



Chartered Professional Accountants of Ontario  
130 King Street West, Suite 3400  
PO Box 358, Toronto ON M5X 1E1  
T. 416.962.1841 F. 416.962.8900 Toll Free 1.800.387.0735  
[cpaontario.ca](http://cpaontario.ca)

## CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO

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

**TO:** Julius A. Fagbemi (Student)  
**AND TO:** The Discipline Committee of CPA Ontario

The Professional Conduct Committee of CPA Ontario hereby makes the following Allegation of professional misconduct against Julius A. Fagbemi, a Student of CPA Ontario:

1. THAT the said Julius A. Fagbemi, in or about the period October 14, 2019, to December 3, 2019, failed to co-operate with the regulatory process of CPA Ontario contrary to Rule 402 of the Student Code of Conduct, in that he failed to promptly reply in writing to communications from CPA Ontario to which a written reply is specifically required, namely letters dated September 25, 2019, and October 22, 2019, from Ms. Theresa Tonelli, CPA, CA, Director of Standards Enforcement at CPA Ontario.

Dated at Mississauga Ontario, this 10th day of December 2019.

A handwritten signature in purple ink that reads "L. Davidson".

---

L. DAVIDSON, CPA, CGA, CHAIR  
PROFESSIONAL CONDUCT COMMITTEE

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

**DISCIPLINE COMMITTEE**

**IN THE MATTER OF:** An allegation against **JULIUS A. FAGBEMI**, a Student of CPA Ontario, under **Rule 402** of the Student Code of Conduct.

**TO:** Julius A. Fagbemi

**AND TO:** The Professional Conduct Committee

**DECISION AND ORDER MADE MAY 25, 2020**

**DECISION**

The Panel was satisfied that Julius A. Fagbemi (“Mr. Fagbemi”) had proper notice of the hearing and determined to proceed in his absence. The Panel finds the Allegation is established and constitutes a breach of Rule 402 of the Student Code of Conduct, and, by that breach, Mr. Fagbemi has committed professional misconduct.

**ORDER**

IT IS ORDERED THAT:

1. Mr. Fagbemi be reprimanded in writing by the Chair of the hearing;
2. Mr. Fagbemi shall pay a fine of \$5,000 to the Chartered Professional Accountants of Ontario (“CPA Ontario”) by July 24, 2020;
3. Mr. Fagbemi shall cooperate with the Professional Conduct Committee by fully responding to the correspondence of CPA Ontario, dated September 25, 2019 and October 22, 2019 from Theresa Tonelli, by June 25, 2020;
4. Notice of this Decision and Order, disclosing Mr. Fagbemi’s name, is to be given in the form and manner determined by the Discipline Committee:
  - (a) to all members of CPA Ontario;
  - (b) to all provincial bodies;and shall be made available to the public;
5. In the event Mr. Fagbemi fails to comply with the terms of this Order, his registration with CPA Ontario shall be suspended until such time as he does comply, provided that he complies within 30 days from the date of his suspension. In the event he does not comply

within the 30-day period, he shall be deregistered and notice of his deregistration, disclosing his name, shall be given in the manner specified above, and in a newspaper distributed in the geographic area of Mr. Fagbemi's residence. All costs associated with this publication shall be borne by Mr. Fagbemi and shall be in addition to any other costs ordered by the Panel;

AND THAT:

6. Mr. Fagbemi shall pay costs of \$3,000 to CPA Ontario by July 24, 2020.

**DATED** at Toronto this 25th day of May, 2020.



Randal J. Adamkowski, CPA, CA  
Discipline Committee, Deputy Chair

***As a result of his failure to comply with the terms of this Order, Mr. Fagbemi was deregistered as a student with CPA Ontario effective July 25, 2020.***

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

**DISCIPLINE COMMITTEE**

**IN THE MATTER OF:** An allegation against **JULIUS A. FAGBEMI**, a student registered with the Chartered Professional Accountants of Ontario, under **Rule 402** of the Student Code of Conduct, as amended.

