

COLLEGE OF PHYSICIANS AND SURGEONS OF NOVA SCOTIA

IN THE MATTER OF: The *Medical Act*, S.N.S.,1995-96
c.10

-and-

IN THE MATTER OF: Dr. Oluwarotimi Fashoranti

DATES HEARD: July 23, 24 and 25, 2013 at Halifax,
Nova Scotia

HEARING COMMITTEE: W. Brian Smith, Q.C., Chair
Dr. Allen J. Bishop
Ms. Mary Hamblin, Public
Representative
Dr. Cynthia A. Forbes
Dr. Michael Teehan

COUNSEL: Ms. Marjorie Hickey, Q.C., and
Ms. Melanie Comstock
Counsel for the College of
Physicians and Surgeons

Mr. Daniel Campbell, Q.C., and
Ms. Gillian Strugnall
Counsel for Dr. Oluwarotimi
Fashoranti

1. The Committee hearing this matter has been appointed pursuant to Section 58 of the Medical Act, R.S.N.S c.10, S.N.S 1995-96 (hereinafter referred to as the "*Medical Act* "), to adjudicate regarding allegations against Dr. Fashoranti.
2. The authority of this Committee is found in Section 55 of the *Medical Act* which reads as

follows:

Notwithstanding and other provision of this Act, where a decision is made pursuant to subsection 54 (1), subject to any disposition made pursuant to subsection 54(5), a hearing committee shall be appointed pursuant to subsection 58(1) to proceed with a hearing to determine whether the member or associate member is guilty of charges relating to a disciplinary matter.

3. The reference to "disciplinary matter" is found in Section 2G) of the *Medical Act* which reads as follows:

"disciplinary matter "means any matter involving an allegation of professional misconduct, conduct unbecoming a medical practitioner or professional incompetence including incompetence arising out of physical or mental capacity;

4. The *Medical Act* requires this Committee to hold a hearing to determine whether the medical practitioner is guilty of any disciplinary matter and grants a considerable discretion to the Committee over the conduct of the hearing. Section 58(5) states that:

"Subject to the regulations, the hearing committee may do all things necessary to provide a full and proper inquiry.

5. The medical practitioner, in this case Dr. Oluwarotimi Fashoranti, has the right to be treated fairly in relation to this process. Subsection 66 (1) of the Act states:

At the hearing of the hearing committee, a member or associate member is entitled to all the rights of natural process, including the right to be represented by legal counsel, to know all the evidence considered by the

hearing committee, to present evidence and to cross examine witnesses.

6. In the case before it, the Hearing Committee is satisfied that all of the rights or rules of natural justice have been afforded to Dr. Fashoranti.
7. When conducting a hearing such as we have here, the Committee must always keep in mind the purpose of the process and the provisions of the *Medical Act* as set out in Subsection 4(3) which reads as follows:

In order that the public interest may be served and protected, the objects of the College are to:

(a) regulate the practice of medicine and govern its members in accordance with this Act and the regulations;

(b)...

(c)...

(d)...

(e)...

Medical Practitioners are placed in a position of trust to those they treat, therefore the protection of the public must be fundamental to Professional Regulatory practice of the Medical profession. However ancillary to that tenet, is the fair and unbiased treatment of the medical practitioner against whom the allegations have been brought. While it is absolutely essential that the public be protected against professional misconduct or professional incompetence, it is equally essential and not inconsistent with the principal of protection of the public, that the medical practitioner be treated fairly throughout the entire process not only in the procedures followed by the Committee throughout the hearing, but also in its consideration of the substance of the allegations before it.

8. The Notice of Hearing in this matter contains the following allegations and state that the

hearing will consider the following matters:

That being registered under the Medical Act and being a physician in the Province of Nova Scotia, it is alleged that on or about July 29, 2010, with respect to patient A you violated patient/physician boundaries by engaging in:

(i) inappropriate interaction and/or

(ii) an inappropriate examination.

