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24 January 2006

The NZ Association of Counsellors Inc
PO Box 165
HAMILTON

Attention : Convenor of the Ethics Committee

Dear Convenor,

FORMAL COMPLAINT

1. This letter is a **Formal Complaint** alleging serious professional misconduct, dishonesty and malfeasance by your member, Ms Barbara MILNE. At all material times relevant to this matter, Ms Milne was a *bona fide* member of your Association. To the best of my knowledge, the facts given in this Formal Complaint are true, and any opinions I express in it are honestly held ones.

Discussions & Communications

2. I am fully prepared to discuss the substance of this complaint with you at any time. In the interests of resolution and settlement, I welcome such discussion. My points of contact are given under my signature block below, and I invite you to contact me directly for such discussion, should you wish to do so.

Waiver Of Confidentiality

3. Nothing in this letter or its related material or documentation shall be treated as confidential.

BACKGROUND TO THIS COMPLAINT

Ms Milne's Counselling Services

4. Your member Ms Barbara MILNE provided counselling services to my eldest daughter (Ms Suzette Marie WAUGH) beginning about March 1992 for the supposed effects of alleged sexual abuse. My middle daughter (Mrs Moira Cynthia MURRAY) also attended

some of those counselling sessions, ostensibly to support her elder sister. In 1992, those two daughters were aged 33 and 32 years respectively. On 6 May 1992, Ms Waugh told my wife and I that Ms Milne was helping her to “*recover her memories*” of sexual abuse alleged to have occurred in her infancy and childhood.

5. Ms Milne concluded from her counselling that Ms Waugh had been sexually abused by multiple perpetrators in her childhood and as an adult, and diagnosed that she had sustained consequential mental injuries arising from that alleged sexual abuse.
6. In her report to ACC, Ms Milne positively identified me and various other perpetrators of this alleged abuse. She identified me by writing: “*As well, this sexual abuse exacerbated the effects and feelings, largely suppressed, of earlier childhood sexual abuse perpetrated by her Father.*” (ACC File No 19/92/129291 refers.)
7. Ms Milne relied on her own opinions, assumptions and beliefs, and the untested, unverified accounts she solicited from Ms Waugh and Mrs Murray, to form her conclusions. Ms Milne appears to have uncritically accepted their accounts as being historically and factually correct, **but failed to ascertain whether the allegations of sexual abuse were reasonable, probable or true.** Ms Milne then proceeded to treat Ms Waugh on the basis of her assumption and belief that the allegations of sexual abuse *were* authentic, and her belief that Ms Waugh *had* been mentally injured by such alleged abuse.
8. Ms Milne had no right, privilege or authority whatsoever to tell ACC that I had sexually abused my daughter when I had not, or to diagnose mental injury when none occurred.
9. Ms Milne assisted Ms Waugh to obtain lump-sum compensation from ACC for mental injury associated with the alleged sexual abuse and continued to provide treatment to her. Ms Waugh did not experience any such sexual abuse or consequential mental injury, and therefore had no proper entitlement to ACC compensation or other assistance.
10. Ms Milne obtained payment from ACC for herself, and/or for the organisation she purported to represent, on the basis that she had provided legitimate counselling services for the alleged mental injury supposedly associated with sexual abuse which she incorrectly diagnosed and wrongly assumed was real.
11. During counselling by Ms Milne, Ms Waugh and Mrs Murray made complaints to the Police that I had indecently assaulted Ms Waugh during part of her childhood. Police found no evidence of any such abuse.
12. The underlying issue in this complaint is that a substantial body of reliable, testable evidence, supported by the outcome of thorough Police investigations, conclusively proves that the allegations of sexual abuse made by Ms Waugh and Mrs Murray and strongly supported by the professional conclusions of Ms Milne, were false, contradictory, inconsistent, collusive and vindictive. Ms Waugh could not, therefore, have sustained consequential mental injury from alleged sexual abuse which did not occur.
13. In the absence of any factual, reliable or credible evidence of any sort, or external investigation or corroboration, and without statutory authority, Ms Milne wrongly concluded from her counselling that Ms Waugh had been sexually abused by multiple

perpetrators and was mentally injured by it. Ms Milne's diagnosis of Ms Waugh's condition, and the treatment she dispensed, were therefore wrong, improper and unprofessional.

