of use;
- (g) failed to use appropriate casting or scanning techniques; and
- (h) failed to include the necessary information in prescriptions, including information required under the College's standards related to the materials to be used in the fabrication of the orthotic, the required flexibility, the posting correction required, and the depth of the heel seat.

INSURANCE CLAIMS AND BILLINGS

8. From December 2011 until July 2015, patient invoices and documents were submitted to the Insurer that inaccurately and misleadingly represented that the Member had provided services to the TTC Patients that he never in fact provided;
9. From December 2011 until July 2015, patient invoices and receipts were submitted to the Insurer that did not accurately reflect the services provided, the individual who provided the services, the date on which the services were provided, and the method used to obtain models of the patient's foot for the fabrication of orthotics;

10. From December 2011 until July 2015, the Member failed to ensure that he was aware of and maintained control over the manner in which Healthy Fit billed patients for his chiropody services.

UNDERCOVER INVESTIGATION

11. In June of 2014, an undercover police officer posing as a TTC employee attended Healthy Fit and was referred to the Member. Without examining the police officer and discussing treatment options, the Member took foam box impressions of her feet and provided her with a prescription for orthotics. The Member's prescriptions were submitted to the Insurer for orthotics and orthopaedic shoes for a total claim of \$750. The undercover police officer paid \$700 to Healthy Fit and was given \$550 in cash in return.
12. On July 11, 2014, the Insurer sent an undercover investigator to Healthy Fit who did not require orthotics or orthopaedic shoes. The Member met the undercover investigator for less than 10 minutes, took foam box impressions of his feet, and issued a single prescription for orthotics. The undercover investigator never met the Member again. When the undercover investigator returned to Healthy Fit a few weeks later, he was told that he could purchase a pair of orthopaedic shoes for \$250 and that he would receive \$350 in cash. The undercover investigator paid \$250 by Interac and was given \$350 in cash without being dispensed orthopaedic shoes.

ADMISSIONS OF PROFESSIONAL MISCONDUCT

13. By virtue of the above conduct, the Member admits to contravening:
 - (a) section 13 of Ontario Regulation 203/94 under the *Chiropody Act, 1991* (failing to, in relation to his or her practice, take all reasonable steps necessary to ensure that records are kept in accordance with the regulation) by reason of engaging in the conduct outlined in paragraph 5 above.
 - (b) section 14 of Ontario Regulation 203/94 under the *Chiropody Act, 1991* (failing to keep a daily appointment record that sets out the name of each patient whom the

Member examines or treats or to whom the Member renders any service) by reason of engaging in the conduct outlined in paragraph 5 above.

- (c) section 16 of Ontario Regulation 203/94 under the *Chiropody Act, 1991* (failing to, if the patient is charged a fee, keep a financial record for the patient containing the information required by the regulation) by reason of engaging in the conduct outlined in paragraph 5 above.
- (d) section 17 of Ontario Regulation 203/94 under the *Chiropody Act, 1991* (failing to keep a patient health record for each patient containing the information required in the regulation) by reason of engaging in the conduct outlined in paragraph 5 above.
- (e) section 1(2) of Ontario Regulation 750/93 under the *Chiropody Act, 1991* (failing to meet or contravening a standard of practice of the profession) by reason of engaging in the conduct outlined in paragraphs 5-12 above.
- (f) section 1(3) of Ontario Regulation 750/93 under the *Chiropody Act, 1991* (doing anything to a patient for a therapeutic, preventative, palliative, diagnostic, cosmetic or health-related purpose in a situation in which a consent is required by law, without such consent) by reason of engaging in the conduct outlined in paragraph 6 above.
- (g) section 1(14) of Ontario Regulation 750/93 under the *Chiropody Act, 1991* (providing treatment to a patient where the Member knows or ought to know that the provision of the treatment is ineffective, unnecessary or deleterious to the patient or is inappropriate to meet the needs of the patient) by reason of engaging in the conduct outlined in paragraphs 6-7 above.
- (h) section 1(17) of Ontario Regulation 750/93 under the *Chiropody Act, 1991* (failing to keep records as required by the regulations) by reason of engaging in the conduct outlined in paragraph 5 above.

