

IN THE MATTER OF *THE PSYCHOLOGISTS ACT, 1997* AND BYLAWS AND IN THE
MATTER OF A COMPLAINT AGAINST VESPER ADAMS OF PRINCE ALBERT,
SASKATCHEWAN

DECISION

of

Saskatchewan College of Psychologists

DISCIPLINE COMMITTEE

Discipline Committee Members:

Mary Hampton, EdD, Chair
Wayne Schlapkohl, PhD
Angelina M. Baydala, PhD
Patricia Crassweller, MA

Darcia Schirr, Q.C., legal counsel for the Professional Conduct Committee
Merrilee Rasmussen, Q.C., legal counsel for the Discipline Committee
Vesper Adams did not appear.

INTRODUCTION:

In its decision dated July 31, 2006, the Discipline Committee found Vesper Adams, a Member of the College, to be guilty of professional misconduct, as defined in section 25 of *The Psychologists Act, 1997*, in that she communicated a diagnosis as defined in subsection 23(1) of the Act without having an authorized practice endorsement to do so as required by subsection 23(2) of the Act and that, contrary to subsection 24(2) of the Act, she improperly described herself as a “registered doctoral psychologist” although her doctoral degree is not in psychology. The Committee’s findings of fact and its analysis of the issues are more fully set out in its July 31, 2006 decision.

As a result of this finding, the Discipline Committee directed that the hearing in this matter be reconvened to hear evidence, if any, and submissions relating to the question of what was the appropriate penalty to be imposed. The hearing was reconvened on September 22, 2006. Ms Adams advised the Registrar by letter faxed to the College on September 18, 2006, that she would not be attending and provided written submissions in respect of penalty that were presented to the Discipline Committee by counsel for the Professional Conduct Committee (PCC) along with submissions made on behalf of the PCC. Counsel also submitted the following further exhibits in evidence:

- P-7 Notice of Penalty Hearing, together with Affidavit of Service, indicating that the penalty hearing would be held at 10:00 a.m. on September 22, 2006 at the College offices in Regina;
- P-8 Ms Adams September 18, 2006 letter described above; and
- P-9 A list of the costs to date of the costs of this discipline matter to the PCC and the Discipline Committee, including legal fees, transcript costs, and hearing room rental, totalling \$14,982.98.

THE LEGISLATION

The Act provides the Discipline Committee with the authority to impose penalties where it finds that a member is guilty of professional misconduct or professional incompetence as follows:

Disciplinary powers

32(1) Where the discipline committee finds a member guilty of professional incompetence or professional misconduct, it may make one or more of the following orders:

- (a) an order that the member be expelled from the college and that the member's name be struck from the register;
- (b) an order that the member be suspended from the college for a specified period;
- (c) an order that the member be suspended from the college pending the satisfaction and completion of any conditions specified in the order;
- (d) an order that the member may continue to practise only under conditions specified in the order, which may include, but are not restricted to, an order that the member:
 - (i) not do specified types of work;
 - (ii) successfully complete specified classes or courses of instruction;
 - (iii) obtain treatment, counselling or both;
- (e) an order that reprimands the member; or
- (f) any other order that to it seems just.

(2) In addition to any order made pursuant to subsection (1), the discipline committee may order:

(a) that the member pay to the college within a fixed period:

(i) a fine in a specified amount not to exceed \$5,000; and

(ii) the costs of the investigation and hearing into the member's conduct and related costs, including the expenses of the professional conduct committee and the discipline committee and the costs of legal services and witnesses; and

(b) where a member fails to make payment in accordance with an order pursuant to clause (a), that the member be suspended from the college.

SUBMISSIONS

The thrust of Ms Adams' letter (Exhibit P-8) was that her conduct was unintentional, she was contending with difficult personal circumstances of her own at the time, she lacked administrative awareness, she did not make any substantial profit during the period to which the complaint related, she might not wish to continue to be a member, and she does not have a licence to practice at this time. She also claims that she does not have the financial resources to pay a fine.

Counsel on behalf of the PCC referred to the factors that have been outlined by the courts to be taken into account in such cases, as set out in *Camgoz v. College of Physicians and Surgeons of Saskatchewan*:

1. The nature and gravity of the proven allegations;
2. The age of the offending member;
3. The age of the offended client or patient;
4. Evidence of the frequency of the commission of the particular acts of misconduct;
5. The presence or absence of mitigating circumstances, if any.
6. Specific deterrence;
7. General deterrence;

8. Previous record, if any, for the same, or similar, misconduct; the length of time that has elapsed between the date of any previous misconduct and conviction thereon; and, the member's (properly considered) conduct since that time;
9. Ensuring that the penalty imposed will, as mandated by the Act, protect the public and ensure the safe and proper practice of psychology;
10. The need to maintain the public's confidence in the integrity of the College's ability to properly supervise the professional conduct of its members;
11. Ensuring that the penalty imposed is not disparate with penalties previously imposed in this jurisdiction, particularly, and in other jurisdictions in general, for the same, or similar acts of misconduct.¹

