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CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO ACT, 2017

TO: Renzo Silveri, CPA, CA

AND TO: The Discipline Committee of CPA Ontario

The Professional Conduct Committee of CPA Ontario hereby makes the following Allegations of professional misconduct against RENZO SILVERI, CPA, CA, a member of CPA Ontario:

1. THAT the said Renzo Silveri, in or about the period March 1, 2017 through December 2017, while Director, and President of 1552 Ontario Inc., the Declarant of NCC41, failed to conduct himself in a manner which would maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1 of the CPA Code of Professional Conduct, in that:
 - a) He caused NCC41 to pay legal fees, in the approximate amount of \$1,469, which fees were incurred by himself personally in answering a complaint made to CPA Ontario.

2. THAT the said Renzo Silveri, in or about the period March 1, 2012 through October 31, 2012, while Director, and President of 1552 Ontario Inc., the Declarant of NCC41, failed to conduct himself in a manner which would maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1 of the Rules of Professional Conduct, in that:
 - a) He caused NCC41, to prepare and serve Notices of Lien for unpaid condominium fees on certain unit holders when he knew or should have known that the unit holders' condominium fees were paid;
 - b) He caused legal fees in the approximate amount of \$2,452 to be incurred by NCC41 for preparing and serving Notices of Lien on certain unit holders for unpaid condominium fees when he knew or should have known that the unit holders' condominium fees were paid.



3. ~~THAT the said Renzo Silveri, in or about the period January 1, 2012 through October 31, 2017, while Declarant, Director, and President of NCC41, failed to conduct himself in a manner which would maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1 of the Rules of Professional Conduct and the CPA Code of Professional Conduct, in that:~~
 - a) ~~as President of 1552 Ont Inc., he failed to remit approximately \$131,700 in Common Element Fees properly owing to NCC41 from lots owned by 1552 Ont Inc.~~
Withdrawn on consent with leave of the panel October 26, 2020

4. THAT the said Renzo Silveri, in or about the period July 31, 2017 through December 4, 2017, while Director, and President of 1552 Ontario Inc., the Declarant of NCC41, failed to conduct himself in a manner which would maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1 of the CPA Code of Professional Conduct, in that:
 - a) ~~He caused NCC41 to convert existing accounts payable amounts owing to 1552 Ont Inc. to a Promissory Note payable on demand to 1552 Ont Inc., in the amount of \$50,000, without obtaining the approval of the unit owners through the passage of a NCC41 bylaw, as required by the Condominium Act, 1998, and;~~
Withdrawn on consent with leave of the panel October 26, 2020
 - b) He caused NCC41 to transfer reserve fund monies to the operating account to repay all or part of a Promissory Note payable on demand to 1552 Ont Inc., and to pay operating expenses billed by 1552 Ont Inc., contrary to the Condominium Act, 1998, and;
 - c) ~~He was in a conflict of interest when he caused NCC41 to enter into, and repay a Promissory Note to, 1552 Ont Inc.~~
Withdrawn on consent with leave of the panel October 26, 2020

5. THAT the said Renzo Silveri, in or about the period October 2018 through July 2019, while the subject of a complaint submitted to CPA Ontario, did hinder the regulatory process of CPA Ontario or did attempt to exert inappropriate influence or pressure on the outcome of a regulatory matter, contrary to Rule 105.1 of the CPA Code of Professional Conduct in that:
 - a) he commenced legal proceedings against persons, including the complainant, after the complainant lodged a complaint with CPA Ontario and therein claimed damages against the complainant in the amount of \$250,000 stating that these were damages “as a result of her abuse of process” for the making of the complaint.



