THE DISCIPLINE COMMITTEE OF THE ROYAL COLLEGE OF DENTAL SURGEONS OF ONTARIO

IN THE MATTER OF a Hearing of a panel of the Discipline Committee of the Royal College of Dental Surgeons of Ontario held pursuant to the provisions of the Health Professions Procedural Code which is Schedule 2 to the *Regulated Health Professions Act*, 1991, Statutes of Ontario, 1991, Chapter 18 ("Code") respecting one DR. ZELJKO VESELINOVIC of the City of Amherstburg in the Province of Ontario;

AND IN THE MATTER OF the *Dentistry Act* and Ontario Regulation 853, Regulations of Ontario, 1993, as amended ("Dentistry Act Regulation").

Members in Attendance: Richard Hunter, Chair

Carol Janik Margaret Dunn

BETWEEN:

ROYAL COLLEGE OF DENTAL SURGEONS OF ONTARIO)	Appearances:
SCROLONS OF ONTAKIO)	Ms. Luisa Ritacca
)	Independent Counsel for the
)	Discipline Committee of the Royal
)	College of Dental Surgeons of Ontario
- and -)	
)	Ms. Dayna Simon
)	For the Royal College of Dental
)	Surgeons of Ontario
)	
DR. ZELJKO VESELINOVIC)	Mr. Neil Abramson
)	For Dr. Zeljko Veselinovic

Hearing held on October 4, 2019

REASONS FOR DECISION

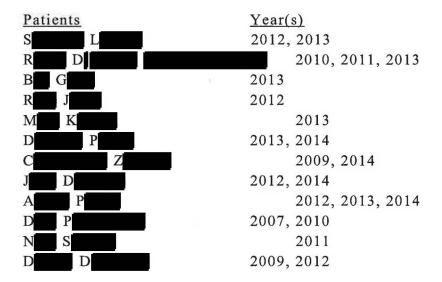
This matter came on for hearing before a panel of the Discipline Committee (the "Panel") at the Royal College of Dental Surgeons of Ontario (the "College") in Toronto on October 4, 2019.

At the outset of the hearing, the College sought an order banning the publication of the names of patients or any information that could be used to identify any patients. The Member consented to the request. The Panel granted the order, which extends to the exhibits filed, as well as to these reasons for decision.

THE ALLEGATIONS

The allegations against the Member were contained in the Notice of Hearing, dated October 9, 2018 (Exhibit 1). At the outset of the hearing, the College advised that it intended to seek a withdrawal of all allegations, except for the allegation contained at paragraph 2, which was amended and which provides as follows:

2. You committed an act or acts of professional misconduct as provided by s.51(1)(c) of the Health Professions Procedural Code, being Schedule 2 of the Regulated Health Professions Act, 1991, Statutes of Ontario, 1991, Chapter 18 in that you signed or issued a certificate, report or similar document that you ought to have known contained an improper statement relative to the following patient(s) during the year or one or more of the years specified opposite that patient's name, contrary to paragraph 28 of Section 2 of Ontario Regulation 853, Regulations of Ontario, 1993, as amended.





Particulars:

- You issued claims for restorations for more surfaces than you restored with respect to the following cases.
 - O You restored S L tooth 26 (upper left 1st molar) on or about November 10, 2012. The claim you issued for this treatment included the lingual surface, which was not restored. You also restored tooth 35 (lower left 2nd bicuspid) on or about October 27, 2012, as well as teeth 25 (upper left 2nd bicuspid) and 27 (upper left 2nd molar) on or about November 10, 2012. For each of teeth 35, 25, and 27, you issued claims that included the vestibular and lingual surfaces, which were not restored.
 - O You restored R D tooth 14 (upper right 1st bicuspid) on or about February 20, 2013. The claim you issued included the vestibular and lingual surfaces, which were not restored.
 - o You restored B G G tooth 14 (upper right 1st bicuspid) on or about November 20, 2013. The claim you issued for this treatment included the vestibular and lingual surfaces, which were not restored.
 - o You restored R J tooth 35 (lower left 2nd bicuspid) on or about May 7, 2012. The claim you issued for this treatment included the vestibular and lingual surfaces, which were not restored.
 - o You restored M K tooth 14 (upper right 1st bicuspid) on or about June 22, 2013. The claim you issued for this treatment included the vestibular and lingual surfaces, which were not restored.
 - o You restored D P teeth 14 (upper right 1st bicuspid) and 15 (upper right 2nd bicuspid) on or about May 13, 2013, as well as tooth 27 (upper left 2nd molar) on or about April 10, 2014. The claims you issued for each of these restorations included the vestibular and lingual surfaces, which were not restored. You also restored tooth 26 (upper left 1st molar) on or about April 10, 2014. The claim you

issued for this restoration included the vestibular surface, which was not restored.

