

**IN THE MATTER OF a Proceeding under  
the *Certified General Accountants Act, 2010* and the Bylaws**

**IN THE MATTER OF James Cameron, 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 -

James Cameron

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**DECISION AND REASONS FOR DECISION OF THE PROFESSIONAL CONDUCT TRIBUNAL**

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**Members of the Professional Conduct Tribunal Panel:**

Peter J. Vaillancourt, CGA, Chair  
Alan Jones, CGA  
Victoria Corbett, Public Representative

**Appearances:**

Karen Jolley, Counsel for the Discipline Committee  
James Cameron, Member  
Lisa Braverman, Registrar and Independent Legal Counsel to the Professional Conduct Tribunal

**Hearing Date:**

Wednesday November 16<sup>th</sup> 2011, Toronto

## **OVERVIEW**

A panel of the Professional Conduct Tribunal of The Certified General Accountants Association of Ontario heard this matter on Wednesday November 16<sup>th</sup> 2011, 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 September 21<sup>st</sup> 2011, Exhibit "1", and the Affidavit of Service, Exhibit "2", relating to the Notice of Hearing.

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

### **Principle of Responsibilities to Society**

Members have a fundamental responsibility to safeguard and advance the interests of society. This implies acting with trust-worthiness, integrity and objectivity. This responsibility extends beyond a member's own behaviour to the behaviour of colleagues and to the standards of the Association and the profession.

### **Rule 101 Discredit**

A member shall not participate in, or knowingly provide services to, any practice, pronouncement or act that would be of a nature to discredit the profession.

### **Rule 108 Conduct Unbecoming**

It shall be unethical for a member, while acting in a professional capacity or otherwise, to engage in misconduct of a reprehensible or serious nature which reflects on the member's or student's honesty, integrity, or trustworthiness or, is relevant to the person's suitability as a member of the profession.

### **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. James Cameron ("Cameron") became a member of CGA Ontario (the "Association") in 1987.
2. Cameron's CGA Ontario certificate number is 6314 and his CGA Canada certificate number is 321240.
3. From at least 2002 to present, Cameron prepared, among other things, income tax returns for clients.
  - (a) **Cheryl Harrison**
    4. Cameron starting preparing income tax returns for the Harrison family in 2002.
    5. In or about August 2007 Cheryl Harrison ("Harrison") contacted Cameron concerning an estimate of tax that would need to be paid by the estate of her late mother-in-law Joan Harrison ("Joan").
    6. In or about January 2008 Harrison contacted Cameron to prepare their families' income tax returns.
    7. Cameron agreed that he would prepare the Harrison family returns including Joan's return.
    8. Cameron received the required 2007 income tax information for Cheryl, Dave, the estate of Joan, Lindsey, Jeff and Todd in early April 2008.
    9. Cameron did not file any of the Harrison returns by 30 April 2008.
    10. Cameron did not return the numerous calls from Harrison in April and early May inquiring into the status of their returns, asking how much money Joan and Jeff would owe in taxes and requesting confirmation that no other family member would owe income tax.
    11. On or 9 May 2008, Cameron returned Harrison's call of May 8 and advised Harrison that the estate of Joan owed \$31,879.45 which the estate then paid. Cameron further advised Harrison that Jeff did not owe money and that Dave, Lindsey and Todd would be receiving refunds.

12. When the Harrison family had received no assessments by August, Harrison contacted Cameron and left a message. When Cameron returned Harrison's call in September, he advised Harrison that Canada Revenue Agency ("CRA") was slow in sending out assessments. Cameron further advised now that Jeff owed money.
13. When Harrison questioned Cameron on the situation with Jeff, Cameron advised that he had just been advised by the government that Jeff owed funds.
14. In fact, Cameron had not just been advised by the government that Jeff owed funds. Cameron had not filed Jeff's return by September and did not do so until November 2008.
15. When Harrison received no assessments in October, she telephoned Cameron who again advised that the government was slow.
16. Harrison called Cameron throughout November and December and left messages for Cameron, which he did not return.
17. In or about December 2008 Harrison emailed Cameron to advise that the family had not received assessments and that Dave would attend at Cameron's office to pick up the Harrison family records.
18. On or about 5 January 2009 Dave received a tax assessment indicating that he owed taxes, contrary to Cameron's information to Harrison on or about 9 May 2008 that he would be receiving a refund.
19. By email to Harrison dated 6 January 2009, Cameron advised Dave not to pay the assessment.
20. On or about 13 January 2009 Harrison received the assessment for Joan indicating a further \$3,506.74 was owed in penalties and arrears due to late payment of the income tax due.
21. The estate of Joan had paid the amount Cameron indicated was owing as soon as he provided that amount to Harrison on or about 9 May 2008.
22. Cameron advised Harrison that he would appeal the penalty on the basis that the reason he had not filed the return by 30 April 2008 was because he had been required to attend a funeral out of town.

23. After follow up calls and emails from Harrison to Cameron in January 2009, Cameron advised Harrison on 21 January 2009 that he had filed the paperwork for Joan and Dave's appeals.
24. Cameron did not respond to Harrison's follow up telephone calls and emails throughout January, February, March and April 2009.
25. In response to a letter of complaint about the lack of service from Harrison dated 27 April 2009, Cameron advised Harrison that she "should be ashamed of [herself]" for making allegations of incompetence against him.
26. Contrary to his assertions in January 2009 that he had filed the appeal for Dave and the request for reconsideration for the estate of Joan, on 26 May 2009 CRA advised Dave that it had not received any paperwork from Cameron either resubmitting Dave's revised return or requesting taxpayer relief with respect to Joan's interest and penalties.
27. In respect of the tax due by Joan, Cameron asserted that he was not advised of Joan's RIFs and that it should have been obvious to Harrison that a significant tax liability existed.
28. In fact, Harrison advised Cameron in August 2007 when she inquired about Joan's tax liability that she would be collapsing approximately \$95,000 in RIFs.
29. Further, when Harrison spoke to Cameron in January 2008, she indicated that she was awaiting the RIF information slips for the estate of Joan and would forward them when they arrived, which she did in early April.
30. In any event, Cameron had prepared Joan's income tax returns for 4 years prior to 2007 and knew or ought to have known that she had RIFs.
31. While Cameron advised Harrison on 9 May 2008 that he had filed Joan's tax return, he had not filed the return and did not do so until November 2008.
32. When Cameron advised Harrison on 9 May 2008 that he had filed Jeff's return and that Jeff did not owe money, Cameron had not in fact filed Jeff's return and did not do so until November 2008.

33. When Cameron advised Harrison on 21 January 2009 that he could not change Todd's address with CRA as he had already filed Todd's return, Cameron had not in fact filed Todd's return and did not do so until the following day.
34. When Cameron advised Harrison on 9 May 2008 that he had filed all the family returns, he had not in fact filed any of their returns. Cameron did not file Joan's return until approximately 10 November 2008; he did not file Dave's return until approximately 12 November 2008; he did not file Lindsey's return until approximately 12 November 2008; he did not file Harrison's return until approximately 12 November 2008; and he did not file Todd's return until approximately 22 January 2009.
35. When Cameron advised Harrison that he had filed an appeal or Adjustment Request with respect to Dave's income tax return on 5 January 2009, he had not done so.
36. When Cameron advised Harrison that he had filed an appeal or request for taxpayer relief request with respect to Joan's penalties and interest on 13 January 2009, he had not done so.
37. On or about 23 June 2009 CRA denied the request to waive the interest and penalties with respect to Joan's estate.
38. Ultimately the interest and penalties incurred by the estate of Joan and the interest and penalties incurred by Jeff were paid by Cameron's insurer.

**(b) Lila Way**

39. In the beginning of January 2008, Lila Way ("Way") telephoned Cameron to discuss him preparing and filing her personal income tax return for 2007, the corporate income tax return for her company Enlightened Arts for 2007 and amending her return for 2006.
40. In their subsequent meeting held on or about 20 February 2008, Cameron advised Way that he could complete the work and that the corporate return would be done by the end of February 2008 and the personal returns shortly thereafter.
41. When Way did not hear from Cameron by the end of February, she called him and then called twice thereafter leaving him messages about the status of her returns.
42. Cameron did not return Way's calls until March. When he did return her calls in March, he advised Way that the returns would be a few more weeks.

