

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

**PANEL:**

Peter Stavropoulos, Chair  
Sohail Mall, Public Member  
Wilhelmina Gonzales, Public Member  
Ann-Marie McLaren – Professional Member

**BETWEEN:**

COLLEGE OF CHIROPODISTS OF ONTARIO	)	<i>Jordan Glick</i>
	)	College of Chiropodists of Ontario
- and -	)	
	)	<i>Dominador Tomines</i>
	)	Member, Self-represented
DOMINADOR TOMINES	)	
	)	<i>Luisa Ritacca</i>
	)	Independent Legal Counsel
	)	
	)	Heard: May 27, 2015

**DECISION AND REASONS**

Introduction

A hearing before a Panel of the Discipline Committee (“Panel”) of the College of Chiropodists of Ontario (“College”) was held on May 27, 2015. 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 chiropody profession and to govern its members and, in so doing, serve and protect the public interest.

Statement of Allegations

1. Dominador Tomines is (and was at all materials times) a chiropodist registered to practise chiropody in the Province of Ontario.

2. At all material times, Mr. Tomines practised chiropody at Ontario Disability Management (“ODM”) and ODM-Homecare Medical Supplies, both of which were located in Brampton, Ontario.

3. Between in or about February of 2013 to in or about July of 2013, the member purported to provide chiropody services to the patients listed on Schedule “A” to this Notice of Hearing, including conducting initial chiropody assessments and prescribing and dispensing orthotics and orthopedic shoes. In doing so, Mr. Tomines failed to:

- (i) record the medical history of the patient;
- (ii) record reasonable information about every examination he performed and reasonable information about every clinical finding, diagnosis and assessment he made (including, but not limited to, every biomechanical assessment and gait analysis);
- (iii) record reasonable information about every order he made for examination, tests, consultations or treatments to be performed by other persons;
- (iv) record reasonable information about all significant advice given by him to his patient;
- (v) record every written consent and/or reasonable information that an informed consent was obtained;
- (vi) record the treatment plan for the patient;
- (vii) record the observations and results of any follow-up visits;
- (viii) include in the file a financial record for the patient, including fees charged to and received from or on behalf of patient;
- (ix) maintain legible records;

- (x) maintain a record of the orthotics or other devices prescribed (including, but not limited to, records of the specific instructions provided to the laboratory required to manufacture any orthotics prescribed).

4. Mr. Tomines thereby contravened Sections 13, 16 and 17 of Ontario Regulation 203/94 under the *Chiropody Act*, 1991 and engaged in professional misconduct within the meaning of paragraphs 2 (failing to meet or contravening a standard of practice of the profession), 17 (failing to keep records as required by the Regulations) and 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) of Section 1 of Ontario Regulation 750/93 under the *Chiropody Act*, 1991.

5. Between in or about February of 2013 to in or about July of 2013, Mr. Tomines failed to maintain the standards of practice of the profession, in that he:

- (i) consistently failed to perform an assessment for each patient seen in his practice at ODM;
- (ii) consistently failed to establish a treatment or management plan based on that assessment; and
- (iii) consistently failed to follow-up any treatment prescribed.

6. Mr. Tomines thereby engaged in professional misconduct within the meaning of paragraphs 2 (failing to meet or contravening a standard of practice of the profession) and 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) of Section 1 of Ontario Regulation 750/93 under the *Chiropody Act*, 1991.

7. Between in or about February of 2013 to in or about July of 2013, Mr. Tomines submitted, or allowed to be submitted, invoices and receipts to the patients' insurer, Great West Life, for insurance purposes which did not accurately reflect the products prescribed and dispensed to the patients, resulting in the payment of increased benefits in relation to those insurance claims. In particular, Mr. Tomines submitted or allowed to be submitted invoices and receipts indicating that he had prescribed and dispensed two pairs of orthotics to each patient listed below (all of whom are included in Schedule "A"), when he had in fact prescribed only one pair of orthotics and one pair of orthopedic shoes to each of those patients:

- (i) L.B., K.B., P.B., S.B. and T.B.;
- (ii) B.M., D.M.(R), J.M. and K.M.;
- (iii) A.J. and Z.J.

