



## CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO

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

**TO:** Michael J. Nicholson (revoked)

**AND TO:** The Discipline Committee of CPA Ontario

The Professional Conduct Committee of CPA Ontario hereby makes the following Allegations of professional misconduct against MICHAEL J. NICHOLSON, a former member of CPA Ontario:

1. THAT the said Michael J. Nicholson, in or about the period June 1, 2017 through January 31, 2018, while acting as treasurer for the non-profit organization, BA Rescue Unit, misappropriated approximately \$65,000 from the organization, and did thereby fail to maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1 of the CPA Code of Professional Conduct.
2. THAT the said Michael J. Nicholson, in or about the period June 1, 2017 through January 31, 2018, while acting as treasurer for the non-profit organization, PPL Preservation Society, misappropriated approximately \$67,000 from the organization, and did thereby fail to maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1 of the CPA Code of Professional Conduct.

Dated at Toronto, Ontario, this 10th day of December 2018.

*Glenn Fagan*

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H. GLENN FAGAN, FCPA, FCA,  
DEPUTY CHAIR  
PROFESSIONAL CONDUCT COMMITTEE

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO

*Chartered Professional Accountants of Ontario Act, 2017*

**TO:** Michael J. Nicholson (revoked)

**AND TO:** The Discipline Committee

The Professional Conduct Committee hereby seeks to amend Allegation 2 of the Allegations made against Michael J. Nicholson, signed the 10<sup>th</sup> day of December 2018, pursuant to Rule 9.02 (1)(a) of the Rules of Practice and Procedure, as indicated by the highlighted words below as follows:

2. THAT the said Michael J. Nicholson, in or about the period ~~June 1, 2017~~January 1, 2014, through January 31, 2018, while acting as treasurer for the non-profit organization, PPL Preservation Society, misappropriated approximately \$67,000 from the organization, and did thereby fail to maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1 of the CPA Code of Professional Conduct.

All other Allegations to remain the same.

Dated at Toronto, Ontario this 16<sup>th</sup> day of January, 2019

A handwritten signature in black ink, appearing to read "Paul Farley". The signature is stylized with a large, sweeping initial "P" and "F".

Paul F. Farley, LL.B

Counsel to the Professional Conduct Committee

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

**DISCIPLINE COMMITTEE**

**IN THE MATTER OF:** Allegations against **MICHAEL JOSEPH NICHOLSON**, a revoked member of CPA Ontario, under **Rule 201.1** of the CPA Code of Professional Conduct, as amended.

**TO:** Mr. Michael Joseph Nicholson

**AND TO:** The Professional Conduct Committee

**DECISION AND ORDER MADE FEBRUARY 25, 2019**

**DECISION**

The Tribunal was satisfied that the amended Allegations were proven and constituted a breach of **Rule 201.1** of the CPA Code of Professional Conduct. The Tribunal determined that, having breached this rule, Michael Joseph Nicholson ("Mr. Nicholson") has committed professional misconduct.

**ORDER**

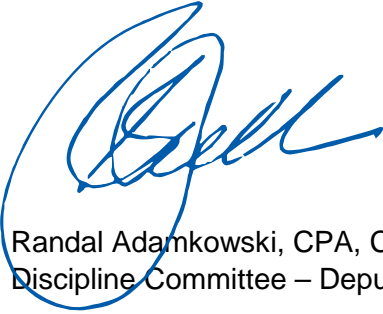
The Tribunal orders the following:

1. Mr. Nicholson be reprimanded in writing by the Chair of the hearing.
2. Mr. Nicholson shall pay a fine of \$20,000 to CPA Ontario by February 25, 2022.
3. Mr. Nicholson shall not be eligible for reinstatement or readmission to membership in CPA Ontario other than by an application to the Discipline Committee pursuant to section 30 of *Regulation 6-2, Discipline Committee*, and he is precluded from applying for readmission for a period of five (5) years from the date of this Order, and must satisfy all of the terms of this Order and the requirements of *Regulation 7-1, Admission to Membership, Obligations and Standing*, before being readmitted.
4. Notice of this Decision and Order, disclosing Mr. Nicholson'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. Notice of this Decision and Order disclosing Mr. Nicholson's name is to be given by

publication on the CPA Ontario website and in the *Brighton Now Community News Magazine* and the *Quinte News*. Mr. Nicholson shall pay all costs associated with the publication and shall be in addition to any other costs ordered by the Tribunal.

