

## **Discipline Decision Summary**

This summary of the Discipline Committee's Decision and Reason for Decision is published pursuant to the Discipline Committee's penalty order.

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 to the College's discipline process.

## **PROFESSIONAL MISCONDUCT**

### **Member, RSW**

#### **Agreed Statement of Fact**

The College and the Member submitted a written statement to the Discipline Committee in which the following facts were agreed:

1. The Member received both a Master of Social Work Degree and a Doctorate of Social Work Degree.
2. At all times relevant to the matter, the Member engaged in the practice of social work. The Member's primary areas of practice were counselling, teaching and consulting for individuals, couples and families. The Member also carried on a separate business as a personal matchmaker.
3. The Member maintained a website on which the Member advertised the Member's counselling, teaching and consulting for individuals, couples and families. The Member's primary areas of practice were noted as "individual, couples and family counselling." Amongst other lectures, seminars and workshops relating to dating, marriage, children and faith, the website also referred to certain social events which the Member offered "to facilitate the introduction of singles" in a particular community and other techniques developed by the Member to introduce single individuals to each other.
4. On the Member's website, in the Member's correspondence and on the Member's business card, the Member used the designation "Dr." in conjunction with "M.S.W., Ph.D., RSW."
5. The Member used the designation of "Dr." or "Doctor" in the context of providing or offering to provide counselling to clients in relation to mental health issues, which is considered a form of mental health care. The Member understood that the use of the designation was permitted because the Member had attained a Ph.D. in social work, based on footnote 1(c) to Principle VII, Interpretation 7.3 of the First Edition of the Standards of Practice, which provided that the following was an acceptable form for individual vocational designation:

1(c) where a doctoral degree has been earned, either the degree or the prefix “Doctor” or “Dr”, but not both, in addition to the designations in either clauses a) or b).

6. Section 31(1) of the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18 (the “*RHPA*”) provides that no person shall use the title “doctor” in the course of providing or offering to provide, in Ontario, health care to individuals”, unless he or she is a member of certain professional regulatory Colleges (which at the relevant time did not include the Ontario College of Social Workers and Social Service Workers). The Member appreciates that the Member’s use of the “doctor” title prior to October 1, 2010, in connection with any aspects of the Member’s social work practice might have been regarded as providing or offering to provide health care, in the form of mental health care, and therefore during that time period, was not in compliance with section 33(10) of the *RHPA*. The *Social Work and Social Service Work Act, 1998*, S.O. 1998, Chapter 31 (the “*SWSSWA*”) has since been amended as set out below.
7. The Member never intended to mislead the public into believing that the title of doctor pertained to anything except for the doctoral degree in social work that the Member had obtained. The Member is in compliance with the following current requirements.
  8. On October 1, 2010, section 47.3 of the *SWSSWA* came into effect, which provides that despite subsection 33(1) of the *RHPA*, a person who is a member of the College and holds an earned doctorate (defined as a doctoral degree in social work) may use the title “doctor”, a variation, abbreviation or an equivalent in another language if he or she complies with the following conditions:
    1. The member may only use the title “doctor” in compliance with the requirements under this Act, the regulations and the by-laws.
    2. When describing himself or herself orally using the title “doctor”, the member must also mention that he or she is a member of the Ontario College of Social Workers and Social Service Workers, or identify himself or herself using the title restricted to him or her as a member of the College.
    3. When identifying himself or herself in writing using the title “doctor” on a name tag, business card or any document, the member must set out his or her full name after the title, immediately followed by at least one of the following:
      - i. Ontario College of Social Workers and Social Service Workers,
      - ii. the title that the member may use under this Act.
9. In the fall of 2006, the Member entered into a matchmaking contract with the Complainant to provide personal matchmaking services to the Complainant, to assist the Complainant in finding a partner.
10. In December 2007, the College received a letter of complaint from the Complainant against the Member making allegations relating to the fall 2006 matchmaking contract and the matchmaking services provided by the Member under that contract.

11. The College wrote to the Member advising the Member that the Complainant had filed a complaint against the Member with the College relating to the Member's matchmaking business. In that letter, the College informed the Member that:

[T]he College regards information about complaints, including materials gathered during investigations, as confidential to the complaints process and does not disclose that information, except as required by law or as provided for under the College's governing legislation, regulations or by-laws.

