

THE CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO

THE CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO ACT, 2017

IN THE MATTER OF: ALLEGATIONS OF PROFESSIONAL
MISCONDUCT AGAINST LEIGH SHERRY, CPA,
CGA, A MEMBER OF CPA ONTARIO, BEFORE
THE DISCIPLINE COMMITTEE

SETTLEMENT AGREEMENT

*made pursuant to Section 34 (3)(c) of the Chartered Professional
Accountants of Ontario Act, 2017, and
CPA Regulation 7-1, s.22.4*

Introduction

1. The Professional Conduct Committee approved draft Allegations against Leigh Sherry, CPA, CGA (“Sherry”) (**Doc 1**).
2. The draft Allegations pertain to Sherry’s failure to register his practice with CGA Ontario, or subsequently with CPA Ontario, and to his failure to maintain a Public Accounting Licence (“PAL”) despite issuing the following:
 - a) Review Engagement reports with the financial statements of “JBLC” for the years ended 2012 to 2014; and (**Doc 2**)
 - b) Twenty-eight Review Engagement reports with the financial statements of 14 other clients for the years ended 2012, 2013 and 2104. (**Doc 3**)
3. In addition, the draft Allegations pertain to Sherry’s failure to show due care in the performance of his professional services in that he failed to inform his clients of the erroneously issued Review Engagement reports, or to

restate the financial statements of the relevant clients once he was made aware of the issue by CPA Ontario.

4. The documents referred to in this settlement agreement ("Agreement") are found in the Document Brief ("Doc").
5. The Professional Conduct Committee ("PCC") and Sherry agree with the facts and conclusions set out in this Agreement for the purpose of this proceeding only, and further agree that this Agreement of facts and conclusions is without prejudice to Sherry in any other proceedings of any kind, including, but without limiting the generality of the foregoing, any civil or other proceedings which may be brought by any other person, corporation, regulatory body or agency.

Background of the Member

6. Sherry is 64 years old and graduated from St. Francis Xavier University with a business degree in 1976. Sherry then moved to Ontario where he started working and studying for his CGA designation, which he received in 1985.
7. From 1976 to 1978 Sherry worked for the Canada Revenue Agency as a General Taxation Officer. In 1980, Sherry completed his Graduate program at McMaster University, and joined Canada Packers as a Staff Accountant until 1987. From 1987 to 1997, Sherry worked as the Treasurer at Royalex Incorporated, and then at Sisters of St. Joseph of Hamilton from 1997 to 2000.
8. Concurrently, in 1999 Sherry started a MBA at Sir Wilfred Laurier and graduated in 2002. During the same time period, in December 2000 Sherry commenced operations of LJS & Associates ("LJS"). LJS is an Ontario corporation that operates in Brantford, Ontario. LJS is a full-time practice and provides the following services:

- a) Consulting which includes team building training, management coaching and strategic planning; and
 - b) Financial Services which includes accounting, bookkeeping and corporate and personal taxation.
9. In addition, between 2002 and 2015, Sherry has taught courses at Sir Wilfred Laurier and spent a few hours a month giving seminars on topics such as small business development, HR, and taxation which is how Sherry obtains his continuing professional development credits.

The Complaint

10. On November 25, 2014, “JPB” submitted a complaint to CPA Ontario in which JPB alleged that Sherry submitted Review Engagement reports with the financial statements of JBLC even though Sherry is not a “Chartered Accountant”. JBLC is a Canadian controlled private corporation that provides landscape design and construction services and is co-owned by JAB and JVB. The complainant JPB, is the spouse of co-owner JAB, and the father of the co-owner JVB.

The Allegations

- i. **The Issuance of Review Engagement reports: Allegations 1 & 2**
11. On October 12, 2012, JBLC retained LJS and Sherry to provide strategic planning and management training services to JBLC. The services provided by LJS subsequently expanded to include bookkeeping, accounting and taxation services for the years 2012 and 2013.

