

**DISCIPLINE COMMITTEE OF THE ONTARIO COLLEGE OF SOCIAL WORKERS  
AND SOCIAL SERVICE WORKERS**

<b>PANEL:</b>	Sophia Ruddock	Chair, Public Member
	Thomas Horn	Professional Member
	Judy Gardner	Professional Member

**BETWEEN:**

ONTARIO COLLEGE OF SOCIAL WORKERS AND SOCIAL SERVICE WORKERS	) Jordan Glick for Ontario ) College of Social Workers ) and Social Service Workers ) ) ) )
-and-	) ) ) )
LYNETTE HEYWOOD	) Lisa Hamilton for ) Lynette Heywood ) ) ) ) Johanna Braden, ) Independent Legal Counsel )

Heard: October 5, 6, 8, 2015;  
November 9, 10, 18, 2015;  
December 15, 16, 2015; January 11,  
12, 14, 2016; February 9, 2016

**DECISION AND REASONS FOR DECISION**

This matter came on for hearing before a panel of the Discipline Committee (the “Panel”) on October 5, 6 and 8, 2015; November 9, 10 and 18, 2015; December 15 and 16, 2015; January 11, 12 and 14, 2016 and February 9, 2016. The hearing took place at the Ontario College of Social Workers and Social Service Workers (the “College”).

## **The Allegations**

Lynette Heywood (the “Member”) is alleged to be guilty of professional misconduct pursuant to the *Social Work and Social Service Work Act, 1998*, S.O. 1998, Chapter 31 (the “Act”). The allegations against the Member as contained in the Notice of Hearing dated March 9, 2015 are as follows:

You are alleged to be guilty of professional misconduct within the meaning of section 26(2) of the Act in that you are alleged to have engaged in conduct that contravenes the Act, Ontario Regulation 384/00 (the “Professional Misconduct Regulation”), Schedule “A” to By-law No. 66 of the Ontario College of Social Workers and Social Service Workers, being the Ontario College of Social Workers and Social Service Workers Code of Ethics (the “Code of Ethics”), and Schedule “B” to By-law No. 66 of the Ontario College of Social Workers and Social Service Workers, being the Ontario College of Social Workers and Social Service Workers Standards of Practice Handbook (the “Handbook”)<sup>1</sup>.

### **I. The following are particulars of the said allegations:**

1. You graduated with a Masters of Social Work degree from Wilfrid Laurier University in 2003. Since May 4, 2006, you have been registered with the Ontario College of Social Workers and Social Service Workers (the “College”).
2. Between about April 6, 2005, and February 12, 2012, you were employed by [the Facility] as a social worker, first in the Court Support Program and subsequently, on November 1, 2007, as a Program Director. As a Program Director, your principal duties included the overseeing and delivery of [the Facility] programs, monitoring and staffing, establishing and maintaining community partnerships and participating as a member of [the Facility’s] management committee.
3. Between October 2006 and April 2007, you were the case manager for [the Client]. The Client was in his early twenties, had serious literacy challenges, a complicated family life, struggles with depression, social anxiety and addiction issues and a record of frequent arrests and periods of incarceration. The Client’s file was subsequently closed in or about April 2007.
4. In or about April 2008, you reopened the Client’s file following his release from custody. Before being released from custody, the Client contacted you directly for purposes of release planning.
5. At the time that you reopened the Client’s file until your departure from [the Facility], you were a Program Director and the Client was the only client that you

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<sup>1</sup> By-law 24, as amended by By-law Nos. 32 and 48 and revoked effective July 1, 2008 by By-law 66, continues to apply to conduct which occurred prior to July 1, 2008.

had direct responsibility for. The second Program Director never assumed carriage of a client file and it was considered highly unusual for a Program Director to have direct responsibility for a client.

6. Between about 2008 and 2011 (the “Relevant Period”), while providing social work services to the Client, you engaged in an intimate and romantic relationship with the Client that involved frequent sexual contact.
7. You additionally engaged in a series of boundary crossings violations during the Relevant Period while providing social work services to the Client. In particular, you:
  - a) engaged in extensive and unusually high levels of contact with the Client, many of which took place during evenings and on weekends, outside of [the Facility’s] office hours;
  - b) took the Client out for lunches and dinners on numerous occasions;
  - c) drove the Client to your parent’s home in [location in Ontario], a two and a half hour drive, to look at furniture and invited the Client to stay for Thanksgiving dinner with your family;
  - d) introduced the Client to members of your family and friends;
  - e) attended with the Client on Christmas day at his grandfather’s home in 2010 which involved out of city travel;
  - f) attended a corn roast at the Client’s grandparent’s home in August 2010 which involved out of city travel;
  - g) called the Client in January 2009 to ask if he would come to shovel your driveway;
  - h) invited the Client to attend at your personal residence on various occasions;
  - i) attended at the Client’s personal residence to assist with meal preparation, shopping and running errands on weekends;
  - j) took the Client on trips to the Farmer’s Market;
  - k) took the Client to a ‘Buck and Doe’ party which involved out of city travel;
  - l) provided the Client with money and engaged in personal banking for the Client, using his banking password, including transferring and withdrawing monies from his bank account;

- m) made a personal loan to the Client in the amount of \$3,500 to enable him to post bail;
  - n) purchased items/gifts for the Client including a ring, sweater, cologne, a mirror and a television set and/or gave the appearance as if these items were personal gifts and not items provided through [the Facility];
- 8. You told the Client on a number of occasions during the Relevant Period that he was not to talk about your relationship with him because you could lose your job. The Client promised you that he would not tell anyone about it.
- 9. Within the Relevant Period, there was either no documentation or inadequate documentation relating to the provision of social work services, most notably in June and July 2008, October 2008 and the period from October to December of 2011.
- 10. Your employment with [the Facility] terminated on February 21, 2012 for reasons unrelated to the Client pursuant to a severance agreement which ended on September 21, 2012. When you departed, the Client's file was transferred to another case manager at [the Facility].
- 11. In January 2014, the Client disclosed to his [Facility Case Manager] the nature of his intimate and sexual relationship with you leading to an internal investigation by [the Facility] that you were invited to, but did not, participate in.
- 12. Your conduct in engaging in a personal and intimate relationship with the Client had an adverse impact on him in that when the relationship ended, he felt confused, used, depressed, lonely and a failure. Those feelings led him to drink more and get into trouble with the law during the period directly following your decision to end the personal and intimate relationship.

**It is alleged that by reason of engaging in some or all of the conduct outlined above, you are guilty of professional misconduct as set out in section 26(2)(a) and (c) of the Act:**

- 1. In that you violated section 2.5 of the Professional Misconduct Regulation by abusing a client physically, sexually, verbally, psychologically or emotionally when you established a personal and/or sexual relationship with a client to whom you provided social work services.
- 2. In the alternative to paragraph 1, in that that you violated section 2.2 of the Professional Misconduct Regulation and Principle VIII of the Handbook (as commented on in Interpretations 8.1, 8.2 and 8.6) by engaging in behaviour of a sexual nature with a client when you established a sexual relationship with the Client to whom you provided social work services.

3. In that you violated Section 2.6 of the Professional Misconduct Regulation by using information obtained during your professional relationship with a client, or using your professional position of authority to coerce, improperly influence, harass or exploit a client, when you established a personal and/or sexual relationship with the Client to whom you provided social work services;
4. In that you violated section 2.2 of the Professional Misconduct Regulation and Principle I of the Handbook (commented on in Interpretations 1.5, 1.6 and 1.7) by failing to be aware of your values, attitudes and needs and how those impact on your professional relationships with clients; failing to distinguish your needs and interests from those of your client; failing to ensure that your client's needs and interests remain paramount and failing to maintain an awareness and consideration of the purposes, mandate and function of your employer when you established a personal and/or sexual relationship with the Client to whom you provided social work services.
5. In that you violated Principle II (2.2) of the Handbook (commented on in Interpretations 2.1.5, 2.2.1, 2.2.2 and 2.2.8) by failing to maintain clear and appropriate boundaries in your professional relationship when you established a personal and/or sexual relationship with a client to whom you provided social work services. It is alleged that in doing so, you placed yourself in a conflict of interest situation in which you ought reasonably to have known that the client would be at risk and (or in the alternative) used your professional position of authority to abuse or exploit the Client. It is additionally alleged that you did not declare the conflict of interest, nor did you engage in the process of self-review and evaluation and/or seek consultation before engaging in a personal and/or sexual relationship with the Client. As a result, you engaged in conduct which could reasonably be perceived as reflecting negatively on the profession of social work.
6. In that you violated Section 2.36 of the Professional Misconduct Regulation by 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 members as disgraceful, dishonourable or unprofessional when you established a personal and/or sexual relationship with a client to whom you provided social work services.

### **Member's Position**

The Member admitted some of the allegations and denied others. In sum, she admitted to having committed professional misconduct by engaging in certain boundary violations with her client. However, she denied that her relationship with the Client was ever sexual. The theory of her case was that her client, [the Client] had fabricated a sexual relationship upon being encouraged to do so by others, including his new case worker, [the Facility Case Manager].

### **Preliminary Motion for Third Party Records**

Before the commencement of the hearing, Counsel for the Member made a preliminary motion for production of certain clinical notes and records of [the Client] in the possession of [the facility]. The request was for the documentation covering the period from February 23, 2012 to March 24, 2014, the date of the conclusion of [the Facility's] investigation of [the Client's] allegation that Ms. Heywood engaged in a sexual relationship with him. These notes covered a period after the sexual relationship was alleged to have ended. There was a procedural issue as the Member had failed to serve [the Client] the Notice of Motion as was required by the Discipline Committee Rules and no affidavit evidence was filed in support of the motion.

### **The Member's Position on the Preliminary Motion**

Counsel for the Member submitted that Ms. Heywood has been charged with boundary violations and sexual abuse of [the Client], and only the clinical notes during the time of the alleged boundary violations had been produced. The clinical notes leading up to and including the disclosure of the allegations of sexual abuse had not been disclosed. Counsel for the Member stated that both [the Client] and his subsequent [Facility] worker, [the Facility Case Manager], would be called as witnesses by the College to give evidence regarding the allegations of sexual abuse. Counsel submitted that in order to allow full and fair cross-examination, the notes that pertain to [the Client's] disclosure to [the Facility Case Manager] through to the conclusion of the internal [Facility] investigation must be disclosed.

With respect to the procedural issue, Counsel for the Member acknowledged that she had not served [the Client] with the motion materials directly. However, she submitted that her initial request for additional records was evidently "finding its way to [the Client]", as the College in fact provided [the Client's] position to her. Given this, counsel for the Member was of the understanding that anything that she sent to Counsel for the College and to [the Facility] would find its way to [the Client] "such that he is, in effect, put on notice of the motion". Counsel for the Member submitted that if the Panel was not willing to waive the strict compliance with the rule of service, she proposed that we adjourn this motion and she would serve him and wait the 10 days before returning, a situation which she submitted would be "ridiculous" as everyone appeared to have actual notice and was ready to proceed.

With respect to the lack of an affidavit, Counsel for the Member submitted that her office made an error in not sending out an affidavit attesting to the authenticity of the documents she relied on in her motion materials. Counsel further submitted that this defect had been cured by the fact that, by the time of the oral hearing of the motion, the Panel had been provided with a responding affidavit from [name redacted] which was filed on consent.

### **(b) The College's Position on the Preliminary Motion**

The College objected to the motion on both procedural and substantive ground. It was submitted that procedurally, the Notice of Motion had not been served on [the Client] and thus it was not properly before the Panel and should not be considered or heard. The College further submitted

that the lack of an affidavit to support the motion, providing an evidential foundation, rendered it impossible for the motion to succeed, so valuable hearing time should not be used to hear a motion with these procedural defects.

On the substantive issue, the College submitted that the Member had not met the legal test for access which requires her to demonstrate on an evidential record, that the records requested are "likely relevant" to an issue at the hearing and that it is in the "interest of justice" to order the release of the records. The College submitted that the Member had not articulated what she was looking for in the records and how it may assist her case, instead it appeared that she was engaging in a fishing expedition. It was submitted by the College that such highly personal and private therapeutic records have been identified by the courts as records that ought to be accorded an extremely high degree of privacy, and not shared without good reason. The College further submitted that as both [the Client] and [the Facility Case Manager] would be available for cross-examination at the hearing, it was both unnecessary and a violation of [the Client's] privacy interest to order the disclosure of these documents.

**(c) [The Facility's] Position on the Preliminary Motion**

[The Facility] is the custodian of the therapeutic records. No one from [the Facility] was present at the hearing, however, they provided written submissions opposing the motion for production of the records. The following grounds were submitted by [the Facility] for their opposition of the motion:

- i) The Notice of Motion contained no basis on which to establish that production of the record is required;
- ii) The records sought are not relevant to the determination of the allegations of professional misconduct;
- iii) The records sought are not required for the full and fair cross-examination of [the Client] and [the Facility Case Manager];
- iv) Production of the records sought would constitute a gross violation of the privacy of [the Client] and undermine the societal objectives that individual may seek treatment through organizations such as [the Facility] with the expectation that their personal information will be maintained in the strictest of confidence; and
- v) The violation of [the Client's] privacy rights greatly outweighed any probative value that the record may have.

**(d) [The Client's] Position on the Preliminary Motion**

[The Client] objected to the disclosure of his clinical records, however he did not make any submissions on the motion.

