

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

Jeff Donnelly, Chair

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April 8, 2022

B E T W E E N:

CONDOMINIUM MANAGEMENT REGULATORY AUTHORITY OF ONTARIO

- and -

BOYANG LI AND GRAND RIVER PROPERTY MANAGEMENT, INC.

**DECISION AND REASONS**

This matter came before the Chair of the Discipline Committee and Appeals Committee on February 11, 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 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**

3. At all material times, Mr. Boyang Li (“Mr. Li”) held a Condominium Manager General Licence issued under the *Condominium Management Services Act, 2015* (the “*CMSA*”).
4. At all material times, Grand River Property Management Inc. (“Grand River”) held a Condominium Management Provider Licence issued under the *CMSA*.
5. At all material times, Mr. Li was the Principal Condominium Manager of Grand River.
6. At all material times, Mr. Li was the sole licensed condominium manager at Grand River.
7. At all material times, Grand River provided condominium management services to a condominium corporation in Waterloo, Ontario (the “Corporation”).

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

8. In or about August 1, 2020 and in or about August 22, 2021, Mr. Yinggang (Eric) Yang (“Mr. Yang”) provided condominium management services to the Corporation, on behalf of Grand River, without a licence from the CMRAO.

9. At all material times, Mr. Yang was one of the directors, officers and shareholders of Grand River.
10. Mr. Yang was acting as the condominium manager for the Corporation on behalf of Grand River between on or about August 1, 2020 and on or about August 22, 2021;
11. On or about September 15, 2020, Mr. Yang identified himself as a “Property Manager” of Grand River on the Notice of Meeting for an Annual General Meeting of the Corporation;
12. On or about October 5, 2020, Mr. Yang issued an email to unit owners of the Corporation and signed the email as a “Property Manager” of Grand River;
13. On behalf of the Corporation, Mr. Yang tendered and received a proposal for services on or about February 3, 2021;
14. Mr. Yang authorized and signed a contract on behalf of the Corporation on or about February 23, 2021; and
15. On or about February 24, 2021, Mr. Yang issued an email to the Board of Directors of the Corporation, announcing the appointment of a performance auditor.

## **AGREED STATEMENT OF FACTS**

By Agreed Statement of Facts and Admission to Failing to Comply with Code of Ethics, signed February 11, 2022, the parties to this proceeding agree that the facts may be accepted as true by me and by the Discipline Committee and the parties agree that the Licensees breached the following section(s) of the Code of Ethics:

16. **Section 2:** A condominium manager shall not do or omit to do anything that causes the condominium management provider employing the manager to contravene this Regulation;

17. **Section 5:** In providing condominium management services, a licensee shall provide conscientious, courteous and responsive service and demonstrate reasonable knowledge, skill, judgment and competence;
18. **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;
19. **Section 11:** A licensee shall not engage 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
20. **Section 13:** A licensee shall promote and protect the best interests of the licensee's clients.

## MEMBER'S PLEA

21. By the Agreed Statement of Facts, the Licensee admits to the truth of the facts referred to in paragraphs 3 to 15 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 the Agreed Statement of Facts it 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) Understand that the decision of the Discipline Committee, the Agreed Statement of Facts, any reasons of the Discipline Committee, including reference to their names, 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) Understand that any agreement between them and the CMRAO with respect to the proposed penalty does not bind the Discipline Committee; and

(e) Understand and acknowledge that they executed the 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 they have received legal advice.

22. In light of the Agreed Facts and the admission of Mr. Li and Grand River, the CMRAO and Mr. Li and Grand River submit that the Discipline Committee should find that Mr. Li and Grand River failed to comply with the Code of Ethics.

### **DECISION ON FINDING**

23. 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. Li, Grand River Property Management, Inc. and counsel for the CMRAO to be accurate) the Licensees 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**

24. 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 Licensees to pay the CMRAO a fine in the amount of \$7,000 within three (3) months of the date of this Order in this case.

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

## REASONS AND DECISION ON PENALTY

26. 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.
27. 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 licensees 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.
28. 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.
29. In accepting the proposed penalty, I have also noted the supporting case law cited by counsel for the CMRAO in her submissions ( *Condominium Management Regulatory Authority of Ontario v Bruno Zaffino and New City Property Management, Inc. (2021)*), which demonstrates that, under these specific circumstances, the quantum of the fine

is appropriate, in light of the specific aggravating and mitigating factors, and falls within the range of fines ordered by the Discipline Committee for similar conduct. I did not find that the other case law cited by counsel for the CMRAO in their submissions (*Condominium Management Regulatory Authority of Ontario v Victor Wai Tat Nqai.(2021); and Condominium Management Regulatory Authority of Ontario v MF Properties Ltd. (2021)*) to be of material use as those cases were not decisions and orders issued by a Discipline Committee presiding over professional conduct matters but rather matters that were prosecuted under part III of the *Provincial Offences Act R.S.O. 1990, CHAPTER P.33 ("POA")*. There are many other factors that are considered in a POA matter (and not available in professional discipline matters) when determining the appropriate penalty, including whether the guilty party was issued any period of incarceration or probation over and above a fine as part of the final sentencing order of the court, as well as any minimum fine amounts that must be imposed. Under the POA such matters are not prosecuted under Part V of the *Condominium Management Services Act, 2015, S.O. 2015, c. 28, Sched. 2*, or any other similar regulatory regime that directly apply to professional conduct cases and breaches of applicable code of ethics. There is a wide body of jurisprudence in the area of professional discipline matters that are better served to be cited in the future.

30. Accordingly, I make the following Order: The Licensees are collectively required to pay the CMRAO a fine in the amount of \$7,000 within three (3) months of the date of this Order.

Date: April 8, 2022



Jeff Donnelly, Chair