- You restored C Z teeth 14 (upper right 1st bicuspid) and 15 (upper right 2nd bicuspid) on or about December 14, 2009, as well as tooth 36 (lower left 1st molar) on or about January 29, 2014. The claims you issued for each of these restorations included the vestibular and lingual surfaces, which were not restored. You also restored tooth 35 (lower left 2nd bicuspid) on or about January 29, 2014, for which you issued a claim that included the lingual surface, which was not restored.
- o You restored J D tooth 15 (upper right 2nd bicuspid) on or about April 14, 2012. The claim you issued for this restoration included the vestibular surface, which was not restored. You also restored teeth 35 (lower left 2nd bicuspid) and 36 (lower left 1st molar) on or about April 21, 2012, and teeth 26 (upper left 1st molar) and 14 (upper right 1st bicuspid) on or about April 26, 2014. The claims you issued for each of these restorations included the vestibular and lingual surfaces, which were not restored.
- o You restored A P tooth 24 (upper left 1st bicuspid) on or about January 7, 2012. The claim you issued for this restoration included the vestibular surface, which was not restored. You also restored tooth 25 (upper left 2nd bicuspid) on or about February 22, 2014. The claim you issued for this restoration included the vestibular and lingual surfaces, which were not restored.
- o You restored D P tooth 25 (upper left 2nd bicuspid) on or about August 7, 2007. The claim you issued for this restoration included the lingual surface, which was not restored. You also restored tooth 26 (upper left 1st molar) on or about February 13, 2010. The claim you issued for this restoration included the vestibular and lingual surfaces, which were not restored.
- o You restored N S S tooth 35 (lower left 2nd bicuspid) on or about August 26, 2011. The claim you issued for this restoration included the vestibular surface, which was not restored. You also restored tooth 36 (lower left 1st molar) on or about August 26, 2011. The claim you issued for this restoration included the vestibular and lingual surfaces, which were not restored.
- O You restored D D tooth 36 (lower left 1st molar) on or about April 7, 2009, as well as tooth 16 (upper

- right 1st molar) on or about May 28, 2012. The claim you issued for each of these restorations included the vestibular and lingual surfaces, which were not restored.
- O You restored K G G tooth 26 (upper left 1st molar) on or about September 7, 2011. The claim you issued for this restoration included the vestibular and lingual surfaces, which were not restored.
- You issued a claim using a fee code for placing a restoration when you re-bonded a retainer for R D on or about October 8, 2010, and/or July 22, 2011.
- You issued claims for specific examinations that were at or close to the maximum recommended fee as follows, but your patient records did not contain documentation to justify the claims you issued with respect to:
 - o S L on or about November 30, 2013
 - o K M on or about November 26, 2009 and/or October 20, 2010
 - o A P on or about August 21, 2013 and/or September 6, 2014
 - o R P on or about April 4, 2012
 - o T P on or about June 30, 2010 and/or July 17, 2010
 - o Description on or about October 22, 2009 and/or August 18, 2011
 - o M S on or about September 22, 2011
 - o B on or about September 17, 2009

THE MEMBER'S PLEA

The Member admitted the allegations of professional misconduct as set out in the amended paragraph 2 of the Notice of Hearing. He also made admissions in writing in an Agreed Statement of Facts (Exhibit 2), which he signed.

The Panel conducted a plea inquiry at the hearing, and was satisfied that the Member's admissions were voluntary, informed and unequivocal.

