



Chartered Professional Accountants of Ontario
130 King Street West, Suite 3400
PO Box 358, Toronto ON M5X 1E1
T 416 962 1841 F 416 962 8900 Toll Free 1 800 387 0735
cpaontario.ca

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO ACT, 2017

TO: MUHAMMAD ALI, CPA, CGA

AND TO: The Discipline Committee of CPA Ontario

The Professional Conduct Committee of CPA Ontario hereby makes the following Allegations of professional misconduct against MUHAMMAD ALI, CPA, CGA, a member of CPA Ontario:

- September 12, 2019**
1. THAT the said Muhammad Ali, in or about the period of July 1, 2019 to ~~August 31, 2019~~, failed to co-operate with the regulatory process of CPA Ontario, in that he failed to provide a response or other information when requested to do so by CPA Ontario, contrary to Rule 104.1 of the CPA Code of Professional Conduct.

*AMENDED ON CONSENT WITH
LEAVE OF PANEL, February 11,
2020

Dated at Toronto, Ontario, this 25th day of November 2019.

Glenn Fagan

H. G. FAGAN, FCPA, FCA, 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 **MUHAMMAD ALI, CPA, CGA**, a Member of CPA Ontario, under **Rule 104.1** of the Professional Code of Conduct.

TO: Muhammad Ali, CPA, CGA

AND TO: The Professional Conduct Committee

DECISION AND ORDER MADE FEBRUARY 11, 2020

DECISION

The Allegation that Muhammad Ali has breached Rule 104.1 of the Professional Code of Conduct is established, and he has committed professional misconduct.

ORDER

IT IS ORDERED THAT:

1. Muhammad Ali be reprimanded in writing by the Chair of the hearing;
2. Muhammad Ali shall pay a fine of \$5,000 to the Chartered Professional Accountants of Ontario ("CPA Ontario") by May 11, 2020;
3. Muhammad Ali shall cooperate with the Professional Conduct Committee by March 31, 2020 by providing full responses to the correspondence of Theresa Tonelli, Director of Standards Enforcement dated July 23, 2019, and August 12, 2019, and of Tatiana Rabinovitch, Standards Enforcement Officer, dated August 22, 2019;
4. Notice of this Decision and Order, disclosing Muhammad Ali'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;
5. In the event Muhammad Ali fails to comply with the terms of this Order, he shall be suspended from the rights and privileges of membership in CPA Ontario until such time as he does comply. Notice of his suspension, disclosing his name, shall be given in the manner specified above, and in a newspaper distributed in the geographic area of

Muhammad Ali's practice. All costs associated with this publication shall be borne by Muhammad Ali and shall be in addition to any other costs ordered by the Panel.

AND THAT:

6. Muhammad Ali shall pay costs of \$5,564 to CPA Ontario by May 11, 2020.

DATED at Toronto this 11th day of February, 2020.

A handwritten signature in blue ink, appearing to read "Mark I. Feldstein". The signature is written in a cursive, flowing style.

Mark I. Feldstein, CPA, CA, LPA
Discipline Committee

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: An allegation of professional misconduct against **MUHAMMAD ALI, CPA, CGA**, a member of the Chartered Professional Accountants of Ontario, under **Rule 104.1** of the CPA Code of Professional Conduct.

BETWEEN:

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

-and-

Mr. Muhammad Ali

APPEARANCES:

For the Professional Conduct Committee:	Kelvin Kucey, Counsel
For Mr. Ali:	Present and Not Represented
Heard:	February 11, 2020
Decision and Order effective:	February 11, 2020
Release of written reasons:	March 4, 2020

REASONS FOR THE DECISION AND ORDER MADE FEBRUARY 11, 2020

I. OVERVIEW

- [1] This hearing was held to determine whether the allegation laid against Muhammad Ali that he failed to co-operate with the regulatory process of the Chartered Professional Accountants of Ontario ("CPA Ontario") by failing to provide a response or other information when requested to by CPA Ontario was established.
- [2] Mr. Ali received his CPA and CGA designations and became a member of CPA Ontario on October 26, 2017.
- [3] The allegation in this matter arises out of a complaint made by a client of AR Rahman Tax (ART), a tax and accounting business which, at all material times, was managed and owned by Mr. Ali.
- [4] It is initially alleged that Mr. Ali failed to cooperate with the regulatory process of CPA

Ontario on or about the period of July 1, 2019 to August 31, 2019, when he failed to provide a response or other information relating to the complaint when requested to do so by CPA Ontario.

