

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

IN THE MATTER OF a Complaint against Leonard Montague, CGA

BETWEEN:

The Discipline Committee of The Certified General Accountants Association of Ontario

- and -

Leonard Montague, CGA

DECISION OF THE PROFESSIONAL CONDUCT TRIBUNAL

Members of the Professional Conduct Tribunal Panel:

Jane Bennie, CGA, Chair
Irwin Pinsky, CGA
Kevin West, Public Representative

Pursuant to section 25, Article 9 of the Bylaws, the Professional Conduct Tribunal Panel has reviewed the Statement of Facts and Resolution proposed by the parties in this matter, signed by the Chair of the Discipline Committee, Debra Taylor, FCGA, July 25, 2012 and signed by Leonard Montague, CGA, August 17, 2012. The Professional Conduct Tribunal Panel accepts the attached proposal as set out by the parties. The attached proposal is hereby ratified.

Dated this 5th day of September, 2012

I, Jane Bennie, CGA, sign this Decision as Chair of the Panel of the Professional Conduct Tribunal on behalf of the members of the Panel that heard this matter.



Jane Bennie, CGA

**THE CERTIFIED GENERAL ACCOUNTANTS
ASSOCIATION OF ONTARIO**

**IN THE MATTER OF A PROCEEDING UNDER SUBSECTION 36(1)
OF THE CERTIFIED GENERAL ACCOUNTANTS ACT, 2010
AND THE ASSOCIATION'S BYLAWS**

**IN THE MATTER OF Leonard Montague, a member of the
Certified General Accountants Association of Ontario**

STATEMENT OF FACTS AND RESOLUTION

A. AGREED UPON STATEMENT OF FACTS

1. Leonard Montague ("Montague") became a member of CGA Ontario in 1994
2. Montague's CGA Ontario certificate number is 10235 and his CGA Canada certificate number is 331867.
3. From 2002 to October 2011 Montague was employed by Universal Handling Equipment Company ("Universal").
4. From 2002 to May 2006 Montague held the position of corporate controller and worked out of the Hamilton, Ontario office (the "Head office").
5. From May 2006 to October 2011 Montague held the position of General Manager and worked out of the Michigan office.
6. In his capacity as General Manager, Montague was responsible for the Michigan operation including the reporting of financial results.
7. As part of his duties as General Manager, Montague was responsible for accurately reporting inventory to Head office.
8. Montague reported to Head office that the Michigan operation had inventory of \$1,642,434 as of 31 August 2011.
9. Montague knew that the reported inventory amount was false and misleading.
10. In fact, the inventory as of 31 August 2011 was \$486,232, a difference of \$1,156,202, which Montague knew or ought to have known.

11. As part of his duties as General Manager, Montague was responsible for delivering a Compliance Report to Universal's bank.
12. The Compliance Report set out, among other things, Universal's accounts receivable and inventory.
13. The bank relied on the Compliance Report to determine the credit available to Universal.
14. In August 2011 Montague signed a Compliance Report for Universal's bank and represented that the report was true and correct to the best of his knowledge.
15. Montague knew that the Compliance Report was not true and correct, but was false and misleading.
16. In particular, Montague knew that the accounts receivable listed in the Compliance Report was misstated by approximately \$100,000 and knew or ought to have known that the inventory was overstated by more than \$1,000,000.
17. Montague knew or ought to have known that the Compliance Report was false and misleading as he knew it was based on financial information that he knew was false and misleading.
18. Had Montague reported the figures he knew to be accurate on the Compliance Report, the variance of borrowing to availability would have been reduced by almost \$700,000. Had the bank known the true state of Universal's inventory and accounts receivable, it is likely that the bank would have taken steps to call the lending facility.
19. As part of his duties as General Manager, Montague was responsible for submitting finished goods inventory counts from Michigan to the Head office.
20. Montague represented to Head office that, as of the week ending 31 August 2011, the finished goods inventory for Michigan was \$728,540.
21. Montague knew that the finished goods inventory amount was false and misleading.
22. In fact, the finished goods inventory for Michigan as of 31 August 2011 was \$548,735, a difference of \$179,805, a misrepresentation more than 30%.
23. As part of his duties as General Manager, Montague was responsible for supplying Head office with accurate accounts payable figures for Michigan.
24. Montague reported to Head office that as of 31 August 2011 the accounts payable figure for Michigan was \$667,492.

