

**IN THE MATTER OF a Proceeding under
the *Certified General Accountants of Ontario Act, 1983* and By-Law Four**

**IN THE MATTER OF Shaun Samad, a member of the
Certified General Accountants of Ontario**

B E T W E E N:

The Discipline Committee of the Certified General Accountants of Ontario

- and -

Shaun Samad

DECISION AND REASONS FOR DECISION OF THE PROFESSIONAL CONDUCT TRIBUNAL

Members of the Professional Conduct Tribunal Panel:

Donald H. Page, CGA, Chair
Irwin Pinsky, CGA
Betty Kuchta, Public Representative

Appearances:

Karen E. Jolley, Counsel for the Discipline Committee
Shaun Samad, Member
Lisa S. Braverman, Registrar and Independent Legal Counsel to the Professional Conduct Tribunal

Hearing Date:

February 24, 2010, Toronto

OVERVIEW

A panel of the Professional Conduct Tribunal of the Certified General Accountants of Ontario heard this matter on February 24, 2010, at Toronto. At the conclusion of the hearing, the panel reserved its decision.

PRELIMINARY MATTERS

The panel dealt with two preliminary matters as follows:

- i) Objection by Ms. Jolley to Mr. Samad's Motion materials, and
- ii) A Motion requesting an adjournment of the Hearing.

Both matters were heard on February 24, 2010.

The matter of the objection by Ms. Jolley to Mr. Samad's Motion materials was heard first.

Mr. Samad requested that the panel receive the following documentation:

- i) A 4-page February 2nd letter requesting an adjournment
- ii) A February 17th email
- iii) 4 appendices.

Ms. Jolley objected to the panel receiving the 4 appendices.

Lengthy arguments from both parties were heard.

After deliberation the panel's decision was announced orally. The decision was:

After discussion, the panel decided that it will receive the 4-page February 2nd letter requesting the adjournment and the February 17th email, but the panel will not receive the 4 appendices. The panel heard arguments from both sides and accepts the argument of Ms. Jolley. Appendices A, B and C contain information which represents a collateral attack on a prior judgment and Appendix D tries to refute deemed admissions in the Request to Admit.

The panel also decided to receive Mr. Samad's written argument and his exhibits as part of his Motion materials.

The Motion requesting an adjournment of the Hearing was heard next.

The member, Shaun Samad, brought the Motion. The Discipline Committee opposed the Motion.

Lengthy arguments from both parties were heard.

After deliberation the panel's decision was announced orally. The decision was:

Motion to adjourn denied. We are going to proceed with the Hearing.

The Chair of the panel announced to the parties that the Hearing of the Matter would commence after a short recess. Mr. Samad left the hearing room at that time and did not return for the Hearing.

ALLEGATIONS

Counsel for the Discipline Committee entered into evidence the Notice of Hearing dated January 5, 2010 entered as Exhibit #1, contained in the Discipline Brief entered as Exhibit #2, and the Affidavit of Service entered as Exhibit #3 relating to the service of the Notice of Hearing.

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

Code of Ethical Principles – Responsibilities to Society

Members have a fundamental responsibility to safeguard and advance the interests of society. This implies acting with trust-worthiness, integrity and objectivity. This responsibility extends beyond a member's own behaviour to the behaviour of colleagues and to the standards of the Association and the profession.

R101 Discredit

A member shall not permit the member's firm name or the member's name to be used with, participate in, or knowingly provide services to, any practice, pronouncement or act that would be of a nature to discredit the profession.

R102 Unlawful Activity

A member shall not permit the member's firm name or the member's name to be used with, participate in, or provide services to, any activity that the member knows, or which a reasonable and informed third party would believe, to be unlawful.

R108 Conduct Unbecoming

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.

R401 Communication Issued in Connection with Financial Information

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.

R403 Known Omission

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.

R606(a) Detrimental Actions

A member shall not participate in any action that is detrimental to the Association or the profession.