**(e) Legal Principles**

*i) Procedural Issue*

The Panel considered the Discipline Committee's Rules of Procedure with respect to motions. Rule 7.02(3) states that a notice of motion for production of documents must be served on a person with a significant interest in the documents, including a privacy interest. Rule 5.03(1) states that evidence on a motion must be given by affidavit unless otherwise directed by the Committee or provided by law.

*ii) Substantive Issue*

In its determination of the substantive issue on the production of third party records, the Panel considered the two part test as set out in *College of Physicians and Surgeons v. Au*, 2005 Carswell Ont 305 (Div. Ct.), which was referred to by the parties and which both parties accepted as setting out the relevant test. *Au* set out the two-stage process that has been applied in professional discipline hearings, modeled generally on the relevant provisions of the *Criminal Code* and the Supreme Court of Canada's decision in *R. v. Mills*, 1999 Carswell Alta 1055. *Mills* set out a dual requirement that documents must be proven to be of "likely relevance" and that production be "necessary in the interest of justice".

Additionally, the *Criminal Code* provision (which does not apply to administrative hearings but is helpful in setting out guidelines) requires that motions for the production of third party records proceed in two phases. The first phase involves deciding whether the records should be produced to the trier of fact, and if answered in the affirmative, the second phase involves deciding whether the records should be produced to the Member. At both phases production is based on the dual requirements of "likely relevance" and that production be "necessary in the interest of justice". The parties referred to additional cases interpreting these principles.

**(f) Decision and Reasons on the Preliminary Motion**

The Panel found that there was a procedural defect with the Member's motion record, but decided to waive strict compliance with the rules and hear the motion. [The Client] clearly had notice of the issues and was aware of the motion, and the lack of affidavit evidence was subsequently cured.

On the substantive issue, the Panel balanced the Member's right to make full answer and defence against [the Client's] important privacy interest in the clinical records requested. Applying the test set out in the relevant cases referred to by the parties, it was determined that the clinical records made by [the Facility Case Manager] relating to [the Client] for the period from February 23, 2012 until March 24, 2014 were likely relevant to the hearing and that it was in the interest of justice that they be produced to the Panel so that the Panel could review them and make a decision about whether those records should be disclosed to the parties, in whole or in part.

The Panel believed that as these notes covered the period leading up to and including the initial disclosure and the investigation after it, they likely included information provided by [the Client] about the allegation which was at issue in this hearing. The [Facility] records requested likely contained [the Client's] initial accounting of the events, and relevant information leading up to the disclosure.

Having reviewed the disclosed records the Panel concluded that selected portions of the record contained information that was likely relevant to issues at the hearing, and that it was in the interest of justice that selected portions be produced. The Panel found that portions of the records requested contained [the Client's] initial accounting of the events, and relevant information leading up to the disclosure. The Panel redacted the notes to accord with its decision. A production order was issued by the Panel with the following terms:

1. One copy of the redacted notes was produced to College Counsel, one copy was produced to the Member's counsel and one copy was given to the Panel's independent legal counsel. The Member's counsel was ordered not to show the notes or divulge their contents to the Member, other than in the course of presenting the information as may be required during the hearing.
2. The content of these records shall not be disclosed by anyone participating in this hearing to anyone not participating in this hearing. Those deemed to be "participating in this hearing" included associates from the law firms of counsel for the parties who were assisting with the hearing but not actually present at the hearing.

## **The Evidence at the Hearing**

### **(a) Agreed Statement of Facts**

For those allegations that the Member admitted, there was an Agreed Statement of Facts. It is reprinted below, without the attachments referred to therein.

1. Ms. Heywood graduated with a Masters of Social Work degree from Wilfrid Laurier University in 2005. Since May 4, 2006, Ms. Heywood has been registered with the Ontario College of Social Workers and Social Service Workers (the "College"). On January 11, 2015, Ms. Heywood's status at the College was changed from active to inactive.
2. Between April 6, 2005, and February 12, 2012, Ms. Heywood was employed by [the Facility], [Ontario] Branch as a social worker, first in the Court Support

Program as a Case Manager and subsequently, on November 1, 2007, as a Program Director.

3. Between August and October 2007, Ms. Heywood was the Case Manager for [the Client]. The Client's file was subsequently closed in or about October 2007. Attached as appendix "A" are Ms. Heywood's [Facility] records relating to the Client from August to October 2007.
4. In April 2008, Ms. Heywood reopened the Client's file following his release from custody in March of 2008. Subsequently, the Client was the only client that Ms. Heywood provided direct services to as Case Manager in addition to acting as Program Director until she left [the Facility] in 2012. Attached as appendix "B" are Ms. Heywood's [Facility] records relating to the Client from March 2008 until February 2012 that were downloaded from the [Facility] record management system. The records do not include documentation in June and July 2008 and October 2008. There is no allegation about the adequacy of Ms. Heywood's record-keeping.
5. While providing social work services to the Client, and particularly from April 2008 until September 2011, Ms. Heywood engaged in a series of boundary crossings violations including:
  - a) engaging in extensive levels of contact with the Client, many of which took place during evenings and on weekends, outside of [Facility] office hours. Based on the records contained in appendix "B", thirty-three (33) phone calls and twenty-five (25) face to face contacts occurred on either a Saturday or Sunday between April 2008 and September 2011;
  - b) taking the Client out for lunch on seven (7) occasions, dinner on five (5) occasions and for "food" on two other occasions;
  - c) driving the Client to Ms. Heywood's parent's home in [location in Ontario], a two and a half hour drive on October 11, 2009, to look at furniture and invited the Client to stay for Thanksgiving dinner with her family;
  - d) introducing the Client to her parents and to her brother;
  - e) driving the Client to his grandparent's home on Christmas Day in 2009 and "visited with the family for a while";

- f) attending a corn roast hosted by the Client's grandparents at a park on August 28, 2010 which involved out of city travel from [location in Ontario] to [location in Ontario], a half hour drive;
  - g) calling the Client on January 18, 2009 to ask if he would come to shovel her driveway;
  - h) assisting the Client with meal preparation, shopping, including at the Farmer's Market, and running errands, including on weekends;
  - i) Taking the Client to a 'Buck and Doe' party which involved out of city travel;
  - j) providing the Client with money on occasion and engaging in telephone banking for the Client using his banking password, including transferring and withdrawing monies from his bank account;
  - k) making a personal loan to the Client to enable him to post bail which money was repaid;
  - l) providing items to the Client including a ring, sweater, cologne and a mirror;
6. On one occasion, the Client unexpectedly presented at Ms. Heywood's home in the middle of the night intoxicated, injured and bleeding from his hand after having been in a bar fight. This incident was not reported by Ms. Heywood to the ED who acted as Ms. Heywood's direct supervisor.
7. Ms. Heywood's employment with [the Facility] terminated on February 21, 2012 for reasons unrelated to the Client. Around the time of Ms. Heywood's departure, she and [the Facility] came to terms on a severance agreement.
8. When Ms. Heywood departed, the Client's file was transferred to another case manager at [the Facility], [the Facility Case Manager].
9. In January 2014, the Client disclosed to [the Facility Case Manager] that he had engaged in an intimate and sexual relationship with Ms. Heywood while she was acting as his Case Manager.
10. [The Facility] subsequently retained [B.K.] of [consulting firm] to investigate the matter. [Ms. B.K.'s] investigation led to a final report, dated March 24, 2014.
12. On January 27, 2014, the ED of [the Facility] reported concerns arising from the Client's disclosure of his relationship with Ms. Heywood to the Ontario College of Social Workers and Social Service Workers (the "College").

13. On February 20, 2014, the Client sent a letter of complaint to the College regarding the Member.
14. By reason of engaging in the conduct identified in paragraphs 3-6 above, Ms. Heywood admits to having committed professional misconduct as set out in section 26(2)(a) and (c) of the *Act*:
  - A. In that she violated Section 2.6 of the Professional Misconduct Regulation by using information obtained during her professional relationship with the client, or using her professional position of authority to coerce, improperly influence, harass or exploit the client, when she established a personal relationship with the Client to whom she provided social work services;
  - B. In that she violated section 2.2 of the Professional Misconduct Regulation and Principle I of the Handbook (commented on in Interpretations 1.5, 1.6 and 1.7) by failing to be aware of her values, attitudes and needs and how those impact on her professional relationships with clients; failing to distinguish her needs and interests from those of her client; failing to ensure that her client's needs and interests remain paramount and failing to maintain an awareness and consideration of the purposes, mandate and function of her employer when she established a personal relationship with the Client to whom she provided social work services.
  - C. In that she violated Principle II (2.2) of the Handbook (commented on in Interpretations 2.1.5, 2.2.1, 2.2.2 and 2.2.8) by failing to maintain clear and appropriate boundaries in her professional relationship when she established a personal relationship with a client to whom she provided social work services. In doing so, she placed herself in a conflict of interest situation in which she ought reasonably to have known that the client would be at risk and (or in the alternative) used her professional position of authority to abuse or exploit the Client. Ms. Heywood additionally did not declare the conflict of interest, nor did she engage in the process of self-review and evaluation or seek consultation before engaging in a personal relationship with the Client. As a result, she engaged in conduct which could reasonably be perceived as reflecting negatively on the profession of social work.
  - D. In that she violated Section 2.36 of the Professional Misconduct Regulation by 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 members as disgraceful, dishonourable or unprofessional when she established a personal relationship with a client to whom she provided social work services.

**(b) Other Evidence**

In the Agreed Statement of Facts, Lynnette Heywood agreed to a number of boundary violations and established that she had a personal relationship with [the Client]. The issue in dispute was whether or not Ms. Heywood also had a sexual relationship with [the Client].

i) **Overview of Witnesses**

The College called three witnesses: [the Client,] with whom Ms. Heywood is alleged to have had a sexual relationship; [Witness #2], the father of [the Client]; and [the Facility Case Manager] who took over [the Client's] file after the departure of Ms. Heywood.

The Member called four witnesses: the Member, Lynnette Heywood; [Witness #5] a good friend of the Member; [Witness #6] a co-worker and friend of the Member; and [Witness #7], the Member's brother.

ii) **Testimony of Witnesses**

**1) Witness#1 aka [The Client]**

[The Client] testified that at the time of the hearing he was 28 years old and lived on his own in [location in Ontario]. He stated that he had a difficult childhood. There was a custody battle over him and he resided either with his mother or his father at periods of his childhood. [The Client] had challenges at school and was kicked out of high school for fighting. He started drinking heavily and developed a lengthy criminal record with incarcerations beginning at the age of 12 or 13. At the time of his testimony, [the Client] was on bail with a pending trial for assault causing bodily harm.

[The Client] testified that he did not have a good relationship with his mom growing up. She suffered from addiction issues and was physical with him. He stated that he had a better relationship with his dad and saw him as a friend whom he could talk to, although there were times when their relationship was what he described as "shaky". [The Client] described one occasion when he was incarcerated and his father sold some of [the Client's] belongings for drugs. [The Client] testified that his father no longer uses illegal drugs and is on methadone.

[The Client] testified that he first met Ms. Heywood when he was released from Penetanguishene where he was serving time for a home invasion conviction. [The Client] thought Ms. Heywood may have helped with the application for his early release but he did not recall communicating with her while in custody. He stated that while he was unclear about her role at first he believed she was there to help him "get straightened out" and to "give him a hand with things".

[The Client] moved in with his aunt once released, and then moved in with his grandparents after he was asked to leave his aunt's place. Not long after moving in with his grandparents, he went back into custody after stealing his grandmother's car. Once released from custody he returned to his grandparents to live. After some time he moved out on his own, he believed, in July of 2009, into an apartment on [name of street]. [The Client] had difficulty remembering how long he had lived with his grandparents after release from custody before moving out on his own. He thought it was a year however other evidence showed that it was only a few months.

[The Client] testified that while he resided with his grandparents he did not have a sexual relationship with Ms. Heywood. During this period, Ms. Heywood was assisting him with setting up appointments, trying to get him tutors and assisting with education. [The Client] testified that at the time he thought Ms. Heywood was a nice person and he acknowledged in cross-examination that the services provided by Ms. Heywood at the time were helpful to him.

[The Client] testified that the sexual relationship with Ms. Heywood began after he had moved into his own apartment. He was around the age of 21. He stated that after he moved out on his own Ms. Heywood became “flirty”, telling him that he was “good looking and handsome”. He stated that he told his father and a few of his friends about Ms. Heywood being flirty with him.

[The Client] described his first sexual encounter with Ms. Heywood. He testified that this occurred sometime between July 2009, after he had moved into his apartment, and as late October of 2009. He could not recall the exact month when it occurred. On that day he had biked over to Ms. Heywood’s to help her carry something, possibly water bottles, up to her apartment. He locked up his bike under her stairs in the back yard and then he and his friend [C] went to a bar. [The Client] got into a fist fight at the bar and ended up cutting open his knuckle on his pinky finger when he hit the other guy in the teeth. He left the bar and went back to Ms. Heywood’s apartment and knocked on her door. Ms. Heywood invited him in and cleaned his hand in the bathroom. After she cleaned his hand, she walked into the living room and they sat on the couch and talked. She didn’t call the police or send him to the hospital.

[The Client] testified that Ms. Heywood had paperwork sprawled out on the floor and he joked with her about this. Ms. Heywood sat in the middle of her floor and they talked about tattoos. [The Client] was good at drawing and they talked about whether he might be able to do something in that field. They then looked at tattoos on her computer while lying beside each other on the floor. Both he and Ms. Heywood had a tattoo at the time. While they were both on the floor Ms. Heywood started to go over the outline of his tattoo on his forearm. [The Client] then leaned over and kissed her. They eventually got up and went to her bedroom where they continued kissing, and ended up having sexual intercourse.