6. THAT the said Renzo Silveri, in or about the period April 7, 2006 through December 4, 2017, while Director, and President of 1552 Ontario Inc., the Declarant of NCC41, failed to conduct himself in a manner which would maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1 of the Rules of Professional Conduct and the CPA Code of Professional Conduct in that:
- a) He failed to ensure the Declarant appointed eligible Board Members in accordance with the Condominium Act, 1998, and/or the NCC41 Bylaws;
 - b) ~~He failed to call a general meeting of owners in 2007, not more than three months after the registration of the Declaration and he failed to call annual general meetings of owners between 2007 and 2017 as required by the Condominium Act, 1998;~~
Withdrawn on consent with leave of the panel, October 26, 2020
 - c) ~~He failed to ensure audited financial statements for the one year period following the registration of the Declaration were prepared as required by the Condominium Act, 1998;~~ ***Withdrawn on consent with leave of the panel, October 26, 2020***
 - d) ~~He failed to ensure annual financial statements were prepared on an annual basis between the registration date of NCC41 and the turnover date as required by the Condominium Act, 1998;~~ ***Withdrawn on consent with leave of the panel, October 26, 2020***
 - e) He failed to ensure the Declarant called a turnover meeting until approximately 5 years after a turnover meeting was required by the Condominium Act, 1998.

Dated at Toronto, Ontario, this 13th day of December 2019.

H. G. FAGAN, FCPA, FCA, DEPUTY CHAIR
PROFESSIONAL CONDUCT COMMITTEE

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO
CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO ACT, 2017

DISCIPLINE COMMITTEE

IN THE MATTER OF: Allegations, as amended, against **RENZO SILVERI, CPA, CA**, a member of the Chartered Professional Accountants of Ontario, under **Rule 105.1** and **Rule 201.1** of the CPA Code of Professional Conduct ('Code').

TO: Renzo Silveri

AND TO: The Professional Conduct Committee

DECISION AND ORDER MADE OCTOBER 26, 2020

DECISION

The allegations, as amended, that Renzo Silveri has breached Rule 105.1 and Rule 201.1 of the CPA Code of Professional Conduct ('Code') are established and constitute professional misconduct.

ORDER

IT IS ORDERED THAT:

1. Renzo Silveri be reprimanded in writing by the Chair of the hearing;
2. Renzo Silveri shall pay a fine of \$25,000 to the Chartered Professional Accountants of Ontario ("CPA Ontario") by November 25, 2020;
3. Renzo Silveri's membership with CPA Ontario is suspended for a period of seven (7) months from the date of this Order;
4. Notice of this Decision and Order, disclosing Renzo Silveri's name, is to be given in the form and manner determined by the Discipline Committee:
 - (a) to all members of CPA Ontario;
 - (b) to all provincial bodies;and shall be made available to the public;
5. Notice of this Decision and Order disclosing Renzo Silveri's name is to be given by publication on the CPA Ontario website and in the *North Bay Nugget*. Renzo Silveri shall pay all costs associated with the publication, which shall be in addition to any other costs

ordered by the Panel.

6. In the event Renzo Silveri fails to comply with the terms of this Order, his membership with CPA Ontario shall be suspended until such time as he does comply, provided that he complies within 30 days of the date of his suspension. In the event he does not comply within the 30-day period, his membership in CPA Ontario shall be revoked and notice of the revocation of his membership, disclosing his name, shall be given in the manner specified above, and in a newspaper distributed in the geographic area of Renzo Silveri's residence or employment. All costs associated with this publication shall be borne by Renzo Silveri and shall be in addition to other costs ordered by the panel;

AND THAT:

7. Renzo Silveri shall pay costs of \$91,500 to CPA Ontario by November 30, 2021, the first payment for which shall be made by December 1, 2020.

DATED at Toronto this 26th day of October 2020.



Stephen Dineley FCPA, FCA
Discipline Committee – Deputy Chair

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO
THE CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO ACT, 2017

DISCIPLINE COMMITTEE

IN THE MATTER OF: Allegations, as amended, against **RENZO SILVERI, CPA, CA**, a member of the Chartered Professional Accountants of Ontario, under **Rule 105.1** and **Rule 201.1** of the CPA Code of Professional Conduct ('Code').

