

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO
CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO ACT, 2017

DISCIPLINE COMMITTEE

IN THE MATTER OF: Allegations against **Bradley Jones, CPA, CA**, a member of the Chartered Professional Accountants of Ontario, under **Rule 201.1**, of the Chartered Professional Accountants of Ontario Code of Professional Conduct.

BETWEEN:

**Chartered Professional Accountants of Ontario
Professional Conduct Committee**

-and-

Bradley Jones

APPEARANCES:

For the Professional Conduct Committee: Kelvin Kucey, Counsel

For Mr. Jones: Self-Represented

Heard: November 26, 2021

Decision and Order effective: November 26, 2021

Release of written reasons: December 24, 2021

REASONS FOR THE DECISION AND ORDER MADE November 26, 2021

I. OVERVIEW

- [1] The Professional Conduct Committee of the Chartered Professional Accountants of Ontario (“PCC”) has alleged that Mr. Jones (“Jones”) engaged in professional misconduct, by contravening the *Securities Act*, R.S.O. 1990, c.S.5, as described in Reasons for Decision of the Ontario Securities Commission (“OSC”), dated January 15, 2020.
- [2] This hearing was held to determine whether the Allegations were established and whether the conduct breached Rule 201.1 of the CPA Ontario *Rules of*

Professional Conduct and Code of Professional Conduct.

- [3] Jones was the co-founder and significant shareholder of the corporation, MOAG Copper Gold Resources Inc. ("MCGR Inc.") At various times, Jones was a director, the CFO and the CEO of MCGR Inc.
- [4] MCGR Inc. was a company engaging in the exploration and evaluation of mineral properties. Until December 4, 2018, MCGR Inc. was a reporting issuer in Ontario, with its common shares listed on the Canadian Securities Exchange.
- [5] Jones' co-founder of MCGR Inc. was one Gary Brown ("Brown"). The OSC instituted proceedings against Brown, Jones and MCGR Inc. As a result of the events which led to the OSC proceedings, Jones and Brown suffered an irrevocable rift.
- [6] On January 15, 2020, a hearing panel of the OSC found that MCGR Inc. had violated a Cease Trade Order by issuing and selling US \$7.4 million of unsecured, convertible Debentures to 92 Taiwan residents in 140 transactions. The OSC hearing panel further found that Jones had acted in furtherance of MCGR Inc's improper trading and that he was in breach of the Cease Trade Order, thus contravening Ontario securities law.¹
- [7] On December 14, 2020, the OSC released its decision on sanction. The OSC imposed the following sanctions on Jones, Brown and MCGR Inc.:²
 - a. trading in any securities of MCGR Inc. cease permanently;
 - b. Brown and Jones be removed permanently from Ontario's capital markets;
 - c. Brown and Jones be required to disgorge US \$610,000, jointly and severally;
 - d. Jones be required to disgorge US \$2,968,187;
 - e. Brown and Jones pay administrative penalties of C \$200,000 and C \$400,000 respectively; and
 - f. Brown and Jones should be required to pay costs of C \$30,000 and C \$70,000, respectively.

II. The Complaint and the Allegations

- [8] The complaint was opened by CPA Ontario's Standards Enforcement staff on June 11, 2019.
- [9] The Notice of Allegations was issued on September 2, 2021, and contains one allegation of professional misconduct against Jones as follows:

¹ [MOAG Copper Gold Resources Inc \(Re\), 2020 ONSC 3](#)

² [MOAG Copper Gold Resources Inc \(Re\), 2020 ONSC 29](#)

THAT the said Bradley Jones, in or about the period October 13, 2015 through February 8, 2017, while a director and officer of and consultant to MCGR Inc., failed to maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1 of the Rules of Professional Conduct and the Code of Professional Conduct, in that he engaged in conduct that contravened the Securities Act, R.S.O. 1990, c.S.5, as described in the reasons and decision, and order of the Ontario Securities Commission, attached hereto as Schedules "A" and "B".

- [10] In proving the misconduct, the PCC relied on the Reasons for Decision of the OSC, dated January 15, 2020 and December 14, 2020 respectively. The PCC also tendered the Affidavit of Patricia Harris, affirmed November 17, 2021.
- [11] Jones called no evidence.

