

REYNOLDS, BYRON JAMES

Notice of Discipline Committee Decision and Order Case #2105-18

Following the receipt of a Formal Complaint made by the Professional Conduct Committee, the Discipline Committee held a hearing regarding the conduct of Byron James Reynolds, CPA, CA ("Reynolds") on October 18, 2022. The Discipline Committee determined that Reynolds was guilty of professional misconduct as defined in section 26 of *The Accounting Profession Act* ("the Act") in that his conduct breached Bylaws 200.1(a) and 200.2 and Rule 202.1 of the CPA Saskatchewan ("CPASK") Bylaws and Standards of Professional Conduct, made or continued pursuant to the Act.

Determination on the Formal Complaints

The context in which the Formal Complaints arose is that Reynolds, as a registrant, provided professional services as a Chief Financial Officer to or on behalf of three private corporations between March 2018 to October 2021. Specifically,

- Reynolds advanced pay and expense reimbursements without verification and without recording the amounts advanced as pay separately from the expense reimbursements.
- Reynolds did not file T4s and Summary with CRA by the due date as specified in *Income Tax Regulations* or a reasonable time thereafter.
- Reynolds did not withhold payroll deductions from employee pay as required by *The Income Tax Act and Regulations*.
- Reynolds did not remit to the Receiver General amounts deducted from employee pay as required by *The Income Tax Act and Regulations*.
- Reynolds prepared and filed incorporation documents and annual returns with the Saskatchewan Corporate Registry with inaccurate information relating to shareholders contrary to *The Business Corporations Act (Saskatchewan)*.

Determination on Sanction

The Discipline Committee issued the following Order on December 8, 2022:

- Reynolds complete ten (10) hours of verifiable continuing professional development in the following areas: ethics and leadership - within six (6) months of the Determination and Order. Reynolds is responsible to report and declare the verifiable continuing professional development before the prescribed deadline. Proof of attendance at the verifiable continuing professional development shall be provided to the Institute within six (6) months of the Determination and Order.
- Reynolds' firm undergo a practice administration review which shall be conducted by the Institute within nine (9) months of the Determination and Order. The practice administration review shall not be considered complete until the applicable regulatory committee has made a decision and that decision has been communicated to Reynolds;
- Reynolds receives and acknowledges within thirty (30) days of the Determination and Order, a letter of reprimand signed by the discipline panel chair;
- Reynolds pays a fine in the amount of five thousand dollars (\$5,000.00) within thirty (30) days of the Determination and Order; and

With respect to costs, in that this matter was dealt with by way of full joint submission by the parties, no costs are ordered as assessed to the Registrant.

A Notice of these determinations be published on a named basis, on the Institute website including the Determination and Order, and in the member and firm newsletters.

The text of relevant bylaws and rules of professional conduct:

Throughout the relevant period

Bylaws

200.1 Practice of the profession or services provided as a Chartered Professional Accountant shall be performed within the context of the following standards of conduct:

- (a) integrity;
- (b) objectivity;
- (c) competence; and
- (d) confidentiality.

200.2 A registrant or suspended registrants shall, at all times, exercise appropriate moral behaviour and shall comply with the laws of Canada and the province in which they reside or in which they provide professional services.

Rules

Integrity and Due Care

202.1 A member, student or firm shall perform professional services with integrity and due care.

A copy of the Determination and Order dated December 8, 2022 is attached as Appendix A.

This notice is issued pursuant to Bylaw 49.1 and the terms of the Order.

