

**THE CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO**

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


**TO:** KANAGARATNAM KACHIAPA SIVA RAGULAN, CPA, CMA

**AND TO:** The Discipline Committee of CPA Ontario

The Professional Conduct Committee of CPA Ontario hereby makes the following Allegations against Kanagaratnam Kachiapa Siva Ragulan, a member of CPA Ontario:

1. THAT the said Kanagaratnam Kachiapa Siva Ragulan, in or about the period August 1, 2016 to June 20, 2017 failed to co-operate with the regulatory process of CPA Ontario contrary to Rule 104.1 of the CPA Code of Professional Conduct, in that:
  - a. he failed to provide information when requested to do so by the Professional Conduct Committee through its investigator; and
  - b. he failed to attend an interview as requested by the investigator appointed by the Professional Conduct Committee.
  
2. THAT having received a Notice to a Member to Attend Before the Professional Conduct Committee of CPA Ontario pursuant to Regulation 7-1 s.18, the said Kanagaratnam Kachiapa Siva Ragulan, on or about June 20, 2017, failed to co-operate with the regulatory process of CPA Ontario contrary to Rule 104.2(c) of the CPA Code of Professional Conduct, in that he did not attend as required by the terms of the Notice.

Dated at Mississauga, this 30<sup>th</sup> day of June, 2017.

  
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E.D.M. HUFTON, CPA, CA, DEPUTY CHAIR  
PROFESSIONAL CONDUCT COMMITTEE

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO

*CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO ACT, 2017*

**DISCIPLINE COMMITTEE**

**IN THE MATTER OF:** Allegations against **KANAGARATNAM KACHIAPA SIVA RAGULAN**, a member of the Chartered Professional Accountants of Ontario, under **Rule 104.1** and **Rule 104.2(c)** of the CPA Code of Professional Conduct, as amended.

**TO:** Mr. Kanagaratnam Kachiapa Siva Ragulan

**AND TO:** The Professional Conduct Committee

**DECISION AND ORDER MADE JUNE 12, 2018**

**DECISION**

The tribunal was satisfied that the Allegations were proven and constituted a breach of **Rule 104.1** and **Rule 104.2(c)** of the CPA Code of Professional Conduct. Having breached these Rules, the tribunal determined that Kanagaratnam Kachiapa Siva Ragulan ("Mr. Ragulan") has committed professional misconduct.

**ORDER**

The tribunal orders the following:

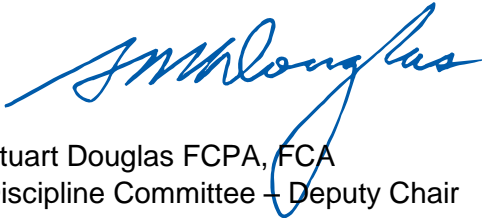
1. Mr. Ragulan shall be reprimanded in writing by the Chair of the hearing.
2. Mr. Ragulan shall pay a fine of \$3,500 to CPA Ontario within six months of this Order, by Wednesday, December 12, 2018.
3. Mr. Ragulan is suspended from the rights and privileges of membership in CPA Ontario for a period of 30 days from the date of this Order.
4. Mr. Ragulan shall cooperate with the Professional Conduct Committee by providing outstanding information requested in the letter dated January 9, 2017 from CPA Ontario's investigator, Scott Porter, and to attend an interview with the investigator within 30 days of this Order, specifically, by Thursday, July 12, 2018.
5. Notice of this Decision and Order, disclosing Mr. Ragulan's name, is to be given in the form and manner determined by the tribunal:

- (a) to all members of CPA Ontario;
- (b) to all provincial bodies;

and shall be made available to the public.

6. In the event Mr. Ragulan fails to comply with the requirements of paragraph 4 of this Order, his membership shall be revoked, and notice of the revocation of his membership, disclosing his name, shall be given in the manner specified above, and in *The Globe and Mail*. All costs associated with this publication shall be borne by Mr. Ragulan and shall be in addition to any other costs ordered by the tribunal.
7. Mr. Ragulan shall pay costs of \$37,500 to CPA Ontario within six months of this Order, by Wednesday, December 12, 2018.