**BETWEEN:**

**Chartered Professional Accountants of Ontario  
Professional Conduct Committee**

**-and-**

**Julius A. Fagbemi**

**APPEARANCES:**

**For the Professional Conduct Committee:** Julia McNabb, Counsel

**For Mr. Fagbemi:** Not Present and Not Represented

Heard: May 25, 2020

Decision and Order effective: May 25, 2020

Release of written reasons: July 6, 2020

**REASONS FOR THE DECISION AND ORDER MADE MAY 25, 2020**

**I. OVERVIEW**

[1] This hearing is to determine whether the allegation has been established that in or about the period of October 14, 2019 to December 3, 2019, Mr. Fagbemi failed to cooperate with the regulatory process of the Chartered Professional Accountants of Ontario (CPA Ontario) contrary to Rule 402 of the CPA Ontario Student Code of Conduct when he did not promptly reply to communications from CPA Ontario and whether such conduct amounts to professional misconduct.

[2] On September 19, 2018, CPA Ontario received information from a Credit Analyst who claimed to have received financial statements prepared by Mr. Fagbemi in which Mr. Fagbemi identified himself as a CGA. Mr. Fagbemi is registered as a student of CPA Ontario. The Credit Analyst reported that she was unable to locate Mr. Fagbemi in the CPA Ontario Member directory.

- [3] As a result of this information, CPA Ontario requested that Mr. Fagbemi provide a response to the information received from the Credit Analyst. Mr. Fagbemi eventually replied assuring CPA Ontario that he had addressed the issue. He advised that he would be responding to CPA Ontario's inquiries, but would require additional time to do so. Despite further inquiries regarding his request for an extension and despite further specific inquiries into his conduct, Mr. Fagbemi provided no further responses to CPA Ontario. Mr. Fagbemi has not provided an explanation for his failure to respond to communications from CPA Ontario.
- [4] The onus was on the Professional Conduct Committee (PCC) to show on a balance of probabilities that Mr. Fagbemi's failure to respond to communications from CPA Ontario breached Rule 402 of the CPA Ontario's Student Code of Conduct, and that such conduct constituted professional misconduct.

## II. PRELIMINARY ISSUES

- [5] Mr. Fagbemi did not attend the hearing. In order to proceed in the absence of Mr. Fagbemi, the Panel had to be satisfied that Mr. Fagbemi had received proper notice of the Allegation and the hearing.
- [6] Ms. McNabb filed the Affidavit of Mervyn Archdall, a process server, sworn December 14, 2019 (Exhibit 1). On December 12, 2019, Mr. Archdall met a person who acknowledged that he was Mr. Fagbemi. Mr. Archdall served Mr. Fagbemi with a letter dated December 10, 2019 from Ms. McNabb enclosing the Allegation of Professional Misconduct. In her letter, Ms. McNabb advised Mr. Fagbemi that the Adjudicative Tribunals Secretary would be issuing a Notice of Hearing and would be confirming the date for the hearing. Enclosed with the letter was an *Outline of Procedure at Hearings of the Discipline Committee*.
- [7] Ms. McNabb also filed the Affidavit of Bianca D'Souza, the Adjudicative Tribunals Clerk at CPA Ontario, sworn May 22, 2020 (Exhibit 2). Attached to Ms. D'Souza's affidavit were copies of correspondence sent to Mr. Fagbemi regarding the setting of hearing dates.
- [8] On January 16, 2020, Ms. D'Souza sent an email to Mr. Fagbemi's email address of record with CPA Ontario requesting that he provide his availability for a hearing by January 17, 2020. Mr. Fagbemi did not respond.
- [9] On January 22, 2020, Ms. D'Souza sent a second email to Mr. Fagbemi's email address of record canvassing potential hearing dates. Ms. D'Souza provided a number of potential hearing dates and requested that Mr. Fagbemi respond by January 29, 2020. Mr. Fagbemi did not respond.
- [10] On January 31, 2020, Ms. D'Souza sent a third email to Mr. Fagbemi's email address of record advising that a hearing date had been set for March 27, 2020 at 9:30 a.m. Ms. D'Souza advised that a Notice of Hearing would follow under separate cover.
- [11] On February 4, 2020, the Notice of Hearing and a letter from Ms. D'Souza were sent by regular mail and by email to Mr. Fagbemi's respective addresses of record. Both the email and the letter confirmed the hearing would proceed on March 27, 2020 at

9:30 a.m. at CPA Ontario's offices on King Street West. Ms. D'Souza requested that Mr. Fagbemi acknowledge receipt of the Notice of Hearing by signing the letter and returning it by mail or email. The Notice of Hearing clearly indicated that if Mr. Fagbemi chose not to attend the hearing, the Discipline Committee might proceed in his absence. Mr. Fagbemi did not acknowledge receipt of the Notice of Hearing.

