

**THE CERTIFIED GENERAL ACCOUNTANTS
ASSOCIATION OF ONTARIO**

IN THE MATTER OF Ernest F. Chiew, a member of the Certified General Accountants Association of Ontario, arising from the hearing conducted before a Professional Conduct Tribunal on June 17, 1996.

Members of the Tribunal: Ramesh Ramotar, CGA
Fred Pritchard, CGA
Louise McNeely, CGA

Counsel: Larry Banack, for the Discipline Committee

Defendant: Ernest F. Chiew, CGA

Complainant: CGA Association

Discipline Committee: Edeltrudy Kraker, CGA

Court Reporter: Networking Court Reporting Ltd.
Lennox T. Brown

Witness: Milford Masters, CGA - Director

Pursuant to a notice of hearing dated May 13, 1996, Mr. Ernest F. Chiew was charged with the following violations of the Code of Ethics and Rules of Professional Conduct:

Rule 309 - Assistance to the Board: A Member shall assist the Board or its committee in the proper exercise of its duties, in an open, honest and forthright manner, in matters of the Code of Ethics and Rules of Professional Conduct when required, and shall produce any documents in his/her possession, custody or control which may be required from time to time.

Rule 421 - Mandatory Errors and Omissions Insurance: A member shall carry not less than the minimum levels of insurance required by the Association from time to time.

Rule 422 (1994/95) - Mandatory Professional Development: A member shall maintain his/her continuing education and professional development in accordance with the requirements established by the Association from time to time.

The particulars alleged against Mr. Ernest F. Chiew were agreed as the statement of fact and a joint submission was made in the absence of counsel for Mr. Chiew to which he agreed.

Counsel for the discipline committee made comments on Mr. Chiew's behalf advising the panel of the following:-
The professional setbacks suffered, marriage breakdown and financial hardship.
Not confronting matters and issues presented by The Certified General Accountants Association.
Problems contributed by lack of professional development

There was an agreement of guilt and a consent to terms:

1. By July 15, 1996 pay current outstanding mandatory insurance premiums for 1995/1996.
2. Pay the 1996/1997 insurance premiums now due.
3. Pay membership dues for 1995/1996.
4. Pay membership dues for 1996/1997 now due.
5. Pay the required reinstatement fee.

6. Professional development obligations:- By June 30, 1997 the fulfillment of professional development obligations to make Mr. Chiew current to that point.

7. Outcome of this hearing to be published in statements in ordinary course.

TRIBUNAL DECISION:

The tribunal unanimously found Mr. Ernest F. Chiew guilty of breach of Rules 309, 421 and 422 under the Code of Ethics and Rules of Professional Conduct by the agreement of guilt.

Disciplinary Actions:

The disciplinary actions are those as agreed upon in the admission of guilt and the joint submission in items 1 to 7 above.

This decision is to be filed in accordance with Section 19 of the Statutory Powers Procedures with the Ontario Court of Justice (General Division) by the Certified general Accountants Association of Ontario.

Notice of right to appeal:

The decision of a Professional Tribunal may be appealed to an Appeal Tribunal provided it is done in writing within sixty (60) days of the date of the Professional Conducts Tribunal's written decision. Appeals must be in writing and addressed to the Executive Director, Certified General Accountants Association of Ontario, 240 Eglinton Avenue East, Toronto, Ontario M4P 1K8. The notice shall contain grounds for the appeal which are confined to: in fact, errors in interpretation of the Code, error in procedure, or error in sentence.



Ramesh Ramotar, CGA

Chairman, Professional Conduct Tribunal

Date: June 18, 1996

cc: Fred Pritchard, CGA
Member, Professional Conduct Tribunal

Louise McNeely, CGA
Member, Professional Conduct Tribunal

**THE CERTIFIED GENERAL ACCOUNTANTS
ASSOCIATION OF ONTARIO**

**IN THE MATTER OF Ernest F. Chiew, a member of the Certified General Accountants Association
of Ontario, arising from the hearing conducted before a Professional Conduct Tribunal on June 19, 1997.**

Members of the Tribunal: Ramesh Ramotar, CGA
Fred Pritchard, CGA
Louise McNeely, CGA

