

**MANITOBA COLLEGE OF SOCIAL WORKERS**

**IN THE MATTER OF:**

**LYLE LONGCLAWS**

**- and -**

**IN THE MATTER OF:**

**THE SOCIAL WORK PROFESSION ACT**

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**REASONS FOR DECISION**

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**Inquiry Committee:**

**Meredith Mitchell  
Adam Chrobak  
Regan Spencer**

**MANITOBA COLLEGE OF SOCIAL WORKERS**

IN THE MATTER OF:

LYLE LONGCLAWS

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REASONS FOR DECISION

Background:

1. The Complaints Committee of the Manitoba College of Social Workers (“MCSW” or “College”) referred a complaint regarding the conduct of Lyle Longclaws (“Member”) to the Inquiry Committee of MSCW on March 17, 2019 pursuant to s. 31(1)(a) of *The Social Work Profession Act*, C.C.S.M. c. S169 (“*Act*”) and subsequently a Notice of Hearing (“Notice of Hearing”) was served upon the Member on May 8, 2019. The complaint consisted of three charges.
2. The Chair of the Inquiry Committee selected a Panel (“Inquiry Panel”) for the hearing of the complaint pursuant to s.42(1) of the *Act*.
3. The Notice of Hearing was initially returnable before the Panel on June 11, 2019. The initial hearing was adjourned to March 17, 2020 for the Member to confer with counsel regarding his plea to the Charges.

4. Due to the public health crisis of COVID19 and imposition of social distancing requirements by the Province of Manitoba, the appearance before the Inquiry Panel on March 17, 2020 was adjourned. It was agreed by all parties that the matter would proceed by way of written submissions.
5. A guilty plea was entered to Charges 2 and 3 by the Member and a stay of charge 1 was entered by the College on March 2, 2020.
6. A Statement of Agreed Facts and Joint Submission on Penalty ("Joint Submission") were provided to the Inquiry Panel which are set out below.

**Statement of Facts**

7. The charges to which guilty pleas were entered and factual basis for those charges are:

**Charge 2:**

- a. The Member was the supervisor of the complainant PC who was also a registered social worker ("RSW"). At the same time, he provided social work services to members of PC's family.
- b. The Member provided individual therapy services to PC's spouse.
- c. The Member provided individual therapy services to PC's child.
- d. The Member's spouse, also a RSW, provided individual therapy to PC.
- e. While there is a similar pool of indigenous therapists and supervisors, there is a reasonable listing of RSWs at FNIHB that can service this community and these individuals.
- f. No attempts were made by the member to identify alternate service providers for PC, her spouse and her children despite the conflict of interest and dual relationships that these facts presented.
- g. The Member admits through his guilty plea to these charges that he was in contravention of the following Standards of Practice and Code of Ethics, Values and Guidelines of the College:

- h. **Standards of Practice- Standard 3- Integrity of Professional Practice clause 3:1:**  
Social Workers will declare and avoid conflicts of Interest in forming relationships with clients or former clients, clients' family members, with students, employees and persons being supervised, that might present a risk of compromising the member's professional judgement or of increasing the risk of exploitation or harm to clients.
- i. **Code of Ethics Guideline 2- Ethical Responsibility in Professional Practice- clause 2.3.3:** Social Workers consider carefully the potential for professional conflicts of interest where close personal relationships exist or where social businesses or sexual relationships with colleagues are contemplated or exist.
- j. **Code of Ethics Guideline 2- Ethical Responsibility in Professional Practice- clause 2.4.1:** Social Workers take care to evaluate the nature of dual or multiple relationships to ensure the needs and welfare of the client are protected.
- k. **Code of Ethics Guideline 3- Responsibilities in Supervision and Consultation- clause 3.4.2:** Social Workers do not engage in any dual or multiple relationships with supervisees when there is a risk of exploitation of, or potential harm to the supervisee. If questioned, it is the responsibility of the supervisor to demonstrate that any dual or multiple relationships is not exploitative or harmful to the supervisee.
- l. **Code of Ethics Value 4- Integrity in Professional Practice:** Social Workers establish appropriate boundaries in relationships with clients and ensure that the relationship serves the needs of the client.