6. Mr. Nicholson shall pay costs of \$24,000 to CPA Ontario by February 25, 2022.

**DATED** at Toronto this 25<sup>th</sup> 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 **MICHAEL JOSEPH NICHOLSON**, a former member of CPA Ontario, under **Rule 102.1** of the Rules of Professional Conduct, as amended.

**BETWEEN:**

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

**-and-**

**Mr. Michael Joseph Nicholson**

**APPEARANCES:**

<b>For the Professional Conduct Committee:</b>	Paul Farley, Counsel
<b>For Mr. Nicholson:</b>	Present and Self-represented
Heard:	February 25, 2019
Decision and order date:	February 25, 2019
Release of written reasons:	April 5, 2019

**REASONS FOR THE DECISION AND ORDER MADE FEBRUARY 25, 2019**

**I. OVERVIEW**

- [1] This hearing was held to determine whether the Allegations that Mr. Nicholson had failed to maintain the good reputation of the profession by misappropriating sums from two non-profit organizations, BARU and PPLPS, for which he had acted as volunteer treasurer, were established and amounted to professional misconduct.
- [2] Mr. Nicholson obtained his CGA designation in 2005, and he became a CPA upon unification of the accounting designations in 2014. Beginning in 2007, Mr. Nicholson operated an accounting practice as a sole practitioner. Mr. Nicholson's practice primarily involved personal and corporate tax returns, including as many as 400 personal returns a year.

- [3] On July 26, 2017, Chartered Professional Accountants of Ontario (“CPA Ontario”) suspended Mr. Nicholson for failing to remit his 2017 membership dues (“AMD”) and confirm his 2016 continuing professional development (“CPD”). On February 8, 2018, CPA Ontario revoked Mr. Nicholson’s membership for his continued failure to pay the AMD and file his annual CPD declaration.
- [4] PPLPS and BARU were both non-profit organizations operating in the vicinity of Brighton, Ontario, for the purpose of fundraising for specific projects related to the local harbour and waterfront. During the period giving rise to the Allegations, Mr. Nicholson was a voluntary treasurer of both PPLPS and BARU and, as such, in a position of trust. His responsibilities at both PPLPS and BARU included receiving, recording and depositing fundraising revenues, paying expenses, preparing annual budgets when needed and issuing donation receipts. He was not authorized to receive accounting fees or other remuneration from either organization.
- [5] Mr. Nicholson was a signing authority on both the PPLPS and BARU bank accounts. Although neither PPLPS nor BARU had written policies and procedures with respect to the signing of cheques, it was understood by Mr. Nicholson and the Boards of both organizations that all cheques required two signatures, even though dual signatures were not a formal requirement of the respective financial institutions.
- [6] On January 18, 2018, Mr. Nicholson sent DS, a board member of PPLPS with whom Mr. Nicholson had a well-established relationship, an email indicating that he had a gambling addiction and had done a number of “the worst things possible over the past two years”. He said that he wanted to end his addiction, and he apologized for the things he had done and the problems he had caused.
- [7] After receiving Mr. Nicholson’s email and carrying out a review of bank statements, DS concluded that Mr. Nicholson had misappropriated between \$60,000 and \$80,000 from PPLPS.
- [8] On January 28, 2018, PPLPS notified CPA Ontario and the Ontario Provincial Police (the “OPP”) of the suspected misappropriation by Mr. Nicholson. After PPLPS notified the OPP, Mr. Nicholson told the OPP of his willingness to cooperate and provided the OPP with the records for PPLPS.
- [9] On January 27, 2018, PM, the Chair of the Board of BARU, was contacted by a reporter at a local newspaper, regarding the allegations by PPLPS against Mr. Nicholson. As a result of becoming aware of the PPLPS allegations, PM reviewed the BARU bank statements. He concluded that Mr. Nicholson may have misappropriated funds from BARU, although he could not be certain of the amount of the loss at the time because of a lack of records.
- [10] On February 12, 2018, Mr. Nicholson sent an email to the Board of BARU in which he admitted to having misappropriated funds from BARU and PPLPS and requested time to make restitution to BARU. He provided details as to how he had used the BARU Visa

credit card to add funds to an online gambling account in order to execute various online gambling transactions to the point that he had exceeded the BARU Visa credit limit.