14. By letter of 23 June 1998, I complained to your Association about Ms Milne's professional conduct in respect of her counselling and its outcomes. Ms Milne gave your Ethics Panel a written response to that complaint. Without holding a hearing or having access to all of the relevant information, the Panel decided that Ms Milne had no case to answer. The Panel advised me in November 1998 that no action would be taken on my complaint.
15. Personal information about me, given in Ms Milne's response, was unlawfully withheld from me by the NZAC. Since your Ethics Panel closed its investigation in late 1998, specific information from Ms Milne's written response has been progressively disclosed to me, over several years and in three separate batches, by the NZAC, the Privacy Commissioner, and the Human Rights Review Tribunal. Those disclosures lead to this new complaint.

New Complaint

16. None of these disclosures were made to me before or during your Ethics Panel investigation of my June 1998 complaint, and I therefore had no opportunity to address them at that time. These disclosures are therefore *new* information in respect of my complaint about Ms Milne's conduct. This new complaint is based primarily on that progressively disclosed new information, which provides clear evidence of Ms Milne's professional misconduct and malfeasance.
17. This new complaint is not vexatious or frivolous, nor does it have any ulterior motives. It does not rely merely on my *assertion* that the allegations of sexual abuse are false, but turns on credible, reliable, testable evidence derived by the Police and from other sources, which shows that the allegations are contradictory, inconsistent, collusive, vindictive and false.
18. I allege that Ms Milne's professional conduct in respect of her counselling services, her report to ACC, and her written response to my June 1998 complaint, was dishonest, disgraceful, unbecoming a member, grossly negligent, grossly unprofessional, and distinctly prejudicial to the interests of your Association. The purposes of this complaint are to bring Ms Milne to account for her conduct and to seek simple and cost-free remedies for this disgraceful affair.

Human Rights Review Tribunal

19. After making a complaint to the Privacy Commissioner and receiving his final opinion dated 17 January 2002, I brought proceedings against the NZAC in the Human Rights Review Tribunal. The Hearing before the Tribunal in case number HRRT5/2002, *Waugh v NZAC*, was held in December 2003. Publication of the Tribunal's Decision No 24/05 was delayed by various events, and was published on 5 August 2005, thus providing me with the first opportunity to address the matters covered by this new complaint.
20. Your member Ms Carol Althea WHITE gave evidence before the Tribunal on behalf of the NZAC, and I refer you to her Brief of Evidence. She was also a member of the Ethics Panel which dealt with my June 1998 complaint. As explained in Paragraph 18 of her

Brief, matters of professional misconduct are dealt with internally by your Association through your Complaints Procedure. Ms Milne was not a party in those Tribunal proceedings, and it was not within the Tribunal's jurisdiction to address the matter of disciplinary proceedings against her, nor was it expected or asked to do so.

21. I note from Ms White's Brief of Evidence (Paragraph 88) "*From the Association's perspective, the proceedings taken by Mr Waugh have been an extremely expensive and time consuming affair.*" Regardless of those times and costs (which I, too, have incurred) this matter is far too serious to allow it to remain unresolved. I expect that you will treat this new complaint in an open, professional and ethical manner, with the utmost respect and fairness, in accordance with the principles of both natural justice and procedural fairness, and in accordance with your Constitution and Complaints Procedure.
22. A commonsense view suggests it is in the best interests of the NZAC for it to ensure this matter is now promptly resolved and finally settled to my reasonable satisfaction. The remedies I seek through this complaint are wholly within the constitutional power and authority of your Association to deal with and apply.

SPECIFIC ALLEGATIONS AGAINST MS MILNE

23. I make the following specific allegations about your Member, Ms Barbara Milne. They align to various parts of your Code of Ethics and Constitution, and are based on the totality of the circumstances, information and evidence relevant to this matter, as described in this letter and in the documents referenced below.

Written Response

24. In respect of the information Ms Milne gave in her written response to my 23 June 1998, as disclosed to me by the NZAC, the Privacy Commissioner and the Tribunal, I allege that Ms Milne ***dishonestly misled your Association*** in any or all of the following ways and/or matters by :
 - a. Giving false and/or misleading information about the advice and guidance she gave to Ms Waugh.
 - b. Giving inaccurate, incomplete, irrelevant, and misleading personal information about me.
 - c. Making statements about me (and about others) which are false in their material particulars.
 - d. Falsely claiming she had corroboration of disclosure of childhood sexual abuse, allegedly perpetrated by me.
 - e. Giving unqualified, misinformed and ill-conceived opinions about me in order to attack my character and discredit me as a complainant, and,
 - f. Attempting to improperly influence the outcome of NZAC's Ethics Panel investigation into my complaint about her conduct.

