

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

Indexed as: Ontario College of Social Workers and Social Service Workers v Jesse Fraser,
2023 ONCSWSSW 4

Decision date: 20230613

BETWEEN:

THE ONTARIO COLLEGE OF SOCIAL WORKERS
AND SOCIAL SERVICE WORKERS

- and -

JESSE FRASER

PANEL: Charlene Crews Chair, Professional Member
Sandra Sidsworth Professional Member

Appearances: Jill Dougherty and Alyssa Armstrong, counsel for the College
Gary Srebrolow and Nida Sohani, counsel for the Registrant
Andrea Gonsalves, Independent Legal Counsel to the Panel

Heard: February 16 and 17, 2023

DECISION AND REASONS FOR DECISION

[1] This matter came on for hearing by video conference before a panel of the Discipline Committee (the “**Panel**”) on February 16 and 17, 2023, at the Ontario College of Social Workers and Social Service Workers (the “**College**”).

[2] Prior to the commencement of the hearing it was established that there were no conflicts of interest for any member of the Discipline Panel hearing this matter.

[3] The hearing began with a Panel of three members of the Discipline Committee, including Carrie McEachran, a public member. The Panel was properly constituted in accordance with s. 14(5) of the *Social Work and Social Service Work Act, 1998*, SO 1998, c 31 (the “**Act**”). After the hearing began, Ms. McEachran advised the Panel and the parties that she was unable to complete

the hearing. With the consent of the parties and on the advice of independent legal counsel, the Panel decided to continue the hearing with a reduced two-person panel, pursuant to s. 4.4(1) of the *Statutory Powers Procedure Act*, RSO 1990, c S.22.

Publication Ban

[4] The College filed a Book of Documents in which it was intended that all references to the Client's name be redacted. It was discovered that the Client's name appeared on several pages of the version of the Book of Documents that was filed. The Panel directed that the College re-file the Book of Documents with the Client's name redacted from those pages. Out of an abundance of caution the Panel also made an order pursuant to s. 28(7) of the Act and ss. 9(1) and 9(1.1) of the *Statutory Powers Procedure Act* prohibiting publication of the Client's name or identity, or any information that could tend to identify the Client.

The Allegations

[5] In the Notice of Hearing dated April 29, 2021, Jesse Fraser (the "**Registrant**") is alleged to be guilty of professional misconduct pursuant to the Act in that he is alleged to have engaged 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**").¹

[6] The particulars of those allegations as set out in the Notice of Hearing are as follows:

1. You are, and were at all times relevant to these allegations, a registered social work member with the Ontario College of Social Workers and Social Service Workers (the "**College**").
2. At all the material times, you were practising at [redacted] Secondary School (the "**School**"), where you were employed as a school social worker by the District School Board of Niagara (the "**School Board**") in [redacted], Ontario.
3. In or about March 2019, the client, [redacted] (the "**Client**"), who was then a 17-year-old student at the school, was referred to you for social work services. From in or about March of 2019 to in or about May of 2019, you provided social work services, including (but not limited to) counselling services, to the Client.
4. To your knowledge, the Client was a vulnerable person who was dealing with her legal status in Canada and a potential refugee claim. The Client was referred to you for social work services in relation to, among other things,

¹ 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.

mental health issues (including anxiety and depression), problematic personal and family relationships, housing issues and threats to her personal safety.

5. From in or about March of 2019 to in or about May of 2019 (the “**Relevant Period**”), you met with the Client repeatedly in your office at the School and elsewhere, ostensibly to provide social work services to her, including counselling.
6. During the Relevant Period you:
 - a. met with the Client with increasing frequency,
 - b. hugged the Client;
 - c. touched the Client’s breast;
 - d. engaged in touching of the Client of a sexual nature;
 - e. communicated with the Client via text, including frequent exchange of romantic, and/or sexually explicit messages with the Client;
 - f. engaged in behaviour and/or made remarks to the Client of an inappropriate and/or sexual nature that were not appropriate to the service provided;
 - g. shared details of your personal life with the Client; and/or
 - h. failed to keep proper clinical records of your meetings with the Client that included details regarding the services provided.
7. In or about June 13, 2019, you resigned from your employment with the School Board.

