

DISCIPLINARY COMMITTEE

CHAMBRE DE LA SÉCURITÉ FINANCIÈRE

CANADA
PROVINCE OF QUEBEC

N° : CD00-1438 and CD00-1474

DATE : December 6, 2021

THE	M ^e Lysane Cree	President
COMMITTEE:	Mr. Jacques Denis, A.V.A. Pl. Fin.	Member
	Mr. Sylvain Jutras, A.V.C. Pl. Fin.	Member

SYNDIC OF THE CHAMBRE DE LA SÉCURITÉ FINANCIÈRE

Plaintiff

v.

JOANNE IACONO, (certificate number 116784 (BDNI 1625921))

Respondent

DECISION REGARDING GUILT

IN ACCORDANCE WITH ARTICLE 142 OF THE *PROFESSIONAL CODE*, THE COMMITTEE RENDERED THE FOLLOWING ORDER:

The non-disclosure, non-publication and non-dissemination of the personal information of the consumer (Exhibit R-1) involved in the disciplinary complaints herein, as well as any information which might enable their identification. Notwithstanding the above, it is understood that the present order does not apply to exchanges of information provided for under the Act respecting the regulation of the financial sector and the Act respecting the distribution of financial products and services.

[1] The first disciplinary complaint submitted by the Syndic against the Respondent on September 24, 2020 accuses the Respondent of having placed herself in a conflict of interest when she negotiated and offered to purchase the residence of her client.¹

[2] The second disciplinary complaint submitted by the Syndic against the Respondent on April 9, 2021 accuses the Respondent of having submitted a lease on her own residence to the bank that was knowingly false and of not having promptly disclosed to the bank an Addendum to the offer to purchase which significantly reduced the purchase price of her client's house.²

OVERVIEW

[3] The Respondent holds a valid certificate from the Autorité des Marchés Financiers in insurance of persons and was certified during the time periods relevant to the offenses in the two disciplinary complaints.³ She was also a registered real estate broker.

[4] The Respondent was terminated from Investors Group ("IG") on April 2, 2019 for using her influence over a client, Maria Brown, to purchase the client's home and requiring this client to sign an Addendum that reduced the purchase price by \$ 250 000.⁴

[5] A professional relationship existed between the Respondent and her client, Maria Brown, as she was the registered financial representative and financial planner of Ms. Brown. She assisted Ms. Brown in obtaining the life insurance proceeds payable to Ms. Brown on the death of her husband. Ms. Brown then invested that money with the

¹ Annex 1.

² Annex 2. Both disciplinary complaints were originally produced in French and are, therefore, reproduced here as written.

³ Exhibit P-1.

⁴ Exhibit P-12.

Respondent at IG. Ms. Brown relied on her for advice and guidance in her financial affairs. They also knew each other on a personal level for approximately 20 years.

[6] When eventually the sale of the home did not go through, the Respondent sent a demand letter to Ms. Brown,⁵ and then filed an Amended Application to Institute Proceedings in Transfer of Title on September 21, 2020⁶, (P-15 and P-15A), in an attempt to obtain the conveyance of title to Ms. Brown's residence.

[7] On November 17, 2020 the Honourable Jeffrey Edwards of the Superior Court of Quebec⁷ determined that the promise to purchase the house of Ms. Brown, including the Addendum, were null and void since they were "...prepared and signed as part of a stratagem of mortgage fraud on the Bank".⁸ The Court also concluded that the proceedings taken by Ms. Iacono against Ms. Brown amounted to abuse within the meaning of the *Code of Civil Procedure* and were "...instituted by Ms. Iacono at least in part to harm Ms. Brown."⁹

[8] Some of the evidence and transcripts from the Superior Court proceedings were filed into evidence before the Committee where it was deemed relevant to the present case.

ISSUES

i) Did the Respondent place herself in a conflict of interest when she negotiated and offered to purchase the residence of her client?

ii) Did the Respondent fail to maintain her integrity in the exercise of her duties when she:

⁵ Exhibit P-14.

