

Please take note that a publication ban has been imposed by the Professional Conduct Committee with respect to any information that could identify patients in facilities where Ms. MacDonald was employed in Nova Scotia. Wherever information has been deleted due to this publication ban, the notation “Publication Ban” has been inserted.

**PROVINCE OF NOVA SCOTIA
HALIFAX MUNICIPALITY**

IN THE MATTER OF: *The Registered Nurses Act. S.N.S 2006 c.21*

- and -

IN THE MATTER OF: A Complaint of the College of Registered Nurses of Nova Scotia against Debi L. MacDonald, aka Debi MacDonald, aka Jennifer D. MacDonald, aka Jennifer Debi Leigh MacDonald, aka Debbie MacDonald, aka Debi Louise MacDonald, aka Debra MacDonald, aka Debra Louise MacDonald, aka Jennifer Debi MacDonald, aka Jennifer Debi MacDonald/Kennedy/Rudolph or Debi L. MacDonald/Rudolph, Registration No. #23947

DECISION

Marjorie A. Hickey, Q. C.
Counsel for the College of Registered Nurses of Nova Scotia

Debi L. MacDonald
Not appearing nor represented

Members of The Professional Conduct Committee

W. Brian Smith, Q.C., Chair Professional Conduct Committee
Camilla Benoit (RN)
James MacLean (RN)
Maria Marshall (RN)
Eileen Pelham (Public Representative)

Date of Hearing: June 22 & 23, 2009

Date of Decision: September 15, 2009

INTRODUCTION

The matter was set down by way of Notice of Hearing dated May 15, 2009. The member was provided a copy of the Notice of Hearing as required by the *Registered Nurses Act* SNS 2006 c. 21. A full hearing on the merits was scheduled to begin at 0930 hrs on June 22, 2009, and to continue on June 23, 2009, if necessary, at the offices of the College of Registered Nurses of Nova Scotia in Halifax. The College of Registered Nurses of Nova Scotia is hereinafter referred to as the 'College'.

The jurisdiction for this Committee to hear this matter is found in Section 45 of the *Registered Nurses Act*, SNS 2006 c.21. The Committee is satisfied that all jurisdictional requirements have been complied with and that Committee has jurisdiction to hear the matter before it.

The Notice of Hearing contains 8 allegations, which are as follows:

Allegation I

Between September 2005 and July 2008, you misappropriated property and/or money that belonged to your employer and/or clients including:

- (a) On or about August 18, 2006, you requested a personal cheque for \$500.00 from the operation account for administrative supplies but did not provide appropriate receipts;
- (b) On a few occasions, you removed money from petty cash, a resident trust cash box and/or deposit bag without appropriate receipts, vouchers and/or notification;
- (c) Between April and July 2006, on a number of occasions, you deposited money from memorial donations to **PUBLICATION BAN** into your personal bank account;
- (d) On number of occasions, you submitted time slips for payment of work hours for your children for hours that they did not work;
- (e) In the summer/fall of 2006, despite being instructed not to re-hire your son, you placed him back on payroll and arranged to have him paid;
- (f) On or about July 3, 2007, you deposited \$2,306.47 into your personal bank account from a cheque that the CUPE union gave you to purchase textbooks for a CCA course;
- (g) On or about August 24, 2007, when cans of paint were delivered to the facility, you instructed the maintenance staff to put the paint in your car; and/or

- (h) Between September 2005 and July 2008, you took miscellaneous items and policy documentation that belonged to the facilities.

Allegation II

Between September 2005 and July 2008, you failed to be accountable and responsible for your own nursing practice, including;

- (a) On a number of occasions, you showed up late for work or did not show up for work at all;
- (b) On a number of occasions, you were not available to be contacted during your scheduled working hours;
- (c) Between September 2005 and October 2007, on a number of occasions, you directed some staff to lie to other people when you did not want to speak to them on the phone;
- (d) Between September 2005 and October 2007, on at least one occasion, you whited out the typed product information and inserted handwritten information on an invoice;
- (e) On or about September 2007, you "passed out" in your office after taking pills;
- (f) Between April 2008 and July 2008, you failed to provide policies, procedures, protocols and programs that you were supposed to develop;
- (g) On or about June 24, 2008, you told a LPN to tell the RN to go home because you, the RN, was "technically" on the grounds but you were actually at another facility; and/or
- (h) Between April 2008 and July 2008, you were late in ordering supplies and equipment that were needed for the facility.

Allegation III

Between September 2005 and July 2008 you provided false information to others including:

- (a) you have claimed hours on your CRNNS licence renewal form for 2006 when you did not have a licence;
- (b) On your resume(s), you provided inaccurate information about your qualifications;

- (c) Between July 2007 and October 2007, you misled PCW's that, after completing the CCA course, they could give medications and provide foot care, neither of which are permitted functions for CCA's;
- (d) Between July 2007 and October 2007, you changed the CCA course outline by decreasing the number of labs, relaxing the educational requirements for entry and altering the evaluation process, resulting in the participants not being properly certified;
- (e) In or about August 2007, you informed staff that money had been "stolen" from the cash float when you had been the person who had removed the money;
- (f) In or about September 2007, you informed the PUBLICATION BAN that you had terminated your daughter because of her excessive sick leave, but your daughter was still working at PUBLICATION BAN;
- (g) In early 2008, you provided the name of a reference of previous employer from a facility that never existed and the reference turned out to be your mother;
- (h) In early 2008, you asked to be called Jennifer, saying things like someone had tried to steal your identity;
- (I) In 2008, you told people that you had a twin sister whose name was Debi, when you did not have a twin sister;
- (j) In 2008, you provided a false SIN number(s) to your employer;
- (k) On or about April 15, 2008, you told others that your CRNNS licence was stolen, but your licence wasn't issued until April 16, 2008;
- (l) Between April 2008 and July 2008, you provided a false date of birth; and/or
- (m) Between April 2008 and July 2008, on at least one occasion, you claimed that you had ordered particular supplies and that you were assured that the supplies would be delivered within 24 hours but when the supplier was later contacted, they said that they did not give such assurance and they could not have the supplies ready that quickly.

Allegation IV

Between September 2005 and July 2008, you practised as a nurse practitioner and/or held yourself out as being a nurse practitioner including:

- (a) On your business cards, you identified yourself as an "ANP" - advanced nurse practitioner;
- (b) You had a prescription pad and, on at least one occasion, you also offered to write a prescription for thyroid medication for one of the staff members;
- (c) On or about June 24, 2008, you gave a verbal order to an RN for a suppository for a client; and/or
- (d) On at least one occasion, you told someone that you were going to provide care to child as a nurse practitioner.

Allegation V

Between 2006 and 2008, on at least one occasion, you forged a CRNNS licence.

Allegation VI

Between 2006 and 2008, on at least one occasion, you falsified information on a licence provided by CRNNS.

Allegation VII

Between November 1, 2005 and March 14, 2007, you practised nursing without a valid CRNNS nursing licence.

Allegation VIII

Between September 2005 and July 2008, you failed to practise nursing with appropriate knowledge, skill and judgment, in that, on at least one occasion, you either failed to give medications or make arrangements for another RN to give medications to clients.

Marjorie A. Hickey was representing the interests of the College. No one appeared on behalf of Debi L. Macdonald, nor did Ms. MacDonald attend personally to answer to the allegations contained in the Notice of Hearing.

Preliminary Matters

At the commencement of the Hearing before the Professional Conduct Committee, hereinafter called the 'Committee', two preliminary matters were raised by Ms. Hickey, Counsel for the College.

The first of these matters was to raise the issue of which legislation would govern the conduct of

this hearing. A new *Registered Nurses Act* was passed by the Nova Scotia Legislature in 2006, replacing the existing *Registered Nurses Act, 2001, c 10*. The new Act was proclaimed in force on April 1, 2009. The allegations before the Professional Conduct Committee occurred during the tenure of the previous legislation. It was the position of Counsel for the College that the new legislation prevailed. Section 76 (1) of the *Registered Nurses Act, 2006 c. 21* states as follows:

76(1) *For greater certainty, a complaint made pursuant to the former Act shall continue to be proceeded with in accordance with this Act as nearly as the circumstances permit.*

The Legislature clearly intended that where the subject matters arose during a formal complaint had been made under the old legislation, that the process could continue pursuant to the new legislation. The Committee so ruled.

The second preliminary matter raised by Counsel for the College was the issue of service of the Notice of Hearing upon the member.

On this issue, Counsel introduced a number of exhibits to which I will now refer:

Exhibit 1 is an Affidavit of Brenda Graham, a Bailiff licensed in Nova Scotia, dated August 6, 2009. Attachments to Ms. Graham's affidavit include the following documents:

A letter dated August 5, 2008, from Suzanne Kennedy, Professional Conduct Consultant for the College. Ms. Kennedy refers to material which had been previously sent to Debi MacDonald at 94 Green Road, Lantz, Nova Scotia, on July 9, 2008. It is noted that this package was refused; Material sent to Ms. MacDonald on July 23, 2008, that was an attempted delivery with a notice card left indicating where the material could be picked up and a letter dated August 5, 2008, from Linda Hamilton, Executive Director of the College, attaching a copy of the Decision of the Complaints Committee of the College which was dated July 30, 2008.