- (i) section 1(20) of Ontario Regulation 750/93 under the *Chiropody Act, 1991* (signing or issuing, in the member's professional capacity, a document that contains a false or misleading statement) by reason of engaging in the conduct outlined in paragraphs 8-12 above.
- (j) section 1(21) of Ontario Regulation 750/93 under the *Chiropody Act, 1991* (submitting an account or charge for services that the member knows is false or misleading) by reason of engaging in the conduct outlined in paragraphs 8-12 above.
- (k) section 1(30) of Ontario Regulation 750/93 under the *Chiropody Act, 1991* (contravening the *Chiropody Act*, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts) by reason of engaging in the conduct outlined in paragraphs 5-12 above.
- (l) section 1(33) of Ontario Regulation 750/93 under the *Chiropody Act, 1991* (engaging in conduct or performing an act, in the course of practising the profession, that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional) by reason of engaging in the conduct outlined in paragraphs 5-12 above.

MEMBER'S ACKNOWLEDGEMENTS

- 14. The Member understands the nature of the allegations that have been made against him and that by voluntarily admitting to these allegations, he waives his right to require the College to otherwise prove the case against him.
- 15. The Member understands that the Discipline Committee can accept that the facts herein constitute professional misconduct.
- 16. The Member understands that any agreement between him and the College does not bind the Discipline Committee.

MEMBER

Decision

Having considered the evidence set out in the Agreed Statement of Facts, the Member's admissions, and the onus and standard of proof, the panel finds that the Member committed acts of professional misconduct as alleged in the Notice of Hearing, save for the allegation set out at paragraph 17(a)(v), which the panel agreed to withdraw.

Reasons for Decision

In coming to this decision, the Discipline Panel considered the following: the Member's admission of professional misconduct, the Agreed Statements of Facts (Exhibit 5, tab 4), and the parties' submissions. Following deliberations, the Panel was satisfied that the conduct described in the Agreed Statements of Facts did constitute professional misconduct as alleged in the Notice of Hearing and as admitted by the Member. The panel found that having regard to all the circumstances members of the profession would find this conduct, disgraceful, dishonourable and unprofessional. Failing to maintain appropriate patient records, failing to provide appropriate treatment and submitting inaccurate or fraudulent billings to Insurance companies does not engender confidence in the profession. The College has a responsibility to its membership and to the public of ensuring that members act with the utmost care and professionalism in providing services. As a health professional, the duty and responsibility are on the shoulders of the Member and it is his duty to ensure that all aspects of the care and services provided to patients are in keeping with the standards required by the College. In allowing himself to become involved in the insurance scheme described in the Agreed Statement of Fact, the Member failed in his duty.

Penalty

Penalty Submissions

Counsel for the College advised the Panel that the parties had reached an agreement as to penalty and costs. The parties filed a Joint Submission as to Penalty, which was marked as Exhibit 6, Tab 5, and provided as follows:

1. The College of Chiropractors of Ontario (the “College”) and Mr. Dominador Macaso Tomines (the “Member”) agree and jointly submit that the Discipline Committee make the following order:
 - (a) An Order directing the Registrar to revoke the Member’s certificate of registration.
 - (b) An Order requiring the Member to be reprimanded and the fact of the reprimand to be recorded on the Register of the College.
 - (c) An Order requiring the Member to pay the College’s costs fixed in the amount of \$15,000 to be paid by way of certified cheque, or its equivalent, on the date of the Member’s discipline hearing.
2. The Member acknowledges that pursuant to section 56 of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*, the decision and reasons, or a summary thereof, will be published in the College’s annual report and may be published in any other publication of the College with the Member’s name.
3. The Member acknowledges that this Joint Submission as to Penalty is not binding upon the Discipline Committee.
4. The Member acknowledges that he has had the chance to receive independent legal advice on this settlement and has received independent legal advice from counsel Jonah Arnold of the law firm Weinman, Arnold LLP.

