

Toronto, Ontario (the “**Corporation**”) commencing on or about June 1, 2019.

Failure to Provide Timely Transfer of Documents

3. The Corporation terminated its agreement with Larlyn effective on or about December 31, 2019.
4. Larlyn was required to transfer to the Corporation all documents and records relating to the Corporation by January 15, 2020, pursuant to section 54 of the *Condominium Management Services Act, 2015* and section 35 of Ontario Regulation 123/17.
5. It is alleged that Larlyn failed to transfer the documents and records to the Corporation in a timely manner.
6. It is alleged that Larlyn failed to adequately respond to the Corporation’s requests relating to the transfer of documents and records.
7. The Corporation subsequently initiated a complaint with the Condominium Management Regulatory Authority of Ontario. After receiving notice of the complaint, Larlyn transferred documents and records to the Corporation on or about March 31, 2020.

Bank Accounts & Failure to Provide Timely Return of Funds

8. While Larlyn provided condominium management services to the Corporation, Larlyn held one or more bank accounts in Larlyn’s name for the benefit of the Corporation.
9. It is alleged that Larlyn used the bank accounts as the Corporation’s operating and reserve accounts. It is alleged that the Corporation did not have access to or signing authority for these bank accounts.
10. Pursuant to section 115(2) of the *Condominium Act, 1998*, condominium corporations are required to maintain one or more accounts in the corporation’s name designed as general accounts and one or more accounts in the corporation’s name designated as reserve fund accounts.
11. Pursuant to section 115(4) of the *Condominium Act, 1998*, a person who receives money for the benefit of a corporation shall deposit the money into the corporation’s operating or reserve account.
12. It is alleged that Larlyn failed to provide the funds from the bank accounts to the Corporation until on or about March 31, 2020.

Failure to Provide Competent and Responsive Service

13. It is alleged that Larlyn failed to provide competent and responsive service to the Corporation, including in or more of the following ways:
 - a. Larlyn failed to pay the invoices for the Corporation's fire protection services provider and/or failed to respond to multiple communications from the provider, resulting in the provider ceasing to provide fire protection services to the Corporation;
 - b. Larlyn failed to provide notice to a unit owner when the owner defaulted on payments on their common elements fees;
 - c. Larlyn failed to respond to the Board of Director's request for an accounting audit for the period from June 1, 2019 to December 31, 2019;
 - d. Larlyn failed to make contributions to the Corporation's reserve fund on behalf of the Corporation;
 - e. Larlyn arranged to replace the locks on the Corporation's units without authorization from the Board of Directors and/or owners;
 - f. Larlyn failed to adequately respond to communications from the Board of Directors regarding maintenance and repairs.

Alleged Violations of the Code of Ethics

14. 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 5:** In providing condominium management services, providing conscientious, courteous and responsive service and demonstrating reasonable knowledge, skill, judgment and competence; and/or
 - b. **Section 8:** A licensee shall be financially responsible in providing condominium management services; and/or
 - c. **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
 - d. **Section 13:** A licensee shall promote and protect the best interests of the licensee's clients; and/or

- e. **Section 16(1):** A licensee who has a contractual obligation to maintain, repair or protect the property or the assets, if any, of a client shall be diligent in executing these obligations.

AGREED STATEMENT OF FACTS

By Agreed Statement of Facts and Admission to Failing to Comply with Code of Ethics, signed on November 28, 2021 and December 6, 2021 (**entered as Exhibit 2**), the parties to this proceeding agree that the following facts may be accepted as true by the Discipline Committee of the CMRAO:

The Licensee

1. At all material times, Larlyn Property Management Ltd. ("**Larlyn**" or the "**Licensee**") held a Condominium Management Provider Licence issued under the *Condominium Management Services Act, 2015* ("**CMSA**").
2. Larlyn provided condominium management services to a condominium corporation in Toronto, Ontario (the "**Corporation**") commencing on or about June 1, 2019.

Failure to Provide Timely Transfer of Documents

3. The Corporation terminated its agreement with Larlyn effective on or about December 31, 2019.
4. Larlyn was required to transfer to the Corporation all documents and records relating to the Corporation by January 15, 2020, pursuant to section 54 of the *CMSA* and section 35 of Ontario Regulation 123/17.
5. It is agreed that on January 10, 2020, Larlyn transferred to the Corporation documents and records.
6. Although Larlyn transferred certain documents and records to the Corporation in January 2020, the records were incomplete.
7. The Corporation subsequently initiated a complaint with the CMRAO. After receiving notice of the complaint, Larlyn transferred documents and records to the Corporation on or about March 31, 2020.
8. It is therefore agreed that Larlyn failed to transfer the documents and records to the Corporation in a timely manner.
9. It is further agreed that Larlyn failed to adequately respond to the Corporation's requests relating to the transfer of documents and records.

