

NOTICE OF PUBLICATION BAN

In the matter of College of Early Childhood Educators and Carrie ChunJuan Tan this is notice that the Discipline Committee ordered that no person shall publish or broadcast the identity of, or any information that could identify, any person who is under 18 years old and is a witness in the hearing, or the subject of evidence in the hearing or under subsection 35.1(3) of the *Early Childhood Educators Act, 2007*.

**DISCIPLINE COMMITTEE
OF THE COLLEGE OF EARLY CHILDHOOD EDUCATORS**

PANEL: Kristine Parsons , RECE, Chairperson
Cindy Harrison, M.Sc, Reg.CASLPO
Gillian Jackson, RECE

BETWEEN:)
)
COLLEGE OF EARLY) Vered Beylin
CHILDHOOD EDUCATORS) for the College of Early Childhood Educators
)
)
- and -)
)
CARRIE CHUNJUAN TAN) Self-represented
REGISTRATION # 48787)
)
)
)
)
)
) Elyse Sunshine,
) Rosen Sunshine LLP
) Independent Legal Counsel
)
)
) Heard: November 23, 2020

DECISION AND REASONS

This matter was heard by a panel of the Discipline Committee (the “Panel”) of the College of Early Childhood Educators (the “College”) on November 23, 2020. The hearing proceeded electronically (by videoconference) pursuant to the *Early Childhood Educators Act, 2007* (the “Act”), the *Hearings in Tribunal Proceedings (Temporary Measures) Act, 2020* and the College’s Rules of Procedure of the Discipline Committee and of the Fitness to Practise Committee.

MEMBER’S NON-ATTENDANCE AT THE HEARING

Carrie ChunJuan Tan (the “Member”) was not present for the hearing. Counsel for the College provided evidence by way of affidavit (Exhibits 1(b), 2, 3, 4 and 5) outlining the College’s attempts to communicate with the Member about the hearing. The Member had not responded to the College’s communications since April 29, 2020. The affidavits provided by the College included evidence that the College had informed the Member of the purpose, date, time, and location of the hearing on several occasions and by several means of communication (including email and registered mail). Counsel for the College advised the Panel that, prior to the hearing, the Member had been suspended for nonpayment of her fees but that the Act provided for continuing jurisdiction of the Discipline Committee for acts of misconduct relating to the time she was still a member. The evidence provided satisfied the Panel that the Member had been informed of the purpose, date, time and location of the hearing. Accordingly, the hearing proceeded in the Member’s absence.

PRELIMINARY ORDERS

At the outset, the Panel ordered that no person shall make any audio or video recording of these proceedings by any means, with the exception of oral evidence that is recorded at the direction of the Panel.

The Panel also ordered a publication ban following a motion by College Counsel, pursuant to section 35.1(3) of the Act. The order bans the public disclosure, publication and broadcasting outside of the hearing room, any names or identifying information of any minor children who may be the subject of evidence in the hearing.

THE ALLEGATIONS

The allegations against the Member were contained in the Notice of Hearing dated August 4, 2020, (Exhibit 1a) which provided as follows:

1. At all material times, Carrie ChunJuan Tan (the “Member”) was a member of the College of Early Childhood Educators and was employed as an Early Childhood Educator (“ECE”) at the Bruce Woodgreen Early Learning Centre (the “Centre”) in Toronto, Ontario.
2. On or about February 8, 2018 the Member and another ECE, Zachary Yudin (Z.Y.), were supervising a group of kindergarten-aged children at the Centre’s after school program, including a 4½ year old girl (the “Child”). The Member and Z.Y. decided to take the children to the gym. Prior to transitioning from the kindergarten classroom to the gym, at approximately 4:20 p.m., the Member did not conduct a headcount to ensure all of the children were present. The Child was in the washroom at the time and the Member failed to notice that the Child was missing.
3. The Member and Z.Y. took the children to the gym before the Child exited the washroom. As a result, the Child remained unsupervised.
4. Shortly after the Member and Z.Y. left the Child behind, the Child put on her winter clothes, took her backpack and left the Centre. The Child then walked home, alone, for a distance of approximately 900 metres. To get home, the Child had to cross a number of streets and traffic lights. When the Child arrived home there was no one inside and it was locked.
5. A neighbour observed the Child alone, near her home, and notified the Child’s parents. The Child was upset and had urinated in her pants.
6. The Member and Z.Y. noticed that the Child was missing approximately 50 minutes after leaving for the gym, at approximately 5:10 p.m. However, they assumed that the Child’s parents picked her up without them noticing. The Member did not call the Child’s parents to verify the Child’s whereabouts. The Member also did not alert the Centre’s Manager to the fact that she did not know where the Child was.
7. 20 minutes later, at approximately 5:30 p.m., the Child’s father called the Centre and notified the Member that the Child was home safe.
8. As a result of the incident, the Member’s employment at the Centre was terminated.

