

**DISCIPLINE COMMITTEE
OF THE COLLEGE OF REGISTERED PSYCHOTHERAPISTS
AND REGISTERED MENTAL HEALTH THERAPISTS OF ONTARIO**

IN THE MATTER OF the *Psychotherapy Act, 2007* and the Regulation (Ontario Regulation 317/12) thereunder;

AND IN THE MATTER OF a discipline proceeding against Yetunde Bolanle Faleyimu, a Member of the College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario.

PANEL: SHIKHA KASAL
HEIDI AHONEN
ANDREW BENEDETTO
SHELDON KAWARSKY
MALCOLM MACFARLANE

BETWEEN:	)	Rebecca Durcan,
	)	Steinecke Maciura LeBlanc
COLLEGE OF REGISTERED	)	Barristers & Solicitors,
PSYCHOTHERAPISTS AND	)	for College of Registered
REGISTERED MENTAL HEALTH	)	Psychotherapists and Registered
THERAPISTS OF ONTARIO	)	Mental Health Therapists of Ontario
- and -)	
)	
YETUNDE BOLANLE FALEYIMU	)	Yetunde Bolanle Faleyimu,
(REGISTRATION # 003592)	)	(Not Present, Not Represented)
)	
	)	Zohar Levy,
	)	Lerners LLP,
	)	Independent Legal Counsel
)	
)	
	)	Heard: January 31, 2017

DECISION AND REASONS

This matter came on for hearing before a panel of the Discipline Committee (the “**Panel**”) of the College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario (the “**College**”) on January 31, 2017 at the offices of Victory Verbatim in Toronto.

The Notice of Hearing (“**NOH**”) was issued on July 26, 2016 in connection with conduct that occurred during October 2015 (Exhibit 1).

Yetunde Bolanle Faleyimu (the “**Member**” or “**Ms. Faleyimu**”) was not present and was not represented by legal counsel.

Counsel for the College submitted an Affidavit sworn by Kristina Formosi on January 30, 2017 (Exhibit 2) detailing email correspondence with the member, confirming the date for the hearing, as well as confirmation of personal service on the Member on or around July 29, 2016. In those emails, the Member also indicated her intention to resign from the College and counsel for the College explained to her the impact of doing so. Based on the Affidavit, the Panel was satisfied that the Member was served with the NOH and was aware of the time and date of the hearing. The Panel, therefore, proceeded to hear the matter in the absence of the Member pursuant to s. 7(1) of the *Statutory Powers Procedure Act*.

THE ALLEGATIONS

The allegations against the Member, as stated in the NOH are as follows:

1. On or about October 13, 2015, Ms. Faleyimu emailed the College inquiring about whether a Social Worker could use the word “psychotherapy” in an internet domain name.
2. On or about October 14, 2015, the College replied to Ms. Faleyimu’s email from the College email account info@crpo.ca.

3. On or about October 15, 2015, Ms. Faleyimu sent an electronic communication to Ms. Margaret Amerongen (“**Ms. Amerongen**”), a Registered Social Worker, informing her that non-members of the College who are using “psychotherapy” in their domain name may be seen as “holding out” (as a psychotherapist).
4. The aforementioned October 15, 2015 electronic communication, Ms. Faleyimu used the name “joanna hall” and claimed that her email address was “info@crpo.ca”.
5. In sending the aforementioned October 15, 2015 electronic communication, Ms. Faleyimu was impersonating an employee of the College.
6. For each of these reasons, Ms. Faleyimu engaged in professional misconduct pursuant to the following paragraphs of section 1 of Ontario Regulation 317/12 under the *Psychotherapy Act, 2007*: paragraph 1 (contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession); and/or paragraph 26 (signing or issuing a false or misleading document); and/or paragraph 52 (engaging in disgraceful, dishonourable or unprofessional conduct); and/or paragraph 53 (conduct unbecoming a psychotherapist).

MEMBER’S PLEA

The Member was not present or represented by legal counsel. Accordingly, the Panel proceeded in the Member’s absence on the basis that the Member denied the allegations set out in the NOH.

DECISION

Having considered the onus on the College of proving the allegations in the NOH on a balance of probabilities, the Panel finds the evidence supports a finding of professional misconduct. The evidence must be clear, cogent and convincing to satisfy the balance of probabilities standard.

Based on the totality of evidence presented, the Panel finds that the Member breached section 1 of Ontario Regulation 317/12 under the *Psychotherapy Act, 2007* by (i)

contravening, by act or omission, a standard of practice of the profession and failing to maintain the standard of practice of the profession; (ii) issuing a false or misleading document; (iii) engaging in disgraceful, dishonourable or unprofessional conduct; and (iv) engaging in conduct unbecoming a psychotherapist.