Authorized by:
Leigha Hubick, CPA, CA
Registrar
CPA Saskatchewan

December 8, 2022

DETERMINATION AND ORDER
Case #2105-18

IN THE MATTER OF *THE ACCOUNTING PROFESSION ACT*
OF THE PROVINCE OF SASKATCHEWAN

AND IN THE MATTER OF A HEARING BY THE DISCIPLINE COMMITTEE
OF THE INSTITUTE OF CHARTERED PROFESSIONAL ACCOUNTANTS
OF SASKATCHEWAN (THE INSTITUTE) CONCERNING FORMAL COMPLAINTS AGAINST
BYRON JAMES REYNOLDS, CPA, CA, BEING A REGISTRANT OF THE INSTITUTE

BETWEEN:

THE PROFESSIONAL CONDUCT COMMITTEE,
established pursuant to *The Accounting Profession Act*

- and -

BYRON JAMES REYNOLDS, CPA, CA AS THE RESPONDENT

This matter came before a discipline hearing panel of the Discipline Committee of The Institute (hereinafter referred to as the “Panel”) for hearing on October 18, 2022. In this Determination and Order Mr. Reynolds is referred to as the Registrant in respect of this proceeding, and in respect of his conduct which is the subject of this proceeding.

This proceeding was conducted in accordance with the Discipline Committees rules governing Peer-to-Peer discipline hearings, with the agreement of the parties.

The Panel received, reviewed, and accepted joint submissions from the Registrant and the Professional Conduct Committee (the parties) of the evidence of the Registrant’s conduct in this matter and harm caused in regard to formal complaints made by the Professional Conduct Committee as cited below. The formal complaints relate to the conduct of the Registrant in respect of services provided as a chief financial officer to or on behalf of three private corporations.

The Panel’s decisions with respect to this matter follow:

I. DETERMINATION ON FORMAL COMPLAINTS A and B¹:

The following complaints were filed with the Panel for determination:

Formal Complaint A:

That Reynolds, for a period beginning in or about January 2020, through October 2021, while providing professional services as the chief financial officer for Company A and its subsidiary corporations including Company B, is guilty of professional misconduct as defined in section 26 of the Act, in that he:

¹ The Panel has adapted the Formal Complaints and related specific allegations for the purposes of protecting the confidentiality of private corporation information.

Failed to provide professional services with integrity and due care and therefore breached CPA Saskatchewan Bylaw 200.1(a) and CPA Saskatchewan Standards of Professional Conduct Rule 202.1, in that Reynolds:

1. Advanced pay and expense reimbursements without verification and without recording the amounts advanced as pay separately from the expense reimbursements;
2. Advanced pay without deducting withholding amounts as required by *The Income Tax Act* and *The Income Tax Regulations*;
3. Did not prepare and provide T4 Statements of Remuneration Paid to employees and did not prepare and file T4 Statements of Remuneration Paid and the T4SUM Summary of Remuneration Paid with Canada Revenue Agency until eight (8) months after the legislated deadline; and
4. Prepared and filed T4 Statements of Remuneration Paid and T4SUM Summary of Remuneration Paid reflecting amounts not supported by financial records.

Formal Complaint B:

That Reynolds, for a period beginning in or about March 2018, through October 2021, while providing professional services as the chief financial officer for Company A and its subsidiary corporations including Company B, is guilty of professional misconduct as defined in section 26 of the Act, in that he:

Failed to comply with the laws of Canada and Saskatchewan, the province in which he resides and provides professional services and therefore breached CPA Saskatchewan Bylaw 200.2 and CPA Saskatchewan Standards of Professional Conduct Rule 202.1, in that Reynolds:

1. Advanced pay without calculating statutory remittances and without making statutory remittances contrary to Canada Revenue Agency as required by *The Income Tax Act* and *The Income Tax Regulations*; and
2. Prepared and filed incorporation documents and annual returns with the Saskatchewan Corporate Registry with inaccurate information relating to shareholders and directors, contrary to *The Business Corporations Act (Saskatchewan)*.

II. THE PANEL'S REASONS IN SUPPORT OF ITS DETERMINATION:

A. Consideration of evidence:

Any reference to specific facts is based on evidence agreed by the parties and contained in the Submission of Agreed Facts.

