

ALBERTA COLLEGE OF SPEECH-LANGUAGE
PATHOLOGISTS AND AUDIOLOGISTS

IN THE MATTER OF
THE *HEALTH PROFESSIONS ACT*

AND IN THE MATTER OF A HEARING
REGARDING THE CONDUCT OF

HOLLY MATTSON

**DECISION OF THE HEARING
TRIBUNAL**

INTRODUCTION

1. The Hearing Tribunal held a hearing into the conduct of Holly Mattson. In attendance on behalf of the Hearing Tribunal were Terry Engen, Chair and public member; Catherine Freeman, public member; and Laura Ziegler and Christine Beliveau, Registered Speech-Language Pathologists. Annabritt Chisholm acted as independent counsel to the Hearing Tribunal.
2. The hearing took place on March 15, 2024 via videoconference. The hearing was held under Part 4 of the *Health Professions Act* (the "HPA").
3. Colleen Wetter, the Complaints Director, was in attendance at the hearing and self-represented.

PRELIMINARY ISSUES

4. Ms. Wetter made a preliminary application under section 79(6) of the HPA to proceed with the hearing in the absence of the member, Ms. Mattson. Ms. Wetter called and affirmed Mckenzie Henze as a witness.
5. M. Henze confirmed their employment with the Alberta College of Speech-Language Pathologists and Audiologists ("ACSLPA") and explained that at the relevant time they served in the role as ACLSPA's Hearings Director.
6. M. Henze explained that Ms. Mattson is not currently registered with ACSLPA and that ACSLPA's registration database indicated Ms. Mattson ceased to be a registered member as of January 10, 2023 (Exhibit 1A). M. Henze also confirmed the last mailing address, phone number and email address that Ms. Mattson registered with ACSLPA (Exhibit 1B). They noted that Ms. Mattson would have been responsible for keeping her contact information up to date while she was a registered member of ACSLPA.
7. M. Henze then detailed their attempts to serve and provide Ms. Mattson with a copy of the Notice of Hearing by process server, email and by posting the Notice to Attend on ACSLPA's website (Exhibits 1C-H and 2A-E).
8. M. Henze confirmed she had not been contacted by Ms. Mattson as a result of any of the communications that had been sent.
9. The Hearing Tribunal considered the evidence provided by M. Henze and determined the service on Ms. Mattson was effected as required by the HPA. It ordered that the hearing proceed notwithstanding the absence of Ms. Mattson.
10. There were no objections to the composition or jurisdiction of the Hearing Tribunal. The hearing was a public hearing.

ALLEGATIONS

11. The Notice to Attend a Hearing, dated February 2, 2024, was marked as Exhibit 1F. The allegations set out in the Notice of Hearing were as follows:

IT IS ALLEGED THAT:

- 1) Between May 31, 2021, and May 7, 2022, Holly Mattson failed to comply with

an executed resolution agreement when they did not complete and/or provide proof of completion of a required course to the Complaints Director.

- 2) Between February 27, 2022 and May 7, 2022, the Regulated Member failed to meaningfully respond to the Complaints Director of the Alberta College of Speech-Language Pathologists and Audiologists about their outstanding requirement arising from an executed resolution agreement, specifically a required course.
- 3) [Allegation 3 was withdrawn by the Complaints Director].
- 4) Between August 2, 2022 and November 16, 2023, the Regulated Member failed to meaningfully respond to the Complaints Director of the Alberta College of Speech-Language Pathologists and Audiologists about the complaint against them that was initiated on May 7, 2022 and July 6, 2022.

and that the conduct described above constitutes unprofessional conduct as defined in s. 1(1)(p) of the HPA, and/or constitutes a contravention of Alberta College of Speech-Language Pathologists and Audiologists ("ACSLPA") by-laws, Standards of Practice, and/or Code of Ethics.

EVIDENCE AND DOCUMENTS BEFORE THE HEARING TRIBUNAL

12. Mckenzie Henze was the only witness called at this hearing. As part of their evidence, the following documents were marked as exhibits to the hearing:

Exhibit 1A: Alinity Screenshots taken March 14, 2024

Exhibit 1B: Alinity Screenshot of Profile Information

Exhibit 1C: Letter from Colleen Wetter to Mckenzie Henze, dated November 21, 2023

