

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 **JAMES A. ESSEX, CPA, CA.**

**TO:** James A. Essex, CPA, CA

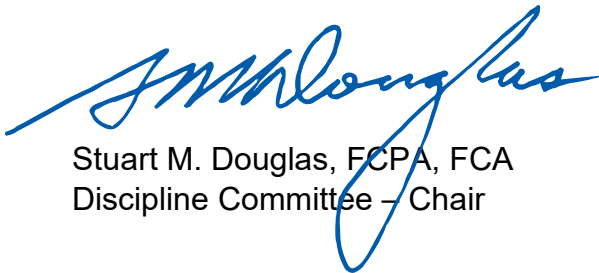
**AND TO:** The Professional Conduct Committee

**DECISION MADE JUNE 29, 2020**

**DECISION**

After considering the submissions of the parties and the proposed Settlement Agreement itself, the Panel hereby approves the Settlement Agreement, dated March 31, 2020.

**DATED** at Toronto, this 29<sup>th</sup> day of June 2020.



Stuart M. Douglas, FCPA, FCA  
Discipline Committee – Chair



CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO

*THE CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO ACT, 2017*

**IN THE MATTER OF:** DRAFT ALLEGATIONS OF PROFESSIONAL MISCONDUCT  
AGAINST JAMES A. ESSEX, CPA, CA, 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 against James A. Essex, CPA, CA ("Essex") the particulars of which are set out below. The documents referred to in this settlement agreement are found in the Document Brief ("DOC"). The applicable CPA Handbook sections are found in the Standards Brief ("TAB").
2. The draft Allegations (Doc 1) pertain to the failure of Essex to perform professional work in accordance with generally accepted standards of the profession, contrary to Rule 206.1 of the Chartered Professional Accountants Code of Professional Conduct, with respect to the following engagements:
  - a) the review of the financial statements of "MCI" for the year ended August 31, 2017 (DOC 5);
  - b) the review of the financial statements of "PPL" for the year ended November 30, 2017 (DOC 17);
  - c) the review of the financial statements of "CSI" for the year ended December 31, 2018 (DOC 23); and
  - d) the review of the financial statements of "XLCC" for the year ended December 31, 2018 (DOC 24).

3. The PCC and Essex 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 Essex in any other proceedings 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**

4. Essex was employed by Dunwoody (now BDO) from 1971 to 1975 and obtained his Chartered Accountant designation in 1974. He left Dunwoody in 1975 and worked in industry until 1990. Since 1990 Essex has been practicing as a sole practitioner. Essex's practice as at 2019 consisted of approximately thirty notice to reader engagements, one review engagement and one hundred and thirty personal tax returns. He employs no staff.
5. In addition to his practice Essex is the co-owner of a number of companies for which he acts as CFO.
6. Essex has attended Continuing Professional Development ("CPD") events in 2016 and 2017. Those consist of Canadian Franchise Association events (Agendas found at DOC 31, 32, 33) and annual conferences of the Lunch Lady Group (Agendas found at DOC 30, 34). The subject matter of the CPD conferences attended by Essex is not relevant to the areas of practice that Essex is primarily engaged in, i.e. the preparation of notice to reader financial statements and personal tax returns, as described in paragraph 4 above.

### **The Complaint**

7. The Practice Inspection Committee ("PIC") advised the PCC on April 3, 2019 that as a result of the reinspection of the practice of Essex it concluded that Essex's failure to maintain professional standards was sufficiently serious to reflect adversely upon Essex's professional competence. (DOC 1) The Director of PIC provided to the PCC the member's practice inspection history. (DOC 2)

8. The PIC also provided a detailed listing of reportable deficiencies with respect to two of the files that are subject to draft Allegations, MCI and PPL (DOC 3).
9. On October 1, 2019, the PCC appointed Mr. Dirk Joustra, CPA, CA, (the “Investigator”) to investigate the member’s standards of practice.
10. As part of his investigation, the Investigator reviewed the member’s standards of practice in relation to the review engagements inspected by the PIC as well as two additional files:
  - a) CSI for the year ended December 31, 2018 (DOC 23);
  - b) XLCC for the year ended December 31, 2018 (DOC 24);
11. Essex and the PCC agree that Essex failed to perform his professional services in accordance with generally accepted standards of practice of the profession as described below.
12. Essex and the PCC agree that the draft Allegations, set out below, particularize the manner in which Essex failed to perform his professional services in accordance with generally accepted standards of practice of the profession. It is further agreed that the relevant standards are those identified in this agreed statement of facts.