43. When the returns were not ready in March, Way called Cameron and left another message which he did not return.
44. When Way called Cameron again to advise she would be at his office to retrieve her paperwork, Cameron contacted her to advise that her returns were ready.
45. On or about 5 June 2008 Way attended at Cameron's office and signed the adjustment request to be filed for her 2006 income tax return.
46. In December 2008, Way received notice from CRA that she was in default of filing her company returns.
47. In December 2008, Way also learned that her adjustment request for 2006 had not been received by CRA.
48. Cameron advised Way that that sometimes the government did not get returns when they were e-filed and assured her that he would re-send it. Cameron mailed a copy to CRA on or about 30 December 2008.
49. In March 2009, Way received a further letter from CRA indicating that she would not receive her 2006 refund as her return had been filed more than six months after it was signed and dated.
50. Way called Cameron to discuss the situation, but he did not return her call.
51. In March 2009, when Way took the corporate return to a new accountant, she was advised to obtain the trial balance from Cameron. Way left a message for Cameron indicating that she was upset and expected Cameron to return her calls.
52. When Cameron did return Way's telephone call, he raised his voice and swore at her, expressed dismay that she was using another accountant, and hung up.
53. While disputing that he used profanity or yelled in his return call, Cameron did confirm that he advised Way she could call him back when she was prepared to conduct herself in a respectful and business-like manner and then hung up on her.

54. After the intervention of the discipline committee of CGA Ontario, Cameron provided Way with a copy of her corporate trial balance.

**(c) Dawn Truell**

55. Dawn Truell ("Truell") retained Cameron to prepare her income tax returns for the years 2005 to 2008.

56. In or about June 2008 Truell delivered to Cameron her income tax information for 2007.

57. Thereafter in 2008 and continuing through 2009, Truell attempted to contact Cameron by phone and email for confirmation that her 2007 income tax returns had been filed as she had not heard anything from CRA and had not received either a notice of assessment or a refund.

58. When Truell reached Cameron by email in December 2008 inquiring about the taxes she had dropped off to him in June, Cameron apologized for the delay and indicated to Truell that her returns would be ready the following week.

59. When Truell did not hear from Cameron after the December email, she emailed him again on 6 January 2009 to inquire about her taxes.

60. By return email which Truell received on 30 January 2009, Cameron advised that he had some questions for her about the return. Truell responded and proposed a meeting the following week.

61. When Truell did not hear from Cameron, she followed up by further email on 9 February 2009 indicating that Cameron had had her income tax information since June 2008 and she was concerned that the tax return had not been filed.

62. Truell also advised that "I had let you know in August that I needed these done before the school year so that my children could get OSAP but since you never got back to me I could not get them OSAP for this past year and this had put an astronomical financial strain on me and I need to re-coop [sic] some funds, hence another reason for wanting my taxes done, I quite simply need the money desperately at this point, I will owe more funds to my daughters University for residence fees and I need the money from my taxes to do this."

63. On or about 27 May 2009 Truell retained Cameron to prepare her 2008 income tax return and that of her daughter Courtney Walsh ("Walsh").

64. Truell delivered to Cameron the majority of the 2008 income tax information for her and for Walsh on or about 27 May 2009.
65. Truell provided Cameron with the balance of the required information for her 2008 income tax return by 1 June 2009.
66. Truell provided Cameron with the balance of the information for Walsh's 2008 income tax return by 25 June 2009.
67. Truell prepared her own income tax returns for 2009 and attempted to e-file those returns in April 2010.
68. While attempting to e-file her own returns, Truell discovered that Cameron had not filed her income tax return for 2006.
69. With respect to the 2006 income tax return, Cameron advised that CRA rejected the e-filed return due to a name discrepancy for Truell.
70. Truell changed her name through a divorce in 1992 and there is no indication that any of her income tax returns from 1992 to 2005 could not be filed due to a name discrepancy.
71. Cameron prepared a paper copy of Truell's 2006 income tax return but failed to file that paper copy, stating that he could not locate Truell. The matter was thereafter overlooked.
72. Truell lived at the address Cameron had on file for her other than during August to December 2009 when she lived in British Columbia.
73. Truell also discovered on 30 April 2010 that Cameron had not filed her income tax return for 2008 or the return for Walsh for 2008.
74. With respect to the 2008 income tax return, Cameron did not complete the return until the summer of 2009 at which time he stated that he could not locate Truell. As a result, he did not file the return and it was thereafter overlooked.

75. Truell contacted Cameron numerous times by telephone and email on 30 April 2010 and on May 3 and 4 when she found out that her returns had not been filed and left messages for him.
76. When Truell did speak to Cameron on May 4, he denied that he had not filed the returns and he yelled at Truell.
77. Cameron charged Truell and she paid him for preparation of the income tax returns that he did not file.
78. Cameron's conduct amounted to professional misconduct and conduct unbecoming a certified general accountant.

#### **MEMBER'S PLEA**

During the proceedings on Wednesday November 16<sup>th</sup> 2011, the member admitted the allegations set out in the Notice of Hearing, with the exception of the allegations in paragraphs 5, 8, 13, 27, 28, 29, 30, 48, 50, 52, 76 and 78 of the Notice of Hearing. The allegations admitted by the member were identified with the letter "A" in the annotated Notice of Hearing, Exhibit "3". During the proceedings, the member admitted some allegations that were denied in the Response to Request to Admit, Exhibit "13", dated October 6<sup>th</sup> 2011.

#### **FACTS AND EVIDENCE**

Counsel for the Discipline Committee presented an Affidavit of Service, Exhibit "9", establishing that the member had been served on Wednesday September 21<sup>st</sup> 2011, with a Request to Admit Facts and Documents, Exhibit "6", as well as a Notice under the Evidence Act (Business Records), Exhibit "7". The member was advised that he had 20 days to respond to the Request to Admit Facts and Documents, and that if he failed to respond, he would be deemed to admit the truth of the facts and the authenticity of the documents, for the purposes of this proceeding. The member did respond to the Request to Admit

Facts and Documents. In particular, in the member's Response to Request to Admit, Exhibit "13", the member admitted to the truth of facts for paragraphs 1, 2, 3, 4, 6, 7, 10, 11, 12, 14, 16, 18, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31, 35, 36, 37, 38, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 55, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 82, 84, 86, and 88 and denied the truth of facts for paragraphs 5, 8, 9, 13, 15, 17, 19, 25, 32, 33, 34, 39, 40, 52, 53, 54, 56, 80, 81, 83, 85, 87, 89, and 90. The member admitted to the authenticity of all documents. Based on the facts and documents admitted by the member at this hearing from the Request to Admit Facts and Documents, the panel makes the following findings of fact:

#### **Personal Facts, Relationship and Status with CGA Ontario**

1. James Cameron became a member of CGA Ontario in 1987.
2. James Cameron's CGA Ontario certificate number is 6314 and James Cameron's CGA Canada certificate number is 321240.
3. James Cameron carried on a practice that included the preparation of income tax returns for clients.

#### **Client A - The Harrison Family: Cheryl, Dave, Joan, Lindsey, Jeff and Todd**

4. James Cameron prepared the income tax returns for the Harrison family since 2002.
6. In or about January 2008 Harrison contacted James Cameron to confirm that he would be able to prepare their families' income tax returns if they delivered their documents to James Cameron in early April 2008.
7. James Cameron agreed that he would prepare the Harrison family returns including Joan's return.
10. James Cameron returned Harrison's call on or about May 9 after James Cameron had returned to town from an out of town funeral. James Cameron advised Harrison that the estate of Joan owed \$31,879.45 which the estate then paid.
11. In the same call, James Cameron further advised Harrison that Jeff did not owe money.
12. Finally in that same call, James Cameron advised Harrison that Dave, Lindsey and Todd would be receiving refunds.

