



On May 10, 2023 allegations of the Member's professional misconduct were referred to the Discipline Committee for hearing, on a date yet to be fixed. Please see the Notice of Hearing below:

**ONTARIO COLLEGE OF SOCIAL WORKERS
AND SOCIAL SERVICE WORKERS**

IN THE MATTER OF Sections 26 and 28 of the *Social Work and Social Service Work Act*, 1998, S.O. 1998, Chapter 31;

AND IN THE MATTER OF a hearing directed to be held by the Discipline Committee of the Ontario College of Social Workers and Social Service Workers under the *Social Work and Social Service Work Act*, 1998;

AND IN THE MATTER OF allegations respecting the professional conduct of Sinisa Najcler, a Social Worker and former registrant with the said College;

NOTICE OF HEARING

TAKE NOTICE that a hearing will take place on a date to be fixed by the Registrar at the hour of 9:30 o'clock in the forenoon (or as soon after that time as a panel can be convened for the purpose of conducting the hearing) electronically, in writing or in person at the Board Room of the Ontario College of Social Workers and Social Service Workers, 250 Bloor Street East, Suite 1000, Toronto, Ontario before the Discipline Committee of the Ontario College of Social Workers and Social Service Workers (to be confirmed). The hearing will be held pursuant to the provisions of sections 26 and 28 of the *Social Work and Social Service Work Act*, 1998 (the "Act") and pursuant to the Regulations made thereunder, for the purpose of hearing and determining allegations of professional misconduct against you, Sinisa Najcler, which allegations were referred to the Discipline Committee pursuant to section 24(5)(a) of the Act.

AND TAKE NOTICE that you are alleged to be guilty of professional misconduct within the meaning of section 26(2) of the Act in that you are alleged to have engaged in 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.

I. The following are particulars of the said allegations:

1. At all times relevant to the allegations, you were a registered social worker with the Ontario College of Social Workers and Social Service Workers (the "**College**"). At all relevant times, you provided social work services to clients through your private practice.
2. Between approximately September 2021 and May 2022, you provided social work services to C1. The services you provided to C1 included counselling services and/or psychotherapy.
3. C1 disclosed to you that she had difficulty with emotional regulation, had poor experiences with abandonment and rejection in her relationships with men, and was having marital difficulties.
4. During your sessions with C1, you discussed yourself, your life, and/or your issues in a manner that you knew or ought reasonably to have known would not benefit C1, amounted to ineffective and/or improper counselling, and/or that violated professional boundaries, including by:
 - a. Discussing yourself and/or your own personal matters for a disproportionate amount of time;

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.

- b. Engaging in inappropriate and/or unnecessary self-disclosure, including but not limited to the following:
 - i. Discussing your marital circumstances;
 - ii. Speculating on the “next woman” you would be with, or words to that effect;
 - iii. Discussing your Attention-Deficit/Hyperactivity Disorder;
 - iv. Showing and/or discussing gifts that had been given to you by other clients;
 - v. Discussing your financial investments;
 - vi. Discussing your exercise routines, hobbies, and interests;
 - vii. Sharing details about your children; and/or
 - c. Drinking alcohol during therapy sessions, from time to time.
5. By virtue of the conduct described in paragraph 4 above, you failed to appropriately focus on the issues for which C1 was seeking counselling.
6. During the period when C1 was your client, you engaged in inappropriate communication, violated professional boundaries and/or engaged in behaviour or remarks of a sexual nature towards C1 that were not of a clinical nature appropriate to the service provided. In particular, you:
- a. Engaged in extensive text and/or email exchanges with C1 that were of a familiar and personal nature, between sessions including at night;
 - b. Sent C1 messages and/or made comments in person that were personal, flirtatious, and/or unprofessional, including but not limited to by:

- i. Complimenting C1, including but not limited to commenting on her hair, her legs, and telling her she was a “beautiful young moment”, “pretty”, and “a pretty geek”, or words to that effect;
 - ii. Texting C1 you love her sense of humour, and like her accent and her taste in music;
 - iii. Texting C1, “I’m confident we have lots in common”;
 - iv. From time to time sending C1 text messages referencing “wank”, “wanking”, “wanker”, after C1 used that term;
 - v. Using crude and/or vulgar language;
 - vi. Discussing and/or sending text messages regarding alcohol consumption including but not limited to “remind me to tell you my tequila story and my dad”;
 - vii. Stating “this is the chemistry between us”, or words to that effect, in response to a static shock;
 - viii. Texting that when C1 called you “Mr. Nino”, it made you feel special and that she was sweet;
 - ix. Telling C1 she looked “so stunning” and “so good” that you were “going to have a heart attack”, or words to that effect;
 - x. Telling C1 she “looked lovely that day” and that if things did not work out in her marriage you were sure she would find somebody, or words to that effect;
- c. Showed C1 a picture of yourself on a vacation in which you were bare chested;
 - d. Told C1 a story about purchasing sex aids in an airport while intoxicated;

- e. Lifted up your shirt to show C1 your bare stomach;
 - f. Openly discussed sex, including but not limited to telling C1 that you had a “big libido”, or words to that effect;
 - g. Made express and/or implied comments to C1 about your sexual relationship with your spouse;
 - h. Gave C1 a hug at the end of a session;
 - i. Told jokes with overt sexual content and/or sexual innuendo by text message and/or in therapy sessions; and/or
 - j. Discussed sexual topics in therapy sessions perceived by C1 to be crude, out of place, and/or inappropriate.
7. In and around March 2022, you disclosed to C1 that you had a “little crush on” on her but could still be her therapist because it was “little”, or words to that effect. Notwithstanding your disclosure, you did not seek consultation or supervision and/or develop an appropriate plan.
8. In and around May 2022, C1 disclosed to you that she had developed romantic and/or sexual feelings for you. In response to C1’s disclosure, you communicated express, implied and/or mixed messaging that you reciprocated C1’s feelings and about your ability to have a professional, personal, and/or romantic relationship in the circumstances, including but not limited to by:
- a. Describing the concept of “countertransference” and saying you had plans to speak to someone about it;
 - b. Telling C1 words to the effect that:
 - i. You “have feelings for you too”;
 - ii. You wished you had met her in a café;
 - iii. “It’s not in your head”;

- iv. Your heart beat faster when you were in contact;
 - c. Telling C1 that you could never have a relationship with a psychotherapy patient but that “I could say I saw you as a social worker”, or words to that effect; and/or
 - d. Offering that, if C1 wanted to, she could contact you for a year and “check in”.
9. On or about May 18, 2022, C1 told you that she would not continue to see you as a therapist.
10. Your conduct regarding C1 had a detrimental impact on her emotional well-being and her relationship with her husband.

II. It is alleged that by reason of engaging in some or all of the conduct outlined above, you are guilty of professional misconduct as set out in section 26(2)(a) and (c) of the Act:

- a) In that you violated **Section 2.2 of the Professional Misconduct Regulation** and
- i. **Principle I of the Handbook (commented on in Interpretations 1.5 and 1.6)** by:
 - A. failing to be aware of your values, attitudes and needs and how those impact on your professional relationship with clients;
 - B. failing to distinguish your needs and interests from those of your clients to ensure that, within your professional relationships, clients’ needs and interests remained paramount;
 - ii. **Principle II of the Handbook (commented on in Interpretations 2.2, 2.2.1, 2.2.2, 2.2.3, and 2.2.8)** by:
 - A. failing to ensure clients are protected from the abuse of power, including sexual misconduct, during and after the provision of professional services and/or failing to establish and maintain clear and appropriate boundaries in a professional relationship;