Exhibit 2 is another Affidavit of Ms. Graham, sworn to on January 22, 2009, which sets out the details of various visits made by Ms. Graham to Ms. MacDonald's residence from January 8, 2009, to January 18, 2009. Attached to this affidavit is a copy of an envelope which was attached to the door of Ms. MacDonald's residence addressed to 'Brenda Graham'.

Exhibit 3 is a copy of an email sent by Ms. Suzanne Kennedy on January 27, 2009, to Ms. MacDonald at an email address for Ms. MacDonald on file with the College. In this email, Ms. Kennedy refers to a concluded investigation of the two complaints filed against her and other pertinent matters. The second page of this exhibit confirms that this email message was received at the email address indicated.

Exhibit 4 is another affidavit of Brenda Graham sworn to on June 15, 2009. This affidavit outlines the details of further visits made by Ms. Graham to Ms. MacDonald's residence and also confirms by reference to a photograph, that the female person she had encountered on previous visits to the MacDonald residence was in fact Debi L. MacDonald, the Registered Nurse who is the subject of the complaints filed against her by the College. An envelope which Ms. Graham had for service upon Ms. MacDonald, contained various documents from the College including copies of the complaints, the decision of the Complaints Committee and most importantly a copy of the Notice of Hearing which led to this hearing before the Professional Conduct Committee.

Following the commencement of the Hearing and when the Committee was being advised of the preliminary matters, **Exhibit 6** was introduced to the Committee. It is an email from Debi MacDonald sent to Suzanne Kennedy at 0931 hrs. on June 22, 2009. This email states:

I have not yet been able to retain an attorney and need time to do so as I dispute some of the allegations - not all. I do not have a telephone and use e-mail as primary communication.

Due to health reasons and medications (sic) I now take, it is unlikely I will ever work again and do not intend to pursue anything in Nursing.

Mrs. MacDonald

It was submitted by Counsel for the College that service of the processes of the College had been personally served upon Ms. MacDonald and thus the hearing should proceed. The Committee was asked to rule whether the hearing should proceed in the absence of the member, Debi L. MacDonald.

It is a well known and accepted tenet of Canadian law that any person has the right to be present at any hearing which directly concerns them, to make full answer and defence to any allegations, to produce witnesses and to give testimony personally and to cross examine the evidence which is offered against their interests.

The Committee takes Ms. MacDonald's email of June 22, 2009, as her request that the matter be adjourned to provide an opportunity to retain counsel. Such a request when made in a timely fashion and with sufficient reasons as to why counsel was not retained earlier is sometimes, but not always granted. The Committee considers Ms. MacDonald's right to be represented a very important right and one which deserves due consideration by this Committee. However in considering the request, we must consider all of the evidence before us regarding the service of the various communications and documents and the conduct of Ms. MacDonald in order to determine if there is a real validity to the adjournment request.

Having reviewed the various affidavits of Ms. Graham, the attempts made by staff of the College to communicate the details and seriousness of the allegations against her to Ms. MacDonald and the deceit of Ms. MacDonald in denying who she was when confronted by Ms. Graham, the Committee is of the opinion that the request received from Ms. MacDonald at 0937 hrs. on June 22, 2009, is without legitimacy and is seen as another attempt to avoid the due process which is being taken against her.

Consequently Ms. MacDonald's for an adjournment is denied.

I will now deal with the issue of sufficiency of service of documents upon Ms. MacDonald. In matters as serious as a professional discipline complaint, the objective of service is to ensure that the member affected is given full notice of the contents of a complaint and is given the opportunity to defend her or his position.

Suzanne Kennedy, Professional Conduct Consultant for the College, testified before the Committee and provided the details of the efforts of the various staff of the College to make contact with Ms. MacDonald and the extensive effort to affect service of pertinent documents upon the member. Counsel introduced, during Ms. Kennedy's evidence, Exhibits 1 through 4. As can be seen from these Exhibits, the Provincial Bailiff affected service of the various documents, including the Notice of Hearing, upon Ms. MacDonald who, for reasons known only to her, continually denied that she was in fact the Debi L. MacDonald, the Registered Nurse, who was the subject of the College's action against her.

These denials were untruthful and, in the opinion of the Committee, had a purpose designed only to delay or otherwise thwart the lawful process of the College. If any consolation is needed, and in the opinion of the Committee none is, it is found in Ms. MacDonald's email in which she states that she "does not dispute some of the allegations". It is clear that Ms. MacDonald had actual notice of the proceedings against her.

Section 46 of the *Registered Nurses Act* 2006 c. 21 states:

46 (2) A Notice of Hearing, containing such information as required by the regulations, must be forwarded by the Executive Director to the respondent and the complainant at least thirty days prior to the hearing.

Section 47 states:

At any stage of the professional conduct process, any document required to be served on or provided to a respondent or any other individual is deemed to be served or provided if

- (a) the intended recipient or their counsel acknowledges receipt of the document;*
- (b) a registered mail receipt is provided fro Canada Post;*
- (c) an affidavit of service on the respondent is provided; or*
- (d) the College provides evidence satisfactory to the Professional Conduct Committee that all reasonable efforts to affect service have been exhausted.*

Section 70 (1) of the Regulations O.I.C. 2009-133, N.S. Reg. 65/2009 states that:

70 (1) A Notice of Hearing sent by registered mail is deemed to have been served on the date it was posted.

The deeming provision of these sections of the Act and Regulations legislates that service is effective on the date the Notice of Hearing was posted. An attachment to Exhibit 4 confirms that the Notice of Hearing was forwarded to Ms. MacDonald via Registered Mail and thus the provisions of the sections involved are satisfied. Notwithstanding the deeming provision of Regulation 70, the College has satisfied its obligations respecting service by affecting personal service of the Notice of Hearing upon Ms. MacDonald under Section 47 (c) and by the other efforts made via Registered Mail and email to Ms. MacDonald. Additionally in her email of June 22, Ms. MacDonald acknowledges receipt of the allegations which are contained in the Notice of Hearing.

Upon reviewing the foregoing and upon hearing the submissions of Counsel on behalf of the College, the Committee is satisfied that the College has met all of the requirements of the Act respecting service of the Notice of Hearing upon Debi L. MacDonald.

The last matter of a preliminary nature brought to the attention of the Committee was the issue of a Publication Ban on any evidence tending to identify any patient or relative of a patient. Accordingly, it is ordered that the names of any patient or relatives of any patient who testified at the hearing or who were referred to in the testimony of others will not be published in this decision or elsewhere. As a result, only initials will be used to identify the individual witnesses or any other patient or relative to whom the evidence refers.

It is the decision of this Committee that the College is in full compliance with the provisions of its governing legislation and in the result the Committee directed that the hearing proceed in the absence of Ms. MacDonald.

There were two complaints filed with the College in relation to the matters before the Committee. The first Complaint was filed on July 4, 2008, by **PUBLICATION BAN** on behalf of **PUBLICATION BAN** and is found at Tab 2 of Exhibit 5. In general, this complaint contained serious allegations of theft, inappropriate behaviour, unprofessionalism, untrustworthiness and lack of judgment.

The second complaint received by the College against Ms. MacDonald was filed by **PUBLICATION BAN** on July 11, 2008.

Both complainants had been employers of Ms. MacDonald located in **PUBLICATION BAN**.

ALLEGATION 1

Between September 2005 and July 2008, you misappropriated property and/or money that belonged to your employer and/or clients including:

- (a) On or about August 18, 2006, you requested a personal cheque for \$500.00 from the operation account for administrative supplies but did not provide appropriate receipts;

- (b) On a few occasions, you removed money from petty cash, a resident trust cash box and/or deposit bag without appropriate receipts, vouchers and/or notification;
- (c) Between April and July 2006, on a number of occasions, you deposited money from memorial donations to PUBLICATION BAN into your personal bank account;
- (d) On number of occasions, you submitted time slips for payment of work hours for your children for hours that they did not work;
- (e) In the summer/fall of 2006, despite being instructed not to re-hire your son, you placed him back on payroll and arranged to have him paid;
- (f) On or about July 3, 2007, you deposited \$2,306.47 into your personal bank account from a cheque that the CUPE union gave you to purchase textbooks for a CCA course;
- (g) On or about August 24, 2007, when cans of paint were delivered to the facility, you instructed the maintenance staff to put the paint in your car; and/or
- (h) Between September 2005 and July 2008, you took miscellaneous items and policy documentation that belonged to the facilities.

PUBLICATION BAN was the first witness called by Counsel for the College to speak to the substance of the matters before the Committee. PUBLICATION BAN is the PUBLICATION BAN for PUBLICATION BAN the owners and operators of PUBLICATION BAN which is located in PUBLICATION BAN and is a PUBLICATION BAN.

Debi L. MacDonald was hired by PUBLICATION BAN in September 2005 and employed as the Administrator of PUBLICATION BAN. PUBLICATION BAN operates a number of health care facilities and all Administrators report directly to PUBLICATION BAN.

