

**IN THE MATTER OF *THE PSYCHOLOGISTS ACT, 1997* AND BYLAWS AND IN THE
MATTER OF A SERIES OF COMPLAINTS AGAINST DR. DONNA DARBELLAY OF
SASKATOON, SASKATCHEWAN**

**DECISION
Saskatchewan College of Psychologists
DISCIPLINE COMMITTEE**

Discipline Committee Members:

Tom Robinson, Registered Doctoral Psychologist, Chair
Christel Gee, Public Representative
Renee Schmidt, Registered Doctoral Psychologist, Member

Karen Prisciak, Q.C., appearing on behalf of the Professional Conduct Committee
Michelle Ouellette, Q.C., and Toni Perrault, appearing on behalf of Dr. Donna Darbellay
Merrilee Rasmussen, Q.C., legal counsel for the Discipline Committee

INTRODUCTION

[1] The Discipline Committee convened on September 8, 2021, as agreed by the parties, to hear and determine a series of formal complaints concerning Dr. Darbellay, as required by *The Psychologists Act, 1997*.

[2] At all times material to the complaints made against her, Dr. Darbellay was a member of the Saskatchewan College of Psychologists, licensed to practise in the Province of Saskatchewan subject to the Act, the regulatory bylaws of the College, the *Canadian Code of Ethics for Psychologists* (“the Code”), and related Saskatchewan College of Psychologists Practice Guidelines (“the Guidelines”).

THE FORMAL COMPLAINTS

[3] The first of the formal complaints is dated January 8, 2018 (PCC File No. 2016-001). A hearing was held by the Discipline Committee in relation to this complaint and the Committee’s decision, dated November 5, 2019, found Dr. Darbellay to be guilty of professional misconduct for disclosing confidential financial information of the Complainant to the Complainant’s mother without the Complainant’s permission, contrary to the Code and therefore contrary to the Regulatory Bylaws. A hearing to address the matter of penalty was to be convened at a time and

place to be set by the Chair of the Discipline Committee in consultation with legal counsel for the Professional Conduct Committee and Dr. Darbellay.

[4] There are three additional formal complaints concerning Dr. Darbellay that were referred to the Discipline Committee for hearing, but which have not previously been dealt with.

[5] The first of these is a formal complaint dated November 27, 2017 (PCC file No. 2016-002) and alleges that Dr. Darbellay is guilty of professional misconduct or professional incompetence in that she:

Charge #1: Failed to provide adequate information in aspects of the psychological assessment and exercised poor planning in the psychological assessment in violation of the Canadian Code of Ethics for Psychologists, 3rd ed., 2000, and more specifically Sections I.1, I.16, I.17, I.24, II.2, and contrary to Professional Practice Guideline 4.5. In particular, she:

- a) Failed to explain to R.S. the purpose of the psychological assessment.
- b) Failed to establish rapport, share information and establish a working relationship with R.S.
- c) Failed to communicate and explain the assessments and recommendations to R.S.
- d) Exercised poor planning in allowing an encounter between R.S. and the other parent with the children in the face of a Court Order regarding supervised access.

Charge #2: Used inadequate psychological assessment procedures leading to communications not based on comprehensive information in violation of the Canadian Code of Ethics for Psychologists, 3rd ed., 2000, and more specifically Sections II.9, II.30, and III.9 and contrary to Professional Practice Guidelines 11.6 and 11.24. In particular, she:

- a) Failed to provide a description and scores of the assessment results
- b) Failed to document and consider alternate interpretations to the tested assessment results.
- c) Failed to reference the information to support her diagnosis of "likely personality disorder".

Charge #3: Demonstrated unprofessional behavior in violation of the Canadian Code of Ethics of Psychologists, 3rd ed., 2000, and more specifically Section II.30 and contrary to Professional Practice Guideline 7.7 by misquoting a statement made in a report authored by a professional colleague, K.W.

Charge #4: Authored a psychological report which was in violation of the Canadian Code of Ethics for Psychologists, 3rd ed., 2000, and more specifically Sections I.16, II. I and II.5 and contrary to Professional Practice Guidelines II.2 and II.6 in that she failed to take appropriate measures to ensure there was no bias in the psychological report when reporting the possible presence of a personality disorder in RS.

[6] The second additional formal complaint is dated November 1, 2018 (PCC file No. 2017-015) and alleges that Dr. Darbellay is guilty of professional misconduct or professional incompetence in that she:

Charge #1: Failed to reference facts to support her statements; failed to reference crucial information and was biased and was biased in violation of Canadian Code of Ethics for Psychologists, 3rd ed., 2000, and more specifically Sections 1.1 and contrary to Professional Practice Guideline 11.2.

