

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE)
)
JUSTICE *GLUSTEIN*)

FRIDAY, THE 12th
DAY OF FEBRUARY, 2016

B E T W E E N:

(Court Seal)

COLLEGE OF TRADITIONAL CHINESE MEDICINE PRACTITIONERS AND
ACUPUNCTURISTS OF ONTARIO

Applicant

and

DAPING ZHANG

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 Daping Zhang (“Mr. Zhang”) 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. Zhang, was heard this day at the Court House, 393 University Avenue, Toronto, Ontario, M5G 1E6.

ON READING the Applicant's Application Record, Factum, Brief of Authorities, Reply Record of the Applicant, Supplementary Application Record of the Applicant, Reply Factum and Supplementary Brief of Authorities of the Applicant, and the Responding Application Record of the Respondent, Amended Factum, Brief of Authorities, the Supplementary Responding Record of the Respondent and Second Supplementary Responding Record of the Respondent, and on reading the Consent of the Parties:

1. **THIS COURT DECLARES** that Mr. Zhang 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. Zhang 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. Zhang 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 Mr. Zhang 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 section 27 of the *RHPA* and sections 3 and 4 of the *TCMA*, 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;
- (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*; and

5. **THIS COURT FURTHER ORDERS** that Mr. Zhang shall pay costs to the College in the sum of \$16,000.00, inclusive of disbursements and HST, which amount is due and payable within thirty days of the date of this Order.



(Signature of Justice)

Justice Glustein

COLLEGE OF TRADITIONAL CHINESE MEDICINE
PRACTITIONERS AND ACUPUNCTURISTS OF ONTARIO
Applicant

-and- DAPING ZHANG
Respondent

Court File No. CV-15-529665

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT TORONTO

ORDER

**LENCZNER SLAGHT ROYCE
SMITH GRIFFIN LLP**

Barristers

Suite 2600

130 Adelaide Street West

Toronto ON M5H 3P5

Jaan E. Lilles (495980)

Tel: (416) 865-3552

Fax: (416) 865-2846

Email: jlilles@litigate.com

Laura E. Robinson (68244B)

Tel: (416) 865-2886

Fax: (416) 865-2881

Email: lrobinson@litigate.com

Lawyers for the Applicant