**DATED** at Toronto this 12<sup>th</sup> day of June, 2018

A handwritten signature in blue ink, appearing to read "Stuart Douglas". The signature is fluid and cursive, with a large loop at the end.

Stuart Douglas FCPA, FCA  
Discipline Committee – Deputy Chair

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

**DISCIPLINE COMMITTEE**

**IN THE MATTER OF:** Allegations against **KANAGARATNAM KACHIAPA SIVA RAGULAN, CPA, CMA**, a member of CPA Ontario, under **Rule 104.1** and **Rule 104.2(c)** of the Code of Professional Conduct, as amended.

**BETWEEN:**

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

**-and-**

**Mr. Kanagaratnam Kachiapa Siva Ragulan**

**APPEARANCES:**

**For the Professional Conduct Committee:** Swapna Chandra, Counsel

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

Heard: June 12, 2018

Decision and Order effective: June 12, 2018

Release of written reasons: July 20, 2018

**REASONS FOR THE DECISION AND ORDER MADE JUNE 12, 2018**

**I. OVERVIEW**

- [1] This hearing was held to determine whether the allegations of failing to cooperate with the regulatory process of CPA Ontario, which had been laid against Mr. Ragulan amount to professional misconduct.
- [2] Mr. Ragulan obtained his CPA designation in 1994. He worked as a sole practitioner in his own name. There was an issue raised in the course of the hearing as to whether he also carried on business under the names of Business Services Canada ("BSC") and Niagara Financial Services Inc. ("NFSI"). A determination of this question was one of the intended purposes of the investigation by CPA Ontario that gave rise to the allegations.
- [3] On February 12, 2015, AA, a client of Mr. Ragulan, made a complaint to CPA Ontario (Exhibit 3, Tab 1). She identified several concerns. She also indicated that she had been a client of NFSI, but the business had been sold to Mr. Ragulan in December 2012. This complaint triggered an investigation by the Professional Conduct Committee of CPA

Ontario ("PCC") In addition, the PCC commenced a second investigation based on a concern that Mr. Ragulan was providing accounting services to the public through the two companies.

- [4] In the course of the investigation, a number of letters were sent to Mr. Ragulan He responded to some of these, and the investigation of the initial complaint by AA was closed. The investigation into accounting services continued. In addition, two new complaints were received by the PCC, which were also the subject of letters of inquiry from PCC to Mr. Ragulan Eventually, as the PCC was not satisfied that he had responded adequately to the other matters, Mr. Ragulan was sent a notice requiring him to attend a meeting with the PCC. The adequacy, or inadequacy, of Mr. Ragulan's response to these letters and the notice to attend was at the core of the hearing.
- [5] The PCC alleged that Mr. Ragulan had failed to cooperate with the investigation between August 1, 2016, and June 20, 2017, by failing to provide information requested by the investigator and by failing to attend an interview with the investigator The PCC further alleged that Mr. Ragulan had failed to cooperate with the PCC by failing to attend the meeting with PCC
- [6] The onus was on the PCC to show on a balance of probabilities that Mr. Ragulan's conduct breached the CPA Ontario's Code of Professional Misconduct, and constituted professional misconduct

## **II. PRELIMINARY ISSUES**

- [7] To proceed in the absence of Mr. Ragulan, the tribunal had to be satisfied that he had received proper notice of the hearing.
- [8] The PCC filed two email exchanges between CPA Ontario and Mr. Ragulan as evidence The first was an exchange between Kristen Couch, the Adjudicative Tribunals Assistant Secretary at CPA Ontario, Mr. Ragulan and Ms. Chandra, among others, on February 26, 2018 (Exhibit 1) In that exchange, Ms. Couch confirmed she was providing the Notice of Hearing, and Mr. Ragulan confirmed that the date was good with him, although there was no mention in the exchange of the date The second exchange occurred between Mr. Ragulan, Ms. Chandra and another staff person at CPA Ontario on June 4 to 6, 2018 (Exhibit 2) This exchange demonstrated that the date of June 12, 2018, was provided to Mr. Ragulan Among other things, Mr. Ragulan advised in that email that he had already left the country before the hearing date.
- [9] In response to a question from the tribunal, Ms. Chandra noted that the Chair of the Discipline Committee had previously issued an order authorizing substituted service of all documents on Mr. Ragulan, including the allegations against him, by way of email to this same email address (Tab 30 of Exhibit 3) In the absence of evidence to the contrary, the tribunal was satisfied that the allegations had been delivered in accordance with that order.
- [10] Based on the foregoing evidence, the tribunal was satisfied that Mr. Ragulan had received proper notice of the hearing and decided to proceed in his absence.