Charge #2: Failed to report assessment protocols and results to substantiate findings and more particularly, speculated on the children's "brain trauma" without reference to assessment protocols and results or objective data in violation of Canadian Code of Ethics for Psychologists, 3rd ed., 2000, and more specifically Sections 11.9 and 11.30 and contrary to Professional Practice Guideline 11.6, 11.24 and 11.36

[7] The third additional formal complaint is dated August 19, 2021 (PCC file No. 2019-001) and alleges that Dr. Darbellay is guilty of professional misconduct or professional incompetence in that she:

provided a psychological report dated April 18, 2015 to her client's (C.D.) ex-partner's legal counsel without the knowledge or specific written consent of C.D. wherein she recommended three children be immediately removed from C.D.'s care based on her conclusion that C.D. had "serious mental health issues" without identifying the psychological assessment supporting the conclusion or without discussing her conclusions or recommendations with C.D. when her last contact with C.D. was four months prior in violation of Sections 1.45, 1.26, 1.12, 1.16, II.13, II.30 of the Canadian Code of Ethics for Psychologists, 35rd ed. and contrary to Professional Practice Guidelines 6.1, 6.2, 6.16, 3.3, 3.19, 5.2, 11.2, 11.30 and 11.31.

THE EVIDENCE

[8] As described above, the Discipline Committee found Dr. Darbellay guilty of professional misconduct in relation to the first formal complaint. An Agreed Statement of Facts was submitted with respect to each of the other three formal complaints.¹ In each of these Agreed Statements of Facts, Dr. Darbellay acknowledges the jurisdiction of the College and that she was served with each of the formal complaints. In addition, she pleads guilty to each of the charges

¹ These were filed with the Discipline Committee as Exhibits 1 to 3, respectively.

contained in all of the formal complaints. Copies of the Agreed Statements of Fact (not including documents appended thereto) are attached to this decision as Appendices 1 to 3, respectively.

LEGISLATION

[9] *The Psychologists Act, 1997* defines professional misconduct as follows:

Professional misconduct

25 Professional misconduct is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, that:

- (a) is harmful to the best interests of the public or the members of the college;
- (b) tends to harm the standing of the profession;
- (c) is a breach of this Act or the bylaws; or
- (d) is a failure to comply with an order of the professional conduct committee, the discipline committee or the council;

is professional misconduct within the meaning of this Act.

[10] Section 20 of *The Saskatchewan College of Psychologists Regulatory Bylaws, 2016*² requires members to comply with the Code of Ethics of the College:

20 Every member shall comply with the *Canadian Code of Ethics for Psychologists*, Third Edition, as adopted by the Canadian Psychological Association.

[11] The *Regulatory Bylaws* of the College also contain provisions relating to what constitutes professional misconduct and/or professional incompetence:

6(1) For the purposes of sections 25 and 26 of the Act, the committee may find a psychologist guilty of professional incompetence and/or professional misconduct where the member:

- (a) abused a client physically, sexually, verbally, or psychologically;
- (b) wilfully endangered the safety of a client;
- (c) influenced a client to change the client's last will and testament;

² Published in *The Saskatchewan Gazette* on June 3, 2016. These bylaws did not formally come into force until their publication date, as provided for in subsection 14(8) of the Act. However, section 14 of the 2004 Regulatory Bylaws in force immediately prior to June 3, 2016 contains the same provision.

- (d) wrongfully abandoned a client;
- (e) misappropriated property belonging to a client, employer or fellow employee;
- (f) failed to exercise discretion with respect to the disclosure of confidential information about a client;
- (g) failed to maintain or falsified any client record;
- (h) failed to inform any employer or any client of the psychologist's inability to accept specific responsibility in areas where special training is required or where the psychologist does not feel competent to function without supervision;
- (i) failed to report the incompetence or misconduct of a member or colleague;
- (j) failed to comply with the Code of Ethics of the college or failed to comply with established standards of practice;
- (k) failed without reasonable cause to respond to inquiries from the college regarding alleged professional misconduct or professional incompetence;
- (l) conspired to participate in any act of misconduct or counselled a participant in any act of misconduct;
- (m) obtained registration by misrepresentation or fraud; or
- (n) contravened any provision of the Act or these bylaws.

[12] Where a member is found to be guilty of professional misconduct, the Discipline Committee is authorized to make orders directed at the conduct underlying the complaint that gave rise to the finding. Section 32 of *The Psychologists Act, 1997* provides the Discipline Committee with the following authority:

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.

ANALYSIS AND DECISION

[13] As a result of its review of the evidence as set out in the Agreed Statements of Facts submitted by the parties with respect to the three formal complaints described above, the Discipline Committee finds that Dr. Darbellay, as she admitted, is guilty of professional misconduct in that she was in violation of the various provisions of the Code and the Professional Practice Guidelines identified in the charges outlined in the formal complaints, contrary to clause 6(1)(j) and section 20 of the College's Regulatory Bylaws and thus in breach of clause 25(c) of *The Psychologists Act, 1997*, which defines a breach of the bylaws as professional misconduct.

