

IN THE MATTER OF: The Psychologist Act, S.N.S., 2000, c. 32

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IN THE MATTER OF: Hans Asche, a Registered Psychologist, of Halifax, in the Province of Nova Scotia

## DECISION

On August 14, 2006 the Nova Scotia Board of Examiners in Psychology (NSBEP) received a complaint against Hans Asche, a Registered Psychologist, that was submitted by Complainant Mr. X. Pursuant to the *Psychologists Act*, Stats. N.S. 2000, chapter 32 (the Act) an Investigation Committee was appointed by the Board. Following its investigation, the Investigation Committee referred the matter to a Hearing Committee appointed pursuant to the Act.

### FACTS

On June 22, 2004, Hans Asche, a psychologist carrying on a private practice at St. Margaret's Bay, Nova Scotia, was contacted by a potential patient, Mr. X. Following a brief telephone conversation, Mr. X attended at the office of Hans Asche on June 22, 2004. This was a self-referral by Mr. X who indicated that he was seeking some assistance because he was having problems sleeping and in dealing with various pressures and stresses in his life at that time. Among other things, Mr. X had a new job, was in the process of selling one house and having another house built, was working long hours and was commuting long distances each day. He had married Ms. X during 2003 and had adopted her son.

During the initial session of June 22, 2004 Hans Asche said he explained and read a consent form to Mr. X and had him sign it. He then engaged in an information gathering session. During that consultation Mr. Asche made handwritten notes. The appointment lasted in excess of one hour.

A second meeting took place between Mr. X and Hans Asche at Mr. Asche's office on June 29, 2004. Mr. Asche made brief handwritten notes during that meeting.

At some point, Mr. Asche provided Mr. X with three psychological tests (Dysfunctional Attitude Scale, State-Trait Anxiety Inventory and Beck Depression Inventory) to take home and complete. There was conflicting evidence as to whether this occurred at the second meeting or at a third meeting. However, the balance of evidence suggests that it was the second meeting. These tests were not returned.

A third session between Mr. X and Hans Asche was held on July 6, 2004 and Ms. X attended that session with her husband. It appears that that session lasted not more than 45 minutes.

There were no further meetings between Hans Asche and Mr. X. Hans Asche said that when Mr. X did not return for another appointment he left a message at their home. Ms. X said that they did not receive any message at their home. Hans Asche testified that he received a message from Mr. X on his answering machine to say that he would not be returning to Mr. Asche. Hans Asche did not provide Mr. X with a diagnosis.

On July 7, 2004 Hans Asche sent a faxed message concerning Mr. X to Dr. Z. In that note he stated that:

*"I believe this gentleman is having a Major Depressive Episode with strong Delusional (persecutory type) features."*

On July 7 Mr. X was seen by his family physician, Dr. Z. Her assessment was that he was suffering from a major depressive disorder.

In the fall of 2005 Ms. C, a social worker employed with the Nova Scotia Department of Community Services, took over an adoption application file concerning Mr. and Ms. X and commenced an adoption assessment.

On November 16, 2005 Ms. C wrote a letter to Hans Asche requesting that he provide her with information concerning Mr. X A consent form, signed by Mr. X, was included in her letter to Mr. Asche.

On January 11, 2006 Hans Asche wrote a letter to Ms. C in which he stated among other things:

*"In my opinion, at the time I saw Mr. X, he was suffering from a psychotic disorder. marked by generalized paranoia. My primary diagnosis would be Paranoid Schizophrenia of the high functioning variety- My Differential Diagnosis would be Major Depressive Disorder, chronic, Severe, with psychotic episodes. "*

At the time of sending that letter, Hans Asche had not seen Mr. X since July 6, 2004. He did not attempt to contact Mr. X to advise that he had received the letter and was responding to it. No copy of the letter to Ms. C was sent to Mr. X. The letter was received by Ms. C's office on January 19, 2006. Mr. X was subsequently advised by Ms. C that the letter received from Hans Asche was detrimental, but she would not provide a copy of the letter to him. He subsequently obtained a copy of the letter through a Freedom of Information application in the spring of 2006.

On August 14, 2006 a complaint was made by Mr. X against Hans Asche to the Registrar of the Nova Scotia Board of Examiners in Psychology.