The following facts are relevant to the formal complaints:

1. The Rules cited in the Formal Complaints were in force and effect at all relevant times.
2. The Registrant was, at all relevant times, a member of the Institute.
3. *Income Tax Act* (ITA) section 153 and ITA Regulations 101, 108(1), and 200(1) which specify requirements for employers to withhold and remit payroll deductions and to file information returns for amounts paid to employees and deductions made, were in force and effect at all relevant times.
4. *The Business Corporations Act (Saskatchewan)* sections 117, 274 specify the obligation of a director or officer to act honestly and in the best interests of the corporation, and to file a list of all shareholders in the corporation's annual return, Further, section 300

specifies that making a false or materially incomplete statement or filing is an offence under the Act. These sections were in force and effect at all relevant times.

5. The Registrant served as Chief Financial Officer in charge of administration for C-Group (trade name for a group of private corporations) throughout the period relevant to this matter as corroborated by marketing material.
6. The corporate registry records show the shares of three private corporations (including Company B) in the C-Group as owned 100% by the Registrant. However, the Registrant has stated that the intention is that shares of each of the three private corporations be owned 100% by a holding company (Company A) of which his family trust owns 50% of the shares while the other 50% of the shares are owned by a third-party family trust.
7. The Registrant submitted incorporation documentation to the Saskatchewan Corporate Registry listing himself as owning 100% of the shares for the three private corporations noted in item 6.
8. The Registrant submitted Business Corporation – Annual Returns to the Saskatchewan Corporate Registry for the three private corporations noted in item 6.
9. Mr. R was employed with C-Group from around January 2020 until termination of his employment by the Registrant on November 16, 2020.
10. Company B employed a total of eight (8) employees including Mr. R during the period relevant to this matter.
11. The Registrant advanced amounts to Mr. R totaling approximately sixty-eight thousand dollars (\$68,000) by direct electronic transfer over a period from January 2020 to November 2020.
12. The Registrant did not use accounting software to record Mr. R's gross pay, to track pay separately from expenses, or to calculate payroll deductions and remittances. The Panel interpreted 'accounting software' to include payroll applications.
13. The Registrant emailed Mr. R, in May 2021, proposing that the amounts paid to Mr. R be considered as subcontract payments, and that Mr. R be considered as self-employed and responsible for the Income Tax and Canada Pension Plan ("CPP") contributions. Mr. R responded by email that he did not agree to the proposal.
14. There was no written contract outlining the terms of Mr. R's working relationship with C-Group.
15. Canada Revenue Agency (CRA) has issued a guide (RC 4110 – Employee or Self-Employed) to assist parties to a working relationship in determining the status of a 'worker'. In an 'of-service' relationship, the payer is considered an employer and the worker an employee.
16. The Registrant did not calculate, withhold and remit to the Receiver General Income Tax, CPP contributions and EI premiums on the amount he reported as a retiring allowance on the 2020 T4 Statement of Remuneration Paid for Mr. R.
17. The deadline for employers to file T4 Statements of Remuneration Paid and the T4 Summary of Remuneration Paid for the 2020 year was February 28, 2021, as per regulation 200(1) of *The Income Tax Regulations*, and,
18. The Registrant prepared and filed, with Canada Revenue Agency (CRA), the T4 Statement of Remuneration Paid (T4s) for 2020 for Mr. R and seven (7) other employees of Company B. on August 3, 2021.
19. Company B was assessed a penalty of \$500 for the late filing of T4s for calendar year 2020.
20. As of July 2022, there is an outstanding balance on the Company B payroll remittance account of approximately thirty-one thousand dollars (\$31,000).

B. Consideration of allegations¹:

The Panel considered an allegation made in Formal Complaint A, specifically “Advanced pay without deducting withholding amounts as required by *The Income Tax Act* and *The Income Tax Regulations*.” in conjunction with a comparable allegation in Formal Complaint B which cites Bylaw 200.2 – “A registrant or suspended registrant shall, at all times ... comply with the laws of Canada and the province ...”.