14. When James Cameron returned Harrison's call in September, James Cameron advised her that Canada Revenue Agency ("CRA") was slow in sending out assessments and that, in fact, Jeff owed CRA money.
16. When Harrison received no assessments in October, she telephoned James Cameron and James Cameron again advised that the government was slow.
18. Harrison emailed James Cameron in December 2008 to advise that the assessments had still not arrived and to advise that Dave would attend at James Cameron's office to pick up the family's 2005, 2006 and 2007 records.
20. By email to Harrison dated 6 January 2009, James Cameron advised Dave not to pay the assessment.
21. On or about 13 January 2009 Harrison received the assessment for Joan indicating a further \$3,506.74 was owed in penalties and arrears due to late payment of the income tax due.
22. The estate of Joan had paid the amount James Cameron indicated was owing as soon as James Cameron provided that amount to Harrison on 9 May 2008.
23. James Cameron advised Harrison that he would appeal the penalty on the basis that the reason James Cameron had not filed the return by 30 April 2008 was because James Cameron had been required to attend a funeral out of town.
24. After follow up calls and emails from Harrison to James Cameron in January 2009, James Cameron advised Harrison on 21 January 2009 that he had filed the paperwork for Joan and Dave's appeals.
26. In the 27 April 2009 letter Harrison indicted that "James Cameron led me to believe that all tax forms were completed accurately and on time. Over time I found out what James Cameron had previously told me to be untrue. James Cameron did not complete the tax returns on time, one tax return was done incorrectly; instead of receiving a refund we now owed money and that another family member did owe money which was contrary to what James Cameron had told me ... I feel James Cameron did not fulfill his business obligation, tax returns were not filed on or before April 30<sup>th</sup> as James Cameron had told me, incorrect filing of tax returns, not informing me that money was owing and not informing me of money owing by the deadline date of April 30<sup>th</sup> ... James Cameron has not done his profession any justice and have left me no other option but to charge James Cameron for the costs that my family has incurred due to his incompetence." Harrison set out the sum of \$4,161.41 being the penalties and interest charged to Jeff and to the estate of Joan.
27. In James Cameron's May letter to Harrison James Cameron advised Harrison that she "should be ashamed of [herself]" for making allegations of incompetence against James Cameron.
28. James Cameron asserted that he was not advised of the collapse of Joan's RIFs and should have been given a "heads up".

29. James Cameron further advised Harrison that it should have been "obvious to you that a significant tax liability existed."
30. James Cameron did not respond to Harrison's subsequent registered letters of 11 June 2009 or 14 September 2009 confirming the CRA charges of interest and penalties and requesting payment.
31. Contrary to James Cameron's assertions in January 2009 that James Cameron had filed the appeal for Dave and the request for reconsideration for the estate of Joan, on 26 May 2009 CRA advised Dave that it had not received any paperwork from James Cameron either resubmitting Dave's revised return or requesting taxpayer relief with respect to Joan's interest and penalties.
35. While James Cameron advised Harrison on 9 May 2008 that he had filed Joan's tax return, James Cameron had not filed the return and did not do so until November 2008.
36. When James Cameron advised Harrison on 9 May 2008 that he had filed Jeff's return and that he did not owe money, James Cameron had not filed his return and did not do so until November 2008.
37. When James Cameron advised Harrison on 21 January 2009 that he could not change Todd's address as James Cameron had already filed his return, James Cameron had not filed his return and did not do so until the following day.
38. When James Cameron advised Harrison on 9 May 2008 that James Cameron had filed all the family returns, James Cameron had not in fact filed any of their returns. James Cameron did not file Joan's return until approximately 10 November 2008; James Cameron did not file Dave's return until 12 November 2008; James Cameron did not file Lindsey's return until 12 November 2008; James Cameron did not file Harrison's return until 12 November 2008; and James Cameron did not file Todd's return until 22 January 2009.
41. On or about 23 June 2009 CRA denied the request to waive the interest and penalties with respect to Joan's estate.
42. Ultimately the interest and penalties incurred by the estate of Joan and the interest and penalties incurred by Jeff were paid by James Cameron's insurer.

#### **Client B - Lila Way**

43. In the beginning of January 2008, Lila Way ("Way") telephoned James Cameron to discuss James Cameron preparing and filing her personal income tax return for 2007, the corporate income tax return for her company Enlightened Arts for 2007 and amending her return for 2006.
44. In James Cameron's subsequent meeting of 20 February 2008, James Cameron advised Way that he could complete the work and that the corporate return would be done by the end of February 2008 and the personal returns shortly thereafter.

45. When Way did not hear from James Cameron at the end of February, she called James Cameron and then called twice thereafter leaving James Cameron messages about the status of her returns.
46. James Cameron did not return Way's calls until March. When James Cameron returned her calls in March, James Cameron advised that the returns would be a few more weeks.
47. When the returns were not ready in March, Way called James Cameron and left another message which James Cameron did not return.
48. When Way called again to advise she would be at James Cameron's office to retrieve her paperwork, James Cameron advised to say her returns were ready.
49. On or about 5 June 2008 Way attended at James Cameron's office and signed the adjustment request to be filed for her 2006 income tax return.
50. In December 2008, Way received a notice from CRA that she was in default of filing her company returns.
51. In December 2008, Way also learned that her adjustment request for 2006 had not been received by CRA.
55. In March 2009, when Way took the corporate return to a new accountant, she was advised to obtain the trial balance from James Cameron. Way left a message for James Cameron indicating that she was upset and expected James Cameron to return her calls.
57. James Cameron dispute using profanity or yelling in James Cameron's return call but indicate that James Cameron advised Way she could call James Cameron back when she was prepared to conduct herself in a respectful and business-like manner and then hung up on her.
58. After the intervention of the discipline committee of CGA Ontario, James Cameron provided Way with a copy of her corporate trial balance.

#### **Client C - Dawn Truell**

59. Dawn Truell ("Truell") retained James Cameron to prepare her income tax returns for the years 2005 to 2008.
60. In or about June 2008 Truell delivered to James Cameron her income tax information for 2007.
61. Thereafter in 2008 and continuing through 2009, Truell attempted to contact James Cameron by phone and email for confirmation that her 2007 income tax returns had been filed as she had not heard anything from CRA and had not received either a notice of assessment or a refund.

62. When she reached James Cameron by email in December 2008 inquiring about the taxes she had dropped off to James Cameron in June, James Cameron apologized for the delay and indicated that her returns would be ready the following week.
63. When Truell did not hear from James Cameron after the December email, she emailed James Cameron again on 6 January 2009 to inquire about her taxes.
64. By return email which Truell received on 30 January 2009, James Cameron advised that he had some questions for her about the return. She responded and proposed a meeting the following week.
65. When she did not hear from James Cameron, Truell followed up by further email on 9 February 2009 indicating that James Cameron had had her income tax information since June 2008 and she was concerned that the tax return had not been filed.
66. Truell also advised that "I had let James Cameron know in August that I needed these done before the school year so that my children could get OSAP but since James Cameron never got back to me I could not get them OSAP for this past year and this had put an astronomical financial strain on me and I need to re-coop [sic] some funds, hence another reason for wanting my taxes done, I quite simply need the money desperately at this point, I will owe more funds to my daughters University for residence fees and I need the money from my taxes to do this."
67. On or about 27 May 2009 Truell retained James Cameron to prepare her 2008 income tax return and that of her daughter Courtney Walsh ("Walsh").
68. Truell delivered to James Cameron the majority of the 2008 income tax information for her and for Walsh on or about 27 May 2009.
69. Truell provided James Cameron with the balance of the required information for her 2008 income tax return by 1 June 2009.
70. Truell provided James Cameron with the balance of the information for Walsh's 2008 income tax return by 25 June 2009.
71. Truell prepared her own income tax returns for 2009 and attempted to e-file those returns in April 2010.
72. While attempting to e-file her own returns, Truell discovered that James Cameron had not filed her income tax return for 2006.
73. With respect to the 2006 income tax return, James Cameron advised that CRA rejected the e-filed return due to a name discrepancy for Truell.
74. Truell changed her name through a divorce in 1992 and there is no indication that any of her income tax returns from 1992 to 2005 could not be filed due to a name discrepancy.