## COMPLAINT / CHARGES

The complaint of the NSBEP, dated November 2, 2007, charged Hans Asche with professional misconduct, in that:

He, as a Registered Psychologist, while in the private practice of psychology responded to a request for information relating to a former client, Mr. X, forwarded by Ms. C. R.S.W., of the Nova Scotia Department of Community Services, dated November 16, 2005, and in so doing

- (a) failed to use adequate assessment methods in diagnosing Mr. X with Paranoid Schizophrenia, contrary to Ethical Standard II.13 of the Canadian Code of Ethics for Psychologists;
- (b) failed to acknowledge the limitations of the assessment methods and data used to reach the opinions expressed regarding Mr. X, contrary to Ethical Standards III.8, III.11 and II.30 of the *Canadian Code of Ethics for Psychologists*;
- (c) provided the diagnosis of Paranoid Schizophrenia to Ms. C without informing Mr. X that this diagnosis had been made thus failing to obtain Mr. X's informed consent, contrary to Ethical Standards II. 16 and I.17 of the *Canadian Code of Ethics for Psychologists*;
- (d) provided an opinion regarding Mr. X's parental capacity based on treatment sessions that did not involve parenting issues or any form of assessment of Mr. X's parenting, contrary to Ethical Standards II. 13 and II.6 of the *Canadian Code of Ethics for Psychologists*;
- (e) failed to ensure Mr. X was referred for treatment and! or made aware of the need for treatment appropriate to the diagnosis of Paranoid Schizophrenia, contrary to Ethical Standard II.8 of the *Canadian Code of Ethics for Psychologists*; and
- (f) misled the public by presenting certifications and membership in associations as evidence of qualifications, contrary to Principle 4 of the Standards of Professional Conduct.

The Hearing Committee heard evidence presented on behalf of both parties On May 1 and 2, 2008; June 2, 2008; and July 2, 2008.

In the case presented on behalf of NSBEP, evidence was heard from the complainant, Mr. X; the complainant's spouse, Ms. X; and the Chair of the Investigation Committee, Patty Rose. Witnesses on behalf of the defense were Social Worker, Ms. C; Family Physician, Dr. Z and Hans Asche. There was also evidence submitted by way of documentation.

During the course of the Hearing, new facts with respect to charge (e) were discovered and this charge was withdrawn by NSBEP. Each of the five remaining charges is discussed below, with reference to the salient evidence and the reasons for the decision of the Hearing Committee. The Committee reached unanimous decisions with respect to all charges. In reaching its decisions, the Committee recognized that the burden of proof of the charges rested with NSBEP to prove the charges on a balance of probabilities with cogent evidence consistent with the seriousness of the allegations.

(a) It is alleged that Mr. Asche failed to use adequate assessment methods in diagnosing Mr. X with Paranoid Schizophrenia, contrary to Ethical Standard II.13 of the *Canadian Code of Ethics for Psychologists*.

Ethical Standard II.13 of the *Canadian Code of Ethics for Psychologists* states that in adhering to the Principle of Responsible Caring, a psychologist would: "Assess the individuals, families, groups, and communities involved in their activities adequately enough to ensure that they will be able to discern what will benefit and not harm the persons involved."

Through the testimony of both Mr. X and Mr. Asche, the Committee determined that Mr. X had been seen on three occasions by Mr. Asche and that the expectation of both Mr. X and Mr. Asche was that Mr. Asche would provide treatment for Mr. X. The last contact between Mr. X and Mr. Asche was on July 6, 2004. Documentation provided by Dr. Z indicated that Mr. Asche provided a faxed note to her On July 7, 2004. In this note, Mr. Asche suggested a diagnosis of "Major Depressive Episode with strong Delusional (persecutory type) features" and suggest a referral to "psychiatry."

There was no further contact between Mr. Asche and Mr. X, but Mr. Asche provided a letter with respect to Mr. X, dated January 11, 2006, to Ms. C. It is in this letter where Mr. Asche provided a diagnosis of Paranoid Schizophrenia, specifically: "My primary diagnosis would be Paranoid Schizophrenia of the high functioning variety. My Differential Diagnosis would be Major Depressive Disorder, chronic, Severe, with psychotic episodes."

The Defense pointed out inconsistencies in the testimony of Mr. X and suggested that Mr. X was not a credible witness. The Committee accepted that the testimony provided by both Mr. X and Ms. X contained inconsistencies. However, that did not affect the reality of the material facts surrounding this issue and there was little doubt that the diagnosis and supporting information contained in the letter to Ms. C had a negative impact on them.