BACKGROUND

On October 13, 2015, the Member's date of initial registration, the Member emailed the College's general information mailbox inquiring whether a non-member of the College, such as "someone in the college of social work", could practice psychotherapy or have a domain name containing the term psychotherapy such as "joannahallpsychotherapy.com". Ms. Smith, who was employed by the College as a Registrations Assistant at the time and administered the College's "info@crpo.ca" email account, responded to the Member's email on October 14, 2015, advising her that members of other regulated professions may practice psychotherapy within their scope of practice but the use of the titles of "registered psychotherapist" and "psychotherapist" were restricted to College Members. Ms. Smith further advised that non-members using the term psychotherapy in their domain name "may be seen as holding out."

On October 15, 2015, Ms. Amerongen received a web submission from her website's 'contact us' form from "Joanna Hall". The email address provided by the sender was the College's "info@crpo.ca" email account. The content of the submission was almost entirely identical to portions of Ms. Smith's email response to the Member relating to the use of the psychotherapist title, particularly in a domain name.

The College called both Ms. Smith and Ms. Amerongen as witnesses.

REASONS FOR DECISION

The Panel made findings of four counts of professional misconduct and each is addressed in turn.

(i) Breach of standard of practice of the profession

The Member is alleged to have failed to maintain the standard of practice of the profession by

holding out as a representative of the College and thereby impersonating a regulator.

In assessing this allegation, the Panel considered what is reasonably expected of the ordinary, prudent and ethical psychotherapist. This standard is differentiated from the clinical practice standard of competence needed to perform psychotherapy, and instead focuses on general professionalism and conduct. In addition, the Panel also considered whether the conduct at issue would be regarded by others as unprofessional.

The Panel relied on evidence of an email exchange between the Member and the College (Exhibit 4 and 5), the web form submission to Toronto Psychotherapy Services by “Joanna Hall” (Exhibit 8) (collectively the “**Correspondence**”) and the witness testimony of a College employee, Ms. Jenna Smith (“**Ms. Smith**”).

The Correspondence contained substantial similarities that could not be regarded as coincidental. Specifically, the name “Joanna Hall” is a sufficiently unique identity. The words and phrases used in Ms. Smith’s email to the Member were also sufficiently unique that it could not likely be independently reproduced without having knowledge of Ms. Smith’s email.

To this end, Ms. Smith testified that her email was an individualized response to the Member’s query and not based on any standardised or generic language used by the College. She further testified that she did not use the same language in any other email correspondence for the duration of her role as a Registration Assistant with the College. Ms. Smith presented clear and consistent testimony on this core issue, and the Panel accepted her evidence as both reliable and credible.

Based on the chronology of events as set out in the “Background” above and the distinctive commonalities within the Correspondence, the Panel can reasonably infer that the Member was the author of the web submission to Ms. Amerongen in a deliberate attempt to hide her identity while impersonating the College. These actions clearly fall below what is expected of a psychotherapist. Although there was no expert evidence presented, it was not required as the subject matter of the alleged misconduct was obvious or within the common knowledge of ordinary persons.

The Panel is persuaded by the evidence and accordingly finds that the Member failed to

maintain the standard of the profession.

(ii) Issuing a false or misleading document

For the reasons set out in item (i) above, the Panel inferred that the Member did issue a document, namely the web submission to Ms. Amerongen.

In assessing the 'false or misleading' prong of the allegation, the Panel relied on evidence of the analysis report the Member's website (Exhibit 6), the web submission to Ms. Amerongen (Exhibit 7 and 8) and the witness testimony of Ms. Amerongen.

The web submission was made through completing the contact form on Ms. Amerongen's website. The contact form requires users to provide a "Full Name" and "Email Address" among other things, which in this case were "Joanna Hall" and info@crpo.ca, respectively. Accordingly, the Member issued a document that she knew or ought to have known would mislead Ms. Amerongen in accepting it as genuine correspondence from the College.

Ms. Amerongen testified that upon receiving the web submission, she felt alarmed and worried that she had done something wrong as she did in fact believe it to be correspondence from the College. As a result, she immediately took steps to rectify the apparent breach of the College's rules by contacting her website administrator as well as the regulatory body governing her as a registered social worker. Ms. Amerongen, therefore, was misled by the web submission. The Panel gives weight and accepts Ms. Amerongen's description of her experience as plausible. Any discrepancies in her testimony appeared to be genuine and an understandable lack of recollection of details. However, none of the details were material in this case.

