

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO  
(THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO)  
*THE CHARTERED ACCOUNTANTS ACT, 2010*

**DISCIPLINE COMMITTEE**

**IN THE MATTER OF:** Allegations against SANDRA JEAN DELAHAYE under Rules 201.1 and 202 of the Rules of Professional Conduct, as amended.

**TO:** Ms. Sandra J. Delahaye

**AND TO:** The Professional Conduct Committee,

**REASONS**

**(Decision and Order made August 27, 2013)**

1. This tribunal of the Discipline Committee met on August 27, 2013 to hear allegations of professional misconduct brought by the Professional Conduct Committee against Sandra Jean Delahaye, a suspended Member.

2. Ms. Alexandra Hersak appeared on behalf of the Professional Conduct Committee (PCC). Ms. Delahaye was not represented by counsel and did not attend. Mr. Glenn Stuart attended the hearing as counsel to the Discipline Committee.

3. Ms. Hersak submitted that Ms. Delahaye had been served with the Allegations and with the Notice of the Hearing. She filed an Affidavit of Service (Exhibit 1) wherein Mervyn Archdall, a process server, deposed in an affidavit sworn on April 24, 2013 that he had personally served the Allegations dated April 17, 2013 on Ms. Delahaye. Ms. Hersak also filed an affidavit (Exhibit 2) wherein Diane Williamson, the Secretary to the Discipline Committee, deposed that she had on June 10, 2013 received an email response from Ms. Delahaye indicating that she was choosing the dates of August 27 and 28, 2013 for the hearing which Ms. Williamson confirmed by return email. Ms. Williamson also deposed that she had on June 21, 2013 sent Ms. Delahaye by email the Notice of Hearing to her email address of record and that an email delivery receipt from Ms. Delahaye's email address was received on June 21, 2013.

4. The tribunal determined that Ms. Delahaye had received proper notice of the hearing, pursuant to Rule 8.01 of the Rules of Practice and Procedure, and decided to proceed in her absence under the authority of s. 7 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22.

5. The decision of the tribunal was made known at the conclusion of the hearing on August 27, 2013, and the written Decision and Order sent to the parties on August 29, 2013. These reasons, given pursuant to Rule 20.04 of the Rules of Practice and Procedure, include the allegations, the decision, the order, and the reasons of the tribunal for its decision and order.

**Allegations**

6. The following allegations were made against Ms. Delahaye by the Professional Conduct Committee on April 17, 2013:

1. THAT, the said Sandra Delahaye, on or about the 20th day of March, 2009, was found guilty of violating provisions of the *Securities Act*, R.S.O. 1990, c.S.5, as

amended, as set out in Schedule "A" attached\*, and did thereby fail to act in a manner which will 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.

2. THAT the said Sandra Delahaye, in or about the period September 1, 2004 through December 31, 2005, while acting as an agent for the sale of investment products to "KC," "F&GA," and "RG," among others, failed to perform her professional services with integrity and due care contrary to Rule 202 of the Rules of Professional Conduct in that:
  - a. she did not carry out sufficient due diligence with respect to the *bona fides* of the investment products she was selling; and
  - b. she continued to sell the investment products after she became aware that the Ontario Securities Commission was conducting enquiries into their legitimacy.

(\* not attached to Reasons)

#### Plea

7. A plea of not guilty to the allegations was entered on Ms. Delahaye's behalf.

#### The Proceeding

8. In her opening statement Ms. Hersak advised the tribunal that the case for the PCC would be presented by way of the testimony of the investigator, Ms. Lynn Correia, CPA, CA, who would refer to a document brief, and the testimony of two witnesses.

9. After her opening statement, Ms. Hersak called Ms. Lynn Correia, the investigator appointed by the PCC, as her first witness and filed a Document Brief (Exhibit 3) and a Chronology of Key Events (Exhibit 4). Ms. Hersak then called Ms. C and Ms. A as witnesses.

10. In presenting the case, Ms. Hersak also referred to the testimony before the Ontario Securities Commission (OSC) of a now-deceased client contained in the OSC Transcript (Exhibit 5), the Certified Copy of Reasons and Decision of the OSC (Exhibit 6). No other evidence was called on behalf of the PCC.

