

## INQUIRY COMMITTEE RECORD OF DECISION

**FILE NAME: DH1306**

### **FACTS**

On May 23, 2013, the College received a complaint alleging that the Registrant contravened the College's Code of Ethics by failing to follow the *University Act* and regulations and university policies in the manner in which (s)he dealt with the Complainant regarding an issue concerning academic misconduct. The Complainant also alleged that the Registrant contravened the *Freedom of Information and Protection of Privacy Act* (FOIPPA).

By letter dated June 7, 2013, the Registrar of the College notified the Registrant of the complaint and invited a response in accordance with s. 33(5) of the *Health Professions Act*, RSBC 1996, c. 183 (the "Act"). On June 25, 2013, the College office received a response from legal counsel for the Registrant in response to the complaint.

### **COMMITTEE DECISION**

At the conclusion of the investigation, the Inquiry Committee determined that the complaint under the *Health Professions Act* was frivolous within the meaning of s. 33(6)(a) in terms of being groundless and lacking in substance. The Inquiry Committee concluded that the College does not have jurisdiction over the conduct of University faculty in the administration of their statutory and administrative powers with respect to academic matters. As the subject matter of the complaint related to the internal university process for addressing academic misconduct, it was not reviewable by the College. The Inquiry Committee also determined that it lacks jurisdiction to consider whether the Registrant contravened the FOIPPA as there is a separate regulatory scheme for the administration of that legislation. The Inquiry Committee determined that the allegation that the Registrant made false statements in his/her statement of defence in litigation commenced by the Complainant was equally misconceived as the validity of the defence will be determined in the Supreme Court trial. The Inquiry Committee determined that it could not, and would not, interject itself into that process.

The Inquiry Committee also determined that the complaint was vexatious within the meaning of s. 33(6)(a) of the *Act*. After acknowledging that portions of the Complainant's assignment were plagiarized, (s)he availed her/himself of the internal university appeal process and then entered a settlement agreement. The terms of the settlement agreement permitted the Complainant to redo the assignment. The Complainant's failure to pass the supplemental assignment apparently fueled the dispute with the Registrant resulting in litigation. Having regard to all the circumstances, including the long history of this dispute, the Complainant's admission of academic misconduct, the settlement agreement, the litigation, and the Complainant's inflammatory allegations regarding the Registrant's conduct, and the Complainant's statement that (s)he was seeking "professional consideration and support," the Inquiry Committee concluded that the filing of this complaint was an abuse of the complaint process under the *Health Professions Act*, which was intended to embarrass and harass the Registrant.

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**RELEVANT PROVISION OF ACT, REGULATION, OR BYLAWS:** *Act*, section 33(1); 33(5); 33(6)(a); *Bylaws*, 70

**STATUS:** Closed

**LEGISLATIVE AUTHORITY:** *Health Professions Act* s 33