Professional Conduct

25. While acting in her professional capacity, Ms Milne explicitly represented that the allegations of sexual abuse made as a result of her counselling *were authentic*, and also represented that her diagnosis of consequential mental injury arising from such alleged sexual abuse, *was accurate and professionally sound*. The treatment she dispensed to Ms Waugh, and the payments she claimed, were based on those false representations.
26. In reporting Ms Waugh's case to ACC; in her written response to my June 1998 complaint; in concluding that Ms Waugh had in fact been sexually abused; when incorrectly diagnosing consequential mental injury arising from that alleged sexual abuse; and when dispensing treatment on those bases; I allege that Ms Milne was dishonest, and/or grossly incompetent, and/or grossly negligent and/or grossly unprofessional in the conduct of her counselling and her treatment of Ms Waugh, because she :
- a. Failed to verify the authenticity of allegations of sexual abuse made during her counselling of Ms Waugh.
 - b. Failed to ascertain or confirm that Ms Waugh did in fact have any mental injuries.
 - c. Failed to confirm that any alleged mental injury was directly or indirectly a consequence of sexual abuse.
 - d. Relied on unverified information, made false assumptions, and drew wrong conclusions about the cause(s) of Ms Waugh's condition.
 - e. Recklessly and incompetently treated Ms Waugh for mental injury on the basis that the allegations of sexual abuse were true.
 - f. Recklessly and incompetently treated Ms Waugh for a mental condition she did not have.
 - g. Gave ACC and the NZAC false, unverified and misleading information about the alleged perpetrators of the alleged sexual abuse, and of its effects.
 - h. Made written statements, representing them to be true, which are false in their material particulars.
 - i. Fraudulently and/or improperly misled ACC into paying Ms Waugh lump-sum compensation to which Ms Waugh had no proper entitlement.
 - j. Fraudulently and/or improperly obtained payment from ACC for herself and/or for the organisation she purported to represent, by way of counselling fees for which no proper entitlement existed.
 - k. Did catastrophic, irreparable and unwarranted harm to Ms Waugh, to me, and to my family.

Personal Information About Me

27. In respect of her collection and use of personal information about me in her counselling of Ms Waugh, in her report to ACC, and in her response to my June 1998 complaint, I allege that *without lawful, proper or sufficient reason*, Ms Milne :
- a. Collected personal information about me from Ms Waugh and from other sources, without my knowledge or consent.
 - b. Collected personal information about me by unlawful means, by means that were unfair, and by means which intruded to an unreasonable extent upon my personal affairs and privacy.
 - c. Failed to advise me that she held personal information about me and failed to give me access to such information.
 - d. Failed to provide me with an opportunity to correct the personal information about me which she collected, held and used.
 - e. Before making use of it, failed to take reasonable steps to ensure that the personal information about me which she collected, held and used was accurate, up to date, complete, relevant and not misleading.

Breaches

28. I further allege that in the conduct of her counselling, provision of treatment and report-writing, Ms Milne :
- a. Committed major and serious breaches of the NZAC's obligatory Code of Ethics.
 - b. Acted in ways which are dishonest, disgraceful, negligent, unprofessional, and unbecoming a member of the NZAC.
 - c. Acted in ways which are prejudicial to the interests of the NZAC, and
 - d. Failed to comply with the professional obligations of counsellors expressed by successive Ministers for ACC and by ACC itself.

THE POLICE INVESTIGATIONS

29. As a direct result of exposure to Ms Milne's counselling, Ms Waugh suddenly made claims to my wife and I, that she had been assisted by Ms Milne to "*recover her memories*" of lurid and very extensive, serious, vile and disgusting long-term sexual abuse, from infancy to childhood, (but not in her adulthood) allegedly perpetrated by me, and by numerous other men.
30. While undergoing counselling by Ms Milne, Ms Waugh filed a complaint with the Takapuna police on 22 June 1992, alleging that I had indecently assaulted her many times during *part* of her childhood. Her sister, Mrs Murray, subsequently made a statement to

the Howick Police on 15 July 1992, claiming to have detailed, substantive and personal knowledge of many of those alleged events. (Police File No 920629/3197 refers.)