BETWEEN:

**Chartered Professional Accountants of Ontario
Professional Conduct Committee**

-and-

Renzo Silveri

APPEARANCES:

For the Professional Conduct Committee: Nisha Dhanoa and Melissa MacKewn,
Counsel

For Mr. Silveri: Sean Dewart and Lindsay Beck, Counsel

Heard: October 26, 2020

Decision and Order effective: October 26, 2020

Release of written reasons: December 23, 2020

REASONS FOR DECISION AND ORDER MADE OCTOBER 26, 2020

I. OVERVIEW

[1] The Professional Conduct Committee of the Chartered Professional Accountants of Ontario ("PCC") had made Allegations that Mr. Silveri had failed to maintain the good reputation of the profession as a result of actions he had taken, or failed to take, with respect to a condominium corporation, NCC41, of which he was the officer and director of the declarant corporation, 1552 Ontario Inc.. The PCC had also made an Allegation that Mr. Silveri had attempted to hinder or exert undue influence on the regulatory process of the Chartered Professional Accountants of

Ontario (“CPA Ontario”), while the subject of a complaint. This hearing was held to determine whether the Allegations were established and whether the conduct breached Rules 105.1 and 201.1 of the CPA Ontario Code of Professional Conduct and amounted to professional misconduct. The hearing was held electronically by video conference, as enabled by the *Hearings in Tribunal Proceedings (Temporary Measures) Act, 2020*.

- [2] Mr. Silveri obtained his CA designation in 1988. He subsequently received a CPA designation and became a member of CPA Ontario upon amalgamation in 2014. Between 2006 and 2013, he operated an accounting practice as a sole practitioner. He had not practised as an accountant since that time.
- [3] Mr. Silveri was the lone director, president and sole shareholder of 1552 Ontario Inc., which owned vacant land in North Bay. 1552 Ontario Inc. planned to develop the property as 32 condominium units. 1552 Ontario Inc. was the declarant corporation for the condominium corporation, NCC41, when it was registered. Mr. Silveri and 1552 Ontario Inc. invoiced NC411 for services provided for the management of the property.
- [4] After the declaration for NCC41 was registered in April 2006, Mr. Silveri appointed himself to the board and ran NCC41 as his own for approximately ten years. There were a number of steps that needed to be taken in the governance of the condominium corporation, which were not taken by Mr. Silveri. The result was that the unit owners did not have access to all information regarding the operation of NCC 41.
- [5] A great deal of conflict arose between the unit holders and Mr. Silveri in the decade following the registration of NC411. Eventually, a meeting of the unit owners was held on October 27, 2016, but Mr. Silveri remained on the board. When a new board assumed responsibility for NCC41 on December 4, 2017, the reserve fund contained less than \$100 and there were limited operating funds available. The unit owners consequently had to pay a special assessment to correct NCC41’s financial position.
- [6] In December 2016, one of the unit holders in NCC41, CL, made a complaint to CPA Ontario against Mr. Silveri with respect to the subject matter of the Allegations. CL made the complaint on her own behalf and also on behalf of another of the unit holders, JC.
- [7] Mr. Silveri admitted all but one particular of the amended Allegations of professional misconduct made by the PCC. Although Mr. Silveri was not admitting particular 4(b), his counsel advised that he was not challenging the evidence to be introduced by the PCC and would not be leading any evidence himself. The onus was on the PCC to show on a balance of probabilities that Mr.

Silveri's conduct breached Rules 105.1 and 201.1 of the CPA Ontario Code of Professional Conduct and constituted professional misconduct.

II. PRELIMINARY ISSUES

[8] At the outset of the hearing, counsel for the PCC advised the Panel that the PCC and Mr. Silveri had agreed to a series of minor amendments to the Allegations. None of the proposed amendments affected the substance of the Allegations. It was noted that Mr. Silveri had made admissions based on the amended Allegations and the parties had reached an agreement on the disposition of the matter if a finding of professional misconduct was made. The Panel allowed the amendment of the Allegations on the consent of the parties.

[9] Counsel for the PCC also indicated that, based on the admissions by Mr. Silveri to particulars 1(a), 2(a) and (b), 5(a) and 6 (a) and (e), the PCC was withdrawing particulars 3(a), 4(a) and (c), and 6(b), (c) and (d).