THE EVIDENCE

On consent of the parties, the College introduced into evidence an Agreed Statement of Facts which substantiated the allegations. The Agreed Statement of Facts provides as follows:

Background

- 1. Dr. Zeljko Veselinovic is a general practitioner and has been a member of the College since 1997.
- Dr. Veselinovic received a Notice of Hearing dated October 9, 2018 [Tab A Document Book].
- 3. The Notice of Hearing particularizes four allegations of professional misconduct with respect to Dr. Zeljko Veselinovic as follows:
 - Recommended and/or provided an unnecessary dental service (3 patients).
 - Signed or issued a certificate, report or similar document that he knew or ought to have known contained a false, misleading or improper statement (19 patients).
 - o Issued claims for restorations for more surfaces than he restored.
 - o Issued a claim using a fee code for placing a restoration when he had re-bonded a retainer.
 - Issued claims for specific examinations that were at or close to the maximum recommended fee, but his patient records did not contain documentation to justify the claims.
 - Charged a fee that was excessive or unreasonable in relation to the service performed (3 patients).
 - Submitted an account or charge for dental services that you knew or ought to have known was false or misleading (19 patients).

Withdrawals

- 4. The College seeks to withdraw Allegations 1, 3 and 4, on consent of both parties, as set out in the Notice of Hearing.
- 5. The College also seeks to withdraw the words "knew or" and "false, misleading or" from Allegation 2, on the consent of both parties.
- 6. The College is now satisfied that any billing issues as per the Allegations above were attributable to Dr. Veselinovic's deficient recordkeeping and

lack of understanding of the proper use of billing codes.

Admissions

7. Dr. Veselinovic admits to Allegation 2, as amended and the particulars therein as set out in the Notice of Hearing, namely that Dr. Veselinovic:

Committed an act or acts of professional misconduct as provided by s.51(1)(c) of the Health Professions Procedural Code, being Schedule 2 of the Regulated Health Professions Act, 1991, Statutes of Ontario, 1991, Chapter 18 in that you signed or issued a certificate, report or similar document that you knew or ought to have known contained a(n) false, misleading or improper statement relative to the following patient(s) during the year or one or more of the years specified opposite that patient's name, contrary to paragraph 28 of Section 2 of Ontario Regulation 853, Regulations of Ontario, 1993, as amended.

- 8. Dr. Veselinovic admits that the billing issues he has pled guilty to (and the duplicate allegation which was withdrawn) are attributable to his deficient recordkeeping although a recordkeeping allegation was not specifically included in the Notice of Hearing, he is willing to remediate this issue.
- 9. Dr. Veselinovic further admits that this remaining amended allegation together with the particulars and facts as set out in the Notice of Hearing, and this Agreed Statement of Facts, constitute professional misconduct, as set out in the Professional Misconduct Regulation.

Facts

- 10. The allegations first came to the attention of the College as a result of a letter received on February 26, 2016, from Dr. Roy Petras regarding concerns with Dr. Zeljko Veselinovic to whom he sold his practice in 2005.
- 11. Dr. Petras informed the College that some of his old patients returned to see him after seeing Dr. Veselinovic and he noticed that some insurance claims were not being paid because maximums had been reached. With his patients' permission he obtained copies of their previous dental

records to try and determine why some of these procedures were not being covered.

- 12. In his letter, Dr. Petras explained that after reviewing copies of Dr. Veselinovic's patient records, he had the following concerns:
 - Fillings that appeared clinically and radiographically to be two surface fillings were submitted and charged as four surface fillings;
 - Full fees were being charged for multiple fillings done in the same quadrant at the same appointment;
 - Full or near full fees were being charged for specific examinations;
 - Teeth were being treatment planned for four surface composite fillings when clinically and radiographically there was little or no decay apparent;
 - Carries/Trauma/Pain Control codes, with full fees, were being used in cases when the patient went in with a chipped tooth or restoration and the tooth was just smoothed off or when a patient went in with sensitivity and an occlusal composite filling was placed;
 - A Restorations, Permanent Anterior, Bonded Technique code was used for a one surface filling when composite was placed on the lingual of a mandibular incisor to repair bonding that had come off of a fixed orthodontic retainer;
 - Fees in excess of the fee guide were being charged for extractions.
- This information was provided to the College Registrar, who determined that he had reasonable and probable grounds to believe that Dr.

 Veselinovic had committed an act of professional misconduct. He appointed Dr. Helene Goldberg to investigate Dr. Veselinovic's practice in respect of billing practices, charging for services not rendered, excessive fees, informed consent, recordkeeping and standard of practice, in accordance with s. 75(1)(a) of the Health Professionals Procedural Code of the Regulated Health Professions Act, 1991.

