
Professional Conduct Committee
Saskatchewan Association of Social Workers
And
Ms. Carolyn Cheers (SASW Reg. # 2819)

Decision

of the
Discipline Committee
Saskatchewan Association of Social Workers

Appearing for the Professional Conduct Committee: Darcia Schirr, Q.C.

Appearing for Carolyn Cheers: None

Members of the Discipline Committee:

David Rivers, MSW, RSW (SK) – Chairperson

Karen Wasylenka, MSW, RSW (SK)

Charlene Cameron, BSW, MA, RSW (SK)

Sarah Liberman, RN, MN (Public Representative)

Klaus Gruber, MSW, RSW (SK)

Counsel for the Discipline Committee: Alma Wiebe, Q.C.

Date of the Hearing: October 23, 2015

Introduction

A hearing of the Discipline Committee of the Saskatchewan Association of Social Workers (“SASW”) pursuant to Section 28 of the Social Workers Act (“the act”) was conducted in Regina Saskatchewan on October 23, 2015 with respect to a complaint against Ms. Carolyn Cheers. Ms. Cheers declined to participate in the hearing (letter dated April 13, 2015). Ms. Cheers was also not represented by counsel.

No issues or objections to the composition of the Discipline Committee or its jurisdiction to hear this matter were raised.

Background

A complaint was received by the SASW in a letter dated December 15, 2014. The letter from a former counselling client, BCDBCD alleged unethical and unprofessional behaviour by Ms. Cheers. The letter alleged various behaviours which do not conform to the current standards of practice and code of ethics.

The letter was referred by the Registrar to the Professional Conduct Committee. After reviewing the complaint, Jim Walls, the Chair of the Professional Conduct Committee proceeded with a formal investigation pursuant to Section 26(1) of the *Act*.

Ms. Cheers responded to the notification of the complaint but declined to participate in the investigation or any subsequent proceedings. Having considered all matters disclosed during the investigation of the complaint, the Professional Conduct Committee recommended the matter be referred to the Discipline Committee to hear and determine the complaint.

Charges against the Member

The particulars of the alleged professional misconduct are set out in Appendix A to the Notice of Discipline Hearing, a copy of which is attached to this decision.

Note

Two items were withdrawn from Appendix A (Item (b) in Section 1 and all of Section 8) by Ms. Schirr at the beginning of the hearing.

Preliminary Matters

At the commencement of the hearing, a preliminary ruling was requested of the Discipline Committee by counsel for the Professional Conduct Committee with respect to whether there had been proper service of the Notice of Discipline Hearing and the formal complaint upon Ms. Cheers.

Counsel for the Professional Conduct Committee provided evidence that a letter containing the Complaint and the Notice of Discipline Hearing was duly served on Ms. Cheers (Notarized, September 11, 2015), as required pursuant to Section 28(1) of the *Act*. In a letter from April 13, 2015 (entered into evidence), Ms. Cheers had already declined to participate in the investigation or any subsequent hearings. She did not respond to the notice of hearing.

The Discipline Committee provided its ruling that according to the notarized affidavit, there had been proper service of the notice of hearing and that, pursuant to s. 28(9) of the *Act*, the hearing would proceed in the absence of Ms. Cheers.

Summary of Evidence

Evidence from the Professional Conduct Committee was compiled by counsel and presented to the discipline committee in the Exhibit book. The evidence included among other things, the complainant's letter to the SASW, calendars, letters, telephone message transcripts, voice recordings, screen shots of Facebook, text and other social media.

In addition, the complainant was present and provided oral testimony about her relationship with Ms. Cheers as a client and subsequently as a "friend" and an employee.

Decision of the Discipline Committee

The allegations against the member, the decisions by the Discipline Committee, and the reasons for these decisions are as follows:

Failing to maintain professional boundaries

1. That while providing counseling services to client BCD, Ms. Cheers failed to maintain professional boundaries in her professional relationship with BCD by:
 - a. Sharing personal information with BCD
 - b. Hugging and kissing BCD.

Decision

The Discipline Committee finds the allegations of failing to maintain appropriate professional boundaries to be supported by the evidence. The member's behaviour contravenes Sections

2.0, 2.1.1, & 2.5.1 of the Canadian Association of Social Workers (CASW) Guidelines for Ethical Practice, Value 4 of the CASW Code of Ethics and Section F.4 of the Standards of Practice for Registered Social Workers in Saskatchewan and consequently this behaviour constitutes professional misconduct as defined in Section 30(1) of the Saskatchewan Social Worker's Act.

