

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

Citation: *College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario v. Joy*, 2023 ONCRPO 6

Date: August 10, 2023

File No.: C2122-21

BETWEEN:

College of Registered Psychotherapists and Registered Mental Health Therapists of
Ontario

- and -

Sandra Joy

FINDING AND PENALTY REASONS

Heard: July 10, 2023, by videoconference

Panel:

Sophie Martel (Chair)

Kenneth Lomp, RP

Henry Pateman

Miranda Monastero, RP

Jeffrey Vincent

Appearances:

Ahmad Mozaffari, for the College

Robert Karrass, for the registrant

Introduction

- [1] Sandra Joy, the registrant, admits that she engaged in professional misconduct in respect of a client receipt and her communications with the client about the receipt. The registrant provided conflicting and misleading information to the client as to whether the receipt included the harmonized sales tax (HST).
- [2] Relying on an agreed statement of facts, we concluded that the registrant engaged in professional misconduct as set out in the notice of hearing.
- [3] The parties made a joint submission on penalty and costs, which we accepted. We ordered the suspension of the registrant's certificate of registration for three months, which is remitted if the registrant completes various courses and provides correspondence from an accountant confirming that she is addressing the HST issues with the Canada Revenue Agency (CRA) and will remit payment to the CRA if required to do so. We also ordered that within two years of the date of the order, the registrant must participate in as many as two compliance audits at her expense. Furthermore, we ordered a reprimand, which we delivered at the hearing. Finally, we ordered costs of \$6,055.
- [4] These are our reasons.

Agreed Facts

- [5] After the client attended couples' therapy with the registrant in June 2021, the client provided payment in the amount of \$300. The registrant then sent the client a receipt for payment of \$300.
- [6] The client subsequently wrote to the registrant to inquire whether the registrant charged HST and if so, whether HST was included in the \$300 payment. The registrant responded that she had a "thing" about HST and "so we will say that it is included." The client responded and asked the registrant to show which portion of the \$300 constituted HST on the receipt. The registrant replied by stating that she does not charge HST and, therefore, could not input it on the receipt.
- [7] About two days later, the client and the registrant spoke on the telephone at which time the registrant told the client that she had not registered for HST and refused to

do so. She also told the client to record the payment as including HST even though the registrant knew that it did not.

Findings

[8] Under s. 51(1)(c) of the Health Professions Procedural Code (Code), being Schedule 2 to the *Regulated Health Professional Act, 1991*, SO 1991, c. 18, acts of professional misconduct may be defined in the regulations. Section 1 of Ontario Regulation 317/12 (the Regulation) made under the *Psychotherapy Act, 2007*, SO 2007, c. 10, Sched. R sets out acts of professional misconduct.

[9] The misconduct in this case centers on the registrant's contradictory and misleading responses to the client when the client inquired about the receipt for payment, which was silent in respect of HST. The registrant issued an unclear receipt in respect of HST. In response to the client's questions about HST and the client's request for an itemized account, the registrant responded that she had a "thing" about HST, had not registered for the HST, yet told the client to record the payment as including HST. The registrant knew the payment did not include HST but told the client that it did and to record it as such.

[10] The registrant engaged in professional misconduct according to the following paragraphs of the Regulation:

1. 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:
 - i. 1.5 – General Conduct: This standard requires registrants to refrain from conduct that, having regard to all the circumstances, would reasonably be regarded by registrants as disgraceful, dishonourable, unprofessional, or unbecoming a registrant of the profession.
 - ii. 5.3 – Issuing Accurate Documents: This standard requires registrants to ensure that documents they sign or transmit in a professional capacity contain accurate and complete information.

- iii. 5.5 – Record-Keeping – Financial Records: This standard requires that registrants ensure that a financial record is kept for every client to whom a fee is charged for therapeutic services. Compliance with the standard is met when the fees and services are clearly identified.
 - iv. 6.1 – Fees: This standard requires that registrants provide itemized accounts upon request.
2. Paragraph 4 – Failing to reply appropriately to a reasonable request by a client or a client’s authorized representative for information respecting a service or product provided or recommended by the registrant.
 3. Paragraph 17 – Issuing an invoice, bill or receipt for services that the registrant knows or ought to know is false or misleading.
 4. Paragraph 23 – Failing to itemize an account for professional goods or services, if requested to do so.
 5. Paragraph 26 – Signing or issuing, in his or her capacity, a document that the registrant knows or ought to know contains a false or misleading statement.
 6. Paragraph 52 - Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by registrants as disgraceful, dishonourable or unprofessional.

