

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO ACT, 2017

TO: Maurizio Panetta, CPA, CGA
AND TO: The Discipline Committee of CPA Ontario

The Professional Conduct Committee of CPA Ontario hereby makes the following Allegation of Professional Misconduct against MAURIZIO PANETTA, a ~~suspended~~ member of CPA Ontario:

1. THAT the said Maurizio Panetta in or about the period May 10, 2018 to June 11, 2018, failed to co-operate with the regulatory process of CPA Ontario contrary to Rule 104.2(a) of the CPA Code of Professional Conduct, in that he failed to promptly reply in writing to communications from CPA Ontario to which a written reply is specifically required, namely the letter dated April 12, 2018 from Ms. Theresa M. Tonelli, CPA, CA, Director of Standards Enforcement at CPA Ontario and the letter dated May 28, 2018, from Ms. Tatiana Rabinovitch, CPA, CA, Standards Enforcement Officer at CPA Ontario.

Dated at Brampton Ontario, this *15th* day of *October*, 2018.



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

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: An allegation against **MAURIZIO PANETTA, CPA, CGA**, a member of the Chartered Professional Accountants of Ontario, under **Rule 104.2(a)** of the Rules of Professional Conduct, as amended.

TO: Mr. Maurizio Panetta, CPA, CGA

AND TO: The Professional Conduct Committee

DECISION AND ORDER MADE DECEMBER 20, 2018

DECISION

The Tribunal was satisfied that the Allegation was proven and constituted a breach of **Rule 104.2(a)** of the CPA Code of Professional Conduct. The Tribunal determined that, having breached this rule, Maurizio Panetta (“Mr. Panetta”) has committed professional misconduct.

ORDER

The Tribunal orders the following:

1. Mr. Panetta be reprimanded in writing by the Chair of the hearing.
2. Mr. Panetta shall pay a fine of \$4,000 to CPA Ontario within 30 days of January 1, 2019, specifically by Wednesday, January 30, 2019.
3. Mr. Panetta is required to cooperate with the Professional Conduct Committee by responding to CPA Ontario’s correspondence requesting a written reply to a complaint as set out in Ms. Tonelli’s letter, dated April 12, 2018 and Ms. Rabinovitch’s letter, dated May 28, 2018, within 30 days of January 1, 2019, specifically by Wednesday, January 30, 2019.
4. Notice of this Decision and Order, disclosing Mr. Panetta’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.
5. In the event Mr. Panetta fails to comply with the requirements of this Order, he shall be suspended from membership in CPA Ontario until such time as he does comply, provided

that he complies within 30 days from the date of his suspension. In the event he does not comply within the 30 day period, his membership in CPA Ontario shall be revoked, and notice of the revocation of his membership, disclosing his name, shall be given in the manner specified above, and in a newspaper distributed in the geographic area of Mr. Panetta's practice, employment or residence. All costs associated with this publication shall be borne by Mr. Panetta and shall be in addition to any other costs ordered by the Tribunal.

6. Mr. Panetta shall pay costs of \$3,800 to CPA Ontario within 30 days of January 1, 2019, specifically by Wednesday, January 30, 2019.

DATED at Toronto this 20th day of December, 2018



Stephen Dineley, FCPA, FCA
Discipline Committee – Deputy Chair

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: Allegation against **MAURIZIO PANETTA, CPA, CGA**, a member of the Chartered Professional Accountants of Ontario, under **Rule 104.2(a)** of the Rules of Professional Conduct, as amended.

BETWEEN:

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

-and-

Maurizio Panetta

APPEARANCES:

For the Professional Conduct Committee: Julia McNabb, Counsel

For Mr. Panetta: Not Present and Not Represented

Heard: December 20, 2018

Decision and Order effective: December 20, 2018

Release of written reasons: January 15, 2019

REASONS FOR THE DECISION AND ORDER MADE DECEMBER 20, 2018

I. OVERVIEW

- [1] This hearing is about whether the allegation of failing to cooperate with the regulatory process of the Chartered Professional Accountants of Ontario (CPA Ontario) contrary to Rule 104.2(a) of the CPA Ontario Code of Professional Conduct laid against Mr. Panetta amounts to professional misconduct.
- [2] Mr. Panetta obtained his CGA designation in 1996 and his CPA designation in 2014.
- [3] The former spouse of Mr. Panetta's client ("the complainant") contacted The Public Accountants Council for the Province of Ontario advising that Mr. Panetta had issued a financial report with a review engagement report attached thereto while not licensed to practice public accounting in Ontario.
- [4] While the complainant did not wish to pursue the matter further, he did consent to having

the information provided to CPA Ontario.