Charge 3:

- a. At all material times hereto prior to February 22, 2018, while Mr. Longclaws supervised others, he had made no arrangement for his own professional misconduct case consultation or supervision in contravention of **Standards of Practice – Standard 7 – Private Practice:** Social Workers in private practice will maintain professional case consultation/supervision.

8. In addition, the following agreed facts were tendered and accepted by the Inquiry Panel:
- a. the Member was a registered member of the College at the time of the misconduct and on March 2, 2020;
  - b. the Member elected not to renew his registration with the College for the period of April 1, 2020 to March 31, 2021;
  - c. the Member took no objection to any of the Inquiry Panel members on the basis of bias or conflict.

### **Analysis**

9. The Inquiry Panel has accepted the Joint Submission in so far as it relates to penalty for the Member.

10. The reasons for accepting a Joint Submission were outlined in the reasons for decision of the Inquiry Panel in *MCSW v. Charles Gregoire*, 17-02, hearing date July 15, 2019, at paragraphs 8 to 13. In that case the joint submission was considered in light of the Supreme Court jurisprudence of *R. v. Anthony- Cook*, 2016 SCC 43. The Supreme Court in *Cook* determined that a “public interest test” should be applied to joint submissions and that the panel ought to consider whether the joint submission would bring the administration of justice into disrepute if accepted. Joint submissions provide certainty in resolutions which is important for parties therefore they are held to a high standard and ought not be interfered with.

11. The Inquiry Panel has considered the test described in *R. v. Anthony- Cook*, 2016 SCC 43 that a joint submission on penalty should be accepted unless it is contrary to the public interest and would bring the administration of justice into disrepute. There is no evidence that the penalty recommended by Joint Submission would have that result.

12. The joint submission on penalty addresses public safety by ensuring continued education and long term direct supervision of the member is followed closely by the MCSW upon re-entry into the practice. The joint submission on penalty also provides denunciation and deterrence to the member by passing on costs of supervision and censuring the members misconduct publicly. The Joint Submission is therefore accepted in full.

13. The Joint Submission on penalty includes:

- a. The member be found to have committed professional misconduct as set out in charges 2 and 3 of the Notice of hearing;
- b. The member be found to have breached the College's Standards of Practices clauses 3.1 and 7.2 as set out in the Notice of Hearing;
- c. The member be found to have breached the College's Code of Ethics Guidelines clauses 2.1.1, 2.3.3, 2.4.1, 3.4.2, and Value 4 as set out in the Notice of Hearing;
- d. The member be reprimanded;
- e. It is to be a condition of the member's registration with the College that he complete remedial training in relation to conflicts of interest and dual relationships. The College will work with the member to identify mutually agreeable formal training, but in the event agreement cannot be reached, the College shall have the right to dictate the formal training. The Member will pay for costs of this training. After the training is completed, the member will engage in reflection discussions with a RSW approved by the College as a supervisor to ensure that he processed and understood the training and how the training relates to the Code of Ethics and the Standards of Practice. The member will pay for the costs of this supervisor;
- f. It is to be a further condition of the Member's registration with the College that he be subject to supervision by a RSW approved by the College for a minimum of one year. The terms of the supervision will be as follows:
  - i. The Member will be subject to monthly supervision by a RSW approved and monitored by the College for a total period of one year or until the completion of a minimum of 12 supervision sessions;
  - ii. Monthly supervision will include the following:
    - I. The College will provide the supervisor with a copy of the Notice of Hearing and the Order of this Inquiry Panel;

II. The supervisor will provide monitoring, advice and supervision for the purpose of:

- i. ensuring case-specific social work services are provided in accordance with the College's Standards of Practice and Code of Ethics;
- ii. development and enhancement of clinical knowledge and skill including critical self-reflection;
- iii. establishing protocols to avoid conflicts of interest and dual relationships;

III. Quarterly written reports from both the Member and the supervisor will be provided to the College outlining the progress of supervision;