- [11] After his email to the Board of BARU, Mr. Nicholson met with PM to review the bank statements and assist BARU in identifying which transactions were legitimate and which transactions were his misappropriations. Together, they were able to identify some of the amounts misappropriated. It was determined after this review that Nicholson had misappropriated approximately \$65,000 from BARU in total.
- [12] Despite Mr. Nicholson's promises to BARU to pay back the funds, by mid-March 2018, he had only returned \$1,600 to BARU. Subsequently, BARU requested the OPP to investigate the alleged fraud and, on April 26, 2018, made a complaint to CPA Ontario.
- [13] On July 13, 2018, Mr. Nicholson was charged with six counts of theft, fraud and breach of trust. On November 15, 2018, Mr. Nicholson pled guilty in the Ontario Court of Justice to three charges, specifically fraud in relation to BARU, fraud in relation to PPLPS, and breach of trust in relation to both organizations. The remaining charges were withdrawn by the Crown. All of the criminal charges arose from conduct in the period from June 1, 2017, and January 18, 2018.
- [14] Mr. Nicholson was scheduled to be sentenced on those convictions on March 4, 2019.
- [15] There has been considerable newspaper publicity with respect to the misappropriation by Mr. Nicholson from PPLPS and BARU and his resulting convictions in criminal court.
- [16] Mr. Nicholson first started gambling in or around 2008 in order to support the lifestyle enjoyed by himself and his family. He started out gambling small amounts which, over time, increased. After he and his wife separated in 2013, Mr. Nicholson faced increased financial pressures, which, in turn, led to an increase in the frequency and volume of his gambling.
- [17] The onus was on the Professional Conduct Committee ("PCC") to show, on a balance of probabilities, that Mr. Nicholson's conduct breached CPA Ontario's Rules of Professional Conduct and constituted professional misconduct.
- [18] Before this Panel, Mr. Nicholson admitted the allegations against him, and specifically, that he had misappropriated approximately \$132,000 from BARU and PPLS. He entered into an agreed statement of facts with the PCC.

## **II. PRELIMINARY ISSUES**

- [19] At the outset of the hearing, counsel for the PCC requested leave to amend the second particular. Notice had been provided to Mr. Nicholson and the Secretary of the Discipline Committee in advance of the hearing date. The commencement of the time period in question was amended to January 1, 2014, deleting the reference to June 1, 2017. Mr. Nicholson did not object to the amendment, and the particular was amended accordingly.

[20] Mr. Nicholson was unable to attend the hearing in person due to the weather. With leave of the Panel and on the consent of the PCC, Mr. Nicholson attended and participated in the hearing electronically by teleconference.

[21] Mr. Nicholson admitted the two allegations against him, as amended.

### **III. ISSUES**

[22] 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 ON FINDING**

[23] The Panel found that the evidence established, on a balance of probabilities, the facts underlying the particulars set out in the allegation of professional misconduct, specifically, that Mr. Nicholson had misappropriated approximately \$65,000 from BARU and approximately \$67,000 from PPLPS.

[24] The Panel was satisfied that the particulars alleged constituted a breach of Rule 201.1 of the Code of Professional Conduct, and that the breach was sufficiently egregious so that the Panel concluded that Mr. Nicholson had committed professional misconduct.

### **V. REASONS FOR THE DECISION OF FINDING**

#### ***Findings Regarding Conduct of Mr. Nicholson***

[25] The PCC relied on the Agreed Statement of Facts (Exhibit 1) and the corresponding Document Brief (Exhibit 2) as the evidence of the alleged misconduct by Mr. Nicholson. The actions of Mr. Nicholson were set out in those materials in significant detail. The description below was taken from the agreed statement of facts.

#### PPLPS Cheques Payable to Mr. Nicholson

[26] Between August 1, 2017 and January 18, 2018, inclusive, Mr. Nicholson prepared 21 cheques, totaling \$29,886, against the PPLPS account and made payable to himself. He was not authorized to make these payments. All of these cheques cleared the PPLPS bank account. The cheques were either deposited into Mr. Nicholson's personal bank account (4 times) or into the account of a retail cheque cashing business, such as National Money Mart.



