



## **DECISION AND REASONS**

### **BACKGROUND**

This matter was heard 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 September 29, 2016 at the offices of Victory Verbatim in Toronto.

██████████ (the “Member”) was present and was represented by legal counsel.

The Notice of Hearing, which was issued on March 15, 2016 in connection with a complaint filed with the College and dated May 21, 2015, was filed and entered as Exhibit #1.

### **THE ALLEGATIONS**

The allegations set out in the Notice of Hearing, allege that the Member engaged in professional misconduct, in that she touched the patient in a sexual manner and/or exhibited behaviour towards and/or made remarks of a sexual nature towards Patient/Client “A” and, in so doing:

- i. sexually abused Patient/Client “A”;
- ii. contravened, by act or omission, a standard of practice of the profession;
- iii. abused Patient/Client “A” verbally, physically, psychologically or emotionally;
- iv. recommended or provided unnecessary treatment to Patient/Client “A”;
- v. made a claim about a therapeutic treatment other than a claim that can be supported by reasonable professional opinion;
- vi. engaged in disgraceful, dishonourable or unprofessional conduct; and/or
- vii. engaged in conduct unbecoming a psychotherapist.

### **THE ORDER REQUESTED**

The Member and the College (collectively, the “Parties”) sought an order from the Panel authorizing the College to withdraw the allegations. In support of this request, the

Parties advised the Panel that it would be extremely difficult for the College to obtain findings of professional misconduct against the Member given that the alleged misconduct predated the College's proclamation in April 2015. This, the Parties advised, would raise significant jurisdictional issues for the College. The Parties also directed the Panel to Rule 11.01 of the Discipline Committee's *Rules of Procedure*, which provides as follows:

11.01(1) A panel of the Discipline Committee may make an order authorizing the College to withdraw one or more allegations contained in a Notice of Hearing with the parties' consent.

In further support of their request, the Parties advised the Panel that the Member had entered into a written Acknowledgment and Undertaking with the College on September 29, 2016 ("the Undertaking"), which was filed as Exhibit #2.

## **UNDERTAKING AND ACKNOWLEDGEMENT**

Through the Undertaking the Member acknowledged that she engaged in some of the conduct described in the Notice of Hearing, confirmed various remedial efforts she had pursued and agreed to certain terms, conditions and limitations being imposed on her certification of registration, including the following:

1. To cease practicing the profession of psychotherapy, using the title of psychotherapist and holding herself out as a member of the College for nine consecutive months from the date of execution of the Undertaking (or six months if the Member successfully completes the course on boundaries and ethics described in 2, below, within six months;
2. Complete a course on boundaries and ethics within 12 months of the date of execution of the Undertaking; and
3. Agree to meet with a clinical supervisor for at least twenty, one-hour sessions of clinical supervision with a focus on ethics and boundaries, subject to certain conditions, evidenced by a report produced by the clinical supervisor.

The Member further agreed, through the Undertaking, to pay College costs in the amount of \$1,500.00.

The Member also agreed that the Undertaking, in its entirety, will be available on the College's Public Register.

## **DECISION**

On consent of the Parties, and pursuant to Rule 11.01(1) of the *Rules of Procedure of the Discipline Committee of the College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario*, the Panel made an order authorizing the College to withdraw all of the allegations contained in the Notice of Hearing.

## **REASONS FOR DECISION**

The Panel accepted the Parties' submission that it had limited jurisdiction to regulate a Member's conduct that occurred prior to the establishment of the College. In other words, the regulatory framework of the College could not be applied retroactively to find that the Member breached the College's standards or engaged in other types of misconduct prior to proclamation, even where, in the opinion of the Panel, the misconduct described in the Notice of Hearing represents some of the most serious allegations a psychotherapist can face.

While it was possible for the Panel to refuse the parties' request that the College be granted leave to withdraw the allegations, the Panel considered the merit in doing so. The Panel ultimately determined that it would be imprudent to compel the College to proceed with the hearing given that a different result was unlikely and would require significant time, costs and resources.

In its deliberations, the Panel emphasized the utmost seriousness with which it views sexual abuse given the inherent power imbalance in the psychotherapist-client relationship and the risk of harm not only to individual clients, but the public at large when such a breach of trust occurs. The Province of Ontario has delegated to the College and the Council significant power to regulate psychotherapists in the public interest. This power includes prosecuting alleged

misconduct, particularly sexual abuse, to demonstrate to members and the public that the College is executing its delegated responsibilities appropriately.

In carrying out its public protection mandate, the Panel carefully considered the objective of providing greater transparency to the public. In the Panel's view, recording the Member's Undertaking, including the Notice of Hearing, on the public register of the College will ensure that the public has adequate information regarding this matter including sufficient information to allow clients to decide whether to use the Member's services.

The Panel also recognized the remedial action voluntarily undertaken by the Member as set out in the Undertaking, as well as her acknowledgments that she engaged in some of the conduct described in the Notice of Hearing. The Panel accorded weight to the Member's Undertaking to the College.

Giving regard to the totality of the circumstances, the Panel is satisfied that the measures set out in the Undertaking will sufficiently protect the public interest.

Date: November 15, 2016

Shikha Kasal

---

Chair, Discipline Panel

Barbara Locke Billingsley

---

Member, Discipline Panel

Sue Lymburner

---

Member, Discipline Panel

Keith Marlowe

---

Member, Discipline Panel

Malcolm MacFarlane

---

Member, Discipline Panel