8. Between in or about February of 2013 and in or about July of 2013, Mr. Tomines submitted or allowed to be submitted to Great West Life receipts and invoices for insurance claim purposes which falsely indicated that the following patients (also listed on Schedule "A") had received chiropody services and/or products when in fact the patients had not yet received the products shown on the receipts and invoices:

- (i) A.J and Z.J.;
- (ii) F.B. and M.B.;
- (iii) B.M., D.M.(R), J.M. and K.M.;

9. Between in or about February of 2013 and in or about July of 2013, Mr. Tomines arranged (or allowed ODM to arrange) for the patients listed below (who are also listed in Schedule "A") to sign insurance claim forms and/or assignment of benefit forms relating to chiropody services and products provided by Mr. Tomines, without notifying those patients of the fees being charged for the services and products:

- (i) F.B. and M.B.;



- (ii) L.B.,K.B., P.B., S.B. and T.B.;
- (iii) D.J.;
- (iv) A.R., C.R., F.R., D.R. and C.R.;
- (v) B.M., D.M.(R), J.M. and K.M.

10. Between in or about February of 2013 and in or about July of 2013, Mr. Tomines submitted or allowed to be submitted insurance claims for chiropody services and products prescribed and/or provided to the patients listed below, which were inaccurate and/or misleading, in that they overstated the fees that the patients were required to pay (and in fact paid) for those services and products. In particular, Mr. Tomines (directly or through ODM) accepted the benefits paid by the insurer in full payment for those chiropody services and/or products and did not require the patients listed below to pay the balance owing under the invoices. By failing to collect those co-payments from the patients, Mr. Tomines effectively charged them a lesser fee for the services and products than the fee reflected on the invoice (causing the insurer to pay benefits based upon incorrect and higher invoiced amounts):

- (a) F.B. and M.B.;
- (b) L.B.,K.B., P.B., S.B. and T.B.;
- (c) D.J.;
- (d) A.R., C.R., F.R., D.R. and C.R.;
- (e) B.M., D.M.(R), J.M. and K.M.

11. By reason of the conduct described in paragraphs 0 to 10 of this Statement of Allegations, Mr. Tomines engaged in professional misconduct within the meaning of paragraphs 2 (Failing to meet or contravening a standard of practice of the profession), 20 (Signing or issuing, in the member's professional capacity, a document that contains a false or misleading statement), 21 (Submitting an account or charge for services that the member knows is false or misleading), 23 (Failing to notify the patient of the fees charged for the member's services prior

to rendering the services to the patient) and 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) of section 1 of Ontario Regulation 750/93 under the *Chiroprody Act, 1991*.

**SCHEDULE "A"**

<b><u>NO.</u></b>	<b><u>PATIENT</u></b>
1.	L.B.
2.	K.B.
3.	P.B.
4.	S.B.
5.	T.B.
6.	B.M.
7.	D.M.(R)
8.	J.M.
9.	K.M.
10.	A.J.
11.	Z.J.
12.	F.B.
13.	D.J.
14.	A.R.

15. **C.R.**

16. **F.R.**

17. **D.R.**

### 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") is and was at all material times a chiropodist registered to practise chiropody in the Province of Ontario. At all material times he practised chiropody at Ontario Disability Management ("ODM") and ODM-Homecare Medical Supplies, both of which were located in Brampton, Ontario.

#### **RECORD-KEEPING**

2. Between February of 2013 to July of 2013, the Member provided chiropody services to 17 patients, including conducting initial chiropody assessments and prescribing and dispensing orthotics and orthopedic shoes. While providing chiropody services to these 17 patients, the Member failed to:

- a) record the medical history of the patient;
- b) record reasonable information about every examination he performed and reasonable information about every clinical finding, diagnosis and assessment he made (including, but not limited to, every biomechanical assessment and gait analysis);
- c) record reasonable information about every order he made for examination, tests, consultations or treatments to be performed by other persons;
- d) record reasonable information about all significant advice given by him to his patient;



- e) record every written consent and/or reasonable information that an informed consent was obtained;
- f) record the treatment plan for the patient;
- g) record the observations and results of any follow-up visits;
- h) include in the file a financial record for the patient, including fees charged to and received from or on behalf of the patient;
- i) maintain legible records; and
- j) maintain a record of the orthotics or other devices prescribed (including, but not limited to, records of the specific instructions provided to the laboratory required to manufacture any orthotics prescribed).

