

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

IN THE MATTER OF a Complaint against Howard Silverberg, CGA

BETWEEN:

The Discipline Committee of The Certified General Accountants Association of Ontario

- and -

Howard Silverberg, CGA

DECISION OF THE PROFESSIONAL CONDUCT TRIBUNAL

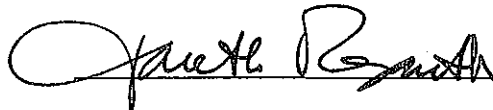
Members of the Professional Conduct Tribunal Panel:

Jonathan Ragnauth, CGA, Chair
Jack Cayne, CGA
Victoria Corbett, Public Representative

Pursuant to section 9, Article 9 of By-Law Four, the Professional Conduct Tribunal Panel has reviewed the revised Statement of Facts and Resolution proposed by the parties in this matter, signed by the Chair of the Discipline Committee, Shirley Tom, CGA on August 5, 2010 and signed by Howard Silverberg, CGA on August 9, 2010. The Professional Conduct Tribunal Panel has also reviewed its own decision dated July 18, 2010 along with the additional submissions by Ms. Jolley as contained in a letter dated August 11, 2010. The Professional Conduct Tribunal Panel accepts the attached proposal as set out by the parties. The attached proposal is hereby ratified.

Dated this 24 day of September, 2010

I, Jonathan Ragnauth, CGA, sign this Decision as Chair of the Panel of the Professional Conduct Tribunal on behalf of the members of the Panel who heard this matter.



Jonathan Ragnauth, CGA

STATEMENT OF FACTS AND RESOLUTION

A. AGREED UPON STATEMENT OF FACTS

1. From December 2009 until you were contacted by the Certified General Accountants Association of Ontario (the "Association") in May 2010, you operated a website, www.silverbergaccounting.com (the "Website").
2. On the Website, you advertised the following services to the public:
 - (a) Corporate tax Returns Federal & Provincial;
 - (b) Personal Tax Returns.
3. On the Website, you made the following representations to the public:
 - (a) "I provide accounting and tax services to small and mid-sized businesses, individuals and entrepreneurs.";
 - (b) "Howard Silverberg, C.G.A. is your one-stop accountant for all your personal or business needs.";
 - (c) "I provide a wide-range of services including financial statement preparation, notice to readers, corporate and personal taxation and tax planning, computerized accounting and bookkeeping, business consultations, as well as assisting in the incorporation.";
 - (d) "Along with your financial statements, I will prepare the necessary corporate tax returns and filings needed, both Federal and Provincial.";
 - (e) Tax Services –
 - a. "Corporate Tax Return Preparation and Planning - I will plan your corporate taxes to get what you owe down to a minimum, remaining within appropriate legal limits."
 - b. Personal Tax Return Preparation and Planning – I will prepare your personal tax return, along with your family member's tax returns ON TIME and will ensure that you are paying the minimum tax necessary by utilizing all available credits and deductions.";
 - (f) Accounting Services –
 - a. Financial Statement Preparation – Notice to Readers (that's accountant's terminology) for financial statements every active business in Ontario must prepare and file with their corporate tax

returns. The "Notice to Reader" part is a report attached to the statements by the accountant."

4. You noted in the representations on the website that you were a Certified General Accountant by using the CGA designation next to your name and by including the Association's logo on your website.
5. You also provided a linked page highlighting your professional experience at <http://ca.linkedin.com/pub/howrd-silverberg/3/964/9b4>. Your profile states as follows:

With over 25 years in the financial world, I have honed my corporate skills as the senior member of the financial team. Utilizing my skillset, I have been successfully able to transfer my vast knowledge of the business world to the entrepreneurial level handling the small business owner...doing everything from soup to nuts...accounting, bookkeeping, **corporate and personal taxes**, as well as business consultations, budgets and forecasts. (emphasis added)

6. You noted on the linked in profile that you are a member of the Association's 25 year club.
7. Under Experience, you noted the following:

Owner

Accounting & Bookkeeping Services

(Accounting industry)

September 2007 — Present (2 years 9 months)

Provider of business solutions for the small business owner including accounting, bookkeeping, payroll, **corporate and personal taxes**, business consultations, budgeting and forecasting. (emphasis added)

8. You did not change the linked in profile even after being contacted by the Association.
9. You are not registered with the Association in professional practice.
10. The Code defines a "professional practice" as "a proprietorship, partnership, limited liability partnership or professional corporation that provides professional services."
11. The Code further defines "professional services" as "any accounting, assurance, taxation services, management advisory or consulting services or other related services as may from time to time be recognized by the Association that is

performed or **offered to be performed** by a member for a client or employer, whether or not the member asserts membership in the Association.”

12. The *Code* further provides that a member must register if he is engaged in the practice of public accounting or the preparation of compilation engagements or tax returns part time or full time and shall maintain professional liability insurance as specified.
13. On the website, you purported to offer professional services to the public. By offering professional services, you were operating a professional practice, as defined by the Code.
11. Rule 514 of the Code requires a member engaged in a professional practice to register with the Association.
12. You did not register in professional practice with the Association.
13. You were not permitted by the Association to offer the professional services you were representing you could provide.
14. Rule 515 of the Code requires a member engaged in a professional practice to adhere to the practice inspection requirements of the Association.
15. You did not undergo a practice inspection with the Association because you did not appropriately register.
16. Rule 516 of the Code requires a member engaged in a professional practice to maintain professional liability insurance.
17. You did not maintain professional liability insurance.
18. You advised the Association when it contacted you concerning the Website that you did not prepare personal income tax returns for a fee, that you prepared approximately ten returns for friends and family for no fee and that you did not prepare corporate tax returns.
19. You advised the Association that while you occasionally prepared financial statements, you did not sign the statements and indicated that, for the most part, they were signed by your clients. If a client requires a signed Notice to Reader, you refer the matter to a non-designated firm.
20. You also advised the Association that you did not carry professional liability insurance.

B. AGREED UPON RESOLUTION

1. You recognize that it was contrary to the Code for you to represent that you could provide professional services when you were not registered with the Association to do so.
2. You agree that in offering professional services to the public through the Website, you were required to register in public practice and you did not do so.
3. You agree that in offering professional services to the public, you were required to comply with the Association's practice inspection program and you did not do so.
4. You agree that in offering professional services to the public, you were required to maintain professional liability insurance and you did not do so.
5. You agree that in suggesting to the public that you could offer professional services, you used advertising that was false or deceptive.
6. You agree that your conduct amounted to a violation of Rules 509, 514, 515 and 516 of the Code.
7. You accept a reprimand from the Association as a result of your breaches of the Code.
8. You accept a fine of \$2,500 as a result of your breaches of the Code.
9. You agree that within 10 days of your acceptance of this resolution, you will remove from your linked in profile any reference to personal and corporate tax preparation.
10. You understand that the committee is not seeking any costs payable from you. However, you understand that if you do not accept this resolution, the committee will be seeking costs, including the costs of a hearing before the Professional Conduct Tribunal.
11. You understand that, as required by By-Law Four, the terms of the resolution and the reprimand will be published in Statements.
12. You 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.

- 13. You further understand that if the committee and you 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.

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

Date of Offer:

Name:

2 June 2010

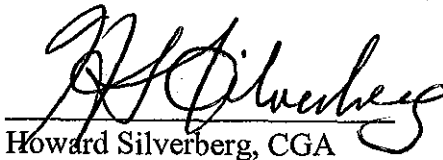


Shirley Tom, CGA
Chair, Discipline Committee

Date of Acceptance:

Name:

03 Jun 10


Howard Silverberg, CGA