Reasons

Based on the evidence presented, BCD was referred to Ms. Cheers for counseling by Dr. Susan MacDonald in August 2013. Ms. Cheers was a registered member of the Saskatchewan Association of Social Workers at the time. BCD confirmed she was a client of Ms. Cheers and testified her husband paid cash for the first two sessions before looking into support through his EAP program.

BCD's first counseling session with Ms. Cheers occurred on August 30, 2013 at Ms. Cheer's home in Lumsden. BCD's sessions with Ms. Cheers continued on Fridays at Ms. Cheer's home until December 20, 2013. BCD participated in two more counseling sessions with Ms. Cheers on January 24, February 7, 2014, before her final session on February 14, 2014.

The Discipline Committee accepts the testimony of BCD that Ms. Cheers shared personal information about her own past issues and family life during the counseling sessions. BCD testified that Ms. Cheers told BCD about her own family dysfunction and estrangement during counseling sessions. BCD testified the self-disclosures appeared to serve Ms. Cheer's needs rather than her own. BCD also testified that Ms. Cheers ended the first session on August 30, 2013 by saying, "I need hugs" and then hugging and kissing BCD. Future sessions and meetings also included hugging and kissing. Overall, testimony by BCD indicates that Ms. Cheers did not maintain appropriate professional boundaries in her professional relationship with BCD at multiple occasions throughout the course of counseling.

Failing to maintain appropriate boundaries after the professional relationship ended

2. That after ending her relationship with client BCD in approximately February 2014, Ms. Cheers initiated, encouraged and pursued a social relationship with BCD by:
 - a. Attending at BCD's home to assist her with her computer problems
 - b. Had numerous lunch engagements with BCD
 - c. Invited BCD and partner to her home for a barbecue
 - d. Attended a dinner party in BCD's home
 - e. Exchanged numerous text messages
 - f. Became a Facebook friend with BCD, commenting on her Facebook posts and messaging her on Facebook.

Decision

The discipline committee finds that not only did Ms. Cheers maintain a friendship relationship with BCD immediately upon termination of the counselling but that she terminated the counselling in order to have a friendship with BCD. She, thereby contravened Section 2.0 and 2.1 of the Canadian Association of Social Workers (CASW) Guidelines for Ethical Practice as well as contravening the Canadian Code of Ethics Value 3, that Social Workers place the needs of others above self-interest when acting in a professional capacity. She also violated Section F7(3) of the Standards of Practice for Registered Social Workers in Saskatchewan.

Reasons

The discipline committee accepts the written and oral evidence that Ms. Cheers initiated, encouraged, and pursued a social relationship with BCD after the counselling was terminated by Ms. Cheers. In a letter written by BCD to the Saskatchewan Association of Social Workers on December 15, BCD states Ms. Cheers phoned her around February 20, 2014 and said, "I was hoping that I could start seeing you as a friend now." Ms. Cheers went on to say, "I think the Saskatchewan Association of Social Workers states that I can't see you as a friend for two years after I've stopped being your counsellor, but I won't tell if you don't". Evidence was presented that when BCD expressed concern about the termination of counselling and the nature of the new relationship, Ms. Cheers assured her that she would continue to provide counselling "informally". BCD stated this left her feeling "bewildered and confused and yet a little flattered that she would want me as a friend". This created a confusing and inappropriate non-professional relationship.

The evidence shows Ms. Cheers attended BCD's home to assist her with her computer problems and had numerous lunch engagements with BCD. Ms. Cheers also invited BCD and partner to her home for a barbecue and attended a dinner party in BCD's home. In addition BCD testified that Ms. Cheers exchanged numerous text messages and became a Facebook friend with BCD, commenting on her Facebook posts and messaging her on Facebook.

Breach of confidentiality

3. That at a social gathering at Ms. Cheers' residence in August 2014 that involved BCD and others, Ms. Cheers referred to confidential information involving at least three of her clients.

Decision

The Discipline Committee finds this allegation of breaching confidential information during this social gathering to be unsubstantiated.

