

**THE CERTIFIED GENERAL ACCOUNTANTS  
ASSOCIATION OF ONTARIO**

**PROFESSIONAL CONDUCT TRIBUNAL**

**IN THE MATTER OF The Certified General Accountants  
Association of Ontario Act, 1983**

**AND IN THE MATTER OF a complaint concerning Mr. Clifford  
R. Smith , a member of the Certified General Accountants  
Association of Ontario**

**BETWEEN**

**THE DISCIPLINE COMMITTEE OF THE CERTIFIED GENERAL  
ACCOUNTANTS ASSOCIATION OF ONTARIO**

**- and -**

**CLIFFORD R. SMITH**

**MEMBERS OF THE TRIBUNAL:**

**Donald H. Page, FCSI, FCGA, Chair**

**John B. MacDonald, BA, CGA**

**Janice L. Paul, BA, CFP, CGA**

**COUNSEL:**

**Larry A. Banack for the Discipline Committee**

**Clifford R. Smith, representing himself**

**DECISION**

**This case involves a complaint against Clifford R. Smith, which the Discipline Committee of the Certified General Accountants Association of Ontario has referred to a Professional Conduct Tribunal. Mr. Smith and the Discipline Committee were sent notices of hearing on October 19, 1998 in regard to this case. In the notice, Mr. Smith is alleged to have violated Rules 216, 215, 208, 209, 210, 221, 306, 501 of the Certified General Accountants Association Code of Ethics and Rules of Professional Conduct; Rules 101, 102, 402, 403, 404, 601, 606 of the Certified General Accountant Association Code of Ethical Principles and Rules of Conduct;**

**Among other things, it is alleged that Mr. Smith violated these rules by:**

- 1. Between 1995 and October 1997 by misappropriating approximately \$30,200.00 for his personal use from a bank account of a Non-profit Association while acting as a voluntary treasurer, and**
- 2. Between mid 1996 and January 1998 by misappropriating \$80,957.00 for his personal use from a bank account of a Foundation while acting as a volunteer treasurer, and**
- 3. While holding the position of volunteer treasurer during both of these periods, prepared financial statements, cheques and other documents which contained false and misleading information and failed to disclose information and material discrepancies to disguise the funds that he had taken from the Non-profit Association and the Foundation bank accounts.**

**A hearing was held in this matter on October 23, 1998. Mr. Smith attended without counsel and had a full opportunity to present evidence and submissions.**

Both parties to the hearing had prepared an agreed written Statement of Facts. Counsel for the Discipline Committee reviewed the Statement of Facts identified as Exhibit #1 section #2. This review detailed the financial activities of Mr. Smith while he held his volunteer treasurer position with both the Association and the Foundation, his preparation of several false and misleading financial statements to both organizations and preparing and sending misleading explanatory letters to both the Association and the Foundation.

Evidence was then given by the North American Forensic Accountants & Fraud Investigators Inc., who had been retained by the Certified General Accountants Association of Ontario Discipline Committee. The report identified as Exhibit #2 was signed by Mr. Everett E. Colby, CGA, ALA, CFE who took the stand under oath and commented on various sections of his findings which confirmed and expanded on the agreed Statement of Facts. This report contained an agreed voluntary statement signed by Mr. Smith and dated May 15, 1998, Uxbridge, Ontario, Canada. Mr. Colby read this statement with initialed paragraphs and signed by Mr. Smith. Mr. Smith agreed that between 1995 and October 1997 he was responsible for accounting records, banking records, financial reporting and cheque writing. Between approximately 1995 and October 1997 he took money from the Association bank account which he was not entitled to. The approximate amount was \$30,200. He has repaid approximately \$5,200 so the amount owing is approximately \$25,000. He prepared financial statements which contained false and misleading information. The false information was prepared by him in an attempt to cover up the monies he had taken. At no time was he given permission or authorization to use the Association's money for his personal benefit.

Beginning in late 1996 into early 1998 he took the responsibility of acting as the volunteer Treasurer of the Foundation. During these fourteen months he wrote about 62 cheques totaling almost \$81,000 to his wife's business. His wife had no

knowledge of what he was doing. He was not entitled to any of these monies. He also prepared and presented false and misleading information to the Foundation in an attempt to conceal and cover up the amount of money taken.

The Chair asked Mr. Smith if he wished to cross examine Mr. Everett, and Mr. Smith declined. Mr. Everett was excused and this completed the evidence for the Discipline Committee.