- 14. Dr. Goldberg attended Dr. Veselinovic's office on September 29, 2016 and collected 30 patient records; including 25 for specifically named patients and 5 chosen at random. This included financial ledgers, insurance information and lab invoices. During her attendance Dr. Goldberg interviewed Dr. Veselinovic and his office manager about the office's billing practices. Dr. Goldberg continued the investigation and analysis of the records after her attendance at the office. A summary of the investigation was set out in the Registrar's Report, dated February 27, 2018.
- 15. In summary, the report details the following:
 - For the number of restorative surfaces submitted for pre-determination
 - For two of the patients, a total of five restorations do not appear to have been justified for one or more surfaces based on the chart and radiographs
 - For the fees charged specific/emergency examinations, for the named patients of the 37 examinations considered, 12 appear to be excessive based on the lack of detail in the chart entries and lack of investigation documented to reach a diagnosis, for the randomly selected patients, charging the maximum fee for one patient did not seem justified
 - For the use of procedural code 20111 (Caries/Trauma/Pain control)
 - o For two of the named patients it may have been appropriate to claim a different code with a much lower associated fee as the chart entries indicate the teeth were smoothed as a means of sedative treatment
 - For one of the named patients a composite resin was placed again so claiming a one surface resin may have been more appropriate than claiming code 20111
 - For restorative procedure codes billed/claimed
 - o For number of surfaces claimed

- For 15 of the 25 named patients, concerns about the billings were noted based on additional surfaces claimed for teeth restored
- For one of the five randomly selected patients no diagnosis was noted/found for a restoration. For a couple other restorations for other patients the V and L surfaces were claimed in the replacement of an existing restoration which would not be expected
- o Full fees billed for additional restorations in the same quadrant
 - For 8 of the 25 named patients multiple restorations were performed on the same day and in the same quadrant with full fees claimed
 - For one patient randomly selected, two restorations were performed on teeth in the same quadrant on the same day and full fees were claimed
- o Restorative Code claimed for re-bonding a Retainer
 - For one named patient there were three instances where the chart entries indicate a retainer was re-bonded but a code for a one surface restoration was used
- Fees claimed for Procedure Code 71201 (Surgical flap/sectioning of tooth, etc.)
 - o For 3 of the 25 named patients concerns were noted about fees that were in excess of the suggested fee guide
 - o For 1 of the 5 randomly selected patients, there were four instances of fees charged higher than the fee guide but no chart notations detailed the rationale or that the patient was advised
- 16. Dr. Veselinovic was provided with a copy of the section 75(1)(a) report and given an opportunity to respond. On April 26, 2018, the College received his detailed response. Dr. Veselinovic through his former legal

- counsel, addressed each section of the report in detail, including patient names, and provided his explanations.
- 17. In summary, his position was that he had done nothing intentional to deceive and he does his best to help his patients. He will watch his codes, fees and tooth surfaces more closely in the future. He is using the investigation as a learning opportunity. He takes responsibility for any clerical errors made by his staff. He now has complete digital charts and as a result the office is more organized and all documentation and chart entries are far more thorough and detailed than they were in the past.
- 18. A panel of the College's Inquiries Complaints and Reports (ICR)

 Committee met to consider this matter on July 10, 2018. The panel reviewed the matter, including the investigation report, Dr. Veselinovic's comprehensive response to the report and all prior decisions in respect of Dr. Veselinovic, as is required by the legislation. The panel expressed concerns about Dr. Veselinovic's billing practices in this matter.
- 19. Accordingly, the panel formed an intention to refer specified allegations of professional misconduct to the Discipline Committee and as was its convention offered Dr. Veselinovic an opportunity to make written and/or oral submissions to the panel at its next meeting before it finalized its decision.
- 20. Newly retained legal counsel for the member advised the College that Dr. Veselinovic would not be making any further written submission and/or attending the Inquiries, Complaint, Reports Committee for oral submissions.
- 21. On August 28, 2018, a panel of the Inquiries, Complaints, Reports Committee confirmed its intention and issued its decision to refer specified allegations of professional misconduct to the Discipline Committee.
- 22. If he were to testify today, Dr. Veselinovic would say that this case arises from an acrimonious relationship with the dentist from whom he bought his practice who was the informant in this matter. If Dr. Veselinovic were to testify he would further explain that all treatment claimed was in fact

both rendered and indicated. However, his record keeping was deficient and did not make this clear. He has learned from this experience and now maintains digital charts which assist with this deficiency.

