

**DISCIPLINE COMMITTEE OF THE
HUMAN RESOURCES PROFESSIONALS ASSOCIATION**

IN THE MATTER OF the *Registered Human Resources Professionals Act, 2013* and the regulations thereunder;

AND IN THE MATTER OF a hearing between the Registered Human Resources Professionals Association (the "HRPA") and Wanda Henderson;

PANEL:	Lynne Latulippe	Public Member, Chair
	Sean Doyle	HRPA Member
	Lise Maclean	HRPA Member
COUNSEL:	Rebecca Durcan	Counsel, HRPA
	Luisa Ritacca	Independent Counsel to the Panel

DECISION AND REASONS

- [1] This matter was heard by a panel of the Discipline Committee of the Human Resources Professional Association (the "Panel") on October 9, 2020 via videoconference. It was alleged by the HRPA that Wanda Henderson (the "Registrant") engaged in professional misconduct contrary to Chapter V of the HRPA's *Rules of Professional Conduct*.
- [2] The hearing was uncontested and proceeded on the basis of an Agreed Statement of Facts and Joint Submission on Penalty and Costs. The Registrant did not appear at the hearing and was not represented.
- [3] The Panel first determined that the Registrant had engaged in professional misconduct as alleged by the HRPA. Next, the Panel determined that it would accede to the Joint Submission on Penalty and Costs. At the conclusion of the hearing the Panel indicated that written reasons would follow. These are those reasons.

THE ABSENCE OF THE REGISTRANT

- [4] The *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, s. 7 (the "SPPA") permits a statutory tribunal to proceed in the absence of a party where that party has received notice of the hearing in accordance with s. 6 and declines to attend or participate in the hearing.
- [5] As this hearing proceeded by videoconference the provisions of the SPPA concerning electronic hearings apply. Specifically, notice is governed by s. 6(5) and jurisdiction to proceed in the absence of the party is governed by s. 7(3).
- [6] As the Notice of Hearing was issued before the onset of the current Covid-19 pandemic, it did not state that the hearing would be electronic nor specifically aver to the conditions specified in s. 6(5) of the SPPA. Notwithstanding this, the Panel determined that it had jurisdiction to proceed with the hearing in the absence of the Registrant, on two grounds.

- [7] First, HRP A counsel liaised with the Registrant by email concerning the hearing and the proposed Agreed Statement of Facts and Joint Submissions on Penalty and Costs. Further, earlier on the day of the hearing, the HRP A counsel confirmed with the Registrant that the hearing was to proceed and invited the Registrant to comment upon several aspects of the proposed resolution, and the Registrant commented via reply email. Specifically, the Registrant confirmed that she understood that the Agreed Statement of Facts would be presented to the Panel and that the Joint Submission on Penalty and Costs did not bind the Panel. In these circumstances, the Panel is satisfied that the Registrant has waived by conduct, pursuant to s. 4(1) of the *SPPA*, the procedural requirements contained in s. 6(5) of the *SPPA* concerning notice of electronic hearings.
- [8] Second, s. 3(2) of the *Hearings in Tribunal Proceedings (Temporary Measures) Act*, 2020 S.O. 2020, c. 5, Sch. 3 authorizes a tribunal to “make any orders or give any directions” concerning “the format of a hearing and its conduct” and “any matters ancillary to the holding of the hearing, including respective notice of the hearing, ... [and] attendance at the hearing...” On the basis of the communications between HRP A counsel and the Registrant concerning the hearing, and the circumstances surrounding the current Covid-19 pandemic, the Panel determined that it was appropriate for the hearing to continue in the absence of the Registrant.