- [5] As a result of the information received by CPA Ontario, Mr. Panetta was asked to provide a response to allegations originally raised by the complainant. Mr. Panetta did not provide a response to CPA Ontario's repeated requests for information. He did not provide an explanation for failing to respond, nor did he seek an accommodation for not responding.
- [6] The onus was on the PCC to show on a balance of probabilities that Mr. Panetta's conduct breached the CPA Ontario's Rules of Professional Misconduct, and constituted professional misconduct.

II. PRELIMINARY ISSUES

- [7] Mr. Panetta did not attend the hearing. A denial of the Allegation was entered on Mr. Panetta's behalf.
- [8] To proceed in the absence of Mr. Panetta, the Tribunal had to be satisfied that he had received proper notice of the Allegation and the hearing.
- [9] Ms. McNabb filed the Affidavit of Matthew Kelly, sworn October 16, 2018 (Exhibit 1). Mr. Kelly confirmed that he had personally served Mr. Panetta on October 15, 2018 with a letter from Julia McNabb, Professional Standards Counsel for CPA Ontario which informed Mr. Panetta of the allegation of professional misconduct made against him. Ms. McNabb included a copy of the signed Allegation with her letter and she also provided information regarding the procedure related to disciplinary hearings.
- [10] Ms. McNabb also filed the Affidavit of Caroline Kelly, the then Acting Adjudicative Tribunals Assistant Secretary at CPA Ontario (Exhibit 2). Ms. Kelly advised that on October 24, 2018, she sent an email to Mr. Panetta seeking his availability for a one day hearing of the allegation laid against him, on or before November 19, 2018. Mr. Panetta responded to Ms. Kelly's email on October 24, 2018 seeking clarification that he was to provide his availability by November 19, 2018. On November 16, 2018, Mr. Panetta wrote to Ms. Kelly by way of email, advising he would be available on December 20, 21 or 22. On November 22, 2018, a Notice of Hearing was sent to Mr. Panetta by way of email, confirming that the hearing would proceed on December 20, 2018, at 10:00 a.m.
- [11] Ms. McNabb filed an email exchange between Mr. Panetta and herself (Exhibit 3). On December 19, 2018 at 7:22 a.m., Mr. Panetta sent an email copied to Ms. McNabb advising that he would not be able to attend the hearing scheduled for December 20, 2018. Mr. Panetta did not request an adjournment nor did he provide a reason for his inability to attend the hearing on a date he had previously requested. Ms. McNabb wrote back to Mr. Panetta confirming that she would advise the Tribunal of his intended absence.
- [12] Based on the affidavits and documents presented by the PCC, including the responding emails from Mr. Panetta, the Tribunal was satisfied that Mr. Panetta had received proper notice of both the hearing and the allegation. The Tribunal decided to proceed in his

absence.

- [13] The only other preliminary issue addressed was a clarification regarding Mr. Panetta's current standing. At the time the allegation against was issued, Mr. Panetta was administratively suspended. The PCC advised that since the allegation had been served upon Mr. Panetta, he had had his suspension lifted.

III. ISSUES

- [14] The issue for the Tribunal was whether it was satisfied, on a balance of probabilities, that the facts alleged by the PCC constituted professional misconduct?

IV. DECISION

- [15] The Tribunal found that the evidence established, on a balance of probabilities, the allegation of professional misconduct.
- [16] The Tribunal was satisfied that the conduct alleged constituted a breach of Rule 104.2(a), and, having breached this Rule, Mr. Panetta had committed professional misconduct.

V. REASONS FOR THE DECISION

Findings regarding Conduct of Mr. Panetta

- [17] The Tribunal found that on January 29, 2018, a complaint was received by the Standards Enforcement Department of CPA Ontario from Keith Bowman, CEO of the Public Accountants Council for the province of Ontario. Mr. Bowman provided information he had received from an agent for the complainant, whose former spouse was a client of Mr. Panetta, retaining him for the purpose of valuation of assets and tax filings. It was alleged that Mr. Panetta had issued financial statements with a Review Engagement Report attached when he did not have a firm registered with CPA Ontario and did not hold a Public Accounting Licence.
- [18] On April 12, 2018, Theresa Tonelli, Director of Standards Enforcement at CPA Ontario, wrote to Mr. Panetta advising him that an investigation had been commenced by the PCC against him regarding a complaint made by a member of the public. Ms. Tonelli provided a copy of the information received from Mr. Bowman and requested that Mr. Panetta provide a written reply to the complaint on or before May 10, 2018.
- [19] Ms. Tonelli's letter cautioned that a failure to respond to the letter could result in allegations of professional misconduct being made against Mr. Panetta.
- [20] The letter was sent both by regular and registered mail to the residential address of record with CPA Ontario. The registered letter was delivered April 17, 2018 and the signatory name of the person who received the letter was "CC Pizioferrato" [sic]. The letter sent by regular mail was not returned.

