

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: A proposed Settlement Agreement between the Professional Conduct Committee of the Chartered Professional Accountants of Ontario and **HAKIM BANDUK, CPA, CMA.**

TO: Mr. Hakim Banduk, CPA, CMA

AND TO: The Professional Conduct Committee

DECISION MADE AUGUST 10, 2020

DECISION

After considering the submissions of the parties and the proposed Settlement Agreement itself, the Panel hereby approves the Settlement Agreement, dated June 30, 2020.

DATED at Toronto, this 10th day of August, 2020.

A handwritten signature in black ink, appearing to read 'D. Handley', written in a cursive style.

David Handley
Discipline Committee



CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO

THE CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO ACT, 2017

IN THE MATTER OF: DRAFT ALLEGATIONS OF PROFESSIONAL MISCONDUCT
AGAINST HAKIM BANDUK, CPA, CMA, A MEMBER OF CPA
ONTARIO, BEFORE THE DISCIPLINE COMMITTEE

SETTLEMENT AGREEMENT

Made pursuant to Section 34 (3) (c) of the *Chartered Professional Accountants of Ontario Act, 2017* and to CPAO Regulation 6-2, s.19

Introduction

1. The Professional Conduct Committee (“PCC”) has approved draft Allegations of professional misconduct (the “Allegations”) against Hakim Banduk, CPA, CMA (“Banduk”) which are contained in the Document Brief at Tab 1.
2. The draft Allegations pertain to Banduk’s conduct in signing reports providing negative assurance without possessing a public accounting licence, a failure to perform professional services in accordance with generally accepted standards of practice for the profession, permitting a non-member to apply his signature to reports providing negative assurance, and submitting signed Continuous Waiver declarations to CPA Ontario that were false and misleading.
3. The documents referred to in this agreement are found in the Document Brief (“**Doc**”) the “doc” references refer to specific page numbers within the Document Brief. The applicable CPA Handbook sections are found in the Brief of Authorities (“**Tab**”).
4. The Professional Conduct Committee and Banduk agree with the facts and conclusions set out in this settlement agreement for the purpose of this proceeding only, and further agree that this agreement of facts and conclusions is without prejudice to Banduk in any



other proceeding of any kind, including, but without limiting the generality of the foregoing, any civil or other proceedings which may be brought by any other person, corporation, regulatory body or agency.

Background of the Member

5. Banduk obtained his CMA designation in 1985. He began his accounting career in industry and spent approximately 10 years as a corporate accountant and cost accounting manager.
6. He then joined the Bank of Montreal as a senior system analyst and spent about 5 years in that position.
7. In 1991 he joined CIBC as a costing specialist and remained there until 2014 when he retired. His retirement was due to knee surgery which was unsuccessful.
8. Subsequently he sought part-time work as a means to financially support him and his family. In 2015 he began working part time at a company called OK Tax Services. He worked there doing bookkeeping work until June 2019 when he became ill and was let go.
9. Banduk has never had a Public Accounting Licence (PAL).
10. Banduk has not completed any professional development courses since 2008 as he states he has been excused because of his health. Banduk states he has never had a copy of the CPA Canada Handbook and is unaware of its contents.

Background of the Complaint

11. Banduk came to the attention of the PCC as a result of an anonymous complaint that alleged that Banduk had issued a review engagement report without holding a PAL (**Doc 5**).

12. Mr. Paul Gibel, FCPA, FCA was appointed to investigate the complaint.

The Allegations

Allegation 1 – Performing Assurance Engagements without a PAL

Allegation 1 – Hakim Banduk, in or about the period January 1, 2015 through September 1, 2019, while engaged in the practice of public accounting, failed to maintain the 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 CPA Code of Professional Conduct, in that he signed reports providing negative assurance, including review engagement reports without possessing a public accounting licence as required by the Public Accounting Act, S.O. 2004, c.8.

13. Between 2014 and 2019, while working for OK Tax Services, Banduk issued approximately 10-15 account notes per year, and 3 review engagement reports per year.

14. An example of an Account Note was reviewed by the investigator (**Doc 6**). The report is not a standard review engagement report but does express negative assurance based on Banduk's review and references generally accepted accounting principles. There is a statement of receipts and disbursements and a balance sheet attached to the report but no notes (**Doc 7-8**).

15. Banduk explained the process to the investigator as follows: Banduk would be provided with the file by his boss and there would be a title on the file folder as to which type of report was to be issued. Banduk would have little to no contact with the clients and his boss would send the report to the client.