Defendant Counsel: Larry Banack, for the Discipline Committee

Defendant: Ernest F. Chiew, CGA

Complainant: CGA Association

Court Reporter: Networking Court Reporting Ltd.
Sheila Ayers

Witness: John W. Bott, CGA
Sarosh Contractor CGA
Ralph Palumbo Director Governmental Relations

Pursuant to a notice of hearing dated April 22, 1997, Mr. Ernest F. Chiew is charged with the following violations of the Code of Ethics and Rules of Professional Conduct:

R201 - Conduct: A member shall always be mindful of his/her duties and responsibilities as a member of the accounting profession, and shall carry on his/her work with fidelity to clients or employees and loyalty to the association, in a manner worthy of a professional accountant.

Particulars: You failed to comply with the Order of the Professional Conduct Tribunal requiring you to obtain Errors and Omission Insurance for the 1996/1997 year.

Rule 309 - Assistance to the Board: A Member shall assist the Board or its committee in the proper Exercise of its duties, in an open, honest and forthright manner, in matters of the Code of Ethics and Rules of Professional Conduct when required, and shall produce any documents in his/her possession, custody or control which may be required from time to time.

Particulars: You failed to respond to letters sent by the Association in connection with matters before the Discipline Committee. (see exhibit 1 for list of letters and exhibit 2 for copies of the letters)

Rule 420 - Practice Review Requirement: A member shall adhere to the practice review requirements and standards of the association as established from time to time.

Particulars: (i) On January 28, 1997 you refused to permit John W. Botts, CGA, a practice reviewer selected by the association, to access and review your accounting files, contrary to the provisions of the Practice Review Program.

(ii) You failed to pay invoice # 4897 dated February 14, 1997 in the amount of \$321.00 that was issued by the Association in connection with the failed attempt by Mr. Bott to conduct a practice review.

Rule 421 - Mandatory Errors and Omissions Insurance: A member shall carry not less than the minimum levels of insurance required by the Association from time to time.

Particulars: You Failed to renew your professional liability insurance for the 1996/1997 year by August 1, 1996.

Mr. Ernest F. Chiew was absent from the hearing and did not appoint council or anyone to represent him. the particulars were read by Counsel for the Discipline Committee who then proceeded to call the first witness J. W Bott CGA.

Witness: John W. Bott an unlicensed public accountant has been Certified for five years as a Certified General Accountant and is a practice reviewer for the Certified General Accountants Association of Ontario.

In November 1996 Mr. Bott assigned to review Mr. Earnest Chiew. booked an appointment for January 28, 1997 at 1:30 PM. scheduled for Mr. Chiew's office in Scarborough on Midland Avenue. Mr. Bott who practices in Waterloo Ontario came to Toronto on January 27, 1997 and stayed overnight at a hotel so as not to miss his appointment with Mr. Chiew.

Upon Mr. Bott's arrival at Mr. Chiew's office at the appointed time. Mr. Chiew advised Mr. Bott that he had called to cancel the appointment on the night of January 27, 1997. reason being he was not ready. Since the appointment was not canceled with enough notice Mr. Bott advised Mr. Chiew that he will be billed for three hours plus administration fees (see Exhibit 2 - invoice for canceled appointment from Mr. Bott)

As of today Mr. Chiew did not contact Mr. Bott to reschedule an appointment

Question from the tribunal with regards to the appearance of Mr. Chiew's office. Mr. Bott did not recall as he never entered the office.

There were no other questions for the witness.

The second witness Mr. Sarosh Contractor is called.

Witness: Sarosh Contractor employed by the Certified General Accountants Association of Ontario as manager of professional services which regulates the conduct of practitioners professional conduct.

When questioned by Mr. Banack . Mr. Contractor verified that the invoice #4867 to Mr. Chiew mentioned in Exhibit 2 was not paid and also as of June 18, 1997 no application was made to Marsh & McLennan for mandatory errors and omission insurance by Mr. Chiew. Also there was no response to the letters mentioned in Exhibit 2.

