



CPA

CHARTERED
PROFESSIONAL
ACCOUNTANTS
ONTARIO

DISCIPLINE COMMITTEE - CPA ONTARIO

RE: ATUL MEHRA

EX: 1 FILED MAY 29 2017

AM

(The Chartered Accountants Act, 2010)

PROFESSIONAL CONDUCT COMMITTEE

**SETTLEMENT AGREEMENT
MAY 2017**

IN THE MATTER OF:

**The Professional Conduct
Committee Investigation
regarding Atul Mehra CPA,
CA (File No. 610778) a
member of CPA Ontario**

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO

IN THE MATTER OF

the Chartered Accountants Act, 2010

AND IN THE MATTER OF

Allegations against **ATUL MEHRA CPA, CA** a member of the Chartered Professional Accountants of Ontario ("CPAO") and the Institute of Chartered Accountants of Ontario ("ICAO")

SETTLEMENT AGREEMENT

made pursuant Section 34 (1)(c) of the Chartered Accountants Act, 2010, and to ICAO Regulation 7-1, s. 22.4

Background

1. Atul Mehra ("Mehra") has been a member of the Chartered Professional Accountants of Ontario ("CPAO") and Institute of Chartered Accountants of Ontario ("ICAO") since 1999. He obtained his Chartered Accountant ("CA") designation in Canada in 2003. In 2004, Mehra started his own private chartered accountancy practice and founded Mehra & Company Chartered Accountants. Mr. Mehra obtained his Certified Public Accountant ("CPA") designation in the United States of America in 2008. In 2007 Mehra co-founded and was appointed President and Managing Director of M & Co. Chartered Accountants Professional Corporation ("M & Co."), a full-service chartered accountancy firm with its head office in Toronto, Ontario, Canada. Mehra has recently participated in the Chartered Professional Accountants Canada In-depth Tax Course and Ethics for the Tax Practitioner Course.
2. Mehra's practice includes the preparation of financial statements, preparation of corporate and personal tax returns, advanced tax and estate planning services, corporate and shareholder advisory services in mergers and acquisitions,

corporate finance advisory and consulting services. His practice focuses on small- and-medium-sized enterprises with a specialization in the healthcare and dental industry. His practice also provided cross-border tax advisory for non-resident Canadians.

3. Since becoming a member in 1999 and prior to this matter, Mehra had not had a complaint filed against him or received allegations of professional misconduct. The Professional Conduct Committee ("PCC") has prepared two allegations of professional misconduct against Mehra as a result of a complaint filed by a former client of Mehra, Haigaz Nazarian ("Nazarian"). Those allegations are attached as Schedule "A" to this settlement agreement. The PCC and Mehra have agreed to proceed by way of settlement agreement pursuant to Rule 23 of the Rules of Practice and Procedure and Section 34 (1)(c) of the Chartered Accountants Act, 2010, and Regulation 7-1, s. 22.4.

Allegation 1

4. In November 2012 Mehra was introduced to Nazarian through Nazarian's US accountant, Mr. Aram Ananian, CPA (California).
5. In or about February 2013 Mehra was engaged to assist in the preparation and filing of Nazarian's 2012 Canadian Federal T1 tax. A formal engagement letter was signed April 30, 2013¹. In March 2013 Nazarian provided Mehra with his tax documentation. The fees charged for the professional services related to this engagement was \$500.
6. Nazarian's 2012 T1 tax return was to be filed with a Section 217 Income Tax Act ("ITA") election. A Section 217 election allows a non-resident Canadian to receive a preferential tax rate (i.e. 15%) on earned pension income rather than the tax rate previously withheld at source (i.e. 25%). To file a Section 217 election a taxpayer must have eligible (pension) income *and* the tax return must be filed within 6

¹ Tab 1 - Engagement letter dated April 30, 2013.

months after the year end in which the pension income was earned. Since the pension income for Nazarian was earned in 2012, his tax return had to be filed by no later than June 30, 2013 for the election to apply.