#### Case for the PCC

11. Ms. Correia, a forensic accountant, had been retained to make enquiries into Ms. Delahaye's prosecution by the OSC. Ms. Correia met with Ms. Delahaye twice, and Ms. Delahaye had attended before the PCC. The case involved Ms. Delahaye and others offering and selling investment schemes to clients. The participants had traded in securities without registration and distributed securities without the filing of a prospectus, in contravention of Sections 25 and 53 of the *Securities Act*. At the proceedings before the OSC, Ms. Delahaye admitted that she had contravened Sections 25 and 53 of the *Act* but said she had exercised due diligence before recommending the investments and believed they were legitimate. The OSC found that Ms. Delahaye had failed to conduct due diligence before offering and selling investments to clients. The OSC ordered that Ms. Delahaye disgorge her \$70,000 commission, pay a \$100,000 administrative penalty, costs of \$10,000, a permanent cease trade order and a permanent prohibition against acquiring any securities. Ms. Delahaye was ordered to resign all positions she held as a director or officer of an issuer and was prohibited permanently from becoming a director or officer of an issuer.

12. Ms. Delahaye, who became a member in 1980, was registered with the OSC as an

investment advisor while employed by three major financial management and advisory companies. She was still employed with one of the companies in 2004 when she was introduced to the Sabourin and Sun group of companies and Camdeton Trading. She began selling the Sabourin and Sun investments in January 2005. Her registration with the OSC was automatically terminated when she left her employer in April 2005.

13. Ms. Delahaye found a link to the Synergy website while researching mutual funds on the internet. After attending a seminar, she became interested in the company's off-shore and tax strategy. Ms. Delahaye became involved with Sabourin and Sun (subsequently operating as Camdeton) which offered a high rate of return, and began referring her friends, acquaintances and former clients from her financial management company, as well as individuals who responded to Synergy's internet advertisements. Ms. Delahaye's role was as a sales agent for Synergy and she would meet with potential investors at their homes and provide them with brochures. If interested, the investors would also meet with a Mr. Haver, who would explain the investment scheme in Sabourin and Sun, and later in 2005 in Camdeton, using a flowchart and handwritten notes. Ms. Delahaye would also speak to investors on the phone to discuss any concerns and how they could make funds available to invest.

14. With respect to due diligence, Ms. Delahaye advised that she had checked with the Better Business Bureau and found no complaints against Sabourin and Sun. She also did internet research and reviewed the Sabourin and Sun website, which linked to newspaper articles and a reference to a book written by Mr. Sabourin on off-shore investing. Ms. Delahaye never met Mr. Sabourin. Ms. Delahaye did not check with the OSC prior to getting involved with the investment schemes, and she said it was emphasized to her by Sabourin agents that this was not an "investment" per se.

15. Ms. Delahaye's job was to screen potential clients to determine their suitability to invest. Ms. Delahaye had testified to the OSC that she never looked at clients purely from their money point of view but considered their income needs. From January 2005 to May 2006, 21 clients invested a total of \$2,225,000 for which Ms. Delahaye received \$70,000 in commission. A memo from Ms. Delahaye to Mr. Haver described prospective clients by age and investment money available. The majority of prospective investors were elderly.

16. Clients were required to enter into a secrecy or confidentiality agreement, but there was no clear indication as to the specific nature of the terms of the investments which were purported to be with international banks including Luxembourg and the British Virgin Islands. The program guaranteed high return rates within a short period of time and claimed to be risk free. Investors could receive twice yearly interest payments or leave the entire amount of money invested. The money from one group of investors was used to show a profit to a subsequent group and pay the interest after a six-month period. The promoters eventually pocketed the proceeds and disappeared with the investors' money.

17. Ms. Delahaye admitted that she had never previously encountered an investment with a principal guarantee and such a high rate of return of 17% to 18%. She felt she was familiar with the product although she had never seen the banker's acceptance note that was to guarantee the investment, did not know which bank was offering the guarantee and was unable to identify the world banks supposedly involved in the scheme. The brochures provided to her did not talk about the details of the investment or the 110% collateral guarantee.

18. Ms. Delahaye stated that in May 2006, she and her fiancée had invested \$80,000 with Sabourin and Sun or Camdeton, without requesting periodic interest payments and their investment has not been repaid.

