

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

**IN THE MATTER OF Melissa Romolo, a member of  
The Certified General Accountants Association of Ontario**

B E T W E E N:

The Professional Standards, Competence and Capacity Committee of The Certified General Accountants

Association of Ontario

- and -

Melissa Romolo

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**DECISION AND REASONS FOR DECISION OF THE COMPETENCE TRIBUNAL**

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Members of the Competence Tribunal Panel:

Alexis Perera, CGA, Chair  
Jane Rivers, CGA  
Victoria Corbett, Public Representative

Appearances:

Karen Jolley, Counsel for the Professional Standards, Competence and Capacity Committee  
Melissa Romolo, Member  
Lisa Braverman, Independent Legal Counsel to the Competence Tribunal

Hearing Date:

May 26, 2014, Toronto

## **OVERVIEW**

A panel of the Competence Tribunal of The Certified General Accountants Association of Ontario heard this matter on May 26, 2014, at Toronto.

## **ALLEGATIONS**

Counsel for the Professional Standards, Competence and Capacity Committee entered into evidence the Notice of Hearing dated March 27, 2014, exhibit one, and the Affidavit of Service, exhibit two, relating to the Notice of Hearing.

The allegations against the member are that she breached the following provisions of the Code of Ethical Principles and Rules of Conduct as stated in the Notice of Hearing:

### **Rule 301 - Competence**

A member shall provide to employers and/or clients only those professional services for which he or she has the necessary capabilities, competencies and current skills. A member shall sustain professional competence by keeping informed of, and complying with, developments in the acknowledged standards of the profession in all areas in which the member practises or is relied upon because of the member's profession.

### **Rule 302 - Professional Development**

A member shall undertake continuing education and professional development activities in accordance with the standards and policies established by the Association.

### **Rule 516 - Professional Liability Insurance**

A member engaged in the practice of public accounting or the preparation of compilation engagements or tax returns part-time or full-time shall maintain professional liability insurance as specified, and provide evidence as required, by the Association.

### **Rule 610 - Requirement to Reply in Writing**

A member shall reply promptly in writing to any request from the Association in which a written reply is specifically required.

### **Code Principle - Trust and Duties**

Members shall act in the interests of their clients, employers, and interested third parties, and shall be prepared to sacrifice their self-interest to do so. Members shall honour the trust bestowed on them by others, and shall not use their privileged position without their principal's knowledge and consent. Members shall strive to be independent of mind and in appearance.

**Code Principle - Due Care and Professional Judgment**

Members shall strive to continually upgrade and develop their technical knowledge and skills in the areas in which they practise as professionals. This technical expertise shall be employed with due professional care and judgment.

The Particulars of the allegations against the member as stated in the Notice of Hearing are as follows:

**Particulars:**

1. In 2013 you had an accounting practice with approximately 400 income tax preparation clients and 40 clients for whom you carried out compilation engagements.
2. Commencing at least by the spring of 2013 you failed to carry out the accounting work for which your clients had retained you. This included the preparation and filing of their personal and corporate income tax returns and HST returns with Canada Revenue Agency.
3. Commencing at least by the spring of 2013 you failed to return to your clients their documents when they requested either so they would have their records or so that they could have their income tax returns prepared elsewhere and filed.
4. Commencing at least by the spring of 2013 you failed to respond to your clients' telephone calls and emails promptly if at all.
5. Your failure to carry out the work requested of you by your clients and to respond to your clients resulted in 8 formal complaints and 18 informal complaints or inquiries to the Certified General Accountants of Ontario ("CGA Ontario" or the "Association") between May and December 2013.
6. In June 2013 the Association telephoned you 17 times and left messages for you. You refused or neglected to return any of the calls.
7. In July 2013 the Association telephoned you 30 times and left messages for you. You refused or neglected to return any of the calls.
8. Throughout the period August 2013 to January 2014 the Association sent you approximately 73 emails concerning the various complaints it had received, with an additional 6 emails in the spring and summer months. Other than a letter on 19 August 2013 and emails on 10 September 2013 and 18 September 2013, you refused or neglected to respond to any of the Association's emails.
9. You refused to respond to the Association either at all or in a timely or fulsome manner when it requested information from you concerning the complaints and requested that you comply with your clients' requests.