[The Client] testified that he stayed over that night and felt "awkward afterwards". He stated that he “ kind of had a funny feeling that we weren’t – that is not supposed to happen”. [The Client] testified that he and Ms. Heywood talked in the morning to make sure that they were on the same page, and afterwards he felt pretty good.

[The Client] testified that Ms. Heywood continued as his social worker after this sexual encounter, and they continued their sexual relationship for about two years. He stated that they did not talk about their sexual relationship because Ms. Heywood could lose her job.

[The Client] testified that for the few months after their first sexual encounter, he and Ms. Heywood would usually have sexual relations on the weekends. He stated that during this period he was working, often out of town, and would get home late on Fridays and stop by Ms. Heywood’s place or text her to see if she was around. [The Client] testified that he would usually go to Ms. Heywood’s place, where they would drink beer and they would spend the night together. Most of their sexual relations occurred at Ms. Heywood’s apartment, and only a few occasions at his apartment. [The Client] stated that he was seeing Ms. Heywood almost every

weekend and sometimes during the week when she needed help carrying something into her apartment.

[The Client] did seasonal work and got employment insurance in the winter when there was no work. He testified that the frequency of his sexual encounters with Ms. Heywood increased during this period, in the winter when he had time to see her during the week. He stated that when he got a cheque he would pay his rent, buy alcohol and then go over to Ms. Heywood's. He testified that they did not have sexual relations every time he saw her and they did not go on dates.

[The Client] testified in chief that he spent two Christmases with Ms. Heywood while they were engaging in sexual relations, though in cross-examination he agreed with counsel that it occurred only once. He stated that the Christmases were spent at Ms. Heywood's new house, where they would talk, eat and watch movies. In cross-examination he testified that he had sexual relations with Ms. Heywood one Christmas.

[The Client] stated that he had a tradition of spending New Year's Eve drinking with his friend, whose birthday is on New Years. [The Client] testified that he called Ms. Heywood on New Year's Eve while he was out with his friends and tried to convince her to come out to his friend's place, but she refused. [The Client] stated that he believed Ms. Heywood refused to come because she would not have been able to relate to anyone at his friend's place. [The Client] believes that he went over to Ms. Heywood's later that night. He testified that he remembered that Ms. Heywood was sad that she found herself spending New Years by herself. He stated that Ms. Heywood was not seeing her friends as much since they started to have a sexual relationship and now found herself alone on New Years. [The Client] stated that he knew that night that nothing would come of their relationship.

[The Client] testified that the sexual relationship with Ms. Heywood ended before he was on house arrest, which the parties agreed began in February 2011. Ms. Heywood told [the Client] that she wanted to meet someone and have a normal life with them. [The Client] stated that Ms. Heywood was not on the same level as him and she could not have her job if she was sleeping with him. He described Ms. Heywood meeting and dating a doctor in [location in Ontario] where she was working. He testified that he was confused when his sexual relationship with her ended, but that he was "okay" with it because he knew that the relationship would not lead to anything.

[The Client] testified that Ms. Heywood was first living in her apartment when their sexual relationship began. He described his recollection of Ms. Heywood's apartment, including the layout of her bedroom, and the colour of the bedroom curtains, bed sheets and comforter.

[The Client] testified that Ms. Heywood later moved into a house and they continued their sexual relationship while she resided in this house. He testified that he always went in the back door through the backyard fence when he visited Ms. Heywood at her house. He described details of Ms. Heywood's house, including her bedroom. Aside from their sexual relationship, [the Client] testified that he had done gardening for Ms. Heywood in her new house and had been in her bedroom and bathroom on those occasions as well. Ms. Heywood acknowledged that [the

Client] had been in her house and in her bedroom and bathroom when [the Client] did gardening for her.

[The Client] testified that he met two friends of Ms. Heywood's on separate occasions when he went to Ms. Heywood's house. One friend he described as "some [J] girl", whom he met one night when he came by through the backyard and saw her and Ms. Heywood sitting on the deck having drinks. He described [J] as tall, blond, fairly thin and kind of pretty. [The Client] stated that [J] was on her cell phone a lot as she was fighting with her husband. [The Client] understood that [J] was having an affair with a younger man and her husband was suspicious. [The Client] testified that Ms. Heywood told him that [J]'s husband had slashed someone's tires when he found out about the affair. [The Client] stated that he did not interact much with [J], but they both stayed over and before she went to bed she gave him a hug.

[The Client] was asked in cross-examination whether [the Facility Case Manager] (the social worker assigned to him after Ms. Heywood) gave him the name "[J]", and he denied this. In re-examination, [the Client] acknowledged that counsel for the College had shown him the picture of a blonde girl who may have been [J]. However, [the Client] stated that he had never discussed a blonde friend of Ms. Heywood's with [the Facility Case Manager].

[The Client] testified that he met another friend of Ms. Heywood's on a different occasion when he was digging out a garden for Ms. Heywood in her backyard. He described this friend as blonde, who talked a lot and seemed really happy. [The Client] stated that he understood that this second friend had a cocaine addiction and went to rehab a couple of times.

[The Client] testified that Ms. Heywood had certain sexual preferences. He stated that these preferences included being picked up during sexual intercourse, wrapping her legs around him, and that she liked the lights off. He recalled that she had a pink vibrator.

[The Client] testified that Ms. Heywood had a scar on her buttocks which he described as a dimple which was a little smaller than his thumb or the size of a quarter. He said he could cover it with his thumb. He could not recall any other marks on her body and indicated that he rarely saw her with the lights on. In cross-examination [the Client] indicated that the scar was more towards the middle of her buttocks in the middle of her cheek, but he could not recall which cheek. When asked about whether it was towards the top, middle or bottom, he said it was lower, though he testified that he couldn't remember as it has been a while. He testified that he could see the scar if he was standing in the shower and "looking down at her" though not if he was standing right behind her.

[The Client] testified that after he had seen the scar on Ms. Heywood's buttocks, he heard that she had been bitten by a dog when she was a child. [The Client], however, denied the suggestion that the only reason he knew about the scar was because Ms. Heywood told him about it.

[The Client] testified that he received several gifts from Ms. Heywood. These gifts included a bottle of cologne, a silver ring, sweaters and underwear. The sweaters were wrapped and under Ms. Heywood's Christmas tree, and were given to him as Christmas gifts. [The Client] denied that they were donations. [The Client] testified that he was given the ring and cologne in the summer for what he believed to be a late birthday present. Ms. Heywood had dropped by his

apartment to give them to him and say hello. These gifts were not wrapped. The ring was given in a bag within a box and the cologne was in a box. [The Client] testified that when Ms. Heywood gave him the cologne she said that she had a tough time picking it out but thought he would like it. [The Client] denied that the ring and cologne were trades for a pair of Doc Marten boots. [The Client] stated that long before he received the ring and the cologne, he had given a pair of Doc Marten boots to Ms. Heywood's brother whom he had expected to pay him for it. [The Client] had recently bought the boots but they did not fit him properly, and Ms. Heywood had indicated that they were her brother's size and that he was interested in them.

[The Client] testified that he received a book about himself from Ms. Heywood, which was supposed to be for Christmas but she gave it to him later because it took too long to make and wasn't ready by Christmas. This life book contained quotes, poems, and pictures of him, including childhood pictures. He stated that the book was very meaningful to him. [The Client] was told that Ms. Heywood went to his grandparents to get the pictures for the book. This book was later destroyed by a girlfriend of [the Client], [N], after she was told about [the Client's] past relationship with Ms. Heywood. [The Client] testified that he threw out the ring after [N] found out about Ms. Heywood and had already used up the cologne. He testified that he worked really hard to keep his relationship with [N] and did not want to keep the ring anymore.

[The Client] testified that that he met Ms. Heywood's mother when they went to her house for Thanksgiving dinner during the period that they were having a sexual relationship. Ms. Heywood's three brothers and stepfather were also at the dinner. [The Client] stated that it was a far drive to Ms. Heywood's mother's house, and he did not know at the time why he was going there for Thanksgiving dinner. [The Client] testified that he did not really want to go, but Ms. Heywood asked him and he did not want to say no. He felt anxious at the house so he and Ms. Heywood went for a drive to calm him down. They fooled around in the back seat. They went for the drive as Ms. Heywood was waiting to finish laundry. After this drive they then went back to her mother's house, got Ms. Heywood's laundry and left to go home. [The Client] testified that he recalled Ms. Heywood's mother offering for them to stay the night however he did not want to stay.

[The Client] testified that Ms. Heywood met his family as well. She attended a birthday party for him at his paternal grandparents house, and she drove him to visit his maternal grandparents after he told her that he had not seen them for awhile.

[The Client] testified that Ms. Heywood took him and his friend [C] to a Buck and Doe party in [location in Ontario]. He could not recall for whom it was being held. In his examination in chief [the Client] initially stated that at the time he and Ms. Heywood were still sleeping together at the time of the party, though Ms. Heywood was talking about stopping. In cross-examination, however, [the Client] testified that he didn't think that he was sleeping with Ms. Heywood by the time of the Buck and Doe as he thought she was seeing a guy named [name redacted].

[The Client] testified that Ms. Heywood had friends at the Buck and Doe and she was sitting on a picnic table with some of them the whole time. He stated that he sat down with her for a time, got up, wandered around and then came back and asked to leave, but Ms. Heywood was not ready to leave. [The Client] testified that he got very drunk that night. [The Client] stated that Ms. Heywood was sitting with a tall, skinny friend whom she had known for a long time. He

wasn't sure if that was "[J]". He testified that he didn't know who any of her friends were – not the one at the Buck and Doe and not the one that he met at her house. He didn't know if either was [J], and thought that it was possible that he was confusing the name [J] between the girl he met at Ms. Heywood's house and the one at the Buck and Doe.

In cross-examination it was put to [the Client] that Ms. Heywood had taken him the Buck and Doe to try to reconnect him with a childhood friend. [The Client] denied speaking with Ms. Heywood about a childhood friend as the reason for him going to the Buck and Doe.

[The Client] testified that Ms. Heywood ended their sexual relationship in a conversation at her apartment which took place after the Buck and Doe. Ms. Heywood told him that she had met someone from [location in Ontario], a doctor whom she really liked. [The Client] testified in cross-examination that their sexual relationship ended abruptly, not decreasing over time. [The Client] stated that it made him sad to learn that there was no future between them, though he understood that she wanted a real life. [The Client] testified that he was "convenient" for a time to Ms. Heywood, but that she told him that she couldn't introduce him as a boyfriend or have a real relationship with him as she was his social worker.

[The Client] testified that he recalled one evening close to the end of their sexual relationship when he saw Ms. Heywood having drinks with another guy. He stated that he was cycling by and caught eyes with Ms. Heywood who, in turn, went "white-faced". He stated that he was "pretty pissed" about it and walked up to them and asked the guy what his name was. He introduced himself, shook the guys hand, gave Ms. Heywood a hug and then cycled off. [The Client] testified that he was surprised at himself for doing that and he "felt like an idiot" after. He stated that after this incident he spoke to Ms. Heywood about it asking if she was seeing him at the same time. [The Client] stated that Ms. Heywood had her reasons, as she wanted a normal relationship.

[The Client] testified that at the beginning of his sexual relationship with Ms. Heywood, he recalled them having some discussion about him being transferred from Ms. Heywood. He remembered, however, that she had told him that she would have to wait "like seven years or something like that, if you want to see somebody that you worked with or whatever".

[The Client] testified that he was placed on house arrest sometime after Ms. Heywood had ended their sexual relationship. [The Client] stated that he does not recall seeing Ms. Heywood while he was on house arrest, though he may have seen her once. [The Client] stated that he was sad about not seeing her during this period and he had no other supports at the time. [The Client] stated that Ms. Heywood stopped bringing him food, taking him grocery shopping and helping with his laundry, and bringing him gifts. He had an hour to go grocery shopping on a set day which he stated was not enough time. He stated that he consistently stepped out on the wrong day to go grocery shopping, and was given a hard time by people running the house-arrest monitoring system. In cross-examination, [the Client] acknowledged that it was possible that he wasn't seeing Ms. Heywood as often while on house arrest because he was getting better at being independent, though he disagreed with that suggestion. In follow-up answers, [the Client] testified that he was angry because Ms. Heywood didn't leave him alone to enhance his independence, but rather she just wasn't there for him.

Ms. Heywood continued to act as his social worker, throughout the period of his house arrest, and afterwards until she left the agency. [The Facility Case Manager] took over as his worker when Ms. Heywood left the agency. [The Client] testified that he found working with [the Facility Case Manager] to be helpful. He stated that [the Facility Case Manager] pushes him, gives him a “kick in the ass”, to get him going and does not just do things for him when he does not how to do it, or make him feel stupid for not knowing how to do it.

In cross-examination [the Client] was questioned about apparent discrepancies about the start and ending of his sexual relationship with Ms. Heywood as referenced in several exhibits and his direct examination. The exhibits referred to were as follows:

- [The Client’s] initial complaint letter to the College, dated February 20, 2014 (the “College Complaint”);
- a report from the internal investigation conducted by [the Facility] dated March 24, 2014 (the “[consulting firm report]”);
- clinical notes taken by Ms. Heywood at the time of her interactions with [the Client]; and
- interview notes from the College, dated July 15, 2015.

