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CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO

THE CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO ACT, 2017

TO: Laird Sweeney, CPA, CMA

AND TO: The Discipline Committee of CPA Ontario

The Professional Conduct Committee of CPA Ontario hereby makes the following Allegations of professional misconduct against Laird Sweeney, CPA, CMA, a member of CPA Ontario:

1. THAT the said Laird Sweeney, in or about the period April 1, 2012 through March 31, 2014, while engaged in the practice of public accounting, committed an act discreditable to the profession, contrary to section 3.4(b) of the Professional Misconduct and Code of Professional Ethics Regulation of CMA Ontario, in that he failed to maintain a public accounting license as required by the *Public Accounting Act*, S.O. 2004, c.8, as amended.
2. THAT the said Laird Sweeney, in or about the period April 1, 2014 through December 31, 2014, while engaged in the practice of public accounting, failed to maintain the reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1 of the Rules of Professional Conduct, in that he failed to maintain a public accounting license as required by the *Public Accounting Act*, S.O. 2004, c.8, as amended.
3. THAT, the said Laird Sweeney, in or about the period May 1, 2012 through January 31 2014, while engaged to perform a review of the financial statements of "UTF" for the years ended March 31, 2012 and March 31, 2013, failed to act with competence through devotion to high ideals of personal honour and professional integrity, contrary to section 3.1(c) of the Professional Misconduct and Code of Professional Ethics Regulation of CMA Ontario, in that in the course of an investigation by the Complaints Committee of CMA Ontario and a hearing before the Discipline Committee of CMA Ontario, he represented that he was retired and not practicing when, in fact, he had signed an engagement letter to provide services to "UTF" and signed two review engagement reports for "UTF" and did not disclose same to the Complaints Committee or to the Discipline Committee of CMA Ontario.
4. THAT the said Laird Sweeney, in or about the period April 1, 2014 through December 31, 2014, while engaged to perform a review of the financial statements of "UTF" for the year ended March 31, 2014 and for the period ending October 31, 2014, failed to maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1 of the Rules of Professional Conduct, in that he continued to perform the review engagements, without registering his practice, subsequent to having been found guilty by the Discipline Committee of CMA Ontario of professional misconduct for, *inter alia*, failure to



register his practice with CMA Ontario between 2001 and 2009 and being fined and reprimanded therefor.

5. THAT the said Laird Sweeney, in or about the period April 1, 2012 and March 31, 2014, while engaged to perform a review of the financial statements of "UTF" for the years ended March 31, 2012 and March 31, 2013, failed to undertake only such work as he was competent to perform by virtue of his training and experience, contrary to section 3.5(c) of the Professional Misconduct and Code of Professional Ethics Regulation of CMA Ontario.
6. THAT the said Laird Sweeney, in or about the period April 1, 2014 through December 31, 2014, while engaged to perform a review of the financial statements of "UTF" for the year ended March 31, 2014 and for the period ending October 31, 2014, failed to sustain his professional competence by keeping informed of, and complying with, developments in professional standards in all functions in which the member practiced, contrary to Rule 203.1 of the Rules of Professional Conduct.
7. THAT the said Laird Sweeney, in or about the period April 1, 2012 and March 31, 2014, while engaged to perform a review of the financial statements of "UTF" for the years ended March 31, 2012 and March 31, 2013, failed to maintain the standards of competence expressed by the Board of Directors of CMA Ontario from time to time, contrary to section 3.5(a) of the Professional Misconduct and Code of Professional Ethics Regulation of CMA Ontario in that he did not meet the minimum standards of practice with respect to the review engagements.
8. THAT the said Laird Sweeney, in or about the period April 1, 2014 through December 31, 2014, while engaged to perform a review of the financial statements of "UTF" for the year ended March 31, 2014 and for the period ending October 31, 2014, 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 he did not meet the minimum standards of practice with respect to the review engagements.

Dated at Toronto, Ontario, this 29th day of October, 2018


A.J. SOKIG, CPA, CA., CHAIR
PROFESSIONAL CONDUCT COMMITTEE

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: Allegations against **LAIRD WILLIAM SWEENEY**, a member of the Chartered Professional Accountants of Ontario, under **Rule 201.1, Rule 203.1 and Rule 206.1** of the Rules of Professional Conduct and **section 3.1(c), section 3.4(b), section 3.5(a) and section 3.5(c)** of the Professional Misconduct and Code of Professional Ethics Regulation of CMA Ontario.

