

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

**IN THE MATTER OF Eugene Korobok, 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 -

Eugene Korobok

DECISION AND REASONS FOR DECISION OF THE PROFESSIONAL CONDUCT TRIBUNAL

Members of the Professional Conduct Tribunal Panel:

Peter J. Vaillancourt, CGA, Chair
Jane Rivers, CGA
Victoria Corbett, Public Representative

Appearances:

Karen E. Jolley, Counsel for the Discipline Committee
Julian Sakinofsky, Counsel for the Member, appeared on January 28-29 and July 16-17-18, 2013
Eugene Korobok, Member
Lisa S. Braverman, Independent Legal Counsel to the Professional Conduct Tribunal

Hearing Dates:

November 29, 30, 2012, Toronto
January 28, 29, 2013, Toronto
July 16, 17, 18, 2013, Toronto

OVERVIEW

A panel of the Professional Conduct Tribunal of The Certified General Accountants Association of Ontario heard this matter on November 29-30, 2012, and January 28-29, July 16-17-18, 2013, at Toronto. At the conclusion of the hearing, the panel reserved its decision.

PRELIMINARY MATTERS

Request

On Thursday November 29th, 2012, the request by Mr. Korobok for a closed hearing to the public was heard. Ms. Jolley of the Discipline Committee opposed the request.

Decision

Mr. Korobok requested that the hearing should be closed to the public. Ms. Jolley opposed this request. Having considered the submissions of Mr. Korobok and Ms. Jolley, the panel of the Professional Conduct Tribunal has decided that the hearing will remain open to the public.

Motion

On Thursday November 29th, 2012, the motion by Mr. Korobok for an order dismissing the allegations that he breached Rule 102 and Rule 202.1 and removing his name from the CGA Ontario website was heard. Ms. Jolley of the Discipline Committee opposed the motion.

Decision

Mr. Korobok presented a motion requesting an order dismissing allegations Rule 102 and Rule 202.1 and has also requested that his name on the CGA Ontario website be blocked/removed. Ms. Jolley opposed the motion. The panel agrees that it is premature to hear the motion at this time. Having considered the submissions of Mr. Korobok and Ms. Jolley, the panel of the Professional Conduct Tribunal decided that it will not hear Mr. Korobok's motion at this time. Once Ms. Jolley has completed the presentation of her evidence in this case, Mr. Korobok can reintroduce his motion at that time during his defence.

ALLEGATIONS

Counsel for the Discipline Committee entered into evidence the Notice of Hearing dated September 6th, 2012, Exhibit #1, and the Affidavit of Service, dated November 20th, 2012, Exhibit #2, relating to the Notice of Hearing.

The allegations against Mr. Korobok 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 102 Unlawful Activity

For the period March 2008 to September 2009:

A member shall not permit the member's firm name or the member's name to be used with, participate in, or provide services to, any activity that the member knows, or which a reasonably prudent person would believe, to be unlawful.

For the period 2009 to June 2011:

A member shall not permit the member's firm name or the member's name to be used with, participate in, or provide services to, any activity that the member knows, or which a reasonable and informed third party would believe, to be unlawful.

For the period June 2011 to present:

A member shall not participate in any activity that the member knows, or which a reasonable and informed third party would believe, to be unlawful.

Rule 202.1 Independence in Assurance or Specified Auditing Procedures Engagements

In accordance with the CGA Independence Standard, a member shall be free of any interest, influence or relationship in respect of the client's affairs which impairs the member's professional judgment or objectivity, or which, in the view of a reasonable observer, may have that effect.

Rule 515 Practice Inspection Requirements

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

The particulars of the allegations against Mr. Korobok as stated in the Notice of Hearing are as follows:

Particulars:

1. Eugene Korobok ("Korobok") became a member of CGA Ontario (the "Association") in 1996.
2. Korobok's CGA Ontario certificate number is 11450 and his CGA Canada certificate number is 434644.
3. In or about 2008 Niagara International Children's Society Inc. ("Niagara") retained Korobok to provide bookkeeping and related professional services.
4. Korobok invoiced Niagara for bookkeeping and related professional services from the fall of 2008 until December 2010.

2006 Auditors' Report

5. In or about the spring of 2008 Niagara retained Korobok to conduct an audit of its financial statements for the year ended 31 December 2006.
6. Korobok issued an auditors' report on the letterhead "Eugene Korobok, Certified General Accountant", on 21 May 2008 (the "Niagara 2006 Auditors' Report").
7. Korobok received a reward from Niagara for the Niagara 2006 Auditors' Report.
8. Korobok did not hold a licence to practise public accounting under the *Public Accounting Act, 2004*, S.O. 2004, c.8 (the "*Public Accounting Act*") when he prepared the Niagara 2006 Auditors' Report.

2007 Notice to Reader and 2007 Auditors' Report

9. In or about October 2008 Niagara retained Korobok to compile its financial statements for the period ended 31 December 2007.
10. Korobok compiled the Niagara financial statements for the year ended 31 December 2007 (the "Niagara 2007 financial statements") and delivered a Notice to Reader dated 17 November 2008 in respect of the Niagara 2007 financial statements on the letterhead of "Eugene Korobok, CGA".
11. Niagara then retained Korobok to conduct an audit of its financial statements for that same period, i.e. the year ended 31 December 2007.
12. Korobok then audited those same Niagara 2007 financial statements and issued an auditors' report on the letterhead "Eugene Korobok, Certified General Accountant", on 16 December 2008 (the "Niagara 2007 Auditors' Report").
13. Korobok did not hold a licence to practise public accounting under the *Public Accounting Act* when he prepared the Niagara 2007 Auditors' Report.
14. Korobok received a reward from Niagara for preparing the Niagara 2007 Auditors' Report.
15. Having compiled the Niagara 2007 financial statements, Korobok was not sufficiently independent to carry out an audit of those same statements as he purported to do in the Niagara 2007 Auditors' Report.
16. Korobok did not disclose in the Niagara 2007 Auditors' Report or otherwise that he had compiled the Niagara 2007 financial statements.
17. Contrary to Rule 202.1 of the Association's Code of Ethical Principles and Rules of Conduct (the "Code"), when he prepared the Niagara 2007 Auditors' Report, Korobok was not free of any interest, influence or relationship in respect of the affairs of Niagara that would impair his professional judgment or objectivity or, which in the view of a reasonable observer, may have that effect.

2008 Auditors' Report

18. On or about 22 September 2009 Korobok issued an Auditors' report to Niagara on the letterhead "Eugene Korobok, Certified General Accountant" for the period ended 31 December 2008 (the "Niagara 2008 Auditors' Report").
19. Korobok did not hold a licence to practise public accounting under the *Public Accounting Act* when he prepared the Niagara 2008 Auditors' Report.
20. Korobok received a reward from Niagara for the Niagara 2008 Auditors' Report.

2009 Auditors' Report

21. On or about 13 September 2010 Korobok issued an Auditors' report to Niagara on the letterhead "Eugene Korobok, Certified General Accountant" for the period ended 31 December 2009 (the "Niagara 2009 Auditors' Report").
22. Korobok did not hold a licence to practise public accounting under the *Public Accounting Act* when he prepared the Niagara 2009 Auditors' Report.
23. Korobok received a reward from Niagara for the Niagara 2009 Auditors' Report.

Public Accounting Act

24. The Public Accounting Act was proclaimed in force 1 November 2005.
25. Throughout the period in question, a person engaged in the practice of public accounting was required by the *Public Accounting Act* to have a public accounting licence.
26. Preparation of assurance engagements including an audit engagement was public accounting as defined in the *Public Accounting Act*.
27. Individuals who were not licensed to practise public accounting were permitted to provide public accounting services "without reward" as the definition of public accounting excluded such

services, with prescribed conditions, including that the preparer be independent of the person for whom the services were provided.