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

(A) Responsibilities to Society, Discredit, Unlawful Activity, Conduct Unbecoming and Detrimental Actions

1. In 2007 Faheem Samad commenced an action against you in the Ontario Superior Court of Justice for an order removing you from certain residential premises (the "Property"). By way of counterclaim, you sought an order declaring that you were an owner of the Property.
2. The trial proceeded from June 10 - 13, 2008 and the court rendered its decision on or about 30 June 2008. In the course of its decision, the court made the following findings:
 - (a) You became involved in what is commonly known as a "Nigerian letter scam" in September 2001. You were duped into thinking that there was unclaimed money in a bank account in Nigeria, which you and any partners you recruited could claim. You, a certified general accountant, pitched the scheme to your "circle of influence", which included one of your brothers, and eventually raised over \$700,000. That money was transferred to the engineers of the scam;
 - (b) As a result of your actions, those you introduced to the scam lost \$700,000;
 - (c) You then took steps to remove your name from any assets you owned in order to make yourself judgment proof. You removed your name from your one-third interest in the Property;
 - (d) You entered into an oral contract for the purpose of defrauding your creditors;

(e) Your conduct was fraudulent;

(f) You were “not remotely credible or believable” when you testified during the trial;

(g) Your “evidence [was] entirely unworthy of belief”;

(h) You were an accountant by training and occupation. Your attempts at deflecting the responsibility for your own misconduct rang hollow;

(i) You did not come to court with clean hands; and

(j) Your fabrication of the transfer and release in order to defraud your creditors would prevent the court from applying the doctrine of part performance or any other equitable remedy in your favour, even if the judge had found that you had not sold your interest in the Property.

(B) Communication in Connection with Financial Information, Known Omission and Detrimental Action

1. In 2007, you solicited money from Kiran Dave (“Dave”), one of the complainants.

2. You advised Dave that if he gave you funds, you would provide a return on investment on those funds at a rate of 25% interest per month for one year. You further advised that the first interest payment would be payable in six months, or on 17 June 2008 and for that six month period was calculated at $6 \times 25\%$ or 150% or \$15,000. The remaining six months' interest would be paid monthly at the rate of \$2,500 per month up to 17 December 2008. Thereupon, you would return the original principal to Dave.
3. You advised Dave that this investment opportunity was only available for a limited time.
4. You signed a promissory note promising to pay Dave the amounts set out in paragraph 2 above.
5. When Dave advanced the funds, you did not advise him that, by November 2002 you had divested yourself of your interest in the Property and that you had no other exigible assets in the event you defaulted on the payments in the promissory note.
6. When Dave advanced the funds, you did not advise him that in the fall of 2007 and thereafter, you did not have sufficient funds to cover your own business and personal expenditures.
7. You never advised Dave that you could not have repaid him the agreed upon interest in the timeframe promised or returned the principal funds.

8. You advised Dave that his investment was secure and there was no risk of him losing his funds.
9. You further represented to Dave that he would participate in an investment opportunity.
10. You were unable to explain to Dave what the investment opportunity was in sufficient detail for him to make an informed decision.
11. You led Dave to believe that the funds he provided in December 2007 were for the investment opportunity.
12. The investment which you described as a "Private Placement Program" had the following hallmarks:
 - (a) it offered a return of approximately 1,000% per year;
 - (b) it could not be easily explained;
 - (c) those who knew about the transactions were not willing to explain them;
 - (d) it was asserted that there was no risk for the clients;
 - (e) the nature of the investments was secretive;
 - (f) it was alleged that revealing the workings of the investment would breach confidentiality associated with the investment contracts; and
 - (g) the investment opportunity was said to be available only for a limited time.

13. You accepted money from the other complainants Ada Manlee Lee, Audrey Hewitt, Christopher Hewitt and Ishver Chauhan (the "additional complainants") and entered into promissory notes with those complainants on similar terms and with similar promises to pay the same rates of interest (i.e. 25% interest per month) and in the same timeframes (i.e. payments at the six month mark and each month thereafter for one year with the principal returned in one year) as were offered to Dave.