- B. engaging in a professional relationship that constitutes a conflict of interest and/or a situation in which you ought reasonably to have known that the client would be at risk; failing to evaluate professional relationships and other situations involving clients or former clients for potential conflicts of interest; failing to avoid conflicts of interest and/or dual relationship with clients or former clients that could impair your professional judgment or increase risk of exploitation or harm to clients or former clients;
- C. engaging in sexual relations with a client through behaviour or remarks of a sexual nature other than behaviour or remarks of a clinical nature appropriate to the service provided, where these relations, combined with the professional relationship, would create a conflict of interest;
- D. using information obtained in the course of a professional relationship and/or your professional position of authority to coerce, improperly influence, harass, abuse, or exploit a client or former client;
- E. engaging in conduct that could reasonably be perceived as reflecting negatively on the profession of social work;

iii. **Principle III of the Handbook (commented on in Interpretations 3.2, 3.7, and 3.8) by:**

- A. failing to deliver client services in a reasonable manner;
- B. failing, in the context of a personal relationship with a client or former client, to assume full responsibility for demonstrating that the client or former client was not exploited, coerced or manipulated, intentionally or unintentionally;
- C. providing services in a manner that did not conform to College standards and/or providing a service that you

knew or ought reasonably to know is not likely to benefit the client;

iv. **Principle VIII of the Handbook (commented on in Interpretations 8.1, 8.2.3, 8.3, 8.4, and 8.6) by:**

- A. failing to be solely responsible for ensuring that sexual misconduct did not occur;
 - B. engaging in behaviour or remarks of a sexual nature towards a client, other than behaviour or remarks of a clinical nature appropriate to the service provided;
 - C. failing to seek consultation/supervision or to develop an appropriate plan after developing sexual feelings towards a client that could put the client at risk;
 - D. failing, in circumstances where a client initiates behaviour of a sexual nature, to state clearly that this behaviour is inappropriate by virtue of the professional relationship and/or to terminate the relationship or offer to assist the client to seek alternative services;
 - E. engaging in sexual relations, through behaviour or remarks of a sexual nature other than behaviour or remarks of a clinical nature appropriate to the service provided, with a client at the time of referral, assessment, counselling, psychotherapy, or other professional services;
- b) In that you violated **Section 2.5 of the Professional Misconduct Regulation** in that you abused a client physically, sexually, verbally, psychologically or emotionally, including by sexually abusing a client within the meaning of subsection 43(4)(c) of the *Act*;
- c) In that you violated **Section 2.6 of the Professional Misconduct Regulation** by using information obtained during a professional relationship with a client or using your professional position of authority to coerce, improperly influence, harass, or exploit a client; and/or

- d) In that you 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.

AND TAKE NOTICE that the Discipline Committee may make an order under Section 26(4), (5), (6), (7), (8) and (9) of the Act, or any of them, in respect of any or all of the above allegations.

AND FURTHER TAKE NOTICE that the parties (including the College and you) shall be given the opportunity to examine before the hearing any documents that will be given in evidence at the hearing.

AND FURTHER TAKE NOTICE that if the hearing is proposed to take place in writing, either of the parties (including the College and you) may, in accordance with the procedures set out in the *Statutory Powers Procedure Act*, RSO 1990, c S.22 (the “SPPA”) and the Discipline Committee’s Rules of Procedure, seek to require that the hearing be held electronically or orally by satisfying the Discipline Committee that there is good reason for not holding a written hearing.

AND FURTHER TAKE NOTICE that if the hearing is proposed to take place electronically, either of the parties (including the College and you) may, in accordance with the procedures set out in the SPPA and the Discipline Committee’s Rules of Procedure, seek to require that the hearing be held orally by satisfying the Discipline Committee that holding an electronic hearing is likely to cause the party significant prejudice.

AND FURTHER TAKE NOTICE that at the said hearing, you are entitled to be present and to be represented by counsel.

IF YOU DO NOT ATTEND AT THE HEARING IN ACCORDANCE WITH THIS NOTICE OF HEARING, THE DISCIPLINE COMMITTEE MAY PROCEED WITH THE HEARING, AND MAY DEAL WITH THE ABOVE ALLEGATIONS

AGAINST YOU, IN YOUR ABSENCE AND WITHOUT ANY FURTHER
NOTICE TO YOU.

Dated at Toronto, the 10th day of May, 2023.

By: _____
Registrar and CEO
Ontario College of Social Workers and Social Service Workers