

## COLLEGE OF PSYCHOLOGISTS OF BRITISH COLUMBIA

In the matter of a hearing by the Discipline Committee of the College of Psychologists of British Columbia convened pursuant to the provisions of the *Health Professions Act*, R.S.B.C. 1996, c.183 respecting

*DR. RANDALL ATKINSON*  
*a Registered Psychologist*  
*in British Columbia*

### DECISION OF THE DISCIPLINARY PANEL

July 16, 2014

The Panel, made up of members of the Disciplinary Committee of the College of Psychologists, were asked to determine a course of action with regards to the alleged failure of a college registrant, Dr. Randall Atkinson, to respond to the College's queries regarding his criminal record check and his professional executor. Over the course of over 2 years the College made 20 attempts to communicate with Dr. Atkinson. He responded twice, once with an explanatory letter and once via e-mail. Neither of these communications resolved the alleged problems. The registrant's unresponsiveness became a central concern for the regulatory body.

The question before the Panel is whether the registrant has violated the Code of Conduct and the Criminal Record Review Act as a result of his failure to complete a criminal record check, his failure to assign a professional executor, and his failure to respond to queries from the College. Can the College regulate a registrant who is non-responsive?

Pursuant to section 38 of the *Health Professions Act* (the "Act") on May 27, 2014 at 4:00 p.m. the Disciplinary Panel (the "Panel") convened for a Hearing in response to a Citation from The College of Psychologists of British Columbia (the "College") against the Respondent, Dr. Atkinson. The panel was presented with allegations of breach of the *Criminal Record Review Act* and the College of Psychologists of British Columbia *Code of Conduct* (the *Code of Conduct*).

The hearing was attended by Counsel for the College, Mr. Kenji Gounden. Dr. Atkinson did not attend nor was Counsel for the Respondent present. At the heart of the allegations against Dr. Atkinson is his failure to respond to numerous efforts made by the College to contact him. These contacts were initiated in response to alleged violations that he had not completed a required criminal record check and that he had not assigned a professional executor.

In its presentation the College alleged that Dr. Atkinson:

- i. failed to file a required criminal record check and failure to respond to the College direction to do so,
- ii. failed to respond to the College's multiple requests for information regarding the criminal record check,

- iii. failed to respond to the College requests for information regarding his obligation to have a professional executor, and
- iv. failed to meet his obligation to designate a professional executor.

The College entered 3 exhibits:

- Exhibit 1, affidavit of Rachel Staschuk of service of citation, dated May 27, 2014
- Exhibit 2, the Amended Citation, dated May 2, 2014
- Exhibit 3, the affidavit of Dr. Amy Janeck, Deputy Registrar of the College, dated May 27, 2014 explaining the allegations and the evidence to support the allegations in the Amended Citation.

The College made submissions to the Panel regarding notice and proof of allegations as contained in the Exhibits. The College requested that the Panel adjourn until June 17, 2014. Citing the principle of fairness the College undertook to provide Dr. Atkinson with Exhibits 1, 2 and 3 and granted 21 days for him to respond to the College. The Respondent could then request that the Hearing be continued or re-opened. If the Respondent did not contact the College by 12:00 pm on June 17, 2014 the Panel would then make a determination on facts leading to a verdict and possible assignment of penalty.

The Panel directed the College to deliver the Exhibits and submissions to Dr. Atkinson via regular mail and registered mail to the Respondent's three known addresses and via email to his address on file. The College was also asked to leave a confidential voice mail informing him of the deliveries.

On June 19, 2014 the Panel was informed that the Respondent did not contact the College in response to the post-hearing communications made to him. The Panel noted that Dr. Atkinson had received the College's documents by registered mail at his address in Port Moody on June 12, 2014. As a result the Panel was obliged to make a decision based on the findings of fact without access to the views of the Respondent or Counsel for the Respondent.

The panel relied upon the relevant sections of the Act and the Code of Conduct in assessing the allegations made by the College.

- i. Failure to file a required criminal record check  
Section 15(1)(a) of the ***Criminal Record Review Act***  
Standards 18.1, 7.1, 7.2, 7.3 and 7.8 of the CPBC ***Code of Conduct***
- ii. Failure to respond to the College multiple requests for response  
Standards 2.3, 7.1, 7.2, 7.3, 7.8, 7.9
- iii. Failure to respond to the College's multiple request for information regarding the obligation to assign a professional executor  
Standards 2.3, 7.1, 7.2, 7.3, 7.8, 7.9
- iv. Failure to designate a professional executor  
Standards 3.1, 3.2, 7.1, 7.8

The sections of the Code on which the Panel relied say the following:

**CODE OF CONDUCT**

***Schedule F of the Bylaws of the  
College of Psychologists of B. C.***

**2.0 APPLICATION**

**2.3 Obligation to comply**

*The Bylaws require all registrants to comply with the applicable provisions of this Code*

**3.0 GENERAL STANDARDS FOR COMPETENCY**

**3.1 Responsibility**

*A registrant must assume full responsibility for decisions he or she has made and actions he or she has taken in the performance of psychological services.*

**3.2 Maintaining competency**

*A registrant must maintain competency in the areas in which he or she practices through continuing education, consultation, or other procedures that conform to current professional standards.*

**7.0 PROFESSIONALISM**

**7.1 Compliance with regulation/discipline and quality assurance program**

*A registrant must*

*(a) cooperate with and be responsive to the regulation and discipline of the College.*