- [27] Each cheque was signed by Mr. Nicholson in his own name and, except for the first two cheques in August 2017, all of the cheques contained Mr. Nicholson's forged signature of DS. The first two cheques had been pre-signed by DS when he had gone on vacation. To avoid detection Mr. Nicholson tried to ensure that his own signature covered up much of the forged signature.
- [28] In two instances, Mr. Nicholson inserted a description in the "RE" field citing, for example, accounting fees even though, as a volunteer, he was never entitled to charge fees to PPLPS.
- [29] A further three cheques payable to himself and totaling \$1,640 were prepared by Mr. Nicholson after January 15, 2018. All of these cheques were returned by the bank due to insufficient funds in the account, and they did not result in a further loss to PPLPS as a result.

#### PPLPS Cheques Payable to BARU

- [30] In addition to the cheques he made payable to himself, between September 2017 and January 2018, Mr. Nicholson prepared 16 cheques, totalling \$31,625, drawn on the PPLPS bank account, which he made payable to BARU. Mr. Nicholson deposited all of these cheques into the BARU bank account.
- [31] Mr. Nicholson signed each cheque with his own name and also forged the signature of DS on each. He was not authorized by DS or the Board to issue these cheques to BARU.
- [32] Mr. Nicholson executed these transactions so that there would be enough funds available in the BARU bank account to cover off BARU expenditures and to make payments against the BARU Visa which he was using to add funds to his online gambling account. In each instance, either on the same day or within 2 business days following the deposit of the PPLPS cheques, Mr. Nicholson made a payment from the BARU bank account to the BARU Visa credit card account.
- [33] In addition to the funds drawn from the PPLPS bank account, Mr. Nicholson misappropriated \$6,250 in PPLPS fundraising revenues that he obtained as a result of fundraising events but did not deposit to the PPLPS bank account. These funds were raised from three separate fundraising events: the 2014 Apple Fest (\$3,250), the 2015 Gala (\$1,000) and the 2015 Summer Festival (\$2,000). These amounts were estimated by agreement between Mr. Nicholson and the PCC for the purposes of this proceeding, as the exact figures could not be determined because Mr. Nicholson failed to maintain proper records with respect to these fundraising events.
- [34] The inclusion of these transactions in the evidence was the reason for the PCC's amendment to the timeframe identified in the second particular to begin on January 1, 2014.

- [35] Mr. Nicholson used these funds to add amounts to a pre-paid credit card that he then used to add funds to his online gambling account.

BARU cheque payable to Nicholson

- [36] On June 12, 2017, a cheque in the amount of \$791, made payable to Mr. Nicholson was drawn from the BARU bank account and deposited into a Money Mart account. The cheque had been signed by Mr. Nicholson and PM, the Chair of the Board. The cheque had been pre-signed by PM; he was not aware that this cheque had been made payable to, and cashed by, Mr. Nicholson. The payment to Mr. Nicholson was unauthorized.
- [37] Nicholson used these funds to cover personal expenses which he was unable to pay because of his gambling losses.

BARU Visa charges

- [38] Between June 1, 2017 and March 27, 2018, inclusive, Mr. Nicholson charged unauthorized personal charges totaling \$56,217 on the BARU Visa account. These charges all involved transactions with website service providers that accepted prepaid credit cards as a form of payment and then interfaced with online gambling websites to provide clients with an anonymous method of funding online gambling accounts without exposing the client's personal banking or credit card information. The end result of these transactions was that Mr. Nicholson added funds to his online gambling account.
- [39] As a result of the unauthorized transactions made by Mr. Nicholson on the BARU Visa account, interest (\$747) and over limit fees (\$232) totaling \$979 were incurred.

BARU Boat Sales

- [40] As part of their fundraising activities, BARU accepted donations of used boats and then sold these boats. Bills of sale were provided to the purchaser which detailed the amounts received. There were four boat donations with subsequent sales by BARU while Mr. Nicholson was treasurer. It was agreed by the parties, for the purposes of this proceeding, that the total of the funds received on the sale of the donated boats was \$17,000.
- [41] Mr. Nicholson deposited \$8,500 of this amount into the BARU bank account. He kept the balance, being \$8,500, for himself without authorization to do so.
- [42] In total, Mr. Nicholson took \$67,761 from PPLPS and \$65,508 from BARU through the different avenues described above. The aggregate amount was \$133,269, before any restitution was made. However, of the funds taken from PPLPS, Mr. Nicholson deposited into BARU's bank account \$31,625. As a result, the actual loss to BARU was only \$33,833. The evidence was that, as a consequence of these repayments to BARU, Mr. Nicholson's scheme of using BARU's credit card to gamble on-line was perpetuated and so it cannot be said that such repayments constituted restitution. Although the extent of the two organizations' losses was \$101,644 and not \$133,269, this did not detract from

the fact that Mr. Nicholson, in aggregate, took the larger amount to which he was not entitled.

