



FOUNDED 1879

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

THE CHARTERED ACCOUNTANTS ACT 2010

TO: DEAN W. TITUS, CPA, CA

AND TO: The Discipline Committee of CPA Ontario

The Professional Conduct Committee of CPA Ontario hereby makes the following Allegations against Dean W. Titus, a member of CPA Ontario:

1. THAT the said Dean W. Titus, in or about the period February 20, 2015 to May 12, 2015, failed to co-operate with the regulatory process of CPA Ontario contrary to Rule 104.2(a) of the Rules of Professional Conduct of CPA Ontario, in that he failed to promptly reply in writing to communications from CPA Ontario to which a written reply is specifically required, namely letters dated January 21 and March 17, 2015, from Ms. Theresa Tonelli, CPA, CA, Director of Standards Enforcement at CPA Ontario.
2. THAT the said Dean W. Titus, in or about the period April 13, 2015 to May 12, 2015, failed to co-operate with the regulatory process of CPA Ontario contrary to Rule 104.2(a) of the Rules of Professional Conduct of CPA Ontario, in that he failed to promptly reply in writing to communications from CPA Ontario to which a written reply is specifically required, namely letters dated March 23 and April 15, 2015, from Ms. Theresa Tonelli, CPA, CA, Director of Standards Enforcement at CPA Ontario.

Dated at Toronto, this 8th day of September, 2015.

P.P. FARKAS, CPA, CA, CBV, CIRP, DEPUTY CHAIR
PROFESSIONAL CONDUCT COMMITTEE

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO
THE CHARTERED ACCOUNTANTS ACT, 2010

DISCIPLINE COMMITTEE

IN THE MATTER OF: Allegations against **DEAN W. TITUS, CPA, CA**, under **Rule 104.2(a)** of the Rules of Professional Conduct, as amended.

TO: Mr. Dean W. Titus, CPA, CA

AND TO: The Professional Conduct Committee

DECISION AND ORDER MADE AUGUST 24, 2016

DECISION

THAT having determined to proceed with the hearing in the absence of Mr. Titus, being satisfied that he had proper notice of the hearing, and having entered on his behalf a plea of not guilty to the Allegations, and having seen and considered the evidence, the Discipline Committee finds Dean William Titus guilty of the Allegation Nos. 1 and 2 of professional misconduct.

ORDER

IT IS ORDERED in respect of the Allegations:

1. THAT Mr. Titus be reprimanded in writing by the Chair of the hearing.
2. THAT Mr. Titus be and he is hereby fined the sum of \$3,500, to be remitted to the Chartered Professional Accountants of Ontario ("CPA Ontario") within ninety (90) days from the date this Decision and Order is made.
3. THAT Mr. Titus be and he is hereby required to cooperate with the Professional Conduct Committee by fully responding to the inquiries made of him in the letters dated January 21, 2015 and March 23, 2015 from the Director of Professional Standards Enforcement within twenty (20) days from the date this Decision and Order is made.
4. THAT notice of this Decision and Order, disclosing Mr. Titus' name, be given in the form and manner determined by the Discipline Committee:
 - a) to all members of CPA Ontario,
 - b) to all provincial bodies,and shall be made available to the public.
5. THAT in the event Mr. Titus fails to comply with the requirements of this Order, he shall be suspended from membership in CPA Ontario until such time as he does comply, provided that he complies within twenty (20) days from the date of his suspension. In the

event he does not comply within the twenty (20) day period, his membership in CPA Ontario shall thereupon be revoked, and notice of the revocation of his membership, disclosing his name, shall be given in the manner specified above, and in a newspaper distributed in the geographic area of Mr. Titus' practice or employment. All costs associated with this publication shall be borne by Mr. Titus and shall be in addition to any other costs ordered by the committee.

IT IS FURTHER ORDERED:

6. THAT Mr. Titus be and he is hereby charged costs fixed at \$3,000, to be remitted to CPA Ontario within ninety (90) days from the date this Decision and Order is made.

Dated at TORONTO this 26th day of AUGUST, 2016
by ORDER of the DISCIPLINE COMMITTEE



DIANE WILLIAMSON
ADJUDICATIVE TRIBUNALS SECRETARY

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO
(THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO)
THE CHARTERED ACCOUNTANTS ACT, 2010

DISCIPLINE COMMITTEE

IN THE MATTER OF: Allegations against **DEAN W. TITUS, CPA, CA**, under **Rule 104.2(a)** of the Rules of Professional Conduct, as amended.

