CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO
(THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO)
THE CHARTERED ACCOUNTANTS ACT, 2010

DISCIPLINE COMMITTEE

IN THE MATTER OF: Allegations against **KENNETH MICHAEL HUBBARD,** a Member, under **Rules 201.1, 205, 206.1 and 406** of the Rules of Professional Conduct, as amended.

TO: Mr. Kenneth M. Hubbard

AND TO: The Professional Conduct Committee

REASONS
(Decision and Order made March 19, 2014)

1. This tribunal of the Discipline Committee met on March 19, 2014 to hear allegations of professional misconduct brought by the Professional Conduct Committee against Kenneth M. Hubbard, a Member.

2. Ms. Alix Hersak appeared on behalf of the Professional Conduct Committee (PCC), accompanied by the investigators, Mr. Scott Porter CPA, CA and Mr. Raymond Harris FCPA, FCA. Mr. Hubbard was not represented by counsel and did not attend. Mr. Robert Peck attended the hearing as counsel to the Discipline Committee.

3. Ms. Hersak submitted that Mr. Hubbard had been served with the Allegations and with the Notice of Hearing. Ms. Hersak filed an affidavit (Exhibit 1) wherein Christine El Baramawi, coordinator, Discipline and Appeals, Standards Enforcement of CPA Ontario, deposed that she had on January 29, 2014 sent Mr. Hubbard by mail and email the Notice of Hearing to his addresses of record and that an email delivery receipt from Mr. Hubbard's email address was received on January 29, 2014. Ms. Hersak also filed an affidavit (Exhibit 2) where Diane Williamson, Secretary to the Discipline committee of CPA Ontario, deposed that she had on March 13, 2014 received a letter from Mr. Hubbard wherein he stated he could see no benefit in attending or having representation at the hearing on March 19, 2014.

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

5. The decision of the tribunal was made known at the conclusion of the hearing on March 19, 2014, and the written Decision and Order sent to the parties on March 24, 2014. These reasons, given pursuant to Rule 20.04 of the Rules of Practice and Procedure, include the allegations, the decision, the order, and the reasons of the tribunal for its decision and order.

Allegations

6. The following allegations were made against Mr. Hubbard by the Professional Conduct Committee on November 25, 2013: At the hearing, Allegation No. 5(g) was amended to change the word "continue" to "establish".

1. THAT the said Kenneth M. Hubbard, in or about the period January 1, 1995 through June 30, 2012, while engaged in the practice of public accounting, failed to conduct himself in a manner that will maintain the good reputation of the profession and its ability to serve the public interest in that he knowingly permitted a non-member, "FD," to issue assurance financial statements in his name without his prior review, contrary to Rule 201.1 of the Rules of Professional Conduct.

2. THAT, the said Kenneth M. Hubbard, in or about the period January 1, 1995 through June 30, 2012, while engaged in the practice of public accounting and while associated in such practice with a non-member "FD", failed to ensure that "FD" abided by the Rules of Professional Conduct of the ICAO contrary to Rule 406 of the Rules of Professional Conduct and in particular:

    a) "FD" failed to conduct himself in a manner which will maintain the good reputation of the profession and its ability to serve the public interest in that he performed assurance engagements without a public accounting licence and issued financial statements in the name of Kenneth M. Hubbard, CPA, CA without prior review; and

    b) "FD" failed to perform professional services in connection with public accounting engagements in accordance with generally accepted standards of practice of the profession.

3. THAT the said Kenneth M. Hubbard, on or about March 11, 2012 completed a Practice Inspection Program Planning Questionnaire, certifying that the information provided was accurate, complete and current, and in so doing associated himself with statements which he knew were false or misleading, contrary to Rule 205 of the Rules of Professional Conduct in that:

    (a) he provided a client listing which he knew to be based on an estimate and was incomplete; and

    (b) he failed to include in the client listing any engagements performed by "FD" which bore his name, including:

        i. the review of the financial statements of "A&RE" for the year ended January 31, 2011;
        ii. the review of the financial statements of "SC" for the year ended June 30, 2011; and
        iii. the compilation of financial information of "PU" for the year ended October 31, 2011.

