

**THE CERTIFIED GENERAL ACCOUNTANTS  
ASSOCIATION OF ONTARIO**

**PROFESSIONAL CONDUCT TRIBUNAL**

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

**AND IN THE MATTER OF** complaints concerning Mr. Marc Wigle, a student in the  
program of professional studies of The Certified General Accountants of Ontario

**BETWEEN:**

THE DISCIPLINE COMMITTEE OF THE CERTIFIED GENERAL  
ACCOUNTANTS ASSOCIATION OF ONTARIO

AND

MARC WIGLE

**MEMBERS OF THE TRIBUNAL:**

Donald H. Page, FCSI, FCGA, Chair  
Gillian A. Andersen, CGA  
C. Maureen Green, CGA

**COUNSEL:**

Karen E. Jolley, for the Discipline Committee  
Cynthia Petersen, for the Professional Conduct Tribunal

This decision deals with two separate complaints against Mr. Wigle, which were heard together.

The initial Notice of Hearing, dated June 4, 2002, related only to the first complaint, in which the Discipline Committee alleges that Mr. Wigle violated Rules 610, 611 and 614 of the Certified General Accountants Association's Code of Ethical Principals and Rules of Conduct. The Rules are as follows:

**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.

**Rule 611 – Assistance to the Board**

A member shall, when required, comply with the request of the board or its committees in the exercise of their duties in the matters of the appropriate CGA Act, the By-Law or the *Code of Ethical Principles and Rules of Conduct*, and when required, produce any documents in the member's possession, custody or control, subject to Rules R201, R104.2 and R104.3.

**Rule 614 – Use of CGA Reference by Students**

Students shall not make any reference to the Certified General Accountants Association, its name or its designation, on stationery, business cards, business announcements, business directories, office signs or advertising.

In the June 4, 2002 Notice of Hearing, it is alleged that:

1. While being a student in CGA Ontario's program of professional studies, Mr. Wigle placed an advertisement in the November 7, 2001 publication called *The Equity*. In the advertisement, he described himself as "Accountant, CGA final year" and advertised that he was available to do personal and business income tax returns and bookkeeping.
2. By letter dated November 21, 2001, Mr. Wigle was informed that, as a student, he was not permitted to use the CGA designation in any manner. He was asked to confirm in writing that he would not use the CGA designation and he failed to respond to that letter.
3. In or about mid December 2001, Mr. Wigle placed another advertisement using the same language in the December 7<sup>th</sup> edition of the *Kanata Courier-Standard*.
4. By letter dated December 20, 2001, Mr. Wigle was informed that he was not entitled to use the CGA Designation. There was no response to this letter.

5. By letter dated December 21, 2001, CGA Ontario's legal counsel advised Mr. Wigle that CGA Ontario would take legal action in the event that he continue to use the CGA designation and refused to sign an undertaking not to use the initials "CGA" in future. Mr. Wigle failed to respond and failed to forward the requested undertaking.
6. On December 21, 2001, Mr. Wigle advertised again in the *Kanata Kourier-Standard* and on January 4, 2002, Mr. Wigle placed a third advertisement in the *Kanata Kourier-Standard* using the same language.
7. As a result of Mr. Wigle's failure to confirm that the advertising would cease, and failure to sign the related undertaking, Mr. Wigle was advised that CGA Ontario would commence a court application to obtain an order for an injunction restraining Mr. Wigle from using the designation CGA. A Court order was obtained with costs of \$1,200, which Mr. Wigle was ordered to pay.

The Notice of Hearing with respect to the second complaint is dated July 11, 2002. It alleges that Mr. Wigle violated Rules 610 and 611, cited above. Particulars of the second complaint are that Mr. Wigle allegedly failed to respond to the CGA "in a timely manner or at all" after the CGA wrote to him on May 7, 2002, advising him of a letter of complaint dated April 29, 2002, in which Ms. Cathy Dubreuil Mellon complained to the CGA about Mr. Wigle's conduct in connection with the preparation of her income tax returns and those of her husband.

