

DISCIPLINARY COMMITTEE

CHAMBRE DE LA SÉCURITÉ FINANCIÈRE

CANADA
PROVINCE OF QUÉBEC

NO: CD00-1402

DATE: November, 15th 2022

THE COMMITTEE¹:	M ^e George R. Hendy Mr. Marc Binette, Pl. Fin.	President Member
-----------------------------------	--	---------------------

SYNDIC OF THE CHAMBRE DE LA SÉCURITÉ FINANCIÈRE

Plaintiff

v.

PETER SAKARIS, financial security advisor and group insurance and group annuity plans advisor (certificate number 130145)

Respondent

DECISION REGARDING SANCTION

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

- **Orders the non-disclosure, non-publication and non-release of the names of clients contemplated in the Complaint herein or mentioned in the evidence filed by the parties, as well as any information which might enable their identification, it being understood that this order does not apply to requests**

¹ As the third member, Mr. Richard Charette, is unable to act, this decision is rendered by the two remaining members of the Committee in accordance with section 371 of the *Act respecting the distribution of financial products and services*.

**for access to information from l’Autorité des marchés financiers (the “AMF”)
and from the Fonds d’indemnisation des services financiers.**

[1] On February 16, 2022, the Disciplinary Committee of the *Chambre de la sécurité financière* (the “**Committee**”) declared the Respondent guilty of all four counts of the following disciplinary complaint (the “**Complaint**”) filed against the Respondent, which reads as follows, once translated to English²:

THE COMPLAINT

1. In the region of Montreal, on or about March 8, 2016, the Respondent did not favour the maintenance in force of insurance contract A held by his client, D.P., thereby contravening section 20 of the *Regulation respecting the pursuit of activities as a representative*;
2. In the region of Montreal, on or about March 8, 2016, the Respondent did not complete the prior notice of replacement for insurance contract A in such a manner as to permit his client, D.P., to be aware of the advantages and disadvantages of replacing said contract, thereby contravening Article 22 of the *Regulation respecting the pursuit of activities as a representative* and Article 16 of the *Act respecting the distribution of financial products and services*;
3. In the region of Montreal, on or about July 23, 2016, the Respondent denigrated, belittled or discredited another representative in completing replacement forms regarding insurance contract B (for his client, N.P.), and regarding insurance contract C (for his client, A. B.), thereby contravening Article 32 of the *Code of Ethics of the Chambre de la sécurité financière*;
4. In the region of Montreal, starting from July 23, 2016, Respondent did not transmit the replacement forms regarding insurance contract B (for his client, N.P.) and insurance contract C (for his client, A.B.) which he had completed and signed, in such a manner as to confirm the attestation of the dates of transmission to the head office of the insurer, Industrial Alliance, thereby contravening Article 22 of the *Regulation respecting the pursuit of activities as a representative*.

[2] On July 11, 2022, the hearing regarding sanctions was held, during which Respondent represented himself and Plaintiff was represented by M^e Lara Toubia.

² The only official version of the Disciplinary Complaint is in the French language, as it was filed by the Plaintiff.

[3] The parties agreed that this decision be drafted in English.

OVERVIEW

[4] At the hearing, the parties filed a joint statement of facts (Exhibit PS-6) and submitted a joint recommendation regarding sanctions which stipulated:

- a) fines of \$4,000 and \$2,000 for Counts 1 and 3 respectively;
- b) reprimands for Counts 2 and 4;
- c) payment of costs by Respondent;
- d) a recommendation to the Board of Directors of the Chambre that Respondent be compelled to follow a continuing education course on prior notices of replacement (entitled « Demystifying the notice of replacement», 36006L1AN) offered by the Chambre de la sécurité financière (the “**Chambre**”) within 6 months of the judgment herein.

[5] The Committee must therefore decide if the joint recommendation of the parties satisfies the jurisprudential criteria applicable in the circumstances.