In the College Complaint [the Client] indicated that the relationship started "*in the fall of 2008 when I was 21 years old*". In the [consulting firm report] [the Client] reported the relationship began when he was "*around 21*" and reported his first sexual contact with Ms. Heywood as occurring "*in the summertime and I was 21*". In the interview with the College, [the Client] reported that it began when "he was about 21 years old". In direct examination, [the Client] testified that the sexual relationship started soon after he moved into his own apartment. It was noted that [the Client’s] birthday was July 6, 1987 and that he would have been 22 years old when he moved in to his own apartment. In cross-examination, [the Client] testified the following about when the sexual relationship started and his previous statements about it:

- i) When he wrote to the College and said fall of 2008, that was just a rough guess based on when he thought he got out of Penetanguishene.
- ii) He thought he was living on his own at age 21
- iii) The season, age and year were all wrong in the letter to the College
- iv) It started when he was living on his own.
- v) The one date he is really clear on is when he was in his apartment, July 2009 .
- vi) He recalls he was working and only saw Ms. Heywood at her apartment on the weekends, so that makes it summer not winter because he had seasonal summer work.
- vii) The first night of sex was shortly after he got into his apartment – which could have been between August and October .

With respect to the end of the sexual relationship, in the College Complaint [the Client] indicated that "*the affair went on for roughly two years*". In the [consulting firm report], he stated that the relationship ended in 2011, when he was around 23 years old. Ms. Heywood had started seeing someone else, and he had as well. In the [consulting firm report] he is recorded as having stated to the investigator that at the time of the Buck and Doe he had thought that the relationship was pretty much over and that Ms. Heywood took him and his buddy to the party just to be nice. He reported that Ms. Heywood did not come to see him when he was on the 6 month house arrest. The evidence showed that the house arrested started in February 2011.

Ms. Heywood's clinical notes of her interactions with [the Client] refer to "[N]" on June 5, 2010. The clinical notes refer to [N] as [the Client's] "girlfriend" on October 14, 2011. In the interview with the College, [the Client] says his relationship with Ms. Heywood was pretty much over by the time of the Buck and Doe. He stated that he started seeing [N] after Ms. Heywood and that his relationship with [N] lasted for 3 years. In direct examination, [the Client] testified that the sexual relationship ended when he was on house arrest or maybe before. He stated that they spoke of ending the relationship after the Buck and Doe. Ms. Heywood had met someone, a doctor in [location in Ontario], whom she really liked. In cross-examination [the Client] testified the following about when the sexual relationship ended:

- i) Around the time the relationship with Ms. Heywood ended, he started seeing someone else, [N]. He can't remember when that first started.
- ii) He doesn't know if he was dating [N] long before Ms. Heywood left [the Facility]. They started talking, and were dating "like three years at the most" or "four years". He just doesn't remember how long. [The Client] and [N] broke up in December 2014 but he does not remember what season the relationship began.
- iii) He was not having a sexual relationship with [N] at the same period that he was having a relationship with Ms. Heywood - there was no overlap.
- iv) He thinks he started sleeping with [N] when she was 19 or 20 and he was 24 or 25.
- v) After he took a trip to [location in Ontario] and met Ms. Heywood's colleagues, "things started to slow down" between them. He knows things started slowing down in their sexual relationship, and he remembers being on house arrest and that was "pretty much the end of it". She told him something about meeting someone in [location in Ontario] and that was the end of it, right there. He doesn't know if this was the same time as the house arrest.
- vi) He's pretty sure he didn't have sex with her again after he was placed on house arrest.
- vii) He thinks he started sleeping with [N] after his house arrest because he wasn't sleeping with Lynette then. He thinks [N] was still with her boyfriend [name redacted] around the time of his house arrest.

[The Client] testified that some time after Ms. Heywood had left the agency she got back in touch with him to give him the pictures that she had borrowed from his grandparents for the life book. He arranged to meet her at a bank in town so that his girlfriend, [N], would not find out. He testified that he started seeing [N] after his relationship with Ms. Heywood ended. [The Client] stated that when he met up with Ms. Heywood, he asked why she didn't talk to [the Facility Case Manager] anymore. She responded that she presumed that [the Client] said something to [the Facility Case Manager] about their relationship. [The Client] testified that at the time he had not told [the Facility Case Manager] of his relationship with Ms. Heywood. In cross-examination, it was suggested to him that he had already had discussions with [the Facility Case Manager] about his relationship with Ms. Heywood, however, he denied that [the Facility Case Manager] knew anything at that time.

Despite [the Client's] attempts to hide this meeting with Ms. Heywood from his girlfriend [N], [N] found out about it and was angry. [The Client] described [N] as a jealous, temperamental person who "scared the hell out of me". [The Client] had initially denied it to [N] and couldn't understand how she knew. [N] wanted to know if he was still seeing Ms. Heywood, and they ended up having a big argument. [The Client] described this fight as terrible and felt that it "lasted forever". It was during this fight that he texted [the Facility Case Manager] to let her know that [N] knew about his relationship with Ms. Heywood and that he would like to tell [the Facility] about it.

[The Client] testified he and [N] had been broken up for a year at the time of his testimony, and he has not had another girlfriend since that time. [The Client] said he and [N] had been together for four years, in what [the Client] described as a "terrible" relationship. [The Client] stated that [N] was very jealous and that she would "lose it" if another woman said "Hi" to him. He described an incident where [N] attacked him with a knife, and he had to protect himself. [The Client] testified that he ended the relationship with [N] because he was scared of her. He stated that while they were together [N] had scared off all of his friends, including [C], his only good friend, whom he wasn't allowed to talk with or hang out with while he was with her. [The Client] testified that [N] was even jealous of his relationship with [the Facility Case Manager]. He stated that after [N] found out about his sexual relationship with Ms. Heywood everything became worse.

In cross-examination it was suggested to [the Client] that once [N] was aware of the relationship with Ms. Heywood she pushed him to report it to [the Facility] and file a complaint and he had no other choice but to follow through with it to try and help his relationship with [N]. [The Client] denied this suggestion stating that it would not have helped. In re-examination he responded to this further adding:

*It would be better off lying about it. It took, like a year. I was fighting with [N] in the meantime while talking about. I should have told her what was going on. She never let it go. That's just how she is. I would have been better off denying it to her, if anything.*

In cross-examination, it was suggested to [the Client] that he made up the story of having a sexual relationship with Ms. Heywood to his friends and father because he was embarrassed that he needed a social worker and could not take care of himself. [The Client] denied that suggestion. He acknowledged being a "little embarrassed" by the things that Ms. Heywood did

for him, stating that he felt “kind of incompetent” as a result of Ms. Heywood’s assistance. [The Client] denied making up a story about sleeping with Ms. Heywood to cover the embarrassment of Ms. Heywood helping him. [The Client] testified that his friends had no problem with him having a social worker and that he had spoken with counsellors when he was younger. [The Client] stated that his father had also received social work services and was not embarrassed about receiving those services. He stated that his father was not happy about his sexual relationship with Ms. Heywood. It was suggested to [the Client] that before his father was first interviewed, [the Client] and his father spoke to make sure that their stories were the same. [The Client] denied this allegation.

Throughout most of his testimony [the Client] had difficulties remembering specific details and dates. [The Client] testified that he has always had difficulty remembering things. He testified that " something really has to stand out for me to remember it. And, sometimes it doesn't – like, if I just don't care, I don't remember it, or if I'm just worn out, I won't remember it."

In cross- examination [the Client] testified that when trying to remember something,

*The more you talk about something too -- like, if you bring up a subject and you're trying to remember something, the more you talk about that, it seems with other people who have been there, the more you can remember, I find. It's like, yeah. But, the problem is, too, that some people see different things than other people and then you get things mixed up between the two of yours.*

[The Client] testified that it was difficult for him to testify in front of strangers, and that he found it embarrassing having to talk about what happened. When asked whether there was anything about the proceedings that made it difficult for him to open up, he responded that he "does not like looking weak". He testified that he thought sharing his story about his relationship with Ms. Heywood made him look weak, because he felt that he was "ratting her out" and letting her down. He stated, "The way I grew up, you don't roll over on people. You don't rat. I feel like a rat."

## **2) [Witness#2]**

[Witness#2] is the father of [the Client]. His evidence was called primarily for the purpose of rebutting a suggestion that [the Client] fabricated the allegations of a sexual relationship in 2014.

[Witness#2] testified that he is on disability as a result of a car accident, and has not worked in a long time. After his car accident he used pain medication irresponsibly. He has been on methadone for 6 years to address an opioid addiction. He started using heroin when he was 16 and had a history of abusing drugs. He admitted to having an extensive criminal record, principally involving drugs and physical altercations. He testified to never having been charged with a crime of dishonesty such as fraud or forgery.

[Witness#2] testified that [the Client] came to live with him at about age 13 and they are close.

[Witness#2] knew that Ms. Heywood was [the Client's] social worker. He testified that he did not meet her often, though for a period of time she was there every time he would come to see [the Client]. Initially when [Witness#2] heard about Ms. Heywood, it was from [the Client] who

told him that he thought she was coming onto him. [Witness#2] testified that [the Client] told him that while Ms. Heywood was initially helping him out, he thought that she wanted some kind of relationship. [Witness#2] was living on [name of street] at that time and [the Client] stopped by and told him while they were on his front porch. He stated that he was skeptical, at first, but it turned out everyone seemed to know about it. He felt that it was a secret, but not a secret, that they were having a relationship, though Ms. Heywood did not want [the Client] talking about it.

In cross-examination, [Witness#2] said that he did not feel proud when [the Client] advised him of the relationship and he was not happy about it. He stated that the conversation about this occurred while [the Client] was living with his grandmother.

[Witness#2] testified that he was not in [location in Ontario] very much at the time. He stated that when he saw [the Client] he was told that "it was like a done deal" and that they were boyfriend and girlfriend. [Witness#2] stated that he heard the same information from [the Client's] friends, including [C], before [the Client] told him. [The Client] told him that he was intimate with Ms. Heywood, though he didn't say precisely what they did together. At the time, [the Client] was living on [name of street] in his own apartment.

[Witness#2] testified that on one occasion, he arrived at [the Client's] apartment and Ms. Heywood was there. She wouldn't open the door as [the Client] was in the shower. He thought it must have been embarrassing for her which is why she didn't open the door. [The Client] eventually opened the door. [Witness#2] did recall being in the presence of both [the Client] and Ms. Heywood. He described them as "not touchy feely" but instead had a strange dynamic. He stated that it was supposed to be a secret that they were in a relationship, but it wasn't.

[Witness#2] testified that [the Client's] sexual relationship with Ms. Heywood did not end very well and [the Client] was hurt by it.

[Witness#2] testified that he was living in [location in Ontario] between 2007 and 2012, and seeing [the Client] once a month to once every two months. He stated that at some point during that time Ms. Heywood was [the Client's] girlfriend, though when specific dates and years were put to him, he could not remember. He stated that he believed that Ms. Heywood started coming on to [the Client] after [the Client] got out of custody and that after he got his own apartment, they started having sex.

In cross-examination, [Witness#2] was questioned about specifics date but was unable to recall any. When questioned in cross-examination about the date the sexual relationship ended he testified "I can't tell you dates. I can't". He acknowledged that he was making an assumption about dates.

It was put to [Witness#2], and he acknowledged, that when [the Client] was living on his own [Witness#2] would stay with him for several days at a time. He agreed that during that time he argued with [the Client] and that [the Client] had been upset with him when [Witness#2] pawned his guitar. It was put to [Witness#2] that because of these actions he was now was fabricating his testimony as he "owes[the Client]". [Witness#2] denied this suggestion.

[Witness#2] testified that initially he was “really reticent about doing anything about this because I’m not the kind of guy that gets up and rats somebody out “. He stated that because of circumstances in this case, involving a "betrayal of trust", he was "trying to ensure that it doesn't happen again”.

In cross-examination [Witness#2] agreed that even in circumstances where he had no personal memory of an event, he would be prepared to vouch for [the Client's] story of the event because [the Client] “tells the truth.” He denied fabricating evidence at this hearing.

### **3) Witness #3 aka [Facility Case Manager]**

[The Facility Case Manager] is the Program Supervisor for Case Management at [the Facility]. She worked in various roles at [the Facility] over the previous ten years. [The Facility Case Manager] testified that she met Ms. Heywood a long time ago when Ms. Heywood had interviewed for a summer student position at a facility she worked at prior to [the Facility]. [The Facility Case Manager] testified that they got to know each other through their employment and became both professional and personal friends, although [the Facility Case Manager] was 10 years older than Ms. Heywood. [The Facility Case Manager] would often invite Ms. Heywood over for Sunday night dinner. [The Facility Case Manager] stated that as she was older, she had already gone through much of what Ms. Heywood was going through, be it buying a house, relationships and life things, and she offered support for Ms. Heywood, taking on the role of the older friend.

[The Facility Case Manager] testified that she tried to stay in contact with Ms. Heywood when Ms. Heywood left [the Facility] in February 2012. She stated that she sent Ms. Heywood a friendly text message and she got only a lukewarm response. [The Facility Case Manager] stated that the response did not suggest that Ms. Heywood wanted to continue their friendship and she was puzzled by it. The next time she saw Ms. Heywood was at a funeral, close to the Labour Day weekend, for a husband of a colleague. [The Facility Case Manager] testified that at the funeral, Ms. Heywood walked right by without saying a word, which suggested to her that the relationship was over, though she was still puzzled by it.

