

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

**DISCIPLINE COMMITTEE**

**IN THE MATTER OF:** Allegations against **IMAD HASAN KUTUM, CPA, CA**, a member of the Institute, under **Rules 104.1, 201.1, 202, 204.1, 204.3, 205, 206.1 and 218** of the Rules of Professional Conduct, as amended.

**TO:** Mr. Imad H. Kutum

**AND TO:** The Professional Conduct Committee, ICAO

**REASONS**

**(Decision and Order made May 15, 2013)**

1. This tribunal of the Discipline Committee of the Institute of Chartered Accountants of Ontario met on May 15, 2013 to hear allegations of professional misconduct brought by the Professional Conduct Committee against Imad Hasan Kutum, a member of the Institute.

2. Ms. Alexandra Hersak appeared on behalf of the Professional Conduct Committee (PCC). Mr. Kutum was not represented by counsel and did not attend. Mr. Robert Peck attended the hearing as counsel to the Discipline Committee.

3. Ms. Hersak submitted that Mr. Kutum had been served with the Allegations and with the Notice of the Hearing. She filed an Affidavit of Service (Exhibit 1) wherein Mervyn Archdall, a process server, deposed in an affidavit sworn on December 18, 2012 that he had personally served the Allegations dated December 7, 2012 on Mr. Kutum. Ms. Hersak also filed an Affidavit of Service (Exhibit 2) wherein Mervyn Archdall deposed in an affidavit sworn on April 4, 2013 that he had personally served the Allegation dated April 2, 2013 on Mr. Kutum. Ms. Hersak also filed an affidavit (Exhibit 3) wherein Jennifer Hurley, coordinator, Discipline and Appeals, Standards Enforcement of the Institute of Chartered Accountants of Ontario, deposed that she had on April 26, 2013 sent Mr. Kutum by mail and email the Notice of Hearing to his addresses of record and that an email read receipt from Mr. Kutum's email address was received on April 27, 2013. Ms. Hersak advised the tribunal that Mr. Kutum had been sentenced by the courts to a penitentiary term prior to this hearing and currently seems to be incarcerated.

4. The tribunal determined that Mr. Kutum had received proper notice of the hearing and decided to proceed in his absence.

5. The decision of the tribunal was made known at the conclusion of the hearing on May 15, 2013, and the written Decision and Order sent to the parties on May 22, 2013. 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**

6. Eleven allegations were made against Mr. Kutum by the PCC on December 7, 2012. An additional allegation was made against Mr. Kutum by the PCC on April 2, 2013. It was agreed that the April 2, 2013 allegation be renumbered as Allegation No. 12 for ease of reference. The allegations read as follows:

1. THAT, the said Imad H. Kutum, on or about February 3, 2011, while engaged to audit the financial statements of "DCGL" for the year ended December 31, 2010, attached an Auditor's Report dated February 3, 2011 to the financial statements and signed and issued same when he knew or should have known that there was an influence, interest or relationship which impaired his professional judgment or objectivity or which would be seen by a reasonable observer to impair his professional judgment or objectivity, in that on December 23, 2011 he had , through his company "MSI," advanced \$40,000 to "DCGL" as a loan, contrary to Rule 204.1 of the Rules of Professional Conduct.
2. THAT, the said Imad H. Kutum, on or about November 2, 2010, while engaged in the practice of public accounting, attached Notice to Reader reports to the financial statements for "MSI" for the years ended December 31, 2008 and 2009, and for the nine months ended September 30, 2010, when he knew or should have known that there was an influence, interest or relationship which, in respect of the engagement, would be seen by a reasonable observer to impair his professional judgment or objectivity, in that he held a 100% interest in "MSI", and he did not disclose the interest in the Notice to Reader accompanying the financial statements, contrary to Rule 204.3 of the Rules of Professional Conduct.
3. THAT, the said Imad H. Kutum, on or about June 19, 2011, while engaged in the practice of public accounting, attached a Notice to Reader report to the financial statements for "HIC" for the year ended December 31, 2010, when he knew or should have known that there was an influence, interest or relationship which, in respect of the engagement, would be seen by a reasonable observer to impair his professional judgment or objectivity, in that he was a director of, and a signing authority for "HIC", and he did not disclose that influence, interest or relationship in the Notice to Reader accompanying the financial statements, contrary to Rule 204.3 of the Rules of Professional Conduct.
4. THAT the said Imad H. Kutum, in or about the period January 1, 2008 through October 31, 2009, while engaged to perform a review of the financial statements for "HIC" for the years ended December 31, 2007 and 2008, and for the nine months ended September 30, 2009, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule 206.1 of the Rules of Professional Conduct, in that:
  - a. each page of the financial statements is identified as "Audited," although a review opinion is attached;
  - b. he failed to ensure that his Review Engagement Report was in the form prescribed by the *CICA Handbook*;
  - c. there was no statement of cash flows presented;
  - d. although Note 6 indicates that the company did not provide additional information as to cash flows, there is no scope limitation in the Review Engagement Report;
  - e. the Balance Sheet item "Due to Shareholders (Note 4) 480,000" for the 2008 year end does not agree to the amount indicated as due to shareholders in Note 4;
  - f. the Balance Sheet item "Retained earnings 841,768" for the 2008 year end does not agree to the amount indicated as retained earnings on the Statement of Retained earnings;
  - g. he failed to properly disclose the retained earnings as at December 31, 2008 on the Statement of Retained Earnings for the 2009 year end; and



- e. the review of the financial statements of "HIC" for the year ended December 31, 2008;
  - f. the review of the financial statements of "HIC" for the nine months ended September 30, 2009;
  - g. the compilation of financial information of "HIC" as at December 31, 2010;
  - h. the audit of the financial statements of "DCGL" for the year ended December 31, 2009;
  - i. the review of the financial statements of "DCGL" for the ten months ended October 31, 2010;
  - j. the audit of the financial statements of "DCGL" for the year ended December 31, 2010;
  - k. the compilation of financial information of "DCGL" for the six months ended June 30, 2011
  - l. the review of the financial statements of "RAZI" for the year ended December 31, 2009; and
  - m. the compilation of financial information of "RAZI" for the year ended December 31, 2010.
9. THAT the said Imad H. Kutum, on or about March 5, 2010 signed and completed a Practice Inspection Program Planning Questionnaire and in so doing associated himself with statements which he knew or should have known were false or misleading, contrary to Rule 205 of the Rules of Professional Conduct in that he confirmed that the information provided therein, including the Client Listing, was accurate and complete when it did not include the following engagements:
- a. the review of the financial statements of "HIC" for the nine months ended September 30, 2009;
  - b. the audit of the financial statements of "DCGL" for the year ended December 31, 2009; and
  - c. the review of the financial statements of "RAZI" for the year ended December 31, 2009.
10. THAT the said Imad H. Kutum, on or about March 1, 2011 signed and completed a Practice Inspection Program Planning Questionnaire and in so doing associated himself with statements which he knew or should have known were false or misleading, contrary to Rule 205 of the Rules of Professional Conduct in that he confirmed that the information provided therein, including the Client Listing, was accurate and complete when it did not include the following engagements:
- a. the review of the financial statements of "DCGL" for the ten months ended October 31, 2010;
  - b. the compilation of financial information of "RAZI" for the year ended December 31, 2010; and
  - c. the audit of the financial statements of "DCGL" for the year ended December 31, 2010.
11. THAT having been personally served with a Notice to a Member to Attend Before the Professional Conduct Committee pursuant to Institute Regulation 7-01 s.18, the said Imad H. Kutum, on or about October 30, 2012, failed to co-operate with the regulatory process of the Institute contrary to Rule 104.1 of the Rules of Professional Conduct, in that he did not attend as required by the terms of the Notice, contrary to Rule 104.1 of the Rules of Professional Conduct.

12. THAT, the said Imad H. Kutum, on or about the 27th day of November, 2012, was convicted of the offence of fraud as set out in Schedule "A" attached, and did thereby fail to act in a manner which will 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.