9. By engaging in the conduct set out in paragraphs 2-7 above, the Member engaged in professional misconduct as defined in subsection 33(2) of the Act, in that:
- a) The Member failed to adequately supervise a person who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(2);
 - b) The Member failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8), in that:
 - i. The Member failed to observe and monitor the learning environment and take responsibility to avoid exposing children to harmful or unsafe situations, contrary to Standard III.C.2 of the College's Standards of Practice¹;
 - ii. The Member failed to provide safe and appropriate supervision of children based on age, development and environment, contrary to Standard III.C.5 of the College's Standards of Practice;
 - iii. The Member failed to implement strategies to ensure sufficient time for safe and supportive transitions while maintaining supervision at all times, contrary to Standard III.C.8 of the College's Standards of Practice;
 - iv. The Member failed to know the current legislation, policies and procedures that are relevant to her professional practice and to the care and education of children, contrary to Standard IV.B.1 of the College's Standards of Practice;
 - v. The Member failed to model professional values, beliefs and behaviours families and colleagues, and/or failed to understand that her conduct reflects on her as a professional and on her profession at all times, contrary to Standard IV.B.4 of the College's Standards of Practice;
 - vi. The Member failed to support and collaborate with colleagues, contrary to Standard IV.B.6 of the College's Standards of Practice;
 - c) The Member acted or failed to act in a manner that, having regard to the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 223/08, subsection 2(10); and/or
 - d) The Member acted in a manner that is unbecoming a Member, contrary to Ontario Regulation 223/08, subsection 2(22).

¹ In effect starting July 2017

WITHDRAWAL OF ALLEGATIONS

The College requested permission to withdraw the allegations contained in section 9(b) of the Notice of Hearing as outlined above. College Counsel submitted that these allegations related to a breach of standards and that the College wished to simplify the process and not call an expert.

The Panel withdrew allegation 9(b) in its entirety and the hearing proceeded with the remaining allegations in the Notice of Hearing.

THE MEMBER'S PLEA

As the Member was neither present nor represented by counsel, the Panel proceeded on the basis that the Member denied allegations 9(a), 9(c) and 9(d) as set out in the Notice of Hearing.

This matter proceeded as a contested hearing.

EVIDENCE

Documentary Evidence:

The following documents were entered into evidence at the hearing:

Exhibit #	Description
Exhibit 1(a)	Notice of Hearing and Affidavit of Service
Exhibit 1(b)	Correspondence from Hearings Office re hearing connection details
Exhibit 2	Registrar's Certificate
Exhibit 3	Affidavit of MS
Exhibit 4	Supplementary Affidavit of MS
Exhibit 5	Supplementary Affidavit of MS re no communications
Exhibit 6	Affidavit of RS
Exhibit 7	Affidavit of LG
Exhibit 8	Weather on Day of Incident

Exhibit 9	Unredacted communications re College's Position on penalty
Exhibit 10	Decision of CECE v. Zachary Solomon Yudin

Witness Evidence of the College:

The College filed documentary evidence relating to a number of individuals whom the College tendered as witnesses. Although the individuals were not called to testify, the College submitted that hearsay evidence is admissible in these discipline proceedings and the Panel could accept the evidence as presented.