25. Montague knew that the accounts payable figure was false and misleading.
26. In fact, the accounts payable for that period was \$2,467,084, an increase of \$1,799,592.
27. Montague failed to disclose that he held in his desk 156 cheques payable to company creditors totaling \$729,452.44 that he had represented in the company journal entries had been delivered to those creditors.
28. The cheques were no longer reported as payables but were not listed on the outstanding cheque list, resulting in a significant understatement of Universal's liabilities.
29. Montague submitted the false financial information knowingly and intending to paint a more positive financial picture of the Michigan facilities than he knew to be true.
30. In submitting the false financial information Montague intended to mislead Head office and the Universal bank or knew or ought to have known that they would be misled.
31. Montague regularly submitted false and misleading records to Head office and to Universal's bank from 2009, or at least 2010 to September 2011 when the false and misleading financial information was discovered.
32. Once the misrepresentations were discovered, Universal alerted its bank and the company went into receivership.
33. Montague held a position of trust with Universal.
34. Rule 101 of The Association's Code of Ethical Principles and Rules of Conduct (the "Code") – Discredit - states:

A member shall not participate in, or knowingly provide services to, any practice, pronouncement or act that would be of a nature to discredit the profession.
35. In submitting false financial records to Head office and to Universal's bank and in knowingly and significantly misrepresenting the financial results of Universal's Michigan facility, Montague participated in a practice or act that was of a nature to discredit the profession.
36. Rule 102 of the Code – Unlawful Activity - states:

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.

37. In submitting false financial records to Head office and to Universal's bank representing them to be true and correct and in knowingly and significantly misrepresenting the financial results of Universal's Michigan facility, Montague participated in an activity that a reasonable and informed third party would believe to be unlawful.

38. Rule 108 of the Association's Code – Conduct Unbecoming – states:

It shall be unethical for a member, while acting in a professional capacity or otherwise, to engage in misconduct of a reprehensible or serious nature which reflects on the member's or student's honesty, integrity, or trustworthiness or, is relevant to the person's suitability as a member of the profession.

39. In submitting false financial records to Head office and to Universal's bank representing them to be true and correct and in knowingly and significantly misrepresenting the financial results of Universal's Michigan facility, Montague engaged in conduct of a reprehensible and serious nature which reflected on his honesty, integrity and trustworthiness and is relevant to his suitability as a member of the profession.

40. Rule 303 – Adherence to Acknowledged Principles and Standards – states:

Members shall adhere to acknowledged principles and standards of professional practice. In addition, all licensees shall be required to establish, maintain and uphold policies and procedures to ensure that all public accounting services are performed in accordance with generally accepted standards of practice of public accounting. The phrase 'acknowledged principles and standards' expresses a wide meaning; namely, that body of principles and practices that have been generally adopted by the profession and that are applied in the preparation of financial statements and any tax related matter, taken together with the requirements of any governing statutes, subject to (e) below. That is, a member shall adhere to:

(a) Generally accepted accounting principles within financial reporting standards unless departure from these principles is fully disclosed;

(b) Generally accepted auditing standards or general review standards in an assurance engagement;

(c) Accounting and auditing practices that differ from those recommended by the Association, provided that there is substantial authoritative support for the alternative treatment and the departure from the Association's recommendations is disclosed;

(d) Accounting and auditing practices not specifically dealt with by the Association, but which are otherwise generally accepted;

(e) Requirements of any governing act or regulation, providing, however, in the event that there is a conflict between the accounting and auditing standards of the profession and a specific statutory or regulatory requirement, the member shall make appropriate qualification in the report; and

(f) Accounting, auditing practices, and standards recommended by the Association, including those found in:

i. the CICA Handbook; wherein references to the Rules of Conduct/Code of Ethics of the provincial institutes/order appear, this should be read as the CGA Code of Ethical Principles and Rules of Conduct;

ii. the CGA Independence Standard; and

iii. CGA Canada's Public Practice Manual.

41. In submitting false financial records to Head office and to Universal's bank in the manner detailed above, and in knowingly and significantly misrepresenting the financial results of Universal's Michigan facility, Montague failed to adhere to acknowledged principles and standards of professional practice.

42. Rule 401 – Communication Issued in Connection with Financial Information – states:

A member shall not issue a communication on any financial information, whether for publication or not, when the information is prepared in a manner that may have a tendency to be misleading.

43. In delivering the Compliance Report to Universal's bank, in submitting false inventory figures to Head office, in submitting false finished inventory figures to Head office, in submitting false or misleading payables listings to Head office, Montague issued communications in connection with financial information when the information was prepared in a manner that had a tendency to be misleading.

