

DECISION AND REASONS

This matter came on for a hearing before a panel of the Discipline Committee of the College of Early Childhood Educators (the “**Panel**”) held a hearing on December 11, 2018.

THE ALLEGATIONS

The allegations against the Member as stated in the Notice of Hearing dated December 7, 2018, are as follows:

1. At all material times, Christine Elizabeth Sbardella (the “**Member**”) was a member of the College and working as a Registered Early Childhood Educator (“**RECE**”) at Hawthorne Meadows Nursery School Inc., in Ottawa, Ontario (the “**Centre**”).
2. On or about March 24, 2017, it came to the attention of the Centre’s board of directors that the Member had misused the Centre’s corporate credit card which had been issued to her in her capacity as the Executive Director of the Centre.
3. As a result of receiving this information, the Centre commissioned a forensic audit of its financial records. The audit was conducted by BDO Canada LLP (“**BDO**”).
4. According to the audit report prepared by BDO, the Member misused company funds in the range of \$110,380: \$55,383 was used for personal expenditures and another \$54,997 was identified by BDO as “potential” misuse of funds (due to the nature and amount of the expenses, which included, for example, alcohol, and other expenses inconsistent with Centre operations). The Member’s misuse of the corporate credit card spanned several years.
5. The Centre terminated the Member’s employment on April 19, 2017.
6. By engaging in the conduct set out in paragraph 2-5 above, the Member engaged in professional misconduct as defined in subsection 33(2) of the *Early Childhood Educators Act, 2007*, S.O. 2007, c. 7, Sch. 8, in that:
 - (a) she failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8), in that:
 - (i) she failed to build a climate of trust, honesty and respect in the workplace, contrary to contrary to Standard IV.C.2 of the Standards of Practice; and/or
 - (ii) she conducted herself in a manner that could reasonably be perceived as reflecting negatively on the profession of early childhood education, contrary to Standard IV.E.2 of the Standards of Practice;

- (b) she acted or failed to act in a manner that, having regard for the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 223/08, subsection 2(10);
- (c) she signed or issued a document she knew or ought to have known contained a false, improper or misleading statement, contrary to Ontario Regulation 223/08, subsection 2(16); and/or
- (d) she conducted herself in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22).

Counsel for the College of Early Childhood Educators of Ontario (the “College”) advised the Panel that the College was requesting leave to withdraw the allegation of signing or issuing a document that contained a false or misleading statement, as set out in paragraph 6 (c) of the Amended Notice of Hearing dated December 7, 2018. The Panel granted this request.

THE MEMBER’S PLEA

The Member admitted to the remaining allegations in the Notice of Hearing.

The Panel received a written plea inquiry which was signed by the Member. The Panel also conducted a verbal plea inquiry and was satisfied that the Member’s admission was voluntary, informed and unequivocal.

EVIDENCE

Counsel for the College and the Member advised the Panel that agreement had been reached on the facts and introduced an Agreed Statement of Facts, which read as follows.

The Member

1. The Member has been registered with the College as a RECE for approximately nine years. She does not have a prior discipline history at the College.
2. At all material times, the Member was employed as the Executive Director at the Centre.
3. After working at the Centre for approximately 27 years, last year, the Member’s employment was terminated following the Centre’s investigation of the incident described below.

