

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

Jeff Donnelly, Chair

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May 8, 2021

B E T W E E N:

CONDOMINIUM MANAGEMENT REGULATORY AUTHORITY OF ONTARIO

- and -

BRUNO ZAFFINO and NEW CITY PROPERTY MANAGEMENT INC.

**DECISION AND REASONS**

This matter came before the Chair of the Discipline Committee and Appeals Committee on May 6, 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 Licensees**

1. At all material times, Bruno Zaffino (“Mr. Zaffino”) held a condominium manager Transitional General Licence issued under the Condominium Management Services Act, 2015 (the “CMSA”).
2. At all material times, New City Property Management Inc. (“New City”) held a Condominium Management Provider Licence issued under the CMSA.
3. At all material times, Mr. Zaffino was the Principal Condominium Manager and sole officer and director of New City.
4. From on or about January 1, 2019 to on or about January 31, 2020, New City and/or Mr. Zaffino managed a condominium corporation in Toronto, Ontario (the “Corporation”).

### **The Landscaping Company**

5. On or about January 29, 2016, a landscaping company, 2502511 Ontario Corp. (“Land-Corp”) was incorporated. At all material times, Mr. Zaffino was the sole officer and director of Land-Corp.

6. On or about April 15, 2019, the Corporation entered into a contract with Land-Corp for landscaping services (the "Contract"). The Contract specified that the monthly fee for the landscaping services was \$1,610.00 plus HST.
7. Mr. Zaffino signed the Contract on behalf of the Corporation.

**Failing to Obtain Board Approval and Conflict of Interest**

8. It is alleged that New City and/or Mr. Zaffino entered into the Contract without the knowledge or approval of the Board of Directors of the Corporation, contrary to New City's management agreement with the Corporation, which required condominium managers to obtain approval of the Board of Directors for any expenditures involving an amount in excess of \$500.00.
9. It is alleged that New City and/or Mr. Zaffino failed to disclose their affiliation with and/or their interest in Land-Corp to the Corporation prior to entering into the Contract and/or during the time that Land-Corp provided services to the Corporation.

**Alleged Violations of the Code of Ethics**

10. 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.

### **Permitting an Unlicensed Individual to Provide Condominium Management Services**

- 11. It is alleged that from in or around November 2019 to on or about January 31, 2020, New City and/or Mr. Zaffino employed an unlicensed individual, DB, who provided condominium management services to the Corporation and/or performed one or more functions for which licensing is required.
- 12. It is alleged that New City and/or Mr. Zaffino knew or ought to have known that DB was providing condominium management services to the Corporation or performing functions for which licensing is required without holding a licence issued under the CMSA.

### **Alleged Violations of the Code of Ethics**

- 13. 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 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
  - (b) 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.

### **AGREED STATEMENT OF FACTS**

By Agreed Statement of Facts and Admission to Failing to Comply with Code of Ethics, signed March 2, 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:

14. At all material times, Mr. Zaffino holds a condominium manager Transitional General Licence issued under the CMSA. New City Property Management Inc. ("New City") holds a Condominium Management Provider Licence issued under the CMSA. Mr. Zaffino is the Principal Condominium Manager and sole officer and director of New City.
15. At all material times, Mr. Zaffino was also the sole officer and director of a landscaping company, 2502511 Ontario Corp.
16. From on or about January 1, 2019 to on or about January 31, 2020, New City and Mr. Zaffino managed a condominium corporation in Toronto, Ontario (the "Corporation").

#### **The Landscaping Company**

17. On or about January 29, 2016, a landscaping company, 2502511 Ontario Corp. ("Land-Corp") was incorporated. At all material times, Mr. Zaffino was the sole officer and director of the Land-Corp.
18. On or about April 15, 2019, the Corporation entered into a contract with Land-Corp for landscaping services (the "Contract"). The Contract specified that the monthly fee for the landscaping services was \$1,610.00 plus HST.
19. Mr. Zaffino signed the Contract on behalf of the Corporation.

#### **Failing to Obtain Board Approval and Conflict of Interest**

20. It is agreed that New City and Mr. Zaffino entered into the Contract without the prior knowledge or approval of the Board of Directors of the Corporation, contrary to New City's management agreement with the Corporation, which required condominium managers to obtain approval of the Board of Directors for any expenditures involving an amount in excess of \$500.00.

21. It is agreed that New City and Mr. Zaffino failed to disclose their affiliation with or their interest in Land-Corp to the Corporation prior to entering into the Contract or during the time that Land-Corp provided services to the Corporation.

**Permitting an Unlicensed Individual to Provide Condominium Management Services**

22. It is agreed that from in or around November 2019 to on or about January 31, 2020, New City and Mr. Zaffino employed an unlicensed individual, DB, who provided condominium management services to the Corporation and performed one or more functions for which licensing is required, including collecting fees from the Corporation's residents and/or owners.

23. Section 1 of the CMSA defines "condominium management services" to include "collecting or holding contributions to the common expenses or other amounts levied by, or payable to, the corporation." It is agreed that the collection of fees was not delegated to DB in writing and that DB was not exempt from holding a licence under Ontario Regulation 123/17.

24. It is agreed that New City and Mr. Zaffino ought to have known that DB was providing condominium management services to the Corporation or performing functions for which licensing is required without holding a licence issued under the CMSA.

**ADMISSION TO FAILING TO COMPLY WITH THE CODE OF ETHICS**

25. By this document, the Licensee admits to the truth of the facts referred to in paragraphs 14 to 24 above (the "Agreed Facts"). 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

26. 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, Mr. Zaffino and New City confirm that they:

- (a) understand the nature of the allegations made against them;
- (b) admit 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) understand that by signing the Agreed Statement of Facts they are consenting to the evidence as set out in the Agreed Statement of Facts being presented to the Discipline Committee;
- (d) understand that by admitting the allegations, they are waiving their right to require the CMRAO to prove the allegations against at a contested hearing;
- (e) understand that the decision of the Discipline Committee, a summary of the agreed facts, and any reasons of the Discipline Committee, including reference to their names, 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) understand that any agreement between them and the CMRAO with respect to the penalty proposed does not bind the Discipline Committee; and
- (g) understand and acknowledge that they executed the Agreed Statement of Facts voluntarily, unequivocally, free of duress, free of bribe, and that they have been advised of her right to seek legal advice.

## **DECISION ON FINDING**

27. 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 Mr. Zaffino, New City 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**

28. 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 \$5,000 within three months of the date of the Order in this case.

29. 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**

30. 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 agree 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.

31. 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's 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.

32. 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 Licensees 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 Licensees have cooperated with the discipline process and admitted their misconduct.

33. 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)*; *Condominium Management Regulatory Authority of Ontario v Schneider (2020)*) which demonstrates that the quantum of the fine falls within the range of fines ordered by the Discipline Committee 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 \$5,000 within three months of the date of this Order.

Date: May 8, 2021

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

Jeff Donnelly, Chair