III. ISSUES

[10] The Panel identified the following issues arising from the amended Allegations:

- A. Did the evidence establish, on a balance of probabilities, the facts on which the Allegations by the PCC were based?
- B. If the facts alleged by the PCC were established on the evidence on a balance of probabilities, did the Allegations constitute professional misconduct?

IV. DECISION

[11] The Panel found that the evidence established, on a balance of probabilities, the facts set out in the Allegations of professional misconduct.

[12] The Panel was satisfied that the Allegations constituted breaches of Rules 105.1 and 201.1 and, having breached these Rules, Mr. Silveri had committed professional misconduct.

V. REASONS FOR THE DECISION

Findings regarding Conduct of Mr. Silveri

[13] Following the amendments and withdrawals to the Allegations, the PCC sought findings of professional misconduct on the following Allegations:

1. THAT the said Renzo Silveri, in or about the period March 1, 2017 through December 2017, while Director, and President of 1552 Ontario Inc., the Declarant of NCC41, failed to conduct himself in a manner which would maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1 of the CPA Code of Professional Conduct, in that:
 - a. He caused NCC41 to pay legal fees, in the approximate amount of \$1,469, which fees were incurred by himself personally in answering a complaint made to CPA Ontario.
2. THAT the said Renzo Silveri, in or about the period March 1, 2012 through October 31, 2012, while Director, and President of 1552 Ontario Inc., the Declarant of NCC41, failed to conduct himself in a manner which would maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1 of the Rules of Professional Conduct, in that:
 - a. He caused NCC41, to prepare and serve Notices of Lien for unpaid condominium fees on certain unit holders when he knew or should have known that the unit holders' condominium fees were paid;
 - b. He caused legal fees in the approximate amount of \$2,452 to be incurred by NCC41 for preparing and serving Notices of Lien on certain unit holders for unpaid condominium fees when he knew or should have known that the unit holders' condominium fees were paid.
4. THAT the said Renzo Silveri, in or about the period July 31, 2017 through December 4, 2017, while Director, and President of 1552 Ontario Inc., the Declarant of NCC41, failed to conduct himself in a manner which would maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1 of the CPA Code of Professional Conduct, in that:
 - b. He caused NCC41 to transfer reserve fund monies to the operating account to repay all or part of a Promissory Note payable on demand to 1552 Ont Inc., and to pay operating expenses billed by 1552 Ont Inc., contrary to the Condominium Act, 1998, . . .
5. THAT the said Renzo Silveri, in or about the period October 2018 through July 2019, while the subject of a complaint submitted to CPA Ontario, did hinder the regulatory process of CPA Ontario or did attempt to exert inappropriate influence or pressure on the outcome of a regulatory matter, contrary to Rule 105.1 of the CPA Code of Professional Conduct in that:

- a. he commenced legal proceedings against persons, including the complainant, after the complainant lodged a complaint with CPA Ontario and therein claimed damages against the complainant in the amount of \$250,000 stating that these were damages “as a result of her abuse of process” for the making of the complaint.
6. THAT the said Renzo Silveri, in or about the period April 7, 2006 through December 4, 2017, while Director, and President of 1552 Ontario Inc., the Declarant of NCC41, failed to conduct himself in a manner which would maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1 of the Rules of Professional Conduct and the CPA Code of Professional Conduct in that:
- a. He failed to ensure the Declarant appointed eligible Board Members in accordance with the Condominium Act, 1998, and/or the NCC41 Bylaws; ... and...
 - e. He failed to ensure the Declarant called a turnover meeting until approximately 5 years after a turnover meeting was required by the Condominium Act, 1998.

[14] Although Mr. Silveri admitted all of the foregoing Allegations, other than Allegation 4(b), his counsel indicated that the admission in particulars 2(a) and (b) was based on the assertion that Mr. Silveri should have known that the unit holders’ condominium fees were paid, not that he did know that fact.