[14] The parties also submitted a Joint Submission re Penalty applicable to all the charges contained in the three formal complaints described above as well as to the charge of disclosing confidential information that the Discipline Committee found Dr. Darbellay to be guilty of in its November 5, 2019 decision. The Joint Submission includes the following:

- (a) a reprimand;
- (b) a fine of \$5,000 to be paid within one year of the date of the Discipline Committee's Order;
- (c) costs with respect to all matters in the total amount of \$40,000;

- (d) conditions to be met by Dr. Darbellay if she chooses to return to active practice; and
- (e) an agreement that, if Dr. Darbellay fails to pay the fine and costs described above, the College is entitled to pursue recovery of those amounts.

[15] In its decision in the case of *Rault v. Law Society of Saskatchewan*,³ the Saskatchewan Court of Appeal made it clear that a discipline committee must give serious consideration to a joint submission on sentencing that has been agreed to unless the sentence is unfit or unreasonable, or contrary to the public interest, and the joint submission should not be departed from unless there are good or cogent reasons for doing so.⁴ The Court went on to say, in relation to the discipline process applicable to members of the Law Society of Saskatchewan (which is similar to the process applicable to psychologists):

The discipline process in the Act has many similarities to the criminal process and as such the bargaining process is undermined if a joint submission, the product of compromise, is readily rejected by the Discipline Committee. There is a formal process for the handling of complaints, including the appointment of an Investigation Committee, which may set out a Formal Complaint outlining the allegations which may constitute a finding of guilt as to conduct unbecoming a lawyer. This can lead to the appointment of a Hearing Committee, which determines if the allegations in the Formal Complaint are well-founded and, if so, the matter is referred to the Discipline Committee for sentencing on the charges.

This process can be time-consuming for Benchers involved in the various stages leading to the final penalty imposed by the Discipline Committee and can involve significant costs for both the member and the Law Society. Therefore, all members and the Law Society have a vested interest in ensuring that matters proceed expeditiously. If the member co-operates with the investigation and hearing process and, as happened in the instant case, pleads guilty, and puts an Agreed Statement of Facts before the Hearing Committee, the Law Society is relieved of the burden of proving the allegations in what could, in some instances, be a complicated and protracted hearing with the usual risks and vagaries that may occur in the course of such hearings. If the parties negotiating compromise agreements cannot expect their efforts will be respected, there is little incentive to attempt to negotiate a resolution. For this reason, joint submissions on sentence should be considered by the Discipline Committee in a principled way similar to the jurisprudence in

³ 2009 SKCA 81.

⁴ *Ibid*, at paragraph 13.

criminal matters and as applied by discipline committees in the provinces noted above.

[16] As a result, it is only in a situation where the Discipline Committee is persuaded that the sentence agreed to in a joint submission is unfit or unreasonable or contrary to the public interest that the Discipline Committee would not accept the joint submission. The Discipline Committee is also mindful of the fact that the objective of professional discipline proceedings is not punishment, but correction or improvement of conduct or competence to ensure, to the extent that it is reasonably practicable to do so, that the public is protected from substandard conduct or competence on the part of psychologists who are members of the College. The Discipline Committee finds no good or cogent reason to depart in substance from the sentence agreed to in the joint submissions provided by the parties. The Discipline Committee notes that it is required to ensure that its decision is published on the College's website pursuant to subsection 6(2) of *The Saskatchewan College of Psychologists Regulatory Bylaws, 2016*.

ORDER

[17] For all of the reasons set out above, the Discipline Committee of the Saskatchewan College of Psychologists, pursuant to section 32 of *The Psychologists Act, 1997*, orders that:

1. Donna Darbellay is hereby reprimanded;
2. Donna Darbellay shall pay a fine of \$5,000 within one year after the date of this Order;
3. Donna Darbellay shall pay costs in the amount of \$40,000 within 18 months after the date of this Order;
4. If Donna Darbellay chooses to return to active practice the following conditions will apply:
 - (a) she shall practice under the supervision of a Member of the College with a full practising licence acceptable to the College and in accordance with a supervision plan that is approved by the College for a period of 12 months, which must include 1500 hours of supervised practice, from the date of her return to practice;
 - (b) she shall inform all clients that she is required to practice under supervision and provide each of them with the name of and contact information for the supervisor;

(c) she shall keep a record of all supervised practice hours on the basis of 6 hours of face-to-face supervision for every 160 hours of practice and submit the record to the College for approval when she has completed 750 hours and 1500 hours together with an evaluation to be submitted by her supervisor;

(d) if the evaluation submitted by her supervisor indicates that her practice is below the professional standard required, the Registration Committee is authorized to impose additional requirements for supervision and practice;

(e) if she fails to complete 1500 hours of supervised practice within 12 months after returning to active practice her membership in the College is revoked; and

(f) in accordance with subsection 6(2) of *The Saskatchewan College of Psychologists Regulatory Bylaws, 2016*, this decision and reasons shall be posted on the College's website.

