Discipline Committee of the College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario

Citation: ONCRPO v. SOUSA, 2020 ONCRPO 5

Date of written reasons: May 6, 2021

Docket: R1718-12_R1920-11

IN THE MATTER OF the Regulated Health Professions Act, 1991, S.O. 1991, c. 18, as

amended, and the regulations thereunder, as amended;

IN THE MATTER OF the *Psychotherapy Act, 2007, S.O. 2007, c. 10, Sched. R,* as amended and the regulations thereunder, as amended;

AND IN THE MATTER OF a discipline proceeding against Rita Sousa, a Registrant of the College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario.

Between: COLLEGE OF REGISTERED PSYCHOTHERAPISTS AND

REGISTERED MENTAL HEALTH THERAPISTS OF ONTARIO

- and -

RITA SOUSA (REGISTRATION #002649)

Before: Panel Steven Boychyn (Chair)

Heidi Ahonen

Carol Cowan-Levine

David Keast Kenneth Lomp

Date of hearing: December 1, 2020

Appearances:

Counsel for College of Registered

Rebecca Durcan, Psychotherapists and Registered Mental Health

Therapists of Ontario

Rita Sousa, Registrant Amanda Ross, Counsel for Rita Sousa

Jennifer Hunter, Independent Legal Counsel

DECISION AND REASONS

PRELIMINARY ISSUE

This hearing involved two separate Notices of Hearing in respect of two separate proceedings by the College against Rita Sousa (the 'Registrant'). The first proceeding was in respect of matter #R1920-11. The second proceeding was in respect of matter #R1718-12. On consent of the parties, Counsel for the College asked the Panel to hear the two matters one immediately after the other, pursuant to section 9.1 of the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22. The Panel agreed to this request.

These matters came before a panel of the Discipline Committee (the "Panel") of the College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario (the "College") on December 1, 2020. The hearing proceeded via videoconference on consent of the parties.

THE ALLEGATIONS (R1920-11)

College Counsel took the Panel through the Notice of Hearing, which was filed as Exhibit 1 of the first proceeding concerning R1920-11. The allegations of professional misconduct against the Registrant were listed on the Notice of Hearing, dated September 30, 2020, they read as follows:

The Registrant

- 1. Rita Sousa (the "Registrant") has been a registrant of the College of Registered Psychotherapists of Ontario (the "College") since April 20, 2015.
- 2. The Registrant and registrant X worked together and/or owned a clinic together in or around Windsor, Ontario.

Providing False and/or Misleading Information to the College

- 3. In 2019 the College received a complaint from Client A alleging that registrant X sexually abused him.
- 4. The College commenced an investigation into registrant X as a result of the complaint.
- 5. The Registrant was interviewed by the College investigator as part of the above noted investigation. It is alleged that the Registrant provided false and/or misleading information to and/or obstructed the investigation and /or withheld or concealed

information from; and/or failed to co-operate with the College investigator including but not limited to the following:

- a. Advising the investigator that she did not know Client A;
- b. Advising the investigator that she never met Client A;
- c. Advising the investigator that she never spoke to Client A;
- d. Advising the investigator that she was not aware that Client A and registrant X were in a relationship and/or a sexual relationship; and/or
- e. Advising the investigator that she did not believe that Client A and registrant X were in a relationship and/or a sexual relationship.
- 6. Client A subsequently provided text messages exchanged between the Registrant and Client A.
- 7. The Registrant was advised that Client A disclosed the text messages described in paragraph 6 to the College. The Registrant signed a letter stating the following:
 - a. She maintains the information as set out in paragraph 5;
 - b. The text messages are false;
 - c. She did not recognize the phone number associated with the text messages;
 - d. She did not send Client A the text messages; and/or
 - e. She never "held company" with Client A.
- 8. It is alleged that the Registrant provided false and/or misleading information to and/or obstructed the investigation and /or withheld or concealed information from and/or failed to co-operate with the College investigator and/or the College including but not limited to the following:
 - a. Advising that she did not send text messages to Client A;
 - b. Advising that she did not receive text messages from Client A;
 - c. Denying the legitimacy of the text messages;
 - d. Denying that she had "held company" with Client A; and/or
 - e. Advising that she had no knowledge of the phone number associated with the text messages to and/or from Client A.