Through Mr. Asche's testimony, the Committee learned of his experience in diagnosing and working with schizophrenic patients. As well, through the testimony of Ms. C and Dr. Z, the Committee learned that their impressions of Mr. X were not entirely inconsistent with the impressions conveyed in Mr. Asche's January 11, 2006 letter. The Committee, however, determined that Mr. Asche's experience and the concurrence of his impressions with those of other professionals were largely irrelevant to whether he had completed an adequate assessment of Mr. X.

The Committee noted that there was no evidence that Mr. Asche had completed a formal diagnostic assessment of Mr. X. Such an assessment might include structured interviewing bearing on DSM criteria; gathering of information from collateral sources; and/or psychological testing to confirm and/or rule out specific diagnoses. Mr. Asche's interviews and data gathering appeared to reflect the beginning phase of a treatment relationship. The tests Mr. Asche sent home with Mr. X would not be particular to assessment of psychosis.

The Committee placed importance on the faxed note from Mr. Asche to Dr. Z, which was contemporaneous to Mr. Asche's contact with Mr. X and contained the diagnosis of Major Depressive Episode. In contrast, the letter to Ms. C was dated 18 months after Mr. Asche's last contact with Mr. X and, although there had been no intervening contact with Mr. X, contained a new diagnosis of Paranoid Schizophrenia. The *Committee* also placed importance on the fact that the fax to Dr. Z was not found in Mr. Asche's file, so he would not have had the benefit of its contents in composing the letter to Ms. C.

In his testimony, Mr. Asche acknowledged that if the fax had been in his file, he probably would have changed the diagnosis given to Ms. C. He testified that he had considered both diagnoses and included the differential diagnosis of Major Depressive Disorder in the letter to Ms. C. The Committee noted, however, that Mr. Asche's record keeping was poor and that there were no notes in Mr. Asche's file that indicated a diagnosis of Paranoid Schizophrenia was being considered. Therefore, he would have been relying primarily on his memory to generate this diagnosis. In his testimony, Mr. Asche was unable to adequately articulate an assessment process that would have reasonably led to such a diagnosis. The Committee determined that the contact between Mr. Asche and Mr X did not contain the level of depth and specificity around the features of DSM categories that would have allowed him to reach the diagnosis of Paranoid Schizophrenia. The Committee concluded that Mr. Asche's actions were in violation of Ethical Standard II.13 of the *Canadian Code of Ethics for Psychologists*.

(b) It is alleged that Mr. Asche failed to acknowledge the limitations of the assessment methods and data used to reach the opinions expressed regarding Mr. X, contrary to Ethical Standards III.8, III.11 and II.30 of the *Canadian Code of Ethics for Psychologists*.

Ethical Standard III.8 of the *Canadian Code of Ethics for Psychologists* states that in adhering to the Principle of Integrity in Relationships, a psychologist would: "Acknowledge the limitations of their own and their colleagues' knowledge, methods, findings, interventions, and views."

Ethical Standard III.11 of the *Canadian Code Of Ethics for Psychologists* states that in adhering to the Principle of Integrity in Relationships, a psychologist would: "Take care to communicate as completely and objectively as possible, and to clearly differentiate facts, opinions, theories, hypotheses, and ideas, when communicating knowledge, findings, and views"

Ethical Standard II.30 of the *Canadian Code of Ethics for Psychologists* states that in adhering to the Principle of Responsible Caring, a psychologist would: "Be acutely aware of the need for discretion in the recording and communication of information, in order that the information not be misinterpreted or misused to the detriment of others. This includes, but is not limited to: not recording information that could lead to misinterpretation and misuse; avoiding conjecture; clearly labeling opinion; and, communicating information in language that can be understood clearly by the recipient of the information."

The Committee heard testimony from Mr. Asche and carefully reviewed the letter of January 11, 2006 to Ms. C in considering whether appropriate acknowledgement of the limitations of the information being provided was made. The Defense directed the Committee to information contained in the letter that was cited as examples of Mr. Asche providing acknowledgement of limitations. These included the information that Mr. X had attended three sessions; that Mr. X was "a no show" for a final appointment; that Mrs. X's answers to questions did not always make sense; that the only other source of information regarding Mr. X came from Ms. X; and that Mr. Asche used the phrase "In my opinion" to preface his diagnosis. The Committee noted that while such information was contained in the letter, there was no suggestion in the letter that these pieces of information constituted a limitation.

