

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

Jeff Donnelly, Chair

)  
)  
)

March 20, 2022

B E T W E E N:

CONDOMINIUM MANAGEMENT REGULATORY AUTHORITY OF ONTARIO

- and -

MICHELE ELIZABETH MOORE

**DECISION AND REASONS**

This matter came before the Chair of the Discipline Committee and Appeals Committee on February 17, 2022 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 state 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**

3. At all material times, Michele Elizabeth Moore ("Ms. Moore") held a Condominium Manager General Licence issued under the *Condominium Management Services Act, 2015* (the "CMSA").
4. From in or around May 1, 2000, the licensee worked for a licensed condominium management provider in St. Catharines, Ontario.
5. At all material times, Ms. Moore was the Principal Condominium Manager of the licensed condominium management provider in St. Catharines, Ontario.
6. At all material times, Ms. Moore managed a condominium corporation in Stoney Creek, Ontario (the "Corporation").

### **Instructions to Commence a Legal Proceeding**

7. In or about August 2017, the Corporation instructed Ms. Moore to pursue legal action against a unit owner (the "Unit Owner") related to a frosted glass partition that was installed contrary to the Corporation's bylaws, Declaration and Rules.

8. On or about June 7, 2018, at a Board of Directors meeting, the Corporation instructed Ms. Moore to take the necessary legal action or application and to serve the Unit Owner.

**Misleading the Corporation as to the Status of a Legal Proceeding**

9. In or about June 2018 and December 2019, Ms. Moore advised the Corporation and other unit owners of the following:
  - (a) That Ms. Moore instructed the Corporation's legal counsel to bring an application to the Court regarding the frosted partition;
  - (b) That the Unit Owner denied the allegations, provided notice of intent to defend the action, and/or provided notice of a counterclaim against the Corporation; and/or
  - (c) That mediation was attempted and failed;
  - (d) That a hearing date was being scheduled and/or had been scheduled in July 2019; and
  - (e) That the legal matter had been settled in December 2019 and that the Court ordered the Unit Owner to remove the frosting or replace the glass on the partition by April 15, 2020.
10. The information provided by Ms. Moore in paragraphs 7(b) through (e) above was false and/or misleading. In particular, while Ms. Moore instructed legal counsel to prepare a draft application record for a legal proceeding against the Unit Owner, she did not follow-up on her instructions, and no legal proceeding was in fact commenced between 2018 and 2019, the Court did not make any Order, and the matter was not settled.

**AGREED STATEMENT OF FACTS**

By Agreed Statement of Facts and Admission to Failing to Comply with Code of Ethics, signed February 17, 2022, 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:

11. **Section 3:** A licensee shall treat every person that the licensee deals with in the course of offering or providing condominium management services fairly, honestly and with integrity;

12. **Section 5:** In providing condominium management services, a licensee shall provide conscientious, courteous and responsive service and demonstrate reasonable knowledge, skill, judgment and competence;
13. **Section 10:** In offering or providing condominium management services, a licensee shall use the licensee's best efforts to prevent error, misrepresentation, fraud or any unethical practice; and;
14. **Section 12:** A licensee shall keep a client informed in a timely manner of, (a) all significant steps that the licensee takes in the course of providing condominium management services; and/or (b) information about the condition of the property or assets, if any, of the client if the licensee has a contractual obligation to manage, maintain, repair or protect the property or those assets.

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

15. By this document, the Licensee admits to the truth of the facts referred to in paragraphs 3 to 10 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) Admits to the truth of the Agreed Facts and that the Agreed Facts constitute a failure to comply with the Code of Ethics;
  - (b) Understands that by signing this document she is consenting to the evidence as set out in the Agreed Statement of Facts and Admission of Failing to Comply with the Code of Ethics being presented to the Discipline Committee;
  - (c) Understands that the decision of the Discipline Committee, the Agreed Statement of Facts, any reasons of the Discipline Committee, including reference to her name, will be published on the CMRAO's website and will be made available to the public in any other manner that the Registrar considers appropriate;

- (d) Understands that any agreement between her and the CMRAO with respect to the proposed penalty does not bind the Discipline Committee; and
- (e) Understands and acknowledges that she is executing this Agreed Statement of Facts and Admission of Failing to Comply with the Code of Ethics voluntarily, unequivocally, free of duress, free of bribe, and that she has received legal advice.

In light of the Agreed Facts and the admission of Ms. Moore, the CMRAO and Ms. Moore submit that the Discipline Committee should find that Ms. Moore failed to comply with the of Ethics.

## **MEMBER'S PLEA**

16. 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, Ms. Moore confirms 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 Agreed Statement of Facts 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 their right to require the CMRAO to prove the allegations against at a contested hearing;
- (e) understands 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) 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 acknowledge that she 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**

17. 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 Ms. Moore 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, 12 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**

18. 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 \$7,000 within three (3) months of the date of the Order in this case, and; require the Licensee to successfully complete, to the satisfaction of the Registrar and at the Licensee's expense, a personalized ethics course provided by Gail Siskind within four (4) months of the date of the Discipline Committee's Order.
19. 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

20. 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.
21. 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.
22. 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.
23. 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 Larlyn Property Management Ltd.* (2021); *OMVIC v Maple Leaf Autos Inc. and Mushtag Khan* (2015); *OMVIC v Gourov, Valeri o/a Master* (2015); and *RECO v Greg Manbeck* (2018), which demonstrates that the quantum of the fine falls within the range of

finer ordered by the Discipline Committee for similar conduct involving conflict of interest and lack of disclosure.

24. Accordingly, I make the following Order: The Licensee is required to pay the CMRAO a fine in the amount of \$7,000 within three (3) months of the date of this Order. The Licensee is also required to successfully complete, to the satisfaction of the Registrar and at the Licensee's expense, a personalized ethics course provided by Gail Siskind within four (4) months of the date of this Order.

Date: March 20, 2022

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

Jeff Donnelly, Chair