TO: Mr. Laird W. Sweeney

AND TO: The Professional Conduct Committee

DECISION AND ORDER MADE FEBRUARY 27, 2019

DECISION

The Panel was satisfied that Laird William Sweeney (“Mr. Sweeney”) had proper notice of today’s hearing and determined that the hearing would proceed in his absence.

The Panel was satisfied that Allegation No. 1, No. 2, No. 3, No. 4, No. 5 and No. 8 were proven and constituted a breach of Rule 201.1, and Rule 206.1 of the Rules of Professional Conduct and section 3.1 (c), section 3.4(b) and section 3.5(c) of the Professional Misconduct and Code of Professional Ethics Regulation of CMA Ontario. The Panel determined that, having breached these rules, Mr. Sweeney committed professional misconduct.

The Panel concluded that Allegation No. 6 and No. 7 were not proven.

ORDER

The Panel orders the following:

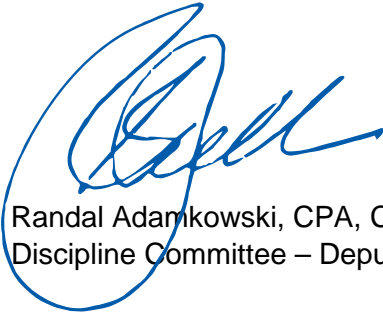
1. Mr. Sweeney be reprimanded in writing by the Chair of the hearing.
2. Mr. Sweeney shall pay a fine of \$7,500 to CPA Ontario within 3 months of this Order, and specifically, by Monday, May 27, 2019.
3. Mr. Sweeney’s membership with CPA Ontario is revoked.
4. Notice of this Decision and Order, disclosing Mr. Sweeney’s name, is to be given in the form and manner determined by the Panel:

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

and shall be made available to the public.

5. Notice of this Decision and Order disclosing Mr. Sweeney's name is to be given by publication on the CPA Ontario website, and in the *Guelph Mercury Tribune*. Mr. Sweeney shall pay all costs associated with the publication, which shall be in addition to any other costs ordered by the Panel.
6. Mr. Sweeney shall pay costs of \$13,500 to CPA Ontario within 3 months of this Order, and specifically, by Monday, May 27, 2019.

DATED at Toronto this 27th day of February, 2019



Randal Adamkowski, CPA, CA
Discipline Committee – Deputy Chair

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: Allegations against **LAIRD WILLIAM SWEENEY**, a member of the Chartered Professional Accountants of Ontario, under **Rule 201.1**, **Rule 203.1** and **Rule 206.1** of the Rules of Professional Conduct and **section 3.1(c)**, **section 3.4(b)**, **section 3.5(a)** and **section 3.5(c)** of the Professional Misconduct and Code of Professional Ethics Regulation of CMA Ontario.

BETWEEN:

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

-and-

Mr. Laird William Sweeney

APPEARANCES:

For the Professional Conduct Committee: Tamara Center, Counsel
Robert Robertson, Investigator

For Mr. Sweeney: Not Present and Not Represented

Heard: February 27, 2019

Decision and Order effective: February 27, 2019

Release of written reasons: May 31, 2019

REASONS FOR THE DECISION AND ORDER MADE FEBURARY 27, 2019

I. OVERVIEW

[1] This hearing was held to determine whether the Allegations that Mr. Sweeney had: failed to perform professional services in accordance with the generally accepted standards of practice; represented that he was retired and not practicing, when in fact he had signed an engagement letter and two review engagement reports; failed to register his practice when he continued to perform review engagements; took on work that he was not competent to perform; failed to sustain his professional competence; and failed to maintain a public accounting license while engaged in the practice of public accounting were established and amounted to professional misconduct.

