

**DISCIPLINE COMMITTEE
OF THE COLLEGE OF EARLY CHILDHOOD EDUCATORS**

PANEL: Julie Benoit, RECE, Chair
Richard Fillion

BETWEEN:)	
)	
COLLEGE OF EARLY)	Vered Beylin
CHILDHOOD EDUCATORS)	For the College of Early Childhood Educators
)	
and)	
)	
CHARMAINE LOUISE LINDSAY)	Self-represented
REGISTRATION # 11557)	
)	
)	
)	
)	Elyse Sunshine,
)	Rosen Sunshine LLP
)	Independent Legal Counsel
)	
)	Heard: September 16, 2022

DECISION AND REASONS

This matter was heard by a panel of the Discipline Committee (the “Panel”) of the College of Early Childhood Educators (the “College”) on September 16, 2022. The hearing proceeded electronically (by videoconference) pursuant to the *Early Childhood Educators Act, 2007* (the “Act”), *the Hearings in Tribunal Proceedings (Temporary Measures) Act, 2020* and the College’s Rules of Procedure of the Discipline Committee and of the Fitness to Practise Committee.

At the outset, the Panel noted that the hearing was being recorded in the Zoom platform at the direction of the Panel for the hearing record, and ordered that no person shall make any audio or video recording of these proceedings by any other means.

Due to the unexpected absence of the third Panel member, the hearing proceeded with two panel members on the consent of the parties.

THE ALLEGATIONS

The allegations against the Member were contained in the Notice of Hearing dated August 4, 2022, (Exhibit 1) which provided as follows:

1. At all material times, Charmaine Louise Lindsay (the “Member”) was a member of the College. The Member was employed as the Director of Peekaboo Childcare Centre, in Brampton, Ontario (the “Centre”).
2. Between December 2016 and July 2017, the Member fraudulently obtained \$4,409.79, by engaging in the following conduct, without the Centre’s knowledge or authorization:
 - a. On multiple occasions, the Member misused the Centre’s corporate credit card to pay for personal expenses.
 - b. Despite knowing that the Centre did not allow families to make payments by e-transfer, the Member instructed a parent to e-transfer security deposit fees for his children’s attendance at the Centre into her personal bank account. She then used the funds for personal expenses.

- c. The Member cashed Centre's cheques for personal use, despite their intended use for petty cash to reimburse staff for work related expenses.
- d. The Member accepted cash payments from parents whose children attended the Centre and used the funds for personal expenses.

Allegations of Professional Misconduct

- 3. By engaging in the conduct set out in paragraph 2 above, the Member engaged in professional misconduct as defined in subsection 33(2) of the Act, 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 2(10); and
 - c. she conducted herself in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22).

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 (Exhibit 2), which provided as follows:

The Member

- 1. The Member has held a certificate of registration with the for approximately 7 years. She is

in good standing with the College and does not have a prior discipline history with the College.

2. At all material times, the Member was employed as the Director at the Centre.

The Incident

3. Between December 2016 and July 2017, the Member fraudulently obtained \$4,409.79, by engaging in the following conduct, without the Centre's knowledge or authorization:
 - a. On multiple occasions, the Member misused the Centre's corporate credit card to pay for personal expenses.
 - b. Despite knowing that the Centre did not allow families to make payments by e-transfer, the Member instructed a parent to e-transfer security deposit fees for his children's attendance at the Centre into her personal bank account. She then used the funds for personal expenses.
 - c. The Member cashed Centre's cheques for personal use, despite their intended use for petty cash to reimburse staff for work related expenses. As a result, she failed to reimburse staff who purchased classroom materials and submitted the necessary receipts.
 - d. The Member accepted cash payments from five families whose children attended the Centre and used the funds for personal expenses. Although the Member issued receipts to the parents confirming payment was made, she failed to document that the funds were received in the Centre's financial records.
4. On June 16, 2017, following an audit which revealed that funds were missing from petty cash, the Member received a written warning from the Centre for failing to reimburse staff and using the Centre's credit card for personal expenses. The Member continued fraudulently taking funds for personal use despite receiving and signing off on the written warning.

Additional Information

5. The Member resigned from the Centre, after the Centre's management confronted her regarding discrepancies in the Centre's finances. The discrepancies came to light after a parent inquired with the Centre's Assistant Director regarding a cash payment they made, which the Centre had no record of.

6. The Member repaid the Centre \$1,226.79. This covered the personal expenses she charged to the Centre's credit card and the petty cash cheques she cashed. The Member did not repay the funds she took directly from families, in the amount of \$3,183.
7. If the Member were to testify, she would advise the following:
 - a. She acknowledges her wrongdoing and is ashamed and disappointed in her actions.
 - b. At the time, she was in the process of leaving a verbally, emotionally, and financially abusive relationship. She used the money she obtained as described in paragraph 3 to pay for food and gas, and to provide basic needs for herself and her daughter.