Numerous questions were raised as to the how the Association obtains confirmation of E & O and the length of public practice by Mr. Chiew to which Mr. Contractor responded. Monthly updates are received from Marsh & McLennan and that Mr. Chiew was first registered in 1986 and that every thing was fine until 1995/1996. (Exhibit 3 has a copy of a faxed confirmation by Marsh & McLennan)

There were no other questions for the witness.

The third witness Mr. Ralph Palumbo was called.

Witness: Ralph Palumbo employed by the Certified General Accountants Association of Ontario as Director of Government Relations.

Mr. Palumbo proceeded by referring to the last two pages of Exhibit 2 which was the decision from the tribunal of June 17, 1996 and confirmed that Mr. Chiew did not comply with any of the Rulings which was an agreement of guilt. Mr. Palumbo was asked by the tribunal as to whether E & O could be obtained from another carrier . Mr. Contractor responded to the question with a Yes provided the meet the minimum requirements and must provide evidence to the Association and that Mr. Chiew did not provide such evidence.

There were no other questions for the witness.

Mr. Banack on behalf of the Discipline Committee made a Submission that Mr. Chiew was guilty of misconduct and guilty of breach of the following code of ethics - Rules 201, 309, 420 & 421.

The Tribunal should consider the following:

- - He must be judged according to the standards set and expected of all CGA members.
- - He has not participated in the hearing.
- - Mr. Chiew has put himself in a position as CGA where he is ungovernable.
- - The lack of insurance is a risk to the public.
- - CGA is empowered to regulate the profession and Mr. Chiew is not allowing himself to be regulated.
- - Mr. Chiew has failed to comply with the previous Tribunal order. he might have been treated more harshly had he not made certain submission last year.
- - He has forfeited his right to be a member of the Association.
- - A suspension of a finite period with or without fines.

A recommendation was made to the Tribunal is for the expulsion of Mr. Chiew from membership with a fine and cost to the Association although there is no information available as to whether Mr. Chiew has the ability to pay. If we impose a fine and cost, we would have regular methods to collect which is through the courts.

DECISION

The Tribunal deliberated and decided unanimously that the following be imposed on Mr. Chiew.

- Indefinite Expulsion
- Cost - Total court cost to the association to include cost of the 1996 and 1997 Tribunal hearing
- Fine of \$5,000.00

Condition for re-entry:

- (1) Allowed to apply for re-entry after three years.
- (2) All cost and outstanding invoices paid to the Association.
- (3) Error and Omission Insurance must be obtained for the current year and prepayment of the next practice year .
- (4) Membership dues must be paid retroactive to date of expulsion.
- (5) Successful PEER review must be conducted prior to re-entry.
- (6) Outcome of the hearing to be published in CGA Ontario Statements, CGA Ontario Public Practice News and Local Newspaper.

REASONS FOR THE TRIBUNAL'S DECISION

Mr. Chiew contravened:

- Rule 201 - Defied the ruling of previous tribunal.
- Rule 309 - Failed to respond to six requests (two were registered letters) for action from the Associations office.
- Rule 420 - Failed to adhere to the practice review requirements and standards, after agreeing to an appointment for a practice review three months hence, he refused entry to his premises to the practice reviewer at the arranged time and date. Mr. Chiew conducted himself in a discourteous and unprofessional manner towards a fellow CGA.
- Rule 421 - Has failed to satisfy the requirement for mandatory Errors and Omission Insurance for the period August 1,1996 to July 31, 1997.

Although Mr. Chiew contravened the above Rules, he is being judged according to standards set and expected of all CGA members. He did not participate in the hearing and showed total disregard to the process. The Association is empowered to regulate the profession and Mr. Chiew is not allowing himself to be regulated and as a result he is in a position as a CGA where he is ungovernable and with the lack of insurance, the public is exposed to considerable risks.

We are of the opinion that with the contravention of the rules, un-professionalism and total disregard for the process, Mr. Chiew has forfeited his right to be a member of The Certified General Accountants Association of Ontario.



Ramesh Ramotar, CGA
Chairman, Professional Conduct Tribunal

Date: November 6, 1997

cc: Fred Pritchard, CGA
Member, Professional Conduct Tribunal

Louise McNeely, CGA
Member, Professional Conduct Tribunal