4. THAT the said Kenneth M. Hubbard, in or about the period December 31, 2012 through February 28, 2013, while engaged to perform an audit of the financial statements of "MSC" for the year ended December 31, 2012, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule 206.1 of the Rules of Professional Conduct, in that:

    (a) he failed to ensure required disclosure of the revenue recognition policy;

(b) he failed to ensure adequate disclosure of the statement of loss and retained earnings item "Income taxes (recovered) (12,842)";

(c) he failed to ensure proper disclosure of the balance sheet item "Government taxes payable 61,439";

(d) he failed to ensure disclosure of the terms and conditions relating to the balance sheet items "Advances to shareholder 2011 26,564" and "Advances from shareholder 2012 234";

(e) he failed to ensure disclosure of the basis of presentation of the financial statements in accordance with the Canadian accounting standards for private enterprise;

(f) he failed to document the basis for his conclusion to continue the client relationship and audit engagement and determination of his compliance with the required ethical standards including independence;

(g) he failed to ensure required disclosure of significant credit risk, currency risk, interest rate risk and liquidity risk; and

(h) he failed to document the identified and assessed risks of material misstatement, the audit procedures used to address those risks and the results thereof.

5. THAT the said Kenneth M. Hubbard, in or about the period May 1, 2013 through May 13, 2013, while engaged to perform an audit of the financial statements of "Condominium533" for the year ended March 31, 2013 failed to perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule 206.1 of the Rules of Professional Conduct, in that:

(a) he failed to ensure disclosure of the basis of presentation of the financial statements in accordance with the Canadian accounting standards for not-for-profit organizations;

(b) he failed to comply with the requirements for "first-time adoption" of Part III of the *Handbook*, including the required disclosures;

(c) he failed to ensure required disclosure of the revenue recognition policy;

(d) he failed to ensure that the statement of general fund operations and fund balance was that for Condominium533 rather than for a different entity;

(e) he failed to ensure disclosure of the amount, terms and conditions of the interfund loan outstanding from the general fund to the reserve fund;

(f) he failed to ensure disclosure of the comparison between the actual reserve fund allocations from owners' assessments and the expenses with the Board's planned reserve fund allocations and expenses;

(g) he failed to document the basis for his conclusion to establish the client relationship and to determine his compliance with the required ethical standards including independence; and

(h) he failed to document the identified and assessed risks of material misstatement, the audit procedures he used to address those risks and the results thereof.

6. THAT the said Kenneth M. Hubbard, in or about the period December 31, 2011 through February 28, 2012, while engaged to perform an audit of the financial statements of "FPI" for the year ended December 31, 2011, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule 206.1 of the Rules of Professional Conduct, in that:

(a) he failed to review the working papers and financial statements prior to authorizing the release of the financial statements or at all;

(b) he failed to ensure that his Auditor's Report was in the form prescribed by the *CICA Handbook*;

(c) he failed to obtain written representations from management as required by the *CICA Handbook*;

(d) he failed to document the basis for his conclusion to continue the client relationship and determination of his compliance with the required ethical standards including independence;

(e) he failed to document the identified and assessed risks of material misstatement, the audit procedures used to address those risks and the results thereof;

(f) he failed to adequately document the agreement with the client on the services to be provided or discussions with management of existing terms of the engagement;

(g) he failed to ensure compliance with the requirements of Part II of the *CICA Handbook* with respect to fist-time adoption of Accounting Standards for Private Enterprises;

(h) he failed to ensure disclosure in Note 2 – Future income taxes of the total amount of unused tax losses of $91,899 for which a future income tax asset has not been recognized, and in addition he failed to ensure that the effect of the carry-back of $122,867 to apply against the 2009 taxable income was recorded;

(i) he failed to ensure adequate disclosure of related party transactions;

(j) he failed to ensure proper disclosure of the statement of loss and retained earnings item "Sales 7,281,545";

(k) he failed to ensure required disclosure of risks and uncertainties arising from the financial instruments;

(l) he failed to document what, if any, steps were taken to mitigate threats to independence resulting from preparing adjusting journal entries.