Dated at Regina, Saskatchewan this 16th day of September 2021.

SASKATCHEWAN COLLEGE OF PSYCHOLOGISTS,
DISCIPLINE COMMITTEE



Tom Robinson,
Registered Doctoral Psychologist, Chair

On behalf of:
Renée Schmidt, Registered Doctoral Psychologist, Member
Christel Gee, Public Representative, Member

APPENDIX 1

CANADA)
PROVINCE OF SASKATCHEWAN)
TO WIT)

In the matter of *The Psychologists Act, 1997*
and in the matter of **Donna Darbellay, Psy. D.**,
a former Psychologist of Saskatoon, Saskatchewan
(PCC File No. 2016-002)

AGREED STATEMENT OF FACTS August 2021

A. Charges

1. The Saskatchewan College of Psychologists (“the College”) brought a Formal Complaint dated November 27, 2017, alleging that Dr. Donna Darbellay is guilty of professional misconduct or professional incompetence, in that she:

Charge #1: Failed to provide adequate information in aspects of the psychological assessment and exercised poor planning in the psychological assessment in violation of the *Canadian Code of Ethics for Psychologists*, 3rd ed., 2000, and more specifically Sections I.1, I.16, I.17, I.24, II.2, and contrary to Professional Practice Guideline 4.5. In particular, she:

- a) Failed to explain to R.S. the purpose of the psychological assessment.
- b) Failed to establish rapport, share information and establish a working relationship with R.S.
- c) Failed to communicate and explain the assessments and recommendations to R.S.
- d) Exercised poor planning in allowing an encounter between R.S. and the other parent with the children in the face of a Court Order regarding supervised access.

Charge #2: Used inadequate psychological assessment procedures leading to communications not based on comprehensive information in violation of the *Canadian Code of Ethics for Psychologists*, 3rd ed., 2000, and more specifically Sections II.9, II.30, and III.9 and contrary to Professional Practice Guidelines II.6 and II.24. In particular, she:

- a) Failed to provide a description and scores of the assessment results
- b) Failed to document and consider alternate interpretations to the tested assessment results.
- c) Failed to reference the information to support her diagnosis of “likely personality disorder”

Charge #3: Demonstrated unprofessional behavior in violation of the *Canadian Code of Ethics of Psychologists*, 3rd ed., 2000, and more specifically Section II.30 and contrary to Professional Practice Guideline 7.7 by misquoting a statement made in a report authored by a professional colleague, K.W.

Charge #4: Authored a psychological report which was in violation of the *Canadian Code of Ethics for Psychologists*, 3rd ed., 2000, and more specifically Sections I.16, II.1

and II.5 and contrary to Professional Practice Guidelines II.2 and II.6 in that she failed to take appropriate measures to ensure there was no bias in the psychological report when reporting the possible presence of a personality disorder in R.S.

B. Jurisdiction:

2. Dr. Darbellay was at all times material to this proceeding registered with the College, and accordingly, was subject to *The Psychologists Act, 1997*, SS 1997, c. P-36.01, the Regulatory Bylaws, the *Canadian Code of Ethics for Psychologists*, 3rd ed., 2000 and the Saskatchewan College of Psychologists Practice Guidelines. Attached at **Tab 1** is the Affidavit of the Registrar of the College confirming Dr. Darbellay's practicing status and service of the Formal Complaint.

3. Dr. Darbellay acknowledges service of the Formal Complaint attached hereto at **Tab 2**.

C. Dr. Darbellay's Education and Background

4. At the material times, Dr. Darbellay was registered with the College as a Full Practice Doctoral Member.

5. Dr. Darbellay received her Masters of Physiological Psychology at the University of Saskatchewan in 1975. She received her Masters of Science at the Institute for the Psychological Sciences in Arlington, Virginia, in 2004 and subsequently received her Doctorate of Psychology in 2006 from The Institute for the Psychological Sciences in Arlington, Virginia.

D. Background:

6. Dr. Darbellay was appointed by Family Justice Services as the child psychologist requested by a Justice of the Court of Queen's Bench to interview the children involved in a custody dispute between separated parents (R.S. and the father). Dr. Darbellay was directed by the Court to consider specific questions regarding the father's access to the children in a supervised setting [Fiat of Mr. Justice McIntyre dated November 3, 2015 (redacted for privacy considerations) at Tab 3].

7. The children involved in the assessment were at that time aged approximately 6 and 3. The

custody and access litigation involved serious allegations of sexual and physical abuse.

8. Dr. Darbellay prepared a report dated March 2, 2016, which has been redacted to ensure the privacy of the individuals involved, and is attached at **Tab 4**.