...

Throughout the complaints process, the College may provide information to you and to the Complainant on a confidential basis, for purposes of assisting you and the Complainant in providing your comments and/or information to the College and to inform you of the Complaints Committee's disposition of your complaint. The information provided to you should not be used for any other purpose. Your use of any of the information beyond responding to the complaint may be considered to be professional misconduct.

12. In the spring of 2007, the Complainant commenced a Court action against the Member on the basis of the matchmaking contract.
13. In the context of the Court proceeding, the Member advised the Court that there were "no proceedings" against the Member at the College in respect of the complaints which the Member acknowledged had been made by the Complainant against the Member. At that time, the Member had not been served with any Notice of Hearing regarding disciplinary hearings at the College. Although the Member had received and responded to the complaints, the Member had not been advised as to the outcome of the complaints process.
14. Throughout the Court proceeding, the Member filed several of the Complainant's letters of complaint to the College during the Member's cross examination of the Complainant, using the complaints to draw to the Court's attention what the Member believed were factual misrepresentations in the Complainant's testimony and to support the Member's arguments that the Complainant was pursuing a personal vendetta against the Member, harassing the Member and had plagiarized one of the letters of complaint from another source, had perjured him/herself in relation to the Complainant's representations to the Court and was in contravention of a judge's order pertaining to a settlement conference that had been held. The Member also filed several of the Member's responses to the complaints as exhibits in the court proceeding with attached materials that the Member had originally provided to the Complainant including workshop and seminar materials.
15. If called as a witness, the Member would testify that the Member denied that there was a proceeding as the Member had relied on legal advice that there is a difference between the complaints process and a proceeding. The Member would additionally testify that the Member filed the complaint documents with the court because they were needed to refute certain allegations made by the Complainant and that the Member sought and relied upon legal advice before filing those exhibits and believed at the time that since the Complainant's complaints had not been referred to the

Discipline Committee for a hearing, there was no “proceeding” against the Member at the College and therefore the documents were not caught by s.50(6) of the *SWSSWA*, which prohibits any “document or thing prepared for” a proceeding under the Act from being admitted in evidence in any civil proceeding, other than a proceeding under the Act or an appeal or judicial review relating to a proceeding under the Act.

16. Allegations by the Complainant against the Member regarding the Member’s filing of the complaint material with the Court were eventually referred to the Discipline Committee and the Member was served with the Notice of Hearing in this matter, which contained those allegations. Subsequently, the College provided the Member with a Disclosure Brief containing all non-privileged documents in the College’s files relating to this matter.
17. Following months of extremely contentious Court litigation, the Member filed with the Court a 74-page excerpt, which was comprised of a letter of complaint from the Complainant to the College and many of the materials the Complainant had enclosed with his complaint, including various programme flyers, as well as handouts from the Member’s workshops and seminars in an effort to refute the Complainant’s testimony. This material had been previously mailed to the Complainant by the Member, copies of which were included in the College’s Disclosure Brief and were filed as an exhibit in the Court proceeding known as Exhibit 46. The documents contained in Exhibit 46 had already been filed with the Court by the Complainant and at the Court’s request, the Member itemized the exhibits therein. At the time Exhibit 46 was filed, the Member knew that there was a pending discipline proceeding at the College and was aware of the College’s position that the documents were confidential materials related to College proceedings and should not be admitted as evidence in the Court proceedings.
18. Approximately four months later, the Court directed that the exhibits originating from several of the Complainant’s letters of complaint and certain materials relating to the College’s subsequent investigation, complaints process and discipline proceedings, be sealed as per the Member’s request and the subsequent agreement reached in the settlement conference concerning the court proceedings.
19. The Member now recognizes that documents relating to both the complaints and discipline proceedings are confidential and despite the Member’s desire to present a full defence, should not have been filed in the civil proceedings, due to the restrictions in s.50(6) of the *SWSSWA*.
20. The Member admits the truth of the facts set out in the Agreed Statement of Fact. Based on those facts, the Member admits that the Member is guilty of professional misconduct as set out in the Notice of Hearing.