14. You signed promissory notes for each of the additional complainants to secure your obligation to pay funds at the rates and in the timeframes set out in paragraph 13 above.

15. The complainants deposited the following funds into your bank account on the approximate dates below:

(a)	\$10,000.00	–	Kiran Dave (20 December 2007)
(b)	\$10,000.00	–	Ada Lee (20 December 2007)
(c)	\$5,000.00	–	Audrey Hewitt (14 February 2008)
(d)	\$5,000.00	–	Christopher Hewitt (14 February 2008)
(e)	\$5,000.00	–	Ishver Chauhan (25 February 2008)

Total: \$35,000.00

16. In addition to the funds received from the complainants you received the sum of \$5,000 from Dipak Lad and \$5,000 from Praful Mistry on the same or similar terms and conditions as set out in paragraph 2 above.

17. In addition to the return of principal, you promised to return to the complainants within one year:

(a)	\$15,000.00	Kiran Dave
(b)	\$15,000.00	Ada Lee
(c)	\$7,500.00	Audrey Hewitt
(d)	\$7,500.00	Christopher Hewitt
(e)	\$7,500.00	Ishver Chauhan

Total: \$52,500.00

Total principal and return on investment - \$87,500.00

18. In the event you believed these funds were loans and not investments, you did not clearly advise the complainants that they were not participating in an investment, but were loaning money to you.
19. Further, you did not advise the complainants that you could or would use their funds as you saw fit, including to cover your personal expenses that ranged from health club memberships to entertainment to pedicures.
20. When Dave made numerous attempts to reach you on behalf of the complainants to find out about the status of their investments, you did not return his calls or emails.

21. You acknowledge that you are responsible for repaying the complainants their funds.
22. To date you have not repaid any of the complainants any of their promised interest and have not repaid the principal.
23. As of July 2009, you were continuing to solicit "investors" to participate in the "Private Placement Program".

MEMBER'S PLEA

As the member was neither present nor represented by counsel, the member was deemed to have denied the allegations set out in the Notice of Hearing. The hearing proceeded on the basis that the Discipline Committee has the onus of proving the allegations against the member.

FACTS AND EVIDENCE

The hearing proceeded without any testimony from witnesses. Counsel for the Discipline Committee presented an Affidavit of Service entered as Exhibit #7, establishing that the member had been served on January 22, 2010 with a Request to Admit Facts and Documents entered as Exhibit #6 as well as a Notice under the Evidence Act (Business Records) entered as Exhibit #5. The member was advised that he had 20 days to respond to the Request to Admit Facts and Documents, and that if he failed to respond, he would be deemed to admit the truth of the facts and the authenticity of the documents, for the purposes of this proceeding. The member did not respond to the Request to Admit Facts and Documents. Based on the facts and documents deemed to be admitted by the member at this hearing, the panel makes the following findings of fact:

1. Shaun Samad's address on the CGA Ontario register is 31 Cedar Drive, Scarborough, Ontario M1J 3E6.
2. Mr. Samad became a member of CGA Ontario in 2000. His CGA Ontario certificate number is 14811. His CGA Canada certificate number is 347086.
3. In 2007, Mr. Samad solicited money from Kiran Dave ("Dave"), to whom Mr. Samad was introduced through a common friend.
4. Mr. Samad advised Dave that if he gave Mr. Samad funds, Mr. Samad would provide a return on investment on those funds at a rate of 25% interest per month for one year.
5. Mr. Samad further advised Dave that the first interest payment would be payable in six months, or on 17 June 2008 and for that six month period was calculated at $6 \times 25\%$ or 150% or \$15,000. The remaining six months' interest would be paid monthly at the rate of \$2,500 per month up to 17 December 2008. Thereupon, Mr. Samad would return the original principal to Dave.
6. Mr. Samad advised Dave that this investment opportunity was only available for a limited time.
7. Mr. Samad signed a promissory note promising to pay Dave the amounts set out in paragraph 5 above.
8. When Dave advanced the funds, Mr. Samad did not advise him that, by November 2002 Mr. Samad had divested himself of his interest in residential property that he had owned with his brothers (the "Property") and that he had no other exigible assets in the event he defaulted on the payments in the promissory note.
9. When Dave advanced the funds, Mr. Samad did not advise him that in the fall of 2007 and thereafter, he did not have sufficient funds to cover his own business and personal expenditures.