7. Nazarian's 2012 Canadian Federal T1 return was prepared by Mehra's office in April 2013 and sent to Nazarian by email on April 30, 2013². While Mehra believed that it had been mailed to CRA by his office on April 30, 2013 and so filed by his office, he has not been able to prove that it was and CRA did not receive it.
8. On July 11, 2013³ Mehra wrote to Nazarian by email enclosing again his 2012 tax return and asking him to review same and, if "...ok to file..." to sign and return and his office will file with CRA. Mehra advised Nazarian:

Please find attached 2012 Canadian Income Tax Return. Please review. If ok to file, please sign bottom of page #3 and page #8 and email or fax back to our office and we will file with CRA. We have highlighted the section to sign in yellow on the attached.

Please confirm your date of birth.

You are entitled to a refund of \$3,378.98.

The following form(s) should be signed and sent to the CRA, International Tax Services Office, Post Office Box 9769, Station T, Ottawa ON K1G 3Y4 no later than June 30, 2013.

T1013 - Authorizing or cancelling a representative;

T1 - Income tax and benefit return.

If you receive a notice of assessment which differs from the federal tax return as filed, please send it to us. We must determine if the assessment is correct before the time limit for an objection expires.

Please contact us if you have any questions about your tax return.

² Tab 2 - Email from Mehra to Nazarian dated April 30, 2013.

³ Tab 3 - Email correspondence dated July 11, 2013 between Mehra and Nazarian.

9. On August 2, 2013⁴ Mehra mailed Nazarian's T1 return to CRA. In or about March 2014 CRA assessed Nazarian's 2012 Canadian Federal T1 tax return and provided their Notice of Assessment⁵ dated March 13, 2014. The refund sought of \$3,379 was rejected since the NR4 prepared by Royal Bank of Canada on behalf of Nazarian did not make reference to the taxpayer's social insurance number and the T1 return was not filed on time. Consequently CRA determined there was no eligible pension income and the Section 217 election was filed after deadline (i.e. June 30, 2013). The Notice of Assessment noted:

A section 217 return must be filed by June 30, following the year in which you received the eligible income. Since your return was not filed by this date, we have disallowed your section 217 election.

10. Mehra agrees that, while engaged to assist in the preparation and filing of the 2012 Canadian Federal T1 tax return of Nazarian, he inadvertently failed to mail and file the 2012 Canadian Federal T1 tax return (and accordingly, an election on behalf of Nazarian under section 217 of the ITA) within the time set out in the ITA, namely, within six months of the end of the year in which income eligible for such election was earned, being June 30, 2013. As a result, Mehra agrees that he failed to perform his professional services with due care.

Allegation 2

11. When Mehra was made aware of the Notice of Assessment by CRA dated March 13, 2014 he agreed to file a Notice of Objection on behalf of Nazarian.
12. On June 10, 2014 Mehra sent to CRA a Notice of Objection, along with a Statement of Facts and Reasons that Mehra had prepared in support⁶.

⁴ Tab 4 - Email from Mehra to Nazarian dated August 2, 2013

⁵ Tab 5 - CRA Notice of Assessment dated March 13, 2014.

⁶ Tab 6 - Notice of Objection and Statement of Facts and Reasons filed by Mehra

13. The Statement of Facts and Reasons⁷ included the following recital of facts:

- *Our client Haigaz Nazarian, is an individual resident in USA.*
- *Our client filed his 2012 T1 personal income tax returns by its respective April 30, 2013 filing deadline.*
- *On March 13, 2014 the taxpayer received a Notice of Assessment for his 2012 taxation year.*
- *The 2012 NOA indicated that the tax return was not filed before the required June 30, 2013 filing deadline. As such the CRA denied his refund request.*
- *The taxpayer mailed his respective tax return to the CRA in April 2013.*
- *When the taxpayer did not receive his 2012 return NOA and related refund the taxpayer contacted the CRA. As the taxpayer tax return was being processed by the International Tax Services office the taxpayer was unable to get adequate information pertaining to the status of the return from the CRA.*
- *Ultimately the taxpayer re-sent the tax return to the CRA after a failure to receive an adequate response from the CRA as to the status or receipt of the return.*
- *Our client objects for such other facts and reasons as it or its counsel so advises.*

14. Mehra should have known that the assertion that the tax return of Nazarian had been filed by the April 30, 2013 filing deadline was false or misleading. Despite Mehra's belief that the return had been mailed to CRA by his office on April 30, 2013, there was not sufficient evidence to show that the return was filed until after it was mailed by Mehra's office on August 2, 2013. It is agreed, therefore, that Mehra should have known that the Notice of Objection and Statement of Facts and Reasons in support prepared by Mehra contained false or misleading statements with respect to when Mehra or his office had filed the tax return of Nazarian.