III. PRELIMINARY/POST-HEARING ISSUES

- [12] Neither party raised any preliminary issues at the outset of the hearing. There are, however, two issues that came to the attention of the Discipline Committee ("the Committee") which we address here. First, the Committee observed Jones behaving in an erratic fashion causing us to consider whether the behavior rose to the level of incapacity or unfitness to be a party to the hearing. Second, Jones asserted he had appealed the OSC decisions. If indeed he had, the Committee would have to consider whether it had jurisdiction to proceed pursuant to Rule 19.06 of the CPA Ontario *Rules of Practice and Procedure*.
- [13] During the hearing, Jones behaved in an erratic fashion. He kept his head down so the Committee could only see the top of his head. At one point he donned a toque and the Committee could only see the top of the toque. Jones often got up and left the hearing without seeking permission; and his answers to questions were often inappropriate. After the hearing had concluded, the Committee considered whether Jones was experiencing health issues such that he was incapacitated or unfit to be a party to this hearing.
- [14] The Committee ultimately concluded that there was insufficient evidence to conclude that Jones was incapacitated or unfit. Jones himself did not suggest he was incapacitated or unfit. He clearly understood the proceedings, and he made forceful submissions on a number of points. The Committee notes that its own observations of erratic behavior of a member during a hearing cannot take the place of medical evidence provided by a qualified physician.
- [15] At the hearing, Jones informed the Committee that he has appealed the OSC decision. This, however, contradicts his statement to the PCC on July 27, 2021,

that he has appealed neither the decision on finding, dated January 15, 2020, nor the decision on sanction, dated December 14, 2020. Pursuant to s. 9 (1) of the *Securities Act*, RSO 1990, c S.5, Jones had only 30 days to appeal the Commission's decision, meaning he would have had to file a notice of appeal to the Divisional Court on or about January 14, 2021. Jones did not file any material with the Committee to demonstrate he had overcome this hurdle and succeeded in filing a notice of appeal outside of the 30 day timeline. Jones did not provide the Committee with a notice of appeal or any other documentary evidence which would support his contention that he had appealed one or both of the OSC decisions.

- [16] In light of the above, there is no reliable evidence before us that Jones has filed a notice of appeal in the Divisional Court. As such we conclude we have jurisdiction to proceed pursuant to Rule 19.06 of the *Rules of Practice and Procedure*.

IV. ISSUES

- [17] The Committee identified the following issues arising from the Allegations:
- A. Did the evidence establish, on a balance of probabilities, the facts on which the Allegation by the PCC were based?
 - B. If the facts alleged by the PCC were established on the evidence on a balance of probabilities, did the Allegation constitute professional misconduct?

V. DECISION

- [18] The Committee found that the evidence established, on a balance of probabilities, the facts set out in the Allegation of professional misconduct.
- [19] The Committee was satisfied that the Allegation constituted a breach of Rule 201.1, of the CPA Ontario *Rules of Professional Conduct* and *Code of Professional Conduct* ("the *Code*") and that having breached this Rule, Jones committed professional misconduct.

V. REASONS FOR DECISION ON PROFESSIONAL MISCONDUCT

Findings Regarding the Conduct of Jones

[20] The findings of fact set out in the OSC decision are beyond dispute. The facts can be succinctly summarized as follows:

- On October 13, 2015, the OSC issued a temporary Cease Trade Order in respect of MCGR Inc.;
- On October 26, 2015, the Cease Trade Order was extended. It remains in effect to this day;
- Neither Jones, Brown nor MCGR Inc., contested the validity of the Cease Trade Order;
- From October 2015 to February 2017, while the Cease Trade Order was in effect, MCGR Inc., issued and sold, in 140 transactions, approximately US \$7.4 million of unsecured, convertible debentures to 92 Taiwan residents;
- Between October 13, 2015 and December 18, 2015, when Jones was a Director of MCGR Inc., Jones acted in a variety of ways to further the issuance and sale of US \$610,000 of New Debentures to seven investors for cash. Jones was aware that MCGR Inc., was in violation of the Cease Trade Order in issuing and selling these Debentures;
- Between December 19, 2015 and January 16, 2017, when Jones was a director and CEO and CFO of MCGR Inc., he acted in a variety of ways to further the issuance and sale of US \$3.8 million of Rolled Debentures to 39 holders of maturing debentures and US \$2.8 million of New Debentures to 64 investors. Jones was aware that MCGR Inc., was in violation of the Cease Trade Order in issuing and selling these Debentures;
- Between January 17, 2017 and February 10, 2017, when Jones was a consultant to MCGR Inc., he arranged for MCGR Inc., to issue and sell US \$210,000 of Debentures to two investors, he engaged in other trading activities in support of the issuance and sale of these Debentures, and he was aware that the trading was in violation of the Cease Trade Order.