9. This is not a criminal case where the burden is upon the Crown to prove its case beyond a reasonable doubt. In the case before it, the Committee is cognizant that in the matter before us, the burden of proof which rests upon the College is to prove its case against Dr. Fashoranti on a balance of probabilities, otherwise known as the "civil" burden of proof. Both counsel for the College and Dr. Fashoranti agreed that this is the correct statement of the onus which rests throughout these proceedings upon the College. It is helpful to consider what the phrase "balance of probabilities" means. Quoting from a passage found in Sopinka, Lederman & Bryant: The Law of Evidence in Canada, Third Edition © LexisNexis Canada Inc. 2009 at paragraph 5.50 the authors state:

There are two standards of proof. The degree of satisfaction governing civil actions is the lower standard of a balance of probabilities. This standard is also referred to as "proof on a preponderance of probabilities" or "proof on a preponderance of evidence". Practically speaking, nothing turns on which term is used".

And at paragraph 5.52, the authors state:

The degree of probability required to discharge the burden of proof in a

civil case has been defined by several leading jurists. The great jurist Lord Denning defined it in these terms; Miller v. Minister of Pension {1947} 2 All E.R. 372 at 374(K.B.)

It must carry a reasonable degree of probability but not so high as is required in a criminal case. If the evidence is such that the tribunal can say: 'we think it more probable than not', the burden is discharged, but if the probabilities are equal it is not.

The authors further state at p.204 of their work in quoting from a decision of the Supreme Court of Canada in Smith (footnote 131 on page 204) of their work;

Simply put, the trier of fact must find that the existence of the contested fact is more probable than its non existence.

One of the critical considerations in determining whether the burden has been met is to decide whether the evidence submitted to prove a fact is, as Lord Denning stated, "more probable than not". In deciding the issue the credibility of witnesses, plural credibility becomes a factor to be considered and weighed. Ms. Hickey for the College has referred us to and provided us with a handout entitled "TESTS FOR DETERMINING CREDIBILITY", a compilation of cases which focus on this issue. In quoting from Faryna v. Chorney, [1952] 2 D.L.R. 354, 1951 Carswell BC 133 we were referred to the following passage at paragraph 11

*The credibility of interested witness, particularly in cases of conflict of evidence, cannot be gauged solely by the test of whether the personal demeanor of the particular witness carried conviction of the truth. The test must reasonably subject his story to an examination of its consistency with the probabilities that surround the currently existing conditions. **In short, the***

real test of the truth of the story of a witness in such a case must be its harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions.

A trier of fact will often look for evidence which is corroborating of the evidence which is proffered by a witness. In F.H. v. McDougall, 2008 SCC 53, (on appeal from the British Columbia Court of Appeal), a case to which we were also referred to by Ms. Hickey, the Court says at paragraph 80 as follows:

Corroborative evidence is always helpful and does strengthen the evidence of the party relying on it... However, it is not a requirement and indeed may not be available,...Incidents of sexual assault normally occur in private.

And further in Law Society of Upper Canada v. Neinstein, 2010 ONCA 193 (CanLII), quoting from R. v. Khela, 2009 SCC 4 at paragraphs 40-43 and 52 it is noted:

Evidence that strengthens the belief in the veracity of a witness can be confirmatory even though it might not provide direct support for the allegation of misconduct.

And further in College of Physicians and Surgeons of Saskatchewan v. Shamsuzzaman 2011 SKCA 41 while referring to Neinstien (supra) and noted:

The tribunal is however, obliged to consider the whole of the evidence and determine on a balance of probabilities, whether the complaint is proven. To that end, the Committee, in this case, was required to determine the credibility and reliability of both the claimant and Dr. Shamsuzzaman. The onus remained on the College throughout the process to prove the complaint.

PRELIMINARY ORDERS

The Committee ordered a ban on publication of the names of the "complainant" or her spouse or any evidence from which the identification of the "complainant" or her spouse could be identified. The authority for such an Order is found in Section 64 of the *Medical Act*. Those witnesses will throughout this decision be identified as Ms. A and Mr. B.

THE EVIDENCE

The event from which the complaint emanates occurred in the Emergency Department of All Saints Hospital in Springhill, Nova Scotia on July 29, 2010. During the presentation of the case, the Committee was referred to a number of Exhibits and heard the *viva voce* testimony of several witnesses, the first of which was Ms. Sherry Smith, an RN who was on duty in the Emergency Department of the hospital when Ms. A initially made contact with the Department on that day inquiring as to the status of a CT scan which had been ordered by a Dr. Begin. Dr. Begin we understand from the evidence was absent that day from the hospital due to illness. After some short discussion with Dr. Fashoranti, Ms. A was advised by Nurse Smith to come to the hospital. Nurse Smith stated that it was an extremely busy day in the Emergency Department and while it is not hospital protocol to advise which Physician was on duty at any particular time, she did recall telling Ms. A that Dr. Fashoranti was on duty that day.

