

CV-16-546282

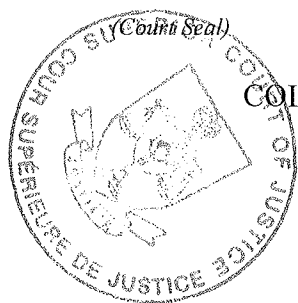
Court File No. 15-0006456700-OT

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE MR.)
JUSTICE HEDERMAN)

TUESDAY, THE 26th
DAY OF JANUARY, 2016

BETWEEN:



COLLEGE OF TRADITIONAL CHINESE MEDICINE PRACTITIONERS
AND ACUPUNCTURISTS OF ONTARIO

Applicant

and

ALEXANDER TRAN

Respondent

APPLICATION UNDER Section 87 of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18

ORDER

THIS APPLICATION, made by the Applicant, the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario (the "College"), for declarations that Alexander Tran ("Mr. Tran") has violated the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18 (the "RHPA") and the *Traditional Chinese Medicine Act, 2006*, S.O. 2006, c. 27 (the "TCMA") and for a permanent injunction against Mr. Tran, was heard this day at the court house, 393 University Avenue, Toronto, Ontario, M5G 1E6.

ON READING the Consent filed by the parties, the Applicant's Application Record, Supplementary Application Record, Further Supplementary Application Record, Factum, and Brief of Authorities and on hearing the submissions of the lawyers for the parties:

1. **THIS COURT DECLARES** that Mr. Tran has violated sections 3, 4 and 8 of the *TCMA* and sections 27 of the *RHPA* by performing a controlled act despite not being a member of the College, by holding himself out as a traditional Chinese medicine practitioner and acupuncturist, and using restricted titles;

2. **THIS COURT FURTHER DECLARES** that Mr. Tran has breached section 33(1) of the *RHPA* by using the title "Doctor" in the course of providing or offering to provide, in Ontario, health care to individuals;

3. **THIS COURT FURTHER DECLARES** that Mr. Tran has breached section 30(1) of the *RHPA* by treating and advising persons with respect to his or her health in circumstances in which it is reasonably foreseeable that serious physical harm may result from the treatment and advice or from omission from them;


4. **THIS COURT ORDERS** that the Respondent be and hereby is prohibited and enjoined, and must immediately cease and desist, from:

- (a) Using the title "doctor", or any abbreviation thereto, in contravention of section 33(1) of the *RHPA*;
- (b) Using the titles "traditional Chinese medicine practitioner" or "acupuncturist", a variation or abbreviation or an equivalent in another language, in contravention of section 8(1) of the *TCMA*;

- (c) Holding himself out as a person who is qualified to practice in Ontario as a traditional Chinese medicine practitioner or acupuncturist or in a speciality of traditional Chinese medicine, in contravention of section 8(2) of the *TCMA*;
- (d) Performing controlled acts limited to members of the College, in contravention of sections 3 and 4 of the *TCMA* and section 27 of the *RHPA*, specifically:
 - (i) Performing a procedure on tissue below the dermis and below the surface of a mucous membrane for the purpose of performing acupuncture; and
 - (ii) Communicating a traditional Chinese medicine diagnosis identifying a body system disorder as the cause of a person's symptoms using traditional Chinese medicine techniques; and
- (e) Treating and advising persons with respect to their health in circumstances in which it is reasonably foreseeable that serious harm may result from treatment or advice or from an omission from them, in contravention of section 30(1) of the *RHPA*.

5. **THIS COURT FURTHER ORDERS** that the terms outlined in paragraphs 1-4 of the within Order do not prohibit the Respondent from submitting an Application to the College for membership. In the event that the College, upon review of said Application, deems that Mr. Tran has satisfied the requirements for the issuance of a certificate of registration under sections 4 and 9 of Ontario Regulation 27/13 and issues a certificate of registration, Mr. Tran may practice traditional Chinese medicine and/or acupuncture pursuant to the terms of the issued certificate of registration.

6. **THIS COURT FURTHER ORDERS** that the Respondent shall pay costs to the Applicant in respect of the Application in the amount of \$7,500.00, which amount is due and payable within 30 days of the date of this Order.



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PER / PAR:



COLLEGE OF TRADITIONAL CHINESE MEDICINE
PRACTITIONERS AND ACUPUNCTURISTS OF ONTARIO
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-and- ALEXANDER TRAN

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ORDER

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