



NOTICE OF DISCIPLINE MEMBER A

On December 31, 2013, a Discipline Tribunal of the Institute of Chartered Accountants of Alberta (“Institute”) found **Member A**, acting alone or as a representative of Chartered Accountants LLP, guilty of unprofessional conduct, with respect to her role as developer, operator/manager, and accountant of the Company A, during the period of June, 2009 through April, 2012 in having:

1. failed to maintain a corporate bank account for Company A and requiring unit owners to make payments directly to **Member A**, by way of cheques issued to Individual A or email transfers to her.
2. failed to prepare financial statements and make adequate disclosure, as required under section 44 of the Condominium Property Act, including provision of:
 - a. a statement setting out the amount of any contributions due and payable in respect of the unit and the basis on which that amount was determined;
 - b. a copy of the most recent financial statements of the corporation;
 - c. a statement setting out the amount of the monthly contributions and the basis on which that amount was determined;
 - d. a statement setting out the unit factors and the criteria used to determine unit factor allocation; and
 - e. a statement setting out the amount of the capital replacement reserve fund,

as requested by unit owners, by email dated August 13, 2011 and by letters dated April 11, 2012 and May 4, 2012;
3. failed to convene a first meeting of the condominium corporation within the legislated timeframes, failing to constitute a board of directors in a timely manner, and failing to convene an annual general meeting until May 1, 2012;
4. failed to collect condominium contributions on a unit factor basis in that she:
 - a. did not assess the individual units based on unit factors; and
 - b. failed to pay condominium contributions for the 11 units held jointly by herself and a partner.

CONDUCT

In 2008 **Member A** together with a partner made an application to create a condominium plan for Company A. Through inheritance they were the co-owners of this property which, up to this time was a rental property. Subsequently renovations and repairs were made to prepare the individual units for sale to the public. No condominium corporation was incorporated at that time. A joint account was created in the name of **Member A** and the partner for the purpose of accepting the condominium’s financial activities. In November 2009 a unit was sold. The owners were advised to make monthly maintenance fee payments of \$165 to **Member A**. After several months the co-owners requested certain financial information as well as an annual general meeting.



RAPA defines unprofessional conduct as including “conduct that is detrimental to the best interests of the public or harms the integrity of the accounting profession.” (*RAPA R.S.A. 2000, Sect 91(1) (a)*)

The Tribunal believed that the conduct forming the basis of the findings of guilt to allegations 1, 2, 3 and 4 was unprofessional conduct. They are all instances of harm to the reputation of the profession by the member failing to fulfill obligations under Rule 201.1, guidelines 2 and/or 3. Her testimony was that she was not cognizant of provincial legislation (Condominium Property Act) regulating the development, sale and operations of the condominium property which she was actively involved with. She did little or nothing to discourage the fact or perception that she was not actively involved and might be viewed as a co-developer, co-operator/manager or co-accountant for Company A. It is reasonable to believe that the complainants would have seen her as such. Some of her actions (comingling personal and condo funds, accepting monies in trust, aggressive email response refusing request for financial information) or lack of action (not ensuring that proper financial reporting was provided, becoming familiar with the ACT) were not in the best interests of the public.

ORDERS

In accordance with Section 93 and 94 of RAPA, the Tribunal ordered that **Member A**:

1. Be reprimanded in writing by the chair of the discipline tribunal;
2. Pay of a fine of \$5,000 for each of allegations 1 and 2, and a fine of \$2,500 for each of allegations 3 and 4, within 60 days of the issuance of the statement of costs;
3. Pay the costs of the investigation, hearing and compliance with the orders to a maximum of \$30,000, to be paid within one (1) year of the issuance of the statement of costs;

PUBLICATION

1. A summary of the Tribunal’s findings and orders made, be provided to all provincial institutes, the Institute of Chartered Accountants of Bermuda and any other professional organization to which **Member A** belongs and the Institute is aware, as of the date of this order;
2. A notice of the Tribunal’s findings and orders be provided to all provincial institutes to which **Member A** applies for membership at any time following this order;
3. A notice of the Tribunal’s findings and orders to be provided to anyone who directs an enquiry to the Institute about the discipline history of **Member A**;
4. A summary of the Tribunal’s findings, the nature of the conduct and any orders made as a result of findings be published on the Institute’s public website on a named basis;



5. The written decision of the Tribunal with all third parties' names replaced with pseudonyms, be published on the Institute's public website on a named basis, and a copy of the written decision be provided to Quicklaw in accordance with the bylaws.

If **Member A** fails to comply with the Tribunal's orders within the time limits specified, her registration will be cancelled and she will be required to return her membership certificate to the Institute.

Since **Member A's** conduct were not of a technical nature and resulted in little or no financial loss to the complainant and related to personal activities, not her professional practice, the Tribunal limited costs to \$30,000 and, because of the magnitude of fines and costs, extended the time period for payment of costs.

Discipline Tribunal Secretary