31. Their sworn statements to the police related only to alleged crimes of indecent assault, allegedly committed *by me alone*, during *part* of Ms Waugh's childhood. Neither complainant told the police of other much more serious allegations they made to me and about me (and about others) regarding claims of incest, multiple rapes throughout her childhood, conspiracy to rape, digital penetration as an infant, and many other similar matters. Neither complainant told the police of their allegations regarding *any* of the other dozen or so other alleged perpetrators. In particular, *no mention was made of Ms Waugh's second husband*.
32. Ms Waugh also alleged that her mother, (my wife, Mrs Colleen Waugh QSM) knew of some of this alleged rape and abuse, condoned it, and failed to protect her from the men allegedly involved. We utterly reject such vile and ridiculous allegations. Ms Waugh told my wife and I that Ms Milne had explained to her that it was common for mothers to know of such abuse but do nothing to protect their daughters. Neither Ms Waugh nor Mrs Murray included this set of allegations in their sworn statements to the police.
33. The allegations made to the police were different to those Ms Waugh and Mrs Murray had earlier made to us on 6 May 1992 and later. Moreover, they were also completely different to those made in support of Ms Waugh's ACC claim. *Her ACC claim was based on alleged abuse by her second husband*.
34. Using their extensive resources, expertise and *statutory* authority, the Police conducted a thorough investigation of Ms Waugh's complaint. During that investigation, my wife, the youngest of my three daughters (Mrs Jenkinson) and I, provided police with a substantial body of credible, reliable and testable evidence which comprehensively refuted the allegations.
35. Analysis of the statements Ms Waugh and Mrs Murray made to the police, and comparison with the substantial body of evidence we provided, proved beyond any doubt that the allegations were contradictory, inconsistent, collusive, vindictive and false. Many of the alleged events were clearly impossibilities, and were obviously fabricated.
36. With the benefit of the evidence we provided, and their own extensive and thorough investigations, Police variously reported in their documentation (amongst other things) :
 - a. Despite the fact that Mrs Murray had also made many allegations to the police about me, Takapuna Police noted that : *"They [Ms Waugh's sisters - Mrs Murray and Mrs Jenkinson] claim that on no occasion did their father ever sexually touch them and neither could corroborate Sue's [Ms Waugh's] allegations."*
 - b. Takapuna police further noted *"The allegations made by Sue [Ms Waugh] cannot be substantiated as the [alleged] offences occurred over twenty years ago and are not too clear. There is no medical evidence to support it and other members of the family dispute the allegations also."*
 - c. The Hornby (Christchurch) Police interviewed my youngest daughter, Mrs Elvie Jenkinson, on 10 August 1992. They reported in their Job Sheet dated 11 August

1992 that "*Elvie Jenkinson was certainly unable to corroborate any of Sue's [Ms Waugh's] allegations.....*".

37. Police promptly closed the case as one of "No Offence". No charges were laid. By way of clarification, police advised me by letter of 5 June 2001 that the category of "No Offence" is used when there are **no grounds** for establishing that an offence has been committed, and where they hold concerns about the **validity** of the complaint and the **veracity** of the complainant. In short, they simply could not believe the tales of abuse told by Ms Waugh and Mrs Murray.
38. **The police findings correctly acknowledged that there was no evidence to substantiate or corroborate any of the allegations of sexual abuse, and thereby comprehensively rejected Ms Milne's opinions and conclusions.** Simply put, no such abuse occurred.
39. Ms Milne did not have access to any of the evidence we gave to the police, and did not have any discussion with the police or myself about the matter. I reiterate that my complaint does not rely merely on **my assertion** that the allegations were false, rather, it turns on the substantial and substantive body of testable evidence obtained by the Police and available from other sources.

SPECIFIC MATTERS IN RESPECT OF MS MILNE'S WRITTEN RESPONSE

40. The disclosures from Ms Milne's written response to my June 1998 complaint, show that she dishonestly misled and misinformed your Ethics Panel by supplying information about me which was false, inaccurate, incomplete, irrelevant and distinctly misleading; by misreporting some of her own actions; by making statements that are false in their material particulars; and by making adverse comment as to my character and integrity with intent to mislead.
41. While acting in her professional capacity and giving such information in her formal response to my complaint, **Ms Milne explicitly and unequivocally represented it to be reliable, accurate, and professionally sound, when it was not.**
42. At no time did your Ethics Panel discuss with me the substance of my complaint, or give me any opportunity to challenge, refute or correct Ms Milne's misinformation. The main topics central to this new complaint are outlined in the following paragraphs.

Complaint to AIT.

43. Ms Milne stated on Page 7 of her response : "*Recently, the complainant made a complaint to AIT [Auckland Institute of Technology] against a senior counsellor and lecturer addressing similar concerns about the content of her work. This complaint was not upheld by AIT.*" **Her statement is false.** I have never made a complaint to the AIT.
44. Ms Milne's statement misled your Ethics Panel by conveying an impression that I had previously made a false complaint about another counsellor. That impression was clearly prejudicial to my case against her. I have never made a false complaint. Ms Milne's statements about me are false in their material particulars.

Adverse Character Evidence.