28. Korobok was not licensed to practise public accounting.
29. Korobok received reward for preparation of the Niagara 2006 Auditors' Report, the Niagara 2007 Auditors' Report, the Niagara 2008 Auditors' Report and the Niagara 2009 Auditors' Report.
30. Further, Korobok was not independent of Niagara when he provided the Niagara 2007 Auditors' Report as he had also prepared the notice to reader for Niagara for 2007.
31. In providing public accounting services as noted above, Korobok violated the *Public Accounting Act*.
32. Rule 102 of the *Code* provides that "a member shall not participate in, or provide services to, any activity that the member knows, or which a reasonable and informed third party, would believe, to be unlawful."
33. It was unlawful, i.e. contrary to the law of Ontario, for Korobok to issue the Niagara 2006 Auditors' Report, the Niagara 2007 Auditors' Report, the Niagara 2008 Auditor's Report or the Niagara 2009 Auditors' Report.
34. Had Korobok been prosecuted under the *Public Accounting Act*, he may have been liable to a fine of up to \$25,000.00 in each instance.
35. Rule 515 of the *Code* requires members to comply with and adhere to the practice inspection requirements of the Association and the standards contained therein.
36. As part of those Professional Practice Registration requirements, members are required to advise the Association of any audit reports prepared by them.
37. Korobok did not disclose to CGA Ontario that he had prepared the Niagara 2006 Auditors' Report, the Niagara 2007 Auditors' Report, the Niagara 2008 Auditors' Report or the Niagara 2009 Auditors' Report.
38. Korobok's conduct amounted to professional misconduct.

MEMBER'S PLEA

The member admitted some of the allegations set out in the Notice of Hearing. The allegations which were admitted by the member became clear when counsel for the Discipline Committee referred to the Request to Admit Facts and Documents and identified which allegations were admitted to by the member in his Response to Request to Admit and in his correspondence. At the beginning of the hearing, the member also admitted that he breached the following provision of the Code of Ethical Principles and Rules of Conduct:

Rule 515 Practice Inspection Requirements

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

FACTS AND EVIDENCE

Counsel for the Discipline Committee entered into evidence the following documents:

Exhibit Number	Description
1	Notice of Hearing
2	Affidavit of Service
3	Letter to Mr. Korobok from Ms. Braverman of Steinecke Maciura LeBlanc advising of the dates of the hearing
4	Letter to Mr. Korobok from Ms. Jolley of Wires Jolley
5A	Discipline Brief
5B	Investigation Report - prepared by James Yakimovich, CGA, CFE
6	Notice Under the Evidence Act (Business Records)
7	Request to Admit Facts and Documents
8	Response to Request to Admit (blank form only)
9	Affidavit of Service
10	Response to Request to Admit
11	Email to/from Mr. Korobok and Ms. Jolley regarding admitting to not having a public accounting licence
12	Request to Admit Facts and Documents with admitted facts highlighted in yellow

15	Curriculum Vitae - Mr. James Yakimovich
16	Excerpt from Certified General Accountants of Ontario Independence Standard, Version 2.0, re: Rule 202.1 Independence in Assurance or Specified Auditing Procedures Engagements, in effect for 2008
17	Email from Mr. Korobok to Niagara dated September 8, 2011
20	Affidavit from Susan McDonald - legal assistant with the law firm of Wires Jolley LLP, setting out the attempts to serve Vitali Satanovski with a summons to witness
21	Business card of Eugene Korobok
22	Bundle containing originals of cheques 317 and 318, corresponding cheque stubs, and bank statements for May 2008
23	Seven donation receipts issued by Niagara International Children's Society to Eugene Korobok, numbers 30, 35, 37, 40, 42, 50, 51
24	Originals of cheques 00025 and 00055 paid to Mr. Korobok
25	Original of cheque 830 and corresponding cheque stub
26	Original of cheque 4 and return slip
27	Bundle of original microfiche cheques from TD Canada Trust
58	George Brown College Course description for Taxation 1
59	File folder with handwritten notation by Mr. Korobok enclosing IT Bulletin IT-110R3

Mr. Korobok/Counsel for Mr. Korobok entered into evidence the following documents:

Exhibit Number	Description
13	Member's response to R202.1, Independence Standard
14	Excerpt from section 4 of regulation under Public Accounting Act, 2004
18	Eugene Korobok - Payment Analysis
19	CRA Policy Commentary for: CPC-012 - Out of Pocket Expenses, CPC-025 - Gift - Expenses – Volunteer, CPC-017 - Official Donation Receipts
28	Corporate Profile Report of Niagara International Children's Society
29	Receipt dated September 8, 2011 and signed by Vitali Satanovski, confirmed receiving all records back from Nine Kings
30	Copy of cheque, front and back, dated Dec. 17, 2008 for \$5,500 from 1708594 Ontario Limited to Niagara
31	Cheque number 609 from 1708594 Ontario Limited to Niagara International in the amount of \$5,500.00
32	Printout of email from Vitali Satanovski to Eugene dated September 13, 2011
33	Email dated May 26, 2005, sent at 1:02 p.m., to Eugene Korobok from Sarosh Contractor
34A	First page of three-page job-description for bookkeeping services of Victoria Deminyenko (Phon)

34B	Second page of three-page job-description for bookkeeping services of Victoria Deminyenko (Phon)
34C	Third page of three-page job-description for bookkeeping services of Victoria Deminyenko (Phon)
35A	First page of two-page engagement letter dated Oct. 28, 2008 prepared by Mr. Korobok for Niagara International Children's Society
35B	Second page of two-page engagement letter dated Oct. 28, 2008 prepared by Mr. Korobok for Niagara International Children's Society
36A	First page of two-page engagement letter dated Jan. 15, 2009 prepared by Mr. Korobok for Niagara International Children's Society
36B	Second page of two-page engagement letter dated Jan. 15, 2009 prepared by Mr. Korobok for Niagara International Children's Society
37A	Page showing box entries with totals for 2010, 2009, 2008 payment details
37B	Email from Victoria to Eugene Korobok describing services to Niagara
38	Printout of email dated October 30, 2011 to Eugene Korobok from James Yakimovich
39A	First page of three-page letter dated November 4, 2011 to Mr. Yakimovich from Ms. Leon
39B	Second page of three-page letter dated November 4, 2011 to Mr. Yakimovich from Ms. Leon
39C	Third page of three-page letter dated November 4, 2011 to Mr. Yakimovich from Ms. Leon
40A	First page of four-page letter dated December 15, 2011 to Mr. Yakimovich from Ms. Leon with 14 pages of attachments
40B	Second page of four-page letter dated December 15, 2011 to Mr. Yakimovich from Ms. Leon with 14 pages of attachments
40C	Third page of four-page letter dated December 15, 2011 to Mr. Yakimovich from Ms. Leon with 14 pages of attachments
40D	Fourth page of four-page letter dated December 15, 2011 to Mr. Yakimovich from Ms. Leon with 14 pages of attachments
40E	Two donation receipts from Niagara International Children's Society
40F	Photocopy of front of cheque number 006
40G	Photocopy of back of cheque number 006
40H	Photocopy of cheque number 0002, front and back
40I	Photocopy of cheque number 009, front and back
40J	Donation receipt number 000040
40K	Photocopy of cheque number 0044, front and back
40L	Photocopy of cheque number 0399, front and back
40M	Photocopy of cheque number 0123, front and back
40N	Page showing box entries with totals for 2010, 2009, 2008 payment details

40O	Donation receipt numbers 000037 and 00035
40P	Email from Victoria to Eugene Korobok
40Q	Email from Stacy Guram sent December 15, 2011 at 3:26 p.m.
40R	Aging Report
41A	Page 1 of 2 page - CRA Policy Commentary for CPC-025
41B	Page 2 of 2 page - CRA Policy Commentary for CPC-025
42A	First page of six-page letter dated June 1, 2012 from Ms. Leon
42B	Second page of six-page letter dated June 1, 2012 from Ms. Leon
42C	Third page of six-page letter dated June 1, 2012 from Ms. Leon
42D	Fourth page of six-page letter dated June 1, 2012 from Ms. Leon
42E	Fifth page of six-page letter dated June 1, 2012 from Ms. Leon
42F	Sixth page of six-page letter dated June 1, 2012 from Ms. Leon
42G	Photocopy of cheque number 0366, front and back
42H	Page showing box entries with totals for 2010, 2009, 2008 payment details
42I	Email to Eugene Korobok from Victoria
43A-C	Comparative Trial Balance
44A-B	Email to Eugene Korobok from Victoria; Page showing box entries with totals for 2010, 2009, 2008 payment details
45A-G	Copies of cheques
45H	General Ledger Report
46	Invoice number 720
47A-D	April 10, 2012 letter with attached email
48A-C	Jan. 5, 2012 letter
49A-D	Feb 29, 2012 letter
50	General Ledger Report from January 1, 2010 to December 31, 2010
51A	Cheque number 0940 and 0939
51B	Cheque number 0317 and 0318
51C	Cheque number 0830 and 0841
51D	Cheque number 0025 and 0055
52A	Cheque number 0317 and 0318
52B	Cheque number 0366
53A	Federal corporation information
53B-C	Court of Appeal decision in Regina v. Lewis
54	Attachment to Mr. Yakimovich's report
55A	Email from Nellie Campbell
55B	Email from Margie Watson
56A	NICS School of Decorative Painting
56B	NICS Fundraising Methods Used

56C	Canadian Registered Charities Detail Page
57	Cheque stubs number 0617 and 0609

Counsel for the Discipline Committee presented an Affidavit of Service, Exhibit #9, establishing that the member had been served on September 21st, 2012, with a Request to Admit Facts and Documents, Exhibit #7, as well as a Notice under the Evidence Act (Business Records), Exhibit #6. 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 #10, the member admits the truth of facts numbered 1, 2, 3, 4, 5, 6, 12, 14, 16, 20, 24, 25, 27, 30, 31, 33, 35, 37, 40, 41.

