

DISCIPLINARY COMMITTEE

CHAMBRE DE LA SÉCURITÉ FINANCIÈRE

CANADA
PROVINCE OF QUÉBEC

NO: CD00-1447

DATE: 19 mai 2021

THE COMMITTEE: M ^e Chantal Donaldson	President
Mrs. Dominique Vaillancourt	Member
Mr. André Boucher, Pl. Fin.	Member

SYNDIC OF THE CHAMBRE DE LA SÉCURITÉ FINANCIÈRE

Plaintiff

v.

DAVID DICKINSON (certificate no. 208693)

Respondent

DECISION REGARDING GUILT AND SANCTION

[1] The Respondent was the subject of a complaint before the Disciplinary Committee of the Chambre de la sécurité financière (the "**Committee**") dated November 13, 2020 which reads as follows:

THE COMPLAINT

In Ottawa, Ontario, between February 21, 2018 and March 22, 2018, asked B.C., one of his employees, to perform and earn professional development units on his behalf and then claimed these professional development units as his own, thereby contravening section 16 of the *Act respecting the distribution of financial products and services* and sections 5 and 35 of the *Code of ethics of the Chambre de la sécurité financière*.

[2] On March 17, 2021, the Committee met to hear by visioconference the complaint. The Committee has drafted this decision in English as the Respondent primarily speaks English and does not speak French.

GUILTY PLEA

[3] The Respondent admitted the facts described in the complaint and submitted a guilty plea regarding the three infractions described in the only count of the Complaint, acknowledging therein the voluntary nature of his guilty plea, his awareness of the consequences thereof and the fact that he had the opportunity to consult an attorney before entering such plea.

[4] The Committee accepted the Respondent's plea of guilt and declared him guilty of the three (3) infractions covered by the above Complaint. Considering the principle prohibiting multiple convictions for the same conduct, the Committee order a conditional stay of proceedings regarding the legal provisions cited in the Complaint in regards to section 16 of the *Act respecting the distribution of financial products and services* and section 5 of the *Code of ethics of the Chambre de la sécurité financière*.

[5] Following the Respondent's guilty plea, the Plaintiff presented the documentary evidence reviewed below detailing the impugned conduct of the Respondent.

PLAINTIFF'S EVIDENCE

[6] Exhibit P-1 is an Attestation by the Autorité des marchés financiers for the Respondent which establishes that he was a member of the Chambre from April 8, 2015 to February 7, 2018 and from March 28, 2018 to June 25, 2019. During these periods, he held a valid certificate to practise in the Quebec Group insurance of persons industry from that time until his resignation (requested by the employer as per Exhibit P-2), thereby subjecting him to the jurisdiction of the Committee during the period covered by the Complaint.

[7] On or about January 23, 2018, the Respondent was advised by the Autorité des marchés financiers that he failed to comply with the professional development requirements set out in the *Regulation respecting the compulsory professional development* of the Chambre de la sécurité financière (Exhibit P-3).

[8] In a decision dated February 8, 2018, the Autorité des marchés financiers informed the Respondent that his right to practise was suspended until the completion of the required professional development units (Exhibit P-4).

[9] Exhibit P-5 shows that professional development units were completed between February 27 and March 28, 2018 using the Respondent's access code (PDU 208693).

[10] As shown in emails in Exhibit P-6, the professional development units were in fact completed by another employee (B.C.) at the Respondent's request. In addition, a recorded telephone conversation between a representative of the Plaintiff and the

Respondent confirms that the units were indeed completed by B.C. and not the Respondent himself (Exhibit P-7).

RESPONDENT'S PROOF

[11] The Respondent has practiced in the insurance industry since 1987 and has been licensed in Ontario in good standing throughout this time. The Respondent holds his chartered life underwriter designation (CLU), certified financial planner designation (CFP), and his charter financial consultant designation (ChFC).

[12] The Respondent has always met the continuing education requirements for his license in the province of Ontario and has always done so in compliance with all applicable rules and standards, without incident or complaint.

[13] It was the first licensing renewal in the province of Quebec for the Respondent and believed that the continuing education courses that he qualified for in Ontario would apply in Quebec. He learned that it wasn't the case when informed in a letter in 2018. At the time, the Respondent was working up to 70 hours per week.

RECOMMENDATION REGARDING SANCTION

[14] The Plaintiff recommends a temporary striking off the roll for two months which will only begin upon the issuance of a valid certificate by the Autorité des marchés financiers in the Respondent's name and payment of all applicable costs by the Respondent.

