



Human Resources
Professionals
Association

**THE DISCIPLINE COMMITTEE OF THE
HUMAN RESOURCES PROFESSIONALS ASSOCIATION**

IN THE MATTER OF the *Registered Human Resources Professionals Act, 2013* and the regulations
thereunder;

AND IN THE MATTER OF a discipline proceeding against Aimee Rieck, member of the Human Resources
Professionals Association.

PANEL: Kenneth Alexander (Chair)
Lynne Latulippe
Robert Canuel

BETWEEN:

THE HUMAN RESOURCES PROFESSIONALS ASSOCIATION

- and -

Aimee Rieck

PRESENT:

Rebecca Durcan, Counsel for the Human Resources Professionals Association

Mara Berger, Associate Registrar

Luisa Ritacca, Independent Legal Counsel to the Panel

Christine LaRochelle, witness

NOT PRESENT:

Aimee Rieck, Member

DECISION, REASONS FOR DECISION AND ORDERS

This matter came on for hearing before a panel of the Discipline Committee ("the Committee") on March 1, 2017, at Victory Verbatim Reporting Services in Toronto, Ontario.

A *Notice of Hearing*, dated July 11, 2016 was served on Aimee Rieck requesting her attendance before the Discipline Committee of HRP. The hearing was subsequently set for March 1, 2017.

The Allegation(s)

The *Notice of Hearing* alleges that Aimee Rieck committed the following act(s) of professional misconduct:

1. At all material times, Aimee Rieck was a member of the Human Resources Professionals Association.
2. Between approximately March 2011 and September 2014, Ms. Rieck was employed by Apollo Health and Beauty Care ("Apollo") with the title, "Human Resources Generalist."
3. Ms. Rieck's responsibilities at Apollo involved overseeing Apollo's recruiting process including, among other things, sourcing suitable candidates for positions at Apollo, interviewing candidates and making recommendations to Apollo's management on hiring decisions.
4. It was a term of Ms. Rieck's employment agreement that, during her employment with Apollo, Ms. Rieck would not be employed or engaged in carrying on any other business without Apollo's prior written consent.
5. It is alleged that, for more than two years while employed at Apollo, Ms. Rieck created at least 26 false or misleading invoices (the "False Invoices") totaling at least \$178,000 from two human resource recruiting firms, Zenith Recruitment ("Zenith") and Hire Pursuit Staffing Solutions ("Hire Pursuit"), as set out in Appendix "1".
6. The False Invoices indicated that Zenith and/or Hire Pursuit had earned fees for the placement of personnel with Apollo when the personnel had actually been hired by Ms. Rieck in her capacity as Apollo's Human Resources Generalist.

7. It is alleged that Ms. Rieck approved each of False Invoices and recommended to Apollo's accounting department that they be paid.

8. It is alleged that Ms. Rieck had a financial interest in Zenith and/or Hire Pursuit that she did not disclose to Apollo.

9. It is also alleged that Ms. Rieck hired personnel on Apollo's behalf even though they were not qualified for the position, and misrepresented their qualifications such as their training, background, licensing and expertise to Apollo's management, details of which include:

a. Ms. Rieck advised Apollo's management that the candidate for Director of Finance, Paolo (Paul) Novello, did not have a criminal record even though Ms. Rieck did not obtain a Canadian Criminal Record Check on him; and/or

b. Ms. Rieck hired Mashem Ahmed as a cycle counter and operating material handling equipment (which involving various driving types of equipment) even though Mr. Ahmed did not recognize the key equipment, did not know how to turn on a forklift or operate it, and/or did not or did not know how to take appropriate safety precautions.

10. It is also alleged that Ms. Rieck falsified the Canadian Criminal Record Check obtained from First Advantage regarding Mr. Novello to show that Mr. Novello did not have a criminal record.

11. It is alleged that the above conduct constitutes professional misconduct as defined in Chapter IV (Code of Ethics), Division I (Competence), Sections 5 and 6; Chapter IV (Code of Ethics), Division II (Legal Requirements), Sections 1, 2 and 3; Chapter IV (Code of Ethics), Division III (Dignity in the Workplace), Sections 5(1) and (4); Chapter IV (Code of Ethics), Division V (Confidentiality), Sections 2(1) and 3(1); Chapter IV (Code of Ethics), Division VI (Conflict of Interest), Sections 1(1), 1(2), 1(3), 2, 4, 6 and 7; Chapter V (General Duties Toward Employers, Clients, Employees, The Profession, and the Public), Section 1; Chapter VI (Specific Duties When Employed by Organizations), Sections 2(1), 2(2) and 3; and Chapter VII (Specific Duties when Acting as an Independent Practitioner), Division V (Conditions, Obligations and Prohibitions in Respect of Advertising), Section 2 of the Human Resources Professionals Association's Rules of Professional Conduct.

Member's Plea

As Ms. Rieck was neither present nor represented by counsel, she was deemed to have denied the allegations.

