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CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF
ONTARIO

DISCIPLINE COMMITTEE - CPA ONTARIO
RE: M. MICHAEL MAINGOT
EX: 1 FILED OCT 2, 2015
ADW

THE CHARTERED ACCOUNTANTS ACT, 2010

IN THE MATTER OF: ALLEGATIONS OF PROFESSIONAL
MISCONDUCT AGAINST M. MICHAEL
MAINGOT, CPA, CA, A MEMBER OF CPA
ONTARIO, BEFORE THE DISCIPLINE
COMMITTEE

SETTLEMENT AGREEMENT

*made pursuant to Section 34 (1)(c) of the Chartered
Accountants Act, 2010, and to ICAO Regulation 7-1, s.22.4*

Introduction

1. The Professional Conduct Committee approved draft Allegations against M. Michael Maingot, CPA, CA ("Maingot") **Doc 1**.
2. The draft Allegations pertain to Maingot's failure to register a public accounting practice, his failure to maintain a public accounting licence while engaged in the practice of public accounting, and to professional work performed by Maingot with respect to the following engagements:
 - a) the review of the financial statements of "LB Inc." for the year ended December 31, 2011; **Doc 4** and
 - b) the review of the financial statements of "LB Inc." for the year ended December 31, 2012. **Doc 5**

3. The documents referred to in this agreement are found in the Document Brief (“**Doc**”). The applicable *CICA Handbook* sections are found in the Brief of Authorities (“**Tab**”).
4. The Professional Conduct Committee (“PCC”) and Maingot agree with the facts and conclusions set out in this settlement agreement for the purpose of this proceeding only, and further agree that this agreement of facts and conclusions is without prejudice to Maingot 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

5. Maingot received his CA designation in Ireland in 1972, and a Doctorate in Accounting from Queen’s University in Belfast in 1974.
6. He moved to Newfoundland in 1975 to lecture at Memorial University, and received his Canadian accreditation with the Newfoundland Institute. He received his accreditation from the ICAO in 1981, and was a full-time Professor of Accounting at the Telfer School of Management in Ottawa from 1981 until 2006. Maingot also holds a CPA, CGA designation.
7. Maingot has been retired since 2006. He is provided office space at the University of Ottawa to work part time on a research project.

Background of the Complaint

8. In 1985, Maingot was asked by a former Telfer student if he could prepare review engagement financial statements for LB Inc. Maingot accepted the engagement and prepared review engagement financial statements and tax returns for the company from 1985 until 2012.

9. LB Inc. has operated a residential building business in Ottawa since the early 1980s and at the relevant time was owned equally by two families. In 2012, a legal dispute arose between the two families over their respective balance in the company's Due to Shareholders account. "DC," a CPA, CA, was retained to review the company's accounting records by legal counsel for one of the families.
10. When DC contacted Maingot to request his working papers reconciling the Due to Shareholders account between 1985-2012, Maingot responded that his working papers for those years had been destroyed inadvertently and he was unable to comply with the request. In a review of the CPAO website, DC subsequently learned that Maingot did not hold a public accounting licence. **Doc 2**
11. Maingot came to the attention of the PCC as a result of a complaint from DC, asserting that Maingot provided assurance services for many years for LB Inc. when he did not hold a public accounting licence. The complaint further alleged that Maingot issued review engagement financial statements that were not in accordance with generally accepted accounting principles, and that he did not retain working paper files to support his review engagement reports. **Doc 3**
12. Mr. Robert G. Roberson, CPA, CA, was appointed to investigate the complaint.

Allegations 1& 2 – Practicing Public Accounting Without a Licence: Failure to Adhere to the Bylaws

13. LB Inc. engaged Maingot to prepare review engagement financial statements beginning in 1985. He performed the engagement annually, up to and including 2012. Throughout the period between 1985 and 2012, a public accounting licence was required in order to perform a review

engagement in the Province of Ontario. Maingot has never held a public accounting licence.

