

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

**DISCIPLINE COMMITTEE**

**IN THE MATTER OF:** An Allegation against **David S. Lazar, CPA, CA**, a member of the Chartered Professional Accountants of Ontario, under **Rule 104.2** of the CPA Ontario Code of Professional Conduct

**BETWEEN:**

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

**-and-**

**David S. Lazar**

**APPEARANCES:**

**For the Professional Conduct Committee:** Kelvin Kucey, Counsel

**For Mr. Lazar:** Kenneth Dekker, Counsel

Heard: March 28, 2022

Decision and Order effective: March 28, 2022

Release of written reasons: April 8, 2022

**REASONS FOR THE DECISION AND ORDER MADE MARCH 28, 2022**

**I. OVERVIEW**

[1] This hearing was held to determine whether Mr. Lazar had failed to cooperate with the regulatory process of the Chartered Professional Accountants of Ontario (CPA Ontario) by failing to reply promptly and in writing to written and voice mail communications from CPA Ontario and whether such conduct amounts to professional misconduct.

[2] Mr. Lazar obtained his CPA and CA designations in 1977.

[3] In July 2021, an officer of Standards Enforcement wrote to Mr. Lazar advising him

that the Director of Practice Inspection of the Practice Inspection Committee (PIC) of CPA Ontario had filed a complaint against Mr. Lazar. The complaint alleged that Mr. Lazar had failed to maintain professional standards and that the quality of his work on two review engagements reflected adversely upon his professional competence.

- [4] Mr. Lazar is alleged to have failed to promptly respond to two requests for written representations and two voice mail messages requesting that Mr. Lazar provide the requested written representations.
- [5] The onus was on the Professional Conduct Committee (PCC) to prove, on a balance of probabilities that Mr. Lazar's conduct breached Rule 104.2 of the CPA Ontario Code of Professional Conduct and amounted to professional misconduct.

## **II. THE COMPLAINT AND THE ALLEGATIONS**

- [6] On July 16, 2021, Andrea Fadel, CPA, CA, Standards Enforcement Officer wrote to Mr. Lazar advising him of a complaint made by the PIC and requesting that Mr. Lazar provide a written response to the issues raised in the complaint. Mr. Lazar was asked to provide his written response by August 6, 2021. This letter was uploaded to FileCloud, a secure file transfer location.
- [7] That same day, an email was sent to Mr. Lazar's email address of record with CPA Ontario advising him that a letter from Ms. Fadel had been uploaded. A link to the document was provided.
- [8] On July 17, 2021, the letter from Ms. Fadel was downloaded.
- [9] Mr. Lazar did not provide a written response by August 6, 2021.
- [10] On August 12, 2021, Ms. Fadel again wrote to Mr. Lazar requesting a response to her July 16, 2021 letter by August 26, 2021. Ms. Fadel also reminded Mr. Lazar of his obligation to cooperate under Rule 104 of the Code of Professional Conduct. This letter was uploaded to FileCloud.
- [11] On August 12, 2021, an email was again sent to Mr. Lazar's email address of record advising him that a letter from Ms. Fadel had been uploaded. A link to the document was provided.
- [12] Mr. Lazar did not provide a written response by the new August 26, 2021 deadline.

- [13] On or about September 20, 2021, a voice mail message was left by Jonathan Chan, Standards Enforcement Coordinator, for Mr. Lazar advising that Mr. Chan was following up on Ms. Fadel's letters and requesting that Mr. Lazar email his intentions as soon as possible regarding the requests for a written response.
- [14] Mr. Lazar did not respond to Mr. Chan's voice mail message.
- [15] On September 27, 2021, Mr. Chan again called Mr. Lazar, leaving a voice mail message advising Mr. Lazar that his response was required and requesting that Mr. Lazar email Mr. Chan as soon as possible advising of his intentions.
- [16] Mr. Lazar did not respond to Mr. Chan's voice mail message.
- [17] On November 23, 2021, the PCC filed Allegations of professional misconduct against Mr. Lazar.
- [18] By way of letter dated January 12, 2022, Mr. Lazar provided a written response to the practice inspection deficiencies, enclosing supporting documentation.

### **III. ISSUES**

- [19] The Panel was to determine whether:
- A. the evidence presented by the PCC, consisting of an Agreed Statement of Facts and accompanying Document Book, and admissions made by Mr. Lazar, established on a balance of probabilities, the facts on which the allegation made by the PCC was 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.

### **IV. DECISION**

- [20] The Panel found on a balance of probabilities that the evidence presented by the PCC and in the Agreed Statement of Facts and accompanying Document Book established the conduct upon which the Allegation that Mr. Lazar had failed to reply promptly and in writing to CPA Ontario was based.