***Allegation 1 – James A. Essex, in or about the period of August 1, 2017 to January 31, 2018, while engaged to perform a review of the financial statements of “MCI” for the year ended August 31, 2017, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule 206.1 of the CPA Code of Professional Conduct, in that:***

13. The financial statements for MCI for the year ended August 31, 2017 (DOC 5), together with the Review Engagement Report, were signed by Essex and issued on January 10, 2018.
14. The review of these financial statements was performed under CPA Canada Handbook sections 8100 and 8200 (TAB 1, 2). The checklists in the working paper files refer, inaccurately, to the CICA Handbook.

***Particular a) – failed to ensure an accurate and updated engagement letter was obtained and failed to document why a revised engagement letter was not obtained***

15. The engagement letter is dated September 1, 2012 and is with respect to the review of the August 31, 2012 financial statements of MCI. (DOC 7) There is no documentation in the working paper file as to why it was not appropriate to revise the terms of the engagement letter over the five-year period. In addition, the engagement letter refers to the CICA Handbook at paragraph “(j)” under the heading “Management’s responsibilities”, which was superseded by the CPA Canada Handbook January 1, 2011.
16. Sections 8100.09 to .14, general review standards (TAB 1), deals with acceptance of the engagement. Paragraph .14 states “For review engagements, the public accountant should reach an understanding and agreement with the client as to the services to be provided.” Section 8200.07 states that it is highly desirable that the public accountant confirm the terms of the engagement in writing on an annual basis. (TAB 2)

***Particular b) - He failed to document an assessment regarding the reacceptance and continuance of the client relationship and the review engagement;***

17. Although the Review Engagement Checklist, item 1, states that the engagement acceptance form has been completed (DOC 8), there is no such document in the working paper file and this checklist was not prepared.
18. Section 5030.18 of the CPA Canada Handbook – Assurance – quality control procedures for assurance engagements other than audits of financial statements and other historical information, requires that the practitioner be satisfied that appropriate procedures regarding the acceptance and continuation of the client relationship and the specific assurance engagement have been performed and that conclusions reached in this regard have been documented. (TAB 3) This was not done.

***Particular c) - He failed to document what, if any, subsequent events review procedures were carried out;***

19. CPA Canada Handbook – Assurance – assurance and related services guideline AuG 47 – dating the review engagement report on financial statements, paragraph 3, states

that "...the date of the public accountant's report is intended to signify to the reader the date as of which the public accountant expresses his or her conclusion. The reader is entitled to assume that the public accountant has performed sufficient procedures to that date to support the conclusion expressed in his or her report." (TAB 5)

20. The subsequent events checklist completed on December 11, 2017 (DOC 12) only states "Discussed with client". The sign off date by the reviewer is December 29, 2017. The date of the review engagement report is January 10, 2018.
21. There is no documentation detailing the discussions with the client regarding subsequent events such as the date of the discussion, who at the client this was discussed with and the conclusion as to whether or not there were any subsequent events that should be disclosed.
22. Procedures should be performed to the date of the review engagement report, January 10, 2018, but they were not. Inquiry regarding subsequent events to that date is not documented. Essex states that he inquired about subsequent events between December 29, 2017 and January 10, 2018 but agrees that this is not documented.

***Particular d) - He failed to document his Knowledge of Business;***

23. Section 8100.17 and .18 of the CPA Canada Handbook – Accounting – Part II discusses the requirement that the public accountant has sufficient knowledge of the enterprise and the business in which it is involved to determine that the information being reported on is plausible in the circumstances. (TAB 1)
24. In the planning notes on Schedule B-19 at item 12 (DOC 13) the question "Has the Knowledge of Business form been completed" is answered as "no" with the notation "Client for several yrs."
25. There is no documentation in the working paper file regarding actual Knowledge of Business.