Exhibit 1D: Letter from Mckenzie Henze to Holly Mattson, dated February 2, 2024

Exhibit 1E: Memo from ACSLPA to YEG Process Servers, dated February 2, 2024

Exhibit 1F: Notice to Attend a Hearing, dated February 2, 2024

Exhibit 1G: Letter from Colleen Wetter to Holly Mattson, dated February 2, 2024

Exhibit 1H: Declaration of Service, dated February 5, 2024

Exhibit 2A: Email from Mckenzie Henze to Holly Mattson, dated February 2, 2024

Exhibit 2B: Email from Mckenzie Henze to Holly Mattson, dated February 15, 2024

Exhibit 2C: Screenshot of Notice to Attend a Hearing on ACSLPA website

Exhibit 2D: Email from Mckenzie Henze to Holly Mattson, dated February 27, 2024

Exhibit 2E: Email Delivery Receipt, dated February 27, 2024

Exhibit 3A: Agreement and Undertaking between Holly Mattson, Len Stelmaschuk and

Lillian Delisle, dated August 2018

Exhibit 3B: Official Transcript from Athabasca University, received March 2021

Exhibit 3C: Agreement and Undertaking Addendum between Holly Mattson and Len Stelmaschuk, dated May 31, 2021

Exhibit 4A: Email from Len Stelmaschuk to Holly Mattson, dated July 12, 2021

Exhibit 4B: Email from Len Stelmaschuk to Holly Mattson, dated July 16, 2021

Exhibit 4C: Email from Jennifer Galarneau to Holly Mattson, dated August 24, 2021

Exhibit 4D: Email from Jennifer Galarneau to Holly Mattson, dated October 8, 2021

Exhibit 4E: Email from Jennifer Galarneau to Holly Mattson, dated October 13, 2021

Exhibit 4F: Email from Jennifer Galarneau to Holly Mattson, dated November 5, 2021

Exhibit 4G: Email from Holly Mattson to Jennifer Galarneau, dated November 23, 2021

Exhibit 4H: Email from Jennifer Galarneau to Holly Mattson, dated November 29, 2021

Exhibit 4I: Email from Jennifer Galarneau to Holly Mattson, dated December 20, 2021

Exhibit 4J: Email from Vita Wensel to Holly Mattson, dated January 15, 2022

Exhibit 4K: Email from Vita Wensel to Holly Mattson, dated January 31, 2022

Exhibit 4L: Email from Vita Wensel to Holly Mattson, dated February 8, 2022

Exhibit 4M: Email from Vita Wensel to Holly Mattson, dated February 22, 2022

Exhibit 4N: Letter from Vita Wensel to Holly Mattson, dated February 18, 2022

Exhibit 4O: Image of Envelope sent to Holly Mattson Stamped Received March 22, 2022

Exhibit 4P: Email from Vita Wensel to Holly Mattson, dated March 8, 2022

Exhibit 4Q: Email from Vita Wensel to Vita Wensel, dated April 5, 2022

Exhibit 4R: Email from Vita Wensel to Vita Wensel, dated April 12, 2022

Exhibit 5A: Email from Vita Wensel to Holly Mattson, dated May 7, 2022

Exhibit 5B: Letter from Vita Wensel to Holly Mattson, dated May 6, 2022

Exhibit 5C: Email from Vita Wensel to Holly Mattson, dated May 18, 2022

Exhibit 5D: Email from Vita Wensel to Vita Wensel, dated May 18, 2022

Exhibit 5E: Email from Vita Wensel to Holly Mattson, dated May 24, 2022

Exhibit 5F: Email from Vita Wensel to Holly Mattson, dated June 5, 2022

Exhibit 5G: Email from Vita Wensel to Vita Wensel, dated July 5, 2022

Exhibit 5H: Declaration of Service, dated July 27, 2022

Exhibit 5I: Email from Vita Wensel to Holly Mattson, dated August 3, 2022

Exhibit 5J: Email from Vita Wensel to Holly Mattson, dated October 1, 2022

Exhibit 5K: Letter from Vita Wensel to Holly Mattson, dated October 1, 2022

Exhibit 5L: Email from Vita Wensel to Holly Mattson, dated November 22, 2022

Exhibit 6A: Email from Vita Wensel to Holly Mattson, dated January 17, 2023

Exhibit 6B: Undelivered Email returned to Vita Wensel, dated February 8, 2023

Exhibit 6C: Letter from Vita Wensel to Holly Mattson, dated February 21, 2023

Exhibit 6D: Email from Vita Wensel to Holly Mattson, dated May 17, 2023

Exhibit 6E: Letter from Vita Wensel to Holly Mattson, dated May 17, 2023

Exhibit 6F: Resolution Agreement between Holly Mattson and the College

Exhibit 6G: Image of Envelope from the College to Holly Mattson

Exhibit 7: IRISS Report by John Wilson to the College, dated January 27, 2023

Exhibit 8A: Complaints Director Telephone Memorandum, dated July 19, 2023

Exhibit 8B: Letter from Colleen Wetter to Holly Mattson, dated July 19, 2023

Exhibit 8C: Email from Colleen Wetter to Holly Mattson, dated July 19, 2023

Exhibit 8D: Canada Post Receipt, dated July 19, 2023

Exhibit 8E: Email from Colleen Wetter to Holly Mattson, dated September 12, 2023

Exhibit 8F: Email from Colleen Wetter to Holly Mattson, dated November 7, 2023

SUBMISSIONS BY THE COMPLAINTS DIRECTOR

Opening Submissions of Ms. Wetter

13. Ms. Wetter began her submission by noting that the hearing is open to the public pursuant to section 78 of the HPA. She also advised that she would be withdrawing Allegation 3 and would not be calling any evidence regarding this allegation.