7. THAT the said Kenneth M. Hubbard, in or about the period December 31, 2011 through May 31, 2012, while engaged to perform a review of the financial statements of "CCL" for the year ended December 31, 2011, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule 206.1 of the Rules of Professional Conduct, in that:

(a) he failed to review the working papers and financial statements prior to authorizing the release of the financial statements or at all;

(b) he failed to ensure compliance with the requirements of Part II of the *CICA Handbook* with respect to fist-time adoption of Accounting Standards for Private Enterprises;

(c) he failed to ensure that his Review Engagement Report was in the form prescribed by the *CICA Handbook*;

(d) he failed to ensure that the item "CASH, end of year 2010 (43,598)" shown on the statement of cash flows agreed with the item "Bank indebtedness 2010 73,598" shown on the balance sheet;

(e) he failed to ensure disclosure of terms and conditions related to the balance sheet item "Advances from shareholder 60,195";

(f) he failed to ensure required disclosure of risks and uncertainties arising from the financial instruments;

(g) he failed to ensure adequate disclosure of the balance sheet item "FIXED assets, 281,602";

(h) he failed to obtain required written representations from management;

(i) he failed to obtain an adequate written agreement on the services to be provided;

(j) he failed to document what, if any, steps were taken to mitigate threats to independence resulting from preparing adjusting journal entries; and

(k) he failed to document sufficient enquiry, analysis and discussion to support his Review Engagement Report.

Plea

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

The case for the PCC

8. In her opening statement, Ms. Hersak advised the tribunal that the case for the PCC on Allegation Nos. 1 and 2 would be presented by way of the testimony of the investigator, Mr. Porter. Allegation Nos. 3 to 7 would be presented by way of the testimony of the second investigator, Mr. Harris. She filed a Document Brief (Exhibit 3) and an Authorities Brief (Exhibit 4).

9. Mr. Porter, a senior investigator for the PCC, testified that he had been appointed to investigate a complaint and in doing so had interviewed the complainant and Mr. Hubbard. He also testified that Mr. Ray Harris, the other investigator, had been with him when he interviewed Mr. Hubbard. Mr. Porter related what Mr. Hubbard had told him in so far as it was relevant to the general arrangements Mr. Hubbard had with the non-designated accountant, hereinafter referred to as FD, and particularly with respect to Allegations 1 and 2. Mr. Porter reviewed the 10 financial statements and the reports attached to them which are included in the Document Brief (Exhibit 3) at Tab 4; and the two financial statements and reports attached included in the Document Brief at Tab 5.

10. Ms. Hersak called Mr. Harris, the other investigator appointed by the PCC, and filed Mr. Harris' CV (Exhibit 5) for the tribunal's review. After consideration, the tribunal accepted Mr. Harris as an expert witness entitled to give opinion evidence. In the course of his evidence, Mr. Harris referred to the Document Brief, particularly the documents found after tabs 7 to 15; and to the authorities from the *Member's Handbook* and the *Condominium Act* found in the Authorities Brief, tabs 1 to 24.

11. Mr. Harris stated that as part of his investigation, he had reviewed various aspects of Mr. Hubbard's practice and noted that: Mr. Hubbard did not have a procedures manual; the audit checklist used was from 1979 to 1982; there was no quality control manual; no *Member's Handbook* available; he did not have a consultation relationship with another Member; his professional development within the past five years did not meet the compulsory requirements of CPA Ontario. Mr. Harris stated that Mr. Hubbard's standards of practice are not current, although Mr. Hubbard believes he is onside with the requirements. Mr. Harris stated that the relationship between Mr. Hubbard and FD is now finished.

Submissions of the PCC

12. When Mr. Harris' evidence was complete, Ms. Hersak submissions were succinct. She acknowledged that the standard of proof required evidence which was clear, cogent and convincing and submitted the requirement had been met and the allegations proven. She asserted that Mr. Hubbard knowingly permitted financial statements to be issued in his name with no prior review. His actions had enabled a person to practice public accounting without a licence. Mr. Hubbard had purportedly completed the Practice Inspection questionnaire but failed to include engagements performed by FD which bore Mr. Hubbard's name. She submitted that the engagements reviewed did not meet the standards of practice, and the financial statements issued contained numerous deficiencies and omissions.