10. Mr. Samad never advised Dave that he could not have repaid him the agreed upon interest in the timeframe promised or returned the principal funds.
11. Mr. Samad advised Dave that his investment was secure and there was no risk of him losing his funds.
12. Mr. Samad further represented to Dave that he would participate in an investment opportunity.
13. Mr. Samad was unable to explain to Dave what the investment opportunity was in sufficient detail for him to make an informed decision.
14. Mr. Samad led Dave to believe that the funds he provided in December 2007 were for the investment opportunity.
15. The investment which Mr. Samad described as a "Private Placement Program" had the following hallmarks:
 - a) It offered a return of approximately 1,000% per year;
 - b) It could not be easily explained;
 - c) Those who knew about the transactions were not willing to explain them;
 - d) It was asserted that there was no risk for the clients;
 - e) The nature of the investments was secretive;
 - f) It was alleged that revealing the workings of the investment would breach confidentiality associated with the investment contracts; and
 - g) The investment opportunity was said to be available only for a limited time.
16. Mr. Samad accepted money from the other individuals, namely Ada Manlee Lee, Audrey Hewitt, Christopher Hewitt and Ishver Chauhan (the "additional complainants") and entered

into promissory notes with those complainants on similar terms and with similar promises to pay the same rates of interest (i.e. 25% interest per month) and in the same timeframes (i.e. payments at the six month mark and each month thereafter for one year with the principal returned in one year) as were offered to Dave.

17. Mr. Samad signed promissory notes for each of the additional complainants to secure his obligation to pay funds at the rates and in the timeframes set out in paragraph 16 above.

18. The complainants deposited the following funds into Mr. Samad's bank account on the approximate dates below:

- i. \$10,000.00 – Kiran Dave (20 December 2007)
- ii. \$10,000.00 – Ada Lee (20 December 2007)
- iii. \$5,000.00 – Audrey Hewitt (14 February 2008)
- iv. \$5,000.00 – Christopher Hewitt (14 February 2008)
- v. \$5,000.00 – Ishver Chauhan (25 February 2008)

Total: \$35,000.00

19. In addition to the funds received from the complainants Mr. Samad received the sum of \$5,000 from Dipak Lad and \$5,000 from Praful Mistry on the same or similar terms and conditions as set out in paragraph 5 above.

20. In addition to the return of principal, Mr. Samad promised to return to the complainants within one year:

- i. \$15,000.00 – Kiran Dave
- ii. \$15,000.00 – Ada Lee
- iii. \$7,500.00 – Audrey Hewitt
- iv. \$7,500.00 – Christopher Hewitt
- v. \$7,500.00 – Ishver Chauhan