14. Maingot states that at the time he accepted the engagement, he mistakenly understood that a public accounting licence was only required to perform audit engagements. Accordingly, he did not apply for a public accounting licence. He further states that he was unaware of the new licensing requirements for Ontario CAs established by the *Public Accounting Act, 2004*, and continued to perform the LB Inc. engagement on the assumption that he was in compliance with provincial regulations.
15. At all material times Maingot was a full-time professor of accounting, and did not have an accounting practice registered with the ICAO/CPAO. Maingot states that he was not aware of the requirements of the Bylaws (as amended from time to time) to register as a public practitioner with the ICAO including payment of requisite fees, and to maintain professional liability insurance for his public accounting practice. As a result of his failure to register with the ICAO, Maingot has never been subject to practice inspection. He has never held professional liability insurance.
16. LB Inc. was Maingot's only accounting client. Since resigning the engagement in 2012, he has accepted no other professional engagements. He does not intend to apply for a public accounting licence, nor to provide any professional services in the future.

Allegation 3 - The Review of the Financial Statements of LB Inc. for the Year Ended December 31, 2011

17. LB Inc. operates a residential building business in Ottawa. Maingot performed the LB Inc. review engagement annually from 1985 until 2012.

18. The financial statements for LB Inc. for the year ended December 31, 2011 are reproduced in the Document Brief at **Doc 4**.
19. Maingot signed the Review Engagement Report and prepared and issued the financial statements in or about June, 2012.
20. The investigator was unable to review the working papers for this engagement, as they inadvertently had been destroyed.

Review Engagement Report (3 a)

21. The presentation and wording of the review engagement report should be in accordance with the recommendations in the *CICA Handbook*. *CICA Handbook* Section 8200.42 presents the suggested format for the standard review engagement report. **Tab 1**
22. The Review Engagement Report did not comply with the recommendations in that it did not identify Canadian practice as the basis for the report. The term "Canadian" should precede the phrases "generally accepted standards for review engagements" in the scope paragraph and "generally accepted accounting principles" in the negative assurance paragraph. *CICA Handbook* Sections 8100.15, .26 **Tab 2**

Canadian Accounting Standards for Private Enterprise (3 b, c)

23. The Notes to the financial statements did not state prominently that the statements were prepared in accordance with Canadian Accounting Standards for Private Enterprise as required by *CICA Handbook* Part II Section 1400.16. **Tab 3**
24. LB Inc., a private enterprise, did not adopt CICA Part II Accounting Standards for Private Enterprises (ASPE) as required for fiscal years beginning on or after January 1, 2011 in accordance with *CICA Handbook* Sections 1500.35, .36 and .04 **Tab 4**

Significant Accounting Policies (3 d)

25. The significant accounting policy with respect to revenue recognition was not disclosed. *CICA Handbook Part II Section 3400.31. Tab 5*

Classification of Debt (3 e)

26. The classification of a debt should be based upon the facts existing at the balance sheet date. If the creditor has, at that date, or will have within one year from that date, the unilateral right to demand immediate repayment of the debt, it shall be classified as a current liability unless:
- a. the creditor has waived, in writing, or subsequently lost, the right to demand payment for more than one year from the balance sheet date;
 - b. the obligation has been refinanced on a long-term basis before the balance sheet is completed; or
 - c. the debtor has entered into a non-cancellable agreement to refinance the short-term obligation on a long-term basis before the balance sheet is completed and there is no impediment to the completion of the refinancing. *CICA Handbook Part II 1510.10, .12, and .13 Tab 6*
27. The amount of \$1,280,178 which was due to shareholders on demand was inappropriately classified as long-term debt.

Inventories (3 f)

28. Disclosure with respect to inventories did not include the carrying amount of inventories in classifications appropriate to the entity or the amount of inventories recognized as an expense during the period, as required in *CICA Handbook Part II Section 3031.35. Tab 7*

Issued Share Capital (3 g)

29. The disclosure of issued share capital did not include the number of shares of each class, including a brief description and the par value, if any. *CICA Handbook Part II Section 3240.20* **Tab 8**

Related Party Transactions (3 h)

30. The disclosure of related party transactions did not include a description of the transactions including those for which no amount has been recognized, nor was there disclosure of the measurement basis used to record them. *CICA Handbook Section 3840.51.* **Tab 9**

Measurement Uncertainties (3 i)

31. The nature and extent of a measurement uncertainty recognized in the financial statements was not disclosed although material as included in inventory is work in progress of \$1,398,697 that was valued at the lower cost or net realizable value. *CICA Handbook Part II Section 1508.05, .06* **Tab 10**

Financial Instruments (3 j)

32. *CICA Handbook Part II Sections 3856.53, .A66* require that disclosures with respect to the financial instruments must include the exposures to risk, how they arise, and any change in risk exposures from the previous period. Significant risks arising from derivatives shall be disclosed separately. **Tab 11**
33. The financial statements made no disclosure with respect to the credit risk and market risk associated with the financial instruments, as required.