13. Ms. Hersak stated that Mr. Hubbard is clearly out of date with the very significant changes made in the last few years to the standards of the profession in the performance of audits and reviews. Ms. Hersak submitted that Mr. Hubbard showed a disregard for the standards and rules, and must be found guilty.

The Relevant Facts

14. The tribunal accepted the evidence of Mr. Porter and the evidence, including the opinion evidence, of Mr. Harris. The allegations themselves, which the tribunal concluded had been proven, summarized Mr. Hubbard's misconduct. Findings with respect to the relevant facts, which are based on the evidence of Mr. Porter and Mr. Harris, and the tribunal's review of the relevant documents in the Document Brief (Exhibit 3) and Authorities Brief (Exhibit 4), are set out in paragraphs 15 to 26 below.

15. Mr. Hubbard received his CA designation in 1971. He was employed in industry but in 1982, with his employer's consent, he entered into an arrangement whereby he worked one day a week with FD, the non-designated accountant he had known since the 1970s when they worked at the same firm. FD had left the firm when he had a sufficient book of business and in 1982 asked Mr. Hubbard to work with him one day a week to issue financial statements for his clients. Mr. Hubbard worked as a controller and VP finance four days a week, and with FD on the 5th day until 1989 when he established a full-time sole proprietorship.

16. Mr. Hubbard worked mainly from home but he did attend an office in Thornhill on Yonge Street from time to time. The relationship with FD was somewhat informal; it was not set out in writing. Essentially it provided that Mr. Hubbard would receive 60% of the income for the clients whose financial statements he reported on or associated himself with and FD would get 40% of the income.

17. In 1992, while Mr. Hubbard was on vacation, FD issued statements in Mr. Hubbard's name without his consent. Mr. Hubbard did not withdraw those statements nor did he make an issue of FD signing his name. Mr. Hubbard thought he saw fewer and fewer files in the years 1992 to 1995 and assumed that FD was signing his name and using his letterhead. After 1995 Mr. Hubbard reviewed statements, when he did review them, after FD had signed them. He thought FD's work was adequate and he liked the Yonge Street office.

18. The relationship changed in 2011, Mr. Hubbard thought he saw the last FD file in October of that year and about that time he told FD he was going to leave the office. He thought it was appropriate to give FD notice, and knowing that FD had arranged to have a CA commence work at the office he told FD he would not be responsible for statements after June 2012. Mr. Hubbard also continued to pay for the insurance on work done from the office until July 2013. Mr. Hubbard, who had a public accounting licence, opened a public accounting office in Brampton. He continued to use the joint account as some clients still sent money to the Thornhill office.

Allegation Nos. 1 (Rule 201.1) and 2 (Rule 406)

19. Starting in 1995 and continuing until June 2012, with Mr. Hubbard's knowledge and acquiescence, FD or an assistant of FD, signed and issued Audit Reports, Review Engagement Reports and Notice to Reader statements, using Mr. Hubbard's name, stationery and signature. Mr. Hubbard would review some of the files after the statements were issued but at no time did he withdraw these financial statements. He continued the arrangement whereby fees were deposited in Mr. Hubbard's and FD's joint bank account with 60% of the revenues going to Mr. Hubbard and 40% going to FD. However around 2004, Mr. Hubbard began holding back some of his revenue when he noticed that FD was not depositing all the revenue received from clients.

20. Mr. Hubbard took full responsibility for the 10 sets of financial statements, each with a report attached, which were found at Tab 4 of the Document Brief although he did not review the files or himself sign and issue the reports. Eight of the financial statements are attached to Review Engagement Reports, one is attached to an Audit Report and one is attached to a

Notice to Reader. All of the reports are dated in the period November 3, 2011 to June 26, 2011. Mr. Hubbard took full responsibility for the reports and statements, the use of his signature and designation as they were issued prior to the end of June 2012. Mr. Hubbard denied responsibility for two other Review Engagement Reports attached to financial statements (Exhibit 3, Tab 5), one dated July 10, 2012 and the other dated August 30, 2012, which reports are not the subject of an allegation.

