



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 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: September 12, 2017

### **ORDER AND REASONS FOR ORDER ON PENALTY AND COSTS**

In the first phase of this hearing, the Panel heard evidence and submissions with respect to allegations of professional misconduct made against Joseph Vaz (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. The panel was satisfied with the submissions of College counsel and proceeded on the basis that the matter would be contested. The hearing involved the examination of one witness and written and oral submissions from College counsel, and lasted one day. The Panel made findings of professional misconduct against the Member, and this decision was communicated to the parties in August

2017. On September 8, 2017, this Panel released its decision and reasons with respect to findings.

On September 12, 2017, the Panel reconvened to deal with the matters of penalty and costs.

### **Absence of the Member**

The Member was again not present nor represented by counsel at the penalty and costs hearing.

College counsel submitted that under the legislation, because the Member received notice of the original hearing, the matter could proceed to penalty and costs without further notice to the Member of this hearing. However, College counsel provided the panel with an affidavit of service indicating that both the Member's counsel and the Member has been served with a letter informing them of the date of this hearing. The panel was satisfied that it could proceed in the absence of the Member and in the absence of counsel for the Member.

### **The Findings**

The detailed findings and reasons for them are set out in the Panel's written reasons from September 8, 2017. In sum, the Panel found that the Member engaged in boundary violations with his client (the "Client") up to and including having had a sexual relationship with the Client while he provided her with social work services. This means the Member abused the Client sexually, failed to meet the standards of the profession, and engaged in conduct that would reasonably be regarded by members as disgraceful, dishonourable and unprofessional. The Panel also found that the Member had failed to keep records as required.

### **Position on Penalty**

In light of the Panel's findings, the College asked for an order as follows:

1. directing the Registrar to revoke the Member's certificate of registration pursuant to s. 26(4)(1) of the *Act*;
2. directing the Registrar to fix a period of five years from the date of the Order in which the Member cannot reapply for registration, pursuant to s. 26(7) of the *Act*;
3. directing the Member to be reprimanded by the Committee in writing and that the reprimand be recorded on the registrar for an unlimited period of time, pursuant to s. 26(5)(1) of the *Act*;
4. directing that the finding and order of the Committee be published, in detail, with the name of the Member (but without the name or information tending to the identity of the complainant) 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, pursuant to s.26(5)(3) of the *Act*; and,
5. directing that Mr. Vaz pay costs of this proceeding to the College in accordance with the proposed joint submission as to cost, pursuant to s. 26(5)(4) of the *Act*.

College counsel reviewed the three general principles that are typically considered at the penalty stage: specific deterrence, general deterrence and rehabilitation. The College submitted that revocation was the appropriate remedy because the Member, who has chosen not to participate in the proceeding, and committed the most serious breach, cannot be rehabilitated at this time. The only way to specifically deter the member is to revoke his certificate of registration. Doing so would also send a strong message to members of the profession.

The College also submitted that, whereas, in the usual course, a revoked member would be permitted to reapply within one year, deterrence would also be served by ordering that the minimum period before reapplying be five years. College counsel submitted that this 5-year time frame would be in line with the legislated approach for regulated health professions, whose governing legislation imposes a 5-year period before reapplying after a member is revoked for having committed sexual abuse. College counsel submitted that this analogy is appropriate because the counselling process is very close to the type of service that is provided by regulated health professionals: there is a position of trust and a power imbalance between the professional and the client.

The College submitted that the conduct involved a profound breach of trust that is a recurring problem at this College. The fact that the Client was in a vulnerable state and the Member took advantage of her vulnerabilities was an aggravating factor. Meanwhile, because the Member did not participate in the proceedings, there was no evidence of mitigating circumstances.

### **Submission on Costs**

Although Mr. Vaz was not present nor represented by counsel at the penalty hearing, he did agree to a joint submission on cost, dated July 1, 2017, in the amount of \$7,500.00, paid into trust at his counsel's law firm, to be paid forthwith upon the ordering of the penalty pursuant to section 26(5)(4) of the *Act*. College counsel submitted that this cost order was negotiated and agreed to by the member which gave him a sense of surety as to what the cost order should be.

The College referred to the Discipline decision between OCSWSSW and Lynette Heywood,(2017), where the panel considered the issue of costs, and balanced the need to not deter members from defending themselves, with the need to send a clear message to members of the College and the public that sexual abuse of clients is a very serious concern that will be addressed accordingly. In that case the panel ordered that the member pay costs of \$36,000 for a 12-day hearing.

### **Order on Penalty and Costs**

The Panel orders as follows.

1. The Registrar is directed to revoke the Member's certificate of registration.
2. For a period of five years from the date of this Order, the Member may not apply to have a new certificate of registration issued.
3. The Member shall be reprimanded in person before the Panel and in writing which shall be recorded on the register for an unlimited period of time.
4. The finding and Order of the Panel shall be published, in detail, with the name of the Member (but without the name or information tending to the identity of the complainant) 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.

5. Costs to be paid by the Member to the College shall be fixed in the amount of \$7,500.00 to be submitted upon receipt of this Order.

### **Reasons for Order**

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. The Panel felt this would be achieved through a penalty that considers the principles of general deterrence, specific deterrence and, where appropriate, rehabilitation and remediation of the Member's practice. The Member's failure to participate and refusal to involve himself in the proceedings caused the Panel to question whether any remedial or rehabilitative measures could be relied upon to protect the public. The Panel agreed with the College that the only way to deter the member would be to revoke his certificate of registration for an extended period of time in accordance with the legislative approach of the *Health Professions Procedural Code* s. 72(3)(a), which parallels the *Social Work and Social Service Act, 1998*. The Panel also agreed that name publication would further protect the public. Should Mr. Vaz choose not to comply by attending to receive the reprimand in person this fact will be taken into account by the Registrar.

The penalty provides both specific deterrence and general deterrence to deter members of the profession from engaging in similar misconduct, and sends a strong message that such misconduct will not be dealt with lightly.

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

Date: October 12, 2017

Signed:

Judy Gardner  
Mukesh Kowlessar  
Richard Lamb