Allegations of Professional Misconduct

9. It is alleged that the above conduct constitutes professional misconduct pursuant to section 51(1)(c) of the Health Professions Procedural Code, being Schedule 2 to the

Regulated Health Professions Act, 1991 (the "Code") as set out in one or more of the following paragraphs of section 1 of Ontario Regulation 317/12 made under the Psychotherapy Act, 2007:

- a. **Paragraph 1** Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession;
- b. **Paragraph 26** Signing or issuing, in his or her professional capacity, a document that the member knows or ought to know contains a false or misleading statement;
- c. **Paragraph 42** Contravening, by act or omission, a provision of the Act, the Regulated Health Professions Act, 1991 or the regulations under either of those Acts including but not limited to the following:
 - Sub-sections 76(3) and /or 76(3.1) of the Health Professions Procedural Code which is Schedule II to the Regulated Health Professions Act, 1991;
- d. **Paragraph 52** Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional; and/or
- e. **Paragraph 53** Engaging in conduct that would reasonably be regarded by members as conduct unbecoming a member of the profession.

ACKNOWLEGEMENT, UNDERTAKING AND RESIGNATION

The College advised that it was seeking a withdrawal of the Notice of Hearing on the basis that the Registrant had entered into an Acknowledgment and Undertaking to resign and to never reapply for registration with the College. The Registrant's signed Acknowledgement and Undertaking (the "Undertaking"), dated March 30, 2020, was filed as Exhibit 2 (without attachments), it read as follows:

THE REGISTRANT

 I have been a registrant of the College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario (the "College") since April 20, 2015.

ALLEGATIONS

2. On February 13, 2019, the College received a complaint against registrant X from Client A alleging sexual abuse by registrant X. During the course of the investigation, Client A stated that I had knowledge of the relationship between Client A and registrant X.

- 3. The Inquiries, Complaints and Reports Committee (ICRC) appointed an investigator on July 26, 2019, to investigate the complaint. The investigator completed her report on June 10, 2020.
- 4. I was interviewed by the College investigator as part of the above noted investigation. It was alleged that I provided false and/or misleading information to and/or obstructed the investigation and/or withheld or concealed information from; and/or failed to cooperate with the College investigator including but not limited to the following:
 - a. Advising the investigator that I did not know Client A;
 - b. Advising the investigator that I never met Client A;
 - c. Advising the investigator that I never spoke to Client A;
 - d. Advising the investigator that I was not aware that Client A and registrant X were in a relationship and/or a sexual relationship; and/or
 - e. Advising the investigator that I did not believe that Client A and registrant X were in a relationship and/or a sexual relationship.
- 5. Client A subsequently provided text messages to the ICRC allegedly exchanged between and Client A and me.
- 6. I deny that I sent the text messages to Client A.
- 7. Despite my position, the ICRC referred specified allegations of professional misconduct to the Discipline Committee. Attached at Tab A is a copy of the Notice of Hearing.

Undertaking to Resign and Never Re-Apply

- 8. I agree to the following:
 - a. I undertake to resign my certificate of registration with the College and never to reapply for membership, registration, licensure or similar status with the College;
 - b. I understand that once my resignation is processed and accepted by the College (which will be confirmed by the College), I will no longer be a member or registrant of the College and will therefore be unable to use the title "registered psychotherapist" or to hold out as a member or registrant of the College; and
 - c. To have this Undertaking and its terms posted on the College Register.
- 9. In consideration of my Undertaking to resign and never re-apply, the College will withdraw the allegations as set out in the Notice of Hearing against me.

