

IN THE MATTER OF THE HEALTH PROFESSIONS ACT, R.S.A.
2000, c. H-7, AS AMENDED;

AND IN THE MATTER OF A HEARING INTO THE CONDUCT OF
[REDACTED], A MEMBER OF THE ALBERTA COLLEGE OF
SOCIAL WORKERS;

AND IN THE MATTER OF A PROFESSIONAL CONDUCT
HEARING REGARDING THE CONDUCT OF [REDACTED]
UNDERTAKEN VIRTUALLY;

AND INTO THE MATTER OF A COMPLAINT INTO THE
CONDUCT OF [REDACTED] PURSUANT TO A COMPLAINT BY
[REDACTED], INTO YOUR CONDUCT AND TO S.77(a) OF THE
HEALTH PROFESSIONS ACT

**DECISION AND REASONS FOR SANCTIONS OF THE HEARING TRIBUNAL OF THE
ALBERTA COLLEGE OF SOCIAL WORKERS (the “College”)**

A hearing was held on June 2, 2023 (the “Hearing”) into the conduct of [REDACTED] (“Ms. [REDACTED]”). The hearing was held virtually, via the online platform, Webex, pursuant to the *Health Professions Act*, R.S.A. 2000, c.H-7 as amended (the “Act”).

I. INTRODUCTION

(a) Generally

The members of the Hearing Tribunal were:

Kwaku Adu, Chair and Public Member

Verna Wittigo, RSW

Vince Paniak, Public Member

Tammy Latham, RSW

Also present at the hearing were:

Karen A. Smith K.C., Complaints Director Legal Counsel

[REDACTED]

Mr. Don McGarvey, Ms. [REDACTED]'s Legal Counsel

The hearing was a public hearing pursuant to s. 78(1) of the Act.

Blair Maxston, K.C., was present as independent legal counsel to the Hearing Tribunal.

(b) The Composition and Jurisdiction of the Hearing Tribunal

Both parties agreed to proceed with the Hearing with Ms. Wittigo participating by phone.

No objections to composition or the jurisdiction of the Hearing Tribunal were raised by either party. The Hearing Tribunal members declared no bias or conflict of interest. There were no preliminary applications.

II. CONSENT ORDER

Both parties presented a Consent Order which resulted in the Hearing being a consent hearing.

As part of the Consent Order, the following statements appear:

“ACKNOWLEDGEMENT OF RESPONSIBILITY:

It is acknowledged by Ms. [REDACTED] and the ACSW that Ms. [REDACTED]’s conduct as described in the Agreed Statement of Facts constitutes unprofessional conduct.

NO RIGHT OF APPEAL

The ACSW and Ms. [REDACTED] agree that there shall be no right of appeal from this Order notwithstanding s.87 of the *Health Professions Act*, RSA 2000, c. H-7.”

As part of the proceedings, Ms. [REDACTED] also provided a written admission of unprofessional conduct (the “Admission”) which stated the following:

“I, [REDACTED], acknowledge that my conduct as described below constitutes unprofessional conduct. I accept responsibility for my conduct pursuant to s.70 of the *Health Professions Act*.

Professionalism:

1. That during my tenure as Supervisor I failed to conduct myself appropriately in my leadership role with other colleagues.

Such conduct constitutes a contravention of E.1(c)(i)(1), F.2(b), and G.1(c), of the Standards of Practice 2013 and value 4 of the Code of Ethics 2005 and constitutes unprofessional conduct pursuant to s. (1)(pp)(i)(ii) and (xii).”

III. THE ALLEGATIONS

The charges in the Amended Notice of Hearing arise from a complaint made by [REDACTED] regarding Ms. [REDACTED]’s conduct. It is not necessary to repeat those charges in this decision since Ms. [REDACTED] made an admission to the specific unprofessional conduct set out in the Admission.

The Hearing Tribunal concluded that, as the result of a consent hearing occurring, the charges in the Amended Notice of Hearing have been withdrawn and have been replaced by the unprofessional conduct in the Admission.

IV. WITNESSES AND EXHIBITS

The Hearing Tribunal heard from Ms. ■■■ at the Hearing. No witnesses were called.