10. As part of the ongoing obligations of those members who prepare compilation engagements or tax returns, you were required to maintain professional liability insurance.
11. You refused or neglected to obtain mandatory professional liability insurance for the 2013/14 year.
12. As a result of your failure to carry such insurance, on or about 16 September 2013 you were suspended from membership in the Association.
13. As part of the ongoing obligations of membership in the Association, each member is required to complete and report a minimum annual number of hours of professional development.
14. In or about March 2012 you filed your professional development declaration with the Association for 2011 and requested an exemption/deferral of your professional development requirements for the 2011 year. You were granted the exemption on the condition that you provide the Association with a medical certificate, which was requested of you in or about July 2012.
15. In or about March 2013 you filed your professional development declaration with the Association for 2012 and again requested an exemption/deferral of your professional development requirements for the 2012 year. You were again granted the exemption on the condition that you provide the Association with a medical certificate, which was requested of you in June 2013 both for that exemption request and for the prior's year request, which remained outstanding.
16. As of today's date, you have refused or neglected to provide a medical certificate demonstrating the extenuating circumstances that would support the granting of the exemptions that you received from your professional development obligations.
17. On or about 16 September 2013 you were requested to return the CGA Ontario and CGA Canada membership certificates to the Association.
18. As of today's date, you have refused or neglected to return the certificates.

#### **MEMBER'S PLEA**

The member admitted the allegations set out in the Notice of Hearing.

#### **FACTS AND EVIDENCE**

Counsel for the Professional Standards, Competence and Capacity Committee advised the panel that agreement had been reached on the facts and introduced a Statement of Facts and Resolution, exhibit seven. The Agreed Upon Statement of Facts provides as follows:

1. I became a member of the Certified General Accountants Association of Ontario ("CGA Ontario") or (the "Association") in 2006.
2. My CGA Ontario certificate number is 19736 and my CGA Canada certificate number is 360526.
3. I have suffered from depression for the last number of years and since 2009 have been under the care of a psychiatrist, while still carrying on my accounting practice.
4. In March 2012 I filed my professional development declaration with CGA Ontario for 2011 and requested an exemption/deferral of my professional development requirements for the 2011 year as I had been suffering from depression and related medical issues.
5. I was granted the exemption on the condition that I provide CGA Ontario with a medical certificate. However, I never provided the certificate.
6. In or about March 2013 I filed my professional development declaration with the Association for 2012 and again requested an exemption/deferral of my professional development requirements for the 2012 year.
7. I was again granted the exemption on the condition that I provide the Association with a medical certificate, which was requested of me in June 2013 both for that exemption request and for the prior's year request, which remained outstanding.
8. Again, I did not provide a medical certificate and did not do so as of the issuance of this notice of hearing.
9. The documents contained at tabs 48 to 56 inclusive in the document brief served on me under cover of letter dated 5 May 2014 and which will be entered as an exhibit are true and complete and their contents are an accurate representation of the rules requiring professional development and my exchanges with the Association on this point and were received by me as indicated.
10. In 2013 I had an accounting practice with approximately 400 income tax preparation clients and 40 clients for whom I carried out compilation engagements.
11. Commencing at least by the spring of 2013 I did not carry out the accounting work for which my clients had retained me. This included the preparation and filing of their personal and corporate income tax returns and HST returns with Canada Revenue Agency.
12. Commencing at least by the spring of 2013 I failed to return to my clients their documents when they requested either so they would have their records or so that they could have their income tax returns prepared elsewhere and filed.
13. Commencing at least by the spring of 2013 I failed to respond to my clients' telephone calls and emails promptly if at all.

14. My failure to carry out the work requested of me by my clients and to respond to my clients resulted in 8 formal complaints and 18 informal complaints or inquiries to the Association between May and December 2013.
15. In June 2013 the Association telephoned me 17 times and left messages for me. I did not return any of their calls.
16. In July 2013 the Association telephoned me 30 times and left messages for me. I did not return any of their calls.
17. Throughout the period August 2013 to January 2014 the Association sent me approximately 73 emails concerning the various complaints it had received, with an additional 6 emails in the spring and summer months.
18. Other than a letter on 19 August 2013 and emails on 10 September 2013 and 18 September 2013, I did not respond to any of the Association's emails.
19. I did not respond to the Association either at all or in a timely or fulsome manner when it requested information from me concerning the complaints and requested that I comply with my clients' requests.
20. The documents at tab 12, tabs 15 to 47 and tabs 57 to 59 inclusive of the document brief are true and complete and their contents are an accurate representation of the contact from the Association to me and from my clients to the Association and from me and were received by me as indicated.
21. As part of the ongoing obligations of those members who prepare compilation engagements or tax returns, I was required to maintain professional liability insurance.
22. I did not obtain mandatory professional liability insurance for the 2013/14 year.
23. As a result of my failure to carry such insurance, on or about 16 September 2013 I was suspended from membership in the Association.
24. The document at tab 13 of the document brief is true and complete and its contents are an accurate representation of the contact from the Association to me concerning my professional liability insurance obligation and my subsequent suspension and it was received by me as indicated.
25. In my letter of suspension dated 16 September 2013 I was notified that I was required to cease using the CGA designation.
26. Even though I was suspended and not permitted to carry on a professional practice, I continued to carry out my practice and I continued to use the CGA designation in connection with that practice after my suspension.
27. In my letter of suspension, I was also advised to return my CGA Ontario and CGA Canada membership certificates.