45. Ms Milne has never met me or communicated with me in any way. In fact, she actively avoided contact with me and chose not to respond to my various requests for discussion about Ms Waugh's social history, her allegations, or her mental, medical and physical conditions. But in her written response to your Ethics Panel, Ms Milne took the liberty of making ill-conceived comments about me and expressing her uninformed and misguided opinions about my character and integrity.
46. She provided the Ethics Panel with copies of just three of the many letters I had written to various newspaper editors and expressed her opinions on them. On this topic, she wrote on Page 6 of her response : *"These comments, however, are certainly in line with the prolific vitriolic letters denigrating many people and organisations involved in sexual abuse work published over the years, written by the complainant (some examples attached). He is well known, for this reason to DSAC, Rape Crisis, Help Foundation, ACC and the Women's Centre etc."*
47. On Page 7 of her response, she wrote : *"I feel that there is an agenda here, beyond this complaint. The complainant's strongly expressed philosophy, viewpoint and the language he has used mirror the widely publicised viewpoint of the organisation COSA of which the complainant is apparently an active member."*
48. There is no "agenda" in my complaint about Ms Milne's conduct, other than my search for the truth and my efforts to bring to account those responsible for making false allegations against me, and making false claims to ACC. I have not "mirrored" the views of others, but expressed myself in terms of my personal situation. That my views may be similar to those widely held by others, and strongly expressed, is no more than coincidence. Those matters were all post-event ones, and had no influence whatsoever on Ms Milne's counselling in 1992, or on its outcomes. Ms Milne's comments are an attempt to paint me as a vexatious litigant of dubious character, with an ulterior motive. Such views are wrong and misleading.
49. Commonly, in every forum, adverse character evidence is put about a person to discredit him and to influence the outcome of a decision being made about him. Ms Milne's adverse comments about me were a direct attack on my character, and an attempt to discredit me and to bias the Ethics Panel against my complaint. Your Ethics Panel appears to have been strongly influenced by her unethical comments and gratuitous tactics.

Confrontation & Separation From Family

50. On Page 4 of her response, Ms Milne wrote *"I did not encourage my client to personally confront the complainant."* And again on Page 6, *"I did not cause my client to confront the complainant."*
51. However, **in a clear contradiction of Ms Milne's version**, Ms Waugh told my wife and I on Wednesday 6 May 1992, that she *"had been going to Auckland's top counsellor, Barbara Milne"*, and that Ms Milne had been helping her to *"recover her memories"*. She said that Ms Milne told her *".....to confront me with her allegations of sexual abuse and give me back my secret, so that she could begin healing."*

52. **That contradiction is independently confirmed.** On or about Thursday 7 May 1992, in a telephone conversation with her youngest sister, (Mrs Jenkinson, then living in Christchurch), Ms Waugh told Mrs Jenkinson about some of her allegations of sexual abuse, and of Ms Milne's advice regarding "*confrontation*". That is confirmed in Mrs Jenkinson's statement to the Hornby (Christchurch) Police in which it is recorded "...and that **the counsellor** [Ms Milne] **had told her** [Ms Waugh] **that she had to confront Dad** [me] *to give back his secret to deal with however he wants to.....* "
53. Ms Waugh also told us that she had been given advice by Ms Milne that if I admitted the offences and went to counselling myself, I could be helped and she (Ms Waugh) would forgive me and look after me in my old age – that is a form of petty emotional blackmail which we forthrightly rejected. Under the influence of Ms Milne's counselling, her sister Mrs Murray, completely out of her normal character, also indulged in "*confrontation*".
54. Ms Waugh also told us that as we did not believe her stories of sexual abuse, Ms Milne's further advice was that she "*would have to **separate herself from our family and surround herself only with those people who believed she had been sexually abused and who supported her.***" Ms Waugh and Mrs Murray acted upon that advice. Ms Waugh told us that as far as she was concerned, we (her parents) were dead.
55. Ms Milne wrote in her response that "*Any decision by my client to separate from her family was hers.*" Although the final decision to separate might well have been Ms Waugh's, the concept of "*separation*" could only have come from Ms Milne's counselling. That concept is unethical, unprofessional and corrupt.
56. To the best of my knowledge, Ms Waugh did not have an intimate knowledge of counselling techniques before exposure to Ms Milne's counselling in 1992, and it is unlikely that she knew about the unprincipled, gratuitous tactics of "*confrontation*" and "*separation from the family*". It is reasonable to infer that Ms Milne introduced her to those tactics and, either directly or indirectly, gave her advice and/or guidance about them.
57. Ms Milne's statements about "*confrontation*" and "*separation from the family*" are professionally unsound and purposefully misleading, and indicate that she dishonestly and unethically misrepresented and/or distorted this matter, and therefore misled your Ethics Panel.