[7] The Notice of Hearing alleged that by reason of engaging in some or all of the conduct outlined above, the Registrant is guilty of professional misconduct as set out in ss. 26(2)(a) and (c) of the Act, with reference to four specific allegations. The parties advised the Panel at the hearing that the details of the four allegations as admitted to by the Registrant in the Agreed Statement of Facts introduced at the hearing differed in some respects to what appears in the Notice of Hearing. The four allegations, as set out in Agreed Statement of Facts, are that the Registrant is guilty of professional misconduct:

- (a) In that he violated Section 2.2 of the **Professional Misconduct Regulation** by failing to meet the standards of the profession, including (but not limited to):
 - (i) **Principle II of the Handbook (commented on in Interpretation 2.2, 2.2.2 and 2.2.8)** by failing to maintain clear and appropriate boundaries in a professional relationship; by having sexual relations with a client after she turned age 18; and by engaging in conduct which could

reasonably be perceived as reflecting negatively on the profession of social work;

- (ii) **Principle III of the Handbook (commented on in Interpretation 3.2)** by failing to deliver client services and respond to client queries, concerns, and/or complaints in a timely and reasonable manner;
 - (iii) **Principle IV of the Handbook (commented on in Interpretation 4.1, 4.1.3 and Footnotes 1, 2 and 3)** by failing to keep systematic, dated, and legible records for each client or client system served; and
 - (iv) **Principle VIII of the Handbook (commented on in Interpretation 8.1, 8.2.2, 8.2.3, 8.3, 8.4 and 8.6)** by failing to ensure that sexual misconduct did not occur; by engaging in touching of a sexual nature with the Client after she turned age 18; by engaging in behaviour or making remarks of a sexual nature towards the client after she turned age 18, other than behaviour or remarks of a clinical nature appropriate to the service provided; by failing to seek consultation/supervision and develop an appropriate plan, where [he] developed sexual feelings towards a client that could have put the client at risk; by failing to clearly state that the behaviour was inappropriate by virtue of the professional relationship in situations where the client initiated the behaviour of a sexual nature after the Client turned age 18; and by engaging in sexual relations with a Client, after she turned age 18, and at the time of counselling and the provision of professional services.
 - (v) In that he violated **Section 2.5 of the Professional Misconduct Regulation** by abusing a client sexually, verbally psychologically or emotionally, including sexually abusing a client, all of which occurred after the Client turned age 18, and within the meaning of subsection 43(4) of the *Act*;
- (b) In that he violated **Section 2.20 of the Professional Misconduct Regulation** by failing to keep records as required by the regulations and standards of the profession; and
 - (c) 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 circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

Registrant's Position

[8] The Registrant admitted the misconduct set out in the allegations in the Notice of Hearing, as revised in the Agreed Statement of Facts. The Panel conducted an oral plea inquiry at the hearing. The Agreed Statement of Facts also contained statements confirming the Registrant's understanding of the nature of the allegations made against him and the consequences of admitting the allegations, as well as his voluntary decision to admit the allegations. The Panel was satisfied that the Registrant's admission was voluntary, informed and unequivocal.

The Evidence

[9] The evidence was tendered by way of an Agreed Statement of Facts, which provided in relevant part as follows.

1. Now and at all times relevant to the allegations, Jesse Fraser (the “Registrant”) was a registered social work member with the Ontario College of Social Workers and Social Service Workers (the “College”).
2. The Registrant completed a Masters in Social Work from Millersville University in Lancaster, Pennsylvania in 2014. He has been a Registrant of the College since 2017.
3. The Registrant was employed as a School Social Worker by the District School Board of Niagara (the “School Board”) from in or about September 2017 to June 13, 2019. From in or about September 2018 to June 13, 2019, the Registrant worked as a School Social Worker at St. Catharines Collegiate Secondary School (the “School”) in St. Catharines, Ontario.
4. In or about March 2019, the client (the “Client”), who was a 17-year-old exchange student at the School, was referred to the Registrant for social work services. To the Registrant’s knowledge, at all relevant times the Client was a vulnerable person who was dealing with their legal status in Canada and a potential refugee claim. The Client was referred to the Registrant for social work services in relation to, among other things, mental health issues (including anxiety and depression), problematic personal and family relationships, housing issues and threats to their personal safety. The Registrant was aware of those reasons for the referral.

