

**DECISION AND ORDER OF THE DISCIPLINE COMMITTEE OF THE
CONDOMINIUM MANAGEMENT REGULATORY AUTHORITY OF ONTARIO**

Jeff Donnelly, Chair

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November 6, 2020

B E T W E E N:

CONDOMINIUM MANAGEMENT REGULATORY AUTHORITY OF ONTARIO

- and -

AURELIA DUMITRESCU

DECISION AND REASONS

This matter came before the Chair of the Discipline Committee and Appeals Committee on November 6, 2020, for disposition without a hearing.

MANNER OF PROCEEDING

The parties served and filed a Consent to Draft Order and Waiver of Hearing Requirements document which states that the CMRAO and the Licensee:

1. Consent to the disposition of the matter without a hearing in accordance with Rule 2.04 of the Rules of Practice before the Discipline Committee and Appeals Committee (the “**Rules of Practice**”); and

2. Waive the requirement for a hearing in accordance with section 4.1 of the *Statutory Powers Procedures Act*, RSO 1990, c. S.22, and the requirement for a full Panel in

accordance with section 4.2.1 of the *Statutory Powers Procedures Act*, RSO 1990, c. S.22 (the “**SPPA**”).

After considering the Consent to Draft Order and Waiver of Hearing Requirements Document, the Agreed Statement of Facts and Admission to Failing to Comply with the Code of Ethics, the Joint Submission as to Penalty, the written submissions of the CMRAO and the relevant provisions of both the Rules of Practice and the SPPA, I determined that this matter could be disposed of without a hearing. In particular, for the reasons set out below, I determined that the proposed disposition appears to be in the public interest and consistent with the Act and regulations, and ordered accordingly.

THE ALLEGATIONS

The Statement of Allegations contained the following particulars and allegations:

The Licensee

1. At all material times, Aurelia Dumitrescu (the “**Licensee**”) held a condominium manager General Licence issued under the *Condominium Management Services Act, 2015* (the “**CMSA**”).
2. From in or around July 2016 to in or around October 2019, the Licensee worked at a property management company (the “**Management Company**”).
3. At the material times, the Licensee managed Condominium Corporation #1, Condominium Corporation #2, and Condominium Corporation #3 in Peel, Ontario (the “**Corporations**”).

The Landscaping Company

4. On or about June 20, 2018, a landscaping company, Shade Tree Landscaping Inc. (“**Shade Tree Landscaping**”) was incorporated.

5. In or around August 2018, Condominium Corporation #1 entered into a contract with Shade Tree Landscaping for services. The contract was terminated in or around October 2019.
6. In or around August 2018, Condominium Corporation #2 entered into a contract with Shade Tree Landscaping for services. The contract was terminated in or around November 2019.
7. In or around August 2018, Condominium Corporation #3 entered into a contract with Shade Tree Landscaping for services. The contract was terminated in or around late 2019 or early 2020.
8. It is alleged that the Licensee was an officer and director of Shade Tree Landscaping. It is further alleged that the Licensee had a close, personal relationship with a director of Shade Tree Landscaping, who was also the directing mind of Shade Tree Landscaping.

Conflict of Interest

9. In or around June and July 2018, Corporations #1, #2 and #3 each engaged in a procurement process for a landscaping contract. The Licensee obtained quotes from three different landscaping vendors, including Shade Tree Landscaping, to present to the Corporations.
10. It is alleged that the Licensee recommended Shade Tree Landscaping to the Corporations as the preferred vendor.
11. It is alleged that the Licensee failed to disclose her affiliation with and/or her interest in Shade Tree Landscaping to the Corporations or to the Management Company during the procurement process and/or during the time that Shade Tree Landscaping provided services to the Corporations.