The Incident

4. Between 2015 and 2017, the Member misused the Centre's corporate credit card by purchasing personal expenses totaling approximately \$22,200 including, among other things, restaurant visits, gas, groceries, food and clothing.
5. At the time, the Centre did not have a policy prohibiting the use of the Centre's credit card for personal expenses.
6. Approximately three weeks before the Centre's board of directors was to meet to approve the Centre's financial statements, in the beginning of March 2017, the Member received a letter from the Centre's chartered professional accountants, Collins Barrow Ottawa LLP ("**Collins Barrow**"). The letter set out, among other things, the results of its audit, the Member's misuse of the Centre's credit, and a warning to the Centre about the potential for theft and fraud.
7. The Member did not disclose the Collins Barrow letter to the board of directors until several days after their meeting.
8. Had the Centre's board of directors known about the Member's misuse of the Centre's credit card, they would not have approved of the financial statements.
9. The Centre conducted an investigation which revealed, among other things, that, approximately two years previously, in August 2015, the Member had issued a warning letter to one of the Centre's employees about his inappropriate use of the Centre's credit card for personal expenses.
10. Shortly after the investigation was completed, the Member's employment was terminated.
11. The Member repaid the Centre approximately \$6,700 of the \$22,200 she had inappropriately used which, according to the Centre, resolved the Member's financial obligations to it.
12. If the Member were to testify, she would state that:
 - a. She initially used the Centre's credit card as a temporary support measure for her living expenses and medical bills.
 - b. Her behaviour was contributed to by her anxiety and depression, which caused her to shop with "reckless abandon".
 - c. She intended to repay her debt to the Centre, but over time her spending got "out of control" and the debt owed became larger than what she was able to pay off.

- d. She did not disclose the letter to the board of directors because she did not want them to read about what she had done in a letter. She wanted to tell a board member in person.
- e. In August 2016, she began attending psychotherapy sessions with a registered psychotherapist to address her health conditions and behaviour. Those sessions continued on and off until June 2018.
- f. Following her termination, the Member obtained a diploma in General Office Administration from Algonquin College, which included a course in Ethics and Professionalism.

Admissions of Professional Misconduct

13. The Member admits that she engaged in and is guilty of professional misconduct as described in paragraphs 4 to 8 above, and as defined in subsection 33(2) of the *Early Childhood Educators Act, 2007*, S.O. 2007, c. 7, Sch. 8, in that:
- a. she failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8), in that:
 - i. she failed to build a climate of trust, honesty and respect in the workplace, contrary to Standard IV.C.2 of the Standards of Practice; and/or
 - ii. she conducted herself in a manner that could reasonably be perceived as reflecting negatively on the profession of early childhood education, contrary to Standard IV.E.2 of the Standards of Practice;
 - b. she acted or failed to act in a manner that, having regard for the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 223/08, subsection 10;
 - c. she conducted herself in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22)

DECISION ON THE ALLEGATIONS

Having regard to the facts set out in the Agreed Statement of Facts, the Committee accepted the Member's admission and found that she committed the acts of professional misconduct as set out in paragraph 13 of the Agreed Statement of Facts.

REASONS FOR DECISION

The Panel considered the Agreed Statement of Facts and the Member's guilty plea and found that the evidence supported findings of professional misconduct as alleged.

Between 2015 and 2017, the Member misused the Centre's corporate credit card by purchasing personal expenses totaling approximately \$22,200 including, among other things, restaurant visits, gas, groceries, food and clothing.

The Member did not disclose the auditors letter to the Centre's Board which highlighted, among other things, the Member's misuse of the Centre's credit until several days after the Board of Directors meeting where they approved the financial statements.

The Member's conduct in misusing the credit card and not being honest about it demonstrates that she failed to build a climate of trust, honesty and respect in the workplace. Such conduct would reflect negatively on the profession of early childhood education and would reasonably be regarded by members as disgraceful, dishonourable or unprofessional. Such conduct is also unbecoming of a member of the profession.

POSITION OF THE PARTIES ON PENALTY

Counsel for the College and the Member made a joint submission as to an appropriate penalty. The joint submission as to penalty proposed that the Panel make an order as follows:

1. Requiring the Member to appear before a Panel of the Discipline Committee to be reprimanded immediately following the hearing of this matter.
2. Directing the Registrar to suspend the Member's certificate of registration for a period of:
 - a. five (5) months; or
 - b. the period of time required to comply with terms, conditions and limitations set out in paragraphs 3(f) and (g) below,

Whichever is greater.

The suspension will take effect from the date of this Order and will run without interruption as long as the College has not otherwise prohibited the Member from practicing or suspended the Member for any other reason.