9. During the course of the assessment, Dr. Darbellay administered the MMPI-II, MCMI-III, the Paulhus Deception Scale, and the Child Abuse Potential Inventory to the adult parents. Interviews were conducted with both parents as well as with a number of collateral sources. Dr. Darbellay also observed the two children at play and with each of their parents on separate occasions.

10. Dr. Darbellay verbally discussed a standard Consent Form with R.S. prior to conducting the assessment. Dr. Darbellay attempted to ensure that all of R.S.'s questions were answered and assured R.S. that she could ask further questions at any time during the assessment process.

11. Dr. Darbellay failed to adequately explain the purpose of the psychological assessment to R.S. She did not make it clear that the assessment would not only assess the children's father in light of R.S.'s report of her daughter's allegations against him but that the report would have to determine the likely veracity of the daughter's allegations and the possibility that the daughter's allegations were based on something other than the father's behavior.

12. On March 15, 2016, Dr. Darbellay sent a text to R.S. at 3:00 PM to confirm an appointment in Saskatoon for the following morning. Given the short notice, this was difficult to arrange given that R.S. was a primary caregiver of her children, a single working parent with two jobs, and had limited financial and time resources to travel from Regina to Saskatoon as requested by Dr. Darbellay.

13. After concluding her report, Dr. Darbellay advised R.S. of the date that the report would need to be provided to the Court of Queen's Bench and asked to have a feedback session with her. R.S. was not available to do so on short notice and as such Dr. Darbellay was not able to meet with or have further communication with R.S. before providing her report to the Court of Queen's

Bench. R.S. was unaware Dr. Darbellay had assessed her as “likely having a personality disorder” and was unaware that Dr. Darbellay recommended the children be transitioned to their father’s home while she sought treatment.

14. Dr. Darbellay concluded that R.S. had serious psychological issues, including a likely personality disorder, and recommended on-going therapy with a therapist with expertise in the area of personality disorders. The report failed to clearly lay out the information and sources upon which this assessment and recommendation was based.

15. Dr. Darbellay decided to schedule sessions with each parent and the children. On one occasion, R.S. attended to Dr. Darbellay’s office with her children when Dr. Darbellay was meeting with the father who was under a supervised access order. Dr. Darbellay had tried to confirm the timing of R.S.’s attendance at her office but did not do so in a timely manner and was not successful. Dr. Darbellay allowed the father to interact with the children while Dr. Darbellay was in another room with R.S.

16. Dr. Darbellay administered four inventories to each parent throughout the course of the assessment. Four of the inventories were computer scored. The other four shorter inventories were scored by hand rather than using a computer program. This resulted in an error in the scoring of one of the inventories by two points. This error did not significantly alter the scoring results. Dr. Darbellay’s report did not describe the reason for the assessments administered to R.S., the scoring and validity scales of the assessments and the interpretations of the assessment results including alternative interpretations.

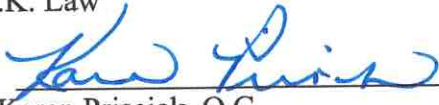
17. Dr. Darbellay’s report misstated information provided to her by K.W., an art therapist who had previously worked with one of the children. Dr. Darbellay’s report stated: “A. told K.W. that she was afraid of her father because he spanked her, which he admitted, but then described him as needing to reach a number in his head. She did not mention her mother spanking her nor did she say where she was spanked, or where her mother was when J. was spanking her.” K.W. had stated: “A. did tell me that her mother spanked her. However, A. also told me that she was spanked in her room by her father and that her mother was out or downstairs when this happened. I do not recall Ms. Darbellay asking me about this when we talked.”

E. CONCLUSION

18. Dr. Darbellay pleads guilty to Charges #1, #2, #3, and #4 and acknowledges she did not fully comply with the *Canadian Code of Ethics for Psychologists*, 3rd ed. Professional Practice Guidelines.

DATED at Saskatoon, Saskatchewan, this 12th day of August, 2021.

A.S.K. Law

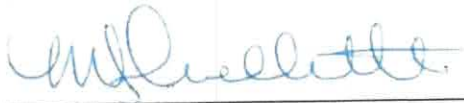
Per: 

Karen Prisciak, Q.C.

Solicitor for the Professional Conduct
Committee of the Saskatchewan
College of Psychologists

DATED at Saskatoon, Saskatchewan, this 3rd day of August, 2021.