### **Allegations and Plea**

The Discipline Committee accepted the Member’s plea, admitting the truth of the facts set out in the Agreed Statement of Fact and that the Member was guilty of professional misconduct within the meaning of subsections 26(2) (a) and (c) of the *SWSSWA*, in that the Member violated section 50(6) of the *SWSSWA*, sections 2.2 , 2.15, 2.28, and 2.29 (i) of Ontario Regulation 384/00 (Professional Misconduct) and Principle II of the First

Edition of the College's Standards of Practice (as commented on by Interpretation 2.2.5)  
by:

- a. Failing to cooperate fully with the policies and procedures of the College's Complaints Committee and to conduct her/himself in a manner which demonstrates respect for both the Complainant and the College when the Member:
  - i. Furnished information to the Court regarding a complaint made by the Complainant against the Member and College documents relating to the College's proceedings in respect of the complaints made by the Complainant, all of which are considered confidential pursuant to the College's by-laws, standards of practice, policies and procedures and legislation; and
  - ii. Advised the Court that no complaints had been made against the Member other than those of the Complainant and that there were no ongoing College processes relating to the Member before the College.
- b. Tendering in evidence at a civil proceeding in the Court confidential College documents and information relating to the Complainant's complaints to the College, which documents were prepared for a proceeding under the *SWSSWA*.
- c. Inappropriately using the title "Dr." or "Doctor" in connection with providing or offering to provide, in Ontario, counselling or therapy on mental health issues, which constitutes a form of healthcare to individuals, contrary to section 33(1) of the *RHPA*, prior to the enactment of s. 47.3 of the *SWSSWA* on October 1, 2010.

### **Penalty Order**

The panel of the Discipline Committee accepted the Joint Submission as to Penalty submitted by the College and the Member, and made an order in accordance with the terms of the Joint Submission as to Penalty. The panel concluded that the proposed penalty was reasonable and serves and protects the public interest. The Committee noted that the Member has taken responsibility for the Member's actions by co-operating with the College in negotiating an Agreed Statement of Facts and Joint Submission on Penalty, and that the Member's legal counsel submitted that the Member has realized that the Member's conduct was inappropriate. The Committee was satisfied that its Order met the objectives of:

- Specific deterrence and rehabilitation and will ensure that the Member does not make similar errors in future by creating the expectation that the Member will learn and follow proper protocol related to use of titles and confidentiality of College documents;
- General deterrence, in that publishing this decision will send a message to other social workers that the College will take seriously any misuse of the "doctor" title and breach of confidentiality of documents that are part of a College proceeding. Members will know that the College will charge its members with professional misconduct for engaging in the actions in which this Member has engaged and will reprimand members and demand accountability for engaging in such behaviour; and

The panel ordered that:

1. The Member be reprimanded in person by the Discipline Committee and the reprimand not be recorded on the Register.
2. The Registrar impose terms, conditions and limitations on the Member's Certificate of Registration, to be recorded on the Register, as follows:
  - a) the Member is required to, at the Member's own expense, participate in and successfully complete, within six (6) months from the date of the Order herein, a directed reading course focusing on the appropriate use of professional designations and educational qualifications in social work practice and advertising, and on the confidentiality of documents and information relating to proceedings under the *SWSSWA*;
  - b) the Member is required within six (6) months from the date of the Order herein, to provide proof of the Member's completion of such directed reading course by:
    - i. furnishing to the Registrar a typewritten 2500-word (5-page) essay written by the Member reflecting the Member's understanding of the materials read by the Member in the course, and
    - ii. attend at the College's offices, on a date to be set by the Registrar, to discuss with the Registrar and the Deputy Registrar the Member's essay and the materials reviewed in the directed reading course; and
  - c) the Member is required, at the Member's own expense, to make such amendments to the use of any professional designations and educational qualifications in connection with the Member's social work practice (including, but not limited to, the Member's advertising, website, business cards and any other materials relating to the Member's professional practice) as may be necessary to bring them into compliance with the requirements of the *SWSSWA*, the *RHPA* and any regulations under those acts, as those requirements currently stand and as they may be amended from time to time.
  - d) the Member is prohibited from applying under section 29 of the *SWSSWA* for the removal or modification of the terms, conditions or limitations imposed on the Member's Certificate of Registration for a period of six (6) months from the date on which those terms, conditions and limitations are recorded on the Register; and
3. The Discipline Committee's finding and Order (or a summary thereof) be published, with identifying information removed, in *Perspective* and on the College's website and the results of the hearing be recorded on the Register.