Summary

- 23. Dr. Veselinovic admits the facts as set out in amended Allegation 2 and particulars of the Notice of Hearing, to which he has pleaded guilty, and admits the facts as set out above and admits that these acts amount to professional misconduct
- 24. In addition, Dr. Veselinovic acknowledges that his recordkeeping and understanding of proper use of billing codes was poor and should be remediated.

DECISION

Having considered the evidence and submissions of the parties, the Panel found that the Member committed professional misconduct as alleged in amended paragraph 2 of the Notice of Hearing.

REASONS FOR DECISION

The Member pled guilty to the allegations as set out in the Notice of Hearing and did not dispute the facts presented in the Agreed Statement of Facts.

The Panel was satisfied that the evidence made clear that Dr Veselinovic did not meet the standards expected of members of this College with regard to his record keeping and billing practices. While the instances of poor recorded keeping were limited, they were nonetheless of concern to the Panel.

Further, the Panel noted that Dr. Veselinovic readily admitted that he failed to keep accurate records and failed to properly code insurance claim forms.

PENALTY SUBMISSIONS

The parties presented the panel with a Joint Submission with respect to Penalty and Costs (Exhibit 4), which provides as follows.

- 1. The Royal College of Dental Surgeons of Ontario ("College") and Dr. Zeljko Veselinovic ("the Member") jointly submit that this panel of the Discipline Committee, impose the following penalty on the Member as a result of the panel's finding that the Member is guilty of professional misconduct, namely, that it make an order:
 - (a) requiring the Member to appear before the panel of the Discipline Committee to be reprimanded within ninety (90) days of this Order becoming final or on a date fixed by the Registrar;
 - (b) directing that the Registrar also impose the following additional terms, conditions and limitations on the Member's Certificate of Registration (the "Practice Conditions"), namely:
 - (i) requiring that the Member successfully complete, at his own expense, a course or courses in recordkeeping and billing, including the use of billing codes, approved by the College, and provide proof of successful completion in writing to the Registrar within six (6) months of this Order becoming final;
 - (ii) the Member's practice shall be monitored by the College by means of office visit(s) by a representative or representatives of the College at such time or times as the College may determine with advance notice to the Member, during the period commencing with the date of the finalization of this Order and ending twenty-four (24) months from the College receiving proof of the Member's successful completion of the course(s) referred to above;
 - (iii) that the Member shall cooperate with the College during the office visit(s) and further, shall pay to the College in respect of the costs of monitoring, the amount of \$1,000.00 per office visit, such amount to be paid immediately after completion of each of the office visit(s);
 - (iv) that the representative or representatives of the College shall report the results of those office visit(s) to the Inquiries,

- Complaints and Reports Committee of the College and the Inquiries, Complaints and Reports Committee may, if deemed warranted, take such action as it considers appropriate;
- (v) the Practice Conditions imposed by virtue of subparagraphs (1)(b)(i) above shall be removed from the Member's certificate of registration upon receipt by the College of confirmation in writing acceptable to the Registrar that the course(s) described in subparagraphs (1)(b)(i) above have been completed successfully;
- (vi) the Practice Condition imposed by virtue of subparagraph (1)
 (b)(ii) above shall be removed from the Member's certificate of registration twenty-four (24) months following receipt by the College of confirmation in writing acceptable to the Registrar that the requirements set out in subparagraphs
 (1)(b)(ii)-(iv) above have been completed successfully, or upon receipt of written confirmation from the Inquiries,
 Complaints and Reports Committee that the Member has successfully completed the monitoring program, whichever date is later.
- (c) that the member pay costs to the College in the amount of \$5000.00 in Respect of this discipline hearing, such costs to be paid in full within six (6) months of this Order becoming final.
- 2. The College and the Member further submit that pursuant to the Code, as amended, the results of these proceedings must be recorded on the Register of the College and any publication of the Decision of the panel would therefore occur with the name and address of the Member included.
- 3. This joint submission on penalty considers the following mitigating factors:
 - a. Dr. Veselinovic has not previously appeared before the Discipline Committee of the College.
 - b. Dr. Veselinovic has taken responsibility for his actions.