Nurse Smith identified a sketch, at Tab 5 of Exhibit 1, of the layout of the Emergency Department which depicted the Nursing Station and the various rooms contained within the Emergency Department of the hospital which was referred to by a number of witnesses throughout the hearing.

Upon Ms. A's arrival at the hospital, Nurse Smith prepared a form entitled "Emergency/Day Surgery/Ambulatory Care Record". The hand writing found in the top one-third of the document was entered by Nurse Smith. The information contained there was not provided by Ms. A but was taken from the Ms. A's Chart by Nurse Smith. The lower portion of that document was created by Dr. Fashoranti during his consultation with Ms. A.

Nurse Smith testified that she was familiar with Dr. Fashoranti's habit of writing notes on any piece of paper or other medium which was readily available to him.

Nurse Smith recalls that Ms. A was in Exam Room B and that on several occasions she walked by the room and recalled that the door to Exam Room B was open. Because of the configuration of this room, a person who was standing in the doorway or who was passing in the hallway, would not be able to see either a patient lying on the examination bed or the doctor who might be conducting an examination of the patient. Photos 1, 5, 7 and 8 found at Tab 13 of Exhibit 1 are helpful in stating this conclusion. She did not see any part of the Doctor's examination of Ms. A although she did recall entering the doorway of the room to try to hurry the Doctor as it was extremely busy at that time.

She recalls Ms. A leaving the hospital and described her demeanor as normal. She also recalled Ms. A thanking Dr. Fashoranti as she left the Emergency Department that day. Nurse Smith stated that she was also aware of Dr. Fashoranti's "habit" of sending cards to some patients, which he in his testimony before the Committee, described as "encouragement" cards.

Next the Committee heard from Doris Hunter, a Ward Clerk at All Saints Hospital. She stated that she knew Ms. A "from around town". She stated that as she was getting ready to leave the hospital at approximately 3:00 p.m. on July 29, 2010, she recalled Ms. A inquiring about the wait and that she was going to get the Doctor a coffee, albeit assuming that she was referring to Dr. Fashoranti. Ms. Hunter testified that she knew that Dr. Fashoranti was

"famous" for writing notes but did not know that the Doctor used to write notes to patients.

Melissa Ortiz, RN was the next person to testify. She has been at All Saints Hospital since 2007. She confirmed that she was working in the Emergency Department on July 29, 2010 and was on duty with Nurse Smith, Ms. Doris Hunter and Dr. Fashoranti. On one occasion she recalls that she walked by Exam Room B, although she thought it to be Exam Room C. When she passed Exam Room B, she recalled the door being "about half way open". She observed Dr. Fashoranti leaning against the desk in the room but did not see Ms. A on the examination table. She said that she saw Ms. A when she, Ms. A, was leaving the hospital. Her observation of Ms. A at this time was that she did not seem distressed. Nurse Ortiz did not know about the apparent practice of Dr. Fashoranti sending cards to patients.

The Committee also heard from Ms. A, the complainant to the College concerning this matter. Ms. A had been employed in the health care field in a nearby Nursing Home at which Dr. Fashoranti regularly treated the residents and through that association was familiar with Dr. Fashoranti. It is clear from the evidence that Ms. A had did not have a family physician and attended the Emergency Department of All Saints Hospital quite frequently when in need of health care. On July 29, 2010, Ms. A made contact with the Emergency Department of All Saints Hospital, inquiring about results of a CT Scan which had been ordered by a Dr. Begin. She was told by Nurse Smith that Dr. Fashoranti was the Physician on duty. Nurse Smith spoke with the Doctor and was advised to tell Ms. A to come in and that the Doctor would see her. Dr. Fashoranti expressed a bit of reluctance initially because of his reticence to interpret a report which had been ordered by another physician. Upon arrival Ms. A was seen by Nurse Smith, given the usual hospital bracelet in the course of the registration process and told to wait in the waiting area. There was some discussion regarding coffee and getting a French Vanilla coffee for Dr. Fashoranti, which was apparently a favorite of his. Ms. A left the hospital and brought coffee back for the Doctor. There is no evidence that the Doctor ever received this coffee. Eventually Ms. A was ushered into Exam Room B by staff. Dr. Fashoranti came into the exam room and was seen to be reading something in Ms.

