In the Matter of the Social Workers Act

And

In the matter of a Hearing Concerning

REASONS FOR DECISION of the Board of Registration for Social Workers British Columbia

| Hearing date: | February | 15 | & | 16. | 2008 |
|----------------|-------------|----|--------|-----|------|
| item ing date. | 1 Col daily | 10 | \sim | 10, | 2000 |

Place of hearing: Vancouver, BC

Board Members: Jim Campbell, RSW Chair

Sharon Coates, public member Bruce Hallsor, public member Kathryn McCannell, RSW Janice Murphy, RSW

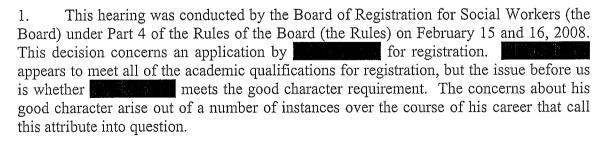
Brigitte Wagner-Yates, RSW

Chi Ying Wong, RSW

Counsel for the Registration Committee: J. Ziskrout

Counsel for the Applicant: was not represented by counsel

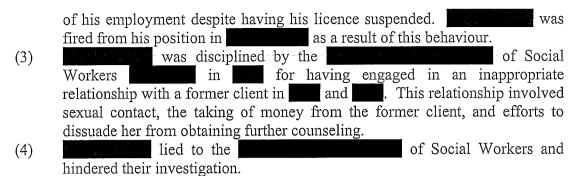
Decision Issued: March 12, 2008



The issues that gave rise to this hearing and were not in dispute are as follows:

| (1) | had three convictions for drinking and driving in the early 1990s |
|-----|---|
| | that ultimately led to a driver's licence suspension. |
| (2) | did not displace these convictions to an employer the |

(2) did not disclose these convictions to an employer, the and drove clients around as part



- (5) has failed to fully disclose his prior disciplinary record to numerous employers.
- 2. Although denied certain details of the findings, and felt that there were some extenuating circumstances for some of the other past infractions, the essential elements of these facts were not in dispute at the hearing. The main issue therefore for the Board is the issue of redemption and whether the Board should find that has redeemed his good character.
- 3. The requirements for registration are set out in section 35(1) of the Rules. Subsection (d) states that the Board must hear satisfactory evidence "of the good character of the person consistent with the responsibilities of a registrant and the standards expected of a registrant." The onus is on the applicant to satisfy the Board, on the balance of probabilities, that he possesses good character.
- 4. Good character is not defined by the *Social Workers Act* or the Rules, but the Code of Ethics provides the following sections relating to good character:
 - 1. A social worker shall maintain the best interest of the client as the primary professional obligation.
 - 2. A social worker shall respect the intrinsic worth of the persons served in professional relationships with them.
 - 3. A social worker shall carry out professional duties and obligations with integrity and objectivity.
 - 4. A social worker shall not exploit the relationship with a client for personal benefit, gain or gratification.
 - 8. A social worker shall not provide social work services or otherwise behave in a manner that discredits the profession of social work or diminishes the public's trust in the profession.

Furthermore, the Standards of Practice note that:

2.10 When a complaint investigation is underway or a matter has been referred for a hearing, social workers cooperate fully with all policies and procedures of the Board of Registration for Social Workers and conduct themselves in a manner

which demonstrates respect for both the complainant and the Board of Registration for Social Workers.

- 5. It is the position of this Board that all of the above references are of assistance in guiding what is considered good character. An essential element of good character is one's ability to be honest and forthright in one's dealings. In Casson v. British Columbia College of Teachers [2000] BCJ Mp. 1038 (BCSC), the Court upheld the college's refusal to grant membership to an applicant who had deceived the College about her educational qualifications.
- 6. Past instances showing bad character do not mean that an applicant should be forestalled for all time from being registered as a social worker. The Board notes that in Wakeford v. College of Physicians and Surgeons of British Columbia (1993), 84 BCLR (2d) 171 (CA), the Court of Appeal found that it is important to consider evidence of rehabilitation. In that decision, which considered a doctor who had been suspended for various incidents of sexual misconduct, the Court said:

I take this case to reflect the general proposition that a person should not be punished twice for the same offence and to stand for the principle an indeterminate sentence should not be continued beyond the point of demonstrated rehabilitation.