⁶ Exhibits P-15 and P-15A.

⁷ *Iacono v. Brown*, 2020 QCCS 3864 (CanLII), filed as P-16. Ms. Iacono's application for an extension to obtain leave to appeal Justice Edward's decision was dismissed by the Quebec Court of Appeal on May 10, 2021 in *Iacono v. Brown*, 2021 QCCA 790.

⁸ *Iacono v. Brown*, para. 172.

⁹ *Iacono v. Brown*, para. 223.

a) submitted a lease on her own residence, knowing it was fake, to a bank from which she was trying to obtain a loan?

b) did not promptly disclose to the same bank the existence of an addendum to an offer to purchase that would significantly decrease the purchase price of the residence of her client?

ANALYSIS

i) Did the Respondent place herself in a conflict of interest when she negotiated and offered to purchase the residence of her client?

[9] The Respondent placed herself in a conflict of interest when she, the financial representative of Ms. Maria Brown, negotiated and offered to purchase the home of her client.

[10] The Respondent is accused of having acted contrary to section 16 of the *Act respecting the distribution of financial products and services*,¹⁰ section 18 of the *Code of ethics of the Chambre de la sécurité financière*,¹¹ and section 14 of the *Regulation respecting the rules of ethics in the securities sector*.¹²

[11] Section 16 of the *Act respecting the distribution of financial products and services* states:

All representatives are bound to act with honesty and loyalty in their dealings with clients. They must act with competence and professional integrity.

[12] Section 18 of the *Code of ethics of the Chambre de la sécurité financière* states:

¹⁰ RLRQ, c. D-9.2.

¹¹ RLRQ, c. D-9.2, r.3.

¹² RLRQ, c. D-9.2, r.7.1.

A representative must, in the practice of his profession, always remain independent and avoid any conflict of interest.

[13] Lastly, section 14 of the *Regulation respecting the rules of ethics in the securities sector* states:

A representative's professional activities shall be conducted responsibly, with respect, integrity and skill.

[14] Each of these three sections independently impose obligations on the representative that are imperative and must be adhered to.

[15] The Respondent does not seem to understand the conflict of interest and continues to deny that conducting a personal transaction with someone who is also her client creates a conflict. She submits that she was not in a conflict of interest and relies on the internal policy of IG as quoted in their letter of termination sent to her and the limited examples there.¹³ She continues to blame others for the consequences of her actions.

[16] The law is clear – a representative cannot place themselves in a situation where their personal interest would skew their judgment and undermine their independence. This rule exists to both protect the client and the public interest. An existing friendship between the client and the representative can add to the risk of a conflict of interest arising and such a problematic situation can place the client in an even more vulnerable position.¹⁴

¹³ Exhibit R-6.

¹⁴ CSF c. Szabo, 2016 QCCDCSF 31, para. 128, 130.

[17] It is clear from the evidence, and is not denied by either party, that a professional relationship existed between the Respondent and Ms. Brown. During that professional relationship, Ms. Brown told the Respondent that she was interested in selling her house and asked her for advice.

[18] There was some disagreement among the parties as to whether Ms. Brown or the Respondent suggested that the Respondent (or Respondent's son) purchase Ms. Brown's residence. Whether or not Ms. Brown initiated the discussion regarding the sale of her home, it is the Respondent that has specific obligations to uphold as a certified representative. She cannot separate herself from these obligations by placing blame on her client.

[19] It is also clear from the evidence that the Respondent intended to purchase the home, renovate it with the help of her son and then re-sell it at a profit.¹⁵ The proceedings filed in Superior Court asking the Court to transfer the title of Maria Brown's house to the Respondent also confirm this.

[20] The Respondent was aware that Ms. Brown had signed a Promise to Purchase in September 2019 for \$ 640 000, but advised her as to how that offer could be revoked.