Alleged Violations of the Code of Ethics

12. It is alleged that the above conduct constitutes a failure to comply with the Code of Ethics under clause 58(1) of the *CMSA*, and as defined in one or more of the following sections of Part I of Ontario Regulation 3/18 to the *CMSA*:

- (a) **Section 3:** Treating every person that the licensee deals with in the course of offering or providing condominium management services fairly, honestly and with integrity; and/or
- (b) **Section 5:** In providing condominium management services, providing conscientious, courteous and responsive service and demonstrating reasonable knowledge, skill, judgment and competence; and/or
- (c) **Section 10:** In offering or providing condominium management services, using the licensee's best efforts to prevent error, misrepresentation, fraud or any unethical practice; and/or
- (d) **Section 11:** Engaging in any act or omission that, having regard to all of the circumstances, would reasonably be regarded as disgraceful, dishonourable, unprofessional or unbecoming a licensee; and/or
- (e) **Section 13:** Promoting and protecting the best interests of the licensee's clients.

AGREED STATEMENT OF FACTS

By Agreed Statement of Facts and Admission to Failing to Comply with Code of Ethics, signed November 4, 2020, the parties to this proceeding agree that the following facts may be accepted as true by me and by the Discipline Committee of the CMRAO:

The Licensee

1. At all material times, Aurelia Dumitrescu, (the "**Licensee**") held a condominium manager General License issued under the *Condominium Management Services Act, 2015* (the "**CMSA**").
2. From in or around July 2016 to in or around October 2019, the Licensee worked at a property management company (the "**Management Company**").
3. At the material times, the Licensee managed Condominium Corporation #1, Condominium Corporation #2, and Condominium Corporation #3 in Peel, Ontario (the "**Corporations**").

The Landscaping Company

4. On or about June 20, 2018, a landscaping company, Shade Tree Landscaping Inc. ("**Shade Tree Landscaping**") was incorporated.
5. In or around August 2018, Condominium Corporation #1 entered into a contract with Shade Tree Landscaping for services. The contract was terminated in or around October 2019.
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7. In or around August 2018, Condominium Corporation #3 entered into a contract with Shade Tree Landscaping for services. The contract was terminated in or around late 2019 or early 2020.
8. It is agreed that the Licensee was an officer and director of Shade Tree Landscaping. It is further agreed that the Licensee had a close, personal relationship with a director of Shade Tree Landscaping, who was also the directing mind of Shade Tree Landscaping.

Conflict of Interest

9. In or around June and July 2018, Corporations #1, #2 and #3 each engaged in a procurement process for a landscaping contract. The Licensee obtained quotes from three different landscaping vendors, including Shade Tree Landscaping, to present to the Corporations.
10. It is agreed that the Licensee recommended Shade Tree Landscaping to the Corporation as the preferred vendor.
11. It is agreed that the Licensee failed to disclose her affiliation with and/or her interest in Shade Tree Landscaping to the Corporations or to the Management Company during the procurement process and/or during the time that Shade Tree Landscaping provided services to the Corporations.

Admission to Failing to Comply with the Code of Ethics

12. By this document, the Licensee admits to the truth of the facts referred to paragraphs 1 to 11 above (the "**Agreed Facts**").
13. The Licensee admits that the Agreed Facts constitute a failure to comply with the

Code of Ethics under clause 58(1) of the *CMSA*, and as defined in the following sections of Ontario Regulation 3/18:

- (a) **Section 3:** Treating every person that the licensee deals with in the course of offering or providing condominium management services fairly, honestly and with integrity
- (b) **Section 5:** In providing condominium management services, providing conscientious, courteous and responsive service and demonstrating reasonable knowledge, skill, judgment and competence;
- (c) **Section 10:** In offering or providing condominium management services, using the licensee's best efforts to prevent error, misrepresentation, fraud or any unethical practice;
- (d) **Section 11 :** Engaging in any act or omission that, having regard to all of the circumstances, would reasonably be regarded as disgraceful, dishonourable, unprofessional or unbecoming a licensee; and
- (e) **Section 13:** Promoting and protecting the best interests of the licensee's clients.

MEMBER'S PLEA

The Member's plea inquiry is included in the Agreed Statement of Facts and Admission to Failing to Comply with Code of Ethics document. Through that document, the Licensee states that she:

- a) understands the nature of the allegations made against her;
- b) admits to the truth of the facts contained in the Agreed Statement of Facts and that the admitted facts constitute a failure to comply with the Code of Ethics;
- c) understands that by signing the document she is consenting to the evidence as set out in the Agreed Statement of Facts being presented to the Discipline Committee;

- d) understands that by admitting the allegations, she is waiving her right to require the CMRAO to prove the allegations against her at a contested hearing;
- e) Understands that the decision of the Discipline Committee and a summary of its reasons, including reference to her name, will be published on CMRAO's website and will be made available to the public in any other manner that the Registrar considers appropriate;
- f) understands that any agreement between her and the CMRAO with respect to the penalty proposed does not bind the Discipline Committee; and
- g) Understands and acknowledges that she is executing the document voluntarily, unequivocally, free of duress, free of bribe and that she has been advised of her right to seek legal advice.