In cross-examination, [the Facility Case Manager] was reminded that Ms. Heywood did text her after the funeral. [The Facility Case Manager] did not respond to this text, and denied the suggestion that she was the one who ended the relationship. She testified that when Ms. Heywood walked by her at the funeral without acknowledging her, she was sent the message that the relationship was done. She stated that she didn't respond to the text message because she had made the decision, after getting only a lukewarm response to her e-mail months earlier, and not being acknowledged at the funeral, that the relationship wasn't worth pursuing. [The Facility Case Manager] stated that the text that Ms. Heywood sent after the funeral didn't change the fact that the relationship was not one that Ms. Heywood wished to pursue anymore.

[The Facility Case Manager] testified that she has three children, one of whom was adopted. She was the case manager for the biological father who was homeless at the time she started working with him. She stated that Ms. Heywood was her direct supervisor at the time, and was aware of the entire situation. [The Facility Case Manager] testified that the child was ultimately apprehended by CAS and, with the approval of [the Facility's] Executive Director, [the Facility

Case Manager] offered her home for a six-month kinship stay to enable the father to get his life together. The father was transferred off [the Facility Case Manager's] caseload. [The Facility Case Manager] testified that four months later, the father and CAS approached her about adopting. She stated that the process took about two years which was supervised entirely by the court while the conflict of interest was managed.

[The Facility Case Manager] was questioned about the adoption of her daughter, as Ms. Heywood had suggested it was a boundary violation. [The Facility Case Manager] testified that it was very upsetting that she may have to respond to the suggestion that Ms. Heywood thought her adoption was a boundary violation. She testified: "She knows how much I loved her, I still love her, obviously. And, I was completely, utterly, transparent about this. This is not a boundary violation whatsoever". [The Facility Case Manager] stated that Ms. Heywood was completely supportive of the adoption at the time. She testified [the facility] was supportive and that no one there considered the adoption to be a conflict of interest or a boundary violation. They were all supportive.

[The Facility Case Manager] testified in cross-examination that she learned for the first time that Ms. Heywood considered the adoption to be a boundary violation when she read Ms. Heywood's response to the College Complaint. [The Facility Case Manager] testified that Ms. Heywood would be lying if she testified to vocalizing disapproval of the adoption while it was going on. She stated that she was disappointed to hear that Ms. Heywood would use the adoption of her daughter as some defence strategy since Ms. Heywood was right by her side throughout the process and was supportive to her and to her husband. She noted that Ms. Heywood's response came well after the disclosure made by [the Client].

[The Facility Case Manager] testified that while she and Ms. Heywood were friends, Ms. Heywood had talked to her about her dating life. Ms. Heywood had dated a guy named [name redacted], a lawyer whom she met through [the Facility]. [The Facility Case Manager] stated it was a significant relationship for Ms. Heywood and the breakup was very difficult and emotional for her. [The Facility Case Manager] stated that after the break up with [name redacted], she recalls that Ms. Heywood wasn't dating anyone for quite some time and then she started dating [name redacted], who was an acquaintance of [the Facility Case Manager's] husband. [The Facility Case Manager] testified that she remembered the lull in Ms. Heywood's dating as being significant enough that during a conversation in [the Facility Case Manager's] hot tub, [the Facility Case Manager] asked Ms. Heywood whether she was lonely, and healed enough to be ready to date again. [The Facility Case Manager] testified that she recalled the conversation as there hadn't been anyone in Ms. Heywood's life for some time.

[The Facility Case Manager] testified that Ms. Heywood dated [name redacted] for four to seven months. She believed that they started dating in the spring or early summer of either 2011 or 2012. [The Facility Case Manager] stated that after they broke up, Ms. Heywood told [the Facility Case Manager] that she didn't like [name redacted's] teeth, and that her favourite sexual position was being picked up and [name redacted] didn't have sufficient "length" to accomplish that.

[The Facility Case Manager] testified that Ms. Heywood had a friend who met the description of a woman [the Client] described in the [consulting firm report]. The woman's name was [J] and

she was tall, skinny, blond, and good looking. [The Facility Case Manager] stated that she had met [J] with Ms. Heywood. [J] worked at CAS and was married to a man of Eastern European decent. [The Facility Case Manager] testified that [J] was reported to be not very happy and was either considering having an affair with a younger guy, or was already having an affair. [The Facility Case Manager] stated that Ms. Heywood reported this to her years earlier, while they were working at the agency together.

[The Facility Case Manager] testified that she never spoke to [the Client] about [J]. In cross-examination, [the Facility Case Manager] was questioned about how [the Client] came up with the name “[J]” at the hearing. She stated that that she assumed that it was based on a meeting that was had between counsel for the College and [the Client] in which he was apparently shown some pictures that she understood him to recognize. [The Facility Case Manager] stated she was not certain of this and had no firsthand knowledge of it.

[The Facility Case Manager] testified that she did not recall any distinguishing marks on Ms. Heywood’s body. She had seen Ms. Heywood in a bathing suit several times while at the beach at her cottage and had put suntan lotion on Ms. Heywood’s shoulders and back. [The Facility Case Manager] stated that she was aware that, like herself, Ms. Heywood had gotten a mole removed to remove some skin cancer. [The Facility Case Manager] testified that Ms. Heywood shared this experience with her when she learned that [the Facility Case Manager] had just been given the skin cancer diagnosis. She did not recall ever hearing from Ms. Heywood about bruising or pain or infection relating to the removal of the mole. [The Facility Case Manager] did not know where the mole was removed from on Ms. Heywood’s body, and knew of no other distinguishing marks. [The Facility Case Manager] stated that she was aware that Ms. Heywood had a tattoo on her lower back.

[The Facility Case Manager] testified that before [the Client] made the complaint, she had not been aware that Ms. Heywood had been bitten by a dog on her buttocks. [The Facility Case Manager] had never heard Ms. Heywood complain about pain or difficulty walking because of the injury she sustained from a dog bite. In cross-examination, [the Facility Case Manager] stated that she did not recall if Ms. Heywood ever expressed that she was afraid of [the Facility Case Manager’s] large dog, nor that Ms. Heywood had ever told her she’d been bitten by a dog. However, she acknowledged that it was possible that Ms. Heywood has told her she was afraid of dogs and had once been bitten by a dog.

[The Facility Case Manager] testified that Ms. Heywood had lived in a triplex owned by [the Facility Case Manager] and her husband, which Ms. Heywood moved into when she got a job at [the Facility]. Ms. Heywood stayed there until she moved into her own house, in November of 2011. [The Facility Case Manager] described Ms. Heywood’s bedroom and testified that she never discussed with [the Client] what the bedroom looked like, nor did she show him a picture.

[The Facility Case Manager] was asked to review a picture of Ms. Heywood’s room in her house, which she had been in on several occasions. [The Facility Case Manager] testified that the picture looked different than the bedroom had looked at times. She testified that Ms. Heywood was always painting furniture, and that she didn’t remember the dresser being painted. She also testified that she didn’t recall there always being a headboard on the bed. [The Facility Case Manager] testified that she neither spoke with [the Client] about what the bedroom looked

like, nor did she show him the picture. [The Facility Case Manager] testified that nobody used the front door at Ms. Heywood's house. Everyone went around the side to the back of her house and through the door on her back patio.

[The Facility Case Manager] testified that she came across some documents the week before she testified, after [the Client] had said something to her to the effect that his rent never changed when Ms. Heywood was his social worker. [The Facility Case Manager] stated that [the Client's] rent fluctuates based on his income. She testified, however, that when she reviewed [the Client's] rent payments regarding his subsidized housing for his apartment on [name of street], where [the Client] lived from August 2009 onwards, [the Facility Case Manager] discovered that his rent had always stayed on the lowest amount while Ms. Heywood was [the Client's] social worker. [The Facility Case Manager] stated that the housing subsidy was based on forms filled out by Ms. Heywood which showed that [the Client] had no income, notwithstanding that he was working at the time to Ms. Heywood's knowledge, as demonstrated through clinical notes made by Ms. Heywood. [The Facility Case Manager] found no paystubs in [the Client's] file from the time Ms. Heywood was his social worker. Ms. Heywood was the manager of the housing program at [the Facility] at the time. [The Facility Case Manager] testified that within a few months of Ms. Heywood departing from [the Facility], [the Client's] rent started to fluctuate based on his income.

In cross-examination, it was suggested to [the Facility Case Manager] that Ms. Heywood used a different formula with respect to [the Client], based on his annual income. [The Facility Case Manager] testified that such practice had never been the practice of the agency with any other client and it is "not how it's supposed to be done". [The Facility Case Manager] was shown a letter from [the Client's] file, written by [the Facility Housing Manager]. The letter stated that [the Client's] income and assets would be reviewed with his 2009 tax return, that his monthly rent would be \$364 effective April 1, 2010, and that this amount is equal to the new maximum shelter amount allowance from Ontario Works and is the lowest amount that can be charged. [The Facility Case Manager] said this letter was incorrect. It referred to [the Client] getting the maximum allowance under Ontario Works, when [the Client] wasn't on Ontario Works at the time. [The Facility Case Manager] stated that Ms. Heywood was the housing coordinator's supervisor, and she then surmised that Ms. Heywood fixed [the Client's] rent and kept it at that level because it was to [the Client's] benefit. [The Facility Case Manager] testified that if she had handed in a housing application in that form to Ms. Heywood, Ms. Heywood would have sent it back and said that the application was incomplete.

[The Facility Case Manager] testified that Ms. Heywood showed her the life book that she had made for [the Client] a few years ago. [The Facility Case Manager] saw it before Ms. Heywood gave it to [the Client]. [The Facility Case Manager] stated that she thought the book was very "loving" and she felt awkward seeing it. She testified that she thought the book suggested that Ms. Heywood had feelings for [the Client] and was over-involved, so she suggested to Ms. Heywood that she consider transferring [the Client] to a different social worker. [The Facility Case Manager] stated that Ms. Heywood responded by saying: "No, [Facility Case Manager], it's not like that at all. I just – you know, I just wanted him to have something nice," or something to that effect. [The Facility Case Manager] testified that she had never made a life book before. [The Facility Case Manager] stated that she did not report concerns regarding the life book as Ms. Heywood was her direct supervisor and an RSW and she trusted Ms. Heywood's answers.

In cross-examination, [the Facility Case Manager] acknowledged that another colleague, [name redacted], also knew about the life book. Ms. Heywood was not trying to keep it a secret. [The Facility Case Manager] testified that after [the Client] disclosed his sexual relationship with Ms. Heywood, [name redacted] told [Facility Case Manager] after a meeting that she, too, had seen the life book and that she thought it was awkward.

[Facility Case Manager] further testified that to her knowledge, the only organization that provides social work services where life books are used is the CAS. She stated that at CAS life books are made for children who have been through trauma and are used to ease them through transition. She differentiated the CAS use of life books from Ms. Heywood giving the life book to [the Client], which she saw as a loving gesture. She then identified the pages of the life book which she thought were “loving” such as, for example, where Ms. Heywood wrote, “Could you be any cuter?” beside a childhood picture of [the Client]. [The Facility Case Manager] did acknowledge, however, that the life book in and of itself did not suggest that Ms. Heywood and [the Client] were having a sexual relationship.

[The Facility Case Manager] testified that [the Client] first disclosed his sexual relationship with Ms. Heywood by sending her text messages late one night. She texted him back and then they had a phone call the next morning to make sure she understood what he was telling her. She then met with him and his girlfriend [N] at his apartment on the same day she spoke to him by phone. [The Facility Case Manager] stated that [N] was really angry and wanted to know what would happen next. [The Facility Case Manager] testified that she told [N] that [the Facility Case Manager] would have to call the [the Facility] Executive Director. [The Facility Case Manager] testified that she apologized to [the Client] and [N] and said that she would do what was needed to support [the Client] to bring this forward.

[The Facility Case Manager] testified that she had further conversations with [the Client] regarding his disclosure of a sexual relationship. She stated that the next time they spoke, “it was like a dam broke” for [the Client] and he felt that there was a lot that he “needed to get off his chest”. [The Facility Case Manager] testified that [the Client] was in love with Ms. Heywood and told her that he felt stupid “that he ever thought that a guy like him, with his challenges and the poverty that he lives in, ever had a shot at her of being in a normal relationship”.

[The Facility Case Manager] testified that she had about five face-to-face discussions with [the Client] leading up to the filing of the complaint to the College. She stated that during that time, [the Client] felt like he was Ms. Heywood’s “dirty little secret,” which she said were [the Client’s] words. [The Facility Case Manager] testified that during these discussions [the Client] disclosed several things of which she had not been previously aware. These disclosures included: i) that Ms. Heywood had given [the Client] a ring and cologne; ii) that Ms. Heywood slept at his apartment once, after texting him while she was drinking; iii) that Ms. Heywood took [the Client] to her mother’s home outside of [location in Ontario] for Thanksgiving; iv) that [the Client] met Ms. Heywood’s father and brothers; and v) that Ms. Heywood took [the Client] to a Buck and Doe in [location in Ontario]. [The Facility Case Manager] said she had known none of that prior to [the Client’s] disclosure of a sexual relationship.

[The Facility Case Manager] testified that she was not aware that [the Client] had gone to Ms. Heywood's apartment once with a bloody hand after having been in a fight. [The Facility Case Manager] stated that if that happened to her, she would have put the client in a cab and sent him to the hospital, told the client not to come to her house again, and told her boss.