Sexual Misconduct / Boundary Violations

5. From in or about March of 2019 to in or about May of 2019, the Registrant provided social work services, including (but not limited to) counselling services, to the Client. During that time (the “Relevant Period”), the Registrant met with the Client repeatedly in his office at the School and elsewhere, including escorting the Client with a teacher as authorized by the principal, ostensibly to provide social work services to the Client, including counselling.
6. The Client’s living situation was particularly challenging when they initially sought out the Registrant’s assistance. At the time, the Client was living with a host family in a homestay arrangement in which they were experiencing a high level of conflict with the other members of the household. The Client reported feeling very withdrawn and unhappy due to their living arrangement and the Client discussed this during appointments with the Member.
7. In or around the end of March 2019, the Client moved in with a classmate’s family. The Registrant assisted in making this arrangement by placing a

phone call to a classmate's parent (the "Classmate's Parent") and asking if the Client could stay in her home.

8. At the time the Client sought out the Registrant's services, the Client's family life was also particularly challenging. The Client told the Registrant that their parents were pressuring them to engage in criminal activity (money laundering) and that they were receiving threatening and upsetting text messages from their parents on a regular basis. The Client shared with the Registrant that the situation with their parents made them feel depressed.
9. The Registrant met with the Client with increasing frequency during the Relevant Period. Beginning in March of 2019, the Registrant met with the Client once every two days or thereabouts. From in or about March of 2019 to May of 2019, the Registrant met with the Client approximately three times per week on average. The Registrant met more frequently with the Client in or about May of 2019, when the Registrant met with them approximately daily.
10. Approximately two weeks into the counseling relationship, the Registrant had the Client's cell phone number, as it was in the records, and gave the Client his personal cell phone number.
11. The Registrant sent text messages to the Client between in or about March of 2019 to in or about May 14, 2019. The Client described the text messages as getting "weird".
12. The text messages then became sexual after the Client's 18th birthday, which was on April 24, 2019.
13. The Client maintains that prior to her 18th birthday, the Registrant offered to show her his back tattoo, and this occurred after she first offered to and then showed him her calf tattoo on her lower leg. The Registrant never did show the Client his back tattoo.
14. If the Registrant were to testify, he would state that he was aware that the Client had turned 18 at some point in April of 2019 because the Client's age had some bearing on the Registrant no longer having to interact with the Client's legal guardian.
15. The Registrant sent the Client text messages between March and May of 2019, including text messages from in or about May 12, 2019, to in or about May 14, 2019. The Client retained screenshots of the May 12, 2019 onward texts, copies of which are attached as Schedule "A" to this Agreed Statement of Facts [the Schedule is omitted from these Reasons]. The Registrant acknowledges that the text messages were sent to the Client from the Registrant's personal cell phone number.
16. Those May 12 to 14, 2019 text messages, after the Client turned age 18, contained the following comments:

- (a) Well I guess I'll wait for my hug until tomorrow;
- (b) Sounds good, definitely come by tomorrow. I'll make sure to pull you in right;
- (c) I want you feeling safe and secure;
- (d) I feel like a close intimate hug can offer that;
- (e) I also feel bad because you said the one guy would not give you any pleasure, so you deserve all of that;
- (f) I will pull you in for an intimate hug to let you know that I am there, and that you are supported;
- (g) I will apologize in advance if I get hard, please view it as a compliment. I am putting that on the table;
- (h) I want you to feel that level of contact;
- (i) I would like to scissor our legs so I can hug you closer;
- (j) You can definitely ask, I do not. You are it [In response to the Client's text: do u talk to all of your female students like this or should I feel special];
- (k) When was the last time you had an orgasm. I think that could actually clear your mind and help you feel relaxed;
- (l) Did you plan your outfit yet for tomorrow?;
- (m) I always like your outfits;
- (n) I am someone who likes physical touch, so I really do appreciate that time;
- (o) I warned you [In response to: "yeah the boner was a cherry on top"];
- (p) I had to resist, I was close to grabbing your breast;
- (q) I could go from here to Toronto and won't find someone with your curves;
- (r) I'd also like to cum right on your cleavage. I'd like you to submit and just watch. That would be perfect;
- (s) For sure, I hope you get to see me jerk off. You can clean me up;
- (t) Can't wait to see what's underneath [in response to a text that included a photo of the Client's backside, partially clothed];

