



CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO

*CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO ACT, 2017*

**TO:** Moira McKenzie (Student)

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

The Professional Conduct Committee of CPA Ontario hereby makes the following Allegation of Professional Misconduct against Moira McKenzie, a Student of CPA Ontario:

1. THAT the said Moira McKenzie, while the subject of a complaint submitted to CPA Ontario, signed or associated herself with written responses to the complaint which she knew were false and misleading, contrary to Rule 103 of the Student Code of Conduct in that:
  - a. On or about February 28, 2020, she submitted a written response to the Standards Enforcement department of CPA Ontario and included a copy of an email representing that she had previously sent the email to the complainant, when in fact she had not.
  - b. On or about May 7, 2020, she submitted a written response to the Standards Enforcement department of CPA Ontario that falsely stated that she had not sold the complainant company's materials on Kijiji.

Dated at North York, Ontario, this 31<sup>st</sup> day of March, 2021.

DocuSigned by:

*Donna Wong*

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D.K.Y WONG, CPA, CA, CMA – DEPUTY 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 **MOIRA McKENZIE**, a student registered with the Chartered Professional Accountants of Ontario, under **Rule 103** of the Student Code of Conduct.

**TO:** Moira McKenzie

**AND TO:** The Professional Conduct Committee

**DECISION AND ORDER MADE JUNE 9, 2020**

**DECISION**

The Allegation that Moira McKenzie has breached Rule 103 of the Student Code of Conduct is established, and constitutes professional misconduct.

**ORDER**

IT IS ORDERED THAT:

1. Moira McKenzie shall be reprimanded in writing by the Chair of the hearing;
2. Moira McKenzie shall pay a fine of \$5,000 to the Chartered Professional Accountants of Ontario ("CPA Ontario") by June 9, 2023;
3. Moira McKenzie shall enroll in and successfully complete the CPA Ontario course "Ethics - Regulations, Interpretations, and Guidance for Accountants" (or successor course) by June 9, 2022;
4. Notice of this Decision and Order, disclosing Moira McKenzie's name, is to be given in the form and manner determined by the Discipline Committee:
  - (a) to all members of CPA Ontario;
  - (b) to all provincial bodies;

and shall be made available to the public;

In the event Moira McKenzie fails to comply with the terms of this Order, her registration with CPA Ontario shall be suspended until such time as she does comply, provided that she complies within 30 days from the date of her suspension. In the event she does not comply within the 30 day period, she shall be deregistered;

AND THAT:

5. Moira McKenzie shall pay costs of \$11,000 to CPA Ontario by June 9, 2023.

**DATED** this 9<sup>th</sup> day of June, 2021.

A handwritten signature in black ink, appearing to read "Andrea Mintz". The signature is written in a cursive style with a large, looping initial 'A' and a long, sweeping tail on the 'z'.

Andrea Mintz, 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 **Moira McKenzie**, a student registered with the Chartered Professional Accountants of Ontario, under **Rule 103** of the Student Code of Conduct, as amended.

**BETWEEN:**

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

**-and-**

**Moira McKenzie**

**APPEARANCES:**

**For the Professional Conduct Committee:** Julia McNabb, Counsel

**For Ms. McKenzie** Self-represented

Heard: June 9, 2021

Decision and Order effective: June 9, 2021

Release of written reasons: June 29, 2021

**REASONS FOR THE DECISION AND ORDER MADE JUNE 9, 2021**

**I. OVERVIEW**

[1] The Professional Conduct Committee of the Chartered Professional Accountants of Ontario (“PCC”) has made Allegations that Ms. McKenzie, while the subject of a complaint, submitted responses that she knew were false and misleading contrary to Rule 103 of the Student Code of Conduct. This hearing was held to determine whether the Allegations were established and whether the conduct amounted to professional misconduct.

[2] Ms. McKenzie has been registered as a CPA Ontario Student since June 2015. She is currently employed as Senior Accountant at a large transportation

company. Since registering as a CPA Ontario Student, she has completed approximately 22 months of practical experience.