- [43] The Panel was satisfied that the agreed evidence was clear, cogent and convincing in demonstrating that Mr. Nicholson had taken the amounts summarized in the preceding paragraph for his own benefit and that he was not authorized to do so.

### ***Finding of Professional Misconduct***

- [44] The facts were not in dispute. The Panel found the agreed facts sufficient to support the conclusion that the allegations of professional misconduct were established on a balance of probabilities. Mr. Nicholson admitted that both allegations were established. The evidence about Mr. Nicholson's conviction in criminal matters was corroborating but not needed. The Panel also did not rely on the newspaper articles submitted to the hearing as evidence to support its decision.
- [45] Mr. Nicholson, while representing himself as a CPA and while in positions of trust where members of his community relied on him and his professional skills, abused that trust and stole funds of sufficient amount to have a significant financial impact on these organizations and make these frauds newsworthy. The magnitude of the fraud was clearly significant. In addition, Mr. Nicholson benefited from his actions.
- [46] As a result, the Panel found that Mr. Nicholson committed professional misconduct in that he breached Rule 201.1 of the CPA Code of Professional Conduct as a result of his misappropriating assets between January 1, 2014, and January 31, 2018, aggregating approximately \$133,000 from the two non-profit organizations for which he had acted as volunteer treasurer.

## **VI. DECISION ON SANCTIONS**

- [47] After considering all of the evidence and the submissions of counsel and Mr. Nicholson, the Panel decided to impose the following sanctions on Mr. Nicholson:
- a) A reprimand in writing by the Chair;
  - b) A fine of \$20,000, payable to CPA Ontario;
  - c) An order that Mr. Nicholson shall not be eligible for reinstatement or readmission to membership in CPA Ontario other than by an application to the Discipline Committee pursuant to section 30 of *Regulation 6-2, Discipline Committee*, and, in any event, no sooner than five (5) years from the date of this Order, and must satisfy all of the terms of this Order and the requirements of *Regulation 7-1, Admission to Membership, Obligations and Standing*, before being readmitted; and

- d) The decision and order would be publicized in the usual manner, and also in the *Brighton Now Community News Magazine* and *Quinte News*, with any cost of the newspaper publication to be borne by Mr. Nicholson.

## **VII. REASONS FOR DECISION ON SANCTIONS**

- [48] In determining the appropriate sanction, the Panel relied on the facts outlined in paragraph 43 above, and in particular, the relative magnitude of the misappropriation.
- [49] Mr. Nicholson used various methods to further his fraud and did so over a lengthy period (most over 7 months, but smaller amounts over 4 years). His actions were premeditated. Mr. Nicholson's fraud was not artfully done, and it is true that someone trained would readily discover it or that more robust internal controls might have prevented it from happening. The Panel did not accept that his careless approach to his schemes amounted to an early admission of his actions or could in any way be considered as a mitigating factor. In fact, the number of transactions (37 unauthorized cheques, 98 unauthorized Visa charges, and the diverted fundraising receipts) clearly indicated that Mr. Nicholson repeatedly considered his actions and decided to continue the fraud. He also prolonged his deceit by cycling some of the money he misappropriated from one organization through the other organization so that he could perpetuate the scheme that allowed him access to on-line gambling, thereby suggesting a certain calculated approach to his fraud; clearly, his actions were not spur of the moment.
- [50] Mr. Nicholson stated his gambling was an addiction and also submitted that he suffered from suicidal thoughts and depression during and after these events but did not put these matters forward as either an excuse or defense. There was no corroborating evidence put forward to support these submissions, and consequently the Panel did not consider them as a defence when making its finding of professional misconduct. However, the Panel had empathy for these circumstances and considered if they should factor into its decision on sanctions as mitigating factors. The Panel determined that its primary focus in the determination of sanctions needed to be general deterrence in order to fulfill the profession's mandate to protect the public. In the Panel's view, the public would not be satisfied that the issues raised by Mr. Nicholson eliminated the need to protect the public and safeguard the integrity of the profession. As such, the Panel determined that the quantum of fine ordered, the order to forbid readmission of the member to the profession for five (5) years and the order for publication were all required to achieve effective general deterrence as explained in the following paragraphs and so could not be reduced.
- [51] The Panel found that Mr. Nicholson's actions amounted to moral turpitude and as such, the sanctions needed to send a clear message to members of the profession and to the public that our profession would not tolerate such actions. The Panel would have ordered Mr. Nicholson to be revoked from membership except that counsel for the PCC took the position, which the panel accepted, that Mr. Nicholson's membership could not be revoked again. The intention of the proposal put forward by counsel for the PCC was

to put Mr. Nicholson in the same place as if his membership was being revoked by this Panel.