In her position as the Administrator of PUBLICATION BAN, Ms. MacDonald was responsible for the overall operation of the facility and was responsible for reporting to the various stakeholders involved with the facility. She was the most senior staff person at PUBLICATION BAN and consequently all staff, professional or otherwise, reported to her.

PUBLICATION BAN did not participate in the initial hiring of Ms. MacDonald and thus did not have any knowledge of her background. He did testify that he was aware that Ms. MacDonald was a Registered Nurse and that she had earned her Masters Degree in Nursing from Memorial University in Newfoundland and Labrador. PUBLICATION BAN referred to Tab 3 of Exhibit 5, a Resume of Debi MacDonald. Noted on page two of that document is the reference to the education of Ms. MacDonald. She reports attending Athabasca University; having obtained an Advance Graduate Diploma in Primary Health Care Nurse Practitioner Status; a Masters degree in Nursing and Business Administration from Memorial University and a Bachelor of Sciences

in Nursing (Honors) from the University College of Lethbridge. **PUBLICATION BAN** also stated that he and the company had used Ms. MacDonald as a role model to other staff because of her impressive educational background and the continuing efforts made by her is the pursuit of education. **PUBLICATION BAN** referred to Tab 3A of Exhibit 5, which is a business card of Ms. MacDonald. This card sets out Ms. MacDonald's espoused credentials. He also advised the Committee that Ms. MacDonald had set up an upgrading educational program for Personal Care Workers employed by **PUBLICATION BAN**. He testified that the announcement of this educational program was seen by staff as a very positive and exciting opportunity to improve their education and to improve their credentials. Even C.U.P.E., the union of which the PCW's are members, welcomed this opportunity and in fact agreed to fund the purchase of text books which would be used by their members during this course. The Union provided a cheque in the amount of \$2306.47 for this purpose.

PUBLICATION BAN testified that on August 31, 2007, he received a telephone from the **PUBLICATION BAN** at **PUBLICATION BAN**. He was advised that the administrative staffs were very upset and were requesting a meeting with him. He and **PUBLICATION BAN**, an owner of **PUBLICATION BAN**, met with a number of the administrative staff and learned of a number of serious allegations regarding Ms. MacDonald. These are summarized as follows:

That Ms. MacDonald deposited into her personal account a CUPE issued cheque that was intended for the purchase textbooks for its members.

That Ms. MacDonald deposited into her account donations meant for **PUBLICATION BAN**.

That Ms. MacDonald purchased goods, changed the invoices, and approved the changed invoices for payment.

That Ms. MacDonald purchased paint for her own use and charged same to the company.

That Ms. MacDonald who had two children who were employed by **PUBLICATION BAN** reported only to her and that records of hours worked were fabricated.

That money was taken from a petty cash box and when Ms. MacDonald was informed of this, she stated that the money was to be used for a membership at Costco, a local bulk supplier of consumer goods. Ms. MacDonald later informed staff that the money had been stolen from the cash box.

Following this meeting, **PUBLICATION BAN** testified that he met with the persons responsible for the preparation of the payroll at **PUBLICATION BAN** and confirmed a number of irregularities regarding the employment of Ms. MacDonald's son, M. It was discovered that M. did not appear on a regular work schedule, did not have punched or any time cards and M. were rarely seen by any staff member on the premises. When confronted regarding her daughter T.'s employment, **PUBLICATION BAN** was advised by Ms. MacDonald that she had fired T. because of excessive absences due to illness. It was later determined that T. had not been fired.

PUBLICATION BAN also had a meeting with a representative of CUPE at which time the union representative confirmed that CUPE was prepared to pay for the textbooks to be used by the PCW's for the course offered by Ms. MacDonald. He confirmed that the Union had issued a cheque to Ms. MacDonald in June but that by the end of August 2007, no textbooks had been

provided by her. He reported to PUBLICATION BAN that he learned that MacDonald had directed staff to photocopy the texts. A copy of this cheque with Ms. MacDonald's endorsement on the cheque and confirmation of an order from Elsevier Canada are found at Tab 7 of Exhibit 5. It is noted that only two texts were ordered by Ms. MacDonald.

The Committee also heard from PUBLICATION BAN who became the PUBLICATION BAN on January 3, 2007. PUBLICATION BAN testified that she had received telephone calls from time to time, from Ms. MacDonald asking her to teach her PCW course because she was going to be late or otherwise unavailable. PUBLICATION BAN also testified that apparently Ms. MacDonald had informed the PCW's taking her course that they, upon completion, would be qualified as Licensed Practical Nurses and would be able to do specialized foot care for patients and would also be able to administer medications to patients. The evidence established that this statement was a total fabrication on Ms. MacDonald's part. Foot care and medication delivery are clearly beyond the scope of a PCW. This information was disheartening to the employees and embarrassing to both staff and the company.

PUBLICATION BAN also testified that timely attendance at the workplace was an ongoing issue for Ms. MacDonald. PUBLICATION BAN said that on numerous occasions he would call Ms. MacDonald only to be advised that she was absent due to a plethora of excuses.

PUBLICATION BAN testified that Ms. MacDonald's Administrative Assistant had been instructed to lie to callers as to the whereabouts of Ms. MacDonald. In attempting to explain one such absence, Ms. MacDonald informed her assistant that her uncle had died and that it was necessary for her to conduct an autopsy upon him as there was no one else qualified in the City of PUBLICATION BAN to perform it.

Upon further investigation, PUBLICATION BAN testified that he determined that a donation by cheque payable to PUBLICATION BAN, from PUBLICATION BAN, had been deposited into Ms. MacDonald's personal bank account. A copy of this cheque and endorsement are to be found at Tab 5 of Exhibit 5 (page 13). PUBLICATION BAN also learned that another donation by way of direct deposit made by PUBLICATION BAN had also been deposited into Ms. MacDonald's personal bank account. Supporting evidence of this transaction is also found at Tab 5 of Exhibit 5 (page 14).

Continuing his investigation, PUBLICATION BAN testified to an altered invoice which was received from Informative Data Cartridge Inc., which is a company allegedly owned by an acquaintance of Ms. MacDonald. The original invoice clearly shows sections of the document which have been changed using white out. Ms. MacDonald was unable to explain this invoice. PUBLICATION BAN further testified that he inquired of Ms. MacDonald the circumstances surrounding a 5 gallon can of paint which when delivered to PUBLICATION BAN was placed in her automobile by staff on her instructions. The explanation offered was that she was unaware of this 5 gallon can of paint in her car, a can which would weigh in the range of 50 lbs, although the paint had been in her vehicle for 2 weeks. Later it was discovered, when a can of paint was returned to PUBLICATION BAN, that the colour was not a colour used in the colour scheme of the company. Ms. MacDonald could offer not explanation for this event.

PUBLICATION BAN testified that he confronted Ms. MacDonald regarding the employment of her children M. and T. No satisfactory responses were received from Ms. MacDonald regarding the employment of M. and when questioned why he had a time card which was never used, no answer was offered.

Regarding her daughter's employment, Ms. MacDonald confirmed that her daughter had unusual and unacceptable absences and had been dismissed as a result. However, upon **PUBLICATION BAN**'s inquiry, when the daughter was contacted, she believed that she was still employed at **PUBLICATION BAN**. **PUBLICATION BAN** testified that when a reconciliation of hours claimed against hours worked was completed there were significant differences which resulted in T. being overpaid almost every week. In addition, evidence was provided to **PUBLICATION BAN** by a person responsible for the preparation of payroll that Ms. MacDonald had informed her that her son's record would be handled directly by her and would not be dealt with in the normal course of business. The various time sheets and reconciliation are found at Tab 6 of Exhibit 5.

PUBLICATION BAN further questioned Ms. MacDonald regarding monies taken from Petty Cash without receipts. In particular, **PUBLICATION BAN** testified that he specifically asked Ms. MacDonald to explain why a cheque in the amount of \$500.00 had been written to her on August 18, 2006, and why there were no receipts for this transaction. Ms. MacDonald suggested that receipts had been provided, which other staff deny.

Suspicious obviously aroused, **PUBLICATION BAN** also contacted Memorial University in Newfoundland and Labrador to confirm that Ms. MacDonald had in fact obtained her Master's degree in Nursing and in Business Administration as she stated in her resume (Tab 3 Exhibit 5). He learned that there was no record of Ms. MacDonald ever attending Memorial, let alone graduated with a double Masters Degree. **PUBLICATION BAN** also stated that he had checked the College's website and discovered that Ms. MacDonald's name was not recorded as being a licensed RN. Ms. MacDonald explained that it was in error. See Tab 12 of Exhibit 5, which is purporting to be an RN licence for the period Nov. 1, 2006 to Oct 31, 2007. More will be said regarding the licensing issues later in this decision.

Following the completion of his investigation, Ms. MacDonald was provided with a letter terminating her employment for cause. She was also requested to return certain items of property which belonged to **PUBLICATION BAN**. A Solicitor's letter was sent to Ms. MacDonald regarding certain property (Tab 10, Exhibit 5). Documents shown at Tab 11 of Exhibit 5 deal with some of the missing items and funds. It is noted that in this Tab are cheques payable to **PUBLICATION BAN** from Ms. MacDonald dated September 28, 2006, in amounts of \$150.00 and \$570.00.