14. Ms. Wetter submitted that all of the Complaints Directors over the course of this matter made several attempts to engage the member and to comply with her agreement. Ms. Wetter noted that in May of 2023, the Complaints Director sent the member a resolution agreement to attempt to resolve the matter; however, there was no response (Exhibit 6F).

15. She submitted that the onus to prove the allegations is on the Complaints Director and that to find the allegations have been proven, the Hearing Tribunal must be satisfied of proof on a balance of probabilities. If the Hearing Tribunal finds the allegations are proven, then it must consider whether the proven conduct is serious enough to amount to unprofessional conduct as defined by the HPA.

Direct Examination of McKenzie Henze

16. Ms. Wetter recalled Mckenzie Henze as a witness.

17. M. Henze stated that the allegations before the Hearing Tribunal arose from an agreement and undertaking made by Ms. Mattson, a former Complaints Director and a complainant in August 2018 (Exhibit 3A). As part of the agreement, Ms. Mattson was required to complete a Philosophy 333 Professional Ethics Course from Athabasca University and provide evidence of successful completion to the Complaints Director.

18. M. Henze confirmed that the evidence in ACLSPA's file is that Ms. Mattson did not complete the ethics course after two attempts (Exhibit 3B) and that an addendum to the initial undertaking was entered into by Ms. Mattson and the Complaints Director in May 2021 (Exhibit 3C). The addendum required Ms. Mattson to take a Healthcare Professional Communications Course from John Collins Consulting Inc., confirm when she started the course, provide the Complaints Director with an update at the halfway point and after completion and provide the Complaints Director with a 500-word paper indicating her experience with the professional conduct process. Ms. Mattson agreed that if there is any other inquiry into her conduct, the Complaints Director could rely on the addendum.

19. M. Henze reviewed the communications between Ms. Mattson and the Complaints Directors while Ms. Mattson was enrolled in the Professional Communications Course (Exhibits 4A-M). The emails detailed Ms. Mattson's updates on the course and the Complaints Director's attempts to follow up with Ms. Mattson to ensure the course was completed. At no time during the email exchanges did Ms. Mattson confirm the course was completed.

20. M. Henze reviewed a letter from the Complaints Director to Ms. Mattson dated February 18, 2022, indicating that if the Complaints Director did not hear from Ms. Mattson by March 11, 2022, she would initiate an additional complaint for failing to comply or adhere to the terms and conditions of the agreement and undertaking. The letter was sent by email and regular mail (Exhibits 4N-O).

21. The Complaints Director also left voicemails for Ms. Mattson on March 8, 2022 and April 5, 2022 (Exhibits 4P-Q).

22. By letter dated May 6, 2022, the Complaints Director then advised Ms. Mattson that a second complaint had been initiated for non-compliance (Exhibit 5B). The letter was sent to Ms. Mattson by email on May 7, 2022, and May 18, 2022 (Exhibits 5A and 5C).

23. M. Henze further detailed the steps the Complaints Director took to attempt to reach Ms. Mattson between May 18, 2022 to July 27, 2022, including by phone and process server (Exhibits 5D-H).

24. On August 1, 2022, Ms. Mattson emailed the Complaints Director to advise she was away and would not be checking her email. She also asked that the Complaints Director not

approach her personal home. The Complaints Director responded to Ms. Mattson on August 3, 2022, to explain why she had engaged a process server. She encouraged Ms. Mattson to communicate with her regarding the complaint and noted she would continue to use a process server if she did not receive responses from Ms. Mattson (Exhibit 5I).

25. On October 1, 2022, the Complaints Director advised Ms. Mattson via letter and email that the complaint matter was forwarded to an investigation and that Mr. John Wilson was appointed as the investigator (Exhibit 5J-K). Ms. Mattson was directed to contact the investigator (Exhibit 5L).

26. On February 8, 2023, the Complaints Director emailed Ms. Mattson but received a bounce back email citing that her email was undelivered because Ms. Mattson's inbox was full (Exhibits 6A-B).

27. The Complaints Director then attempted to communicate with Ms. Mattson by email and registered mail, including offering her a resolution agreement (Exhibits 6C-F).