75. James Cameron prepared a paper copy of Truell's 2006 income tax return but James Cameron failed to file that paper copy as James Cameron stated he could not locate Truell. The matter was then overlooked.
76. Truell lived at the address James Cameron had on file for her other than during August to December 2009 when she lived in British Columbia.
77. Truell also discovered on 30 April 2010 that James Cameron had not filed her income tax return for 2008 or the return for Walsh for 2008.
78. With respect to the 2008 income tax return, James Cameron did not complete the return until the summer of 2009 at which time James Cameron stated that he could not locate Truell and James Cameron did not file the return and it was thereafter overlooked.
79. Truell contacted James Cameron numerous times by telephone and email on 30 April 2010 and on May 3 and 4 when she found out that her returns had not been filed and left messages for James Cameron.
82. The Association's Code of Ethical Principles and Rules of Conduct (the "Code") - Principle of Responsibilities to Society - states:
- Members have a fundamental responsibility to safeguard and advance the interests of society. This implies acting with trustworthiness, integrity and objectivity. This responsibility extends beyond a member's own behaviour to the behaviour of colleagues and to the standards of the Association and the profession.
84. Rule 101 of the Code - Discredit - states:
- A member shall not participate in, or knowingly provide services to, any practice, pronouncement or act that would be of a nature to discredit the profession.
86. Rule 108 of the Code - Conduct Unbecoming - states:
- It shall be unethical for a member, while acting in a professional capacity or otherwise, to engage in misconduct of a reprehensible or serious nature which reflects on the member's or student's honesty, integrity, or trustworthiness or, is relevant to the person's suitability as a member of the profession.
88. Rule 606(a) of the Association's Code - Detrimental Action - states:
- A member shall not participate in any action that is detrimental to the Association or the profession.

Later on in the hearing, based on his admissions to particular allegations in the Notice of Hearing, the member admitted that he breached the following provisions of the Code of Ethical Principles and Rules of Conduct:

**Principle of Responsibilities to Society**

Members have a fundamental responsibility to safeguard and advance the interests of society. This implies acting with trust-worthiness, integrity and objectivity. This responsibility extends beyond a member's own behaviour to the behaviour of colleagues and to the standards of the Association and the profession.

**Rule 101 Discredit**

A member shall not participate in, or knowingly provide services to, any practice, pronouncement or act that would be of a nature to discredit the profession.

**Rule 108 Conduct Unbecoming**

It shall be unethical for a member, while acting in a professional capacity or otherwise, to engage in misconduct of a reprehensible or serious nature which reflects on the member's or student's honesty, integrity, or trustworthiness or, is relevant to the person's suitability as a member of the profession.

**Rule 606 (a) Detrimental Actions**

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

In addition, the member agreed that his violations indicate professional misconduct.

**DECISION**

The Discipline Committee has the onus of proving the allegations in the Notice of Hearing in accordance with the civil standard of proof. The standard of proof applied by the panel was a balance of probabilities based on clear, convincing and cogent evidence.

In coming to a decision, the panel relied upon the evidence that was provided in the form of admissions arising from the Request to Admit Facts and Documents, Exhibit #6. The Tribunal made findings of fact based on these admissions.

Having considered the admissions and agreements made by the member, the evidence and the submissions of the parties and the onus and standard of proof, the panel finds that the member breached the following provisions of the Code of Ethical Principles and Rules of Conduct:

**Principle of Responsibilities to Society**

Members have a fundamental responsibility to safeguard and advance the interests of society. This implies acting with trust-worthiness, integrity and objectivity. This responsibility extends beyond a member's own behaviour to the behaviour of colleagues and to the standards of the Association and the profession.

**Rule 101 Discredit**

A member shall not participate in, or knowingly provide services to, any practice, pronouncement or act that would be of a nature to discredit the profession.

**Rule 108 Conduct Unbecoming**

It shall be unethical for a member, while acting in a professional capacity or otherwise, to engage in misconduct of a reprehensible or serious nature which reflects on the member's or student's honesty, integrity, or trustworthiness or, is relevant to the person's suitability as a member of the profession.

**Rule 606 (a) Detrimental Actions**

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

The panel also finds the member guilty of professional misconduct.

**REASONS FOR DECISION**

In coming to a decision, the Panel relied heavily upon evidence that was provided in the form of the Request to Admit Facts and Documents, Exhibit #6, and the Response to Request to Admit, Exhibit #13, and the member's admissions and agreements at the hearing.

## **Principle of Responsibilities to Society**

Mr. James Cameron violated the **Principle of Responsibilities to Society** by (a) not responding to clients' calls and emails on a timely basis, (b) not carrying out clients' work in a timely basis, (c) misrepresenting to clients that work had been done and submitted when it had not, (d) providing clients with information (such as advising them of the amount of tax owing) with the intention of leading them to believe that James Cameron had done the work and to cover up that James Cameron had not done the work for which James Cameron had been retained, (e) charging clients for work that James Cameron did not do, and (f) responding to clients in an unprofessional way when they made inquiries about the status of their files. James Cameron did not act in a manner that implied trustworthiness, integrity or objectivity.

## **Rule 101 Discredit**

Mr. James Cameron violated **Rule 101 Discredit** by (a) not responding to clients' calls and emails on a timely basis, (b) not carrying out clients' work in a timely basis, (c) misrepresenting to clients that work had been done and submitted when it had not, (d) providing clients with information (such as advising them of the amount of tax owing) with the intention of leading them to believe that James Cameron had done the work and to cover up that James Cameron had not done the work for which James Cameron had been retained, (e) charging clients for work that James Cameron did not do, and (f) responding to clients in an unprofessional way when they made inquiries about the status of their files. James Cameron participated in a practice or act that was of a nature to discredit the profession.

## **Rule 108 Conduct Unbecoming**

Mr. James Cameron violated **Rule 108 Conduct Unbecoming** by (a) misrepresenting to clients that work had been done and submitted when it had not, (b) providing clients with information (such as advising them of the amount of tax owing) with the intention of leading them to believe that James Cameron had done the work and to cover up that James Cameron had not done the work for which James Cameron had been retained, (c) charging clients for work that James Cameron did not do, and (d) responding to clients in an unprofessional way when they made inquiries about the status of their files. James Cameron engaged in conduct of a reprehensible and serious nature which reflected on James Cameron's honesty, integrity and trustworthiness and is relevant to James Cameron's suitability as a member of the profession.

## **Rule 606 (a) Detrimental Actions**

Mr. James Cameron violated **Rule 606 (a) Detrimental Actions** by (a) not responding to clients' calls and emails on a timely basis, (b) not carrying out clients' work in a timely basis, (c) misrepresenting to clients that work had been done and submitted when it had not, (d) providing clients with information (such as advising them of the amount of tax owing) with the intention of leading them to believe that James Cameron had done the work and to cover up that James Cameron had not done the work for which James Cameron had been retained, (e) charging clients for work that James Cameron did not do, and (f) responding to clients in an unprofessional way when they inquired about the status of their files. James Cameron participated in actions that were detrimental to the Association and the profession.

## **PENALTY SUBMISSIONS**

In terms of penalty, counsel for the Discipline Committee submitted that the panel should make the following penalty order:

1. A reprimand.
2. An order imposing a fine of \$4,000.00, \$1,000.00 per breach of the Code.
3. A 30 day suspension to take effect after the current administrative suspension.
4. Return of certificates for duration of suspension.
5. Contribution towards the costs incurred by the Association in this matter in the amount of \$3,000.00.