- iii. Following completion of the period of supervision stated above, the Member will maintain ongoing formal and documented supervision in the context of his private practice of social work as required by Standards of Practice- Standard 7- Private Practice- clause 7.2;
- iv. The Member will pay for any and all costs associated with obtaining and maintaining all of the above-noted supervision;
- v. The Member will not be required to comply with these conditions of supervision if he applies to transfer his registration to the non-practicing category and agrees to the declarations outlined on the prescribed form. Otherwise, in the absence of the Member making application to transfer his registration to the non-practicing category, these conditions of supervision take effect immediately upon approval of this settlement agreement by the Inquiry Panel.

14. The remaining question for the Inquiry Panel to consider is what, if any costs, should the Member pay in relation to this discipline procedure.

15. The position of the College is that the Member should pay all of the costs associated with the investigation, the prosecution and the hearing. The College claims costs in the all-inclusive amount of \$18,695.73, which is comprised of the following:

- a. College investigator \$1,764.17;
- b. Court Reporter for initial hearing: \$105.00;
- c. Legal Costs for the College: \$14,167.75;
- d. Legal Costs for the Inquiry Panel \$2,658.81.

16. The position of the Member is that an award of costs is not warranted in the circumstances.

17. The *Act* provides the Inquiry Panel jurisdiction to order all or part of the costs against a member who has been convicted of professional misconduct. Section s. 53(1) of the *Act* provides:

**Costs and fines**

53(1) The panel may, in addition to or instead of dealing with the member's conduct in accordance with section 52, order that the member pay to the college, within the time set by the order,

- (a) all or part of the costs of the investigation, hearing and panel;

(emphasis added)

18. In addition the Inquiry Panel was provided with a copy the College's Order for Cost Recovery Policy ("Policy") which provides in part that the underlying principle of cost recovery is that the members at large ought not to be responsible for the costs and that as a general rule the College will consider full recovery of costs with exceptions for partial recovery.

19. In *Law Society of Manitoba v. George Bernard Schmidt*, Case 99-03 July 13, 1999 (Discipline Committee) at page 4 lines 14-19, the Discipline Committee noted:

We are obliged to carry out the policies which the benchers have reiterated on several occasions over the past few years, that the cost of prosecution ought wherever possible, to be borne by those who are perpetrating the bad lawyering and not by the profession as a whole.



20. The Inquiry Panel is cognisant that any costs not borne by the member end up being passed on to the College and therefore its members; however, the Policy does not fetter the discretion of the Inquiry Panel nor does it override the Inquiry Panel's discretion under s. 53(1) of the *Act*. The Policy serves as a helpful guideline, which has been considered by the Inquiry Panel.

21. The case law provided to the Inquiry Panel demonstrates a varied approach to costs in these matters.

22. In *Law Society v. Ament*, 2002, MBLS 4, May 15, 2020 (Discipline Committee) Mr. Ament wilfully misled the complaints process causing the costs to be exacerbated by the regulator. In those circumstances the Law Society's Inquiry panel reduced costs to the regulator from \$45,000.00 to \$25,000.00 as it was determined that \$25,000 would reasonably reimburse the Law Society. In reviewing this case, the facts are considerably distinguishable.

23. In *Law Society of British Columbia v. Leonides Tungoham* (2018 LSBC 15), the Review Board states at paragraph 13:

While a hearing panel is required to have regard to the tariff of costs, there is a broad discretion to fix costs based on the circumstances of the proceedings.” A non-exhaustive lists of the factors that may be considered in determining an order for costs are set out in *Law Society of BC v. Racette*, 2006 LSBC 29:

- (a) The seriousness of the offence;
- (b) The financial circumstances of the respondent;
- (c) The total effect of the penalty, including possible fines and/or suspensions; and
- (d) The extent to which the conduct of each of the parties has resulted in costs accumulating or conversely, being saved.

24. In applying these factors to the current circumstances and the Inquiry Panel has taken into account the nature of the Charges to which the Member plead guilty, which could be characterized as matters of negligence or inaction, which would carry a lower moral blameworthiness, as opposed to acts intended to mislead or deceive the College, complainant or the public.

