

**CERTIFIED MANAGEMENT ACCOUNTANTS OF ONTARIO  
DISCIPLINE COMMITTEE**

Anne Mackenzie, CMA, (Chair of Panel) ]  
David B. Debenham, CMA ]  
R. Anthony Warner (Public Member) ]

Friday, 22 February 2013

IN THE MATTER of the *Certified Management Accountants Act, 2010*, Statutes of Ontario 2010, C.6, Schedule B, as amended (the "Act");

AND IN THE MATTER of a Hearing of a matter regarding the conduct of **Mariana Dimova** as directed by the Complaints Committee of Certified Management Accountants of Ontario (the "Corporation") to be held according to the *Act* and Bylaws of the Corporation and the Rules of Procedure of the Discipline Committee of the Corporation ("Rules").

BETWEEN:

Certified Management Accountants of Ontario

(Applicant)

-and-

Mariana Dimova

(Respondent)

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**DECISION AND ORDER**

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THIS HEARING was heard at Victory Verbatim, Ernst & Young Tower, 17<sup>th</sup> floor, 222 Bay Street, Toronto, Ontario M5K 1H6, on Wednesday, the 28<sup>th</sup> day of November 2012, in the presence of the lawyer for the Applicant, with the lawyer for the Respondent attending electronically; and written submissions as to penalty having been delivered on Friday, 15 February 2013; and the Decision and Order having been reserved until this date.

UPON READING THE NOTICE OF HEARING filed by the Applicant;

AND UPON reading the Agreed Statement of Facts and reviewing the exhibits filed,

AND UPON hearing the submissions of the lawyer for the Applicant and the submissions of the lawyer for the Respondent,

AND UPON the consent of the lawyer for the Applicant and the lawyer for the Respondent, to this Order, and to the penalty other than the Order as to publication in a daily newspaper,

AND UPON reading and considering the submissions of the lawyer for the Applicant and the lawyer for the Respondent as to publication in a daily newspaper.

1. THE DISCIPLINE COMMITTEE FINDS AND DECLARES that the Respondent is guilty of professional misconduct as that term is defined in Section 2.2(b) of the Professional Misconduct and Code of Professional Ethics Regulation and in breach of subsections 3.1 c), 3.2 a) and 3.4 b) of that Regulation; Section 211 of the Candidates Pursuing CMA Designation Regulation, and Section 30 of the Bylaws of the Corporation.
2. THE DISCIPLINE COMMITTEE ORDERS, under the authority of Section 36 of the Act and Section 15.2 of the Rules, the membership of Mariana Dimova is suspended effective from and including the first day of December 2012 until the final outcome of the proceeding.
3. THE DISCIPLINE COMMITTEE ISSUES, under the authority of paragraph 6 of Section 35(4) of the *Act*, the Reprimand delivered with this Decision and Order; and DIRECTS that such Reprimand be recorded on the Respondent's record.
4. THE DISCIPLINE COMMITTEE ORDERS, under the authority of paragraph 2 of section 35 of the Act and Section 15.3 of the Rules, that the membership of Mariana Dimova shall remain suspended from and including the date of this Decision and Order until she shall have successfully completed, as determined by the Corporation, the second year of the Corporation's Senior Leadership Program.
5. THE DISCIPLINE COMMITTEE ORDERS, under the authority of paragraph 7 of section 35 of the Act and Subsection 15.3.5 of the Rules, that Mariana Dimova shall enrol in and successfully complete, as determined by the Corporation, the second year of the Corporation's Senior Leadership Program entirely at her own sole cost and expense, which successful completion must occur on or before the 31<sup>st</sup> day of August 2014.
6. THE DISCIPLINE COMMITTEE UNANIMOUSLY ORDERS that if Mariana Dimova fails to successfully complete the second year of the Corporation's Senior Leadership Program on or before the 31<sup>st</sup> day of August 2014 in accordance with the Order set out




in paragraph 5 of this Decision and Order, the membership of Mariana Dimova shall be revoked without any further action or proceeding.