Formal Complaint A:

The facts provide clear and convincing evidence of or that:

1. Reynolds was a registrant during the relevant time (when the alleged misconduct occurred) - January 2020 through October 2021.
2. The Registrant provided professional services in the capacity of Chief Financial Officer (CFO) to one private corporation during the relevant time.
3. The Registrant advanced pay and expense reimbursements without verification and without recording the amounts advanced as pay separately from the expense reimbursements.
4. The Registrant did not file T4s and Summary with CRA by the due date as specified in *Income Tax Regulations* or a reasonable time thereafter.

Formal Complaint B:

The facts provide clear and convincing evidence of or that:

1. Reynolds was a registrant during the relevant time – March 2018 to October 2021.
2. The Registrant provided professional services in the capacity of CFO to three private corporations during the relevant time.
3. The Registrant did not withhold payroll deductions from employee pay as required by *The Income Tax Act* and *Regulations*.
4. The Registrant did not remit to the Receiver General amounts deducted from employee pay as required by *The Income Tax Act* and *Regulations*.
5. The Registrant prepared and filed incorporation documents and annual returns with the Saskatchewan Corporate Registry with inaccurate information relating to shareholders contrary to *The Business Corporations Act (Saskatchewan)*.

Therefore, the specific allegations relating to the Registrant’s conduct and made in relation to the Formal Complaints are proven by the facts.

C. Consideration of Bylaws and Rules:

The facts which relate to the specific allegations establish that the Registrant did breach the Bylaws and the Rule cited in the formal complaints:

Integrity and Due Care – Bylaw 200.1(a) and Rule 202.1
Compliance with the law – Bylaw 200.2

Conclusion on Formal Complaints A and B: The Panel accepts the Registrant’s admission of professional misconduct as noted in the formal complaints made pursuant to *The Accounting Profession Act*.

III. SUMMARY OF DETERMINATION ON THE MERITS

- Formal Complaint A – Guilty of Professional Misconduct
- Formal Complaint B – Guilty of Professional Misconduct

IV. DETERMINATION ON SANCTION COMPONENTS:

Having considered and accepted the joint submission of the Registrant and the Professional Conduct Committee on sanction, the following Orders of Sanction and Costs are made:

- The Registrant complete ten (10) hours of verifiable continuing professional development in the following areas: ethics and leadership - within six (6) months of the Determination and Order. The Registrant is responsible to report and declare the verifiable continuing professional development before the prescribed deadline. Proof of attendance at the verifiable continuing professional development shall be provided to the Institute within six (6) months of the Determination and Order.
- The Registrant's firm undergo a practice administration review which shall be conducted by the Institute within nine (9) months of the Determination and Order. The practice administration review shall not be considered complete until the applicable regulatory committee has made a decision and that decision has been communicated to the Registrant;
- The Registrant receives and acknowledges within thirty (30) days of the Determination and Order, a letter of reprimand signed by the discipline panel chair;
- The Registrant pays a fine in the amount of five thousand dollars (\$5,000.00) within thirty (30) days of the Determination and Order; and

With respect to costs, in that this matter was dealt with by way of full joint submission by the parties, no costs are ordered as assessed to the Registrant.

A Notice of these determinations be published on a named basis, on the Institute website including the Determination and Order, and in the member and firm newsletters.

Additional conditions to the Determination and Order:

- A. All periods specified in the Order commence on the day the Order is received (or is deemed to be received, if earlier) by the Registrant.
- B. Failure to comply with the following components of the Order – continuing professional development, practice administration review, the written reprimand and fine - within thirty (30) days of the date specified in the Order for each component shall result in the Registrant's registration rights being suspended, with publication in *CPA SK Connect* and the appropriate regional newspaper on a named basis. The Institute shall file the Order with the Court pursuant to section 32(3) of *The Accounting Profession Act* at that time.
- C. Further to additional condition B, the Registrant's registration rights shall be reinstated provided within a further sixty (60) days, the Registrant complies with the following aspects of the Order - continuing professional development, practice administration review, the written reprimand and fine - and pays a reinstatement fee of \$325, plus the cost of publishing the suspension notice referred to in additional condition B.
- D. Failure to comply with the following components of the Order - continuing professional development, practice administration review, the written reprimand and fine within one hundred twenty (120) days of the date specified in the Order for each component shall result in the Registrant being expelled, with publication in *CPA SK Connect* and the appropriate regional newspaper on a named basis.