TO: Mr. Dean W. Titus, CPA, CA

AND TO: The Professional Conduct Committee

REASONS
(Decision and Order made August 24, 2016)

1. This tribunal of the Discipline Committee met on August 24, 2016 to hear allegations of professional misconduct brought by the Professional Conduct Committee against Dean William Titus, a Member.
2. Ms. Melissa Gentili appeared on behalf of the Professional Conduct Committee (PCC). Mr. Titus was not represented by counsel and did not attend. Mr. Robert Peck attended the hearing as counsel to the Discipline Committee.

Proceeding in Mr. Titus' absence

3. Ms. Gentili filed the Affidavit of Service of the Allegations (Exhibit 1) that had been personally served on Mr. Titus by Mr. Mervyn Archdall, process server, on October 7, 2015. Mr. Titus had identified himself to Mr. Archdall.
4. Ms. Gentili filed email correspondence of October 14, 2015 to Mr. Titus (Exhibit 2), sent to the email address on record, communicating an amendment to Allegation No.1.
5. Ms. Gentili filed the Affidavit of Diane Williamson, Adjudicative Tribunals Secretary (Exhibit 3), sworn August 22, 2016. Ms. Williamson affirmed that the notice of hearing had been sent to Mr. Titus by email and mailed to the last known mailing address of Mr. Titus on July 5, 2016.
6. Ms. Gentili filed email correspondence from Mr. Titus received on August 23, 2016 (Exhibit 4) with an attached, undated letter. In the letter, Mr. Titus outlined reasons for his failure to respond to communications from CPA Ontario and while he provided some information on personal issues and professional background, Ms. Gentili advised that the information provided was not germane to the matter at hand.
7. Mr. Titus' letter did not indicate whether or not he would be in attendance at the hearing. However Ms. Gentili noted that the correspondence was sent from his email address of record

therefore providing confirmation that he had been made aware of the allegations and that a hearing was taking place today to hear those allegations.

8. In the letter dated August 23, 2016, Mr. Titus provided an address change. Ms. Gentili offered that the address change must be recent as Mr. Titus was served personally on October 7, 2015 with the allegations at the address on record, as supported by the Affidavit of Service of the Allegations.

9. Ms. Gentili filed a response to Mr. Titus' communication (Exhibit 5) dated August 23, 2016, confirming receipt of same and informing Mr. Titus that the proceedings would continue as scheduled.

10. The tribunal determined that Mr. Titus had received proper notice of the hearing and decided to proceed in his absence. In its determination, the tribunal considered all the information set out in the affidavits, including and in particular the letter Mr. Titus sent to Ms. Gentili on August 23, 2016.

11. The decision of the tribunal was made known at the conclusion of the hearing on August 24, 2016, and the written Decision and Order was sent to the parties on August 26, 2016. These reasons, given pursuant to Rule 20.04 of the Rules of Practice and Procedure, include the allegations, the decision, the order, and the reasons of the tribunal for its decision and order.

Allegations

12. The following allegations were made against Mr. Titus by the Professional Conduct Committee on September 8, 2015:

1. THAT the said Dean W. Titus, in or about the period February 20, 2015 to May 12, 2015, failed to co-operate with the regulatory process of CPA Ontario contrary to Rule 104.2(a) of the Rules of Professional Conduct of CPA Ontario, in that he failed to promptly reply in writing to communications from CPA Ontario to which a written reply is specifically required, namely letters dated January 21 and March 17, 2015, from Ms. Theresa Tonelli, CPA, CA, Director of Standards Enforcement at CPA Ontario.
2. THAT the said Dean W. Titus, in or about the period April 13, 2015 to May 12, 2015, failed to co-operate with the regulatory process of CPA Ontario contrary to Rule 104.2(a) of the Rules of Professional Conduct of CPA Ontario, in that he failed to promptly reply in writing to communications from CPA Ontario to which a written reply is specifically required, namely letters dated March 23 and April 15, 2015, from Ms. Theresa Tonelli, CPA, CA, Director of Standards Enforcement at CPA Ontario.

