

Human Rights Review Tribunal

***The Director of Proceedings v Peters* – 25 September 2006, 17 January 2007**

In March and May 2006 the Human Rights Review Tribunal heard evidence and submissions in relation to a claim brought by the Director of Proceedings on behalf of Ms A. In a decision dated 25 September 2006, the Tribunal made a declaration that Mr Peters, a counsellor, had breached Miss A's rights under the Code of Health and Disability Services Consumers' Rights breached as a result of a sexual relationship he had formed with her in 2001. Mr Peters' evidence was that he had commenced counselling Miss A after the sexual relationship had ended. For reasons detailed in the decision, the Tribunal preferred Miss A's evidence.

In February 2001 Ms A, a survivor of sexual abuse and rape, was dealing with subsequent issues of self-mutilation, eating disorders, a dissociative disorder, over-exercising and ignoring pain thresholds and obsessive compulsive disorders. At this time she was self-mutilating at least every other day, sometimes two to three times a day. She was losing weight and over-exercising. She was depressed and somewhat suicidal.

As part of the orientation programme at a College she had enrolled at, she attended a presentation by Mr Peters, whose counselling services were available to students at a subsidised rate for three sessions. According to his business card, he was a Counsellor and Master Hypnotherapist.

Miss A had her first appointment to see Mr Peters on 20 March 2001. At the end of this session and again at the end of her second appointment on 27 March 2001, Mr Peters gave Miss A a hug. There was a third appointment at the College on 3 April 2001, at which time Miss A had used all three of her allocated subsidised appointments. She had paid \$5.00 to the College administrator, who was responsible for arranging the appointments.

Miss A then attended an appointment at Mr Peters' rooms. She told him that she was developing feelings for him. He told her that he could not have a relationship with her because he was her counsellor, but they agreed to meet at a centre where Mr Peters would be working. A passionate kiss occurred on this occasion. A few days after that, they had sexual intercourse for the first time, at Miss A's home. Mr Peters continued to counsel Miss A at his rooms on a number of occasions, following which they would have sexual intercourse.

In May 2001 Miss A was feeling depressed and engaged in some fairly severe self-mutilation. Mr Peters saw her wounds and persuaded her to go to hospital to have them attended to.

The sexual relationship ended in July 2001 when Mr Peters cancelled a date with Miss A because he wanted to spend time with his girlfriend. Miss A then cancelled her next counselling appointment and so the therapeutic relationship ended at this time.

The Tribunal found that there was a breach of Right 2 of the Code in that Mr Peters failed to provide services that were free from sexual exploitation; a breach of Right 4(2) of the Code in that from March 2001 and during the course of the relationship that followed, Mr Peters failed to provide health care services that complied with the professional, ethical and other relevant standards; and a breach of Right 4(4) by failing to provide health care services that minimized the potential for harm to Miss A's life.

Mr Peters was ordered to pay Miss A \$15,000 compensatory damages and \$8000 exemplary damages.

A copy of the decision may be found at www.nzlii.org/nz/cases/NZHRRT.