- [2] Mr. Sweeney obtained his CMA designation in 1993 and he became a CPA upon unification of the accounting designations in 2014. He advised the Certified Management Accountants of Ontario (“CMA Ontario”) in 2009 that he was retired from practice.
- [3] The allegations in this matter arise out of two complaints. The first complaint came from the Department of Justice and related to three annual review engagements prepared by Mr. Sweeney on behalf of UTF in or about the period of April 1, 2012 through December 31, 2014. The second complaint was the result of a report from the Chartered Professional Accountants of Ontario’s (“CPA Ontario”) Standards Enforcement department who raised concerns that Mr. Sweeney had provided public accounting services without being properly registered, licensed, insured and subject to practice inspection. It was also alleged that Mr. Sweeney provided false and misleading information to the Complaints Committee of CMA Ontario in the course of its investigation into allegations of misconduct by Mr. Sweeney, and later to the Discipline Committee of CMA Ontario during the period of May 1, 2012 to January 31, 2014.
- [4] The onus was on the Professional Conduct Committee (“PCC”) to show on a balance of probabilities that Mr. Sweeney’s conduct breached the Rules of Professional Conduct and the Professional Misconduct and Code of Professional Ethics Regulation of CMA Ontario, and constituted professional misconduct.

II. PRELIMINARY ISSUES

- [5] Mr. Sweeney did not attend the hearing nor did he have a representative attend on his behalf. A denial of the Allegations was entered on Mr. Sweeney’s behalf.
- [6] To proceed in the absence of Mr. Sweeney, the Panel had to be satisfied that he had received proper notice of the Allegations and the hearing.
- [7] Ms. Center filed the Affidavit of Mervyn Archdall, Process Server, sworn November 2, 2018 (Exhibit 1). Mr. Archdall confirmed that he had personally served Mr. Sweeney on October 31, 2018 with a letter dated October 29, 2018 from Tamara Center, Professional Standards Counsel for CPA Ontario, which informed Mr. Sweeney of the Allegations of professional misconduct made against him. Ms. Center included a copy of the signed Allegations with her letter and she also provided information regarding the procedure related to disciplinary hearings.
- [8] Ms. Center also filed the Affidavit of Caroline Kelly, the Tribunals Clerk at CPA Ontario, sworn on February 21, 2019 (Exhibit 2). Ms. Kelly advised that on November 9, 2018, she sent an email to Mr. Sweeney at the email address of record with CPA Ontario, requesting that he provide to her, on or before December 9, 2018, his availability for a one-day hearing of the allegations laid against him. Mr. Sweeney did not respond to Ms. Kelly’s email. On December 13, 2018, Kristen Couch, Adjudicative Tribunals Assistant Secretary emailed a Notice of Hearing to Mr. Sweeney, confirming that the hearing was scheduled to proceed on February 27, 2019, at 10:00 a.m. Ms. Couch requested that Mr. Sweeney provide acknowledgment of receipt of the Notice of Hearing by signing a letter enclosed with the Notice. Mr. Sweeney did not respond to Ms. Couch’s email.

- [9] Ms. Center further filed an email exchange between Ms. Couch and Mr. Sweeney (Exhibit 3). On February 26, 2019 at 2:11 p.m., Ms. Couch wrote to Mr. Sweeney by email copied to Ms. Center advising that the hearing scheduled for February 27, 2019 would be proceeding as scheduled. Mr. Sweeney replied initially advising that he would not be able to attend. Ms. Couch responded by offering to accommodate Mr. Sweeney by arranging for him to attend by teleconference. Mr. Sweeney again responded advising he would not be available to attend in person or by teleconference. In neither of his responses did Mr. Sweeney request an adjournment, nor did he provide a reason for his inability to attend the hearing.
- [10] Having reviewed the affidavits and documents presented by the PCC, including the responding emails from Mr. Sweeney, the Panel was satisfied that Mr. Sweeney had received proper and sufficient notice of both the hearing and the Allegations. The Panel decided to proceed in his absence.

III. ISSUES

- [11] The Panel identified the following issues 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 on the evidence on a balance of probabilities, did those particulars constitute professional misconduct?

IV. DECISION

- [12] The Panel found that the PCC presented clear, cogent and convincing evidence which established, on a balance of probabilities, the facts upon which Allegations 1, 2, 3, 4, 5 and 8 were based. The Panel found that the facts relating to Allegation 6 were not sufficiently clear and convincing to support a finding of professional misconduct. With respect to Allegation 7, the Panel found that the allegation was redundant given the Panel's finding with respect to Allegation 5. With respect to Allegation 6, the Panel found that the evidence presented was not sufficiently convincing, but notes that it would also have found Allegation 6 was redundant, given the Panel's finding with respect to Allegation 8.
- [13] The Panel was satisfied that the facts proven by the PCC relating to Allegation 1, 2, 3, 4, 5 and 8 constituted breaches of Rules 201.1, and Rule 206.1 of the Rules of Professional Conduct and section 3.1(c), section 3.4(b) and section 3.5(c) of the Professional Misconduct and Code of Professional Ethics Regulation of CMA Ontario. The Panel found that having breached these Rules and sections, Mr. Sweeney had committed professional misconduct.