Evidence of Zachary Solomon Yudin

Evidence of Mr. Yudin was contained in Exhibit 7. Mr. Yudin's plea inquiry was provided which set out that he entered a guilty plea to the same allegations that were the subject of the within hearing. Mr. Yudin's evidence was further presented by way of an Agreed Statement of Facts, signed by Mr. Yudin on June 12, 2020, in relation to his own discipline matter for the same conduct.

In the Agreed Statement of Facts, Mr. Yudin described the events of February 8, 2018 and stated that prior to leaving to the gym, he began doing a headcount and "calling out numbers", but he was unfamiliar with the children's names and it was "taking him a long time". It was a hectic day and some of the children were crying. The Member stopped Mr. Yudin halfway through the headcount and told him "we got them all". Mr. Yudin relied on the Member's assertion that all of the children were present and they both proceeded to take the children to the gym. At approximately 5:10 p.m., 50 minutes after leaving for the gym, he and the Member brought the group of children back to the kindergarten classroom. Once there, Mr. Yudin checked the Daily Attendance Form and noticed that the Child was not present, despite not being signed out. Mr. Yudin told the Member that that the Child was missing. The Member told Mr. Yudin the Child "must have been picked up without them noticing it". Neither he nor the Member called the Child's parents to verify the Child's whereabouts, nor did they report the Child's absence to the Centre's management.

Mr. Yudin agreed that at approximately 5:30 p.m., the Child's father called the Centre and inquired with the Member about the Child's whereabouts. The Member advised the father that the Child had been picked up. The father became furious and told the Member that the Child

had walked home by herself. Mr. Yudin admitted that he had not complied with the Centre's policies and that his conduct constituted professional misconduct in several respects.

Evidence of Ashley Staniforth

The evidence of Ms. Staniforth was provided by way of notes from an investigation meeting, signed by Ms. Staniforth and a handwritten report (both contained in Exhibit 6). On the day of the incident, Ms. Staniforth indicated that she came back from the gym with her group of children at about 5:15 pm. She noticed that the Child was not present but not signed out. She asked the Member what time the Child went home, and the Member said she didn't know. Ms. Staniforth ran to the gym to see if the Child had been left behind. When she returned, the Member informed her that the Child's coat and backpack were gone. She told Ms. Staniforth that the Child must have been picked up and the Member just had not seen her go.

At 5:40 p.m., as she was getting ready to leave, Ms. Staniforth was contacted by the Member who informed her that the Child's father had called and said that the Child had actually walked home alone. The phone rang in the classroom and Ms. Staniforth answered it and it was the Child's father who informed her that the Child had walked home alone and that a neighbor called him around 4:30 because they saw the Child on the porch. He also told Ms. Staniforth that the Member had told him that the Child left out the back door and walked home with another girl in her class. The Child's father asked for a meeting. Ms. Staniforth reported the matter to the Manager.

Evidence of the Child's Father

The evidence of the Child's father was provided by way of an interview summary contained in Exhibit 6. A College Investigator interviewed the Child's father on December 7, 2018. In the interview, the father indicated that the Child was in the washroom when the whole group moved to the gym. When she came out of the washroom, she was upset and scared thinking that the group had left her. The group was gone for an hour before they returned to the room, but still, no one noticed that the Child was missing. The father explained that the Child put on her snow pants and jacket and took her backpack, which had some identification tags and her phone number. The Child walked home by herself, but when she arrived, she found that the doors were locked. She was spotted by some neighbours. The neighbour's son recognized the Child because they go to the same school. The neighbours wondered where the Child's parents were.

The neighbours approached the Child and noticed her phone number on her backpack. The father reported that the Child had peed her pants and was a “bit rattled” by the incident.

The father stated that when he had first called the Member at the Centre, the Member stated that the Child had been picked up. This made him angry because she had not been and when he stated this to the Member, she got upset and said she would get back to him, but she never did.