#### **Plea**

7. A plea of not guilty to the allegations was entered on Mr. Kutum's behalf.

#### **The Case for the PCC**

8. In her opening statement Ms. Hersak advised the tribunal that the case for the PCC on Allegation Nos. 1 through 11 would be presented by way of the testimony of the investigator, Ms. Linda Robinson, who would refer to a document brief and an authorities brief, and that the case on Allegation No. 12, would be established by filing a certified copy of the relevant conviction of Mr. Kutum.

9. Ms. Hersak called Ms. Robinson as a witness and filed a Document Brief (Exhibit 4) which included documents relevant to the first 11 Allegations following the first 15 tabs. Ms. Hersak also filed an Authorities Brief (Exhibit 5). In her testimony Ms. Robinson dealt with Allegation Nos. 1 through 11, one after the other, and made reference to the relevant documents and to statements made to her by Mr. Kutum in the course of her investigation.

10. In presenting the case on Allegation No. 12, Ms. Hersak referred to the Certificate of Conviction of the Ontario Court of Justice (Exhibit 6) and the partial transcript of the proceedings in the court on November 27, 2012, copies of which are found after tabs 16 and 17 respectively of the Document Brief. No other evidence was called on behalf of the PCC.

11. Ms. Hersak submitted that the evidence was clear, cogent and convincing and proved the allegations made against Mr. Kutum. Ms. Hersak also submitted that under Rule 201.2, when a certificate of conviction is filed with the Discipline Committee, there is a rebuttable presumption that the member failed to maintain the good reputation of the profession and its ability to serve the public interest.

#### **The relevant facts**

12. The tribunal found the evidence clear, cogent and convincing. The tribunal accepted the evidence of Ms. Robinson, including her evidence of what Mr. Kutum told her during the investigation and her opinion evidence about the standards of the profession. The tribunal sets out the relevant facts as it finds them to be in paragraphs 13 to 24 below.

#### ***General Background***

13. In the investigation, Mr. Kutum advised Ms. Robinson that he had become a member by reciprocity in 2004 and had performed audit, review, tax and notice to reader work in his practice. Mr. Kutum said he had given up doing assurance work because of the practice inspection process. He also told Ms. Robinson he was winding down his practice, mainly doing tax work, and he was planning to teach on a full-time basis. Mr. Kutum had received a Ph.D. in audit methodology of non-big four firms through a UK correspondence program. Mr. Kutum said he was planning to teach either in the UK, Saudi Arabia or elsewhere in the Middle East.

#### ***Allegation No. 1 (Rule 204.1)***

14. Mr. Kutum, while engaged to audit the financial statements of DCGL for the year ended December 31, 2010, signed and issued an Auditor's Report. Through his company MSI, Mr. Kutum had advanced \$40,000 as a loan to DCGL, a sum significant to the financial position of the

company. During the investigation, Mr. Kutum stated that the loan had been made to DCGL before it became a client and that the bank was made aware of these matters.

*Allegation No. 2 (Rule 204.3)*

15. Mr. Kutum, who held a 100% interest in MSI, issued financial statements for MSI for the years ended December 31, 2008 and 2009, and for the nine months ended as at September 30, 2010, and attached Notice to Reader reports to those financial statements without disclosing his interest in MSI in the reports accompanying the statements. Mr. Kutum told Ms. Robinson that the Royal Bank of Canada, the complainant, knew of his interest in MSI.

*Allegation No. 3 (Rule 204.3)*

16. In November 2009, Mr. Kutum was appointed as a director for HIC to deal with matters on behalf of the company during the owner's absence from the country. As part of his duties, Mr. Kutum made *de facto* decisions and signed cheques for the company. Mr. Kutum attached a Notice to Reader report to the financial statements for HIC for the year ended December 31, 2010 without disclosing therein that he had been a director, had signing authority and in fact had signed certain cheques.