*(b) participate fully in all mandatory aspects of the quality assurance program of the College*

**7.2 Investigations and proceedings of College**

*A registrant must cooperate fully with the College in investigations and proceedings of the College and in any resulting requirements.*

**7.3 Response to College requests**

*A registrant must respond appropriately and promptly to all requests from the College, the registrar, the board, and committees for information respecting his or her activities.*

**7.8 Unprofessional behaviour**

*A registrant must not engage in conduct or perform an act that, having regard for all the circumstances, would be regarded by registrants as unbecoming, disgraceful, dishonourable or unprofessional.*

### *7.9 Professional cooperation*

*A registrant must seek to work with other professionals in a professional, cooperative manner, for the good of the client.*

## **18.0 COMPLIANCE WITH LAW**

### *18.1 Legal compliance*

*A registrant must*

*(a) maintain a current working knowledge of the laws applicable to the provision of psychological services and with the professional standards and policies of the College set out in this Code or issued in practice advisories or guidelines, and*  
*(b) conduct him- or herself so that the psychological services provided by the registrant or his or her supervisees comply with the laws applicable to the provision of psychological services and with the professional standards and policies of the College set out in this Code or in issued practice advisories or guidelines.*

The panel was persuaded that the respondent did not complete a criminal record check, nor did he respond to repeated efforts of the college to comply. He was provided with the forms and self-addressed envelope on July 18, 2013 as noted in Dr. Amy Janeck's memo to the Inquiry Committee of November 22, 2013. The memo also details subsequent efforts to contact him regarding it. He failed to reply to the College. As noted in Exhibit 3, B53 the Criminal Records Review Program Officer phoned the College with the information that Dr. Atkinson did not complete the address portion of the form. The College provided contact information but the Program Officer informed the College that he was not responding. In addition, we noted that the Criminal Records Review Act requires registrants to provide the College with authorization for a Criminal Record Check. Therefore, in this process the Respondent bypassed the College thus violating his obligation under the Act to provide the College with his authorization. In doing so he failed to be in legal compliance. He also did not comply with his obligation to respond to the Inquiry Committee's investigation.

These obligations are clearly outlined in standards 7.1, 7.2 & 7.3 of the Code. The panel felt strongly that these professional obligations are an important element of the legal requirement of the practice of psychology that protects the public.

The panel believes that the obligation to comply is clear and that the respondent was non-compliant in this regard. In addition to the requirement of a criminal record check, the panel cited concern for the public in that the Respondent as well as his clinical records may not be accessible to current and past clients. Thus, the failure to assign an executor leaves those clients at risk.

We acknowledge Dr. Atkinson's letter of February 21, 2013. We found his rationale for not assigning an executor to be weak. There is no explanation for why he did not engage the College in resolving this

dilemma. We were not persuaded by his reasons for not collecting voice messages. We regret that we did not have the opportunity to hear from Dr. Atkinson and that we were obliged to make our decisions without greater information regarding his situation and the reasons for these violations.

The Panel notes that one other communication from Dr. Atkinson was received in the form of an e-mail to the Inquiry Committee dated July 2, 2013. In that e-mail Dr. Atkinson asserts that he will "provide a detailed response..." and that he will "meet with legal counsel before forwarding a reply..." Exhibit S shows that the College acknowledged receipt of the e-mail, asked him to respond through regular letter mail, as mandated by College policy, and extended the deadline.

The Panel was impressed with the multitude of contacts attempted by the College and their persistence in trying to reach him over a period of more than two years. We noted also that the initial efforts to contact the respondent were created by the College refunding, without obligation, his late payment for registration in 2012.

Based on the findings of fact the Panel has come to the conclusion that under section 39(1)(b) and (c) of the *Health Professions Act* that the Respondent has not complied with the applicable standards imposed under the Code of Conduct and that the Respondent has committed professional misconduct or unprofessional conduct, with respect to the matters alleged in each of the four counts of the Amended Citation.

In response to the question of whether this registrant is governable, our conclusion is that he is not and that sanctions must be imposed.

The Panel issues an order under section 39(2)(c) and (8) of the *Health Professions Act* suspending Dr. Atkinson's registration for a period of one year. The panel noted that the respondent had updated his status to 'on leave' from 5 hours professional practice per week. As such this order does not carry significant financial implications for the registrant.

After one year the suspension can be lifted once the following conditions are satisfied under section 39(8)(a):

- (a) The Respondent must provide a criminal record check authorization to the Registrar, accompanied by any required payment,
- (b) The Respondent must provide confirmation, satisfactory to the Registrar, of appointment of a professional executor,
- (c) The Respondent must be assessed by a registered psychologist or psychiatrist approved in advance by the Registrar, who must provide a report to the Registrar regarding the Respondent's current mental status and his ability to respond in a timely way to all College communications,

- (d) The Respondent must sign an undertaking that he will respond to all future College communications within 7 business days of receipt, unless a later deadline is specified by the Registrar, and
- (e) The Respondent, pursuant to section 39(1)(5) & (7) of the *HPA* be responsible for 50% of the costs borne by the College, at Scale 2, for their reasonable efforts to contact him and for the Discipline Hearing.

The panel orders that this suspension be effective immediately.

Respectfully,

"signed"

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Dr. Pippa Lewington, Chair  
Registered Psychologist

"signed"

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Ms. Santa Aloï  
Professor Emerita, SFU

"signed"

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Dr. Ingrid Sochting  
Registered Psychologist