***Particular e) - He failed to sufficiently document the inquiry, analytical procedures and discussion employed to establish plausibility with respect to:***

***i. Inter-relationship/comparison of operating ratios;***

***ii. Inter-relationship/comparison of balance sheet items;***

***iii. Contingences and commitments;***

***iv. Inter-relationship/comparison of gross margin;***

***v. Due/to from related parties – terms and conditions to support balance sheet classification;***

***vi. Prepaid expenses;***

***vii. Revenue recognition on the percentage of completion method;***

26. Section 8100 of CPA Canada Handbook – Assurance deals with General Review Standards for review engagements. (TAB 1) Section 8200 of CPA Canada Handbook – Assurance deals with the Public Accountant's review of financial statements and its purpose is to provide guidance in addition to that set out in Section 8100. (TAB 1, 2)
27. Assurance Guideline 20 (AuG 20) of CPA Canada Handbook – Assurance deals with the performance of a review of financial statements in accordance with Sections 8100 and 8200. (TAB 6) This guideline is directed to providing assistance in performing a review in accordance with Sections 8100 and 8200.
28. Section 8100.15 deals with the standards applicable to review engagements and Sections 8100.19-24 with review procedures. (TAB 1) The procedures outlined in Sections 8100.19-24 deal with making inquiries, applying analytical procedures and having discussions with management.
29. Section 8200.23 sets out in detail the procedures that would be included by the public accountant in carrying out the inquiries, analytical procedures and discussions. (TAB 2) AuG 20 provides detailed questions the public accountant could consider when performing a review of financial statements. (TAB 6)

30. The Analytical Procedures worksheet (DOC 14) contains the various ratios compared with the previous two year ends but no explanations for the differences, some of which are quite substantial, have been provided. Although the working paper file contains print outs of various general ledger accounts, there is no documentation in the working paper file that the inquiry, analytical procedures and discussion performed to establish plausibility were performed regarding:
- i. Inter-relationship/comparison of operating ratios;
  - ii. Inter-relationship/comparison of balance sheet items
  - iii. Contingencies and commitments
  - iv. Inter-relationship/comparison of gross margin
  - v. Due/to from related parties – terms and conditions to support balance sheet classification
  - vi. Prepaid expenses
  - vii. Revenue recognition on the percentage of completion method – no documentation regarding matching of revenue and costs; costs to be deferred as work in progress; unrecoverable costs recognized as losses.

***f. He failed to document whether or not an Engagement Quality Review was required.***

31. The Canadian Standard on Quality Control, CSQC 1, contained in the CPA Canada Handbook – Assurance (TAB 7), deals with quality control for firms that perform audits and reviews of financial statements. Paragraphs 35 to 38 set out the requirements for establishing policies and procedures when, for appropriate engagements, an Engagement Quality Review is required.
32. There is no documentation in the working paper file as to whether or not an Engagement Quality Review is required and no compliance with CSQC 1 para. 35 to 38.

***Allegation 2 - James A. Essex, in or about the period of November 1, 2017 to April 30, 2018, while engaged to perform a review of the financial statements of "PPL" for the year ended November 30, 2017, failed to perform his professional services***

***in accordance with generally accepted standards of practice of the profession, contrary to Rule 206.1 of the CPA Code of Professional Conduct, in that:***

***Particular a) - He failed to ensure the accuracy of the contents of the review engagement report;***

33. The financial statements for PPL for the year ended November 30, 2017, together with the Review Engagement Report, were signed by Essex and issued on April 11, 2018. (DOC 17)
34. The Review Engagement Report, in the scope paragraph, includes an extraneous sentence, "These financial statements have been prepared in accordance with Canadian accounting standards for private enterprises" in the opening paragraph and the negative assurance paragraph refers to "consolidated financial statements", which these are not.

***Particular b) - He failed to ensure the disclosure of significant accounting policies in the notes to the financial statements with respect to revenue recognition and inventory;***

35. Section 1505.03 of the CPA Handbook – Accounting – Part II (TAB 10) requires that a clear and concise description of the significant accounting policies of an enterprise be included as an integral part of the financial statements. Note 2 to the financial statements, Summary of Significant Accounting Policies (DOC 17), does not contain an accounting policy with regard to revenue recognition.
36. Section 3031.35 of the CPA Canada Handbook – Accounting – Part II (TAB 11) requires that the financial statements disclose the accounting policies adopted in measuring inventories, including the cost formula used as well as the total carrying amount of inventories and the carrying amount in classifications appropriate to the entity. While Note 2 to the financial statements (DOC 17) does contain an accounting policy note regarding inventory, this note does not conform to the requirements outlined in Section 3031.35.