[21] The Respondent and her son, Joseph Mantagaris, met Ms. Brown at a restaurant to complete an Offer to Purchase on January 22, 2019. The Respondent arrived at the restaurant with the "Offer to purchase a residential property" completed and ready for Ms.

¹⁵ Exhibit P-3.

Brown to sign. The purchase price was indicated as \$ 900 000.¹⁶ The name and signature of Mr. Mantagaris' wife, Kaliopi Pliakis, was already on the document as Mr. Montagaris could not obtain financing himself.

[22] The Bank of Montreal (hereinafter "the bank") required an appraisal, which was done on March 4, 2019 and placed the value of the house at \$ 902,000.¹⁷

[23] The bank also made the approval of the Respondent's mortgage conditional on the removal of Ms. Pliakis' name from the Offer to Purchase, so that it would be in the name of the Respondent only. This was agreed to by the parties on March 8, 2019 in a signed Amendment.¹⁸

[24] On the same date, an Addendum to the Offer to Purchase was signed by the Respondent and Ms. Brown that provided for a reduction of the purchase price of the house by \$ 250 000.¹⁹

[25] The Respondent was in a position of power in comparison to Ms. Brown since they had known one another for many years and the Respondent was the financial representative of Ms. Brown. Ms. Brown therefore relied on her advice for financial investments and for the transaction at issue here regarding the sale of her house.

[26] Ms. Brown did have concerns about the sale and the reduction in price and she discussed the matter with family members, who in turn also voiced their concerns about

¹⁶ Exhibit P-7.

¹⁷ Exhibit P-9.

¹⁸ Exhibit P-8.

¹⁹ Exhibit 15-A, exhibit P-9 of the proceedings in Superior Court.

the legality and fairness of the sale and it is on their advice that Ms. Brown decided to not go through with the transaction. Clearly, the advice or concerns raised should have been coming from the financial representative advising Ms. Brown. However, that becomes very difficult to do when the financial representative is the one making the purchase and has her own interests to safeguard.

[27] The Respondent submitted that she was trying to help Ms. Brown who was in a difficult financial situation. As mentioned earlier, the obligations placed on the representative to remain independent and avoid conflicts of interest,²⁰ to act with honesty, loyalty, competence and professional integrity²¹ and conduct their professional activities responsibly, with respect integrity and skill²² are imperative.

[28] The conflict of interest has been established. The Committee may consider the Respondent's intentions in the determination of the applicable sanction.

[29] The Committee finds the Respondent guilty of having placed herself in a conflict of interest, contrary to sections 16 of the *Act respecting the distribution of financial products and services*, 18 of the *Code of ethics of the Chambre de la sécurité financière* and 14 of the *Regulation respecting the rules of ethics in the securities sector*.

ii) Did the Respondent fail to maintain her integrity in the exercise of her duties when she:

a) submitted a false lease on her own residence to a bank from which she was trying to obtain a loan?

²⁰ Section 18 of the *Code of ethics of the Chambre de la sécurité financière*.

²¹ Section 16 of the *Act respecting the distribution of financial products and services*.

²² Section 14 of the *Regulation respecting the rules of ethics in the securities sector*.

b) did not promptly disclose to the same bank the existence of an addendum to an offer to purchase that would significantly decrease the purchase price of the residence of her client?

[30] As stated above, a professional relationship existed between the Respondent and Ms. Brown. That professional relationship existed prior to and during the entire time that the Offer to Purchase and Addendum were discussed, signed as well as when the Respondent applied for a mortgage to purchase her client's house.

[31] Even in the case where actions are not purely in the exercise of a professional's activities, and may be considered to be outside the professional activities of the individual, in their private life, such activities may still fall within the jurisdiction of a professional order and the disciplinary committee of that order.²³

[32] The Respondent failed to maintain her integrity in the exercise of her duties when she submitted a false lease on her own residence to the bank in order to meet the conditions for obtaining a mortgage from that bank, and also when she did not promptly disclose to the bank the existence of the Addendum to the Offer to Purchase that reduced the purchase price by \$ 250 000.

