



Chartered Professional Accountants of Ontario
 130 King Street West, Suite 3400
 PO Box 358, Toronto ON M5X 1E1
 T. 416.962.1841 F. 416.962.8900 Toll Free 1.800.387.0735
cpaontario.ca

Notice of Motion: Reconsideration

Name of moving party: Professional Conduct Committee of CPA Ontario
 Nisha Dhanoa, Counsel on behalf of the Professional
 Conduct Committee of CPAO

Name of responding party: Bernard Philip Isaacs, CPA, CA

This motion is to be heard:

- **in writing because it is made without notice;**
- in writing as an opposed motion;
- in the absence of the public under subrule 13.01(2);
- orally

Committee the motion is to be heard by:

- **Discipline**
- Appeals
- Capacity
- Admission & Registration

THE MOTION IS FOR (state here the precise relief sought):

1. In accordance with Rule 2.02, an Order dispensing with compliance in the following respects:
 - a. Dispensing with the requirement pursuant to section 26 of Regulation 6-2 that the Professional Conduct Committee ("PCC") shall be the respondent to a motion for reconsideration.
 - b. An Order directing that this motion be made without notice, thereby dispensing with the requirement that Mr. Isaacs be served with this Notice of Motion and other documents, further to Rule 13.04.
 - c. An Order directing that service of this Notice of Motion and other documents be deemed to be served on the effective date of the order made in respect of this motion, further to Rule 8.02(3).
 - d. An Order that this motion be heard in writing, thereby dispensing with the requirement of Rule 15.01 that this motion be heard orally.
2. An Order pursuant to section 28.3 of Regulation 6-2, directing that the Order of the Discipline Committee dated November 3, 1997 concerning Bernard Philip Isaacs, CPA,

CA, a retired member, be varied in part, such that paragraph 4(c) is set aside as no longer of any force or effect.

3. Such further and other relief as counsel for the PCC may request and as the Discipline Committee may permit.

THE GROUNDS FOR THE MOTION ARE (set out briefly the grounds to be argued, including a reference to any statutory provision or rule to be relied on):

1. On February 14, 1997, the Discipline Committee found that Mr. Isaacs committed professional misconduct.
2. Mr. Isaacs was found to have contravened Rule 204.1, 206 and 218 in respect of his audit of one client over a number of consecutive years. The Discipline Committee found that Mr. Isaacs' standards of practice had fallen below the acceptable level.
3. The Discipline Committee made an Order with respect to sanction on November 3, 1997 and released the Reasons for Decision in February 1998, referred to collectively as the "Order".
4. Mr. Isaacs was fined \$2,000 and ordered to complete five professional development courses.
5. It was also ordered that his accounting practice be supervised, until its next regularly scheduled inspection by the practice inspection committee. Mr. Isaacs does not hold a Public Accounting License ("PAL") and his practice has never been the subject of a practice inspection.
6. The Order included the following terms with respect to annual reporting:

4. THAT Mr. Isaacs be and he is hereby required to complete a period of supervised practice upon the following terms and conditions:

...

(c) Mr. Isaacs shall report annually to the professional conduct committee, within 30 days from the anniversary of the date this Decision and Order becomes final under the bylaws, either as to the files supervised during the preceding year by his supervisor, or as to the fact that he has not carried on an accounting practice during the preceding year;

...

6. THAT in the event Mr. Isaacs fails to comply with any of the requirements of paragraphs 2, 3 or 4 of this Order within the time periods therein specified, he shall thereupon be expelled from membership in the Institute, and notice of his expulsion, disclosing his name, shall be given in the manner specified in paragraph 5 hereof, and by publication in The Globe and Mail.

7. Pursuant to paragraph 6 of the Order, should Mr. Isaacs fail to report annually as to the

files supervised or as to the fact that he has not carried on an accounting practice within the timeframe specified in paragraph 4(c) of the Order (the "Reporting Requirement"), his membership shall be revoked, with full publicity.