***Particular c) - He failed to disclose the amount of inventories recognized as an expense;***

37. Section 3031.35 of the CPA Canada Handbook – Accounting (TAB 11) requires disclosure of the amount of inventories recognized as an expense during the period. This disclosure is not included in the financial statements.

***Particular d) - He failed to disclose the carrying amount of a financial asset pledged as collateral;***

38. Section 3856.44 of the CPA Canada Handbook – Accounting – Part II, Financial Instruments (TAB 12) requires disclosure of the carrying amount of assets the entity has pledged as collateral for a secured financial liability. While Note 7, Long-term debt (DOC 17), relates to a term loan used to finance the purchase of a truck the carrying amount of the asset is not disclosed.

***Particular e) - He failed to properly disclose the description of the relationship between related companies and failed to disclose the amount of materials sold to a related party;***

39. Section 3840.51 of the CPA Canada Handbook – Accounting – Part II, related party transactions (TAB 13), set out the disclosure requirements with respect to transactions with related parties. This paragraph requires a description of the relationship, a description of the transactions, the amount of the transactions, the measurement basis and amounts due to or from related parties including the terms and conditions.
40. Paragraph 3840.54 states that terms such as affiliate, associate and related company are insufficiently precise to describe relationships. This paragraph also describes terms which would better describe the relationship.
41. Note 5 to the financial statements, Related Party Transactions (DOC 17), uses the terms related company and sister companies, which terms do not sufficiently describe the relationship to comply with the standards. In addition, Note 5 does not disclose the amount of materials sold to a related party as required by the standards.

***Particular f) - He failed to properly classify an amount due to a related party;***

42. Note 5 also states that the amount due to related companies has no fixed repayment date and this liability has been included in the balance sheet as a long-term liability.

Since the due to related companies has no fixed repayment date, the presumption is that the amount is due on demand.

43. Section 1510.18 of the CPA Canada Handbook – Accounting – Part II (TAB 4) defines a current liability as an amount payable within one year from the date of the balance sheet. The amount shown as due to related companies, therefore, should have been included in current liabilities.
44. The working paper file does not contain any documentation regarding related parties and amounts due to related parties.

***Particular g) - He failed to correctly date the preamble referring to risk exposure in a note to the financial statements;***

45. Note 10 to the financial statements is entitled Financial Instruments and Risk Management. The preamble refers to risk exposure as at December 31, 2017. This should be November 30, 2017, the date of the financial statements.

***Particular h) - He failed to treat the comparative currency translation losses in the statement of operations on a basis consistent with the previous year;***

46. Note 10(d) refers to “US dollar currency translation losses (gains) for the year amounted to \$16,510 (2016 - \$13,160)...” The amount of \$16,510 is shown in the 2017 statement of operations, but the comparative amount of \$13,160 is not shown in the 2016 amounts.
47. There is no explanation for the different treatment of the currency translation losses in 2016 and 2017 which should be consistent.

***Particular i) - He failed to accurately classify a current liability in the amount of \$19,470;***

48. The balance sheet shows cash of \$107,701, which consists of the sum of Royal Bank of Canada overdraft \$ (19,470), Harris Bank \$124,960, Paypal \$1,711, Petty cash \$500...total \$107,701 (DOC 18).

49. Section 3856.24 of the CPA Canada Handbook – Accounting – Part II, financial instruments (TAB 12.5) states “A financial asset and a financial liability shall be offset, and the net amount reported in the balance sheet, only when an entity: a) currently has a legally enforceable right to set off the recognized amounts; and b) intends either to settle on a net basis, or to realize the asset and settle the liability simultaneously.”
50. Sections 3856.A41 - .A48 (TAB 12.34) provide related application guidance. Paragraph 3856.A41 explains that when an enterprise has the right to receive or pay a single net amount and intends to do so, it has, in effect, only a single financial asset or liability. Since Royal Bank of Canada and Harris Bank are two distinct and separate institutions the financial liability to Royal Bank of Canada should not have been offset against the financial asset with Harris Bank.
51. The Royal Bank of Canada overdraft amount of \$19,470 should have been shown as a current liability and the amount of cash should have been increased by the same amount.