- [5] The onus was on the Professional Conduct Committee (“PCC”) to show on a balance of probabilities that Mr. Ali’s conduct breached the CPA Code of Professional Conduct, and that such a breach constituted professional misconduct.

II. PRELIMINARY ISSUES

- [6] The parties jointly sought to amend the allegation which originally alleged that the conduct in question took place between the period of July 1, 2019 to August 31, 2019. On consent, the period was extended to September 12, 2019.
- [7] On its own initiative, the Tribunal provided an interpreter to assist either Mr. Ali and/or the panel if required throughout the course of the hearing.

III. ISSUES

- [8] The Panel identified the following issues arising from the allegation:
- A. Did the evidence establish, on a balance of probabilities, the facts on which the particular alleged by the PCC was based?
 - B. If the allegation made by the PCC was established on the evidence presented on a balance of probabilities, did the allegation constitute professional misconduct?

IV. DECISION

- [9] The Panel found that the PCC presented clear, cogent and convincing evidence which established on a balance of probabilities that Mr. Ali failed to cooperate with the regulatory process of CPA Ontario from July 1, 2019 to September 12, 2019.
- [10] The Panel was satisfied that the facts proven by the PCC constituted a breach of Rule 104.1 of the CPA Code of Professional Conduct (“Code”). The Panel found that having breached this Rule, Mr. Ali had committed professional misconduct.

V. REASONS FOR THE DECISION

Findings regarding Conduct of Mr. Ali

- [11] The PCC relied upon an Agreed Statement of Facts (“ASF”) executed by Mr. Ali on January 28, 2020 (Exhibit 1). The PCC also filed a number of documents in support of the ASF (Exhibit 2).

- [12] According to the ASF, Mr. Ali was the owner and manager of AR Rahman Tax ("ART") at all material times.
- [13] On or about September 7, 2018, ART was retained by BV, owner and operator of a bookkeeping company to prepare a T2 Corporate Tax Return for his company.
- [14] BV was unhappy with the work performed by ART and on or about September 25, 2018, BV filed a complaint to CPA Ontario.
- [15] On July 23, 2019, Ms. Theresa Tonelli, CPA Ontario's Director of Standards Enforcement, wrote to Mr. Ali advising him of the complaint. Ms. Tonelli requested that Mr. Ali provide a written response to the issues raised in the complaint and any other information or documentation Mr. Ali considered relevant to the investigation by August 13, 2019. In this letter, Ms. Tonelli reminded Mr. Ali that his response was required in accordance with Rule 104 of the Code and that a failure to respond to the letter would be referred to the Professional Conduct Committee and might result in disciplinary proceedings. Ms. Tonelli invited Mr. Ali to contact Standards Enforcement in the event that he had any questions or concerns.
- [16] On August 2, 2019, in what appears to be a follow up to a telephone conversation with Ms. Tonelli, Mr. Ali wrote an email to Ms. Tonelli in which he questioned why he was being held responsible for the issues raised in the complaint.
- [17] As admitted in the ASF, Mr. Ali's email did not respond to the issues raised in the complaint. Rather Mr. Ali asserted that CPA Ontario was required to prove to him that he was in fact responsible for the work being complained of.
- [18] On August 12, 2019, Ms. Tonelli responded to Mr. Ali's email of August 2, 2019. Ms. Tonelli explained why Mr. Ali had been identified as the person responsible for the work at issue. Ms. Tonelli confirmed that, according to CPA Ontario records, Mr. Ali was employed as the President of ART commencing October 21, 2014 and it was not until May 31, 2019 that Mr. Ali updated his employment information with CPA Ontario, advising that he was now primarily employed as CEO of another company. Ms. Tonelli also noted that according to ART's website, Mr. Ali was still identified as the CEO of ART.
- [19] During the relevant time of the complaint, as Ms. Tonelli pointed out, Mr. Ali was the President of ART.
- [20] In her August 12, 2019 letter, Ms. Tonelli again requested that Mr. Ali provide a written response to the specific issues raised in the complaint that alleged his company had incorrectly completed a corporate tax return for the complainant's company for the year ended August 31, 2018 and that he had refused to amend the tax return and refund the fees paid. Ms. Tonelli also requested that he respond to three specific questions relating to: confirmation of his ownership in ART; confirmation of who completed the corporate tax filing; and whether Mr. Ali had responded to correspondence from the complainant sent in September 2018. With respect to the latter inquiry, Mr. Ali was requested to provide copies of any written responses to the complainant's September 2018 emails.