THE ALLEGATIONS

[9] The allegations against the Registrant are contained in the *Notice of Hearing* dated April 16, 2020, the contents of which are reproduced below:

1. At all material times, ... [the Registrant] was a member of the Human Resources Professionals Association [the “HRP A”].
2. In or about May 2017, the Registrant answered “Yes” to the following question on the HRP A Annual Renewal Form:
 - a. Since your initial registration or since your last renewal, have you or your firm experienced a bankruptcy or filed a consumer proposal?
3. As a result, and on or about June 30, 2017, the HRP A followed up with the Registrant and asked her to provide documentation relating to the bankruptcy or consumer proposal. On or about July 24, 2017, the Registrant submitted the Reporting Form and provided a copy of the Proposal to Creditors.
4. On or about May 16, 2018, the Registrant was notified that the Review Committee was requesting further documentation along with answers to certain questions. The Registrant was asked to respond by June 15, 2018.
5. On or about June 18, 2018, the Registrant responded and answered the Review Committee’s questions, however she failed to provide any of the requested documentation.
6. On or about February 8, 2019, the Registrant was notified of the Review Committee’s decision. The decision requested that the Registrant provide an update and further documentation. The Registrant was asked to respond by March 8, 2019.

7. On or about March 8, 2019, the Registrant responded and requested a copy of the Review Form referred to in the decision. This was provided to the Registrant on or about March 14, 2019. The Registrant did not provide a further response.
8. On or about March 26, 2019, the HRP A followed up with the Registrant. The Registrant responded that she was unsure she had all of the required information in order to complete the form.
9. On or about April 3, 2019, April 17, 2019, June 7, 2019 and/or July 2, 2019, the HRP A followed up with the Registrant by e-mail and/or telephone. Although the Association received confirmation their e-mails had been successfully delivered, the Registrant did not respond and missed each of the deadlines and extensions provided.
10. On or about July 15, 2019, the HRP A contacted the Registrant via telephone. The Registrant indicated that she would submit the requested information by July 19, 2019. No further response was received from the Registrant.
11. On or about July 22, 2019, the HRP A followed up with the Registrant, however no response was received.
12. On or about September 18, 2019, the Associate Registrar of the HRP A filed a complaint against the Member. The complaint was sent to the Registrant by the Office of the Registrar on September 18, 2019 and reminded the Registrant that she is required to co-operate fully with the investigation and to provide any requested documents. The Registrant did not respond to the letter of the Office of the Registrar by the October 18, 2019 deadline.
13. The Bylaws of the HRP A state as follows:
 - a. **Article 16.03** - As part of the annual renewal process, Members and Students are required to indicate whether any of the reportable events set out in section 16.01 have occurred since the last renewal cycle. Members and Students must complete the annual confirmation even if they have previously notified the Registrar of the occurrence of one or more of the reportable events under Section 16.01. The Member and Student must make all relevant disclosures as set out in Section 16.02 above, unless these disclosures were previously made to the Registrar.
 - b. **Article 16.06** - A failure to comply with Section 16 on the part of any Member or Student represents Professional Misconduct as defined in the By-laws and may be subject to a complaint against the Member or Student.
14. It is alleged that the above conduct constitutes professional misconduct as defined in the HRP A Bylaws and following sections of the Association's *Rules of Professional Conduct*:
 - a. A registrant shall reply as soon as possible to any correspondence from the Registrar of the HRP A, the Board of the Association, or an expert appointed by the Board or the Registrar (**Chapter V, Division I, s. 6**);
 - b. A registrant of the HRP A shall comply with the regulatory authority of the HRP A (**Chapter V, Division III, s. 1**), specifically Article 16 of the HRP A Bylaws; and/or

- c. A registrant shall assist with any disciplinary processes of the HRP, or any investigation into possible misconduct on the part of either himself or herself or on the part of any other registrant by the HRP: (1) registrants must respond promptly and forthrightly to any request by the Registrar, the Board of the HRP or other duly authorized person in connection to any disciplinary process or any investigation into possible misconduct; (3) registrants shall forward to the HRP any documents that are requested by the HRP in the context of a registration matter, complaint, review, disciplinary process or investigation into possible misconduct. (**Chapter V, Division III, s. 5**).