12. As part of the engagement, LJS prepared the financial statements of JBLC for the years ended 2012 to 2014. Sherry provided compilation services to JBLC and accordingly the financial statements prepared should have included a Notice to Reader ("NTR") that stipulated the following:
- a) state that the public accountant compiled the statement from information provided by management (or the proprietor);
 - b) state that the public accountant has not performed an audit or a Review Engagement on such information;
 - c) caution readers that the statement may not be appropriate for their purposes; and
 - d) not express any form of opinion or negative assurance.
13. Instead, the financial statements of JBLC included a communication to readers that was entitled Review Engagement report, and read as follows:

REVIEW ENGAGEMENT REPORT

We have reviewed the Financial Position of [COMPANY] as at [DATE] and the Statements of Operations for the year then ended. **Our review was made in accordance with Canadian generally accepted standards for review engagements** and, accordingly, consisted primarily of inquiry, analytical procedures and discussion related to information supplied to us by the organization.

A **review** does not constitute an audit and consequently we do not express an audit opinion on these financial statements.

Based on our review, nothing has come to our attention that causes us to believe that these financial statements are not, in all material respects, in accordance with Canadian generally accepted accounting principles. [emphasis added]

The services provided by Sherry did not constitute a Review Engagement as indicated by the wording above.

14. Sherry states that the language was included erroneously as part of standardizing the internal LJS process for financial statements. Sherry stated that an employee assisted in creating and implementing the wording and that it was never his intention to mislead anyone. However, Sherry also states and acknowledges that this wording was implemented under his responsibility and that Sherry signed all the reports to the financial statements that were prepared by LJS. Sherry is the only member in his firm authorized to sign the reports to the financial statements.
15. A PAL is required to issue financial statements containing a Review Engagement report. Sherry has never held a valid PAL.
16. On March 24, 2014, JBLC and JLS entered into a formalized written Consulting and Service Level Agreement (“CSLA”) for which Sherry was the signatory. Sherry states that the CSLA was created in 2014, and serves as his engagement letter and a marketing tool listing services provided by LJS. In the accounting services section of the CSLA it lists “audit review” as one of the services to be provided.
17. Sherry states that the use of the phrase “audit review” in the CSLA meant that he would review at a high level, audits of his clients financial statements conducted by other firms. Sherry confirms that LJS has never performed an audit or Review Engagement. For the year ended 2014, Sherry again issued financial statements of JBCL that included a Review Engagement report. **(Doc 4)**
18. As part of the investigation of this matter, Sherry provided a table of current clients to CPA Ontario in which he indicates the nature of the engagement and the year end for which the service is provided. Sherry acknowledges and admits that for the years ended 2012 to 2014, he issued a total of thirty-one financial statements that included Review Engagement reports, for fifteen clients. **(Doc 3)**

19. Sherry states that he was aware that the wording was misleading and has now removed it from the CLSA as of at least April 18, 2018.

ii. Practicing Without Registration: Allegations 3&4

20. In addition to the conduct described above, Sherry provided accounting services to the public without registering his practice with CGA Ontario at any time prior to July 2, 2014, and failed to register his practice with CPA Ontario subsequently.

iii. Failure to Use Due Care – Allegation 5

21. During the investigation of this matter, Sherry was advised by CPA Ontario of the misleading nature of the wording included in the communication attached to the financial statements which lead the reader to believe that the financial statements are being prepared pursuant to a review or audit engagement.

22. Despite being advised of his error, Sherry subsequently failed to notify any of the clients for whom he had issued erroneous Review Engagement reports, and failed to restate the financial statements or take other corrective measures to protect the interests of his clients who are not aware of the error.

Acknowledgement

23. It is agreed that Sherry used language in the communication that suggested he performed a Review Engagement when he had in fact performed a compilation. Sherry states that this wording was implemented erroneously but agrees that it was implemented under his responsibility. Sherry admits and acknowledges that he signed all the reports to the financial statements that were prepared by LJS.