Further, in Mr. Asche's letter, the paragraph that preceded his diagnosis of Paranoid Schizophrenia described his seven years of experience "in the diagnosis and treatment of Psychotic disorders," which

actually adds strength to his "opinion." Later in the letter, Mr. Asche writes "There is no doubt in my mind, that at the time of our sessions, (Mr. X) was suffering from a psychotic episode. Therefore, Mr. Asche not only failed to address any limitations in his arriving at a diagnosis of Paranoid Schizophrenia, but also used language and provided information that bolstered this diagnosis. It was unclear, from Mr. Asche's testimony, whether he fully appreciated the importance of acknowledging limitations.

The Committee also noted that Mr. Asche's letter contained language and statements that lacked objectivity. These included his description of having "intense, grave concerns" about Mr. X's parenting ability and his statement that he would "offer a resounding no" to Mr. X's adoption application. As well, Mr. Asche's letter contained conjecture about concerns for the child "currently" being parented by Mr. X. Ms. C testified that a referral was made to the local child welfare agency following the receipt of Mr. Asche's report. Mr. X and Ms. X testified that the result of this referral has been very negative and difficult for them and their extended family.

The Committee concluded that Mr. Asche's actions were in violation of Ethical Standards III.8, III.11 and II.30 of the *Canadian Code of Ethics for Psychologists*.

(c) It is alleged that Mr. Asche provided the diagnosis of Paranoid Schizophrenia to Ms. C. without informing Mr. X that this diagnosis had been made thus failing to obtain Mr. X's informed consent, contrary to Ethical Standards I.16 and I.17 of the *Canadian Code of Ethics for Psychologists*,

Ethical Standard I.16 of the Canadian Code of Ethics for Psychologists states that in adhering to the Principle of Respect for the Dignity of Persons, a psychologist would: "Seek as full and active participation as possible from others in decisions that affect them, respecting and integrating as much as possible their opinions and wishes."

Ethical Standard I.17 of the Canadian Code of Ethics for Psychologists states that in adhering to the Principle of Respect for the Dignity of Persons, a psychologist would: "Recognize that informed consent is the result of a process of reaching an agreement to work collaboratively, rather than of simply having a consent form signed."

The Committee heard testimony from Mr. X that a Consent form was signed during the first session with Mr. Asche; a copy of this Consent was provided to the Committee. There was disagreement between Mr. X and Mr. Asche as to whether or not Mr. Asche reviewed the Consent form with Mr. X. The Consent form signed by Mr. X contained the statement "information from therapy may be released to specified individuals or agencies with my informed consent in writing." Mr. X further testified that a Consent form was subsequently signed at the request of Ms. C and that it was understood that this would allow contact between Ms. C and Mr. Asche. There is no disagreement, therefore, that some type of consent process occurred.

The Defense argued that even if the consent process did not meet ethical standards that Mr. Asche had an ethical obligation to respond to Ms. C's questions, in order to protect a potential adopted child. However, the Committee did not find that protection of a non-specific, possible adoptive child would be reason to not engage in a proper consent process.

In his testimony, Mr. Asche acknowledged that he had not attempted to contact Mr. X in order to discuss the request from Ms. C and inform Mr. X as to the nature of the contents of his letter to her. He stated that he believed that the release from Ms. C was sufficient. The Defense argued that had Mr. Asche attempted such contact, that it was "not likely" that Mr. X would have responded. The Committee did not find that the likelihood of a positive response from a client should determine whether full informed consent was attempted. There was no evidence to suggest that Mr. X would have had any inkling of the nature of the diagnosis and supporting comments made by Mr. Asche. Rather, Mr. X and Ms. X testified that they were shocked when they read the contents of the letter.

The Committee placed importance on the wording of the Ethical Standard, particularly the need to "seek as full and active participation as possible from others in decisions that affect them" and the need to ensure that consent is a collaborative process, not "simply having a consent form signed." The Committee concluded that Mr. Asche did not meet these standards and was, therefore, in violation of Ethical Standards I.16 and I.17 of the *Canadian Code of Ethics for Psychologists*.

(d) It is alleged that Mr. Asche provided an opinion regarding Mr. X's parental capacity based on treatment sessions that did not involve parenting issues or any form of assessment of Mr. X's parenting, contrary to Ethical Standards II.13 and II.6 of the *Canadian Code of Ethics for Psychologists*.