*Allegation No. 4 (Rule 206.1)*

17. The financial statements for HIC for the years ended December 31, 2007 and 2008, and the nine months ended September 30, 2009, contained many errors or omissions. The financial statements were marked "audited" although only a review had been performed. There were inconsistencies between the balance sheet item "Due to Shareholders" and the amount due to shareholders disclosed in the notes to the 2008 financial statements. There was no statement of cash flow presented. Further, the Review Engagement Reports contained numerous errors and had not been prepared in accordance with generally accepted reporting standards; including the fact that although the company had not provided additional information as to cash flows, as was disclosed in a note to the financial statements, the Review Engagement Reports were not amended to include a scope limitation.

*Allegation No. 5 (Rule 206.1)*

18. Mr. Kutum had performed a review of the financial statements of RAZI for the year ended December 31, 2009. There was no statement of cash flow presented and although the company had not provided additional information as to cash flows, according to the note, there was no scope limitation included in the Review Engagement Report.

*Allegation No. 6 (Rule 202)*

19. During the investigation, Mr. Kutum had advised Ms. Robinson he was unable to describe the consulting services performed by DCGL even though consulting services were a significant revenue stream for the company. The comparative figures for 2009 contained in the financial statements for the year ended December 31, 2010 did not agree with what was previously reported in the 2009 financial statements prepared for the company. Mr. Kutum's explanation to Ms. Robinson was that the 2010 statements were prepared for DCGL's Canadian operations only; although this was not described in the financial statements, in the headings of the financial statements or in Audit Report prepared by Mr. Kutum. Mr. Kutum advised Ms. Robinson that the bank was aware of this fact. It is clear that someone looking at the financial statements would not know that operations reported in one set were different from the next set of financial statements.

*Allegation No. 7 (Rule 202)*

20. Mr. Kutum had performed a review of the financial statements of RAZI for the year ended December 31, 2009 and compiled financial statements for the year ended December 31, 2010. Mr. Kutum reportedly said that the client had mistakenly provided him with one month figures for 2010 rather than one year figures, and since the bank was aware of the error, there was no need to

correct the Statement of Income and Expense. Ms. Robinson stated that the financial statements attached to the August 23, 2011 Notice to Reader for RAZI had more inconsistencies than might be rationalized by this explanation. A comparison of the Statement of Operations and the Statement of Income and Expenses showed that salaries and expenses set out on one statement were not plausible when compared with the other. In respect of the failure to obtain complete financial information from the client, Mr. Kutum had told Ms. Robinson that the only contact he had with the client was by fax or email.

*Allegation No. 8 (Rule 218)*

21. Mr. Kutum had failed to retain for a reasonable period of time the working papers, records and other documentation of work he had performed for clients in respect of 13 engagements. Mr. Kutum advised Ms. Robinson that he had taken the files home and stored them in his basement but the files were subsequently destroyed in a flood. When questioned about the electronic copies of files, Mr. Kutum advised he had printed off PEM forms and filled them in manually. Mr. Kutum did confirm to Ms. Robinson that he had done the work on the files or signed off on the work and authorized the release of the 13 financial statements.

*Allegations 9 and 10 (Rule 205)*

22. Mr. Kutum had advised Ms. Robinson that DCGL, HIC and RAZI had not been the subject of practice inspection. The practice inspection questionnaire asks for a list of all audit and review engagements clients and the 10 largest compilation engagement clients, but Mr. Kutum did not include the engagements for DCGL, HIC and RAZI in either March 2010 or March 2011 when he completed the forms. These three entities were his clients during the time period requested by Practice Inspection and DCGL was Mr. Kutum's largest audit client.

*Allegation No. 11 (Rule 104.1)*

23. Mr. Kutum was advised by letter of August 10, 2012 that his attendance had been scheduled at a meeting of the PCC on September 5, 2012, and was asked to respond by August 22, 2012. Ms. Robinson had advised him of the meeting date during an interview in July. Mr. Kutum responded on August 21 that he would be out of the country at that time and provided his travel itinerary booked on August 20. He was advised that his meeting would be rescheduled to October 30, 2012 and a Notice to Attend before the Professional Conduct Committee, under Regulation 7-1, s. 18 was served on him. Mr. Kutum responded that he was pursuing a job overseas and would be travelling extensively and might not be available on October 30. He suggested that if he was provided with questions in advance, he could respond in writing for the September 5 meeting. Mr. Kutum was advised that the meeting had been rescheduled and would proceed on October 30, 2012 in accordance with the Notice to Attend. Mr. Kutum did not attend the meeting as required.