Witnesses called by Ms. Jolley, Counsel for the Discipline Committee includes Mr. James Yakimovich and Mr. Vitali Satanovski. Mr. Julian Sakinofsky, Counsel for the Member called Mr. Eugene Korobok as his sole witness.

Examination in Chief and Cross Examination of Mr. James Yakimovich

Examination in Chief:

Mr. Yakimovich has been a Certified General Accountant since 1974 and with a certified Fraud Examiner designation since 2001. His practice focuses on conducting forensic investigations as well as providing regulatory advice to regulatory bodies.

Mr. Yakimovich was retained by the CGAO in September 2011 to investigate a complaint against CGAO member Eugene Korobok. The complainant was Mr. Vitali Satanovski who called himself the Training Director or the CEO of the Niagara International Children's Society Inc. (Niagara)

The panel heard substantial evidence about the nature of the complaint against Mr. Korobok and the methodology used by Mr. Yakimovich to prepare his report for the CGAO which was marked as Exhibit 5B.

Mr. Yakimovich's evidence detailed the report including an examination of numerous documents, email exchanges and summarized meetings Mr. Yakimovich had with the complainant, Mr. Korobok and Mr. Korobok's lawyer.

The focus of the complaint by Niagara was that they required audited financial statements and these had been prepared by Mr. Korobok. Niagara was obtaining grants from third parties and was required to provide the third parties with audited financial statements in the course of grant applications. Niagara had received a letter from the Ontario Trillium Foundation telling Niagara that Mr. Korobok wasn't licensed to issue audited financial statements. The request for grants from Trillium was subsequently denied. A check of CGAO records showed that Mr. Korobok did not hold a licence as a Public Accountant.

Another issue of concern for Mr. Satanovski is what Mr. Yakimovich called a 'failure to account'. There did not appear to be a full accounting for money paid over time to Mr. Korobok. On this question, Mr. Yakimovich indicated that he had received somewhat opaque information because there had been to and from communication between Mr. Korobok and Mr. Satanovski as it related to Mr. Satanovski seeking invoices for money paid to Mr. Korobok and Mr. Korobok not providing invoices for the full amount. Mr. Korobok had taken the position he was authorized to audit Niagara's financial statements because he had never charged for auditing with the qualifier that Mr. Satanovski had given Mr. Korobok charitable receipts for donations made by Mr. Korobok.

Mr. Yakimovich received conflicting information from both Mr. Satanovski and Mr. Korobok about the extent of the work Mr. Korobok did for Niagara. An example cited was that for the year 2008, Mr. Korobok indicated that he maintained payroll records, issued cheques to Niagara employees, helped in resolving disagreements with Niagara employees regarding outstanding payments and other payroll related issues, filed T4s, T4 summary and ROE's. However, in a Statement of Operations there was no entry for wages and the best information Mr. Yakimovich had was that no employees had been hired in 2008.

Mr. Yakimovich identified a number of documents including several Auditor's Reports on the letterhead of 'Eugene Korobok, Certified General Accountant'.

A key component of the auditor's reports was if they had been done for 'reward' or 'without reward'. The concept is important in the context of providing an audited financial statement because the *Public Accounting Act* provides that a non-licensed person can only provide assurance services only in some cases. If they are providing those assured services, they have to be independent and do it on a without reward basis.

Mr. Korobok had maintained that he provided the audits to Niagara on a 'no fees' basis. To this point, Mr. Yakimovich explained that through the course of the documents Mr. Korobok would get a cheque for his services which he included in his income. Mr. Korobok would then voluntarily write a cheque for the same amount to Niagara, a charity, and get a tax receipt in return to offset his income. Mr. Yakimovich accepted that the income had been accounted for as Mr. Korobok could not provide his income tax statements.

Mr. Yakimovich concluded that Niagara's cheque to Mr. Korobok constituted a reward. He based this conclusion on the fact that the 2006 Audited Financial Statement was dated May 21st 2008. Two days later a \$2,800.00 cheque was written to Mr. Korobok. On the same day Mr. Korobok wrote a cheque back to Niagara for the same amount and he received a charitable donation receipt.

This constituted a reward because he performed professional services and was paid a professional fee. The charitable donation receipt would be classified as a substitution of a reward.

The same pattern, verified by documentary evidence, with increasing amounts of payment/donation continued until 2010.

Mr. Yakimovich gave further evidence that Mr. Korobok had compiled financial statements and then prepared an auditor's report for the same period of time. These were titled "(Unaudited, See Notice to Reader)".

Mr. Yakimovich explained that in the Notice to Reader the 'reader' is warned that the statement is a straightforward compilation of accounts and that an audit or review engagement was not performed. Seeking an explanation as to why there was both an audit and a compilation, Mr. Yakimovich was told by Mr. Satanovski that he had first received a Notice to Reader compilation of financial statements and he'd told Mr. Korobok 'that's not what I need. I need audited financial statements' and roughly a month later, Mr. Korobok delivered audited financial statements.

Mr. Yakimovich then gave evidence concerning Independence Standard. He reviewed paragraph 4.67 of the CGAO Independence Standard.

He suggested that Mr. Korobok could not have been sufficiently independent to carry out a compilation and then to audit the same compilation. He provided this opinion to the CGAO Discipline Committee for their consideration.

Mr. Yakimovich had further concerns about engagement letters that covered the period 2008 until 2010. Mr. Korobok told Mr. Satanovski by e-mail that they had never had a written agreement to perform services. Mr. Korobok produced engagement letters. On the face page of each of the engagement letters there is a clear reference to the audit being done on a no fees basis. Mr. Satanovski then alleged the documents weren't authentic. The letters did not reflect the understanding or even the reasons why the audited financial statements were done in the first place and they did not reflect the payment. Mr. Satanovski indicated the text did not match from page 1 to page 2. Mr. Yakimovich testified that he had gone back and forth with Mr. Korobok and Mr. Satanovski to try to reach some common ground on the engagement letters which was never achieved.

In summary, Mr. Yakimovich's evidence suggested that Mr. Korobok had engaged in performing audit services for reward; presented to Mr. Yakimovich questionable engagement letters; failed to account to the client for money received from the client in relation to professional services practised and performed an audit on financial statements which he had compiled.

Cross Examination of J. Yakimovich

Mr. Korobok, who was unrepresented at this time, cross examined Mr. Yakimovich.

The panel allowed Mr. Korobok considerable leeway in his cross examination.

Mr. Korobok questioned Mr. Yakimovich about his Payment Analysis in his report. The report mentioned Mr. Korobok received a cheque for \$2,800 but failed to mention that it had been paid back (to Niagara) and failed to mention supporting documents to prove this. Mr. Korobok wanted to know why the report had been prepared this way. Mr. Yakimovich said that as it related to the \$2,800 that Mr. Korobok had not given him an invoice from Mr. Korobok that supported the payment having been made as opposed to the analysis of charitable donations. Mr. Yakimovich further explained that the document wasn't talking about the charitable donations. Mr. Yakimovich said he had never questioned the issue as to whether or not Mr. Korobok made payments to Niagara to support the charitable receipts because he had seen that documentation.

Mr. Korobok again asked why the report failed to mention he had paid back the \$2,800. Mr. Yakimovich repeated that the information before the Discipline Committee was that Mr. Korobok had received the cheque from Niagara and had returned the money to Niagara as a charitable donation.