3. Directing the Registrar to impose the following terms, conditions and limitations on the Member's certificate of registration:

Mentorship

- a. Prior to the Member commencing or resuming Employment as a RECE or engaging in the practice of early childhood education, as defined in section 2 of the *Early Childhood Educators Act, 2007* (the “**ECE Act**”), the Member, at her own expense, will arrange for a mentoring relationship with a Mentor, who:
 - i. is an RECE in good standing with the College,
 - ii. is employed in a supervisory position,
 - iii. has never been found guilty of professional misconduct and/or incompetence by the Discipline Committee of the College,
 - iv. is not currently found to be incapacitated by the Fitness to Practise Committee of the College,
 - v. is not currently the subject of allegations referred to the Discipline Committee or the Fitness to Practise Committee of the College, and
 - vi. is pre-approved by the Director of Professional Regulation (the “**Director**”). In order to pre-approve the Mentor, the Member will provide the Director with all requested information, including (but not limited to) the name, registration number, telephone number, address and résumé of the Mentor.

For clarity, the Member can commence or resume Employment as an RECE after arranging a mentorship relationship with a pre-approved Mentor.

- b. Within 14 days of commencing or resuming Employment as an RECE, the Member will ensure that the Director is notified of the name, address and telephone number of all employers.
- c. The Member will provide the Mentor with a copy of the following documents within 14 days of being notified that the Mentor has been approved by the Director, or within 14 days after the release of such documents, whichever is earliest:
 - i. the Panel's Order,
 - ii. the Agreed Statement of Facts,
 - iii. the Joint Submission on Penalty and Costs, and
 - iv. a copy of the Panel's Decision and Reasons.

- d. The Member will meet with the Mentor at least every two weeks after the Mentor has been approved by the Director to discuss the following subjects:
 - i. review of the College's Code of Ethics and Standards of Practice,
 - ii. the acts or omissions by the Member, which resulted in the Discipline Committee finding the Member guilty of professional misconduct,
 - iii. the potential consequences of the misconduct to the parents/children affected, and to the Member's colleagues, profession and self,
 - iv. strategies for preventing the misconduct from recurring, and
 - v. the Member's daily practice and any issues that arise, to ensure that she is meeting the College's Standards of Practice (without disclosing personal or identifying information about any of the children under the Member's care, or clients of her employer(s)).
- e. After a minimum of five sessions, the Member can seek the Director's permission to stop participating in the mentorship sessions by providing the Director with a report by the Mentor that sets out the following:
 - i. the dates the Member attended the sessions with the Mentor,
 - ii. that the Mentor received a copy of the documents referred to in paragraph 3(c),
 - iii. that the Mentor reviewed the documents set out in paragraph 3(c) and discussed the subjects set out in paragraph 3(d) with the Member, and
 - iv. the Mentor's assessment of the Member's insight into her behaviour.

Treatment

- f. The Member shall continue to attend therapy sessions with a family physician, psychotherapist, psychologist, or psychiatrist of her choice (the "**mental health practitioner**"), at the frequency considered necessary by that practitioner, but in any event not less than once every month, for a period of at least five months from the date of this Order.
 - i. At the end of the five month period, the Member shall provide the Director with a report from the mental health practitioner, setting out:
 - 1. the dates of the Member's therapy sessions;
 - 2. the reasons for which the Member attended the sessions;

3. any recommendations regarding future sessions; and
 4. any other information the mental health practitioner considers relevant.
- ii. The Member is prohibited from returning to practice as an RECE until the Director has received a report, satisfactory to the Director, from the mental health practitioner in which the practitioner confirms that the Member has attended sessions with them for at least five months and that in their opinion the Member can practise safely and ethically return to practise as an RECE.
- g. Within 30 days of this Order, the Member shall provide the healthcare practitioners referred to in paragraph 3(f) a copy of the documents set out in paragraph 3(c).