*Allegation No. 12 (Rule 201.1)*

24. Ms. Hersak filed a True Copy of the Certificate of Conviction (Exhibit 6). Mr. Kutum had pleaded guilty and been found guilty of one count of fraud in an amount greater than \$5,000 by participating in the preparation of false T1 income tax and benefit returns for individuals, contrary to the Criminal Code. The fraud was a million dollar tax evasion scheme in which Mr. Kutum played a significant role over six years. Mr. Kutum prepared 487 false personal tax returns for a large number of clients. Mr. Kutum provided many of the clients with false charitable donation receipts to support the donation credits claimed, thereby understating federal taxes of the clients by over \$1 million, causing the Canada Revenue Agency (CRA) to issue refunds that clients were not entitled to or reduced the amount of taxes the clients owed. Mr. Kutum's profit for this scheme was approximately \$100,000.

**Decision**

25. After deliberating, the tribunal made the following decision:

THAT, having determined to proceed with the hearing in the absence of Mr. Kutum, 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, heard and considered the evidence, the Discipline Committee finds Imad Hasan Kutum not guilty of Allegation Nos. 2 and 3, and guilty of Allegation Nos. 1, 4, 5, 6, 7, 8, 9, 10, 11 and 12.

### **Reasons for Decision**

26. The tribunal, as is set out in our introduction of the relevant facts, was convinced that the facts as summarized above had been proven by clear, cogent and convincing evidence. Further, Mr. Kutum provided no evidence or explanation to refute the allegations and his comments as reported by Ms. Robinson do not constitute a defence. The failures to adhere to the required standards were so significant that a finding of professional misconduct was required on each proven allegation. The tribunal summarizes the significance of the departures from the required standards below.

#### *Allegation Nos. 1, 4, 5, 6, 7 and 8*

27. The facts set out above in paragraphs 14 and 17 to 21 inclusive establish that Mr. Kutum failed to adhere to the standards of the profession. In fact, if he actually knew the Rules of Professional Conduct, he blatantly ignored them. The proven allegations themselves succinctly set out the departures from the required standard.

- a) Allegation No. 1 – the independence standard of the profession, which is fundamentally important to the profession, precluded Mr. Kutum from performing the engagement, even if the bank did know of his interest;
- b) Allegation Nos. 4 and 5 - the many errors and omissions with respect to material matters simply do not even come close to meeting the professional standard;
- c) Allegation Nos. 6 and 7 –in the first place the statements should never have been released as Mr. Kutum should have done more work to satisfy himself that the statements were accurate, and once errors were discovered, the statements should have been withdrawn; and,
- d) Allegation No. 8 - the failure to retain adequate documentation of the procedures done, particularly when there are so many questions or issues about the financial statements, amounts to an evasion of professional responsibility.

#### *Allegation Nos. 9 and 10*

28. The facts set out in paragraph 22 prove Mr. Kutum provided false information to the Institute on two separate occasions and by this deceit he circumvented the Practice Inspection Program process and thereby covered up his failures. This deceit constitutes professional misconduct.

#### *Allegation No. 11*

29. The facts set out in paragraph 23 demonstrate that Mr. Kutum also flagrantly disregarded the Institute's authority over its members by failing to comply with the Notice to Appear made pursuant to Regulation 7-01 s. 18 as described in Allegation No. 11. Again, this was professional misconduct.

#### *Allegation No. 12*

30. Mr. Kutum's fraudulent criminal conduct, described in paragraph 25 above, was a clear and obvious breach of Rule 201.1. This criminal conduct is egregious and intolerable professional misconduct. He provided no evidence to rebut the presumption set out in Rule 201.2.