- 10. I acknowledge that if I ever apply for membership, registration, licensure or similar status with the College in the future, the College will be entitled to rely upon this Acknowledgement and Undertaking in any registration or other similar proceeding as reason to deny my application.
- 11. I acknowledge that if I ever breach any part of this Acknowledgement and Undertaking the College will be entitled to prosecute me for a breach of this Acknowledgement and Undertaking, and that such prosecution may proceed (in accordance with section 14 of the Health Professions Procedural Code, being Schedule 2 to the Regulated Health Professions Act, 1991), even though I will have resigned my certificate of registration with the College.
- 12. I provide my consent that the allegations, as set out in the Notice of Hearing, may be withdrawn by the Discipline Committee; without the need for personal attendance in accordance withs. 4.1 of the Statutory Powers Procedure Act.
- 13. I further understand, acknowledge and agree that:
 - a. I fully understand the terms of this Acknowledgement and Undertaking;
 - b. I am signing this Acknowledgement and Undertaking voluntarily and without compulsion or duress; and
 - c. I have been advised by the College to obtain independent legal advice prior to signing this Acknowledgement and Undertaking and I have either done so or I have had an adequate opportunity to do so.

The College reviewed the terms of the Acknowledgment and Undertaking, noting that in addition to resigning her membership with the College and undertaking to never reapply, the Registrant agreed to post the Acknowledgment and Undertaking on the Public Register, including a copy of the Notice of Hearing dated September 30, 2020.

DECISION (R1920-11)

At the request of the parties, the panel granted leave for the allegations contained in the Notice of Hearing dated September 30, 2020, to be withdrawn. Although the Panel is not ordering the terms as described in the Undertaking and Acknowledgement, it is comforted that these provisions will be in force so that the public is protected. The transparency of the Undertaking and Acknowledgment reassure the Panel that the public is aware as to why it is prepared to

withdraw the Notice of Hearing and so the public's confidence in the College's proceedings is maintained.

THE ALLEGATIONS (R1718-12)

College Counsel took the Panel through the Notice of Hearing, which was filed as Exhibit 1 of the second proceeding. The allegations of professional misconduct against the Registrant were listed on the Notice of Hearing, dated April 1, 2020, they read as follows:

The Registrant

1. Rita Sousa (the "Registrant") has been registered with the College of Registered Psychotherapists of Ontario (the "College") since April 20, 2015.

The Client – Up until 2017

- 2. On or about November 2, 2016, the Registrant commenced a therapeutic relationship with the Client.
- 3. It is alleged that as of November 2, 2016, the Registrant had a previous and/or existing relationship and/or past interactions with the Client. This included but was not limited to the following:
 - a. Both allegedly being targeted by Person A several years before;
 - b. The Registrant obtained 610 hours of direct client contact while working with the Client (as Supervisor);
 - c. The Registrant obtained 375 hours of direct client contact while working with the Client (as Supervisor);
 - d. The Client provided the Registrant with office space free of charge;
 - e. The Registrant obtained 100 hours of individual or dyadic clinical supervision with the Client;
 - f. The Registrant obtained 100 hours of SEUS training from the Client;
 - g. The Registrant completed research for the Client as part of the Client's educational program;
 - h. The Registrant completed research for the Client on a volunteer basis; and/or
 - i. The Client provided the Registrant's Letter of Verification in the Registrant's application to the College.
- 4. On or about December 5, 2017, the Registrant wrote a report setting out her observations from the therapeutic sessions with the Client (the "December Report"). The December Report was addressed to the Client's lawyer. The Registrant was aware that the College would be reviewing and/or relying upon the December Report.