As a preliminary matter, we note that the, during the course of our deliberations, the panel discovered that Rule 610 was misprinted in the two Notices of Hearing, such that the word "promptly" was omitted. At the hearing, however, it was clear that the Discipline Committee was accusing Mr. Wigle of failing to respond to the CGA in a timely fashion and we are

therefore confident that Mr. Wigle was aware of the nature of the accusations against him and understood the case he had to meet in his defence. Moreover, in response to a question from the panel, Mr. Wigle indicated at the hearing that the CGA had provided him with a copy of the Rules of Professional Conduct, so he had sufficient notice of his professional obligations. The error in printing in the Notices of Hearing therefore had no impact on our ultimate decision.

It should also be noted that the two complaints were originally scheduled to be heard together on July 25, 2002. On July 12, 2002, the Defendant requested an adjournment of the hearing until mid-August. After receiving and considering written submissions from the parties, the panel granted the adjournment and rescheduled the hearing to August 22, 2002, in order to accommodate Mr. Wigle's availability.

On the date of the hearing, the Panel delayed commencement of the hearing until 10:30 A.M. as the Defendant was not present. After efforts were made to confirm that no messages had been received from the Defendant to explain his absence or request a further adjournment, the hearing commenced in his absence. He later arrived, without counsel, at 10:45 A.M. He provided no explanation or apology to the Panel for his lateness.

The hearing proceeded with the Discipline Committee calling Ralph Palumbo, the CGA's Director of Government Relations and Legislative Affairs, as its only witness. Mr. Wigle testified on his own behalf and called no other witnesses. Mr. Wigle was advised of his right to cross-examine Mr. Palumbo, which he exercised. He was also warned, before taking an oath to give evidence, that he would be subject to cross-examination by counsel for the Discipline Committee, which also occurred.

#### ***Evidence - First Complaint***

Based on the evidence, the following facts in respect of the first complaint are not in dispute: Mr. Wigle placed advertisements in local newspapers, identifying himself as an

“ACCOUNTANT - CGA final year”. Mr. Palumbo, on behalf of the CGA, wrote letters to Mr. Wigle on November 21, 2001 (in respect of an advertisement in *The Equity*) and December 20, 2001 (in respect of an advertisement in the *Kanata Courier Standard*), advising Mr. Wigle not to advertise using the CGA designation while being a student and requesting written confirmation from Mr. Wigle that he would no longer advertise in this manner. Mr. Palumbo’s letters did not specify a deadline for responding to the CGA. Counsel for the Discipline Committee wrote to Mr. Wigle on December 21, 2001, reiterating Mr. Palumbo’s request for confirmation that Mr. Wigle cease advertising his services as a “CGA final year”, and also provided Mr. Wigle with a written undertaking (that he would not use the CGA designation) for his signature. In her letter, counsel advised Mr. Wigle that, if the requested confirmation and undertaking were not provided within two weeks, she was instructed to commence court proceedings to apply for an injunction and seek costs against him.

Mr. Wigle never signed the undertaking. However, he did write to Mr. Palumbo on December 29, 2001, a copy of which letter was produced at the hearing by Mr. Wigle. In cross-examination, Mr. Palumbo acknowledged that he had received the letter and also acknowledged that he had a subsequent exchange of email messages with Mr. Wigle, copies of which were also produced by Mr. Wigle at the hearing. There was also evidence that Mr. Wigle emailed counsel for the Discipline Committee on January 31, 2002.

In his December 29 letter to Mr. Palumbo, Mr. Wigle stated his opinion that he had “done nothing wrong”. However, he also indicated that he had asked the *Kanata Courier Standard* to remove his advertisement “as soon as possible”, which, he advised, would be the January 4, 2002 issue. At the hearing, Mr. Wigle testified that the advertisement had been pre-paid for a number of issues, which was why it was not altered immediately. Mr. Wigle testified that, by writing his December 29 letter to Palumbo, he believed that he had complied with the CGA’s requirement to provide written confirmation that he would not use the CGA

designation and he felt that signing the undertaking on the specific form was therefore unnecessary.