25. The Member has provided his background information to the Inquiry Panel for consideration in this matter. The Member is a member of Waywayseecappo First Nation in Manitoba, [REDACTED]

[REDACTED] He attended University and obtained a Master's of Social Work and committed to a career serving First Nation's people and communities. The College is a signatory to the City of Winnipeg's Indigenous Accord as an act in furtherance of the principles of Reconciliation between governments, citizens and First Nations' peoples. Engaging First Nations professionals with lived experience, such as the Member here, is a necessary act that the College supports and maintains.

26. The character of the Member and his otherwise unblemished record have also been considered as was supported by a strong letter of reference provided by Daryl Schweder of Shamattawa First Nation noting the long service that the member provided to the First Nation's community to which he served. This particular factor is given less weight than other factors as it is noted that there is no evidence that the details of the misconduct to which the Member plead guilty was provided to the writer of the letter.

27. The Inquiry Panel has been given a letter from the Member's doctor indicating that [REDACTED]

28. The Member's current financial documents demonstrate that he has been largely unemployed for at least the past three years. He shows an income in 2017 of [REDACTED] in 2018 of [REDACTED] and an income in 2019 of [REDACTED]

29. It is also noted that since the Member's misconduct [REDACTED] his assets have been depleted due to substantial debts.

30. The Member comes before the Panel with an income below the poverty line and with no assets in his name at a later stage in life.

31. The financial circumstances of the Member are unfortunate. He has experienced [REDACTED] [REDACTED] and the selling off of all assets in order to cover substantial marital debts. He was [REDACTED] and that has impacted his earning capacity. He is living off the avails of family and friends at a time when most professionals are looking forward to retirement planning. Based upon the financial information provided, the Member may be impecunious.

32. There are financial hardships imposed upon the Member in the other aspects of the penalty. Specifically, that he would bear the costs of his supervision if he were to re-commence practice. These are considered in terms of the cost of the total penalty applied to him in this decision.

33. The Inquiry Panel notes that the Member eventually plead guilty to the charges of professional misconduct which demonstrates acceptance and responsibility for his actions. Although conversely, it is noted by the Inquiry Panel that there were opportunities prior to the Inquiry Panel convening wherein opportunities to stop the process by accepting responsibility could have occurred. The Member accepted responsibility and stopped further expenses of a multi-day hearing set in this matter.

34. The protection of the public interest and preservation of high professional standards for social workers in Manitoba is of utmost importance in this Inquiry Panel's consideration of the penalty to the member as a whole. The Inquiry Panel is cognisant of the importance of denunciation, specific as well as general deterrence, rehabilitation and remediation. The Inquiry Panel noted that the member entered a guilty plea to Charges 2 and 3, that he is an indigenous man with an otherwise good reputation in the communities that he served, that he is impecunious, and the charge and subsequent investigation can be characterized more as him "putting his head in the sand" rather than deliberate deceit.

35. Taking all of these factors into consideration as well as reviewing the case law and the supporting legislation which all support that the costs award to the College is at the discretion of the Inquiry Panel, the Inquiry Panel orders the Member pay the total sum of \$10,000.00 to the College within four (4) years of the date of the Order giving effect to these Reasons.

36. The Inquiry Panel appreciates that a cost award of \$10,000.00 will impact the financial situation of the Member; however, the Inquiry Panel has concluded that the cost award in connection with the penalty is appropriate and reasonable in the circumstance and will sufficiently protect the public.

### Conclusion

37. The Inquiry Panel has accepted the Joint Submission and finds that the Member is guilty of professional misconduct as set out in Charges 2 and 3 of the Notice of Hearing.

38. The Inquiry Panel finds that the Member breached Clauses 3.1 and 7.2 of the College's Standards of Practices.

39. The Inquiry Panel Finds that the Member breached Clauses 2.1.1, 2.3.3, 2.4.1, 3.4.2 and Value 4 of the College's Code of Ethics Guidelines.