Evidence of Lori Gray

The College provided evidence from Ms. Gray, the Centre’s manager. This evidence consisted of an interview summary from an interview conducted by a College investigator on November 30, 2018 and additional reports and notes made contemporaneous with the events at issue. These documents were contained in Exhibit 6.

Ms. Gray stated that the Child had to cross major intersections and a couple of big streets in order to get home from the Centre. She also stated that a neighbour found the Child and that others had also seen her by herself. Ms. Gray also stated that the Child walked home by herself and not with any other parent or child.

Ms. Gray also provided documents to the College’s investigator relating to previous incidences involving the Member and issues regarding her failing to appropriately supervise children. She further provided a letter dated February 13, 2018 terminating the Member from the Centre because of the incident.

SUBMISSIONS OF THE PARTIES ON LIABILITY

College Counsel submitted that even though the Member did not attend the hearing, the burden remains on the College to prove the case based on a balance of probabilities standard. College Counsel submitted that the evidence presented at the hearing remained unchallenged by the Member, although the Member did have many opportunities to respond to correspondence from the College and to conduct cross-examinations on the affidavits.

College Counsel submitted that the College had exceeded its burden in establishing the alleged conduct and that such conduct constituted professional misconduct. The admissions and findings of fact in Mr. Yudin's case were concrete evidence of the allegations of misconduct. These admission and findings were supported by the evidence from the Child's father, Ms. Staniforth and Ms. Gray.

College Counsel submitted that the evidence established that the Member failed to supervise a Child under her supervision. College Counsel submitted that the Member failed to abide by procedures that could have prevented or minimized this incident - transitions are challenging times and extra vigilance is required. In this case, the Member's cavalier behaviour was at the heart of her failure to supervise.

College Counsel argued that the conduct at issue would constitute disgraceful, dishonourable and unprofessional conduct. She submitted that expert evidence was not required, and the Panel could decide what reasonable members of the profession would consider to be disgraceful, dishonourable or unprofessional. College Counsel submitted that the Member demonstrated a persistent disregard for her professional obligations. Her conduct was clearly unprofessional, and the failure to report the Child's absence rises to the level of disgraceful conduct. However, even if the Panel felt the conduct was only unprofessional, then the College had met the burden.

With respect to the allegations regarding the Member's conduct being unbecoming, College Counsel submitted that expert evidence was also not required to establish this act of misconduct. College Counsel submitted that the Member failed to act with urgency in this situation and that this type of conduct reflects negatively on the profession because it erodes the public's trust in the profession.

College counsel provided the Panel with three recent decisions by the Discipline Committee which established that similar conduct relating to inadequate supervision has been found to be professional misconduct. These cases were:

- *College of Early Childhood Educators v. Rebecca Ann Wardhaugh*, 2019ONCECE 19
- *College of Early Childhood Educators v. Sarah Ashley Walton*, 2019ONCECE10
- *College of Early Childhood Educators v. Jenny Ng-Nakatani*, 2019ONCECE 17

DECISION ON THE ALLEGATIONS

The Panel found that the College met its onus and, based on a balance of probabilities, established that the Member committed the following acts of misconduct as defined in subsection 33(2) of the Act, in that:

- She failed to supervise adequately a person who was under her professional supervision, contrary to Ontario Regulation 223/08, subsection 2(2);
- She acted or failed to act in a manner that, having regard to the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 223/08, subsection 2(10); and
- She conducted herself in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22).

REASONS FOR DECISION ON LIABILITY

Findings of Facts

Having regard to the evidence presented by College counsel the Panel makes the following factual findings:

On February 8, 2018, while supervising a group of children, the Member and Mr. Yudin, decided to take the children to the gym. Before leaving the classroom, at approximately 4:20 p.m., the Member did not conduct a headcount to ensure all of the children were present. Indeed, when Mr. Yudin attempted to do a headcount, the Member stopped him and indicated all the children were present, when they were not. The Child was in the washroom at the time and the Member and Mr. Yudin went to the gym without her.

Centre policies and procedures contained a process whereby the educators are required to conduct a headcount and attendance verification at times of transition from the classroom to the gym and upon return to the classroom.