Admissions of Professional Misconduct

8. The Member admits that she engaged in and is guilty of professional misconduct as described in paragraphs 3 and 4 above, and as defined in subsection 33(2) of the Act, 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 2(10); and
 - c. she conducted herself in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22).

THE MEMBER'S PLEA

The Member admitted to the allegations in the Agreed Statement of Facts.

The Panel received a written plea inquiry (Exhibit 3) 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.

SUBMISSIONS OF THE PARTIES ON LIABILITY

The College submitted that all the allegations set out in the Notice of Hearing were admitted to by the Member and were supported by the evidence. The College submitted further that the evidence for the allegations consisted of the Agreed Statement of Facts (Exhibit 2) which contained the facts which established each of the allegations. On multiple occasions, the Member misused the Centre's corporate credit card, used funds from parents and from petty cash, to pay for personal expenses. She also failed to document funds received by parents in the Centre's financial records. Despite receiving and signing a written warning, the fraudulent behaviors persisted. Furthermore, only a portion of funds were reimbursed.

The actions of the Member were dishonest and exhibited a lack of integrity. She failed to model appropriate behavior in regards to the College and legislative regulations, code of ethics and standards of practice. Her conduct reflects on her profession as a whole and erodes public confidence in the profession.

The Member submitted that she admitted to the conduct outlined in the Agreed Statement of Facts and that she had nothing else to add.

FINDINGS AND REASONS FOR DECISION

Having regard to the facts set out in the Agreed Statement of Facts, the Panel accepted the Member's admission and found her guilty of professional misconduct as alleged in the Notice of Hearing and admitted to in the Agreed Statement of Facts.

The Panel found that the facts in the Agreed Statement of Facts proved the allegations in the Notice of Hearing and that they constitute professional misconduct. The Panel finds that the conduct engaged in by the Member is a breach of trust and showed a lack of integrity. The Panel also found

the Member's actions to be dishonorable, unprofessional, and detrimental to the reputation of the profession of Early Childhood Education.

POSITION OF THE PARTIES ON PENALTY

Counsel for the College and Counsel for the Member made a joint submission as to an appropriate penalty and costs order (the "Proposed Order"). The parties submitted that the Panel should 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. 10 months; or
 - b. the period of time required to comply with terms, conditions and limitations set out in paragraphs 3(a) and 3(b) 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 practising 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:

Coursework

- a. Prior to the Member commencing or resuming employment as a Registered Early Childhood Educator ("RECE") or engaging in the practice of early childhood education, as defined in section 2 of the Act, the Member must successfully complete, with a minimum passing grade of 70% (or to the satisfaction of the Director of Professional Regulation (the "Director") if a grade is not assigned) and at her own expense, an ethics course (subject to the Director's pre-approval).

- b. The Member must provide the Director with proof of enrollment and successful completion of the course.

Mentorship

- c. Prior to the Member commencing or resuming employment as an RECE or engaging in the practice of early childhood education, as defined in section 2 of the Act, the Member, at her own expense, will arrange 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. 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, once the suspension in section 2 above ends, the Member can commence or resume employment as an RECE after arranging a mentorship relationship with a pre-approved Mentor.

- d. 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.

- e. 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. the Panel's Decision and Reasons.

- f. The Member will meet with the Mentor at least every 2 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)).

- g. After a minimum of 7 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(e),

- iii. that the Mentor reviewed the documents set out in paragraph 3(e) and discussed the subjects set out in paragraph 3(f) with the Member, and
 - iv. the Mentor's assessment of the Member's insight into her behaviour.
- h. All documents delivered by the Member to the College or the Mentor will be delivered by email, registered mail or courier, and the Member will retain proof of delivery.

Financial Restrictions

- i. The Member is prohibited from handling money or fees on behalf of her employer for a period of two years following her return to practice as an RECE; and
- j. The Member is prohibited from using her employer's corporate credit card for a period of two years following her return to practice as an RECE.

Other

- k. The College may require proof of compliance with any of the terms in this Order at any time.
4. Requiring the Member to pay the College's costs fixed in the amount of \$1,000, to be paid within one year of the date of this Order.

Submissions of the College on Penalty and Costs

Counsel for the College submitted there are four mitigating factors and seven aggravated factors that need to be considered in the decision on penalty. As for aggravating factors, the Panel has to take into consideration the leadership role the Member played as the Centre's director. The Member should have been a model to her peers. Her actions were a serious breach of trust, were dishonest and showed a lack of integrity. Furthermore, the Member received a written warning for her actions and they continued which shows a pattern of behavior. Her actions had a direct financial impact on the staff and resulted in parents losing trust in the Centre.

College counsel outlined the mitigating factors that have to be considered in the decision making. The Member has been a member in good standing for seven (7) years. She pleaded guilty, took responsibility and cooperated fully with the College and the investigation. These actions show

insight. The Member was also facing a unique situation at the time of the events in regards to trying to exit an abusive relationship and that the funds were used to provide basic needs for herself and her daughter such as food and gas.