In support of the submission, counsel for the Discipline Committee referred to the following Decisions citing similarities in each, relating to penalty in comparison to the requested penalty in this case:

- a) The Discipline Committee of the Certified General Accountants Association of Ontario and Trudy Grealis-Sturton Decision dated June 30<sup>th</sup>, 2009. This case was resolved by resolution.
- b) The Discipline Committee of the Certified General Accountants Association of Ontario and Terry T. Ikeda Decision dated June 30<sup>th</sup>, 1995. In this case the member was found in violation of Rules 218 and 309.
- c) The Professional Standards and Competence Committee of the Certified General Accountants Association of Ontario and Susan Vint Decision dated May 24<sup>th</sup>, 2005. In this case the member was found to have failed to meet standards of professional competence and failed to serve her clients' interests in her handling of two client files.
- d) The Discipline Committee of the Certified General Accountants Association of Ontario and Alan Hogan Decision dated April 5<sup>th</sup>, 2010. In this case the member was found in

violation of Code of Ethical Principles: Trust and Duties and Responsibilities to the Profession.

- e) The Discipline Committee of the Certified General Accountants Association of Ontario and Bruce Hutton Decision dated July 25<sup>th</sup>, 2008. In this case the member was found in violation of Rule 105 and Code of Ethical Principles: Responsibilities to the Profession.
- f) The Professional Conduct Committee of the Institute of Chartered Accountants of Ontario and Nasir Hasan Decision dated April 6<sup>th</sup>, 2006. In this case the member was found in violation of Rules 303.1 and 303.2.
- g) Kenneth Gregory Derry Fitz-Andrews Decision dated July 1997. In this case the member was found in violation of Rules 203.2 and 303.1.

Counsel for the Discipline Committee referred to the submission as modest as the penalty requested covers 3 separate complaints. Ms. Jolley stated that if the complaints were heard separately at 3 separate hearings, they could have sought separate penalty for each complaint.

In response to the penalty sought by the counsel for the Discipline Committee, James Cameron was apologetic and agreed to the penalty submitted.

#### **PENALTY DECISION**

The panel deliberated and considered the Discipline Committee's submissions and the member's submissions in terms of penalty and accordingly the panel orders the following penalty:

1. James Cameron is reprimanded for breaching Rules 101, 108 and 606(a) and Principle of Responsibilities to Society of the Code of Ethical Principles and Rules of Conduct.
2. James Cameron pays a fine of \$4,000.00.

3. James Cameron returns his CGA Ontario membership certificate and his CGA Canada membership certificate during the period of his suspension.
4. James Cameron pays \$3,000.00 for costs.

In addition, the majority of the panel also ordered the following additional penalty:

1. James Cameron is suspended from membership in the Association for a 30 day period to take effect after the current administrative suspension.

#### **REASONS FOR PENALTY DECISION**

Having found the member to have breached the following provisions of the Code of Ethical Principles and Rules of Conduct: Principle of Responsibilities to Society, Rules 101, 108, and 606(a), and having found the member guilty of professional misconduct the panel considered the penalty.

The panel found the reprimand, the \$4,000.00 fine, the requirement to return the member's CGA Ontario and CGA Canada membership certificates for the period of his suspension, and \$3,000.00 for costs, to be sufficient to deter members of the profession and James Cameron from engaging in similar misconduct. The panel was also of the opinion that the penalty was sufficient to demonstrate to the public that the Association takes responsibility to safeguard the interests of society.

In addition, the majority of the panel also ordered the following additional penalty: suspension from membership in the Association for a 30 day period to take effect after the current administrative suspension. In support of this majority decision, panel members Alan Jones and Victoria Corbett deemed the penalty sufficient to deter members of the profession and James Cameron from engaging in similar misconduct. The majority of the panel was also of the opinion that the penalty was sufficient to demonstrate to the public that the Association takes responsibility to safeguard the interests of society.

In determining the appropriate penalty, the panel considered a number of factors as set out by the Newfoundland Supreme Court in its decision in the case of *Jaswal v. Newfoundland Medical Board*.

Items taken into consideration include:

- The panel considered the seriousness of the proven allegations and their nature and gravity upon the Association, the complainants as well as the general public.
- The panel noted and took into account that the allegations brought forth by the Discipline Committee were presented as a single case but covered three separate complaints.
- The panel noted that since becoming a member in 1987, there have been no previous complaints or convictions of this nature brought forth against James Cameron.
- The panel took into consideration several personal mitigating circumstances and events brought forth by James Cameron during his submission that impacted his conduct and actions. As well, the panel noted James Cameron's admissions to the allegations against him and the impact of his actions upon his clients', profession and the public.
- Given the serious nature of the misconduct, the panel discussed the need to provide deterrence significant enough to act as deterrence to both the member and to the membership and to protect the public and ensure the safe and proper practice of the profession. In coming to its decision, the panel acknowledged the need to maintain the public's confidence in the integrity of the profession.
- In deliberating on the penalty decision, the panel referred to the prior cases presented by the counsel for the Discipline Committee. In review of the cases presented, the panel relied heavily upon penalties in cases with facts similar to this case.

Taking all factors into consideration, the panel is of the opinion that the penalty determination is suitable in the circumstances of this case.

**REASONS FOR PENALTY DECISION – DISSENTING IN PART**

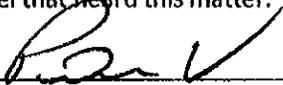
One of the panel members, Peter J. Vaillancourt, dissented on one aspect of the penalty order. The dissenting panel member dissented in respect of the length of the suspension imposed by the majority of the panel on the member. Upon deliberation, the dissenting panel member came to the view that a suspension of 90 days, represented the appropriate penalty in this case. Mr. Vaillancourt felt a 30 day suspension was not sufficient as it did not:

- serve as a significant deterrent to James Cameron not to commit similar infractions
- act as a significant deterrent to practicing members.

In all other respects, the dissenting panel member agrees with the decisions of the majority of the panel.

Dated this 29<sup>th</sup> day of February, 2012

I, Peter J. Vaillancourt, 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.



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Peter J. Vaillancourt

**NOTICE**

This decision of the Professional Conduct Tribunal may be appealed to an Appeal Tribunal within thirty (30) days of the date 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 and delivering 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 the Bylaws, 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 void.**

**IN THE MATTER OF a Proceeding under  
the *Certified General Accountants Act, 2010* and the Bylaws**

**IN THE MATTER OF James Cameron, 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 -

James Cameron

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**DECISION AND REASONS FOR DECISION OF THE PROFESSIONAL CONDUCT TRIBUNAL**

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Members of the Professional Conduct Tribunal Panel:

David Handley, Public Representative, Chair  
Alexis Perera, CGA  
John Biancucci, CGA

Appearances:

Karen E. Jolley, Counsel for the Discipline Committee  
Lisa Braverman, Independent Legal Counsel to the Professional Conduct Tribunal

Hearing Date:

September 11, 2012, Toronto

## **OVERVIEW**

A panel of the Professional Conduct Tribunal of The Certified General Accountants Association of Ontario heard this matter on September 11, 2012, at Toronto. At the conclusion of the hearing, the panel reserved its decision.

## **PRELIMINARY MATTERS**

On September 11, 2012 Ms. Jolley, Counsel for the Discipline Committee, presented exhibit 1, containing an email from Mr. Cameron requesting an adjournment of this Professional Conduct Tribunal hearing. Mr. Cameron cited that he could not attend this hearing due to illness.

Ms. Jolley opposed this request noting that:

- In the email exchange with Mr. Cameron, Ms. Jolley stated that she would not be in a position to consider an adjournment without a doctor's note.
- Ms. Jolley, in the email exchange, went on to note that "given you have been practising without insurance and under suspension for almost a year, the committee intends to proceed tomorrow absent such a note."
- Mr. Cameron replied noting that "There will be no doctor's note...", he has "other work commitments with clients", and "If that doesn't work for you, well, I guess you will just have to proceed without me."

### Decision regarding Request for an Adjournment

Having considered the submissions, the Professional Conduct Tribunal panel made the following decision:

The Professional Conduct Tribunal panel deliberated and decided to deny Mr. Cameron's request for an adjournment.

## **ALLEGATIONS**

Counsel for the Discipline Committee entered into evidence the Notice of Hearing dated July 19, 2012, exhibit 2, and the Affidavit of Service, exhibit 3, relating to the Notice of Hearing.