19. There was evidence before the OSC that Ms. Delahaye sold Sabourin and Sun investments while she was still registered and employed with a registrant without disclosing this activity to her firm. In April 2005, when she was about to leave her firm, Ms. Delahaye was interviewed by the OSC concerning the Sabourin and Sun, Camdeton and Synergy investment schemes. She advised the OSC that her plans were a bit up in the air but that she was going to be doing the Synergy business. With respect to Sabourin, Ms. Delahaye told the OSC that she had liked the idea but, since the OSC was looking into it, she wondered if there was something she was missing. Ms. Delahaye continued to sell the investments after the interview, referring over \$1 million in investments. She indicated that she did not understand her OSC interview to mean that there was an issue with Sabourin.

20. Ms. C, a retired widow, had money invested through an investment firm for several years after receiving a settlement of her late husband's car accident. She became dissatisfied with the firm, and a relative suggested Sandra Delahaye, who was a broker and investment dealer with an investment firm. Ms. C, whose investment knowledge was very limited, stated that Ms. Delahaye appeared knowledgeable and she was impressed that Ms. Delahaye was a chartered accountant. Ms. C depended on Ms. Delahaye to select investments, and Ms. Delahaye was aware that the funds were from a settlement and retirement savings, and that Ms. C. wanted to retire comfortably.

21. Due to a family crisis, Ms. C needed money, and Ms. Delahaye suggested that investing in Camdeton would give her a higher interest rate. It was unclear to Ms. C. that Camdeton was separate from the investment firm that Ms. Delahaye was employed with at the time and Ms. C stated that she never heard Sabourin mentioned. With respect to any risk involved, Ms. Delahaye assured Ms. C everything was legal and guaranteed. There was nothing in writing, and no prospectus was available, just a brochure. Ms. C was told that the interest would be at least 18%, received twice per year, which would go into a trust with the original investment, fully guaranteed for 100 years and transferable to the investor's heirs.

22. Ms. C invested \$230,000 in Camdeton after Ms. Delahaye sold Ms. C's stock that had been invested with Ms. Delahaye's employer. Every six months, Ms. C anticipated interest payments and three payments were delivered by Ms. Delahaye by cheque from two or three different banks. The next expected payment did not come and Ms. Delahaye made excuses for the delay. Ms. C was advised that if she sent a further \$5,000 to a bank in Belize, this would be an opportunity to set up an account to deal with the investments. The \$5,000 fee was later waived but no money was ever forthcoming from the Belize account. Ms. C had to pay her bills with credit cards as she never received further interest payments or her investment money. Through a settlement of a lawsuit against Ms. Delahaye's former employer, Ms. C recouped some of her investment, but the impact of loss has been devastating, leading to health problems and a reduced lifestyle.

23. Ms. A and her husband, both professionals, had found information about the Synergy Group online, and, in early 2005, Ms. Delahaye attended at their home to discuss Synergy and a tax strategy. Ms. A was interested in the spectrum of investments through Camdeton that were presented by Ms. Delahaye. Ms. A stated that she knew Ms. Delahaye was a CA and that designation was important, as a fellow professional. Ms. A classified herself as an unseasoned and passive investor whose goal was to get a better return for her money. Ms. A said she had been raised in a poor environment and had worked hard for many years to accumulate savings. Ms. A understood from Ms. Delahaye and her colleague Mr. Haver that the money would be invested in foreign banks, including those in the British Virgin Islands and Belgium, at an interest rate of 17%. Ms. A was told that the principal was guaranteed, the Belgian exchange house was the main one and her money would double in four years. Ms. A was advised that the minimum investment was \$150,000, but an investment of \$100,000 could be allowed.

24. In July 2005, Ms. A and her husband made a \$150,000 investment in Camdeton with RRSP

money, mortgage equity and line of credit funds. The promise of a secure investment with a high return rate seemed worthwhile. Ms. A stated she was not aware of Ms. Delahaye's discussions with the OSC in April of 2005. No statements were mailed to Ms. A, everything was accessed online, and she decided to leave the money invested for 28 months without drawing out any interest. Ms. A never received any money despite assurances from Ms. Delahaye. In late 2006, Ms. A became aware of the OSC investigation. Ms. A was also offered an opportunity to set up a Belize account and eventually realized that all the money invested was lost.

