



Ontario College of
Social Workers and
Social Service Workers

Ordre des travailleurs
sociaux et des techniciens
en travail social de l'Ontario

250 Bloor Street E.
Suite 1000
Toronto, ON M4W 1E6

Phone: 416-972-9882
Fax: 416-972-1512
www.ocswssw.org

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

PANEL: Judy Gardner Chair, Professional Member
Mukesh Kowlessar Professional Member
Richard Lamb Public Member

BETWEEN:

ONTARIO COLLEGE OF SOCIAL WORKERS
AND SOCIAL SERVICE WORKERS

-and-

JOSEPH VAZ

)
) Jordan Glick for Ontario
) College of Social Workers
) and Social Service Workers
)
)
)
) No one appearing for the Member
)
)
) Aaron Dantowitz,
) Independent Legal Counsel

Heard: July 21, 2017

DECISION AND REASONS FOR DECISION

This matter commenced as a hearing before a panel of the Discipline Committee (the “Panel”) on July 21, 2017. The hearing took place at the Ontario College of Social Workers and Social Service Workers (the “College”).

Absence of the Member

Upon convening the hearing, the panel noted that the Member was not present nor represented by counsel and invited College counsel to make submissions on the Member’s absence.

College counsel advised that the Member, who had been represented by counsel, for personal reasons did not want to attend and did not want his counsel to attend at the hearing, but was aware that the hearing was proceeding on the relevant date. College counsel advised that the Member was prepared to make admissions to some allegations and not others, and through counsel, had negotiated an Agreed Statement of Facts with the College.

College counsel provided the panel with an affidavit of service as evidence that the Member had been served with the Notice of Hearing. He also provided the panel with two pieces of correspondence: a letter dated June 26, 2017, from Anastasia Kokolakis, the College's Hearings Officer, to the Member's counsel, indicating that the hearing would commence on July 21, 2017 at 9 am, and a cover letter from Member's counsel dated July 10, 2017 to College counsel, indicating that it enclosed copies of an Agreed Statement of Facts and a Joint Submission on Costs.

College counsel submitted that the panel had jurisdiction to proceed in the Member's absence. After hearing from Independent Legal Counsel and considering the matter, the panel was satisfied that the Member had sufficient notice of the hearing, and that the panel could proceed in his absence and in the absence of counsel for the Member.

Publication Ban

Because this matter involved allegations of misconduct of a sexual nature, College counsel requested an order prohibiting the publication of the name of the complainant in this case, or any information tending to identify the complainant, and the panel made that order.

The Allegations

In the Notice of Hearing dated August 8, 2016, Joseph Vaz (the "Member") is alleged to be guilty of professional misconduct within the meaning of subsection 26(2) of the *Social Work and Social Service Work Act* (the "Act") in that he is 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").

The particulars of the allegations made against the Member are as follows.

1. Now, and at all times relevant to the allegations, you were a registered social worker with the Ontario College of Social Workers and Social Service Workers (the "College").
2. In or about 2003, you began employment as a social worker with the [the "Facility"].
3. In or about July 2012, you began providing counselling and/or psychotherapy services to [the "Client"] with respect to depression issues stemming from a recent

divorce and custody and access issues regarding her daughter. Between in or about July 2012 and in or about December 2012 (the "Relevant Period"), you provided about 11 counselling and/or psychotherapy sessions to [the "Client"] which occurred at [the "Facility"] offices. Clinical records were kept with respect to these sessions.

4. During the Relevant Period, you engaged in a series of boundary crossing violations with [the "Client"]. In particular, you:

- a. asked for and received a hug from [the "Client"] after each counseling session;
- b. attended at [the "Client"] 's personal residence on numerous occasions;
- c. engaged in casual conversation that was inappropriate in the context of a counselling and/or psychotherapy relationship;
- d. ate meals prepared by [the "Client"] at her residence on numerous occasions;
- e. disclosed details about your personal life to [the "Client"];
- f. requested [the "Client"] to purchase alcohol for you, which she did on more than one occasion;
- g. consumed alcohol and/or smoked marijuana in the presence of [the "Client"] at her personal residence; and,
- h. slept at [the "Client"] 's residence on one occasion.

