

ACO Board Meeting held by teleconference

Friday July 14, 2017

- Present:** Richard Hubley, Ralf MacGrady, Martin Lee, Kim Bouffard, Jane Ramrekha, Marc Leblanc, Richard Roulx, Lauren Kennedy, Melissa Godwaldt
- Quest:** Alexa Sulzenko, Lawyer, Partner, Filion Wakely Thorup Angeletti LLP
- Regrets:** Jean Chenier, Lynne Cioppa (asked to not participate due to conflict of interest.)

Meeting chaired by Kim Bouffard and started meeting at 7:00 p.m.

Reviewed the Options from the Lawyer Alexa Sulzenko and HR specialist, Ontario AIDS Network, Tracey Campbell.

Length of time it has taken to make a decision. Gave back ground of length of time you are good. Know that time line you are moving fairly well.

Kim: He's provided us with a cheque, we did accept it, but didn't cash it. What advice do you have for us? Should we cash it?

Alexa: I think you can cash it. He's acknowledged that he has misappropriated the funds. As long as no one told him, or he's not under the impression that if he pays the money back, then this situation goes away.

Richard R.: I have reason to believe that when Khaled came to Lynne initially, before this was brought to the Exec that Lynne's first reaction was to tell him not to pay it and that we can make this go away. Obviously, once she brought it forward to the Exec, she understood.

Lauren: Does that even matter if it's not in writing?

Alexa: It's possible that he could use that in court, and he would bring that up. So maybe we hold off on cashing the cheque at this point. The deal is, you resign, we cash this cheque etc etc. - That the lawyer followed up regarding cashing the cheque suggesting that we don't cash it and that we incorporate this into the resignation letter

Lauren: How do we explain this to our funders?

Kim: Lynne sent the email that explained us asking for an extension and the funder has asked for a phone call. They managed to postpone it until Monday.

Alexa: Ideally, as soon as you have the results of an investigation, you act on them. When were the results of the investigation made known to the board? What you don't want to have happen is weeks of inaction.

Kim: It was brought to the entire board on July 5th. We first met with the auditor, then we had a full board meeting on July 5th.

Richard R.: It's the HR specialist who warned us that we may creating grounds for a "constructive dismissal" lawsuit.

Alexa explained this term: there have been significant changes to my terms of employment, and therefore I've been fired. For Khaled, this may be deemed to be taking place because he is being left in limbo and it's getting to the point where his reputation is at stake.

Jane asked what other options we could have presented him with

We could have just accepted the cheque and accepted him back in the agency – this would have put us at risk for condoning the behavior.

We could have offered him a financial payout entitlement according to the Employment Standards Act and terminate him without cause – (8 weeks' pay and continuation of benefits) – if we did this then we could induce him to sign a release. Alexa does not recommend this in our situation because of the seriousness of this situation. However, if he takes the papers we give him to a lawyer, and then comes back and asks for a settlement, then we could discuss that at that time.

Kim: can we induce him to sign the release by mentioning to him that we are not pursuing criminal action.

Alexa: we are prepared to consider mutual releases. Which means we are releasing him from legal action being taken from the organization. The drawback is that if we find out later that this went further than we thought (maybe he took more money than what we know about) then we have already signed a release which means we can't go after him for that.

Jane: What if he does come back to us with a counter offer?

Alexa: you come back to me. I will look at it and give a recommendation. It's not a bad scenario if he goes to a lawyer. A lawyer would likely advise him that she should not be too aggressive given what he has already admitted to.

If we are terminating with cause, then we are saying that he has no entitlements. But he could go to court and say that they condoned the behavior and therefore, he feels he should get entitlements.

Board Members were asked to select which decision we are more comfortable with:

1. Termination without Cause, offer of resignation: Marc, Richard R, Mel, Martin, Kim, Jane, Richard H, Lauren,
2. Termination with Cause:

Question if you need a formal motion to vote on option one. Richard H, said that the motion would read consensus to go with option one since one wanted option two, but could live with option one.

Alexa would draft the letters and send them to the Board. There would then be a meeting with at least two members to attend and those members would present him with the options and you would give him anywhere between 1 day – 1 week to make a decision.

Jane: In the letter, do we offer mutual release?

Alexa: My sense from this conversation is that we would not initially offer mutual release, but it is up to you.

Richard R.: We need to give ourselves room for negotiation. What is the best deal for us? If he signs it, great, but if not, we need something to negotiate with.

Kim: what would be a reasonable timeline? Who would represent us in that meeting with Khaled? Would Alexis also provide us with some guidelines for the meeting?

Alexis: I will draft the letters and get them to you tomorrow, then you guys decide who will be present at the meeting.

Richard R.: Since Kim and Richard H have been the ones talking to him so far, I propose that you be the ones who meet with Khaled.

Alexis: I will send the draft to Marc and then if there are any changes, just let Alexis know. Then I will also give guidance to those who attend the meeting as well.

Alexis left the call at 20:00 hours.

Kim asked if everyone is comfortable with her and Richard moving forward and having the meeting with Khaled.

We agreed to the following:

- Alexis will draft the letter tomorrow and share it with the board- outlining the options above
- We will review it quickly and get it back to her
- We want to give Khaled a couple of days notice, give him notice of tomorrow of the meeting. Meet with him on Thursday July 13th and give him the letter, then he would be provided until Tuesday July 18th at 12PM to provide us with a decision.
- Kim and Richard Hubley will represent the Board and ACO with Khaled in the conversation and presentation of letters

We agreed to meet as a board again on Friday July 14th at 5:30pm by Teleconference call. Will update on Operational Issues and Discuss the Co-Chairs. Jane to look at Draft Audit Report and make a recommendation to where to put the payment from Khaled Reimbursement cheque.

Meeting ended at 8:20 p.m.

Approved by:

_____ (Executive Board Member) _____ (Date)

_____ (Executive Board Member) _____ (Date)