

CASE SUMMARY #12 – DR. ASHRAF HENDY

MISREPRESENTING ARCHITECTURAL EXPERIENCE, EDUCATION AND QUALIFICATIONS /
FALSIFYING INFORMATION IN REGISTRATION APPLICATION / FALSIFYING LETTERS OF
RECOMMENDATION / PERMITTING A NON-REGULATED ENTITY TO ENGAGE IN THE PRACTICE
OF ARCHITECTURE

NOTE ON THE PUBLICATION OF DR. HENDY'S NAME

The Committee ordered that Dr. Hendy's name should be published in this case summary because Dr. Hendy failed to take responsibility for his serious actions. Naming Dr. Hendy deters him and the general membership from engaging in similar conduct in the future. The Committee relied on section 50(2) of the *Architects Act* to make this order because the Committee found that it was appropriate given the circumstances.

COMPLAINT REVIEW COMMITTEE

A panel of three members of the Alberta Association of Architects (AAA) Complaint Review Committee heard a case that illustrated Dr. Hendy's:

- ▶ Misrepresentation of his architectural experience, education and qualifications by including false or exaggerated information in resumes sent to five employers or potential employers;
- ▶ Falsifying information in his application to be a registered architect;
- ▶ Falsifying a letter of recommendation; and
- ▶ Entering into agreements where non-regulated entities engaged in the practice of architecture and held out that they were entitled to do so when they were not.

BACKGROUND AND FACTS

In this case, the AAA received a written complaint from Dr. Hendy's employer alleging that he had misled them with respect to his qualifications and experience. The AAA appointed an Investigator. As a result of the Investigator's initial findings, the scope of the investigation was expanded to include the verification of Dr. Hendy's academic qualifications and the contents of his Canadian Experience Record Book (CERB). As a result of attempted communications with Dr. Hendy at the authorized entity where he was the sole registered architect, the investigation expanded again to determine whether Dr. Hendy had entered into an agreement that enabled persons to engage in the practice of architecture or hold out that they were entitled to engage in the practice of architecture when they were not authorized to do so. The investigation also considered whether Dr. Hendy had allowed his stamp to be applied to drawings that were not created under his personal supervision, direction, or control.

Upon review of the investigation, the Chair of the Complaint Review Committee referred five allegations to be considered at a hearing before a panel of the Complaint Review Committee (the "Committee"). The Hearing commenced on November 12, 2018. Dr. Hendy and his counsel were not present. On the morning of the hearing, Dr. Hendy alleged in a faxed letter that the AAA had not provided fulsome disclosure of its investigative records and that the hearing was fundamentally unfair to him. The Committee determined that the process was fair and that the hearing could proceed in Dr. Hendy's absence because the AAA had provided notice of the allegations as well as the time and location of the hearing.

FINDINGS OF THE PANEL

The Committee found the majority of the allegations in the Notice of Hearing were proven and amounted to unprofessional conduct. A summary of the proven allegations is as follows:

- ▶ Allegation 1: Dr. Hendy misrepresented his architectural experience, education and qualifications to employers and potential employers, by including false or exaggerated information in his resumes.
- ▶ Allegation 2: Dr. Hendy falsified information in his CERB in support of his registration application to become a registered architect.
- ▶ Allegation 3: Dr. Hendy falsified a letter of recommendation from a previous supervisor.
- ▶ Allegation 5: Dr. Hendy entered into an agreement with Person A, Person B and Entity A whereby any or all of Person A, Person B, and Entity A engaged in the practice of architecture, directly or indirectly, or represented and held out that they were entitled to engage in the practice of architecture in Alberta (or both) when they were not entitled to engage in the practice of architecture in Alberta.
- ▶ The Committee also found that Dr. Hendy's failure to attend the Hearing amounted to unprofessional conduct.

*Allegation 4 was withdrawn by the Association and not considered by the Committee

SANCTION & COSTS

Following written submissions from both parties with respect to sanctions and costs, on January 9, 2019, the Committee ordered that:

1. Dr. Hendy's registration as AAA, Registered Architect, be cancelled;
2. Dr. Hendy must pay fines totaling \$12,500;
3. Dr. Hendy must pay \$10,000 towards costs of the hearing to be paid within one year;
4. The AAA must provide the written decision to every architect regulator in Canada; and
5. The AAA shall publish a case summary of the Committee's decision which names Dr. Hendy as the disciplined architect.

PROCEDURAL MATTERS PRIOR TO APPEAL

On April 9, 2019, Dr. Hendy initiated an appeal of the Committee's decision. The Appeal Hearing was scheduled to be heard on September 18, 2019.

Dr. Hendy brought forward a series of applications which delayed the Appeal Hearing. Dr. Hendy brought the following applications and requests:

- To delay the appeal hearing for health reasons (September 10, 2019; denied);
- To delay the hearing because he retained new counsel (September 17, 2019; granted);
- For members of the Appeal Panel to recuse themselves for bias (November 2019; denied);
- To introduce new evidence (May 22, 2020; denied);
- To delay the hearing because of his father's death (June 2020; granted); and
- To introduce Affidavit evidence (September 21, 2020; granted the ability to make an application, but the application was denied).

The Appeal Hearing finally proceeded on September 23, 2020.

FINDINGS ON APPEAL TO COUNCIL

Council conducted a review of the Committee's decision on a standard of reasonableness. Council upheld the Committee's decision regarding each allegation and the imposed sanction. In addition, Council ordered that Dr. Hendy bear the full costs of the appeal within 90 days of its decision because Dr. Hendy's grounds of appeal were baseless and because his numerous applications and submissions required the Committee to consider many documents. The cost of the appeal, including all of the preliminary applications, was \$82,977.06.

COMMENTARY

This case shows the importance for members to be truthful in their interactions with the AAA and to potential employers. The AAA and employers, and in turn the public, must have confidence that architects are being truthful when they apply to be registered architects and when they present their skills and experience to employers. Applicants who misrepresent their qualifications and skills not only lack integrity but pose a grave risk to public safety.

This case is another reminder that registered architects cannot enter arrangements with entities who are not entitled to practice architecture or provide stamps to those entities so that they can indirectly practice architecture. The profession of architecture has clear guidelines about the requirement for supervision by registered architects of the practice of architecture to protect the public and to maintain the high standard of practice required and expected of registered architects. Dr. Hendy breached those standards.

Finally, this case should serve as a reminder that regulated members are expected to cooperate and participate in the discipline process. Frivolous applications, baseless accusations of bias, and failing to attend scheduled hearings all show a lack of respect for the profession and disregard for the AAA, which regulates the profession in the public interest; such conduct is unacceptable and will be sanctioned.

NOTES

¹ *Allegation 4 was withdrawn by the Association and not included in the Committee Sanctions & Costs

Date: July 2021

Case Summaries are issued by The Alberta Association of Architects (AAA) as a practice resource or as general interpretations of the requirements in the *Architects Act*, the *General Regulation* under the *Act*, and the *By-laws*. Summaries should be read in conjunction with the *Act*, *General Regulation* and *By-laws* and in no way supersede these documents. Summaries are not intended to be and are not legal advice to the members of the AAA nor to the public/client. Members and the public should consult their own legal, income tax or financial advisors as to the application of the *Architects Act* and *General Regulation* in specific circumstances.