Bank Accounts & Failure to Provide Timely Return of Funds

10. While Larlyn provided condominium management services to the Corporation, Larlyn held one or more bank accounts in Larlyn's name for the benefit of the Corporation.
11. It is agreed that Larlyn used the bank accounts as the Corporation's operating and reserve accounts.
12. Pursuant to section 115(2) of the *Condominium Act, 1998*, condominium corporations are required to maintain one or more accounts in the corporation's name designated as general accounts and one or more accounts in the corporation's name designated as reserve fund accounts.
13. Pursuant to section 115(4) of the *Condominium Act, 1998*, a person who receives money for the benefit of the corporation shall deposit the money into the corporation's operating or reserve account.
14. It is agreed that Larlyn failed to provide the funds from the bank accounts to the Corporation until on or about March 31, 2020.
15. Larlyn has provided an undertaking to the CMRAO to ensure that any accounts that are set up for condominium corporations are maintained in accordance with sections 115(2) and 115(4) of the *Condominium Act, 1998*.

Failure to Provide Competent and Reasonable Service

16. It is agreed that Larlyn failed to provide competent and responsive service to the Corporation, including in the following ways:
 - a. Larlyn failed to pay the invoices for the Corporation's fire protection services provider and failed to respond to multiple communications from the provider, resulting in the provider ceasing to provide fire protection services to the Corporation;
 - b. Larlyn failed to provide notice to a unit owner when the owner defaulted on payments on their common elements fees;
 - c. Larlyn failed to make contributions to the Corporation's reserve fund on behalf of the Corporation; and
 - d. Larlyn failed to adequately respond to communications from the Board of Directors regarding maintenance and repairs.
17. If a representative from Larlyn were to testify, they would state that staff changes have been made at Larlyn to address these issues and prevent them from recurring.

Admission to Failing to Comply with the Code of Ethics

18. By this document, the Licensee admits to the truth of the facts referred to in paragraphs 1 to 17 above (the “**Agreed Facts**”).
19. The Licensee admits that the Agreed Facts constitute a failure to comply with the Code of Ethics under clause 58(1) of the *CMSA* (the “**Code of Ethics**”), and as defined in the following sections of Ontario Regulation 3/18:
 - a. **Section 5:** In providing condominium management services, providing conscientious, courteous and responsive service and demonstrating reasonable knowledge, skill, judgment and competence;
 - b. **Section 11:** Engaging in any act or omission that, having regard to all of the circumstances, would reasonably be regarded as unprofessional; and
 - c. **Section 16(1):** A licensee who has a contractual obligation to manage, maintain, repair or protect the property or the assets, if any, of a client shall be diligent in executing these obligations.

LICENSEE’S PLEA

The Licensee’s plea and plea inquiry are included in the Agreed Statement of Facts. In addition, the Panel took the Licensee’s plea and administered a plea inquiry orally at the hearing. The Licensee stated that:

- a. it understands the nature of the allegations made against it;
- b. it 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. it understands that by signing this document, it is consenting to the evidence as set out in the Agreed Statement of Facts being presented to the Discipline Committee;
- d. it understands that by admitting the allegations, it is waiving its right to require the CMRAO to prove the allegations against it at a contested hearing;
- e. it understands that the decision of the Discipline Committee, a summary of the agreed facts, and any reasons of the Discipline Committee, including reference to its 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. it understands that any agreement between it and the CMRAO with respect to the penalty proposed does not bind the Discipline Committee; and
- g. it understands and acknowledges that it is executing this document voluntarily, unequivocally, free of duress, free of bribe, and that it has been advised of its right to seek legal advice.

In light of the Agreed Facts and the admissions of the Licensee, the CMRAO and the Licensee submitted that the Discipline Committee should find that the Licensee has failed to comply with the Code of Ethics.

The CMRAO sought leave to withdraw two allegations contained in the Notice of Hearing, namely: the allegations that the Licensee breached subsection 8 (“A licensee shall be financially responsible in providing condominium management services”) and subsection 13 (“A licensee shall promote and protect the best interests of the licensee’s clients”) of the Code of Ethics. The CMRAO’s counsel submitted that the remaining allegations (which were admitted by the Licensee) were sufficient to cover the substance of the ethical breaches in this case. Upon hearing those submissions and the advice of Independent Legal Counsel and on consent of the Licensee, the Discipline Panel gave leave to withdraw those allegations.

REASONS AND DECISION ON FINDING

The Chair and members of the Discipline Committee Panel reviewed and considered the Statement of Allegations (subject to the withdrawal of two allegations, noted above), the Agreed Statement of Facts and Admission to Failing to Comply with Code of Ethics, heard the submissions of counsel for the CMRAO and counsel for the Licensee, and received advice from Independent Legal Counsel.

