

THE CERTIFIED GENERAL ACCOUNTANTS  
ASSOCIATION OF ONTARIO

IN THE MATTER OF Paul Jacques, 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 FLMI, CGA  
Louise McNeely, CGA  
Fred Pritchard, CGA

Counsel: Larry Banack, for the Discipline Committee

Defendant: Paul Jacques

Court Reporter: Shiela Ayers, Network Court Reporting Ltd

Witness: Sarosh Contractor CGA  
Ralph Palumbo LLB

Mr. Paul Jacques was duly served with the notice of hearing in this matter dated April 17, 1997, and an affidavit of service in this regards was filed at the hearing as Exhibit 1. The notice of hearing sets out that Mr. Jacques was charged with the following violations of the *Code of Ethics and Rules of Professional Conduct*:

Rule 201 - 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 employers, fairness to employees, and loyalty to the Association, in a manner worthy of a professional accountant.

Rule 203 - Due Care: a member shall perform professional services with due care.

Rule 215 - Unlawful Activity: A member shall not lend his/her name, himself/herself or his/her services to any activity which he/she knows, or which a reasonably prudent person would believe to be unlawful, or contrary to this *Code of Ethics and Rules of Professional Conduct*.

Rule 216 - Discredit: a member shall not lend his/her name, himself/herself or his/her services knowingly to any practice, pronouncement or act which would discredit the profession.

Mr. Jacques was aware of his right to counsel in these proceedings , and chose to represent himself.

## TRIBUNAL DECISION:

In a unanimous decision, the Tribunal found Mr. Paul Jacques guilty of breach of Rules 201, 203, 215, and 216 under the *Code of Ethics and Rules of Professional Conduct*.

### Disciplinary Action

In a majority decision, the disciplinary actions are as follows:

Expulsion.

All costs associated with this tribunal to be paid by Mr. Jacques.

Publication of this expulsion in CGA Ontario Statements and an appropriate local newspaper.

### Reasons:

The facts in this case were contained in a statement of facts agreed upon by Mr. Jacques and the Discipline Committee which was filed before us as Exhibit 2.

Mr Jacques became a member of the Certified General Accountants Association and entitled to use the CGA designation in 1993. He became employed by the City of Niagara Falls as its Director of Finance in that same year. IN this capacity, he was responsible for the development and recommendation of corporate financial duties and practices to provide for the effective operation of the finance department.

Among other things, his duties included supervising the deputy director of finance; preparing the annual operating budget and capital spending budget of the City; monitoring the City's financial arrangements such as the investment or borrowing of funds and provision of appropriate insurance, fidelity coverage, and banking services; monitoring the maintenance of all reserve and trust funds of the corporation; and participating in senior management decision-making, problem solving and corporate policy setting.

The requirements of this position included a four year university degree with a major in accounting, at least ten years experience in municipal financing and professional accounting accreditation, which in Mr. Jacques' case was his CGA designation.

It was also agreed that the Director of Finance occupies a position equivalent to and with the same obligations as the Treasurer within the meaning of the Municipal Act. Under Section 80 of the Municipal Act, those obligations include keeping the money of the municipality entirely separate form his or her own money and from that of any other person.

Mr. Jacques acknowledged in the agreed statement of facts that he was responsible for management of the City's investment portfolio which contained bearer bonds with coupons which were clipped periodically according to specific dates of maturity. In

April of 1996, Mr. Jacques attended at the City's bank and clipped various interest coupons from City-owned Ontario Hydro and Ottawa-Carleton bearer bonds. He then attended at his own bank in Fore Erie and presented the coupons to be cashed, which yielded the sum of \$3,290.65.

Approximately a week later, the fact that the coupons were missing was discovered, as was the absence of any record of deposit for the coupons into the City's accounts. When City officials met with Mr. Jacques, he admitted that he had clipped and cashed the coupons, and had retained the money for his personal use. Mr. Jacques then returned the money. His employment was subsequently terminated by the City.