In the exchange of email messages that ensued in January 2002, Mr. Palumbo asked Mr. Wigle for a copy of the new advertisement placed in the *Kanata Courier Standard* and Mr. Wigle responded by giving him a "link" to the newspaper's website. At the same time, Mr. Wigle asserted his opinion that the By Law did not preclude him from advertising his services as a "CGA final year" and that his advertisement was not misleading to readers. He based his argument, in part, on the fact that a similar advertisement had been placed by another student in the *CGA Magazine*. In email correspondence, Mr. Palumbo requested a copy of that advertisement, and Mr. Wigle responded by telling him the issue of the magazine in which it had appeared.

A copy of the relevant advertisement was produced by Mr. Wigle at the hearing. Mr. Wigle testified that he had previously shown the advertisement to counsel for the Discipline Committee at an earlier court proceeding, which is discussed below. However, Mr. Palumbo testified that he had never seen the advertisement before the hearing, despite his request that Mr. Wigle provide him with a copy, and his testimony on that point was not disputed.

The advertisement in question states "CGA Level 4", which is similar to the advertisement placed by Mr. Wigle ("CGA final year"). Mr. Wigle argued that, if the *CGA Magazine* itself approved such an advertisement, then it must be acceptable to the Association. However, during cross-examination, he admitted that he had no information as to which province the student who had placed the advertisement resided or whether that province's association had commenced disciplinary proceedings against the student in response to the advertisement. Given the limited information available in respect of this advertisement, the panel finds that it is of no use to us in our deliberations.

Mr. Wigle's undisputed evidence at the hearing was that he did not renew his advertisement in *The Equity* and that he changed his advertisement in the *Kanata Courier Standard* to remove any reference to the CGA designation. He requested the change some time in late December 2001, but did not insist that it be made effective immediately, because he had already pre-paid the advertisement up to and including the January 4, 2002 issue of the newspaper.

Mr. Palumbo's undisputed evidence at the hearing was that the Discipline Committee commenced court proceedings and eventually obtained an injunction against Mr. Wigle on March 11, 2002, restraining him from using the CGA designation and ordering him to pay \$1,200 in costs. Mr. Palumbo testified that the Discipline Committee's actual costs in that proceeding were \$4,200. He also testified that Mr. Wigle attended the court proceeding and was notified that the Discipline Committee would attempt to recover the \$3,000 shortfall in costs at the hearing before this Professional Conduct Tribunal.

At our hearing, there was considerable evidence about difficulties that the Discipline Committee allegedly experienced in attempting to serve Mr. Wigle with notice of the court application. The evidence was disputed by Mr. Wigle, who denied any knowledge that a process server had been trying to contact him. The panel makes no findings with respect to these disputed facts because they are, in our view, irrelevant to the charges at issue.

Similarly, there was extensive evidence at the hearing about Mr. Wigle's non-compliance with a payment plan negotiated by him in respect of the \$1,200 costs ordered by the court. Those facts were, for the most part, not in dispute, but the panel finds, in any event, that they are not relevant to the charges at issue.

#### ***Evidence - Second Complaint***

The evidence with respect to the second complaint was largely undisputed. Mr. Palumbo wrote to Mr. Wigle on May 7, 2002, advising him of a letter of complaint that had been

received from Cathy and Greg Mellon, Mr. Wigle's clients. Included in the letter of complaint was a copy of an advertisement placed by Mr. Wigle in the March 20, 2002 issue of the *Aylmer Bulletin*. The advertisement was similar to those previously placed in the *The Equity* and *Kanata Courier Standard* ("ACCOUNTANT - Final Year CGA") and was clearly in contravention of the injunction ordered by the court less than two weeks earlier. Mr. Palumbo's letter requested that Mr. Wigle provide his "comments on the circumstances described in the letter of complaint, as well as the issue of the advertisement in the *Aylmer Bulletin*, by May 17, 2002." Mr. Palumbo also advised Mr. Wigle that failure to respond to the request might place him in violation of Rule 611.

Mr. Wigle explained at the hearing that his advertisement in the *Aylmer Bulletin* was cancelled after Mr. Palumbo called that newspaper and informed them of the injunction against Mr. Wigle, and the newspaper then telephoned Mr. Wigle to confirm. Mr. Wigle testified that he was out of town on an "urgent family matter" in the 10 days following the court proceeding and that he had pre-paid the *Aylmer Bulletin* advertisement for one year and had forgotten about it, which is why he had not contacted the newspaper to cancel it. The panel does not accept this explanation and finds that Mr. Wigle must of been aware of the publications in which he was placing advertisements. It is simply not credible that he would have forgotten about the *Aylmer Bulletin* advertisement in all of the circumstances of this case.