- [12] On March 16, 2020, Elizabeth Cowie, Head, Adjudicative Tribunals wrote an email to Mr. Fagbemi and Ms. McNabb advising that due to the spread of the coronavirus, hearings scheduled between March 16 and March 31, 2020 were suspended and would be rescheduled. Ms. Cowie invited the parties to contact her in the event that they wished to proceed as an "emergency exception". This email was sent to Mr. Fagbemi's email address of record. Mr. Fagbemi did not contact Ms. Cowie as a result of receiving this email.
- [13] On April 13, 2020, Ms. Cowie again sent an email to Mr. Fagbemi and Ms. McNabb advising that in light of the requirements of social distancing, the Discipline Committee was prepared to proceed with the hearing as an electronic hearing. Ms. Cowie requested that the parties provide their availability for an electronic hearing in April and May. This email was sent to Mr. Fagbemi's email address of record. Ms. McNabb provided dates on April 14, 2020 and reconfirmed her availability in a follow up email dated April 29, 2020, copied to Mr. Fagbemi. Mr. Fagbemi did not respond to Ms. Cowie's request for dates.
- [14] On May 6, 2020, Ms. D'Souza sent an email to Ms. McNabb in which she confirmed that the hearing had been set to proceed via video conference on May 25, 2020 at 9:30 a.m. This email was copied to Mr. Fagbemi's email address of record.
- [15] That same day, Ms. D'Souza sent a letter to Mr. Fagbemi enclosing the Notice of Hearing. The letter and enclosure were sent to Mr. Fagbemi's email address of record. In her letter, Ms. D'Souza requested that Mr. Fagbemi acknowledge receipt of the Notice of Hearing. The Notice of Hearing clearly indicated that if Mr. Fagbemi chose not to attend the hearing, the Discipline Committee might proceed in his absence. Mr. Fagbemi did not acknowledge receipt of the Notice of Hearing.
- [16] On May 19, 2020, Ms. D'Souza attempted to reach Mr. Fagbemi by calling the telephone number noted in Mr. Fagbemi's electronic file. The number listed was that of CPA Ontario. On May 22, 2020, she conducted a Canada411 search and called the only number listed under the name "Fagbemi". She was advised by the person who answered the phone that she had the wrong number.
- [17] On May 20, 2020, Ms. D'Souza sent an email to Mr. Fagbemi's email address of record providing instructions regarding electronic hearings. She requested that Mr. Fagbemi provide the Adjudicative Tribunal Office with a telephone number where he could be reached as soon as possible in order to facilitate a call with the I.T. team in preparation of the hearing. Mr. Fagbemi did not respond to Ms. D'Souza's email.
- [18] On May 21, 2020, Neha Pundir, Applications Support Administrator sent an email to Mr. Fagbemi's email address of record requesting a telephone number where he could be

reached and requesting that he advise whether he would be available to test the software required to participate in the hearing. Mr. Fagbemi did not respond to Ms. Pundir's email.

- [19] Based on the affidavits and supporting documents presented by the PCC, the Panel was satisfied that Mr. Fagbemi had received proper notice of both the hearing and of the Allegation of Professional Misconduct. The Panel decided to proceed to consider the allegation of professional misconduct in the absence of Mr. Fagbemi.

### **III. ISSUES**

- [20] The Panel deemed Mr. Fagbemi to have denied the allegation of professional misconduct and identified the following issues arising from the Allegation:
- A. Did the evidence establish, on a balance of probabilities, the particular facts on which the Notice of Allegation by the PCC was based?
  - B. If the Allegation made by the PCC was established on the evidence presented on a balance of probabilities, did the Allegation constitute professional misconduct?

### **IV. DECISION**

- [21] The Panel found that the evidence presented by the PCC did establish, on a balance of probabilities, that in or about the period of October 14, 2019 to December 3, 2019, Mr. Fagbemi had failed to cooperate with CPA Ontario by failing to reply promptly to correspondence sent by Theresa Tonelli, CPA, CA, Director of Standards Enforcement at CPA Ontario, dated September 25, 2019 and October 22, 2019.
- [22] The Panel was satisfied that the conduct constituted a breach of Rule 402 of the Student Code of Conduct and, having breached this Rule, Mr. Fagbemi had committed professional misconduct.

