



ARCHITECTURAL INSTITUTE OF BRITISH COLUMBIA

IN THE MATTER OF THE *ARCHITECTS ACT*
R.S.B.C. 1996 C. 17 AS AMENDED

AND

IN THE MATTER OF A CONSENSUAL
RESOLUTION BETWEEN:

OURI SCOTT ARCHITECT AIBC

AND

THE ARCHITECTURAL INSTITUTE OF BRITISH COLUMBIA

CONSENSUAL RESOLUTION AGREEMENT

The *Architects Act* authorizes the AIBC to attempt resolution of disciplinary matters by way of consensual resolution. AIBC Bylaws 36.0 through 36.22 provide the specific processes and procedures by which the AIBC and a member or other registrant may reach agreement on a complaint that would otherwise proceed to a hearing and decision at a disciplinary inquiry.

All consensual resolution agreements must be approved by the consensual resolution review panel before they are effective. By statute, this panel must have regard to the public interest when deciding whether to approve a consensual resolution agreement. An approved consensual resolution agreement has the same effect as an order made by a disciplinary committee under the *Architects Act*.

1.0 BACKGROUND AND AGREED FACTS

- 1.1 The parties agree that the relevant facts and circumstances leading to the investigation and this consensual resolution agreement (the “Agreement”) are set out below.

A. Overview

- 1.2 The AIBC’s Investigation Committee (the “Committee”) conducted an investigation into a complaint about Ouri Scott Architect AIBC in relation to alleged non-compliance with the AIBC’s Continuing Education System (“CES”) requirements for the period ending September 30, 2020.
- 1.3 Following its investigation, the Committee recommended that the matter proceed to a disciplinary inquiry for determination of whether Ms. Scott breached certain sections of the *Architects Act*, R.S.B.C. 1996, c. 17 (the “*Act*”), the AIBC Bylaws and the applicable council rulings in the Code of Ethics and Professional Conduct (the “Code of Ethics”), and council rules in AIBC Bulletin 80.
- 1.4 Ms. Scott chose to pursue a consensual resolution agreement.

A. Background – AIBC Continuing Education System

- 1.5 In 2001, members of the AIBC voted to adopt Bylaw 30.2, which became effective as of July 2001, and established the requirements for architects to undertake and report on continuing professional education.
- 1.6 AIBC Council thereafter formally adopted CES, which is administered by the AIBC’s Professional Services department.
- 1.7 The requirements for CES are formalized in the AIBC Bylaws and AIBC Bulletin 80: *Mandatory Continuing Education System* (CES). Typically, CES requirements for AIBC registrants follow a two-year reporting period which runs from July 1 to June 30 of the second following year.
- 1.8 Bulletin 80 establishes that CES requirements apply to registered architects, and architectural technologists (“CES Participants”) registered with the AIBC.
- 1.9 As part of the response to the COVID-19 pandemic, the deadline to comply with the CES requirements for the reporting period July 1, 2018 to June 30, 2020, was extended to September 30, 2020 (the “Fourteenth Reporting Period”).
- 1.10 CES Participants were notified of the deadline extension on March 26, 2020, and further advised that a grace period would not be provided to earn and report deficient learning units given the deadline extension for the Fourteenth Reporting Period.
- 1.11 CES Participants were required to earn and report 36 learning units (“LUs”), including a minimum of 16 “Core” LUs, by September 30, 2020. Each LU represents one hour of eligible educational activity.

- 1.12 CES Participants who failed to earn and report the required LUs by the September 30, 2020, extended deadline were assessed an administrative fine mandated by AIBC Council and subject to a complaint of unprofessional conduct.
- 1.13 Additionally, within six months of close of each reporting period, the professional services department is required to conduct a CES audit of self-reported activities in accordance with council rules (“CES Audit”). CES Participants are required to retain documents to support self-reported activities for one year after the closing period in which LUs were earned.
- 1.14 During each CES Audit, about five percent of CES Participants receive an audit notice and have 30 days to provide supporting documents for review. LUs are removed from CES Participants transcripts if supporting documents are not provided or approved by the professional services department.
- 1.15 CES Participants are obliged to fully and promptly comply with a CES Audit in accordance with Bylaw 34.5(f).
- 1.16 CES Participants who are found to be non-compliant as a result of the audit process, are assessed an administrative fine mandated by AIBC Council and required to earn and report the deficient LUs. For the Fourteenth Reporting Period, the fine amount for Architects AIBC was \$1,048.95.
- 1.17 CES Participants who are audited are granted a three-month period to become compliant. CES Participants who remain non-compliant beyond the three-month period are subject to a complaint of unprofessional conduct.
- 1.18 The CES Audit for the 2018-2020 reporting period was initiated in November 2020. Due to the COVID-19 pandemic, audited CES Participants were asked to submit their supporting documents electronically using a secure, private online platform or email them directly to AIBC staff.