Based upon that evidence and those submissions the Discipline Committee Panel considers that the facts in the Agreed Statement of Facts (acknowledged by the Licensee and the CMRAO to be accurate) and the Licensee’s admission and plea support a finding that the Licensee breached subsections 5, 11 and 16(1) of the Code of Ethics under clause 58(1) of the CMSA, and as defined in Ontario Regulation 3/18. With respect to subsection 11 of the Code of Ethics, the found that the Licensee’s conduct was unprofessional, as admitted in the Agreed Statement of Facts and in the Licensee’s plea. In summary, we find that the Licensee failed to comply with the Code of Ethics under the CMSA, as alleged in the Statement of Allegations as amended by the withdrawal of the allegation that the Licensee breached subsections 8 and 13 of the Code of Ethics, as explained above.

The Panel’s reasons for finding that the Licensee breached subsections 5, 11 and 16(1) of the Code of Ethics are as follows. The Panel is satisfied that the facts and admissions set out in the

Agreed Statement of Facts are sufficient to support a finding that the Licensee failed to comply with subsections 5, 11 and 16(1) of the Code of Ethics, as admitted.

PENALTY

Following the Panel's determination that the Licensee breached subsections 5, 11 and 16(1) of the Code of Ethics, the parties proceeded with the penalty phase of the hearing. The parties submitted a Joint Submission as To Penalty (marked as **Exhibit 3**) 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 one month of the date of the Order in this case. Counsel for the CMRAO also submitted a copy of the Agreed Statement of Facts and Joint Submission as to Penalty in Case File CN-001953 and the Order of the Discipline Committee dated October 28, 2021 in that matter, being *Condominium Management Regulatory Authority of Ontario v Larlyn Property Management Ltd.* (marked together as **Exhibit 4**).

REASONS AND DECISION ON PENALTY

Having reviewed and considered the Joint Submission as to Penalty (**Exhibit 3**), the materials marked as **Exhibit 4**, the submissions of counsel for the CMRAO and counsel for the Licensee and the advice of Independent Legal Counsel, the Panel decided to accept and to impose the Penalty requested by the parties. In accepting and imposing the penalty proposed by the parties, the Panel 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." The Panel was of the view that the proposed disposition in this case is in the public interest.

The proposed penalty is 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. The Panel is satisfied that the penalty meets those goals. 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 its misconduct.

The Panel notes that the Licensee has also provided an Acknowledgement and Undertaking, referenced at paragraph 15 of the Agreed Statement of Facts (**Exhibit 2**) and included as part of **Exhibit 4**, in which it undertakes to, within six months of signing the Acknowledgement and Undertaking, make the necessary arrangements to maintain any bank accounts for any condominium corporation to which it provides condominium management services in Ontario. The Undertaking also provides that the CMRAO may conduct one or more inspections to ensure Larlyn's compliance with the Acknowledgement and Undertaking. The Panel believes that such compliance inspections, allowing for monitoring by the CMRAO over the course of the next 6 months with respect to the establishment and management of bank accounts, further protect the public interest and serve as a deterrent to the Licensee, although the compliance inspection

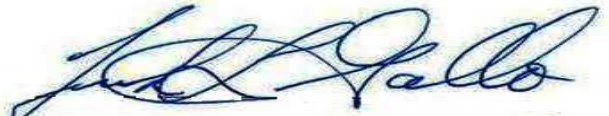
provision is not part of the proposed penalty, since it is included in the Acknowledgement and Undertaking.

In accepting the proposed penalty (and concluding that it falls within the reasonable range for penalties for analogous misconduct), the Panel considered the supporting case law cited by counsel for the CMRAO in her submissions, including the Order in *Condominium Management Regulatory Authority of Ontario v Larlyn Property Management Ltd. (28 October 2021)*, Toronto (Discipline Committee) and the Reasons in *Condominium Management Regulatory Authority of Ontario v Aurelia Dumitrescu (2020)*; *Condominium Management Regulatory Authority of Ontario v Schneider (2020)*; and *Condominium Management Regulatory Authority of Ontario v Bruno Zaffino and New City Property Management Inc.*

While the proposed penalty (a \$5,000 fine) serves the goal of both specific and general deterrence, and is in the public interest, the Panel has some concerns that the penalties imposed may not be set high enough to act as a significant deterrent, particularly for licensees with a discipline history involving similar conduct. To deter future repeat breaches of the CMSA, the panel recommends that the CMRAO should consider stiffer penalties as we believe this will send a message to the public and the profession that significant sanctions may be ordered for this type of conduct and will also send a message to the Licensee not to engage in this type of conduct again.

However, as noted above, the Panel accepts the Joint Submission as to Penalty and makes the following Order: The Licensee is required to pay the CMRAO a fine in the amount of \$5,000 within one month of the date of this Order.

Date: December 9, 2021



Name: Frank Gallo

Title: Chair and Public Member



Name: Allyson Ingham

Title: Panel Member, Condominium Manager



Name: Dan Fried

Title: Panel Member, Principal Condominium Manager