

**THE CERTIFIED GENERAL ACCOUNTANTS  
ASSOCIATION OF ONTARIO**

**IN THE MATTER OF an unresolved complaint concerning Rai  
B. Nandan, a member of the Certified General Accountants  
Association of Ontario;**

**AND IN THE MATTER OF a hearing conducted before a  
Professional Conduct Tribunal on September 30, 1998.**

Members of the Tribunal:

June Oliver, CGA, Chair  
Alexis Perera, CGA  
Donn Martinson, CGA

Counsel:

Larry Banack, for the Discipline Committee  
Stephen Jackson, for the Defendant  
Judith McCormack, for the Tribunal

**DECISION**

Pursuant to a notice of hearing dated September 27, 1998 (marked Exhibit No. 1), Rai B. Nandan was charged with the following violation of the *Code of Ethics and Rules of Professional Conduct*:

201 - Conduct: A member shall always be mindful of his/her duties and responsibilities as a member of the accounting profession, and shall carry on his/her work with fidelity to clients or employers, fairness to employees, and loyalty to the Association, in a manner worthy of a professional accountant.

The particulars alleged against Rai B. Nandan were that he disregarded his duties and responsibilities as an accountant and employer by conducting himself in an unprofessional manner and with a lack of fairness to his employees, in a manner unworthy of a professional accountant. In particular, the notice of hearing specified a

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number of incidents involving four female former employees of Mr. Nandan's which concerned inappropriate behaviour related to sexual matters.

The parties submitted to the Tribunal an Agreed Statement of Facts and a joint submission with respect to the appropriate penalty (marked Exhibit No. 2).

Counsel for the Discipline Committee and for the defendant then made additional oral submissions. In light of the Agreed Statement of Facts, no party wished to call evidence.

Mr. Banack, on behalf of the Discipline Committee, noted that Mr. Nandan had acknowledged that his conduct contravened Rule 201 of the *Code of Ethics and Rules of Professional Conduct* and that such acknowledgement had saved the Association and the witnesses the additional time, costs and stress of calling the complainants to testify.

He stressed that the objective of the requested discipline was to: (1) deter Mr. Nandan from similar behaviour in the future; and (2) serve as a deterrence to fellow CGAO members from similar behaviour, and that both counsel felt the requested discipline met those objectives.

Mr. Jackson, counsel for the defendant, indicated that the two counsel had felt the package was appropriate in light of Mr. Nandan's acknowledgement, and that the discipline requested recognized that Mr. Nandan would have to make alternate arrangements for his clients for the month he was suspended, with the least inconvenience to his clients. He also indicated that it was Mr. Nandan's intention not to attend at his office throughout the month of suspension. Mr. Jackson reviewed the different elements of the proposed discipline to indicate the impact of each and their relationship to the interests of the complainants, Mr. Nandan, his clients, and the CGAO.

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Members of the Tribunal noted that December is normally a 'quiet' month in public practice, and questioned counsel as to why the month of December was chosen for Mr. Nandan's suspension. The Tribunal was advised that if an earlier month was chosen, Mr. Nandan would not have adequate time to make alternate arrangements that would least inconvenience his clients, and that to choose a busier month after December would delay the disciplinary process too long.

When the Tribunal asked counsel for course specifics pursuant to the recommended education program, they were advised that the course had not yet been identified but that Mr. Nandan's attendance would be required in a formal educational setting, and the course would be in a length and format satisfactory to the Discipline Committee.

The Tribunal raised a concern regarding the effectiveness of CGAO's monitoring of Mr. Nandan's behaviour towards existing and future staff to ensure there were no repetitions of the offensive conduct. They were advised that Mr. Nandan currently has no direct staff, however, Mr. Nandan's wife has an office in the same area as Mr. Nandan's, and they share the same receptionist (who reports to Mrs. Nandan). Mr. Banack advised the Tribunal that CGAO had not yet devised a method of monitoring Mr. Nandan's future behaviour, but that it would be an administrative function that would be overseen by the Discipline Committee. It was the intention of counsel to indicate that monitoring would be for a period of twelve months.

When asked by the Tribunal if \$1,500 is sufficient to cover CGAO's costs of the hearing, Mr. Banack indicated it was.

When queried as to the complainants' rights to seek further and separate legal action, counsel advised the Tribunal that the complainants are entitled to pursue their own civil or other rights.

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The Tribunal raised a concern that the delivery of written apologies to the former employees be handled through the Discipline Committee and was assured that would be done.

The Tribunal was interested in the wording of the publication of the proceedings in Statements and was advised that the parties had not turned their minds to the point.

Tribunal Ruling:

The Tribunal unanimously finds that Rai B. Nandan is guilty of breach of Rule 201 of the *Code of Ethics and Rules of Professional Conduct*, by virtue of the Agreed Statement of Facts and Mr. Nandan's acknowledgement that his conduct contravened said Rule.

In reaching our decision with respect to the appropriate penalty, we have considered the severity of the issue, the fact that Mr. Nandan has no prior record of professional discipline, his admission of guilt, the Agreed Statement of Facts, the importance of sending a strong message to the CGAO membership that CGAO will not tolerate such offensive, unprofessional behaviour, and fairness to Mr. Nandan's clients.

Pursuant to Section 10 of By-law Four, the Tribunal directs the following:

- (i) one month suspension commencing December 1, 1996;
- (ii) enrolment in, attendance at, and successful completion within twelve months, of a formal Human Relations/Gender Sensitivity Education Program, approved by CGAO;

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- (ii) regular monitoring (to be developed by CGAO) of Mr. Nandan's professional behaviour to ensure there is no repetition of the unprofessional conduct for a period of 12 months;
- (iv) costs of \$1,500.00 to be paid within three months of the date of the Hearing;
- (v) a fine of \$1,500.00 to be paid within six months of the date of the Hearing;
- (vi) delivery to the CGAO Discipline Committee of written apologies to each of the complainants, signed by Mr. Nandan, within 30 days of the date of this decision. It is understood that the Discipline Committee will mail the apologies to the complainants; and
- (vii) publication of the outcome of these proceedings in Statements. The Tribunal specifically directs that the wording does not mention the particular month of suspension, but mentions that Mr. Nandan acknowledged guilt of inappropriate and unprofessional behaviour with reference to sexual matters.

This decision may be filed in the Ontario Court of Justice (General Division) in accordance with Section 19 of the *Statutory Powers Procedure* by the Certified General Accountants Association of Ontario if enforcement is required.

Dated October 21, 1996

  
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June Oliver, CGA  
Chair  
Professional Conduct Tribunal

**Notice of right to appeal:**

The decision of a Professional Conduct Tribunal may be appealed to an Appeal Tribunal provided it is done in writing within sixty (60) days of the Professional Conduct Tribunal's written decision. Appeals must be in writing and addressed to the Executive Director, Certified General Accountants Association of Ontario, 240 Eglinton Avenue East, Toronto, Ontario, M4P 1K8. The notice shall contain grounds for the appeal which are confined to: error in fact, error in interpretation of the Code, error in procedure, or error in sentence.