Reasons

BCD testified she attended the party on August 16, 2014 with her husband and was introduced to others by Ms. Cheers as her friend. BCD stated that during the party she overheard Ms. Cheers talking about issues of other clients, but didn't hear any client names. While it is inappropriate for Ms. Cheers to be talking about the personal issues of unidentified clients in such a setting, we found no evidence that Ms. Cheers breached client confidentiality by sharing any identifying information.

Prohibited relationship and breach of client confidentiality

4. That after the professional relationship ended in approximately February 2014, Ms. Cheers entered into a business relationship with BCD by engaging BCD to transcribe case notes regarding other counselling clients and in doing so the member breached the confidentiality of numerous other clients.

Decision

The Discipline Committee finds the allegations of entering into a prohibited relationship and breaching client confidentiality to be supported by the evidence. Ms. Cheers' behaviour contravenes section F.7 and D.6 of the Standards of Practice for Registered Social Workers, and Sections 2.1.1, 2.2.1, and 2.4 of the Canadian Association of Social Workers (CASW) Guidelines for Ethical Practice and consequently this behaviour constitutes professional misconduct as defined in Section 30(1) of the Saskatchewan Social Worker's Act.

Reasons

The evidence shows that Ms. Cheers entered into a financial relationship with BCD during the summer of 2014 whereby BCD was compensated to transcribe case notes for Ms. Cheers. Committee members reviewed text messages between BCD and Ms. Cheers containing instructions, questions and communications about the transcribing of notes. In addition, the committee reviewed time logs completed by BCD, a listing of client names used for recording the emailing of transcribed notes to Ms. Cheers, and a cheque signed by Ms. Cheers to BCD for \$286.00 with the memo, "casenote transcription" written on it. While committee members agreed it is not a breach of confidentiality to contract a person to transcribe case notes, in this particular situation the business relationship was prohibited on the basis that BCD was a former client and so allowing BCD access to the confidential information of other clients is a breach of confidentiality.

Exploitation of professional relationship

5. In August, 2014, Ms. Cheers exploited her relationship with BCD by requesting BCD to post a positive review about you on a website called "Yelp".

Decision

The Discipline Committee finds the allegation of exploitation of the professional relationship for personal gain to be supported by the evidence. Ms. Cheers' behaviour contravenes Sections 2.2.2 and 2.2.2 of the Canadian Association of Social Workers (CASW) Guidelines for Ethical Practice, Value 4 of the CASW Code of Ethics and consequently this behaviour constitutes professional misconduct as defined in Section 30(1) of the Saskatchewan Social Worker's Act.

Reasons

The Discipline Committee accepts the testimony of BCD that Ms. Cheers requested BCD post a review of the member's counselling service on the website "Yelp". The request was made by text message in August, 2014. In addition, the Discipline Committee was provided copies of text messages making the request and a subsequent request for BCD to make changes to the review. Further, the Discipline Committee was provided a copy of the reviews, dated August 22, 2014 and August 23, 2014 from the Yelp website. The copies of the text messages and the reviews posted supported the testimony provided by BCD.

Failing to maintain a professional relationship

6. That on various occasions in November and December, 2014:

- a. Ms. Cheers posted messages on her Facebook page directed to and about BCD that were inappropriate, threatening, profane and breached BCD's confidentiality
- b. Ms. Cheers left voice mail messages for BCD that were inappropriate, profane, and abusive.

Decision

- a. The Discipline Committee finds the allegation that messages posted to the member's Facebook page that were inappropriate, threatening, profane, to be substantiated. However, the Discipline Committee finds the allegation that Ms. Cheers breached confidentiality by posting these messages through Facebook messaging to be unsubstantiated.
- b. The Discipline Committee finds the allegation that Ms. Cheers left voice mail messages that were inappropriate, profane, and abusive to be supported by the evidence. The member's behavior contravenes Values 1 and 4 of the CASW Code of Ethics and Section F.3(c) of the Saskatchewan Association of Social Workers Standards of Ethical Practice and consequently this behaviour constitutes professional misconduct as defined in Section 30(1) of the Saskatchewan Social Worker's Act.

Reasons

The Discipline Committee did not find evidence that confidentiality was breached when information was posted by Ms. Cheers on Facebook messaging regarding BCD. There is no

indication that people had access to the messaged information other than the member and BCD.