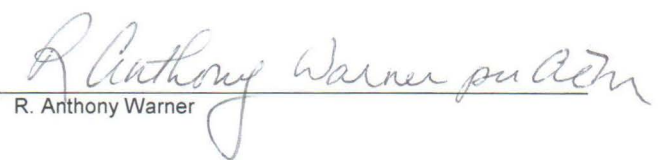
7. THE DISCIPLINE COMMITTEE ORDERS, under the authority of paragraph 11 of section 35(4) of the *Certified Management Accountants Act, 2010*, and in accordance with the provisions of section 15.6 of the Discipline Committee Rules of Procedure, that:

- (a) notice of the Decision and Order of the Discipline Committee disclosing the name of the Member and brief particulars of the professional misconduct shall be published and shall be distributed to the Board and to the Members in the CMA Ontario on-line monthly e-newsletter, *Leading Indicator*, and
- (b) the decision and order of the Discipline Committee disclosing the name of the Member, together with the written reasons for the decision with brief particulars of the finding of professional misconduct, shall be published and maintained in the public area of CMA Ontario's website; and
- (c) notice of the Decision and Order of the Discipline Committee disclosing the name of the Member and brief particulars of the professional misconduct shall be published in a local or daily newspaper in the community where the member resides and/or carries on business, and all costs associated with such newspaper publication shall be born by the member.

8. THE DISCIPLINE COMMITTEE makes no order as to costs.

  
Anne Mackenzie  
Chair of the Panel of the Discipline Committee

  
David B. Debenham

  
R. Anthony Warner

**CERTIFIED MANAGEMENT ACCOUNTANTS OF ONTARIO  
DISCIPLINE COMMITTEE**

IN THE MATTER of the *Certified Management Accountants Act, 2010*, Statutes of Ontario 2010, C.6, Schedule B, as amended (the "Act");

AND IN THE MATTER of a Hearing of a matter regarding the conduct of Mariana Dimova as directed by the Complaints Committee of Certified Management Accountants of Ontario (the "Corporation") to be held according to the *Act* and Bylaws of the Corporation and the Rules of Procedure of the Discipline Committee of the Corporation ("Rules").

BETWEEN:

Certified Management Accountants of Ontario

(Applicant)

-and-

Mariana Dimova

(Respondent)

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**REASONS**

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There is no dispute as to the facts in this case. At the Hearing on Wednesday, the 28<sup>th</sup> day of November 2012, the Member, Ms. Mariana Dimova, admitted the facts respecting all of the allegations contained in the Notice of Hearing, and she signed an Agreed Statement of Facts as to the following events.

1. On or about October 2, 2010, Mariana Dimova submitted an assignment (Assignment 1) required in Module 4 of the CMA Senior Leadership Program entitled "LCBO's Value Chain Analysis" to the Corporation; this assignment was plagiarised.
2. On or about October 9, 2010, Mariana Dimova submitted an assignment (Assignment 2) required in Module 4 of the CMA Senior Leadership Program entitled "Is Starbucks Drowning in its Blue Ocean?" to the Corporation; this assignment was plagiarised.
3. On or about November 5, 2010, Mariana Dimova submitted an assignment (Assignment 4) required in Module 4 of the CMA Senior Leadership Program entitled "Carly Fiorina and Her Leadership Traits" to the Corporation, this assignment was plagiarised.
4. On or about March 18, 2011, Mariana Dimova submitted an assignment (Assignment 4) required in Module 6 of the CMA Senior Leadership Program entitled "Assessment of the Pricing Practices and Processes at Playlandz and Recommendations for Improvements" to the Corporation; this assignment was plagiarised.

At the Hearing on Wednesday, the 28<sup>th</sup> day of November 2012, this Committee found and determined that Mariana Dimova was guilty of professional misconduct as that term is defined in



Section 2.2(b) of the Professional Misconduct and Code of Professional Ethics Regulation and in breach of subsections 3.1 c), 3.2 a) and 3.4 b) of that Regulation; Section 211 of the Candidates Pursuing CMA Designation Regulation, and Section 30 of the Bylaws of the Corporation.

### **Interim Suspension**

On consent on that date, this Committee, under the authority of Section 36 of the Act and Section 15.2 of the Rules, ordered that the membership of Mariana Dimova be suspended effective from and including the first day of December 2012 until the final outcome of this proceeding.