24. It is agreed that, Sherry engaged in conduct of a serious nature which reflects adversely on his honesty, integrity and trustworthiness, in preparing the financial statements with a Review Engagement report, on three separate occasions for JBLC, and in preparing the additional 28 Review Engagement reports for 14 other clients from 2012 to 2015, without holding a PAL. Sherry engaged in conduct of a serious nature which reflects on his honesty and integrity and trustworthiness, and by which he failed to maintain the reputation of the profession.
25. It is agreed that Sherry was providing accounting services for which firm registration is required. Sherry acknowledges that at all relevant times Sherry's practice was not registered with CGA Ontario, or subsequently with CPA Ontario, and which is contravention of the bylaws and regulations.
26. Sherry acknowledges that subsequent to being made aware that the Review Engagement reports were erroneously included in financial statements, he did not advise his clients of the error or take corrective measures.

Considerations Supporting Settlement

27. Sherry states that for the years ended 2012 to 2014, the Review Engagement reports included with 31 of client year-end financial statements were an error and Review Engagements were in fact not conducted.
28. Sherry states that it was never his intention to misrepresent the work he performed. Sherry stated he has never performed a review or an audit engagement and it is not his intention to do so in the future.
29. Sherry states and the PCC has confirmed, that LJS no longer uses the Review Engagement report wording and has implemented the NTR prescribed wording.

30. Sherry states and the PCC has confirmed, that the CSLA no longer makes reference to “audit review”.
31. Sherry cooperated with the investigation and attended before the PCC on June 6, 2017, in addition to the written responses provided to Standards Enforcement staff.

Terms of Settlement

32. Sherry and the Professional Conduct Committee agree to the following Terms of Settlement:
 - a) A written reprimand;
 - b) Sherry will pay a fine in the amount of \$5,000 within 18 months of this Agreement receiving approval of the Discipline Committee;
 - c) Sherry will attend, within 12 months of the time the Discipline Committee accepts this Settlement Agreement, the following professional development courses, or relevant successor courses:
 - Navigating the Handbooks: An Overview
 - Ethical Principles and the Accounting Profession: Code Decoded
 - d) Sherry will pay costs in the amount of \$8,400 within 18 months of this Agreement receiving approval of the Discipline Committee;
 - e) Notice of the Terms of this Agreement is to be published in accordance with the provisions of CPA Ontario Regulation 7-3, s. 22, including notice to be given to all members of CPA

Ontario, to all provincial bodies and in a CPA Ontario publication; and

- f) A failure by Sherry to comply with any of the Terms of Settlement will result in his suspension from membership in CPA Ontario which suspension will continue until he complies PROVIDED THAT if his suspension under this section continues for three months his membership in CPA Ontario will be revoked with full publicity in accordance with Regulation 7-3 s.23.
33. Should the Discipline Committee accept this Settlement Agreement, Sherry agrees to waive his right to a full hearing, judicial review or appeal of the matter subject to the Settlement Agreement. Upon the member fulfilling the requirements of this Settlement Agreement, the draft Allegations approved by the Professional Conduct Committee and dated October 2017, shall be forever stayed.
34. If for any reason this Settlement Agreement is not approved by the Discipline Committee, then:
- a) This Settlement Agreement and its terms, including all Settlement Negotiations between the Professional Conduct Committee and Sherry leading up to its presentation to the Discipline Committee, shall be without prejudice to the Professional Conduct Committee and Sherry; and
 - b) The Professional Conduct Committee and Sherry shall be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the Allegations, or negotiating a new Settlement Agreement, unaffected by this Settlement Agreement or the Settlement Negotiations.

Disclosure of Settlement Agreement

35. This Settlement Agreement and its terms will be treated as confidential by the Professional Conduct Committee and Sherry, until approved by the Discipline Committee, and forever if for any reason whatsoever this Settlement Agreement is not approved by the Discipline Committee, except with the written consent of the Professional Conduct Committee and Sherry, or, as may be required by law.

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

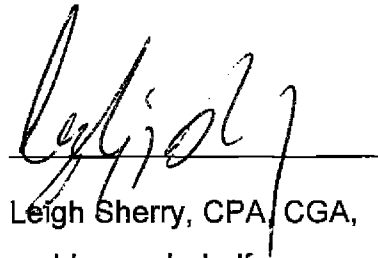
All of which is agreed to for the purpose of this proceeding alone this 5th day of June 2018.



Swapna Chandra

On behalf of:

THE PROFESSIONAL CONDUCT COMMITTEE



Leigh Sherry, CPA, CGA,

on his own behalf