It was apparent during the testimony of **PUBLICATION BAN** and **PUBLICATION BAN** that Ms. MacDonald had been holding herself out to be a Licensed Advanced Nurse Practitioner. See Ms. MacDonald's business card found at Tab 3A and her resume at Tab 3 of Exhibit 5.

PUBLICATION BAN testified that on one occasion she was in Ms. MacDonald's office and was feeling unwell. Ms. MacDonald offered to write a prescription for medication for her and to facilitate that Ms. MacDonald removed a prescription pad from her desk. **PUBLICATION BAN** declined the offer.

On a two separate occasions in the late evenings, **PUBLICATION BAN**, not knowing that Ms. MacDonald was in her office, knocked and entered. Upon entry, she encountered a young child, approximately 5 years of age, stripped to her panties. The child was in the presence of her grandmother, an employee who worked for Ms. MacDonald in her capacity as Administrator of **PUBLICATION BAN**. Ms. MacDonald had a stethoscope in hand and was listening to the child's chest. Ms. MacDonald stated that she had decided to take the child on as a patient as she, apparently Ms. MacDonald, was not satisfied with the level of care the child was receiving from the IWK Hospital for Children. **PUBLICATION BAN** was obviously concerned by what she saw on those two occasions. When she spoke with Ms. MacDonald regarding what she had seen, Ms. MacDonald confirmed to her that she was a Nurse Practitioner and was caring for this child. This Committee is similarly concerned. Evidence led during this Hearing clearly established that Ms. MacDonald is not a Nurse Practitioner as she held herself out to be and accordingly would not have lawful authority to take on any person as a patient. Where a child has been the subject of an examination in these circumstances, it causes the Committee to have even greater concern. It is the wish of the Committee that this matter be brought to the attention of the appropriate authorities within the **PUBLICATION BAN** Regional Police Services.

PUBLICATION BAN filed a formal complaint with the College against Ms. MacDonald albeit not until July 4, 2008, some 10 months following the completion of his investigation into the allegations made against Ms. MacDonald and her subsequent dismissal from her employment at **PUBLICATION BAN**.

The Committee is very concerned with the length of time it took before the very serious allegations levied against Ms. MacDonald were brought to the attention of the College. The College is mandated by its governing legislation, the *Registered Nurses Act* 2006 c. 21, to serve and protect the public interest, to preserve the integrity of the nursing profession and to maintain public confidence in the ability of the nursing profession to regulate itself. In order to fulfill its mandate, the College must be made aware of matters which arise in the nursing profession which impact the public interests, the integrity of the nursing profession, the public confidence of the nursing profession and the ability to self govern. Testimony was provided that notwithstanding the extreme seriousness of the matters with which **PUBLICATION BAN** involving Ms. MacDonald, that 10 months or so had passed before it was seen fit to formally advise the College of the significant departures of Ms. MacDonald from an honest, competent and safe and licensed nursing practice. As the evidence disclosed, his complaint came about as a result of being contacted by the second complainant before this Hearing. Employers, fellow nurses and co-workers must be encouraged to promptly report to the College matters which cause them concern with a particular nurse or nursing practice.

The Committee heard testimony from **PUBLICATION BAN**. **PUBLICATION BAN** is an RN and is the Administrator of **PUBLICATION BAN**, Nova Scotia. **PUBLICATION BAN** was

actively involved in the hiring of Ms. MacDonald as an Administrator for PUBLICATION BAN, NS. Ms. MacDonald's Resumé is found at Tab 14 of Exhibit 5. (Ms MacDonald advised PUBLICATION BAN that her last employment). PUBLICATION BAN testified that during the interview process, she was significantly impressed by Ms. MacDonald, her qualifications and experience to move her to a second interview in the hiring process.

PUBLICATION BAN testified that she contacted the references provided by Ms. MacDonald and was once again impressed with the comments of the referees. One of these references was according to Ms. MacDonald, her most recent place of employment which was Mesa Vista Lodge, in Mesquite, Nevada, where she was employed as the Administrator and Director of Health Care Services from September 2005 to December 2007. The Committee notes that this period of time coincides with the time Ms. MacDonald was actually employed by PUBLICATION BAN at PUBLICATION BAN. Regarding the reference to Mesa Vista Lodge in Nevada, Ms. MacDonald specifically directed PUBLICATION BAN to a Mrs. Rudolph who was allegedly a former owner of Mesa Vista Lodge and provided a telephone number at which Mrs. Rudolph might be contacted. In pursuit of her due diligence, PUBLICATION BAN contacted Mrs. Rudolph who provided a glowing recommendation for Ms. MacDonald. The document used by PUBLICATION BAN during the reference check is found at Tab 15 of Exhibit 5. Ms. MacDonald was subsequently hired by PUBLICATION BAN who was very grateful to find an employee with the qualifications, experience and recommendations espoused by and on behalf of Ms. MacDonald.

Ms. MacDonald was tasked to prepare a number of Policies for the PUBLICATION BAN facility. PUBLICATION BAN and Ms. MacDonald was required to ready the PUBLICATION BAN facility for PUBLICATION BAN. However, according to PUBLICATION BAN, problems began to arise almost immediately. Ms. MacDonald was temporarily working in and sharing PUBLICATION BAN's office space at an existing facility and so much of the early problems came first hand to PUBLICATION BAN.

When Ms. MacDonald was first hired she was referred to as Debi. After a couple of weeks, PUBLICATION BAN was approached by Ms. MacDonald and told that she had been the victim of an identity theft and that in the future she wished to be known as and called Jennifer MacDonald rather than Debi MacDonald. While it struck PUBLICATION BAN as a bit strange, she acceded to the request despite the initial confusion it caused with staff. Ms. MacDonald had been requested by PUBLICATION BAN to provide a social insurance number for payroll purposes. In her email to PUBLICATION BAN of April 7, 2008 at Tab 17 of Exhibit 5, her SIN is recorded by PUBLICATION BAN as 612 144 709. This email refers to the provision of references for Debi MacDonald.

However in an enrollment form in a Registered Pension Plan, introduced as Exhibit 20, Jennifer MacDonald of an address which has been used consistently throughout the documentary material referred to in this Hearing, and prepared by Ms. MacDonald personally, she indicates her SIN to be 612 144-709. According to PUBLICATION BAN evidence, there was ongoing confusion regarding the correct SIN for Ms. MacDonald which culminated in yet another email sent from Ms. MacDonald's email address to PUBLICATION BAN on June 28, 2008, found at Tab 28 of Exhibit 5, stating that PUBLICATION BAN had made a mistake (apparently the same as Ms. MacDonald made on the pension registration document herself) her correct SIN was 177 760 488. PUBLICATION BAN testified that she subsequently contacted Canada Revenue Agency and was informed that neither SIN was correct.

PUBLICATION BAN also testified that on one occasion a prescribed medication was required for one of the patients. PUBLICATION BAN, RN, the staff person on duty contacted Ms. MacDonald regarding this need and was told to administer the medication and that she, (Ms. MacDonald) would sign the order when she came to work in the morning confirming that she was able to prescribe because of her nurse practitioner's status. PUBLICATION BAN testified that she was not comfortable with this direction and contacted PUBLICATION BAN instead. The medication was not administered under those circumstances. To prescribe medication was clearly and legally beyond Ms. MacDonald's authority.

PUBLICATION BAN also testified that Ms. MacDonald had been tasked with placing an order for the medical supplies which were to be required before the PUBLICATION BAN facility could PUBLICATION BAN. She informed the Committee that Ms. MacDonald failed in that regard and advised that PUBLICATION BAN until all supplies were on site.

PUBLICATION BAN testified that one of the staff who had previously worked at PUBLICATION BAN recognised Ms. MacDonald as the former Administrator of PUBLICATION BAN and brought that information to her attention. She contacted PUBLICATION BAN and confirmed that information did not match but that Debi MacDonald who worked for PUBLICATION BAN and the Jennifer MacDonald employed by her was one and the same person. When confronted, Ms. MacDonald denied that she had worked at PUBLICATION BAN but that in fact it was her twin sister who had worked there.

PUBLICATION BAN stated in her evidence that the experience with Ms. MacDonald was extremely bad and that she didn't ever believe that she could be 'duped' as she was by Ms. MacDonald. She stated that Ms. MacDonald's actions did an incredible amount of damage. She stated that the business was behind from a structural perspective. She spoke of the personal effect that the experience had upon her. In addition, PUBLICATION BAN had no intention of staying on to operate PUBLICATION BAN but that it became necessary for her to do so. She said that neither she or the staff are as trusting anymore.