40. The penalty to the Member is hereby determined to be as follows:

- a. The member be reprimanded;
- b. It is to be a condition of the member's registration with the College that he complete remedial training in relation to conflicts of interest and dual relationships. The College will work with the member to identify mutually agreeable formal training, but in the event agreement cannot be reached, the College shall have the right to dictate the formal training. The Member will pay for costs of this training. After the training is completed, the member will engage in reflection discussions with a RSW approved by the College as a supervisor to ensure that he processed and understood the training and how the training relates to the Code of Ethics and the Standards of Practice. The member will pay for the costs of this supervisor;
- c. It is to be a further condition of the Member's registration with the College that he be subject to supervision by a RSW approved by the College for a minimum of one year. The terms of the supervision will be as follows:
  - vi. The Member will be subject to monthly supervision by a RSW approved and monitored by the College for a total period of one year or until the completion of a minimum of 12 supervision sessions;
  - vii. Monthly supervision will include the following:
    - I. The College will provide the supervisor with a copy of the Notice of Hearing and the Order of this Inquiry Panel;
    - II. The supervisor will provide monitoring, advice and supervision for the purpose of:
      - i. ensuring case-specific social work services are provided in accordance with the College's Standards of Practice and Code of Ethics

ii. development and enhancement of clinical knowledge and skill including critical self-reflection;

iii. establishing protocols to avoid conflicts of interest and dual relationships;

III. Quarterly written reports from both the Member and the supervisor will be provided to the College outlining the progress of supervision;

viii. Following completion of the period of supervision stated above, the Member will maintain ongoing formal and documented supervision in the context of his private practice of social work as required by Standards of Practice- Standard 7- Private Practice- clause 7.2;


ix. The Member will pay for any and all costs associated with obtaining and maintaining all of the above-noted supervision;

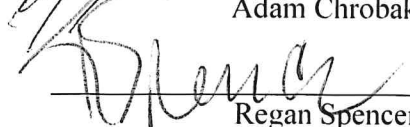
x. The Member will not be required to comply with these conditions of supervision if he applies to transfer his registration to the non-practicing category and agrees to the declarations outlined on the prescribed form. Otherwise, in the absence of the Member making application to transfer his registration to the non-practicing category, these conditions of supervision take effect immediately upon approval of this settlement agreement by the Inquiry Panel.

41. Costs are hereby awarded to the College in the all-inclusive sum of \$10,000.00. The Member has four (4) years from the date of the Order giving effect to these Reasons to pay the costs to the College and may do so by either a payment plan set up with the College, or by way of a lump sum payment.

Dated this 19<sup>th</sup> day of March, 2021 in Winnipeg, Manitoba.

  
Meredith Mitchell

  
Adam Chrobak

  
Regan Spencer



RECEIVED

APR 16 2021

Complaint #17- 08

**MANITOBA COLLEGE OF SOCIAL WORKERS**

IN THE MATTER OF:

LYLE LONGCLAWS

- and -

IN THE MATTER OF:

THE SOCIAL WORK PROFESSION ACT

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ORDER

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Inquiry Committee:

Meredith Mitchell  
Adam Chrobak  
Regan Spencer

RECEIVED  
JAN 13 2019

**MANITOBA COLLEGE OF SOCIAL WORKERS**

IN THE MATTER OF:

LYLE LONGCLAWS

- and -

IN THE MATTER OF:

THE SOCIAL WORK PROFESSION ACT

**ORDER**

**WHEREAS** the Complaints Committee of the Manitoba College of Social Workers (“MCSW” or “College”) referred a complaint regarding the conduct of Lyle Longclaws (“Member”) to the Inquiry Committee of MSCW pursuant to s. 31(1)(a) of *The Social Work Profession Act*, C.C.S.M. c. S169 (“*Act*”) on March 17, 2019 whereupon the Chair of the Inquiry Committee selected a Panel (“Inquiry Panel”) for the hearing of the complaint pursuant to s.42(1) of the *Act*.