25. Ms. Hersak filed a 2008 OSC transcript of evidence of Mr. G (Exhibit 5) who has since died. Mr. G, an 86 year old WW2 navy veteran and retired insurance broker, had found information on the computer about Synergy Group. Mr. G spoke to Ms. Delahaye by telephone who told him the investment was guaranteed by 30-plus international banks, and Mr. G told her he could make a \$150,000 investment by selling some securities. Ms. Delahaye attended at his home in the Fall of 2005 to discuss the investment. At that time Mr. G became aware that she was a chartered accountant. After selling some mutual funds and stock, Mr. G met with Mr. Haver and Ms. Delahaye at an office to give them the cheque. He understood that the money could be put in a trust for his daughter. Mr. G had been provided with a brochure about offshore investments and articles written about and by Mr. Sabourin.

26. Mr. G told the OSC that aside from an \$18,000 payment drawn on a Korean bank, he did not receive any other portion of the \$150,000 he invested. He set up a Belize account, but no money was placed into this account. The money Mr. G lost was half of his retirement fund and left him in a very poor financial position.

27. Ms. Hersak submitted that the evidence was clear, cogent and convincing and proved the allegations made against Ms. Delahaye. Ms. Hersak also submitted that there is a rebuttable presumption under Rule 201.2 that Ms. Delahaye has failed to maintain the good reputation of the profession and its ability to serve the public interest based on the fact that she had been found guilty of breaching sections 25 and 53 of the Ontario *Securities Act* by the OSC. Ms. Hersak submitted that the finding of guilt could be proven when a certified copy of a document which provides proof of guilt, specifically the decision of the OSC, is filed with the Discipline Committee. In being found guilty of these violations, Ms. Delahaye damaged the reputation of the profession. Ms. Delahaye offered and sold investment schemes to clients in securities that were not registered and did not have a prospectus filed. Ms. Delahaye did not exercise due care and diligence in recommending schemes that were a sham. Twenty-one clients invested in this scheme, and most of the clients were elderly and unsophisticated in investment matters. While there is no suggestion that Ms. Delahaye was the author of the scheme, she did not do sufficient research before selling the investment scheme to clients and all monies invested have disappeared. Ms. Hersak stated that Ms. Delahaye did not do an initial check with the OSC about the investment companies and subsequent to being interviewed by the OSC about the companies' activities, she continued to sell to clients.

### **Finding**

28. The tribunal accepted the testimony of the witnesses and, pursuant to Rule 18.07 of the Rules of Practice and Procedure, the evidence contained in the Reasons and Decision of the OSC.

### **Decision**

29. After deliberating, the tribunal made the following decision:

THAT, having determined to proceed with the hearing in the absence of Ms. Delahaye, being satisfied that she had proper notice of the hearing, and having entered on her behalf a plea of not guilty to the allegations, and having seen, heard

and considered the evidence, the Discipline Committee finds Sandra Jean Delahaye guilty of Allegation Nos. 1 and 2.

### **Reasons for Decision**

30. The tribunal was convinced that the facts as summarized above had been proven by clear, cogent and convincing evidence. Further, Ms. Delahaye did not attend this hearing and provided no evidence or explanation to refute the allegations.

### **Sanction**

31. Ms. Hersak did not call any additional evidence with respect to sanction. Ms. Hersak distributed a case brief of matters involving integrity and due care: *Cook, Stinson, Sinclair and Doutre*.

32. Ms. Hersak, on behalf of the PCC, submitted that an appropriate sanction would be: a written reprimand; a fine in the amount of \$10,000; suspension of membership for a period of 12 months; professional development course *Professional Risk Management – A Practical Perspective* and full publicity. The PCC also sought an order for costs on a partial indemnity basis. Ms. Hersak filed a Costs Outline (Exhibit 7) which showed that the costs were approximately \$90,000. Ms. Correia spent a great deal of time investigating this matter, including interviews with numerous investment clients. The costs were based on a two-day hearing, so they needed to be adjusted to reflect that the hearing was completed in one extended day. Ms. Hersak said she was not aware of Ms. Delahaye's current income level but understands she was recently discharged from bankruptcy and is selling healthcare products. Since costs are discretionary, the PCC would not object to an amount of \$20,000.