The Discipline Committee accepts the testimony of BCD that Ms. Cheers sent Facebook messages to BCD that were inappropriate, profane and threatening. The Committee reviewed copies of messages sent to BCD by Ms. Cheers after BCD started ignoring Ms. Cheers' calls and messages. One message sent in December 2014 by Ms. Cheers to BCD stated, *"Shame on you. You can't even be respectful and dignified to tell me what happened or talk to me. I guess you don't have your shit together. I helped you so much; guess you really only wanted your pardon, didn't you? ... Have a wretched life; I'm sure you will since you're so miserable and nasty.... You're such a liar and user".* Another message on December 14, 2014 ends with, *"...fuck you, you lying bitch"* and then, *"You're just like your mother."*

The Discipline Committee also accepts the testimony of BCD that she received abusive and profane phone calls and emails from Ms. Cheers after she started ignoring Ms. Cheers messages. The Discipline Committee listened to a voice mail left on BCD's telephone Ms. Cheers on December 12, 2014 at 5:30 p.m. which said, *"...Because you can't even be mature and adult and respectful and dignified enough as a person in your right to even talk to me. I've done so much for you I've tried to be such a good friend to you I guess you haven't changed at all. At all. You know and that's on you. You know way to go get your pardon. Go live somewhere else far away because I'm fucking done with you you stupid whore cunt".* The Discipline Committee accepts the testimony of BCD of feeling afraid, hurt, harassed, and abused as a result of the phone calls and voice message.

Failing to maintain a professional relationship

7. That knowing BCD was vulnerable, Ms. Cheers used information obtained in the course of a therapeutic professional relationship with her to cause her harm, anxiety and distress.

Decision

The Discipline Committee finds the allegation of causing BCD harm, anxiety and distress to be substantiated. The member's behavior contravenes Values 1 and 4 of the CASW Code of Ethics and Section F.3(c) of the Saskatchewan Association of Social Workers Standards of Ethical Practice and consequently this behaviour constitutes professional misconduct as defined in Section 30(1) of the Saskatchewan Social Worker's Act.

Reasons

In a Facebook message dated December 12, 2014, sent from Ms. Cheers to BCD, Ms. Cheers states that "you are just like your mother". BCD testified that during her therapeutic sessions with Ms. Cheers, she disclosed in significant detail, issues she had regarding her mother. Ms. Cheers statement comparing her to her mother caused BCD anxiety and emotional distress. BCD testified this comment and the other abusive messages, "has caused me

anxiety, depression, panic attacks and suicidal thoughts”. BCD testified to being hospitalized and under physician and pharmacological care as a result of receiving these messages.

Refusing to co-operate with the Professional Conduct Committee

8. That Ms. Cheers refused to co-operate with a request for an interview by the Professional Conduct Committee.

Decision

The Discipline Committee finds the allegation of failing to co-operate with the Professional Conduct Committee to be supported by the evidence and testimony. Ms. Cheers’ behaviour contravenes Section 16(3) of the Social Worker’s Act and Section 7.3.1 of the CASW Guidelines for Ethical Practice and consequently constitutes professional misconduct as defined in Section 30(1) of the Saskatchewan Social Worker’s Act.

Reasons

Committee members were provided with a letter from Ms. Cheers to the SASW regarding the complaint by BCD dated April 13, 2015 wherein she declines to participate in the investigation and the hearing process. The committee also reviewed a follow-up letter from Jim Walls, the Chair of the SASW Professional Conduct Committee, dated June 16, 2015 to Ms. Cheers that describes the investigative powers of the SASW regulatory body, the responsibility of regulated social workers to cooperate with the regulatory body and a further request for an interview. Ms. Cheers did not accept the request by the Professional Conduct Committee chairperson for an interview. Committee members reviewed an excerpt from, “The Law of Professional Regulation” (Salte, 2015) that noted courts have generally held that members have an ethical obligation to co-operate with their regulatory body and failing to do so constitutes professional misconduct (p.119).

Summary of charges found to be substantiated

1. The Discipline Committee finds the allegations of failing to maintain appropriate professional boundaries to be supported by the evidence.
2. The discipline committee finds that not only did Ms. Cheers maintain a friendship relationship with BCD immediately upon termination of the counselling, but that she terminated the counselling in order to have a friendship with BCD.
3. The Discipline Committee finds the allegations of entering into a prohibited relationship and breaching client confidentiality to be supported by the evidence.