[15] The evidence in support of the Allegations was placed before the Panel by way of the testimony of the investigator appointed by the PCC, Ms. Leigh Beijer, two Joint Document Books (Exhibits 1 and 2) and a series of Schedules prepared by Ms. Beijer (Exhibit 3). By agreement of the parties, Mr. Silveri did not challenge Ms. Beijer’s evidence or adduce any evidence.

Particular 1(a): Improper payment of legal fees from NCC41

[16] In December 2016, CL made her complaint to CPA Ontario regarding Mr. Silveri and his operation of NCC41. In her complaint, CL indicated that Mr. Silveri had been refusing for several years to disclose the books and records of NCC41 or otherwise be accountable to the unit holders. She stated that there was a dispute as to whether common elements had been completed and whether management services had been provided (by 1552 Ontario Inc.).

[17] After CL’s complaint was received by CPA Ontario, it was forwarded to Mr. Silveri for a response in early February 2017. Mr. Silveri retained legal counsel, Mr. Rahul Shastri, to assist him with a response to the complaint. After an exchange

of correspondence between CPA Ontario and Mr. Shastri, Mr. Shastri provided a response on behalf of Mr. Silveri to CPA Ontario on September 20, 2017.

- [18] Subsequently, Mr. Shastri provided an account for legal services, dated October 6, 2017, to NCC41, in care of Mr. Silveri. The account included services rendered to NCC41 in relation to the operation of the condominium corporation; however, the account also included an amount of \$1,469 with respect to Mr. Shastri's assistance to Mr. Silveri in relation to his response to CPA Ontario regarding the complaint by CL. Mr. Silveri wrote a cheque from the bank account for NCC41 for the full amount of Mr. Shastri's account, including the services related to Mr. Silveri's personal response to CPA Ontario.
- [19] The Panel found that the services rendered by counsel in responding to CPA Ontario were the responsibility of Mr. Silveri personally. They were not an obligation of NCC41 and ought not to have been paid from NCC41's funds.
- Particulars 2(a) and (b): Notices of Lien where should have known fees paid*
- [20] On August 10, 2012, Mr. Silveri had notices delivered to CL and JC claiming that they were in arrears of payment of common fees to the condominium corporation, and demanding payment of the arrears, interest and legal fees. Although CL had destroyed her notice, more than \$14,000 was claimed from JC. Under the declaration and bylaws for NCC41, notices had to be sent to unit holders when they failed to pay common fees, or the condominium corporation lost its right to place liens on the individual units.
- [21] At that point in time, there had been conflict between the unit holders and Mr. Silveri regarding the operation of NCC41 for several years. CL and JC had been particularly vocal in this conflict and had requested access to the records of NCC41. The notices were delivered to CL and JC shortly after they had first raised issues with Mr. Silveri regarding the operation of NCC41. A meeting of the unit owners of NCC41, which had been scheduled for August 7, 2012, at the insistence of unit holders, had been cancelled unilaterally by Mr. Silveri.
- [22] The books and records for NCC41, including the copy in the possession of Mr. Silveri, confirmed that neither JC nor CL were in arrears in payment of their fees as of August 10, 2012. Both individuals had paid their fees on August 7, 2012.
- [23] As of August 10, 2012, Mr. Silveri would have had access to the books and records that showed that the common fees were up to date for both individuals. Mr. Silveri had indicated to the PCC that there was an error in these books that did not accurately set out the state of the two accounts at that time. However, there was no evidence of any error or that any error was ever corrected. Even if he did not have actual knowledge, which question the Panel did not need to decide, Mr. Silveri ought to have known that JC and CL were not in arrears at the

time that he authorized the issuance of the notices of lien given the information available to him.

- [24] The lawyer who prepared and delivered the notices to CL and JC delivered an account, dated October 25, 2012, to Mr. Silveri, on behalf of NCC41, for those services. The account included legal fees and disbursements totaling \$2,452.89. Mr. Silveri paid this account by a cheque from the account of NCC41.
- [25] The Panel was satisfied that the notices were improper because Mr. Silveri, at a minimum, should have known that these individuals were up to date in the payment of their condominium fees given that this information was clearly set out in the books and records under his control. Having failed to ensure that the condominium fees were in arrears, Mr. Silveri had no basis on which to give notice that these fees were in arrears and threaten enforcement. In the Panel's view, it followed that Mr. Silveri was not justified in charging these legal fees incurred to NCC41 since NCC41 did not have any claim against these individuals.