B. Ouri Scott

- 1.19 Ms. Scott has been registered as an architect with the AIBC since January 30, 2017, and has maintained her registration since that time.
- 1.20 Ms. Scott practices architecture in British Columbia through Urban Arts Architecture Inc., a corporation which holds a certificate of practice.

C. The Complaint

- 1.21 In June 2021, the AIBC’s Professional Services department submitted a complaint with respect to Ms. Scott who failed to comply with their continuing education requirements in accordance with Bylaw 30.2 and AIBC Bulletin 80.
- 1.22 The complaint was provided to Ms. Scott for her response, and the Committee initiated an investigation.

D. The Investigation/Agreed Facts

- 1.23 The investigation involved a review of the material provided by the AIBC's Professional Services department. The agreed facts in paragraphs 1.24 - 1.47 below are based on material reviewed during the investigation and subsequent information provided by Ms. Scott after the investigation was concluded.
- 1.24 On November 30, 2020, 94 CES Participants, including Ms. Scott, were sent a letter notifying them that they had been selected for the CES Audit for the 2018-2020 reporting period and they were advised that they had 30 days to provide back-up documentation to support their self-reported activities.
- 1.25 On January 6, 2021, Ms. Scott contacted the AIBC and advised that due to extenuating circumstances she was unable to respond before the deadline and requested an extension to January 31, 2021. Ms. Scott further stated she had already completed her LUs and thought she had already been audited earlier in the year when LUs had been removed and she wanted an opportunity to respond.
- 1.26 The AIBC removed certain LUs associated with Ms. Scott's self-reported educational activities on July 9, 2020, due to insufficient documentation; and after she failed to respond to numerous requests to provide additional information. This action was taken in the normal course of monitoring CES self-reports during a reporting period, pursuant to Bulletin 80, paragraph 4.6, which permits, at any time upon review, LUs to be removed from a CES Participant's transcript for insufficient information.
- 1.27 On January 6, 2021, the AIBC informed Ms. Scott her extension request would be reviewed by the manager of the professional services department on January 11. The response also clarified that the earlier correspondence regarding the self-reports were not related to the CES Audit, and she was offered the opportunity to have a telephone call to discuss the information that was required to complete the CES Audit.
- 1.28 On January 12, 2021, the AIBC approved Ms. Scott's extension request to January 31, 2021. On January 26, 2021, a follow up email was sent to Ms. Scott to confirm she had received the deadline extension.
- 1.29 On February 2, 2021, the AIBC sent a follow-up email to Ms. Scott regarding the missed extended deadline, enclosing the initial November 30, 2020, notification letter that contained details of the documentation that was required. This email also informed Ms. Scott that if the supporting documents were not provided, the LUs for the self-reported activities would be removed and the consequences of non-compliance would apply.
- 1.30 On February 5, 2021, AIBC staff contacted Ms. Scott by telephone to speak about the outstanding CES Audit requirements. Ms. Scott confirmed that she had received all correspondence from the AIBC with respect to the CES Audit and that she had questions about the removal of LUs, prior to

the CES Audit. Ms. Scott was provided with information clarifying the difference between the CES Audit and the regular ongoing review of self-reports.