### **V. REASONS FOR THE DECISION**

#### *Findings regarding Conduct of Mr. Fagbemi*

- [23] By way of evidence, Ms. McNabb filed the Affidavit of Theresa Tonelli, CPA, CA, Director of Standards Enforcement with CPA Ontario (Exhibit 3). According to Ms. Tonelli, on September 16, 2018, CPA Ontario received a request for information from a Credit Analyst who claimed to have received financial statements related to an application for credit from a client that had been prepared by "Julius Fagbemi, CGA and reported as a CPA". The Analyst advised she could not locate Mr. Fagbemi's name on the CPA Ontario members' directory and requested assistance verifying Mr. Fagbemi's status with CPA Ontario. The Analyst provided no further information.
- [24] On February 14, 2019, Ms. Tonelli wrote to Mr. Fagbemi advising him of the information CPA Ontario had received regarding the manner in which he had identified himself on

financial statements. A copy of the Credit Analyst's correspondence to CPA Ontario was included with Ms. Tonelli's letter. Ms. Tonelli requested that Mr. Fagbemi provide a written response to the information provided to CPA Ontario, in accordance with Rule 402 of the Student Code, by March 7, 2019. Ms. Tonelli advised that extensions of time to respond would only be considered in limited circumstances and she confirmed that failure to respond to her letter would be referred to the Professional Conduct Committee and could result in allegations of professional misconduct. Ms. Tonelli also drew Mr. Fagbemi's attention to a number of provisions found in the By-Laws, and specifically reminded him that CPA Ontario "may suspend, reinstate, and deregister a Student in accordance with the Regulations." She invited Mr. Fagbemi to contact her should he have any questions or concerns, and provided both an email address and a phone number where she could be reached. This letter was sent by regular mail and courier to Mr. Fagbemi's address of record. The couriered letter was returned "unclaimed" while the letter sent by regular mail was not returned to CPA Ontario. Mr. Fagbemi did not respond to Ms. Tonelli's correspondence by the March 7, 2019 deadline.

- [25] On March 8, 2019, Ms. Tonelli wrote a second letter to Mr. Fagbemi advising that CPA Ontario had not received his response. She enclosed a copy of her February 14, 2019 letter and advised that a response was required by March 22, 2019. Ms. Tonelli specifically set out the provisions of Rule 402 of the CPA Ontario Student Code regarding the mandatory requirement that students co-operate with the regulatory process:

**402 Requirement to co-operate**

A Student shall co-operate with the regulatory processes of CPA Ontario and with the requirements of any person acting on behalf of CPA Ontario.

- [26] Ms. Tonelli again invited Mr. Fagbemi to contact her should he have any questions or concerns, providing him with her contact information as she had previously done. This letter and its enclosure were sent to Mr. Fagbemi by courier, regular mail and by email at Mr. Fagbemi's addresses of record.
- [27] On March 10, 2019, Mr. Fagbemi replied by email to the email addressed referenced in Ms. Tonelli's letter of March 8, 2019 email. The email address from which Mr. Fagbemi responded was the email address on record with CPA Ontario. Mr. Fagbemi advised that another representative of the financial institution that had made the initial inquiry regarding this matter had contacted him "on this issue of misrepresentation". He went on to explain that he had corrected the information "as not to use the CPA, but CFA candidate". He further informed Ms. Tonelli that he would be responding to her inquiry if an extension of the deadline could be provided.
- [28] On March 11, 2019, Standards Enforcement staff responded requesting Mr. Fagbemi provide an explanation as to why he would not be able to respond by the March 22, 2019 deadline set in Ms. Tonelli's letter of March 8, 2019. He was asked to provide an alternative date by which he would provide his response. This response was sent by email to the same email address from which Mr. Fagbemi had corresponded on March 10, 2019. It is the same email address on record with CPA Ontario. Mr. Fagbemi did

not respond to the Standards Enforcement staff.