[The Facility Case Manager] testified that she was not involved in the drafting of [the Client's] College Complaint letter. She stated that the letter was written by [the Client] with the help of a psychologist that [the Facility] had arranged to assist [the Client].

[The Facility Case Manager] testified that prior to the disclosure, [the Client] had said things that "caused her intuition to niggle" and that he seemed to be "gearing up to disclose the relationship". She said these niggles came up on various occasions, like when [the Client] mentioned liking Ms. Heywood's house, and that he had worked on her garden, and that he missed her. [The Facility Case Manager] testified that she considered the possibility that this was nothing more than the normal situation of a client having feelings for a social worker who had worked with him for a long time, and that it may not have been actually sexual. In cross-examination it was suggested to [the Facility Case Manager] that she questioned [the Client] with the intent of proving this intuition to be true. [The Facility Case Manager] denied this suggestion.

In cross-examination it was suggested to [the Facility Case Manager] that she influenced [the Client's] memory and testimony, prompted [the Client] to disclose a sexual relationship, and provided information to make [the Client] look more credible. [The Facility Case Manager] denied these suggestions. It was specifically suggested to [the Facility Case Manager] that she provided the details of what Ms. Heywood's bedroom looked like to [the Client] and made up the story of Ms. Heywood's sexual preferences in order to support [the Client's] testimony. [The Facility Case Manager] denied these suggestions as well.

[The Facility Case Manager] testified that she had not read Ms. Heywood's file notes reflecting much of the contact she had with [the Client] until after the disclosure. She stated that the level of intensity noted in [the Client's] file really struck her and suggested that Ms. Heywood was chasing [the Client]. She testified that there was: "a level of contact that is extraordinarily high and intense when you look at what the case management function is at [the Facility]," and that [the Client] was basically not left to do anything on his own.

[The Facility Case Manager] testified that she has no axe to grind with Ms. Heywood. She testified that she cared deeply about her relationship with Ms. Heywood and that the breakdown of that friendship has nothing to do with how she has conducted herself during [the Client's] disclosure. [The Facility Case Manager] testified that it would not have made a difference whether or not they were still friends. As an employee of the agency, she would have had to conduct herself in the same way.

[The Facility Case Manager] testified that it has been difficult, "heartbreaking", for [the Client] to come to the hearing and see Ms. Heywood again and with her husband and baby. She stated that she believed that [the Client] was leaving out some details in his testimony because he still cares about Ms. Heywood and thinks that leaving out some details will lessen the impact of any decisions that may be made against her.

#### **4) Lynette Heywood**

Ms. Heywood testified that she started working at [the Facility] in 2005 as a court support worker, which was a new position at the time. The position involved working with the Crown Attorney for clients with mental health issues, a large part of which involved clients with addictions. Ms. Heywood stated that the main goal was "community integration, life skills development, deal with court issues".

Ms. Heywood testified that when she was promoted from Court Support Worker to Program Supervisor at [the Facility], a large part of what she did was to develop and implement a new documentation system. She stated that the "process and idea" started in 2008 with the plan to create a more goal-oriented and focused system. She explained that this required adjusting the assessment that was used for clients and developing a lot of forms.

She testified that as a Program Supervisor, she additionally was part of community collaborative groups for which she had to attend meetings. She met with clients sometimes, signed leases, helped with the management of the housing program, and assisted with monthly statistical reporting and analysis.

[The Client] first came to Ms. Heywood's attention when she was a court support worker. She testified that she was in court on the day of [the Client's] sentencing in 2007, and having seen him and his family and having heard the sentencing submission, it was apparent to her that [the Client] had some struggles. She therefore provided the family with a [Facility] card and suggested for [the Client] to get connected to the agency upon his release.

Ms. Heywood acted as [the Client's] case worker for a three month period in 2007 while she was in the court support worker position. When she was promoted to Program Supervisor she opened his file again in April 2008. She testified that she took [the Client] as a client at that time because she wanted to have a client on her caseload, she had developed a relationship with the family in 2007, she had developed a rapport with [the Client] and it was determined to be a high-priority intake. Further, she testified that "because I was planning at that point to revamp or totally redo the documentation system, I thought it would be important to know how that documentation system worked. And, to do that, I would want to have a client, so it made sense." She stated that she used [the Client's] initial support plan for training purposes and brought it to meetings to review with staff.

In cross-examination, it was suggested to Ms. Heywood that she could have continued to work with her own clients in order to still have an active caseload rather than take on a new client, which Ms. Heywood acknowledged. Ms. Heywood further acknowledged that her work with [the Client] in 2007 consisted of a few telephone calls to him, writing a letter on his behalf and making several referrals, not "lots of conversations" as had been stated. Ms. Heywood testified that she decided she wanted a single client in March 2008, once she had already decreased her caseload to zero clients.

Ms. Heywood testified that when she began to work with [the Client], he had a significant alcohol addiction, a criminal record that made him look "like a hardened criminal", and few life skills, including deficits in areas such as banking, cooking, budgeting, following through with

appointments, resume building, seeking employment, reading and writing. [The Client] had only a few high school credits, which were obtained while he was in jail. Ms. Heywood stated that [the Client] was socially anxious in the community though he sometimes displayed some bravado. She described him as suffering from social anxiety to the extent "that just being in there [Wendy's restaurant], yes, that might make him a little nervous". She testified that [the Client] lacked confidence, swore a lot, and would get into fights when he was drinking.

Ms. Heywood described [the Client] as somewhat socially isolated with only a few friends. She felt that [the Client] was vulnerable to being used by his friends for things such as getting a place to stay. Ms. Heywood testified [the Client] could be a sensitive guy. She stated that he put an effort towards looking tough but actually thought of himself as soft.

Ms. Heywood testified that she assisted [the Client] to set up his apartment and to learn how to live on his own. She stated that he needed assistance in grocery shopping, learning to handle food, budgeting help and furnishing his apartment on a tight budget. He also needed assistance with getting furniture on a very tight budget. Ms. Heywood testified that she assisted with the process, including providing [the Client] with furniture, some of which came from her grandparents who had recently passed away.

On cross-examination, it was put to Ms. Heywood that she had referred to [the Client] being "handsome" or "taking great pride in his appearance" several times in her initial 90-day reports. However, she no longer referred to [the Client's] appearance beginning with the June 30, 2009 – February 28, 2010 report. She agreed, and testified that she only referred to his appearance in reports because she felt it was a strength of his and "something he had going for him". It was suggested to her that she intentionally deleted the reference to [the Client's] appearance in the June 30, 2009 – February 28, 2010 report and the reports thereafter because she had started a sexual relationship with him and was concerned that someone looking at her notes would become suspicious of their relationship. Ms. Heywood denied this suggestion. She stated that if she wanted to be deceitful she could have just deleted the references to [the Client] being "handsome" from the earlier reports. When questioned further she acknowledged that it would have been obvious if she had done so, since she had handed out [the Client's] reports as examples for other staff to view.

In cross-examination Ms. Heywood was read the following definition of "grooming", which she acknowledged accorded with her understanding of the term:

"Grooming is the predatory act of manoeuvring another individual into a position that makes them more isolated, dependent, likely to trust, and more vulnerable to abusive behaviour. A predator will identify and engage a victim, and work to gain the target's trust, break down defences, and manipulate the victim until they get whatever it is they are after, overt attention, verbal seduction, flattery, or ego stroking, recruitment, physical isolation, charm, gift giving, normalizing, gas lighting, secrecy and threats, are all hallmarks of grooming."

It was suggested to Ms. Heywood that her conduct with [the Client] had the hallmarks of grooming mentioned in that definition and that boundary-crossing violations she admitted to were actually grooming behaviours. Ms. Heywood denied these suggestions.

In the cross-examination of Ms. Heywood, a series of events between her and [the Client] was put to her as examples of "normalizing" behaviour. These events included: giving him snacks to take home in May 2008; taking him out to lunch in September 2008; asking him to shovel her driveway in January 2009; having lunch in the park with him in May 2009; spending [the Client's] birthday with him and meeting his grandparents in July 2009; taking [the Client] to meet her family at Thanksgiving dinner in 2009; visiting with [the Client's] family in Christmas 2009 when she dropped him off; and bringing him medicine and soup when he was sick in January 2010. "Normalizing" was referred to as a hallmark of grooming, taking slow steps into boundary-crossing territory and testing to see if there will be pushback by the individual being targeted. It was suggested that over time, Ms. Heywood normalized various behaviours that were otherwise boundary violations. Ms. Heywood admitted these events had occurred, but denied the suggestion that she was attempting to normalize inappropriate behaviours as a prelude to a sexual relationship with [the Client].

Ms. Heywood testified that she did not arrange a greater rent subsidy for [the Client] than what he was entitled to. She stated that it was the Housing Manager who determined the rent [the Client] would pay according to a certain formula based on his annual income rather than the standard weekly basis. She testified that she believed [the Client] may have been a unique client, as a result of him relying primarily on employment income, which may have made it easier to determine his rent on an annual, rather than the standard weekly, basis.

In cross-examination, Ms. Heywood testified that she filled out the application for [the Client's] rent subsidy and that [the Client's] rent would have been calculated using the income information provided. She agreed that the rental application form boxes for "employment earnings" and "savings" were blank on the application form (reflecting zero income and savings). She testified it would have been difficult to estimate his employment earnings because he didn't have regular income. She stated that she would have submitted a tax return or paystubs as some form of income verification.

In cross-examination it was suggested to Ms. Heywood that she was the one who initiated and pushed for [the Client] to live alone. It was suggested that [the Client] did not want to move into his own apartment, that his grandparents wanted [the Client] to move in with them, and that [the Client] did not take responsibility for the move. Ms. Heywood denied that he wasn't enthusiastic about living on his own. She explained that [the Client's] reluctance wasn't about living on his own, but just that he wasn't excited about getting things for his new apartment. Ms. Heywood was then referred to her clinical notes where she had written that [the Client] "does not appear to be remotely enthusiastic about the move" and he "seems somewhat hesitant at this point and not at all excited about living independently". It was put to Ms. Heywood that [the Client] did not want to live on his own, and she responded, "I wasn't forcing him to live on his own".

Ms. Heywood denied the suggestion that [the Client] didn't take ownership over his move into his own apartment. She agreed however, that she assisted him with this move including filling out the necessary paperwork, picking out some furniture for him at a thrift shop, setting up a phone for him, setting up a time to help him move and looking for a mattress for him.

Ms. Heywood testified that at Thanksgiving, [the Client] was still lacking furniture in his apartment. She stated that he was feeling down, had been drinking and had decided not to go to

his mother's and maternal grandmother's because he expected it to end in a fight. She testified that as she had extra furniture stored at her mother's house, she invited [the Client] to come to her mother's with her for Thanksgiving to get him out of [location in Ontario] for the day. Ms. Heywood testified that this outing was not romantic and she did not bring him along as her new boyfriend. In cross-examination, Ms. Heywood acknowledged that her case notes did not mention going for furniture. Rather, her note of the event stated, "[the Client] was eventually receptive to the idea of spending Thanksgiving dinner with writer's family and accompanied." She denied the suggestion that she made up the reference to [the Client] coming to look at furniture and that is why it was not in her notes.

Ms. Heywood testified that she met some of [the Client's] family members as well. She stated that she attended an 80<sup>th</sup> birthday celebration for [the Client's] grandfather and the grandfather made a comment about "When are you going to marry this woman?" She stated that the grandfather's comment was clearly a joke, and that both she and [the Client] laughed and brushed it off. Ms. Heywood testified that she did not have the impression that [the Client] was portraying her as his "fiancée".

Ms. Heywood testified that [the Client] had been to her apartment and her house at various times. These occasions included times when she realized she had forgotten something in her apartment while [the Client] was in her car, and she would stop by with him to pick it up; when she asked [the Client] to shovel her driveway; when she asked [the Client] to help her carry water bottles up the stairs; and when she asked [the Client] to dig out her garden. She testified that on occasion [the Client] would walk by her house on his way to nearby programs and would stop to chat, however she would not invite him in on these occasions.

Ms. Heywood testified that sometime between Thanksgiving 2009 and November 27, 2009, before she had moved into her house, [the Client] unexpectedly came to her apartment in the middle of the night, intoxicated and bleeding from his hand after having been in a bar fight. Ms. Heywood testified that she "brought him in, took him to the washroom", and he "washed up his hands, peroxide, bandage, the whole first-aid response". She testified that after he washed his hands she went to clean up the sink while he waited for her in the hallway pacing, and then he left. She stated that she asked him to leave after he had been there for about thirty to forty-five minutes. Ms. Heywood denied that she and [the Client] looked at tattoos or engaged in sexual activity that night.

Ms. Heywood testified that she did not record this incident in her clinical notes because typically she does her case notes retrospectively based on her day timer, and [the Client's] surprise visit wouldn't have been noted there. She stated that she believed this incident occurred the week before she moved, and that she took some time off work. She stated that she rarely had her notes done before vacation, but would complete them retrospectively upon her return from vacation. She testified that by the time she sat down to do her notes from this time period, she had forgotten the incident. Ms. Heywood testified that she did not report the incident to her supervisor because she did not see it as a "huge deal".