16. Banduk did not understand that a PAL is required for assurance engagements and he did not understand the significance of his signing the review engagement reports and account notes. In addition, he did not understand the difference between the type of report he was signing and it did not have any impact on the actual work he performed.
17. Accordingly, between 2015-2019, Banduk signed reports providing negative assurance, including review engagement reports, while he did not hold a public accounting licence.

Allegations 2 + 3 – Failure to perform professional services in accordance with generally accepted standards of practice for the profession

18. The investigator reviewed the two review engagement reports that were issued by Banduk in 2019. Banduk described the process in the following manner: Banduk would receive the records in a file, summarize them in an excel spreadsheet and prepare the financial statements in excel.
19. Banduk did not perform any analytical procedures. He completed the bookkeeping but not a review engagement.

Allegation 2 - THAT the said Hakim Banduk, in or about the period December 1, 2018 through August 15, 2019, while engaged to perform a review of the financial statements of “MJKC”, for the year ended December 31, 2018, failed to perform his professional services in accordance with generally accepted standards of practice for the profession, contrary to Rule 206.1 of the CPA Code of Professional Conduct in that:

20. The financial statements for MJKC for the year ended December 31, 2018, together with the Review Engagement Report, were signed by Banduk and issued on July 26, 2019
(Doc 9).

Particular a) He failed to obtain an engagement letter;

21. Banduk failed to obtain an engagement letter relating to the review engagement.

Particular b) He failed to conduct any discussions with the client;

22. Banduk failed to conduct any discussions with the client during the review engagement.

Particular c) He failed to perform analytical procedures;

23. Banduk was asked by the investigator to describe the procedures he performed. Banduk advised that he reconciled all of the accounts from the transactions reports on excel spreadsheets and looked at everything for the whole year. He did not perform any analytical procedures.

Particular d) He failed to prepare working papers to support the financial statements or the work he performed;

24. Banduk did not have a working paper file to support his work and did not complete any checklists.

25. His file consisted of an excel spreadsheet with a number of tabs. The main spreadsheet (**Doc 18-19**) shows the opening trial balance, the transactions for the year and income statement and balance sheet columns. The remaining tabs summarize the transactions for the year including the deposits, expenses and HST.

26. There is no support for most of the numbers in the spreadsheets, for example the ending accounts receivable balance is typed into the yearly transactions debit column but there is no accounts receivable listing included (**Doc 18**).

Particular e) He failed to ensure that his "Review Engagement Report" was in the form required by CSRE 2400;

27. The Review Engagement Report (**Doc 9**) is not in accordance with CSRE 2400 (**Tab 1**) which was effective for periods ending on or after December 14, 2017. In addition, there are a number of deficiencies including:

- a. It is on the client's letterhead;
- b. It refers to the statements as being reviewed and compiled; and
- c. The titles of the financial statements referenced in the report do not agree to the names of the actual statements (**Doc 9, 12, 13**).

28. There were a number of deficiencies with the financial statements including the following particulars:

Particular f) He failed to reference the notes to the financial statements;

29. The notes (**Doc 10-11**) are not referenced to the financial statements as required by section 1400.09 (**Tab 3**).

Particular g) He failed to disclose the cost, accumulated amortization and amortization method used for each major category of property, plant and equipment;

30. There is no disclosure of the cost, accumulated amortization and amortization method used, including the amortization period or rate for each major category of property, plant and equipment as required by section 3061.24 (**Tab 5**) and the amount of amortization charged to income for the period as required by section 3061.26 (**Tab 5**).

Particular h) He failed to ensure disclosure of the details of a long-term investment of \$101,883 shown on the balance sheet;

31. There is a long term investment of \$101,883 shown on the balance sheet but no disclosure as to what it is (**Doc 10**).

Particular i) He failed to include line descriptions of the revenue, contract costs and expenses included in the statement of income and retained earnings;

32. The statement of income and retained earnings shows the headings of revenue, contract costs and expenses, there are numbers under each of these but no line descriptions (**Doc 12**).

Particular j) He failed to include a \$20,000 dividend in the statement of retained earnings

33. There is a \$20,000 dividend shown as an expense when it should be included in the statement of retained earnings (**Doc 12**).

Particular k) He failed to record an income tax expense;

34. No income tax expense has been recorded even though the company shows \$61,289 of net income (**Doc 12**).

Particular l) He failed to accurately record in the statement of cash flows the amount of cash and cash equivalents at the beginning of the year and at the end of the year;

35. The cash at the beginning of the year does not equal the cash at the end of the previous year on the statement of cash flows, there are line items missing, for example dividends paid and the statement does not add correctly (**Doc 13**).

