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THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO

DISCIPLINE COMMITTEE - ICAO

RE: JONATHAN H. LUNN

EX. 1 FILED MAY 28 20 13

ADW

IN THE MATTER OF: DRAFT ALLEGATIONS OF
PROFESSIONAL MISCONDUCT AGAINST
JONATHAN LUNN, CPA, CA, A MEMBER
OF THE INSTITUTE, BEFORE THE
DISCIPLINE COMMITTEE

SETTLEMENT AGREEMENT

*made pursuant to Section 34 (1)(c) of the Chartered
Accountants Act, 2010, and to ICAO Regulation 7-1, s.22.4*

Introduction

1. The Professional Conduct Committee approved draft allegations against Jonathan Lunn, CPA, CA ("Lunn") which are **Schedule "A"** to this Agreement.
2. The draft allegations pertain to Lunn's failure to maintain a public accounting licence while engaged in the practice of public accounting between November 1, 2010 and December 31, 2010.

Member Background

3. Lunn emigrated from South Africa in May, 1978, and was briefly employed with Sobermans (now Crowe Soberman LLP) upon his arrival in Canada. He completed a conversion course and was admitted to membership in the ICAO on July 26, 1979.

4. Subsequently, Lunn worked in industry, first with Pilkington Glass and then with The Bay. In March, 1985 he joined a local Ottawa company which was audited by Thorne Riddell (now KPMG). This led to Lunn joining and working with Thorne Riddell's insolvency group for approximately three years.
5. Lunn also started his own consulting business and took on a contract with the Federal Department of Finance (Tax Policy Branch), dealing with the implementation (at the business level) of Canada's conversion to GST. This work formed the foundation of his current practice which evolved over time from a consulting business to a sole proprietorship providing public accounting services including assurance and compilation engagements as well as income tax preparation and advisory services.
6. Lunn's practice is predominately tax-based including the preparation of approximately 700 T1's annually. He has one administrative employee and takes on contract accounting staff during the tax season.
7. The documents referred to in this agreement by "**Doc**" number are found in the Document Brief.

Allegation – Failure to Adhere to Bylaws - Practicing Public Accounting Without a Licence

The Complaint

8. Lunn's public accounting licence ("PAL") expired on November 1, 2010. He was notified of its expiry by letter dated November 24, 2010, from the Institute's Registrar. **Doc 1** Lunn agrees that he received this notice that his licence had expired and that he was aware that its expiry was effective November 1, 2010.

9. Lunn completed an application for a public accounting licence on October 13, 2011. That application was considered by the Public Accounting Licensing Board ("PALB") on October 27, 2011. Based on the content of Lunn's application, the PALB determined that he may have been practicing public accounting during the period subsequent to his licence expiry. The PALB referred the matter to the PCC. **Doc 2**
10. The Director of Standards Enforcement wrote to Lunn to inquire into the complaint on behalf of the PCC on two occasions, November 15, 2011 and January 3, 2012. Lunn did not respond. **Doc 3**
11. Mr. Paul Gibel, FCPA, FCA, (the "Investigator") was appointed to investigate. Although he did converse briefly with Lunn on one occasion, the Investigator made several attempts to arrange to interview Lunn, without success.
12. On May 17, 2012, the Investigator wrote to Lunn detailing his attempts to contact him and reminding him of his responsibility to cooperate with the investigation. The Investigator advised Lunn that he would attend at his office on May 24, 2012 at 4:00 p.m. to discuss the complaint. **Doc 4**
13. By way of a letter dated May 18, 2012 Lunn was notified by the Registrar that his ICAO membership had been suspended because Lunn had failed to complete a Practice Inspection Planning Questionnaire within 31 days of being notified of his firm's selection for inspection. **Doc 5**

The Investigation

14. Lunn met with the Investigator on May 24, 2012. In the course of his interview, Lunn acknowledged:
 - a) that he was behind on some paperwork from the ICAO, including his failure to respond to the Director of Standards Enforcement and his delayed responses to the Investigator;

- b) that he was aware at the time of the interview that his membership in the ICAO had been suspended but that he had not read all of the ICAO correspondence fully;
- c) that he was struggling to deal with family issues including his mother-in-law's Alzheimer's disease and his son's refusal to attend high school;
- d) that he had only taken three weekends off since September, 2011;
- e) that he had attempted to focus on keeping his clients' work completed; and
- f) that his stress and family issues were emotionally debilitating and he had commenced medical treatment.