Financial Restrictions

- h. The Member is prohibited from handling money or fees on behalf of her employer for a period of six months following her return to practice as an RECE; and
 - i. The Member is prohibited from using her employer's corporate credit card for a period of one year following her return to practice as an RECE.
4. Requiring the Member to pay the College's costs fixed in the amount of \$1,000. The Member is required to pay \$100 on the date of this Order. Additionally, the Member will pay the remaining \$900 by June 1, 2019, by way of one or more post-dated cheque(s), to be provided to the College on the date of this Order.

Counsel for the College submitted that the proposed order was appropriate and reasonable in light of the facts agreed upon.

The College also referred the Panel to cases from this College and the College of Nurses (including: *College of Early Childhood Educators v Swain*, 2017 ONCECE 2 (CanLII) and *College of Nurses of Ontario v Pierce-Nagel*, 2013 CanLII 93845 (ON CNO)) in order to demonstrate the kind of penalty that is typically ordered in these kinds of cases.

The parties agreed that the mitigating factors in this case included the fact that the Member demonstrated remorse and admitted to the conduct. In addition, the Member had repaid a significant amount of the money to the Centre. The Member also had worked in the Centre for 27 years and there was no evidence of any prior issues. Further, the Member had been experiencing some mental health issues which contributed to her conduct.

The prime aggravating factor in this case were the nature of the professional misconduct involved and that it was a pattern of conduct with an inherent element of dishonesty.

PENALTY DECISION

The Panel accepted the joint submission on penalty and makes the following order as to penalty:

1. The Member is required to appear before the Panel to be reprimanded immediately on the date of this Order.
2. The Registrar is directed to suspend the Member's certificate of registration for a period of:
 - a. five months; or
 - b. the period of time required to comply with terms, conditions and limitations set out in paragraphs 3(f) and (g) below,

Whichever is greater.

The suspension will take effect from the date of this Order and will run without interruption as long as the College has not otherwise prohibited the Member from practicing or suspended the Member for any other reason.

3. The Registrar is directed to impose the following terms, conditions and limitations on the Member's certificate of registration:

Mentorship

- a. Prior to the Member commencing or resuming Employment as a RECE or engaging in the practice of early childhood education, as defined in section 2 of the ECE Act, the Member, at her own expense, will arrange for a mentoring relationship with a Mentor, who:
 - i. is an RECE in good standing with the College,
 - ii. is employed in a supervisory position,
 - iii. has never been found guilty of professional misconduct and/or incompetence by the Discipline Committee of the College,
 - iv. is not currently found to be incapacitated by the Fitness to Practise Committee of the College,
 - v. is not currently the subject of allegations referred to the Discipline Committee or the Fitness to Practise Committee of the College, and
 - vi. is pre-approved by the Director of Professional Regulation (the "Director"). In order to pre-approve the Mentor, the Member will provide the Director with all

requested information, including (but not limited to) the name, registration number, telephone number, address and résumé of the Mentor.

For clarity, the Member can commence or resume Employment as an RECE after arranging a mentorship relationship with a pre-approved Mentor.

- b. Within 14 days of commencing or resuming Employment as an RECE, the Member will ensure that the Director is notified of the name, address and telephone number of all employers.
- c. The Member will provide the Mentor with a copy of the following documents within 14 days of being notified that the Mentor has been approved by the Director, or within 14 days after the release of such documents, whichever is earliest:
 - i. the Panel's Order,
 - ii. the Agreed Statement of Facts,
 - iii. the Joint Submission on Penalty and Costs, and
 - iv. a copy of the Panel's Decision and Reasons.
- d. The Member will meet with the Mentor at least every two weeks after the Mentor has been approved by the Director to discuss the following subjects:
 - i. review of the College's Code of Ethics and Standards of Practice,
 - ii. the acts or omissions by the Member, which resulted in the Discipline Committee finding the Member guilty of professional misconduct,
 - iii. the potential consequences of the misconduct to the parents/children affected, and to the Member's colleagues, profession and self,
 - iv. strategies for preventing the misconduct from recurring, and
 - v. the Member's daily practice and any issues that arise, to ensure that she is meeting the College's Standards of Practice (without disclosing personal or identifying information about any of the children under the Member's care, or clients of her employer(s)).
- e. After a minimum of five sessions, the Member can seek the Director's permission to stop participating in the mentorship sessions by providing the Director with a report by the Mentor that sets out the following:
 - i. the dates the Member attended the sessions with the Mentor,