28. M. Henze reviewed the investigator's findings that confirmed Ms. Mattson did not complete the Healthcare Professionals Communications course. They also noted that Ms. Mattson did briefly respond to the investigator by text (Exhibit 7).

29. At the end of M. Henze's direct examination the Hearing Tribunal considered whether it had questions for them. It did not and they were released as a witness.

Direct Examination of Colleen Wetter

30. Ms. Wetter provided evidence on her own behalf in relation to some of the communication she had directly sent to Ms. Mattson when she took over the role of Complaints Director.

31. Ms. Wetter stated that she made multiple attempts to contact Ms. Mattson by phone (Exhibit 8A), email (Exhibit 8B), registered mail (Exhibits 8B and 8D), and email (Exhibits 8E-F). Her first email, sent July 19, 2023, was not delivered due to an error in the email address and the third email, sent November 11, 2023, was not delivered because Ms. Mattson's email inbox was full.

32. The Hearing Tribunal considered Ms. Wetter's evidence and did not have any questions to ask her. She was released as a witness.

Closing Submissions of Ms. Wetter

33. Ms. Wetter submitted that the evidence clearly establishes the three charges before the Hearing Tribunal.

34. Ms. Mattson entered into an agreement and undertaking with the then Complaints Director signed May 31, 2021, and did not complete her obligations under it. The investigator confirmed with the course provider that Ms. Mattson did not complete the Healthcare Professionals Communication course. This establishes that Allegation 1 is proven.

35. Allegations 2 and 4 are also established. The evidence provided throughout the hearing demonstrates that Ms. Mattson did not meaningfully respond to the Complaints Director about

the outstanding requirement to complete the course or about the complaint that was initiated against her.

36. Ms. Wetter submitted that the Hearing Tribunal could accept the evidence entered by M. Henze because it was not bound by the rule of law respecting evidence.

37. Ms. Wetter also submitted that the allegations, if proven should be found to be unprofessional conduct. She referenced section 1(1)(pp)(ii) of the HPA, which states that contravention of the HPA, a code of ethics or the standards of practice of a profession constitutes unprofessional conduct.

38. The ACSLPA Code of Ethics outlines that regulated members must take responsibility for their actions and decisions. In this case, Ms. Mattson did not do that.

39. The Code of Ethics also requires regulated members to promote and protect the public's trust and the reputation of the profession by acting with honesty, integrity, objectivity, diligence and courtesy. Ms. Mattson's actions do not accomplish this. If regulated members do not respond to the Complaints Director, or do not accept the authority of the Complaints Director and the College over their actions, the College will cease to have any meaningful purpose and will be unable to fulfill its legislated obligations.

40. Ms. Wetter also referred to section 1(1)(pp)(xii) of the HPA, which is conduct that harms the integrity of the profession. When Ms. Mattson did not fulfill the terms of the May 31, 2021, addended undertaking and agreement, she harmed the integrity of the regulated profession.

41. Agreements are an excellent way to resolve complaints and address conduct that could potentially harm or has harmed the public and they can promote fairness to the member. However, when those agreements are entered into but not followed, the integrity of the regulated profession is affected and harmed.

Questions from the Hearing Tribunal

42. In relation to Allegation 4, the Hearing Tribunal asked Ms. Wetter what authority it had to find that Ms. Mattson had an obligation to respond to ACLSPA when she became a former member of the profession (as of January 2023).

43. Ms. Wetter responded that ACSLPA would generally not have jurisdiction over someone who is not registered with the College, but that the Complaints Director has the authority to accept a complaint against someone for two years after they cease to be registered with the College.

44. She also referred to the definition of a "proceeding" under section 159 of the HPA to support this point.

FINDINGS

45. After hearing from the Complaints Director and reviewing the evidence before it, the Hearing Tribunal finds, on a balance of probabilities, that the conduct alleged in Allegations 1 and 2 of the Notice of Hearing is factually proven and constitutes unprofessional conduct.

46. The Hearing Tribunal also finds that the conduct alleged in Allegation 4 is proven on a balance of probabilities over the period where Ms. Mattson was a regulated member, and where proven, that conduct also constitutes unprofessional conduct.

REASONS

Allegation 1: Between May 31, 2021, and May 7, 2022, Holly Mattson failed to comply with an executed resolution agreement when they did not complete and/or provide proof of completion of a required course to the Complaints Director

47. The Hearing Tribunal finds Allegation 1 is proven on a balance of probabilities and constitutes unprofessional conduct under sections 1(1)(pp)(ii) and (xii) of the HPA.

48. When Ms. Mattson signed the addended undertaking and agreement on May 31, 2021, she was required to undertake a course. The evidence received from the investigator establishes that Ms. Mattson did not complete the course because she failed to complete the last two assignments. She did not provide proof of completion to the Complaints Director.

