

**IN THE MATTER OF a Proceeding under
the *Certified General Accountants Act, 2010* and By-Law Four**

**IN THE MATTER OF Waseem Aslam, a member of
The Certified General Accountants Association of Ontario**

B E T W E E N:

The Discipline Committee of The Certified General Accountants Association of Ontario

- and -

Waseem Aslam

DECISION AND REASONS FOR DECISION OF THE PROFESSIONAL CONDUCT TRIBUNAL

Members of the Professional Conduct Tribunal Panel:

David Handley, Public Representative, Chair
Alexis Perera, CGA
Dave Laventure, CGA

Appearances:

Karen E. Jolley, Counsel for the Discipline Committee
Davide Cortinovis, Counsel for the Member
Lisa S. Braverman, Registrar and Independent Legal Counsel to the Professional Conduct Tribunal

Hearing Date:

Thursday, July 29, 2010.

OVERVIEW

A panel of the Professional Conduct Tribunal of The Certified General Accountants Association of Ontario heard this matter on Thursday, July 29, 2010 at Toronto. At the conclusion of the hearing, the panel reserved its decision.

ALLEGATIONS

Counsel for the Discipline Committee entered into evidence the Notice of Hearing dated June 16, 2010 contained in the Discipline Brief - Exhibit 1, and the Affidavit of Service - Exhibit 2.

The allegations against the member are that he breached the following provisions of the Code of Ethical Principles and Rules of Conduct as stated in the Notice of Hearing:

Rule 514 Registration

A member shall, if engaged in the practice of public accounting or the preparation of compilation engagements or tax returns part-time or full-time, register in accordance with the requirements prescribed by the Association. This rule also shall apply to members who own, operate or control a professional corporation engaged in the practice of public accounting or the preparation of compilation engagements or tax returns.

Rule 515 Practice Inspection Requirements

A member shall comply with, and adhere to, the practice inspection requirements of the Association and the standards contained therein.

Rule 516 Professional Liability Insurance

A member engaged in the practice of public accounting or the preparation of compilation engagements or tax returns part-time or full-time shall maintain professional liability insurance as specified, and provide evidence as required, by the Association.

Rule 601 Compliance

A member shall comply with By-Law Four and the *Code of Ethical Principles and Rules of Conduct* of the Association as amended from time to time, and with any order or resolution of the board of governors or its committees under the By-Law.

Rule 606(a) Detrimental Actions

A member shall not participate in any action that is detrimental to the Association or the profession.

The particulars of the allegations against the member as stated in the Notice of Hearing are as follows:

Particulars:

1. From the fall of 2007 when Waseem Aslam ("Aslam") became a certified general accountant, until March 2010, Aslam was not registered with CGA Ontario (the "Association") to prepare tax returns or for public practice.
2. As Aslam was not registered in public practice until March 2010, he was not permitted to prepare compiled financial statements or corporate tax returns or to be associated with corporate financial statements as an independent accountant.
3. Even though Aslam was not registered in public practice, he prepared approximately 22 complied financial statements and corporate tax returns for clients in *each of 2007, 2008 and 2009*.
4. As Aslam was not registered for tax until March 2010, he was not permitted to prepare income tax returns.
5. Even though Aslam was not registered for tax, he prepared approximately 200 personal tax returns in *each of 2007, 2008 and 2009*.
6. Rule 514 of the *Code* requires a member engaged in a professional practice to register with the Association.
7. The *Code* defines a "professional practice" as "a proprietorship, partnership, limited liability partnership or professional corporation that provides professional services."
8. The *Code* further defines "professional services" as "any accounting, assurance, taxation services, management advisory or consulting services or other related services as may from time to time be recognized by the Association that is performed or offered to be performed by a member for a client or employer, whether or not the member asserts membership in the Association."
9. By providing professional services, including the preparation of compiled financial statements and corporate tax returns for the public, Aslam was operating a professional practice, as defined by the *Code*.