- (u) One thing that I like which is kinda strange but feels really good. I have sensitive nipples, if you reach up my shirt and pinched my nipples that would be wild.
17. According to the Client, after she turned age 18, the Registrant sent the Client, via text message, a provocative photo of the Registrant's body, in which the Registrant was only partially clothed, i.e., the Registrant was not wearing a shirt and his chest and abdomen were visible. The context of this photo being sent as described by the Client was that the Client first sent the Registrant a photo of her partially clothed "backside" or "ass", to which the Registrant responded and sent the photo described above. However, the Client states that she deleted that text message and photos. While the Registrant does not admit that he sent such a photo to the Client, he acknowledges that he sent the Client text messages commenting on the Client's photograph, saying "Damn" "Can't wait to see what's underneath" and "Does ___ know you're takin up her room, haha", referring to the Client taking the picture in her friend's bedroom.
 18. Certain text messages that were sent to the Client by the Registrant after May 12, 2019, and after the Client was age 18, referred to touching of a sexual nature that occurred during the Registrant's appointments with the Client. These text messages included the following comments by the Registrant:
 - (a) I did like pressing up together. That's good touch;
 - (b) I liked pressing you up against the desk too;
 - (c) For sure, also I have to thank you, now my balls are completely full and sore. I liked your cold hands (referring to the Client touching his nipples under his shirt and not to any touching of his balls or genitalia).
 19. During the Relevant Period, the frequency of the text messages reached the point that they texted daily, often many times per day, including during the daytime, evenings, and on weekends.
 20. During the Relevant Period, the Client told at least two classmates about the text messages they were receiving from the Registrant. One of the classmates in whom the Client confided was a classmate named B.R.
 21. The Registrant frequently initiated hugs with the Client on occasions that they met. If the Registrant were to testify, he would state that he hugged the Client on three occasions.
 22. After the Client became age 18, the hugs became intimate and sexual in nature, with the Registrant pressing his body against the Client's body. On at least one occasion, when the Registrant hugged the Client, their face pressed against the Registrant's neck to the point that the Client's make-up rubbed off onto the Registrant's neck.

23. On various occasions, after the Client turned age 18 and while the Registrant and the Client were alone in the Registrant's office, the Registrant put his hand on the Client's breast under their shirt but over her bra, the Client touched the Registrant's nipple under his shirt, and the Registrant pushed the Client up against a desk, pressing their bodies together.
24. The Client also stated that on one occasion, after she turned age 18, the Registrant became sexually aroused while hugging them and that he had an erection. The erection was later referred to in the text exchange between the Client and the Registrant during May 12 to 14, 2019 (outlined above).
25. The Classmate's Parent, with whom the Client was living, indicated that toward the end of the Relevant Period the Client stopped attending school, despite that being a condition of the Client staying with the classmate's family.

Record-Keeping Violations

26. The Registrant failed to keep adequate records of the social work services, including counselling, that he provided to the Client. There were no case notes or contact notes, and the file summary for the Client indicated only that the Registrant was the Client's social worker.
27. There was no indication of what progress, if any, the Registrant made in supporting the Client with respect to their mental health concerns. There was no indication of what steps were taken by the Registrant, if any, to address the Client's concerns regarding their legal status in Canada.
28. Although the Registrant played a role in determining an interim solution to the Client's housing situation by arranging for the Client to stay with a classmate's family, there was also no documentation of the steps taken by the Registrant to assist the Client with respect to their housing situation.