[15] The Respondent agrees with the Plaintiff's recommendation regarding sanction.

[16] As regards the aggravating factors, Plaintiff invokes the objective gravity of Respondent's misconduct (asking an employee to complete required professional development units on his behalf), which conduct strikes at the core values of the profession, taints the public image of the profession, a certainty degree of dishonesty and the Respondent's years of experience (over 30 years) at the time of the infraction.

[17] As for the attenuating factors, Plaintiff refers to the fact that Respondent had no prior disciplinary record, that he pleaded guilty and that no clients were prejudiced by the Respondent's conduct. The Respondent has acknowledged his lapse in judgment and has repeatedly stated that he very much regrets his actions, thereby reducing the risk of recidivism.

[18] Plaintiff referred the Committee to the following jurisprudential precedents, which set forth the applicable principles in cases of this kind and/or imposed sanctions consistent with the recommendation herein in cases involving similar facts:

1. *Chambre de la sécurité financière c. Ducharme*, 2017 QCCDCSF 78;
2. *Chambre de la sécurité financière c. Berthelet*, 2018 QCCDCSF 5;
3. *Physiothérapie (Ordre professionnel de la) c. Martineau*, 2019 CanLII 4573 (QC OPPQ).

ANALYSIS AND REASONS

[19] The Committee subscribes to the recommendation of the Plaintiff for the following reasons:

- a. Members' competence is directly linked to the primary objective of the Chambre de la sécurité financière, namely the protection of the public. Continuing education helps achieve this objective and failure to comply with it cannot be trivialized;

- b. the conduct of the Respondent calls for the imposition of serious sanctions given the nature of the infraction which results in dishonesty;
- c. the Respondent agrees with this recommendation;
- d. however, the sanctions must be tempered by a recognition of the fact that no client suffered prejudice from his misconduct and the fact that Respondent has no prior disciplinary record, cooperated with the investigation, pleaded guilty, expressed sincere remorse for his actions and is unlikely to repeat them;
- e. the joint recommendations regarding the sanctions to impose upon Respondent appear to be consistent with the jurisprudence in similar cases.

[20] Considering the foregoing, and after reviewing the relevant facts and aforesaid aggravating and attenuating factors, the Committee is of the view that the sanctions described in paragraph 14 hereof are just and appropriate, adapted to the infractions described in the Complaint, in conformity with the foregoing jurisprudential precedents and respectful of the principles of exemplarity and deterrence which must guide the Committee in the exercise of its discretion.

[21] For these reasons, the Committee will impose upon Respondent the sanction recommended by Plaintiff, as described in paragraph 14 above.

[22] As regards costs, no reason has been given which would justify an exception to the general rule that Respondent be obliged to pay all costs applicable pursuant to article 151 of the *Professional Code*.

FOR THESE REASONS, the Disciplinary Committee:

TAKES ACT of Respondent's guilty plea herein;

DECLARES the Respondent guilty under Count 1 of the Complaint for having contravened to sections 16 of the *Act respecting the distribution of financial products and services*, 5 and 35 of the *Code of Ethics of the Chambre de la sécurité financière* (CQLR, c. D-9.2, r.3);

ORDERS a conditional stay of proceedings of the complaint as regards to section 16 of the *Act respecting the distribution of financial products and services* (CQLR, c. D-9.2) and section 5 of the *Code of ethics of the Chambre de la sécurité financière* (CQLR, c. D-9.2, r.3);

CONDEMNS the Respondent to a temporary striking off the roll of two months;

ORDERS the Secretary of the Committee to publish, at Respondent's expense, a notice of the present decision in a newspaper circulating in the place where Respondent has his professional domicile or where he has exercised or may exercise his profession, in conformity with article 156 (7) of the *Professional Code* (CQLR, c. C-26);

CONDEMNS the Respondent to pay all costs, including the registration fees, pursuant to article 151 of the *Professional Code* (CQLR, c. C-26).

S) M^e Chantal Donaldson

M^e Chantal Donaldson
President of the Disciplinary Committee

(S) Mrs. Dominique Vaillancourt

Mrs. Dominique Vaillancourt
Member of the Disciplinary Committee

(S) Mr. André Boucher

Mr. André Boucher, Pl. Fin.
Member of the Disciplinary Committee

M^e Valérie Déziel
CDNP AVOCATS INC.
Attorney for the Plaintiff

The Respondent was self-represented

Date of the hearing: March 17, 2021

TRUE COPY OF THE ORIGINAL SIGNED