- ii. that the Mentor received a copy of the documents referred to in paragraph 3(c),
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- f. The Member shall continue to attend therapy sessions with the mental health practitioner, at the frequency considered necessary by that practitioner, but in any event not less than once every month, for a period of at least five months from the date of this Order.
 - i. At the end of the five month period, the Member shall provide the Director with a report from the mental health practitioner, setting out:
 - 1. the dates of the Member's therapy sessions;
 - 2. the reasons for which the Member attended the sessions;
 - 3. any recommendations regarding future sessions; and
 - 4. any other information the mental health practitioner considers relevant.
 - ii. The Member is prohibited from returning to practice as an RECE until the Director has received a report, satisfactory to the Director, from the mental health practitioner in which the practitioner confirms that the Member has attended sessions with them for at least five months and that in their opinion the Member can practise safely and ethically return to practise as an RECE.
- g. Within 30 days of this Order, the Member shall provide the healthcare practitioners referred to in paragraph 3(f) a copy of the documents set out in paragraph 3(c).

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 - i. The Member is prohibited from using her employer's corporate credit card for a period of one year following her return to practice as an RECE.
5. Requiring the Member to pay the College's costs fixed in the amount of \$1,000. The Member is required to pay \$100 on the date of this Order. Additionally, the Member will

pay the remaining \$900 by June 1, 2019, by way of one or more post-dated cheque(s), to be provided to the College on the date of this Order.

REASONS FOR PENALTY

The Panel understands that the penalty ordered should protect the public and enhance public confidence in the ability of the College to regulate registered early childhood educators. This is achieved through a penalty that addresses specific deterrence, general deterrence and, where appropriate, rehabilitation and remediation. The penalty should be proportionate to the misconduct.

In considering the joint submission, the Panel was mindful that a jointly proposed penalty should be accepted unless its acceptance would bring the administration of justice into disrepute or it is otherwise not in the public interest.

The Panel is aware that no two cases are exactly alike. However, reviewing earlier cases can help determine the level of appropriate penalty. The Panel therefore considered the previous cases that were presented.

The Member cooperated with the College and, by agreeing to the facts and proposed penalty has accepted responsibility.

The Panel found that the penalty proposed satisfies the principles of specific and general deterrence and public protection. Specifically, the suspension of the Member, along with the reprimand, will act as specific deterrents to the Member, and general deterrents to other members of the profession, preventing them from engaging in such conduct. The Panel found that despite the member's misuse of the centre's credit card over a two year period, there was no evidence of a deliberate intent to defraud.

The terms, conditions and limitations imposed as part of the penalty order, including the mentoring sessions, medical treatment, and financial restrictions will help to rehabilitate the member and educate her regarding best practices.

Having considered all of these factors, the Panel was satisfied that the proposed penalty in this case was appropriate and in the public interest.

ORDER AS TO COSTS

Subsection 33(5)(4) of the ECE Act provides that in an appropriate case, a panel may make an order requiring a member who the panel finds has committed an act of professional misconduct to pay all or part of the College's legal costs and expenses, investigation costs and hearing costs.

The parties are in agreement with respect to costs and the amount of costs to be ordered. The Panel agrees that that this is an appropriate case for costs to be awarded and the amount proposed by the parties is reasonable.

The Panel orders that the Member pay the College its costs, fixed in the amount of \$1000.00. The member is required to pay \$100 on the date of this order. Additionally, the member will pay the remaining \$900 by June 1, 2019, by way of one or more post-dated cheque(s), to be provided to the College on the date of this Order.

I, Lori Huston, sign this decision and reasons for the decision as Chairperson of this Discipline panel and on behalf of the members of the Discipline panel.



Lori Huston, Chairperson

January 14, 2019

Date