- [21] The Panel was satisfied that the conduct alleged constituted a breach of Rule 104.2 of the CPA Code of Professional Conduct. Having breached this Rule, the Panel found that Mr. Lazar had committed professional misconduct.

## **V. REASONS FOR THE DECISION ON MISCONDUCT**

### ***Findings Regarding the Conduct of Mr. Lazar***

- [22] At the commencement of the hearing, the parties filed an Agreed Statement of Facts and a supporting Document Brief. Through the Agreed Statement of Facts, Mr. Lazar admitted the conduct alleged, dispensing the need for the PCC to call evidence and shortening the proceedings.
- [23] Based on the evidence before it, the Panel found that on July 6, 2021, the Director of Practice Inspection had filed a complaint on behalf of PIC against Mr. Lazar relating to two review engagements. The complaint alleged that Mr. Lazar had failed to maintain professional standards and that the quality of his work reflected adversely on his professional competence.
- [24] On July 16, 2021, Ms. Fadel, Standards Enforcement Officer with CPA Ontario wrote to Mr. Lazar, outlining the alleged professional standards deficiencies identified by the PIC. Ms. Fadel requested that Mr. Lazar provide a written response to the issues raised on or before August 6, 2021.
- [25] Ms. Fadel's July 16, 2021 letter was uploaded to FileCloud and an email was sent to Mr. Lazar's email address on record with CPA Ontario advising him of the uploaded correspondence. On July 17, 2021, the letter was downloaded.
- [26] Mr. Lazar did not provide a written response to the allegations by August 6, 2021.
- [27] On August 12, 2021, Ms. Fadel wrote a second letter to Mr. Lazar requesting a response to her July 16, 2021 letter. She reminded Mr. Lazar of his obligation to cooperate with the regulatory process pursuant to Rule 104 of the CPA Code of Professional Conduct. Ms. Fadel requested that Mr. Lazar provide his written response by August 26, 2021 reminding him that a failure to respond by the deadline provided would be referred to the Committee and could result in an allegation of professional misconduct.
- [28] On August 12, 2021 Ms. Fadel's second letter was uploaded to FileCloud and an email was sent to Mr. Lazar's email address on record advising him of the uploaded correspondence. That same day, Ms. Fadel's letter was downloaded.

- [29] Mr. Lazar did not provide a written response to the allegations by the August 26, 2021 deadline.
- [30] On September 20 and again on September 27, 2021, Jonathan Chan, Standards Enforcement Coordinator with CPA Ontario, left voice mail messages for Mr. Lazar advising Mr. Lazar of his need to respond as soon as possible advising of his intentions regarding the request for a written response to the complaint made against him.
- [31] By November 3, 2021, Mr. Lazar had provided no response to either Ms. Fadel's letters or to the voice mail messages which had been left for him.
- [32] On November 23, 2021, the PCC filed an Allegation of professional misconduct against Mr. Lazar.
- [33] On or about January 12, 2022, Mr. Lazar emailed a written response to the alleged deficiencies identified by PIC.

### ***Finding of Professional Misconduct***

- [34] In the Agreed Statement of Facts, Mr. Lazar admitted that the conduct described in the Agreed Statement of Facts establishes a breach of Rule 104 of the CPA Ontario's Code of Professional Conduct and that such a breach constitutes professional misconduct.
- [35] At the commencement of the hearing, Mr. Lazar verbally admitted that the allegations set out in the Agreed Statement of Facts constitute professional misconduct.
- [36] The onus was on the PCC to prove on a balance of probabilities that Mr. Lazar's conduct breached Rule 104 of CPA Ontario's Code of Professional Conduct and constituted professional misconduct.
- [37] Mr. Lazar was advised of the PIC complaint and was asked to provide a written response to the issues raised. He was provided with a deadline by which to provide his written response. Despite having received the request for a reply, Mr. Lazar did not provide his response. A second request for a written response was made and Mr. Lazar was reminded of his obligations to cooperate pursuant to Rule 104 of the Code of Professional Conduct. Mr. Lazar received the second request for a written response and again Mr. Lazar did not respond by the second deadline provided. Finally, two voice mail messages were left for Mr. Lazar requesting that he advise of his intention regarding the request for a written response to the

complaint.

[38] In light of the evidence set out in the Agreed Statement of Facts and supporting Document Book, as well as Mr. Lazar's admissions, the Panel concluded that Mr. Lazar had failed to cooperate with CPA Ontario's investigation into PIC's complaint and by doing so, concluded that he had engaged in professional misconduct, in that he breached Rule 104.2 of the Code of Professional Conduct.