49. Ms. Mattson breached the Code of Ethics and harmed the integrity of the profession when she failed to complete the course. The Hearing Tribunal agrees with the Complaints Director that the ability of ACSLPA to regulate the profession of speech-language pathologists in a manner that protects the public and upholds the integrity of the profession depends on members upholding their agreements and obligations to the College.

Allegation 2: Between February 27, 2022 and May 7, 2022, the Regulated Member failed to meaningfully respond to the Complaints Director of the Alberta College of Speech-Language Pathologists and Audiologists about their outstanding requirement arising from an executed resolution agreement, specifically a required course

50. The Hearing Tribunal finds Allegation 2 is proven on a balance of probabilities and constitutes unprofessional conduct under sections 1(1)(pp)(ii) of the HPA.

51. The evidence before the Hearing Tribunal establishes that the then Complaints Director made multiple attempts to contact Ms. Mattson about her outstanding requirement to complete the professionalism course as required by the May 31, 2021, addended undertaking and agreement. The Complaints Director used the contact information Ms. Mattson provided to ACSLPA, including phone, email and registered mail (Exhibits 4N-Q and 5A-C). Ms. Mattson did not meaningfully respond, if at all, to the Complaints Director's correspondence.

52. The privilege of belonging to a self-regulated profession comes with an implicit requirement that regulated members will respond to their regulators in a timely manner and take responsibility for their actions. Even if Ms. Mattson had not completed the course, she was obligated to provide the Complaints Director with a response. Her failure to do so, in conjunction with the balance of the Allegations in this matter, is a breach of ACSLPA's Code of Ethics and constitutes serious unprofessional conduct.

Allegation 4: Between August 2, 2022 and November 16, 2023, the Regulated Member failed to meaningfully respond to the Complaints Director of the Alberta College of Speech-Language

Pathologists and Audiologists about the complaint against them that was initiated on May 7, 2022 and July 6, 2022

53. The Hearing Tribunal finds Allegation 4 is proven on a balance of probabilities for the period of August 2, 2022 and January 9, 2023, before Ms. Mattson ceased to be a regulated member. This conduct is unprofessional conduct per section 1(1)(pp)(ii) of the HPA.

54. In this case, the complaint was initiated by the then Complaints Director while Ms. Mattson was a regulated member. Ms. Mattson ceased to be a regulated member as of January 10, 2023, before the investigation was completed and the matter was referred to a hearing.

55. The Hearing Tribunal is satisfied that Ms. Mattson's current registration status (or lack thereof) does not affect its ability to undertake this hearing. Section 54(2) of the HPA states that a complaint is not affected if a person about whom the complaint is made ceases to be a regulated member before the proceedings with respect to the complaint are completed.

56. However, while the Hearing Tribunal would expect a former regulated member to respond and participate in complaint proceedings against them, it finds that it only has the authority to make findings of unprofessional conduct for conduct that occurred during the period where an investigated person in question was a regulated member.

57. The Hearing Tribunal does not interpret sections 54(3) or 159 of the HPA as permitting it to find unprofessional conduct against a former member in relation to conduct that the former member engaged in after they ceased to be registered with ACSLPA.

58. The Hearing Tribunal interprets section 54(3) as permissive in the sense that a complaint can be made about a former member when they were acting in their capacity as a regulated member. This interpretation protects the public because it recognizes that a complainant may take time to bring forward a complaint, and it also protects against regulated members who resign in contemplation of a complaint.

59. The Hearing Tribunal finds section 159 of the HPA is not relevant to this proceeding as it is a transitional provision that deals with complaints made under a former act, not complaints made under the HPA.

60. While Ms. Mattson was a regulated member (until January 10, 2023), the Hearing Tribunal finds the evidence before it clearly establishes that Ms. Mattson did not meaningfully respond to the complaints issued against her.

61. As in Allegation 2, a failure to meaningfully respond to one's regulator is serious unprofessional conduct. It suggests that a member does not appreciate the authority of the College or the privilege of self-regulation. The integrity of the profession and the ability of ACSLPA to fulfill its legislated obligations depends on members timely response and acknowledgement of their regulatory obligations. Ms. Mattson failed in this regard.

Conclusion

62. The Hearing Tribunal thanks the Complaints Director for the various attempts to contact Ms. Mattson in advance of this hearing.

63. Subject to an application from either party to have sanctions heard virtually or have this schedule altered, the Hearing Tribunal will accept submissions on sanctions in writing as follows:

- a. Submissions from the Complaints Director by June 21, 2024;
- b. Submissions from Ms. Mattson by July 19, 2024;
- c. Reply Submissions from the Complaints Director by July 26, 2024.

Signed on behalf of the Hearing Tribunal by:

A handwritten signature in black ink on a light gray background. The signature reads "Terry C. Engen" in a cursive script.