28. I did not return either membership certificate.
29. I understand that as part of the ongoing obligations of membership in the Association, I was required to complete and report a minimum annual number of hours of professional development or to seek an exemption and provide the medical evidence to support the exemption.
30. I did not fulfill my professional development requirements and I did not provide medical evidence to support the exemptions I requested.
31. As a result of my failure to respond to my clients and to carry out the work for which they had retained me, the Association attended in court and obtained an order of the court appointing the Association as custodian of my practice. The order at tab 14 of the document brief is a true and accurate copy of the order obtained and was served on me as required by its terms.
32. In the context of executing the court order, the Association obtained my CGA Ontario and CGA Canada membership certificates.
33. All other documents noted in the discipline brief are true, accurate and complete and were received by me where indicated and sent to me or from me where indicated.
34. Rule 301 – Competence - of the Code of Ethical Principles and Rules of Conduct (the “Code”) requires a member to provide clients only those professional services for which he or she has the necessary capabilities, competencies and current skills. It further requires a member to sustain professional competence by keeping informed of, and complying with, developments in the acknowledged standards of the profession in all areas in which the member practises or is relied upon because of the member’s profession.
35. I did not have the capabilities or competencies to serve my clients contrary to Rule 301.
36. Rule 302 – Professional Development - of the Code requires a member to undertake continuing education and professional development activities in accordance with the standards and policies established by the Association.
37. I did not fulfill my professional development obligations contrary to Rule 302.
38. Rule 516 – Professional Liability Insurance – of the Code requires a member engaged in the practice of public accounting or the preparation of compilation engagements or tax returns part-time or full-time to maintain professional liability insurance as specified, and provide evidence as required, by the Association.
39. I did not obtain any professional liability insurance for 2013/2014 contrary to Rule 516.
40. Rule 610 – Requirement to Reply in Writing – of the Code requires a member to reply promptly in writing to any request from the Association in which a written reply is specifically required.

41. I did not respond to the many and repeated requests from the Association concerning the 8 formal complaints and many additional informal complaints and concerning the medical certificate to support my request for a waiver of the Association's professional development requirements, contrary to Rule 610.
42. The Code Principle of Trust and Duties requires members to act in the interests of their clients and interested third parties, and be prepared to sacrifice their self-interest to do so. Members shall honour the trust bestowed on them.
43. In failing to carry out the work requested of me by my clients, in failing to respond to my clients' repeated requests for information and documentation from me and in failing to open correspondence received by me on behalf of my clients that impacted their tax and accounting situations, I did not honour the trust imposed in me by my clients and I did not carry out the duties expected of me in favour of my clients contrary to the Principle of Trust and Duties.
44. The Code Principle of Due Care and Professional Judgment requires a member to strive to continually upgrade and develop their technical knowledge and skills in the areas in which they practise as professionals and to employ that expertise with due professional care and judgment.
45. In failing to carry out the work requested of me by my clients, in failing to respond to my clients' repeated requests for information and documentation from me and in failing to open correspondence received by me on behalf of my clients that impacted their tax and accounting situations, I did not carry out my practice with due care and professional judgment.
46. My conduct amounted to professional misconduct.

The panel of the Competence Tribunal accepts the Agreed Upon Statement of Facts in the Statement of Facts and Resolution, Exhibit 7, and makes findings of facts based on those agreed upon facts.

In the Agreed Upon Resolution section of the Statement of Facts and Resolution, the member made an additional admission as follows:

I recognize that my conduct as outlined above was contrary to the Code and, in particular, amounted to a violation of Rules 301, 302, 516 and 610 and the Code Principles of Trust and Duties and Due Care and Professional Judgment.