V. REASONS FOR THE DECISION

Findings regarding Conduct of Mr. Sweeney

[14] The PCC called one witness, Robert Robertson, CPA, CA, an investigator appointed by CPA Ontario to investigate two complaints against Mr. Sweeney. The PCC also filed a Document Brief into evidence (Exhibit 4).

Provision of Services to UTF

[15] The first complaint made in September 2017 by a representative of Justice Canada, pertained to services rendered by Mr. Sweeney to UTF in 2012 to 2014. UTF is a not for profit organization that had received federal funding from Justice Canada under the Youth Justice Fund. From 2011 to 2014, UTF qualified for \$495,000 in funding. In order to qualify for ongoing funding, UTF was required to submit annual Review Engagements setting out revenues and expenditures of UTF relating to specific years in which grant funds were received by UTF. The reports relied upon by Justice Canada to issue payments to UTF were prepared by Mr. Sweeney through his business, LWS Enterprises.

[16] According to an Agreed Statement of Facts entered into and executed by Mr. Sweeney in January 2014, and filed as part of Exhibit 4 in this hearing, Mr. Sweeney became a member of CMA Ontario in 1993. Prior to obtaining his CMA designation, Mr. Sweeney offered financial consulting services to the public through his business, LWS Enterprises. Those services included: business advisory services; strategic business planning; and, personal and corporate income tax services. Mr. Sweeney continued to provide those services to the public on a fee for service basis through LWS Enterprises after having received his CMA designation. Mr. Sweeney was a Consulting CMA until he was granted retirement status by CMA Ontario's Board of Governors in December 2009. There was no evidence before this Panel that Mr. Sweeney held or had ever held a public accounting license.

[17] By way of letter dated April 6, 2012, Mr. Sweeney wrote to the Executive Director of UTF confirming UTF's acknowledgement of the terms of the Review Engagement entered into with Mr. Sweeney regarding the review of the statement of income and the statement of cash flows for UTF for the interim period of November 7, 2011 to March 31, 2012 (Exhibit 4, Tab 3). The Review Engagement letter confirmed that the review would "be conducted in accordance with generally accepted standards of review engagements and accordingly consist primarily of inquiries of management, analytical procedures and discussions related to information supplied to (him) by the company."

[18] According to the testimony of Mr. Robertson, such an engagement would require the party providing the above noted services to hold a public accounting license. The evidence before this Panel confirmed that Mr. Sweeney has never applied for or held a public accounting license.

[19] By way of letter dated April 20, 2012, Mr. Sweeney prepared a Review Engagement Report for UTF for the period of November 7, 2011 to March 31, 2012. (Exhibit 4, Tab 4)

He again confirmed that his review was in accordance with the generally accepted standards for review engagements. He confirmed that nothing had come to his attention that caused Mr. Sweeney to believe that the financial statements were not in all material respects in accordance with generally accepted accounting principles. Included with the Review Engagement letter was a Review Engagement Report provided by the Department of Justice which was to be submitted to the Department of Justice by UTF in order to account for the expenditure of the funds it had received from Justice Canada. Mr. Sweeney completed the form which included a number of questions that established the extent of his review of UTF's financial statements and confirmed whether he had identified any issues during his review. This Report was subsequently submitted by UTF to the Department of Justice in support of the grant funds UTF had received. The Review Engagement Report form from the Department of Justice was signed by Mr. Sweeney and the accounting firm listed on the form was LWS Enterprises.