[21] The consequences of Jones' conduct were dire; the investors lost all their funds.³

[22] In their reasons for decision on sanction, the OSC hearing panel made the following comments about Jones' conduct:

³ [MOAG Copper Gold Resources Inc \(Re\), 2020 ONSC 29 ¶ 66](#)

Jones has purported to be remorseful for his conduct and for the ensuing investor harm. However, he continues to attempt to rationalize his actions as having been in the best interest of [MCGR Inc.] and its investors. As a result, we cannot find that he is truly remorseful. A commitment to the survival of the company without regard to the consequences of his actions is no justification for a breach of Ontario securities law.

...

Jones does not dispute that the conduct sanctions sought by Staff are appropriate. Neither do we. As Jones has acknowledged, he repeatedly breached the Cease Trade Order over a 16-month period. His actions lead us to conclude that he cannot be trusted to participate in the capital markets in any way. His conduct demonstrates a serious risk to the public.⁴

Finding of Professional Misconduct

- [23] Under Rule 201.2 of the *Code*, there is a rebuttable presumption that a member has failed to maintain the good reputation of the profession and its ability serve the public interest when the member is the subject of a matter referred to in Rule 102.1. In the case of Jones, Rule 102.1 (d) would apply as Jones was found guilty by the OSC of violating the *Securities Act*. In this matter, there was no evidence led by Jones to rebut the presumption.
- [24] Similarly, Rule 19.06 of the *Rules of Practice and Procedure* of CPA Ontario provides that proof of a fact that a person has been found by another adjudicative body to have committed an offence is proof before this Committee, in the absence of evidence to the contrary, that the offence was committed. There was no evidence to the contrary presented to the Committee, and there was no credible evidence that the decision had been appealed.
- [25] The Committee concluded that the Allegation, having been proven on a balance of probabilities, through clear and cogent evidence, with no evidence to the contrary having been presented, and the presumption having not been rebutted, constituted a breach of Rule 201.1 of the *Code*.

⁴ [MOAG Copper Gold Resources \(Re\), 2020 ONSEC 29, ¶ 29 and 39](#)

VI. DECISION ON SANCTION

The PCC's Position on Sanction

[26] The sanction sought by counsel for the PCC can be summarized as follows:

- Written reprimand;
- Revocation of Membership in the CPA Ontario;
- \$100,000 fine;
- Publication of Decision and Order in *The Globe and Mail* and the *Stratford Beacon Herald*; and
- Costs to the CPA Ontario in the amount of \$4,000

[27] In support of the PCC's position on sanction, counsel for the PCC pointed to a number of decisions where the member had violated the *Securities Act* and had their CPA Ontario membership revoked.

[28] In *Horsley (Re)*⁵, the member was found guilty by the OSC of abdicating his responsibilities resulting in the making of materially misleading disclosure contrary to the *Securities Act*. The misleading disclosure contributed to the facilitation of a significant fraud. Horsley entered into a Settlement Agreement with the OSC and was found guilty of violating the provisions of the *Securities Act*. Horsley's membership in CPA Ontario was revoked.

[29] In *Prentice (Re)*⁶, the member was found guilty by the OSC of breaching the *Securities Act* in a variety of ways including the illegal trading of securities and making fraudulent misrepresentations to the public. Prentice's membership in CPA Ontario was revoked.

[30] In *Sanfelice (Re)*⁷, the member was found guilty by the OSC of being the directing mind, engaging in or participating in an act that he knew or ought reasonably to have known perpetrated three separate and distinct instances of fraud. Sanfelice's membership in CPA Ontario was revoked.

[31] With respect to the \$100,000 fine, counsel for the PCC pointed us to cases wherein the fines ranged from \$3,000 to \$100,000. Counsel for the PCC submitted that a \$100,000 fine was appropriate in this case due to the seriousness of the misconduct. The misconduct was perpetrated over a sixteen month period and the value of the Debentures sold in violation of the Cease Trade Order was US \$7.4 million. Moreover, Jones was well aware that he was violating Ontario securities

⁵ [*Horsley \(Re\)*, Reasons for Decision of the Discipline Committee, January 19, 2017](#)

⁶ [*Prentice \(Re\)*, Reasons for Decision of the Discipline Committee, August 20, 2019](#)

⁷ [*Sanfelice \(Re\)*, Reasons for Decision of the Discipline Committee, April 1, 2021](#)

law when he facilitated the sale of the Debentures. Counsel for the PCC submitted that the principle of general deterrence required a significant fine to be imposed.