Terry Engen, Chair
Dated May 31, 2024

ALBERTA COLLEGE OF SPEECH-LANGUAGE
PATHOLOGISTS AND AUDIOLOGISTS

IN THE MATTER OF
THE *HEALTH PROFESSIONS ACT*

AND IN THE MATTER OF A HEARING
REGARDING THE CONDUCT OF

HOLLY MATTSON

**DECISION OF THE HEARING
TRIBUNAL REGARDING
SANCTIONS**

INTRODUCTION

1. On May 31, 2024, the Hearing Tribunal issued its Merits Decision that found the following conduct of Ms. Holly Mattson constituted unprofessional conduct:
 - 1) Between May 31, 2021 and May 7, 2022, Holly Mattson failed to comply with an executed resolution agreement when they did not complete and/or provide proof of completion of a required course to the Complaints Director.
 - 2) Between February 27, 2022 and May 7, 2022, the Regulated Member failed to meaningfully respond to the Complaints Director of the Alberta College of Speech-Language Pathologists and Audiologists about their outstanding requirement arising from an executed resolution agreement, specifically a required course.
 - 3) [Withdrawn]
 - 4) Between August 2, 2022 and January 9, 2023, the Regulated Member failed to meaningfully respond to the Complaints Director of the Alberta College of Speech-Language Pathologists and Audiologists about the complaint against them that was initiated on May 7, 2022 and July, 2022.¹

and that the conduct described above constitutes unprofessional conduct as defined in s. 1(1)(p) of the HPA, and/or constitutes a contravention of Alberta College of Speech-Language Pathologists and Audiologists ("ACSLPA") by-laws, Standards of Practice, and/or Code of Ethics.

2. In its Merits Decision, the Hearing Tribunal indicated that it would receive submissions on sanction from the parties in writing.

SERVICE

3. The Hearing Tribunal received the following information which satisfied it that Ms. Mattson was provided with a copy of the Merits Decision as well as instructions on how to provide sanction submissions.
4. On June 4, 2024, the Hearings Director emailed Ms. Mattson at the last known email address she provided to ACSLPA as part of her registration information. The email contained a copy of the Hearing Tribunal's Merits Decision as well as a letter to Ms. Mattson from the Hearings Director containing instructions to Ms. Mattson to provide submissions on sanctions by July 19, 2024.
5. On June 21, 2024 a copy of the Merits Decision and the letter from the Hearings Director were also delivered to Ms. Mattson by registered mail at the mailing address Ms. Mattson last provided to ACSLPA as part of her registration information.
6. On June 14, 2024, the Complaints Director emailed Ms. Mattson a copy of the Complaints Director's submissions on sanction.

¹ Allegation 3 was withdrawn by the Complaints Director. The Hearing Tribunal found Allegation 4 was proven for the period of August 2, 2022 and January 9, 2023 while Ms. Mattson was a regulated member.

SUBMISSIONS

Submissions of the Complaints Director

7. The Complaints Director proposed the following orders as fair and appropriate in the circumstances of this case:
 - a. If Ms. Mattson re-applies for registration and a practice permit and satisfies the requirements of the registrar, she must immediately serve a three-week suspension and there will be a condition on her practice permit until the suspension is served;
 - b. If Ms. Mattson re-applies for registration and a practice permit and satisfies the requirements of the registrar, she must receive a reprimand and the May 31, 2024 Decision will serve as the reprimand.
 - c. A fine of \$12,000, immediately payable in 12 consecutive monthly installments of \$1,000, apportioned as follows:
 - i. \$5,000 for the finding of failing to comply with a resolution agreement when they did not complete and/or provide proof of completion of a required course to the Complaints Director, and
 - ii. \$3,500 each for the two findings of failing to meaningfully respond to the Complaints Director.
 - d. Payment of \$5803.10 in costs for the investigation and hearing to May 31, 2024 plus actual future costs of the sanctions portion of the hearing.
8. The Complaints Director stated that the total costs of the investigation and hearing were \$7,817.79 but the Complaints Director is not asking for the costs of the IRISS investigation which amount to \$2,014.69. Therefore, the costs incurred to May 31, 2024 were \$5,803.10. Ms. Wetter estimated that the remaining costs of the hearing would be approximately \$3000.00, representing legal fees, meetings of the Hearing Tribunal, writing the sanction decision, and service on Ms. Mattson.
9. Ms. Wetter submitted that the proposed sanctions address the seriousness of the conduct while proposing a path forward for Ms. Mattson to continue practicing as a registered speech-language pathologist, if she chooses to re-apply to ACSLPA.
10. Ms. Wetter reviewed the factors outlined in the case of *Jaswal v Newfoundland Medical Board* ("Jaswal") and applied them to this complaint matter:
 - a. *Nature and gravity of the proven allegations*: Ms. Mattson's conduct was serious, bordering on ungovernability and impacted ACLSPA's ability to carry out its regulatory obligations.
 - b. *Age and experience of the member*: Ms. Mattson was an experienced speech-language pathologist. She was first registered with ACSLPA in March 2003.
 - c. *Previous character of the member*: Ms. Mattson had no previous findings of unprofessional conduct, which would traditionally be a mitigating factor.