- 1.31 Ms. Scott was also offered the opportunity to submit supporting documents for the self-reported LUs that had been removed prior to the CES Audit and which the AIBC would also consider as part of the audit process.
- 1.32 Ms. Scott advised that she kept a folder of back-up documentation for completed activities and required more time to submit the supporting material. Ms. Scott and the AIBC agreed to a further extension to February 16, to submit the documentation.
- 1.33 On February 17, 2021, the AIBC emailed Ms. Scott enquiring whether she had any issues submitting the supporting documentation. No response was received.
- 1.34 On February 24, 2021, the AIBC provided Ms. Scott with another two-week extension to March 2, 2021.
- 1.35 On March 16, 2021, because no supporting documentation had been received, LUs were removed from Ms. Scott's transcript for each self-reported activity.
- 1.36 Having missed the extended deadline to provide supporting documentation, Ms. Scott was non-compliant for the 2018-2020 reporting period and issued the council mandated fine.
- 1.37 Ms. Scott was given a three-month period in which to become LU compliant and pay the fine by May 31, 2021. Ms. Scott was encouraged to submit the outstanding supporting documents.
- 1.38 On May 3 and 26, 2021, Ms. Scott was sent reminders to pay the fine and become LU compliant by May 31, 2021.
- 1.39 Ms. Scott did not become LU compliant and did not pay the fine by May 31, 2021.
- 1.40 Having missed the deadline, Ms. Scott was then subject to a professional conduct complaint and in June 2021, a CES complaint was submitted by the AIBC's Professional Services Department.
- 1.41 On June 29, 2021, Ms. Scott was provided with a notice of the complaint.
- 1.42 Ms. Scott provided no response to the complaint.
- 1.43 Following its review of the material gathered during the investigation, the Committee decided to recommend charges for determination at an inquiry by a disciplinary committee.
- 1.44 A notice of inquiry was issued, and a disciplinary hearing is scheduled for April 8, 2022.
- 1.45 On January 28, 2022, Ms. Scott become LU compliant for the Fourteenth Reporting Period.
- 1.46 On February 24, 2022, Ms. Scott paid the council-imposed fine.

1.47 Ms. Scott chose to enter into consensual resolution discussions with the AIBC.

E. Relevant Professional Standards

1.48 AIBC Bylaw 30.2 and council rules in Bulletin 80 are relevant to the complaint against Ms. Scott.

1.49 AIBC Bylaw 30.2 states:

Bylaw 30.2 In order to better serve the public, and in keeping with the architect's declaration set out in Bylaw 9.0 and the obligation of the architect set out in Bylaw 30.1, an architect shall undertake continuing education and shall report on that continuing education to the Institute, in accordance with the rules for mandatory continuing education established by Council.

Refer to Bulletin 80 for Council rules relating to compliance.

1.50 The relevant sections of AIBC Bulletin 80 with accompanying council rules state:

2.1 CES Participants are designated as architects and architectural technologists registered with the AIBC. As of July 1, 2020, and thereafter, the CES Participants category includes Intern Architects AIBC. All CES Participants must satisfy the requirements of the mandatory CES as per Bylaw 30.2. **Rule 1**

...

3.16 A reporting period is two years long and runs from July 1 to June 30, on the even years. **Rule 11**

3.17 The minimum number of LUs that must be earned and reported by the end of each reporting period is 36, of which a minimum of 16 must be Core LUs. **Rule 12**

...

4.0 Obtaining and Reporting LUs

Self-reported Educational Activities

...

4.5 In order for a self-reported activity to be evaluated for LUs, CES Participants must complete all fields on the self-report form by indicating the specific activity's title, the provider's name, and detailed learning objective as required by the professional services, by the reporting period deadline. **Rule 20**

4.6 All self-reported activities are subject to review and approval by the professional services department. At any time, upon review, LUs may be removed from a CES Participant's transcript due to insufficient information or be recategorized due to incorrect classification. CES Participants will be promptly notified by the professional services department in the event

of removal or re-classification of LUs and be given an opportunity to respond. The CES Participant may be asked to provide additional information and/or supporting documentation in order for the professional services department to verify the learning activity.

...

Record Retention and Audit

- 4.7 CES Participants must retain documentation to support self-reported activities for one year after the closing of a reporting period in which the LUs were earned. **Rule 21**
- 4.8 In addition to the ongoing review of self-reports, within six months of the close of a reporting period, the professional services department will conduct a CES audit of self-reported activities.
- 4.9 During each audit, approximately five per cent of CES Participants will receive an audit notice and will have 30 days to provide supporting documentation for review. LUs will be removed from CES Participants' transcripts if supporting documentation is not provided to or approved by the professional services department. **Rule 22**
- 4.10 In accordance with Bylaw 34.5(f), all CES Participants have an obligation to fully and promptly comply with a CES audit. **Rule 23**
- 4.11 Consistent with CES Rule 27, if a CES Participant is found non-compliant as a result of the audit process, consequences will apply requiring the payment of an AIBC Council-mandated fine, and earning and reporting the deficient LUs. **Rule 24**
- 4.12 The AIBC will allow for a three-month period for audited, non-compliant CES Participants to become compliant. Should a CES Participant remain non-compliant beyond the three-month period, a complaint of unprofessional conduct against the CES Participant will be made to the director of professional conduct. This may result in disciplinary action, to and including suspension and/or removal from the register. **Rule 25**

...