[32] In addition, counsel for the PCC urged the Committee to make a finding that Jones is ungovernable. In support of this submission, counsel for the PCC highlighted the following facts:

- Jones knew his conduct was in violation of the OSC Cease Trade Orders, but he persisted in the conduct as he believed it was necessary for the financial health of the company;
- On July 27, 2021, Jones informed the PCC that he has not paid the fines assessed against him in the sanction decision of the OSC and has no intention of doing so;
- Jones informed the PCC that he continues to operate MCGR Inc., under a new name, Galway Properties Inc., and he will operate Galway Properties Inc., as he sees fit, regardless of the order of the OSC.

[33] Counsel for the PCC did not provide the Committee with any evidence suggesting that Jones was not prepared to abide by the rules and regulations of CPA Ontario, outside of the misconduct which led to this discipline hearing.

[34] Counsel for the PCC candidly acknowledged that Jones had participated in the CPA Ontario investigation and discipline processes. He attended at a meeting of the PCC on July 27, 2021, he attended at a Pre-Hearing Conference on November 17, 2021, and he attended at his hearing.

[35] The Committee asked counsel for the PCC if he could point the Committee to a decision of the CPA Ontario Tribunal wherein a member was found to be ungovernable due to their conduct vis-à-vis another regulator. Counsel for the PCC indicated he was not aware of any previous decisions where a member had been found to be ungovernable due to their conduct vis-à-vis another regulator. He submitted, however, that the Committee should send the message to the profession that a CPA is expected to abide by any government or regulatory authority they are engaged with.

Mr. Jones' Position on Sanction

[36] Jones made brief submissions on sanction. He stated he has been a member of CPA Ontario for 52 years, he is retired and is currently a lifetime member. He indicated he could not afford a \$100,000 fine because he is bankrupt. Aside from his submission that he is bankrupt, Jones did not provide the Committee with any evidence pertaining to his financial situation. When the Committee asked Jones if he had any documentation to provide in support of his bankruptcy, Jones advised

them they could contact one Steve Welker. The Committee explained to Jones that it was his responsibility to provide evidence in support of his submissions. He declined to do so.

Committee's Decision on Sanction

- [37] After considering the submissions of the parties, the Committee ordered a written reprimand, a \$100,000 fine, the revocation of Jones' membership, publication of the decision to all members and other provincial bodies and that the decision be available to the public. The Committee ordered Notice of the Decision and Order to be published in *The Globe and Mail* and the *Stratford Beacon Herald*. The Committee also ordered Jones to pay costs in the amount of \$4,000.
- [38] The Committee was not unanimous on the quantum of the fine. One member of the Committee, Hamid Farooq, would have ordered a fine in the amount of \$75,000. Mr. Farooq's dissenting reasons on the issue of the fine are set out in a sub-heading below.
- [39] Jones did not provide evidence in mitigation on sanction. The only mitigating factor on sanction was Jones' longstanding membership in CPA Ontario and its predecessors and the fact he has no discipline history. Jones showed no remorse for his conduct. To the contrary, he stated he denied the allegations and disputed their validity. He characterized the OSC as "a horrible aggressive organization" where lawyers and accountants who are unable to succeed "in the real world" go to rehabilitate their careers. While failure to express remorse is not an aggravating factor, in failing to demonstrate insight and remorse, Jones cannot gain the benefit of those factors in mitigation of his conduct.
- [40] The aggravating factors are the seriousness of the misconduct, the duration of the misconduct and the harm caused to the investors. Jones knowingly and deliberately violated a Cease Trade Order issued by the OSC. He did so repeatedly, over a period of sixteen months, involving a total of US \$7.4 million. The result of his misconduct was that the investors lost all of their funds. The only appropriate sanction in these circumstances is the revocation of Jones' membership in CPA Ontario. Jones' conduct undermines the good reputation of the profession and its ability to serve the public interest. The Committee must send a strong message to members of the profession that such conduct will not be tolerated and will attract the most severe of sanctions. Similarly, the Committee must send a strong message to members of the public that their continued confidence in CPA Ontario to govern the profession in the public interest is warranted. In the Committee's view, the only sanction which will achieve this goal is revocation.