Decision

Upon review of the documentary evidence, and hearing the testimony of Christine LaRochelle and upon hearing the submission of counsel for the Association; the Committee finds on a balance of probabilities that Ms. Rieck's conduct constitutes professional misconduct as defined

in Chapter IV (Code of Ethics), Division I (Competence), Sections 5 and 6; Chapter IV (Code of Ethics), Division II (Legal Requirements), Sections 1, 2 and 3; Chapter IV (Code of Ethics), Division III (Dignity in the Workplace), Sections 5(1) and (4); Chapter IV (Code of Ethics), Division V (Confidentiality), Section 3(1); Chapter IV (Code of Ethics), Division VI (Conflict of Interest), Sections 1(1), 1(2), 1(3), 2, 4, 6 and 7; Chapter V (General Duties Toward Employers, Clients, Employees, The Profession, and the Public), Section 1; Chapter VI (Specific Duties When Employed by Organizations), Sections 2(1), 2(2) and 3; and Chapter VII (Specific Duties when Acting as an Independent Practitioner), Section 2 of the Human Resources Professionals Association's Rules of Professional Conduct.

The Panel found that there was insufficient evidence for a finding of Professional Misconduct relating to Division V (Confidentiality), Sections 2(1), and Division V (Conditions, Obligations and Prohibitions in Respect of Advertising).

Penalty Decision

The Committee orders that Aimee Rieck's membership in the Association is revoked effective March 1, 2017.

Facts and Evidence

The Association presented one witness Christine LaRochelle who is the Director of Human Resources for Apollo Health and Beauty Care. "Apollo" The events giving rise to this hearing occurred between March 2011 and September 2014. Ms. LaRochelle was employed by Apollo at this time and was at all material times Ms. Rieck's supervisor.

Apollo is in the business of the manufacture of private label health and beauty products. Apollo has approximately 500 employees. Ms. Rieck's role was that of Human Resource Generalist reporting to Ms. LaRochelle. Some of her duties included hiring employees directly to Apollo as required, and hiring employees through employment agencies as required. Part of Ms. Rieck's role was to facilitate reference checks and Criminal background checks as needed by Apollo. Ms. LaRochelle identified the hiring letter of Ms. Rieck as Exhibit 4 and the Position Description as Exhibit 3.

While the allegations against Ms. Rieck, and the findings vis a vis the Rules of Professional Conduct are numerous, they fall into what may be termed as two broad categories. The first being conflict of interest, and the second being honesty and fidelity.

In terms of the Conflict of Interest Ms. LaRochelle testified that Ms. Rieck from time to time would be required to hire individuals using Employment Agencies. These Agencies are typically compensated by receiving a percentage of the income that person being hired would earn. Typically there is a guarantee period so that if the employee does not remain employed the agency must refund the payment or produce another candidate.

Ms. Rieck saw this as a potentially lucrative opportunity so she founded two businesses, Hire Pursuit Staffing Solutions "Hire Pursuit" of which she was listed as the sole proprietor, and

Zenith Recruitment "Zenith" where she was again listed as the sole proprietor. Ms. Rieck's ownership and registration dates for the businesses as set out were confirmed by Ms. LaRochelle in Exhibits 8 and 9 respectively, which were copies of government filings related to the registration of the businesses. Both businesses were founded during Ms. Rieck's employment with Apollo.

When required by Apollo to hire a person Ms. Rieck would have her own agencies i.e. herself propose the candidate. Hire Pursuit or Zenith would then invoice Apollo, who would pay the invoices. Most of these invoices were approved for payment by Ms. Rieck herself. Between July 2012 and June 2014 Ms. Rieck either through Hire Pursuit or Zenith billed and was paid by Apollo the sum of \$158,372.28 plus HST for a total of \$178,960.66.

Ms. LaRochelle in Exhibit 10 identified 26 invoices from Hire Pursuit and Zenith that were paid in full by Apollo which amounted to \$158,372.28 plus HST. Ms. LaRochelle testified that Ms. Rieck at no time disclosed that she was the owner of Hire Pursuit and Zenith to Apollo. She further testified that one of the core duties of Ms. Rieck's job as H.R Generalist was the recruitment of the employees. She testified that essentially Ms. Rieck was getting paid for her job as HR Generalist, and getting paid through Hire Pursuit and Zenith for the same role she was supposed to perform for Apollo. Ms. LaRochelle did acknowledge that Apollo from time to time would use an agency to assist, but that it increased greatly under Ms. Rieck. She further indicated that Apollo would not have used Hire Pursuit or Zenith had it been disclosed that Ms. Rieck was the owner and sole proprietor.

Ms. LaRochelle pointed to the Exclusivity Provision in Ms. Rieck's employment agreement Exhibit 3 which required Ms. Rieck to faithfully serve Apollo and to obtain written permission of the owners of Apollo if she engaged in any other business.

In terms of honesty and fidelity Ms. LaRochelle testified to the following circumstances surrounding Ms. Rieck's hiring practices.