The following documents were entered as Exhibits at the Hearing with the consent of both parties:

1. Amended Notice of Hearing
2. Notice to Attend
3. Investigation Report
4. Statutory Declaration
5. Admission of Unprofessional Conduct
6. Consent Order (including an Agreed Statement of Facts, Findings of the Hearing Tribunal, Acknowledgement of Responsibility, No Right to Appeal and Orders as to Sanctions).

Both Ms. Smith and Mr. McGarvey confirmed that the Investigation Report was not being entered for proof of the truth of its contents but was instead being entered to provide context and background to the Hearing Tribunal.

V. AGREED STATEMENT OF FACTS

At all material times, Ms. ■■■ was a Registered Social Worker with the ACSW, since 1997.

During the period as Supervisor, there was discord between Ms. ■■■ and members of the staff of the Program.

VI. FINDINGS OF HEARING TRIBUNAL

After carefully considering all of the documents and information before it (including the Consent Order) the Hearing Tribunal accepted the Admission by Ms. ■■■ regarding the unprofessional conduct described in the Admission. The Agreed Statement of Facts provided a clear factual foundation for the admitted unprofessional conduct and Ms. ■■■'s conduct rose to the level of unprofessional conduct as defined in the Act.

Protection of the public and preserving the integrity of the profession is paramount in discipline proceedings. The Hearing Tribunal accepted the submissions from the parties that Ms. ■■■'s unprofessional conduct involved a failure of a leadership role.

VII. SANCTION ORDERS OF THE HEARING TRIBUNAL

The Hearing Tribunal accepted the joint penalty proposal as presented.

As a result, and consistent with the Orders as to Sanctions in the Consent Order, the Hearing Tribunal makes the following orders in accordance with 82 of the Act:

1. A Reprimand shall issue against Ms. [REDACTED].
2. Ms. [REDACTED] shall agree to take 10 additional hours of continuing education (additional to her mandatory yearly requirements) relating to leadership, at her own cost and as approved by the Complaints Director. **The said 10 additional hours of continuing education must be completed within one (1) year of the date of the Hearing Tribunal's written decision.**
3. Ms. [REDACTED] shall pay costs in the amount of ONE THOUSAND DOLLARS (\$1,000.00) within six (6) months of the date of this Order.
4. The Complaints Director shall maintain the discretion to suspend Ms. [REDACTED]'s permit to practice pending a Hearing or subsequently request the Registration Committee to refuse any application for reinstatement or registration if in his/her sole discretion, concludes that Ms. [REDACTED] has breached this Order.
5. There shall be a publication of this matter on a "no names" basis on the ACSW website.

The bold-typed portion of Order #2 above was discussed by the parties and the Hearing Tribunal during the Hearing and was agreed to with the consent of both parties. The Hearing Tribunal also commented to the parties that its expectation was that some of the additional hours of continuing education in Order #2 would incorporate communication matters.

The Hearing Tribunal's reasons for accepting the joint penalty proposal are as follows.

The Hearing Tribunal noted that there have been no prior discipline findings relating to Ms. [REDACTED] until this Hearing and that Ms. [REDACTED], at the request of the Hearing Tribunal, answered questions about the events that gave rise to the unprofessional conduct (including her strongly held beliefs regarding indigenous culture).

As well, payment of \$1,000.00 in costs (representing the "standard" costs for a College consent hearing) are reasonable in that Ms. [REDACTED] should bear some financial responsibility for the discipline proceedings. As a self-regulating profession, the College's membership at large must also bear some of the cost of the discipline process as well.

Finally, the Hearing Tribunal was aware of the clear case law that significant deference must be given to such proposals and was satisfied that the proposal should be accepted. The Hearing Tribunal is satisfied that the joint penalty proposal meets the public interest test, achieves public protection, maintains the integrity of the profession and adequately provides specific and general deterrence.

In summary, the Hearing Tribunal concluded that the joint penalty proposal was fair, reasonable and appropriate.

Dated June 16, 2023.

A handwritten signature in blue ink, appearing to read 'Kwaku Adu', with a stylized flourish at the end.

Kwaku Adu, Chair
On behalf of the Hearing Tribunal