

IN THE MATTER OF THE *HEALTH PROFESSIONS ACT*, R.S.B.C. 1996, c. 183

AND

IN THE MATTER OF A HEARING INTO THE CONDUCT OF

MOHAMMAD DASHT KIAN

(a member of the College of Opticians of British Columbia)

STATEMENT OF AGREED FACTS AND PROPOSED CONSENT RESOLUTION

I. Agreed Facts and Admissions

1. On or about September 24, 2007, the application of Mohammad Dasht Kian (the "Registrant") for registration as an optician and student contact lens fitter was approved by the College of Opticians of British Columbia (the "College"), and the Registrant was admitted as a registrant of the College.
2. Prior to the application of the Registrant for registration being submitted and approved, the Registrant undertook the practice of opticianry at Pro Vision Optical at 3827 Sunset Street in Burnaby, British Columbia (the "Store"), contrary to section 5 of the *Opticians Regulation*, B.C. Reg. 487/94 (the "Regulation").

D.N.

3. While registered as a student contact lens fitter, the Registrant filled and refilled prescriptions for contact lenses without the supervision required by the Regulation and the Standards of Practice adopted by the College.
4. The College carried out inspections of the Store in September, 2007 and June, 2008.
5. On or about November 13, 2007, the Inquiry Committee of the College imposed a limitation on the Registrant's practice pursuant to subsection 35(1)(a) of the *Health Professions Act*, R.S.B.C. 1996, c. 183 (the "Act") that the Registrant cease filling and refilling contact lenses until he completed a training program, passed the National Contact Lens Examinations and registered with the College as a Contact Lens Fitter (the "Practice Limitation").
6. The Registrant received and was aware of the Practice Limitation.
7. Contrary to the Practice Limitation, the Member continued to fill and refill prescriptions for contact lenses.
8. In or about August, 2008, the Respondent was asked by the Inquiry Committee to sign an undertaking and consent order that would have prohibited him from filling, refilling or selling contact lenses and imposed a 2 week suspension. He did not sign the consent order.
9. The Registrant admits to the allegations contained in the Amended Citation, attached hereto as **Schedule "A"**.

D.N

10. The Registrant admits that he professionally misconducted himself.

II. Joint Proposal for Resolution of the Amended Citation

11. The Registrant and the College jointly propose to resolve the allegations raised in the Amended Citation on the following basis:

(a) The Registrant will serve a suspension for a term of two weeks (the "Suspension");

(b) The Suspension may be served, at the option of the Registrant, in two one-week segments, both of which must be completed no later than January 31, 2010;

(c) The Registrant elects to serve the Suspension during the following weeks:

i. December 21, 2009 to January 3, 2010; and

ii. ~~_____~~, 20 to ~~_____~~, 20 D.N

(d) During the period of suspension, the following limitations will apply to the Registrant:

D.N

- i. The Registrant shall not participate or be involved in any way with the filling of a prescription for eyeglasses or contact lenses, the dispensing or duplication of eyeglasses or the refilling of a contact lenses, even under supervision;
- ii. The Registrant shall not participate or be involved in any way with the service of clients or customers or the sale of goods or services – including non-prescription goods and services – at the Store or at any other establishment where eyeglasses or contact lenses are sold or dispensed;
- iii. If the Registrant elects to continue operations at the Store during the periods of Suspension, he will provide the College in advance with a document prepared or approved by the College and executed by a licensed optician other than the Registrant (the “Responsible Registrant”, confirming the following:
 - a. The Responsible Registrant has reviewed this document and understands the limitations imposed on the Registrant during the periods of Suspension;
 - b. The Responsible Registrant will undertake all aspects of the operations of the Store which the Registrant is precluded from undertaking by virtue of the terms set out above or, where

D.N

appropriate, will supervise others, not including the Registrant, in carrying out such responsibilities;

- c. The Responsible Registrant will forthwith report to the College any breach by the Registrant of any of the terms set out above;
 - d. The days and hours during which the Store will be operating during the periods of the Suspension; and
 - e. The days and hours during which the Responsible Registrant will be at the Store during the periods of the Suspension;
- (e) The Registrant understands and acknowledges that the Store may be subject to inspection during the weeks in which the Suspension is being served, or at any other time at the discretion of the College;
- (f) The Registrant expressly undertakes not to fill or refill a contact lenses or to fit contact lenses, until he has completed a training program, passed the National Contact Lens Examinations and registered with the College as a contact lens fitter;
- (g) The Registrant will pay a fine of \$1,000 (the "Fine");