- [21] Ms. Tonelli clearly cautioned Mr. Ali that his written response to the specific issues was required in accordance with Rule 104 of the Code and requested his response on or before September 3, 2019. Ms. Tonelli again cautioned Mr. Ali that a failure to respond to her letter might result in an allegation or allegations of professional misconduct. Ms. Tonelli again invited Mr. Ali to contact Standards Enforcement in the event that he had any questions or concerns.
- [22] According to the ASF, on August 13 and 14, 2019, Mr. Ali sent two emails to Standards Enforcement. In the August 13th email, he specifically advised that he had ceased working with ART in December of 2018 and that it was not his responsibility to update ART's website. He further advised he would pass on the request of a correction or refund to ART "as a good gesture" as he was of the opinion it was the "client's responsibility to ask (ART) directly. He provided a contact email with ART in the event the complainant wished to contact the company. Mr. Ali provided no further information or documentation with this email.
- [23] As acknowledged by Mr. Ali in the ASF, his emails failed to respond as required.
- [24] On August 22, 2019, Tatiana Rabinovitch, a Standards Enforcement Officer of CPA Ontario wrote to Mr. Ali advising him of the inadequacy of his email correspondence of August 13 and 14, 2019. Ms. Rabinovitch pointed out that the complaint was made specifically against Mr. Ali and that it involves a time period during which Mr. Ali was employed and/or associated with ART. She reminded Mr. Ali that as a CPA Ontario member, and in his capacity as President of ART at the time the conduct complained of occurred, Mr. Ali is responsible, pursuant to Rule 406.1, for work conducted by non-members at ART.
- [25] Ms. Rabinovitch, as had Ms. Tonelli in both her letters to Mr. Ali, reminded Mr. Ali that he could request the assistance of counsel or any other person to assist him in preparing his response. As had Ms. Tonelli, Ms. Rabinovitch reminded Mr. Ali of his obligation to respond pursuant to Rule 104 of the Code – this time specifically setting out the entire rule for Mr. Ali's edification. Mr. Ali was asked to provide a written response to Ms. Tonelli's letters of July 23 and August 12, 2019 by September 12, 2019.
- [26] Mr. Ali did not provide any further response to CPA Ontario. The evidence revealed no requests were made by Mr. Ali during the course of the regulatory process for clarifications or additional time to respond to the inquiries made of him.

Finding of Professional Misconduct

- [27] In addition to setting out a number of agreed facts in the ASF, Mr. Ali also acknowledged and irrevocably agreed that he did breach Rule 104.1 of the CPA Code of Professional Conduct, specifically admitting that he failed to cooperate with the regulatory process of CPA Ontario by failing to provide a response or other information when requested to do so.