At some time thereafter, the Child put on her winter clothes, took her backpack and left the Centre. She walked home, alone, for a distance of approximately 900 metres, crossing a number of streets and traffic lights. When the Child arrived home, the door was locked, and no one was home. She stood on her porch and she became upset, including urinating in her pants. The Child was discovered by some neighbours.

Approximately 50 minutes after leaving for the gym, at approximately 5:10 p.m., the Member noticed the Child was missing. The Member did not call the Child's parents to verify the Child's whereabouts, nor did she alert the Centre's Manager.

At approximately 5:30 p.m., the Child's father called the Centre and the Member told him that she thought the Child had been picked up. At various times, the Member stated that the Child had gone home with the parents or a friend, even though she had not.

Analysis of the Allegations

The Panel determined that the witness evidence submitted by College counsel was credible and reliable. All evidence was obtained through a College investigator and there is no reason to doubt the truth of the accounts of the interviews of the witnesses. The Agreed Statement of Facts from Mr. Yudin's hearing is consistent with the information obtained by the investigator's witness interviews. The Member was terminated by her employer (letter contained in Exhibit 6) on February 13, 2018, two business days following the incident. The letter presented by Lori Gray on the Centre's letterhead in Exhibit 6 (pg.24) is consistent and plausible. All of the evidence was uncontradicted.

Although the Member did not testify, the evidence we had before us by way of her responses and statements was inconsistent and not plausible. The Member made inconsistent statements about whether headcounts were performed. She also made inconsistent statements about how the Child got home – for instance, stating that the Child was picked up by her parents and at other times, that the Child went home with a friend. These inconsistencies were material to the events at issue and as such, made us call her credibility and reliability into question. It is also not plausible that the Member believed that the Child had been picked up or gone home with a friend. As such, we preferred the evidence of the College's witnesses over that of the Member's.

In making the findings of misconduct, we note that the duty to adequately and effectively supervise children in the care of RECEs is fundamental to the professional responsibility to ensure a safe and healthy environment for children. That is why the Panel places a very high priority on respecting and adhering to the policies, procedures and practices that guide effective transitions in early learning settings.

In this particular incident, Mr. Yudin's and Ms. Staniforth's statements contained in Exhibit 6 demonstrated that the Member failed to adequately supervise a kindergarten age child under her care (e.g., failure to verify the attendance, lack of headcount, notifying the parent his child had gone home with a friend). The Child was not accounted for during a transition period and was left behind while the rest of the group went to the gym. The Child was then able to leave the school grounds and cross several streets and return home. The Child was observed by neighbours standing on her porch at home alone, when she should have been at the Centre. The map contained in the College Investigator's affidavit (Exhibit 6) provided concrete evidence of the distance the Child travelled, as well as the number of significant intersections she had to cross. The Member clearly did not adequately supervise the Child and this act of misconduct was made out by the College.

Within Exhibit 6 there was also evidence (e.g., lack of headcount and failure to verify the attendance record) that supported the finding that the Member did not employ the procedures or strategies which could have prevented the incident or minimize the time that the Child was missing. The College Investigator obtained confirmation that the Centre policies and procedures included a process whereby the educators are required to conduct a headcount and attendance verification at times of transition from the classroom to the gym and upon return to the classroom. This did not occur.

The Child was missing for a significant period of time, and even when it was discovered that the Child was missing, the Member took no steps to report the situation and in fact, attempted to rationalize the situation with stories that made no sense and had no basis. The Member acted in a cavalier manner with respect to her professional obligations and as a result, the Child was not supervised for a significant period of time.

A lost child and the failure to report and deal appropriately with same reflects negatively on the profession. It is conduct unbecoming a member of the profession. The Member's behaviour reflects on her integrity or competence to the point where public protection is required. The Member's actions can only be viewed as disgraceful, dishonourable and unprofessional. The conduct is so obviously unprofessional that no expert evidence is required. The Member's conduct demonstrated a complete disregard for the welfare and safety of the Child.