5. During the Relevant Period, you additionally engaged in a sexual relationship with the complainant, which involved sexual intercourse and touching of a sexual nature. Sexual intercourse occurred predominantly at [the "Client"]'s personal residence, though on one occasion, it occurred in your office at [the "Facility"].

6. You did not report your visits to [the "Client"]'s personal residence to [the "Facility"], nor did you maintain records of those visits in accordance with the College's standards.

7. Your conduct in engaging in a personal and sexual relationship with [the "Client"] had an adverse impact on her in that when the relationship ended, she felt confused, guilty and depressed.

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 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 2.2 of the Professional Misconduct Regulation and Principle VIII of the Handbook (as commented on in Interpretations 1.5 and 1.6) 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; and failing to ensure that your client's needs and interests remain paramount 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 II of the Handbook (as 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.

5. In that you violated Sections 2.2 of the Professional Misconduct Regulation and Principle III of the Handbook (as commented on in Interpretation 3.7) by failing to assume full responsibility for demonstrating that the client has not been exploited, coerced or manipulated intentionally or unintentionally;

6. In that you violated Sections 2.2 and 2.20 of the Professional Misconduct Regulation and Principle IV of the Handbook (as commented on in Interpretations 4.1.1 and 4.1.3) by failing to record information to an accepted standard and in a format that facilitates the monitoring and evaluation of the effects of the service and by failing to keep systematic, dated and legible records for each client; and

7. 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

As noted above, College counsel advised that the Member was prepared to make certain admissions of professional misconduct, as documented by an Agreed Statement of Facts. However, because the Member was not present and not represented by counsel, College counsel proposed that the hearing proceed as if the Member denied the allegations, although the panel could rely on the admissions as evidence. The panel agreed and therefore proceeded on the assumption that the Member denied the allegations.

The Evidence

The College called one witness: [the "Client"], with whom Mr. Vaz was alleged to have had a sexual relationship.

Note: The Client was born in [name of Country] and, although she is fluent in English, her first language is [name of language], and an Interpreter was present to assist in the proceedings as needed. Interpreter [name of interpreter] was affirmed for that purpose.

The Client testified that at the time of the hearing she lived on her own. She stated that she had a difficult marriage and divorce which involved a custody battle over her daughter that devastated her. The Client had many life challenges after the dissolution of her marriage which included homelessness, difficulty performing at work and depression. These challenges lead her to require the assistance of a psychiatrist who subsequently referred her to [the "Facility"] in [municipality in Ontario], which led to her meeting with the Member.

The Client testified that she first had contact Mr. Vaz for a scheduled appointment on July 12, 2012 at his office located within [the "Facility"], for counseling sessions which subsided shortly before Christmas 2012. During this first session Mr. Vaz gave her a hug which made her feel uncomfortable, but she allowed it after being assured by the Member that this was done with all clients to make them feel more comfortable.

The Client testified that she was attracted to Mr. Vaz, felt comfortable talking to him, and began the consensual sexual relationship with him after he had visited her for lunch at her place of residence. She continued the sexual relationship with the Member for months at her personal residence during lunch, on one occasion when he slept over, and at his office. The Client also described personal details about Mr. Vaz's family, childhood experiences and private areas of his body.

The Client testified that Mr. Vaz did not engage in any form of counseling during their encounters. The Member mostly discussed spiritual topics, smoked cannabis, drank alcohol which she purchased for him and had sexual intercourse with her. She also testified that when she had sexual intercourse with the Member at his office, he brought her in through a private parking lot entrance to avoid detection, and also charged her for the session.

The Client testified that Mr. Vaz was her social worker for the full duration of their sexual relationship at which time she was fragile, single and alone without family or friends. Once the Member confided in her about his sexual encounters with a colleague, she became upset and subsequently ended the relationship shortly before Christmas 2012.

Evidence was also tendered by way of an Agreed Statement of Facts, which set out as follows.