With respect to Mr. Palumbo's letter of May 7, 2002, the uncontradicted evidence at the hearing was that Mr. Wigle did not respond by the deadline of May 17, 2002. He did, however, respond to Mr. Palumbo by email on May 29, 2002, but he specified that his response was confidential and could not be shared with the complainants under any circumstances. The CGA gave Mr. Wigle an opportunity to revise his response so that it could be shared with the complainants, but he did not do so. He also refused to waive his confidentiality request. Consequently, by letter dated June 24, 2002, Mr. Palumbo advised Mr. Wigle that the Discipline Committee would not consider his response of May 29, 2002

and would treat the client complaint “as though there had been no response”. At the hearing, counsel for the Discipline Committee urged the panel to do the same and to find that Mr. Wigle had failed to respond to a request from the Association. The actual response that was sent by Mr. Wigle was never introduced in evidence at the hearing.

### ***Arguments***

Counsel for the Discipline Committee argued that Mr. Wigle had clearly violated Rule 614 of the By Law by using the CGA designation as a student, and by failing to cease doing so when he became aware of the CGA’s objection. She also argued that he violated Rules 610 and 611 by not responding to Mr. Palumbo’s letters in a timely fashion and, with respect to the client complaint, by responding only with the proviso that his response not be shared with the complainants. She asserted that Mr. Wigle was “ungovernable”, that he treated the Association contemptuously, and that he had demonstrated a complete disregard for the Association’s discipline process. Based on all of the above, she indicated that the Discipline Committee was seeking the following penalties:

- (1) That Mr. Wigle be expelled from the student program of studies of the Certified General Accountants Association of Ontario;
- (2) That Mr. Wigle pay costs of \$8,000, which include \$5,000 in costs for these proceedings and \$3,000 in costs related to the injunction proceedings, for which only partial costs were ordered by the court;
- (3) That Mr. Wigle pay a fine of \$1,000;
- (4) That the panel’s decision be published in CGAO Statements; and
- (5) That the panel’s decision be published in the following publications: *The Equity*, *Kanata Courier-Standard*, and *Aylmer Bulletin*.

Mr. Wigle argued that he had done nothing wrong. He asserted that his advertisements were not misleading and did not convey to readers that he had achieved the CGA designation. In any event, he noted that he altered his advertisement in the *Kanata Courier Standard* to remove any reference to the CGA and advised Mr. Palumbo accordingly on December 29,

2002. He claimed that the appearance of the advertisement in the January 4, 2002 issue of the *Kanata Courier Standard* and the March 20, 2002 issue of the *Aylmer Bulletin* were simply the result of his having pre-paid those advertisements and inadvertence on his part, in forgetting to cancel the latter advertisement after the court injunction was ordered. He argued that he responded to Mr. Palumbo's letters, albeit perhaps not as quickly as the CGA would have liked, and he provided the undertaking requested by the CGA, just not on the specific form that they drafted. He further argued that the fine and the costs requested by the Discipline Committee are excessive, that he does not have the financial means to pay those amounts, and that the publication of this panel's decision in the local newspapers would be "punitive" and unnecessary.

### ***Decision***

Based on all of the above, the panel finds that Mr. Wigle is guilty of breaching the Rules of Professional Conduct. Rule 614 clearly states that students "shall not make reference to the Certified General Accounts Association, its name or its designation, ...[in] business announcements ... or advertising." The advertisements placed by Mr. Wigle in three local newspapers were in contravention of this Rule, regardless of whether they actually misled any readers to believe that Mr. Wigle had achieved a CGA designation.

Rule 610 requires members to reply promptly to requests from the Association. Mr. Wigle did not respond to Mr. Palumbo's letter of November 21, 2001 until December 29, 2001, after two additional letters were sent to him (by Mr. Palumbo and Ms. Jolley). Although Mr. Palumbo's first letter did not specify a deadline for responding, we find that it was unreasonable for Mr. Wigle to take more than a month to reply. Moreover, he provided no explanation, either in his response or at the hearing, as to why it took him more than one month to answer Mr. Palumbo's letter.