Allegation No. 3 (Rule 205)

21. Mr. Hubbard completed the Practice Inspection Planning Questionnaire in March 2012 without including all of his audit and compilation clients. Although he was still associated with FD in March 2012, he did not include any client engagements that were performed by FD under his name. The staff complement section indicated there was no staff employed in the office. The questionnaire which Mr. Hubbard associated himself with was false and misleading.

Allegation No. 4 (Rule 206.1)

22. The tribunal found the particulars set out as (a) to (h) of Allegation No. 4 were proven. The tribunal concurred with Mr. Harris' opinion that the errors and omissions contained in the financial statements for MSC for the year ended December 31, 2012 constituted a failure to meet the standards of the profession.

Allegation No. 5 (Rule 206.1)

23. Again the tribunal concluded that the particulars set out in the Allegation had been proven. This was Mr. Hubbard's first audit of Condominium 533 and he had failed to comply with the requirements for first time adoption, including required disclosure (particular (b) of Allegation No. 5). Mr. Hubbard said either the disclosure required as asserted in particulars (a), (c), (e) and (f) was obvious or that he did not know about the requirement to disclose, neither of which justified his omissions. The incorrect statements referred to in particular (d) were for a different condominium from number 533. Communication was not received from the previous accountant until after the financial statements were released. Mr. Hubbard asserted that independence was established but not documented (particular (g)). In respect of particular (h), Mr. Hubbard told Mr. Harris that risk assessment had been done during the year but not documented. The audit report provided to Mr. Harris was unsigned but Mr. Hubbard said he had done the work, signed and delivered it to the management company for the condominium. The tribunal agreed with Mr. Harris that Mr. Hubbard had failed to meet the standards of practice on this file.

Allegation No. 6 (Rule 206.1)

24. Mr. Hubbard had advised Mr. Harris that as FD had performed the engagement he was not prepared to discuss the FPI file. The Auditor's Report and financial statements were issued under Mr. Hubbard's signature and letterhead, although Mr. Hubbard had not seen the financial statements or signed the reports. This occurred prior to June 2012, during the period when Mr. Hubbard undertook to take responsibility for the firm. Accordingly, Mr. Hubbard is responsible for the failures and omissions particularized which were proven. The tribunal agreed with Mr. Harris that the work done of this file fell well below the standard required under Rule 206.1.

Allegation No. 7 (Rule 206.1)

25. Again Mr. Hubbard told Mr. Harris that as FD had performed the work on the CCL engagement he was not prepared to discuss this file as he had not seen the working papers and financial statements. As the financial statements were issued under Mr. Hubbard's signature and letterhead prior to the end of June 2012, a time when Mr. Hubbard took responsibility, he must be accountable for the failures and omissions particularized which were proven. The tribunal agreed with Mr. Harris that the work done on this file did not meet the standards of

practice, and that it fell far below the requirements of Rule 206.1.

The Decision and Reasons for Decision

26. As we have set out above, the tribunal found, on the uncontested evidence which was clear, cogent and convincing, that the allegations had been proven. After deliberating, the tribunal announced the following decision:

> THAT Allegation 5(g) having been amended, and having determined to proceed with the hearing in the absence of Mr. Hubbard, being satisfied that he had proper notice of the hearing, and having entered on his behalf a plea of not guilty to each of the allegations, and having seen, heard and considered the evidence, the Discipline Committee finds Kenneth Michael Hubbard guilty of Allegation Nos. 1, 2, 3, 4, 5, 6 and 7.

27. Given the finding of facts set out above, it will be obvious why the tribunal found the allegations made against Mr. Hubbard to be proven. Allegation Nos. 4, 5, 6 and 7 relate to Mr. Hubbard's standard of practice. The allegations identify thirty-nine (39) deficiencies. In the tribunal's view there is no question that collectively the departures from the required standard of practice fall well below the standard required of a CPA, CA and that a finding of professional misconduct must follow.