[33] In doing so, the Respondent is accused of having acted contrary to sections 6, 11 and 35 of the *Code of ethics of the Chambre de la sécurité financière* which state the following respectively:

6. The conduct of a representative must be characterized by dignity, discretion, objectivity and moderation.

²³ *Nowodworski v. Ingéneieurs (Ordre professionnel des)*, 2001 QCTP 005, para. 25-26.

...

11. A representative must practise with integrity.

...

35. A representative must not practise dishonestly or negligently.

Lease

[34] One of the conditions applicable to the mortgage that the Respondent wanted to obtain for the purchase and renovation of Maria Brown's home was that she would lease her personal residence for an amount of \$ 2 200per month.

[35] The Respondent did submit a lease on her personal residence to the bank for a lease amount of \$ 2 200 per month.²⁴

[36] The Respondent has admitted on more than one occasion, during the pre-trial examination of August 16, 2019 and in testimony before this Committee, that the lease that she submitted was just a lease to obtain financing and a friend of her son signed the lease as a favor to help the Respondent get the mortgage.²⁵

[37] The Respondent submits that it is common practice, a "grey area of real estate" for an individual to submit a false lease, such as this one, to a bank in order to meet one of the conditions for obtaining the mortgage and show her capacity to pay back the loan. The Committee is not convinced.

²⁴ Exhibit 15-A, exhibit P-8 of the Application to institute proceedings.

²⁵ Exhibit P-20, p. 47-49.

[38] The purpose of the false lease was to create the impression that the Respondent had an additional income through the lease and that she was going to reside in the house she was purchasing. In fact, no one was leasing her personal residence, the Respondent admittedly was continuing to live there and she would not have this additional lease income. It is concerning to the Committee that the Respondent continues to deny the significance of providing a false lease to the bank and effectively, obtaining a mortgage under false pretenses.

Addendum

[39] The Offer to Purchase signed on January 22, 2019 was submitted to the bank when the Respondent applied for a mortgage based on a purchase price of \$ 900 000. The price was indicated as such by the Respondent so that the amount of \$ 250 000 needed for renovations according to the Respondent, would also be covered by the mortgage.

[40] On March 8, 2019, the Respondent and Ms. Brown signed an Amendment to remove the name of Ms. Pliakis from the Offer to Purchase. They also signed an Addendum to the Offer to Purchase which significantly reduced the purchase price by \$ 250 000x.

[41] On the same day of signing, the Respondent transmitted the Amendment to the bank, but did not send the Addendum. The Respondent only informed the bank about the Addendum on April 4, 2019, almost a month after the Addendum was signed.²⁶

²⁶ Exhibit R-3, p. 3-4.

[42] The Committee is not convinced that the Respondent was unaware that she had to provide the Addendum to the bank, knowing full well the Addendum was making a modification to the purchase price that she had submitted to the bank in the Offer to Purchase and that the mortgage she was applying for was based on the purchase price of \$ 900 000 as written in the Offer to Purchase.

[43] The Respondent's actions cannot be characterized by dignity, discretion, objectivity and moderation²⁷ and are not an example of practising with integrity.²⁸ Quite the opposite, she used her knowledge to bypass rules where she could and when it suited her so that she could move ahead with her plan to purchase the home, have her son renovate it and then sell it at a profit.

[44] A representative must not practise dishonestly or negligently,²⁹ which was clearly the case here when the Respondent submitted a false lease to the bank in order to obtain financing and when she chose to not promptly disclose to the bank the Addendum that reduced the price of the house by \$ 250 000.

[45] The Committee finds the Respondent guilty of having failed to maintain her integrity in the exercise of her duties i) when she submitted a false lease on her own residence to the bank in order to meet one of the conditions of obtaining the mortgage and, also ii) when she did not promptly disclose the existence of an addendum to the offer to purchase her client's house that had the effect of significantly decreasing the purchase price of the residence of her client, contrary to sections 6, 11 and 35 of the *Code of ethics of the Chambre de la sécurité financière*.