Plea

13. A plea of not guilty to the allegations was entered on Mr. Titus' behalf.

Submissions of the PCC

14. Ms. Gentili submitted that this is a case of failure to cooperate with the regulatory processes as required by Rule 104.2. The events leading up to the allegations are outlined in the Affidavit of Theresa M. Tonelli, CPA, CA, the Director of Professional Standards (Exhibit 6).

15. Ms. Tonelli had written to Mr. Titus on June 26, 2014 concerning information that had come to the attention of the PCC indicating that he may be providing accounting services to the public without registering a practice with CPA Ontario, maintaining the requisite professional liability insurance, and being subject to a practice inspection. Ms. Tonelli requested a written response on or before July 22, 2014.

16. The letter of June 26, 2014 was sent to Mr. Titus by regular and registered mail and cautioned him that failure to respond could result in allegations being made against him. The registered letter was signed for, and the copy sent by regular mail was not returned by Canada Post.

17. On July 25, 2014, Mr. Titus sent Ms. Tonelli an email from the email address on record with a letter dated July 12, 2014 addressed to Ms. Tonelli attached. In his letter, Mr. Titus provided his employment history from the period 1994-2010. However, Mr. Titus' letter did not address the specific questions in Ms. Tonelli's letter of June 26, 2014.

18. Ms. Tonelli wrote to Mr. Titus again on January 21, 2015 requesting additional information from him. The letter was sent by email to the email address on record.

19. In the absence of a response, Ms. Tonelli wrote to Mr. Titus again on March 17, 2015 enclosing the letter dated January 21, 2015, asking that his written reply be provided on or before April 9, 2015 and reminding him that failure to respond could result in a referral to PCC.

20. In the further absence of a response to the March 17, 2015 correspondence, Ms. Tonelli wrote to Mr. Titus again on April 15, 2015, enclosing the letters dated January 21 and March 17, 2015 and indicating that the matter would be forwarded to a subcommittee of the PCC for consideration.

21. Ms. Gentili stated that all correspondence was directed to Mr. Titus' addresses of record with CPA Ontario.

22. Ms. Gentili noted that while Mr. Titus sent a letter on August 23, 2016, the information provided was generalized and not germane to the matter at hand.

23. Ms. Gentili submitted that the evidence is clear, cogent and compelling that Mr. Titus had not provided any meaningful response to the inquiries of the letters, contrary to Rule 104.2, and he should be found guilty of the allegations of professional misconduct.

Decision

24. The tribunal found, on the uncontested evidence, that the allegations had been proven. After deliberating, the tribunal announced the following decision:

THAT having determined to proceed with the hearing in the absence of Mr. Titus, being satisfied that he had proper notice of the hearing, and having entered on his behalf a plea of not guilty to the Allegations, and having seen and considered the evidence, the Discipline Committee finds Dean William Titus guilty of the Allegation Nos. 1 and 2 of professional misconduct.

Reasons for Decision

25. The tribunal considered the evidence to be clear cogent and convincing. Further, the tribunal considered if there were mitigating circumstances sufficient to allow a not guilty finding and decided that there were none.

Sanction

26. Ms. Gentili, on behalf of the PCC, submitted that an appropriate sanction in this matter would be: a written reprimand from the chair of the tribunal; a fine in the amount of \$3,500; a direction to respond to Ms. Tonelli's letters dated January 21 and March 17, 2015 within 20 days, followed by suspension and then revocation if he does not cooperate, and the usual order with respect to publicity. The PCC also sought an order for costs of approximately two-thirds of the costs incurred.

27. The aggravating factors, Ms. Gentili stated, include the fact that two separate complaints have been received regarding Mr. Titus. Despite six letters sent via registered mail, email and regular post, he chose not to provide CPA Ontario with the requested information. Mr. Titus' failure to provide the information requested of him has wasted time and resources of the PCC and CPA Ontario staff and further he chose not to attend the hearing before the discipline tribunal. His actions, or lack thereof, have impeded the PCC from fulfilling its mandate.

28. Ms. Gentili submitted that mitigating factors are that Mr. Titus has never been before the Discipline Committee in the past, he had sent a reply acknowledging Ms. Tonelli's June 26, 2014 letter and he sent a letter on August 23, 2016 with an apology for not replying to CPA Ontario correspondence and requesting mercy and forgiveness.