6.0 Consequences for CES Bylaw Non-Compliance and Authority

- 6.1 CES Participants will be deemed non-compliant should they fail to meet their CES obligations, as set out in these rules, namely CES Rule 12 and 13.
- 6.2 A non-compliant CES Participant will be required to pay an AIBC Council-mandated fine, as set out in Bulletin 1, *and* to earn and report the deficient LUs no later than September 30 after the end of the reporting period. **Rule 27***
- 6.3 Should a CES Participant remain non-compliant beyond September 30, a complaint of unprofessional conduct against the member will be made to the director of professional conduct. This may result in disciplinary action, to and including suspension and/or removal from the register **Rule 28**

* The date for the reporting period ending 2020 was amended in light of the pandemic.

2.0 ADMISSIONS

2.1 Ms. Scott acknowledges and admits that she contravened AIBC Bylaw 30.2 and the rules established by council in AIBC Bulletin 80 by failing, by the specified deadline to:

- (a) provide sufficient information for self-reported LU activities; and
- (b) pay the council-mandated fine.

3.0 PENALTY AGREEMENT

3.1 The following penalty and terms have been agreed upon by Ms. Scott and the AIBC:

3.1.1 A reprimand to be recorded against Ms. Ouri Scott Architect AIBC.

4.0 COSTS

4.1 Ms. Scott agrees to pay costs for this consensual resolution, fixed at an amount of \$2,000, payable to the AIBC within 30 days following approval of this Agreement by the consensual resolution review panel.

4.2 The parties acknowledge that costs are not intended as a punitive measure reflecting the conduct that is the subject of this Agreement. The assessment of costs against Ms. Scott is an acknowledgement of the AIBC's partial costs resulting from the consensual resolution process.

4.3 The parties have referred to the AIBC's Consensual Resolution Costs Guidelines in agreeing on the amount of costs.

5.0 PUBLICATION

5.1 This Agreement, including the attached Schedule, shall be published in a form established by the AIBC, in keeping with AIBC Bylaws, including website publication and distribution to all registrants of the AIBC.

6.0 ACKNOWLEDGEMENT

This Consensual Resolution Agreement may be executed and delivered in one or more counterparts, whether by facsimile transmission or other electronic means, with the same effect as if all parties had signed and delivered the same document and all counterparts.

Ms. Scott acknowledges that she has been given adequate opportunity to seek legal or other professional advice with respect to the negotiation, execution and consequences of this Agreement and has taken such advice or freely elected not to do so.

The facts and terms of this Consensual Resolution Agreement are acknowledged and agreed to by Ouri Scott Architect AIBC and the AIBC, represented by Mark Vernon, CPA, CA, CPA (IL), CEO.

Approved by the Consensual Resolution Review Panel on May 13, 2022.

SCHEDULE – REASONS FOR PENALTY TO CONSENSUAL RESOLUTION AGREEMENT BETWEEN

OURI SCOTT ARCHITECT AIBC
AND
THE ARCHITECTURAL INSTITUTE OF BRITISH COLUMBIA

1.0 REASONS FOR PENALTY

- 1.1 Ms. Scott and the AIBC agree that, in light of the agreed facts and admissions, the proposed penalty is proportionate, fair, and consistent with the public interest. A detailed analysis follows.

A. The Public Interest and Principles of Sentencing (Sanctions)

- 1.2 Consensual resolution of AIBC disciplinary matters operates pursuant to section 51.1 of the *Architects Act* and AIBC Bylaws 36.0 through 36.22. The proposed admissions and disciplinary action do not take effect unless the Agreement is approved by the consensual resolution review panel.
- 1.3 Under the process established by the *Act*, the consensual resolution review panel has a very important task: to review proposed disciplinary agreements in the public interest.
- 1.4 The role of a reviewing panel was discussed in *Law Society of BC v. Rai*, 2011 LSBC 2. In that case, a panel was considering an agreement between a lawyer and the regulator on agreed facts and disciplinary action. The panel conducted an analysis of its role in determining whether to accept the agreement as proposed. The discussion in that case is relevant to the AIBC's process. The panel stated:

[6] This proceeding operates (in part) under Rule 4-22 of the Law Society Rules. That provision allows for the Discipline Committee of the Law Society and the Respondent to agree that professional misconduct took place and agree to a specific disciplinary action, including costs. This provision is to facilitate settlements, by providing a degree of certainty. However, the conditional admission provisions have a safeguard. The proposed admission and disciplinary action do not take effect until they are “accepted” by a hearing panel.

