

**THE CERTIFIED GENERAL ACCOUNTANTS
ASSOCIATION OF ONTARIO**

IN THE MATTER OF Terry T. Ikeda, a member of the Certified General Accountants Association of Ontario, arising from a hearing conducted before a Professional Conduct Tribunal on June 28, 1995.

Members of the Tribunal: June Oliver, CGA
Wendy Knight, CGA
Ramesh Ramotar, CGA

Counsel: Larry Banack, for the Discipline Committee

Defendant: Terry T. Ikeda, CGA

Complainant: Mitsuo Sakamoto

Discipline Committee: Edeltrudy Kraker, FCGA

Court Reporter: Network Court Reporting Ltd.

Witness: Milford Masters, CGA, Director

Pursuant to a notice of hearing dated June 1, 1995, Terry T. Ikeda was charged with the following violations of the Code of Ethics and Rules of Professional Conduct:

218 - Right to Take Cognizance: (a member) shall respect the right of any client to have access to the documents that are an integral part of the client's records and to obtain copies of those documents;

309 - Assistance to the Board: (a member) shall assist the Board or its committees 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.

As Mr. Ikeda was in attendance, counsel Larry Banack, advised him of his right to be represented by counsel. Mr. Ikeda acknowledged his right and indicated that he would not be represented by counsel.

The particulars alleged against Terry T. Ikeda are:

- (1) That he did not give access to accounting records, tax returns and bank statements to a client, the majority shareholder of Miyako Restaurant Limited.
- (2) That he did not assist the Board of the Certified General Accountants Association of Ontario by inadequately responding to its Discipline Committee's initial request for

information on October 24, 1994 and failed to respond to three subsequent letters from its Discipline Committee dated November 30, 1994, February 8, 1995 and March 31, 1995.

The following documents were presented to the members of the Tribunal:

- (1) Brief of Documents prepared by the Discipline Committee of the Certified General Accountants Association of Ontario; marked "Exhibit No. 1",
- (2) A copy of the Resolutions of the Shareholders of Miyako Restaurant Limited; marked "Exhibit No. 2",
- (3) A copy of Ministry of Finance letter dated September 20, 1994, addressed to Miyako Restaurant Limited, Subject: Requirement to File Retail Sales Tax Returns; marked "Exhibit No. 3",
- (4) A copy of a letter dated October 19, 1994 from Lorene Nagata (solicitor for Mitsuo Sakamoto) addressed to Mr. Brahm M. Taveroff (solicitor for Terry T. Ikeda); marked "Exhibit No. 4",

The complainant, Mitsuo Sakamoto, was sworn in and responded to questions directed to him by counsel, Larry Banack. In particular, Mr. Sakamoto indicated that in 1994 when he had concerns over "money difficulties" he repeatedly asked Mr Ikeda for financial statements but he was never shown them.

Mr. Sakamoto also responded to questions from members of the tribunal.

Mr. Ikeda then had the right to cross examine Mr. Sakamoto but choose not to exercise his right.

Milf Masters, CGA, was sworn in and responded to questions directed to him by counsel, Larry Banack. Mr. Masters referred to several letters included in Exhibit No. 1, in particular letters addressed from the CGAO Discipline Committee to Mr. Ikeda to which no reply had been received.

Mr. Ikeda then had the right to cross examine Mr. Masters but choose not to exercise his right.

Counsel, Larry Banack, indicated to Mr. Ikeda that if he choose to make a statement on his own behalf, he would be subject to cross examination by both Mr. Banack and members of the Tribunal.

Terry T. Ikeda, CGA was sworn in and indicated that as he hadn't heard anything from Mr. Sakamoto since December 1994, he thought the request (for books, records and statements) had been dropped.

Counsel for the Discipline Committee, Larry Banack, then questioned Mr. Ikeda as to his responsibilities as a shareholder of Miyako Restaurant Limited, and in particular his responsibilities as Accountant for the Corporation, as stated in Exhibit No. 2. When asked why

he hadn't turned over the requested records to Mr. Sakamoto when he turned over the Minute Book in October 1994, Mr. Ikeda indicated "because I didn't think they requested them". When asked why he hadn't turned over the requested records since October 1994, Mr. Ikeda indicated he "tried to make it difficult because of the letter to the CGA Association".

Mr. Ikeda confirmed that he received all the letters (included in Exhibit No. 1) that were sent to him from the CGAO Discipline Committee, but indicated he knowingly didn't respond. He confirmed he personally did not call the Association or respond in any way, and that he was aware that failure to respond could result in a finding of misconduct.

Mr. Ikeda then responded to several questions directed to him by members of the Tribunal.

Mr. Banack then summarized the submission of the Discipline Committee.

Tribunal Decision:

The Tribunal unanimously found Terry T. Ikeda guilty of breach of Rules 218 and 309 of the Code of Ethics and Rules of Professional Conduct as outlined above, by virtue of the testimony given by Terry T. Ikeda.

Disciplinary Action pursuant to breach of Rule 218:

- (1) A fine of \$1,000
- (2) A letter of reprimand to be sent by the Certified General Accountants Association of Ontario to Terry T. Ikeda, and to be retained on file at the CGAO office
- (3) Mr. Ikeda's membership in the Certified General Accountants Association of Ontario is suspended immediately for a period of six months
- (4) Mr. Ikeda is to return all his certificates of CGA certification to the CGAO office by 4:00 pm June 29, 1995, to be retained at the CGAO office throughout the period of suspension
- (5) Notice of Suspension will be published in the CGAO newsletter "Statements" and in the regional newspaper local to Mr. Ikeda's place of business
- (6) Costs in the amount of \$1,000 payable no later than July 31, 1995.

Disciplinary Action pursuant to breach of Rule 309:

- (1) A fine of \$500
- (2) A letter of reprimand to be sent by the Certified General Accountants Association of Ontario to Terry T. Ikeda, and to be retained on file at the CGAO office
- (3) Mr. Ikeda's membership in the Certified General Accountants Association of Ontario is suspended immediately pending compliance with the request to return all financial books,

records and documents to Mitsuo Sakamoto or his solicitor; and followed by an application for readmission to the Association

- (4) Mr. Ikeda is to return all his certificates of CGA certification to the CGAO office by 5 pm June 29, 1995, to be retained at the CGAO office throughout the period of suspension
- (5) Notice of Suspension will be published in the CGAO newsletter "Statements" and regional newspaper local to Mr. Ikeda's place of business
- (6) Costs in the amount of \$500 payable no later than July 31, 1995.

This decision is to be filed in accordance with Section 19 of the Statutory Powers Procedure Act 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 Conduct Tribunal may be appealed to an Appeal Tribunal provided it is done in writing within sixty (60) days of the date of the Professional Conduct 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, error in interpretation of the Code, error in procedure, or error in sentence.



June Oliver, CGA
Chair
Professional Conduct Tribunal

Dated June 30, 1995.

Wendy Knight, CGA
Member
Professional Conduct Tribunal

Ramesh Ramotar, CGA
Member
Professional Conduct Tribunal