### **Submissions on Penalty**

The proceedings were then adjourned until Monday, 18 February 2013, at which time counsel for the parties would present their submissions respecting what penalty should be imposed. Subsequent to that date, counsel for the parties moved and this Committee approved that the submissions would be submitted in writing. Submissions in writing, jointly on all but one point, were received on Friday, 15 February 2013.

### **Principles Respecting Imposition of Penalties**

Unlike its counterparts in other self-regulating bodies, it does not appear that the Discipline Committee has previously articulated the principles and purposes of imposing penalties for disciplinary infractions by Members of CMA Ontario; nor has the Committee expressly addressed how it should treat joint submissions, particularly when not all of those joint submissions are identical. It would be helpful, both in this case and for the future, that this Committee explain how it approached these issues.

Drawing upon the experience of other self-regulating bodies, we are of the view that what the Master of the Rolls of the Court of Appeal in England, Sir Thomas Bingham noted in *Bolton v. Law Society*<sup>1</sup> identifies the basic principle that applies equally to a member of CMA Ontario.

It is required of lawyers in this country that they should discharge their professional duties with integrity, probity and complete trustworthiness.

...

Any solicitor who is shown to have discharged his professional duties with anything less than complete integrity, probity and trustworthiness must expect severe sanctions ...

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<sup>1</sup> [1994] 1 W.L.R. 512

The Appeal Panel in *Kazman v. Law Society of Upper Canada*<sup>2</sup> asserted:

- [75] The principles in Bolton and other relevant considerations as to penalty may be summarized as follows:
- i. The Law Society regulates the legal profession in the public interest. (Role Statement)
  - ii. Disciplinary orders are directed toward four main purposes:
    - a) Specific deterrence;
    - b) General deterrence;
    - c) In appropriate cases, improved competence, rehabilitation and or restitution; and
    - d) Most important of all, maintaining public confidence in the legal profession.
  - iii. Public confidence in the legal profession is more important than the fortunes of any one lawyer or paralegal.
  - iv. Public confidence is based on such matters as a licensee's credibility, integrity, character, repute, and fitness. While mitigating factors and compassion for the licensee have their place, they should not compromise an impartial adjudication of those matters.
  - v. The ability to practise law or provide legal services is not a right but a privilege. (Universal Truth)

The Hearing Panel, Mr. Sandler, in *Law Society of Upper Canada v. Ricardo Max Aguirre*<sup>3</sup> noted

- [12] The following factors – and no doubt others – inform the appropriate penalty to be fixed:
- (a) the existence or absence of a prior disciplinary record;
  - (b) the existence or absence of remorse, acceptance of responsibility or an understanding of the effect of the misconduct on others;
  - (c) whether the member has since complied with his/her obligations by responding to or otherwise co-operating with the Society;
  - (d) the extent and duration of the misconduct;
  - (e) the potential impact of the member's misconduct upon others. In this regard, consideration may be given not to the merits of the complaints that prompted the Society's intervention (unless proven at the hearing), but to how the member's unresponsiveness did or might reasonably be expected to affect the client's interests;
  - (f) whether the member has admitted misconduct, and obviated the necessity of its proof;
  - (g) whether there are extenuating circumstances (medical, family-related or others) that might explain, in whole or in part, the misconduct;
  - (h) whether the misconduct is out-of-character or, conversely, likely to recur

We are likewise of the view that these principles, considerations and factors adopted by the Law Society in *Kazman* and *Aguirre* with respect to the conduct of lawyers apply with equal force to a member of CMA Ontario.

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<sup>2</sup> 2008 ONLSAP 7 (CanLII)

<sup>3</sup> 2007 ONLSHP 46 (CanLII)



Thus, adopting and applying these principles, considerations and factors both generally, and to the facts in this case, we can stipulate as follows:

1. CMA Ontario regulates the profession of Management Accountants in the public interest.
2. Disciplinary orders are directed toward four main purposes
  - (a) Specific deterrence: the penalty in this case must dissuade this Member from repeating her conduct in the future;
  - (b) General deterrence: the penalty in this case must persuade other Members that similar conduct will not be tolerated;
  - (c) Improved competence, rehabilitation and/or restitution: the penalty in this case should lead other Members generally, and this Member in particular, to improved competence and rehabilitation (restitution is not appropriate in this case); and
  - (d) Maintaining public confidence in the profession of Management Accounting: the penalty in this case must help to ensure public confidence in the integrity, probity and trustworthiness not only in Members generally, but also in CMA Ontario as the self-regulatory body of Management Accountants.
3. Public confidence in the profession of Management Accountants is more important than the fortunes of any one Member.
4. Public confidence is based on such matters as a Member's credibility, integrity, character, repute, and fitness. While mitigating factors and compassion for a Member may have a place, they should not compromise an impartial adjudication of those matters.
5. The ability to practise as a Management Accountant or provide accounting services is not a right but a privilege. (Universal Truth)

As to the specific appropriateness of the penalty, again both generally and in this case, the following factors are always generally material to what penalty should be imposed:

1. The existence or absence of a prior disciplinary record: in this case, the Member has no prior disciplinary record.
2. The existence or absence of remorse, acceptance of responsibility or an understanding of the effect of the misconduct on others: in this case, the Member was remorseful, understood and accepted responsibility for what she did (there was no evidence here of any adverse effect upon other persons).
3. Whether the member has since complied with his/her obligations by responding to or otherwise co-operating with CMA Ontario: in this case, the Member fully cooperated with CMA Ontario.
4. The extent and duration of the misconduct: in this case, the plagiarism in all four assignments occurred over a period from October 2010 through March 2011.
5. The potential impact of the Member's misconduct upon others, (considering not just the merits of the complaints that prompted CMA Ontario to intervene but whether and how

the Member's unresponsiveness did or might reasonably be expected to affect a client's interests); in this case, there was no evidence of any impact of the Member's conduct upon any other person.

6. Whether the Member has admitted misconduct, and obviated the necessity of a more lengthy hearing required to establish its proof; in this case, the Member admitted her misconduct, thereby accommodating a relatively short hearing.
7. Whether there are extenuating circumstances (medical, family-related or others) that might explain, in whole or in part, the misconduct; in this case, there was no evidence of any extenuating circumstances.
8. Whether the misconduct is out-of-character or, conversely, likely to recur; in this case, there was no evidence that the misconduct would be likely to re-occur.

### ***Joint Submissions Conceptually***

Joint submissions by the parties are generally very helpful to a tribunal that must make a decision such as that with which this Committee is faced. Since the parties have different, sometimes opposite, views as to what is reasonable and appropriate in a given set of circumstances, the tribunal can most often have the benefit of viewing an arms-length compromise. That said, however, the tribunal must make its own assessment of what is fair and just, not only for the parties themselves, but for the relevant society more broadly. As the Court of Appeal of Ontario noted in the case of *R. v. Dorsey*:<sup>4</sup>

[11] It is well established that a trial judge is not bound by a joint submission. The trial judge must, of course, give serious consideration and respect to a joint submission. The submission should be departed from only where the trial judge considers the joint submission to be contrary to the public interest and a submission which, if accepted, would bring the administration of justice into disrepute.

Mr. Justice Finlayson in a subsequent Court of Appeal case, *R. v. Cersuolo*<sup>5</sup> commented:

This is a high threshold and is intended to foster confidence in an accused, who has given up his right to a trial, that the joint submission he obtained in return for a plea of guilty will be respected by the sentencing judge.

...

While we cannot over emphasize that these agreements are not to fetter the independent evaluation of the sentences proposed, there is no interference with the judicial independence of the sentencing judge in requiring him or her to explain in what way a particular joint submission is contrary to the public interest and would bring the administration of justice into disrepute.

Regardless that these decisions were rendered in criminal cases, this Committee considers that the principle identified is equally applicable in cases of where discipline may be imposed on members of CMA Ontario.

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<sup>4</sup> (1999) 123 O.A.C. 343, 1999 CanLii 3759

<sup>5</sup> (2001) 151 CCC (3d) 445, 140 OAC 114, 2001 CanLii 24172



### ***Joint Submissions in This Case***

The parties jointly agreed that this Committee should impose the penalties noted below under the heading "Penalties Imposed" and described in paragraphs 1, 2, 3, 4, 5(a), and 5(b). In accordance with the principles noted above in the cases of *R. v. Dorsey* and *R. v. Cersuolo*, the Committee considers the joint submission described in those paragraphs to be consistent with the public interest and one which would not bring the administration of justice into disrepute.