Ethical Standard II.13 of the *Canadian Code of Ethics for Psychologists* states that in adhering to the Principle of Responsible Caring, a psychologist would: "Assess the individuals, families, groups, and communities involved in their activities adequately enough to ensure that they will be able to discern what will benefit and not harm the persons involved."

Ethical Standard II.6 of the *Canadian Code of Ethics for Psychologists* states that in adhering to the Principle of Responsible Caring, a psychologist would: "Offer or carry out (without supervision) only those activities for which they have established their competence to carry them out to the benefit of others."

In considering this charge, the Committee noted that evaluation of "parenting capacity" is a complex and highly specialized type of assessment. In his testimony, Mr. Asche indicated that he does not consider himself to have completed an assessment of parenting capacity with Mr. X, nor does he believe that his letter to Ms. C represented such an assessment. The Defense suggested that Mr. Asche had been invited to respond to the question of Ms. C, which was "Based on your knowledge and experience, would you recommend (Mr. X) as an adoptive parent?" In his response to Ms. C letter, Mr. Asche indicated that he had concerns regarding Mr. X's "parental abilities/parental motives."

The Committee determined that Mr. Asche, in his three sessions with Mr. X, had come into information regarding Mr. X's history and mental status that justified a statement of concern regarding Mr. X's "parental abilities/parental motives" and that expressing such a concern based on information arising from therapy sessions did not constitute an assessment of "parenting capacity." The Committee concluded that Mr. Asche's actions in this regard did not violate ethical standards.

(f) It is alleged that Mr. Asche misled the public by presenting certifications and membership in associations as evidence of qualifications, contrary to Principle 4 of the Standards of Professional Conduct.

Principle 4 of the Standards of Professional Conduct states: "A psychologist shall not solicit users in ways that mislead prospective users, that disadvantage fellow psychologists, or that discredit the profession of psychology."

The Committee noted that the 2002 Standards of Professional Conduct includes, under Principle 4.4, the following statement: "In announcing or advertising the availability of psychological services or products, psychologists do not display any affiliations with an organization in a manner that falsely implies the sponsorship or certification of that organization. In particular and for example, psychologists do not offer membership or fellowship in the Canadian Psychological Association, the Association of Psychologists of Nova Scotia, or other associations as evidence of qualification."

A copy of a brochure describing Mr. Asche's services was provided and Mr. Asche testified that he had been using the brochure since 2004. This brochure contained a heading "Registration & Certification" which included organizations such as "Association of Psychologists of Nova Scotia"; "American Society of Clinical Hypnosis"; and "Canadian Register of Health Service Providers in Psychology" as well as apparent certifications, such as "Critical Incident Stress Management" and "Eye Movement Desensitization & Reprocessing". In his testimony, Mr. Asche stated that he has indeed received training certificates in some of these areas, but acknowledged that other cited organizations represent membership, only.

The Defense argued that nobody was misled by Mr. Asche's brochure and that there was no evidence that Mr. X or Ms. X had seen the brochure. However, in his cover letter to Ms. C., Mr. Asche indicated that he included "several brochures"

At the time of the Hearing, Mr. Asche appeared to be aware that his brochure had been in violation of this Standard and provided the Committee with an updated brochure that, according to his testimony, he developed while under the supervision of a fellow psychologist.

The Committee determined that the content of the 2004 brochure was clearly in violation of Principle 4.4 and thus, Mr. Asche was in violation of the Standards of Professional Conduct.

Resumption of the hearing will be required to deal with the issue of sanctions.

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IN THE MATTER OF:        Hans Asche, a Registered Psychologist, of Halifax, in the  
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DECISION ON SANCTIONS

Alan J. Stem, Q.C.  
McInnes Cooper  
1300 - 1969 UpperWater Street,  
P.O. Box 730  
Halifax N8 B3J 2V1

Solicitor for the Nova Scotia Board of  
Examiners in Psychology

Brian Bailey  
Bailey & Associates  
Metropolitan Place 400-  
99 Wyse Road  
Dartmouth NS B3A 485

Solicitor for Hans Asche

A Disciplinary Hearing was held on May 1 and 2, June 2, and July 2, 2008, following which a decision was rendered on September 12, 2008 by the Hearing Committee in which it was found that Hans Asche was guilty of professional misconduct. The proceeding was reconvened on December 2, 2008 for consideration of sanctions.