10. Aslam was not permitted by the Association to offer the professional services that he provided to the public.
11. Aslam earned income from carrying on a public practice operated in violation of the *Code*.
12. Rule 515 of the *Code* requires a member engaged in a professional practice to adhere to the practice inspection requirements of the Association.
13. Aslam did not undergo a practice inspection with the Association as he was not registered to carry on the public practice work he was doing.
14. Rule 516 of the *Code* requires a member engaged in a professional practice to maintain professional liability insurance.
15. Aslam did not maintain insurance for his practice. Aslam made a calculated decision not to purchase insurance as he believed the risk factor was very low as his clients were small businesses.
16. Aslam did not purchase the Public Practice Manual (the "PPM") or the CICA Handbook (the "Handbook") for any of 2007, 2008 and 2009.
17. The total cost of the PPM and the Handbook and applicable renewals was \$2,261.15 for the three years in question.
18. The total cost of insurance for the three years in question was \$3,393.36.
19. Rule 601 of the *Code* requires members to comply with the Association's By-Law Four and the *Code*.
20. By carrying on a public practice without being registered to do so, and by preparing tax returns when he was not registered to do so, Aslam did not comply with the Association's *Code* and therefore also did not comply with Rule 601.
21. Rule 606(a) of the *Code* prohibits members from participating in any action that is detrimental to the Association or the profession.
22. By preparing (a) compiled financial statements and corporate tax returns or being associated with corporate financial statements as an independent contractor for clients and (b) income tax returns for the public when he was not registered either in public practice or for tax, Aslam participated in actions detrimental to the Association and the profession.

MEMBER'S PLEA

The member, through his counsel, admitted the allegations set out in the Notice of Hearing.

FACTS AND EVIDENCE

Counsel for the Discipline Committee advised the panel that agreement had been reached on the facts and introduced a Statement of Facts and Resolution - Exhibit 3. The Agreed Upon Statement of Facts provides as follows:

AGREED UPON STATEMENT OF FACTS

1. Mr. Aslam became a member of CGA Ontario in 2007.
2. Mr. Aslam's CGA Ontario certificate number is 20866 and Mr. Aslam's CGA Canada certificate number is 362975.
3. Mr. Aslam did not register for public practice with CGA Ontario (the "Association").
4. As such Mr. Aslam was not permitted to prepare compiled financial statements or corporate tax returns or to be associated with corporate financial statements as an independent accountant.
5. Even though Mr. Aslam was not registered in public practice, he prepared approximately 22 compiled financial statements and corporate tax returns for clients in each of 2007, 2008 and 2009.
6. Mr. Aslam was not permitted to issue financial statements on his letterhead, as he was not registered in public practice.
7. As Mr. Aslam was also not registered for tax, he was not permitted to prepare income tax returns.
8. Even though Mr. Aslam was not registered for tax, he prepared approximately 200 personal tax returns in each of 2007, 2008 and 2009.
9. Rule 514 of the Code of Ethical Principles and Rules of Conduct (the "Code") requires a member engaged in a professional practice to register with the Association.
10. The Code defines a "professional practice" as "a proprietorship, partnership, limited liability partnership or professional corporation that provides professional services."
11. The Code further defines "professional services" as "any accounting, assurance, taxation services, management advisory or consulting services or other related services as may from time to time be recognized by the Association that is performed or offered to be performed by a member for a client or employer, whether or not the member asserts membership in the Association."

12. By providing professional services, including the preparation of compiled financial statements and corporate tax returns for the public, Mr. Aslam agreed that he was operating a professional practice, as defined by the Code.
13. Mr. Aslam was not permitted by the Association to offer the professional services that he provided to the public.
14. Mr. Aslam earned income from carrying on a public practice operated in violation of the Code.
15. Rule 515 of the Code requires a member engaged in a professional practice to adhere to the practice inspection requirements of the Association.
16. Mr. Aslam did not undergo a practice inspection with the Association as he was not registered to carry on the public practice work he was doing.
17. Rule 516 of the Code requires a member engaged in a professional practice to maintain professional liability insurance.
18. Mr. Aslam did not maintain insurance for his practice. He made a calculated decision not to purchase insurance, as he believed the risk factor was very low as his clients were small businesses.
19. The cost of professional liability insurance that he should have paid for the years 2007 through 2009 was \$3,393.36.
20. Mr. Aslam did not purchase the Public Practice Manual (the "PPM") or the CICA Handbook (the "Handbook") for any of 2007, 2008 and 2009.
21. The total cost of the PPM and the Handbook and applicable renewals was \$2,497.34 for the three years in question.
22. Rule 601 of the Code requires members to comply with the Association's By-Law Four and the Code.
23. By carrying on a public practice without being registered to do so, and by preparing tax returns when Mr. Aslam was not registered to do so, he did not comply with the Association's Code and therefore also did not comply with Rule 601.
24. Rule 606 (a) of the Code prohibits members from participating in any action that is detrimental to the Association or the profession.
25. By preparing (a) compiled financial statements and corporate tax returns or being associated with corporate financial statements as an independent contractor for clients and (b) income tax returns for the public when Mr. Aslam was not registered either in public practice or for tax, he participated in actions detrimental to the Association and the profession.