Counsel for the PCC indicated that, from the information available in the evidence already submitted to the Discipline Committee, Ms Adams appears to be 66 years old, she has no record of previous discipline, and she is apparently self-employed. With respect to factors 9 and 10, counsel pointed out that the report prepared by Ms Adams when she did not have an authorized practice endorsement to do so was one that had a significant and negative impact on the employee about whom it was made and the employer who had requested it. The evidence the Discipline Committee heard in the first hearing indicated that the employer was “shocked” by what was in the report and the employee was “distracted”. The report led to a grievance and arbitration process that went on for some time utilizing considerable of the resources of both employer and employee and which was only resolved when a second report was obtained from a qualified person. The experience also had a significant and negative impact on the standing of the profession in the eyes of the officials of the employer who were involved in the process. Counsel recommended a fine and suspension, and an order for the payment of some of the costs incurred by the College in order to provide for both general and specific deterrence by indicating that these are matters that the College takes seriously.

ANALYSIS

The Discipline Committee agrees that the penalty it imposes must be one that will be taken seriously both by the member who is being disciplined, as well as by other members whose conduct will also be guided by the Committee's decisions.

In this case, Ms Adams did not attend either hearing. Her letters to the College on the eve of each hearing contain assertions, but are not based on any evidence that the Committee has received. For example, the Committee has no evidence about personal difficulties with which Ms Adams may have been contending at the time when the events occurred to which the discipline

¹*Camgoz v. College of Physicians and Surgeons of Saskatchewan*, [1993] S.J. No. 557 at paragraph 55

charges relate. Furthermore, the Committee has some difficulty in understanding how Ms Adams' personal circumstances relieve of her professional responsibility to the public and to her profession to ensure that she is qualified to perform the services she offers. Nor is her claim that she lacks administrative awareness an excuse; a higher standard is expected of a professional person. The Committee does not view these as mitigating factors under the circumstances.

Taking all of these submissions into account, the Committee is of the opinion that a fine and suspension are appropriate penalties. In addition, a significant proportion of the costs incurred by the PCC and the Discipline Committee were incurred because Ms Adams chose not to take responsibility for her actions. The costs could have been considerably less if Ms Adams had contacted legal counsel for the PCC and arranged to effectively acknowledge her responsibility for her professional misconduct and professional incompetence. While the Committee recognizes that the cost of discipline proceedings is a cost to be borne in general terms by the College as part of its responsibility as a self-regulating profession, that cost would have been significantly less if Ms Adams had co-operated with the process in this way. The Committee also appreciates that Ms Adams may not have realized that her failure to step forward and acknowledge responsibility would increase the costs to the College, but the Committee is of the view that even without that specific understanding, her failure to make direct contact when invited to do so by legal counsel is indicative of her failure to accept responsibility for her conduct. For these reasons, the Committee concludes that an order that she pay a portion of the actual costs incurred by the College in these discipline proceedings is warranted.

DECISION:

In light of its analysis and based on the reasons set out above, in accordance with section 32 of *The Psychologists Act, 1997*, the Discipline Committee makes the following orders:

1. That Vesper Adams be and is hereby suspended from the Saskatchewan College of Psychologists for a period of 30 days and that this suspension be recorded in the register of members kept by the Registrar in accordance with the Act;
2. That Vesper Adams be and is hereby ordered to pay to the Saskatchewan College of Psychologists a fine of \$3,000.00 to the College on or before April 1, 2007 and that Vesper Adams be and is hereby suspended from the Saskatchewan College of Psychologists after April 1, 2007 if the said fine is not paid on that date and shall remain suspended until the said \$3,000.00 is paid in full;
3. That Vesper Adams pay to the Saskatchewan College of Psychologists the sum of \$6,000.00 in respect of the costs of the investigation and hearing into her conduct and related costs, to be paid in full on or before April 1, 2007, and that Vesper Adams be and is hereby suspended from the Saskatchewan College of Psychologists after April

1, 2007 if the said costs are not paid on that date and shall remain suspended until the said \$6,000.00 is paid in full.

PUBLICATION:

Section 32 of the Act contains a number of provisions relating to the distribution of the Discipline Committee's orders:

(3) The discipline committee shall send a copy of any order made pursuant to this section to the member whose conduct is the subject of the order and to the person, if any, who made the complaint.

(5) The discipline committee shall submit a written report, signed by the chairperson, of its decision to the

(6) The discipline committee may inform a member's employer of the order made against that member where that member has been found guilty of professional misconduct or professional incompetence

In accordance with subsection 32(3) of the Act, a copy of this order is being provided to Ms Adams and to the complainant. This decision is also being reported to the Council of the College as required by subsection 32(5). The Discipline Committee recommends to Council that a summary of its decision be placed on the College website as a means by which to educate both members of the College and members of the public about the standards of behaviour and competence expected of members. Because Ms Adams is self-employed, there is no employer to be informed of this order.

Dated at Regina, Saskatchewan this 3rd day of October, 2006.

SASKATCHEWAN COLLEGE OF
PSYCHOLOGISTS, DISCIPLINE COMMITTEE

Dr. Mary Hampton, Chairperson