Particular 4(b): Payment of reserve funds for Promissory Note

- [26] From the period from 2012 to 2017, 1552 Ontario Inc. had invoiced NCC41 for management services. Rather than these amounts being paid out, they were accumulated as an account payable. By July 31, 2017, the balance in this account totaled almost \$50,000. Around that time, Mr. Silveri converted the account payable into a demand loan payable for \$50,000.
- [27] On October 20, 2017, Mr. Silveri directed the repayment of \$20,000 to 1552 Ontario Inc. from the operating account of NCC41. This created an account payable of (\$17,497.60). As this payment substantially depleted the operating account, leaving a balance of \$1,042.63, Mr. Silveri transferred the sum of \$34,400 from the reserve fund to the operating account. This left a balance of \$74.33 in the reserve account.
- [28] The account payable balance was offset by further invoices rendered by 1552 Ontario Inc. to NCC41 on October 31, 2017. On November 30, 2017, Mr. Silveri directed a further payment of \$31,300.27 to 1552 Ontario Inc. to reduce the amount owing under the promissory note. This left a balance in the operating account of \$1,384.36.
- [29] At the time, Mr. Silveri was the lone signing authority over NCC41's accounts.
- [30] As a result of these various transactions, the reserve fund for NCC41 was depleted. At December 4, 2017, when the state of the books was discovered by a new board, there was only \$11.61 in the reserve fund. To meet the requirements of the Condominium Act, the reserve fund should have amounted

to \$36,610 at that time. Once discovered, this shortfall triggered the need for a special assessment on unit owners.

- [31] The Panel was satisfied that the manner in which Mr. Silveri had used the reserve funds did not comply with the requirements of the Condominium Act. While there was no issue raised that Mr. Silveri was not entitled to the funds he claimed from NCC41, there are clear restrictions imposed by the Condominium Act, as to how reserve funds should be handled, so that there is always a pool of reserve funds available to the condominium corporation when needed. Mr. Silveri did not meet those requirements.

Particular 5(a): Legal proceedings against complainant

- [32] In November 2018, Mr. Silveri commenced a civil claim against CL, JC, another unit holder and NCC41 in Superior Court in the amount of \$250,000. The defendants were all individuals who had tried, unsuccessfully, to establish an alternative board for NCC41.
- [33] Among the allegations advanced in the claim, Mr. Silveri pleaded that CL had abused the process of CPA Ontario by making a complaint to CPA Ontario. Mr. Silveri included in his claim the amount of legal fees that he had incurred in responding to the complaint to CPA Ontario, among other damages that he said he had suffered due to the fact that the claim had been made.
- [34] Considering the contents of the claim, and Mr. Silveri's admission, the Panel was satisfied that a claim of this nature would have the effect of hindering the regulatory process of CPA Ontario by deterring CL from advancing a legitimate complaint to CPA Ontario.

Particular 6(a) and (e): Breaches of Condominium Act

- [35] Under subsection 42(1) of the Condominium Act, a declarant corporation must appoint the first board of the condominium corporation within ten days of the declaration being registered. The same section, and the bylaws of NCC41, required that board to consist of three directors. The declaration for NCC41 was registered on April 7, 2006. Accordingly, the first board had to be appointed by 1552 Ontario Inc. no later than April 17, 2006.
- [36] No board for NCC41 was appointed by April 17, 2006. In fact, a valid three-person board was not appointed until October 2016 because, prior to that time Mr. Silveri had been acting as the lone officer and director of NCC41.
- [37] Subsection 42(6) of the Condominium Act requires the first board of a condominium corporation to call a meeting of the unit owners by the later of 30 days after the declarant transferred 20% of the units or 90 days after the declarant transferred the first unit in the corporation.