PUBLICATION BAN, Director of Care for PUBLICATION BAN and Transition Manager for PUBLICATION BAN, testified before the Committee as well. She testified that she had conversations with PUBLICATION BAN regarding the performance and incidents concerning Ms. MacDonald. On June 27, 2008, PUBLICATION BAN wrote to Ms. MacDonald regarding

these incidents. The letter is found at Tab 26 of Exhibit 5. The following day, **PUBLICATION BAN** received an email from Ms. MacDonald resigning from her position. It is an interesting observation that in the concluding paragraph of this email, Ms. MacDonald refers to the reference she had provided respecting her most recent employment prior to being hired to work at **PUBLICATION BAN**.

On July 4, 2008, **PUBLICATION BAN** wrote a letter to Jennifer MacDonald (Tab 30, Exhibit 5) advising her that her conduct had been brought to the attention of the College. **PUBLICATION BAN** testified that she was shocked at the performance of Ms. MacDonald whose conduct set the operation of **PUBLICATION BAN** back because the procedures which were to be produced by Ms. MacDonald were not ready and consequently there was a delay in the business receiving its licence.

On July 13, 2008, **PUBLICATION BAN**, through **PUBLICATION BAN**, filed a formal complaint against Debi Leigh Jennifer MacDonald. See Tab 13, Exhibit 5.

During his testimony, **PUBLICATION BAN** testified that there had been a licensing issue regarding Ms. MacDonald.

Ann Marie Cameron, the Registration Officer for the College, testified that she maintains a data base respecting membership in the College. She stated that Debi MacDonald was licensed to practice nursing in 1994, 1995, 1996, 1997 and 1998. She was not active in 2000, 2001, or 2002 but active again in 2003. Ms. MacDonald was not licensed in 2004, 2005 or 2007.

The earlier evidence from **PUBLICATION BAN** was that he had been provided with a copy of Ms. MacDonald's licence when he requested it from her and it was reproduced at Tab 12 of Exhibit 5 as being her nursing licence for the period 01 November 2006 to 31 October 2007. Ms. Cameron examined this document and concluded that it was not a licence to practise nursing in Nova Scotia which had been issued by the College. Next Ms. Cameron was referred to the document found at Tab 18 of Exhibit 5, which was a document provided by Ms. MacDonald to **PUBLICATION BAN** as proof of her status as a licensed nurse in Nova Scotia. Ms. Cameron testified that this particular document is proof only of an online payment of fees but is not a licence to practise. Ms. Cameron testified concerning the document found at Tab 22 of Exhibit 5. She again confirmed that this document is not a licence issued by the College.

Paula Prendergast was called to testify by Ms. Hickey. Ms. Prendergast is a Policy Consultant employed by the College to develop policies for the College and has access to the database containing the information regarding the status and qualification of all nurses in Nova Scotia registered with the College. She testified that she had examined the data base and advised that Ms. MacDonald had never been licensed as a Nurse Practitioner in the Province of Nova Scotia.

The Committee also heard testimony from Patricia Dehmel who is the Vice-President of C.S.I. Inc., a firm of private investigators retained by the College to further investigate Ms. MacDonald and to determine if Debi MacDonald and Jennifer MacDonald were one and the same person. The

CSI report was filed at Exhibit 7 and details the work completed by the firm in the investigation of Debi MacDonald, aka Jennifer D. MacDonald asks Jennifer Debi Leigh MacDonald.

In summary, Ms. Dehmel testified that: she could not verify the educational qualifications claimed by Ms. MacDonald and that Ms. MacDonald does not have a twin sister. Ms Dehmel confirmed that she made contact with the Mrs. Rudolph who had been offered as a reference for Ms. MacDonald in her application for employment at **PUBLICATION BAN**, NS. Quite by chance, Ms. Dehmel, who had experience as a military police officer for 12 years, had served in the Military Police with an Al Rudolph who had died a few years ago. During her conversation with Mrs. Rudolph she established that Mrs. Rudolph was the widow of her former coworker, Al Rudolph, and that Debi MacDonald was her daughter, not her former employee. She also confirmed that there is no such establishment known as the Mesa Vista Lodge, in Mesquite, Nevada.

The burden of proof of the allegations against Ms. MacDonald rests upon the College. The appropriate burden of proof to be applied here is proof on a balance of probabilities. Upon the closing of her case, Counsel for the College urged the Committee to find that each of the allegations contained in the Notice of Hearing had been proved on a balance of probabilities.

CONCLUSION

Having considered all the evidence put forward by viva voce testimony from the various witnesses called on behalf of the College and upon review of each of the exhibits entered into evidence by Counsel for the College, the Committee makes the following findings with respect to each of the allegations set out in the Notice of Hearing:

Allegation 1

Between September 2005 and July 2008, you misappropriated property and/or money that belonged to your employer and/or clients including:

- (a) On or about August 18, 2006, you requested a personal cheque for \$500.00 from the operation account for administrative supplies but did not provide appropriate receipts;
- (b) On a few occasions, you removed money from petty cash, a resident trust cash box and/or deposit bag without appropriate receipts, vouchers and/or notification;
- (c) Between April and July 2006, on a number of occasions, you deposited money from memorial donations to **PUBLICATION BAN** into your personal bank account;
- (d) On number of occasions, you submitted time slips for payment of work hours for your children for hours that they did not work;

- (e) In the summer/fall of 2006, despite being instructed not to re-hire your son, you placed him back on payroll and arranged to have him paid;
 - (f) On or about July 3, 2007, you deposited \$2,306.47 into your personal bank account from a cheque that the CUPE union gave you to purchase textbooks for a CCA course;
 - (g) On or about August 24, 2007, when cans of paint were delivered to the facility, you instructed the maintenance staff to put the paint in your car; and/or
 - (h) Between September 2005 and July 2008, you took miscellaneous items and policy documentation that belonged to the facilities.
- (a) On or about August 18, 2008, you requested a personal cheque for \$500.00 from the operating account for administrative supplies but did not provide appropriate receipts;**

The Committee heard the evidence of PUBLICATION BAN on this allegation. Having regard to that testimony, to Tab 4 and Tab 8(a) of Exhibit 5 the Committee is satisfied that this allegation has been proven.

- (b) On a few occasions, you removed money from petty cash, a resident trust cash box and/or deposit bag without appropriate receipts, vouchers and/or notification;**

For the same reasons provided for (a) above, the Committee is satisfied that this allegation has been proven.

- (c) Between April and July 2006, on a number of occasions you deposited money from memorial donations to PUBLICATION BAN into your personal bank account;**

The evidence of PUBLICATION BAN and to Exhibit 5 clearly establishes that Ms. MacDonald misappropriated donated funds for her own purposes. The Committee is satisfied that this allegation has been proven.

- (d) On number of occasions, you submitted time slips for payment of work hours for your children for hours that they did not work;**

The evidence of both PUBLICATION BAN and PUBLICATION BAN establishes that time slips were submitted for payment of wages to Ms. MacDonald's children when in fact these claims for hours worked were for the most part fictional. The Committee is satisfied that this allegation has been proven.

- (e) In the summer/fall of 2006, despite being instructed not to re-hire your son, you placed him back on payroll and arranged to have him paid;**

For the reasons stated in paragraph (d) above, the Committee is satisfied that while Ms. MacDonald was instructed to take her son off the payroll of the Company, she continued to keep her son on the payroll. Accordingly, the Committee is satisfied that this allegation has been proven.

- (f) On or about July 3, 2007, you deposited \$2306.47 into your personal bank account from a cheque that the CUPE union gave you to purchase textbooks for a CCA course;**

The Committee heard evidence from PUBLICATION BAN regarding the educational program which Ms. MacDonald had undertaken. Evidence was also received which established that Ms. MacDonald deposited the funds which were provided by CUPE to cover the costs of textbooks to her own account as can be seen by reference to Tab 7 of Exhibit 5. The evidence also established that only one textbook and one workbook had in fact been ordered. Evidence was given that Ms. MacDonald had staff at PUBLICATION BAN photocopy these materials using supplies paid for by her employer. In the result she sought to attain a significant personal financial gain.

The Committee is satisfied that this allegation has been proven.

- (g) On or about August 24, 2007, when cans of paint were delivered to the facility, you instructed the maintenance staff to put the paint in your car; and/or**

Evidence was given by PUBLICATION BAN and others regarding the purchase of paint on the account of PUBLICATION BAN for the personal benefit of Ms. MacDonald.

The Committee is satisfied that this allegation has been proven.

- (h) Between September 2005 and July 2008, you took miscellaneous items and policy documentation that belonged to the facilities.**

As the Committee is not satisfied that this allegation has been proven on a balance of probabilities, this allegation is dismissed.

Between September 2005 and July 2008, you failed to be accountable and responsible for your own nursing practice, including:

Allegation II

- (a) On a number of occasions, you showed up late for work or did not show up for work at all;
- (b) On a number of occasions, you were not available to be contacted during your scheduled working hours;

- (c) Between September 2005 and October 2007, on a number of occasions, you directed some staff to lie to other people when you did not want to speak to them on the phone;
 - (d) Between September 2005 and October 2007, on at least one occasion, you whited out the typed product information and inserted handwritten information on an invoice;
 - (e) On or about September 2007, you "passed out" in your office after taking pills;
 - (f) Between April 2008 and July 2008, you failed to provide policies, procedures, protocols and programs that you were suppose to develop;
 - (g) On or about June 24, 2008, you told a LPN to tell the RN to go home because you, the RN was "technically" on the grounds but you were actually at another facility, and/or
 - (h) Between April 2008 and July 2008, you were late in ordering supplies and equipment that were needed for the facility.
- (a) **On a number of occasions, you showed up late for work or did not show up for work at all;**

Evidence was led from PUBLICATION BAN to the effect that on numerous occasions Ms. MacDonald was either late for work or failed to come to work without a proper or any legitimate excuse. The Committee is satisfied that this allegation has been proven.

