



Ontario College of
Social Workers and
Social Service Workers

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

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Discipline Decision Summary

This summary of the Discipline Committee's Decision and Reason for Decision (dated August 14, 2009) 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 of the College's discipline process.

PROFESSIONAL MISCONDUCT

Failure to comply with Complaints Committee Order; Disgraceful, Dishonourable or Unprofessional Conduct

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 Complaints Committee issued a Decision and Reasons in relation to a complaint made against the Member by the Member's client and in relation to a mandatory report made by the client's subsequent treating social worker. In that Decision, the Complaints Committee required the Member to appear before it on a date to be advised in order to be cautioned, pursuant to subsection 24(5)(c) of the *Social Work and Social Service Work Act*.
2. A copy of the Complaints Committee's Decision was provided to the Member's legal counsel.
3. Approximately three weeks later, the College wrote to the Member's legal counsel to confirm that the Complaints Committee required the Member's attendance before a panel of the Committee, on a set date, in order to receive a caution with regard to the complaint made against the Member by the Member's client.
4. After receipt of the College's letter, the Member's legal counsel wrote to the College to advise that the Member intended to resign from membership in the College.
5. The College wrote to the Member's legal counsel to confirm that the Member was still required to attend to be cautioned, even though the Member intended to resign from membership in the College.
6. The Member sent a letter to the College resigning from membership in the College and indicating the Member would not attend at the College for the scheduled caution.

7. The College wrote to the Member to inform the Member of the possible consequences of failing to attend the scheduled caution, including the possibility that the matter would be brought to the attention of the College's Executive Committee, which could refer allegations of professional misconduct to the Discipline Committee for a hearing.
8. The Member did not attend before the Complaints Committee to receive a caution on the scheduled date.
9. A Notice of Hearing was served on the Member, referring allegations of the Member's professional misconduct to the Discipline Committee, arising from the Member's failure to attend before the Complaints Committee to be cautioned.
10. Prior to the Discipline Hearing, the Member attended before the Complaints Committee to be cautioned.

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 is guilty of professional misconduct within the meaning of subsections 26(2)(a), (b) and (c) of the *Social Work and Social Service Work Act* (the "Act"), in that the Member violated sections 2.31 and 2.36 of Ontario Regulation 384/00 (Professional Misconduct) by:

- Failing to comply with an order of a panel of the Complaints Committee of the College when the Member failed to appear before the Complaints Committee to be cautioned; pursuant to the Decision and Reasons of the Complaints Committee; and,
- Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all circumstances would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, by failing to appear before the Complaints Committee to be cautioned, pursuant to the Decision and Reasons of the Complaints Committee.

The Panel considered the Agreed Statement of Facts and found that those facts supported a finding of professional misconduct against the member.

Penalty Order

The panel of the Discipline Committee accepted the Joint Submission as to Penalty submitted by the College and the Member, having concluded that the proposed penalty was reasonable and served to protect the public interest. The panel made an order in accordance with the terms of the Joint Submission as to Penalty. The panel noted that the Member finally co-operated with the College and that by agreeing to the facts and a proposed penalty, the Member has accepted responsibility for the Member's actions. Moreover, the Committee concluded that its order meets the objectives of:

- General deterrence (i.e. a message to the profession to deter members of the profession from engaging in similar misconduct) and specific deterrence to the Member; and,
- Remediation/rehabilitation of the Member and the Member's practice.

The Committee also concluded that "decisions that are made by this College are decisions that are to be respected and taken seriously by members. A decision by a member to resign subsequent to a complaints decision being rendered does not disentitle a caution to be

administered. Failure to attend cautions that are ordered by this College can and will become the subject matter of discipline proceedings as evidenced in this case.”

The panel ordered that:

1. The Member be reprimanded in person by the Discipline Committee and that fact and nature of the reprimand be recorded on the Register indefinitely; and
2. 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.