With respect to Mr. Palumbo's letter of May 7, 2002, we find that the 10 day deadline for responding was not unreasonable, given the Association's previous dealings with Mr. Wigle.

When Mr. Wigle responded on May 29, almost two weeks after the deadline, he provided no explanation for the delay. We therefore find that this failure to respond in a timely fashion, without explanation, also breaches Rule 610.

With respect to the issue of the confidentiality of Mr. Wigle's May 29, 2002 letter, we find that Rules 610 and 611 were not breached by Mr. Wigle's initial request that the response be kept confidential, since Mr. Palumbo's initial letter to him did not indicate that he had to provide a response that could be shared with the complainants. However, when Mr. Wigle subsequently refused to modify his response such that a copy could be provided to the complaints, he then breached Rules 610 and 611, by failing to respond to a reasonable request from the Association.

Rule 611 requires members to produce to the Association, upon request, documents in their possession (subject to some confidentiality conditions). We find that Mr. Wigle also violated this Rule when he failed to provide Mr. Palumbo with a copy of the revised *Kanata Courier Standard* advertisement and a copy of the *CGA Magazine* advertisement. In both instances, he responded to Mr. Palumbo's requests essentially by directing Mr. Palumbo to find the advertisements himself. His responses were not in compliance with his professional obligations under Rule 611.

### **Penalty**

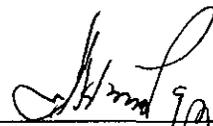
We accept the Discipline Committee's submission that Mr. Wigle has treated the Association contemptuously and has flaunted the Association's disciplinary process. However, we feel that expulsion is too severe a penalty for the conduct in question. Under the CGA's By Law Four, there is a range of penalties that we are authorized to impose and expulsion is the most severe. It should therefore be reserved for the most serious of professional conduct offences. While we do not treat Mr. Wigle's unprofessional conduct lightly, we are of the view that there are more serious offenses, such as fraud, which warrant the most serious disciplinary response, and that a more appropriate penalty in this case is a suspension.

We also find that we are without jurisdiction to order Mr. Wigle to pay costs in respect of the injunction court proceedings. The Court in that case made an order for partial payment of costs and it is not for us to supplement it in these proceedings. We have therefore discounted the Discipline Committee's costs by \$3,000.

In conclusion, we order that:

- (1) Mr. Wigle be suspended from the student program of studies of the Certified General Accountants Association of Ontario for one year and that his reinstatement thereafter be conditional upon his having paid the fine and costs awarded in these proceedings.
- (2) Mr. Wigle pay a fine of \$1,000.
- (3) This decision be published in CGAO Statements and in the following publications: *The Equity*, *Kanata Courier-Standard*, and *Aylmer Bulletin*.
- (4) Mr. Wigle pay costs in the amount of \$5,000.

Dated at Toronto, Ontario this 12<sup>th</sup> day of September, 2002



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 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 appeal.**

**The Certified General Accountants Association of Ontario  
Appeal Tribunal**

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

AND IN THE MATTER OF an appeal to the Certified General Accountants Association of Ontario Appeal Tribunal from a decision of the Professional Conduct Tribunal regarding complaints against Mark Wigle

Hearing date: June 17<sup>th</sup> 2003

Present:-

Members of the Tribunal:- John M. Parker FCGA, Chair  
D. Alan Jones FCGA  
Roseline Brennan CGA

Counsel: Karen Jolley, Lawyer for the Discipline Committee  
Cynthia Petersen, Lawyer for the Tribunal

Appellant Mark Wigle, representing himself

Court Reporter Network Court Reporting

For the Discipline Committee Ralph Palumbo, Director, Government Relations and  
Legislative Affairs CGAAO

**Particulars**

In accordance with Clause 12 of Article 9 of By-Law Four of the Certified General Accountants Association of Ontario, Mark Wigle has appealed the decision of the Professional Conduct Tribunal dated September 12<sup>th</sup> , 2002.