Total : \$52,500.00

Total principal and return on investment - \$87,500.00

21. In the event Mr. Samad believed these funds were loans and not investments, Mr. Samad did not clearly advise the complainants that they were not participating in an investment, but were loaning money to him.
22. Further, Mr. Samad did not advise the complainants that he could or would use their funds as he saw fit, including to cover his personal expenses that ranged from health club memberships to entertainment to pedicures.
23. When Dave made numerous attempts to reach Mr. Samad on behalf of the complainants to find out about the status of their investments, Mr. Samad did not return his calls or emails.
24. Mr. Samad acknowledges that he is responsible for repaying the complainants their funds.
25. To date Mr. Samad has not repaid any of the complainants any of their promised interest and have not repaid the principal.
26. As of July 2009, Mr. Samad was continuing to solicit "investors" to participate in the "Private Placement Program".
27. In 2007 Faheem Samad commenced an action against Mr. Samad in the Ontario Superior Court of Justice for an order removing him from the Property. By way of counterclaim, Mr. Samad sought an order declaring that he was an owner of the Property.
28. The trial proceeded from June 10 – 13, 2008 and the court rendered its decision on or about 30 June 2008. In the course of its decision, the court made the following findings:
 - a) Mr. Samad became involved in what is commonly known as a "Nigerian letter scam" in September 2001. Mr. Samad was duped into thinking that there was unclaimed money in a bank account in Nigeria, which he and any partners he recruited could claim. Mr. Samad, a certified general accountant, pitched the scheme to his "circle

of influence”, which included one of his brothers, and eventually raised over \$700,000. That money was transferred to the engineers of the scam.

- b) As a result of his actions, those he introduced to the scam lost \$700,000;
- c) Mr. Samad then took steps to remove his name from any assets he owned in order to make himself judgment proof. He removed his name from his one-third interest in the Property;
- d) Mr. Samad entered into an oral contract for the purpose of defrauding his creditors;
- e) Mr. Samad’s conduct was fraudulent;
- f) Mr. Samad was “not remotely credible or believable” when he testified during the trial;
- g) Mr. Samad’s “evidence [was] entirely unworthy of belief”;
- h) Mr. Samad was an accountant by training and occupation. His attempts at deflecting responsibility for his own misconduct rang hollow;
- i) Mr. Samad did not come to court with clean hands; and
- j) Mr. Samad’s fabrication of the transfer and release in order to defraud his creditors would prevent the court from applying the doctrine of part performance or any other equitable remedy in his favour, even if the judge had found that he had not sold his interest in the Property.

DECISION

The Discipline 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 was a balance of probabilities based on clear, convincing and cogent evidence.

Having considered the evidence and submissions and the onus and standard of proof, the panel finds that the member breached the following provisions of the Code of Ethical Principles and Rules of Conduct:

Code of Ethical Principles – Responsibilities to Society

Members have a fundamental responsibility to safeguard and advance the interests of society. This implies acting with trust-worthiness, integrity and objectivity. This responsibility extends beyond a member's own behaviour to the behaviour of colleagues and to the standards of the Association and the profession.

R101 Discredit

A member shall not permit the member's firm name or the member's name to be used with, participate in, or knowingly provide services to, any practice, pronouncement or act that would be of a nature to discredit the profession.

R108 Conduct Unbecoming

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.

R401 Communication Issued in Connection with Financial Information

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.

R403 Known Omission

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.

R606(a) Detrimental Actions

A member shall not participate in any action that is detrimental to the Association or the profession.

Having considered the evidence and submissions and the onus and standard of proof, the panel finds that the member did not breach the following provisions of the Code of Ethical Principles and Rules of Conduct:

R102 Unlawful Activity

A member shall not permit the member's firm name or the member's name to be used with, participate in, or provide services to, any activity that the member knows, or which a reasonable and informed third party would believe, to be unlawful.

REASONS FOR DECISION

With respect to the allegation of breach of **R102 Unlawful Activity**, the panel is of the opinion that it is unclear whether any of the conduct of the member as described in the findings of fact is unlawful and, therefore, concludes that there is no evidence of unlawful activity in any of the findings of fact. It is perplexing to the panel that no charges have been laid in connection with these matters; no evidence was brought forward of any such charges, criminal investigations or convictions in these matters.

With respect to the allegation of breach of the **Code of Ethical Principles – Responsibilities to Society**, the panel concludes that the member acted in ways which were untrustworthy, lacked integrity, and lacked objectivity. He acted in ways which breached his fundamental responsibility as a member of the profession to safeguard and advance the interests of society.