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 101 Discredit**

A member shall not participate in, or knowingly provide services to, any practice, pronouncement or act that would be of a nature to discredit the profession.

### **Rule 108 Conduct Unbecoming**

It shall be unethical for a member, while acting in a professional capacity or otherwise, to engage in misconduct of a reprehensible or serious nature which reflects on the member's or student's honesty, integrity, or trustworthiness or, is relevant to the person's suitability as a member of the profession.

## **Rule 606 (a) Detrimental Actions**

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

### **PARTICULARS**

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

1. James Cameron ("Cameron") became a member of CGA Ontario (the "Association") in 1987.
2. Cameron's CGA Ontario certificate number is 6314 and his CGA Canada certificate number is 321240.
3. Cameron has continued to carry on a professional practice without insurance, in the face of an administrative suspension, as detailed below, and a decision of the Professional Conduct Tribunal made 29 February 2012, as further detailed below.
  - (a) **Cameron's suspension from membership in the Association**
    4. Cameron did not obtain professional liability insurance for the 2011/2012 year.
    5. By letter dated 23 August 2011 Cameron was advised that if the Association did not receive his certificate of liability insurance by 23 September 2011, his membership would be suspended.
    6. Cameron did not provide his certificate of insurance by 23 September 2011.
    7. By letter dated 26 September 2011 the Association advised Cameron that his membership was suspended and requested the return of his CGA Ontario and CGA Canada membership certificates. It further advised that he was required to cease using the CGA designation and that any references to CGA on business cards, letters or signage would be cause for disciplinary action.
    8. By further letter from the Association dated 4 October 2011, Cameron was advised that as he had been de-registered from professional practice due to his failure to comply with the professional liability insurance requirement, he was to ensure that he:
      - (a) discontinued the use of any firm letterhead, business cards and other stationery;
      - (b) canceled any advertising that may be included in the telephone directory, newspapers or other advertising;
      - (c) cancelled any business listing in the white pages of the telephone directory; and
      - (d) removed any signs advertising his firm.
  9. By letter dated 7 October 2011 AON Insurance Brokers confirmed to Cameron that he had been de-registered and was no longer in public practice.
  10. In the interim, on 21 September 2011 the Professional Conduct Tribunal of CGA Ontario (the "Tribunal") issued a notice of hearing to Cameron related to three client complaints made against him.
- (b) **Decision of Professional Conduct Tribunal made 29 February 2012 and further suspension post administrative suspension**
  11. On 16 November 2011 the Tribunal held a hearing concerning Cameron in respect of alleged breaches of the Code of Ethical Principles and Rules of Conduct (the "Code").

12. At the time of the hearing Cameron was still suspended as a result of his failure to obtain professional liability insurance as required by the Code.
13. In respect of the hearing, the Tribunal issued its decision and reasons on 29 February 2012 and made the following findings of fact, among others:
  - (a) Cameron did not respond to clients' calls and emails on a timely basis;
  - (b) Cameron did not carry out his clients' work on a timely basis;
  - (c) Cameron misrepresented to his clients that work had been done and submitted when it had not;
  - (d) Cameron provided his clients with information with the intention of leading them to believe that he had done the work and to cover up the fact that he had not done the work for which he had been retained;
  - (e) Cameron charged clients for work that he did not do;
  - (f) Cameron responded to clients in an unprofessional way when they made inquiries about the status of their files;
  - (g) Cameron breached Rule 101 – Discredit - of the Code;
  - (h) Cameron breached Rule 108 – Conduct Unbecoming - of the Code;
  - (i) Cameron breached Rule 606(a) – Detrimental Actions - of the Code; and
  - (j) Cameron breached his obligations under the Principle of Responsibilities to Society under the Code.
14. The Tribunal ordered the following penalties:
  - (a) Suspension for a period of 30 days to take effect upon the conclusion of Cameron's then current administrative suspension;
  - (b) A reprimand;
  - (c) Payment of a fine of \$4,000;
  - (d) Payment of costs of \$3,000; and
  - (e) A return of Cameron's CGA Ontario and CGA Canada membership certificates for the duration of the suspension.

**(c) Cameron's failure to comply with the terms of the suspension and the Tribunal order**
15. On or about 17 November 2011 Cameron purported to deliver proof of insurance to the Association. However, the coverage was insufficient and did not meet the Association's requirements and Cameron was so advised.
16. The Association followed up with Cameron by email dated 16 March 2012 requesting proof of current professional liability insurance. Cameron advised by return email dated 22 March 2012 that he had completed the paperwork for insurance and would forward his certificate when received.
17. Cameron did not forward a certificate of insurance.
18. In response to an inquiry from the Association concerning a new complaint, Cameron advised that he had several appointments with clients and that he had not responded to the Association's several requests for information since December 2011 as he had to look after his clients first.
19. By email dated 22 March 2012 the Association asked whether Cameron advised any of the clients for whom he prepared financial statements, corporate tax returns and personal tax

returns that he would no longer be providing those services as a certified general accountant. Cameron did not respond to the email.

20. By letter from counsel to the Association dated 30 March 2012 Cameron was advised that he appeared to have violated the terms of his suspension by failing to return his CGA Ontario and CGA Canada membership certificates, by displaying those certificates in his office and by continuing to use business cards with the CGA designation.
21. Despite the Association's demand, as of April 2012 the signage on Cameron's door and on the building directory continued to make reference to CGA.
22. As of April 2012 Cameron had not advised his ongoing clients that he could not practise as a Certified General Accountant and took the position that the requirement that he advise his clients was "ridiculous". He advised that he had 250 clients and he was not going to notify them.
23. Cameron has refused or neglected to pay either the fine or the costs award.
24. Cameron's conduct amounted to professional misconduct and conduct unbecoming a certified general accountant.

**(d) Applicable sections of the Certified General Accountants Act, 2010, S.O. 2010, c.6 (the "Act")**

25. Section 38(1) of the Act provides as follows:

38(1) If a member of the Association or firm fails to comply with an order of a hearing Tribunal made under section 36 or 37, the matter may be brought back to the Tribunal for a hearing respecting the failure to comply.

26. Section 38(4) of the Act provides as follows:

38(4) Failure of a member or firm to comply with an order under subsection 36(6) ... is grounds for revocation of the member's membership.

**MEMBER'S PLEA**

As the member was neither present nor represented by counsel, the member was deemed to have denied the allegations set out in the Notice of Hearing. The hearing proceeded on the basis that the Discipline Committee has the onus of proving the allegations against the member.

**FACTS AND EVIDENCE**

Counsel for the Discipline Committee presented an Affidavit of Service, exhibit 6, establishing that the member had been served on July 31, 2012 with a Request to Admit Facts and Documents, exhibit 7, along with a Notice under the Evidence Act (Business Records), exhibit 9. The member was advised that he had 20 days to respond to the Request to Admit Facts and Documents, and that if he failed to respond, he would be deemed to admit the truth of the facts and the authenticity of the documents, for the purposes of this proceeding. The member did not respond to the Request to Admit Facts and Documents. Based on the facts and documents deemed to be admitted by the member at this hearing, the panel makes the following findings of fact:

1. James Cameron ("Cameron") became a member of CGA Ontario in 1987.
2. Cameron's CGA Ontario certificate number is 6314 and his CGA Canada certificate number is 321240.

3. Cameron has continued to carry on a professional practice without insurance, in the face of an administrative suspension and a decision of the Professional Conduct Tribunal made 29 February 2012.