EVIDENCE

- [10] The evidence presented to the Panel was contained in an Agreed Statement of Facts, the contents of which are reproduced below:

The Registrant

1. ... [The Registrant] became a member of the Human Resources Professionals Association [the "HRP"] in or around June 2009. Attached as **Tab "A"** is an excerpt of the HRP Register.
2. During the relevant times referred to below, the Registrant was suffering from personal, familial, and financial turmoil. If she were to testify, the Registrant would acknowledge that these disruptions did not alter her obligation to act in accordance with Association requirements. If she were to testify, the Registrant would state that her stress and anxiety caused her to avoid opening up emails and responding promptly to the Association. If she were to testify, the Registrant would apologize to the Discipline Committee for her conduct.

HRP Annual Renewal Form

3. Every year, registrants of the HRP are obligated to renew their membership and pay the annual dues.
4. Registrants are required to complete the HRP Annual Renewal Form (the "Renewal Form"). The Renewal Form requires registrants to provide up to date information so that the HRP can contact the registrant if necessary, and be alive to any possible conduct or relevant financial matters.
5. Subsection 40(2) of the *Registered Human Resources Professionals Act* requires registrants to alert the Registrar if they experience a bankruptcy or insolvency event. The rationale for this requirement is that a registrant's bankruptcy or insolvency event may pose a risk of harm to the public interest. The Registrar provides notifications to the Review Committee. The Review Committee will review the matter and ascertain if there is a risk to the public interest.

6. It is agreed that in or about May 2017, the Registrant answered "Yes" to the following question on the Renewal Form:
 - a. Since your initial registration or since your last renewal, have you or your firm experienced a bankruptcy or filed a consumer proposal?
7. As a result, and on or about June 30, 2017, it is agreed that the HRP A followed up with the Registrant and asked her to provide documentation relating to the bankruptcy or consumer proposal. It is agreed that on or about July 24, 2017, the Registrant submitted the Reporting Form and provided a copy of the Proposal to Creditors to the HRP A.
8. It is agreed that on or about May 16, 2018, the Registrant was notified that the Review Committee was requesting further documentation along with answers to certain questions. It is agreed that the Registrant was asked to respond to the Review Committee by June 15, 2018.
9. It is agreed that on or about June 18, 2018, the Registrant responded and answered the Review Committee's questions. However, it is agreed that the Registrant, failed to provide any of the requested documentation.
10. It is agreed that on or about February 8, 2019, the Registrant was notified of the Review Committee's decision. The decision requested that the Registrant provide an update and further documentation. It is agreed that the Registrant was asked to respond to the HRP A by March 8, 2019. Attached as Tab "B" is a copy of the Review Committee's Decision.
11. It is agreed that on or about March 8, 2019, the Registrant responded and requested a copy of the Review Form referred to in the decision. It is agreed that this was provided to the Registrant on or about March 14, 2019.
12. It is agreed that the Registrant did not provide a further response.
13. It is agreed that on or about March 26, 2019, the HRP A followed up with the Registrant. The Registrant responded that she was unsure she had all of the required information in order to complete the Review Form.
14. It is agreed that on or about April 3, 2019, April 17, 2019, June 7, 2019 and July 2, 2019, the HRP A followed up with the Registrant by e-mail and telephone. Attached as Tab "C" is a copy of the emails. It is agreed that although the Registrant received each email and telephone message from the HRP A, the Registrant did not respond and missed each of the deadlines and extensions provided.
15. It is agreed that on or about July 15, 2019, the HRP A contacted the Registrant via telephone. It is agreed that the Registrant told the HRP A that she would submit the requested information by July 19, 2019.
16. It is agreed that despite this assurance, the Registrant did not provide any further information to the HRP A.
17. It is agreed that on or about July 22, 2019, the HRP A followed up with the Registrant.
18. It is agreed that the Registrant did not respond.

Complaint

19. It is agreed that as a result of the above, the Associate Registrar of the HRP A filed a complaint against the Member on or about September 18, 2019. The complaint was sent to the Registrant by the Office of the Registrar on September 18, 2019 and reminded the Registrant that she is required to co-operate fully with the investigation and to provide any requested documents. It is agreed that although the Registrant received the complaint and was aware of her obligations, she did not respond to the letter of the Office of the Registrar by the October 18, 2019 deadline. Attached as Tab "D" is a copy of the cover letter to the complaint.