- [20] A Review Engagement Report for UTF dated April 29, 2013 was prepared by Mr. Sweeney for the period of April 1, 2012 to March 31, 2013 (Exhibit 4, Tab 5). Mr. Sweeney again confirmed that he found nothing that raised concerns that the financial statements were not properly prepared. Included with the Review Engagement Report to UTF was a Review Engagement Report form provided by the Department of Justice which was completed and signed by Mr. Sweeney on April 29, 2013. In this Engagement Review Report form, Mr. Sweeney again answered a number of questions relating to the extent of his review of UTF's financial statements and confirmed that UTF's financial statements were in keeping with generally accepted accounting principles. Again, the accounting firm noted on the form was LWS Enterprises. The form was submitted by UTF to the Department of Justice to verify the use of the grant monies it had received.
- [21] A third Review Engagement Report for UTF dated April 1, 2014 was prepared by Mr. Sweeney for the period of April 1, 2013 to March 31, 2014 (Exhibit 4, Tab 6). This report was prepared the day after the last day of the financial period under review. Mr. Sweeney also completed the Review Engagement Report form provided by the Department of Justice, noting the accounting firm as LWS Enterprises. Mr. Sweeney again responded to a series of questions on LWS Enterprises, providing assurances as to the extent of the review of UTF's financial statements and confirming that UTF's financial statements were in accordance with generally accepted accounting principles. The form was submitted to the Department of Justice by UTF to confirm its use of grant funds.
- [22] A final Review Engagement Report dated December 3, 2014 was prepared by Mr. Sweeney for the period of April 1, 2014 to October 31, 2014 (Exhibit 4, Tab 7). He again prepared a Review Engagement Report form confirming the extent of his review of the financial statements for UTF and assuring the Department of Justice that the statements were in accordance with generally accepted accounting principles. The form was signed by Mr. Sweeney and the accounting firm listed on the form was LWS Enterprises. The form was submitted to the Department of Justice.
- [23] In February 2016, the Department of Justice engaged "S & A" to perform an audit of the expenditure amounts reported by UTF for the period of November 7, 2011 to October

31, 2014; the periods covered by the financial statements of UTF and Review Engagement Reports provided by Mr. Sweeney. S & A's audit reported that \$160,504 of the grant funds paid to UTF by Justice Canada were based on unsupported reported expenditures. Based on additional information provided by UTF, S & A provided a subsequent report that provided some assurance that \$55,500 of the \$160,504 of grant funds were supported by alternate verification procedures. S & A concluded that \$105,004 of expenditures could not be verified. The Department of Justice, Canada asserts that this \$105,004 of the aggregate funded expenditures should be reimbursed by UTF. (Exhibit 4, Tab 9, Tab 12)

- [24] On September 25, 2017, a complaint was made to CPA Ontario by Justice Canada regarding the Review Engagement Reports prepared by Mr. Sweeney and submitted to the Department of Justice by UTF. Mr. Robertson was instructed to commence an investigation into the complaint.
- [25] Mr. Robertson testified that during his investigation, he conducted a telephone interview of Mr. Sweeney. During the interview, Mr. Robertson inquired as to Mr. Sweeney's educational and employment experience, as well as his qualifications. Mr. Sweeney advised that he had never applied for, or held, a public accounting licence. Mr. Sweeney stated that given his knowledge of the theatre business and his understanding of the organization, he was able to review financial statements prepared by UTF's bookkeeper and provide assurances as to whether the statements were reasonable. Mr. Sweeney acknowledged he had prepared the Review Engagement Reports, but also admitted that he had no prior experience conducting Review Engagement Report of financial statements. Mr. Sweeney advised Mr. Robertson that he did not consider the engagement a "big deal" and that he viewed his engagement with UTF as an opportunity to help a friend.
- [26] In reviewing the various Review Engagement Reports prepared by Mr. Sweeney, Mr. Robertson noted that in the Income Statement for the period ending March 31, 2013, Audit Costs in the amount of \$1,500 were incurred, yet the Income Statement was "unaudited". As noted above, the April 1, 2014 Review Engagement Report was prepared the day after the year end date of March 31, 2014. Mr. Robertson testified that it is unusual to have a review completed within a day of the year end. No working papers created by Mr. Sweeney were provided to support the reviews he prepared for UTF. A certain degree of work and review is necessary to confirm the information contained in such reports and it would appear Mr. Sweeney did not perform these standard procedures.
- [27] Mr. Robertson testified that during the interview he had drawn Mr. Sweeney's attention to Mr. Sweeney's use of a Notice to Reader in his Engagement Review Report for the year ended October 31, 2014. Mr. Sweeney advised he had not noticed the inclusion of the Notice to Reader and acknowledged that it should not have been included.
- [28] Mr. Robertson further testified that during his interview with Mr. Sweeney, he reviewed the procedures Mr. Sweeney had undertaken to provide Review Engagement Reports for the years or periods that ended March 31, 2012, March 31, 2013, March 31, 2014

and October 31, 2014. Based on the procedures employed by Mr. Sweeney as described by him, and in particular his failure to document any procedures he did perform, Mr. Robertson concluded that Mr. Sweeney's Review Engagement Reports for UTF and the supplemental reports to the Department of Justice were insufficiently supported and did not meet the professional standard expected.