33. Ms. Hersak submitted that the proposed sanctions would satisfy the principles of sentencing: specific and general deterrence and rehabilitation. Ms. Delahaye is not in public practice and is prohibited by the OSC from selling securities. Ms. Hersak stated that Ms. Delahaye was not the author of the investment scheme. The prescribed professional development course will assist in Ms. Delahaye's rehabilitation, and the fine will act as a specific and general deterrent to other members. Suspension of Ms. Delahaye's membership will demonstrate the seriousness of her misconduct. Ms. Hersak stated that Ms. Delahaye's membership is currently under suspension due to her bankruptcy by order of the Registrar until this matter before the Discipline Committee is resolved.

34. Ms. Hersak indicated that the aggravating factors included the fact that most of her clients were elderly and vulnerable people who had worked hard to save the money and lost everything they invested on her recommendation. These clients were encouraged to invest large amounts of money, the minimum being \$100,000. As a CA with many years' experience and an investment advisor with the OSC for ten years, Ms. Delahaye should have done due diligence to verify the bona fides of the investment companies: she did not. Ms. Delahaye had not shown remorse, maintaining that she had done due diligence and believed in the soundness of the investments.

35. Ms. Hersak indicated the mitigating factors included that Ms. Delahaye admitted to the OSC that she had contravened Sections 25 and 53 of the *Securities Act*. Ms. Hersak stated that Ms. Delahaye fully cooperated with the investigation and appeared at the PCC meeting. Ms. Delahaye and her representative had spoken to Ms. Hersak subsequent to receiving notice of the discipline hearing, but Ms. Delahaye chose not to appear.

36. The tribunal deliberated and reconvened to question why the PCC recommended suspension rather than revocation of Ms. Delahaye's membership. Ms. Hersak responded that Ms. Delahaye's misconduct was of a serious nature but Ms. Delahaye really seemed to believe that the

product she was selling was a good and safe investment. As reflected in the reasons of the OSC (para. 180) Mr. Sabourin, the mastermind of the operation was a very convincing and charismatic individual. Ms. Hersak stated that Ms. Delahaye said she firmly believed in the investment, although there was no documentary evidence of what the product actually represented, no trust agreement and no guarantee document.

#### **Order**

1. After deliberating, the tribunal made the following order:

IT IS ORDERED in respect of the Allegations:

1. THAT Ms. Delahaye be reprimanded in writing by the Chair of the hearing.
2. THAT Ms. Delahaye be and she is hereby fined the sum of \$10,000 to be remitted to the Institute within six (6) months from the date this Decision and Order is made.
3. THAT Ms. Delahaye's membership in the Institute be and is hereby revoked.
4. THAT notice of this Decision and Order, disclosing Ms. Delahaye's name, be given after this Decision and Order is made:
  - (a) to all members of the Institute; and
  - (b) to all provincial institutes/Ordre;
 and shall be made available to the public.
5. THAT notice of the revocation of membership, disclosing Ms. Delahaye's name, be given by publication on the Institute's website and in *The Globe and Mail* and in a newspaper distributed in the Barrie area. All costs associated with the publication shall be borne by Ms. Delahaye and shall be in addition to any other costs ordered by the committee.
6. THAT Ms. Delahaye surrender her CA certificate of membership in the Institute to the Discipline Committee Secretary within ten (10) days from the date this Decision and Order is made.

IT IS FURTHER ORDERED:

7. THAT Ms. Delahaye be and she is hereby charged costs fixed at \$30,000 to be remitted to the Institute within six (6) months from the date this Decision and Order is made.

#### **Reasons for Sanction**

37. The tribunal ordered that Ms. Delahaye be reprimanded in writing to stress the importance of her responsibility to her clients as a Chartered Accountant. The witnesses that provided evidence at the hearing reiterated that they relied on her credentials as a CA as well as her being an experienced investment advisor. Ms. Delahaye failed in her responsibility as a CA in her conduct with this group of clients who essentially lost all their monies as a result of their reliance on her profession and credentials.