- d. *Age and mental condition of the offended patient:* this factor does not apply as no patients were involved in this complaint matter.
 - e. *Number of times the offence was proven to have occurred:* Ms. Mattson did not respond to multiple requests, she did not complete her agreement or provide proof of completion. She did not attend the hearing or provide a reason that she would not be attending.
 - f. *The role of the member in acknowledging what occurred:* Ms. Mattson did not acknowledge her role in what occurred.
 - g. *Whether the member suffered other serious financial or other penalties:* Ms. Mattson's financial circumstances are unknown to the Complaints Director.
 - h. *Impact on the offended patient:* As noted above, this factor does not apply as no patients were involved in this complaint matter.
 - i. *The presence or absence of mitigating circumstances:* The Complaints Director was not aware of any mitigating circumstances in this case.
 - j. *The need to promote specific and general deterrence:* The proposed penalty will serve an important role in general deterrence and educate all regulated members of ACSLPA about the consequences of similar behaviour.
 - k. *The need to maintain the public's confidence in the integrity of the profession:* The public must be assured that ACSLPA will address complaints and ensure a regulated member or individual under its authority fulfills their agreements to the ACSLPA and responds in the complaint process.
 - l. *The degree to which the proven conduct fell outside of the range of permitted conduct:* Ms. Mattson's conduct impeded ACSLPA's ability to address complaints and fulfill its regulatory obligations. ACSLPA must be able to rely on an agreement with a regulated member to address conduct.
 - m. *The range in similar cases:* there are no specific cases from ACSLPA that address this conduct.
11. In respect of the requested order for costs, Ms. Wetter referred to the Court of Appeal's decision in *Jinnah v Alberta Dental Association and College* ("*Jinnah*") and explained that it provided a legal framework to assist the Hearing Tribunal in deciding whether it should order costs in this case.
12. She stated that *Jinnah* set out that a regulator should bear costs unless there is a compelling reason to order costs against a member. Four compelling reasons set out in *Jinnah* that support an order for costs include:
- a. When a member engages in serious unprofessional conduct;
 - b. When a member is a serial offender who engages in unprofessional conduct on two or more occasions;

- c. When a member fails to cooperate with investigators and forces a college to expense more resources than is necessary to ascertain the facts related to a complaint; and
 - d. When a member engages in hearing misconduct.
13. Ms. Wetter submitted that in this case, the Hearing Tribunal remarked on the seriousness of Ms. Mattson's conduct in its Merits Decision and that the other compelling reasons to order costs included:
- a. Ms. Mattson did not respond to multiple requests of the Complaints Director;
 - b. The hearing related to previous conduct that was serious enough to require a resolution agreement;
 - c. Ms. Mattson did not comply with a resolution agreement;
 - d. A new complaint proceeding was required to address Ms. Mattson's lack of responses to the Complaints Director;
 - e. The costs sought represent all necessary costs to investigate this matter and hold a hearing. Because one charge was withdrawn from the Hearing Tribunal, the Complaints Director did not seek the costs of the external investigator;
 - f. Ms. Mattson was required to respond to requests from the Complaints Director;
 - g. The Complaints Director represented herself at the hearing and composed written costs submissions. There are no additional costs from this work that would be passed to Ms. Mattson because the Complaints Director is a salaried employee of the ACSLPA and those costs are not passed on in a hearing;
 - h. The investigation and hearing were necessary to address Ms. Mattson's conduct and ensure ACSLPA took steps to fulfill its statutory obligation;
 - i. All other costs are very reasonable.

Submissions of Ms. Mattson

- 14. Ms. Mattson did not provide submissions on sanction.

DECISION ON SANCTIONS

- 15. Section 82 of the *Health Professions Act* authorizes the Hearing Tribunal to order sanctions after making findings of unprofessional conduct.
- 16. After considering the Complaints Director's submissions, the Hearing Tribunal agrees that if Ms. Mattson wishes to be reinstated on ACSLPA's register as a regulated speech-language pathologist, it is appropriate for her to serve a period of suspension and receive a reprimand as proposed by the Complaints Director.
- 17. Failing or refusing to respond to requests of or cooperate with the Complaints Director or an investigator appointed by the Complaints Director during an investigation under Part 4 of the *Health Professions Act* is unacceptable conduct for a regulated member to

engage in. Ms. Mattson demonstrated a serious disregard for her professional obligations which undermined ACSLPA's ability to regulate the profession and protect the public. These findings were aggravated by the fact that Ms. Mattson's conduct stemmed from a failure to comply with an executed resolution agreement.