Letter to the Editor.

58. In the second batch of information provided to me (November 2001), it was disclosed to me that Ms Milne had written in her response : "*Following an article in the Listener (1994), about a complainant.....*" However, that abbreviated disclosure concealed its full content and proper context. The remainder of that sentence was unlawfully withheld from me by the NZAC.
59. The Human Rights Review Tribunal directed during its Hearing that additional information, which had been unlawfully withheld, be disclosed to me. One such disclosure completed the above abbreviated sentence by revealing that Ms Milne had also written (my emphases added) "*.....a friend of my client had a letter published, in response, **establishing** that my client had in the past confided in her about her **sexual abuse by her father** [me].*" Those two quotations form the complete sentence and context.

60. Ms Milne claimed that this Letter to the Editor, published anonymously in the 7 January 1995 edition of the *NZ Listener*, written by a friend of Ms Waugh's, "*established*" that Ms Waugh had earlier confided in her friend that she [Ms Waugh] had been sexually abused by me, her father.
61. Ms Milne's statement unequivocally infers that she had corroborative evidence from this anonymous 1995 Letter to the Editor to retrospectively support her 1992 conclusion that I did in fact sexually abuse Ms Waugh during her childhood. I allege that Ms Milne failed to establish the credibility or authenticity of the information given in the Letter to the Editor, or of its author.
62. The letter was published anonymously, although the author's identity and history are known to me. Anonymous letters to editors are not "evidence" or "corroboration", and at best, are no more than hearsay. In the clear light of the factual and evidential background, the letter is a fabrication concocted by Ms Waugh and the author, who retrospectively colluded to further embellish a tissue of misinformation and false allegations which Ms Waugh and Ms Milne had already constructed.
63. The text of the Letter to the Editor is purposefully misleading and contains much that is false and/or distinctly biased. Critical analysis of the letter shows that it contains virtually **no** factual or reliable information, and **none at all** which is relevant to proof of disclosure of real or actual sexual abuse.
64. Ms Milne appears to have conveniently accepted it at face value as being factually and historically correct, and then recklessly and incompetently relied upon it to retrospectively support her ill-conceived conclusion that I had sexually abused Ms Waugh in her childhood, when I had not. Ms Milne's statement about me and her claim to have corroborative evidence of sexual abuse are false in their material particulars.

Professional Obligations.

65. Ms Milne had reported to ACC that "*As well, this sexual abuse exacerbated the effects and feelings, largely suppressed, of earlier childhood sexual abuse perpetrated by her Father.*" Ms White told the Tribunal (at her Paragraph 74) that [my emphases added] "*The Panel was **not determining** whether matters disclosed by Ms Milne's client in counselling were accurate or truthful. The disclosures were **never represented as being correct, rather what Ms Milne had been told by her client.***"
66. Ms White's statements suggest that counsellors have **no responsibility** for the accuracy of their professional conclusions or findings, or their reports to ACC or to NZAC.
67. **In contradiction of Ms White's opinion**, as expressed by various Ministers of ACC (eg. Cliffe, Shipley, McCully, Dyson), by ACC itself, and by Ministerial answers given to Parliamentary Questions, Ms Milne had a well-defined obligation to **attest** that the information she gave to ACC in support of Ms Waugh's claim (and as she later repeated to your Ethics Panel in her written response) was **satisfactory, verified information to confirm that sexual abuse did in fact occur** and that her client **did in fact suffer mental injury as a consequence of such abuse**. ACC's former Managing Director (then Gavin Robins) noted that "*The therapist, as a self-employed professional in private practice, is*

responsible and accountable for the treatment which he or she provides.” That also means a therapist is responsible and accountable for his/her diagnosis, findings and recommendations.