Mr. Yakimovich agreed that Mr. Korobok had made a number of charitable donations with the receipts included in the materials.

Mr. Yakimovich had included in his report a number of Policy Commentaries from Canada Revenue Agency. Mr. Korobok asked Mr. Yakimovich why he had not included CPC 25. Mr. Yakimovich replied that he had given to the Discipline Committee several commentaries that outlined how donations are treated as gifts and that they had to be voluntary. They would also be a guide as to how a recipient of professional fees would have to treat the matter either as taxable income or business income. The information was provided to the Discipline Committee that would permit it to decide whether or not the issue of a voluntary payment is something that is associated with making a gift.

Mr. Korobok asked again why CPC 25 had not been included. Mr. Yakimovich said that CPC 25 referred to out of pocket expenses and was not applicable. Mr. Yakimovich said that he understood the foundation of the donation process to be that Mr. Korobok was taking his professional fee income and donating it back to the charity and then obtaining a tax receipt. CPC 017 had been included because it spoke of gift of services qualifying. In a further response to Mr. Korobok about not including CPC 25, Mr. Yakimovich repeated that CPC 25 was for out of pocket expenses that would have been incurred and that there was no nexus between it and the matters before the Committee.

Mr. Korobok moved on to the issue of an apparent disconnect in the Letters of Engagement and asked Mr. Yakimovich to explain that.

Mr. Yakimovich reviewed the engagement letters. He did not see a problem with the 2007 and 2008 years and his report only made reference to the 2009 and 2010 letters. He said that Mr. Satanovski had claimed never to have seen the statement on a 'no fees basis' but did acknowledge signing the earlier letters.

Mr. Korobok questioned Mr. Yakimovich on Mr. Satanovski's claim that he had paid Mr. Korobok \$45,000.00 in 2010. Mr. Yakimovich replied that many source documents had been missing including Mr. Korobok's accounting records and that when Mr. Korobok and his counsel had provided information as well as ledgers, the amount would not have been \$45,000.00 but less than \$45,000.00.

Mr. Korobok asked Mr. Yakimovich that if compiled financial statements were not signed, they had not been completed. Mr. Yakimovich did not agree pointing out the compiled financial statements had his

name and designation and shortly thereafter, Mr. Korobok had been paid for preparing the compiled financial statements.

Mr. Korobok took issue with the ongoing attempts by Mr. Yakimovich to obtain documents and explanations from Mr. Korobok and asked if he agreed with this assertion made through Mr. Korobok's counsel. Mr. Yakimovich did not agree citing the numerous issues at play including audited financial statements under Mr. Korobok's name, no availability of particularized invoices, and cheques being issued to a numbered corporation, that all need supporting documentation.

Mr. Yakimovich did not agree that he was biased toward Mr. Korobok and took his counsel's allegations seriously. He said he was very sensitive to the fact he was asking for information not directly related to the complaint. His suggestions to Mr. Korobok about where to find documents or to look for other alternative sources of documents was intended to be helpful to Mr. Korobok and to give Mr. Yakimovich information to relay to Mr. Satanovski.

In summary, Mr. Korobok questioned many technical aspects of the report and asked Mr. Yakimovich to disagree with his stated interpretations. He asked Mr. Yakimovich to agree that he had been biased against Mr. Korobok when preparing the report, which Mr. Yakimovich denied.

Examination in Chief and Cross - Examination of Mr. Vitali Satanovski

Examination in Chief:

Mr. Vitali Satanovski is the Training Director and CEO of the Niagara International Children's Society. (Niagara) Niagara had started as a children's art centre and had expanded to provide specialty classes to the International Union of Painters and Allied Trades. With expanding contacts and projects, Niagara applied for and received charitable status in 2002. By 2007 Niagara was looking for outside money and ready to apply for grants. In 2007 Niagara had a bookkeeper and a \$420,000.00 budget.

Mr. Satanovski stressed that Niagara was a federally incorporated entity and there was no legal requirement to have an audited financial statement every year. The only reason to have an audited financial statement was to apply for external grants. Niagara did not have an internal audit committee.

Mr. Satanovski testified that he met Mr. Korobok in late 2007 or early 2008 and asked him to do audited financial statements for 2006 and 2007 because it was a normal requirement for any funder to have at least two years' audits.

Mr. Satanovski described Mr. Korobok's qualifications from his business card as important. He was an accountant and a college and university professor. In the Soviet Union, professors were 'the highest level of people'. According to Mr. Satanovski, Mr. Korobok told him that he was a specialist in auditing and teaches tax law. He told Mr. Satanovski that he was well versed in charitable organizations and would also do the bookkeeping. In discussing the business services Mr. Korobok could provide, Mr. Satanovski said the most important part of his discussion was that Mr. Korobok could provide audited financial statements. Accounting, for Mr. Satanovski was really a secondary matter. Mr. Satanovski told Mr. Korobok that he needed audited financial statements to include in proposals to obtain funding. Mr. Satanovski added that in 2007 he had no idea there were a minimum of three different sorts of accountants.

Mr. Satanovski testified that the issue of a cheque exchange was raised by Mr. Korobok. Mr. Satanovski found this strange because he knew you could not give charitable receipts for services. He knew he could give charitable receipts for 'something' for 'money, for chair, for table, but not for services'.

Mr. Satanovski thought Mr. Korobok had given him something like a policy document similar to CPC - 017 but his understanding was simple. Mr. Korobok 'doing job for us, he invoicing us for the job done, we paying him for the job he did, then he bring back our money to us, and we issuing him charitable receipt for the donation he brought'.

Key for Mr. Satanovski, was that the audit was going to be free, regardless of the cheque exchange.

Ms. Jolley asked Mr. Satanovski if Mr. Korobok wanted to do auditing work so that he could get auditing experience. Mr. Satanovski was adamant that he was not looking for a student and that he would not have hired Mr. Korobok if he was looking for experience.

Mr. Satanovski outlined the process by which they had applied for Trillium Foundation funding and the letter from Trillium saying Mr. Korobok was not licensed to issue audits.

Mr. Satanovski denied that in 2008 Mr. Korobok had performed the services he had outlined to Mr. Yakimovich. He was not involved with employees and attended Niagara's office infrequently, five or six times at most.

Looking at the account of services Mr. Korobok said he had performed in 2008, Mr. Satanovski denied that they had been done specifically as it related to payroll services because Niagara had no employees in 2008.

Ms. Jolley took Mr. Satanovski through the documents that confirmed the cheque exchange basis. Mr. Satanovski also differentiated the cheques that had been paid for bookkeeping services and for audit work.

Mr. Satanovski said it was his habit to fill in the 're' line of a cheque as he was trying to keep a note of what the cheques were for. Until 2010, Mr. Korobok had received cheques with 'audit' on them and he hadn't objected.

Ms. Jolley asked Mr. Satanovski about the financial statements prepared by Mr. Korobok for the year ending December 31st, 2007. The financial statements were unaudited and Mr. Satanovski recounted telling Mr. Korobok he needed audited financial statements.

Mr. Satanovski thought Mr. Korobok had reservations about preparing audited financial statements but had 'no time to listen' to them. If he couldn't provide audited financial statements it was 'good bye, Mr. Korobok'.

Ms. Jolley and Mr. Satanovski spent considerable time confirming the exchanges between Mr. Satanovski and Mr. Korobok including audited financial statements, the bookkeeping accounts, the various cheques that were paid, the donations received and the charitable receipts issued.

Ms. Jolley asked Mr. Satanovski about a document from Mr. Korobok on Mr. Korobok's letterhead. This was an engagement letter stating that Mr. Korobok was conducting an audit for the year ending December 31, 2007 on a no-fees basis.

Mr. Satanovski agreed that Mr. Korobok had been hired to do an audit but there was never a discussion about no fees, just that the audit was free with the cheque exchange. Mr. Satanovski thought he had first seen the engagement letter when Mr. Yakimovich showed it to him in copy form.

Mr. Satanovski's evidence was that Mr. Korobok had never told him not to use the audited financial statements and they had no audit committee.

Concerning the engagement letters, Mr. Satanovski recalled that he thought he had only seen the letter through Mr. Yakimovich but could not be sure. He said the first time he signed anything was in 2010. He thought it a strange looking letter and wondered why his signature was so far down the page away from the end of the sentence. He was unsure if he had signed it or not.