Particular m) He failed to disclose the reconciliation of the income tax rate or expense related to income to the statutory income tax rate or the dollar amount that would result from its application, including the nature and amount of each significant reconciling item;

36. There is no disclosure of a reconciliation of the income tax rate or expense related to income to the statutory income tax rate or the dollar amount that would result from its application, including the nature and amount of each significant reconciling item as required by section 3465.88(b) (**Tab 6**).

Particular n) He failed to ensure the disclosure of significant accounting policies in the notes to the financial statements with respect to investments.



37. There is no disclosure of the accounting policy for the investment included in the financial instruments accounting policy or elsewhere.

Allegation 3 - THAT the said Hakim Banduk, in or about the period December 1, 2018 through June 15, 2019, while engaged to perform a review of the financial statements of “NSI”, for the year ended December 31, 2018, failed to perform his professional services in accordance with generally accepted standards of practice for the profession, contrary to Rule 206.1 of the CPA Code of Professional Conduct in that:

38. The financial statements for NSI for the year ended December 31, 2018, together with the Review Engagement Report, were signed by Banduk and issued on May 31, 2019 (Doc 20).

Particular a) He failed to obtain an engagement letter;

39. Banduk failed to obtain an engagement letter in relation to the review engagement.

Particular b) He failed to conduct any discussions with the client;

40. Banduk failed to conduct any discussions with the client in relation to the review engagement.

Particular c) He failed to perform analytical procedures;

41. When asked to describe the work performed for this client Banduk stated that he prepared the financial statements from the client’s working papers and nothing else.

Particular d) He failed to prepare working papers to support the financial statements or the work he performed;

42. Banduk did not have any working papers to support the financial statements or the work he has performed. Banduk stated he only had what the client prepared and did not prepare any working papers of his own.

Particular e) He failed to ensure that his "Review Engagement Report" was in the form required by CSRE 2400;

43. The Review Engagement Report (**Doc 20**) is not in accordance with CSRE 2400 which was effective for periods ending on or after December 14, 2017 (**Tab 1**). In addition, there are a number of deficiencies including:
- a. It is not on a letter head; and
 - b. It does not contain any references to the accounting framework being used which in this case should be accounting standards for private enterprises (ASPE) (CSRE 2400.94(h)(ii) (**Tab 1**).

44. There are also a number of deficiencies with the financial statements including the following particulars:

Particular f) He failed to reference the notes to the financial statements;

45. Banduk failed to reference the notes to the financial statements (**Doc 21**) as required by section 1400.09 (**Tab 3**).

Particular g) He failed to ensure that the amount reported for the net book value of equipment was consistent between the notes and balance sheet amount;

46. Note 4 discloses equipment with a netbook value of \$70,943 (**Doc 24**). The balance sheet amount is \$461,732 (**Doc 21**). The cost and accumulated amortization amounts are also different.

Particular h) He failed to disclose the terms and related security of a bank line of credit/bank indebtedness of \$448,545 included in the balance sheet;

47. The balance sheet shows bank line of credit/bank indebtedness of \$448,545 (**Doc 21**) but the terms and any related security are not disclosed in note 8 (**Doc 24**) as required by section 3856.44 (**Tab 7**).

Particular i) He failed to correctly classify \$561,232 due to shareholders/directors as a current liability;

48. The amount due to shareholders/ directors of \$561,235 is shown as long term on the balance sheet (**Doc 21**). Note 5 discloses that it has no set terms of repayment and the shareholders have agreed not to demand repayment before December 31, 2019 (**Doc 24**). There is no evidence to support this being presented as long term instead of current.

Particular j) He failed to include a statement of cash flows;

49. A statement of cash flows has not been included as required by section 1000.04 (**Tab 2**).

Particular k) He failed to correctly identify the financial assets in the financial instruments accounting policy;

50. The financial instruments policy identifies financial assets measured at amortized cost including accounts payable and accrued liabilities and income taxes payable (**Doc 23**). These are not assets and accrued liabilities and income taxes payable are not financial instruments. The financial assets are cash and accounts receivable.

Particular l) He failed to record an income tax expense;

51. No income tax expense has been recorded even though the company shows \$163,721 of net income (**Doc 22**).

Particular m) He failed to ensure required disclosure of the carrying amount of classification of inventories appropriate to the entity and the amount of inventories recognized as an expense;

52. There is no disclosure of the carrying amount of classification of inventories appropriate to the entity and the amount of inventories recognized as an expense during the period as required by section 3031.35 (**Tab 4**).

Particular n) He failed to disclose a reconciliation of the income tax rate or expense related to income to the statutory income tax rate or the dollar amount that would result from its application including the nature and amount of each significant reconciling item;

53. There is no disclosure of a reconciliation of the income tax rate or expense related to income to the statutory income tax rate or the dollar amount that would result from its application, including the nature and amount of each significant reconciling item as required by section 3465.88(b) (**Tab 6**).