- 5. It is alleged that the December Report was misleading as the Registrant failed to include relevant past interactions and/or the previous and/or existing relationship with the Client.
- 6. It is alleged that the content of the December Report was influenced by the Registrant's past interactions and/or the previous and/or existing relationship with the Client.
- 7. It is alleged that the above conduct constitutes professional misconduct pursuant to section 51(1)(c) of the Health Professions Procedural Code, being Schedule 2 to the Regulated Health Professions Act, 1991 (the "Code") as set out in one or more of the following paragraphs of section 1 of Ontario Regulation 317/12 made under the Psychotherapy Act, 2007:
 - a. **Paragraph 1** Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession, namely,
 - i. 1.1 Accepting the Regulatory Authority of the College;
 - ii. 1.5 General Conduct;
 - iii. 1.6 Conflict of Interest;
 - iv. 1.7 Dual and Multiple Relationships; and/or
 - v. 5.3 Issuing Accurate Documents;
 - b. **Paragraph 16** Acting in a professional capacity while in a conflict of interest or being in a conflict of interest when acting in a professional capacity; and/or
 - c. **Paragraph 52-** Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

The Client – 2018

- 8. It is alleged that in or around April 2018 the Registrant and the Client entered into a formal business relationship.
- 9. It is alleged that the above conduct constitutes professional misconduct pursuant to section 51(1)(c) of the Health Professions Procedural Code, being Schedule 2 to the Regulated Health Professions Act, 1991 (the "Code") as set out in one or more of the following paragraphs of section 1 of Ontario Regulation 317/12 made under the Psychotherapy Act, 2007:
 - a. **Paragraph 1** Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession, namely,
 - i. 1.5 General Conduct;
 - ii. 1.6 Conflict of Interest; and/or
 - iii. 1.7 Dual and Multiple Relationships; and/or

b. **Paragraph 52**- Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

AGREED STATEMENT OF FACTS (R1718-12)

The Agreed Statement of Facts was filed as Exhibit 2 of the second proceeding, and provides (without attachments) as follows:

The Registrant

1. Rita Sousa (the "Registrant") has been registered with the College of Registered Psychotherapists of Ontario (the "College") since April 20, 2015. Attached at Tab "A" is a copy of the Registrant's section of the College Register.

The Client – Up until 2017

- 2. On or about November 2, 2016, the Registrant commenced a therapeutic relationship with the Client.
- 3. The Client was the subject of a discipline hearing. The Client and the College were in negotiation as to the appropriate order. The College wanted the Client to undergo psychotherapy with a person who "will not be a person to whom the Member has any family or personal relationship and not be a person to whom the Member has any past or current business or financial relationship...."
- 4. The Client did not believe that this term was necessary as she had already been receiving therapy from the Registrant. In support of her position, the Client asked the Registrant to draft a report.
- 5. On December 5, 2017, the Registrant wrote a report setting out her observations from the therapeutic sessions with the Client (the "December Report"). The December Report was addressed to the Client's lawyer. The Registrant was aware that the College would be reviewing and relying upon the December Report. Attached at Tab "B" is a copy of the December Report.
- 6. The Registrant admits that she knew the Client prior to commencing the therapeutic relationship described above. Instances of prior knowledge include the following:
 - a. The Registrant obtained 610 hours of direct client contact while working with the Client as her Supervisee;
 - b. The Registrant obtained 375 hours of direct client contact while working with the Client as her Supervisee;

- c. The Client provided the Registrant with office space free of charge;
- d. The Registrant obtained 100 hours of individual or dyadic clinical supervision with the Client;
- e. The Registrant obtained 100 hours of SEUS training from the Client;
- f. The Registrant completed research for the Client as part of the Client's educational program;
- g. The Registrant completed research for the Client on a volunteer basis; and/or
- h. The Client provided the Registrant's Letter of Verification in the Registrant's application to the College. Attached at Tab "C" is a copy of the Registrant's Application to the College.

Standards of the College

- 7. It is agreed that the College has several Practice Standards including the following:
 - a. Accepting Regulatory Authority of the College Standard (a copy of the Standard is attached at Tab "D");
 - b. General Conduct Standard (a copy of the Standard is attached at Tab "E");
 - c. Conflict of Interest Practice Standard (a copy of the Standard is attached at Tab "F");
 - d. Dual or Multiple Relationships Practice Standard (a copy of the Standard is attached at Tab "G"); and
 - e. Issuing Accurate Documents Standard (a copy of the Standard is attached at Tab "H").
- 8. It is agreed that the Registrant must comply with the Practice Standards and that failing to do so could amount to professional misconduct.