HRPA Bylaws

20. The Bylaws of the HRP A state as follows:
- a. **Article 16.01** – Members, whether practicing through a Firm or as employees of an organization, and Students shall notify the Registrar immediately of any of the following events:
 - 1. Any finding of guilt for a criminal offence or an offence;
 - 2. Any finding of Professional Misconduct, incompetence or incapacity, whether in Ontario or in another jurisdiction, and whether it is in relation to the Human Resources profession or another regulated profession; or
 - 3. A Member's or Firm's Bankruptcy and Insolvency Event;
 - 4. Any proceeding for Professional Misconduct, incompetence or incapacity, whether in Ontario or in another jurisdiction, and whether it is in relation to the Human Resources profession or commenced by another Regulatory Organization.
 - b. **Article 16.02 – The disclosure referenced in Section 16.01 shall be in writing, and shall include:**
 - 1. all documentation pertaining to the subject of the disclosure, including but not limited to the pleadings, or, if all documentation is not yet available, an undertaking to provide the documentation as soon as it becomes available; and
 - 2. a consent permitting HRP A to directly access information and documents related to the subject of the disclosure from the Regulatory Organization, as the case may be.
 - 3. Article 16.03 - As part of the annual renewal process, Members and Students are required to indicate whether any of the reportable events set out in section 16.01 have occurred since the last renewal cycle. Members and Students must complete the annual confirmation even if they have previously notified the Registrar of the occurrence of one or more of the reportable events under Section 16.01. The Member and Student must make all relevant disclosures

as set out in Section 16.02 above, unless these disclosures were previously made to the Registrar.

4. Article 16.06 - A failure to comply with Section 16 on the part of any Member or Student represents Professional Misconduct as defined in the By-laws and may be subject to a complaint against the Member or Student.

Admission of Professional Misconduct

21. It is agreed that the above conduct constitutes professional misconduct as defined in the HRPB Bylaws and following sections of the HRPB's Rules of Professional Conduct:

- a. A registrant shall reply as soon as possible to any correspondence from the Registrar of the HRPB, the Board of the HRPB, or an expert appointed by the Board or the Registrar (Chapter V, Division I, s. 6);
- b. A registrant of the HRPB shall comply with the regulatory authority of the HRPB (Chapter V, Division III, s. 1), specifically Article 16 of the HRPB Bylaws; and
- c. A registrant shall assist with any disciplinary processes of the HRPB, or any investigation into possible misconduct on the part of either himself or herself or on the part of any other registrant by the HRPB: (1) registrants must respond promptly and forthrightly to any request by the Registrar, the Board of the HRPB or other duly authorized person in connection to any disciplinary process or any investigation into possible misconduct; (3) registrants shall forward to the HRPB any documents that are requested by the HRPB in the context of a registration matter, complaint, review, disciplinary process or investigation into possible misconduct. (Chapter V, Division III, s. 5).

DECISION ON ALLEGED PROFESSIONAL MISCONDUCT

[11] The panel is satisfied that the evidence contained in the Agreed Statement of Facts establishes that the Registrant engaged in professional misconduct in that she:

- (a) failed to reply as soon as possible to correspondence from the HRPB registrar, contrary to Chapter V, Division I, s. 6 of the *Rules of Professional Conduct*;
- (b) failed to comply with the regulatory authority of the HRPB, contrary to Chapter V, Division III, s. 1 of the *Rules of Professional Conduct*; and
- (c) failed to assist with the disciplinary process of the HRPB, contrary to Chapter V, Division III, s. 5 of the *Rules of Professional Conduct*.

[12] Self-disclosure and participation in the regulatory process are at the core of the obligations self-regulated professionals. As the Panel stated in *HRPA vs. Barrett* (May 16, 2019) at p. 7: "... members need to provide independently verifiable information in a timely manner to their regulator if self-regulation is to succeed. [This information] is needed to determine the impact on the Member's ability to act in the profession and on the reputation of the profession at large." See also *College of Opticians of Ontario v. Chow* (June 10, 2019) at p. 6.