[7] The Panel must be satisfied that the proposed admission on the substantive matter is appropriate. In most cases, this will not be a problem. The Panel must also be satisfied that the proposed disciplinary action is “acceptable”. What does that mean? This Panel believes that a

disciplinary action is acceptable if it is within the range of a fair and reasonable disciplinary action in all the circumstances. The Panel thus has a limited role. The question the Panel has to ask itself is, not whether it would have imposed exactly the same disciplinary action, but rather, “Is the proposed disciplinary action within the range of a fair and reasonable disciplinary action?”

[8] This approach... protects the public by ensuring that the proposed disciplinary action is within the range of fair and reasonable disciplinary actions. In other words, a degree of deference should be given to the parties to craft a disciplinary action. However, if the disciplinary action is outside of the range of what is fair and reasonable in the circumstances, then the Panel should reject the proposed disciplinary action in the public interest.

[Emphasis added]

- 1.5 As stated above in *Rai*, it is important to note that there will be a *range* of fair and reasonable outcomes in any particular file. The complexity of sentencing does not admit to only one appropriate outcome.
- 1.6 This principle was well-articulated in the case of *Peet v. The Law Society of Saskatchewan*, 2014 SKCA 109 where the Chief Justice wrote for a unanimous panel of the Court of Appeal:

[84] All of this is significant because sentencing of any sort, including sentencing for professional misconduct, is a difficult business. There is no single “right answer”. This is so because the sentencing authority must consider, balance, and reconcile a number of different considerations...
- 1.7 The parties submit that the penalty proposed in this case appropriately balances the mitigating and aggravating factors, and is consistent with previous decisions and the public interest in professional disciplinary matters.

B. Ogilvie Factors

- 1.8 In determining an appropriate penalty, professional regulatory bodies in B.C. have often referred to the factors considered in the case of *Law Society of British Columbia v. Ogilvie* [1999] LSBC 17 (known as the “*Ogilvie* Factors”).
- 1.9 This involves an assessment of whether the *Ogilvie* Factors apply and if so, whether they are aggravating or mitigating. The *Ogilvie* Factors include the following:
 - (a) the nature and gravity of the conduct proven;
 - (b) the age and experience of the respondent;
 - (c) the previous character of the respondent, including details of prior discipline;
 - (d) the impact upon the victim;
 - (e) the advantage gained, or to be gained, by the respondent;
 - (f) the number of times the offending conduct occurred;

- (g) whether the respondent has acknowledged the misconduct and taken steps to disclose and redress the wrong and the presence or absence of other mitigating circumstances;
 - (h) the possibility of remediating or rehabilitating the respondent;
 - (i) the impact upon the respondent of criminal or other sanctions or penalties;
 - (j) the impact of the proposed penalty on the respondent;
 - (k) the need for specific and general deterrence;
 - (l) the need to ensure the public's confidence in the integrity of the profession; and
 - (m) the range of penalties in similar cases.
- 1.10 The *Ogilvie* Factors were subsequently consolidated and streamlined in the case of *Edward Dent (Re)*, 2016 LSBC 5. In that case the hearing panel acknowledged that the *Ogilvie* Factors are not all applicable in every case, and will overlap in many cases.
- 1.11 The panel in *Dent* consolidated the *Ogilvie* Factors into four broad categories:
- (a) Nature, gravity and consequences of conduct;
 - (b) Character and professional conduct record of the respondent;
 - (c) Acknowledgment of the misconduct and remedial action; and
 - (d) Public confidence in the profession, including public confidence in the disciplinary process.
- 1.12 Since the decision was issued in *Dent*, the consolidated framework (informed by the complete list from *Ogilvie*) has become the preferred approach in Law Society disciplinary proceedings. However, the jurisprudence acknowledges that the simplified approach may not be appropriate in every case. For example, the Law Society returned to the full *Ogilvie* analysis in a case that was “very difficult” [and] “unlike any previous discipline hearing”: *Sabota (Re)*, 2017 LSBC 18. The AIBC has also employed it in a recent case that was novel and complex.
- 1.13 The parties agree that the consolidated *Ogilvie* Factors are appropriate in this case. They are reviewed in detail below.
- (a) The nature, gravity and consequences of the conduct**
- 1.14 The AIBC's CES program, which has been in place since 2001, is a foundational professional practice expectation. Indeed, it is explicitly referenced in the declaration that every person seeking registration as an architect must subscribe to.
- 1.15 The importance of continuing education requirements in the regulated professions, and the need for compliance with them, was discussed by the Supreme Court of Canada in the case of *Green v. Law Society of Manitoba*, 2017 SCC 20.
- 1.16 In *Green*, a lawyer was challenging his suspension for non-compliance with the Law Society's mandatory continuing education requirements. He was unsuccessful. On behalf of the majority of the Court, Justice Wagner (as he then was) stated:

The Law Society is required by statute to protect members of the public who seek to obtain legal services by establishing and enforcing educational standards for practising lawyers. CPD [continuing professional development] programs serve this public interest and enhance confidence in the legal profession by requiring lawyers to participate, on an ongoing basis, in activities that enhance their skills, integrity and professionalism. CPD programs have in fact become an essential aspect of professional education in Canada.

...

To ensure that those standards have an effect, the Law Society must establish consequences for those who fail to adhere to them. As a practical matter, an unenforced educational standard is not a standard at all, but is merely aspirational.

- 1.17 Similar reasoning applies to the AIBC and its CES program.
- 1.18 The AIBC's Professional Services Department devotes extensive time and effort to communicating with CES Participants to promote compliance.
- 1.19 CES has been a requirement for all architects in British Columbia for almost 20 years. This requirement is thoroughly communicated to registrants. It is foundational to the public's confidence in the profession. There is simply no excuse for non-compliance. For the public to have confidence in the profession and in the AIBC's ability to regulate the profession, timely and complete compliance is required.
- 1.20 Self-reported learning activities are those not delivered or recognized by the AIBC and are evaluated for LUs by the AIBC. In a typical reporting period, all self-reported activities are subject to review by the professional services department. At any time upon review, CES Participants who do not provide sufficient information may have LUs removed from their transcript or have them recategorized due to insufficient clarification. CES Participants are notified and given an opportunity to respond and provide additional or supporting documentation to verify the learning activity.
- 1.21 In addition to ongoing reviews of self-reports, the AIBC conducts a CES audit of self-reported activities within six months after the close of a reporting period to ensure that self-reports are accurate, legitimate and meet the criteria of CES requirements. Five percent of CES Participants receive an audit notice and are asked to provide supporting documents of the self-reported activities for review.
- 1.22 Correspondingly, as stated in *Green*, non-compliance must have consequences. The AIBC, through the council rules established in Bulletin 80, has established a framework whereby the consequences escalate depending on the type of non-compliance. CES Participants found non-compliant as a result of the audit process receive a fine and a three-month extension to achieve compliance. If either of those requirements is not fulfilled, a professional conduct investigation follows.

- 1.23 In light of the pandemic during the Fourteenth Reporting period, CES Participants who were notified they would be audited were asked to submit supporting documents via an online portal or by email to AIBC staff by December 30, 2020.
- 1.24 In this case, Ms. Scott was not LU compliant by the December 30, 2020, deadline. She contacted the AIBC on January 6, 2021, requesting an extension, which was granted. The deadline was not met and Ms. Scott was given a further extension by the AIBC to February 16, 2021. The AIBC followed up with Ms. Scott on at least seven occasions after the February 16, 2021, for the supporting documentation, and she was given a final extension to March 2, 2021.
- 1.25 Ms. Scott became LU compliant on January 28, 2022, and paid the outstanding fine on February 24, 2022.
- 1.26 By comparison to other cases of CES non-compliance, this misconduct is serious.
- 1.27 Each of the CES rules, including the reporting requirements, represents a clear standard for the profession. Ms. Scott's non-compliance, following numerous reminders, merits regulatory sanction.

(b) Character and professional conduct record of the respondent

- 1.28 Ms. Scott is 42 years old and has been registered with the AIBC for five years. She is acquainted with CES requirements and has participated in the past reporting periods.
- 1.29 Ms. Scott does not have a prior professional conduct record with the AIBC and has been compliant with CES reporting since she has been a registrant with the AIBC.