The Committee heard evidence from two witnesses for Mr. Asche, Ms. Rilda van Feggelen and Dr. Gordon Butler. Ms. van Feggelen testified that she had been Registrar at the time of Mr. Asche's application to be placed on the Register following his move to Nova Scotia from Newfoundland, where he had been a registered psychologist. She testified that the Board, at that time, had determined that Mr. Asche did not meet the requirements for full registration in Nova Scotia. Rather, it was determined that he required a period of supervision and he was placed on the Candidate Register. While Mr. Asche was on the Candidate Register, the Mutual Recognition Agreement, an agreement designed to facilitate transfer of registration of psychologists across provinces, was signed and at that time, Mr. Asche was placed on the full Register, even though he had not completed the previously determined period of supervision. Ms. Asche was subsequently used as an oral examiner by the Board. He was in contact with Ms. van Feggelen, with respect to ethical and practice issues while he was employed by an agency, but Ms. van Feggelen could not recall his consulting with her with respect to issues arising from his private practice. Ms. van Feggelen testified that Mr. Asche was "devastated" by the Hearing process and that he had "fallen apart psychologically." She further testified that she believed he was feeling depressed and on medication.

Dr. Butler testified that he was contacted by Mr. Asche in October of 2007, following a suspension hearing which had determined that Mr. Asche would require supervision. Dr. Butler agreed to provide supervision to Mr. Asche for a period of six months. Dr. Butler testified that he viewed his role as a "watch dog" and that supervision consisted of a review of Mr. Asche's assessment and diagnosis of new patients and a review of sections of the Code of Ethics, dealing with issues of informed consent. He testified that there were no significant concerns regarding Mr. Asche's practice as a psychologist during that time. Dr. Butler did not directly observe Mr. Asche with patients nor did he review issues such as record keeping or note taking. He testified that he did not understand it to be his role to deal directly with the specific issues arising from the Complaint process.

Counsel for Mr. Asche also entered into evidence a number of letters of support for Mr. Asche from previous patients. As well, a letter of support was provided by a staff person at the Nova Scotia Community College (NSCC); the Committee recognized his work providing assessments of NSCC students as a valuable service provided by Mr. Asche.

In the Submission by Counsel for the Board of Examiners, it was argued that Mr. Asche's actions in this matter represented a fundamental gap in his training as a psychologist and that he did not possess the skills and competence required to work with individuals such as DS. It was further argued that Mr. Asche had never taken responsibility for his failure to maintain appropriate professional standards. The Hearing Committee was urged to consider removal of Mr. Asche from the Register. An alternate proposal for sanctions was Suspension with a number of conditions to be met prior to a return to the Register. These conditions included successful completion of the Examination for Professional Practice in Psychology (EPPP); completion of psychology courses in clinical assessment and intervention; completion of an ethics in psychology course; completion of an oral examination by the full Board and full recovery of Hearing costs.

On the issue of Costs, Counsel for the Board submitted an itemized total of \$30,728.08 incurred by the Board. An additional cost of \$22,000 plus HST was estimated and subsequent correspondence from Counsel for the Board indicated further costs of \$8,462.58. Estimated total costs incurred by the Board are, therefore, \$64,050.66.

In the Submission by Counsel for Mr. Asche, the Hearing Committee was urged to take the least onerous measures necessary to ensure protection of the public and to show compassion with respect to recovery of costs. It was argued that Mr. Asche's professional misconduct was a one-time incident - that he had no previous history of complaints and that removing him from the Register of Psychologists was not required.

Counsel for the Board agreed that Mr. Asche was "of good character" and that he had no history of complaints against him.

Counsel for Mr. Asche argued that Mr. Asche was "very sorry for his actions" and that Mr. Asche was willing to take whatever coursework deemed necessary as long as he was able to "continue to make a living." It was further argued that Suspension for the period of time necessary to comply with the Board's conditions was equivalent to striking him from the Register.

Counsel for the Board argued that the conditions recommended by the Board could be achieved in a matter of months.

The Hearing Committee was asked by both Counsel to consider the factors set forth in *Jaswalv. Medical Board (Newfoundland)* (1996), 42 Admin. L.R. (2d) 233 (Nfld.T.D.) in determining sanctions. The Committee did so in its deliberations.