### III. ISSUES

- [11] The tribunal identified the following issue arising from the allegations:
- a) Did the evidence establish, on a balance of probabilities, the facts on which the particulars alleged by the PCC were based?
  - b) If the particulars alleged by the PCC were established based upon the evidence, on a balance of probabilities, did those particulars constitute professional misconduct?

### IV. DECISION

- [12] The tribunal found, on a balance of probabilities, that the evidence established and supported the particulars set out in the allegation of professional misconduct.
- [13] The tribunal was satisfied that the particulars alleged constituted a breach of Rules 104.1 and 104.2(c), and, having breached these Rules, Mr. Ragulan had committed professional misconduct.

### V. REASONS FOR THE DECISION

#### *Findings Regarding Conduct of Mr. Ragulan*

- [14] Mr. Ragulan responded to the initial request for information in relation to the client complaint and the complaint commenced by CPA Ontario on May 29, 2015 (Exhibit 3, Tab 2), and provided documentation regarding his relationship with BSC and NFSI He responded further to the client complaint by email dated June 9, 2015 (Exhibit 3, Tab 4).
- [15] CPA Ontario did not consider these responses adequate and instructed an investigation into the two complaints. The investigator, Scott Porter, began to correspond with Mr. Ragulan on May 10, 2016 Subsequently, from May 2016 to August 2016, there was an exchange of correspondence between Mr. Porter and the lawyer retained by Mr. Ragulan A variety of information was provided on behalf of Mr. Ragulan during this period in response to questions from Mr. Porter.
- [16] The last information provided by Mr. Ragulan's lawyer to Mr. Porter was included in an email dated August 8, 2016 (Exhibit 3, Tab 15) The allegation on non-cooperation advanced by PCC first arises as of August 1, 2016.
- [17] By email, dated September 16, 2016 (Exhibit 3, Tab 17), the investigator indicated to Mr. Ragulan and his lawyer that he wished to schedule an interview with Mr. Ragulan and also that he required some additional documents. In a conversation following this email, Mr. Ragulan's lawyer advised the investigator that she had been discharged by Mr. Ragulan as his lawyer
- [18] The investigator sent a letter to Mr. Ragulan by email on September 21, 2016 (Exhibit 3, Tab 16), in which he requested additional information and also asked to schedule an interview no later than October 6, 2016 Mr. Ragulan responded to the investigator on October 3, 2016 On that date, he sent a note to the investigator from a doctor at a clinic (Exhibit 3, Tab 18) The note simply indicated that the doctor recommended that Mr. Ragulan "have to take rest for 3 months from his work and any professional activities

because of medical reason.”