15. The Investigator noted on the date of the interview that despite Lunn's suspension, the internal and external building signage at Lunn's office referred to him as a CA, as did his website. **Doc 6**

16. In the course of preparing his report to the PCC, the Investigator determined that he required additional documentation from Lunn. He left telephone messages on June 14 and 18, 2012, asking Lunn to contact him. On June 19, 201²~~0~~, the Investigator wrote to Lunn to request the additional documentation **Doc 7**. Lunn did not respond.

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ON CONSENT
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Professional Conduct Committee Meeting July, 2012

17. Lunn met with the PCC as requested on July 17, 2012. He brought with him a portable hard drive and the Investigator downloaded the electronic copies of certain working paper files onto a USB drive.

18. At the meeting, Lunn advised the PCC:

- a) that he had been dealing with significant staff turnover;
- b) that he had a difficult time dealing with stress arising from family issues;

- c) that he was not holding himself out as a CA or signing anything using the designation;
- d) that he had made arrangements for his assurance work to be completed by others and had explained his problems to his clients;
- e) that he was making ongoing attempts to have the signs at his office changed;
- f) that he was attempting to fulfill all of the conditions required by the ICAO in order to have his membership reinstated but had not yet done so completely;
- g) that he was getting medical treatment; and
- h) that when he was interviewed by the Investigator on May 24, 2012 he had not realized the severity and extent of his medical problems and their effect on his practice.

19. Lunn was advised that he would be required to attend the PCC's next meeting on October 2, 2012, after the Investigator had the opportunity to review the documentation on the USB drive.

Professional Conduct Committee Meeting October, 2012

20. On October 2, 2012, Lunn met with the PCC a second time. At the meeting, he advised:

- a) that he was still not holding himself out as a CA, and had revised his office signage and website; **Doc 8**
- b) that he had transitioned all of his assurance clients to other CAs and was not performing any work for which a PAL was required;
- c) that his medical problems contributed to his failure to respond to the ICAO;
- d) that his medical problems contributed to his filing inadvertently erroneous information with the PALB, in that the hours of work recorded related to ten months of a calendar year rather than to the full reporting period;

- e) that he had issued four review engagement reports between November 30, 2010 and December 20, 2010 because he believed that the work had been substantially completed prior to the expiry of his licence (see para 23 below);
- f) that he now realized that he should have investigated alternatives to issuing the reports and that at the time his judgment had been clouded by his illness;
- g) that he was remorseful for his actions and for the circumstances which were the subject of the complaint;
- h) that he had now completed several months of treatment and was confident that his medical problems were behind him; and
- i) that he was close to fulfilling all requirements to reinstate his membership in the ICAO.

Requirements of the Bylaws and of the Rules of Conduct

21. ICAO Bylaw 9.2 stipulates that:

A Member or firm, including a professional corporation, shall not engage in the practice of public accounting without:

9.2.1 holding a valid and current public accounting licence or certificate of authorization issued by the Institute; and

9.2.2 registering with the Institute in accordance with Section 4.16.

22. Rule 101 of the ICAO *Rules of Professional Conduct* states that :

Members, students and firms shall comply with the bylaws, regulations and rules of professional conduct of the Institute as they may be from time to time and with any order or resolution of the Council or officers of the Institute under the bylaws.

