

**IN THE MATTER OF a Proceeding under  
the *Certified General Accountants of Ontario Act, 1983***

**IN THE MATTER OF a Complaint against Barry Moxam**

**BETWEEN:**

The Discipline Committee of the CGAO

- and -

Barry Moxam

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**Decision of the Professional Conduct Tribunal**

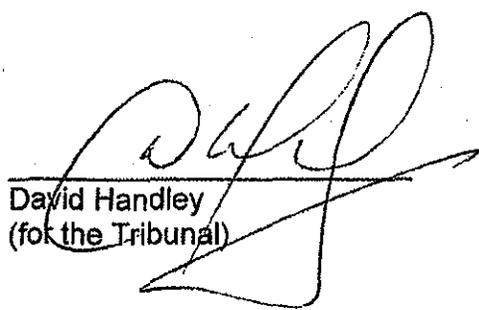
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Members of the Tribunal panel:

David Handley, chair (public representative)  
Dave Laventure, CGA  
Jack Cayne, CGA

Pursuant to section 9, Article 9 of By-Law Four, the Professional Conduct Tribunal has reviewed the Agreed Statement of Facts and the Resolution proposed by the parties in this matter (signed by the Chair of the Discipline Committee on September 3, 2008 and by Mr. Moxam on September 25, 2008). The Tribunal accepts the proposal as set out by the parties. The proposal is hereby ratified.

Dated this 29<sup>th</sup> day of October, 2008,

  
David Handley  
(for the Tribunal)

## STATEMENT OF FACTS AND RESOLUTION

### A. AGREED UPON STATEMENT OF FACTS

1. I was retained in early March 2007 by Candice Mohan ("Mohan") to prepare her 2006 income tax return.
2. A dispute developed between me and Mohan concerning my fee for preparing the income tax return.
3. I advised Mohan that I charged \$30 for a basic return plus \$5 for each additional slip or receipt. She agreed to that fee.
4. Mohan then told me she wanted to report a rental income. I advised her that my fee for a rental operation was \$250.00 in addition to the basic return fee. She agreed to that fee and gave me the rental operation information.
5. I prepared the return including the rental operation.
6. When the rental operation was included, Mohan owed taxes instead of receiving a small refund. When I called to advise Mohan of this, she advised me not to prepare her return.
7. I advised her I had already completed the return and could charge her \$320.00 (\$250.00 for the rental income and \$70 for the basic return) but would agree to reduce my fee to a flat \$75.00.
8. When she took issue with a \$75.00 fee, I offered to reduce the fee to \$60.00 to close the matter.
9. Ultimately I reduced my fee to \$50.00 which Mohan paid in January 2008.
10. Starting in April 2007, Mohan left me many voice mail messages concerning her income taxes and her documents. I did not return her calls. I decided to only respond to her by email or mail and to avoid verbal discussions with her. Mohan's request for the return of her documents continued until January 2008.
11. I refused to return the documents to her until I had been paid.
12. Mohan offered to pay me \$55.00 in April 2007 and to attend at my home/office and pay. I did not accept her offer.
13. Mohan requested my address so that she could deliver payment to me. I did not provide her with my address on a timely basis. I did not provide her with my

address for payment until the evening of 31 December 2007, the last day for Mohan to file her return.

14. I returned her documents to her when I was paid in January 2008.
15. Mohan filed her income tax return after the December 31 deadline.
16. Rule 606 (a) of the *Code of Ethical Principles and Rules of Conduct* provides that a member shall not participate in any action that is detrimental to the Association or the profession.
17. My refusal to return the client's documents to her when she requested them was detrimental to the Association and the profession.
18. The appropriate course of conduct was to return the client's files and then sue for what I believe I was owed.

**B. AGREED UPON RESOLUTION**

1. I agree that in refusing to return Mohan's documents to her for more than nine months until she paid me was conduct detrimental to the Association and the profession in violation of Rule 606(a) – Detrimental Action– which states: “A member shall not participate in any action that is detrimental to the Association or the profession.”
2. I accept that, once Mohan requested that I return her documents to her, I should have done so and then sued for payment of my account if I wished to do so.
3. I accept a reprimand from the Tribunal as a result of my violation of Rule 606(a) of the *Code of Ethical Principles and Rules of Conduct*.
4. I agree to pay a fine of \$500. I understand that the committee is not seeking any costs payable from me. However, I understand that if I do not accept this resolution, the committee will be seeking costs, including the costs of a hearing before the Professional Conduct Tribunal.
5. I understand that, as this will be a reprimand from the Tribunal, it will be published as required by Article 9, section 21 of By-Law Four.
6. I understand 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 9 and 12 of Article 9 of By-Law Four.

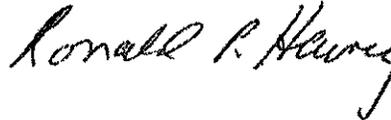
7. I further understand that if the committee and I are unable to resolve this complaint through an agreed upon resolution process, the matter will be referred to the Professional Conduct Tribunal for a hearing.

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

Date of Offer:

Name:

3 September 2008



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Chair, Discipline Committee

Date of Acceptance:

Name:

Sept. 25/08



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Barry Moxam, CGA