The parties have agreed that under the By-Laws of the Association, Certified General Accountants are bound to a strict code of ethics and rules of professional conduct to regulate the professionals and safeguard the interest of the public. They have also agreed that the public has come to rely upon the Association and its members entitled to use the CGA designation as having a degree of competence and professionalism that is not otherwise necessarily possessed by individuals who are not members of the Association.

Both Mr. Banack on behalf of the Discipline Committee and Mr. Jacques made submissions, which we have carefully considered in coming to our conclusions. Mr. Jacques was made aware previously the Disciplinary Committee would be requesting expulsion as the appropriate course of action in this case.

Mr. Jacques has admitted to, and been found guilty of an offense in the highest order of seriousness, theft. No other moral and ethical issue is more serious than theft as a professional accountant. When describing the characteristics of an accountant, words such as integrity, trust, honesty are frequently used. In this case, those ideals can no longer be associated with Mr. Jacques.

Mr. Jacques held a very senior position in a public corporation and was entrusted with financial duties and responsibilities. In this position of trust, Mr. Jacques had available to him assets of the corporation. The holding of this position was based on a requirement of a professional designation. He violated not only his duty to his employer, but the Municipal Act, section 80, and Rules 201, 203, 215, and 216 of the *Code of Ethics and Rules of Professional Conduct* as well.

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Mr. Jacques actions in this matter were clearly planned and a deliberate act rather than a momentary or impulsive lapse.

Further it is our conclusion that in order to actively protect the public interest, and to be seen to be protecting the public interest, that the Association, in discharge of its obligations as a self-regulating profession and as a profession obliged to protect the public interest, must punish this conduct, and do so in a way to ensure that not only does Mr. Jacques understand the significance of his improper actions, but also that other members of the CGA Association would be deterred from any kind of like conduct, and that members of the public be apprised of the fact that should members of the Certified General Accountants Association of Ontario act inappropriately in this fashion, that such behaviour is not condoned and cannot be accepted as a member of this profession.

Mr. Jacques made a number of submissions with respect to the difficulties of his personal situation, his current circumstances and his recovery program. While we are not unsympathetic to his situation, we feel that the nature of his misconduct is so serious that the appropriate balance of the various factors and interest before us necessitates expulsion.

**Notice:**

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.



Ramesh Ramotar, FLMI, CGA  
Chairman, Professional Conduct Tribunal

August 12, 1997

cc: Louise McNeely, CGA  
Member, Professional Conduct Tribunal

Fred Pritchard CGA  
Member, Professional Conduct Tribunal

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**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.

**CERTIFIED GENERAL ACCOUNTANTS ASSOCIATION OF ONTARIO**

**APPEAL TRIBUNAL**

**IN THE MATTER OF Paul Jacques;**

**AND IN THE MATTER OF an appeal  
from a decision of the Professional  
Conduct Tribunal dated August 12, 1997;**

**B E T W E E N:**

**PAUL JACQUES**

**Appellant**

**- and -**

**DISCIPLINE COMMITTEE OF THE  
CERTIFIED GENERAL ACCOUNTANTS  
ASSOCIATION OF ONTARIO**

**Respondent**

**DECISION**

**Members of the Tribunal: Don Page, F.C.G.A., Chair  
Lorna Henderson, C.G.A.  
John Parker, F.C.G.A.**

**Appearances: Larry Banack and Jim Head for the Discipline Committee  
Paul Jacques on behalf of himself**

This case is an appeal from the decision of a Professional Conduct Tribunal dated August 12, 1997, which found that Paul Jacques had breached Rules 201, 203, 215 and 216 of the Code of Ethics and Rules of Professional Conduct contained in Schedule A to By-Law Four. A majority of that tribunal decided that Mr. Jacques should be expelled from the Association, that he should pay all costs associated with the tribunal and that his expulsion should be published in CGA Ontario Statements and an appropriate local newspaper.

Mr. Jacques appeals from this decision on two grounds. He states that there has been an error in fact because the Professional Conduct Tribunal characterized his actions as "theft", something which he contests. He also argues that there has been an error in the disciplinary penalty imposed, and asks this tribunal to impose a suspension rather than an expulsion.