Report and School Board Investigation

29. In or around May 15, 2019, one of the Client's classmates, B.R., who the Client had advised about the text messages they were receiving from the Registrant, informed the Classmate's Parent, with whom the Client was living on a temporary basis, that the Registrant was having an inappropriate relationship with the Client. The Classmate's Parent then spoke to the Client about the Client's relationship with the Registrant, and viewed text messages sent by the Registrant to the Client.
30. On May 15, 2019, the Classmate's Parent contacted the School Board and advised that the Client had disclosed to her that the Registrant was having an inappropriate sexual relationship with the Client. The Classmate's Parent indicated that the Registrant had been sending the Client sexually explicit text messages. Based on this report, the School Board began an investigation into the Registrant's conduct.

31. Later that same day, the School Board notified the Registrant that he was to be placed on home assignment with pay as of May 16, 2019, pending the completion of the School Board's investigation.
32. On May 21, 2019, School Board investigators interviewed the Client. The Client provided screenshots from her cell phone of sexually explicit text messages that they indicated they had received from the Registrant. The Client also provided a screenshot of the contact information for the Registrant as it appeared in their cell phone contact list, a copy of which is attached [the document is omitted from these Reasons].
33. On May 30, 2019, School Board investigators interviewed the Registrant. The Registrant was accompanied by two union representatives. Three School Board officials were also present, including the School Board investigators. The Registrant made several statements to the School Board investigators about his social work practice, his interactions with students, his relationship with the Client, his use of his personal cell phone in his role as a School Social Worker, and his record-keeping practices.
34. The Registrant confirmed to investigators that his personal cell phone number matched the cell phone number that appeared in the screenshots provided by the Client, including both the screenshot of his contact information, and the screenshots indicating his name at the top of the chain of text messages. In other words, the Registrant confirmed that the sexually explicit text messages received by the Client originated from his cell phone number. However, the Registrant did not admit to authoring and sending the text messages and implied that they may have been sent from his phone number by someone else who was "tech savvy".
35. The Registrant claimed that he had only ever shaken the Client's hand and that he had not had any physical contact with them. The Registrant specifically denied having hugged the Client.
36. On June 13, 2019, while the School Board investigation was ongoing, the Registrant resigned from his employment at the School. The School Board subsequently made a mandatory report to the College in a letter dated July 10, 2019, reporting the results of its investigation, which concluded that the Registrant had failed to meet the standards of the profession and had sexually abused the Client.

College Investigation and Registrant's Response

37. After receiving the School Board's mandatory report, the College appointed an investigator on August 15, 2019, to investigate the Registrant's conduct.
38. The Registrant provided the College with a written response to the allegations in the mandatory report, dated November 20, 2020, in which he denied having engaged in any physical and/or sexual relationship or touching of a sexual nature with respect to the Client. The Registrant admitted to three instances

of hugging the Client and stated that these hugs were not sexual in nature. The Registrant acknowledged that the hugging reflected poor judgment and constituted a boundary violation.

39. In his response to the College, the Registrant adopted his statements to the School Board investigators about the text messages and continued to deny having sent the text messages to the Client from his personal cell phone. The Registrant did not provide evidence to support this claim.
40. The Registrant acknowledged that his record-keeping in relation to the Client was deficient and that it did not meet the College's standards.

Referral to Discipline

41. The College's Executive Committee referred the allegations of professional misconduct with respect to the Registrant to the Discipline Committee on April 28, 2021. Those allegations are as set out in the Notice of Hearing in this matter, dated April 28, 2021.

Admissions of Professional Misconduct

42. The Registrant admits that by reason of engaging in the conduct outlined above, he is guilty of professional misconduct as set out in section 26(2)(a) and (c) of the Act:
 - (a) In that he violated Section 2.2 of the Professional Misconduct Regulation by failing to meet the standards of the profession, including (but not limited to):
 - (i) Principle II of the Handbook (commented on in Interpretation 2.2, 2.2.2 and 2.2.8) by failing to maintain clear and appropriate boundaries in a professional relationship; by having sexual relations with a client after she turned age 18; and by engaging in conduct which could reasonably be perceived as reflecting negatively on the profession of social work;
 - (ii) Principle III of the Handbook (commented on in Interpretation 3.2) by failing to deliver client services and respond to client queries, concerns, and/or complaints in a timely and reasonable manner;
 - (iii) Principle IV of the Handbook (commented on in Interpretation 4.1, 4.1.3 and Footnotes 1, 2 and 3) by failing to keep systematic, dated, and legible records for each client or client system served; and
 - (iv) Principle VIII of the Handbook (commented on in Interpretation 8.1, 8.2.2, 8.2.3, 8.3, 8.4 and 8.6) by failing to ensure that sexual misconduct did not occur; by engaging in touching of a sexual