The Client - 2018

- 9. It is agreed that in or around April 2018 the Registrant and the Client entered into a formal business relationship. They created a corporation and were the two shareholders.
- 10. It is agreed that the Registrant and the Client discussed the creation of the corporation in advance of April 2018.
- 11. It is agreed that the Registrant had provided psychotherapy to the Client up until December 2017.
- 12. It is agreed that there is no evidence that the Client suffered any financial or emotional harm as a result of entering into the formal business relationship with the Registrant.

Registrant Status

13. As of October 26, 2020, the Registrant has resigned from the College and agreed never to reapply by way of a signed Undertaking in relation to another discipline matter. A copy of the Undertaking is attached at Tab "I".

Admission of Professional Misconduct

- 14. It is agreed that the above conduct constitutes professional misconduct pursuant to section 51(1)(c) of the Health Professions Procedural Code, being Schedule 2 to the Regulated Health Professions Act, 1991 (the "Code") as set out in the following paragraphs of section 1 of Ontario Regulation 317/12 made under the Psychotherapy Act, 2007:
 - a. Paragraph 1 Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession, namely,
 - i. 1.5 General Conduct;
 - ii. 1.6 Conflict of Interest; and
 - iii. 1.7 Dual and Multiple Relationships; and
 - b. Paragraph 52- Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

Admission of Facts

- 15. By this document, the Registrant admits to the truth of the facts referred to in paragraphs 1 to 14 above (the "Agreed Facts").
- 16. By this document, the Registrant states that:
 - a. She understands that by signing this document she is consenting to the evidence as set out in the Agreed Facts being presented to the Discipline Committee;
 - She understands that any decision of the Discipline Committee and a summary
 of its reasons, including reference to her name, will be published in the College's
 annual report and any other publication or website of the College;
 - c. She understands that any agreement between her and the College with respect to any penalty proposed does not bind the Discipline Committee; and
 - d. She understands and acknowledges that she is executing this document voluntarily, unequivocally, free of duress, free of bribe, and that she has been advised of her right to seek legal advice.

SUBMISSIONS OF THE PARTIES ON FINDING

Counsel for the College and Counsel for the Registrant submitted that the facts and admissions contained in the Agreed Statement of Facts made out all of the acts of professional misconduct admitted to by the Registrant. Specifically at paragraphs 7(a) (ii) (iii) 7(c), 9(a) (i) (ii) and 9(b) referenced in the Notice of Hearing dated April 1, 2020.

REGISTRANT'S PLEA

The Registrant admitted that she engaged in professional misconduct as described in Notice of Hearing dated April 1, 2020, at paragraphs 7(a) (ii) (iii) 7(c), 9(a) (i) (ii) and 9(b).

The Panel conducted an oral plea inquiry and was satisfied that the Registrant's admissions were voluntary, informed, and unequivocal.

DECISION (R1718-12)

On considering the Notice of Hearing, the Agreed Statement of Facts, and on the submissions of College Counsel and Counsel for the Registrant concerning R1718-12. The Panel finds that the Registrant has committed acts of professional misconduct pursuant to section 51(1)(c) of the Health Professions Procedural Code, being Schedule 2 to the Regulated Health Professions Act, 1991 (the "Code") as set out in the following paragraphs of section 1 of Ontario Regulation 317/12 made under the Psychotherapy Act, 2007:

- a. Paragraph 1 Contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard of practice of the profession, namely,
 - i. 1.5 General Conduct;
 - ii. 1.6 Conflict of Interest; and
- b. **Paragraph 52** Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

The panel also made an order to grant leave for the following allegations contained in the Notice of Hearing to be withdrawn. Specifically, 7 (a) (i), (iv), (v), 7 (b) and 9 (a) (iii).