- [52] Counsel for the PCC submitted that the Panel should order that Mr. Nicholson could only be readmitted to membership in CPA Ontario by applying under section 30 of *Regulation 6-2, Discipline Committee*. This provision is the provision that would apply if the Panel revoked Mr. Nicholson's membership. It would prevent him from reapplying for membership any sooner than five (5) years from the date of this Order, which would also be the restriction if membership was revoked by this Panel. Thus, the practical effect of the order would be the same as if Mr. Nicholson's membership was revoked again. The Panel was satisfied that these terms, combined with a clear indication that this order was intended to have the same effect – and the same deterrent value – as revocation, appropriately conveyed the profession's disapproval of Mr. Nicholson's misconduct.
- [53] The Panel was satisfied that publicity should include publication in local newspapers in the areas both where Mr. Nicholson had worked (and where the misconduct had occurred) and where he lived. Although the Panel did not revoke Mr. Nicholson's membership because it had already been revoked administratively, the rationale for publishing the decision and order in local newspapers was the same as if revocation was imposed. In the Panel's view, the public in the affected communities needed to know that Mr. Nicholson was not a member of the profession and could not provide the services of an accountant because the profession would not tolerate misconduct of this nature.
- [54] On the other hand, Mr. Nicholson's full cooperation with the police, CPA Ontario and with the organizations in quantifying his fraud, the fact that he admitted misconduct and entered an agreed statement of facts, the fact that he came forward to disclose his conduct before he was caught (at least to PPLPS) and his correspondence and oral statements at the hearing indicating that he was taking responsibility for his actions, which the Panel accepted as genuine, all led the Panel to believe that Mr. Nicholson was truly remorseful. The absence of any disciplinary history was also a mitigating factor in his favour.
- [55] The issue of restitution was complicated by the fact that Mr. Nicholson appeared to have limited assets and limited income. The Panel found Mr. Nicholson credible when he said that he aspired to make restitution. The Panel accepted Mr. Nicholson's submissions that he had limited resources or ability to generate funds, and so, while the Panel wanted to send a clear message with the amount of fine that would be commensurate with its order that equated to revocation, it tempered the amount of the fine to take into consideration these mitigating factors, and further allowed for an extended payment schedule in order to accommodate Mr. Nicholson's ability to pay.
- [56] The written reprimand by the Chair of the hearing served as a specific deterrent to Mr. Nicholson, emphasizing the seriousness of his professional misconduct and the high standard of ethical conduct expected of a Member. Should Mr. Nicholson continue his rehabilitation process, which must happen outside of the profession, and put himself in a position to reapply for membership at some future time, this letter may provide him guidance.

## VIII. COSTS

- [57] The Panel accepted the position of the PCC, that Mr. Nicholson should be responsible for two-thirds of the costs incurred by PCC in the investigation and prosecution of this allegation. The costs outline submitted by the PCC (Exhibit 3) indicated that the total costs incurred were \$36,316.65. The Panel noted that, although the costs were limited by Mr. Nicholson's cooperation, they were only incurred at all because of his actions. Consequently, it is appropriate that he indemnify CPA Ontario to the extent sought.
- [58] The Panel decided that a costs order of \$24,000, which was a rounded figure for two-thirds of the costs incurred, was the appropriate indemnification, and that Mr. Nicholson should be allowed the same extended payment terms as with the fine to accommodate his limited financial circumstances.

**Dated** at Toronto this 5<sup>th</sup> day of April, 2019.



Randal Adamkowski, CPA, CA  
Discipline Committee – Deputy Chair

Members of the Panel

David Handley (Public Representative)  
Catherine Kenwell (Public Representative)  
David Knight, FCPA, FCA

Independent Legal Counsel

Glenn Stuart  
StuartLaw