- (b) **On a number of occasions, you were not available to be contacted during your scheduled working hours;**

Having heard the evidence of PUBLICATION BAN regarding this aspect of the Complaint, the Committee is satisfied that this allegation has been proven.

- (c) **Between September 2005 and October 2007, on a number of occasions, you directed some staff to lie to other people when you did not want to speak to them on the phone;**

Evidence was provided that on various occasions Ms. MacDonald instructed staff at PUBLICATION BAN to lie to callers and others and to tell the caller that she was not in or otherwise unavailable. The Committee is satisfied that this allegation has been proven.

- (d) **Between September 2005 and October 2007, on at least one occasion, you whited out the typed product information and inserted handwritten information on an invoice;**

The Committee heard evidence concerning an invoice found at Tab 7a of Exhibit 5. Having

regard to that evidence and upon reviewing the stated exhibit, the Committee is not satisfied that this allegation has been proven. Accordingly, this allegation is dismissed.

(e) On or about September 2007, you "passed out" in your office after taking pills;

This allegation was withdrawn by the College.

(f) Between April 2008 and July 2008, you failed to provide policies, procedures, protocols and programs that you were suppose to develop;

The Committee was not satisfied that there was any evidence led regarding this allegation and accordingly this allegation is dismissed.

(g) On or about June 24, 2008, you told a LPN to tell the RN to go home because you, the RN was "technically" on the grounds but you were actually at another facility, and/or

This allegation has been withdrawn by the College.

(h) Between April 2008 and July 2008, you were late in ordering supplies and equipment that were needed for the facility.

The Committee heard evidence from PUBLICATION BAN regarding the obligation placed upon Ms. MacDonald to order supplies and equipment for PUBLICATION BAN. The evidence established that Ms. MacDonald failed ensure that the appropriate supplies and equipment were in place resulting in a delay in the licensing of the establishment. The Committee is satisfied that this allegation has been proven.

Allegation III

Between September 2005 and July 2008, you provided false information to others including:

- (a) you have claimed hours on your CRNNS licence renewal form for 2006 when you did not have a licence;
- (b) On your resume(s), you provided inaccurate information about your qualifications;
- (c) Between July 2007 and October 2007, you misled PCW's that after completing the CCA course they could give medications and provide foot care, either of which are permitted functions for CCA's;
- (d) Between July 2007 and October 2007, you changed the CCA course outline by decreasing the numbers of labs, relaxing the educational requirements for entry and altering the evaluation process, resulting in the participants not being properly certified;

- (e) In or about August 2007, you informed staff that money had been "stolen" from the cash float when you had been the person who have removed the money;
 - (f) In or about September 2007, you informed the PUBLICATION BAN that you had terminated your daughter because of her excessive sick leave, but your daughter was still working at PUBLICATION BAN;
 - (g) In early 2008, you provided the name of a reference of previous employer from a facility that never existed and the reference turned out to be your mother;
 - (h) In early 2008, you asked to be called Jennifer saying things like someone had tried to steal your identity;
 - (I) In 2008, you told people that you had a twin sister whose name was Debi, when you did not have a twin sister;
 - (j) In 2008, you provided a false SIN number(s) to your employer;
 - (k) On or about April 15, 2008, you told others that your CRNNS licence was stolen but your licence wasn't issued until April 16, 2008;
 - (l) Between April 2008 and July 2008, you provided a false date of birth; and/or
 - (m) Between April 2008 and July 2008, on at least one occasion, you claimed that you had ordered particular supplies and that you were assured that the supplies would be delivered within 24 hours but when the supplier was later contacted, they said that they did not give such assurance and they could not have the supplies ready that quickly.
- (a) you have claimed hours on your CRNNS licence renewal form for 2006 when you did not have a licence;**

The Committee heard evidence from Ms. Anne Marie Cameron, the Registration Officer of the College. Ms. Cameron testified that she is responsible for the maintenance of a database of the membership of the College. She testified that Ms. MacDonald had been licensed from 1994 to 1999, was not active in 2000 & 2002, was active in 2003 and not active in 2004, 2005 or 2007. Ms. Cameron referred to Tab 12 of Exhibit 5 and stated that the licence depicted purporting to be a licence issued to Ms. Debi MacDonald for the period November 01, 2006, to October 31, 2007, was not neither a valid licence for Ms. MacDonald nor a document issued by the College. The evidence disclosed that Ms. MacDonald offered this document as proof of her licensed status with College to her employer as found in Tab 18 of Exhibit 5. Further, at Tab 22 of Exhibit 5, the document depicted therein purports to be a licence to practise nursing in Nova Scotia which was supplied to PUBLICATION BAN. Ms. Cameron confirmed that this document is not a document issued by the College. The Committee in accepting Ms. Cameron's evidence finds that the

document shown at Tabs 12 and 22 are both forgeries. According, the Committee finds that this allegation has been proven.

(b) On your resume(s), you provided inaccurate information about your qualifications;

Reference is made to Tabs 3 & 3a of Exhibit 5, which contains the Summary Resume for Ms. MacDonald and her business card used by her during her employment with PUBLICATION BAN. Tab 3 refers to Ms. MacDonald being the Administrator and Director of Health Care Services at Mesa Vista Lodge in Mesquite, Nevada. Patricia Dehmel is a private investigator employed by CSI Inc, a firm retained by the College to conduct an investigation into the background and qualifications of Ms. MacDonald. Ms. Dehmel testified that she made inquiries regarding Ms. MacDonald's reference to Mesa Vista Lodge in Nevada and learned that there was no such facility in existence in Mesquite or elsewhere in Nevada. She contacted Mrs. Rudolph, a person allegedly involved in Mesa Vista Lodge. Mrs. Rudolph was contacted at her residence in Arizona and confirmed that Ms. MacDonald had worked for Mesa Vista Lodge and that her work was excellent. When confronted that there was no such establishment, Mrs. Rudolph eventually told Ms. Dehmel that she was in fact Ms. MacDonald's mother.

Ms. Dehmel also confirmed that Ms. MacDonald had never graduated with a Masters in Nursing program from Memorial University in St. Johns, NL. Ms. MacDonald also advised that she had attained a Masters in Business Administration, also from Memorial. Ms. Dehmel confirmed that Ms. MacDonald had not graduated from Memorial with either degree. Ms. Dehmel also confirmed that Ms. MacDonald had not graduated from Athabasca University in Alberta with an Advanced Graduate Diploma in Primary Health Care NP. The Committee accepts the testimony of Ms. Dehmel and finds that Ms. MacDonald included false references of employment and false educational qualifications on her resume found at Tab 3. Accordingly, the Committee finds that this allegation has been proven.

(c) Between July 2007 and October 2007, you misled PCW's that, after completing the CCA course, they could give medications and provide foot care, neither of which are permitted functions for CCA's;

Regarding this allegation, the Committee heard the testimony of PUBLICATION BAN, the current Administrator of PUBLICATION BAN. PUBLICATION BAN testified that once Ms. MacDonald was discharged from PUBLICATION BAN, she took over the educational program being offered to the PCW's at PUBLICATION BAN. She also stated that she learned that Ms. MacDonald had told the students that upon completion of her course that they would be Licensed Practical Nurses (LPN's) and that they would be permitted to administer medications to patients and to provide specialized foot care for them. The information provided by Ms. MacDonald is totally incorrect, as the ability to administer medications and to provide foot care to patients is beyond the scope of any PCW. Accordingly the Committee finds that this allegation has been proven.

(d) Between July 2007 and October 2007, you changed the CCA course outline by decreasing the numbers of labs, relaxing the educational requirements for entry and

altering the evaluation process, resulting in the participants not being properly certified;

This allegation was withdrawn by the College.

- (e) **In or about August 2007, you informed staff that money had been "stolen" from the cash float when you had been the person who have removed the money;**

This allegation was withdrawn by the College.

- (f) **In or about September 2007, you informed the PUBLICATION BAN that you had terminated your daughter because of her excessive sick leave, but your daughter was still working at PUBLICATION BAN;**

PUBLICATION BAN noted that there appeared to be irregularities regarding the time records of Ms. MacDonald's daughter, T. Upon further inquiry PUBLICATION BAN spoke with the employee of PUBLICATION BAN responsible for the preparation of payroll and was advised that Ms. MacDonald was looking after the payroll for both her daughter T. and her son. When queried Ms. MacDonald stated that her daughter had been dismissed by reason of her poor attendance at work. When contacted, Ms. MacDonald's daughter T. had no knowledge that she had been dismissed and in fact was expecting to come into work. The Committee is satisfied that this allegation has been proven.