-
4. The Discipline Committee finds the allegation of exploitation of the professional relationship for personal gain to be supported by the evidence.
 5. a) The Discipline Committee finds the allegation that messages posted to the member's Facebook page were inappropriate, threatening, and profane, to be substantiated.

b) The Discipline Committee finds the allegation that Ms. Cheers left voice mail messages that were inappropriate, profane, and abusive to be supported by the evidence.
 6. The Discipline Committee finds the allegation of causing BCD harm, anxiety and distress to be substantiated.
 7. The Discipline Committee finds the allegation of failing to co-operate with the Professional Conduct Committee to be supported by the evidence.

Orders

Pending hearing; to be attached.



David Rivers, MSW, RSW (SK)
Chairperson – Discipline Committee

Date: January 25, 2016

For the Discipline Committee:

Karen Wasylenka, MSW, RSW (SK)
Charlene Cameron, BSW, MA, RSW (SK)
Klaus Gruber, MSW, RSW (SK)
Sarah Liberman, RN, MN (Public Representative)

Professional Conduct Committee
Saskatchewan Association of Social Workers
And
Ms. Carolyn Cheers (SASW Reg. # 2819)

Decision Regarding Penalty

Of the
Discipline Committee
Saskatchewan Association of Social Workers

Appearing for the Professional Conduct Committee: Darcia Schirr, Q.C.

Appearing for Carolyn Cheers: Jonathan Martin

Members of the Discipline Committee:

David Rivers, MSW, RSW (SK) – Chairperson

Charlene Cameron, BSW, MA, RSW (SK)

Sarah Liberman, RN, MN (Public Representative)

Klaus Gruber, MSW, RSW (SK)

Counsel for the Discipline Committee: Alma Wiebe, Q.C.

Date of the Hearing: May 2, 2016

Introduction

A hearing of the Discipline Committee of the Saskatchewan Association of Social Workers (“SASW”) pursuant to Section 29 of the Social Workers Act (“the Act”) was conducted in Regina Saskatchewan on May 2, 2016 for the purpose of determining the penalty to be imposed on Ms. Carolyn Cheers. Ms. Cheers was found guilty of a number of charges of professional misconduct as summarized on pages 9 and 10 of the decision of the Discipline Committee dated January 25, 2016 and attached hereto.

Counsel for the Professional Conduct Committee (PCC) filed a brief in advance of the hearing recommending that: a) Ms. Cheers be expelled, b) she be required to pay partial costs of the investigation and hearing fixed in the amount of \$12,000, c) a digest of the Discipline Committee decision and order be published in the Association newsletter; and d) a copy of the Discipline Committee decision and order be submitted to all the registrars of social work regulatory bodies in Canada and to the Association of Cooperative Counselling Therapists of Canada.

Counsel for the PCC submitted that the purposes of discipline orders are: a) specific deterrence; b) general deterrence, c) in appropriate cases, improved competence, rehabilitation, restitution; and d) most important of all, maintaining public confidence in the profession (*Law Society of Upper Canada v Marshall Stephen Kazman*, 2008 ONLSAP 007).

Counsel also outlined the factors to be considered in making a penalty order as set out in *Camgoz v College of Physicians and Surgeons of Saskatchewan* (1993, 114 Sask. R. 161): a) the nature and gravity of the proven allegations; b) the age of the offending physician; c) the age of the offended patient; d) evidence of the frequency of the commission of the particular acts of misconduct within particularly, and without generally, the province; e) the presence or absence of mitigating circumstances if any; f) the presence or absence of aggravating circumstances, if any; g) specific deterrence; h) general deterrence; i) previous record, if any, for the same, or similar misconduct; the length of time that has elapsed between the dates of any previous misconduct and conviction thereon; and the member’s conduct since that time; j) the need to maintain the public’s confidence in the integrity of the college’s ability to properly supervise the professional misconduct of its members; and k) ensuring that the penalty imposed is not inconsistent with penalties previously imposed in this jurisdiction, particularly, and other jurisdictions in general, for the same, or similar acts of misconduct.

Counsel submitted that the gravity of Ms. Cheers’ misconduct was significant and serious, beginning with professional boundary violations and ending with abusive and profane communication with a vulnerable client resulting in significant psychological harm to the client

(complainant). In addition she utilized confidential disclosures made by the client in counselling to advance her own needs and breached the confidentiality of other clients by disclosing their confidential information to the complainant. Further, Ms. Cheers failed/refused to cooperate with the PCC, did not appear/was not represented at the discipline hearing and did not accept responsibility for her misconduct.