#### **DECISION**

The Professional Standards, Competence and Capacity 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 Competence Tribunal was a balance of probabilities based on clear, convincing and cogent evidence.

Having considered the Agreed Upon Statement of Facts, 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 Competence Tribunal finds that the allegations contained in the Notice of Hearing have been proven. In particular, the panel of the Competence Tribunal finds the member breached the following provisions of the Code of Ethical Principles and Rules of Conduct:

**Rule 301 – Competence**

A member shall provide to employers and/or clients only those professional services for which he or she has the necessary capabilities, competencies and current skills. A member shall sustain professional competence by keeping informed of, and complying with, developments in the acknowledged standards of the profession in all areas in which the member practises or is relied upon because of the member's profession.

**Rule 302 - Professional Development**

A member shall undertake continuing education and professional development activities in accordance with the standards and policies established by the Association.

**Rule 516 - Professional Liability Insurance**

A member engaged in the practice of public accounting or the preparation of compilation engagements or tax returns part-time or full-time shall maintain professional liability insurance as specified, and provide evidence as required, by the Association.

**Rule 610 - Requirement to Reply in Writing**

A member shall reply promptly in writing to any request from the Association in which a written reply is specifically required.

**Code Principle - Trust and Duties**

Members shall act in the interests of their clients, employers, and interested third parties, and shall be prepared to sacrifice their self-interest to do so. Members shall honour the trust bestowed on them by others, and shall not use their privileged position without their principal's knowledge and consent. Members shall strive to be independent of mind and in appearance.

**Code Principle - Due Care and Professional Judgment**

Members shall strive to continually upgrade and develop their technical knowledge and skills in the areas in which they practise as professionals. This technical expertise shall be employed with due professional care and judgment.

The panel of the Competence Tribunal finds the member has failed to meet the standards of professional competence necessary to serve the interests of the public or of any employer.

The panel of the Competence Tribunal finds the member guilty of incompetence.

## **REASONS FOR DECISION**

### **Rule 301 – Competence**

Commencing at least by the spring of 2013, Ms. Romolo failed to return to her clients their documents when they requested either so they would have their records or so that they could have their income tax returns prepared elsewhere and filed. Commencing at least by the spring of 2013, Ms. Romolo failed to respond to her clients' telephone calls and emails promptly if at all. Ms. Romolo's failure to carry out the work requested of her by her clients and to respond to her clients resulted in 8 formal complaints and 18 informal complaints or inquiries to the Association between May and December 2013. Ms. Romolo did not have the capabilities or competencies to serve her clients contrary to Rule 301. Therefore, the evidence clearly demonstrated that Melissa Romolo had breached Rule 301.

### **Rule 302 - Professional Development**

As part of the ongoing obligations of membership in the Association, Ms. Romolo was required to complete and report a minimum annual number of hours of professional development or to seek an exemption and provide the medical evidence to support the exemption. Ms. Romolo did not fulfill her professional development requirements and did not provide medical evidence to support the exemptions she requested. Ms. Romolo did not fulfill her professional development obligations contrary to Rule 302. Therefore, the evidence clearly demonstrated that Melissa Romolo had breached Rule 302.

### **Rule 516 - Professional Liability Insurance**

Ms. Romolo did not obtain mandatory professional liability insurance for the 2013/14 year. As a result of her failure to carry such insurance, on or about 16 September 2013 Ms. Romolo was suspended from membership in the Association. Ms. Romolo did not obtain any professional liability insurance for 2013/2014 contrary to Rule 516. Therefore, the evidence clearly demonstrated that Melissa Romolo had breached Rule 516.

### **Rule 610 - Requirement to Reply in Writing**

Ms. Romolo did not respond to the many and repeated requests from the Association concerning the 8 formal complaints and many additional informal complaints and concerning the medical certificate to support her request for a waiver of the Association's professional development requirements, contrary to Rule 610. Therefore, the evidence clearly demonstrated that Melissa Romolo had breached Rule 610.

**Code Principle - Trust and Duties**

In failing to carry out the work requested of her by her clients, in failing to respond to her clients' repeated requests for information and documentation from her and in failing to open correspondence received by her on behalf of her clients that impacted their tax and accounting situations, Ms. Romolo did not honour the trust imposed in her by her clients and Ms. Romolo did not carry out the duties expected of her in favour of her clients contrary to the Principle of Trust and Duties. Therefore, the evidence clearly demonstrated that Melissa Romolo had breached Code Principle – Trust and Duties.