- [19] In an email to the investigator on October 3, 2016 (Exhibit 3, Tab 19), Mr. Ragulan indicated that he was not well enough to communicate with the investigator, but provided some information in relation to the investigator’s queries. He noted that he was “fully committed to cooperate [*sic*] to best of my ability in this investigation as far as my medical condition allow me to do so.” Mr. Ragulan added that he did not access email as much as before his retirement and that his father was in hospital, so he was not able to respond to the investigator’s timelines.
- [20] By letter, dated October 7, 2016 (Exhibit 3, Tab 20), Ms. Alexandra Hersak, the Director of Investigations and Prosecutions for CPA Ontario advised Mr. Ragulan that the investigator would report to the PCC in November 2016, and if Mr. Ragulan provided additional information in response to the investigator before then, it would be conveyed to PCC.
- [21] On October 11, 2016, Mr. Ragulan and the investigator exchanged emails regarding BSC and NFSI (Exhibit 3, Tab 21). Mr. Ragulan indicated that his wife had sold BSC to a third party, but the third party declined to speak to the investigator. In response, the investigator asked whether NFSI and BSC had been sold and also requested the agreement of purchase and sale. Mr. Ragulan asked for a few days, but the requested documentation was not provided.
- [22] By letter, dated January 9, 2017 (Exhibit 3, Tab 26, pp. 1-2), the investigator confirmed to Mr. Ragulan that the one initial complaint had been closed, but requested responses to five points that remained outstanding from earlier requests regarding Mr. Ragulan’s involvement with NFSI and BSC. Mr. Ragulan responded by email on January 23, 2017 (Exhibit 3, Tab 26, p. 3), indicating that he was still under the care of a physician (not the physician who had provided the earlier note) and questioned how he could provide documents about the company that he said had been transferred from his wife to a third party. He said he had “no further comment to make”.
- [23] On February 15, 2017 (Exhibit 3, Tab 26, pp. 4-7), Ms. Hersak wrote to Mr. Ragulan to explain the investigator’s authority to require *anyone who works with the member* to provide information or documents. Given that Mr. Ragulan’s wife appeared to work with him, she was required to provide the documentation sought. Ms. Hersak also indicated that Mr. Ragulan was required to maintain the client records sought by the investigator. Finally, Ms. Hersak asked that Mr. Ragulan’s doctor provide confirmation that he was unable to participate in the investigation, a detailed explanation of his medical condition and the prognosis as to when he could participate in the investigation. Mr. Ragulan was asked to provide the information by March 1, 2017. Mr. Ragulan did not respond by that date.
- [24] Following a further email from the investigator, Mr. Ragulan advised the investigator on March 2, 2017 (Exhibit 3, Tab 26, p. 8), that he was seeing his psychiatrist on March 22, 2017, and he would relay the PCC’s request to the doctor. He also indicated that he needed two to three weeks to respond to any request.
- [25] On the same date, Mr. Ragulan responded to Ms. Hersak’s office to say that he did not have the documents and never had. The investigator responded to say that this

response was not satisfactory, and he would continue his investigation.

- [26] On March 22, 2017, Mr. Ragulan advised the investigator that the doctor required a fax from the investigator requesting the necessary information (Exhibit 3, Tab 26, p. 11) The following day, the investigator sent a letter to the doctor requesting this information.
- [27] By email dated April 10, 2017 (Exhibit 3, Tab 26, p. 14), the investigator made a further request for the outstanding documents and asked to arrange an interview between Mr. Ragulan and the investigator. The interview did not take place, and none of the requested documents were provided.
- [28] The investigator emailed a further letter to Mr. Ragulan on April 18, 2017 (Exhibit 3, Tab 26, pp. 15-17) and attached the investigator's and Ms. Hersak's earlier letters In his letter the investigator also referred to the available information that indicated that Mr. Ragulan had controlled BSC and NFSI at different times, including the fact that he had registered BSC with CMA Ontario (Exhibit 3, Tab 9) as his corporation in June 2011 Similarly, the investigator noted that a company for which Mr. Ragulan had signing authority had purchased the files (clients) of NFSI in October 2012. Documents related to this transaction were required to be retained by Mr. Ragulan. Mr. Ragulan did not respond to the continuing requests and continued to not cooperate with the investigator and PCC.
- [29] The investigator received a fax on April 27, 2017, from Mr. Ragulan's doctor (Exhibit 3, Tab 26, p. 18) The fax was an invoice which indicated that the investigator had to pay the doctor \$150 for the medical report on Mr. Ragulan The investigator responded the same day to indicate that the cost of the medical report was Mr. Ragulan's responsibility When the investigator advised Mr. Ragulan of this exchange, Mr. Ragulan indicated, by email on April 27, 2017, that dealings between the investigator and the doctor did not involve Mr. Ragulan.
- [30] The investigator noted in an email, dated April 28, 2017 (Exhibit 3, Tab 26, p. 23), that it was Mr. Ragulan's obligation to cooperate with PCC and his obligation to provide documents to support an explanation as to why he could not cooperate Mr. Ragulan responded the same date to say, "LOOK YOU, YOU WANTED THE LETTER YOU PAY FOR IT I WILL NOT PAY FOR IT END OF THE MATTER."
- [31] By letter, dated May 16, 2017 (Exhibit 3, Tab 27), Ms. Hersak invited Mr. Ragulan to attend before the PCC on June 20, 2017. The "Procedures Followed" attached to the letter stated that the investigator's report regarding Mr. Ragulan would be considered by the PCC. Mr. Ragulan responded to indicate that it would not be convenient for him to meet until April 2018 (Exhibit 3, Tab 27, letter from Ms. Hersak to Mr. Ragulan dated June 12, 2017).
- [32] Mr. Hersak wrote to Mr. Ragulan on June 12, 2017, and provided him with a formal Notice to a Member to Attend before the PCC, to require his attendance She noted in the letter that Mr. Ragulan had left her a voicemail indicating that the process server sent to deliver the earlier correspondence was not wanted on the property and Mr. Ragulan or the residents would call the police if he returned (Exhibit 3, Tab 27).
- [33] On June 13, 2017, Mr. Ragulan sent an email to Ms. Hersak (Exhibit 3, Tab 28)