38. Ms. Delahaye betrayed the trust given to her by her clients. She caused a group of 21 clients to invest a total of \$2,225,000 during the period from January 2005 to May 2006 in an investment product for which she had performed either inadequate or no due diligence. Although

she was a registered salesperson with an investment dealer up to April 2005, she did not disclose to her employer that she was involved in selling the Sabourin and Sun investments beginning in January 2005. She was disciplined by the OSC and found to have breached section 25 (trading in securities without registration) and section 53 (distributing securities in which no preliminary prospectus or prospectus was filed). These breaches took place notwithstanding the fact that Ms. Delahaye had held various registrations with the Commission between March 1994 and April 2005 as a salesperson of a broker and investment dealer. She had 10 years experience in the investment business, and can be taken to have the particular knowledge that this background would have given her. The investment product that she had promoted to the 21 investors from 2005 and 2006 was purported to be a form of off-shore investment vehicles. The principal and return on these investments were "guaranteed" and the investors' funds were to be secured by international banks. The investor became the "agent" of their offshore trust. At the OSC hearing, Ms. Delahaye acknowledged contravening sections 25 and 53 of the *Securities Act*. She maintains that she believes she performed due diligence with respect to the investments, but this consisted of a check with the Better Business Bureau re the entity offering the investments (Sabourin and Sun), and some on-line research. She did not review any of the guarantee documents ("banker's acceptance note" that was supposed to guarantee the investment), did not know who the 125 banks were that were purportedly involved in the investment scheme, did not review any trust agreements that were to protect the investors and did not make any inquiries with the OSC.

39. The tribunal concluded that Ms. Delahaye's conduct, lack of professionalism and performance of inadequate or no due diligence with respect to the investments in which she was placing her often vulnerable clients made the gravity of her actions comparable to the actions of those who benefitted from the transactions that took place. Ms. Delahaye apparently expressed no remorse and advised PCC that she believed the investments to be good ones, notwithstanding the losses incurred by her client base and herself. Given the absence of any significant inquiries to confirm the validity of the investments, her training and experience as a CA and her extensive background in the investment industry, the explanation offered by Ms. Delahaye is simply not credible and demonstrates a lack of integrity that cannot be reconciled with continued membership in the profession. The reputation of the profession and the ability of the profession to serve the public interest and maintain the public's confidence would be seriously undermined if Ms. Delahaye was permitted to remain a member of the profession. A lesser penalty would also be an inadequate general deterrent to other members of the profession. Even if Ms. Delahaye subjectively believed the explanation she offered for her conduct, the reliance by her clients on her status as a CA and her disregard for their interests, as evidenced in her conduct, are such a departure from the obligations of a member and so impugn the reputation of the profession that no penalty short of revocation adequately conveys the profession's disapproval of the conduct, as a matter of general deterrence. The tribunal concluded that, in the interest of the protection of the public, it was necessary that Ms. Delahaye's membership be revoked.

40. Publishing names of members found guilty of professional misconduct is often the single most significant sanction that may be administered as a general deterrent, education of the membership at large, and protection of the public. It is essential that the profession be reminded of the value of their designation and the reputation that it entails. The tribunal therefore ordered that notice be given to Members in the normal course, that notice be made available to the public and, in addition, that publication be made in *The Globe and Mail* and in a newspaper distributed in Ms. Delahaye's place of residence, Barrie, Ontario.

41. The tribunal finds that a fine of \$10,000 is sufficient to serve as a general and specific deterrence in the circumstances.

42. The costs presented by the PCC approximated \$90,000. This significant cost was primarily a result of the investigator hired by the PCC having to interview and obtain information from Ms. Delahaye's clients. The tribunal determined that costs of \$30,000 should be borne by the member.

DATED AT TORONTO THIS 24<sup>TH</sup> DAY OF OCTOBER, 2013  
BY ORDER OF THE DISCIPLINE COMMITTEE



S.M. DOUGLAS, FCPA, FCA – DEPUTY CHAIR  
DISCIPLINE COMMITTEE

MEMBERS OF THE TRIBUNAL:

B.G. ALLENDORF, CPA, CA  
G. KROFCHICK, CPA, CA  
S. WALKER (PUBLIC REPRESENTATIVE)