44. Rule 402 – Association with Financial Information – states:

A member shall not be associated with any letter, report, statement, representation, financial statement or tax filing, whether written or oral, which the member knows, or ought to know, is false or misleading, regardless of any disclaimer of responsibility.

45. In delivering the Compliance Report to Universal's bank, in submitting false inventory figures to Head office, in submitting false finished inventory figures to Head office, in submitting false or misleading payables listings to Head office, Montague was associated with reports, statements and representations which he knew, or ought to have known, was false or misleading.

46. Rule 403 – Known Omission – states:

A member shall disclose any fact or information known to the member that is not disclosed in the financial information, the omission of which would make that information misleading.

47. In delivering the Compliance Report to Universal's banker, in submitting false inventory figures to Head Office, in submitting false finished inventory figures to Head Office, in submitting false payables listings, Montague failed to disclose facts and information known to him that was not disclosed in the above reports, the omission of which made that information misleading.

48. Rule 404 –Material Discrepancy – states:

A member shall immediately disclose any material discrepancy that becomes known to the member concerning financial information on which the member has issued a communication, or with which the member is associated.

49. At no material time did Montague disclose any of the material discrepancies concerning the financial information, reports and Compliance Reports he had issued and with which he was associated.
50. For accounting purposes, fraudulent financial reporting is defined by the CICA Handbook as involving "intentional misstatements, including omissions of amounts or disclosures in financial statements, to deceive financial statement users".
51. Montague intentionally misrepresented the financial condition of Universal's Michigan operation through his intentional misstatements and omissions of amounts or disclosures in the financial reports or omissions of amounts or disclosure in the financial reports he submitted to Head office and the Universal's bank in order to deceive the users of those financial reports.

52. Montague's conduct amounted to professional misconduct and conduct unbecoming a certified general accountant.

B. AGREED UPON RESOLUTION

1. Montague recognizes that it was contrary to the Code for him to knowingly misrepresent to his employer and to third party creditors of his employer the financial status of Universal.
2. Montague recognizes that it was contrary to the Code for him to manipulate Universal's financial records and accounts payable information by deliberately holding in his office 156 cheques written to creditors of Universal in the order of \$729,452.44.
3. Montague recognizes that it was contrary to the Code for him to manipulate the inventory figures to misrepresent that the Universal inventory was more than \$1,000,000 larger than it was.
4. Montague recognizes that it was contrary to the Code for him to manipulate the fixed goods inventory figures to represent that the Universal fixed goods inventory was approximately \$180,000 larger than it was.
5. Montague recognizes that it was contrary to the Code for him to present documents to his employer and to third parties that he knew or ought to have known to be false and misleading.
6. Montague agrees that his conduct amounted to a violation of Rules 101, 102, 108, 303, 401, 402, 403 and 404 of the Code.
7. Montague accepts revocation of his membership in the Association as a result of his breaches of the Code.
8. Along with his acceptance of this resolution, Montague has enclosed both his CGA Ontario membership certificate and his CGA Canada membership certificate.
9. Recognizing that he has violated eight provisions of the Code, Montague accepts a fine of \$8,000 or \$1,000 per Code breach.
10. Montague understands that the committee is not seeking any costs payable from him. However, he understands that if he does not accept this resolution, the matter will proceed to a disciplinary hearing before the Professional Conduct Tribunal and the committee will be seeking costs of that hearing from him.
11. Montague understands that, as required by the bylaws, the terms of the resolution will be published in Statements and will also be published in a local newspaper.

12. Montague understands that, after a ten day waiting period from the date of acceptance of this proposed resolution, the Committee will present this proposed agreed resolution of this complaint to the Professional Conduct Tribunal. The Tribunal may accept or reject the resolution. If it accepts the resolution of the complaint, this ratification shall be the final disposition of the complaint. Where the Tribunal refuses to accept the proposed resolution, it may grant this committee an opportunity to return before it within 10 days or such other reasonable time as shall be stipulated by the Tribunal, with an amended proposed agreed resolution. Where the Tribunal refuses to ratify a proposed resolution and does not grant the committee an opportunity to return before it with an amended proposed agreed resolution, a Professional Conduct Tribunal panel of three members shall be appointed to conduct a formal hearing pursuant to sections 25 and 28 of Article 9 of the bylaws.
13. Montague further understands that if the committee and he are unable to resolve this complaint through an agreed upon resolution process, the matter will be referred to the Professional Conduct Tribunal for a hearing.

I hereby agree to this above statement of facts and resolution.