- [28] During the course of the hearing, Mr. Ali also verbally confirmed that he was admitting the allegation that he failed to respond to the inquiries made of him by CPA Ontario.
- [29] While Mr. Ali did respond to Ms. Tonelli's letters by way of emails dated August 2, 13 and 14, 2019, Mr. Ali admitted, and the Panel found, that his emails did not contain responses to the allegations made against him or the company he was President of during the time the corporate tax return in question was prepared.
- [30] As noted in Baksh (Re), August 9, 2017, at paragraph 27:

The privilege of membership in CPA Ontario carries with it a duty to actively co-operate with the regulator to resolve all matters where the regulator is acting to protect the public and the good name of the profession. This is essential to the viability of the profession continuing as a self-regulated profession. Failing to co-operate is a very serious matter, clearly constituting professional misconduct.

- [31] The Panel found Mr. Ali's attempts to deflect and re-direct responsibility to others is not only non-responsive, but shows a lack of appreciation for his responsibilities as President of ART and as a member of CPA Ontario.
- [32] As the President of ART at the time the alleged service issues arose, Mr. Ali had a responsibility to respond to the inquiries made of him by CPA Ontario. Even if the work in question was completed by another, the complaint was directed to Mr. Ali and a response was required. While Mr. Ali spoke of health concerns, at no time did he request additional time nor did he request clarifications or an interpreter. The Panel found that Mr. Ali understood what was asked of him and chose not to respond.
- [33] The evidence presented by the PCC by way of the ASF (Exhibit 1), the supporting documentation (Exhibit 2) and the admissions made by Mr. Ali were clear, cogent and convincing. The Panel concluded that Mr. Ali had failed to cooperate with the regulatory process of CPA Ontario by failing to respond to Ms. Tonelli's letters of July 23 and August 12, 2019 and to Ms. Rabinovitch's letter of August 22, 2019. The Panel found that Mr. Ali breached Rule 104.1 of the Code and having breached that Rule, as admitted by Mr. Ali, he engaged in professional misconduct.

VI. SANCTIONS

- [34] In support of its submissions on penalty, the PCC presented guidance delivered upon Mr. Ali by the Chair of the PCC in October 2017 (Exhibit 3). The guidance reminded Mr. Ali of his obligations to act with integrity and due care, and of his responsibility for non-members in the practice of public accounting. The Chair cautioned:

As a professional, you should take responsibility for errors made by yourself or your staff in filing the clients' personal income tax returns (T1s), or on other engagements, rather than attempting to transfer such responsibility to the client.

- [35] The guidance included a warning that the guidance would be made available to the PCC should Mr. Ali become involved in other complaint(s) before the PCC.
- [36] The PCC submitted that despite having received this guidance in the fall of 2017, less than 24 months thereafter Mr. Ali again failed to appreciate his responsibilities regarding his employees, taking the position in his emails of August 2, 13 and 14, 2019 that it was the client's responsibility to ask ART to make a refund rather than complain about his conduct. This was not a sufficient or proper response.
- [37] The sanction proposed by the PCC was crafted taking into consideration both general and specific deterrence, as well as the rehabilitation of Mr. Ali. In considering the appropriate sanction, the Panel not only considered the guidance, but the evidence given by Mr. Ali himself during this portion of the proceedings.
- [38] In addressing the issue of sanction, Mr. Ali testified that he had learned from the guidance delivered to him in 2017 and that it has been and continues to be his intention to be governed by CPA Ontario. Mr. Ali advised that he had suffered a heart attack in 2017 and that he has been regaining his health and is now in a position to respond to the inquiries made of him. He testified that he had participated in both the regulatory process by attending the Pre-Hearing conference and the hearing itself – endeavoring to shorten the hearing process by entering into an Agreed Statement of Facts. He advised the Panel he had submitted a response “three days ago”.
- [39] At no time during the investigative process did Mr. Ali advise CPA Ontario that he had health issues which prohibited him from responding to enquiries made of him. While the Panel accepts that Mr. Ali has suffered a heart attack and has had ongoing health issues, he has attended both a Pre-Hearing conference and a hearing. These two proceedings required Mr. Ali to attend at CPA Ontario's offices. They required hours of his time. Had he simply provided a written response to the inquiries made of him, Mr. Ali would have been spared this prosecution. Mr. Ali did not suggest he did not understand the inquiries made of him. He did not seek clarifications. Rather he dismissed the inquiries made by CPA Ontario as not being matters for which he was responsible. Despite being advised otherwise by Ms. Rabinovitch, Mr. Ali provided no response to the complaint made by BV.
- [40] The Panel ordered that Mr. Ali be reprimanded in writing by the Chair of the hearing. This sanction is intended as a form of specific deterrence, once again ensuring that his responsibility to respond is clearly brought to Mr. Ali's attention.
- [41] The Panel also ordered that Mr. Ali shall pay a fine of \$5,000 to CPA Ontario by May 11, 2020. This sanction is intended to address both specific and general deterrence. This is not the first time Mr. Ali has had the responsibility to account to his regulator for an employee's actions brought to his attention. In October 2017, Mr. Ali had received guidance on this very issue, two years before receiving the complaint regarding the work of someone in his former company – during a time in which he was President of the