- [41] The Committee is cognizant of the fact that a \$100,000 fine is at the upper end of fines imposed by the CPA Ontario Tribunal. The only other case in which a \$100,000 fine has been imposed is in *Fletcher (Re)*. In *Fletcher (Re)*, the Committee observed that the fine had to be substantial so as to reflect the Committee's condemnation of serious misconduct. As will be set out below, the Committee has declined to make a finding of ungovernability with respect to Jones. However, in persistently violating the Cease Trade Order, he behaved in a manner *vis-à-vis* the OSC which calls out for censure. The majority of the Committee is of the view that the imposition of a \$100,000 fine adequately conveys the profession's disapproval of Jones' repeated and deliberate misconduct.
- [42] Jones elected not to adduce any documentary evidence pertaining to his financial circumstances. He merely stated in submissions that he was bankrupt. Notwithstanding this less than satisfactory evidence, the Committee accepts that Jones may be experiencing some financial difficulty. In light of this, the Committee orders that Jones be given four years within which to pay the fine.
- [43] The Committee declines to make a finding of ungovernability against Jones. Although his conduct *vis-à-vis* the OSC could be characterized as a refusal to abide by the rules of that tribunal, we were unable to find that he is ungovernable with respect to CPA Ontario. In *Croucher (Re)* the Committee made a finding of ungovernability against Croucher for the following reasons:
14. This profession cannot afford Ms. Croucher. The essence of self-regulation is a sacrosanct contract between the regulator and the member that the member will abide by the regulator's oversight, guidance and correction. Once that contract is broken, there can be no self-regulation, and not only is the reputation of the profession brought low, but the public placed at risk. Ms. Croucher is ungovernable. She must be expelled.⁸
- [44] The Committee received no evidence that Jones has not conducted himself in a manner that suggests he will not abide by his own regulator's oversight. The evidence we received is that Jones participated in the discipline process by attending at a PCC meeting, a Pre-Hearing Conference and his own hearing. While participation in the discipline process does not necessarily preclude a finding of ungovernability, we are unable to rest such a finding on any evidence before us.

⁸ [*\(Croucher\) Re, Reasons of the Discipline Committee, October 9, 2008, ¶ 14*](#)

Dissenting Reasons on Quantum of Fine (Hamid Farooq)

- [45] Sanctions have a number of recognized purposes including: specific deterrence, general deterrence, and maintaining public confidence in the profession. In my view, harsh punishment gives the wrong message to the public as well as to the member. In this case, Jones was a member of CPA Ontario for 52 years, and is now a retired member. Jones has no prior discipline history.
- [46] Tribunal members owe a responsibility to an unrepresented party who is not a lawyer and not familiar with the rules of evidence or discipline proceedings in general. Jones pleaded to the Tribunal that he is a retired member and has very limited means of paying a heavy fine. PCC did not provide any evidence to rebut his plea.
- [47] PCC presented case law which supports a fine in the range of \$3000 to \$100,000. In the case of Mr. Joseph W. Fletcher, the member was fined \$100,000 for a direct breach of CPA Ontario Code of Professional Conduct.
- [48] Jones was already found in breach of the OSC rules by the Commission. He was ordered to pay a penalty, to disgorge a substantial sum, and to pay costs. In addition, he is of limited means. It is my view that in these circumstances, the Committee has an obligation to consider the cumulative effect of punishment on the member, and should impose a fine which reflects this consideration.
- [49] For the above reasons, a fine of \$75,000 is appropriate.

VII. COSTS

- [50] The law is settled that an order against a member for costs with respect to the disciplinary proceeding is not a penalty. Costs are intended to indemnify the PCC, based on the underlying principle that the profession as a whole should not bear all of the costs of the investigation, prosecution and hearing arising from the member's misconduct.
- [51] The PCC requested minimal costs in this matter amounting to \$4,000. Jones did not make submissions with respect to costs.
- [52] The Committee orders Jones to pay \$4,000 in costs and he shall be given four years to pay. The costs are due November 26, 2025.

Dated this 24th Day of December, 2021

A handwritten signature in black ink, appearing to read 'R. Adamkowski', enclosed within a large, loopy oval shape.

Randal Adamkowski, CPA, CA,
Chair of the Panel

Members of the Panel

Jeremy Cole, FCPA, FCA, CBV
Hamid Farooq, CPA, CGA, LLB
Catherine Kenwell, Public Representative

Independent Legal Counsel

Lisa Freeman, Barrister & Solicitor