- [3] Two complaints were made to CPA Ontario against Ms. McKenzie by a company that sells resource materials for provincial CPA programs to students. The first complaint was that Ms. McKenzie widely distributed copyrighted materials to other students; the second complaint was that Ms. McKenzie sold copyrighted materials on-line.
- [4] In her written responses to CPA Ontario, Ms. McKenzie denied both complaints. When she was interviewed as part of the CPA Ontario investigation, Ms. McKenzie initially denied both complaints to the investigator. However, she ultimately admitted to the conduct alleged in the second complaint, and she admitted that she had been dishonest in her response to CPA Ontario in respect of both complaints.
- [5] The onus was on the PCC to show on a balance of probabilities that Ms. McKenzie's conduct breached Rule 103 of the Student Code of Conduct, and constituted professional misconduct.
- [6] In advance of the hearing the parties jointly filed an Agreed Statement of Facts setting out the evidence supporting the allegations against Ms. McKenzie, as well as Ms. McKenzie's admission that the conduct set out in the Agreed Statement of Facts amounted to a breach of Rule 103 of the Student Code of Conduct.

## **II. PRELIMINARY ISSUES**

- [7] Both parties agreed there were no preliminary issues.

## **III. ISSUES**

- [8] 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 Allegations by the PCC were based?
  - B. If the facts alleged by the PCC were established on the evidence on a balance of probabilities, did the Allegations constitute professional misconduct?

## **IV. DECISION**

- [9] The Panel found that the evidence established, on a balance of probabilities, the facts set out in the Allegations of professional misconduct.

- [10] The Panel was satisfied that the Allegations constituted a breach of Rule 103 of the Student Code of Conduct and, having breached this Rule, Ms. McKenzie committed professional misconduct.

## V. REASONS FOR THE DECISION

### *Findings regarding Conduct of Ms. McKenzie*

- [11] Evidence in support of the Allegations was placed before the Panel through an Agreed Statement of Facts (“ASF”), which was made Exhibit 1. Supporting documentation for the ASF was included in the Document Brief to the Agreed Statement of Facts, which was made Exhibit 2.

#### *First Complaint (“WhatsApp Complaint”)*

- [12] The complainant (anonymized as “ABC”) is a training company that sells cases and resource materials for provincial CPA programs to students and universities, and offers courses to students. ABC takes measures to ensure that students do not wrongfully distribute materials that are purchased for a single-user license.
- [13] On September 24, 2019, ABC submitted a complaint to the Standards Enforcement department of CPA Ontario, regarding Ms. McKenzie. ABC advised that it was aware of a group of CPA students who were sharing ABC materials subject to single-user licenses within an online messaging application (“WhatsApp”). ABC attributed the shared materials to Ms. McKenzie based on the watermark embedded on each page with the owner’s email address. The materials were marked as copyrighted and included a warning that distribution without legal purchase is prohibited.
- [14] Ms. McKenzie was notified of the ABC complaint on January 13, 2020, when she attempted to purchase additional ABC materials. ABC cancelled her order and advised her that ABC had identified her as the source of materials improperly shared on WhatsApp, and that ABC had filed a complaint with CPA Ontario. Ms. McKenzie did not respond to this message from ABC.
- [15] On February 21, 2020, the CPA Ontario Standards Enforcement department wrote to Ms. McKenzie to advise her of the complaint.

#### *Ms. McKenzie’s response to CPA Ontario respecting the first complaint*

- [16] On February 28, 2020 Ms. McKenzie responded to the letter from Standards Enforcement by denying that she had shared the information on WhatsApp. She stated that she was shocked by the allegation and she suggested that someone else shared her materials after her computer and CPA materials were stolen from

her car. She also stated that she emailed ABC when they cancelled her order to explain to them that she had no knowledge of her materials being distributed on WhatsApp, to explain that her CPA materials were stolen from her car. In her response to the Standards Enforcement department, she included a screenshot of the email she said she sent to ABC.

- [17] During her interview with the CPA Ontario investigator, Ms. McKenzie maintained the position that she did not provide the materials implicated in the WhatsApp complaint to any other person. She could not explain how her ABC materials had been widely shared in the WhatsApp group, and again suggested that the materials may have been accessed from her laptop after it was stolen from her car.
- [18] When the investigator advised Ms. McKenzie that ABC had not received an email response from her, and that the email she provided to CPA Ontario appeared to be in draft form, Ms. McKenzie admitted that contrary to her written response to the Standards Enforcement department, she had not sent the email to ABC; she had only drafted it. She advised that she felt it was too late to respond to ABC since they had already reported the matter to CPA Ontario.