8. Mr. Isaacs has reported annually to the PCC in accordance with the Order.
9. Mr. Isaacs has never been suspended or revoked for non-compliance with the terms of the Order.
10. Annual reporting letters provided by Mr. Isaacs in 2017, 2018, 2020, and 2021 state that Mr. Isaacs has not had any files for supervision.
11. Reconsiderations, as set out in Regulation 6-2, sections 24 to 29 (and previously in Rule 21 of the Rules of Practice and Procedure) did not exist at the time the Order was issued. Since the introduction of Reconsiderations, an adjudicative committee may reconsider any order in accordance with the test set out in the Rule.
12. Section 24 of Regulation 6-2 sets out the test and states:

24. The Discipline Committee may reconsider a decision or order made by a Panel of the Discipline Committee:

24.1 at any time after the fifth anniversary of the decision or order becoming final, if:

24.1.1 there has been a material change in circumstances that makes the decision or order, or a part of the decision or order, unnecessary;

24.1.2 there has been a material change in circumstances that obstructs or impedes the purpose and intent of the decision or order, or a part of the decision or order;

24.1.3 there has been a material change in circumstances that makes the decision or order, or a part of the decision or order, incapable of being reasonably complied with or fulfilled; or

24.1.4 the decision or order, or a part of the decision or order, is no longer legally valid or enforceable...

13. Section 24.1 of Regulation 6-2 is satisfied because more than five years have elapsed since the date of the Order.
14. Further to Section 24.1.1 and/or 24.1.2 of Regulation 6-2, there exists a material change in circumstances that renders the Reporting Requirement unnecessary and/or would impede the purpose and intent of the Order.
15. The following circumstances constitute a material change in circumstances that render the Reporting Requirement in paragraph 4(c) unnecessary:
 - a. Mr. Isaacs is retired and has been so since 2013;
 - b. Based on the annual reports provided by Mr. Isaacs in 2017, 2018, 2020, and 2021 which state that he has not had any files for supervision in at least those years, Mr. Isaacs does not appear to have engaged in the practice of public accounting in recent years, and it appears unlikely that he will do so in the future; and

- c. Mr. Isaacs has never been suspended or revoked for non-compliance with the Order and appears at this time to be a governable member of the profession.
16. Any failure on the part of Mr. Isaacs to adhere to the Reporting Requirement would ultimately result in revocation, which is likely to “impede the purpose and intent of the Order”, in that the public interest would not be served or protected by the revocation of Mr. Isaacs’ membership.
 17. Given the material change in circumstances, the PCC is satisfied that it is reasonable for the Discipline Committee to set aside the Reporting Requirement articulated in paragraph 4(c) of the Order.
 18. Mr. Isaacs’ annual reports in at least 2017, 2018, 2020, and 2021 suggests that varying the Order as requested would not contravene the public interest.
 19. The PCC seeks an order dispensing with the requirements of notice and service, the requirement for an oral hearing, and the requirement that the PCC be a responding party to a motion for reconsideration for the following reasons:
 - a. It is impractical to effect service of the Notice of Motion and other documents related to this Motion for Reconsideration because:
 - i. Mr. Isaacs does not appear to have an email address.
 - ii. Previous counsel for the PCC delivered draft reconsideration motion materials to Mr. Isaacs via courier, and he advised counsel that he was ill and could not deal with the matter.
 - b. The PCC seeks to relieve Mr. Isaacs of the Reporting Requirement under the Order, an outcome that is ultimately favorable to him and, as set out above, does not contravene the public interest.
 - c. Dispensing with compliance to these procedural requirements will facilitate administrative efficiency.
 20. In support of this motion the PCC relies upon section 24-27 and 28.3 of Regulation 6-2 and Rule 2.01, 2.02, 8.02(3), 9.01(7), 13.01 and 13.04 of the Rules of Practice and Procedure.
 21. Such further and other grounds as counsel for the PCC may advise and as the Discipline Committee may permit.

DOCUMENTARY EVIDENCE that will be used at the hearing of the motion: (list the affidavits or other documentary evidence to be relied on):

1. The Affidavit of Alison Alderson sworn December 3, 2021.
2. Such further and other evidence as counsel for the PCC may advise and as the Discipline Committee may permit.

December 3, 2021



Nisha Dhanoa

Counsel for the Professional Conduct
Committee of CPAO

TO: **Elizabeth Cowie**
Head, Adjudicative Tribunals
CPA Ontario
130 King Street West, Suite 3400
PO Box 358, Toronto On M5X 1E1