A's file. After being advised of the of the CT scan results, Ms. A stated that it was not the correct scan. Ms. A then testified that the Doctor told her to get on the examining table where he conducted an unremarkable abdominal examination. Following this examination, Ms. A returned to one of the chairs situate in the examining room. The chairs within the room and the examining table are depicted in the photographs found in Exhibit 1, Tab 13. Ms. A testified that Dr. Fashoranti then told her to get on the examining table again at which time he repeated the initial examination but this time pulled her top or blouse above her breasts and proceeded to touch and pinch her nipples in a rough fashion and again examined her abdomen by pushing on the abdominal quadrants. Ms. A also testified that Dr. Fashoranti made a "grunting" sound during the course of this examination. Dr. Fashoranti denies this second examination stating that it did not occur and that the first examination occurred because Ms. A complained to him of having a urinary problem and had blood in her urine. Ms. A denies that any possibility of a urinary problem was discussed at all. However a reference to Exhibit 1, Tab 7, page 11 in the block entitled "Physicians Assessment" reveals the notation "for pelvic pain and beneath this comment "microscopic hematuria" At page 12 of this Tab, it is noted that Dr. Fashoranti ordered a CTIVP noting on the order the following clinical information - Renal Colic & Microscopic hematuria. This Diagnostic Imaging Consultation was faxed on July 30, 2010. Ms. A says in her evidence that following the examination there was a conversation between she and Dr. Fashoranti as to where in Springhill she lived and particularly what was the street address of her residence. Ms. A then testified that the Doctor told her he would see her later and that Dr. Fashoranti wrote her street address on a small Kleenex box and placed it on the counter as seen in the photographs under the paper towel dispenser which is depicted in Photo 5, Tab 13 of Exhibit 1. The Committee accepts the evidence of Dr. Fashoranti that he had intended, because Ms. A seemed to be concerned about her health condition and current state of life, to send her one of his "encouragement" cards. When Dr. Fashoranti testified on other points and why he made certain entries on Ms. A's admissions documents, the Committee found his evidence to be self-serving and at times evasive. On the issue of her physical examination by Dr. Fashoranti, the Committee favors the depiction of this examination as posed by Ms. A.

Following the second examination Ms. A then said to Dr. Fashoranti "are we done" and she and the Doctor walked toward the Nursing station by the entrance to the Emergency Department. She requested and received a copy of her CT Scan, whereupon she left the hospital. She did not say anything to hospital staff prior to leaving the hospital.

Her evidence was that she then went to her vehicle and made a call to a family member. She was upset. Upon arrival at her home, she discussed what had happened during her visit at the hospital and she believed that she called her boyfriend, Mr. B. There was conflicting testimony regarding who had actually called Mr. B, however nothing turns on that. Ms. A proceeded to take a bath. When her bath was finished, Mr. B was present and she explained that during the visit at the hospital earlier the Doctor had pulled her pants down and lifted her top up to expose her breasts and had "twisted" her nipples. Mr. B advised the Police who arrived shortly after being called.

Cst. Paul MacDonald was the next witness to testify before the Committee. He is a 28 year veteran of the Springhill Police Department and was accompanied by a Cst. Demers. As a result of information received, Cst. MacDonald made a telephone call to a person at the hospital who apparently gave permission for the police to search the examining room B without a warrant, for a Kleenex box which Ms. A reported would be found in the room. Cst. MacDonald testified that he found and retrieved a Kleenex box which had been entered as Exhibit 4 earlier in the proceeding. This Kleenex box was located in Exam Room B, in the approximate position which Ms. A had said it was when it was placed there by Dr. Fashoranti. Notably on the underside of the box, was written the following "*address subject to publication ban*" which is the address of Ms. A which she stated had been written by the Doctor. Dr. Fashoranti confirmed that he did this notation but that it was for the purpose of later sending an "encouragement" card to Ms. A. During the course of the police investigation, Cst. MacDonald interviewed Dr. Fashoranti. Remarkably this interview took place in the presence of very experienced legal counsel who was representing the Doctor. During his interview, Dr. Fashoranti confirmed that he had written Ms. A's address on the box for the purpose of sending her one of the aforementioned