indicating that the property to which the materials had been sent had been sold, and the people in the house, not him, would decide to call the police He also said that the June 20, 2017 date was too short notice, and he blamed the investigator for delaying the process The investigator, however, identified a property abstract that showed that the property was still owned by Mr. Ragulan (Exhibit 3, Tab 29).

- [34] Mr. Ragulan did not respond to the items requested by the investigator, and specifically the items listed in Mr. Porter's letter on January 9, 2017 (Exhibit 3, Tab 26).
- [35] The investigator and counsel for PCC succinctly explained to Mr. Ragulan that he needed to provide the necessary information, pertaining to medical issues of a member, in order to accommodate any required scheduling issues for all aspects of the investigation and attendances before PCC by Mr. Ragulan. Mr. Ragulan chose not to comply with the required process regarding his medical issues. PCC and the investigator therefore proceeded with their processes after providing Mr. Ragulan with the opportunity to cooperate and provide the medical information that PCC would require In the tribunal's view, there was no cogent evidence presented by Mr. Ragulan to demonstrate that he had an actual medical issue that needed to be considered by the PCC or this tribunal.
- [36] The tribunal found that the investigator had asked for various documents or information, notably those listed in the investigator's letter of January 9, 2017, and Mr. Ragulan had not provided adequate responses to those requests To the extent that Mr. Ragulan responded to the investigator, the responses did not address the questions asked Rather, the responses tended to evade the question, and Mr. Ragulan either did not respond or he challenged the investigator's ability to ask the question The tribunal concluded that this did not constitute the cooperation with the PCC that Mr. Ragulan as a member was required to provide.
- [37] Similarly, the tribunal found that the investigator had asked Mr. Ragulan for an interview on at least three occasions He had declined to be interviewed. The tribunal concluded that this did not constitute the cooperation with the PCC that Mr. Ragulan as a member was required to provide.
- [38] Further, the tribunal was satisfied that Mr. Ragulan was delivered a Notice to A Member to Attend before the PCC, and he did not attend at the meeting with the PCC Again, this reflected a failure to cooperate with the request of the PCC.

### *Finding of Professional Misconduct*

- [39] The tribunal found that Mr. Ragulan committed professional misconduct in that he breached Rule 104.1 and 104.2 (c) of the Code of Professional Conduct, as amended.
- [40] The evidence presented by PCC was clear, cogent and compelling and confirmed to the tribunal that Mr. Ragulan repeatedly failed to provide the information requested by PCC, he repeatedly failed to attend interviews as requested by the investigator, he failed to attend before the Professional Conduct Committee, as required, and he failed to cooperate with the regulatory process The tribunal concluded that these failures, singly and collectively, reflected clear breaches of the Code of Professional Conduct and that Mr. Ragulan had committed professional misconduct as alleged

[41] Counsel for PCC had referred to Mr. Ragulan's behaviour and conduct as that of a person who was ungovernable. Ample time and opportunity was provided to Mr. Ragulan to meet his obligations, and he chose not to comply. The tribunal agreed with PCC that Mr. Ragulan's behaviour raised a concern that he was not governable as a member of CPA Ontario. This concern underscored the impropriety of his conduct and the tribunal's finding that it constituted professional misconduct.