## **TREATMENT**

3. Between February of 2013 to July of 2013, Mr. Tomines failed to maintain the standards of practice of the profession in the provision of chiropody services to 17 patients, in that he:

- a) failed to perform an assessment for each patient;
- b) failed to establish a treatment or management plan based on that assessment; and
- c) failed to follow-up on any treatment prescribed.

## **GREAT WEST LIFE INSURANCE CLAIMS**

4. From February of 2013 to July of 2013, Mr. Tomines submitted invoices and receipts for 11 patients to the insurer, Great West Life, for insurance purposes which did not accurately reflect the products prescribed and dispensed to those patients, resulting in the payment of increased benefits in relation to those insurance claims. In particular, Mr. Tomines submitted invoices and receipts indicating that he had prescribed and dispensed two pairs of

orthotics to each patient when he had in fact prescribed only one pair of orthotics and one pair of orthopedic shoes to each of those patients.

5. From February of 2013 to July of 2013, Mr. Tomines submitted to Great West Life receipts and invoices on behalf of eight patients for insurance claim purposes which falsely indicated that the patients had received chiropody services and products when in fact the patients had not yet received the products shown on the receipts and invoices.

6. From February of 2013 until July of 2013, Mr. Tomines arranged for 17 patients to sign insurance claim forms and/or assignment of benefit forms relating to chiropody services and products provided by Mr. Tomines, without notifying those patients of the fees being charged for the services and products.

7. From February of 2013 until July of 2013, Mr. Tomines submitted insurance claims for chiropody services and products prescribed and/or provided to 17 patients which were inaccurate and/or misleading, in that they overstated the fees that the patients were required to pay (and in fact paid) for those services and products. In particular, Mr. Tomines accepted the benefits paid by the insurer in full payment for those chiropody services and/or products and did not require the patients to pay the balance owing under the invoices. By failing to collect those co-payments from the patients, Mr. Tomines effectively charged them a lesser fee for the services and products than the fee reflected on the invoice, causing the insurer to pay benefits based upon incorrect and higher invoiced amounts.

## **ADMISSIONS OF PROFESSIONAL MISCONDUCT**

8. 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 2 above.
- b) 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 2 above.

- c) 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 2 above.
- d) 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 2-7 above.
- e) 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 2 above.
- f) 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 4-7 above.
- g) 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 4-7 above.
- h) section 1(23) of Ontario Regulation 750/93 under the *Chiropody Act, 1991* (failing to notify the patient of the fees charged for the member's services prior to rendering the services to the patient) by reason of engaging in the conduct outlined in paragraphs 4-7 above.
- i) 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 2-7 above.

## **MEMBER'S ACKNOWLEDGEMENTS**

9. 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.

10. The Member understands that the Discipline Committee can accept that the facts herein constitute professional misconduct.

11. The Member understands that depending on any penalty ordered by the Discipline Committee, the panel's decision and reasons may be published, including the facts contained herein and his name.

12. The Member understands that any agreement between him and the College does not bind the Discipline Committee.

### 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.

### 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 1, tab 4), and the parties' submissions. Following deliberations, the Panel was satisfied that the conduct described in the Agreed Statements of Facts constitute professional misconduct as alleged in the Notice of Hearing and as admitted by the Member.