The parties did not agree, however, upon whether notice of the Decision and Order of the Discipline Committee disclosing the name of Mariana Dimova and brief particulars of the professional misconduct should be published in a local or daily newspaper. CMA Ontario submitted that such publication provides protection to the public by alerting persons who might seek the services of the Member that she has been found to have breached her professional obligations. Ms. Dimova's counsel, on the other hand, opposed such publication citing as reasons that Ms. Dimova never previously advertized her services; that publication will cause her further stress, upset and permanent impairment of her reputation; and that she cannot afford the costs of newspaper publication.

This Committee considers that the reasons given by the Member's counsel cannot prevail over the obligation to protect the public, and to ensure that the public may see that it is protected. It should be obvious that it was the Member in this case and only the Member who was the cause of these disciplinary proceedings

### **Penalties Imposed**

This Committee has therefore determined that the penalty that follows is consistent with the purposes of general deterrence; specific deterrence; improved competence and rehabilitation; and the maintenance of public confidence in the profession.

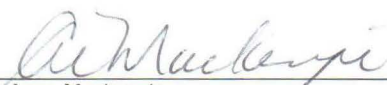
1. Under the authority of paragraph 6 of Section 35(4) of the *Act*, a Reprimand will be imposed upon Mariana Dimova, and such Reprimand shall be recorded on her record.
2. Under the authority of paragraph 2 of section 35 of the *Act* and Section 15.3 of the Rules, the membership of Mariana Dimova shall remain suspended from and including the date of the Decision and Order until she shall have successfully completed, as determined by the Corporation, the second year of the Corporation's Senior Leadership Program.
3. Under the authority of paragraph 7 of section 35 of the *Act* and Subsection 15.3.5 of the Rules, Mariana Dimova shall enrol in and successfully complete, as determined by the Corporation, the second year of the Corporation's Senior Leadership Program entirely at

her own sole cost and expense, which successful completion must occur on or before the 31<sup>st</sup> day of August 2014.

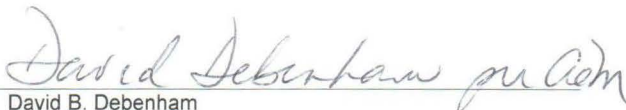
4. If Mariana Dimova fails to successfully complete the second year of the Corporation's Senior Leadership Program on or before the 31<sup>st</sup> day of August 2014 in accordance with the Order set out in paragraph 2, under the authority of paragraph 1 of section 35 of the Act and Section 15.3 of the Rules, the membership of Mariana Dimova shall be revoked without any further action or proceeding.
5. Under the authority of paragraph 11 of section 35(4) of the *Certified Management Accountants Act, 2010*, and in accordance with the provisions of section 15.6 of the Discipline Committee Rules of Procedure:
  - (a) notice of the Decision and Order of the Discipline Committee disclosing the name of Mariana Dimova and brief particulars of the professional misconduct shall be published and shall be distributed to the Board and to the Members in the CMA Ontario on-line monthly e-newsletter, *Leading Indicator*, and
  - (b) the decision and order of the Discipline Committee disclosing the name of Mariana Dimova, together with the written reasons for the decision with brief particulars of the finding of professional misconduct, shall be published and maintained in the public area of CMA Ontario's website; and
  - (c) notice of the Decision and Order of the Discipline Committee disclosing the name of Mariana Dimova and brief particulars of the professional misconduct shall be published in a local or daily newspaper in the community where the member resides and/or carries on business, and all costs associated with such newspaper publication shall be born by the member.
6. There shall be no order as to costs.

The Committee wishes to thank counsel for both parties for their very helpful submissions.

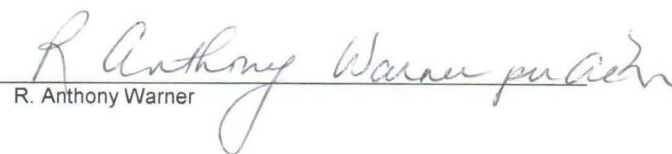
All of which is respectfully submitted this 22<sup>nd</sup> day of February 2013



Anne Mackenzie  
Chair of the Panel of the Discipline Committee



David B. Debenham



R. Anthony Warner