***Particular j) - He failed to adequately document subsequent events review procedures;***

52. CPA Canada Handbook – Assurance – assurance and related services guideline AuG 47 – dating the review engagement report on financial statements in paragraph 3 states that “The date of the public accountant’s report is intended to signify to the reader the date as of which the public accountant expresses his or her conclusion.” (TAB 5) The reader is entitled to assume that the public accountant has performed sufficient procedures to that date to support the conclusion expressed in his or her report.
53. Regarding sales and accounts receivable cut off in working paper checklist C-14, question 10 states that “looked at all sales + p/s for 1 wk post closing”. “In addn. to 10 discussed w. mgt – cut off plausible.” (DOC 19)
54. Another schedule in the working paper file details the December sales comparison to packing ships. (DOC 20) There is no documentation in the working paper file regarding accounts payable cut-off.

55. The subsequent events checklist was completed on March 20, 2018. (DOC 21) There is a handwritten note by Essex stating “Subsequent events...as discussed with RR March 20, 2018.” (DOC 21) The date of the review engagement report is April 11, 2018. There is no documentation updating the subsequent events inquiry from March 20, 2018 to April 11, 2018. While Essex notes that there was a discussion regarding subsequent events subsequent to March 20, 2018 this was not documented.

***Particular k) - He failed to sufficiently document the inquiry, analytical procedures and discussion employed to establish plausibility with respect to:***

***i. Long-term debt;***

***ii. Inventory – review of listings***

***iii. Inventory – client’s count procedures***

***iv. Purchase/inventory cut off procedures***

***v. Accounts payable – completeness;***

***vi. Inter-relationship/comparison of expenses***

***vii. Due to/ from related parties.***

56. Section 8100 of CPA Canada Handbook – Assurance deals with General Review Standards for review engagements. (TAB 1) Section 8200 of CPA Canada Handbook – Assurance deals with the Public Accountant’s review of financial statements and its purpose is to provide guidance in addition to that set out in Section 8100. (TAB 2)
57. Assurance Guideline 20 (AuG 20) of CPA Canada Handbook – Assurance deals with the performance of a review of financial statements in accordance with Sections 8100 and 8200. (TAB 6) This guideline is directed to providing assistance in performing a review in accordance with Sections 8100 and 8200.

58. Section 8100.15 deals with the standards applicable to review engagements and Sections 8100.19 - 24 with review procedures. (TAB 1) The procedures outlined in Sections 8100.19 - 24 deal with making inquiries, applying analytical procedures and having discussions with management.
59. Section 8200.23 sets out in detail the procedures that would be included by the public accountant in carrying out the inquiries, analytical procedures and discussions. (TAB 2) AuG 20 provides detailed questions the public accountant could consider when performing a review of financial statements. (TAB 6)
60. The Analytical Procedures worksheet (DOC 22) contains the various ratios compared with the previous two year ends but no explanations for the differences, some of which are quite substantial, have been provided. Although the working paper file contains print outs of various general ledger accounts, there is no documentation in the working paper file that the inquiry, analytical procedures and discussion performed to establish plausibility were performed regarding:
- i) long-term debt
  - ii) inventory-review of listings
  - iii) inventory – client’s count procedures
  - iv) purchase/inventory cut off procedures
  - v) accounts payable – completeness
  - vi) inter-relationship/comparison of expenses
  - vii) due to/from related parties

***Allegation 3 - James A. Essex, in or about the period of December 1, 2018 to May 31, 2019, while engaged to perform a review of the financial statements of “CSI” for the year ended December 31, 2018, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule 206.1 of the CPA Code of Professional Conduct, in that:***

61. The financial statements for CSI are found at DOC 23.

62. CPA Canada Handbook – Accounting – Part II, contains section CSRE 2400, engagements to review historical financial statements. (TAB 14) CSRE 2400.11 provides that CSRE “...is effective for reviews of financial statements for periods ending on or after December 14, 2017. Earlier application is not permitted. (TAB 14)
63. Since CSI's year end is December 31, 2018, the review is subject to CSRE 2400.

