

IN THE MATTER OF THE DENTAL DISCIPLINES ACT, 1997
and a FORMAL COMPLAINT dated August 14, 2009 in connection to
Dr. Raymond Abouabdallah of Montreal, Quebec and formerly of Saskatchewan

DR. RAYMOND ABOUABDALLAH
Submission on Penalty

- 1 Dr. Abouabdallah worked in the province of Saskatchewan for a period of approximately eight (8) years from year 2001 to 2008;
- 2 There were never any other complaints that were made against Dr. Abouabdallah neither in Saskatchewan nor in Quebec other than those already in possession of the Discipline Committee;
- 3 Dr. Abouabdallah never tried to delay procedures or to avoid them. This has been clearly demonstrated by the fact that he not only hired counsel to represent him but also attorney's in Saskatchewan to advise him of his rights and to ensure proper procedures were followed;
- 4 Dr. Abouabdallah simply exercised his rights in contesting jurisdiction of the College of Dental Surgeons of Saskatchewan and this should not be continued to be set up against him as it has throughout the proceeding by the Professional Conduct Committee and the Discipline Committee;

Legal Costs

- 5 To condemn Dr. Abouabdallah to pay the legal costs in connection to Mr. Reynold Robertson would not only be oppressive, exorbitant and blatantly severe but also contrary to Section 34 (2) (ii) of the *Dental Disciplines Act*;
- 6 The large majority of the legal costs stated in "Appendix A" which amount to \$ 67,963.75, are directly associated and incurred as a result of the appeals on the issue of membership and jurisdiction. The appeals were raised before the higher courts including the Court of the Queen's Bench, the Court of Appeal and the Supreme Court of Canada.

Therefore, any costs incurred that were not before the Discipline Committee should be put aside.

- 7 Considering that Section 34 of the Dental Disciplines Act is penal in nature it should be interpreted restrictively and in favor of the accused. Section 34 (2) (ii) of the Dental Disciplines Act indicates clearly that the costs are for "the investigation and hearing into the member's conduct" and does not include costs related to appeal to higher courts and in matters which the Discipline Committee is not seized of;
- 8 The costs stated in Appendix A are incomplete and not detailed. It cannot be determined with any certainty what the costs are for;
- 9 Based on the lack of details on in Appendix A and given the fact that no evidence has been provided to substantiate these costs, Dr. Abouabdallah submits that no costs be made payable instead of the indicated cost of \$ 67, 963.75;
- 10 The costs in connection to per diems, conference calls, witness costs, radiograph duplication, discipline hearing and court reporter have no evidence to support them and should be set aside should it remain this way;

Restitution

- 11 In the decision of the Discipline Committee of August 13, 2012, it was determined that the costs paid by ██████████ to Dr. Abouabdallah totaled \$ 148 443.80 (paragraphs 193 and 194 of the decision);
- 12 This amount is inaccurate. ██████████ failed, neglected or omitted to produce ██████ income tax statements into the record that would clearly show what ██████ paid in terms of expenses for ██████ treatment under Dr. Abouabdallah;
- 14 Should the Discipline Committee follow the recommendations set by Mr. Robertson, no consideration would be made for work done by Dr. Abouabdallah or the estimated costs introduced into evidence;

15 No evidence has been provided as to what costs would be associated in repairing any work performed by Dr. Abouabdallah or if any repair work needed to be done;


Violation of Dr. Abouabdallah's rights

16 Dr. Abouabdallah was denied his right to a full and fair defense along with his request for particulars which was made several times throughout the proceedings in addition to evident late and non-disclosure of evidence;

17 It should be taken into consideration that Dr. Abouabdallah could not defend against the allegations made against him even though it was clearly his intent to do so;

18 All this is submitted without prejudice and without submission and under reserve and Dr. Abouababdallah's rights in contesting the decision of the Discipline Committee dated August 13, 2012 whereby a Notice of Appeal is sent and is currently underway;

19 All of which is respectfully submitted this 16th day of October 2012;



Anthony Rizzi
Counsel for Dr. Raymond Abouabdallah

IN THE MATTER OF THE DENTAL DISCIPLINES ACT, 1997
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PROFESSIONAL CONDUCT COMMITTEE
SUBMISSION ON PENALTY

Introduction

The Professional Conduct Committee will ask the Discipline Committee that it make Orders in respect of Dr. Raymond Abouabdallah as follows:

1. Pursuant to Clause 34(1)(a) of the *Act*, that Dr. Abouabdallah be expelled from the College of Dental Surgeons of Saskatchewan and that his name be struck from the register;
2. Pursuant to Clause 34(1)(f) that Dr. Abouabdallah make restitution to [REDACTED] in the sum of \$148,443.80 for dental services incompetently performed or not performed at all;
3. Pursuant to Clause 34(2)(a)(i), Dr. Abouabdallah pay a fine of \$5,000.00 within 30 days of the date of the Order of the Professional Conduct Committee setting penalty;
4. Pursuant to Clause 34(2)(a)(ii), Dr. Abouabdallah pay costs of the investigation and hearing into his conduct and related costs, including the expenses of the Professional Conduct Committee and the Discipline Committee, and the costs of legal services and witnesses estimated at \$140,301.09 as at October 1, 2012 set out in Appendix A to this recommendation on costs and such further costs as may be established after the final determinations of the Discipline Committee;
5. The College publish a summary of the Formal Complaint and the decision on penalty in the College newsletter;
6. It is recommended that Dr. Abouabdallah publish an apology to [REDACTED]

Overview

7. In its 82 page decision delivered August 13, 2012, the Discipline Committee Hearing Panel found Dr. Raymond Abouabdallah guilty of professional incompetence and professional misconduct in his provision of dental services to [REDACTED]
8. Among its findings, the Discipline Committee found that [REDACTED] paid Dr. Abouabdallah \$148,443.80 for dental services that were performed incompetently or not performed at all. It found that even if the dental services had been performed competently, the charges were excessive in a range of \$112,110.00 to \$122,225.00 above recommended rates. The Discipline Committee stated:

The differential in our opinion greatly exceeded what would have been reasonable had all the work been performed and been performed to acceptable dental standards.

Decision, para. 143

9. The findings of incompetence and misconduct in relation to the Formal Complaint are summarized in paragraph 196 at pages 79 to 81 of the Discipline Committee Decision.
10. Ethically, Dr. Abouabdallah's conduct in charging for services not performed or performed incompetently were so excessive as to be dishonourable and a disgrace to the profession.
11. In his dental treatment of [REDACTED], the Discipline Committee found that Dr. Abouabdallah demonstrated he is unfit to provide almost all dental services customarily provided to the public, including:
 - (a) provision of endodontic treatment;
 - (b) maintenance of proper charting;
 - (c) provision of periodontic treatment;
 - (d) provision of prosthodontic treatment;
 - (e) diagnosis of a patient's complaint; and
 - (f) providing an adequate treatment plan for a patient.

Decision, at paragraph 196, pages 79-80

12. Further, and in relation to the dental services he provided to [REDACTED] between January 14, 2002 and June 21, 2008, Dr. Abouabdallah was guilty of professional misconduct in that he did:
- (a) Charged excessive fees for periodontal, endodontic and prosthodontics services;
 - (b) Charged fees for periodontal dental services not performed;
 - (c) Charged fees for dental services performed incompetently, being endodontic treatment and prosthodontics treatment;
 - (d) Knowingly submitted false or misleading accounts for services rendered causing [REDACTED] to pay Dr. Abouabdallah the sum of \$148,350.30; and
 - (e) In providing dental treatment to [REDACTED] between January 14, 2002 and June 21, 2008, falsified records regarding the examination and treatment of [REDACTED]

Decision at paragraph 196, pages 80-81

13. It is the submission of the Professional Conduct Committee that the findings against Dr. Abouabdallah of professional incompetence and professional misconduct are so extensive that he should be expelled as a member of the College of Dental Surgeons of Saskatchewan and that his name be struck from the register.
14. It is also the submission, given the magnitude of the professional incompetence and professional misconduct, that he should be subject to further orders that he:
- (a) Make restitution to [REDACTED] in the amount of \$148,443.80;
 - (b) Pay a fine of \$5,000.00; and
 - (c) Pay the costs of the investigation and hearing into his conduct and related costs, including the expenses of the Professional Conduct Committee and the Discipline Committee, and the costs of legal services and witnesses; and

That the payment of all of the above be made within 30 days of the date of this order or within a reasonable time frame fixed by the Discipline Committee upon Dr. Abouabdallah presenting cogent evidence of his financial circumstances.