68. Various Ministers in the past, and very recently in response to Parliamentary Questions, underscore counsellor responsibility. For example, Rt Hon Jennifer Shipley (when Minister of ACC) wrote in 1997 that “ACC claims for sexual abuse are only accepted once ACC receives satisfactory information **confirming the claimant has suffered an offence contained in the First Schedule to the ARCI Act 1992.**” She also noted that “Counsellors are registered professionals **trained to identify and treat cases of sexual abuse.**” There is general agreement between Ministers that counsellors cannot always be certain that sexual abuse or mental injury did in fact occur. It is also acknowledged that false claims are made.
69. Parliamentary Question No 6946 (2003) from Dr Muriel Newman to the Minister for ACC **Ruth Dyson** (17 July 2003) asked : “*In the absence of evidence available from an alleged perpetrator, without a conviction, and without the benefit of external investigation by ACC's officers or its counsellors, does ACC reach a decision on the balance of probability from uncorroborated information submitted by a counsellor or a claimant, that abuse did occur or was likely to have occurred; if so, how does it reach this decision?*”
70. Hon Ruth Dyson (Minister for ACC) replied: “*To establish cover on a claim for mental injury arising from a sexual abuse, ACC requires corroboration from a counsellor or a doctor. The counsellor or doctor must attest that in their opinion there is a diagnosable mental injury arising from sexual abuse which is within the description of an offence listed in Schedule 3 of the Injury Prevention, Rehabilitation, and Compensation Act 2001. ACC will then make a cover decision based on the information it has been provided.*”
71. Such Ministerial statements form the basis of the professional obligation of all “ACC-approved” counsellors to provide ACC with credible evidence of both the alleged abuse and the alleged mental injury. Ms Milne unprofessionally and incompetently based her opinions on assumption, hearsay and false information, and that her 1992 assessment report **misted** ACC into wrongly accepting that Ms Waugh had been sexually abused by multiple perpetrators and had suffered consequential mental injury, and into wrongly paying Ms Waugh a large amount taxpayer funds by way of lump-sum compensation, to which Ms Waugh had no proper entitlement.
72. Ms Milne subsequently treated Ms Waugh on the basis of her **belief and assumption** that the allegations of sexual abuse and her diagnosis of consequential mental injury were true. Ms Milne fraudulently and/or improperly claimed payment from ACC for such counselling services, for herself and/or for the organisation she purported to represent, for which no proper entitlement existed, and failed to comply with the most elementary aspects of her professional obligations.

False Statements About the Alleged Perpetrators

73. Ms Milne concluded that Ms Waugh had been sexually abused by multiple perpetrators during her childhood and as an adult. In her report to ACC, she identified the alleged perpetrators as being Ms Waugh’s second husband, a deceased family friend (whose identity I know), and myself. Ms Waugh herself had made allegations of sexual abuse

about numerous other men as well, but these were not the basis of the ACC claim, nor were they mentioned in her complaint to the police. The ONLY mention of her second husband was in the ACC claim.

74. **Myself.** Ms Milne reported to ACC - **and in her professional capacity represented it to be a statement of material fact** - that I had sexually abused Ms Waugh during her childhood, when she had no means of knowing if such an allegation was accurate.
75. In this regard, I also remind you of the body of evidence which the police reviewed before making their decision of “No Offence”, and of their findings and acknowledgement that there was **no evidence or any corroboration** to support any such allegations. For the simple reason that no such abuse occurred, no evidence whatsoever exists to support Ms Milne’s statement. *All the testable evidence contradicts Ms Milne.* She failed to verify her beliefs and assumptions by external investigation, or by discussion with me or with the Takapuna Police, or by any other credible means. **Her statement about me is false in its material particulars.**
76. **Second Husband.** Ms Milne also reported to ACC that Ms Waugh’s second husband had sexually abused her during her brief marriage to him, by reporting *"Sexual abuse by second husband.....between 1986-1987"* and *"Various incidents of abuse..... by husband"*. Ms Waugh’s second husband gave the police substantive, credible and satisfactory evidence to competently and fully refute such allegations. No evidence whatsoever exists to support Ms Milne’s statement about him. Ms Waugh did not tell the Police (or anyone else except ACC) about alleged abuse by her second husband. Ms Milne failed to determine or verify the facts by external investigation or by discussion with Ms Waugh’s second husband, or by any other credible means. **Her statement regarding Ms Waugh’s second husband is false in its material particulars.**
77. **The Deceased Person.** Exculpatory alibi evidence exists to conclusively prove that the deceased person identified in Ms Milne’s report to ACC could *not* have committed the rape and other abuse which Ms Waugh alleged. **He was not in New Zealand at that time.** Ms Waugh did not tell the Police about this alleged rape. Ms Milne failed to verify or corroborate those allegations by external investigation or by discussion with those having specific knowledge, or by any other credible means. **Her statement in regard to the deceased person is false in its material particulars.**

SUMMARY

78. Contrary to Ms Milne’s opinions, conclusions and assumptions, the established facts, drawn from a substantial body of credible, reliable and testable evidence, conclusively prove that the allegations of sexual abuse were false, contradictory, inconsistent, collusive and vindictive. Those matters are fully supported by the outcome of the police investigations and by our evidence. Many of the claimed events were clearly impossibilities, and were obviously fabricated. However, it appears that Ms Milne *assumed* that the allegations were true and based her actions on that wrongly-held belief.
79. The effects of Ms Milne’s professional support for the vile, repugnant, contemptible and false allegations, her fatally flawed opinions, conclusions and diagnosis, and her

unjustifiable conduct – as well as the refusal of NZAC to provide me with a remedy – caused the permanent destruction of my family and caused immeasurable insult, distress, anguish and injury to the feelings of all members of my family, and to others as well.