Following deliberations, the Hearing Committee unanimously decided on the following;

1. In order to ensure protection of the public, Mr. Asche will be required to successfully complete additional training. The Committee considered the training and examinations proposed by the Board. It was determined that there would be limited benefit in requiring Mr. Asche to pass the EPPP and an Oral Exam. As well, the Committee determined that there was insufficient evidence with respect to Mr. Asche's treatment skills to warrant required coursework in this area. One substantial area of concern is Clinical Assessment and Mr. Asche will, therefore be required to complete additional training in this area. Training should be equivalent to that offered in a graduate program in clinical psychology. An online course at this level would be acceptable. It is the responsibility of Mr. Asche to identify an appropriate course which must then be approved by the Board. Costs of such training are to be assumed by Mr. Asche.
2. Mr. Asche must also successfully complete a course in Ethics, in order to address a second substantial area of concern. The online course offered through the Canadian Psychological Association would meet this requirement. Costs for the course are to be assumed by Mr. Asche.
3. Mr. Asche will be allowed to stay on the Register of Psychologists and continue his practice under the following conditions:
  - A. That, given the testimony provided by Mr. Asche and others, with respect to his current functioning, Mr. Asche complete a mental health assessment by a psychologist approved by the Board to determine his fitness to practice. Mr. Asche will be expected to follow any recommendations arising from this assessment. Should he be deemed unfit, he will be Suspended until such time as a re-assessment determines him fit to resume practice. *Costs* for this assessment will be assumed by Mr. Asche.
  - B. That Mr. Asche submit to a practice audit by an independent private practice psychologist approved by the Board. This audit should focus on all aspects of Mr. Asche's practice, with emphasis on his record keeping, filing system and consent process .. Any deficiencies found in the audit will be the responsibility of Mr. Asche to correct. The psychologist conducting the audit will be asked to review identified issues of concern to ensure that Mr. Asche has: made the required changes. This will occur at three months and six months after the initial audit.. *Costs* associated with this process will be assumed by Mr. Asche.
  - C. That Mr. Asche will arrange for intensive supervision of his practice by a psychologist approved by the Board. This must be a different individual

from the psychologist completing the practice audit. It is expected that supervision will be for a minimum of three hours per month in two 1.5 hour sessions. The format of this supervision is to follow that of an individual on the Candidate Register. That is, to cover all aspects of Mr. Asche's work as a psychologist and to involve file review, direct observation and/or review of recorded sessions, as well as discussion and review of ethical issues. The issues of assessment and diagnosis must be explicitly addressed and Mr. Asche must demonstrate integration of new learning through required coursework into his practice. Monthly supervision reports are to be completed and provided to the Board. The report of the practice audit should be provided to the supervising psychologist. Such supervision must continue until the successful completion of the courses outlined above and determination by the supervisor that Mr. Asche is capable of independent practice, but will be of no less than one year. Costs associated with this process will be assumed by Mr. Asche.

4. The process as described above must be completed within a two-year period from the time of this Decision.
5. In considering costs, the Hearing Committee recognized the need to strike a balance between the effect that such an award would have on the psychologist and the need for the Board to be able to effectively administer the disciplinary process in order to appropriately respond to complaints against registered psychologists so as to provide for protection of the public. Costs awarded ought not to be so punitive as to discourage a member of the profession from defending himself against allegations brought against him. On the other hand, a profession ought not to be discouraged from responding to complaints against a member of the profession because of the expense of the process that might not be recovered.

The Hearing Committee decided not to revoke or to suspend Mr. Asche's registration provided he complies with the conditions set forth herein and consideration was given to the fact that Mr. Asche is required to assume the costs of the required remediation. It was noted that Mr. Asche was found guilty on four of the original six charges brought against him. Information was received that the Board's expense in connection with disciplinary hearing would be in excess of \$60,000. It was decided that Mr. Asche shall pay to the Board costs in the amount of \$25,000. Payment to the Board shall be made in a single lump sum or by such other terms as may be agreed between Mr. Asche and the Board. All expenses assumed by Mr. Asche as part of the

remedial process described above shall be paid promptly by Mr. Asche upon receipt of invoice.

6. The Hearing Committee reserves jurisdiction to reopen the Hearing in this matter in the event Mr. Asche fails to comply with any of the conditions referred to herein.

Members of the Hearing Committee:

Dr. Lowell Blood, Chair

Mr. Prem Dhir

Dr. Elizabeth Pace

Dr. Andrew Starzomski

Ms. Debra Garland