The aggravating circumstances emphasized by the PCC were that Ms. Cheers breached the trust of the complainant, a vulnerable individual, by using information the complainant gave to Ms. Cheers against her. Further that various aspect of Ms. Cheers' misconduct extended over a period from August 30, 2013 to December 2014. By her conduct Ms. Cheers discredited the social work profession, was fully aware she was doing so in violation of her professional responsibilities and took no responsibility for her actions after the client complained to the SASW.

The PCC argued that the only mitigating factor here was the absence of a previous discipline record.

Regarding costs, counsel, in her brief, estimated the SASW costs to conclusion of this matter at \$49,800 including legal costs incurred by the PCC and the Discipline Committee. She suggested Ms. Cheers bear approximately one quarter of these costs (\$12,000).

Counsel for Ms. Cheers, Mr. Martin, filed as Exhibit D1 a letter dated May 2, 2016 authored by his client. In this correspondence, Ms. Cheers apologised for her conduct towards the complainant and explained that, as a result of her own history, she was emotionally fragile during the period she interacted with the complainant. She has since undertaken self-reflection, received medical and psychological intervention, taken ethics courses and obtained mentoring for and supervision of her professional work. Further, she is in the process of closing her practice with a plan to "not be employed for quite some time so that I can recover". In conclusion she states "I did not attend today so that I do not get triggered by [the complainant's] presence and that I continue to work on strengthening my emotional and psychological state".

On behalf of Ms. Cheers her counsel submitted that an appropriate sanction in this case would be:

- 1) a two-year suspension from private practice with conditions regarding education and supervision;

-
- 2) that publication of the discipline committee's decisions protect the anonymity of the member; and
 - 3) that costs, if awarded, be in the amount of \$4000 payable at the rate of \$1000 per month.

Mr. Martin argued that revocation of Ms. Cheers' license to practice would be a disproportionately harsh penalty in these circumstances. Specifically, unlike the two cases from the Ontario College of Social Workers and Social Service Workers attached to the PCC's brief, Ms. Cheers was not found guilty of financial or sexual exploitation of the complainant. Counsel argued that revocation is reserved for cases where protection of the public from exploitation is required. While Ms. Cheers made some poor decisions, she did so in the pursuit of a friendship with the complainant and did not otherwise benefit from their relationship. No harm was done to other clients. While inappropriate and unprofessional, Ms. Cheers' Facebook and voicemail messages to the complainant did not constitute a breach of confidentiality because they were directed exclusively at the complainant.

With respect to general deterrence, Mr. Martin argued there is no incentive for social workers, generally, to do what Ms. Cheers did, i.e. pursue and benefit from friendship with a client, therefore there is no need for strong deterrent measures. The sanction should be limited to one sufficient to send a message to other professionals while not unduly penalizing Ms. Cheers. Specific deterrence is not required. Exhibit D1 records Ms. Cheers' remorse and the consequences already visited on her by her misconduct. Mr. Martin submitted the facts in this case suggest an appropriate penalty would be directed at rehabilitation and restitution.

Mr. Martin listed numerous mitigating factors to be taken into account: 1) Ms. Cheers engaged in a genuine friendship with the complainant born of care and concern for her client. 2) She genuinely tried to help the complainant. 3) The complainant benefited from her relationship with Ms. Cheers. 4) The friendship between the two women was mutual. 5) Ms. Cheers obtained no financial benefit from her relationship with the complainant. 6) Ms. Cheers' misconduct was not premeditated. 7) No breach of the complainant's privacy or trust occurred. 8) The potential for future harm by Ms. Cheers is not significant. These proceedings have acted as a specific deterrent to her. 9) Ms. Cheers has no prior discipline record. 10) Ms. Cheers' failure to participate in these proceedings allowed them to unfold unhindered by her.

Decision

Section 29 of the Social Workers Act provides that where a member has been found guilty of professional misconduct, the discipline committee may make any one or more of the following orders: **a)** expulsion from the association **b)** suspension from the association for a specific period of time **c)** suspension pending the satisfaction and completion of conditions **d)** restriction of practice under specified conditions **e)** a reprimand and **f)** any other order that seems just.

