



College of
Massage
Therapists of
Ontario

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Executive Summary – Jason Miners, RMT (London, ON) October 15, 2015

Summary of the Discipline hearing before a Panel of the Discipline Committee of the College of Massage Therapists of Ontario (CMTO) was held on October 15, 2015.

Allegations of Professional Misconduct and Plea

Mr. Jason Miners, a Registered Massage Therapist (RMT), was found to have engaged in the following acts of professional misconduct:

- Sexually abusing a client; and
- Engaging in disgraceful, dishonourable or unprofessional conduct.

The Facts

The facts of the case were established by an Agreed Statement of Facts, which had been signed by Mr. Miners prior to the hearing and set out the following:

On June 10, 2014, the complainant received a Massage Therapy treatment from Mr. Miners at a clinic located in London, Ontario. Mr. Miners had been providing Massage Therapy treatment to the complainant for approximately two years before this incident took place.

The complainant's treatment began with a conversation about her personal life. Here, Mr. Miners inquired as to the status of the complainant's current relationship with her boyfriend, making further inquiries about her level of monogamy. The complainant described this line of questioning as disconcerting. During the treatment, Mr. Miners inappropriately expressed his fixation on the complainant's ears, but, as the complainant described, at that point the Massage Therapy treatment had transpired for over one hour and as a result, the complainant felt very relaxed. The complainant responded by stating: "Well, if this is what happens when you fixate, fixate away."

Mr. Miners then began kissing and licking one of the complainant's ears. The complainant described the contact as "clearly erotic and incredibly sexual." When Mr. Miners began to kiss, lick and bite the other ear, the complainant pulled away from him and the treatment ended shortly thereafter.

The complainant made a formal complaint to the College on September 3, 2014. The College subsequently appointed an investigator to formally investigate the matter. In an interview involving the investigator and Mr. Miners, the latter admitted to having licked and kissed the complainant's ears, expressing to the investigator that he did something he "knew was wrong."

In response to the complaint, Mr. Miners apologized for his actions, admitting that the incident took place but stating that the complainant's recollection was overly dramatic and inaccurate.

Mr. Miners acknowledged and admitted to each of the allegations of professional misconduct as alleged.

Finding of the Panel, Penalty Order and Cost Award Imposed

Based on the Agreed Statement of Facts, which include included a plea from Mr. Miners, the Panel found Mr. Miners to have engaged in the acts of professional misconduct as alleged.

After reviewing the Joint Penalty Submission of the Parties, relevant to case law and mitigating factors presented by the College, the Panel imposed the following penalty:

1. A suspension of the Certificate of Registration of Mr. Miners for a period of eight consecutive months to commence immediately and to continue indefinitely until he completes the terms of the Penalty Order in items 3, 4, 5 and 6 below;
2. A public and recorded reprimand that Mr. Miners must attend in person;
3. Mr. Miners must successfully complete the Standards and Regulations e-workshop at his own expense, providing satisfactory evidence of his successful completion of the workshop to the College within 30 days of completion;
4. Mr. Miners must submit a written reflective report to the Registrar of the College prior to returning to practice reflecting on what he has learned from this incident and the way in which his conduct has affected his profession; and
5. Publication of the Panel's decision to include publication in CMTO's *Annual Report*, a Discipline Hearing Summary posted on the College's website, as well as a summary of findings in the College's public register.

Cost Award

Payment of costs in the amount of \$3,000.00 contributing to the investigation and prosecution costs incurred by the College in relation to this matter.

Reasons for Decision

The Panel believes that the penalty being sought was fair, proportionate to the allegations that have been made out and in the public interest.

The Panel considered case law in regarding their decision which included *Leering v. College of Chiropractors (2010)* in which the Ontario Court of Appeal recognized the inherent power imbalance that exists between a treating regulated healthcare provider and their client, emphasizing the importance of health regulatory bodies being zealous in their attempts at prevention and in prosecution of such offences.

Further, the Panel considered *Gordon McCallum (2011)*, which was sufficiently similar to the case at hand including such elements as sexual abuse of a client and disgraceful, dishonourable or

unprofessional conduct. The case also proceeded by way of an Agreed Statement of Facts and a Joint Submission on Penalty.

The College made submissions to the Panel regarding mitigating factors which included the fact(s) that Mr. Miners had no prior discipline history, he admitted to his mistakes and he cooperated fully with the College investigations. The Panel noted that Mr. Miners was willing to be held accountable for his actions and he helped to expedite the process by proceeding by way of an Agreed Statement of Facts and a Joint Submission with respect to the penalty.

The Panel believes that the suspension imposed will ensure that the public is protected while Mr. Miners completes his remedial coursework, serving as both a specific deterrence to Mr. Miners and a general deterrence to the profession.

The coursework will ensure that Mr. Miners returns to practice with a renewed understanding of his duties as a regulated healthcare professional and of where his professional boundaries lie with respect to clients under his care.

The Panel imposed costs in the amount of \$3,000.00 finding this to be an appropriate case to impose the requirement for Mr. Miners to help offset some of the College's costs associated with the hearing and investigation of this case.

Mr. Miners is to appear before a Panel of the Discipline Committee to receive his oral reprimand.