*Allegation Nos. 2 and 3*

31. While the tribunal agreed that the facts asserted in Allegation Nos. 2 and 3 (the facts set out in paragraphs 15 and 16) established that he did not adhere to Rule 204.8, the two Allegations specify the misconduct was a breach of Rule 204.3. Thus Mr. Kutum was found not guilty of Allegations Nos. 2 and 3.

**Sanction**

32. Ms. Hersak did not call any additional evidence with respect to sanction. Ms. Hersak filed the Written Reasons for Sentence of Justice Schwarzl (Exhibit 7) which set out the facts found by the judge resulting in the sentence of two years in the penitentiary together with a \$100,000 fine representing Mr. Kutum's illegal profit. The prosecution had sought a three to five-year penitentiary term while the defence had asked for a conditional sentence of two years less a day. Ms. Hersak filed newspaper articles summarizing the conviction of Mr. Kutum (Exhibit 8) which set out the details of the tax scheme and the conviction.

33. Ms. Hersak, on behalf of the PCC, submitted that originally an appropriate sanction in the matter of Allegation Nos. 1 through 11 would be: a written reprimand; a fine in the amount of \$7,500; revocation of membership; and full publicity including newspaper publication. The PCC also sought an order for costs on a partial indemnity basis. The nature of Allegation No. 12 would make it appropriate for an additional \$30,000 to be added to the fine, for a total of \$37,500. Ms. Hersak filed a Costs Outline (Exhibit 9) which showed that the costs were approximately \$23,000. The PCC was seeking an order for recovery of approximately 50% of the costs in the amount of \$11,500.

34. Ms. Hersak submitted that the proposed sanctions would satisfy the principles of sentencing: specific and general deterrence. Mr. Kutum's serious misconduct has damaged his own and the profession's reputation and should result in the revocation of his membership. This is a matter of a failure to adhere to the standards of practice and a matter of moral turpitude whereby Mr. Kutum participated in a tax evasion scheme, defrauding CRA. Publicity in *The Toronto Star* and *the Globe and Mail* newspapers will inform the public that Mr. Kutum is no longer a CA.

35. Ms. Hersak indicated that the aggravating factors included the quality of the financial statements prepared by Mr. Kutum that showed a lack of respect for the rules and guidelines of the profession, and a disregard for his lack of independence. The sets of financial statements in question were for clients not listed in the practice inspection questionnaire, and the working paper files were not available as Mr. Kutum advised the investigator that they had all been destroyed in a flood in his basement. Ms. Hersak stated that Mr. Kutum had been dishonest with CRA over an extended period of time, resulting in a loss to the public of over \$1 million.

36. Mr. Kutum's aspirations to teach accounting are of concern to the PCC due to his failure to comply with the standards of the profession and his conviction for fraud. During the course of the initial PCC investigation, Mr. Kutum had given no indication of the criminal investigation and simultaneously had misled the court by failing to disclose to it the standards issues he was facing.

37. Ms. Hersak indicated the mitigating factors included that Mr. Kutum did cooperate with the criminal courts, and did express remorse during those proceedings. He had set aside \$100,000 as a potential restitution or a fine in the criminal proceedings. Ms. Hersak submitted that the aggravating factors far outweigh the mitigating factors in this case.

38. Ms. Hersak submitted that the seriousness of the fraud should warrant a high fine in the amount of \$37,500. Publicity is the most important tool for general deterrence of the membership and provides protection to the public. Since there are no rare or unusual circumstances in this case,

publication in a newspaper in the geographic area of Mr. Kutum's practice will inform the public that he is no longer a chartered accountant. Ms. Hersak suggested the *Toronto Star*, as this is where the newspaper article concerning his conviction appeared, and also *The Globe and Mail*.

39. Ms. Hersak distributed a case brief of matters involving fraud, tax evasion, failure to maintain records and audit deficiencies: *Sennett, Stebner, Stone, Roy, Malik, Hindocha* and *Croucher*, pointing out that the sanctions sought in this matter are consistent with those imposed for similar misconduct.