### **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 1, Tab 5, and provided as follows:

1. The College of Chiropodists 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 suspend the Member’s certificate of registration for a period of seven (7) months, two (2) months of which shall be remitted in the event that the Member complies with paragraph 1(b)(i) of this Order within one (1) year from the date the Penalty Order is signed by the Discipline Committee. The first five (5) months of the suspension shall commence on the date that the Penalty Order is signed by the Discipline Committee and any further period of suspension which is not remitted shall be served beginning one (1) year after the Penalty Order is signed.
- (b) An Order directing the Registrar to impose a term, condition and limitation on the Member’s certificate of registration,
  - (i) requiring that the Member complete the ProBe course in ethics, to the satisfaction of the Registrar and at the Member’s own expense;<sup>1</sup>
  - (ii) For a period of two (2) years following completion of the suspension referred to in paragraph (a), above, and on the following basis, the Member’s practice shall be supervised. The terms of the supervision are as follows:

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<sup>1</sup> For greater clarity, the Member must complete the ProBe course whether or not the suspended portion of the suspension is served or not.



- (A) The supervisor shall be appointed by the Registrar and shall be a professional member of the College of Chiropodists of Ontario;
- (B) The Member must identify to the supervisor and the Registrar his schedule of practice for seeing patients and identify the locations where patients are seen and where patient records are kept. In the event that the Member's schedule changes, he must immediately identify such changes to the Registrar and to his supervisor;
- (C) The supervisor shall visit with the member every four (4) months at the Member's site(s) of practice or via telephone for a total of six (6) supervisory sessions. There must be no less than four (4) site visits;
- (D) The supervisor shall determine the length of each visit;
- (E) In conducting site visits, the supervisor shall engage the Member in discussions regarding ethics and ethical issues, practice management, record keeping, chart audits, client assessment, treatment and management plans, orthotics and footwear regulation compliance and practice site overview;
- (F) The supervisor shall prepare a report to the Registrar every other session (for clarity, a report is to be generated every (8) months) detailing what occurred at the prior two (2) supervisory sessions.<sup>2</sup>
- (G) The Member shall pay the costs of the supervision (to a maximum of \$350 per site visit, \$150 per telephone discussion and \$300 per supervisory report) and shall fully reimburse the College for these

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<sup>2</sup> For clarity, in the event that the supervisory reports suggest further professional misconduct by the Member, the supervisory reports may be relied upon by the Registrar in considering whether there are reasonable and probable grounds to suggest that the Member has committed an act of professional misconduct and therefore request approval from the Inquiries, Complaints and Reports Committee of the appointment of an Investigator, pursuant to section 75(1)(a) of the *RHPA Procedural Code*.

costs within twenty (20) days of receiving an invoice from the College for the supervision; and,

- (c) An Order requiring the Member to appear before the panel to be reprimanded and the fact of the reprimand to be recorded on the Register of the College.
- (d) An Order requiring the Member to pay the College's costs fixed in the amount of \$15,000 to be paid according to the following schedule:
  - (i) \$3,000 at the time the Penalty Order is signed,
  - (ii) \$3,000 within six (6) months of the date the penalty Order is signed,
  - (iii) \$3,000 within nine (9) months of the date the penalty Order is signed,
  - (iv) \$3,000 within twelve (12) months of the date the penalty Order is signed, and;
  - (v) \$3,000 within fifteen (15) months of the date the penalty Order is signed.

#### Penalty Decision

The Panel accepted the parties' joint submission and directed that any order should go as follows:

- (a) The Registrar shall suspend the Member's certificate of registration for a period of seven (7) months, two (2) months of which shall be remitted in the event that the Member complies with paragraph (b)(i) of this Order within one (1) year from the date the Penalty Order is signed by the Discipline Committee. The first five (5) months of the suspension shall commence on the date that the Penalty Order is signed by the Discipline Committee and any further period of suspension which is not remitted shall be served beginning one (1) year after the Penalty Order is signed.

