

THE CERTIFIED GENERAL ACCOUNTANTS
ASSOCIATION OF ONTARIO

PROFESSIONAL CONDUCT TRIBUNAL

IN THE MATTER OF the Certified General Accountants Association of Ontario Act, 1983.

AND IN THE MATTER OF a complaint concerning Mr. Henry Lodziak, a member of the Certified General Accountants association of Ontario.

BETWEEN:

THE DISCIPLINE COMMITTEE OF THE CERTIFIED GENERAL
ACCOUNTANTS ASSOCIATION OF ONTARIO

- and -

MR. HENRY LODZIAK

Members of the Tribunal: Ramesh Ramotar, CGA
Dan Coghlan, CGA
Janice Paul, CGA

Counsel: Larry Banack, for the Discipline Committee
Mr. Henry Lodziak on behalf of himself

Complainant: Discipline Committee of the Certified General Accountants Association of Ontario

Defendant: Mr. Henry Lodziak, CGA

Court Reporter: Networking Court Reporting Ltd.
Sheila Ayers

Witness: Ralph Palumbo, Director, Government Relations and Legislative Affairs

Pursuant to a notice of hearing dated February 5, 1999, Mr. Henry Lodziak was charged with the following violations of the Code of Ethics and Rules of Conduct:

Rule 610 – Requirement to Reply in Writing: A member shall promptly reply in writing to any request from the Association in which a written reply is specifically required.

Rule 611 - Assistance to the Board: A Member shall, when required, comply with the request of the Board or its committees in the exercise of its duties in matters of the appropriate CGA Act, the By-Laws or the Code of Ethical Principles and Rules of Conduct, and when required, produce any documents in the member's possession, custody, or control, subject to rules 201 and 104.2.

Particulars: Mr. Henry Lodziak failed to reply to the following letters from Ralph Palumbo on behalf of the Association:

- i.) Letters dated September 18, 1998; and November 12, 1998 in connection with a practice monitor agreement; and
- ii.) Letters dated November 5, 1998, December 2, 1998, and January 12, 1999 in connection with a complaint made against you by Nabill and Joan Khill.

Mr. Henry Lodziak was absent from the hearing and did not appoint counsel or an agent to represent him, although duly notified of the date, time and place, and the charges against him. The particulars were read by

Counsel for the Discipline Committee who then proceeded to call his first witness, Ralph Palumbo, Director, Government Relations and Legislative Affairs of the CGAAO.

Mr. Palumbo testified that he sent two letters to Mr. Lodziak on September 18, 1998, and November 12, 1998 respectively with regard to a earlier practice monitor agreement. Mr. Lodziak did not reply to these letters even though requested to do so. As a result of complaint received by the Association dated October 27, 1998 from Nabill and Joan Khill against Mr. Lodziak, Mr. Palumbo wrote three further letters dated November 5, 1998, December 2, 1998 and January 12, 1999 to Mr. Lodziak. Again, there was no response from Mr. Lodziak, despite Mr. Palumbo's requests in this regard. All of these letters were identified by Mr. Palumbo and introduced into evidence as part of Exhibit 1.

Mr. Palumbo gave evidence that attempts were made to contact Mr. Lodziak by telephone and to arrange a face to face meeting with his associates listed on his letterhead as well, and that even his associates were unable to arrange a meeting with Mr. Lodziak. Subsequently Mr. Henry Lodziak was charged under Rules 610 & 611.

Mr. Palumbo told the Tribunal that this was not Mr. Lodziak's first offence, and provided the Tribunal with an excerpt from CGA Ontario Statements indicating that Mr. Lodziak was found in April of 1998 to have violated Rules 201 and 309 of the Code of Ethical Principles and Rules of Conduct. In answer to questions from the Tribunal, Mr. Palumbo confirmed that Mr. Lodziak was registered for public practice with the Association, and that his errors and omissions insurance was up to date.

Mr. Banack made submissions on behalf of the Discipline Committee in which he argued, among other things, that Mr. Lodziak was guilty of misconduct and breach of Rules 610 & 611. In his view, he has shown a total disregard for the Code of Ethical Principles and the Rules of Conduct. Mr. Lodziak has also chosen not to deal with these charges, and has not appeared at the hearing and or responded to the Notice of Hearing, even at the last minute. In other words, Mr. Lodziak has demonstrated an unwillingness to submit to the governance of the CGAAO. He asked the Tribunal to impose the following penalties:

- - Expulsion or Suspension for two or more years;
- - Reapplication after the suspension period conditional that all dues are paid up to the date of reapplication, Mr. Lodziak is registered for public practice and has current errors and omission insurance;
- - Costs to the Association of \$1,000.00;
- - Outcome of the hearing to be published in the CGA Ontario Statements;
- - Outcome to be published in local newspapers; and
- - Surrender of Certificates to the Association.

DECISION

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

- Suspension for two years;
- Costs payable to the Association of \$1,000.00;
- Outcome of the hearing to be published in the CGA Ontario Statements;
- Outcome to be published in the local newspapers; and
- Surrender all Certificates to the Association.

In addition, the Tribunal imposed the following conditions for reinstatement to the Association:

- Reapplication may only be made after two years;
- Evidence must be provided that all fees are paid up to date of reapplication; and
- Mr. Lodziak must register for private practice with the Association and obtain errors and omissions insurance.

REASONS FOR THE TRIBUNAL'S DECISION

The evidence before us makes it clear that Mr. Lodziak did not respond in any way to Mr. Palumbo's letters, despite the latter's requests, and we find that this conduct violated Rules 610 and 611. Compliance with

these rules is vital to the self-regulation functions of the Association and Mr. Lodziak has clearly and unequivocally refused to respond to the governance of the CGAAO. In arriving at our decision, we have considered a number of appropriate factors, including the standards set and expected of all CGAAO members.



Ramesh Ramotar, CGA
Chairman, Professional Conduct Tribunal
On Behalf of the Tribunal

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Date: June 16, 1999

NOTICE

The decision of a Professional Conduct Tribunal may be appealed to an Appeal Tribunal within sixty days of the date of the written decision of the Professional Conduct Tribunal. The notice of appeal must be in writing addressed to the Executive Director, Certified General Accountants Association of Ontario, 240 Eglinton Avenue East, Toronto, Ontario M4P 1K8. The notice must contain the grounds for the appeal.