In the Agreed Upon Resolution section of the Statement of Facts and Resolution, the member made a number of additional admissions as follows:

1. Mr. Aslam recognizes that it was contrary to the Code for him to provide professional services that included the preparation of compiled financial statements and corporate tax returns or to be associated with corporate financial statements as an independent accountant when he was not registered with the Association to do so.
2. Mr. Aslam agreed that he provided professional services to the public when he had not complied with the Association's practice inspection requirements, which was contrary to the Code.
3. Mr. Aslam agreed that it was contrary to the Code for him to prepare tax returns when he was not registered with the Association to do so.
4. Mr. Aslam agreed that he did not provide clients with accurate information about his status when he failed to advise them that he was not permitted to prepare compiled financial statements or corporate tax returns or be associated with corporate financial statements as an independent accountant or to prepare tax returns as he was not registered with the Association for that work.
5. Mr. Aslam agreed that he profited from his breaches of the Code by carrying on a public practice that he was not permitted to offer and by preparing tax returns that he was not registered to prepare.
6. Mr. Aslam agreed that it was contrary to the Code for him to carry on a professional practice without maintaining professional liability insurance.
7. Mr. Aslam agreed that his conduct amounted to a violation of Rules 514, 515, 516, 601 and 606(a) of the Code.

DECISION

Having considered the Agreed Upon Statement of Facts, the admissions made by the member and the submissions of the parties, the panel finds that the member breached the following provisions of the Code of Ethical Principles and Rules of Conduct:

Rule 514 Registration

A member shall, if engaged in the practice of public accounting or the preparation of compilation engagements or tax returns part-time or full-time, register in accordance with the requirements prescribed by the Association. This rule also shall apply to members who own, operate or control a

professional corporation engaged in the practice of public accounting or the preparation of compilation engagements or tax returns.

Rule 515 Practice Inspection Requirements

A member shall comply with, and adhere to, the practice inspection requirements of the Association and the standards contained therein.

Rule 516 Professional Liability Insurance

A member engaged in the practice of public accounting or the preparation of compilation engagements or tax returns part-time or full-time shall maintain professional liability insurance as specified, and provide evidence as required, by the Association.

Rule 601 Compliance

A member shall comply with By-Law Four and the *Code of Ethical Principles and Rules of Conduct* of the Association as amended from time to time, and with any order or resolution of the board of governors or its committees under the By-Law.

Rule 606(a) Detrimental Actions

A member shall not participate in any action that is detrimental to the Association or the profession.

REASONS FOR DECISION

Upon reviewing the Agreed Upon Statement of Facts and the admissions of the member as laid out in the Statement of Facts And Resolution (Exhibit 3), the Tribunal is satisfied that the provisions under the Code of Ethical Principles and Rules of Conduct were violated. In particular:

- By providing professional services without being registered with the Association, including the preparation of compiled financial statements and tax returns, specifically in the preparation of approximately 22 compiled financial statements and corporate tax returns for clients in each of 2007, 2008 and 2009 and the preparation of approximately 200 personal tax returns in each of 2007, 2008 and 2009, Waseem Aslam violated rule 514 of the Code of Ethical Principles and Rules of Conduct (the "Code")
- In not undergoing a practice inspection, Waseem Aslam violated rule 515 of the Code.
- By not maintaining professional liability insurance, Waseem Aslam violated 516 of the Code.
- By carrying on a public practice while not registered and by preparing tax returns while not registered, Waseem Aslam violated rule 601 of the Code.