⁷ Tab 6 p.2603

15. On July 10, 2016 CRA responded to the Notice of Objection and it was rejected⁸ on the basis that the Federal Court of Appeal has ruled that no appeal can be taken from a notification that no tax is payable (nil assessment). Therefore, CRA could not consider the objection under the appeal provisions of the Income Tax Act.
16. In January of 2017 Mehra, acting on his own initiative, offered to pay to Nazarian the full amount of the tax refund that Nazarian believed was owing to him, in the amount of \$3,378.98, which has been accepted.

Terms of Settlement

17. Atul Mehra and the Professional Conduct Committee agree to the following terms of settlement:
- Mehra will pay a fine in the amount of \$5,000;
 - Mehra will pay costs in the amount of \$23,800;
 - One half of the fine and costs amounts will be paid within six months of the date of the Order of the Discipline Committee confirming the Settlement Agreement with the remaining one half to be paid within twelve months of the date of the Order.
 - In *addition* to meeting the annual requirement for professional development mandated by CPAO; Mehra will attend within eighteen months the following Professional Development courses (or their replacement) provided by CPA Canada:
 1. Professional ethics: Current challenges, underlying values (Part 1)
 2. Professional ethics: Current challenges, underlying values (Part 2)
 - In the event a professional development course is discontinued and not replaced by a similar course Mehra will arrange with the Director of

⁸ Tab 7 – CRA Letter of Rejection to Notice of Objection dated July 10, 2014.

Investigations and Prosecutions of CPA Ontario a suitable substitute course. If Mehra and the Director of Investigations and Prosecutions are unable to agree on a suitable substitute course the matter may be brought back by either party, upon reasonable notice being given to the other, to a Chair of the Discipline Committee sitting alone who will decide on the replacement course and provide a time within which it must be completed.

- Notice of the terms of the Settlement Agreement will be given to all Members of CPA Ontario, the Public Accountant's Council, CPA Canada and to all provincial Institutes.

18. A failure by Mehra to comply with any of the terms of settlement set out above, or to complete a substitute course within the time agreed upon or set by the Chair of the Discipline Committee, will result in his suspension from membership in CPA Ontario which suspension will continue for three months or until he complies. If his suspension under this section continues for more than three months Mehra will be expelled from membership with full publicity in accordance with Regulation 7-3(23).
19. Should the Discipline Committee accept this Settlement Agreement, Atul Mehra agrees to waive his right to a full hearing, judicial review or appeal of the matter subject to the Settlement Agreement. The allegations approved by the Professional Conduct Committee attached to this agreement shall be stayed.


If Settlement Agreement Not Approved

20. If, for any reason, this Settlement Agreement is not approved by the Discipline Committee, then;
 - a) This Settlement Agreement and its terms, including all settlement negotiations between the Professional Conduct Committee Atul Mehra leading up to its presentation to the Discipline Committee, shall be without prejudice to the Professional Conduct Committee and Atul Mehra;

- b) The Professional Conduct Committee and Atul Mehra shall be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the allegations, or negotiating a new Settlement Agreement, unaffected by this Settlement Agreement or the settlement negotiations;
- c) The terms of this Settlement Agreement will not be referred to in any subsequent proceeding, or disclosed to any person, except with the written consent of the Professional Conduct Committee and Atul Mehra or as may be required by law.

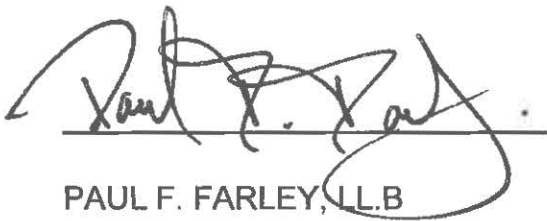
21. Any obligations of confidentiality shall terminate upon approval of the Settlement Agreement by the Discipline Committee.

All of which is agreed to for the purpose of this proceeding alone this 19th day of April, 2017.



ATUL MEHRA, CPA, CA

On his own behalf



PAUL F. FARLEY, LL.B

COUNSEL, On behalf of the

PROFESSIONAL CONDUCT COMMITTEE