1. Mr. Vaz graduated with a Masters of Social Work degree from York University. Since 2000, Mr. Vaz has been registered with the Ontario College of Social Workers and Social Service Workers (the “College”). He has been married for 25 years.
2. At all relevant times to these allegations, Mr. Vaz was employed by [the “Facility”] as a social worker, holding the position of Family Counsellor II. He began his employment at [the “Facility”] in 2003.
3. Mr. Vaz was subject to the policies of the [the “Facility”] including the policies attached at Tab “A” at all relevant times to this matter.
4. Every counselling session at [the “Facility”] must be documented in [the “Facility”] client file.
5. At [the “Facility”], Family Counsellors meet with clients in their own assigned private office. Mr. Vaz’s office had two doors, one leading to the interior of [the “Facility”] offices and another that leads outside. The pictures at Tab “B” of the Joint Brief of Documents are pictures of Mr. Vaz’s office at all relevant times to this matter.
6. Between July and December 2012, while employed at [the “Facility”], Mr. Vaz provided counseling services to [the “Client”]. Mr. Vaz conducted eleven sessions with [the “Client”] at [the “Facility”] office. [The “Client’s”] file was closed in March 2013. Mr. Vaz’s counseling records with respect to [the “Client”] are attached at Tab “C”.
7. Mr. Vaz acknowledges that while providing counseling services to [the “Client”], he:
 - a. attended at [the “Client”]’s personal residence;
 - b. engaged in casual conversation with [the “Client”] that was not strictly related to the issue that brought her to counseling;
 - c. ate lunch at [the “Client’s ”] residence;
 - d. disclosed details about his personal life to [the “Client”], and in particular that he was married with children;
8. Mr. Vaz admits that the above conduct was a breach of professional boundaries.
9. Mr. Vaz acknowledges that he only recorded being in contact with [the “Client”] during her counseling sessions at [the “Facility”] office. Mr. Vaz failed to record that he met [the “Client”] at her home and failed to communicate to his supervisor, or any staff member at [the “Facility”],

that he was meeting [the “Client”] at her home. His contact record, which is attached at Tab “D”, reflects that his only communication with [the “Client”] was at face-to-face sessions. He admits that his conduct reflects a failure to keep records.

10. While at [the “Facility”], Mr. Vaz’s office was located across the hall from [name removed], a family counsellor. Ms. [name removed] provided information to a College investigator that she did not have any suspicions that Mr. Vaz was having a personal or sexual relationship with one of his clients. She also indicated she believes that the Member has a male friend and that the Member would go up to this friend’s cottage or farm, though she cannot recall the name of the friend. Ms. [name removed] has no other information about the Member’s visits to this farm or if he attended alone or with his family.
11. [Name removed] is currently [a manager] [of the “Facility’s”] Department of Social Services. She has no personal relationship with Mr. Vaz. She provided information to College investigator Melanie Farber on December 7, 2016 regarding [the “Facility”]. The contents of her witness statement, which is attached as Tab “E”, are acknowledged to be true and may be relied upon in their entirety.
12. [Name removed] is [a manager] [of the “Facility’s”] Department of Social Services. At all relevant times, he was the Member’s manager. [Name removed] provided information to College investigator Melanie Farber on December 7, 2016. The contents of his witness statement, which is attached as Tab “F”, is acknowledged to be true and may be relied upon in its entirety.
13. By reason of engaging in the conduct identified in paragraphs 7-9 above, Mr. Vaz admits to having committed professional misconduct as set out in section 26(2)(a) and (c) of the Social Work and Social Service Work Act:
 - a. In that he violated Section 2.2 of the Professional Misconduct Regulation and Principle I of the Handbook (as commented on in Interpretations 1.5 and 1.6) by failing to be aware of his values, attitudes and needs and how those impact on his professional relationships with clients; failing to distinguish his needs and interests from those of the client; and failing to ensure that his client’s needs and interests remain paramount when he attended at the home of [the “Client”] to whom he provided social work services.
 - b. In that he violated Section 2.2 of the Professional Misconduct Regulation and Principle II of the Handbook (as 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 his professional relationship when he attended at the home of a client to whom he provided social work services. In doing so, he placed himself in a conflict of interest situation in which he ought reasonably to have known that [the “Client”] would be at risk. Mr. Vaz

additionally did not declare the conflict of interest, nor did he seek consultation before attending at the home of [the “Client”]. As a result, he engaged in conduct which could reasonably be perceived as reflecting negatively on the profession of social work;

- c. In that he violated Section 2.2 and 2.20 of the Professional Misconduct Regulation and Principle IV of the Handbook (as commented on in Interpretations 4.1.1 and 4.1.3) by failing to record information to an accepted standard and in a format that facilitates the monitoring and evaluation of the effects of the services and by failing to keep systematic, dated, and legible records for [the “Client”] of his interactions with [the “Client”] in her home; and
- d. In that he 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 he visited [the “Client”] at her personal residence and failed to maintain proper records.