**AND WHEREAS** a Notice of Hearing dated May 8, 2019 (“Notice of Hearing”), a copy of which is attached hereto as **Schedule “A”**, was served upon the Member on May 8, 2019. The Notice of Hearing set out the charges of professional misconduct and particulars of those charges (“Charges”).

**AND WHEREAS** the Notice of Hearing was initially returnable before the Inquiry Panel on June 11, 2019 at the offices of MSCW, 101 — 2033 Portage Ave. in Winnipeg, Manitoba.

**AND WHEREAS** the initial hearing was adjourned to March 17, 2020 and further adjourned due to the public health crisis of COVID19 and imposition of social distancing requirements by the Province of Manitoba.



**AND WHEREAS** the Member and the Complaints Committee have provided the Inquiry Panel with a Statement of Agreed Facts and Joint Submission on Penalty ("Joint Submission"), a copy of which is attached hereto as **Schedule "B"**.

**AND WHEREAS** the Member entered a guilty plea to Charges 2 and 3 as set out in the Notice of Hearing and a stay of charge 1 was entered by the College on March 2, 2020.

**AND WHEREAS** the Inquiry Panel received written submissions relating to the issue of costs from both the Member and counsel for the Complaints Committee.

**THIS INQUIRY PANEL ORDERS THAT**, pursuant to s. 52(1) of the *Act*:

1. The member be reprimanded;
2. It is to be a condition of the member's registration with the College that he complete remedial training in relation to conflicts of interest and dual relationships. The College will work with the member to identify mutually agreeable formal training, but in the event agreement cannot be reached, the College shall have the right to dictate the formal training. The Member will pay for costs of this training. After the training is completed, the member will engage in reflection discussions with a RSW approved by the College as a supervisor to ensure that he processed and understood the training and how the training relates to the Code of Ethics and the Standards of Practice. The member will pay for the costs of this supervisor;
3. It is to be a further condition of the Member's registration with the College that he be subject to supervision by a RSW approved by the College for a minimum of one year. The terms of the supervision will be as follows:
  - i. The Member will be subject to monthly supervision by a RSW approved and monitored by the College for a total period of one year or until the completion of a minimum of 12 supervision sessions;
  - ii. Monthly supervision will include the following:
    - I. The College will provide the supervisor with a copy of the Notice of Hearing and the Order of this Inquiry Panel;

II. The supervisor will provide monitoring, advice and supervision for the purpose of:

- i. ensuring case-specific social work services are provided in accordance with the College's Standards of Practice and Code of Ethics;
- ii. development and enhancement of clinical knowledge and skill including critical self-reflection;
- iii. establishing protocols to avoid conflicts of interest and dual relationships;


III. Quarterly written reports from both the Member and the supervisor will be provided to the College outlining the progress of supervision;

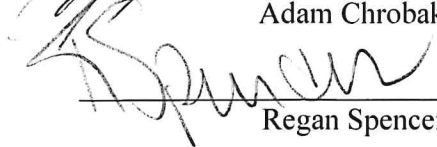
- iii. Following completion of the period of supervision stated above, the Member will maintain ongoing formal and documented supervision in the context of his private practice of social work as required by Standards of Practice- Standard 7- Private Practice- clause 7.2;
- iv. The Member will pay for any and all costs associated with obtaining and maintaining all of the above-noted supervision;
- v. The Member will not be required to comply with these conditions of supervision if he applies to transfer his registration to the non-practicing category and agrees to the declarations outlined on the prescribed form. Otherwise, in the absence of the Member making application to transfer his registration to the non-practicing category, these conditions of supervision take effect immediately upon approval of this settlement agreement by the Inquiry Panel;

4. Costs are hereby awarded to the College in the all-inclusive sum of \$10,000.00. The Member has four years from the date of this Order to pay the costs to the College and may do so by either a payment plan set up with the College, or by way of a lump sum payment.

Dated this 19<sup>th</sup> day of March, 2021 in Winnipeg, Manitoba.

  
Meredith Mitchell

  
Adam Chrobak

  
Regan Spencer

## **SCHEDULE "A"**