Section 29(2) allows for orders in addition to those specified above: **a)** a fine **b)** costs of the investigation and hearing including the expenses of the professional conduct committee and discipline committee and cost of legal services.

Section 38 of the Act states the effect of expulsion:

Where a member is expelled or suspended from the association pursuant to this act, that member's rights and privileges as a member are removed for the period which he or she is expelled or suspended.

Section 39 provides for reinstatement:

A person who has been expelled as a member may apply to the council for reinstatement.

In coming to a conclusion as to penalty in this matter, the discipline committee carefully considered the misconduct which led to findings of guilt, the submissions of counsel regarding penalty including the cases cited, the principles to be applied in assessing penalty as well as the mitigating and aggravating factors present in this case.

The committee views Ms. Cheers's misconduct in this case as serious. She deliberately and knowingly violated professional/client boundaries over a significant period of time which resulted in grave consequences to the complainant. She entered into a personal and business relationship with the complainant which ended with extreme verbal abuse by Ms. Cheers to the complainant.

In addition Ms. Cheers used confidential disclosures made by the complainant to Ms. Cheers in counselling as a part of her abusive communication to the complainant. As well she breached the confidentiality of other clients by providing file notes from clients to the complainant for typing.

The SASW has an obligation to protect the public from unethical, unscrupulous or incompetent practitioners. Specific and general deterrence of misconduct by social workers is part of this function. In this case, despite the expressions of regret and apology in Exhibit D1, the committee has concerns about Ms. Cheers ability to practice her profession safely. She describes herself in D1 as in need of continuing professional development, professional counselling, and mentoring. Also “emotionally devastated”, wrestling with “active suicidality”, isolation, “filled with a horror and self-loathing”, “an empty and lost being”, and “diagnosed” with “depression and anxiety along with chronic PTSD”. Ms. Cheers, also advised that she is closing her private practice, and plans “to continue to work on myself and not be employed for quite some time so I can recover”. She states further that she did not attend the hearing to avoid being “triggered by [the complainant’s] presence”. In light of Ms. Cheers’ admissions and acknowledgements regarding her condition, specific deterrence is a significant factor in the committee’s decision.

Ms. Cheers counsel argued that general deterrence ought not to be of much importance given the facts of this case. The committee is of the view that boundary violations, whatever their motivation, are highly unprofessional and that this must be communicated to the profession in the clearest terms.

The committee is also of the view that Ms. Cheer’s failure to appear at the discipline hearing on October 23, 2015 or to participate in the investigation leading up to the hearing indicates a failure on her part to accept responsibility for her actions as well as lack of respect for the authority of the SASW to govern its members. Her choices raise a serious question as to her willingness to abide by any conditions imposed were she to be suspended rather than expelled.

The sole mitigating factor present in this case is the absence of a prior disciplinary record. As already indicated, Ms. Cheers motivation for her serious boundary violations and breach of confidentiality ie. the pursuit of a personal and business relationship with the complainant are of no great assistance to her. She gained a part time employee, a positive reference on YELP and a confidante. That she did not gain a sexual relationship or direct financial benefits from her relationship with the complainant do not serve to mitigate her misconduct or the harm done to complainant.

The aggravating circumstances in this case have already been touched on – the seriousness of the misconduct occurring over a significant period of time with full knowledge by Ms. Cheers that her actions were inappropriate – bring discredit to the profession and significant harm to the complainant. Ms. Cheers’ failure to cooperate with the investigation and participate in the

hearing of the charges against her speak to her disregard for the effect of her conduct on the profession and her governing body.

Taking into consideration all of the above factors and the penalties imposed in the cases cited by counsel, the discipline committee orders the following:

1. That Ms. Cheers be expelled from the Saskatchewan Association of Social Workers and that her name be forthwith struck from the register.
2. That she pay costs in the amount of \$12,000 on or before May 3, 2017.
3. That a copy of the discipline committee decision and this order be distributed to the registrars of all social work regulatory bodies in Canada, posted on the SASW website, summarized in the SASW newsletter and forwarded to the Association of Cooperative Counselling Therapists of Canada.



David Rivers, MSW, RSW (SK)
Chairperson

Date: May 30, 2016

For the Discipline Committee:

Charlene Cameron, BSW, MA RSW (SK)
Klaus Gruber, MSW, RSW (SK)
Sarah Liberman, RN, MN (Public Representative)