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 Client, the evidence contained in the Agreed Statement of Facts and the submissions of Counsel, the Panel finds that the Member did commit professional misconduct as alleged in paragraphs 1, 2, 3, 4, 5, 6 and 7 of pages 3-4 of the Notice of Hearing.

Reasons for Decision

(a) Boundary Violations

Having considered the evidence of the Client and the Agreed Statement of Facts along with the submissions of Counsel, the Panel finds that the Member’s conduct supports a finding of professional misconduct as set out in allegations 3, 4, and 5 on page 3 of the Notice of Hearing. Mr. Vaz failed to maintain clear and appropriate boundaries in his professional relationship with the Client to whom he was supposed to provide social work services. This was most evident by Mr. Vaz’s constant visits to the Client’s home. His actions indicate that he used his professional position to exploit the Client and should have known that the Client would be left at risk due to a lack of counseling to which she was entitled. The Panel also finds that Mr. Vaz’s failure to declare a conflict of interest indicates a collapse in his process of self review and evaluation which has reflected negatively on the profession of social work.

(b) Sexual Relationship

Having considered the evidence as a whole, including the oral evidence of the Client and exhibits, the Panel finds that Mr. Vaz engaged in a sexual relationship with the Client, to whom he was supposed to provide 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 on page 3 of the Notice of Hearing. This is also a violation of section 2.2 of the Professional Misconduct Regulation, as alleged in paragraphs 2 on page 3 of the Notice of Hearing, and forms the basis of our finding of a boundary violation as alleged in paragraph 3 on page 3 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 Carswell Ont 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. Due to the fact that the Member chose not to attend the hearing, the Panel only had access to the individual testimony of the Client. Consequently, it is the evidence of the Client that is central to the allegations in this case.

Assessing Credibility

In assessing 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.;
- 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's evidence

The Panel found that the evidence of the Client was uncontroverted, and used good common sense and knowledge of human nature to assess her credibility. The evidence submitted was reasonable, probable and internally consistent. Although the Client was angry because of the way in which she was treated, she was believable. She provided specific information which included dates, childhood experiences and private physical identifiers on the Member's body. The Client remembered specifics with ease, which included the number of encounters with Mr. Vaz and other minute details. The Client testified and exposed very personal details about her life although she was vulnerable and under psychiatric care. Based on the content of the Client's testimony the Panel accepts her evidence and believes that a sexual relationship did occur, along with numerous boundary violations.

Conclusion on sexual relationship

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 Mr. Vaz and the Client while Mr. Vaz was supposed to be providing 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 he failed to meet the standards of the profession, as set out in Principle VIII of the Handbook.

(c) *Record-keeping*

Mr Vaz violated the Accountability Agreement of [the “Facility”] by failing to report all contact with the Client in particular the interactions in her home. He also failed to maintain records in a manner that reflected a thorough understanding of his employer’s policies. Mr. Vaz failed to report and/or document his sessions with the Client and ought to reasonably have known this would negatively impact her. Having considered the evidence as a whole, including oral evidence of the Client and exhibits, the Panel finds that Mr. Vaz violated section 2.2 and 2.20 of the Professional Misconduct Regulation and Principle IV of the Handbook.

The Panel therefore finds that the Member failed to record information as required, as alleged in paragraph 6 on page 3 of the Notice of Hearing.

(d) *Disgraceful, dishonourable or unprofessional conduct*

The Member’s conduct would also reasonably be regarded by members of the profession as disgraceful, dishonourable and unprofessional, as alleged in paragraph 7 on pages 3-4 of the Notice of Hearing.

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

Date: _____

Signed: _____

Judy Gardner
Mukesh Kowlessar
Richard Lamb