DECISION ON FINDING

1. Having reviewed and considered the Statement of Allegations, the Agreed Statement of Facts and Admission to Failing to Comply with Code of Ethics, and the submissions of counsel for the CMRAO, the Chair of the Discipline Committee considers that the facts in the Agreed Statement of Facts (acknowledged by the Member and counsel for the CMRAO to be accurate) the Licensee's admission and plea, support a finding that the Licensee breached subsections 3, 5, 10, 11, 13 of the Code of Ethics under clause 58(1) of the CMSA, and as defined in Ontario Regulation 3/18. In summary, I find that the Licensee failed to comply with the Code of Ethics under the CMSA, as alleged in the Statement of Allegations.

PENALTY

The parties submitted a Joint Submission as To Penalty in which the parties agreed and submitted that an appropriate order to make as a penalty would be for the Licensee to pay the CMRAO a fine in the amount of \$3,500 within three months of the date of the Order in this case.

The parties also submitted a Consent to Draft Order and Waiver of Hearing Requirements, which included as Schedule "A" a Draft Order imposing the above penalty.

REASONS AND DECISION ON PENALTY

Having reviewed and considered the Joint Submission as to Penalty, the Consent to Draft Order and Waiver of Hearing Requirements and the submissions of counsel for the CMRAO, I agreed to accept and to impose the Penalty requested by the parties. In accepting and imposing the penalty proposed by the parties, I applied the guidance of the Supreme Court of Canada in *R v Anthony-Cook*, 2016 SCC 43 at para 32, which establishes that joint submissions should only be rejected if the agreement "would bring the administration of justice into disrepute or is otherwise contrary to the public interest." I am of the view that the proposed disposition in this case is in the public interest.

The proposed penalty is appropriate having regard to the primary principles of sanction that apply to any order on penalty. Those principles are public protection, specific deterrence, general deterrence, as well as the potential for remediation. Specific deterrence is intended to ensure that the specific licensee will not engage in misconduct again, while general deterrence is intended to inform other licensee of the type of penalty that may be ordered should they commit similar acts.

The proposed penalty is also appropriate having regard to the overriding purpose of professional

discipline proceedings, which is to protect the public interest. In addition, it is important to maintain the public's confidence in the ability of the CMRAO and its discipline process to govern the professional conduct of its licensees. A fine serves the goal of both specific and general deterrence, and is in the public interest. It sends a message to the public and the profession that sanctions may be ordered for this type of conduct and also sends a message to the Licensee not to engage in this type of conduct again. The proposed fine also takes into account the mitigating factors in this case, namely that the Licensee has cooperated with the discipline process and admitted her misconduct.

In accepting the proposed penalty, I have also noted the supporting case law cited by counsel for the CMRAO in her submissions (including [RECO v Bola](#) (2019); [OMVIC v Northfield Auto Service Ltd. and Kevin Ropp](#) (2019)) which demonstrates that the quantum of the fine falls within the range of fines ordered by the Discipline Committees of other regulators for similar conduct involving conflict of interest and lack of disclosure.

Accordingly, I make the following Order: The Licensee is required to pay the CMRAO a fine in the amount of \$3,500 within three months of the date of this Order.

Date: January 21, 2021

A handwritten signature in black ink, appearing to read 'Jeff Donnelly', written in a cursive style.

Jeff Donnelly, Chair

CONDOMINIUM MANAGEMENT REGULATORY AUTHORITY OF ONTARIO

- and -

AURELIA DUMITRESCU

**DISCIPLINE COMMITTEE OF THE
CONDOMINIUM MANAGEMENT REGULATORY
AUTHORITY OF ONTARIO**

DECISION AND ORDER OF THE CHAIR