company. He did not suggest he did not understand his responsibility, rather this Panel found he sought to shirk his responsibility. As noted above, it is imperative for members of this profession to promptly and fully respond to complaints – a failure to do so impacts not only on Mr. Ali, but on all members of this profession.

- [42] This Panel has also ordered that Mr. Ali shall cooperate with the PCC by March 31, 2020 by providing a full response to the correspondence of Ms. Tonelli dated July 23, 2019 and August 12, 2019, as well as the letter of Ms. Rabinovitch, dated August 22, 2019. In the event Mr. Ali does not respond or if he fails to comply with the terms of this Order, he will be suspended until such time as he does comply. This term is intended to ensure that Mr. Ali cooperates with CPA Ontario in a timely fashion.
- [43] If Mr. Ali is suspended, notice of his suspension disclosing his name, shall be given in a newspaper distributed in the geographic area of his practice and all costs associated with this publication, will be borne by Mr. Ali. This will send a clear message to both members of this profession and of the public that CPA Ontario takes failures to cooperate seriously.
- [44] In order to ensure that Mr. Ali has one letter containing all that is required of him, the Panel recommends that the PCC reiterate their outstanding questions to Mr. Ali in a clear and concise manner to enable him to appropriately respond. This letter to Mr. Ali should be sent within five business days of the hearing.

VII. COSTS

- [45] The PCC presented a Costs Outline which was considered by the Panel, seeking costs in the amount of \$9,046.21. The outline included costs for six hours' time that encompassed costs for the hearing and costs for the Pre-Hearing conference.
- [46] The Panel took into consideration Mr. Ali's admissions of both facts and conduct which alleviated the necessity of calling evidence at the hearing. The Panel considered the case law presented by the PCC in support of its submissions on costs, as well as Mr. Ali's submissions seeking to distinguish the case law.
- [47] The Panel reduced the amount of costs sought by the PCC by 2 hours. Consideration was given to Mr. Ali's decision to engage in the process reducing both the time and costs of the hearing through his attendance at the Pre-Hearing Conference and his decision to enter into an Agreed Statement of Facts with admissions. The reduction in hours resulted in a reduction of \$700 in costs. Part of the purpose of Pre-Hearing conferences is to encourage the parties, where possible, to come to agreements on facts, on conduct and/or on sanction. The Panel concluded that in this case, the Pre-Hearing conference assisted Mr. Ali significantly and impacted on the fair and efficient resolution of this matter. With the reduction, costs totaled \$8,346.21. The Panel ordered 2/3 of the total

costs to be paid, being \$5,564.00. In light of Mr. Ali's health issues, the Panel has ordered that the costs be paid within 3 months of the Order.

Dated at Toronto this 4th day of March, 2020



Mark Feldstein, CPA, CA, LPA

Members of the Tribunal

Veronica Green-Dimitroff, CPA, CMA

David Handley (Public Representative)

Andrea Mintz, CPA, CA, LPA

Salim Somani, CPA, CA, LPA

Independent Legal Counsel

Nadia Liva, Barrister & Solicitor