Mr. Satanovski testified that Mr. Korobok had said he needed the letter and mentioned money laundering. He said Mr. Korobok had been drunk at Christmas and closed out the GST/HST account. He concluded his evidence by detailing the harmful effects of losing the Trillium Grants. He alleged that he had paid Mr. Korobok in 2010 but that year he had done no accounting, bookkeeping or auditing, there was nothing to explain invoices from Mr. Korobok for \$45,000.00 dollars.

In summary, Mr. Satanovski had hired Mr. Korobok to prepare audited financial statements and had done so for the periods ending 2006, 2007, 2008 and 2009. At that time, Mr. Satanovski was sure Mr. Korobok was qualified to produce the audited financial statements.

Cross Examination of V. Satanovski:

Mr. Sakinofsky, Mr. Korobok's lawyer, established with Mr. Satanovski that he had been summonsed to attend the hearing and was a reluctant witness. Mr. Satanovski responded that it was a long drive, he didn't think it was important for him to be there.

Mr. Satanovski agreed that all he cared about was getting Mr. Korobok's services without paying.

Mr. Satanovski agreed the cheques were exchanged at roughly the same time.

Mr. Satanovski agreed that he was an experienced business man with background in property management, teaching practical skills and had been managing the charity out of his own pocket at first.

Mr. Satanovski agreed that he had kept track of the money relating to the charity more or less until the bookkeeping became more complicated and they hired a bookkeeper between 2002 and 2006.

Mr. Satanovski recognized the Corporate Profile Report for Niagara. His name was not on the Report. He identified the directors.

Mr. Satanovski did not bring any documents to identify himself as authorized to represent the charity although ordered to bring all relevant documents by the summons. He thought there were enough documents already and had not been specifically asked to bring this documentation.

He agreed that he could only represent that he was authorized to represent the charity and had the authority to write cheques to Mr. Korobok.

Mr. Sakinofsky suggested that Mr. Korobok introduced him to Victoria, a bookkeeper. Mr. Satanovski denied this and said Mr. Korobok had introduced Victoria to him as his student who could do bookkeeping work for them. Mr. Satanovski disagreed that Mr. Korobok suggested they hire Victoria because they needed a bookkeeper. Mr. Satanovski said they already had a bookkeeper and that Mr. Korobok introduced Victoria as a helper of his.

Mr. Sakinofsky said Victoria was not on his staff but an independent contractor. Niagara started to pay Victoria directly because she was not doing anything and she told Niagara that she was not getting paid by Mr. Korobok. Mr. Satanovski did not agree that Victoria was doing the bookkeeping independently but was doing it on behalf of Mr. Korobok.

Mr. Sakinofsky asked Mr. Satanovski if he knew when Niagara got their charitable status, such that he couldn't give a charitable receipt for services. Mr. Satanovski said Mr. Sakinofsky was trying to twist the facts. He said that when Niagara started their charitable status, it was clearly indicated by CRA that they could not issue charitable receipts for services.

Mr. Satanovski refused to agree that it was his idea to exchange the cheques. He stated that it was Mr. Korobok's idea and sounded strange.

Mr. Satanovski agreed that he thought he was getting Mr. Korobok's services for free.

Mr. Satanovski agreed that the term Licensed Public Accountant was not on Mr. Korobok's business card and he had not represented himself as such. Mr. Satanovski said Mr. Korobok's website had a clear statement saying he could do audited financial statements.

Mr. Satanovski did not agree that Mr. Korobok had told him he wanted auditing experience. Mr. Korobok had told him he wanted to have charitable receipts to bring his taxes down.

Mr. Satanovski admitted he didn't know or care if Mr. Korobok had been drunk at Christmas but the fact remained that Mr. Korobok closed the GST/HST account in 2010.

Mr. Satanovski agreed that he had not provided any proof that this had happened.

Mr. Satanovski denied that his email asking for repayment of monies owed to him by Eugene Korobok with a quid pro quo of stopping the complaint process was an attempt at extortion.

Mr. Satanovski added that when Niagara had hired a legitimate accounting company, Niagara had realized the extent of the damages caused by Mr. Korobok.

In summary, Mr. Satanovski testified that he needed audited financial statements and these had been prepared by Eugene Korobok. He did not have the financial background to suggest the cheque exchange scheme and he was relying on Mr. Korobok's explanation. Mr. Satanovski's evidence was that he signed both Letters of Engagement at the same time in 2010.

Examination in Chief and Cross Examination of Mr. Eugene Korobok

Examination in Chief:

Mr. Korobok testified that at the end of 2007 he met Mr. Vitali Satanovski who asked Mr. Korobok to prepare audited financial statements for a charity he was running.

Mr. Korobok did not respond immediately because he was unsure if he could prepare such statements.

Mr. Korobok did not know much about auditing and was interested in obtaining audit experience and necessary training and thought he could obtain the experience by working with Mr. Satanovski.

Mr. Korobok contacted Sarosh Contractor, the Public Practice administrator at the CGAO who confirmed that he could perform an audit for a not for profit organization so long as it was done on a no fees basis. Mr. Korobok acknowledged that Mr. Contractor went on to say that things could change once Bill 94 was proclaimed because the new *Public Accounting Act* stated very clearly that an audit could not be done without a licence even on a no-fees basis.

Mr. Korobok agreed to work for Mr. Satanovski although he knew he would not get paid.

Mr. Korobok testified that when he prepared a document for Mr. Yakimovich he made a copy pasting error and realized there was no payroll in 2008.

Mr. Korobok testified he prepared an engagement letter emphasizing he was working on a no-fees basis and that he needed to maintain his independence. This letter dated October 28th 2008 was not signed by Mr. Satanovski for a long time.

Mr. Korobok said he did not ask Mr. Satanovski to initial the first page.

The engagement letter stated the report was for internal use only and not to be relied on for any other purpose.

Mr. Korobok's evidence in response to Mr. Satanovski's assertion that he had not seen the front page which didn't match the second page was that Mr. Satanovski was trying to mislead the panel.

Mr. Korobok outlined the process of what he called a cheque exchange. He said this was suggested by Mr. Satanovski, Mr. Korobok would charge him fees for professional services, receive payment and then Mr. Korobok would return that payment back to Mr. Satanovski as reimbursement. Mr. Korobok would issue an invoice, the invoice would be taxable income reported on tax returns and Mr. Korobok would get a receipt for a charitable donation.

Mr. Korobok's evidence was that he reported all income received from Niagara and paid GST on it. He used the charitable donations to offset the income.

When Mr. Satanovski paid Mr. Korobok, Mr. Korobok did not pay any attention to what he was writing on the re: line.

Mr. Korobok said he was never paid for audited financial statements, he received cheques for professional fees only.

Mr. Korobok explained that he had hired a lawyer when Mr. Yakimovich said that without further documentation he would be forced to rely on Mr. Satanovski's interpretation of events.

Mr. Korobok testified that he was not in a financial position to donate \$45,000.00 to Niagara. He saw the cheque exchanges only as a reimbursement for the payment for his professional services.

Mr. Korobok said his reimbursement was not a donation and he did not do it on a voluntary basis. He was completely misled by Mr. Satanovski whom he said, was supported by Mr. Yakimovich.

Mr. Korobok cited a letter written by his former lawyer, Miss Leon, to explain that Mr. Korobok only prepared an audit on a no fees basis after Mr. Satanovski had signed an audit engagement letter. The only fees that were not reimbursed were bookkeeping fees of about \$600 a month, half of which went to Mr. Korobok.

Mr. Korobok testified that any letters from Miss Leon were written under his instructions.

Mr. Korobok did not view his return of his professional fees as a donation, it meant reimbursement. If the word donation was used on the cheques he wrote to Mr. Satanovski, it was because Mr. Satanovski had asked him to do so. Mr. Korobok said he always viewed it as a reimbursement.

Mr. Korobok testified that he was unable to provide Mr. Yakimovich with all the requested documents because his computer had a virus and he lost a lot of records.

Mr. Korobok said that he had never issued an invoice that said audit. Any invoices made were without detail or description because there was a simple cheque exchange.

Mr. Korobok denied that he prepared compilation reports for Niagara. He said the Notice to Reader on his letterhead was just a sample he had given to Mr. Satanovski and could not be treated as a compilation because it was not signed and dated.