- [29] On September 25, 2019, Ms. Tonelli wrote a letter to Mr. Fagbemi requesting he provide answers to a list of specific questions set out in the letter. She requested his response by October 14, 2019. Again, Ms. Tonelli invited Mr. Fagbemi to contact her should he have any questions or concerns, providing him with her contact information as she had done previously. The letter was sent to Mr. Fagbemi's email address of record. Mr. Fagbemi did not respond.
- [30] On October 22, 2019, Ms. Tonelli wrote a second letter to Mr. Fagbemi confirming his response to her letter of September 25, 2019 (a copy of which was enclosed) had not been received. As she had done previously in her March 8, 2019 letter to Mr. Fagbemi, Ms. Tonelli again set out the provisions of Rule 402 of the CPA Ontario Student Code. She requested that Mr. Fagbemi reply to her letter of September 25, 2019 by November 12, 2019. As in her previous correspondence, Ms. Tonelli invited Mr. Fagbemi to contact her should he have any questions or concerns, providing him with her contact information. This letter and its enclosure were sent to Mr. Fagbemi by registered mail, regular mail and by email at Mr. Fagbemi's addresses of record. The letter sent by registered mail was returned marked as "unclaimed". The letter sent by Canada Post was not returned. Mr. Fagbemi did not respond.
- [31] On December 3, 2019, the PCC meeting was held at which time this matter was considered. Mr. Fagbemi had provided no response to Ms. Tonelli's letters of September 25, 2019 and October 22, 2019.
- [32] On December 12, 2019, as previously noted, Mr. Archdall personally served Mr. Fagbemi with Ms. McNabb's letter dated December 10, 2019, enclosing the Allegation of Professional Misconduct which set out the alleged conduct and the allegation that such conduct breached Rule 402 of the Student Code of Conduct. In her letter, Ms. McNabb cautioned Mr. Fagbemi that if he chose not to provide the information required within 30 days, the date for a disciplinary hearing might be set without his participation and consent.
- [33] As of May 6, 2020, Standards Enforcement has received no further communications from Mr. Fagbemi.

#### *Finding of Professional Misconduct*

- [34] In light of the denial to the Allegation of Professional Misconduct entered on behalf of Mr. Fagbemi, the PCC bore the onus to prove on a balance of probabilities that Mr. Fagbemi's conduct breached Rule 402 of CPA Ontario's Student Code of Conduct, and that such a breach constituted professional misconduct.
- [35] Mr. Fagbemi was advised by way of letter dated February 14, 2019 of the concerns held by CPA Ontario regarding the manner in which he had identified himself on financial statements presented by a borrower to a financial institution. A response to those concerns was requested, in accordance to and specifically citing Rule 402 of the Student Code of Conduct.

- [36] On March 10, 2019, Mr. Fagbemi responded to a subsequent request for information, providing what would be his only communication to CPA Ontario. In his email, Mr. Fagbemi acknowledged having been made aware of the “issue of misrepresentation” by a representative of the financial institution. He advised that he had corrected “that information as not use the CPA, but CFA candidate”. By this, Mr. Fagbemi acknowledged an appreciation for the concerns that had been raised by CPA Ontario. Mr. Fagbemi then advised of his intention to respond to CPA Ontario’s inquiries, noting however that he required additional time. Despite advising of this intention, he did not indicate why he could not respond within the deadline set for his response, nor did he indicate how much more time he required.
- [37] Mr. Fagbemi’s March 10, 2019 communication was in the form of an email sent from the same email address that was on record with CPA Ontario. It was the same email address to which Ms. Tonelli would continue to send correspondence to Mr. Fagbemi until the fall of 2019. It was the same email address to which Ms. McNabb would send correspondence to in December of 2019. It is the same email address to which the Adjudicative Tribunals office would send communications to from January to May 2020. At no time following his March 10, 2019 email did Mr. Fagbemi contact CPA Ontario nor did he update his contact information with CPA Ontario.
- [38] Despite communications from Standards Enforcement Staff and two further letters from Ms. Tonelli sent on September 25, 2019 and October 22, 2019, Mr. Fagbemi ceased communicating with CPA Ontario.
- [39] By December 3, 2019, the date upon which the PCC considered this matter, Mr. Fagbemi had provided no response to Ms. Tonelli’s letters for September 25, 2019 and October 22, 2019.
- [40] The panel accepted the affidavit evidence of Mervyn Archdall and found that Mr. Fagbemi received proper notification of the Allegation of Professional Misconduct when he was personally served on December 12, 2019. He was also provided with information relating to the disciplinary process, including the possibility that if he failed to provide requisite information, the disciplinary hearing might be set without his participation and consent.
- [41] Mr. Fagbemi did not respond to three emails sent to him by Ms. D’Souza as she proceeded to set the hearing date in this matter. Mr. Fagbemi did not respond to Ms. D’Souza’s request that he acknowledge receipt of the Notice of Hearing sent to him on February 4, 2020. When the hearing date had to be cancelled and was subsequently re-scheduled, Mr. Fagbemi did not respond to correspondence sent to him in March, April or May 2020 from the Adjudicative Tribunal. He did not acknowledge receipt of the Notice of Hearing sent to him on May 6, 2020. Despite two attempts in May to reach Mr. Fagbemi to provide technical support by which he could attend the disciplinary hearing electronically, Mr. Fagbemi did not respond. Despite his non-responsiveness, the panel is nevertheless satisfied that correspondence to Mr. Fagbemi was properly sent to the addresses he had provided to CPA Ontario.