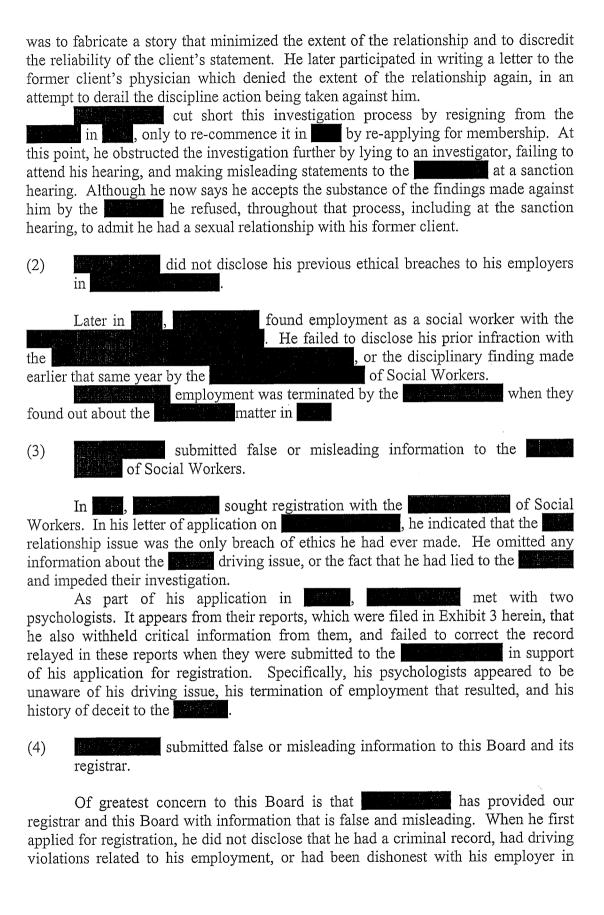
7. However, the mere passage of time is not sufficient to provide evidence of rehabilitation. The Board must be satisfied that there has been an actual change in the character of the applicant over time, and must be provided with evidence of that change. In *McOuat v. Law Society of British Columbia [2001] BCJ No. 256*, the Court of Appeal cited the following passage from the Law Society's decision:

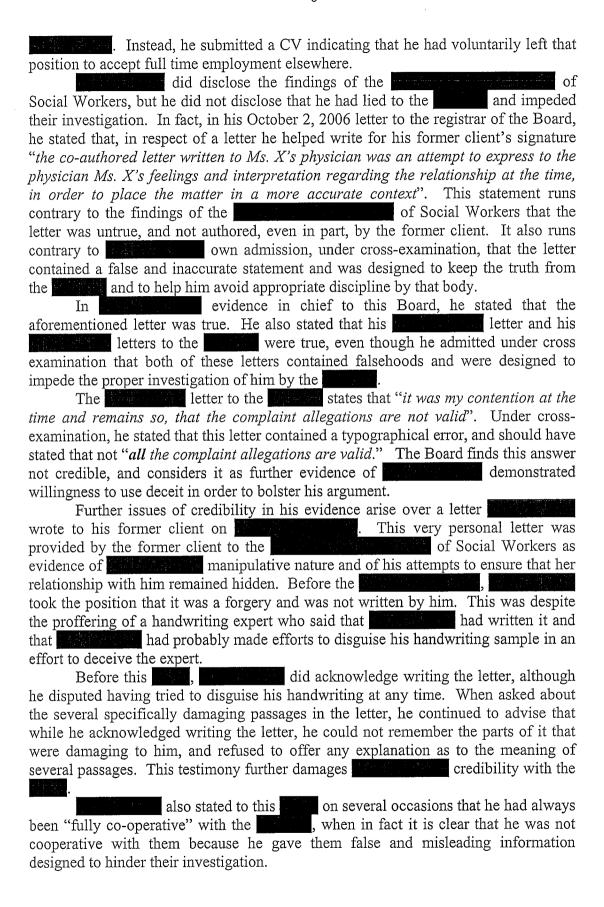
In the end result, the evidence does not establish, on a balance of probabilities, that the present Mr. McOuat is any different from the man who yielded to temptation years ago. We are not convinced that the mere passage of time, even coupled with privation and criminal sanction, has transformed Mr. McOuat into a man who could not once again commit the acts which led to his disbarment.

