



## **Discipline Decision Summary**

This summary of the Discipline Committee's Decision and Reason for Decisions is published pursuant to the Discipline Committee's oral decision rendered on May 5, 2015 and written reasons dated August 21, 2015.

By publishing this summary, the College endeavours to:

- illustrate for social workers, social service workers and members of the public what does or does not constitute professional misconduct;
- provide social workers and social service workers with direction about the College's standards of practice and professional behaviour, to be applied in future, should they find themselves in similar circumstances;
- implement the Discipline Committee's decision; and
- provide social workers, social service workers and members of the public with an understanding of the College's discipline process.

## **PROFESSIONAL MISCONDUCT**

### **David McNeill Higgins**

Former Member # 424033

### **Allegations**

The College's allegations relate to the Mr. Higgins' conduct or actions, in regard his guilty plea and subsequent conviction under section 271(1) of the Criminal Code, for having sexually assaulted a minor child.

### **Plea**

As Mr. Higgins was neither present nor represented at the hearing (although notified of the allegations and the hearing), he was deemed to have denied the allegations.

### **Evidence**

The evidence consisted of a Book of Documents which, in particular, included a certified copy of the Information from the Ontario Court of Justice and a certified copy of a court transcript from guilty plea and sentencing proceedings. These show that on October 20, 2011, a man named David Higgins, with the same birthdate and residing at the same address as Mr. Higgins, pleaded guilty to a charge of sexual assault contrary to subsection 271(1) of the *Criminal Code of Canada*.

### **Findings**

The panel concluded that all of the allegations of Mr. Higgins' professional misconduct were established by the evidence. Specifically, the Discipline Committee found that Mr. Higgins is



guilty of professional misconduct as set out in Section 26(2) of the Social Work and Social Service Work Act (the “Act”), in that Mr. Higgins violated:

1. Section 2.29(ii) of the Professional Misconduct Regulation by contravening a federal law, the contravention of which is relevant to Mr. Higgins’ suitability to practice, namely section 271(1) of the Criminal Code, R.S.C. 1985, c. C-46 when he was convicted of sexual assault with respect to a minor;
2. 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 Mr. Higgins was convicted of sexual assault with respect to a minor.

### **Penalty Order**

The Discipline Committee ordered that,

1. Mr. Higgins’ certificate of registration be revoked and that a notification of the revocation be recorded on the Register;
2. Mr. Higgins shall not apply to the Registrar of the College for a new certificate of registration for a period of 5 years from the date of the Discipline Committee’s Order;
3. Mr. Higgins shall be reprimanded by the Committee in writing;
4. The finding and Order of the Discipline Committee be published, in detail, with Mr. Higgins’ name (but without information which could identify the affected victim) in the official publication of the College, on the College’s website and on any other media-related document that is provided to the public and is deemed appropriate by the College; and that
5. Mr. Higgins pay costs in the amount of \$5000.00 to the College.

The Discipline Committee’s Decision included the following reasons for its Penalty Order:

- Given the serious nature of the misconduct, the penalty order is reasonable and in the public interest.
- As Mr. Higgins did not participate in the hearing, a written reprimand was issued to ensure that he is aware of the position of the College and of the Discipline Committee.
- Revocation of Mr. Higgins’ certificate of registration is a serious penalty, however, given the nature of Mr. Higgins’ misconduct, the panel feels that revocation is necessary and appropriate to ensure the protection of the public.
- The order of costs was an appropriate penalty due to Mr. Higgins’ non-participation in the hearing, noting that the actual cost of the hearing was much higher than amount named in the cost order.



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Social Service Workers

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- The penalty provides specific deterrence to Mr. Higgins and general deterrence to all other members with a clear message that this type of conduct will not be tolerated and a similar order will be made for any who choose to engage in similar behaviour.