PENALTY DECISION

The Panel agreed and accepted the Joint Submission with respect to Penalty and Costs and ordered that:

- (a) The Member appear before the panel of the Discipline Committee to be reprimanded within ninety (90) days of this Order becoming final or on a date fixed by the Registrar;
- (b) Registrar also impose the following additional terms, conditions and limitations on the Member's Certificate of Registration (the "Practice Conditions"), namely:
 - (i) requiring that the Member successfully complete, at his own expense, a course or courses in recordkeeping and billing, including the use of billing codes, approved by the College, and provide proof of successful completion in writing to the Registrar within six (6) months of this Order becoming final;
 - (ii) the Member's practice shall be monitored by the College by means of office visit(s) by a representative or representatives of the College at such time or times as the College may determine with advance notice to the Member, during the period commencing with the date of the finalization of this Order and ending twenty-four (24) months from the College receiving proof of the Member's successful completion of the course(s) referred to above;
 - (iii) that the Member shall cooperate with the College during the office visit(s) and further, shall pay to the College in respect of the costs of monitoring, the amount of \$1,000.00 per office visit, such amount to be paid immediately after completion of each of the office visit(s);
 - (iv) that the representative or representatives of the College shall report the results of those office visit(s) to the Inquiries, Complaints and Reports Committee of the College and the Inquiries, Complaints and Reports Committee may, if deemed warranted, take such action as it considers appropriate;
 - (v) the Practice Conditions imposed by virtue of subparagraphs(1)(b)(i) above shall be removed from the Member's

- certificate of registration upon receipt by the College of confirmation in writing acceptable to the Registrar that the course(s) described in subparagraphs (1)(b)(i) above have been completed successfully;
- (vi) the Practice Condition imposed by virtue of subparagraph (1)
 (b)(ii) above shall be removed from the Member's certificate of registration twenty-four (24) months following receipt by the College of confirmation in writing acceptable to the Registrar that the requirements set out in subparagraphs (1)(b)(ii)-(iv) above have been completed successfully, or upon receipt of written confirmation from the Inquiries, Complaints and Reports Committee that the Member has successfully completed the monitoring program, whichever date is later.
- (c) the member pay costs to the College in the amount of \$5000.00 in respect of this discipline hearing, such costs to be paid in full within six (6) months of this Order becoming final.

REASONS FOR PENALTY DECISION

The Panel considered the Joint Submission on Penalty and concluded that the proposed penalty was appropriate in all the circumstances of this case. It therefore accepted the Joint Submission and ordered that its terms be implemented.

The Panel was satisfied that a reprimand and the publication of this decision, with the Member's name, act as both specific and general deterrent. Twenty-four (24) months of office monitoring at the Member's expense will adequately protect the public.

The Member must complete College approved courses in recordkeeping and billing practices. This serves to rehabilitate the member.

The Panel accepts that the professional misconduct in this case is on the lower end of the spectrum and thus does not warrant a suspension. Mitigating factors include: the member cooperated with the College throughout the investigation and displayed a willingness to correct his deficiencies. The Member has never appeared before the Discipline Committee before.

I, Richard Hunter, sign these Reasons for Decision as Chairperson of this Discipline Panel.

Chairperson

Oct 17, 2019.

REPRIMAND

Dr. Veselinovic, as you know, this Discipline panel has ordered you be given an oral reprimand as part of the sanction imposed upon you. The reprimand should impress upon you the seriousness of your misconduct.

The fact that you have received this reprimand will be part of the public portion of the Register and, as such, part of your record with the College.

You will be given an opportunity to make a statement at the end of the reprimand if you wish.

The panel has found that you have engaged in an act of professional misconduct. The misconduct related to you issuing a certificate; report or similar document that you ought to have known contained an improper statement relative to a number of patients.

Your professional misconduct is a matter of concern. It is completely unacceptable to your fellow dentists and to the public. You have brought discredit to the entire profession and to yourself. Public confidence in this profession has been put in jeopardy.

The panel accepted a Joint Submissions as to Penalty and expects that through remedial work imposed you will make positive changes to your record keeping and billing practices.

As I advised earlier, you will now be given an opportunity to make a comment if you wish to do so. This is **not** an opportunity for you to debate the merits or the correctness of the decisions we have made.

In light of your cooperation we are optimistic that you will not appear before a Discipline panel again.

Thank you for attending today. We are adjourned.