REASONS FOR DECISION

Following deliberations, the Panel was satisfied that the conduct described in the Agreed Statements of Facts did constitute professional misconduct as alleged in the Notices of Hearing for matter R1718-12, and as admitted by the Member. The Panel found that members of the profession would reasonably regard the conduct admitted as disgraceful, dishonourable and unprofessional.

THE JOINT SUBMISSION ON PENALTY (R1718-12)

Counsel for the College and Counsel for the Registrant made a Joint Submission on Penalty and Costs which was filed as Exhibit 3. It was jointly submitted that the following would be an appropriate order as to penalty and costs in the matter:

- 1. The Registrant is required to be reprimanded by the Discipline Committee in writing following the hearing.
- 2. The Registrant is required to pay to the College costs in the amount of \$4,460.00 payable on a schedule to be determined by the Registrar.

DECISION ON ORDER

The Panel accepted the Joint Submission on Penalty and Costs as submitted by the parties and makes an Order in accordance with the terms set out above.

REASONS FOR DECISION ON ORDER

In reaching a decision on penalty, the panel weighed the penalty principles, considered the specific facts and circumstances in the case and the prior decisions that were submitted by the parties. The Panel concluded that the parties' joint submission is both reasonable and in the public interest.

Although the Panel is not ordering the terms as described in the Undertaking and Acknowledgement singed in connection with matter #1920-11, it nonetheless took into account the fact that the Registrant has resigned from practice and has undertaken to never reapply for her certificate of registration. In this way, the Panel is comforted that the public is protected. The transparency of the Undertaking and Acknowledgment and the Registrant's resignation reassure the Panel that the public is aware as to why it is prepared to issue the Order of a written reprimand and the payment of costs of \$4,460.00 in connection with matter #1718-12. In light of the Registrant's resignation, the proposed penalty falls within the range of penalties from prior cases. Further, the Panel is satisfied that no further order is required to protect the public because the Undertaking and Acknowledgement guarantees public protection as the Registrant undertook to resign her certificate of registration and to never reapply. The reprimand serves as a general deterrent to the profession as it underscores the importance of maintaining integrity and professionalism and practising in accordance with the standards. The reprimand also

serves to maintain public confidence in the College's ability to regulate the profession in the public interest.

REPRIMAND

At the conclusion of the hearing, having confirmed that the Registrant waived any right to appeal, the panel delivered its written reprimand. A copy of the reprimand is attached at Schedule "A" of these reasons.

I, Steven Boychyn, sign this Decision and Reasons for the decision as Chairperson of this Discipline panel and on behalf of the Registrants of the Discipline panel as listed below:

Steven Boychyn,

Discipline Chair

May 6, 2021

Heidi Ahonen, RP, Professional Member Carol Cowan-Levine, RP, Professional Member David Keast, Public Member Kenneth Lomp, RP, Professional Member

Schedule "A"

Ms. Sousa, the Committee members have serious concerns about your actions that have brought your case before us. Your conduct with your client and interaction with the College is totally unacceptable to registered psychotherapists and to the public. Of particular concern to us is the fact that your misconduct involved a contravention the standards of practice of 1.5 General Conduct, and 1.6 Conflict of Interest and actions that constitute disgraceful, dishonourable, and unprofessional conduct.

First, Ms. Sousa the unethical actions you took created the potential for harm to your client and puts the public confidence in this profession in jeopardy.

Second, the dishonesty of your omission in providing a full account of your relationship has caused significant damage to the reputation of the profession as a whole and cast a shadow over your own integrity.

Finally, by failing to adhere to the professional standards you have brought discredit to the Registered Psychotherapists profession and to yourself.

In conclusion, the practice of psychotherapy is a privilege that carries with it significant obligations to the public, the profession and to oneself. Through your conduct, you have failed in your obligations and cast a shadow over your own integrity.

Discipline Panel:

Steven Boychyn, Chair, Public Member Heidi Ahonen, RP, Professional Member Carol Cowan-Levine, RP, Professional Member David Keast, Public Member Kenneth Lomp, RP, Professional Member