Mr. Korobok, therefore, denied that he had compromised the CGAO Independence Standard by auditing his own compilations.

Mr. Korobok was very critical of Mr. Yakimovich and his report. He cited the exclusion of CPC 25 as an indication of obvious bias against him. Mr. Korobok was angry that Mr. Yakimovich pressed him for documents to support Mr. Korobok's position and to refute Mr. Satanovski. He viewed Mr. Yakimovich using the term 'donation' to characterize a 'reimbursement' as a further example of bias.

In summary, Mr. Korobok denied that he had been paid to do audits for Niagara, had not prepared compilation reports and had maintained the CGAO Independence Standard.

Cross Examination of E. Korobok:

Mr. Korobok indicated that he had 20 years of experience teaching taxation and accounting courses at community college. He agreed with the descriptions provided in the course calendars.

Mr. Korobok agreed that he represented to the public that he had experience with corporate, personal and trust tax returns and in preparing financial statements.

Mr. Korobok denied that his knowledge of taxation and taxation advice was relevant to Mr. Satanovski as the structure of financial statements of charitable organizations was completely different from financial statements of ordinary profitable organizations.

Mr. Korobok said that when he was preparing the financial statements for Niagara he was satisfied that they present fairly in all material respects the financial position of the organization but his opinion might be irrelevant since he was a 'student in training'.

Mr. Korobok could not recall if Mr. Satanovski had ever explained why he needed audited financial statements. He did not agree that Mr. Satanovski told him he would be using the audited financial statements outside the organization.

He then agreed Mr. Satanovski had said the audited financial statements were needed to raise public awareness of the charity.

Mr. Korobok did not agree that Mr. Satanovski had given him a reason for needing the previous two years worth of audited financial statements.

Mr. Korobok agreed that generally the issue of independence was important and a third party would want to know that the auditor was independent from the client but that was not applicable in this case.

Mr. Korobok agreed that he had not put anything on the face of his auditor's report that would limit its use. He said he did not have the responsibility to ensure that Mr. Satanovski would not violate the terms of the engagement letter.

Mr. Korobok denied that he had prepared a notice to reader in 2007.

He agreed it was on his letterhead with his name at the bottom but insisted it was a sample requested by Mr. Satanovski. Mr. Korobok had not signed or dated it and he disagreed that it was a real document.

Mr. Korobok did not agree that the unsigned and dated financial statements had any correlation with an invoice two days later for \$5,500 for financial services. He said it was a complete coincidence. He said if he had charged for financial statements he would have said so.

In relation to his description of professional services for 2008 that was provided to Mr. Yakimovich, Mr. Korobok admitted that part of his description of professional services was wrong. Mr. Korobok admitted that he did not provide a constant daily reminder about paying outstanding payroll remittances in 2008 as there was no payroll in 2008. Mr. Korobok also admitted that he did not have any discussions with CRA in 2008 because there was no payroll. Mr. Korobok indicated that he 'copy/paste' the same thing from year to year. Mr. Korobok explained that he was under a lot of pressure from Mr. Yakimovich to justify invoices, he was under a lot of pressure to describe what he actually did for Niagara. Mr. Korobok was hoping that by providing this information, Mr. Yakimovich will leave him alone. Mr. Korobok was hoping to resolve this issue somehow but he realized it's never going to end.

In relation to the invoice for November 2008, Mr. Korobok said he had provided no services, could not recall what services were provided, and was not obligated to provide services because he didn't receive payment. It was a cheque exchange.

Ms. Jolley suggested that when Mr. Satanovski received the notice to reader that he told Mr. Korobok they were no use to him and that he needed audited financial statements. Mr. Korobok agreed that Mr. Satanovski had returned his sample to him, it was only a sample and not intended for him. Mr. Korobok could not recall if he provided an audited financial statement before the notice to reader.

Mr. Korobok did not agree that if his cheques to Niagara were not a gift, he would not have been entitled to a donation receipt. He said the cheque exchange circumstances were different because it was not a gift, it was a reimbursement.

Mr. Korobok did not agree that to get a donation receipt you have to make a donation. He said this was a unique case and not applicable.

Mr. Korobok agreed that he was critical of Mr. Yakimovich because he called the returned fees donations rather than reimbursements.

Mr. Korobok agreed that he himself had characterized them as donations in every year of the financial statements. He said he was misled by Mr. Satanovski to believe it was a reimbursement rather than a donation.

Regarding a cheque from Niagara to Mr. Korobok dated May 23, 2008 for \$2,800 the re line being 'Audit fin statements charitable', Mr. Korobok said he did not receive those funds for preparing audited financial statements. He completely denied it.

Mr. Korobok denied that he had come to Mr. Satanovski in 2010 in a rush because his file was missing the representation about money laundering.

He denied Mr. Satanovski had signed both letters in 2010.

He denied one of the letters was back dated to October 25, 2008.

Mr. Korobok agreed that he had provided Mr. Yakimovich with a list of services that he had given to Niagara and told Mr. Yakimovich that he had made donations of various amounts. Mr. Korobok was shocked that anyone would think he was giving a donation or unconditional gift for \$45,000; he meant reimbursement.

Mr. Korobok did not agree that Mr. Yakimovich was trying to be helpful when he suggested places for Mr. Korobok to look for additional documents.

In summary, Mr. Korobok denied receiving a reward for audit work because he returned the money to Niagara or because the cheques he got were not related to the audit work but to fees for professional services. He did not agree that he had prepared compilation reports thereby compromising his independence. He did not agree that Mr. Yakimovich was free from bias.

Findings of Credibility

James Yakimovich

The Professional Conduct Tribunal panel found James Yakimovich and his testimony to be credible. Mr. Yakimovich had a very good ability to recall details of the investigation. Mr. Yakimovich's testimony was consistent with the documents entered into evidence at the hearing. His testimony on cross-examination was clear and consistent with his testimony during his examination in chief.

Vitali Satanovski

Vitali Satanovski was summonsed to attend as a witness at the hearing, where he was the one who initially made a complaint to the Association about Mr. Korobok. The Professional Conduct Tribunal panel found Vitali Satanovski and his testimony to be partially credible. In his examination in chief, Mr. Satanovski testified in a clear and articulate manner and his testimony was consistent with the documents entered into evidence. Upon cross-examination, at times, Mr. Satanovski was flippant and gave short, abrupt answers to questions, which impacted on his credibility. At other times, during the cross-examination, Mr. Satanovski did not answer direct questions as well as deflecting questions with questions of his own, which also reflected on his credibility.

Eugene Korobok

The Professional Conduct Tribunal panel found Eugene Korobok and his testimony to be not credible. On many occasions, when Mr. Korobok was questioned, he was evasive and provided answers that were not responsive to the questions and was consumed with providing evidence that served his own agenda. Mr. Korobok was intent on providing answers that did not follow the questions being asked. Mr. Korobok was reminded several times by the Chair to answer the question. Mr. Korobok contradicted himself on many occasions during his testimony. At times, Mr. Korobok's evidence seemed implausible.

Findings of Facts

Based on the oral evidence heard, the admissions by the member and the documents entered as exhibits at this hearing, the panel of the Professional Conduct Tribunal makes the following findings of facts from the particulars in the Notice of Hearing:

1. Eugene Korobok ("Korobok") became a member of CGA Ontario (the "Association") in 1996.
2. Korobok's CGA Ontario certificate number is 11450 and his CGA Canada certificate number is 434644.
3. In or about 2008 Niagara International Children's Society Inc. ("Niagara") retained Korobok to provide bookkeeping and related professional services.

4. Korobok invoiced Niagara for bookkeeping and related professional services from the fall of 2008 until December 2010.

2006 Auditors' Report

5. In or about the spring of 2008 Niagara retained Korobok to conduct an audit of its financial statements for the year ended 31 December 2006.
6. Korobok issued an auditors' report on the letterhead "Eugene Korobok, Certified General Accountant", on 21 May 2008 (the "Niagara 2006 Auditors' Report").
7. Korobok received a reward from Niagara for the Niagara 2006 Auditors' Report.
8. Korobok did not hold a licence to practise public accounting under the *Public Accounting Act, 2004, S.O. 2004, c.8* (the "*Public Accounting Act*") when he prepared the Niagara 2006 Auditors' Report.