In cross-examination it was suggested to Ms. Heywood that this incident of [the Client] appearing at her apartment at night injured, occurred in August 2009. This was based on her case notes that referred to [the Client] being out drinking on August 17, 2009, and another note

on August 24, 2009 that referred to [the Client] seeing his doctor for a hand injury. Ms. Heywood denied these suggestions and testified that the case notes regarding his hand injury referred to a workplace injury.<sup>2</sup>

Ms. Heywood testified that she had several personal relationships during the period that she was [the Client's] social worker. She dated [name redacted] from 2005 until the spring of 2009. After that time she dated a man named "[name redacted]", who she broke up with in the fall of 2009. She testified that she briefly dated a man named "[name redacted]" in 2010 and, for about a year on and off beginning in May 2010, she dated a man named "[name redacted]". She testified that she broke up with [name redacted] because they had little in common. Ms. Heywood denied ever saying to [the Facility Case Manager] that she and [name redacted] broke up because he was unable to do a certain sexual position. She denied ever saying anything of that nature to anyone. Ms. Heywood met her husband, [name redacted], in December 2011. She testified that she spoke of [name of husband] often around [the Facility] but she never spoke to [the Client] about him.

Ms. Heywood testified that she did not speak to [the Client] about her sexual preferences, and that being picked up was not her favourite sexual position. She admitted that she had a vibrator, but said it was not pink.

Ms. Heywood testified that [the Client] had a brand new pair of Doc Martens boots that did not fit him properly. She stated that the boots were in her brother [Witness #7's] size and she arranged a trade with him for a bottle of cologne and a stainless steel ring, which had been stocking stuffers for [Witness #7]. [Witness #7] was away from home when she spoke to him and arranged this trade. She gave the cologne and ring to [the Client] unwrapped. Ms. Heywood testified that she thought she was transparent when she presented [the Client] with the cologne and the ring, and explained that they were being given to him as a trade for the boots and not as a present. She stated that she satisfied herself that it was a fair trade for [the Client] and protected herself from the conflict of interest involved in the trade by talking to [the Client] about it. She did not record this conversation in her notes. In cross-examination, Ms. Heywood testified that she never suggested pawning the boots, but agreed that would have been a good idea.

Ms. Heywood testified that she made a life book for [the Client] and gave it to him as a gift because he did not have any pictures of himself as a child. The life book included photos of [the Client] when he was younger, as well poems and scriptures that were meaningful to [the Client]. She gave him the life book around Christmas time as a gift. Ms. Heywood stated she spoke about the project to several staff at [the Facility], including [the Facility Case Manager], and denied anyone articulating any concern about it.

With respect to [the Client's] personal relationships, Ms. Heywood testified that [the Client] was dating a woman named "[name redacted]" around the time he moved into his apartment. She stated that [the Client] had spoken to her about his relationship with [name redacted] but that she didn't put it into her clinical notes because it didn't seem relevant. In cross-examination, she

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<sup>2</sup> On consent of the parties, the Panel received medical records relating to [the Client] from August 24, 2009, which showed that [the Client] saw a doctor and reported that he had injured his right finger while using a sledge hammer and stake at the end of the previous week.

was referred to her case note on June 17, 2009 that “[the Client] and writer spent a considerable amount of time discussing some topics that he is typically resistant to, such as his lack of personal romantic relationships”. It was put to Ms. Heywood that this notation completely contradicted the notion that [the Client] was dating anyone in or around the time he moved into his apartment, and that [“name redacted”] was a fabrication. Ms. Heywood denied this suggestion.

Ms. Heywood referred to entries in her clinical notes that referred to [“N”]. The last of those entries was from January 2012 and referred to [“N”] as [the Client’s] girlfriend. Ms. Heywood testified that she did not recall meeting [“N”] but that she was aware of her, as she was “part of the background picture.”

Ms. Heywood testified that she was not aware of [the Client] meeting any of her friends, nor had she ever spoken to him about a blond friend cheating on her husband. She stated that she has an older friend, named [“name redacted”] with drug addiction issues, who is sometimes blonde, and that she had spoken with [the Client] about this friend in “trying to normalize that addictions happen in all socioeconomic groups”. Ms. Heywood testified that she may also have mentioned a friend named [“name redacted”] to [the Client] because [name redacted’s] husband was doing some “creepy stuff” at the time, including driving by Ms. Heywood’s house when [name redacted] was visiting.

Ms. Heywood testified that she also spoke to [the Client] about [the Facility Case Manager]. She stated that she and [the Facility Case Manager] were once good friends but that they did not stay in touch when she left [the Facility]. Ms. Heywood testified that she had raised concerns about the adoption of [the Facility Case Manager’s] daughter to both [the Facility Case Manager] and her supervisor. Ms. Heywood denied that she and [the Facility Case Manager] had a “falling out,” but agreed that when she didn’t receive a response to a text message after the funeral they both attended, she felt the friendship was over.

Ms. Heywood testified that she has a scar from a childhood dog bite on her buttocks that looks like a dimple, with a lot of scar tissue surrounding it. She stated the scar is “about halfway between my butt crack and my hip...in the upper right part of my butt cheek.” She described that the scar often causes her a lot of discomfort, especially when she drives. She testified that she had told [the Client] about the scar because it was “funny” and because his friend owned huskies which were the same type of dog that bit her.

Ms. Heywood testified that she has several other distinguishing marks on her body that likely would not have been visible to anyone unless they saw her naked. These included birth marks on her right breast and her groin area, several scars on her back from malignant cells being removed, and a chronic rash she gets between her breasts.

Ms. Heywood testified that she took [the Client] and one of his friends to a Buck and Doe, a community wedding engagement celebration, that was held in [location in Ontario] the day before Father’s Day in June of 2010. She stated that she brought [the Client] to allow him to connect with a friend that had been special to him when he was in elementary school, and whom she knew was a cousin of the bride. She testified that [the Client] was having a bad day so she suggested that he come with her to [location in Ontario] as she was going there anyways. She

testified that she dropped him off at the Buck and Doe, left and ran some errands, then returned and picked [the Client] up. In cross-examination, Ms. Heywood testified that [the Client] had not spoken to this friend in a very long time and there was no firm plan for [the Client] to connect with the friend. She stated that she did not go in to check if this friend was even at the party before she left to go do her errands. Ms. Heywood testified that she did not go in when she dropped [the Client] off, and that when she returned to pick him up about 30 to 45 minutes later she did not stay and did not socialize with anyone there. She denied that she sat a picnic table and talked to friends while there.

Ms. Heywood explained that she did not document this interaction with [the Client] at the Buck and Doe because it was not something in her day planner. She stated that the outing was impromptu so when she wrote her notes retrospectively, she would not have had a notation of it from which to document.

Ms. Heywood testified that when [the Client] first moved into his own apartment he needed a lot of help, but after about a year of living on his own he was "doing fine". She stated that in the Fall of 2010, she and [the Client] started to talk about cutting back on the level of support she was providing and he agreed. Ms. Heywood testified that when [the Client] was on house arrest, he needed less support because he was being monitored by the legal system, and also he was working a lot during that period.

Ms. Heywood testified that after she left [the Facility] she saw [the Client] on one other occasion in July 2013. She stated that she was packing up to move from [location in Ontario] and found some photos that she had gotten for the life book. She contacted [the Client] to return these photographs to him. She testified that they met at the bank because [the Client] told her he didn't want [N] to see them together. Ms. Heywood stated that during this meeting [the Client] said to her: "[the Facility Case Manager] keeps asking me if there was something going on between the two of us". She testified that she responded, "That's weird," and she brushed it off. She stated that it was her impression that [the Client] believed the suggestion was odd as well.

#### **5) [Witness#5]**

[Witness#5] testified that she and Ms. Heywood have been friends since Grade 9. She stated that they are very close friends and that their friendship is very important to her. [Witness#5] described herself as blonde and fairly tall, at 5' 8".

[Witness#5] testified she would stay overnight at Ms. Heywood's house to "have a girls night" three or four times a year from the period August 2009 until August 2011. She stated that she did not stay overnight prior to August 2009. [Witness#5] further testified that she never met [the Client] at Ms. Heywood's house or saw him sleep over. She testified that she and Ms. Heywood do not discuss the details of their sexual relationships, such as their favourite sexual position.

[Witness#5] testified that she and Ms. Heywood do have a blonde friend named [name redacted] who is approximately 5'7" who is separated from her husband. She testified that before [name redacted] separated from her husband, she knew that [name redacted] was talking to a man from her work about her marital problems. [Witness#5] didn't know if [name redacted] and this man

had a sexual relationship. [Witness#5] also testified that she and Ms. Heywood have a mutual friend named [name redacted] who is sometimes blonde and has a substance abuse problem.

In cross-examination it was suggested to [Witness#5] that if she admitted to having an affair it would be detrimental to the divorce and custody proceeding in which she was currently involved. [Witness#5] denied this suggestion.

[Witness#5] testified that she was aware of Ms. Heywood's scar from a dog bite she had when she was younger. She stated that she would be able to see the scar when Ms. Heywood wore a string bikini. She testified that Ms. Heywood's scar was located on the top of her right buttock.

[Witness#5] testified that she worked at CAS and that one of their practices was to prepare life books for youths in care, youths being adopted or youths aging out of the system. She stated that Ms. Heywood asked her questions about what to put in a life book, and that she saw [the Client's] life book once when Ms. Heywood was working on it at her house. She testified that she thought the life book for [the Client] was a good idea, and that she had no concerns with the content she observed.

#### **6) [Witness#6]**

[Witness#6] states she is a therapeutic recreation specialist and works at [name of hospital] in the Prevention and Early Intervention Program for Psychoses, PEPP. She testified that she first met Ms. Heywood when Ms. Heywood was a MSW student and came to the PEPP program for a three-month student placement around 2004. [Witness#6] stated that they kept in touch periodically until Ms. Heywood returned to [name of hospital] in 2009. She stated Ms. Heywood has worked at [name of hospital] part-time since 2009 and full time since 2012.

[Witness#6] testified that after Ms. Heywood started working with her in [location in Ontario], there were many weekends, particularly in the winter, when Ms. Heywood spent the weekend with her rather than driving back home to [location in Ontario]. She acknowledged that this was not every weekend, and it was dependent on weather conditions. She could not recall how many weekends Ms. Heywood stayed with her during that period.

[Witness#6] testified that she was aware of a surgical wound from a mole removal on Ms. Heywood's back, which she says they once had to bandage up because it was bleeding through her shirt when she was working at [name of hospital]. [Witness#6] was not sure of the date when she saw this scar, but stated that it was while Ms. Heywood was still part-time at [name of hospital], and so prior to 2012. [Witness#6] testified that she was also aware Ms. Heywood has a dog bite on her buttocks although she had never seen it. She stated that she knew about the dog bite because Ms. Heywood often joked with her about it being sore.

[Witness#6] testified that she regularly makes scrapbooks, like life books, with clients and runs scrapbooking workshops. She described scrapbooking as a helpful engagement tool. On cross-examination, [Witness#6] testified that she usually made the books with clients or as a surprise with the client's written consent to contact their family and obtain photographs.

## **7) [Witness #7]**

[Witness#7] is Ms. Heywood's younger brother. [Witness#7] testified he and Ms. Heywood are very close and he looks up to her. He testified that Ms. Heywood supported him when he had substance abuse issues.

[Witness#7] testified that Ms. Heywood once brought [the Client] to their family Thanksgiving dinner and he helped load some furniture up for [the Client] to take to his apartment. He testified that it was clear that [the Client] was a client of Ms. Heywood's, not a boyfriend, and that Ms. Heywood had brought other clients over for Thanksgiving dinner when she worked at a group home.

[Witness#7] testified that Ms. Heywood facilitated a trade of a ring and bottle of cologne of his for a pair of Doc Martens boots, while he was away in a rehabilitation program. He stated that the ring was plain and silver, as described by Ms. Heywood to him, as he did not see it. He stated that he did not know what kind of cologne it was. He testified that the Doc Martens boots that he received appeared brand new and were still in the box.

## **The Prosecution and Defence Theories of the Case**

Both parties submitted comprehensive written arguments as well as oral arguments, which the Panel considered carefully.

The College submitted that there were fifteen indicia that when looked at as whole and coupled with [the Client's] testimony to support that Ms. Heywood engaged in a sexual relationship with [the Client]. The indicia on their own were not definitive proof of a relationship, but each factor strengthened the conclusion that a sexual relationship did occur. Some of the indicia included the following:

- i) that Ms. Heywood admittedly engaged in boundary crossing behaviours that are most often associated with a romantic relationship, such as spending time together at holidays, going to the Farmer's Market, and visiting with family;
- ii) that Ms. Heywood was not in any other romantic relationship during the period that the relationship with [the Client] is alleged to have occurred;
- iii) that Ms. Heywood gave [the Client] gifts that of the type often more associated with romantic relationships;
- iv) that Ms. Heywood failed to document certain events;
- v) that [the Client] identified the scar on Ms. Heywood buttocks; and
- vi) that [the Client] identified Ms. Heywood's sexual preference.

The defence submitted that [the Client] fabricated the story that he was having a sexual relationship with Ms. Heywood, because it was less embarrassing than admitting to his father

and friends that he needed the support that she provided him, and that he was not able to do a lot of things for himself. After the alleged sexual relationship with Ms. Heywood had ended and [the Client's] new girlfriend [N] found out about it, she pushed him to report the alleged relationship to [the Facility] and [the Client] did so to appease her. It was further submitted that even if [the Client] was being honest when he said he recalled a sexual relationship with Ms. Heywood, his evidence was not reliable because he was "mixed up" about the nature of his relationship with Ms. Heywood as a result of discussions with his new girlfriend [N] and [the Facility Case Manager].