#### **Order**

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

IT IS ORDERED in respect of the allegations:

1. THAT Mr. Kutum be reprimanded in writing by the Chair of the hearing.
2. THAT Mr. Kutum be and he is hereby fined the sum of \$37,500 to be remitted to the Institute within six (6) months from the date this Decision and Order is made.
3. THAT Mr. Kutum's membership in the Institute be and is hereby revoked.
4. THAT notice of this Decision and Order, disclosing Mr. Kutum's name, be given after this Decision and Order is made:
  - (a) to all members of the Institute; and
  - (b) to all provincial institutes/Ordre;
 and shall be made available to the public.
5. THAT notice of the revocation of membership, disclosing Mr. Kutum's name, be given by publication on the Institute's website and in *The Globe and Mail* and the *Toronto Star*. All costs associated with the publication shall be borne by Mr. Kutum and shall be in addition to any other costs ordered by the committee.
6. THAT Mr. Kutum surrender his CA and CPA certificates of membership in the Institute to the Discipline Committee Secretary within ten (10) days from the date this Decision and Order is made.

IT IS FURTHER ORDERED:

THAT Mr. Kutum be and he is hereby charged costs fixed at \$11,500 to be remitted to the Institute within six (6) months from the date this Decision and Order is made.

#### **Reasons for Sanction**

40. Mr. Kutum has been found guilty of Allegation Nos. 1 and 4 to 8 inclusive. His actions in these allegations taken collectively showed a flagrant disregard for our professional standards, not just the inadvertent actions of someone careless with our standards but rather those of someone who clearly flaunted his position over the responsibility of his role to serve his clients and make a positive impact on the public. This is why the tribunal found that it needed to deal with Mr. Kutum severely in terms of a fine. These failures taken on their own may have been dealt with through orders of professional development or supervised practice in order to facilitate the rehabilitation of Mr. Kutum while protecting the public; however, when taken together with Allegation Nos. 9, 10, 11 and 12, the principles of sanction which take priority necessarily changed from rehabilitation to

specific and general deterrence, mandating a more definitive sanction.

41. Mr. Kutum has been proven to be deceitful as in Allegation Nos. 9 and 10. The profession has an obligation to protect the public but when a member deceives the governing body and so defeats the processes in place to fulfill that obligation, it is clear that that member is not governable.

Compounding behavior is Mr. Kutum's guilt in Allegation No. 11 wherein he failed to cooperate with the Institute. A member who fails to recognize and be guided by the authority of the governing body is not governable. This is a character failure of the member and must be dealt with in a way that sends a clear message to our members at large that protection of the public is paramount.

42. With respect to the breach of Rule 201.1 there are overwhelming aggravating factors, including the impact on the public directly interacting with Mr. Kutum, the impact on the public at large by his fraud against CRA and also those whose impression of our profession has been exposed to Mr. Kutum's actions through the publicity of this case. The tribunal considered the mitigating factors trite in comparison.

43. Mr. Kutum flagrantly failed to do his duty to his clients, his governing body and the public at large. He does not belong in our profession.

44. The tribunal concluded that the written reprimand and fine were sufficient and not too onerous as sanctions focused on specific deterrence of Mr. Kutum's professional misconduct. The fine of \$37,500 was determined by the tribunal to be within the appropriate range taking into consideration the multitude and seriousness of the breaches of professional conduct and will serve as both specific and general deterrence sanction criteria. The tribunal further determined that revocation of Mr. Kutum's membership and publicity were required to meet general deterrence sanction criteria.