- By preparing compiled financial statements and corporate tax returns for clients and by preparing income tax returns for the general public, while not registered, Waseem Aslam participated in actions detrimental to the Association and the profession and as such violated rule 606(a) of the Code.

PENALTY SUBMISSIONS

Counsel for the Discipline Committee advised the panel that a penalty resolution had been agreed upon. The Agreed Upon Resolution provides that Waseem Aslam and the Discipline Committee agree to the following:

1. Mr. Aslam accepts a reprimand from the Association as a result of his breaches of the Code.
2. Mr. Aslam accepts a suspension of his membership in the Association to 20 November 2010.
3. Along with Mr. Aslam's acceptance of this resolution, he enclosed both his CGA Ontario membership certificate and his CGA Canada membership certificate. Mr. Aslam understands the certificates will be returned to him upon the conclusion of the above-noted suspension and upon meeting the Association's reinstatement requirements.
4. Mr. Aslam understands and agrees that after the suspension he will not operate a professional practice until he has registered and completed the requirements associated with professional practice.
5. Recognizing that Mr. Aslam should not be permitted to profit from his breaches of the Code and his operation of a public practice in violation of the Association's rules, Mr. Aslam accepts a fine of \$10,000 as a result of his violations of the Code.
6. Mr. Aslam agrees to pay the sum of \$3,000 as a contribution toward the costs of the PPM, Handbook and insurance he should have paid for the years 2007, 2008 and 2009.
7. Mr. Aslam agrees to the following payment schedule to pay the \$13,000.00 for the fine including the costs of the PPM, Handbook and Insurance Premiums for the years 2007, 2008, and 2009 all inclusive (no other costs shall be sought or ordered):
 1. \$3,000 payable by January 2011,
 2. \$5,000 payable by January 2012 and
 3. \$5,000 payable by January 2013 (the "Schedule")

Default

If each payment is not made in accordance with the Schedule for each installment, a notice will be sent by letter mail to: 2206 Melissa Crescent, Burlington, Ontario L7P 4J7. In the letter, Mr. Aslam understands that he shall be given 3 business days from the date postmarked on the letter to correct the default under the Schedule failing which he will automatically without further notice be suspended until payment is made. Should there be any costs incurred by the CGA associated with any bounced, or NSF cheques, then the costs shall be his responsibility to pay immediately.

8. Mr. Aslam understands that, as required by By-Law Four, the terms of the resolution will be published in Statements and will also be published in a local newspaper.

In summarizing the penalty resolution, Karen E. Jolley, Counsel for the Discipline Committee, provided two decisions to assist in supporting the penalty resolution in this case. The first decision, the Discipline Committee of the Certified General Accountants Association of Ontario and Vijay Joshi, Mr. Joshi was found to have violated rules 514, 515, 516, 601 and 606 (a) of the Code. In this case, Mr. Joshi had not prepared as many corporate tax returns and personal tax returns as Mr. Aslam. Mr. Joshi had his membership suspended for 3 months, he received a reprimand, he was fined \$5,000.00 and the decision was published.

The second decision provided by Ms. Jolley was the Discipline Committee of the CGAO and Tanveer Mansoor. In this case, Mr. Mansoor was found to have violated rules 509, 514, 515 and 516. Although the circumstances of the violations were different, similar rules of the Code had been violated to a lesser extent. In this case, Mr. Mansoor received a reprimand from the Association, a fine of \$2,000.00 and the decision was published. Ms. Jolley, also commented that the Association noted that Mr. Aslam not only admitted to the breaches but Mr. Aslam has been quite diligent in registering with the Association and taking the necessary steps such as obtaining professional liability insurance, getting a mentor and completing the appropriate courses required for public practice except for one.

Mr. Davide Cortinovis, Counsel for the Member, noted that his client, Waseem Aslam, had admitted to the breaches noted and had committed himself to rectify the situation by immediately stopping his practice, enrolling in and completing the courses required for public practice (Tax II is the only outstanding course), and purchasing professional liability insurance. Mr. Aslam wants to be "a member in good standing". Mr. Cortinovis went on to say that his client felt that the penalty resolution was fair.