- (b) An Order directing the Registrar to impose a term, condition and limitation on the Member's certificate of registration,
- (i) requiring that the Member complete the ProBe course in ethics, to the satisfaction of the Registrar and at the Member's own expense;<sup>3</sup>
  - (ii) For a period of two (2) years following completion of the suspension referred to in paragraph (a), above, and on the following basis, the Member's practice shall be supervised. The terms of the supervision are as follows:
    - (A) The supervisor shall be appointed by the Registrar and shall be a professional member of the College of Chiropodists of Ontario;
    - (B) The Member must identify to the supervisor and the Registrar his schedule of practice for seeing patients and identify the locations where patients are seen and where patient records are kept. In the event that the Member's schedule changes, he must immediately identify such changes to the Registrar and to his supervisor;
    - (C) The supervisor shall visit with the member every four (4) months at the Member's site(s) of practice or via telephone for a total of six (6) supervisory sessions. There must be no less than four (4) site visits;
    - (D) The supervisor shall determine the length of each visit;
    - (E) In conducting site visits, the supervisor shall engage the Member in discussions regarding ethics and ethical issues, practice management, record keeping, chart audits, client assessment, treatment and management plans, orthotics and footwear regulation compliance and practice site overview;

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<sup>3</sup> For greater clarity, the Member must complete the ProBe course whether or not the suspended portion of the suspension is served or not.



- (F) The supervisor shall prepare a report to the Registrar every other session (for clarity, a report is to be generated every (8) months) detailing what occurred at the prior two (2) supervisory sessions.<sup>4</sup>
- (G) The Member shall pay the costs of the supervision (to a maximum of \$350 per site visit, \$150 per telephone discussion and \$300 per supervisory report) and shall fully reimburse the College for these costs within twenty (20) days of receiving an invoice from the College for the supervision; and,
- (c) The Member is ordered to appear before the panel to be reprimanded and the fact of the reprimand to be recorded on the Register of the College.
- (d) The Member shall pay the College's costs fixed in the amount of \$15,000 to be paid according to the following schedule:
  - (i) \$3,000 at the time the Penalty Order is signed,
  - (ii) \$3,000 within six (6) months of the date the penalty Order is signed,
  - (iii) \$3,000 within nine (9) months of the date the penalty Order is signed,
  - (iv) \$3,000 within twelve (12) months of the date the penalty Order is signed, and;
  - (v) \$3,000 within fifteen (15) months of the date the penalty Order is signed.

#### Reasons for Penalty Decision

The Panel accepted the Joint Submission on Penalty. The Panel understands that the penalty was in keeping with penalties imposed in similar cases, which were referred to by counsel during

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<sup>4</sup> For clarity, in the event that the supervisory reports suggest further professional misconduct by the Member, the supervisory reports may be relied upon by the Registrar in considering whether there are reasonable and probable grounds to suggest that the Member has committed an act of professional misconduct and therefore request approval from the Inquiries, Complaints and Reports Committee of the appointment of an Investigator, pursuant to section 75(1)(a) of the *RHPA Procedural Code*.

their submissions. Given that this is not the first matter before a discipline panel of this College dealing with these types of insurance billing related misconduct the Panel was satisfied that the penalty was appropriate. The Panel does not believe that the penalty imposed would bring its administration into disrepute. It will hopefully serve to send a strong message to practitioners that misconduct of this type will not be tolerated by this College.

In coming to its decision to accept the joint submission, the Panel considered the following aggravating factors:

1. The professional misconduct was not an isolated incident. It consisted of a pattern of several incidents, with many different patients, occurring over a relatively short span of time with one insurance carrier.
2. The allegations and corresponding conduct appear to be specifically motivated by financial gain.

The Panel also considered the following mitigating factors:

1. This was the Member's first time appearing before the College's Discipline Committee.
2. By admitting the allegations of professional misconduct and entering into an Agreed Statement of Facts and a joint submission as to penalty, the Member has saved the College considerable time and expenses, which would have been incurred had the matter proceeded on a contested basis.

Having come to the conclusion that given the circumstances of this case, the penalty is reasonable, the Panel makes the following observations:

1. The penalty incorporates a component of rehabilitation through the requirement that the Member enroll, and complete, the ProBe Ethics course. The completion of this course, in combination with the order for a prolonged period of supervision and records' reviews of the Member's practice by the College, will support the Member in moving forward in compliance with the College's regulations.