#### **Cameron's suspension from membership in the Association**

4. Cameron did not obtain professional liability insurance for the 2011/2012 year.
5. By letter dated 23 August 2011 Cameron was advised that if the Association did not receive his certificate of liability insurance by 23 September 2011, his membership would be suspended.
6. Cameron did not provide his certificate of insurance by 23 September 2011.
7. By letter dated 26 September 2011 the Association advised Cameron that his membership was suspended and requested the return of his CGA Ontario and CGA Canada membership certificates. It further advised that he was required to cease using the CGA designation and that any references to CGA on business cards, letters or signage would be cause for disciplinary action.
8. By further letter from the Association dated 4 October 2011, Cameron was advised that as he had been de-registered from professional practice due to his failure to comply with the professional liability insurance requirement, he was to ensure that he:
  - a. discontinued the use of any firm letterhead, business cards and other stationery;
  - b. canceled any advertising that may be included in the telephone directory, newspapers or other advertising;
  - c. cancelled any business listing in the white pages of the telephone directory; and
  - d. removed any signs advertising his firm.
9. By letter dated 7 October 2011 AON Insurance Brokers confirmed to Cameron that he had been de-registered and was no longer in public practice.
10. In the interim, on 21 September 2011 the Professional Conduct Tribunal of CGA Ontario (the "Tribunal") issued a notice of hearing to Cameron related to three client complaints made against him.

#### **Decision of Professional Conduct Tribunal made 29 February 2012 and further suspension post administrative suspension**

11. On 16 November 2011 the Tribunal held a hearing concerning Cameron in respect of alleged breaches of the Code of Ethical Principles and Rules of Conduct (the "Code").
12. At the time of the hearing Cameron was still suspended as a result of his failure to obtain professional liability insurance as required by the Code.
13. In respect of the hearing, the Tribunal issued its decision and reasons on 29 February 2012 and made the following findings of fact, among others:
  - a. Cameron did not respond to clients' calls and emails on a timely basis;
  - b. Cameron did not carry out his clients' work on a timely basis;
  - c. Cameron misrepresented to his clients that work had been done and submitted when it had not;
  - d. Cameron provided his clients with information with the intention of leading them to believe that he had done the work and to cover up the fact that he had not done the work for which he had been retained;
  - e. Cameron charged clients for work that he did not do;

- f. Cameron responded to clients in an unprofessional way when they made inquiries about the status of their files;
  - g. Cameron breached Rule 101 – Discredit - of the Code;
  - h. Cameron breached Rule 108 – Conduct Unbecoming - of the Code;
  - i. Cameron breached Rule 606(a) – Detrimental Actions - of the Code; and
  - j. Cameron breached his obligations under the Principle of Responsibilities to Society under the Code.
14. The Tribunal ordered the following penalties:
- a. Suspension for a period of 30 days to take effect upon the conclusion of Cameron's then current administrative suspension;
  - b. A reprimand;
  - c. Payment of a fine of \$4,000;
  - d. Payment of costs of \$3,000; and
  - e. A return of Cameron's CGA Ontario and CGA Canada membership certificates for the duration of the suspension.

**Cameron's failure to comply with the terms of the suspension and the Tribunal order**

- 15. On or about 17 November 2011 Cameron purported to deliver proof of insurance to the Association. However, the coverage was insufficient and did not meet the Association's requirements and Cameron was so advised.
- 16. On 12 March 2012 Cameron continued to use a business card identifying himself as a Certified General Accountant.
- 17. On 12 March 2012 Cameron continued to display his CGA Ontario and his CGA Canada certificates in his office.
- 18. On 12 March 2012 Cameron continued to use CGA on the tenant directly beside his name in his office.
- 19. On 12 March 2012 Cameron continued to identify himself as "James W. Cameron, Certified General Accountant" on the nameplate to his office.
- 20. The Association followed up with Cameron by email dated 16 March 2012 requesting proof of current professional liability insurance.
- 21. Cameron advised by return email dated 22 March 2012 that he had completed the paperwork for insurance and would forward his certificate when received.
- 22. Cameron did not forward a certificate of insurance.
- 23. In response to an inquiry from the Association concerning a new complaint, Cameron advised that he had several appointments with clients and that he had not responded to the Association's several requests for information since December 2011 as he had to look after his clients first.
- 24. By email dated 22 March 2012 the Association asked whether Cameron advised any of the clients for whom he prepared financial statements, corporate tax returns and personal tax returns that he would no longer be providing those services as a certified general accountant. Cameron did not respond to the email.
- 25. By letter from counsel to the Association dated 30 March 2012 Cameron was advised that he appeared to have violated the terms of his suspension by failing to return his CGA Ontario and CGA Canada membership certificates, by displaying those certificates in his office and by continuing to use business cards with the CGA designation.
- 26. Despite the Association's demand, as of April 2012 the signage on Cameron's door and on the building directory continued to make reference to CGA.

27. As of April 2012 Cameron had not advised his ongoing clients that he could not practise as a Certified General Accountant and took the position that the requirement that he advise his clients was "ridiculous". He advised that he had 250 clients and he was not going to notify them.
28. Cameron has refused or neglected to pay either the fine or the costs award.
29. Section 38(1) of the Certified General Accountants Act, 2010, S.O. 2010, c.6 (the "Act") provides as follows:

*38(1) If a member of the Association or firm fails to comply with an order of a hearing tribunal made under section 36 or 37, the matter may be brought back to the tribunal for a hearing respecting the failure to comply.*
30. Section 38(4) of the Act provides as follows:

*38(4) Failure of a member or firm to comply with an order under subsection 36(6) ... is grounds for revocation of the member's membership.*
31. Cameron's conduct amounted to professional misconduct.

## **DECISION**

The Discipline Committee has the onus of proving the allegations in the Notice of Hearing in accordance with the civil standard of proof. The standard of proof applied by the panel of the Professional Conduct Tribunal was a balance of probabilities based on clear, convincing and cogent evidence.

Having considered the evidence and the submissions and the onus and standard of proof, the panel of the Professional Conduct Tribunal finds that the member breached the following provisions of the Code of Ethical Principles and Rules of Conduct:

### **Rule 101 Discredit**

A member shall not participate in, or knowingly provide services to, any practice, pronouncement or act that would be of a nature to discredit the profession.

### **Rule 108 Conduct Unbecoming**

It shall be unethical for a member, while acting in a professional capacity or otherwise, to engage in misconduct of a reprehensible or serious nature which reflects on the member's or student's honesty, integrity, or trustworthiness or, is relevant to the person's suitability as a member of the profession.

### **Rule 606 (a) Detrimental Actions**

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

The panel of the Professional Conduct Tribunal also finds the member guilty of professional misconduct.

The panel of the Professional Conduct Tribunal also finds the member failed to comply with an order of a hearing Tribunal, the Professional Conduct Tribunal, made under section 36(6) of the *Certified General Accountants Act, 2010* on February 29, 2012.

## REASONS FOR DECISION

### Noncompliance with Tribunal Order

Mr. Cameron did not comply with the Professional Conduct Tribunal's order.

The Decision and Reasons for Decision dated February 29, 2012, indicated that Mr. Cameron had breached the following:

- Mr. Cameron breached Rule 101 – Discredit - of the Code;
- Mr. Cameron breached Rule 108 – Conduct Unbecoming - of the Code;
- Mr. Cameron breached Rule 606(a) – Detrimental Actions - of the Code; and
- Mr. Cameron breached his obligations under the Principle of Responsibilities to Society under the Code.

The Tribunal ordered the following penalties:

- Suspension for a period of 30 days to take effect upon the conclusion of Mr. Cameron's then current administrative suspension;
- A reprimand;
- Payment of a fine of \$4,000;
- Payment of costs of \$3,000; and
- A return of Mr. Cameron's CGA Ontario and CGA Canada membership certificates for the duration of the suspension.

Mr. Cameron did not comply with the Tribunal order noted above, specifically, by not paying the fine amount or costs.

