

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

Jeff Donnelly, Chair

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February 26, 2021

B E T W E E N:

CONDOMINIUM MANAGEMENT REGULATORY AUTHORITY OF ONTARIO

- and -

ELENA SCHNEIDER

DECISION AND REASONS

This matter came before the Chair of the Discipline Committee and Appeals Committee on January 25, 2021 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, Elena Schneider (the “Licensee”) held a condominium manager General Licence issued under the *Condominium Management Services Act, 2015* (the “CMSA”).
2. From in or around November 2009 to in or around October 2019, the Licensee worked at a property management company (the “Management Company”).
3. From in or around April 2013 to in or around October 2019, the Licensee was a Regional Manager with the Management Company, which position required the Licensee to oversee condominium corporations (the “Corporations”) and supervise property managers.

The Contracting Companies

4. On or about May 2, 2007, a contracting company, 1734047 Ontario Inc. (“1734047”) was incorporated.
5. From in or around February 2018 to in or around December 2019, 1734047 provided services to approximately 42 of the Corporations and submitted to the Management Company approximately 199 invoices for those services, totalling approximately \$237,920.48.

6. The Licensee's spouse was the sole officer and director of 1734047. The registered office address of 1734047 is the same address as the Licensee's private residence.
7. The Licensee's spouse also provided services through another contracting company, Intact Renovations & Contracting Inc. ("Intact").
8. From in or around April 2018 to in or around December 2018, Intact provided services to approximately 3 of the Corporations and submitted to the Management Company approximately 7 invoices for those services, totalling approximately \$18,946.71.

The Cleaning Business

9. At the material times, Perfect Cleaning & Maintenance ("Perfect Cleaning") was a sole proprietorship offering cleaning services operated by an individual, EJS.
10. From in or around February 2018 to in or around May 2020, Perfect Cleaning provided services to approximately 14 of the Corporations and submitted to the Management Company approximately 71 invoices for those services, totalling approximately \$106,701.77.
11. It is alleged that the Licensee had a close, personal relationship with EJS and/or that EJS was the tenant of the Licensee. It is further alleged that the mailing address on the Master Business Licence of Perfect Cleaning was the same address as the Licensee's private residence.

Conflict of Interest

12. It is alleged that the Licensee recommended the contracting services of her spouse and/or 1734047 to the property managers of the Corporations.
13. It is alleged that the Licensee recommended the cleaning services of Perfect Cleaning to the property managers of the Corporations.
14. It is alleged that the Licensee performed work for 1734047 during the time that 1734047 provided services to the Corporations.
15. It is alleged that the Licensee performed work for Perfect Cleaning during the time that Perfect Cleaning provided services to the Corporations.
16. It is alleged that the Licensee disclosed to her spouse and/or to 1734047 and/or to Intact invoices and/or quotes from other service providers that the Management Company had received.
17. It is alleged that the Licensee failed to disclose her affiliation with and/or her interest in 1734047 to the Corporations or to the Management Company at the time of her

recommendations and/or during the time that 1734047 provided services to the Corporations.

18. It is alleged that the Licensee failed to disclose her affiliation with and/or her interest in Intact to the Corporations or to the Management Company when she recommended her spouse's services and/or during the time that Intact provided services to the Corporations.
19. It is alleged that the Licensee failed to disclose her affiliation with and/or her interest in Perfect Cleaning to the Corporations or to the Management Company at the time of her recommendations and/or during the time that Perfect Cleaning provided services to the Corporations.

Alleged Violations of the Code of Ethics

20. 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 January 13, 2021, 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, Elena Schneider (the "Licensee") held a condominium manager

General Licence issued under the *Condominium Management Services Act, 2015* (the “CMSA”).

2. From in or around November 2009 to in or around October 2019, the Licensee worked at a property management company (the “Management Company”).
3. From in or around April 2013 to in or around October 2019, the Licensee was a Regional Manager with the Management Company, which position required the Licensee to oversee condominium corporations (the “Corporations”) and supervise property managers.

The Contracting Companies

4. On or about May 2, 2007, a contracting company, 1734047 Ontario Inc. (“1734047”) was incorporated.
5. From in or around February 2018 to in or around December 2019, 1734047 provided services to approximately 42 of the Corporations and submitted to the Management Company approximately 199 invoices for those services, totaling approximately \$237,920.48.
6. The Licensee’s spouse was the sole officer and director of 1734047. The registered office address of 1734047 is the same address as the Licensee’s private residence.
7. The Licensee’s spouse also provided services through another contracting company, Intact Renovations & Contracting Inc. (“Intact”). The Licensee’s spouse was not an owner of Intact, nor did he have an ownership interest in Intact. He provided project management services to Intact through 1734047.
8. From in or around April 2018 to in or around December 2018, Intact provided services to approximately 3 of the Corporations and submitted to the Management Company approximately 7 invoices for those services, totaling approximately \$18,946.71.