- [29] In his response to the investigation launched by CPA Ontario in November 2017, Mr. Sweeney responded by way of letter dated December 18, 2017 taking the position that his work was not intended to be an audit and was not a Notice to Reader review as he did not prepare the financial statement reports for UTF. He acknowledged that he reviewed financial statements provided and discussed matters with management. He relied upon the information provided by management to complete his review. Having heard evidence presented by the PCC that was clear, cogent, and convincing, the Panel found that Mr. Sweeney was retained by UTF to prepare Engagement Reviews which would be in turn submitted to the Department of Justice in order to qualify for continued funding by Justice Canada. Mr. Sweeney did not have the requisite license, training or experience to execute such reports. Mr. Sweeney did not undertake the requisite work necessary to properly prepare the Engagement Reviews provided to UTF. Given the findings of S & A, the Panel finds that Mr. Sweeney rendered services to UTF that he was neither licensed nor competent to provide. Mr. Sweeney failed to meet the minimum standards of practice with respect to the review engagements he prepared.
- [30] The Panel determined that the evidence proved on a balance of probabilities that Mr. Sweeney signed an Engagement Letter, prepared and issued Review Engagement Reports and supplemental Department of Justice Canada Standardize Reports to the Department of Justice, while he was not licensed as a public accountant. Further, the evidence that Mr. Sweeney had no or minimal experience with such engagements, and that he also had no or minimal recent training for such engagements, was accepted. The generally accepted accounting principles provide that documentation, whether in paper or electronic form, is the principle record of the review procedures performed during an assurance engagement and that such documentation must be retained to support the content and conclusions of any issued report. Evidence was provided to and accepted by the Panel that no such documentation was maintained by Mr. Sweeney. The Panel accepted corroborating evidence that the financial reports on which Mr. Sweeney attached his Review Engagement Reports were, in fact, not substantiated.
- [31] Having made these findings, the Panel concludes that Mr. Sweeney engaged in professional misconduct by committing an act discreditable to the profession, contrary to section 3.4(b) of the Professional Misconduct and Code of Ethics Regulation of CMA Ontario; failing to maintain the reputation of the profession by failing to maintain a public accounting license contrary to Rule 201.1 of the Rules of Professional Conduct; failing to undertake only such work as he was competent to perform, contrary to section 3.5(c) of the Professional Misconduct and Code of Professional Ethics Regulation of CMA Ontario; and failing 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.

Allegations which Arose during the Investigation

- [32] The second complaint arose following a review by the Professional Conduct Committee of the originating complaint by the Department of Justice. In a letter dated January 12, 2018, Theresa Tonelli, Director of Standards and Enforcement for CPA Ontario requested that Mr. Sweeney provide a written response to an allegation that Mr. Sweeney had provided services to UTF on a fee for service basis without having registered his practice with CMA Ontario or, following unification, with CPA Ontario. She also requested a response to the allegation that Mr. Sweeney had provided false or misleading information to the Complaints Committee of CMA Ontario during its investigation in 2012.
- [33] In a letter dated May 3, 2012 to the Complaints Committee, Mr. Sweeney advised that he was retired and that he had provided this information to the Committee's investigator. In his letter, Mr. Sweeney specifically indicated that "I do not provide services to the public on a fee service basis and I am trying very hard to enjoy the few years I have left on this earth doing other things rather than consulting..."
- [34] This letter from Mr. Sweeney, dated May 3, 2012, was written twelve days following the completion of his Review Engagement for UTF, dated April 20, 2012.
- [35] Mr. Sweeney's retirement status was also confirmed by him when he executed the Agreed Statement of Facts for an earlier disciplinary proceeding held by CMA Ontario on January 17, 2014. In the Agreed Statement of Facts, Mr. Sweeney submitted, "although he was not granted retired status by CMA Ontario until 2009, he began winding down his consulting practice in 2002 and did not provide consulting services to the public for a fee between 2002 and 2009." Mr. Sweeney admitted to considering himself retired in 2002.
- [36] Despite these submissions, Mr. Sweeney prepared and presented Review Engagement Letters in 2011, 2012, 2013 and 2014 to UTF.
- [37] In addition to admitting that he was granted retirement status in 2009, Mr. Sweeney also acknowledged through the Agreed Statement of Facts executed in January 2014 that he did not register his practice, LSW Enterprises, with CMA Ontario from 1993 to 2009. Despite not being aware of the requirement to register, Mr. Sweeney acknowledged in January of 2014 that the failure to register his practice was a breach of the requirements outlined in various iterations of CMA Ontario's Rules and by-laws.
- [38] This acknowledgement was accepted by the Discipline Committee in its Reasons dated January 17, 2014, in which it found that Mr. Sweeney had not registered his practice with CMA Ontario from 1993 until he was granted retired status by CMA Ontario in 2009. The Discipline Committee also noted that Mr. Sweeney acknowledged "that his failure to register his practice was a breach of the requirements outlined in various iterations of CMA Ontario's Rules and by-laws."
- [39] Regardless of being aware of the registration requirements as a result of the disciplinary hearing held on January 17, 2014, Mr. Sweeney prepared and completed two Review Engagement Reports for UTF and the Department of Justice in April and December of 2014. The Review Engagement Report forms submitted to the Department of Justice