18. The Hearing Tribunal also finds that a fines for each of the proven allegations are appropriate in the circumstances. The Hearing Tribunal views Allegation 1 as the most egregious of the three allegations, because it related to a previous complaint matter that was resolved with the agreement of the parties. ACSLPA depends on regulated members like Ms. Mattson to comply with agreements that they enter into. By failing to comply with the agreement, Ms. Mattson called into question ACSLPA's ability to regulate her. The maximum fine of \$5000 is appropriate for this allegation.
19. The Hearing Tribunal orders a fine of \$1500 for each of Allegations 2 and 4. While failing to reply to the Complaints Director is serious, the Hearing Tribunal views Ms. Mattson's conduct in these Allegations as an extension of the same behaviour. A global fine of \$3000 is on the higher end of the fines available under Column 2 of Section 158 of the HPA and is warranted in this case.
20. Fines are punitive and will send a message of specific and general deterrence, to Ms. Mattson as well as to other members of the profession that the proven conduct in this case will not be tolerated by ACSLPA. Together, with a three-week suspension should Ms. Mattson choose to return to practice, the Hearing Tribunal believes the fine will serve as an appropriate deterrent.

Costs

21. The Hearing Tribunal considered the Complaints Director's request that Ms. Mattson pay all the costs of the investigation and hearing which were estimated to be approximately \$8803.10 once the sanctions portion of the hearing concluded. The Hearing Tribunal also considered the Court of Appeal's decision in *Jinnah*.
22. The Hearing Tribunal finds this is a case where a costs order is warranted. It orders that Ms. Mattson pay costs of the investigation and hearing to a maximum of \$8803.10 within 24 months of the date the Hearing Tribunal issues this decision. For clarity the costs of the IRISS investigation must not be included in ACSLPA's final calculations on costs.
23. ACSLPA incurred costs in this matter as a direct result of Ms. Mattson's conduct. Ms. Mattson failed to comply with an executed resolution agreement and then failed to meaningfully respond to the Complaints Director in respect of that agreement as well as the current complaint matter.
24. In the Hearing Tribunal's view, these costs could easily have been avoided if Ms. Mattson had complied with the agreement she entered into with ACSLPA and adhered to her duty as a regulated professional to respond to ACSLPA in a timely manner. The Hearing Tribunal understands the Complaints Director's concerns about Ms. Mattson's governability.
25. To support its decision, the Hearing Tribunal considered the four compelling reasons set out in *Jinnah*. As noted above, it finds there is evidence that Ms. Mattson engaged

in serious unprofessional conduct. While there were no other findings of unprofessional conduct against Ms. Mattson, the Hearing Tribunal notes that this matter arose because she chose not to comply with an executed resolution agreement related to a previous complaint matter. She also failed to cooperate with the College's investigators. While there is no direct evidence that ACSLPA was forced to expend more resources than was necessary to ascertain the facts related to this complaint matter, the Hearing Tribunal is satisfied that the other three factors in *Jinnah* are met such that a substantial award for costs is warranted.

26. The Hearing Tribunal notes that minimal time was spent on the withdrawn allegation and the amended time period in Allegation 4. As a result, it did not find that a lower amount of costs was warranted because these allegations were not proven in full.

CONCLUSION

27. For the reasons set out above, the Hearing Tribunal makes the following orders on sanction under section 82 of the *Health Professions Act*:
- a. If Ms. Mattson re-applies for registration and a practice permit and satisfies the requirements of the registrar, she must immediately serve a three-week suspension and there will be a condition on her practice permit until the suspension is served;
 - b. If Ms. Mattson re-applies for registration and a practice permit and satisfies the requirements of the registrar, she will receive a reprimand, which the Hearing Tribunal's May 31, 2024 Merits Decision will serve as.
 - c. Ms. Mattson shall pay a fine of \$8,000, immediately payable in 8 consecutive monthly installments of \$1,000, apportioned as follows:
 - i. \$5,000 for Allegation 1; and
 - ii. \$1,500 for each of Allegations 2 and 4.
 - d. Ms. Mattson shall pay costs of the investigation and hearing to a maximum of \$8803.10 within 24 months of the date the Hearing Tribunal issues this decision. Payments shall be made on a monthly schedule satisfactory to the Hearings Director. For clarity the costs of the IRISS investigation must not be included in ACSLPA's final calculations on costs.

Signed on behalf of the Hearing Tribunal by:



Terry Engen, Chair

Dated October 7, 2024