- [42] Mr. Fagbemi had been repeatedly been made aware of his obligations pursuant to Rule 402 of the Student Code of Conduct.
- [43] As submitted by Ms. McNabb and as found by this Panel, Mr. Fagbemi was clearly given ample opportunity to respond and interact with CPA Ontario, yet he failed to take on the responsibility of responding and cooperating. Mr. Fagbemi's only communication with CPA Ontario, dated March 10, 2019, was, in the opinion of the panel, non-responsive and failed to provide any of the details sought by CPA Ontario. While Mr. Fagbemi recognized and acknowledged in his email of March 10, 2019 that there was an issue regarding misrepresentation, he failed to provide an explanation for his conduct.
- [44] Despite his indication that he would require additional time to respond, Mr. Fagbemi provided no explanation as to why he required additional time, nor how much time he needed. There is no evidence before this Panel to explain Mr. Fagbemi's failure to respond to the issues brought to his attention by CPA Ontario by way of initial letter dated February 14, 2019.
- [45] The requirement that members and students co-operate with the regulatory processes of CPA Ontario is not a passive requirement. Members and students are expected to actively participate in investigations and in the disciplinary process. Despite the passage of some fifteen months since the inquiry was initially made of CPA Ontario by a member of the public, no explanation has been provided.
- [46] As no additional information was provided by the financial institution regarding Mr. Fagbemi's conduct, Mr. Fagbemi was the only source of information available to CPA Ontario. By failing to cooperate in the investigation, Mr. Fagbemi prevented CPA Ontario from resolving its original concerns and concluding its investigation.
- [47] Based on the clear, cogent and convincing evidence presented by the Professional Conduct Committee, the Panel concluded that Mr. Fagbemi had failed to cooperate with the regulatory process of CPA Ontario by failing to respond to Ms. Tonelli's letters of September 25, 2019 and October 22, 2019. The Panel found that Mr. Fagbemi's conduct breached Rule 402 of the Student Code of Conduct and having breached the Rule, the Panel concluded that Mr. Fagbemi had committed professional misconduct.

## **VI. SANCTIONS**

### *Position of the PCC*

- [48] Ms. McNabb, on behalf of the PCC submitted that there were a number of aggravating factors present in this matter which justified sanction. As a result of Mr. Fagbemi's repeated failure to cooperate by responding to inquiries made of him by CPA Ontario, concerns raised by a member of the public that required investigation have gone unanswered for over a year. Mr. Fagbemi's unwillingness to cooperate has wasted time and resources, leaving CPA Ontario no further ahead in its investigating Mr. Fagbemi's conduct. Mr. Fagbemi's behaviour is particularly disturbing as his failure to cooperate suggests an unwillingness to be regulated.

