

Transcript of Response from NZAC (on their Letterhead)..

10 April 2006

Mr G Waugh
51 Waimarie Road
Whenuapai Village
AUCKLAND

Dear Mr Waugh

COMPLAINT – BARBARA MILNE

1. Thank you for your letter of 24 January 2006.
2. In accordance with the NZAC complaints process, it has been carefully considered by the Initial Assessment Group which has also consulted with the Association's legal advisor.
3. The IAG acknowledges the on-going distress you have experienced and which you have relayed in part in your letter of 24 January 2006.
4. The IAG has considered your letter and the Code of Ethics of the New Zealand Association of Counsellors. It has determined that your letter raises two distinct complaints:
 - 4.1 The first relates to the events of 1992; and
 - 4.2 The second relates to Ms Milne's letter to NZAC dated 24 August 1998, in response to your own letter of 23 June 1998.

Events of 1992

5. These events were the subject of your 1998 complaint. That complaint was considered and determined. On 14 November 1998 the then secretary of the Ethics Committee advised you that the Ethics Committee had decided to take no further action on it.
6. The present IAG has determined to take no further action in relation to the events of 1992. This is because:
 - 6.1 Those events have already been subject to complaint proceeding which have been determined; and
 - 6.2 In 1992 Ms Milne was not a member of NZAC, therefore, NZAC has no jurisdiction over her actions at that time; and
 - 6.2 The information provided in the original complaint about the content and nature of the counselling was dependent on hearsay evidence; and

- 6.4 The application form in use in 1993 did not require a candidate to declare any complaints that they were the subject of at the time.

1998 letter

7. As you state at para 18 of your letter of 24 January 2006 you allege that Ms Milne was “dishonest, disgraceful, unbecoming a member, grossly negligent, grossly unprofessional and distinctly prejudicial to the interests of [the] association” in her written response of 24 August 1998 to you complaint of June 1998.
8. From your letter the IAG has discerned that you allege Ms Milne was “dishonest” and/or grossly negligent (i.e. based upon her actions) and that consequently her behaviour was :disgraceful, unbecoming a member, grossly unprofessional and distinctly prejudicial to the interests of [the] association (i.e. based upon you understanding of the significance of those actions).

The complaint process

9. At this stage, the IAG has to consider whether, if all of the information in your letter of 24 January 2006 is true, Ms Milne’s behaviour in the letter of August 1998, was “potentially prejudicial to the interests of the association”, “professional misconduct” or “conduct unbecoming a member”. If so, the IAG must refer the matter to a Hearing Panel for consideration. If not, no further action will be taken.

Allegation of dishonesty

10. You have alleged that Ms Milne was dishonest in her letter of 24 August 1998. Before a finding could be made that Ms Milne was dishonest, there would need to be proof that the Ms Milne consciously and deliberately misled the Association (i.e. stated things that were false knowing them to be false).
11. While you maintain that allegation in your letter of 24 January 2006, there is no evidence to suggest that Ms Milne consciously and deliberately misled that association.
12. Accordingly, the finding of the IAG is that there is no demonstrable dishonesty on the part of Ms Milne in her letter of 24 August 1998 which could be prejudicial to the interests of NZAC or amount to professional misconduct or conduct unbecoming a member and no further action will be taken in relation to that aspect of your complaint.

Allegation of gross negligence

13. Before a hearing panel could make a finding that there had been “gross negligence” on the part of a member, it would need to be persuaded :
- 13.1 That the member’s behaviour had fallen short of the standard of behaviour which would be expected from a reasonably competent practitioner; and

- 13.2 That the shortfall between the member's behaviour and that of a reasonably competent practitioner was "gross, "conspicuous" or "flagrant"
14. At this stage, the role of the IAG is to determine whether, on the evidence provided, there is sufficient material to persuade a hearing committee that Ms Milne has breached that standard.
15. The proposition you bring in relation to this charge of gross misconduct is that Ms Milne:
 - 15.1 Gave false and/or misleading information about the advice and guidance she had given to your daughter.
 - 15.2 Gave inaccurate, incomplete, irrelevant and misleading personal information about you.
 - 15.3 Claimed she had corroboration of disclosure of sexual abuse allegedly perpetrated by you.
 - 15.4 Gave unqualified, misinformed and ill conceived opinions about you in order to attack your character and discredit you as a complainant.
 - 15.5 Attempted improperly to influence the outcome of the investigation of your complaint (see para 24 of your letter).
16. In the absence of any complaint from your daughter, the IAG has decided it would be impossible for a hearing panel to determine whether or not what Ms Milne stated she said to your daughter was false and/or misleading. No further action will be taken in that regard.
17. From the material you have provided it appears that Ms Milne told the Ethics Committee in August 1998 that you had made a complaint to AIT which had not, in fact, been upheld by that organisation.
18. The IAG has then considered whether Ms Milne's action in making that assertion to NZAC in 1998 was grossly negligent.
19. The IAG considers that while it may not have been advisable for Ms Milne to raise uncorroborated and irrelevant evidence in support of her defence against the charges you have made, it is not persuaded that Ms Milne's behaviour tell so short of the standard of the reasonable and competent practitioner that it could be described as "gross", "conspicuous" or "flagrant". (Even if this allegation were substantiated it would not have been considered relevant to the Association's process as your own reputation is not under examination in the complaint assessment or investigation process.)
20. The IAG has carefully considered you claim that Ms Milne falsely claimed she had corroboration of disclosure of child sexual abuse which implicated you. There is no evidenced that when Ms Milne claimed corroboration she was

stating a falsehood knowing it to be false, or negligent so no further action will be taken in respect of that aspect of your complaint.

21. It is not gross negligence for a professional to defend him/herself when charged with a serious breach of professional standards.
22. In all the circumstances, the IAG has determined it could not be said that there is a prima facie case that the letter from Ms Milne of 24 August 1998 so fell below the standard of behaviour expected of a reasonable and competent counsellor that it could be said to be gross, conspicuous and/or flagrant.

Conclusion

23. For the reasons canvassed above, the IAG has determined that no further action will be taken in relation to your complaint of 24 January 2006 in respect of Ms Milne's letter of 24 August 1998.

We acknowledge again the distressing effects on your family relationships of the events of 1992 but hope that the matters may now be laid to rest in relation to your complaints to this Association.

Yours faithfully

Signed

Sheena Hudson
Ethics Secretary
NZAC