(c) Acknowledgement of the misconduct and remedial action

- 1.30 Upon notification of the complaint, Ms. Scott did not provide a reply to the AIBC. Had Ms. Scott provided the documents when required or communicated with the AIBC, the complaint and the discipline process could have been entirely avoided.
- 1.31 At the time of entering this Agreement, Ms. Scott has become LU compliant for the Fourteenth Reporting Period and paid the mandated fine.
- 1.32 By entering into this Agreement, Ms. Scott has acknowledged that she has committed a disciplinary violation.

(d) Public confidence in the profession, including public confidence in the disciplinary process

- 1.33 This involves an analysis of whether there is sufficient specific or general deterrence in the proposed disciplinary action, whether the proposed disciplinary action upholds the public's confidence in the AIBC's ability to regulate its members in the public interest, and whether the proposed disciplinary action is appropriate when compared to similar cases.

- 1.34 'Specific deterrence' means deterring the respondent from repeating the conduct in question. In this case, Ms. Scott and the AIBC are of the view that the combination of the administrative fine, the investigation and discipline process and a reprimand should deter Ms. Scott from non-compliance with CES requirements in the future.
- 1.35 'General deterrence' is a sentencing objective promoting reduction of improper conduct in the community by the example, message or influence established by the penalty in the present matter. General deterrence is important for CES files. The CES requirements apply to all architects and architectural technologists in BC. The CES rules are not mere suggestions. There is simply no excuse for non-compliance, and responding to non-compliance absorbs significant AIBC time and resources. The profession must understand that non-compliance will result in sanctions, and repeat non-compliance will result in increasingly serious sanctions.
- 1.36 The public has the right to expect that architects will know and comply with all applicable professional standards, and demonstrate that they have undertaken educational programming to remain current in accordance with established deadlines and procedures. The public also has the right to expect that the AIBC will address instances of misconduct by its members through a process that is fair, proportionate, and consistent.
- 1.37 While no two files are identical, the penalties for non-compliance with CES requirements have been relatively consistent in past reporting periods, with the severity of the penalty increasing with the number of breaches of Bylaw 30.2. There is no exact comparison case for non-compliance with CES requirements due to not providing supporting documents in the course of a CES Audit. Typical penalties for breaches of Bylaw 30.2 have been:
- First breach: reprimand (see, for example, AIBC file 17.01, a grouped file of non-compliant CES Participants from the Twelfth Reporting Period, where registrants who were not CES compliant for the first time received a reprimand);
 - Second breach: reprimand and fine (see, for example, AIBC file 18.18, where the registrant who was not CES compliant for the second time received a reprimand and a \$1,000 fine); and
 - Third breach: reprimand and increased fine (see, for example, AIBC file 15.03, a grouped file of non-compliant CES Participants from the Eleventh Reporting Period, where a registrant who was not CES compliant for the third time received a reprimand and an increased fine in the amount of \$1,500).
- 1.38 Ms. Scott and the AIBC submit that, based on the penalty review above, and upon a careful review of the consolidated *Ogilvie* Factors, the proposed penalty is fair and consistent with the range of sanctions that have been imposed for similar conduct in the past.

2.0 PUBLICATION

- 2.1 This Agreement will be published as required by AIBC Bylaws, including website publication and distribution to members and other registrants of the AIBC.

- 2.2 Publication helps fulfill the important transparency expectation that the public has of professional regulators and enhances the public's confidence in the integrity of the profession as a self-regulated entity. Publication to members and other registrants acts as a further deterrent and as an educational message with respect to ethical and professional conduct matters.

3.0 ACKNOWLEDGEMENT

This Schedule may be executed and delivered in one or more counterparts, whether by facsimile transmission or other electronic means, with the same effect as if all parties had signed and delivered the same document and all counterparts.

Ms. Scott acknowledges that she has been given adequate opportunity to seek legal or other professional advice with respect to the negotiation, execution and consequences of this Schedule and has taken such advice or freely elected not to do so.

The facts and terms of this Schedule – Reasons for Penalty to Consensual Resolution Agreement are acknowledged and agreed to by Ouri Scott Architect AIBC and the AIBC, represented by Mark Vernon, CPA, CA, CPA (IL), CEO.

For further information on the AIBC's consensual resolution process, please contact Meagan Sands, Paralegal, Professional Conduct and Illegal Practice at msands@aicbc.ca.