In the findings of fact in paragraphs 27 and 28, it is stated that Mr. Samad was found by the court in an Ontario Superior Court of Justice proceeding to have been involved in a scam in which those he introduced to the scam lost \$700,000.00, to have removed his name from property to make himself judgement proof, to have entered into an oral contract for the purpose of defrauding his creditors, and to have engaged in conduct which was fraudulent. The panel is of the opinion that these activities

constitute actions which are untrustworthy, lack integrity, and lack objectivity. He did not uphold his fundamental responsibility as a member of the certified general accountants' profession to safeguard and advance the interests of society. In fact, the panel concludes that his actions harmed members of the society through loss of the \$700,000.00 with the inability for them to seek recourse due to his taking steps to remove his name from any assets he owned to make himself judgement proof.

Society, and the individuals with which members interact, expect honesty, integrity and objectivity from a CGA, particularly in matters of finance. By his own admissions in the findings of fact, the member acted dishonestly, without integrity and without objectivity.

With respect to the allegation of breach of **R101 Discredit**, the panel concludes that clearly Mr. Samad's conduct is a discredit to the profession. The panel has arrived at this conclusion based on the unfavourable findings made by the court in an Ontario Superior Court of Justice proceeding as set out in paragraph 28 of the findings of fact, as follows: Mr. Samad was involved in a "Nigerian letter scam" and as a result of his actions, those he introduced to the scam lost \$700,000.00, he took steps to remove his name from any assets he owned to make himself judgement proof including removing his name from his one-third interest in the property, he entered into an oral contract for the purpose of defrauding creditors, his conduct was fraudulent, Mr. Samad was not credible or believable, his evidence was entirely unworthy of belief, and he did not come to court with clean hands. In the opinion of the panel these are all actions which clearly and without question are a discredit to the profession.

With respect to the allegation of breach of **R108 Conduct Unbecoming**, the panel concludes that the member engaged in misconduct of a reprehensible and serious nature which reflects on the member's honesty, integrity, and trustworthiness and is relevant to the person's suitability as a member of the profession. The member clearly acted without integrity. He was untrustworthy and dishonest. The panel has arrived at this conclusion based on the unfavourable findings made by the court in an Ontario Superior Court of Justice proceeding as set out in paragraph 28 of the findings of fact, as follows: Mr.

Samad was involved in a “Nigerian letter scam” and as a result of his actions, those he introduced to the scam lost \$700,000.00, he took steps to remove his name from any assets he owned to make himself judgement proof including removing his name from his one-third interest in property, he entered into an oral contract for the purpose of defrauding creditors, his conduct was fraudulent, Mr. Samad was not credible or believable, his evidence was entirely unworthy of belief, and he did not come to court with clean hands. In the opinion of the panel these facts describe actions and conduct which amount to misconduct of a reprehensible and serious nature which reflects on the member’s honesty, integrity, and trustworthiness and is relevant to the person’s suitability as a member of the profession. The relevancy of the misconduct is unquestionable.

With respect to the allegation of breach of **R401 Communication Issued in Connection with Financial Information**, the panel concludes that the member was the perpetrator of his own scheme to secure funds from unsuspecting individuals to support his own lifestyle. He produced misleading information to get people to trust him and deposit money in his bank account. He did not tell the truth. There is clear evidence that his victims were not advised that the solicitation of funds would be used to support his lifestyle. The panel points to the sophistication of the documents, specifically the promissory notes (Attachments in Exhibit #1), used by the member to instill trust of the “investors”.

The extent to which the member went to promote the scheme as legitimate, namely the shroud of being a registered professional and the documentation, namely the promissory notes which described the return on investment, and his portrayal as a person with special knowledge in the matter of finances all lead the panel to conclude that clearly the member has breached R401 Communication Issued in Connection with Financial Information – the member issued communications on a financial matter when the information was prepared in a manner that was misleading.