nature with the Client after she turned age 18; by engaging in behaviour or making remarks of a sexual nature towards the client after she turned age 18, other than behaviour or remarks of a clinical nature appropriate to the service provided; by failing to seek consultation/supervision and develop an appropriate plan, where you developed sexual feelings towards a client that could have put the client at risk; by failing to clearly state that the behaviour was inappropriate by virtue of the professional relationship in situations where the client initiated the behaviour of a sexual nature after the Client turned age 18; and by engaging in sexual relations with a Client, after she turned age 18, and at the time of counselling and the provision of professional services.

- (b) In that he violated Section 2.5 of the Professional Misconduct Regulation by abusing a client sexually, verbally psychologically or emotionally, including sexually abusing a client, all of which occurred after the Client turned age 18, and within the meaning of subsection 43(4) of the Act;
- (c) In that he violated Section 2.20 of the Professional Misconduct Regulation by failing to keep records as required by the regulations and standards of the profession; 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 circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

Decision of the Panel

[10] Having considered the admissions of the Registrant, the evidence contained in the Agreed Statement of Facts, and the submissions of counsel, the Panel finds that the Registrant committed the acts of professional misconduct alleged in the Notice of Hearing, as revised in the Agreed Statement of Facts. With respect to allegation (d), the Panel finds that the Registrant's conduct would reasonably be regarded by members as disgraceful, dishonourable and unprofessional.

Reasons for Decision

[11] The evidence established that the Registrant, in his role as a school social worker who provided clinical services to students (including but not limited to counselling), engaged in a series of boundary crossing violations while providing services to the Client involving a progressive grooming pattern with a female adolescent exchange student who presented with multiple vulnerabilities. Within a short period of time the frequency of the Registrant's meetings with that client increased to almost daily and the contact between them become increasingly personal. The Registrant initially crossed boundaries by disclosing his own personal life experiences and contact information to the client, and then progressed to initiating after-hours contact via text messaging—which quickly advanced to sexually explicit messages and photographs. The Registrant's actions

indicate that he knew his behaviour was wrong and that he intentionally tried to mitigate potential consequences by waiting until after the client's 18th birthday to engage in sexual touching.

[12] The Registrant failed to assume full responsibility for demonstrating that the Client had not been exploited, coerced or manipulated, intentionally or unintentionally, especially given the personal relationship that had developed between himself and the Client. He provided a service that he knew or ought reasonably to have known was not likely to benefit the Client, failed to seek supervision, and failed to terminate the relationship with the Client when he became aware of his sexual attraction to the Client, which became intrusive to the provision of professional services.

[13] Through this conduct, the Registrant contravened Section 2.2 of the Professional Misconduct Regulation as alleged in allegation (a)(i), (ii) and (iv) by failing to meet the standards of the profession in multiple ways. He failed to maintain clear and appropriate boundaries in his professional relationship with the Client by developing a personal relationship with her, disclosing personal information about himself, engaging in communications that were unprofessional and became sexual in nature, and engaging in physical contact of an intimate and sexual nature. This conduct also constitutes a violation of Section 2.5 of the Professional Misconduct Regulation in that the Registrant sexually abused the Client within the meaning of subsection 43(4) of the Act, as set out in allegation (d).

[14] With respect to the allegations (a)(iii) and (c) regarding the Registrant's failure to keep records, the evidence led by the College showed that that the Registrant failed to make any treatment or progress notes relating to the social work services he provided to the Client, which included mental health counselling and advocacy related to immigration and housing status. Principle IV of the Handbook and Interpretation 4.1.3 require that members keep systematic, dated, and legible records for each client or client system served. The Registrant admitted in the Agreed Statement of Facts that he failed to maintain appropriate records and he offered no reason for not doing so.

