

Executive Summary – Martienus Brand, RMT April 17, 2014

Summary of the Discipline hearing before a Panel of the Discipline Committee of the College of Massage Therapists of Ontario held on April 17, 2014

Allegations of Professional Misconduct and Plea

Mr. Brand entered a guilty plea in relation to the following allegations:

- Submitting a false account; and
- Disgraceful, dishonourable and unprofessional

The Facts and findings of the Panel

The Facts of case were established by way of an Agreed Statement of Facts which set out the following;

The College received information from an insurance company outlining concerns with Mr. Brand's involvement with the issuing and submitting fraudulent OCF-21 forms. The forms stated that Mr. Brand provide a number of massage therapy treatments to two clients, when in fact he had only provided very limited treatments or no treatments at all.

Following receipt of this information the College commenced an investigation. During the investigation, it was revealed that Mr. Brand had entered into a business arrangement with his employer wherein he agreed to permit the employer to handle all client bookings, collection of payments, completion of insurance forms and maintaining client files, while Mr. Brand was responsible only for giving massage therapy treatment as scheduled.

Mr. Brand permitted his employer to issue receipts for massage therapy for clients who received laser treatment in addition to massage therapy, after the employer provided assurances to him that the College verified the practice to be appropriate. Mr. Brand did not contact the College to confirm if this practice was permissible.

Mr. Brand admitted that he permitted his employer to submit the OCF forms in question. He further entered a guilty plea in relation to each of the allegations of professional misconduct.

The Panel found that the College established that Mr. Brand engaged in the acts of professional misconduct based on the Agreed Statement of Facts and Mr. Brand's admissions.

Decision of the Panel and Penalty and Cost Award Imposed

The Discipline Panel accepted the Joint Penalty Submission of the College and Mr. Brand and imposed the following:

1. The Registrar shall suspend the Member's Certificate of Registration for six months, three months of which may be remitted in the event that the Member completes item 3 within two months of this decision. This suspension shall take effect immediately after the Discipline Committee hearing.
2. The Member undertakes not to practise during the period of his suspension.
3. The Registrar shall impose the following terms on the Member's Certificate of Registration:
 - a) The Member shall enroll in and successfully complete, within two months of the Panel's order becoming final, a Registrar-approved Professionalism Course, at his expense and

provide satisfactory evidence of his successful completion within thirty days of completing the same; and

- b) The Member shall enroll in and successfully complete, within two months of the panel's order becoming final, the College's online Standards and Regulation Workshop, at his expense and provide satisfactory evidence of his successful completion within thirty days of completing the same.
4. The Member shall contribute to the investigation and prosecution costs of the College in the amount of \$2,500. This amount can be paid in ten equal installments of \$250 each. The first payment is to be made within 45 days of the decision becoming final. Each subsequent payment shall be made 30 days thereafter.
5. The Member shall receive a public and recorded reprimand.
6. Publication in the usual course. The College may publish at the discretion of the Registrar details of the Member's failure to comply with all or part of the terms of the Penalty imposed.

Panel's Reasons for Decision

The Panel accepted the joint submission on penalty finding it was fair, reasonable and in the public interest.

The Panel cited that a suspension was warranted given the seriousness of the conduct involved. The Panel found Mr. Brand's conduct to be unprofessional and the penalty imposed sends a clear message to Mr. Brand and the profession that a registrant is ultimately responsible for ensuring all business practices are in accordance with the College's standards. Failure to do so will result in lengthy suspensions.

The Panel was of the view the course work imposed will reinforce for Mr. Brand his professional obligations and importance of being self regulated.

Costs were imposed as the Panel noted Mr. Brand's actions necessitated an investigation and discipline hearing and therefore he should be required to contribute towards the College's costs incurred as a result of his conduct.