## **VI. SANCTIONS**

[42] The tribunal considered the position of the PCC with respect to the penalty to be imposed in this matter. The PCC had sought, essentially, a fine of \$3,500 and an order that Mr. Ragulan comply with the investigator's requests within 30 days, failing which Mr. Ragulan's membership would be revoked.

[43] The tribunal was not satisfied that the penalty sought, to the extent that Mr. Ragulan would retain his membership in CPA Ontario during the intervening 30-day period to allow him to comply, adequately addressed the protection of the public interest. The tribunal determined that Mr. Ragulan was on the cusp of being found to be ungovernable. The evidence demonstrated to the tribunal that Mr. Ragulan did not respect the requirements of the Code of Professional Conduct. He was not respectful of the process followed by PCC and its investigator and showed conduct that was not becoming of a member of CPA Ontario. The tribunal did not believe that the public was adequately protected without the imposition of the suspension for the 30-day period.

[44] The tribunal considered immediate revocation as an option but concluded that the 30-day suspension and compliance order would provide the intermediate protection required for the public. While the tribunal was prepared to permit Mr. Ragulan a final chance to show that he was prepared to be governed by CPA Ontario, they did not believe that it was in the best interest of the public for him to be able to retain his membership until he could show that he was willing to comply with the Code of Professional Conduct of CPA Ontario. The tribunal therefore imposed a 30-day suspension from membership, the period during which he was required to comply with the investigator's requests.

[45] In assessing Mr. Ragulan's governability, the tribunal considered a prior set of Reasons concerning Mr. Ragulan issued by CMA Ontario, dated January, 2012 (Exhibit 6). In its conclusion, the Discipline Committee of CMA Ontario stated that Mr. Ragulan "failed to exercise the professional judgement, responsibility and prudence that is expected of a CMA." The concern of the tribunal was that Mr. Ragulan had prior issues pertaining to professional misconduct and recognizing his obligations. Having had that prior exposure to the discipline process, Mr. Ragulan had continued to conduct himself in the manner shown by the evidence before this tribunal. This concern led the tribunal to consider immediate revocation of membership. The tribunal ultimately determined that the 30-day suspension would provide the necessary protection to the public for the period until it is determined whether he would comply with PCC. If Mr. Ragulan did not rise to that challenge, revocation was clearly appropriate in the tribunal's view.

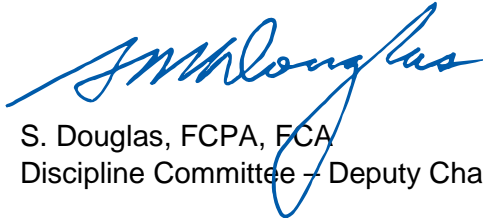
## VII. COSTS

[46] The tribunal accepted the position of PCC that Mr. Ragulan should be responsible for two-thirds of the costs incurred by PCC in the investigation, to date, and prosecution of these allegations. The costs outline submitted by the PCC indicated that the total costs incurred were \$60,455.33. However, counsel fairly conceded that the investigation costs (amounting to \$49,947.41) should be reduced to reflect that one of the four investigations was closed. Two-thirds of the remaining amount constituted \$37,500, and the tribunal ordered Mr. Ragulan to pay this amount within six months.

[47] The tribunal

[48] concluded that Mr. Ragulan should bear a significant portion of the cost of these proceedings since his conduct had caused these proceedings. In particular, Mr. Ragulan's refusal to cooperate in a timely manner meant that the investigator had to spend far more time on the investigation than should have otherwise been the case. The two-thirds allocation adequately reflected this responsibility.

DATED at Toronto this 20<sup>th</sup> day of July, 2018



S. Douglas, FCPA, FCA  
Discipline Committee – Deputy Chair

### Members of the Tribunal

C. Danchuk, CPA, CA  
T. Galvin, CPA, CA, CMA  
A. Mintz, CPA, CA  
B. Solway (Public Representative)

### Independent Legal Counsel

Glenn Stuart  
Stuart Law