Penalty and Costs

[11] The parties jointly proposed a reprimand, a suspension of three months of the registrant’s certification of registration to be remitted (not required to be served) if the registrant takes the stipulated courses and addresses the HST issues with the CRA, participation in up to two compliance audits, and costs of \$6,055. The registrant must do the following within one month of the order to have her suspension remitted:

- a. successfully complete the College's Jurisprudence e-Learning Module;
- b. obtain an unconditional pass of an ethics course, preapproved by the Registrar;
- c. complete the Record-Keeping and Documentation for Mental Health Professionals Course offered by the Ontario Association of Mental Health Professionals;
- d. provide correspondence from an accountant confirming that she is addressing the issues of HST directly with the CRA and that she will remit payment to CRA if required to do so.

[12] To depart from a joint submission would require a finding that the proposed penalty would bring the administration of justice into disrepute or is otherwise not in the public interest, *R. v. Anthony-Cook*, 2016 SCC 43. A disciplinary body that rejects a joint submission on penalty must show why the proposed penalty is so unhinged from the circumstances of the case that it must be rejected: *Bradley v. Ontario College of Teachers*, 2021 ONSC 2303.

[13] We are satisfied that the proposed penalty is not contrary to the public interest and achieves the relevant penalty goals.

[14] While the conduct involved a lack of integrity that could impair the public's trust, the order provides that the registrant will take steps to address any HST issues with the CRA. The courses and the compliance audits address rehabilitation and protection of the public with respect to the registrant's future practice of the profession. The possible remittance of the suspension also recognizes the registrant's cooperation with the College and her admission that her conduct was unprofessional. The reprimand sends the message to the registrant and to the profession that this type of misconduct will not be tolerated.

[15] Furthermore, the penalty in this case is consistent with the ordered penalty in *ONCRPO v. Moir*, 2020 ONCRPO 2, which, while not exactly alike, has some similar features. In *Moir*, the registrant attempted to avoid paying taxes on psychotherapy services by asking a client to pay for the services in cash. The

registrant also made inappropriate comments to the client when the client expressed concerns about paying for the services in cash. The registrant was ordered to complete an ethics course and write a reflective essay. She was required to pay a fine of \$5,000 if she failed to complete the remediation courses and essay within the stipulated deadlines. Similarly, in the present case, the suspension is remitted if the rehabilitation and remediation steps are completed within the specified timelines. As with *Moir*, the focus of the penalty is on rehabilitation and remediation.

[16] We also saw no reason to reject the joint costs submission of \$6,055, which is the tariff rate to conduct a day of hearing.

Order

[17] We ordered:

1. The Registrant is required to appear before a panel of the Discipline Committee to be reprimanded following the hearing.
2. The Registrar is directed to suspend the Registrant's certificate of registration for a period of three months; however such suspension is to be remitted in its entirety if items 3(a) to (d) below are completed within one month of the Discipline Committee's Order.
3. The Registrar is directed to immediately impose the following terms, conditions, and limitations on the Registrant's certificate of registration, all of which shall be fulfilled at the expense of the Registrant and to the satisfaction of the Registrar:
 - a. The Registrant shall successfully complete the College's Jurisprudence e-Learning Module;
 - b. The Registrant shall obtain an unconditional pass of an ethics course, preapproved by the Registrar;
 - c. The Registrant shall complete the Record-Keeping and Documentation for Mental Health Professionals Course

offered by the Ontario Association of Mental Health Professionals;

- d. The Registrant shall provide correspondence from an accountant confirming that she is addressing the issues of HST directly with the CRA and that she will remit payment to CRA if required to do so; and
 - e. Within two years of the date of the Order, the Registrant must participate in up to two compliance audits conducted by a College-appointed auditor, which audits are to be completed at the Registrant's expense and are to focus on the Registrant's record-keeping and billing practices (excluding showing proof that accounts include HST).
4. The Registrant is required to pay the College costs in the amount of \$6,055.

Sophie Martel, on behalf of
the panel