***Particular a) - He failed to ensure the format of the review engagement report was in accordance with CSRE 2400;***

64. CSRE 2400.94-103 deal with the Practitioner's Report and set out the required elements of such report. (TAB 14 p.55 of 65). Appendix 3, illustration 1, provides an illustration of the report, entitled “Independent Practitioner's Review Engagement Report”. (TAB 14)
65. The report attached to the financial statements of CSI (DOC 23) is the “old” review engagement report which is not applicable in this case.

***Particular b) - He failed to accurately record the Consolidated Statement of Cash Flows;***

66. The Consolidated Statement of Cash Flows (DOC 23) is incorrect in that the net income for the year is shown as \$466,567 whereas on the consolidated statement of income the net income is \$472,462.

***Particular c) - He failed to ensure required disclosure relating to the taxes payable method of accounting;***

67. Section 3465.88 of the CPA Canada Handbook – Accounting – Part II, income taxes (TAB 15) requires the following disclosures where the taxes payable method of accounting is used:

DISCLOSURE

.88 When an enterprise applies the taxes payable method of accounting for income taxes, the financial statements shall disclose the following:

- a) (deleted)

- b) a reconciliation of the income tax rate or expense related to income or loss for the period before discontinued operations 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;
  - c) the amount and timing of capital gain reserves and similar reserves to be included in taxable income within five years;
  - d) the amount of unused income tax losses carried forward and unused income tax credits; and
  - e) the portion of income tax expense (benefit) related to transactions charged (or credited) to equity (see paragraphs 3465.68 and 3465.78).
68. Although note 8 to the financial statements (TAB 23) indicates losses available to the corporation and the amount of depreciation claimed in excess of capital cost allowance for income tax purposes, the reconciliation required by paragraph 3465.88(b) is missing.

***Particular d) - He failed to ensure required disclosure of the exposure to currency risk and how it arises.***

69. Note 9 to the financial statements entitled Financial Instruments discloses the risks the company is exposed to and mentions credit risk, liquidity risk and interest rate risk. (DOC 23)
70. Section 3856.53 of the CPA Canada Handbook – Accounting – Part II, financial instruments, requires that for each significant risk arising from financial instruments the enterprise shall disclose the exposures to risk and how they arise. (TAB 12)
71. Paragraph 3856.A66 discusses the types of risk to be disclosed which include credit risk, currency risk, interest rate risk, liquidity risk, market risk and other price risk. (TAB 12)
72. Note 9 only discloses credit risk, liquidity risk and interest rate risk. The company has monetary assets and liabilities denominated in foreign currencies. The schedule of Selling, General and Administrative Expenses (Appendix A to the consolidated financial statements) shows gain on foreign exchange of \$163,874 (2017-\$105,114). The company thus is exposed to currency risk. (DOC 23)
73. The currency risk is not disclosed in note 9 (DOC 23).

***Allegation 4 - James A. Essex, in or about the period of December 1, 2018 to May 31, 2019, while engaged to perform a review of the financial statements of “XLCC” for the year ended December 31, 2018, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule 206.1 of the CPA Code of Professional Conduct***

74. The financial statements for XLCC are found at (DOC 24). CPA Canada Handbook – Accounting – Part II, contains section CSRE 2400 - “engagements to review historical financial statements”. (TAB 14)

***Particular a) - He failed to ensure that the review engagement report had a title that clearly indicated that it is the report of an independent practitioner.***

75. CSRE 2400.94(a) (TAB 14) requires that the report for the review engagement contain a title, which clearly indicates that it is the report of an independent practitioner for a review engagement.

76. Appendix 3 to Section CSRE 2400 (TAB 14 p.55 of 65) contains examples of review engagement reports. Illustration 1 shows a report on financial statements prepared for a general purpose by management of the entity. The heading of the report in illustration 1 reads “Independent Practitioner’s Review Engagement Report”.