The Chair invited Mr. Smith to take the stand under oath, which he did. Mr. Smith has been a certified general accountant since 1974 and has had a clear record during this period of employment. He told the tribunal that in 1990 he lost his job which he had held for almost 17 years. He was unable to obtain another job so he and his wife set up a business to supply office services such as photocopying and typing to small companies. The business was not successful and caused a personal cash flow need, and to maintain survival he transferred funds from the Association and the Foundation to his personal and family bank accounts. His wife and family were not aware of these false financial transactions. Mr. Smith tabled two letters - A letter handwritten by himself, dated October 1, 1998 addressed to the Association, identified as exhibit #3 and a letter hand written by himself dated September 1, 1998 addressed to the Foundation, identified as exhibit #4. Mr. Smith first commented on Exhibit #4 in which he denied any scheme for his actions against the Foundation "There was no plan here, no scheme based on selfish needs and wants -- simply desperation to survive" and pleaded for some understanding for the hardship he had been through with his family and financial needs.

Mr. Smith then reviewed sections of his letter addressed to the Association exhibit #3. Here he identified his weakness "For a time, under deep pressure, desperation to survive with my family, concerns for family health, depression and despair, -- I weakened." He continued to ask for understanding and again stated that there was

no plan or scheme to take these funds. He stated that it was still his intention to repay the funds taken in full.

After considering the evidence of the witness for the Disciplinary Committee and the evidence given by Mr. Smith, we did not find any disagreement by either party to the basic facts presented.

The CGAO Code of Ethics and Rules of Professional Conduct and Code of Ethical Principles and Rules of Conduct provide in part as follows:

**Rules 216 and 101- Discredit to the Association**

**Rules 215 and 102 - Unlawful Activity - Unlawful activity or activity contrary to the Code of Ethics of the Association**

**Rules 208 and 402- False or Misleading Communication -Preparation of false financial information or representation**

**Rules 209, 210, 403 and 404 Known Omission - Failure to disclose facts making information false or misleading**

**Rule 221 - Breach of Rules**

**Rules 306 and 606 - Detrimental Action to the Certified General Accountants Association and the profession**

**Rules 501 and 601 - Compliance - with by-laws, Code of Ethics and Rules of Professional Conduct**

Having carefully reviewed the evidence and rules in this case, we conclude that Mr. Clifford R. Smith violated Rules 215, 102, 216, 101, 208, 402, 209, 210, 403, 404, 221, 306, 606, 501 and 601 when he transferred monies from the bank accounts of the Association and the Foundation while he was volunteer treasurer for his personal use, when he prepared false and misleading financial reports and other documentation for both the Association and the Foundation while he was volunteer treasurer, when he failed to disclose information and mislead both the Association and the Foundation in his explanations for the shortage of funds, and when he betrayed the trust that the members of both the Association and the Foundation had placed in him.

In considering the appropriate disciplinary actions in this case, we have taken into account Mr. Smith's previous record, and his commitment to repay the funds taken from the Association and the Foundation. We also firmly noted the large amount of money involved with the Association and the Foundation and the vulnerability of these volunteer community groups from whom this money was taken. The seriousness of the conduct here is highly unacceptable especially in the interest and responsibility of a self regulated professional association and the importance of maintaining the public's confidence in the profession. The Association and the Foundation relied heavily on Mr. Smith's CGA designation in entrusting him with their financial affairs. It is most important to a self regulated professional accountants association that the public and other members know that this kind of conduct is absolutely unacceptable and is absolutely not tolerated, and the important uncertain possibility that he might weaken again in stressful circumstances duplicating this misappropriation of money and abusing client trust.

**WE DIRECT THAT:**

- 1. Mr. Clifford R Smith be expelled from the Certified General Accountants Association of Ontario.**
- 2. Mr. Clifford R. Smith establish a plan of financial restitution to fully compensate the Association and the Foundation.**
- 3. Mr. Clifford R. Smith immediately turn over all books and records to the Association and the Foundation.**
- 4. The publication of this decision of the Tribunal be published in the CGAO Statements.**
- 5. The CGAO accept the costs incurred for this investigation and hearing in order to assist Mr. Clifford R. Smith to make full restitution to the Association and the Foundation.**

**Dated at Toronto, this. 12th day of November 1998**



---

**Donald H. Page, Chair**

**On behalf of the Tribunal**

**NOTICE**

**The decision of a Professional Conduct Tribunal may be appealed to an Appeal Tribunal within sixty (60) days of the date of the written decision of the Professional Conduct Tribunal. The notice of appeal must be in writing, addressed to the Executive Director, Certified General Accountants Association of Ontario, 240 Eglinton Avenue East, Toronto, Ontario, M4P 1K8. The notice must contain the grounds for the appeal.**