29. Ms. Gentili stated that a reprimand addresses the professional misconduct of Mr. Titus and would act as a specific deterrent. The proposed fine would act as a general and specific deterrent to like-minded members and falls within the range of similar cases. Publicity is the key to general and specific deterrence.

30. Ms. Gentili stated that requiring a response to the letters would give Mr. Titus a further opportunity to respond to the complaint. If he chooses not to take this further chance to cooperate, then suspension and ultimately revocation would result, along with further publicity.

31. Ms. Gentili filed a Costs Outline (Exhibit 7) showing the costs to be just over \$7,200, of which the PCC was seeking approximately two-thirds. Ms. Gentili noted that the costs were based on a full-day hearing and left it up to the tribunal to reduce the amount if they felt this would be appropriate.

32. Ms. Gentili distributed an Authorities Brief containing similar cases under Rule 104.2(a). Ms. Gentili referred to the case brief containing the decisions regarding *Cooper, Zhu, Root, and Ross*, pointing out that the precedents contained a common theme of failure to cooperate with the regulatory processes of CPA Ontario.

Order

33. After deliberating, the tribunal made the following order:

IT IS ORDERED in respect of the Allegations:

1. THAT Mr. Titus be reprimanded in writing by the Chair of the hearing.
2. THAT Mr. Titus be and he is hereby fined the sum of \$3,500, to be remitted to the Chartered Professional Accountants of Ontario ("CPA Ontario") within ninety (90) days from the date this Decision and Order is made.
3. THAT Mr. Titus be and he is hereby required to cooperate with the Professional Conduct Committee by fully responding to the inquiries made of him in the letters dated January 21, 2015 and March 23, 2015 from the Director of Professional Standards Enforcement within twenty (20) days from the date this Decision and Order is made.
4. THAT notice of this Decision and Order, disclosing Mr. Titus' name, be given in the form and manner determined by the Discipline Committee:
 - a) to all members of CPA Ontario,
 - b) to all provincial bodies,and shall be made available to the public.
5. THAT in the event Mr. Titus fails to comply with the requirements of this Order, he shall be suspended from membership in CPA Ontario until such time as he does comply, provided that he complies within twenty (20) days from the date of his suspension. In the event he does not comply within the twenty (20) day period, his membership in CPA Ontario shall thereupon be revoked, and notice of the revocation of his membership, disclosing his name, shall be given in the manner specified above, and in a newspaper distributed in the geographic area of Mr. Titus' practice or employment. All costs associated with this publication shall be borne by Mr. Titus and shall be in addition to any other costs ordered by the committee.

IT IS FURTHER ORDERED:

6. THAT Mr. Titus be and he is hereby charged costs fixed at \$3,000, to be remitted to CPA Ontario within ninety (90) days from the date this Decision and Order is made.

Reasons for Sanctions

34. Mr. Titus did not attend the hearing and it is unclear if he is aware of the seriousness of his actions, or rather failure to act. It is important that we do everything reasonable to make this clear to him and a reprimand letter is one way to do this. In addition, a reprimand letter is an important tool available to the tribunal to help motivate the member towards rehabilitation.

35. The fine is considered by the tribunal to be commensurate with the seriousness of the proven allegations and consequently an effective specific and general deterrence.


36. Mr. Titus, as appears from his letter of August 23, 2016, seems to have a general sense that he is obliged to cooperate with CPA Ontario as regulatory authority, but he did not in that letter, or before or after the letter provide the information requested. Apparently he knows he should cooperate but he has not. Our order is to allow Mr. Titus one last opportunity to meet his professional obligation to cooperate with those charged with oversight of our members.

37. Publication is an essential element of achieving specific and general deterrence objectives.

Reasons for cost recovery order

38. The tribunal found the cost summary to present reasonable costs and considered it appropriate to order a recovery from the member of \$3,000.

Dated at Toronto this 21st day of December, 2016
By Order of the Discipline Committee



Randal Adamikowski, CPA, CA – Chair
Discipline Committee

Members of the Tribunal

Paul Busch, CPA, CA
Joel Emuan, CPA, CMA
R. Anthony Warner, Public Representative