With respect to the allegation of breach of **R403 Known Omission**, the panel concludes that the member knew what he was doing and that he did not tell the “investors” the truth, otherwise they

would not deposit the money into his bank account. The panel concludes that this was well thought-out and deliberate. We point to the findings of fact in paragraphs 3 – 20 and the member's own admissions of his clear intent to omit information in paragraphs 21 and 22 of the findings of fact.

Mr. Samad led the complainant Kiran Dave to believe the funds he provided were for the investment opportunity. Mr. Samad never advised Mr. Dave that he could not have repaid him the agreed upon interest in the time frame promised in the promissory note or returned the principal funds as promised in the promissory note. This conduct was not an isolated act or event. There were five complainants, two other victims, and the member was continuing to solicit funds for his scheme as late as July 2009. The evidence is that the member's propensity for schemes for the solicitation of funds began as early as 2007. The number of victims and the continuous nature of the conduct led the panel to conclude that this was a deliberate scheme to trick "investors" into handing over significant sums of money which was not used for investment purposes but to support his own lifestyle. The member was able to raise \$45,000.00 in this manner. He did not pay back any moneys owed under the signed promissory notes. The conduct is deceitful, reprehensible and serious.

The relevancy of this deceitful conduct for a member of a profession with a certified general accounting designation is unquestionable. He was deceitful with respect to matters of money, funds and investments – areas in which members of the public expect certified general accountants to have the utmost integrity.

With respect to the allegation of breach of **R606(a) Detrimental Actions**, the panel concludes that the member engaged in conduct detrimental. He was the perpetrator of a scheme in which he received \$45,000.00 from unsuspecting individuals, none of which have been repaid. We point to the findings of fact in paragraphs 3 – 20 and the member's own admissions of his clear intent to omit information in paragraphs 21 and 22 of the findings of fact. The member used his special status as a registered professional to get people to trust him. He used this trust to convince a number of individuals to deposit

money into his personal account which by his own admission he used for his own purposes rather than as the investment opportunity which he pitched. Mr. Samad led the complainant Kiran Dave to believe the funds he provided were for the investment opportunity. Mr. Samad never advised Mr. Dave that he could not have repaid him the agreed upon interest in the time frame promised in the promissory note or returned the principal funds as promised in the promissory note. The sequence of events related to the "pitch" by the member and the transfer of funds to the member is set out in paragraphs 3 – 20 of the findings of fact. Mr. Samad as noted in the findings of fact at paragraphs 21 and 22 admits that, in the event he believed the funds were loans and not investments, he did not clearly advise the complainants that they were not participating in an investment, but were loaning money to him, and further the Member did not advise the complainants that he could or would use their funds as he saw fit, including to cover his personal expenses.

Members clearly have a duty to act with honesty and integrity particularly as it relates to financial matters, and the failure to do so is detrimental to the profession, seriously tainting the public perception of the profession, particularly with the significant number of affected parties – five complainants and two other victims - in this particular case. In addition, by his own admission at paragraph 26 of the findings of fact, the member continued to perpetrate the totally untrustworthy scheme as late as July 2009.

PENALTY SUBMISSIONS

In terms of penalty, counsel for the Discipline Committee submitted that the panel should make the following penalty order:

1. An order expelling Mr. Samad from membership in the Association and that Mr. Samad cannot use the CGA designation;

2. Publication of the decision in Statements and in local newspapers – Toronto Star and Globe and Mail;
3. An order that Mr. Samad pay a fine of \$2,500.00;
4. An order that Mr. Samad contribute toward the cost of the hearing in the amount of \$10,000.00.

Counsel for the Discipline Committee also requested that the panel should make the following interim order:

That Mr. Samad be suspended as a member of the Association and not be allowed to use the CGA designation effective immediately, pending release of the decision of the panel in the matter of the Hearing.