**Code Principle - Due Care and Professional Judgment**

In failing to carry out the work requested of her by her clients, in failing to respond to her clients' repeated requests for information and documentation from her and in failing to open correspondence received by her on behalf of her clients that impacted their tax and accounting situations, Ms. Romolo did not carry out her practice with due care and professional judgment. Therefore, the evidence clearly demonstrated that Melissa Romolo had breached Code Principle – Due Care and Professional Judgment.

**Standards of Professional Competence**

Commencing at least by the spring of 2013, Ms. Romolo did not carry out the accounting work for which her clients had retained her. This included the preparation and filing of their personal and corporate income tax returns and HST returns with Canada Revenue Agency. Commencing at least by the spring of 2013, Ms. Romolo failed to return to her clients their documents when they requested either so they would have their records or so that they could have their income tax returns prepared elsewhere and filed. Commencing at least by the spring of 2013, Ms. Romolo failed to respond to her clients' telephone calls and emails promptly if at all. Ms. Romolo's failure to carry out the work requested of her by her clients and to respond to her clients resulted in 8 formal complaints and 18 informal complaints or inquiries to the Association between May and December 2013. Therefore, the evidence clearly demonstrated that Melissa Romolo had failed to meet the standards of professional competence necessary to serve the interests of the public or of an employer **and** that Melissa Romolo was guilty of incompetence.

**PENALTY SUBMISSIONS**

Counsel for the Professional Standards, Competence and Capacity Committee advised the panel that a penalty resolution had been agreed upon. The Agreed Upon Resolution provides as follows:

1. I accept a reprimand from the Association as a result of my breaches of the Code.
2. I accept a revocation of my membership in the Association and I understand notice of that revocation will be published on the Association's website, in Statements and in a local newspaper, pursuant to the Association's bylaws.
3. I agree to pay a fine of \$6,000 representing a payment of \$1,000 for each breach of the Code provision noted above.

Submissions were made by counsel for the Professional Standards, Competence and Capacity Committee and the member on the appropriateness of the penalty resolution and why it should be accepted. Ms. Jolley made appropriate references to the *Certified General Accountants Act, 2010* and to the Bylaws of the Certified General Accountants of Ontario to argue, that in order to protect the interests of the public, revocation of Ms. Romolo's membership in the Association should be ordered by the panel. Since Ms. Romolo has competence issues, revocation of membership is therefore needed.

In her submission, Ms. Romolo said that she had openly and voluntarily agreed to the Agreed Upon Resolution.

#### **PENALTY DECISION**

The panel of the Competence Tribunal deliberated and accepted the Agreed Upon Resolution contained in the Statement of Facts and Resolution, exhibit number seven. The panel of the Competence Tribunal orders the following penalty:

1. Reprimand Ms. Romolo as a result of her breaches of the Code of Ethical Principles and Rules of Conduct : Rules 301, 302, 516 and 610 and the Code Principles of Trust and Duties and Due Care and Professional Judgment.
2. Revocation of Ms. Romolo's membership in the Association.
3. Publication on the Association's website, in the Statements and in a local newspaper.
4. Payment of fine by Ms. Romolo of \$6,000, representing a payment of \$1,000 for each breach of the Code provisions.

#### **REASONS FOR PENALTY DECISION**

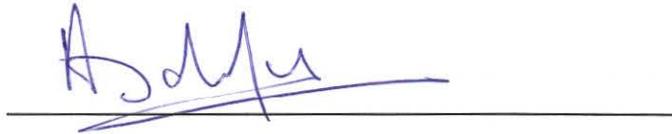
In arriving at the penalty decision, the panel considered the following:

- The nature and gravity of the proven allegations

- The need to promote specific and general deterrence and, thereby, to protect the public and ensure the safe and proper practice of the profession
- The mental condition of the member
- The impact of the incidents on the clients, profession and public
- The role of the member in acknowledging the breaches
- The need to maintain the public's confidence in the integrity of the profession.

Dated this 5<sup>th</sup> day of August, 2014

I, Alexis Perera, sign this Decision and Reasons for Decision as Chair of the panel of the Competence Tribunal on behalf of the members of the panel that heard this matter.



Alexis Perera CGA

**NOTICE**

**This decision of the Competence 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 Competence 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.**