Allegation 4 - The Review of the Financial Statements of LB Inc. for the Year Ended December 31, 2012

34. The financial statements for LB Inc. for the year ended December 31, 2012 are reproduced at **Doc 5**.
35. Maingot signed the Review Engagement Report and prepared and issued the financial statements in or about July, 2013.
36. The investigator was unable to review the working papers for this engagement, as they inadvertently had been destroyed.

Review Engagement Report (4 a)

37. The presentation and wording of the review engagement report should be in accordance with the recommendations in the *CICA Handbook*. *CICA Handbook* Section 8200.42 presents the suggested format for the standard review engagement report. **Tab 1**
38. The Review Engagement Report did not comply with the recommendations in that it did not identify Canadian practice as the basis for the report. The term "Canadian" should precede the phrases "generally accepted standards for review engagements" in the scope paragraph and "generally accepted accounting principles" in the negative assurance paragraph. *CICA Handbook* Sections 8100.15, .26 **Tab 2**

Accounting Standards for Private Enterprise (4 b, c)

39. The Notes to the financial statements did not state prominently that the statements were prepared in accordance with Canadian Accounting Standards for Private Enterprise as required by *CICA Handbook Part II* Section 1400.16. **Tab 3**

40. LB Inc., a private enterprise, did not adopt CICA Part II Accounting Standards for Private Enterprises (ASPE) as required for fiscal years beginning on or after January 1, 2011 in accordance with *CICA Handbook* Sections 1500.35, .36 and .04 **Tab 4**

Significant Accounting Policies (4 d)

41. The significant accounting policy with respect to revenue recognition was not disclosed. *CICA Handbook* Part II Section 3400.31. **Tab 5**

Classification of Debt (4 e)

42. The classification of a debt should be based upon the facts existing at the balance sheet date. If the creditor has, at that date, or will have within one year from that date, the unilateral right to demand immediate repayment of the debt, it shall be classified as a current liability unless:
- a. the creditor has waived, in writing, or subsequently lost, the right to demand payment for more than one year from the balance sheet date;
 - b. the obligation has been refinanced on a long-term basis before the balance sheet is completed; or
 - c. the debtor has entered into a non-cancellable agreement to refinance the short-term obligation on a long-term basis before the balance sheet is completed and there is no impediment to the completion of the refinancing. *CICA Handbook* Part II 1510.10, .12, and .13 **Tab 6**
43. The amount of \$1,280,178 which was due to shareholders on demand was inappropriately classified as long-term debt.

Inventories (4 f)

44. Disclosure with respect to inventories did not include the carrying amount of inventories in classifications appropriate to the entity or the amount of

inventories recognized as an expense during the period, as required in *CICA Handbook Part II Section 3031.35. Tab 7*

Property, Plant and Equipment (4 g)

45. No amortization of property, plant and equipment was charged to operations for the current fiscal period as required in *CICA Handbook Part II Section 3061.16. Tab 12*

Issued Share Capital (4 h)

46. The disclosure of issued share capital did not include the number of shares of each class, including a brief description and the par value, if any. *CICA Handbook Part II Section 3240.20. Tab 8*

Related Party Transactions (4 i)

47. The disclosure of related party transactions did not include a description of the transactions including those for which no amount has been recognized, nor was there disclosure of the measurement basis used to record them. *CICA Handbook Section 3840.51. Tab 9*

Measurement Uncertainties (4 j)

48. The nature and extent of a measurement uncertainty recognized in the financial statements was not disclosed although materials as included in inventory is work in progress of \$2,080,527 that was valued at the lower of cost or net realizable value. *CICA Handbook Part II Section 1508.05, .06 Tab 10*

Financial Instruments (4 k)

49. *CICA Handbook Part II Sections 3856.53, .A66* require that disclosures with respect to the financial instruments must include the exposures to risk, how they arise, and any change in risk exposures from the previous period.

Significant risks arising from derivatives shall be disclosed separately. **Tab 11**

50. The financial statements made no disclosure with respect to the credit risk and market risk associated with the financial instruments, as required.