McKercher LLP

Per: 

Michelle J. Ouellette, Q.C.,

Solicitor for the Member, Dr. Donna Darbellay

APPENDIX 2

CANADA)
PROVINCE OF SASKATCHEWAN)
TO WIT)

In the matter of *The Psychologists Act, 1997*
and in the matter of **Donna Darbellay, Psy. D.**,
a former Registered Psychologist of Saskatoon, Saskatchewan
(PCC File No. 2017-015)

AGREED STATEMENT OF FACTS

A. Charges:

1. The Saskatchewan College of Psychologists (“**the College**”) brought a Formal Complaint dated November 1, 2018, alleging that Dr. Donna Darbellay is guilty of professional misconduct or professional incompetence, in that she:

Charge #1: Failed to reference facts to support her statements; failed to reference crucial information and was biased and was biased in violation of *Canadian Code of Ethics for Psychologists*, 3rd ed., 2000, and more specifically Sections I.1 and contrary to Professional Practice Guideline 11.2.

Charge #2: Failed to report assessment protocols and results to substantiate findings and more particularly, speculated on the children's “brain trauma” without reference to assessment protocols and results or objective data in violation of *Canadian Code of Ethics for Psychologists*, 3rd ed., 2000, and more specifically Sections II.9 and II.30 and contrary to Professional Practice Guideline 11.6, 11.24 and 11.36

B. Jurisdiction:

2. Dr. Darbellay is, and has been at all times material to this proceeding, registered with the College, and accordingly, is subject to *The Psychologists Act, 1997*, SS 1997, c. P-36.01, the Regulatory Bylaws, the *Canadian Code of Ethics for Psychologists*, 3rd ed., 2000 and the Saskatchewan College of Psychologists Practice Guidelines. Attached at **Tab 1** is the Affidavit of the Registrar of the College confirming Dr. Darbellay’s practicing status and service of the Formal Complaint.

3. Dr. Darbellay acknowledges service of the Formal Complaint attached hereto at **Tab 2**.

C. Dr. Darbellay’s Education and Background:

4. Dr. Darbellay is registered with the College as a Full Practice Doctoral Member.

5. Dr. Darbellay received her Masters of Physiological Psychology at the University of Saskatchewan in 1975. She received her Masters of Science at the Institute for the Psychological

Sciences in Arlington, Virginia, in 2004 and subsequently received her Doctorate of Psychology in 2006 from The Institute for the Psychological Sciences in Arlington, Virginia.

D. Background:

6. Dr. Darbellay was appointed by the Court to perform a Custody and Access Assessment of the biological father and his common-law spouse as well as the foster parents. The children involved in the assessment were two girls, aged 6 (L) and 4 (S).

7. Dr. Darbellay prepared a 26 page report dated March 1, 2017 attached at **Tab 3** which has been redacted to ensure the privacy of the individuals involved.

8. During the course of the assessment, Dr. Darbellay administered the MMPI-II, MCIC-III and the Paulhus Deception Scale to the four adults. In the report none of these assessment protocols identified the individual scoring, the interpretative profiles or the specific scales. As well, the validity scores of the assessment protocols were not identified. Dr. Darbellay did not identify what was measured by these assessment protocols regarding human behaviour and emotional or psychological functioning.

9. Dr. Darbellay administered the MCMI-III which had been replaced in 2015 by the MCMI-IV. The MCMI-III was normed on individuals involved in psychiatric and/or psychotherapy. None of the adults assessed by Dr. Darbellay were under psychiatric care and/or psychotherapy.

10. In pages 4 to 7 of Dr. Darbellay's report she discussed the extensive summary of research in the evaluation of children's needs. Although Dr. Darbellay identified authoritative parenting as necessary for healthy development of children, she did not assess the parenting styles of the four adults nor did she refer to any assessment protocols.

11. Dr. Darbellay did not measure or assess any aspect of the parenting styles when objective psychological measures were available such as the Parenting Relationship Questionnaire and the Assessment of Parenting Styles.

12. Dr. Darbellay's report stated it was likely the girls "suffered brain damage due to attachment trauma caused by changing caregivers" and "brain trauma" which statements were misleading and inaccurate because there was no objective evidence that was provided in support of these statements. There were no assessment protocols or testing of any nature to determine whether the girls suffered any brain damage. Furthermore, there was no research referred to by Dr. Darbellay which supported these statements.

13. Dr. Darbellay reported that (L) suffered from trauma given that she was apprehended at four months and placed with the foster parents at seven months. Dr. Darbellay reported that (S) experienced trauma by being moved twice before being placed with the current foster parents at seven months old. Dr. Darbellay stated that (L) and (S) would have missed essential exchanges which recognized primary caregiver in the early months. In fact the research indicates the contrary in that separation prior to eight months does not increase the probability of poor developmental income as stated in the Handbook of Attachment. Accordingly, this statement is misleading and inaccurate.

14. Dr. Darbellay administered a Draw a Person Test, Family Drawing Test and House Tree Person Test to the children without describing the tests, identifying the version of the tests, or their reliability or validity. Dr. Darbellay did not refer to or administer standardized questions of the tests to assist her in their interpretation.