### Rule 101 Discredit

Mr. Cameron violated **Rule 101 Discredit** for his conduct during his administrative suspension, specifically:

- Continuing to carry on a professional practice without insurance
- Not acquiring adequate professional liability insurance and not providing proof of such insurance to the Association after repeated requests
- By continuing to display the CGA Ontario and CGA Canada certificates in his office and by continuing to use business cards identifying himself as a Certified General Accountant
- By continuing to identify himself as a Certified General Accountant along with his name on the nameplate to his office and continuing to use CGA on the tenant directory beside his name in his office
- By continuing to use the signage on his door and on the building directory that continued to make reference to CGA despite the Association's demands
- By not responding in a timely manner, to the Association's repeated requests for information regarding a new customer complaint

### **Rule 108 Conduct Unbecoming**

Mr. Cameron violated **Rule 108 Conduct Unbecoming** for his conduct during his administrative suspension, specifically:

- Continuing to carry on a professional practice without insurance
- Not acquiring adequate professional liability insurance and not providing proof of such insurance to the Association after repeated requests
- By continuing to display the CGA Ontario and CGA Canada certificates in his office and by continuing to use business cards identifying himself as a Certified General Accountant
- By continuing to identify himself as a Certified General Accountant along with his name on the nameplate to his office and continuing to use CGA on the tenant directory beside his name in his office
- By continuing to use the signage on his door and on the building directory that continued to make reference to CGA despite the Association's demands
- By not responding in a timely manner, to the Association's repeated requests for information regarding a new customer complaint

### **Rule 606 (a) Detrimental Actions**

Mr. Cameron violated **Rule 606 (a) Detrimental Actions** for his conduct during his administrative suspension, specifically:

- Continuing to carry on a professional practice without insurance
- Not acquiring adequate professional liability insurance and not providing proof of such insurance to the Association after repeated requests
- By continuing to display the CGA Ontario and CGA Canada certificates in his office and by continuing to use business cards identifying himself as a Certified General Accountant
- By continuing to identify himself as a Certified General Accountant along with his name on the nameplate to his office and continuing to use CGA on the tenant directory beside his name in his office
- By continuing to use the signage on his door and on the building directory that continued to make reference to CGA despite the Association's demands
- By not responding in a timely manner, to the Association's repeated requests for information regarding a new customer complaint

### **Professional Misconduct**

The panel found the member guilty of professional misconduct.

This decision was reached based on the facts that:

- Mr. Cameron breached Rule 101 – Discredit - of the Code;
- Mr. Cameron breached Rule 108 – Conduct Unbecoming - of the Code; and
- Mr. Cameron breached Rule 606(a) – Detrimental Actions - of the Code.

In particular, Mr. Cameron was found guilty of professional misconduct because Mr. Cameron, among other things, continued to display the CGA Ontario and CGA Canada certificates in his office and continued to use business cards identifying himself as a Certified General Accountant, continued to carry on a professional practice without insurance, did not acquire adequate professional liability insurance

and did not provide proof of such insurance to the Association after repeated requests, while he was under administrative suspension.

## **PENALTY SUBMISSIONS**

In terms of penalty, counsel for the Discipline Committee submitted that the panel should make the following penalty order:

- Mr. Cameron's membership in The Certified General Accountants Association of Ontario be revoked
- Mr. Cameron to be ordered to pay \$1,000 fine per violation for a total of \$3,000
- Mr. Cameron to be ordered to pay \$2,500 in costs for this hearing
- Publication of this decision

Ms. Jolley noted a number of cases including the following cases to substantiate her penalty submission:

### **Law Society of Upper Canada v Donohue**

- Mr. Donohue was suspended for failing to pay insurance.
- Mr. Donohue was disbarred for practising while suspended. He was also determined to be ungovernable.

### **Law Society of Upper Canada v Kelly**

- Mr. Kelly was disbarred for, among other things, failing to fulfill his undertakings and failing to reply to the Law Society regarding complaints. He was also determined to be ungovernable.

### **Law Society of Upper Canada v Hartley**

- Mr. Hartley was disbarred for, among other things, failing to comply with his undertaking to the Law Society, failing to reply to the Law Society, failing to reply to the Law Society regarding complaints. He was also determined to be ungovernable.

In support of the penalty submission, counsel for the Discipline Committee referred to these decisions citing similarities in each, relating to penalty, in comparison to the requested penalty in this case.

## **PENALTY DECISION**

The panel deliberated and accepted the Discipline Committee's submissions in terms of penalty and accordingly orders the following penalty:

- Mr. Cameron's membership in The Certified General Accountants Association of Ontario is revoked
- Mr. Cameron is ordered to pay \$1,000 fine per violation for a total fine of \$3,000
- Mr. Cameron is ordered to pay \$2,500 in costs for this hearing
- Publication of this decision

## **REASONS FOR PENALTY DECISION**

It is the responsibility of the Tribunal to ensure that penalties are in keeping with the actions of the member including the proven violations. The fine must address, in monetary terms, the seriousness of

the violations and to act as a deterrent to others. Costs are awarded to compensate the successful party at least partly for fees, expenses and disbursements incurred. In this case the Panel concluded that the fine and costs sought by the Discipline Committee were appropriate.

Revocation is the termination of membership, and should only be used as a last resort where all other methods have failed to resolve significant and/or repeated instances of non-compliance. With Mr. Cameron's repeated instances of non-compliance, the Panel concluded that revocation was the appropriate penalty under the circumstances of this case.

All Associations set out the rules for membership; these rules are in place to ensure that the Association clearly defines the standards required to be a member of said Association. These rules must be adhered to so that the Association and in particular, its members, perform their duties and hold themselves out to the standards expected by the public when hiring a professional. As a self-regulated profession, the CGAO must maintain the public's confidence in the profession by ensuring that their members adhere to the Association's Rules and that the standards developed by the Association to ensure the highest principles of professionalism are enforced. Mr. Cameron did not comply with the Rules of the Association.

Mr. Cameron had been found to have violated Rules 101, 108, 606 (a) and Principle of Responsibilities to Society of the Code of Ethical Principles and Rules of Conduct, as stated in the Decision and the Reasons for Decision of the Professional Conduct Tribunal dated February 29, 2012. As a result of these violations, Mr. Cameron was required to comply with the penalty order in the Decision. For reasons known only to Mr. Cameron he chose not to comply, he chose not to follow the penalty order.

As a result of Mr. Cameron not adhering to the order of the Tribunal, he has failed to comply with an order of a hearing Tribunal as noted in section 38 of the Certified General Accountants Act, 2010, which is grounds for revocation:

38(1) If a member of the Association or firm fails to comply with an order of a hearing Tribunal made under section 36 or 37, the matter may be brought back to the Tribunal for a hearing respecting the failure to comply.

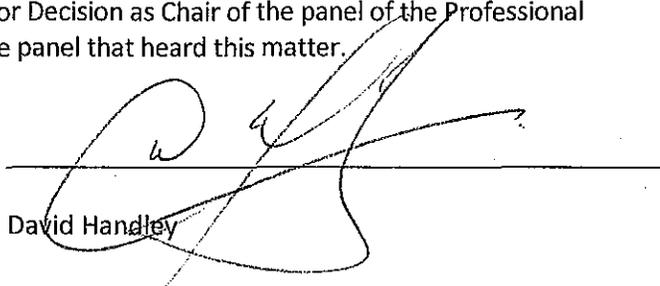
38(4) Failure of a member or firm to comply with an order under subsection 36(6) ... is grounds for revocation of the member's membership.

Mr. Cameron is already under an administrative suspension. The suspension ordered in the Tribunal's order dated February 29, 2012 is to take effect after the administrative suspension. Mr. Cameron has chosen not to abide by the administrative suspension showing flagrant disregard of the Association's Rules. It was also on that basis, that this Tribunal concluded that Mr. Cameron was not prepared to follow the Rules of the Association and its only recourse was to revoke Mr. Cameron's membership.

The panel, in coming to its decision concluded that Mr. Cameron was ungovernable and that where a member consciously decides not to abide by the Rules set out by the Association even after continuous direction from the Association then the only recourse is to revoke membership. This decision underscores to the members of the Association and the general public that as a self-regulating body, the CGA Ontario will not tolerate any actions that discredit the profession or may cause the general public to doubt the high standard of integrity that they expect when dealing with the certified general accountants.

Dated this 5<sup>th</sup> day of NOVEMBER, 2012

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

**NOTICE**

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

**The Notice of Appeal must be in writing, addressed to the vice-president responsible for regulatory affairs 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 and delivering 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 the Bylaws, 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 void.**