The Cleaning Business

9. At all material times, Perfect Cleaning & Maintenance (“Perfect Cleaning”) was a sole proprietorship offering cleaning services operated by an individual, EJS.
10. From in or around February 2018 to in or around May 2020, Perfect Cleaning provided

services to approximately 14 of the Corporations and submitted to the Management Company approximately 71 invoices for those services, totalling approximately \$106,701.77.

11. It is agreed that the Licensee had a close, personal relationship with EJS and that EJS was the tenant of the Licensee. It is further agreed that the mailing address on the Master Business Licence of Perfect Cleaning was the same address as the Licensee's private residence.

Conflict of Interest

12. It is agreed that the Licensee recommended the contracting services of her spouse and 1734047 to the property managers of the Corporations.
13. It is agreed that the Licensee recommended the cleaning services of Perfect Cleaning to the property managers of the Corporations.
14. It is agreed that the Licensee performed work for 1734047 during the time that 1734047 provided services to the Corporations. There is no evidence that the Licensee was compensated for this work.
15. It is agreed that the Licensee performed work for Perfect Cleaning during the time that Perfect Cleaning provided services to the Corporations. There is no evidence that the Licensee was compensated for this work. She assisted EJS because he neither owns nor knows how to operate a computer.
16. It is agreed that the Licensee disclosed to her spouse invoices and quotes from other service providers that the Management Company had received.
17. It is agreed that the Licensee disclosed her affiliation with 1734047 to a number of the property managers to whom she recommended the services of 1734047. There is no evidence that the Licensee ever pressured the property managers reporting to her to utilize the services of 1734047. A number of the property managers developed an independent relationship with the Licensee's spouse and would contact him independently of the Licensee.
18. However, it is agreed that the Licensee generally failed to disclose her affiliation with in 1734047 to the Corporations or to the Management Company at the time of her

recommendations and during the time that 1734047 provided services to the Corporations.

19. It is agreed that the Licensee failed to disclose that her spouse worked for Intact to the Corporations or to the Management Company when she recommended her spouse's services and during the time that Intact provided services to the Corporations.
20. It is agreed that the Licensee failed to disclose her affiliation with Perfect Cleaning to the Corporations or to the Management Company at the time of her recommendations and during the time that Perfect Cleaning provided services to the Corporations.
21. It is agreed, however, that the Licensee disclosed her affiliation with Perfect Cleaning to some of the property managers to whom she recommended Perfect Cleaning's services.

Admission to Failing to Comply with the Code of Ethics

22. By this document, the Licensee admits to the truth of the facts referred to in paragraphs 1 to 21 above (the "Agreed Facts").
23. 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 Licensee's admission 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 above noted sections of Ontario Regulation 3/18, is included in the Agreed Statement of Facts and Admission to Failing to Comply with Code of Ethics document. That document also contains (at paragraph 24) a plea inquiry , in which the Licensee states that :

- (a) she understands the nature of the allegations made against her;
- (b) she admits to the truth of the facts contained in this Agreed Statement of Facts and that the admitted facts constitute a failure to comply with the Code of Ethics;
- (c) she understands that by signing this document she is consenting to the evidence as set out in the Agreed Statement of Facts being presented to the Discipline Committee;
- (d) she 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) she understands that the decision of the Discipline Committee, a summary of the agreed facts, and any reasons of the Discipline Committee, 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) she understands that any agreement between her and the CMRAO with respect to the penalty proposed does not bind the Discipline Committee; and
- (g) she understands and acknowledges that she is executing this 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

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 Licensee 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 to penalty would be for the Licensee to pay the CMRAO a fine in the amount of \$8,000 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 decided 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 licensees of the type of penalty that may be ordered should they commit similar acts (and deter them from doing so).

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 *Condominium Management Regulatory Authority of Ontario v Aurelia Dumitrescu* (2020); *Real Estate Council of Ontario v Robertson* (2019); *Real Estate Council of Ontario v Zeynalov* (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 \$8,000 within three months of the date of this Order.



Date: February 26, 2021

Jeff Donnelly, Chair

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

DECISION AND ORDER OF THE CHAIR