

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

**Citation: ONCRPO v. RUSSELL, 2022 ONCRPO 2**

**Date of written reasons: November 26, 2022**

**Docket: C2021-32**

**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 Don Russell, 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 -**

**DON RUSSELL (REGISTRATION #006757)**

**Before: Panel** **Michael Machan (Chair)**  
**Judy Mord**  
**Jeffrey Vincent**  
**Shelley Briscoe-Dimock**

**Date of hearing:** **October 13, 2022**

**Appearances:**

**Justine Wong,** **Counsel for College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario**

**Stephen Ronan,** **Independent Legal Counsel**

**Don Russell, Registrant/Member** **Self-Represented**

## **DECISION AND REASONS**

This matter 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 October 13, 2022. The hearing proceeded via videoconference on consent of the parties.

The hearing was uncontested. It proceeded by way of an Agreed Statement of Facts ("ASF") and a Joint Submission on Penalty and Costs, which were jointly proposed on behalf of the College and the Registrant, Don Russell (the "Registrant").

The Panel made findings of professional misconduct and, at the conclusion of the hearing, delivered its finding and penalty order orally, with written reasons to follow. These are those reasons.

### **THE ALLEGATIONS**

The allegations of professional misconduct against the Registrant were listed on the Notice of Hearing, dated May 16, 2022, which was filed as Exhibit 1, and read as follows:

#### *The Registrant*

1. Don Russell (the "Registrant") has been a registrant of the College of Registered Psychotherapists of Ontario and Registered Mental Health Therapists of Ontario (the "College") since on or about December 7, 2017.

#### *Client A*

2. It is alleged that the Registrant provided therapy to Client A from approximately [REDACTED].
3. It is alleged that the Registrant began a personal relationship with Client A in or around [REDACTED] which lasted for approximately [REDACTED] and ended in about [REDACTED].
4. It is alleged that the Registrant made effort to initiate a romantic relationship with Client A from approximately [REDACTED] to about [REDACTED].
5. It is alleged that the Registrant began a [REDACTED] relationship with Client A in or around [REDACTED] which ended on or around [REDACTED].

6. It is also alleged that the Registrant left the [REDACTED] relationship with Client A when he refused, at [REDACTED] request, to report himself to the College for pursuing a romantic relationship with [REDACTED].
7. It is alleged that the Registrant's conduct caused emotional, psychological, and spiritual confusion for Client A.

*Allegations of Professional Misconduct*

8. It is alleged that the above conduct constitutes professional misconduct pursuant to subsection 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, including but not limited to:
    - i. 1.5 – General Conduct;
    - ii. 1.6 – Conflict of Interest; and/or
    - iii. 1.7 – Dual or Multiple Relationships.
  - 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; and/or
  - c. **Paragraph 53** – Engaging in conduct that would reasonably be regarded by members as conduct unbecoming a member of the profession.

**AGREED STATEMENT OF FACTS**

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

**The Registrant**

1. Don Russell (the "Registrant") registered with the College of Registered Psychotherapists of Ontario and Registered Mental Health Therapists of Ontario (the "College") on or about December 7, 2017. Attached at Tab "A" is a copy of the Registrant's registration history as set out in the College's public register.
2. The Registrant currently works as a psychotherapist in independent practice in Winnipeg, Manitoba. Before his registration with the College, he worked in a group practice. In addition to practising psychotherapy, the Registrant has taught Counselling Psychology at

a university college.

3. The registrant does not have any prior complaint or disciplinary history at the College.

#### Client A

4. Before the Registrant registered with the College, from approximately [REDACTED] to [REDACTED] the Registrant provided psychotherapy to Client A. During part of this time, Client A was studying to become a counsellor. [REDACTED].
5. Client A saw the Registrant approximately [REDACTED] about a phobia. They also discussed anxiety, navigating spirituality, and family and attachment themes.
6. In [REDACTED] Client A [REDACTED].
7. Eventually, the Registrant began a personal relationship with Client A in or around [REDACTED] which lasted for approximately [REDACTED] and ended in about [REDACTED].
8. The Registrant made efforts to initiate a romantic relationship with Client A from approximately [REDACTED] to about [REDACTED]. The Registrant told Client A that:
  - a. their relationship was “friendship love”; and
  - b. He had personal feelings towards Client A.
9. The Registrant admits that he:
  - a. Spent alone time with Client A over meals, on hikes, and outdoor activities;
  - b. Sent frequent personal texts and emails to Client A;
  - c. Held hands with Client A; and
  - d. Hugged Client A.
10. In or around [REDACTED], the Registrant began a [REDACTED] relationship with Client A. [REDACTED]  
[REDACTED] The [REDACTED] relationship ended on or around [REDACTED].
11. In early January 2019, the Registrant bought a dog when Client A’s family dog died. The Registrant allowed Client A to help him buy the dog and dog items. If the Registrant were to testify, he would say that he did so at Client A’s request. He also permitted Client A and [REDACTED] family to care for and spend time with the dog.
12. On or around [REDACTED], Client A confronted the Registrant to discuss [REDACTED] struggles and confusion over their personal and [REDACTED] relationships in the context of their former therapeutic relationship. The Registrant acknowledged to Client A that:

- a. Although it never became intimate or sexual, his personal relationship with Client A was akin to an emotional affair; and
  - b. His therapeutic relationship with Client A was not brief.
13. The Registrant agrees that his conduct caused emotional, psychological, and spiritual confusion for Client A.
14. The Registrant acknowledges that the conduct described in paragraphs 4 to 13 was inappropriate.
15. If the Registrant were to testify, he would say that:
  - a. He discussed the implications of the [REDACTED] relationship at the outset with Client A, and that there was an understanding and agreement between them that a dual relationship would not be problematic for Client A;
  - b. Client A regularly reassured him that [REDACTED] did not identify as a former client, but rather a [REDACTED].
  - c. He now recognizes that:
    - i. Although there may be circumstances where personal and professional relationships can exist between registrants and former clients, it was not appropriate to engage in such relationships with Client A;
    - ii. There was an inherent power imbalance that was informing his relationships with Client A and he should not have entered into a personal or [REDACTED] relationship with Client A; and
    - iii. Despite the reassurances of Client A, the responsibility rested with him to understand and identify the risk of blurring professional boundaries.
  - d. He has implemented the following changes to his practice in response to this investigation and the matter being referred to the Discipline Committee:
    - i. He no longer provides in-person therapy but rather virtual therapy sessions; and
    - ii. He no longer practises alongside colleagues as he has moved away from the group practice model.
16. The Registrant acknowledges that the conduct described in paragraphs 4 to 13 constitutes a failure to practise the profession with integrity and professionalism. Attached at Tab "B" is a copy of the College's Professional Practice Standard 1.5 on General Conduct.
17. The Registrant acknowledges that the conduct described in paragraphs 4 to 13 constitutes a failure to practise the profession without conflicts of interest. Attached at Tab "C" is a copy of the College's Professional Practice Standard 1.6 on Conflict of Interest, which advises against entering into an agreement or arrangement, which interferes with placing the needs of clients first.

18. The Registrant acknowledges that the conduct described in paragraphs 4 to 13 constitutes a dual or multiple relationship. Attached at Tab "D" is a copy of the College's Professional Practice Standard 1.7 on Dual or Multiple Relationships which advises against personal, romantic or sexual relationships with current and former clients.

#### **Admission of Professional Misconduct**

19. It is agreed that the above conduct constitutes professional misconduct pursuant to section 51(1)(c) of 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, including but not limited to:
    - i. 1.5 – General Conduct;
    - ii. 1.6 – Conflict of Interest; and
    - iii. 1.7 – Dual or Multiple Relationships.
  - 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; and
  - c. **Paragraph 53** – Engaging in conduct that would reasonably be regarded by members as conduct unbecoming a member of the profession.

#### **Admission of Facts**

20. By this document, the Registrant admits to the truth of the facts referred to in paragraphs 1 to 18 above (the "Agreed Facts").
21. By this document, the Registrant states that:
- a. he understands that by signing this document he is consenting to the evidence as set out in the Agreed Facts being presented to the Discipline Committee;
  - b. he understands that any decision of the Discipline Committee and a summary of its reasons, including reference to his name, will be published in the College's annual report and any other publication or website of the College;
  - c. he understands that any agreement between himself and the College with respect to any penalty proposed does not bind the Discipline Committee; and

- d. he understands and acknowledges that he is executing this document voluntarily, unequivocally, free of duress, free of bribe, and that he has been advised of his right to seek legal advice.

### **REGISTRANT'S PLEA**

The Registrant admitted the acts of professional misconduct as set out in the Agreed Statement of Fact.

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

### **SUBMISSIONS OF THE PARTIES ON FINDING**

Counsel for the College submitted that the facts and admissions contained in the Agreed Statement of Facts constitute professional misconduct admitted to by the Registrant.

The Registrant agreed with College Counsel's submissions, namely that the facts admitted in the Agreed Statement of Facts support a finding of professional misconduct as set out therein.

### **DECISION**

On reading the Notice of Hearing, considering the Agreed Statement of Facts, and on hearing the submissions of counsel for the College and the submissions of the Registrant, the Panel finds that the Registrant has committed acts of professional misconduct pursuant to:

1. Section 51(1)(c) of the Health Professions Procedural Code, being Schedule 2 to the Regulated Health Professions Act, 1991 (the "Code").
  - 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, including but not limited to:
    - i. 1.5 – General Conduct;
    - ii. 1.6 – Conflict of Interest; and
    - iii. 1.7 – Dual or Multiple Relationships.
  - 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; and

- c. **Paragraph 53** – Engaging in conduct that would reasonably be regarded by members as conduct unbecoming a member of the profession.