28. The misconduct set out in Allegation Nos. 1, 2 and 3 relate to Mr. Hubbard's conduct, which is entirely irresponsible and unacceptable, and thus requires a finding of professional misconduct.

Sanction

29. Ms. Hersak made submissions on sanction and filed the Reasons for the Decision and Order dated April 3, 2012 made against Mr. Hubbard (Exhibit 6). Allegations had been made against Mr. Hubbard for failure to cooperate with the Practice Inspection process. Mr. Hubbard did not attend the hearing and had sent a letter stating that he would plead guilty to the allegations. He was found guilty by the Discipline Committee, paid the fine and costs and did cooperate with Practice Inspection. Ms. Hersak stated that this shows a history and pattern of behavior which took place during the time of his association with FD.

30. Ms. Hersak, on behalf of the PCC, submitted that an appropriate sanction in this matter would be: a written reprimand; a fine in the amount of $15,000; revocation of membership and revocation of Mr. Hubbard's public accounting licence and full publicity including newspaper publication. The PCC also sought an order for costs of $28,000, which was approximately one-half of the costs incurred.

31. Ms. Hersak referred to paragraphs 30 and 31 of the Reasons dated April 3, 2012. That discipline tribunal had stated that it is Mr. Hubbard's choice if he continues to practice within the discipline of the profession or is removed from it. The previous tribunal felt Mr. Hubbard exhibited a cavalier attitude and Ms. Hersak submitted that this characterization was right. Since 1992, Mr. Hubbard had been allowing his name to be used on financial statements that he had not reviewed, and felt that the arrangement was fine. Mr. Hersak stated it is astonishing conduct that Mr. Hubbard does not realize how wrong it is to let someone else act as a Chartered Accountant or Licensed Public Accountant, particularly when clients are relying on these statements. Mr. Hubbard allowed this deception to continue for nearly 20 years. Ms. Hersak pointed out that rehabilitation is not an option in this case. Mr. Hubbard's standards of practice exhibit many deficiencies and he has shown an absence of integrity by passively condoning the actions of FD.

32. The aggravating factors, Ms. Hersak stated, include that: Mr. Hubbard has put the public at risk for an extended period of time; has failed to maintain standards and supervision in his practice; and has acquiesced in allowing FD to perform work in violation of the *Public Accounting Act*. Ms. Hersak submitted that Mr. Hubbard has shown a cavalier approach to his practice. This is the second time that Mr. Hubbard has been before the Discipline Committee, and has failed to attend his hearing.

33. Ms. Hersak submitted that the mitigating factors are that Mr. Hubbard did cooperate and was forthcoming with the investigators. He refused to discuss the clients that he had not done the work for but did take responsibility by continuing the insurance coverage of the firm.

34. Ms. Hersak distributed an Authorities Brief containing similar cases under Rules 201.1, 205 and 206.1. Ms. Hersak referred to the case brief containing *McKechnie, Kutum, Radvany* and *Lange,* pointing out relevant items in each case. The precedents contained a common theme of failure to maintain the good reputation of the profession and failure to perform professional services in accordance with the standards of the profession.

35. Ms. Hersak stated that a reprimand addresses the unacceptable conduct of Mr. Hubbard and the proposed fine would act as a specific and general deterrent to like-minded Members. The ungovernable conduct and dishonesty exhibited should result in revocation of Mr. Hubbard's membership and public accounting licence. Publicity, including newspaper publication with the cost to be borne by Mr. Hubbard, is appropriate to send out a strong message to Members and inform the public.

36. Ms. Hersak filed a Costs Outline (Exhibit 7) showing the costs to be approximately $56,000, of which the PCC is seeking approximately half. This file required two investigators to review the standards and forensic issues involved, and all costs expended are to be borne by CPA Ontario Members and Mr. Hubbard. The PCC is seeking $28,000 in costs.

Order

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

IT IS ORDERED in respect of the allegations:

1. THAT Mr. Hubbard be reprimanded in writing by the Chair of the hearing.

2. THAT Mr. Hubbard's membership in CPA Ontario be and is hereby revoked.

3. THAT Mr. Hubbard be and he is hereby fined the sum of $15,000 to be remitted to CPA Ontario within thirty (30) days from the date this Decision and Order is made.