### **Post-hearing Submissions**

Shortly after the parties had concluded closing arguments in this case, the Divisional Court released its decision in *College of Massage Therapists of Ontario v. Stefanov*, 2016 ONSC 848 (Div. Ct.), where the Divisional Court allowed the appeal of Mr. Stefanov from a finding of professional misconduct and sexual abuse. The Divisional Court concluded that the panel of the Discipline Committee of the College of Massage Therapists of Ontario had reached its conclusion through faulty reasoning with respect to the assessment of credibility and as a result the decision was unreasonable.

The College submitted that the *Stefanov* decision suggested that the assessment and weighing of evidence should be conducted more carefully in cases involving the significant finding of sexual abuse. This reasoning, the College submitted, was flawed in that it departed from the Supreme Court of Canada in *F.H. v. McDougall*, [2008] 3 S.C.R. 41, where the Court established there was one standard of "balance of probabilities" for all civil cases. Nevertheless, the College noted that the *Stefanov* case was a good reminder of the importance of providing detailed reasons particularly those that require credibility assessments.

Counsel for the Member submitted that the *Stefanov* case provides guidance to the Panel on how to analyze credibility issues and how to write reasons that will withstand scrutiny by the court.

### **Decision**

The Panel recognized that the College bears the onus of proving the allegations against the Member on the balance of probabilities, using clear, cogent and convincing evidence.

Having considered the onus and standard of proof, the evidence of the College and the submissions of counsel, the Panel finds that the Member did commit professional misconduct as alleged in paragraphs 1, 2, 3, 4, 5 and 6 of the Notice of Hearing.

### **Reasons for Decision**

#### **(a) Boundary Violations**

Having considered the Agreed Statement of Facts, the Panel finds that the Member's engagement in the conduct described in the Agreed Statement of Facts and admitted by the Member support a finding of professional misconduct as set out in allegations 3, 4, 5 and 6 of the Notice of Hearing, contrary to sections 26(2)(a) and (c) of the Act.

**(b) Sexual Relationship**

Having considered the evidence as a whole, including the oral evidence and exhibits, the Panel finds that Ms. Heywood engaged in a sexual relationship with the client, [the Client], to whom she provided social work services. This constitutes sexual abuse as defined in section 43(4) of the Act. The Member therefore sexually abused [the Client], contrary to section 2.5 of the Professional Misconduct Regulation, as alleged in paragraph 1 of the Notice of Hearing. This is also a failure to meet the standards of the profession, as alleged in paragraph 2 of the Notice of Hearing.

The College submitted the case of *Gale v. College of Physicians and Surgeons of Ontario*, [2015] O.J. No. 1581 (Div. Ct), which upheld a decision of the Discipline Committee of the College of Physicians and Surgeons of Ontario (*Re Gale*, 2013 CarswellOnt 17426). We agree with the Discipline Committee in *Gale* that cases involving allegations of sexual abuse are concerned with interactions that occur in private, and consequently significant weight is placed upon witness credibility. While the Panel heard from several witnesses in this case, most of them had no direct knowledge of any private interactions between Ms. Heywood and [the Client]. Consequently, it is the evidence of [the Client] and Ms. Heywood that is central to the allegations in this case.

*Assessing credibility*

In accessing credibility the Panel considered the factors articulated in *Pitts and Director of Family Benefits Branch of the Ministry of Community and Social Services*, [2985] OJ No. 2578 (Div. Ct.), as set out in *Gale*. These factors included:

- 1) The witness' opportunity to observe the matter at hand;
- 2) The witness' interest in the outcome of the case. In this regard we also considered *R. v. Laboucan*, [2010] 1 S.C.R. 397 which was raised by Independent Legal Counsel to the Panel, which set out the principle that a motivation for an acquittal should not automatically mean that there is a motivation to lie. The fact that Ms. Heywood has an interest in not being found guilty of sexual misconduct does not mean she is lying, as she would have that same interest whether she was guilty or innocent of the allegation;
- 3) The partisanship of the witness;
- 4) The probability or improbability of the witness' story;

- 5) Whether the testimony was contradicted by a more credible witness; and
- 6) The impact of any inconsistent statement on the reliability of the witness' evidence.

*The first sexual encounter:*

[The Client] and Ms. Heywood were the only witnesses as to what occurred in Ms. Heywood's apartment the night that [the Client] showed up with a bleeding hand after a bar fight. The Panel accepts the evidence of [the Client] as credible. [The Client's] testimony as to what occurred that night was more probable than the evidence of Ms. Heywood. [The Client's] description of going to Ms. Heywood's apartment with a bloody hand after a bar fight, and the events leading to them kissing, and ultimately having sexual intercourse was detailed, forthright, consistent and believable.

The issue was raised of [the Client's] memory challenges and discrepancies in the evidence regarding this incident. Although [the Client] could not recall some of the details of this encounter, such as the date it occurred, his evidence was consistent on the main fact that it occurred when he was around 21 years old, living on his own and went to Ms. Heywood's apartment at night after a bar fight where his hand was cut.

The Panel finds that Ms. Heywood's omission of recording this incident in [the Client's] documentation strengthens the evidence that she engaged in sexual intercourse with [the Client] that evening. Ms. Heywood was conscientious in her documentation of [the Client], including recording several of the incidents of what she admits are boundary violations, such as taking [the Client] to lunch in the park and asking him to shovel the snow in her driveway. Ms. Heywood's explanation – that this incident occurred around a time when she was preparing to go on vacation and therefore was forgotten or unintentionally omitted by the time she wrote up her clinical notes – is not believable given the nature of the incident. A physically injured client showed up at her apartment in the middle of the night to attend to wounds sustained in a bar fight. The Panel does not believe Ms. Heywood would have forgotten about this, or not thought it important enough to record. In light of all the evidence, the most likely explanation for the omission is that Ms. Heywood did not want to record this incident in her clinical notes because she had engaged in sexual activity with [the Client] that night.

*The nature and duration of the relationship*

Although [the Client] was not able to provide specific details of his subsequent sexual encounters with Ms. Heywood, the Panel accepts his testimony that the relationship continued until shortly before he was placed on house arrest in February of 2011. The Panel finds that [the Client's] significant memory challenges, and inconsistencies and inaccuracies in some specific details of his testimony, did not impact on his credibility as he never wavered on the material issue of engaging in a sexual relationship with Ms. Heywood that began on the night of the bar

fight and that ended before he went on house arrest. Further, [the Client's] testimony made sense in the context of the evidence as a whole.

The Panel accepts the evidence of [the Client's] father [Witness#2], that he was told of the sexual relationship between [the Client] and Ms. Heywood at the time it was going on. While [Witness#2] also had significant memory challenges with respect to details, his testimony about his knowledge and displeasure about the relationship was credible and probable. [Witness#2's] testimony is accepted to rebut the suggestion that [the Client's] allegation of a sexual relationship with Ms. Heywood was a recent fabrication, made after Ms. Heywood had left [the Facility].

The Panel finds that the boundary crossing behaviours that Ms. Heywood engaged in are most often associated with romantic relationships, including spending holidays together, bringing him medicine and soup when he was sick, and taking him to the farmers market. These boundary crossing behaviours strengthen the evidence that Ms. Heywood had a sexual relationship with [the Client].

The Panel found the evidence of [the Facility Case Manager] to be credible. While [the Facility Case Manager] was upset by Ms. Heywood's opinion of the adoption of her daughter, and the nature of their communications after Ms. Heywood left [the Facility], the Panel did not believe that these issues compromised her credibility. [The Facility Case Manager] testified that Ms. Heywood told her about her favorite sexual position, which was the same position that was identified by [the Client]. While Ms. Heywood may not have spoken to other friends who gave evidence about these matters, that does not mean that she did not do so with [the Facility Case Manager]. The nature of Ms. Heywood's friendship with [the Facility Case Manager] could have been one where Ms. Heywood would more freely speak about these matters with [the Facility Case Manager] than she did with her other friends. The Panel found that the testimony of [the Facility Case Manager] and [the Client] on the sexual preference of Ms. Heywood strengthens the evidence that Ms. Heywood had a sexual relationship with [the Client].

The Panel accepted the evidence of [Witness #6] and found her to be credible. The Panel believes that [Witness#6's] testimony did not provide evidence that a sexual relationship did not exist between Ms. Heywood and [the Client]. While Ms. Heywood may have spent many weekends at [Witness#6's] during some of the time [the Client] says he was in a sexual relationship with Ms. Heywood, [Witness#6] acknowledged that it was not every weekend. [Witness#6] had no knowledge of what occurred on the weekends when Ms. Heywood was not with her.

[Witness#6] testified that Ms. Heywood had told her about the scar from the dog bite on her buttocks and that Ms. Heywood would often joke about it. The Panel accepts this evidence, however, the Panel believes this evidence does not discredit the evidence of [the Client] with respect to his knowledge of this scar. Ms. Heywood would have been unlikely to describe the scar to [the Client] in the level of detail that [the Client] was able to give about the scar.

Likewise, the fact that [Witness#6] observed an additional scar on Ms. Heywood's back that was not identified by [the Client], does not discredit [the Client's] evidence of a sexual relationship. It is probable that [the Client] only noticed or recalled the scar on Ms. Heywood's buttocks during their relationship.

The Panel accepts the evidence of [Witness#5] that she had never met [the Client] at Ms. Heywood's and never saw him sleep over. She was not the blond friend "[J]" referred to by [the Client]. [Witness#5] referred to other friends who could also have matched the friend [the Client] describes, though none were named "[J]". The Panel finds that the fact that [Witness#5] is not the friend described by [the Client] does not discredit or contradict his evidence of a sexual relationship between him and Ms. Heywood. It is probable that [the Client] mistakenly identified the friend he met as "[J]", however this apparent mistake does not lessen [the Client's] credibility. [The Client] never said he was certain about the name.

[Witness#5] testified that life books were one of the tools used in a social work context. She saw the life book that Ms. Heywood was making for [the Client] and supported the idea. Having heard the evidence of [Witness#5] and reviewed the completed life book, the Panel finds that the life book is not suggestive of a sexual relationship between Ms. Heywood and [the Client].

With respect to the ring and cologne given to [the Client], the Panel accepts the evidence of [Witness#7]. While [Witness #7's] evidence was that Ms. Heywood took the ring and cologne from him in exchange for the boots, he was not present when Ms. Heywood gave these items to [the Client]. It is possible that while Ms. Heywood retrieved the items from [Witness#7] as "trades", she then presented them to [the Client] as gifts. [The Client's] evidence was that the ring and cologne were given to him by Ms. Heywood as gifts and the Panel accepts this as probable. Perhaps [the Client] misinterpreted the gesture. However, if so, this is a misinterpretation [the Client] was more likely to make if he and Ms. Heywood were having a sexual relationship. If [the Client] and Ms. Heywood were not sexually involved, it is less likely that [the Client] would have thought Ms. Heywood was giving him gifts when she was really just brokering a trade.

#### *The disclosure of the relationship*

The Panel noted that [the Client] did not disclose his relationship to [the Facility] until almost two years after Ms. Heywood had left [the Facility] and he had started a romantic relationship with someone else. Ms. Heywood left [the Facility] in February 2012, and [the Client] disclosed the sexual relationship to [the Facility] in January 2014. He had also been working with his new [Facility] worker, [the Facility Case Manager] over that same period, since February 2012.

In the end, this decision comes down to whether [the Client] was truthful and reliable. The Panel found he was truthful. He was forthright about what he could remember and what he could not. He did not hide his struggles with addiction, his learning deficits, or his conflicts with the law. Although he admittedly struggled with dates and times, he recalled important details about his

encounters with Ms. Heywood that have the ring of truth, including the description of her scar and her favourite sexual position. He was often emotional in his testimony, and it was clear that he felt embarrassed and angry about what had occurred. He gave the impression of a man trying to tell the truth even when he did not want to do so.

The Panel is aware that witnesses can be truthful but mistaken. This was part of the Member's theory of the case, which was that [the Client] was manipulated by [N] and/or [the Facility Case Manager] into falsely believing that a sexual relationship with Ms. Heywood took place. The Panel rejects this argument. The Panel believes [the Facility Case Manager's] evidence that she did not lead or manipulate [the Client] into making this disclosure. The Panel believes that, in fact, [the Client] had discussed this sexual relationship with his father years before the disclosure to [the Facility Case Manager]. The Panel accepts that it would have been easier for [the Client] to deny the existence of the sexual relationship with Ms. Heywood when his new girlfriend, [N], confronted him about it in January 2014, rather than admit it and report it to [the Facility] and the College. [The Client] broke up with this new girlfriend, [N], after his disclosure and prior to the commencement of the hearing in this matter. It was noted that [the Client] could have withdrawn from the hearing, and avoid what was observably a difficult and uncomfortable process for him. He did not.

### **Conclusion**

For the reasons set out above, the Panel finds that the evidence as a whole supports on a balance of probabilities that a sexual relationship existed between Ms. Heywood and [the Client] while Ms. Heywood was providing [the Client] with social work services. The Panel therefore finds that the Member abused [the Client] sexually, contrary to section 2.5 of the Professional Misconduct Regulation, and that she failed to meet the standards of the profession, as set out in Principle VIII of the Handbook.

I, Sophia Ruddock, sign this Decision as Chairperson of the panel and on behalf of the panel members listed below.

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

Sophia Ruddock, Chair

Thomas Horn

Judy Gardner