To summarize the facts which were before both the Professional Conduct Tribunal and this tribunal, Mr. Jacques became a member of the Certified General Accountants Association in 1993, and became employed by the City of Niagara Falls as its Director of Finance the same year. In this capacity, his duties included preparing the annual operating budget and capital spending budget; monitoring the City's financial arrangements such as the investment or borrowing of funds and provision of appropriate insurance, fidelity coverage and banking services; monitoring the maintenance of reserve and trust funds of the corporation; and participating in senior management decision-making, problem solving and corporate policy setting.

Mr. Jacques was also responsible for the management of the City's investment portfolio which contained bearer bonds with coupons which were clipped periodically according to specific dates of maturity. In April of 1996, Mr. Jacques attended at the City's bank and clipped various interest coupons from City-owned Ontario Hydro and Ottawa-Carleton bearer bonds. He then cashed them at his own bank which yielded the sum of \$3,290.65. The fact that the coupons were missing was discovered approximately a week later, and when City officials met with Mr. Jacques, he admitted that he had clipped and cashed the coupons and retained the money for his personal use. He then returned the money and his employment was terminated by the City.

With respect to the first ground of appeal, there is no disagreement about the facts. Mr. Jacques argues that his actions did not constitute theft, although he concedes that theft involves taking something that does not belong to a person and keeping it without consent. However, we do not think that it matters whether Mr. Jacques' conduct is described as theft, as the Professional Conduct Tribunal did, or not. Regardless of how it is characterized, the fact remains that Mr. Jacques has admitted that he was in a very senior position of financial trust with a public corporation, that he cashed in coupons which were the property of the corporation, and that he retained the money for his personal use. We share the view of the Professional Conduct Tribunal that this conduct is in the highest order of seriousness, and indeed, that for a professional accountant, no other moral or ethical issue is more serious.

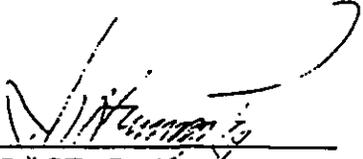
With respect to the second ground of appeal, Mr. Jacques argues that his conduct occurred at a time when he was under significant stress from matrimonial problems, and that it was an aberration in his career. We have considerable sympathy for Mr. Jacques, who made his submissions in a sincere and candid manner. However, we find that the seriousness of his conduct outweighs the factors that might otherwise point to a less severe penalty. Among other things, we are left with the concern that should Mr. Jacques be subjected to stress in the future, there is no guarantee that his integrity might not be compromised again.

In our view, a strong response to this kind of conduct is necessary to promote the general deterrence of other members, the protection of the public interest and the maintenance of public confidence in the accounting profession. We also think that it is consistent with the self-regulating responsibilities of the profession. We have considered as well the professional discipline imposed on accountants in other cases, and while the cases put before us by Mr. Banack involve a variety of circumstances, we are satisfied that expulsion is within the appropriate range of disciplinary responses.

For all these reasons, and having carefully considered all the circumstances of the case, we are not prepared to vary the decision of the Professional Conduct Tribunal with respect to Mr. Jacques' expulsion. However, we note that Mr. Jacques has been co-operative throughout these proceedings, and that his agreement to the facts has saved the parties both time and expense. We also agree with Mr. Jacques' view that publication of his expulsion in a local newspaper would not be a useful course of action almost two years after the event.

As a result, we exercise our authority under Article 9, section 14 of Bylaw Four to vary the decision of the Professional Conduct Tribunal to the extent that Mr. Jacques will not be required to pay for costs, and his expulsion will be published only in CGA Ontario Statements. All other aspects of the decision of the Professional Conduct Tribunal are confirmed.

DATED this 11<sup>th</sup> day of March, 1998.

  
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DON PAGE, Chair  
on behalf of the Appeal Tribunal

### NOTICE

The decision of an Appeal Tribunal may be appealed to the Ontario Court of Justice (General Division) in accordance with the rules of court.

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