- [21] As Mr. Panetta did not respond, a second letter dated May 28, 2018 was sent to Mr. Panetta by Tatiana Rabinovitch, a Standards Enforcement Officer with CPA Ontario. In her letter, Ms. Rabinovitch included a copy of Ms. Tonelli's April 12, 2018 letter. She requested that Mr. Panetta reply to Ms. Tonelli's letter on or before June 11, 2018, advising him that a failure to respond would result to a referral to the PCC and could result in allegations of professional misconduct being made against him. This letter was sent by regular and registered mail to the residential address of record with CPA Ontario. The registered letter was delivered on May 31, 2018, with the signatory name of the person who retrieved the letter being "Maurizio Panetta". The letter sent by regular mail was not returned.
- [22] Mr. Panetta did not respond by June 11, 2018. By September 5, 2018, the date the PCC met to consider Mr. Panetta's matter, he had not responded to the allegations. As of the November 15, 2018, Mr. Panetta had not had any contact with the Standards Enforcement Department.
- [23] On October 30, 2018 Mr. Panetta did communicate with Caroline Kelly, then Acting Adjudicative Tribunals Assistant Secretary at CPA Ontario. Ms. Kelly had written to Mr. Panetta by way of email on October 23, 2018 in an effort to schedule a hearing of the allegation laid against Mr. Panetta. In his October 30, 2018 email response, Mr. Panetta sought clarification of his understanding that he would have to provide hearing dates by November 19, 2018. Ms. Kelly responded that same day confirming his understanding. Mr. Panetta sought no opportunity to respond to Ms. Tonelli's April 12, 2018 letter.
- [24] On November 16, 2018, Mr. Panetta wrote an email to Ms. Kelly advising that he would be available on December 20, 21 or 22, 2018. Again, he sought no opportunity to respond to Ms. Tonelli's April 12, 2018 letter.
- [25] On November 22, 2018, Ms. Kelly again wrote to Mr. Panetta by email enclosing a Notice of Hearing which advised that the allegation that he had breached Rule 104.2(a) of the Rules of Professional Conduct would be heard at 10:00 a.m. on December 20, 2018.
- [26] On December 19, 2018, Mr. Panetta sent an email copied to Ms. McNabb advising that he would not be able to attend the hearing on December 20, 2018. He offered no explanation for his absence, nor did he seek an adjournment of the hearing. Again, Mr. Panetta sought no opportunity to respond to Ms. Tonelli's letter of April 12, 2018.

Finding of Professional Misconduct

- [27] The onus was on the PCC to show on a balance of probabilities that Mr. Panetta's conduct breached CPA Code of Professional Conduct, and constituted professional misconduct.
- [28] Mr. Panetta was advised of the complaint against him by way of letter dated April 12, 2018 which was delivered on April 17, 2018. At the same time, he was asked to provide a response to the complaint by May 10, 2018. The letter warned that a failure to respond could result in allegations of professional misconduct. Mr. Panetta did not provide a

response or seek an extension of the deadline for the response. On May 31, 2018, a letter dated May 28, 2018 was delivered to Mr. Panetta again requesting a response to the April 12, 2018 letter, this time a deadline of June 11, 2018 was given and again, Mr. Panetta was cautioned that a failure to respond could result in allegations of professional misconduct. Mr. Panetta did not provide a response or seek an extension of the deadline for the response.