PENALTY DECISION

The panel deliberated and decided not to only accept the Discipline Committee's submissions in terms of penalty. Accordingly, the panel orders the following penalty:

1. Mr. Samad is expelled from membership in the Association and Mr. Samad is not allowed to use the CGA designation;
2. Mr. Samad shall return his professional certificates, both federal and provincial to the Association, immediately upon expulsion;
3. Publication of the decision in Statements and in the following newspapers – Toronto Sun, Toronto Star, Globe and Mail;
4. Mr. Samad pay a fine of \$2,500.00; and
5. Mr. Samad pay costs of the Hearing to the Certified General Accountants of Ontario in the amount of \$10,000.00.

The panel also made the following interim order:

The Professional Conduct Tribunal has considered the request for an immediate suspension. Pursuant to section 17 (c) of Article 9 of By-Law Four, the Professional Conduct Tribunal orders, effective immediately, the member, Shaun Samad, is suspended and shall not be allowed to use the CGA designation, pending release of the decision of the Tribunal in the matter of this Hearing.

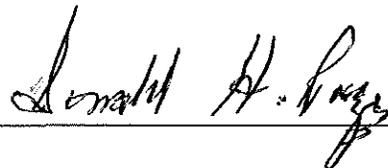
REASONS FOR PENALTY DECISION

Protection of the public and deterrence were foremost in the minds of the panel members when considering and deciding on the appropriate penalty. The findings of fact describe a member who took advantage of unsuspecting people to support his own lifestyle through misleading or omitted information and use of his status as a registered professional. The findings of fact set out the unfavourable findings made by the court in an Ontario Superior Court of Justice proceeding as follows: Mr. Samad was involved in a "Nigerian letter scam" and as a result of his actions, those he introduced to the scam lost \$700,000.00, he took steps to remove his name from any assets he owned to make himself judgement proof including removing his name from his one-third interest in the property, he entered into an oral contract for the purpose of defrauding creditors, his conduct was fraudulent, Mr. Samad was not credible or believable, his evidence was entirely unworthy of belief, and he did not come to court with clean hands. His presentation at the preliminary matters and his failure to remain at the Hearing led us to believe that he has no misgiving or appreciation for the grievousness of his conduct as admitted by him in the Request to Admit Facts and Documents. The panel wishes to note that the facts as admitted by the member are not isolated to a single act or even one individual; rather there were a number of individuals affected and the conduct was a string of actions occurring over an extended period of time. Anything short of expulsion along with the return of his certificates and broad

publication of the expulsion decision would allow him the opportunity to continue the offensive conduct and to be successful at perpetrating financial schemes for his own personal benefit at significant monetary loss to his "investors". The publication of the expulsion decision in two widely-read Toronto-area newspapers and one national newspaper is essential to, as much as possible, put the public on notice given the complaints which led to this Hearing were filed by individuals in Ontario and out-of-Province. The fine and required contribution to costs in the matter of this Hearing are meant to send a strong signal to both the member and other Association members to deter members who act in ways which put the integrity of the profession at risk through continuous dishonest conduct and use of their status as a registered professional to garner trust, combined with perpetrating financial schemes which take advantage of unsuspecting individuals to support personal lifestyles. The panel notes that counsel for the Discipline Committee provided three decisions – Allen, Hadjor, Stanleigh. These provided guidance to the panel in determining its penalty decision, and in particular supported the submissions in terms of penalty made by counsel for the Discipline Committee, all of which were accepted by the panel.

Dated this 23 day of JUNE, 2010

I, Donald H. Page, sign this Decision and Reasons for Decision as Chair of the panel of the Professional Conduct Tribunal on behalf of the members of the panel that heard this matter.



Donald H. Page

NOTICE

This decision of the Professional Conduct Tribunal may be appealed to an Appeal Tribunal within thirty (30) days of the sending of this decision.

The Notice of Appeal must be in writing, addressed to the Secretary 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 copies of the transcript of the hearing before the Professional Conduct Tribunal for the Appeal Tribunal (4 copies) and for the Respondent (1 copy).

According to Article 9 of By-Law Four, 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 invalid.