POSITIONS OF THE PARTIES ON PENALTY AND COSTS

The Panel was presented with evidence in Exhibit 9 that the Registrant was made aware of the fact that if findings of misconduct were made against her, the matter would proceed to a penalty hearing without further notice to her. College Counsel identified that 11 separate attempts were made to notify the Member of the hearing and possible subsequent penalty hearing. The College advised the Member of the penalty it would be seeking if it were successful in establishing the acts of misconduct alleged. The Panel was therefore satisfied that the Member had been informed that a penalty hearing could occur in her absence and proceeded with the penalty portion of the hearing. As the Member was not present, she was deemed to contest the penalty that the College was seeking.

Submissions of the College on Penalty and Costs

The College requested that the Panel impose an order that:

1. The Registrar be directed to revoke the Member's Certificate of Registration effective immediately; and
2. The Member be required to pay to the College costs in the amount of \$10,000.00 within sixty (60) days from the date of the Order.

Counsel for the College submitted that this was one of the most significant supervision cases before the Committee because of the failure to notice that the Child was missing and because of the failure to take action once it was discovered that the Child was missing. Counsel for the College urged the Panel to send a strong message about these failures.

College Counsel provided 11 aggravating factors that the Panel was advised to consider in making its decision about penalty. These factors were:

- The age of the Child – The Child was only 4.5 years old.
- The length of time the Child was missing – A total of 50 minutes elapsed before the Child's absence was noticed.
- Distance of travel – The Child walked a significant distance, approximately 900 meters, unsupervised.
- Enhanced Risk to Child – The distance the Child travelled without supervision included a number of road intersections, some with traffic lights.
- Enhance Weather Related Risk – On the day of the incident, the weather was cold, with a temperature of -7 degrees Celsius at the time, and windy. The Child had dressed herself and she likely would not have been adequately protected from the cold. The weather may have also impacted driving conditions which would increase the risk to the Child in crossing streets.
- Impact on Child – There was evidence that the Child was emotionally impacted by the incident, as demonstrated by her having urinated in her pants.
- Impact on the family – The Child's father contacted the Centre and was furious about the incident.
- Procedures were ignored – Had the Member abided by the policies and procedures that were in place at the Centre, this incident might have been avoided, and/or the impact of the mistake might have been reduced.
- Lack of action following being made aware of the problem – There was no immediate response once the Member realized the mistake had been made. In fact, the Member made an assumption that the Child had been picked up by someone authorized to do so, and inappropriately recorded that such a sign-out had occurred. There was no follow-up with the family and no report to Centre management.
- The Member's conduct is not isolated. – There was evidence that there was pattern of behaviour of the Member failing to adequately to supervise children in her care.
- Interference with other member – The Member intervened in Mr. Yudin's attempt to follow attendance verification when they were transitioning. This was a critical mitigating factor in Mr. Yudin's case.

College Counsel also pointed out that the matter had to proceed by way of a contested hearing because the Member did not attend and was not responsive. College Counsel submitted that the Member lacks insight into her conduct and has distanced herself from her responsibility. The

College submitted that the Member's conduct since March 2019 demonstrates that she does not wish to be governed by the College. The Member demonstrated a continued pattern of non-responsiveness and non-communication toward the College. She refused to accept materials from the College, failed to attend and participate in the pre-hearing conference, and did not attend this hearing. The Member has also been suspended for nonpayment of College dues since August 2019. College Counsel submitted that the Member was ungovernable. She provided case law to support the position that revocation is an appropriate penalty where a Member is ungovernable.

With respect to the proposed costs, College Counsel submitted that the Panel has jurisdiction to order costs. Costs are not meant to be punitive. While the College's actual costs were higher, the College sought \$10,000 as provided for in in Tariff A under Rule 10.02(2) of the Rules of Procedure of the Discipline Committee.

DECISION ON PENALTY AND COSTS

Having found the Member guilty of professional misconduct, the Panel makes the following order on penalty and costs:

1. The Registrar is directed to revoke the Member's Certificate of Registration, effective immediately; and
2. The Member is required to pay to the College costs in the amount of \$10,000.00 within sixty (60) days from the date of this Order.