In that decision, the Professional Conduct Tribunal held that Mr. Wigle had violated Rules 610, 611 and 614 of the Association's *Code of Ethical Principals and Rules of Conduct*. The breach of Rule 614 was based on a finding that Mr. Wigle, while a student in the CGA Ontario's program, had placed advertisements in three publications describing himself as "CGA final year". As a result of the breaches of the Rules, the Professional Conduct Tribunal ordered that Mr. Wigle be suspended from the student program for one year, with conditions imposed upon his reinstatement; that he pay a fine of \$1,000; that he pay costs in the amount of \$5,000; and that its decision be published in the CGAO Statements and in the three publications in which Mr. Wigle had advertised.

In a letter of appeal dated December 29<sup>th</sup>, 2002, Mr. Wigle raised a number of issues that were of concern to him. A copy of his letter together with the Notice of Appeal was received by the Appeals Tribunal and marked as Exhibit 1.

Appeal Hearing - June 17<sup>th</sup> 2003 @ 1.00pm at the Network Reporting Office, Toronto.

At the beginning of the proceedings, the Chair of the Appeal Tribunal noted that according to Article 9 of By-Law Four, unless there are exceptional circumstances to justify admitting new evidence, the appeal hearing must proceed solely on the basis of the evidence and exhibits that were lead before the Professional Conduct Tribunal. Copies of the transcript of the Professional Conduct Tribunal's hearing and of the exhibits had not been provided to either the Appeal Tribunal or the Discipline Committee.

The Chair asked Mr. Wigle if he was aware that it was his responsibility as Appellant to provide copies of the transcripts and exhibits. Mr Wigle replied that he was aware but could not afford the cost.

Ms. Jolley argued that Mr. Wigle had been informed and reminded on a number of occasions that he had to provide the transcripts and he failed to do so, thus there was no evidence upon which his appeal could be allowed. She argued that the appeal should be dismissed and the hearing not continue.

The Tribunal decided that the hearing would continue. However, the Tribunal advised the parties that it might later decide, depending on the arguments presented, that transcripts were necessary, in which case the Tribunal would order and pay for the transcripts and assign the costs to one or both parties when it rendered its decision in the appeal.

At the outset of the hearing, the Chair asked whether there was any new evidence to be introduced by either the Appellant or the Discipline Committee that should be placed before the Tribunal so that the Tribunal could determine whether there were exceptional circumstances to warrant its admission.

The Discipline Committee had no new evidence to introduce. The Appellant, Mr Wigle sought to introduce new evidence concerning his assertion that he ought never to have been admitted to the CGAO student program because he resides in Quebec. He stated that he had evidence indicating that only permanent residents of Ontario are eligible for admission to the Ontario student program.

Ms. Jolley objected to the admission of this evidence on several grounds, including that it was not relevant. The Tribunal invited Mr. Wigle to make submissions about the relevance of the evidence. He argued that, had he known about the Ontario residency requirement, he never would have applied for admission to the Ontario student program and "this whole process" (meaning the disciplinary process) would never have started. After considering submissions from both parties, the Tribunal concluded that Mr. Wigle's new evidence was not relevant to the issues in the appeal and that it was therefore inadmissible.

The Tribunal then proceeded to hear submissions on the merits of the appeal. Mr. Wigle stated that he was basing his appeal on three grounds, namely:

Firstly, that two of the disputed advertisements that he placed were in publications published in the Province of Quebec and therefore should not be of concern to the CGA Ontario. Mr. Wigle argued that the Discipline Committee of CGA Ontario had no authority to discipline him for publications in Quebec.

Secondly, that he had advertised as a "CGA" (*without periods*), whereas the *CGAO Act* refers to "C.G.A." (*periods included*). The *Act* makes it an offence for a person who is not a registered member of the Association to use the designation "Certified General Accountant" or "C.G.A." Mr. Wigle claimed that by using "CGA" without periods, he had not violated the *Act*.

Thirdly, that the Association had not responded to him concerning an advertisement placed in the *CGA Magazine* by an unnamed party who had offered their services as a "CGA Level 4" (which was similar to the disputed advertisements placed by Mr. Wigle in a number of publications). Mr. Wigle had argued before the Professional Conduct Tribunal that if the *CGA Magazine* itself approved such an advertisement, then the words "CGA final year" must be acceptable to the Association.