²⁷ Section 6, *Code of ethics of the Chambre de la sécurité financière*.

²⁸ Section 11, *Code of ethics of the Chambre de la sécurité financière*.

²⁹ Section 35, *Code of ethics of the Chambre de la sécurité financière*.

FOR THESE REASONS, the Disciplinary Committee:

DECLARES Respondent guilty of the only count under CD00-1438, contrary to section 16 of the *Act respecting the distribution of financial products and services*, section 18 of the *Code of ethics of the Chambre de la sécurité financière* and section 14 of the *Regulation respecting the rules of ethics in the securities sector*, c. D-9.2, r. 7.1;

ORDERS 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 14 of the *Regulation respecting the rules of ethics in the securities sector*;

DECLARES Respondent guilty of the only count under CD00-1474, contrary to sections 6, 11 et 35 du *Code of ethics of the Chambre de la sécurité financière*;

ORDERS a conditional stay of proceedings regarding the legal provisions cited in the complaints in regards to sections 6 and 11 of the *Code of ethics of the Chambre de la sécurité financière*.

SUMMONS the parties with the assistance of the secretary of the disciplinary committee to a hearing on sanction:

For the only count under complaint CD00-1438, the Respondent to be sanctioned in accordance with section 18 of the *Code of ethics of the Chambre de la sécurité financière*;

For the only count under complaint CD00-1474, the Respondent to be sanctioned in accordance with section 35 of the *Code of ethics of the Chambre de la sécurité financière*;

PERMITS the notification of the present decision to the Respondent by technological means, in accordance with section 133 of the *Code of Civil Procedure* (RLRQ, c. C-25.01), that is, by electronic mail.

(S) Me Lysane Cree

M^e Lysane Cree
President of the Disciplinary Committee

(S) Mr. Jacques Denis

Mr. Jacques Denis, A.V.A. Pl. Fin.
Member of the Disciplinary Committee

(S) Mr. Sylvain Jutras

Mr. Sylvain Jutras, A.V.C. Pl. Fin.
Member of the Disciplinary Committee

M^e Claude Leduc
M^e Éric-Alexandre Guimond
Mercier Leduc s.e.n.c.
Legal counsel for the Plaintiff

Ms. Joanne Iacono, Respondent
Self-represented

Hearing dates: September 8, 9 and 10 2021

TRUE COPY OF THE ORIGINAL SIGNED

ANNEX 1

COMPLAINT CD00-1438

1. Dans la région de Montréal, entre le 24 octobre 2018 et le 1^{er} avril 2019, l'intimée n'a pas sauvegardé son indépendance et s'est placée en situation de conflit d'intérêts en négociant et en offrant d'acheter la résidence de sa cliente M.B., contrevenant ainsi aux articles 16 de la *Loi sur la distribution de produits et services financiers*, 18 du *Code de déontologie de la Chambre de la sécurité financière* et 14 du *Règlement sur la déontologie dans les disciplines de valeurs mobilières* ;

ANNEX 2

COMPLAINT CD00-1474

1. Dans la région de Montréal, entre le 22 janvier 2019 et le 1^{er} avril 2019, alors qu'elle négociait et offrait d'acheter la résidence de sa cliente, M.B., n'a pas fait preuve d'intégrité dans l'exercice de ses fonctions, notamment:
 - a) En soumettant à l'institution financière auprès de qui elle cherchait à contracter un prêt, un bail de logement sur sa propre résidence, qu'elle savait fictif;
 - b) En divulguant tardivement auprès de cette institution financière, l'existence d'un addendum à l'offre d'achat ayant pour objet une diminution significative du prix d'achat de la résidence de M.B.;

contrevenant ainsi aux articles 6, 11 et 35 du *Code de déontologie de la Chambre de la sécurité financière*.