- [49] In mitigation, Ms. McNabb proffered that Mr. Fagbemi has no disciplinary record.
- [50] Ms. McNabb submitted that an appropriate sanction in this matter should include a written reprimand from the Chair of the Panel which would address specific deterrence.
- [51] She submitted that a fine in the amount of \$3,500, to be remitted within 30 days of the Panel's order, would be appropriate. Recent jurisprudence presented by Ms. McNabb revealed fines in the amount of \$5,000 imposed for similar conduct [1] but as the PCC had previously advised Mr. Fagbemi in 2019 that it would be seeking a fine in the amount of \$3,500, Ms. McNabb fairly maintained the PCC's original position on the quantum of the fine.
- [52] Ms. McNabb also requested that the Panel order Mr. Fagbemi to co-operate with the Professional Conduct Committee within 30 days of the Order by fully responding to the correspondence sent to him by Ms. Tonelli dated September 25, 2019 and October 22, 2019. Ms. McNabb requested that notice of the Decision and Order, disclosing Mr. Fagbemi's name be given to all members of CPA Ontario, to all provincial bodies and shall be made available to the public. Such a condition would address rehabilitation as it would provide Mr. Fagbemi with an opportunity to address his conduct.
- [53] In the event that Mr. Fagbemi does not comply with the terms of the Panel's Order, Ms. McNabb submitted that Mr. Fagbemi's registration with CPA Ontario should be suspended until such time as he does comply, provided that Mr. Fagbemi complies within 30 days from the date of the suspension. Ms. McNabb asked the Panel to order that Mr. Fagbemi be deregistered as a student if he does not comply within 30 days of the suspension. Coincidental with deregistration, Ms. McNabb asked that notice of Mr. Fagbemi's deregistration be given to all members of CPA Ontario, to all provincial bodies and to the public. Ms. McNabb proposed that the costs of the publication be borne by Mr. Fagbemi. Such a condition addresses both specific and general deterrence.

### *Decision of the Panel*

- [54] In considering the PCC's submissions, the Panel considered whether the sanctions proposed were within the range of reasonable sanctions for similar misconduct and whether the sanctions were contrary to the public interest.
- [55] The Panel accepted the sanctions proposed by the PCC, finding the sanctions reasonable and not contrary to the public interest. The only variation to the sanctions proposed related to the quantum of the fine and the date by which payment was due.
- [56] The Panel ordered a fine of \$5,000, to be remitted by July 24, 2020. The Panel found that there were no significant mitigating factors that suggested that Mr. Fagbemi should be fined an amount less than fines imposed in recent decisions. Collectively, the Panel concluded that a fine in the amount of \$5,000 was appropriate when considering both specific and general deterrence. Fines such as this send the clear message to both students and members of CPA Ontario that there are significant consequences for failing

---

1 D'Orazio (Re), February 5, 2020

to cooperate.

- [57] The sanctions imposed by the Panel take into consideration the sentencing principles of general and specific deterrence, as well as rehabilitation.
- [58] The Panel found Mr. Fagbemi's failure to promptly reply to communications sent to him by the very body he seeks to be licensed by, to be not only unprofessional but showing an unwillingness to be governed. It is hoped that Mr. Fagbemi will take this final opportunity to promptly and fully respond to the inquiries made of him by Ms. Tonelli in her letters of September 25, 2019 and October 22, 2019. A failure to do so within the allotted times will result in his deregistration.

## **VII. COSTS**

- [59] Costs are imposed as an indemnity, not as an additional fine. The PCC presented a Costs Outline and invited the Panel to order costs on a partial indemnity basis, being approximately 2/3 of the total costs.
- [60] Due to Mr. Fagbemi's failure to respond promptly with CPA Ontario's regulatory process, the underlying conduct which drew the attention of a member of the public remains unaddressed. Mr. Fagbemi's conduct created the necessity for resources to be expended in the hopes engaging him in this process. Additional costs were incurred as his conduct necessitated this hearing.
- [61] As the PCC's Cost Outline included the cost of a court reporter – which was not needed in light of the recording that accompanied the electronic hearing, the Panel decreased the overall costs by that amount, and ordered costs to be paid by Mr. Fagbemi in the amount of \$3,000 by July 24, 2020.

**DATED** at Toronto this 6th day of July, 2020



Randal J. Adamkowski, CPA, CA  
Discipline Committee – Deputy Chair

### Members of the Panel

Timothy Galvin, CPA, CA, CMA, LPA  
Veronica Green-Dimitroff, CPA, CMA  
Soussanna Karas (Public Representative)  
Jane Rivers, CPA, CGA

### Independent Legal Counsel

Nadia Liva, Barrister & Solicitor