ANALYSIS AND REASONS

[6] The parties made the following representations in support of their joint recommendation:

- a) the Respondent, who is 62 years old, currently holds a valid certificate in the insurance of persons from the AMF (Exhibit PS-1) and had 18 years experience at the time of the infractions (2016);

- b) Respondent collaborated with the investigation and has no prior disciplinary record;
- c) there is no probative evidence that Respondent has demonstrated full awareness of his mistakes, such that there is a risk of recidivism;
- d) however, a significant amount of time (six years) has elapsed since the infractions;
- e) the infractions involved two consumers (Counts 1, 2 and 4) and one other representative (Count 3);
- f) Respondent and his corporation derived revenues in excess of \$12,000 from the commission of the infractions (Exhibits PS-2 and PS-3);
- g) Respondent's impugned conduct was of a repetitive nature;
- h) one of Respondent's clients (D.P.) suffered a financial prejudice from his misconduct, by having paid premiums that were twice as much than if the old policy had been amended by levelling the premium;
- i) a reprimand is justified for Counts 2 and 4 because said counts are related to the facts surrounding Counts 1 and 3 respectively;
- j) Respondent's offences are of a serious nature and strike at the very heart of the exercise of the profession.

[7] Plaintiff's attorney filed the following jurisprudence to support the reasonableness of the proposed sanctions:

- a) *Chambre de la sécurité financière c. Nemeth*, 2015 QCCDCSF 24

- b) *Chambre de la sécurité financière c. Levasseur*, 2011 CanLII 99454 (QC CDCSF)
- c) *Chambre de la sécurité financière c. Paradis*, 2018 QCCDCSF 28
- d) *Chambre de la sécurité financière c. Tremblay*, 2021 QCCDCSF 34
- e) *OACIQ c. Dutch*, 2018 CanLII 45950 (QC OACIQ)
- f) *OACIQ c. Champoux*, 2021 CanLII 121485 (QC OACIQ)

[8] Having reviewed the relevant facts of this case and the representations of the parties, the Committee makes the following findings:

- a) there is no question that the infractions committed by Respondent constitute objectively clear and serious breaches of articles 20 and 22 of the *Regulation regarding the pursuit of activities as a representative* and article 32 of the *Code of Ethics of the Chambre de la sécurité financière*;
- b) the Respondent's testimony at the hearing regarding guilt demonstrates a serious misunderstanding of the purpose and objectives of the prior notice of replacement, and justifies the imposition of a relevant training course offered by the Chambre;
- c) the relevant jurisprudence cited by Plaintiff's attorney establishes that the range of fines normally imposed for such infractions corresponds to those proposed by the parties for Counts 1 and 3;
- d) it is also fair and reasonable to impose a simple reprimand for Counts 2 and 4 because the misconduct involved is related to Counts 1 and 3;

e) accordingly, the joint recommendation of the parties herein takes proper account of the aggravating and mitigating factors of this case and respects the need to protect the public by the imposition of dissuasive and exemplary sanctions, and furthermore imposes a corrective measure in the form of a relevant training course, thereby satisfying the criteria imposed by the Supreme Court of Canada in *R. vs Anthony-Cook*, 2016 SCC 43.

FOR THESE REASONS, the Disciplinary Committee:

CONDEMNS the Respondent to pay a fine of \$4,000 in respect of Count 1 and a fine of \$2,000 in respect of Count 3;

IMPOSES a reprimand in respect of Counts 2 and 4;

ORDERS Respondent to pay the costs pursuant to article 151 of the *Professional Code*;

RECOMMENDS to the Board of Directors of the Chambre de la sécurité financière that it **COMPEL** the Respondent to attend, at his personal cost, the Chambre's accredited course no. 36006L1AN entitled "Demystifying the notice of replacement", or an equivalent course, and that Respondent forward to said Board of Directors an official attestation that he has successfully followed said course within a delay of six months from the date hereof, failing which Respondent's right to act as an accredited representative will be suspended until he successfully completes said course;

PERMITS the notification of the present decision to the Respondent by technological means, in accordance with article 133 of the *Code of Civil Procedure*, that is, by electronic mail.

(S) M^e George R. Hendy

M^e George R. Hendy
President of the Disciplinary Committee

(S) Marc Binette

Mr. Marc Binette Pl. Fin.
Member of the Disciplinary Committee

M^e Lara Toubia
CHAMBRE DE LA SÉCURITÉ FINANCIÈRE
Attorney for the Plaintiff

Respondent represented himself

Date of the hearing: July 11, 2022

COPIE CONFORME À L'ORIGINAL SIGNÉ

A1260
A1270
A1730
A2260