D.N

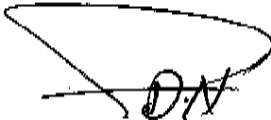
- (h) In recognition of his limited financial means, the Registrant may pay the Fine in consecutive monthly installments of no less than \$250; to be paid as follows: January 15, 2010; February 15, 2010; March 15, 2010; and April 15, 2010 D.N
- (i) If the Registrant elects to pay the Fine by installments, the payments will be due on the first of each month and the first payment will be made no later than January 1, 2010; D.N
- (j) This document, or a summary thereof, will be published on the College's website and in the College's newsletter;
- (k) If the Registrant breaches any of the foregoing terms, the College shall be at liberty to proceed to hearing of the allegations contained in the Amended Citation or to bring a further or amended citation alleging breach of said terms, or both.
12. The Registrant understands that this document will be submitted to the Inquiry Committee of the College for consideration and that the acceptance or rejection of the jointly proposed resolution is entirely within the discretion of the Inquiry Committee.
13. Should the proposal be accepted by the Inquiry Committee, it will be incorporated into an Order which will be deemed to be an Order of the Discipline Committee made under section 39 of the *Health Professions Act*.

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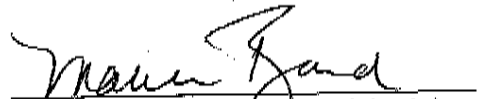
14. Should the Inquiry Committee reject the proposed resolution contained herein, then

- (a) the hearing of this proceeding shall continue before the Hearing Panel of the Discipline Committee, on a date to be determined; and
- (b) no use will be made of this document, including the facts and admissions contained therein, without the express agreement of both the College and the Registrant.

15. The Registrant has had the opportunity to obtain, and has in fact obtained, legal advice prior to executing this document and agreeing to the facts, admissions, proposed resolution and other terms, stipulations and conditions contained therein.



Counsel for Mohammad Dasht Kian



Counsel for the College of Opticians of British Columbia

Date: 3 Dec/09.

Date: December 7, 2009

Witnessed by;



Robert A. Kasting
Barrister & Solicitor
1200 - 805 West Broadway
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Barrister & Solicitor
P.O. Box 12077
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Schedule "A"
To the Statement of Agreed Facts and Proposed Consent Resolution

** Amended Citation – Original Citation Issued June 6, 2009

IN THE MATTER OF THE *HEALTH PROFESSIONS ACT*, R.S.B.C. 1996, c. 183

AND

**IN THE MATTER OF A HEARING INTO THE CONDUCT OF
MOHAMMAD DASHT KIAN
(a member of the College of Opticians of British Columbia)**

TO: Mohammad Dasht Kian
Provision Optical
3827 Sunset Street
Burnaby, BC V5G 1T4

TAKE NOTICE that by direction of the Inquiry Committee of the College of Opticians of British Columbia (the "College") pursuant to s. 37(1) of the *Health Professions Act*, R.S.B.C. 1996, c. 183, a Panel of the Disciplinary Committee will meet on the date and time hereinafter mentioned, for the purposes of taking evidence and conducting a Hearing to inquire into your conduct or competence, as a member of the College, respecting the following allegations:

1. You have contravened section 13(3) of the *Health Professions Act*, section 5(3) of the *Opticians Regulation*, B.C. Reg. 287/2008 and B.C. Reg. 487/94 and chapter 7 of the Standards of Practice of the College by:
 - (a) filling prescriptions by fitting and/or dispensing contact lenses without first registering as a contact lens fitter;
 - (b) filling prescriptions by fitting and/or dispensing contact lenses without first registering as a student contact lens fitter; and/or
 - (c) filling and/or refilling prescriptions without being under the supervision required by the *Opticians Regulation* and the Standards of Practice.
2. You have not complied with the limitation on your practice imposed on November 13, 2007 by the Inquiry Committee pursuant to s. 35(1)(a) of the *Health Professions Act*, that you cease filling and refilling contact lenses until you have completed a training program, passed the National Contact Lens Examinations and registered as a Contact Lens Fitter.
3. You have committed acts of professional misconduct, as set out in paragraphs 1 and 2 above.

AND FURTHER TAKE NOTICE that the Hearing will commence at **9:00 a.m. on Friday, August 7, 2009**, for one day at the office of the College at 420-2025 West Broadway, Vancouver, British Columbia.

AND TAKE FURTHER NOTICE that you may appear personally at the Hearing and have the right, at your own expense, to be represented by legal counsel at the Hearing. You or your legal counsel shall

have the full right to cross examine all witnesses called by the College and to call evidence in defence, in reply and answer to the aforesaid allegations.

AND FURTHER TAKE NOTICE that in the event of your non-attendance at the Hearing, the Discipline Committee may, upon proof of service of this Citation upon you, proceed with the taking of evidence or otherwise ascertaining the facts concerning the said allegations and make its findings on the facts and its decision thereon without further notice to you, and may make any order it could have made, had you been present.

DATED at the City of Vancouver, in the Province of British Columbia, this 2nd day of July, 2009.

The College of Opticians of British Columbia
Per:

Michael Tsao, Deputy Registrar