DECISION ON PENALTY AND COSTS

[13] The parties prepared Joint Submissions on Penalty and Costs for the consideration of the panel. Joint submissions serve an essential purpose by saving administrative resources, fostering greater confidence in the process, and encouraging finality in the outcome of a proceeding. For these reasons, a joint submission should be acceded to by administrative decision-makers unless

... its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper functioning of the justice system had broken down.

R. v. Anthony-Cook, 2016 SCC 43 at para. 34, quoted with approval in *College of Opticians of Ontario v. Chow*, *supra* at para. 14.

[14] The Panel is satisfied that the Joint Submissions on Penalty and Costs strikes the right balance between the principles of specific and general deterrence, remediation, and the maintenance of public confidence in the capacity of the HRP to self-govern.

[15] The proposed reprimand and one-month suspension (which is subject to remittance) takes proper account of the offending conduct as well as the mitigating circumstances of the Registrant. At the same time, the penalty is sufficient to bring home to the Registrant, as well as the HRP's membership-at-large, the importance of complying with the *Rules of Professional Conduct*. Finally, public confidence in the capacity for self-government is strengthened both by the disposition in this case, and the diligence with which the HRP dealt with this matter.

[16] Accordingly, the Panel orders the following:

1. the Registrant is reprimanded in accordance with Schedule A of these reasons;
2. the Registrar is directed to suspend the Registrant's Certificate of Registration and CHRP designation for a period of one month, on a schedule set by the Registrar. If the Registrant successfully completes, to the Registrar's satisfaction, the specified terms, conditions and limitations set out in paragraph 3(a) and 3(b) below, no later than one month from the date of the order, the suspension will be remitted. If the Registrant fails to complete the specified terms, conditions or limitations set out in paragraph 3(a) below, the suspension will continue until the condition in paragraph 3(a) below is met;
3. the Registrar shall immediately impose the following specified terms, conditions and limitations on the Registrant's Certificate of Registration:
 - a. Requiring the Registrant to comply with the Review Committee's decision;

- b. Requiring the Registrant to successfully complete the HRPAs Job Ready Program, within six (6) months of the date of the order; and
 - c. Requiring the Registrant to reply to any communication from the HRPAs within fifteen (15) days; and
4. the Registrant shall pay to the HRPAs costs in the amount of \$3,000.00 on a schedule to be set by the Registrar. The Registrar is authorized to impose an instalment plan to ensure regular and consistent payment of costs.

I, Lynne Latulippe, sign this Decision and Reasons as Chair of the panel of the Discipline Committee on behalf of the members of the panel that heard this matter.

Signed: Lynne Latulippe (Chair)

Date: October 28, 2020

PANEL MEMBERS

Sean Doyle
Lise Maclean

**SCHEDULE A:
REPRIMAND TO REGISTRANT**

TO: WANDA HENDERSON

FROM: HRP A DISCIPLINE COMMITTEE

DATE: OCTOBER 28, 2020

**RE: PROFESSIONAL MISCONDUCT CONTRARY TO THE RULES OF
PROFESSIONAL CONDUCT, CHAPTER V, DIVISION I, SECTION 6 &
CHAPTER V, DIVISION III, SECTIONS 1 AND 5**

This Panel of the HRP A Discipline Committee has determined, based upon the Agreed Statement of Facts, that you violated the above-referenced *Rules of Professional Conduct*.

In accordance with the Joint Submission on Penalty and Costs, the Panel hereby issues a written reprimand to you in relation to those violations. The Panel has taken into consideration your acceptance of responsibility and the personal circumstances that contextualize the failure to communicate promptly with the HRP A that triggered these proceedings.

It is the hope of the Panel that upon completion of the pre-conditions for the remittance of the suspension of your Certificate of Registration you will resume full membership in the HRP A and continue to discharge your professional obligations honourably, as you have otherwise done since joining the HRP A in 2009.

Signed:  (Chair)
Lyphe Latulippe

PANEL MEMBERS

Sean Doyle
Lise Maclean