77. The report on the financial statement of XLCC is headed “Review Engagement Report” rather than “Independent Practitioner’s Review Engagement Report.” (DOC 24)

***Particular b) - He failed to ensure that the review engagement report included the standard wording in Section CSRE 2400;***

78. The section in the report entitled “Management’s Responsibility for the Financial Statements” includes the sentence “Management is responsible for the preparation and fair presentation of these financial statements”. (DOC 24)

79. The standard wording in the report included in Section CSRE 2400, which is required to be used, refers to “preparation of these financial statements” and does not include the words “fair presentation” (TAB 14)

***Particular c) - He failed to properly disclose the description of the relationship between related companies;***

80. Section 3840.51 of the CPA Canada Handbook – Accounting – Part II, related party transactions, details the disclosure requirements about transactions with related parties. (TAB 13) This paragraph requires a description of the relationship, description of the transactions, the amount of the transactions, the measurement basis and amounts due to or from related parties including the terms and conditions.
81. Paragraph 3840.54 states that terms such as affiliate, associate and related company are insufficiently precise to describe relationships. This paragraph also describes terms which would better describe the relationship.
82. The balance sheet includes a caption “Due from related company” and the statement of cash flows includes a caption “Advances from (to) Related Companies”. Note 1 to the financial statements includes the term “sister company”. (DOC 24) These descriptions do not conform to the requirements of paragraphs 3840.51 (TAB 13) with respect to the description of the relationship.

***Particular d) - He failed to adequately disclose all the leased capital assets nor the amortization method;***

83. CPA Canada Handbook – Accounting – Part II contains section 3065 which deals with leases. (TAB 16) The disclosure requirements by a lessee regarding capital leases are contained in Sections 3065.73 to .76, as follows:

***DISCLOSURE***

*Capital lease – lessee*

*.73 For each major category of leased property, plant and*

*equipment, there shall be disclosure of:*

- a) cost;*
- b) accumulated amortization, including the amount of any write-downs; and*
- c) the amortization method used, including the amortization period or rate.*

*.74 For an obligation under a capital lease, an entity shall disclose:*

- a) the interest rate;*
- b) the maturity date;*
- c) the amount outstanding; and*
- d) if the leases are secured, the fact that they are secured*

*.75 Interest expense related to lease obligations shall be disclosed separately, or as part of interest on long-term indebtedness.*

*.76 The aggregate amount of payments estimated to be required in each of the next five years to meet repayment, sinking fund or retirement provisions shall be disclosed.*

- 84. Leases payable, per note 9 to the financial statements, amount to \$89,841 (2016 - \$110,677), yet note 4, capital assets only shows office furniture and fixtures under capital lease of \$43,890. (DOC 24)
- 85. The accounting policy note capital assets and amortization (Note 2) indicates the amortization method for "capital lease – F & E". (DOC 24) It does not disclose all leased capital assets nor the amortization method as required by paragraph 3065.73. (TAB 16)

86. In addition, a sprinkler system, also leased, has not been disclosed as a capital asset under capital lease and should have been disclosed as such. The sprinkler system instead is included in Note 4, leasehold improvements. (DOC 24)

***Particular e) - He failed to disclose the interest related to lease obligations as a separate item;***

87. Paragraph 3065.75 requires the disclosure of interest related to lease obligations as a separate item. (TAB 16) Such disclosure is missing from the financial statements.

***Particular f) - He failed to disclose the aggregate amount of payments required for the net lease obligations;***

88. Paragraph 3065.76 requires the disclosure of the aggregate amount of payments required in each of the next five years to meet repayment, sinking fund or retirement provisions. (TAB 16) Example 1 of Section 3065 deals with a capital lease. The example includes a schedule of future minimum lease payments under the capital lease obligation and shows the total minimum lease payments, the amount representing interest and the net lease obligation payable. (TAB 17)
89. Note 9 to the financial statements only shows the payments required for the net obligation, not the aggregate amount of payments required. (DOC 24)
90. Checklist FRF909 – Worksheet FRF – ASPE – Leases (DOC 25) contains questions 1 to 4 dealing with disclosure of capital assets under lease, obligations under capital lease and separate disclosure of interest expense. These questions have all been answered affirmatively, yet the disclosure is incomplete or missing from the financial statements.

***Particular g) - He failed to properly classify amounts due to shareholder as a current liability;***

91. Section 1510.08 of the CPA Canada Handbook – Accounting – Part II defines a current liability as an amount payable within one year from the date of the balance sheet. (TAB 4)

92. Note 8 to the financial statements indicates the amount due to shareholder has no fixed repayment date. (DOC 24) The working paper file does not contain documentation regarding the amount due to shareholder. Since the amount due to shareholder has no fixed repayment date, the presumption is that the amount is due on demand and therefore the amount shown as due to shareholder should have been included in current liabilities and it was not.