Particular o) He failed to disclose the interest rate of an interest-bearing amount due to shareholders.

54. Note 5 discloses that the amount due to shareholders is interest bearing but does not disclose the interest rate (**Doc 24**).

Allegation 4 - THAT the said Hakim Banduk, in or about the period January 1, 2015 through September 1, 2019 while engaged to perform review engagements and “Account Notes”, failed to conduct himself in a manner that will maintain the good reputation of the profession and its ability to serve the public interest in that he knowingly permitted a non-member “AO”, to apply Hakim Banduk’s signature to reports providing negative assurance, including review engagement reports without adequate review, contrary to Rule 201.1 of the Rules of Professional Conduct and the CPA Code of Professional Conduct.

55. During his employment at OK Tax Services, Banduk was supervised and took direction from the owner “AO”, a non-member.
56. The initial anonymous complaint included a review engagement report which appeared to be signed by Banduk.
57. When questioned by the investigator Banduk stated that it was not his signature on the report. He further explained that in circumstances where “AO” wanted to issue financial statements to clients and Banduk wasn’t present, “AO” would sign the report on his behalf.
58. Banduk did not understand the significance of the signatory on the review engagement reports and account notes that he was preparing. He did not think it was unusual that “AO” would sign his name on a report if Mr. Banduk was not available.

Allegation 5 - THAT the said Hakim Banduk, in or about the period April 1, 2018 through April 30, 2019, while working part-time in an accounting role, signed or associated himself with Continuous Waiver Declarations which he knew or should have known were false and misleading, contrary to Rule 205 of the Code of Professional Conduct in that he filed the Declarations with CPA Ontario representing that he had not returned to work, when in fact he was working part time in an accounting role.

59. Since 2011 Banduk has been subject to a Continuous Exemption which exempts him from CPA Ontario’s required annual membership dues and continuing professional development for medical reasons.
60. On April 12, 2018, Banduk signed a Continuous Exemption Declaration form which permitted the continuation of the exemption for fiscal 2018-2019. In signing the form Banduk declared that *“my medical circumstances have not changed and I have not returned to work” (Doc 26)*.
61. On April 25, 2019, Banduk signed a Continuous Exemption Declaration form which permitted the continuation of the exemption for fiscal 2019-2010. In signing the form

Banduk declared that “*my medical circumstances have not changed and I have not returned to work*” (**Doc 25**).

62. At the time that Mr. Banduk signed these forms he was working part-time in an accounting role at OK Tax Services and therefore the Continuous exemption declaration forms referenced above were false and misleading.

Mitigating Circumstances

63. Banduk has suffered from ongoing health issues for several years which has significantly impacted his ability to work. During his employment with OK Tax services he worked limited hours and was paid a minimal amount for his work. Mr. Banduk further states that some payments from OK Tax Services remain outstanding.

64. Consequently, Banduk states that his financial situation is dire, and he has provided information regarding his financial situation to the Professional Conduct Committee in support of the Settlement terms that are being sought.

Terms of Settlement

65. Mr. Banduk and the Professional Conduct Committee agree to the following Terms of Settlement:

- a. Revocation; and
- b. Publicity in accordance with Regulation 6-6, sections 45, 48, 50 and 52 as applicable, including newspaper publicity in the *Toronto Star*, with the costs of the publication to be borne by Banduk;

66. The Professional Conduct Committee and Banduk expressly consent and authorize the Registrar to take any actions associated with revocation of Banduk’s membership in CPA Ontario as prescribed and agreed to herein.



67. The Professional Conduct Committee and Banduk expressly authorize and consent to CPA Ontario:
- a. Providing notice of the terms of this Settlement to all CPA Ontario Members and all provincial CPA bodies; and
 - b. Publishing notice of the terms of this Settlement in a newspaper distributed in the geographic area that Mr. Banduk lives, i.e. the *Toronto Star*

Disclosure of Settlement Agreement

68. This Settlement Agreement and its terms will be treated as confidential by the Professional Conduct Committee and Banduk, until approved by the Discipline Committee, and forever if for any reason whatsoever this Settlement Agreement is not approved by the Discipline Committee, except with the written consent of the Professional Conduct Committee and Banduk, or, as may be required by law.

69. 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 30 day of June 2020.

A handwritten signature in blue ink that reads "Julia McNabb".

Julia McNabb, J.D.
On behalf of
The Professional Conduct Committee

A handwritten signature in blue ink that reads "Hakim Banduk".

Hakim Banduk,
on his own behalf