2007 Notice to Reader and 2007 Auditors' Report

9. In or about October 2008 Niagara retained Korobok to compile its financial statements for the period ended 31 December 2007.
10. Korobok compiled the Niagara financial statements for the year ended 31 December 2007 (the "Niagara 2007 financial statements") and delivered a Notice to Reader dated 17 November 2008 in respect of the Niagara 2007 financial statements on the letterhead of "Eugene Korobok, CGA".
11. Niagara then retained Korobok to conduct an audit of its financial statements for that same period, i.e. the year ended 31 December 2007.
12. Korobok then audited those same Niagara 2007 financial statements and issued an auditors' report on the letterhead "Eugene Korobok, Certified General Accountant", on 16 December 2008 (the "Niagara 2007 Auditors' Report").

13. Korobok did not hold a licence to practise public accounting under the *Public Accounting Act* when he prepared the Niagara 2007 Auditors' Report.
14. Korobok received a reward from Niagara for preparing the Niagara 2007 Auditors' Report.
15. Having compiled the Niagara 2007 financial statements, Korobok was not sufficiently independent to carry out an audit of those same statements as he purported to do in the Niagara 2007 Auditors' Report.
16. Korobok did not disclose in the Niagara 2007 Auditors' Report or otherwise that he had compiled the Niagara 2007 financial statements.
17. Contrary to Rule 202.1 of the Association's Code of Ethical Principles and Rules of Conduct (the "Code"), when he prepared the Niagara 2007 Auditors' Report, Korobok was not free of any interest, influence or relationship in respect of the affairs of Niagara that would impair his professional judgment or objectivity or, which in the view of a reasonable observer, may have that effect.

2008 Auditors' Report

18. On or about 22 September 2009 Korobok issued an Auditors' report to Niagara on the letterhead "Eugene Korobok, Certified General Accountant" for the period ended 31 December 2008 (the "Niagara 2008 Auditors' Report").
19. Korobok did not hold a licence to practise public accounting under the *Public Accounting Act* when he prepared the Niagara 2008 Auditors' Report.
20. Korobok received a reward from Niagara for the Niagara 2008 Auditors' Report.

2009 Auditors' Report

21. On or about 13 September 2010 Korobok issued an Auditors' report to Niagara on the letterhead "Eugene Korobok, Certified General Accountant" for the period ended 31 December 2009 (the "Niagara 2009 Auditors' Report").
22. Korobok did not hold a licence to practise public accounting under the *Public Accounting Act* when he prepared the Niagara 2009 Auditors' Report.

23. Korobok received a reward from Niagara for the Niagara 2009 Auditors' Report.

Public Accounting Act

24. The Public Accounting Act was proclaimed in force 1 November 2005.

25. Throughout the period in question, a person engaged in the practice of public accounting was required by the *Public Accounting Act* to have a public accounting licence.

26. Preparation of assurance engagements including an audit engagement was public accounting as defined in the *Public Accounting Act*.

27. Individuals who were not licensed to practise public accounting were permitted to provide public accounting services "without reward" as the definition of public accounting excluded such services, with prescribed conditions, including that the preparer be independent of the person for whom the services were provided.

28. Korobok was not licensed to practise public accounting.

29. Korobok received reward for preparation of the Niagara 2006 Auditors' Report, the Niagara 2007 Auditors' Report, the Niagara 2008 Auditors' Report and the Niagara 2009 Auditors' Report.

30. Further, Korobok was not independent of Niagara when he provided the Niagara 2007 Auditors' Report as he had also prepared the notice to reader for Niagara for 2007.

31. In providing public accounting services as noted above, Korobok violated the *Public Accounting Act*.

32. Rule 102 of the *Code* provides that "a member shall not participate in, or provide services to, any activity that the member knows, or which a reasonable and informed third party, would believe, to be unlawful."

33. It was unlawful, i.e. contrary to the law of Ontario, for Korobok to issue the Niagara 2006 Auditors' Report, the Niagara 2007 Auditors' Report, the Niagara 2008 Auditor's Report or the Niagara 2009 Auditors' Report.
34. Had Korobok been prosecuted under the *Public Accounting Act*, he may have been liable to a fine of up to \$25,000.00 in each instance.
35. Rule 515 of the *Code* requires members to comply with and adhere to the practice inspection requirements of the Association and the standards contained therein.
36. As part of those Professional Practice Registration requirements, members are required to advise the Association of any audit reports prepared by them.
37. Korobok did not disclose to CGA Ontario that he had prepared the Niagara 2006 Auditors' Report, the Niagara 2007 Auditors' Report, the Niagara 2008 Auditors' Report or the Niagara 2009 Auditors' Report.

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 admissions made by the member, the evidence and the submissions of the parties and the onus and standard of proof, the panel of the Professional Conduct Tribunal finds that Mr. Korobok breached the following provisions of the Code of Ethical Principles and Rules of Conduct:

Rule 102 Unlawful Activity

For the period March 2008 to September 2009:

A member shall not permit the member's firm name or the member's name to be used with, participate in, or provide services to, any activity that the member knows, or which a reasonably prudent person would believe, to be unlawful.

For the period 2009 to June 2011:

A member shall not permit the member's firm name or the member's name to be used with, participate in, or provide services to, any activity that the member knows, or which a reasonable and informed third party would believe, to be unlawful.

For the period June 2011 to present:

A member shall not participate in any activity that the member knows, or which a reasonable and informed third party would believe, to be unlawful.

Rule 202.1 Independence in Assurance or Specified Auditing Procedures Engagements

In accordance with the CGA Independence Standard, a member shall be free of any interest, influence or relationship in respect of the client's affairs which impairs the member's professional judgment or objectivity, or which, in the view of a reasonable observer, may have that effect.

Rule 515 Practice Inspection Requirements

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

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

REASONS FOR DECISION

Rule 102 Unlawful Activity

For the period March 2008 to September 2009:

A member shall not permit the member's firm name or the member's name to be used with, participate in, or provide services to, any activity that the member knows, or which a reasonably prudent person would believe, to be unlawful.

For the period 2009 to June 2011:

A member shall not permit the member's firm name or the member's name to be used with, participate in, or provide services to, any activity that the member knows, or which a reasonable and informed third party would believe, to be unlawful.

For the period June 2011 to present:

A member shall not participate in any activity that the member knows, or which a reasonable and informed third party would believe, to be unlawful.

Throughout the period in question, a person engaged in the practice of public accounting was required by the *Public Accounting Act* to have a public accounting licence. Preparation of assurance engagements including an audit engagement was public accounting as defined in the *Public Accounting Act*. Mr. Korobok was not licensed to practise public accounting and therefore was only permitted to provide public accounting services “without reward” as the definition of public accounting excluded such services, with prescribed conditions, including that the preparer be independent of the person for whom the services were provided.

2006 Auditors Report

Mr. Korobok issued an auditors’ report on the letterhead “Eugene Korobok, Certified General Accountant”, on 21 May 2008 (the “Niagara 2006 Auditors’ Report”). Mr. Korobok received a reward from Niagara for the Niagara 2006 Auditors’ Report. Mr. Korobok did not hold a licence to practise public accounting under the *Public Accounting Act* when he prepared the Niagara 2006 Auditors’ Report.

2007 Auditors Report

Mr. Korobok audited Niagara 2007 financial statements and issued an auditors’ report on the letterhead “Eugene Korobok, Certified General Accountant”, on 16 December 2008 (the “Niagara 2007 Auditors’ Report”). Mr. Korobok did not hold a licence to practise public accounting under the *Public Accounting Act* when he prepared the Niagara 2007 Auditors’ Report. Mr. Korobok received a reward from Niagara for preparing the Niagara 2007 Auditors’ Report.

2008 Auditors Report

On or about 22 September 2009 Mr. Korobok issued an auditors’ report to Niagara on the letterhead “Eugene Korobok, Certified General Accountant” for the period ended 31 December 2008 (the “Niagara 2008 Auditors’ Report”). Mr. Korobok did not hold a licence to practise public accounting under the

Public Accounting Act when he prepared the Niagara 2008 Auditors' Report. Mr. Korobok received a reward from Niagara for the Niagara 2008 Auditors' Report.

2009 Auditors Report

On or about 13 September 2010 Mr. Korobok issued an auditors' report to Niagara on the letterhead "Eugene Korobok, Certified General Accountant" for the period ended 31 December 2009 (the "Niagara 2009 Auditors' Report"). Mr. Korobok did not hold a licence to practise public accounting under the *Public Accounting Act* when he prepared the Niagara 2009 Auditors' Report. Mr. Korobok received a reward from Niagara for the Niagara 2009 Auditors' Report.