15. Dr. Darbellay reported that the biological father may have suffered "brain damage". There were no facts that were relied upon to support this statement nor was any objective evidence referred to in support of this statement. There was no indication of any assessment protocols that could have been used to reveal brain damage on the part of the biological father.

16. Dr. Darbellay's report characterized the biological father as having difficulty with reading and comprehension without reference to how the assessment protocols were administered and the impact of those protocols on his test results. Alternative hypotheses were not developed given the biological father's recognized difficulties.

17. Dr. Darbellay's report identified both women's strengths as having an appreciation of order. However with regard to the common-law spouse of the biological father, Dr. Darbellay reports that

the appreciation of order may interfere marital stability and aspects of parenting whereas no such similar statement was made with regard to the foster mother even though both women were consistent on appreciation of order.

18. Dr. Darbellay's report made numerous references to the biological father and his common-law spouse without sufficient objective psychological assessment protocols to support such statements including, *inter alia*, that they did not understand the concept of attachment; their marital stability was at risk; they did not appear to have seriously considered the reality of their responsibilities; they are not well established in their relationship and do not know if the marriage will survive; or they did not have the ability to consider the girls' needs.

19. Dr. Darbellay's report referred to the biological father and his common-law spouse in biased language, particulars of which include the following:

- "in this case, the stress that would fall on [St] might lead to divorce";
- "[Sa] and [St] do not understand the concept of attachment";
- "[St's] personal goal to 'get these babies into a proper schedule... at our house' may interfere with their marital stability and with the responsiveness aspect of parenting";
- "[Sa]and [St] do not appear to have seriously considered the reality of the responsibilities they are taking on and their ability to meet them";
- "[Sa] and [St] are in a honeymoon period; they are not well established in their own relationship and do not yet know if this marriage will survive" [despite the fact that [Sa] and [St] have been together since January, 2014;
- "although everyone has some self-deception, [Sa] and [St] both have levels that suggest they might resist interventions". Yet Dr. Darbellay did not mention any self-deception based on the validity scores from the tests administered to [St];

20. Dr. Darbellay's report failed to interview the children about parent-child matters to determine, *inter alia*, parent involvement. As well she failed to interview the adults about parent-child matters to determine, *inter alia*, parenting styles and capacity of the parent as well as failed to conduct collateral interviews.

21. Dr. Darbellay failed to reference that the Minister of Social Services had no concerns regarding the biological father and his common-law spouse's ability to parent the girls.

22. Dr. Darbellay failed to reference Dr. Wilhelm's previous Parental Capacity Assessment of the biological father and his common-law spouse.

23. Dr. Darbellay failed to address limitations of the assessment process and the recommendation arising from the procedures and results of the assessment process.

24. The result of Dr. Darbellay's assessment was that the biological father and his spouse were denied access to the girls for five months including a loss of overnight visits, unsupervised visits and visits to his home.

E. CONCLUSION

25. Dr. Darbellay pleads guilty to Charge #1 and acknowledges she did not fully comply with Section I.1 of the *Canadian Code of Ethics for Psychologists*, 3rd ed. and contrary to Professional Practice Guideline 11.2.

26. Dr. Darbellay pleads guilty to Charge #2 and acknowledges she did not fully comply with Sections II.9 and II.30 of the *Canadian Code of Ethics for Psychologists*, 3rd ed. and contrary to Professional Practice Guideline 11.6, 11.24 and 11.36.

DATED at Saskatoon, Saskatchewan, this 12 day of August, 2021.

A.S.K. Law

Per:


Karen Prisciak, Q.C.
Solicitor for the Professional Conduct
Committee of the Saskatchewan
College of Psychologists

DATED at Saskatoon, Saskatchewan, this 3rd day of August, 2021.

McKercher LLP

Per:


Michelle J. Ouellette
Solicitor for the Member, Dr. Donna Darbellay

APPENDIX 3

CANADA)
PROVINCE OF SASKATCHEWAN)
TO WIT)

In the matter of *The Psychologists Act, 1997*
and in the matter of **Donna Darbellay, Psy. D.**,
a former Psychologist of Saskatoon, Saskatchewan
(PCC File No. 2019-001)

AGREED STATEMENT OF FACTS August, 2021

A. Charge

1. The Saskatchewan College of Psychologists ("the College") brought a Formal Complaint alleging that Dr. Donna Darbellay is guilty of professional misconduct or professional incompetence, in that:

Dr. Darbellay provided a psychological report dated April 18, 2015 to her client's (C.D.) ex-partner's legal counsel without the knowledge or specific written consent of C.D. wherein she recommended three children be immediately removed from C.D.'s care based on her conclusion that C.D. had "serious mental health issues" without identifying the psychological assessment supporting the conclusion or without discussing her conclusions or recommendations with C.D. when her last contact with C.D. was four months prior in violation of Sections I.45, I.26, I.12, I.16, II.13, II.30 of the Canadian *Code of Ethics for Psychologists*, 35rd ed. and contrary to Professional Practice Guidelines 6.1, 6.2, 6.16, 3.3, 3.19, 5.2, 11.2, 11.30 and 11.31.