Apollo hired a Director of Finance Mr. Paolo (Paul) Novello. Mr. Novello was known to Ms. Rieck, and she presented him as the candidate for Director of Finance position. It was a requirement for the position that Mr. Novello undergo a background check and Criminal Record check. Apollo used a third party company called First Advantage to facilitate Criminal Record and employment checks. Ms. LaRochelle testified that Ms. Rieck falsified the Canadian Criminal Record Check form obtained from First Advantage regarding Mr. Novello.

Essentially as pointed out by Ms. LaRochelle and confirmed in Exhibit 5 and Exhibit 6 the requesting company, in this case Apollo makes an on line or written request to First Advantage for certain checks to be run on the candidate for hire. In Exhibit 5 Ms. Rieck requests an Education Check, and Credit Check for Mr. Novello, however she does not request a Criminal Record Check. From Exhibit 6 Ms. LaRochelle testifies that there is a Clear Criminal Record Check placed in Mr. Novello's file. Ms. Durcan for the Association asked Ms. LaRochelle if she

asked Ms. Rieck how the Clear Criminal Record check got into Mr. Novello's file, when it was not ordered. According to Ms. LaRochelle Ms. Rieck responded that she did not know.

According to Ms. LaRochelle Mr. Novello has been separated from Apollo.

The last issue that Ms. LaRochelle provided testimony on had to do with Hire Pursuit's recruitment of Mashem Ahmed for the role of Cycle Counter, and as an operator of material handling equipment. Ms. LaRochelle testified that Mr. Ahmed did not recognize the key equipment, did not know how to turn on a forklift or operate it, and/or did not or did not know how to take appropriate safety precautions. Ms. LaRochelle in the email of Exhibit 11 chronicled Mr. Ahmed's lack of skill and qualifications for the role of Cycle Counter. Further in Exhibit 11 Ms. LaRochelle terminates Apollo's relationship with Hire Pursuit.

Reasons for Decision

The testimony of Ms. LaRochelle and the exhibits placed into evidence were accepted by the Panel. Ms. LaRochelle's testimony was uncontroverted. In any event, it bears mentioning that Ms. LaRochelle provided clear testimony, which to the Panel appeared to be unembellished.

Ms. Rieck was the sole proprietor of Zenith and Hire Pursuit. On 26 occasions she billed and collected \$158,372.28 plus HST for a total of \$178,960.66 from Apollo for recruitment services. Ms. Rieck would issue the request for services to Zenith or Hire Pursuit. She would then authorize the invoices to be paid by Apollo. These recruitment services were essentially the services that she was supposed to provide to Apollo as an HR Generalist. She did not disclose to Apollo that she had founded these businesses, which was a direct contravention of her Employment Agreement. In addition, the Panel found that the establishment of the agencies was a conflict of interest, and a breach of the Rules of Professional Conduct as enumerated above. Division VI of the 2010 Rules of Professional Conduct sets out the General Principle as follows:

HR Practitioners must either avoid, or disclose a potential conflict of Interest that might influence or might be perceived to influence, personal actions or judgments.

In the Panel's view Ms. Rieck has breached this General Principle and the sub rules which follow it.

It is clear from Ms. LaRochelle's evidence that Ms. Rieck did not order the Criminal Background for Mr. Novello. This in and of itself is a breach of the Rules, however the Panel finds that on a balance of probabilities that Ms. Rieck placed the Clear Criminal Record check in Mr. Novello's file. It would not be plausible for Ms. Rieck to deliberately fail to order the Criminal Record Check as established by Ms. LaRochelle, and then have no idea on how the Clear Criminal Record check was placed in Mr. Novello's file.

With respect to the issue of Hire Pursuit i.e. Ms. Rieck proposing Mr. Mashem Ahmed as a Cycle Counter and as an operator of material handling equipment when he clearly was not qualified

for the role is a breach of the Rules of Professional Conduct. In addition to the Conflict of Interest Principles and Rules, Ms. Rieck breached Division II Principles and Rules which broadly speaking required her to adhere to statutory acts, and to not knowingly, or otherwise engage in or condone any activity that circumvents the law. Misrepresenting someone's skills and qualifications especially when it comes to the safe operation of dangerous equipment is a clear breach of the above principles and rules thereunder.

Reason for Penalty

The Panel carefully considered the submissions of the Association regarding the penalty of revocation. Given the egregiousness of the facts as set out above the Panel concluded that the only appropriate penalty was revocation of the member's membership. The Panel considered the usual principles related to penalty, including, general deterrence, specific deterrence, remediation and public confidence. The Panel is of the opinion that the factors of general deterrence and public confidence should be weighted more heavily in this case, and therefore revocation was the most appropriate penalty to achieve general deterrence and public confidence.

I, Ken Alexander, sign this Decision and Reasons as Chair of the panel of the Discipline Committee on behalf of the members of the panel that heard this matter.

Date: Apr. 4, 2017

Signed: Ken Alexander (Chair)