[15] With respect to allegation (d), the Registrant's conduct is appropriately described as morally blameworthy. He knew that his actions were wrong. When confronted by his employer the Registrant denied any acts of misconduct with respect to the Client other than hugging. When he was confronted with text message screen shots obtained by the employer, he attempted to offer alternative explanations to the explicit text messages and photos sent from his personal cellular telephone and submitted his resignation as a means of avoiding penalty.

[16] The Panel found that the Registrant's conduct was egregious. As admitted by the Registrant and jointly submitted by the parties, the Registrant's conduct would reasonably be regarded by members as disgraceful, dishonourable and unprofessional.

Penalty Submissions

[17] The parties were in agreement on the issue of penalty. They presented to the Panel a Joint Submissions as to Penalty ("**Joint Submission**") asking this Panel to make an order as follows.

1. Jesse Fraser (the "Registrant") shall be reprimanded by the Discipline Committee and the fact and nature of the reprimand shall be recorded on the College's Register for an unlimited period of time, pursuant to s. 26(5)(1) of

the *Social Work and Social Service Work Act, 1998*, SO 1998, c 31 (the “Act”).

2. The Registrar shall be directed to revoke the Registrant’s certificate of registration.
3. The period of time during which the Registrant may not apply to the College for a new certificate of registration shall be fixed (pursuant to section 26(7) of the Act) at five (5) years from the date of the Discipline Committee’s Order.
4. The Discipline Committee's finding and Order (or a summary thereof) shall be published, with identifying information concerning the Registrant included, in the College's official publication and on the College's website, and the results of the hearing shall be recorded on the Register and in any other media-related format that is provided to the public and is deemed appropriate by the College, pursuant to s. 26(5)(3) of the Act.
5. The Registrant shall pay costs to the College in the amount of seven thousand dollars (\$7,000), by e-transfer or certified funds, in accordance with the following payment schedule:
 - (a) \$1,000 to be paid on or before the date of the hearing in this matter; and
 - (b) A further twelve (12) payments of \$500 per month to be paid on or before the first day of the next twelve (12) months, with the first such payment to occur on or before the first day of the calendar month following the hearing, and the remaining payments to occur on or before the first day of each of the eleven (11) subsequent months thereafter.

Should the Registrant fail to make any payment in accordance with the above payment schedule, the entire outstanding balance of the \$7,000 costs award shall immediately become payable.

[18] The parties’ submissions in this matter may be summarized as follows.

[19] The Panel has jurisdiction to make findings of professional misconduct in respect of the allegations contained in the Notice of Hearings as set out in subsection 26(2)(a) and (c) of the *Social Work and Social Service Work Act*.

[20] There are four sets of allegations pertaining to this matter. The parties jointly submitted that the Registrant failed to meet the standards of practice as set out in the Agreed Statement of Facts and that the evidentiary burden has been met. The Registrant admits that by reason of engaging in the conduct outlined above, he contravened the Standards and provisions of the Professional Misconduct regulations and is guilty of professional misconduct.

[21] The law requires the Panel to consider the Joint Submission as it stands. The Panel should not assess the Joint Submission based on what the Panel might have imposed if the matter were contested. Rather, the Panel is required to accept the jointly proposed penalty unless it would bring the administration of justice into disrepute or it is contrary to public interest. The parties, both represented by experienced counsel and opposed in interest, have come together and jointly proposed a penalty that addresses the interests of the public, the profession and the Registrant. For joint submissions to benefit the College's disciplinary process, parties must have a high degree of confidence that it would be accepted by the Panel.

[22] Costs are not meant to be punitive and are not considered part of the penalty. It is appropriate that the Registrant pay some of the costs relating to the investigation and bringing the matter to a hearing. Otherwise, the full burden of the costs would fall on the membership. While costs are not subject to the same legal principles as a joint submission on penalty, where the parties have agreed on an amount payable for costs, the Panel can and should treat that agreement in the same manner.