B. Jurisdiction:

2. Dr. Darbellay was at all times material to this proceeding registered with the College, and accordingly, was subject to *The Psychologists Act, 1997*, SS 1997, c. P-36.01, the Regulatory Bylaws, the *Canadian Code of Ethics for Psychologists*, 3rd ed., 2000 and the Saskatchewan College of Psychologists Practice Guidelines. Attached at **Tab 1** is the Affidavit of the Registrar of the College confirming Dr. Darbellay's practicing status.
3. Dr. Darbellay acknowledges service of the Formal Complaint attached hereto at **Tab 2**.

C. Dr. Darbellay's Education and Background

4. At the material times, Dr. Darbellay was registered with the College as a Full Practice Doctoral Member.

5. Dr. Darbellay received her Masters of Physiological Psychology at the University of Saskatchewan in 1975. She received her Masters of Science at the Institute for the Psychological Sciences in Arlington, Virginia, in 2004 and subsequently received her Doctorate of Psychology in 2006 from The Institute for the Psychological Sciences in Arlington, Virginia.

D. Background:

6. Dr. Darbellay was selected by C.D. and J.D. to provide counselling services to their family following their separation. The appointment of Dr. Darbellay was made by way of Minutes of Settlement agreed to between C.D. and J.D. at a Pre-Trial Settlement Conference at the Saskatchewan Court of Queen's Bench. [Minutes of Settlement dated July 2, 2014 (redacted for privacy considerations) at **Tab 3**].

7. By Consent Order dated November 6, 2014, C.D. and J.D. confirmed the involvement of Dr. Darbellay in their efforts to co-parent their children. [Consent Order dated November 6, 2014 (redacted for privacy considerations) at **Tab 4**]. C.D. and J.D. again agreed to Minutes of Settlement on December 18, 2014, which included involvement of Dr. Darbellay [Minutes of Settlement dated December 18, 2014 (redacted for privacy considerations) at **Tab 5**]

8. C.D., J.D., and their children signed consent forms on July 12, 2014 and July 15, 2014 consenting to Dr. Darbellay providing psychological services. Thereafter, Dr. Darbellay interacted with C.D., J.D., and their children on many occasions between July of 2014 and December of 2014 including individual sessions, administering psychological testing, sessions with family members, home visits, and attendance at group outings.

9. Dr. Darbellay prepared progress update reports dated October 29, 2014 and December 16, 2014.

10. Dr. Darbellay prepared a third report dated April 8, 2015, which has been redacted to ensure the privacy of the individuals involved, and is attached at **Tab 6** (the "Third Report"). At that time,

Dr. Darbellay had grown increasingly concerned about the wellbeing of the children. C.D. had withdrawn herself and the children from counselling with Dr. Darbellay and to Dr. Darbellay's knowledge had not arranged psychological services from an alternative psychologist. It was Dr. Darbellay's professional opinion that C.D. and the children required immediate and continued counselling to minimize ongoing harm and that it was in the best interests of the children for them to reside with J.D. until C.D. engaged in psychological treatment.

11. However, Dr. Darbellay had not met with C.D. in the four months prior to the Third Report and did not know the current status of the children's circumstances. She did not communicate her concerns about the children to C.D. In the Third Report, Dr. Darbellay recommended the children of C.D. and J.D. be immediately removed from C.D.'s care based on Dr. Darbellay's conclusion that C.D. had "serious mental health issues" based on her previous involvement with C.D. Dr. Darbellay did not identify in the Third Report any psychological assessment in support of her conclusion. Dr. Darbellay did not discuss her conclusions or recommendations with C.D. prior to releasing the Third Report to C.D.'s ex-partner's legal counsel.

12. The Report was provided to legal counsel for J.D. without the knowledge or specific written consent of C.D.

E. CONCLUSION

13. Dr. Darbellay pleads guilty to the charge and acknowledges she did not fully comply with the *Canadian Code of Ethics for Psychologists*, 3rd ed. Professional Practice Guidelines.

DATED at Saskatoon, Saskatchewan, this 12th day of August, 2021.

A.S.K. Law

Per: Karen Prisciak

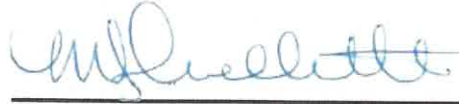
Karen Prisciak, Q.C.

Solicitor for the Professional Conduct
Committee of the Saskatchewan
College of Psychologists

DATED at Saskatoon, Saskatchewan, this 3rd day of August, 2021.

McKercher LLP

Per:



Michelle J. Ouellette, Q.C.,
Solicitor for the Member, Dr. Donna Darbellay