Counsel for the College submitted that the proposed order was appropriate and reasonable in light of the facts agreed upon. College counsel submitted that the penalty and costs order set out in the Joint Submission on Penalty and Costs met the principles that a penalty order was required to meet, in that it would send a message broadly to members of the profession and the public that the conduct at issue is unacceptable and will not be tolerated by the College. The proposed penalty would also deter other members from engaging in this conduct and it would deter the Member from engaging in misconduct in the future. Counsel also submitted that the penalty order, which contains an extensive program of mentorship, would help to rehabilitate and support the Member in her return to practice. Counsel for the College provided four cases in support of the proposed penalty and submitted that these cases represented conduct of a similar nature and established that the proposed penalty was reasonable and would not bring the administration of justice into disrepute. These cases were: *College of Early Childhood Educators v Melanie Ruth Brown*, 2021 ONCECE; *Law Society of Ontario v Zopf*, 2019 ONLSTH 144; *Ontario College of Teachers v Howard*, 2014 ONOCT 48; and, *Ontario College of Teachers v Hubbs*, 2015 ONOCT 40.

In terms of costs, the College submitted that the symbolic amount had been agreed upon by the parties and that costs were not intended to be punitive.

Submissions of the Member on Penalty and Costs

The Member did not make a submission on penalty and costs.

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 following the hearing of this Order.
2. The Registrar is directed to suspend the Member's certificate of registration for a period of

- a. 10 months; or
- b. the period of time required to comply with terms, conditions and limitations set out in paragraphs 3(a) and 3(b) 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:

Coursework

- a. Prior to the Member commencing or resuming employment as an RECE or engaging in the practice of early childhood education, as defined in section 2 of the Act, the Member must successfully complete, with a minimum passing grade of 70% (or to the satisfaction of the Director of Professional Regulation if a grade is not assigned) and at her own expense, an ethics course (subject to the Director's pre-approval).
- b. The Member must provide the Director with proof of enrollment and successful completion of the course.

Mentorship

- c. Prior to the Member commencing or resuming employment as an RECE or engaging in the practice of early childhood education, as defined in section 2 of Act, the Member, at her own expense, will arrange 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. 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, once the suspension in section 2 above ends, the Member can commence or resume employment as an RECE after arranging a mentorship relationship with a pre-approved Mentor.

- d. 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.
- e. 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. the Panel's Decision and Reasons.
- f. The Member will meet with the Mentor at least every 2 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)).
- g. After a minimum of 7 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(e),
 - iii. that the Mentor reviewed the documents set out in paragraph 3(e) and discussed the subjects set out in paragraph 3(f) with the Member, and
 - iv. the Mentor's assessment of the Member's insight into her behavior.
- h. All documents delivered by the Member to the College or the Mentor will be delivered by email, registered mail or courier, and the Member will retain proof of delivery.

Financial Restrictions

- i. The Member is prohibited from handling money or fees on behalf of her employer for a period of two years following her return to practice as an RECE; and
- j. The Member is prohibited from using her employer's corporate credit card for a period of two years following her return to practice as an RECE.

Other

- k. The College may require proof of compliance with any of the terms in this Order at any time.

5. Requiring the Member to pay the College's costs fixed in the amount of \$1,000, to be paid within one year of 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 appropriate level of penalty. The Panel therefore considered the previous cases that were presented by the College counsel, which included suspensions ranging from 24 months to 6 months. The Panel found that the Proposed Order of a 10 month suspension, coupled with an ethics course and mentorship was fitting given the specific circumstances of this particular case.

A reprimand to the Member provides the Panel with the opportunity to express its disapproval of the Member's conduct and reinforce the messages it wishes to convey through the penalty. Moreover, by recording the reprimand on the public register, the public is assured that the Panel recognizes the seriousness of the Member's action and responds to acts of professional misconduct fairly and transparently.

Suspension of the Member's certificate of registration is appropriate in this case given the fact that the Member's failure to act with integrity which resulted in a breach of trust and had a direct impact on the Centre, on the families, the colleagues and the profession. The Panel appreciates that the Member was going through difficult personal circumstances. However, as the Member recognized through her guilty plea, this does not excuse the conduct at issue.

While the suspension demonstrates the Panel's disapproval of the Member's misconduct, it is not intended to be solely punitive. Her suspension provides the Member with an opportunity to learn

from her mistakes, reflect on her conduct and refocus on her professional responsibilities. A mentorship program provides the Member with an opportunity to be directly involved with her personal rehabilitation. It provides her with the opportunity to learn how to better meet the standards expected of an RECE while working directly with an appropriate role model. It also provides a level of supervision. Having considered all these factors the Panel is satisfied that the proposed penalty in this case is appropriate and in the public interest.

ORDER AS TO COSTS

Subsection 33(5)(4) of the 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 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 to be paid within one year of the date of the Order.

I, Julie Benoit, sign this decision and reasons for the decision as Chair of this Discipline panel and on behalf of the members of the Discipline panel.



Julie Benoit, RECE, Chair

September 20, 2022
Date