"encouragement" cards. Also during the course of his interview with the police, the Doctor provided a sketch of the Examining Room in which he said that he had examined Ms. A. This sketch was introduced as part of Exhibit 1, Document 2 found at Tab 14. Dr. Fashoranti prepared this sketch in the presence of Counsel, however depicted examining room "A" and not the room in which Ms. A had been examined which was Exam Room B. Dr. Fashoranti confirmed in his testimony that he knew the layout of the hospital emergency rooms "very" well. In the opinion of the Committee, this was something more than just an honest mistake by the Doctor but was an attempt by the Doctor to mislead the police investigation.

Ide Fashoranti, Dr. Fashoranti's wife also testified at the hearing of this matter. She is the manager of Dr. Fashoranti's medical practice from a business perspective. She confirmed that she purchases cards from a supplier which in turn the Doctor sends to patients. She said that she purchases the cards in lots of 180. This has been a practice of her husband for years. She described her husband as a hard working physician who maintains a busy practice and one who feels connected to his patients.

Dr. Fashoranti also testified before the Committee. He presented as a well educated, hard working physician who in addition to a busy medical practice located in Pugwash, Nova Scotia since 2002, was employed as an Emergency Room physician at All Saints Hospital. His obligations to the hospital consisted of one day per week, usually a Tuesday consisting of a 24 hour shift and one weekend a month from 0800 hrs Saturday to 0800 hrs Monday. In addition to these obligations, Dr. Fashoranti provided medical services to residents of Highcrest Nursing Home which is located a very short distance from All Saints Hospital.

In addition to having seen or treated Ms. A on a number of previous visits made by her to the Emergency Department of the hospital, Dr. Fashoranti was also familiar with Ms. A because she had been employed for a period of time as a care worker at the Highcrest Nursing Home where he was the resident physician, until a back injury prevented her from continuing

employment.

July 29, 2010 was a Thursday. Dr. Fashoranti was on duty at the hospital, replacing the regularly scheduled physician a Dr. Begin who had been scheduled but was unable to do so because of illness. Because of this situation, Dr. Fashoranti had been contacted by the hospital and agreed to work on that date, July 29, 2010 in place and stead of Dr. Begin.

He recalled the day as being a very busy day in the Emergency Department which was confirmed by the other members of hospital staff called to testify at this hearing.

He testified that the protocol on the Emergency Room is as follows: an Admitting Nurse, in this case, Nurse Smith, sees the patient first and prepares the Admitting Form as found as Page 11, Tab 7 or Exhibit 1. The initial procedure requires the Admitting Nurse do a brief medical history, to record medications and to "triage" the individual. This information apparently, other than the triage classification, is normally provided by the patient. However in this particular situation, Nurse Smith recalls taking the initial information from Ms. A's existing hospital chart. This was apparently based on the earlier conversation had between Nurse Smith and Ms. A at the time of Ms. A's initial call to the hospital that day. The chart is then placed in a priority which relates to the triage classification with 1 being the most serious or urgent and 5 being the least serious. Nurse Smith knew from her conversation with Ms. A that she was seeking the results of a earlier CT Scan, which ironically had been ordered by the very Doctor Dr. Fashoranti was replacing that day, Dr. Begin. Ms. A was triaged as a 5. Dr. Fashoranti was made aware that the purpose of Ms. A's pending visit to the emergency room was to obtain the results of a test which had been ordered by another Doctor and while expressing his concern with explaining the results of a test ordered by another physician, Dr. Fashoranti agreed to see her. This was communicated to Ms. A in a follow-up call made by Nurse Smith to her.

Dr. Fashoranti testified that when it came time to see a patient, he would go to the Nursing

Station and take the next file which was in the triage location. He does remember seeing Ms. A in the waiting area who at some time asked him something regarding the wait time and if he was ready to see her to which he indicated that he was not.

