

Discipline Notice

On September 11, 2023, a panel of the Discipline Committee (the "Panel") of Chartered Professional Accountants of Manitoba ("CPA Manitoba"), held a hearing into the charges of professional misconduct (the "charges") against Blair Henderson, CPA, CGA, a registered member of CPA Manitoba (the "Member"). The charges alleged breaches of Rules 201.1, 202.1 and 202.2 of the Code of Professional Conduct of CPA Manitoba.

The Member appeared before the Panel with legal representation. The Panel was advised that the Member would enter a guilty plea to the charges pertaining to a breach of Rule 202.1 and that the Complaints Investigation Committee (the "CIC") would not be proceeding with the remainder of the charges.

202.1 Integrity and due care

A registrant shall perform professional services with integrity and due care.

The Panel heard submissions from counsel for the CIC that:

- The Member was a volunteer Board member of a not-for-profit organization (the "NPO") that is entirely funded by the Government of Manitoba ("the Government") and was a party to a Service Purchase Agreement (the "SPA") with the Government.
- In the fall of 2017, the Board decided to purchase an operating system for the NPO which it had been previously leasing at a cost of \$2.1 million which was the price recommended by the Member.
- The Member provided an opinion on the value of the operating system, despite lacking qualifications in business valuation and asset valuation which was not promptly recognized when the opportunity for acknowledgement and rectification existed.
- The Member and the CIC agreed on the facts surrounding the guilty plea, and the issue then turned to discuss the appropriate sanction that the Member was to receive.
- There was an agreement that the Member would receive a reprimand in relation to his conduct and undertake two remedial courses, "Ethical Issues in Not-for-Profit Organizations" and "Governance in Not-for-Profit Organizations" and that these courses would be completed within 120 days.
- The remaining dispute between the parties relating to the sanction was the issue of the appropriate amount of costs that would be paid by the Member.
- The total costs incurred by the CIC related to the charges were \$62,000. CIC apportioned half of the costs given that the investigation also involved another CPA Manitoba member for their conduct in relation to the transaction.
- The CIC sought to recover 60% of the apportioned costs attributable to the Member and accordingly, sought to recover \$18,000 in costs.



The Panel heard submissions from the Member's legal counsel that:

- The Member was a volunteer board member who did not benefit personally from the situation and cooperated throughout the investigation.
- The investigation was escalated unnecessarily and that retaining the report from a third-party accounting firm drove costs up significantly.
- The Member had no prior disciplinary record and was willing to take responsibility for his actions, as evidenced by the guilty plea to certain charges.
- The decision of *Jinnah v. Alberta Dental Association and College*, 2022 ABCA 336 (*Jinnah*) should be applied to these facts as it emphasizes that costs should not be used as a sanction and that instead costs of professional regulatory matters should be borne by the profession as a whole.
- No costs should be payable by the Member, but if costs are to be ordered, they should be nominal in the amount of \$2,500.

Findings and Orders:

- The Panel noted that several professional regulatory bodies within Manitoba have awarded costs against their members subsequent to the release of the *Jinnah* decision. Further, the Panel noted that *Jinnah* has not been strictly followed by other regulators in Alberta that have continued to award costs post-*Jinnah*. Lastly, *Jinnah* involved a different legislative framework when compared to this matter.
- Based on the evidence and authorities before it; and having heard the submissions of counsel for the CIC and the Member; and on noting the guilty plea that was entered into on behalf of the Member the Panel determined the following sanctions be imposed:
 - The Member shall receive a reprimand;
 - The Member shall be required to complete the courses: "Ethical Issues in Not-for-Profit Organizations" and "Governance in Not-for-Profit Organizations," within 120 days of the date of this decision;
 - The Member shall pay costs in the amount of Twelve-Thousand Five Hundred Dollars (\$12,500.00); and
 - The Member be given ninety (90) days to pay the order of costs awarded herein by the Panel.

Inquiries regarding this matter or the complaint process can be obtained from:

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