#### *Second Complaint ("Kijiji Complaint")*

- [19] ABC monitors Kijiji.ca ("Kijiji"), an online selling platform, for potential copyright breaches. On or about February 13, 2020, ABC located a Kijiji advertisement selling two different ABC products, which ABC concluded were copies of an original hardcopy book. These materials were different than the materials that were the subject of the WhatsApp Complaint. In order to confirm these materials violated ABC copyright policies, an ABC staff member corresponded with the Kijiji seller and purchased the materials by way of e-transfer payment for \$100. The name associated with the email address used by the Kijiji seller for the e-transfer payment was listed as Moira McKenzie.
- [20] After ABC received the Kijiji materials, an ABC staff member wrote to the Kijiji seller advising that ABC is aware that she is selling copyrighted materials illegally, and will be providing CPA Ontario with evidence of these activities. The Kijiji seller responded by suggesting she was not Moira McKenzie and had bought the materials from someone else.
- [21] On February 26, 2020, ABC complained to CPA Ontario that Ms. McKenzie was selling ABC material on Kijiji.

#### *Ms. McKenzie's response to CPA Ontario respecting the second complaint*

- [22] In her response to CPA Ontario dated May 7, 2020, Ms. McKenzie denied selling

ABC materials on Kijiji.

- [23] During her interview with a CPA Ontario investigator, Ms. McKenzie originally maintained the position she had not been involved in the Kijiji advertisement. Subsequently in the interview, the investigator informed her that there were investigative methods for determining the recipient of the e-transfer sent by ABC. Ms. McKenzie then acknowledged that she had in fact been the Kijiji seller involved in the advertisement selling ABC materials, and that she had received the \$100 from the sale to ABC staff. Ms. McKenzie explained that she had assumed the risk of selling the materials on Kijiji after she had been informed of the previous complaint by ABC because she was under financial stress.
- [24] Ms. McKenzie further acknowledged that her prior correspondence with the Standards Enforcement department denying her involvement with the Kijiji sale was inaccurate. She advised she was untruthful because she was scared of being removed from the CPA Ontario Student program.

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

- [25] Through the ASF Ms. McKenzie admitted that the facts established that while she was the subject of a complaint submitted to CPA Ontario, she signed or associated herself with written responses to the complaint which she knew were false and misleading, contrary to Rule 103 of the Student Code of Conduct.
- [26] The ASF provides clear, cogent and compelling evidence to prove the allegations on a balance of probabilities.
- [27] The Panel finds that Ms. McKenzie breached Rule 103 of the Student Code of Conduct and this breach constitutes professional misconduct.

## **VI. DECISION AS TO SANCTION**

- [28] After considering the evidence, the law, and the submissions of both parties, the Panel concluded that the appropriate sanction was a written reprimand, a fine of \$5,000 payable within two years, and an order that Ms. McKenzie shall enroll in and successfully complete a specified CPA Ontario course on ethics within one year.
- [29] The Panel also set out terms that would apply if Ms. McKenzie did not comply with the terms of the Panel's order. These would require her suspension if she failed to comply with a term, and then, if she did not comply for 30 days after being suspended, she would be deregistered as a student.

## VII. REASONS FOR DECISION AS TO SANCTION

### ***Evidence relevant to Sanction***

[30] The only evidence presented on sanction was Ms. McKenzie's evidence respecting her financial situation. Ms. McKenzie provided the panel with a copy of her banking statement for the month of March 2021, which was made Exhibit 4. Ms. McKenzie testified that the statement provided a snapshot of her financial situation, which she testified would make it difficult for her to pay a significant fine or costs award. She testified that she had a dependent child for whom she was financially responsible, and had limited savings and other assets. Ms. McKenzie testified that she has been working as a senior accountant for approximately one year, and previously had worked as a general accountant for the same company for approximately five years. In total she had about 13 years of experience in the field.