- (g) **In early 2008, you provided the name of a reference of a previous employer from a facility that never existed and the reference turned out to be your mother;**

When applying for employment at PUBLICATION BAN, Ms. MacDonald supplied an employment reference for PUBLICATION BAN. The Committee was told by PUBLICATION BAN that she had received a Resume from Ms. MacDonald which is found at Tab 3 of Exhibit 5. At paragraph 1 of that document, Ms. MacDonald reported that she had been employed at Mesa Vista Lodge, in Mesquite, Nevada, from September 2005 to December 2007. From the evidence of PUBLICATION BAN, this time period approximates the time when Ms. MacDonald was employed at PUBLICATION BAN. Ms. MacDonald provided PUBLICATION BAN with the name of the contact person at the Mesa Vista Lodge as well as a telephone number at which the person could be reached.

On this allegation the Committee heard testimony from Ms. Dehmel, the private investigator who was engaged in the investigation referred to above. Ms. Dehmel made contact with the person who was allegedly Ms. MacDonald's superior at Mesa Vista Lodge only to discover that the person to whom Ms. MacDonald referred was in fact her mother and that there was no Mesa Vista Lodge. Ms. Dehmel's investigation also concluded that many of the specifics contained in Ms. MacDonald's resume were also false. The Committee accepts the evidence of Ms. Dehmel and accordingly finds that this allegation has been proven.

- (h) **In early 2008, you asked to be called Jennifer saying things like someone had tried to**

steal your identity;

Evidence was provided by PUBLICATION BAN that shortly after attaining employment at PUBLICATION BAN, Ms. MacDonald advised her employer that she had been a victim of identity theft and in the result asked that she be referred to as Jennifer rather than Debi MacDonald. Based upon the testimony received, the Committee is of the opinion that Ms. MacDonald did this in a deliberate attempt to hide the fact that she had been most recently employed at PUBLICATION BAN. The Committee is satisfied that this allegation has been proven.

- (i) In 2008, you told people that you had a twin sister whose name was Debi, when you did not have a twin sister;**

When confronted by PUBLICATION BAN that an employee of PUBLICATION BAN (a former employee of PUBLICATION BAN) had identified Ms. MacDonald as the former Administrator at PUBLICATION BAN, Ms. MacDonald denied that it was her but that the person was in fact her twin sister Debi. Keeping in mind that Ms. MacDonald had requested that she be referred to as Jennifer, in the opinion of the Committee, only to obscure her actual work history, the Committee is satisfied that this allegation has been proven.

- (j) In 2008, you provided a false SIN Number(s) to your employer;**

The Committee heard from PUBLICATION BAN that she had requested that Ms. MacDonald provide her with her social insurance number for purposes of company records. Ms. MacDonald provided at least two different SINs neither of which could be confirmed by the employer with the Canada Revenue Agency. The Committee is satisfied that this allegation has been proven.

- (k) On or about April 15, 2008, you told others that your CRNNS licence was stolen but your licence wasn't issued until April 16, 2008;**

PUBLICATION BAN also testified that when requested to provide a copy of her Nursing Licence, Ms. MacDonald informed her that her licence had been stolen. Ms. MacDonald offered as proof of her valid registration as a nurse, the document found at Tab 18 of Exhibit 5. Ms. MacDonald was not the holder of a valid Nursing Licence in the Province of Nova Scotia on April 15, 2008. The Committee is satisfied that this allegation has been proven.

- (l) Between April 2008 and July 2008, you provided a false date of birth; and/or**

This allegation was withdrawn by the College.

- (m) Between April 2008 and July 2008, on at least one occasion, you claimed that you had ordered particular supplies and that you were assured that the supplies would be delivered within 24 hours but when the supplier was later contacted, they said that they did not give such assurance and they could not have the supplies ready that quickly.**

In her testimony PUBLICATION BAN stated that Ms. MacDonald repeatedly confirmed that she had placed appropriate orders with suppliers for the supplies and equipment required by PUBLICATION BAN. PUBLICATION BAN also testified that notwithstanding the assurances received from Ms. MacDonald, the required orders had not been placed and PUBLICATION BAN without the supplies and equipment on site. The Committee is satisfied that this allegation has been proven.

Allegation IV

Between September 2005 and July 2008, you practised as a nurse practitioner and/or held yourself out as being a nurse practitioner including:

- (a) On your business cards, you identified yourself as an "ANP" - advanced nurse practitioner;
- (b) You had a prescription pad and, on at least one occasion, you also offered to write a prescription for thyroid medication for one of the staff members;
- (c) On or about June 24, 2008, you gave a verbal order to an RN for a suppository for a client and/or;
- (d) On at least one occasion, you told someone that you were going to provide care to child at a nurse practitioner.

- (a) On your business cards, you identified yourself as an "ANP" - advanced nurse practitioner;**

Evidence was received regarding the business card which was being used by Ms. MacDonald. That card is found at Tab 3A of Exhibit 5. Noted on the card are the initials ANP which stands for 'Advanced Nurse Practitioner'. The Committee heard testimony from Paula M. Prendergast who is employed by the College as a Policy Consultant. Ms. Prendergast testified that in order for an individual to practise as a Nurse Practitioner in Nova Scotia, they must be licensed by the College. During the course of the investigation of Ms. MacDonald, Ms. Prendergast examined the database of the College and concluded that Ms. MacDonald was never licensed as a Nurse Practitioner in Nova Scotia. Exhibits 12 & 13 are examples of a Nurse Practitioner's licence as issued by the College. Noted on these exhibits are the additional letters NP following the member's name. Ms. MacDonald's licence for 2007 & 2008 are found at Tabs 33 & 33A. No such designation appears on those documents.

The Committee is satisfied that this allegation has been proven.

- (b) You had a prescription pad and, on at least one occasion, you also offered to write a**

prescription for thyroid medication for one of the staff members;

During the testimony of PUBLICATION BAN, she testified that on an occasion when she was feeling unwell, Ms. MacDonald removed a prescription pad from her desk and offered to write a prescription for her, confirming to PUBLICATION BAN that she was a Nurse Practitioner and could do so. PUBLICATION BAN declined the offer.

The Committee accepts PUBLICATION BAN's evidence on this point and accordingly finds that this allegation has been proven.

(c) On or about June 24, 2008, you gave a verbal order to an RN for a suppository for a client and/or;

On June 24, 2008, Ms. MacDonald while in the employ of PUBLICATION BAN, was contacted by an on duty RN regarding a medical problem with a particular patient. Ms. MacDonald advised the staff member to use a suppository, supplied only on prescription, to the patient and that she, Ms. MacDonald would sign the order when she came to work in the morning. She also confirmed to the RN that she was a Nurse Practitioner and was permitted to issue this order. The RN involved was uncomfortable with this discussion and immediately contacted PUBLICATION BAN regarding the incident. She did not follow Ms. MacDonald's directive. The Committee is satisfied that this allegation has been proven.

(d) On at least one occasion, you told someone that you were going to provide care to child at a nurse practitioner.

During her testimony, PUBLICATION BAN testified to an incident which she encountered and witnessed during Ms. MacDonald's tenure at PUBLICATION BAN which the Committee found most disconcerting. PUBLICATION BAN stated that late one evening she was passing Ms. MacDonald's office and, noticing that the light was on and believing that Ms. MacDonald had forgotten to turn the light off, entered the office to turn off the lights. Upon entering she found Ms. MacDonald, with a stethoscope in hand, examining a child of an apparent age of approximately 5 years of age. The child was striped to her panties. When asked by PUBLICATION BAN about this Ms. MacDonald confirmed that she was a Nurse Practitioner and that she had taken on this child as a patient as she was dissatisfied with the care the child had been receiving at the IWK Hospital for Children in Halifax. It is clear that once again Ms. MacDonald was holding herself out to be a Nurse Practitioner which she is not.

The Committee is satisfied that this allegation has been proven.

Allegation V

Between 2006 and 2008, on at least one occasion, you forged a CRNNS licence.

Ms. Cameron examined Tab 12 of Exhibit 5 and confirmed that the document depicted there was not a licence issued by the College. Similarly, she testified that the document found at Tab 22 of

Exhibit 5 was not a licence issued by the College. She also pointed out the differences between an official licence issued by the College and those used by Ms. MacDonald purporting to be her licence.

The Committee is satisfied that the documents used by Ms. MacDonald are in fact forgeries and consequently is satisfied that this allegation has been proven.

Allegation VI

Between 2006 and 2008, on at least on occasion, you falsified information on a licence provided by CRNNS;

Once again through the testimony of Ms. Cameron, the Committee is satisfied that Ms. MacDonald falsified information on a licence actually issued by the College to her. The document found at Tab 22 of Exhibit 5 purports to be a licence issued by the College in the name of Jennifer MacDonald. While Ms. Debi MacDonald was properly registered during the period stated on the licence, the College did not issue this licence to a Jennifer MacDonald.

The Committee is satisfied that this allegation has been proven.

Allegation VII

Between November 1, 2005 and March 14, 2007, you practised nursing without a valid CRNNS nursing licence.