- [29] Mr. Panetta was obviously aware of the allegation laid against him as he had both communicated his preference that his hearing be held on December 20, 21 or 22, 2018, and on December 19, 2018, Mr. Panetta communicated with CPA Ontario, advising he would not attend the hearing scheduled for the next day. Despite communicating with CPA Ontario on both occasions, Mr. Panetta did not offer a response to the complaint; an explanation for his failure to respond; he did not request more time to respond or seek accommodations.
- [30] There is no evidence before this Tribunal to explain Mr. Panetta's failure to respond to the complaint made to CPA Ontario in January 2018. As a result of Mr. Panetta's failure to respond, CPA Ontario's investigation into a complaint from a member of the public has not been completed. Mr. Panetta's failure to respond has resulted in wasted time and resources of CPA Ontario staff who have attempted to reach out to him in order to gather information. A sub-committee had to meet and submit recommendations as to how Mr. Panetta's matter should proceed. A hearing was held expending further time and resources, specifically in relation to having 5 Tribunal members, Independent Legal Counsel, the Tribunal Secretary, a court reporter and a member of the PCC attend on a hearing date chosen by Mr. Panetta, which he himself chose not to attend, offering no explanation for his absence. All this was avoidable had Mr. Panetta responded to Ms. Tonelli's letter of April 12, 2018.
- [31] As a result of Mr. Panetta's lack of response, CPA Ontario's investigation into the complaint made against him by a member of the public is no further ahead than when the complaint was first received. When complaints such as this remain outstanding, complainants cannot help but question whether CPA Ontario takes complaints seriously. A failure to respond to a complaint is a serious breach of the Rules and raises concerns regarding a member's willingness to be regulated.
- [32] Based on the clear, cogent and convincing evidence presented, the Tribunal concluded that Mr. Panetta had failed to cooperate by responding to Ms. Tonelli's letter of April 12, 2018 and Ms. Rabinovitch's letter of May 28, 2018. The Tribunal found that Mr. Panetta committed professional misconduct in that he breached Rule 104.2(a).

VI. SANCTIONS

Position of the PCC

- [33] Ms. McNabb, on behalf of the PCC, submitted that an appropriate sanction in this matter should be: a) a written reprimand from the Chair of the Tribunal; b) a fine in the amount

of \$3,500 to be remitted to CPA Ontario on a date specified by the Tribunal; c) that Mr. Panetta be required to co-operate with the Professional Conduct Committee by fully responding to the correspondence sent to him on April 12, 2018 and May 28, 2018 within 30 (thirty) days from the date of this Order; d) that in the event that Mr. Panetta does not comply with the terms of this Order, that his membership in CPA Ontario be suspended for 30 days and after that, if he still fails to comply with the terms of the Order, the PCC asks that Mr. Panetta's license be revoked, with the appropriate notification of his membership revocation be given in a local newspaper, e) that notice of the Decision and Order be given to all members of CPA Ontario, all provincial bodies, and made available to the public; and f) that Mr. Panetta bear the costs associated with the publication in addition to any other costs ordered by the Tribunal in the event his licence is revoked.

- [34] The Tribunal accepted the majority of the proposed sanctions put forward to by the PCC, finding the accepted sanctions reasonable and not contrary to the public interest.
- [35] In considering the PCC's submissions, the Tribunal was required to consider whether the sanctions proposed were within the range of reasonable sanctions for similar misconduct and whether the sanctions were not contrary to the public interest. While the Tribunal reviewed cases presented by the PCC, the Tribunal concluded that an increase in the fine from those previously imposed in the cases presented would send a message to the general membership that CPA Ontario takes such misconduct seriously and will impose sanctions which reflect the need to cooperate with the regulator.
- [36] The sanctions imposed by the Tribunal take into consideration the sentencing principles of general and specific deterrence, as well as rehabilitation. By way of mitigation, the Tribunal notes that Mr. Panetta has no disciplinary history and has afforded him one more opportunity to respond.
- [37] The Tribunal also considered aggravating factors in determining that appropriate sanctions against Mr. Panetta. The Tribunal found the fact that this prosecution could have been completely avoided particularly aggravating. Non-responsiveness to CPA Ontario's requests for information regarding complaints impacts not only the regulator's ability to fulfil its mandate in protecting the public, but incurs unnecessary, yet significant costs to CPA Ontario. In order to address both specific and general deterrence, and send a clear message that such conduct is not acceptable, this Tribunal imposed a higher fine than that sought by the PCC. The Tribunal ordered a fine of \$4000. Mr. Panetta has been given 30 days as of January 1, 2019 to pay the fine in consideration of the holiday season.

VII. COSTS

- [38] Costs are imposed as an indemnity, not as an additional fine. The PCC presented a Costs Outline. The Tribunal ordered costs in the amount of \$3,800 to be paid within 30 days from January 1, 2019 given the holiday season.

[39] The Tribunal carefully considered the PCC's submissions relating to costs and the Costs Outline presented by the PCC. The PCC sought costs in the amount of \$3,800, two-thirds of the total cost for a one day hearing. The Tribunal concluded that the amount was reasonable and therefore ordered the costs payable by Mr. Panetta at \$3,800.

DATED at Toronto this 15th day of January, 2019



Stephen Dineley, FCPA, FCA
Discipline Committee – Deputy Chair

Members of the Tribunal

Mark Feldstein, CPA, CA
Veronica Green-Dimitroff, CPA, CMA
Betty Kuchta (Public Representative)
N. Jane Rivers, CPA, CGA

Independent Legal Counsel

Nadia Liva, Barrister & Solicitor
Firm