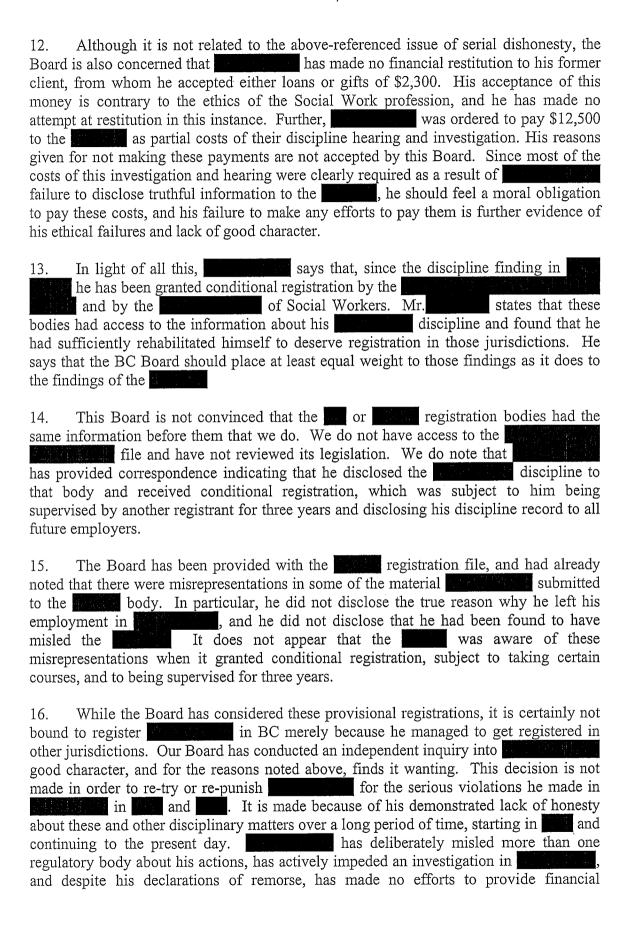
After considering the submissions of the parties, the Court, at p.7 stated:

There can be no question that, having regard to the substantial thefts he committed over a long period of time and the devious and elaborate methods he used, Mr. McOuat had a difficult task in persuading any tribunal that he should be reinstated. He presented evidence to the panel that, for the most part, amounted to a reliance on the passage of time to make his case. The panel considered all the evidence and weighed it. In the end it exercised its discretion against granting the application. I am not persuaded that the panel misapprehended the evidence or applied any wrong principles. It did not consider extraneous matters. The panel members were simply not persuaded that

| Mr. McOuat had rehabilitated himself as required and the evidence supported that conclusion. |
|---|
| 8. Although disputed some minor points related to his previous unethical behaviour, he accepted the findings of the workers, and did not dispute the actions which impugned his good character prior to In his submissions to the Board, he concentrated on rehabilitation and made the argument that he had rehabilitated his character in the following ways: |
| not repeated the violations, including driving violations accepted responsibility, and expressed remorse spent 10 years reflecting upon the infraction, learning and developing strategies to ensure there is never a repeat sought employment in the field, and done well completed a course in ethics at on boundaries in social work completed psychological counseling to develop new strategies to ensure against any repeats |
| 9. The Board finds as a fact that has not repeated the violations and apparently has a very good record in respect of his job performance in the field of Social Work in the positions he has held since has undertaken some counseling and coursework that could be of assistance in rehabilitating his character. The Board is also prepared to accept assertion that he has undoubtedly spent years reflecting on the impropriety of his infractions related to his driving record, and his personal relationship with a former client, and that he has some genuine remorse for these events. |
| The Board is not convinced however, on the balance of probabilities, that has reflected or has shown true remorse in respect of his willful misleading of the of Social Worker's investigation. More disturbingly, the Board finds that has continued this pattern of dishonesty into recent years in failing to fully disclose his past infractions to other professional bodies or employers, and in making false statements to the of Social Workers, and to this Board both in his written application materials and in his oral evidence provided at this hearing. |
| 11. The Board finds specific instances of dishonest statements and conduct are as follows: |
| (1) engaged in a pattern of dishonesty and deception to cover up his relationship with a former client in |
| was to deny any knowledge of any circumstance of wrongdoing. Once he was informed of the identity of the client and the substance of the complaint, his reaction |







| restitution to his former client, or to pay the costs ordered against him by the | 4.100 4.1000 |
|--|-----------------|
| of Social Workers. | |
| 17. For the reasons set out above, the Board is not satisfied, on the balance probabilities, that satisfies the good character component of requirements for registration. It is the duty of this board to therefore advise that his application for registration is denied. | the |

For the Board:

Jim Campbell RSW Chair