Penalty Decision

[23] Having considered the findings of professional misconduct, the evidence and the submissions of the parties, the Panel accepts the Joint Submission and makes an order as follows.

1. The Registrant shall be reprimanded by the Discipline Committee and the fact and nature of the reprimand shall be recorded on the College's Register for an unlimited period of time, pursuant to s. 26(5)(1) of the Act.
2. The Registrar is directed to revoke the Registrant's certificate of registration.
3. The period of time during which the Registrant may not apply to the College for a new certificate of registration shall be fixed (pursuant to section 26(7) of the Act) at five (5) years from the date of this Order.
4. This finding and Order (or a summary thereof) shall be published, with identifying information concerning the Registrant included, in the College's official publication and on the College's website, and the results of the hearing shall be recorded on the Register and in any other media-related format that is provided to the public and is deemed appropriate by the College, pursuant to s. 26(5)(3) of the Act.
5. The Registrant shall pay costs to the College in the amount of seven thousand dollars (\$7,000), by e-transfer or certified funds, in accordance with the following payment schedule:
 - (a) \$1,000 to be paid on or before the date of the hearing in this matter; and
 - (b) A further twelve (12) payments of \$500 per month to be paid on or before the first day of the next twelve (12) months, with the first such payment to occur on or before the first day of the calendar month following the hearing, and the remaining payments to occur on or before the first day of each of the eleven (11) subsequent months thereafter.

Should the Registrant fail to make any payment in accordance with the above payment schedule, the entire outstanding balance of the \$7,000 costs award shall immediately become payable.

Reasons for Penalty Decision

[24] The Panel recognized that the penalty should maintain high professional standards, preserve public confidence in the ability of the College to regulate its members, and, above all, protect the public. This is achieved through a penalty that considers the principles of general deterrence, specific deterrence and, where appropriate, rehabilitation and remediation of the Registrant's practice. The Panel also considered the principle that the Panel should accept a joint submission on penalty unless it is contrary to the public interest and would bring the administration of justice into disrepute.

[25] The Panel considered aggravating factors in that the Registrant's conduct involved sexual abuse and sexual misconduct toward his Client, which are among the most serious boundary violations a professional can engage in. The Registrant repeatedly and progressively used his position of power over a vulnerable underaged female client with presenting mental health instability, family conflict, precarious immigration status and housing instability to meet his own personal needs. He failed to keep records of his interactions with the Client, failed to disclose the relationship to his employer and he further leveraged his power by attempting to coerce the Client into keeping his actions secret.

[26] The Panel also considered mitigating factors in that the Registrant had no prior discipline record, he expressed remorse for the impact his actions had on the client and on the profession and he accepted responsibility for his actions through admissions of misconduct and entering into the Agreed Statement of Facts and Joint Submission, thus saving the Client from the stress and trauma of having to testify and relive the incidents through the hearing process.

[27] The Panel considers revocation, a 5-year prohibition period to apply to the College for a new certificate of registration, publication and a reprimand to be reasonable in this case. It is consistent with other decisions issued by this College and other professional regulators for matters relating to matters of sexual abuse and sexual misconduct.

[28] While this Panel has made an order prohibiting the publication of the name or any identifying details of the Client, the publication of the Registrant's name is necessary to protect the public interest, and in order to promote transparency and maintain public confidence in the integrity of the College's discipline process. This also serves as both a specific and general deterrent.

[29] This penalty provides protection to the public and serves the objectives of specific deterrence and general deterrence. It sends a strong message that misconduct of this nature will not be dealt with lightly. Considering the severity of the Registrant's misconduct, which warrants revocation, rehabilitation and remediation are not significant objectives in this case. The penalty maintains public confidence in the College's ability to regulate the profession and is in the public interest.

[30] The Panel finds that an order for costs of bring this matter to a hearing ensures that the membership at large does not have to bear the full costs arising from the Registrant's professional misconduct and is in line with like orders issued by this College.

I, Charlene Crews, sign this decision as chairperson of the Panel and on behalf of the Panel members listed below.

Date: June 14, 2023

Signed:

Charlene Crews, Chair
Sandra Sidsworth