***Particular h) - He failed to ensure required disclosure of the exposure to interest rate risk and how it arises;***

93. Note 13 to the financial statements entitled Financial Instruments (DOC 24) discloses the risks the company is exposed to and mentions credit risk and liquidity risk.
94. Section 3856.53 of the CPA Canada Handbook – Accounting – Part II, financial instruments (TAB 12) requires that for each significant risk arising from financial instruments the enterprise shall disclose the exposures to risk and how they arise. Paragraph 3856.A66 further discusses the types of risk to be disclosed which include credit risk, currency risk, interest rate risk, liquidity risk, market risk and other price risk.
95. Note 13 only discloses credit risk and liquidity risk. (DOC 24) The company, however, has a demand bank loan with a floating interest rate and thus is exposed to interest rate risk. In addition, the company has monetary assets and liabilities denominated in foreign currencies.

***Particular i) - He failed to ensure required disclosure of the exposure to currency risk and how it arises;***

96. The statement of income shows a currency exchange gain of \$88,674; 2017 and currency exchange loss of \$358,858. The company is thus exposed to currency risk.
97. Both the interest rate risk and the currency risk are missing from the disclosure in note 13

***Particular j) - He failed to accurately record the incorporation and amalgamation information regarding the entity.***

98. Note 1 to the financial statements states that the company was incorporated federally September 3, 2010. (DOC 24)
99. Schedule R2-05-01 Understanding the entity, states in Section 1, General Information, that the jurisdiction of incorporation is Ontario, effective December 31, 2015 (date of amalgamation). (DOC 26)
100. Note 1 does not mention the amalgamation and reflects incorrect information regarding the jurisdiction where the company is incorporated.

### **Terms of Settlement**

101. Essex and the Professional Conduct Committee agree to the following Terms of Settlement:
  - a) A payment by way of fine in the amount of \$7,500;
  - b) A restriction of Essex's practice prohibiting his carrying out any assurance engagements;
  - c) Professional development courses including:
    - i. "Income Tax – Everyday Issues for the General Practitioners"
    - ii. "Personal Tax – Compliance and Planning in T1 Preparation"
    - iii. "Compilation Engagements – Review of section 9200"
  - d) Notice of the terms of this Settlement is to be published in the manner set out in CPAO Regulation 6-2 section 45, 50 and 52, with notice to be given to all members of CPA Ontario, the Public Accountants' Council and all provincial CPA bodies;
  - e) A payment by way of costs in the amount of \$12,000;
  - f) Essex will be allowed 12 months from the time the Discipline Committee accepts this Settlement Agreement to pay the fine and costs referred to herein; and
  - g) A failure by Essex to comply with any of the terms of settlement will result in his suspension from membership in CPA Ontario which suspension will continue until he complies PROVIDED THAT if his suspension under this section continues for

three months his membership in CPA Ontario will be revoked with full publicity in accordance with Regulation 6-2 section 48.

102. Should the Discipline Committee accept this Settlement Agreement, Essex agrees to waive his right to a full hearing, judicial review or appeal of the matter subject to the Settlement Agreement. Upon the member fulfilling the requirements of this Settlement Agreement, the draft allegations approved by the Professional Conduct Committee and dated January 2020, shall be forever stayed.
103. If for any reason this Settlement Agreement is not approved by the Discipline Committee, then:
- a) This Settlement Agreement and its terms, including all Settlement Negotiations between the Professional Conduct Committee and Essex leading up to its presentation to the Discipline Committee, shall be without prejudice to the Professional Conduct Committee and Essex; and
  - b) The Professional Conduct Committee and Essex shall be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the allegations, or negotiating a new Settlement Agreement, unaffected by this Settlement Agreement or the Settlement Negotiations.

**Disclosure of Settlement Agreement**

104. This Settlement Agreement and its terms will be treated as confidential by the Professional Conduct Committee and Essex, 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 Essex, or, as may be required by law.
105. 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 <sup>31st</sup> day of March 2020.





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

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

A handwritten signature in blue ink that reads "James A. Essex".

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James A. Essex, CPA, CA  
on his own behalf