80. Ms Milne's opinions, conclusions and statements, in reporting to ACC and to NZAC, were manifestly false and inappropriate. In short, she was dishonest, deceitful and incompetent, and her conduct was disgraceful, negligent, incompetent, unbecoming a member of the NZAC, and grossly unprofessional.
81. Ms Milne's misconduct and malfeasance is conduct which acutely and seriously breaches NZAC's constitutional requirements and obligatory Code of Ethics, and is distinctly prejudicial to the interests of NZAC.

Documents Relevant To This Complaint

82. Specific issues related to this new complaint about Ms Milne's conduct are contained in documents already in the possession of your Association and are summarised in this letter. I draw your attention to the general and specific contents of all those documents, which include :
- a. The whole content of the complaint I made to the NZAC on 23 June 1998, and its related documentation.
 - b. Copies of documents and information provided to me by NZAC under cover of your Solicitor's letter of 24 February 1999.
 - c. The Privacy Commissioner's provisional and final opinions, dated 6 September 2001 and 17 January 2002 respectively.
 - d. *My Notice Of Intention To Bring Proceedings* submitted to the Tribunal in my letter of 4 February 2002.
 - e. The whole proceedings of the Tribunal, which included as Exhibits copies of the statements made to the police by my three daughters (Ms Waugh, Mrs Murray, and Mrs Jenkinson), as well as my own and Ms White's Briefs of Evidence, and other relevant Exhibits.
 - f. ***Specifically***, those portions of Ms Milne's response to my 23 June 1998 complaint which have been disclosed to me by the NZAC, the Privacy Commissioner, and by the Tribunal.

RELIEF & REMEDIAL ACTION

83. In the end analysis, this is a very simple matter. Allegations of sexual abuse were wrongly made. A substantial body of reliable, testable evidence, supported by the outcome of thorough Police investigations, conclusively proves that the allegations of sexual abuse were false, contradictory, inconsistent, collusive and vindictive. Ms Waugh could not, therefore, have sustained consequential mental injury from alleged sexual abuse which did not occur.

84. However, Ms Milne chose to believe that I (and others) sexually abused and consequentially mentally injured Ms Waugh, but has no credible information whatsoever to support her beliefs. Counsellors are not perfect and they can and do make mistakes. Ms Milne failed to act with due diligence and made a serious error in this case. Her error must be rectified.
85. I therefore request that you use your constitutional power and authority to expeditiously and competently complete the following specific actions to resolve, settle, and remedy this disgraceful affair, as below.
86. **Investigation.** I request that you thoroughly investigate this new complaint against Ms Milne without delay, taking into account all of the extensive facts, information and evidence now available. I firmly believe that Ms Milne's malfeasance, culpability, dishonesty and incompetence in this matter are unmistakable. She has publicly claimed to have counselled hundreds of women for sexual abuse, and it is therefore possible she has treated some or all of those cases in a similar manner. The facts in this case clearly demonstrate that she is unfit to practise any form of counselling, least of all sexual abuse counselling, which apparently involves the highest levels of trust, professionalism and honesty and which she has failed to meet.
87. **Apology.** I request that the NZAC provides me with a full, sincere and unreserved written apology, expressed in terms that are satisfactory to me, for the conduct of your member Ms Milne, including as a minimum requirement, *explicit* statements clearly acknowledging that :
- a. Neither the NZAC nor Ms Milne has any evidence whatsoever that Ms Waugh was sexually abused by me or by any other person.
 - b. Neither the NZAC nor Ms Milne has any evidence whatsoever that Ms Waugh suffered consequential mental injury attributable to sexual abuse.
 - c. Ms Milne's conduct when counselling Ms Waugh, and when reporting to ACC and to the NZAC, was dishonest, negligent, incompetent, unprofessional and disgraceful, and breached the NZAC's obligatory Code of Ethics.

Procedural Fairness

88. In compliance with the principles of procedural fairness, I request that you forward to me without delay an unabridged copy of Ms Milne's response to this complaint (if any).

Acknowledgement

89. By return e-mail, please immediately acknowledge receipt of this letter of complaint.

Yours sincerely,

Gordon Waugh

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