During her testimony, Ms. Cameron provided evidence that Ms. MacDonald was not licensed to practice nursing in Nova Scotia during 2004, 2005 or 2007. As the evidence established through **PUBLICATION BAN**, Ms. MacDonald was employed in her capacity as a Registered Nurse amongst other claimed qualification during the 2005 to 2007 years. Ms. MacDonald did so without being legally registered as a nurse in this Province.

Consequently the Committee is satisfied that this allegation has been proven.

Allegation VIII

Between September 2005 and July 2008, you failed to practise nursing with appropriate knowledge, skill and judgment, in that, on at least one occasion, you either failed to give medications or make arrangements for another RN to give medications to clients.

This allegation has been withdrawn by the College.

At the conclusion of the hearing, Ms. Hickey submitted a *Code of Ethics* for Registered Nurses as Exhibit 14 and the Standards of Practice as Exhibit 15 which the Committee has had the opportunity to review and consider in making its decision in the matter before us.

Having found that most of the allegations against Ms. MacDonald have been proven on a balance of probabilities which are the applicable standards in matters such as this, the Committee must consider whether the misconduct and dishonesty of Ms. MacDonald constitute professional misconduct and if it does, what is the appropriate penalty. The Committee has also heard a submission regarding costs.

Does the conduct of Ms. MacDonald as found by this Committee constitute professional misconduct?

Professional misconduct is defined in the *Registered Nurses Act* in section 2, sub paragraph (as) which reads as follows:

“professional misconduct” includes such conduct or acts relevant to the profession that, having regard to all the circumstances, would reasonably be regarded as disgraceful, dishonourable or unprofessional that, without limiting the generality of the foregoing, may include:

set out subparas (I) to (xiv)

Having heard the evidence of the witnesses called at this hearing and upon reviewing the exhibits entered into evidence and upon hearing the submissions of counsel the Committee makes the following conclusions:

1. That Ms. Debi MacDonald failed to maintain the standards of nursing practice as required by sub subparagraph (I) of paragraph (as) of Section 2 of the Act.
2. That Ms. MacDonald failed to uphold the Code of Ethics adopted by the College contrary to sub paragraph (iv) of Section 2 of the Act.
3. That Ms. MacDonald misappropriated personal property belonging to a client or her employer contrary to sub subparagraph (iv) of Section 2.
4. That Ms. MacDonald falsified records which her resume and that she forged her nursing licence for a number of years contrary to sub subparagraph (ix) of Section 2.
5. That Ms. MacDonald inappropriately used her professional status for personal gain contrary to sub subparagraph (x) of Section 2.
6. That Ms. MacDonald published or caused to be published an advertisement which was false, fraudulent, deceptive and misleading contrary to sub subparagraph (xii) of Section 2.
7. That Ms. MacDonald engaged in fraud, misrepresentation, deception and concealment of a material fact and used fraudulently procured credentials contrary to sub subparagraph (xiii) of Section 2.

8. That Ms. MacDonald used the designation ‘[r]egistered nurse’ in a business card when she was not a registered nurse and further she used the designation APN, a designation which is reserved for those qualified as a Nurse Practitioner when she did not have that designation.

Therefore, the Committee finds that Ms. MacDonald’s egregious conduct is in totality possibly the most serious allegations against a member of the College and is therefore guilty of professional misconduct as defined in the *Registered Nurses Act*.

Disposition

Having found that the conduct of Ms. MacDonald amounts to professional misconduct as defined in the *Registered Nurses Act*, the Committee must consider the appropriate penalty for such conduct. The allegations now proven, contain some of the most serious acts of professional misconduct which have come before this Committee. However, we are mindful that principles of sentencing must be considered and applied in each case considered by the Committee. It is incumbent that the Committee craft a penalty which takes into account the legislated mandate of the College when it comes to matters of discipline.

The nursing profession in Nova Scotia is a self-regulated profession which has as its primary role the protection of the public. The *Registered Nurses Act* requires the College to serve and protect the public interest, to preserve the integrity of the nursing profession and very importantly to maintain the confidence of the public in its ability regulate the nursing profession in Nova Scotia.

(See Section 4 (a), (b) & (c))

The Committee must apply principles which take into account a number of factors before arriving at a disposition of the case before it.

James Casey in his book *The Regulation of Professions in Canada*, published by Carswell in 1994, is an authoritative text dealing with sentencing of professionals who have been found guilty of professional misconduct. At page 14-4 he states:

Given that the primary purpose of the legislation governing professions is the protection of the public, it follows that the fundamental purpose of sentencing for professional misconduct is also to ensure that the public is protected

Casey quotes:

In cases of professional discipline there is an aspect of punishment to any penalty criminal case. However, where the legislature has entrusted the disciplinary which may be imposed and in some ways the proceeding resemble sentencing in a in the public interest. The emphasis must clearly be upon the protection of the public interest, and to that end, as assessment of the degree of risk, it any, in permitting a practitioner to hold himself out as legally authorized to practice his profession.

The process to a self-governing body, the legislative purpose is regulation of the profession steps necessary to protect the public, and the risk that an individual may represent if permitted to practice, are matters that the professional's peers are better able to assess than a person untrained in the particular professional art or science.

He quotes from a decision of the British Columbia Supreme Court found at *McKee v. College of Psychologists of British Columbia* [1994] 9 W.W.R. 374 at page 14-5 of the text as follows:

A number of factors are taken into account in determining how the public might best be protected, including specific deterrence of the member from engaging in further misconduct, general deterrence of other members of the profession, rehabilitation of the offender, punishment of the offender, isolation of the offender, the denunciation by society of the conduct, the need to maintain the public's confidence in the integrity of a profession's ability to supervise the conduct of its members, and ensuring that the penalty imposed is not disparate with the penalties imposed in other cases.

The Committee is also required to consider what, if any, mitigating factors should be considered in arriving at an appropriated penalty. In referring to *Administrative Tribunals - A Practice Handbook for Legal Counsel* (Aurora: Canada Law Book, 1989), Casey notes that the attitude of the offender since the offence was committed; the age and experience of the offender; whether the matter is a first offence, suggesting that the penalty of revocation should be reserved for the repeat offenders and the most serious cases; whether the member has accepted responsibility for the offences; the good character of the offender and whether there is a long standing record of unblemished service.

In *Jaswal v. Medical Board (Newfoundland)* [1996] N.J. No. 50; 138 Nfld. & P.E.I.R., Green J. referred to a number of cases including *McKee (supra)* and set out at paragraph 36 of his judgement what he considered to be a non-exhaustive list of factors which ought to be considered.

From that list the Committee considers the following factors: the nature and gravity of the proven allegations against Ms. MacDonald; the number of times offences were proven to have occurred; the impact the offences would have on patients, co-workers, employers and the public in general; the presence or absence of mitigating factors; the need to promote specific and general deterrence; to protect the public; to ensure the safe and proper practice of nursing in Nova Scotia; the need to maintain the confidence of the public in the integrity of the practice of nursing; the type of conduct and whether it would fall outside an accepted practice of nursing and the range of sentences in similar cases.

The Committee has concluded that Ms. MacDonald embarked upon a course of deceit, fraud and general dishonesty to her employers, to her co-workers and to the College.

We have also concluded that her conduct by forging her official nursing documents is most concerning. By holding herself out to be not only a registered nurse at times when she was not

registered by the College to practise nursing but also to personate a Nurse Practitioner based on totally fabricated qualifications is conduct which is deserving of the most serious and permanent disposition which could be imposed by this Committee.

A comment will be made regarding the Committee's recommendation regarding Ms. MacDonald, in her purported capacity of a NP.

The Committee concludes that Ms. MacDonald is a person who cannot be trusted, she expresses no remorse, there are no mitigating factors found by the Panel, the proven allegations are grave and find their basis in Ms. MacDonald's dishonesty. She has had a serious impact upon all of those with whom she came into contact. Additionally, the public needs to know that the College is prepared to take action against any member who violates the Act, its regulations, the Standards of Practice and the *Code of Ethics* which govern all members of the nursing profession in this Province.

Accordingly, the Committee directs that Ms. MacDonald is permanently revoked from the Registry of the College, because in the opinion of the Committee, a penalty of anything less would not suffice to address the seriousness of the matters complained about.

The Committee also directs that the circumstances of the case which involve the examination of a child which was revealed in the evidence, are brought to the attention of the Halifax Regional Police Service for investigation as they see fit.

Costs

The Committee has been asked to consider awarding costs to the College. Exhibit 17 is a summary of the costs incurred by the College during the investigation and prosecution of the complaints filed against Ms. MacDonald. As can be seen from Exhibit 17, the College has incurred significant cost which, in the opinion of the Committee, is a burden which is inappropriate to place upon the members of the College. Having considered the contents of Exhibit 17 and the submissions of Counsel, the Committee directs that Ms. MacDonald shall pay the sum of \$15,000.00 in costs to the College.

Dated at Dartmouth, Nova Scotia, this 15th day of September 2009.

W. Brian Smith Q. C.
Chair
Professional Conduct Committee
College of Registered Nurses of Nova Scotia