In response, Ms Jolley argued on the first issue that the Association has jurisdiction over its members and student members regardless of where they conduct business and the fact that two of the publications were published in Quebec is therefore not relevant.

Concerning the use or non use of periods between the initials CGA, Ms Jolley stated that Rule 614 clearly states that students "shall not make any reference to the Certified General Accountants Association, its name or its designation", and that this prohibition on using the CGA designation is with or without periods.

On the issue of the advertisement in the *CGA magazine*, Ms Jolley argued that whether or not the magazine had mistakenly accepted an inappropriate advertisement from someone else did not in any way change the fact that Mr. Wigle's advertisements contravened the Rules of Conduct. In reply to this point, Mr. Wigle clarified that he was not arguing that he should be permitted to advertise as a CGA simply because another student had done so, but rather that there should be an investigation done by the Association regarding the other person who placed the ad in question.

### Findings

On the question of the two advertisements placed in a Quebec publication, the Tribunal notes that the preamble to the *Code of Ethical Principles and Rules of Conduct* states that the Code, adopted by the Board of Governors of CGAAO and appended to By-Law Four of the Association, applies when members perform services outside their own province or territory or even outside Canada. Therefore, the argument of the Appellant that the advertisements placed in the Quebec

publications are beyond the jurisdiction of CGA/OO is rejected. In any event, it is undisputed that at least one of the advertisements placed by Mr. Wigle was in an Ontario publication. This first ground of appeal is therefore dismissed.

On the issue concerning the use or non use of periods within the initials CGA, the Tribunal finds that whether periods were or were not used would not in any way change the meaning of the initials to anyone reading the advertisement. Moreover, the technical argument raised by Mr. Wigle relies on the provisions of the *CGA Act*, which was not at issue in the complaints against him. The Professional Conduct Tribunal did not find that Mr. Wigle had committed an offence under the *Act*, rather it found that Mr. Wigle had breached Rule 614. Rule 614 prohibits the use of the Certified General Accountant's designation, with or without periods. We uphold the finding of the Professional Conduct Tribunal in that regard.

On the issue concerning the placement of an advertisement in the *CGA magazine* by some other party, the Tribunal agrees with the findings of the Professional Conduct Tribunal, that it is not relevant to the issue of whether Mr Wigle violated Rules 610, 611, and 614. This ground of appeal is therefore also rejected.

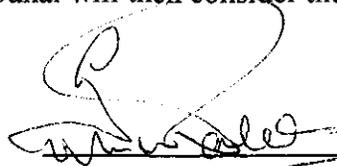
### Conclusion

The Appeal Tribunal finds no error in the decision of the Professional Conduct Tribunal dated September 12th 2002. For the reasons outlined above, Mr. Wigle's appeal is rejected.

It should be noted that the Tribunal did not deem it necessary to order a transcript of the hearing before the Professional Conduct Tribunal.

Pursuant to the agreement of the parties at the conclusion of the hearing on June 17, 2002, the Appeal Tribunal invites written submissions from both the Appellant and the Discipline Committee concerning the issue of costs in respect of this appeal. Submissions should be forwarded to the attention of Cynthia Petersen, counsel for the Tribunal, within seven (7) days of the date of this decision. The Tribunal will then consider the written submissions and make an award with respect to costs.

Dated July 11, 2003,

  
\_\_\_\_\_  
John Parker, FCGA  
Chair  
On behalf of the Tribunal

**The Certified General Accountants Association of Ontario  
Appeal Tribunal**

Assignment of Costs regarding the Appeal by Mark Wigle heard on June 17<sup>th</sup> 2003

The Appeals Tribunal has reviewed the submission of Mr Mark Wigle dated July 23<sup>rd</sup> 2003 and the submission of the discipline committee dated July 21<sup>st</sup> 2003.

The tribunal rules that each party be responsible for their own costs.

On behalf of the Appeals Tribunal

A handwritten signature in black ink, appearing to read 'John M. Parker', written over a horizontal line.

John M. Parker FCGA - Chair.

August 18<sup>th</sup> 2003