

**DECISION OF HEARING PANEL**  
**OF THE HEARING COMMITTEE WITH RESPECT TO JOINT SUBMISSION AND PENALTY**

In the matter of a Hearing Committee Hearing held pursuant to the *Chartered Professional Accountants Act of New Brunswick*.

**BETWEEN**

**CPA NEW BRUNSWICK**

**-and-**

**Marlene Myers, Myers & Associates**  
**RESPONDENT MEMBER AND/OR FIRM**

The hearing of the matter was held via Video Conference (Zoom) on May 29, 2023.

Attending the meeting were:

Members of the Panel:           Suzanne Tucker, FCPA, FCMA (Chair  
  Etienne LeBoeuf, CPA, CA  
  Tony Gogan, CPA, CA, CBV

Appearances:                    Joël Michaud, K.C. and Destiny Rae Grant, Student-at-Law, for  
  CPA New Brunswick

Molly C. H. Hall, representing the Respondent  
Marlene Myers, CPA, CGA, the Respondent

CPA New Brunswick:           Simrat Kaur  
  Olamide (Ola) Lawal

**Introduction**

1. This Panel of the Hearing Committee was formed under By-Law 16 of the *CPA New Brunswick By-Laws, 2021*, to inquire into the allegations against the Respondent, Marlene Myers, CPA, CGA, a member of CPA New Brunswick.
2. This Panel was informed that the parties had reached an agreement, which included an admission of guilt by Ms. Myers on the breaches set out in the Complaints Committee's decision of March 23, 2023, as well as a joint submission on sanction.

3. This Panel was informed that, in favour of an expeditious timeline, Ms. Myers had agreed to waive her right to receive a Notice of Hearing at least fourteen days before the hearing, as set out in By-Law 16.
4. The hearing was held by video conference on May 29, 2023. No objection was raised concerning the composition of the Panel nor concerning its jurisdiction to conduct the hearing.

#### **Evidence**

5. The following exhibits were entered into evidence by consent of the parties:
  - a. Exhibit 1: Decision of the Complaints Committee Panel, March 23, 2023
  - b. Exhibit 2: Joint Submission
  - c. Exhibit 3: Updated Book of Authorities of CPA New Brunswick
6. The breaches that Ms. Myers admits to are set out in the Complaints Committee's decision and concern Ms. Myers' conduct with respect to the following:
  - a. By failing to respond within a reasonable time frame to the inquiries of the Complainant, Ms. Myers failed to act in a manner which maintains the good reputation of the profession and serves the public interest, contrary to Section 201.1 of the *CPA New Brunswick Code of Professional Conduct*;
  - b. By delaying or providing incomplete information, Ms. Myers failed to, on a timely basis, supply reasonable and necessary client information to the registrant's successor upon written request of the client, co-operate with the successor on an engagement, and/or transfer promptly to the client or, on the client's instructions, to another party, all property of the client which is in the registrant's possession or control contrary to Section 303.1 and by 303.2 of the *CPA New Brunswick Code of Professional Conduct*; and
  - c. By failing to respond timely to emails, phone calls and deadlines, and not providing requested documents Ms. Myers failed to cooperate with the regulatory processes of CPA New Brunswick to promptly reply in writing to any communication from CPA New Brunswick in which a written reply is specifically required and/or promptly produce documents when required to do so by CPA New Brunswick contrary to Section 104 of the *CPA New Brunswick Code of Professional Conduct*.

#### **Recommended Sanctions**

7. CPA New Brunswick and Ms. Myers requested, by joint submission, that the Hearing Committee impose the following sanctions:

- a. Two (2) weeks' suspension;
- b. Reprimand;
- c. An order to return all documentation concerning the Complainant still in Ms. Myers' possession, including Forms T106, T1134, and T1135, be delivered to the Complainant or their current accountants no later than July 1, 2023, and that confirmation of same be provided to CPA New Brunswick on the same date. Failure to comply with this Order will result in a suspension of Ms. Myers, pursuant to s. 39(7)(c) of the Chartered Professional Accountants Act; and,
- d. Costs of \$3000 to be paid by Ms. Myers to CPA New Brunswick within 30 days of the Order.

### Hearing

8. The Panel was provided with case law to support the merits of accepting a joint submission and in support of the sanctions proposed in the joint submission, as per Exhibit 3.
9. The Panel was tasked with determining whether the parties' joint submission regarding sanctions was appropriate, reasonable, and consistent with the range of sanctions imposed in similar circumstances and that the joint submission was not contrary to the public interest: *Law Society of New Brunswick v. Cindy Sirois*, 2022; *Rault v. Law Society of Saskatchewan*, 2009 SKCA 81.
10. The Panel was referred to *R. v. Steeves*, 2010 NBCA 57, in which the New Brunswick Court of Appeal stated that:

[31] ... a proposed disposition ought to be rejected only if it is so off the mark that its adoption by the court would bring the administration of justice into disrepute or would otherwise be contrary to the public interest.
11. Ms. Myers was sworn in as a witness by Ms. Hall, and provided testimony to provide additional context related to the complaint. Ms. Myers responded to questions posed by the Panel.
12. After hearing all parties, the Panel withdrew to consider the facts and evidence presented.

### Decision

13. Having regard to the testimony presented at the Hearing, and based on the evidence presented above, the Hearing Panel finds that the Respondent has engaged in the allegations set out in the Complaint Committee's Decision, as noted in Exhibit 1.
14. The Panel determined that the joint submission should be accepted in this case.

15. The Panel determined that the joint submission is reasonable and consistent with the public interest and that the recommended sanctions are appropriate given Ms. Myers' conduct.

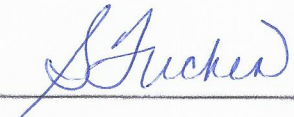
**Discipline**

16. The Panel finds Ms. Myers guilty of conduct deserving of sanction and guilty of the breaches set out in the Complaints Committee's Decision.

17. Therefore, the Panel of the Hearing Committee of CPA New Brunswick unanimously orders as follows:

- a. Two (2) weeks' suspension pursuant to section 39(12)(a) of the Act, effective May 29, 2023;
- b. Reprimand pursuant to section 39(12)(f) of the Act;
- c. An order to return all documentation concerning the Complainant still in Ms. Myers' possession, including Forms T106, T1134, and T1135, be delivered to the Complainant or their current accountants no later than July 1, 2023, and that confirmation of same be provided to CPA New Brunswick on the same date. Failure to comply with this Order will result in a suspension of Ms. Myers, pursuant to s. 39(7)(c) of the Chartered Professional Accountants Act; and,
- d. Costs of \$3000 to be paid by Ms. Myers to CPA New Brunswick within 30 days of the Order pursuant to section 56(1)(a) of the Act.

**DATED this 29<sup>th</sup> day of May, 2023.**



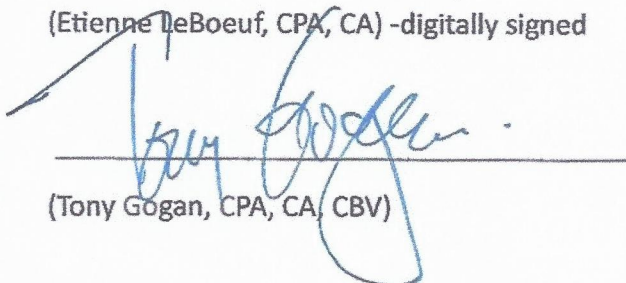
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(Chair – Suzanne Tucker, FCPA, FCMA)



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(Etienne LeBoeuf, CPA, CA) -digitally signed



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(Tony Gogan, CPA, CA, CBV)