Further, the Panel is of the view that the Member's conduct was motivated by self-interest. Specifically, the College presented evidence that the Member is the owner of the website domain *toronto-psychotherapy-services.com*, which was created on October 13, 2015 – the date of the Member's initial registration with the College. Ms. Amerongen is the owner of the domain name *torontopsychotherapyservices.com* that she has used in connection with the provision of psychotherapy services since 2009. The Panel infers that Ms. Amerongen was seen as a competitor by the Member whose similarly named website would adversely affect the Member's own practice by potentially diverting internet traffic away from the Member's website

or causing user confusion. It would, therefore, be in the Member's interest to have Ms. Amerongen delete her website or change its name. The Member unscrupulously pursued this interest to the detriment of Ms. Amerongen by sending the web submission.

Based on the totality of the evidence before it, the Panel finds that the Member issued a document that falsely represented itself to be a document authorized by the College so as to mislead Ms. Amerongen.

(iii) Engaging in disgraceful, dishonourable and unprofessional conduct

In making findings of professional misconduct in items (i) and (ii) above, the Panel further finds that these acts constitute conduct that is relevant to the Member's practice of psychotherapy. Particularly, impersonating a regulator in an effort to deceive other regulated professionals demonstrates dishonesty and a lack of personal integrity on the part of the Member, which is unacceptable in a profession where trust and respect are inherent in the psychotherapist-client relationship. Having regard to all the circumstances, it would reasonably be regarded by members, and the public at large, as disgraceful, dishonourable or unprofessional conduct.

(iv) Conduct unbecoming a psychotherapist

Impersonating a regulator not only undermines the principal of self-governance, but it erodes public confidence in the reputation and integrity of the profession. The Member demonstrated a blatant disregard for the role of the College in the governance of the profession by usurping its authority. In doing so, the Member engaged in conduct unbecoming a psychotherapist.

PENALTY SUBMISSIONS

Counsel for the College submitted that the following penalty is appropriate in all the circumstances of this case:

1. Requiring the Member to appear before the panel to be reprimanded within 30 days of the date of this order.
2. Directing the Registrar to suspend the Member's certificate of registration for a period of two (2) months, one (1) month of which shall be suspended if the Member complies with

the provisions of paragraph 3 by no later than March 31, 2017.

3. Imposing a term, condition and limitation on the Member's certificate of registration requiring the Member successfully complete, by August 30, 2017, to the satisfaction of the Registrar and at her own expense, a course in ethics and/or professional standards that has been pre-approved by the Registrar.
4. For greater certainty, the Member's obligation to comply with the proposed term, condition or limitation on her certificate of registration contained in paragraph 3 is not relieved by serving the entire suspension referred to in paragraph 2 above.
5. Requiring the Member to pay the College's costs fixed in the amount of \$4460.00 within six (6) months of the date of this order. Payment shall be as follows:
 - a. The first payment (\$743) is due three (3) months from the date the Order becomes final;
 - b. Each subsequent payment of \$743 is then due on the 15th of the each month until the last payment which shall be \$745.

Counsel submitted that this penalty fulfilled the goals of specific and general deterrence, remediation and protection of the public. Counsel further submitted that this penalty is in keeping with dispositions previously ordered by other regulatory bodies under similar circumstances and presented case law to the Panel to support this submission.

PENALTY DECISION

The Panel accepted the penalty submission, except paragraph two, and accordingly issued an order:

1. Requiring the Member to appear before the panel to be reprimanded within 30 days of the date of this order.
2. Directing the Registrar to suspend the Member's certificate of registration for a period of three (3) months, one (1) month of which shall be suspended if the Member complies

with the provisions of paragraph 3 by no later than March 31, 2017.

3. Imposing a term, condition and limitation on the Member's certificate of registration requiring the Member successfully complete, by August 30, 2017, to the satisfaction of the Registrar and at her own expense, a course in ethics and/or professional standards that has been pre-approved by the Registrar.
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REASONS FOR PENALTY DECISION

The Panel concluded the proposed penalty is reasonable and in the public interest by meeting the goals of general and specific deterrence, remediation and public protection. The Panel also recognizes that this is the first time the Member has been subject to disciplinary proceedings by the College. However, the Panel increased the period of suspension from two to three months to appropriately reflect the seriousness with which the Panel views the Member's misconduct and to send a clear message to the public that there are consequences for such conduct.

Date: May 15, 2017

Shikha Kasal
Chair, Discipline Panel

Heidi Ahonen
Member, Discipline
Panel

Andrew Benedetto
Member, Discipline
Panel

Sheldon Kawarsky
Member, Discipline
Panel

Malcolm MacFarlane
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