After a period of time, Dr. Fashoranti came to the waiting area and walked with Ms. A to Exam Room B, where he recalls Ms. A sat in a chair and the Doctor reviewed the CT Scan results with her, to which she responded that it was not the correct scan. Dr. Fashoranti then testified that Ms. A complained of symptoms which gave him concern that she may have had an infection in her kidneys. There is a divergence of the evidence as to what happened at that point. Ms. A says that the Doctor instructed her to "get up on the table". Dr. Fashoranti says that Ms. A of her own volition, placed herself on the examining table. Ms. A then stated that the Doctor pulled her pants down or told her to pull her pants down so he could examine her. Dr. Fashoranti testified that he had instructed Ms. A to bring her pants to her hip line. An examination then proceeded which basically consisted of an abdominal examination including the lower abdominal region. Once the examination was completed, Ms. A sat in one of the two chairs located in the room. It was at or near this time that Dr. Fashoranti directed her back to the examining table where he proceeded to pull her pants down to the pubic area and pulled her top and bra over her breasts and proceeded to roughly touch or pinch her breasts. Ms. A alleges that the Doctor was making some panting or grunting sound during the second examination. Dr. Fashoranti testified that there was only one examination done by him that day upon Ms. A which was necessitated by the conversation he had with her prior to the actual examination based upon the "question and answer" part of his examination. He stated that he was concerned because of blood in Ms. A's urine that she may have had a kidney infection and thus the reason for the examination. He denies the second examination. Upon returning to the chair, Ms. A then stated that the Doctor quizzed her as to where she lived. When she replied "Springhill" he then asked her specifically where in Springhill to which she replied "*(address subject to publication ban)*". It was at this time the Doctor wrote her address on the Kleenex box (Exhibit 4). She also said the Doctor asked her if she lived alone and stated that he would see her later that night. She said to the Doctor "are

we done here?" and then proceeded to return to the Nursing Station area.

Prior to leaving the hospital, Ms. A asked Dr. Fashoranti for a copy of her CT Scan results and he photocopied them for her and gave her a photocopy. Ms. A testified that upon leaving the Doctor stated in his words that he would "see you later", which she interpreted as the Doctor intending to visit her at home that evening.

Dr. Fashoranti stated that he wrote on the Exhibit (Exhibit 1, Tab 7, Page 11) under the section "Lab:" CTIVP as well a drawing a picture which, according to him, depicted the examination completed by him on Ms. A at a time when he was seated in the Doctors chair and Ms. A was seated in the chair in Exam Room B.

While this committee does not feel it necessary to review each tendered exhibit or to review each witnesses sworn testimony in detail, suffice it to say that the Committee has considered each tendered exhibit and the testimony of each witness called by the parties.

The Committee is cognizant of it reaching a conclusion on a balance of probabilities and how the factors of credibility and demeanor fit into determining how they impact upon the balance of probabilities. As was stated and to repeat the comments contained in *Faryna v Chorney* (supra):

... the real test of the truth of the story of a witness ... must be its harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions.

The Committee was mandated to consider the following:

"That being registered under the *Medical Act* and being a physician in the Province of Nova

Scotia, it is alleged that on or about July 29, 2010, with respect to patient A you violated patient/physician boundaries by engaging in:

- (i) inappropriate interaction, and/or
- (ii) an inappropriate examination

It is the finding of this Committee that the allegation contained in (i) does not meet the evidentiary burden on a balance of probabilities. Given the evidence of how busy the Emergency Room was on the day and at the time in question, the Doctor's apparent habit of sending cards to some patients and the length of time remaining in his shift, there is not an air of reality to the supposition by Ms. A of Dr. Fashoranti's future intentions toward her. Accordingly the Committee finds that this allegation has not been proven on a balance of probabilities.

With respect to the second allegation, there was nothing which the Committee heard in testimony or upon review of the many exhibits, which would support the need for a second examination of the nature and type conducted by the Doctor. The examination may not have been inappropriate had there been medical evidence to support the need for such an examination. There was none. The Committee accordingly finds that the second allegation has been proven on a balance of probabilities.

In her final submission, Ms. Hickey, on behalf of the College, urged us to find that if one or both of the allegations against Dr. Fashoranti was proved, then such a proved allegation would constitute professional misconduct. Mr. Campbell, Counsel for Dr. Fashoranti, conceded that such a finding on either or both allegations would in fact constitute professional misconduct. The Committee, in light of its decision in the matter, concludes that the conduct of Dr. Fashoranti does constitute professional misconduct.

The matter of penalty is hereby adjourned to a future date determined by the parties and

the availability of the members of the Committee.

Dated at Dartmouth, this 2nd day of September 2013.



W. Brian Smith, Q.C.
Chair