- [38] Ms. Beijer testified that the later of those dates in the case of NCC41 was 30 days after the declarant transferred 20% of the units. NCC41 was comprised of 32 units, so 20% of the units was 7 units. As the seventh unit was sold in February 2007, the owners' meeting had to be held by, at the latest, the end of March 2007. An owners' meeting was not held by March 2007.
- [39] Subsection 43(1) of the Condominium Act requires the board elected or appointed when the declarant owned a majority of the units to call a meeting of the unit owners ("turnover meeting") within 21 days of the date on which the declarant no longer held a majority of the units. If the board does not call the meeting, a unit owner can call the meeting.
- [40] On June 9, 2011, 1552 Ontario Inc. sold the sixteenth unit in NCC41. As a result of this sale, 1552 Ontario Inc. no longer held a majority of the units. A turnover meeting was required to be held by June 30, 2011. No meeting was held. The turnover meeting was not held until October 2016.
- [41] A meeting was called by a unit owner to be held in August 2012. However, that meeting was cancelled by Mr. Silveri, and the turnover meeting was not actually held until October 27, 2016. That meeting was also called by a unit owner. The meeting was convened more than five years after it was required to be called under the legislation.
- [42] At the meeting on October 27, 2016, three directors were elected, being Mr. Silveri and two others. At the time, two of the elected directors were not unit owners. This meant that they were not eligible to be directors as the bylaws of the condominium corporation required that all directors be unit holders.
- [43] A number of unit owners walked out of the meeting on October 27, 2016 and held their own meeting. They subsequently commenced court proceeding to have their board, rather than the one including Mr. Silveri, declared to be the board of NCC41. The court confirmed that the Board including Mr. Silveri was properly elected.
- [44] The Panel concluded that the evidence demonstrated that Mr. Silveri had failed to ensure that 1552 Ontario Inc., as declarant of NCC41, and himself as a director of NCC41, met the obligations imposed on them by the Condominium Act with respect to holding meetings and establishing the systems to ensure transparency in the corporation.
- [45] For these reasons, the Panel was satisfied that the uncontested facts provided clear, cogent and compelling evidence to demonstrate that Mr. Silveri had engaged in the conduct outlined in the particulars that were not withdrawn by the PCC, including particular 4(b). This conclusion was supported by Mr. Silveri's admission of all particulars but particular 4(b).

Finding of Professional Misconduct

- [46] As noted above, Mr. Silveri admitted that all of the amended Allegations, except for particular 4(b), constituted professional misconduct. The Panel was satisfied that this admission was appropriate.
- [47] The breaches of the requirements of the Condominium Act by Mr. Silveri in relation to NCC41 did not meet the standard of conduct that was expected of members of the profession. It would appear that Mr. Silveri approached his relationship with NCC41 and the unit owners as a purely business relationship. However, as member of CPA Ontario, Mr. Silveri could not only hold himself to the standard of business practice, or his perception of acceptable business practice. He had to hold himself to the standard that the public expects of CPAs. That standard is that a CPA will honour the legal obligations that apply to his undertakings, whether he does those in his capacity as a CPA or otherwise. The need for a CPA to act with integrity applies to all of the CPA's actions and not only those directly related to his or her accounting practice.
- [48] With respect to particular 5(a), the Panel recognized the important role played by Rule 105.1 in protecting the integrity of the complaints process of CPA Ontario. It was essential that the process was allowed to proceed and be determined on its merits, without any external influence. Mr. Silveri's litigation against CL would clearly have the potential impact of discouraging CL, JC, or other complainants from coming forward. That result would undermine the regulatory authority of CPA Ontario and its ability to regulate the profession in the public interest.
- [49] In relation to particular 4(b), the Panel was satisfied that the use of the reserve funds of NCC41 in a manner that was contrary to the requirements established under the Condominium Act was inconsistent with the expectations placed on members of the profession. The public would expect a CPA specifically to be aware of the proper manner of handling funds. The obligation on Mr. Silveri in this regard was heightened where he controlled the finances of the corporation and he was the recipient of the funds in issue.
- [50] Consequently, the Panel found that Mr. Silveri had breached Rule 105.1 as set out in the amended Allegations and admitted by him in relation to the litigation commenced against the complainants. The Panel further found that Mr. Silveri had acted in a manner that had failed to maintain the good reputation of the profession, contrary to Rule 201.1 of the Code of Professional Conduct, as amended, in relation to all of the remaining Allegations.