4. THAT notice of this Decision and Order, disclosing Mr. Hubbard's name, 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. THAT notice of the revocation of membership, disclosing Mr. Hubbard's name, be given by publication on the CPA Ontario website and in *The Globe and Mail.* All costs associated with the publication shall be borne by Mr. Hubbard and shall

be in addition to any other costs ordered by the committee.

6. THAT Mr. Hubbard surrender all certificates issued by CPA Ontario or its predecessor, including any membership certificate and certificate granting the Chartered Accountant (CA) and Chartered Professional Accountant (CPA) designation, to the Discipline Committee Secretary within ten (10) days from the date this Decision and Order is made.

IT IS FURTHER ORDERED:

7. THAT Mr. Hubbard be and he is hereby charged costs fixed at $28,000 to be remitted to CPA Ontario within thirty (30) days from the date this Decision and Order is made.

Reasons for Sanctions

38. The tribunal agreed that the sanctions of reprimand, fine and revocation of membership are within the range of sanctions that have been previously imposed in similar cases.

39. Mr. Hubbard's conduct was such that the tribunal believed him to be ungovernable and accordingly an order intended to assist and ensure his rehabilitation is neither realistic nor appropriate. There was no remorse or regret expressed by Mr. Hubbard, either in writing or in person. Further, given that Mr. Hubbard's deception to his clients and the public took place for almost 20 years, the tribunal agreed that Mr. Hubbard's membership should be revoked. Since Mr. Hubbard's public accounting licence expired in November 2013, and the provisions of the legislation preclude him receiving a licence when his membership is revoked, the tribunal made no order with respect to a public accounting licence.

40. The tribunal concurred with submissions made by Ms. Hersak whereby she referred to Mr. Hubbard's previous hearing and the Reasons dated April 3, 2012. The Reasons of the previous tribunal that stated "Mr. Hubbard exhibited a cavalier attitude". The tribunal concurred with this comment given Mr. Hubbard's conduct for almost 20 years whereby he allowed someone else to act as a CA and to sign Mr. Hubbard's name on the financial statements without his prior review.

41. As with his prior hearing, Mr. Hubbard chose not to appear at this hearing. Again Mr. Hubbard, through his non-attendance at this hearing, displayed a disregard to the profession, a disregard to the profession's Rules of Professional Conduct and to the public at large.

42. The revocation and notice which follows is intended to protect the public by precluding someone who is unwilling or unable to practice within the discipline of the profession from holding himself out as someone who does meet the standards of the profession. It follows that notice of the revocation, including publication in a newspaper, is in order. The tribunal wants the public to know that Mr. Hubbard is no longer entitled to call himself a CPA or CA. In this case, we know of no reason why publication in a newspaper would not be appropriate, in fact we think it is required.

43. The principle of general deterrence is also relevant in this case and the reprimand, fine and revocation, together with the provisions for notice both to the profession and to the public, are intended to serve that purpose.

Costs

44. A costs outline was filed showing costs incurred by the PCC of approximately $56,000.

The tribunal agreed that costs of $28,000 should be ordered against Mr. Hubbard which represents a partial indemnity for the costs incurred.

45. The PCC did not set out an appropriate time for the payment of the fine and costs by Mr Hubbard. The tribunal set a time of 30 days from the date that the order was made for payment of both the fine and costs. The tribunal believed that the extent of the deception by Mr. Hubbard and his lack of interest in the hearing displayed a continuing "cavalier" and indifferent attitude on his behalf, and that providing an extended period of time for payment beyond 30 days was not warranted.

DATED AT TORONTO THIS 16TH DAY OF MAY, 2014
BY ORDER OF THE DISCIPLINE COMMITTEE

S.M. Douglas

S.M. DOUGLAS, FCPA, FCA – DEPUTY CHAIR
DISCIPLINE COMMITTEE

MEMBERS OF THE TRIBUNAL:
R.S. DUSCHEK, CPA, CA
S.R. LOWE, CPA, CA
B.M. SOLWAY (PUBLIC REPRESENTATIVE)