### ***Position of the PCC***

- [31] The PCC submitted that the appropriate sanction should consist of a written reprimand, and a fine of \$5,000 payable within 18 months.
- [32] In support of this position, Counsel for the PCC submitted that aggravating factors include that the misleading and false statements were made by Ms. McKenzie to an investigator from CPA Ontario, and that Ms. McKenzie maintained her dishonest positions in the interview until the investigator made it clear that her falsehoods would be exposed. PCC counsel submitted that mitigating factors include the absence of a prior disciplinary history, Ms. McKenzie's cooperation, her agreement to an ASF at an early stage, and her student status.
- [33] Counsel for the PCC submitted that the \$5,000 fine was at the low end of the range for this misconduct, but that it was appropriate given Ms. McKenzie's status as a student and her financial circumstances.
- [34] The Panel asked Counsel for the PCC about the PCC's position on the appropriateness of a term requiring Ms. McKenzie to complete a professional development course on ethics. The Panel noted that such a term had been ordered in other cases where the misconduct included the making of a false and misleading statement. Counsel for the PCC submitted that such a course could be appropriate in this case as well, and, after a break, suggested two potential courses on ethics for the Panel's consideration.

### ***Position of Ms. McKenzie***

[35] Ms. McKenzie did not oppose the PCC's position on sanction. In her

submissions she acknowledged her dishonesty, she stated that she understood the requirement of a fine, and asked for leniency given her financial situation. When asked for her position on a requirement that she complete a professional development course on ethics, Ms. McKenzie stated that she had no comment to make on such a requirement.

### ***Reasons for the Panel's Decision on Sanction***

- [36] The Panel considered the sanctioning principles of protection of the public interest, general deterrence of the membership, specific deterrence of Ms. McKenzie, denunciation, and rehabilitation, as well as the aggravating and mitigating factors in this case.
- [37] The Panel found that Ms. McKenzie's attempt to deceive her regulator impaired the investigative and disciplinary function of CPA Ontario, constituting an aggravating factor. All members, including student members, are expected to act with honesty and integrity, and failing to do so risks undermining public confidence in the profession's ability to self-regulate. Ms. McKenzie's conduct was unacceptable and requires denunciation.
- [38] Ms. McKenzie's lack of a disciplinary history, her cooperation during the process, and the fact that she entered into an ASF constitute mitigating factors. The Panel recognizes that in entering into an ASF she accepted responsibility for her actions, and she saved the Tribunal the time and expense of a contested hearing.
- [39] The written reprimand will impress upon Ms. McKenzie the seriousness of her misconduct. The fine of \$5,000, while at the lower end, is consistent with prior decisions on making a misleading and false statement, and takes into account Ms. McKenzie's status as a student. It serves as a deterrent to both Ms. McKenzie and to the general membership. The Panel provided Ms. McKenzie with 24 months to pay the fine, in recognition of her financial situation.
- [40] The requirement to complete a professional development course on ethics emphasizes the need to maintain the high ethical standards expected of a CPA Ontario Student, and will assist in the rehabilitation of Ms. McKenzie.

### **VII. COSTS**

- [41] The law is settled that an order against Ms. McKenzie for costs with respect to the disciplinary proceeding is not a penalty. Costs are intended to indemnify the PCC, based on the underlying principle that the profession as a whole should not bear all of the costs of the investigation, prosecution and hearing arising from the

member's misconduct.

- [42] Costs are awarded at the discretion of the Discipline Committee. It has become customary for the PCC to file a Costs Outline in the same form as used in civil proceedings, and to seek 2/3 of the costs incurred in the investigation and prosecution of the matter.
- [43] The PCC Costs Outline is found at Exhibit 3. It totals \$17,564.61, 2/3 of which is approximately \$11,000.00, the amount sought by the PCC.
- [44] Ms. McKenzie submitted that in light of her financial situation, the costs award should be reduced, to an amount closer to one-half or one-third of the costs incurred. The Panel considered Ms. McKenzie's position, but found there was insufficient financial information in evidence before them to deviate from the customary award of 2/3 of the costs incurred by the PCC. The Panel did grant 24 months for payment of the cost award, rather than the 18 months sought by the PCC.
- [45] The Panel orders a cost award of \$11,000.00, payable within 24 months of the date of the Order.

Dated at Toronto this 29 day of June, 2021



Andrea Mintz, CPA, CA,  
Discipline Committee – Deputy Chair

Members of the Panel

Brian Mbesha, CPA, CGA  
Veronica Green-Dimitroff, CPA, CMA  
Soussanna Karas (Public Representative)  
David Handley (Public Representative)

Independent Legal Counsel

John Dent, Barrister & Solicitor