VI. DECISION AS TO SANCTION

- [51] After considering the evidence, the law and the submissions of both parties, the

Panel concluded that the appropriate sanction was a written reprimand, a fine of \$25,000 payable within 30 days, the suspension of Mr. Silveri's membership for a period of 7 months, the publication of the decision in the North Bay Nugget and the usual order as to publication of the decision to all members of CPA Ontario and the decision being available to members of the public. If Mr. Silveri did not comply with any term of this Decision, including the payment of costs, he would be further suspended for up to 30 days and if he still did not comply within that period, Mr. Silveri's membership would be revoked.

- [52] The Panel also concluded that if Mr. Silveri's membership was revoked, the fact of that revocation would be published in the North Bay Nugget.

VII. REASONS FOR DECISION AS TO SANCTION

- [53] The parties presented a joint submission as to sanction. The terms of that joint submission are set out above as the decision of the Panel.

- [54] The law is clear that a joint submission by the parties, particularly parties represented by experienced counsel, should be given great deference by the Panel. Another panel of the Discipline Committee recently summarized the test in *Jewiss (Re)*, 2019 LNICAO 26, at paragraph 49:

The Panel recognized that, as submitted by counsel for the PCC, there was a strong presumption in favour of a tribunal or court accepting a joint submission by the parties and the tribunal had to be satisfied that a stringent test was met before interfering with a joint submission. The test was affirmed by the Supreme Court of Canada in *R. v. Anthony-Cook*, [2016] S.C.J. 43 in the following terms:

Under the public interest test, a trial judge should not depart from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest.

- [55] As noted by counsel for Mr. Silveri, the Supreme Court in *R. v. Anthony-Cook*, [2016] S.C.J. 43, at paragraph 34, went even further and indicated that a joint submission should only be rejected where it was "so unhinged from the circumstances" that a reasonable and informed person would "believe that the proper functioning of the justice system had broken down". The Court then reviewed the considerations supporting this high threshold, including the importance of ensuring certainty in resolution discussions.

[56] The Panel considered the aggravating and mitigating factors, along with the numerous authorities reviewed by counsel for the PCC. The established misconduct was serious, involving repeated deliberate actions and the misuse of a position of trust, but there was no allegation of deceit or misappropriation of funds that would invariably lead to revocation. Mr. Silveri came before the Panel admitting his misconduct and without a discipline history. Having reviewed these considerations, the Panel was satisfied that the proposed sanction fell within the range of sanctions imposed for similar or analogous misconduct. The Panel found that it was appropriate to accept the joint submission.

VIII. COSTS

[57] The parties jointly asked the Panel to award two thirds of the costs incurred by the PCC in the prosecution of this matter, as reflected in the Costs Outline filed as Exhibit 4. The total costs set out in the Costs Outline was \$137,326.00. Two thirds of this sum amounted to \$91,550.67, or \$91,500 in round figures. The Panel considered that the same level of deference that applied to the sanction submission should apply to the joint submission on the issue of costs.

[58] The Panel decided that an order for costs in the amount of \$91,500, as requested, was reasonable in all of the circumstances. The Panel ordered that Mr. Silveri pay costs in that amount by November 30, 2021, with the first payment made by December 1, 2020, as jointly proposed by the parties.

Dated at Toronto this 23rd day of December, 2020



Stephen Dineley, FCPA, FCA
Discipline Committee – Deputy Chair

Members of the Panel

David Handley (Public Representative)
George Ireland, CPA, CA
Catherine Kenwell (Public Representative)
Jane Rivers, CPA, CGA

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