listed LWS Enterprises as the accounting firm who performed the procedures.

- [40] In his responses to Ms. Tonelli's letter of January 12, 2018 and a follow up letter dated March 8, 2018, Mr. Sweeney confirmed that he was retired and denied providing false and misleading information to the Complaints Committee of CMA Ontario. Yet in the same letter, he acknowledged he provided the Review Engagement Reports for which he was paid a fee, but noted that the reports were not intended to be an audit and that he did not conduct "an in depth assurance of the financial statements" but rather his review would be "handled in accordance with generally accepted standards for review engagements".
- [41] The Panel accepted Mr. Sweeney's assertion that he did not undertake to complete either an Audit or Notice to Reader engagement for UTF. The Panel also accepted Mr. Sweeney's contention that he had experience with the Arts industry that he could rely on in reviewing the financial statements of UTF. Mr. Sweeney did not use the term review in the context of a Review Engagement. While the Panel did not pursue whether Mr. Sweeney reviewed the financial statements (i.e. read the financial statements with an enquiring mind), the Panel recognized that he may well have done so. However, the Panel notes that there was an absolute lack of documentation of procedures he should have applied in completing his engagements and that a cursory review of the financial statements does not meet the Review Engagement Report standard.
- [42] The evidence before the Panel is overwhelming in that Mr. Sweeney not only issued Review Engagement Reports while he was not licensed and while his firm was not registered, but that he did so after having professed to his regulators that he was retired and not providing services to the public. It is inconceivable that Mr. Sweeney would have misunderstood the requirements that he be licensed and his firm registered in order to provide such services. There is no excuse for a member or retired member of CPA Ontario to mislead their regulator. In the face of overwhelming evidence that Mr. Sweeney continued to practice public accounting at a time proximate to his assertions that he was retired, the Panel rejected Mr. Sweeney's repeated contention that he was retired and had not provided such services.
- [43] Based on the clear, cogent, and convincing evidence presented by the PCC, the Panel finds that Mr. Sweeney was not retired when he provided services to UTF for a fee and that despite having been alerted to the requirements to register his practice in January 2014, Mr. Sweeney did not register LWS Enterprises, the firm that is listed as having prepared the Review Engagement Reports for UTF.
- [44] As such, the Panel finds that Mr. Sweeney failed to act with competence through devotion to high ideals of personal honour and professional integrity when he misrepresented his status as "retired" to CMA Ontario's Complaints Committee and the Discipline Counsel contrary to section 3.1(c) of the Professional Misconduct and Code of Professional Ethics Regulation of CMA Ontario. The Panel also finds that by failing to register his practice after having been disciplined, fined and reprimanded for such conduct, Mr. Sweeney failed to maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1 of the Rules of Professional

Conduct.