[39] As noted in the *D'Orazio*<sup>1</sup> decision:

It is integral that members of this profession respond promptly and substantively to complaints and to communications from CPA Ontario in order to ensure proper governance of both this profession's members and its students. A failure to respond jeopardizes the collection of information required to address a complaint.

[40] In light of the evidence set out in the Agreed Statement of Facts and supporting Document Book, as well as Mr. Lazar's admissions, as found both in the Agreed Statement of Facts and as given at the commencement of the hearing, dispensed the need to provide a response. Mr. Lazar did not respond to the voice mail messages.

## **VI. DECISION AS TO SANCTION**

[41] The parties jointly submitted that the appropriate sanctions in this matter should include a written reprimand from the Chair of the Panel, as well as a fine in the amount of \$5,000 to be remitted to CPA Ontario by June 1, 2022. The parties jointly proposed that Notice of the Decision and Order, disclosing Mr. Lazar's name, be given in the form and manner determined by the Discipline Committee to all members of CPA Ontario, to all provincial bodies and shall be made available to the public. In the event that Mr. Lazar fails to comply with the terms of the Order, his membership in CPA Ontario shall be suspended until such time as he does comply, provided that he complies within 30 days from the date of his suspension. In the event Mr. Lazar does not comply within the 30-day period, his membership in CPA Ontario shall be revoked, and notice of the revocation, disclosing his name, shall be given in the manner specified above, and in a newspaper distributed in the geographic area of Mr. Lazar's practice.

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<sup>1</sup> D'Orazio (Re), February 5, 2020, paragraph 41

- [42] The parties advised that they did not oppose a condition that all costs associated with the publication of a notice of revocation, shall be borne by Mr. Lazar and shall be in addition to any other costs ordered by the Panel.
- [43] Mr. Lazar did not present any evidence in mitigation – other than the fact that he had provided a written response in January of this year. Mr. Lazar did not oppose any of the sanctions.
- [44] The PCC filed a Case Brief containing cases with similar allegations in which similar sanctions were imposed.
- [45] After considering the jointly proposed sanctions and reviewing the cases presented, the Panel accepted the joint submission and concluded that the appropriate sanction should include a written reprimand, a fine of \$5,000 payable by June 1, 2022 and an Order that Mr. Lazar comply with the terms of the Panel's order. The Panel also concluded that Notice of the Decision and Order should be given in the form and manner determined by the Discipline Committee.

## **VII. REASONS FOR THE DECISION ON SANCTION**

- [46] The Panel considered whether the sanctions proposed jointly by the parties fell within the range of reasonable sanctions for similar misconduct and whether the sanctions were contrary to the public interest.
- [47] In order for CPA Ontario to protect the public's interests, it is essential that members of CPA Ontario cooperate promptly and fully with investigations conducted by the regulator. A failure to do so will lead to serious consequences. While Mr. Lazar did ultimately provide a response, he did so only after proceedings were commenced against him. His response was provided almost 6 months after the Standards Enforcement Officer first contacted him. The delay in providing the written response requested of Mr. Lazar resulted not only in a delay in CPA Ontario's ability to regulate its members, but also resulted in the need to bring this hearing.
- [48] After considering the submissions of counsel and the Case Brief presented, the Panel concluded that the sanctions proposed address specific and general deterrence, and also act as a form of rehabilitation for the member.
- [49] The proposed sanctions are in keeping with the cases presented. While in the cases presented by the PCC, members were required to provide written

representations, such a condition was not requested. We have been advised that Mr. Lazar has already provided written representations. He retained counsel to represent him in this hearing and personally participated in this proceeding. We trust that Mr. Lazar will continue to promptly and fully cooperate with any further requests for information and/or documentation in relation to this matter.

### **VIII. COSTS**

- [50] The parties jointly submitted that costs to CPA Ontario be awarded in the amount of \$1,500 to be paid by June 1, 2022.
- [51] In light of the manner in which this proceeding was conducted and the fact that Mr. Lazar has cooperated by providing his written response in advance of this proceeding, the Panel finds that the costs award proposed is appropriate.

Dated this 8<sup>th</sup> day of April, 2022

A handwritten signature in black ink, appearing to read "Fahad Meer", with a horizontal line above and below the name.

Fahad Meer, CPA, CA  
Discipline Committee – Deputy Chair

#### Members of the Panel

Timothy Galvin, CPA, CA, CMA, LPA  
Jeremy Cole, FCPA, FCA  
Catherine Kenwell, Public Representative

#### Independent Legal Counsel

Nadia Liva, Barrister & Solicitor