REASONS FOR PENALTY

The Panel understands that the penalty ordered should protect the public and enhance public confidence in the ability of the College to regulate registered early childhood educators.

College Counsel provided the Panel with a number of cases in support of its proposed penalty order and the fact that a member's ungovernability could warrant revocation. Counsel for the College submitted that, while this case law was not binding on the Panel, many of the principles in these cases could provide guidance to the Panel with respect to the appropriate penalty in this case.

The Panel considered the case law and found the Member was ungovernable and as such, that revocation was the only appropriate penalty. The factors considered by the Panel in determining that the Member was ungovernable, and that revocation was the appropriate penalty included:

- The Member frequently ignored communication from the College and eventually stopped responding to the College as of October 2019;
- The Member refused to accept materials sent by the College, even indicating on the envelope 'Return to Sender, Moved Out', when this was not truthful; and
- There was an element of neglect of the Member's duties and obligations to her governing body. The Member failed to participate in the discipline process, including refusing to attend a pre-hearing conference and the discipline hearing.

The Panel also had regard for the general sentencing principles when deciding the appropriate penalty in this case. The Panel considered the College's overarching public protection mandate in determining that revocation was the only appropriate penalty. While the Member may not have had a prior discipline history, the Panel was of the view that the goals of specific deterrence and rehabilitation were untenable in this case based on the nature of the Member's conduct. The Member's demonstrated unwillingness to cooperate with the College in accordance with her professional obligations rendered other remedial sanctioning alternatives unlikely to deter the Member from engaging in similar conduct or rehabilitate her understanding of her professional obligations toward an eventual return to practice. The Panel found that revocation in this case would send a strong message both to the Member, as well as the profession as a whole and the general public, that self-regulation is a privilege and not a right. A repeated refusal to abide by the rules and regulations of the College, as well as the refusal to engage with the College, including attending discipline proceedings, will result in serious sanctions, including the most serious sanction of revocation of one's Certificate of Registration. Additionally, as the Member was not present at the hearing, there was no evidence she was prepared to be held accountable for her actions or was remorseful. The Panel acknowledges that there is no requirement that a member must attend the discipline hearing, but the Member's failure to attend was consistent with her overall disregard for the College's regulatory authority. By refusing to participate in the College's discipline process, the Member showed a disregard

for the College's authority and thereby ignored the important role the discipline process serves in protecting public safety and maintaining professionalism.

In closing, it was clear to the Panel that the Member has blatantly ignored and failed to communicate with the College. The Panel accepted that revocation is the only appropriate order and was of the view that any possible remedial measures would be ineffective. Although the facts of this case and the circumstances were extremely serious and concerning, but for the Member's ungovernability, we would not have ordered revocation. The conduct in and of itself was deserving of significant sanction, including a significant suspension, but it was the Member's ungovernability that rose this matter to the level of revocation.

REASONS FOR COSTS

Subsection 33(5)(4) of the Act provides that in an appropriate case, a panel may make an order requiring a member who the panel finds has committed an act of professional misconduct to pay all or part of the College's legal costs and expenses, investigation costs and hearing costs.

The Panel accepted that it is appropriate to hold members who have engaged in acts of professional misconduct responsible for some or all of the costs incurred by the College in investigating and prosecuting that conduct, the financial weight of which would otherwise be borne by the general membership of this profession, which funds the College's operations through registration fees. In consideration of the College's success in proving the allegations of professional misconduct in this case, and absent evidence of any other relevant factors or circumstances on the Registrant's part, the Panel felt that this was an appropriate case to order costs. The Panel felt that the Tariff amount of \$10,000 was reasonable and the proposed repayment timeframe of 60 days was reasonable and consistent with other cases, especially where there was no evidence presented to the contrary.

I, Kristine Parsons, sign this decision and reasons for the decision as Chairperson of this Discipline panel and on behalf of the members of the Discipline panel.

 RECE

Kristine Parsons, RECE, Chairperson

January 13, 2021

Date