### **REASONS FOR DECISION**

Having considered the Registrant's admission of professional misconduct and the facts contained in the Agreed Statement of Facts, the Panel concluded that the College had provided clear, cogent and convincing evidence in support of the allegations and succeeded in proving on a balance of probabilities that the Registrant had committed the acts of professional misconduct. The Panel was satisfied the Registrant's admission was voluntary, informed, and unequivocal.

### **THE JOINT SUBMISSION ON PENALTY AND COSTS**

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

1. The Registrant is required to appear before a Panel of the Discipline Committee to be reprimanded immediately following the hearing.
2. The Registrar is directed to suspend the Registrant's Certificate of Registration for a period of three months, to commence immediately following the order.
3. The Registrar is directed to immediately impose on the Registrant's certificate of registration the following terms, conditions and limitations, all of which shall be fulfilled at the expense of the Registrant:
  - a. The Registrant shall successfully complete the College's Jurisprudence e-Learning Module within six months of the date of this order;
  - b. The Registrant shall successfully complete a course with a professional ethics consultant chosen by the Registrar, regarding the issues raised by the facts and findings of professional misconduct in this case, within six months of the date of this order or by the next available date the course is offered thereafter the six months, whichever is earlier; and
  - c. The Registrant shall agree to clinical supervision, by a supervisor, pre-approved by the Registrar, to address boundaries with clients for three continuous months immediately following the Registrant's suspension as described above.



- i. Before the supervision commences, the Registrant shall provide the supervisor a copy of the Agreed Statement of Facts, the Joint Submission on Penalty and Costs, and the reasons of the Panel;
  - ii. The Registrant shall co-operate with the supervisor and abide by all the terms of the clinical supervision agreement put into place by the supervisor and the College; and
  - iii. Within thirty days of the completion of the supervision, the Registrant shall ensure that the supervisor submits a written report to the Registrar which confirms that the Registrant co-operated and complied with the supervision, incorporated advice from the supervisor, and which sets out the position of the supervisor as to the Registrant's client boundaries skills.
4. The Registrant is required to pay to the College costs in the amount of \$6,055.00 payable over five months in monthly installments of \$1,211.00, starting one month after the date of this order and continuing every month until paid in full.

#### **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**

The Joint Submission on Penalty and Costs as submitted was accepted by the Panel. The Panel made this acceptance based upon the application of the *Rv. Anthony-Cook* test that states that a Panel should not interfere with a Joint Submission on Penalty and Costs unless accepting it would bring the administration of justice into disrepute or would otherwise be contrary to the public interest. The Panel found that there was no basis to interfere with the Joint Submission on Penalty and Costs as proposed by the parties.

As noted in the Reasons for Decision, the Panel found the conduct of the Registrant to constitute professional misconduct. Furthermore, the Panel found the conduct of the Registrant to be all three descriptors: disgraceful, dishonourable and unprofessional, which signifies the Panel's agreement that the conduct was significantly serious. This conclusion was made based upon: the Panel's review of the Agreed Statement of Facts and finding them sufficiently clear; and having considered the consequences of such highlighted in case law provided in the Brief of

Authorities; and having considered the conduct described and documented; and having heard the Registrant's voluntary admission of the acts as listed in the Agreed Statement of Facts.

**REPRIMAND**

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

I, Michael Machan, 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:

Michael Machan, RP

Chair, Discipline Panel

November 26, 2022

Judy Mord, Professional Member

Shelley Briscoe-Dimock, Professional Member

Jeffrey Vincent, Public Member

**Schedule "A"****Oral Reprimand**

Mr. Russell,

You are before this Discipline Panel today for your professional misconduct as a Registered Psychotherapist. You assumed many roles to a client you initially saw in therapy for a period of [REDACTED]. In those roles, you developed multiple relationships including professional, personal, [REDACTED] and attempted romantic relationships. The College's Professional Practice Standards are clear that dual and multiple relationships should be avoided. You put yourself in a conflict of interest when entering into those various roles.

The panel has significant concerns about your judgment. In your case, the panel believes you ought to have known, or did know, that your conduct should have been avoided yet you pursued the various types of relationships over the course of eleven years. The result of your misconduct is that you have let down the public, the profession and yourself. You have cast a shadow over your own integrity and put the profession into disrepute. This panel finds your conduct based on your significant lack of judgment disgraceful, dishonorable and unprofessional.

The panel agrees with the joint order between the College and yourself and strongly recommends that the penalties imposed today are taken seriously and will have a remedial and positive influence on your future practice.

Discipline Panel:

Michael Machan, Chair, Professional Member

Judy Mord, Professional Member

Shelley Briscoe-Dimock, Professional Member

Jeffrey Vincent, Public Member