45. The tribunal determined that \$11,500 was the appropriate amount of costs to be recovered from Mr. Kutum.

DATED AT TORONTO THIS <sup>20~~th~~</sup> DAY OF AUGUST, 2013  
BY ORDER OF THE DISCIPLINE COMMITTEE



R.J. ADAMKOWSKI, CPA, CA – DEPUTY CHAIR  
DISCIPLINE COMMITTEE

MEMBERS OF THE TRIBUNAL:

C. DANCHUK, CPA, CA  
A.R. DAVIDSON, CPA, CA  
G.G. IRELAND, CPA, CA  
S. WALKER (PUBLIC REPRESENTATIVE)

IMAD KUTUM

SCHEDULE A

Page 1

CANADA  
PROVINCE OF ONTARIO  
PROVINCE DE L'ONTARIO  
CENTRAL WEST  
REGION  
(Region/Région)

Information of  
Dénonciation de  
of/de

Erik Bhattacharya  
Canada Revenue Agency

Court  
Date

The informant says  
Le dénonciateur

Investigator

(occupation/profession)

that he/she believes on reasonable grounds that  
déclare qu'il a des motifs raisonnables de croire que

1. That Imad Kutum, between December 31, 2002 and February 19, 2010 , in the City of Mississauga, in the Central West Region, and elsewhere in the Province of Ontario, by deceit, falsehood, or other fraudulent means, unlawfully did defraud the Government of Canada of money in an amount greater than five thousand dollars (\$5,000) by participating in the preparation of false T1 Income Tax and Benefit Returns for individuals, thereby committing an offence contrary to section 380(1)(a) of the Criminal Code, as amended.

(Continued on Page 2 within)  
(Suite a la page 2 ci-Incluse)

APPEARANCES - ADJOURNMENTS  
 COMPARUTIONS - AJOURNEMENTS

Date Date	Accused Accusé(e)	Appears Adjournment (Remand to) Comparution Ajournement (Renvoi)	Parties Consent Consentement des parties	Bail and/or other Action Cautionnement et/ou autre mesure	Fails to Appear Omet de comparaitre	Bench Warrant Mandat du tribunal	Discretion Discretion	Estreat Confiscation
Aug 26/11	W. issued							
AUG 31 2011	KUTUM	87 Oct 11	✓	204 @ 9:00 (SD)				
OCT 07 2011	<del>W. issued</del>	4 Nov 11	✓	204 @ 9 (5J)				
NOV 04 2011		25 Nov 11	✓	204 9:30 AM ST. (R)				
NOV 25 2011	KUTUM	4 Jan 2012	✓	2309 @ 9:30 AM JPT (CP)				
JAN 04 2012		7 FEB 12	✓	H9 @ 10 AM (PTC)				
FEB 07 2012		March 5-12	✓	JT 10 AM #405 CP (KHS)				
MAR 07 2012		19 April/12	✓	303 10:00 ST CP				
Apr 19-12		June 20-12	✓	303 10-10:30 AM JPT (CP)				
JUN 20 2012	Kutum	27 Nov '12	✓	303 @ 10 AM 4/11/5 TR. (CP)				
NOV 27 2012	Kutum	21 Dec. 12	✓	105 @ 10 AM (S) (CP) (exh. 11/11/12)				
Dec 21-12		21 Feb 13	✓	303 @ 9:30 303				
FEB 21 2013				As Home has exh. 11/12				

  

Date Date	Clerk Greffier	Reporter Sténographe	For Crown pour la Couronne	For Accused pour l'accusé(e)
AUG 31 2011	AS AML	Jones	Montefiore	Murray NR
OCT 07 2011	GC H/12	Gall	Paddington	Murray MM
NOV 04 2011	LK DA	Pasqualino	Paddington	agt 4 St. Shore MB
NOV 25 2011	LK JK	DeRose	Montefiore	KZEVEDO AS AGT JA
JAN 04 2012	ASTS	HO	MONTEFIORE	M. SHORE AAS
FEB 07 2012	WCS			
FEB 07 2012	AC	Ho	Montefiore	Schembura for Shore RHS
Apr 19-12	Quase	DeRose	Montefiore	Shore M RHS
JUN 20 2012	CC	E. Pasqualino	S. Montefiore	SZKAMBARA 4 SHORE RHS
NOV 27 2012	SC	M. Little	S. Montefiore	M. Shore RHS
Dec 21-12	JS	M. Little	S. Montefiore	Shore RHS
FEB 21 2013				