The Panel's rationale for sanction:

The Panel received and accepted the joint submission of the parties.

A. The Panel determined that the following sanction objectives are relevant to the case:

a. Rehabilitation:

- i. Sanctions that include rehabilitation activities are appropriate where it is reasonable to expect that such activities can enable the Registrant to provide, prospectively, competent professional services with an ethical frame of mind; and
- ii. The Registrant's conduct centered around a failure of the Registrant to act truthfully and with diligence and due care in his role as Chief Financial Officer. A sanction that includes verifiable professional development courses related to Ethics, supported by a practice administration review, would address these requirements.

b. Specific Deterrence:

- i. Sanctions are intended to cause the Registrant not to repeat the conduct. A letter of reprimand would serve to reinforce the Registrant's obligation to comply with the ethical requirements of the profession; and
- ii. A fine would also serve to reinforce the Registrant's obligations as noted in subclause (i).

c. General Deterrence:

- i. General deterrence is achieved through actions taken by a regulatory body to gain the attention of all registrants and deter other registrants from similar conduct; and
- ii. Publication of the Panel's decisions on a named basis on the Institute website and in newsletters makes the information available for all registrants as well as the public, and therefore meets the objective of general deterrence.

B. Further, the Panel agrees the following mitigating and aggravating factors, which are in evidence, are considered indicators of the degree of actual harm, probable potential harm and/or the risk of future harm, to the public or the reputation of the profession. Therefore, they are relevant in the determination of the nature and quantum of the appropriate sanction:

1. Primary Factors Relating to Intent and Harm:

- a. There is potential harm to the employees, who did not receive information required to complete their income tax filings by the legislated deadlines;
- b. There is potential harm to the public when tax remittances are not made by legislated deadlines;
- c. There is harm to the entity in the form of interest and penalties due to the late remittances, approximately thirty-one thousand (\$31,000) in payroll deductions remain unpaid;
- d. Actual harm to the owners of the entities is not fully determinable since their ownership was not documented by the Registrant; and
- e. The reputation of the profession was exposed to potential adverse consequence in that marketing material associated with the entities promoted the Registrant's designation as a Chartered Professional Accountant and position as Chief Financial Officer, but the Registrant did not act with integrity in providing professional services on behalf of those entities.

2. Other Aggravating Factors or Circumstances:

- a. The Registrant had the opportunity to remedy the initial concern related to failure to provide a T4 Statement of Remuneration Paid for four months prior to the investigation but did not do so.
- b. The Registrant maintains that the actions of the complainant justify the Registrant's actions, while failing to appreciate that Chartered Professional Accountants are held to professional standards which do not apply to the general public.
- c. The Registrant's conduct in failing to document many aspects of the business activities that he was involved in created challenges in completing the conduct and discipline process.
- d. The professional services provided through the Registrant's firm require similar due care and compliance with the law, as was required for the services provided as Chief Financial Officer of C-Group, therefore there is potential risk in services delivered to the clients of the Registrant's firm.

3. Other Mitigating Factors or Circumstances:

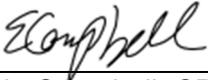
- a. No mitigating factors were submitted by the parties.

4. Additional facts taken into account in considering sanctions:

- a. The Registrant operates a firm as a sole practitioner and continues to offer services to the public through his firm. The Registrant advises that the services provided to C-Group as Chief Financial Officer were provided separately from his firm's practice.

This concludes the Discipline Committee's decisions and reasons in this matter.

Dated this 8th day of December 2022



Erin Campbell, CPA
Chair, Discipline Hearing Panel



Morina Rennie, FCPA, FCA, FCMA
Secretary, Discipline Hearing Panel