It was unlawful, i.e. contrary to the law of Ontario, for Mr. Korobok to issue the Niagara 2006 Auditors' Report, the Niagara 2007 Auditors' Report, the Niagara 2008 Auditors' Report or the Niagara 2009 Auditors' Report. In providing public accounting services as noted above, Mr. Korobok violated the *Public Accounting Act*. Therefore, Mr. Korobok was in breach of Rule 102.

Rule 515 Practice Inspection Requirements

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

Rule 515 of the Code requires members to comply with and adhere to the practice inspection requirements of the Association and the standards contained therein. As part of those Professional Practice Registration requirements, members are required to advise the Association of any audit reports prepared by them. Mr. Korobok did not disclose to CGA Ontario that he had prepared the Niagara 2006 Auditors' Report, the Niagara 2007 Auditors' Report, the Niagara 2008 Auditors' Report or the Niagara 2009 Auditors' Report. Therefore, Mr. Korobok was in breach of Rule 515.

Rule 202.1 Independence in Assurance or Specified Auditing Procedures Engagements

In accordance with the CGA Independence Standard, a member shall be free of any interest, influence or relationship in respect of the client's affairs which impairs the member's professional judgment or objectivity, or which, in the view of a reasonable observer, may have that effect.

Mr. Korobok compiled the Niagara financial statements for the year ended 31 December 2007 (the "Niagara 2007 financial statements") and delivered a Notice to Reader dated 17 November 2008 in

respect of the Niagara 2007 financial statements on the letterhead of "Eugene Korobok, CGA". Mr. Korobok then audited those same Niagara 2007 financial statements and issued an auditors' report on the letterhead "Eugene Korobok, Certified General Accountant", on 16 December 2008 (the "Niagara 2007 Auditors' Report").

Having compiled the Niagara 2007 financial statements, Mr. Korobok was not sufficiently independent to carry out an audit of those same statements as he purported to do in the Niagara 2007 Auditors' Report. Mr. Korobok did not disclose in the Niagara 2007 Auditors' Report or otherwise that he had compiled the Niagara 2007 financial statements.

Contrary to Rule 202.1 of the Association's Code, when he prepared the Niagara 2007 Auditors' Report, Mr. Korobok was not free of any interest, influence or relationship in respect of the affairs of Niagara that would impair his professional judgment or objectivity or, which in the view of a reasonable observer, may have that effect.

In finding that Mr. Korobok breached certain rules of the Code of Ethical Principles and Rules of Conduct: Rule 102 Unlawful Activity, Rule 202.1 Independence in Assurance or Specified Auditing Procedures Engagements and Rule 515 Practice Inspection Requirements as outlined above, the panel of the Professional Conduct Tribunal found that Mr. Korobok's conduct constituted actions of professional misconduct and therefore Mr. Korobok is guilty of professional misconduct.

PENALTY SUBMISSIONS

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

1. Reprimand by the Association
2. Publication
3. A 3 month suspension of membership in the Association
4. Return of CGA Ontario and CGA Canada membership certificates during the duration of suspension
5. Total fine of \$7,000, consisting of
 - a) \$5,000 fine for breach of Rule 102,
 - b) \$1,000 fine for breach of Rule 202.1,
 - c) \$1,000 fine for breach of Rule 515

6. Pay costs of \$5,000/day for a 7 day hearing for a total amount of costs of \$35,000 to the Association

In support of the penalty that the Discipline Committee was seeking, Ms. Jolley referred the Panel decisions made by previous Professional Conduct Tribunals including: CGAO and Waseem Aslam, CGAO and Vijay Joshi, CGAO and Tanveer Mansoor, CGAO and Al-Noor Vellani, and CGAO and Pushap Jindal. In regards to costs of \$5,000/day Ms. Jolley spoke to this penalty as covering only a fraction of the costs with regards to this hearing.

In contrast, counsel for Mr. Korobok made the following submissions on the penalty order:

1. Reprimand by the Association
2. No suspension
3. No fine
4. Pay costs of \$2,000 to \$2,500 per day for a 7 day hearing
5. Rehabilitation (professional courses as a suggestion)

Counsel for Mr. Korobok stated that the penalties sought by counsel for the Discipline Committee were too harsh and the panel should look more to rehabilitation.

PENALTY DECISION

The panel deliberated and considered the Discipline Committee's submissions in terms of penalty and Mr. Korobok's submissions in terms of penalty. Accordingly, the panel orders the following penalty:

1. Mr. Korobok is reprimanded by the Association as a result of his breaches of Rule 102, Rule 202.1, Rule 515, of the Code of Ethical Principles and Rules of Conduct
2. Mr. Korobok's membership in the Association is suspended for 3 months
3. Mr. Korobok must return his CGA Ontario (11450) and CGA Canada (434644) membership certificates during the duration of his suspension
4. Mr. Korobok is ordered to pay a total fine of \$7,000, consisting of \$5,000 fine for breach of Rule 102, \$1,000 fine for breach of Rule 202.1, \$1,000 fine for breach of Rule 515
5. Publication

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

1. Mr. Korobok is ordered to pay costs of \$4,000/day for a 7 day hearing for a total amount of costs of \$28,000 to the Association

The dissenting panel member came to the view that Mr. Korobok should be ordered to pay costs of \$2,000/day for a 7 day hearing for a total amount of costs of \$14,000 to the Association.

REASONS FOR PENALTY DECISION

Having found the member to have breached Rules 102, 515 and 202.1 of the Code of Ethical Principles and Rules of Conduct and having found the member guilty of professional misconduct, the panel considered the penalty.

In regards to the reprimand by the Association, publication, a 3 month suspension, return of CGA Ontario and CGA Canada membership certificates during the duration of suspension and a total fine of \$7,000, consisting of a \$5,000 fine for breach of Rule 102, a \$1,000 fine for breach of Rule 202.1, and \$1,000 fine for breach of Rule 515 the panel was in agreement with Ms. Jolley that the penalty was sufficient to deter members of the profession and Mr. Korobok from engaging in similar misconduct. The panel was also of the opinion that this 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: the member is ordered to pay costs of \$4,000/day for a 7 day hearing for a total amount of costs of \$28,000 to the Association. In support of this majority decision, panel members Jane Rivers and Peter J. Vaillancourt considered both the submission of counsel for the Discipline Committee and counsel for Mr. Korobok. The majority of the panel was of the opinion that the penalty to pay costs in the amount ordered by the majority was sufficient to demonstrate to the public and Mr. Korobok the serious nature of the breaches by Mr. Korobok that were found to have occurred.

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*. Factors taken into consideration include:

- The panel considered the seriousness of the proven allegations and their nature and gravity and also the impact upon the Association, the complainant as well as the general public.

- The panel noted that since becoming a member in 1996, there have been not previous complaints or convictions of this nature brought forth against Mr. Korobok.
- Given the serious nature of the misconduct, the panel discussed the need to provide deterrence significant enough to act as a 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.

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

REASONS FOR PENALTY DECISION – DISSENTING IN PART

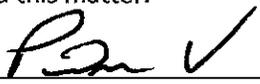
One of the panel members, Victoria Corbett, dissented on one aspect of the penalty order. The dissenting panel member dissented in respect of the amount of costs imposed by the majority of the panel on the member. Upon deliberation, the dissenting panel member came to the view that costs of \$2,000/day for a 7 day hearing for a total amount of costs of \$14,000 to the Association, represented the appropriate penalty in this case.

With respect to the majority of the panel, the dissenting panel member dissents on the question of costs awarded against Mr. Korobok. In the view of the dissenting panel member, it is unreasonable to impose costs that are four times as much as the fine for the breaches of the Code and professional misconduct. In addition to the penalty, which includes this fine and a suspension of membership, the costs proposed by the majority will have a very negative impact on Mr. Korobok who testified about his loss of income since the case was first brought against him. In the view of the dissenting panel member, awarding costs that are unreasonably high may have a chilling effect on other CGAO members who might think they should not exercise their right to defend against allegations of professional misconduct.

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

Dated this _____ day of _____, 2013

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.



MONDAY DECEMBER 9, 2013
Peter J. Vaillancourt, CGA

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.