2. The amount of the costs ordered, the supervision and inspections, the records' reviews and the report drafting all pertaining to the member's practice by the College, at the member's expense and the reporting of the case on the College website, in the College Newsletter and to all third party insurance carriers and CHLIA will act as a specific deterrence to the member and as a general deterrence to the profession as a whole.
3. The mandated clinical supervision and records reviews of the Member's practice by the College and the publication and reporting of the case on the College website and in the College Newsletter and to all third party health insurance carriers and CHLIA, will serve to protect the public from similar continued misconduct by this Member.
4. The reporting of this case on the College website and in the College Newsletter is consistent with the College's mandate to protect the public and to do so in a fair and transparent manner.

The Panel notes that the parties originally sought a cost order requiring the Member to pay \$15,000.00 and to make the first instalment payment in the amount of \$6,000.00. After some discussion, the parties reconsidered this position and agreed that the first payment could be made in an amount of \$3,000.00. The Panel considered that this lesser amount payable upon the signing of the order was appropriate in the circumstances. The Panel also notes that the payment plan ultimately agreed upon by the parties and as ordered above reflects payment plans ordered in other cases.

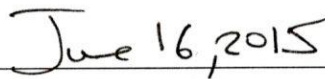
#### Reprimand

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, **Peter Stavropoulos**, 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.

Handwritten signature of Peter Stavropoulos, consisting of stylized initials 'PS' followed by a long horizontal stroke and the letters 'DPM'.

Peter Stavropoulos, Chair

Handwritten date 'June 16, 2015' in cursive script.

Date:

Panel Members:

Sohail Mall, Public Member

Wilhelmina Gonzales, Public Member

Ann-Marie McLaren, Professional Member

## Oral Reprimand

As you know, Mr. Tomines, this Discipline Panel has ordered that you receive a reprimand. You agreed to this as part of your Joint Submission with the College. 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. We will also attach this to the end of our Reason for the Decision once released. 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 engaged in professional misconduct in a number of different ways. 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. We need to make it clear to you that your conduct is unacceptable. 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. The Panel was not at all swayed by your attempt to deflect the blame for your actions on others, namely your employer. As a health professional, the duty and responsibility is entirely yours to ensure that all aspects of the care and services that you provide to your patients is in keeping with the standards required by this College.

As you know, this is a small College. Your behaviour has required investigation and ultimately this hearing, all resulting in a significant economic cost which must now be absorbed by the rest of the membership. Consequently, it is necessary for us to take steps to impress upon you the seriousness of the misconduct in which you have engaged.

We believe that the penalty imposed is a fair penalty. We believe that with due fairness, adequate consideration was given to the fact that this is the first time you have appeared before a Discipline Panel of the College. We trust that you have considered very thoughtfully your actions and their consequences. It is this Panel's fervent hope that you move forward in a more positive way as it pertains to your practice, putting first and foremost the best interests of your patients all the while complying fully and completely with the governing legislation and standards expected of you as a member of this College.

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

Peter Stavropoulos, Chair Professional Member	)	Tuesday the 2 <sup>nd</sup> day of
Sohail Mall, Public Member	)	June, 2015
Wilhelmina Gonsalves, Public Member	)	
Ann-Marie McLaren, Professional Member	)	

B E T W E E N:

COLLEGE OF CHIROPODISTS OF ONTARIO

- and -

DOMINADOR TOMINES

**ORDER**

(Dated June 2, 2015)

**THIS HEARING**, was heard on May 27, 2015 by the Discipline Committee at 222 Bay Street, 9<sup>th</sup> floor, Toronto, Ontario.

**ON READING** the Notice of Hearing dated August 27, 2014 and the Exhibits filed, including the Agreed Statements of Facts and the Joint Submission as to Penalty and on hearing the submissions of counsel for the College of Chiropractors of Ontario ("the College") and the Member, Dominador Tomines:

1. **THE DISCIPLINE COMMITTEE FINDS** that Dominador Tomines contravened sections 13, 16 and 17 of Ontario Regulation 203/94 under the *Chiropractic Act, 1991* and engaged in professional misconduct within the meaning of paragraphs 2 (failing to meet or contravening a standard of practice of the profession), 17 (failing to keep records as required by the Regulations), 20 (signing or issuing, in the member's professional capacity, a document that



contains a false or misleading statement), 21 (submitting an account or charge for services that the member knows is false or misleading), 23 (failing to notify the patient of the fees charged for the member's services prior to rendering the services to the patient), 33 (Engaging in conduct or performing an act, in the course of practicing the profession, that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional) of section 1 of Ontario Regulation 750/93 under the *Chiropractic Act, 1991*.