PENALTY DECISION

The panel deliberated and accepted the penalty resolution that had been agreed upon and accordingly orders the following penalty:

1. Waseem Aslam is reprimanded for breaching Rules 514, 515, 516, 601 and 606(a) of the Code.
2. Waseem Aslam is suspended from membership in the Association to 20 November 2010.
3. Waseem Aslam shall surrender his CGA Ontario membership certificate and his CGA Canada membership certificate. These certificates will be returned to Mr. Aslam upon the conclusion of the above-noted suspension and upon meeting the Association's reinstatement requirements.
4. Waseem Aslam shall not operate a professional practice, after the suspension, until he has registered and completed the requirements associated with professional practice.
5. Waseem Aslam pays a fine of \$10,000.
6. Waseem Aslam pays the sum of \$3,000 as a contribution toward the costs of the PPM, Handbook and insurance not purchased for the years 2007, 2008 and 2009.
7. The following payment schedule to pay the \$13,000.00 for the fine and the costs of the PPM, Handbook and Insurance Premiums for the years 2007, 2008, and 2009 is imposed:
 1. \$3,000 payable by January 2011,
 2. \$5,000 payable by January 2012 and
 3. \$5,000 payable by January 2013 (the "Schedule")

Default

If each payment is not made in accordance with the Schedule for each installment, a notice shall be sent by letter mail to: 2206 Melissa Crescent, Burlington, Ontario L7P 4J7. Waseem Aslam shall be given 3 business days from the date postmarked on the letter to correct the default under the Schedule, failing to do so will automatically and without further notice, result in Waseem Aslam being suspended until payment is made. Should there be any costs incurred by the CGA associated with any bounced, or NSF cheques, then the costs shall be Waseem Aslam's responsibility to pay immediately.

8. Publication of the terms of the resolution in Statements and in a local newspaper.

REASONS FOR PENALTY DECISION

The Tribunal found that the penalty resolution that had been agreed upon was appropriate under the circumstances of this case.

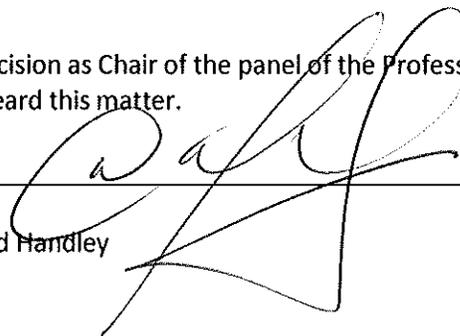
In arriving at the appropriateness of the penalty decision the Tribunal relied on the decisions provided by Ms. Jolley as the cases noted shared similarity in violations and the resulting penalties.

The Tribunal, in reaching this decision, determined that the penalty was appropriate to fit the violation and to deter CGA members from this type of behaviour in the future.

Dated this 16th day of August, 2010

I, David Handley, sign this Decision and Reasons for Decision as Chair of the panel of the Professional Conduct Tribunal on behalf of the members of the panel that heard this matter.

David Handley

A handwritten signature in black ink, appearing to read 'D Handley', is written over a horizontal line. The signature is stylized and cursive.

NOTICE

This decision of the Professional Conduct Tribunal may be appealed to an Appeal Tribunal within thirty (30) days of the sending of this decision.

The Notice of Appeal must be in writing, addressed to the Secretary of the Association (Certified General Accountants of Ontario, 240 Eglinton Avenue East, Toronto, Ontario, M4P 1K8) and must contain the grounds for the appeal.

TAKE NOTE THAT, in an appeal, the Appellant bears the onus of obtaining copies of the transcript of the hearing before the Professional Conduct Tribunal for the Appeal Tribunal (4 copies) and for the Respondent (1 copy).

According to Article 9 of By-Law Four, a Notice of Appeal that fails to contain the grounds for the appeal, together with evidence that demonstrates that a transcript of the hearing giving rise to the appeal has been ordered, shall be invalid.