Acknowledgement

51. It is agreed that, while engaged in the practice of public accounting, Maingot failed to maintain the reputation of the profession and its ability to serve the public interest in that he failed to maintain a public accounting licence as described above, contrary to the Rules.
52. It is agreed that, while engaged in the practice of public accounting, Maingot failed to adhere to the Bylaws and Regulations in that he failed to remit annual fees and to register a practice as required, contrary to the Rules.
53. It is agreed that, with respect to the review of the financial statements of LB Inc. for the years ended December 31, 2011 and 2012, Maingot failed to perform his professional services in accordance with generally accepted standards of practice of the profession, including the recommendations set out in the *CICA Handbook*, in the manner described above, contrary to the Rules.

Terms of Settlement

54. Maingot and the Professional Conduct Committee agree to the following Terms of Settlement:
- a) Maingot will pay a fine in the amount of \$5,000 within eighteen months of this agreement receiving approval of the Discipline Committee;
 - b) Maingot irrevocably undertakes and agrees:
 - to file an irrevocable application to resign from membership in CPA Ontario with the Registrar within ten days of this agreement receiving approval of the Discipline Committee;
 - to surrender his Certificate of Membership in CPA Ontario to the Secretary to the Discipline Committee within ten days of this agreement receiving approval of the Discipline Committee, and no later than he submits his application to resign;
 - not to re-apply for membership in CPA Ontario;
 - not to apply to be a licensed public accountant;
 - not to practice chartered professional accounting, or hold himself out as a CPA, CA or as a CPA, CGA;
 - not to practice public accounting or hold himself out as a public accountant.
 - c) Maingot will pay costs in the amount of \$5,000 within eighteen months of this agreement receiving approval of the Discipline Committee;
 - d) Notice of the terms of this Settlement is to be published in accordance with the provisions of ICAO Regulation 7-3, s. 22, including notice to be given to CPA Canada, and in a CPA Ontario publication; and

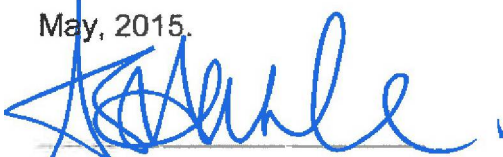
- e) Should Maingot fail to comply with any of the terms of settlement, his membership in CPA Ontario shall be revoked with full publicity in accordance with Regulation 7-3 s. 23.
55. Should the Discipline Committee accept this Settlement Agreement, Maingot agrees to waive his right to a full hearing, 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 November, 2014, shall be forever stayed.
56. 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 Maingot leading up to its presentation to the Discipline Committee, shall be without prejudice to the Professional Conduct Committee and Maingot; and
 - b) The Professional Conduct Committee and Maingot 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


57. This Settlement Agreement and its terms will be treated as confidential by the Professional Conduct Committee and Maingot, 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 Maingot, or, as may be required by law.

58. 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 21st day of May, 2015.



ALEXANDRA E. HERSAK



M. MICHAEL MAINGOT, CPA,
CA, CPA, CGA on his own behalf

On behalf of:
THE PROFESSIONAL CONDUCT COMMITTEE

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: A proposed Settlement Agreement between the Professional Conduct Committee and **M. MICHAEL MAINGOT, CPA, CA, CGA.**

TO: Dr. Michael Maingot, CPA, CA, CGA

AND TO: The Professional Conduct Committee

REASONS

(Settlement Agreement approved October 2, 2015)

This tribunal of the Discipline Committee is of the view that Rule 23.01(5) of the Rules of Practice and Procedure permits the tribunal to give reasons on why we accept this Settlement Agreement dated May 21, 2015. The tribunal feels it is important to provide context that ordinarily we would expect to be in the Settlement Agreement itself. A key factor is that immediately upon receiving the complaint, the Member volunteered to surrender all professional accounting designations, and consequently the tribunal accepted that position on the unique facts of this case. We would ask that these Reasons be appended to the Settlement Agreement.

DATED AT TORONTO THIS 2nd DAY OF OCTOBER, 2015
BY ORDER OF THE DISCIPLINE COMMITTEE



D. DEBENHAM, CPA, CMA, LLB – DEPUTY CHAIR
DISCIPLINE COMMITTEE

MEMBERS OF THE TRIBUNAL:

P. BUSCH, CPA, CA

W. McDOUGALL, CPA, CA

R. CARRINGTON – Public Representative