The Review Engagement Reports

23. Subsequent to the expiry of his PAL on November 1, 2010, Lunn issued four Review Engagement Reports as specified below when he knew or ought to have known that he did not hold a PAL:
- a) the review of the financial statements of "ISR Inc." as at August 31, 2010 – Review Engagement Report dated November 30, 2010 **Doc 9**;
 - b) the review of the financial statements of "EGBE Ltd." as at June 30, 2010 – Review Engagement Report dated December 2, 2010 **Doc 10**;
 - c) the review of the financial statements of "ME Inc." as at September 30, 2010 – Review Engagement Report dated December 8, 2010 **Doc 11**; and
 - d) the review of the financial statements of "TAO" as at June 30, 2010 – Review Engagement Report dated December 20, 2010 **Doc 12**.

24. Lunn acknowledges that by issuing these four Review Engagement reports he has failed to comply with the bylaws of the Institute.

Additional Information

25. At the time he met with the PCC on October 2, 2012, Lunn had downgraded the review for "TAO" to a compilation, and had arranged for the other three review engagements to be completed by other CA firms.
26. Lunn complied with all required conditions of his May 18, 2012 suspension, **Doc 5** and his CA membership and firm registration were reinstated effective October 5, 2012.

Terms of Settlement

27. Lunn and the Professional Conduct Committee agree to the following Terms of Settlement:

- a) A payment by way of fine in the amount of \$3,500;
- b) A payment of costs in the amount of \$5,000;
- c) Notice of the terms of this Settlement is to be published in accordance with the provisions of ICAO Regulation 7-3, s. 22, including notice to be given to the CICA, the Public Accountants' Council and in *CheckMark* Magazine;
- d) Lunn will be allowed 18 months from the time the Discipline Committee accepts this Settlement Agreement to pay the fine and costs referred to herein; and
- e) A failure by Lunn to comply with any of the terms of settlement will result in his suspension from membership in the Institute which suspension will continue until he complies PROVIDED THAT if his suspension under this section continues for three months his membership in the ICAO will be revoked with full publicity in accordance with Regulation 7-3(23).

28. Should the Discipline Committee accept this Settlement Agreement, Lunn 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 October, 2012, shall be forever stayed.

29. If for any reason this Settlement Agreement is not approved by the Discipline Committee, then:

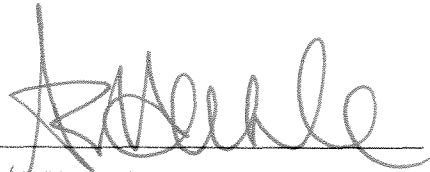
- a) This Settlement Agreement and its terms, including all Settlement Negotiations between the Professional Conduct Committee and Lunn leading up to its presentation to the Discipline Committee, shall be without prejudice to the Professional Conduct Committee and Lunn; and
- b) The Professional Conduct Committee and Lunn 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

30. This Settlement Agreement and its terms will be treated as confidential by the Professional Conduct Committee and Lunn, 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 Lunn, or, as may be required by law.

31. Any obligations of confidentiality shall terminate upon approval of the Settlement Agreement by the Discipline Committee.

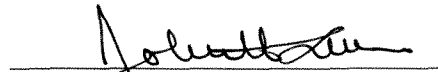
All of which is agreed to for the purpose of this proceeding alone this 9th day of April, 2013.



ALEXANDRA E. HERSAK
COUNSEL

On behalf of:

THE PROFESSIONAL CONDUCT COMMITTEE



JONATHAN LUNN, CPA, CA
on his own behalf



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THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO

SCHEDULE "A"

TO: JONATHAN LUNN, CA

AND TO: The Discipline Committee of the Institute of
Chartered Accountants of Ontario

The Professional Conduct Committee hereby makes the following allegation of professional misconduct against Jonathan Lunn, a member of the Institute:

1. THAT the said Jonathan Lunn, in or about the period November 1, 2010 through December 31, 2010, while engaged in the practice of public accounting, did contravene the provisions of the Bylaws of the Institute contrary to Rule 101 of the Rules of Professional Conduct, in that he issued four Review Engagement Reports when he knew or ought to have known that he did not hold a public accounting licence as required by the *Public Accounting Act*, S.O. 2004, c.8 as amended.

Dated at Erin, Ontario this day of October, 2012

R. SIMON, CA – DEPUTY CHAIR
PROFESSIONAL CONDUCT COMMITTEE