2. **THE DISCIPLINE COMMITTEE ORDERS** that Dominador Tomines shall appear before the Panel of the Discipline Committee to be reprimanded, the fact of which shall be recorded on the public register of the College.

3. **THE DISCIPLINE COMMITTEE DIRECTS** the Registrar to suspend Dominador Tomines's certificate of registration for a period of seven (7) months, two (2) months of which shall be remitted in the event that the Member complies with subparagraphs 4(i) of this Order within one (1) year from the date of this Order. The first five (5) months of the suspension shall commence on the date of this Order and any further period of suspension which is not remitted shall be served beginning one (1) year after the date of this Order.

4. **THE DISCIPLINE COMMITTEE DIRECTS** the Registrar to impose a term, condition and limitation on the Member's certificate of registration,

- i. requiring that the Member complete the ProBe course in ethics, to the satisfaction of the Registrar and at the Member's own expense;<sup>1</sup>
- ii. For a period of two (2) years following completion of the suspension referred to in paragraph (a), above, and on the following basis, the Member's practice shall be supervised. The terms of the supervision are as follows:
  - a) The supervisor shall be appointed by the Registrar and shall be a professional member of the College of Chiropractors of Ontario;

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<sup>1</sup> For greater clarity, the Member must complete the ProBe course whether or not the suspended portion of the suspension is served or not.

- b) The Member must identify to the supervisor and the Registrar his schedule of practice for seeing patients and identify the locations where patients are seen and where patient records are kept. In the event that the Member's schedule changes, he must immediately identify such changes to the Registrar and to his supervisor;
- c) The supervisor shall visit with the member every four (4) months at the Member's site(s) of practice or via telephone for a total of six (6) supervisory sessions. There must be no less than four (4) site visits;
- d) The supervisor shall determine the length of each visit;
- e) In conducting site visits, the supervisor shall engage the Member in discussions regarding ethics and ethical issues, practice management, record keeping, chart audits, client assessment, treatment and management plans, orthotics and footwear regulation compliance and practice site overview;
- f) The supervisor shall prepare a report to the Registrar every other session (for clarity, a report is to be generated every (8) months) detailing what occurred at the prior two (2) supervisory sessions.<sup>2</sup>
- g) The Member shall pay the costs of the supervision (to a maximum of \$350 per site visit, \$150 per telephone discussion and \$300 per supervisory report) and shall fully reimburse the College for these costs within twenty (20) days of receiving an invoice from the College for the supervision; and,

5. THE DISCIPLINE COMMITTEE DIRECTS that the Member pay the College's costs fixed in the amount of \$15,000 to be paid according to the following schedule:

- i. \$3,000 at the time this Order is signed,
- ii. \$3,000 within six (6) months of the date this Order is signed,
- iii. \$3,000 within nine (9) months of the date this Order is signed,

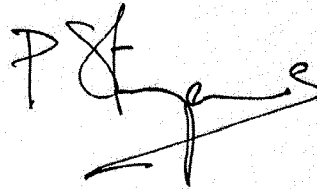
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<sup>2</sup> For clarity, in the event that the supervisory reports suggest further professional misconduct by the Member, the supervisory reports may be relied upon by the Registrar in considering whether there are reasonable and probable grounds to suggest that the Member has committed an act of professional misconduct and therefore request approval from the Inquiries, Complaints and Reports Committee of the appointment of an Investigator, pursuant to section 75(1)(a) of the *RHPA Procedural Code*.

- iv. \$3,000 within twelve (12) months of the date this Order is signed, and;
- v. \$3,000 within fifteen (15) months of the date this Order is signed.

I, **Peter Stavropoulos**, sign this Order as Chair of the panel of the Discipline Committee on behalf of the members of the panel that heard this matter.

Dated at KITCHENER this 2nd day of June, 2015

 DPM