VI. SANCTIONS

- [45] The PCC argued that Mr. Sweeney had proven himself to be ungovernable. In matters where members have shown a pattern of disregard for their obligations and their regulator, the PCC submitted that rehabilitation must give way to the principles of deterrence. This was not Mr. Sweeney's first disciplinary finding. He had been found guilty in 2014 of a failure to register his practice and a failure to cooperate with his regulator. Despite this history, Mr. Sweeney continued to mislead his regulator. The PCC pointed to evidence presented through Mr. Robertson, and through Mr. Sweeney's own words and admissions as found in Exhibit 4, that Mr. Sweeney has shown no remorse. Rather, he responded in a cavalier and dismissive manner.
- [46] Based on these submissions, the Panel accepted the position of the PCC with respect to the sanction to be imposed in this matter. Mr. Sweeney's flagrant disregard for the standards of the profession and his reckless, if not deceitful, interaction with CMA Ontario and CPA Ontario go well beyond the threshold of behavior that mandates the revocation of membership. We cannot continue to embrace as one of our own someone who is so disrespectful regarding professional standards that serve to protect the public and the public interest. Mr. Sweeney is clearly not governable, and the sanctions imposed on him must reflect our conclusions in a way that sends the clearest message possible to the members of this profession and to the public: we do not tolerate such rogue behavior. Should Mr. Sweeney wish to pursue his rehabilitation it must be outside of our profession.
- [47] Mr. Sweeney had engaged in discreditable conduct from April 2012 to December 2014 by providing services to UTF for which he was not licensed to provide, and not competent to provide. He acted in a pattern of conduct which showed a wanton disregard for the rules of conduct and his obligations to his regulator. The Panel finds that the sanction imposed should reflect that Mr. Sweeney has proven himself to be ungovernable. The Panel agrees with the PCC's submission that where a member is ungovernable, rehabilitation must give way to principles of deterrence.
- [48] The Panel decided that the sanctions to be imposed on Mr. Sweeney should include a written reprimand from the Chair, a fine of \$7,500, and revocation of membership. Notice of this Decision would be by the usual method, and notice of Mr. Sweeney's revocation of membership is to be given by publication on CPA Ontario's website and in the Guelph Mercury Tribune with associated costs to be borne by Mr. Sweeney.
- [49] A written reprimand was necessary as a specific deterrent to Mr. Sweeney and to stress the unacceptability of his conduct. It is important for CPA Ontario to clearly convey that message as a regulator.
- [50] The Panel concluded that a fine was required to address both specific and general deterrence. Such a penalty sends a clear message to the profession that there are significant consequences to the conduct in which Mr. Sweeney engaged. As there was no evidence relating to an inability to pay, three months were given within which the fine was

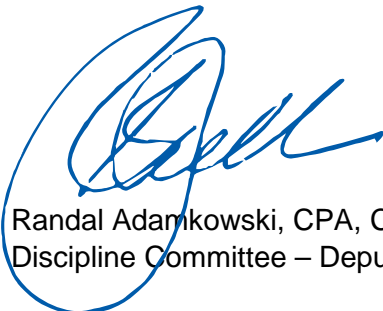
to be paid.

- [51] The conduct in which Mr. Sweeney engaged was very serious. Funding had been provided by Justice Canada to UTF based on the representations made by Mr. Sweeney. Those representations were misleading and incorrect. Mr. Sweeney was not licensed to provide the assurances he gave, nor did he properly review the materials in any event. An audit of Mr. Sweeney's work revealed that UTF should reimburse Justice Canada for over \$100,000 in unverified/improper expenditures. His cavalier attitude towards regulation only further supports the need to send a strong message to both Mr. Sweeney and the profession that such conduct is not acceptable. The Panel determined that revocation was the only sanction that would sufficiently address the seriousness of Mr. Sweeney's conduct.
- [52] Revocation of Mr. Sweeney's membership in CPA Ontario was appropriate given the gravity of the misconduct. Mr. Sweeney's actions discredit our profession and, as such, a clear message needed to be sent to other members and to the public that our profession will not tolerate such behavior of its members.
- [53] The Panel also ordered that notice of Mr. Sweeney's revocation be given full publication, including notice in the Guelph Mercury Tribune. Mr. Sweeney is to pay for the costs of publication.

VII. COSTS

- [54] Costs are imposed as an indemnity, not as an additional fine. The PCC presented a Costs Outline. The Panel accepted the PCC's submissions on costs and ordered costs in the amount of \$13,500, two-thirds of the actual costs incurred, to be paid within three months of the Order.

Dated at Toronto this 31st day of May, 2019



Randal Adamkowski, CPA, CA
Discipline Committee – Deputy Chair

Members of the Panel

Jeremy Cole, CPA, CA
Anthony Davidson, CPA, CA
Soussanna Karas (Public Representative)

Independent Legal Counsel

Nadia Liva, Barrister & Solicitor