Penalty Decision

The panel concluded that the proposed penalty is reasonable and in the public interest and accepted the Joint Submission as to Penalty. The Panel’s reasons for accepting the Joint Submission as to Penalty are as follows:

1. The penalty order proposed in the Joint Submission is reasonable and just. Mr. Tomines has practiced for over 25-years, as such he ought to have known his conduct was in breach of the standards of the profession and would be regarded as disgraceful, dishonourable and unprofessional. His actions appear to be entirely financially motivated. His actions bring shame to his fellow members and to the public. His behaviour has required investigation and ultimately this hearing which results in significant economic cost that other members must bear. His

conduct calls into question this profession's ability to self-regulate. The terms of the penalty addresses these concerns directly.

2. The penalty incorporates elements of both general and specific deterrence, which will no doubt be viewed by both the Member and the membership at large as severe, namely; revocation of the Member's certificate of registration.

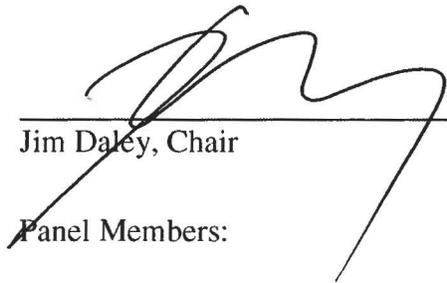
3. The revocation of the Member's certificate of registration sends a clear message to the membership that such conduct will not be tolerated by the College and that there should be no incentive to behave in such a manner for short term financial gain.

4. The Member's contribution to the College's costs is appropriate as other members of this College who do not engage in professional misconduct should not bear the entire burden of the costs associated with the investigation and hearing of this matter.

Reprimand

At the end of the hearing, the Member waived his right to appeal and agreed to receive his reprimand. The panel administered the reprimand on the record. A copy of the reprimand is reproduced at the end of these reasons.

I, **Jim Daley**, sign this decision and reasons for the decision as Chair of this Discipline Panel and on behalf of the members of the Discipline Panel as listed below.



Jim Daley, Chair

12 / 13 / 2017

Date:

Panel Members:

Jim Daley, Public Member
Millicent Vorkapich-Hill, Professional Member
Aladdin Mohaghegh, Public Member

“Schedule A”

COLLEGE OF CHIROPODISTS OF ONTARIO v. DOMINADOR MACASO TOMINES

As you know, Mr. Tomines, as part of its penalty order this Discipline panel has ordered that you be given an oral reprimand. You agreed to this term of order as part of your joint submission on penalty filed during the course of the hearing.

The fact that you have received this reprimand will be part of the public portion of the Register and, as such, part of your record with the College.

Although you will be given an opportunity to make a statement at the end of the reprimand, this is not an opportunity for you to review the decision made by the Discipline panel, nor a time for you to debate the merits of our decision.

The panel has found that you have engaged in professional misconduct in different ways. They are as follows:

Breach of the standards of this profession;

Failure to maintain adequate records;

Prescribing orthotics and orthopaedic shoes when they were not medically necessary;

and

Engaging in conduct that would be regarded as disgraceful, dishonourable and unprofessional

It is a matter of profound concern to this panel that you have engaged in these forms of professional misconduct. By doing so, you have brought discredit to the profession and to yourself again. Public confidence in this profession has been put in jeopardy. Moreover, the result of your misconduct is that you have let down the public, the profession, and yourself. Your actions result in putting the entire profession under unjustified scrutiny from the public and from Insurance companies regarding a very significant component of patient care within the profession.

We need to make it clear to you that your conduct is unacceptable.

Of special concern to us is the fact that the professional misconduct in which you engaged has involved:

Inadequate record keeping;

Inadequate treatment;

Fraudulent insurance claims and billings;

and

We were troubled to learn that you were engaging in this behaviour while negotiating with the College a resolution for similar behaviour.

Consequently, it is necessary for us to take steps to impress upon you the seriousness of the misconduct in which you have engaged. Due to the seriousness of your conduct and your prior history, revocation is appropriate and in the public interest.

As I have already stated, this is not an opportunity for you to review the decision or debate the correctness of the decision which in any event, was agreed to by you and your counsel.

However, do you have any questions or do you wish to make any comments?

Thank you for attending today.