

EXECUTIVE SUMMARY – STEFAN MAROGY, RMT
DISCIPLINARY HEARING CONDUCTED MAY 22, 2009

The Member, Stefan Marogy, RMT, was charged with the following acts of professional misconduct:

- a. Sexual abuse of a client;
- b. Failing to maintain the standard of practice of the profession;
- c. Engaging in conduct unbecoming of a massage therapist; and
- d. Engaging in disgraceful, dishonourable or unprofessional conduct.

THE PLEA

The Member was represented by counsel and entered a plea of not guilty.

THE FACTS

The complainant suffered a back injury and received related massage therapy treatments from the Member. The complainant had spent that majority of her adult life in a convent, and only recently left prior to the massage treatments. She suffered from depression.

Commencing on the third or fourth treatment with the Member, the complainant and Member engaged in sexual activities, including oral sex and mutual masturbation. The complainant testified that from this point, the massage therapy sessions became 50% massage and 50% sexual. She testified that the first two encounters were consensual however on subsequent appointments she advised the Member that she did not want any more sexual activity.

That said, she continued to see the Member for treatments because she wanted to give him a chance to stop his sexual behaviour. She testified that she was frozen on the table in these latter sessions and too ashamed to tell family or friends about the encounters. She eventually reported what had happened to the York Regional Police, but was advised that there was insufficient evidence to lay charges against the Member as the sexual encounters were consensual.

A complaint was filed with the College. The Member submitted a written response. He described how the complainant became flirtatious with him during the third or fourth treatments, and that on one of these days they “crossed the line”. They engaged in sexual activities over the next few treatments. The Member acknowledged in his written response that these activities included oral sex on at least on three or four occasions, and mutual masturbation. He claimed that the complainant had initiated the activities and consented throughout.

FINDING OF THE PANEL

The Panel unanimously held that the member was guilty of all the allegations of professional misconduct. There was clear, convincing and cogent evidence to support the allegations of sexual abuse and other misconduct against the Member.

PENALTY

Following submissions as to an appropriate penalty, including a Victim Impact Statement from the complainant, the panel imposed the following penalty:

1. Immediate revocation of the Member's Certificate of Registration;
2. The Member shall reimburse the College \$3,500 toward the costs of its investigation and hearing;
3. The Member shall provide \$2,000 toward any treatment that the client may require to help her recover from the events.
4. A public and recorded reprimand; and
5. Publication of the results of the hearing.

In its reasons for imposing the penalty, the Panel affirmed that there was clear convincing and cogent evidence to make out the definition of sexual abuse in subsection 1(3) of the Code, including oral to genital sex and mutual masturbation.

The existence of consent to the sexual activities, and identity of the person who initiated these activities were irrelevant. The College steadfastly maintains a zero tolerance to sexual abuse towards clients. Prohibition on any sexual relations between a Member and his client are absolute. It was the Member's obligation to stop any inappropriate relation with his client.

Immediate revocation of the Member's Certificate of Registration would uphold the College's stringent standards in this regard. The Member showed no respect for the standards of the College, his fellow massage therapists and clients.

The Panel noted that the Member took advantage of a very vulnerable and depressed client. The client was continuing to undergo active treatment and struggling with issues of guilt and shame arising from the encounter with the Member. She will take time to heal, and may never fully recover. Therefore, it was appropriate that the Member contribute to the costs of treatment.

Publication of the results of the hearing was essential to ensure transparency and accountability to the public and Members of the profession. The Panel noted that the Member did not acknowledge his guilt from the outset, leading to the costly investigation and hearing.

The encounter with the complainant was of such a despicable nature that it was fitting that he no longer be a Member of the profession.

EDITORIAL NOTE

The Marogy decision upholds the College's zero tolerance on sexual abuse. It is the obligation of a Member to stop any inappropriate relationship with clients. It is irrelevant whether consent is given to any sexual encounter. Members who commit sexual abuse may be liable for related treatment costs.