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## CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO

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

**TO:** PETER CHOY, CPA, CGA

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

The Professional Conduct Committee of CPA Ontario hereby makes the following Allegation of professional misconduct against PETER CHOY, CPA, CGA, a member of CPA Ontario:

1. THAT the said Peter Choy in or about the period of January 20, 2020 through March 5, 2020, failed to co-operate with the regulatory process of CPA Ontario contrary to Rule 104.2(a) of the CPA Ontario Code of Professional Conduct, in that he failed to promptly reply in writing to communications from CPA Ontario to which a written reply is specifically required, namely the letters dated December 23, 2019 and January 28, 2020 from Boris Antonic, CPA, CA, CFF, Standards Enforcement Officer at CPA Ontario.

Dated at Brampton, Ontario, this *12<sup>th</sup>* day of March 2020.



A.J. SOKIC, CPA, CA, 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 **PETER CHOY, CPA, CGA**, a member of the Chartered Professional Accountants of Ontario, under **Rule 104.2(a)** of the CPA Ontario Code of Professional Conduct.

**TO:** Peter Choy

**AND TO:** The Professional Conduct Committee

**DECISION AND ORDER MADE AUGUST 6, 2020**

**DECISION**

The Allegation that Peter Choy has breached Rule 104.2(a) of the CPA Ontario Code of Professional Conduct is established, and he has committed professional misconduct.

**ORDER**

IT IS ORDERED THAT:

1. Peter Choy be reprimanded in writing by the Chair of the hearing;
2. Peter Choy shall pay a fine of \$5,000 to the Chartered Professional Accountants of Ontario ("CPA Ontario") by August 6, 2021;
3. Peter Choy shall cooperate with the regulatory process of CPA Ontario, by September 8, 2020, by providing responses, by email, to the nine questions raised in the correspondence of Mr. Boris Antonic, Standards Enforcement Officer, dated December 23, 2019;
4. Notice of this Decision and Order, disclosing Peter Choy'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 Peter Choy fails to comply with the terms of this Order, his membership with CPA Ontario shall be suspended until such time as he does comply, provided that he complies within 30 days of the date of his suspension. In the event he does not comply

within the 30-day period, his membership in CPA Ontario shall be revoked and notice of the revocation of his membership, disclosing his name, shall be given in the manner specified above, and in a newspaper distributed in the geographic area of Peter Choy's residence or employment. All costs associated with this publication shall be borne by Peter Choy and shall be in addition to other costs ordered by the panel;

AND THAT:

6. Peter Choy shall pay costs of \$3,500 to CPA Ontario by August 6, 2021.

**DATED** at Toronto this 6th day of August 2020.



Randal J. 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 **Peter Choy, CPA, CGA**, a member of the Chartered Professional Accountants of Ontario, under **Rule 104.2(a)** of the Chartered Professional Accountants of Ontario Code of Professional Conduct.

**BETWEEN:**

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

**-and-**

**Peter Choy**

**APPEARANCES:**

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

**For Mr. Choy:** Self-represented

Heard: August 6, 2020

Decision and Order effective: August 6, 2020

Release of written reasons: September 23, 2020

**REASONS FOR THE DECISION AND ORDER MADE AUGUST 6, 2020**

**I. OVERVIEW**

[1] The Professional Conduct Committee of the Chartered Professional Accountants of Ontario (“PCC”) has made an Allegation that Mr. Choy had failed to cooperate with the regulatory process of the Chartered Professional Accountants of Ontario (“CPA Ontario”) during the period from January 20, 2020 through March 5, 2020, by failing to reply promptly to communications from the Standards Enforcement department of CPA Ontario (“Standards Enforcement”). This hearing was held to determine whether the Allegation was established and whether the conduct

breached Rule 104.2(a) of the CPA Ontario Code of Professional Conduct and amounted to professional misconduct.

- [2] Mr. Choy obtained his CGA designation in 1983.
- [3] On June 6, 2019, a matter was referred to Standards Enforcement by CPA Ontario Student Services, raising the concern that Mr. Choy may be associated with an organization that was providing accounting services to the public while not registered with CPA Ontario. Mr. Choy did not respond to letters sent to him by a Standards Enforcement Officer by regular mail, registered mail, and email, to addresses provided by Mr. Choy to CPA Ontario.
- [4] Mr. Choy admitted the allegation. He provided some evidence explaining his circumstances and why he did not respond to the communications from the Standards Enforcement Officer.
- [5] The onus was on the PCC to show on a balance of probabilities that Mr. Choy's conduct breached Rule 104.2(a) of the CPA Ontario Code of Professional Conduct and constituted professional misconduct.

## **II. PRELIMINARY ISSUES**

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

## **III. ISSUES**

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

## **IV. DECISION**

- [8] The Panel found that the evidence established, on a balance of probabilities, the facts set out in the Allegation of professional misconduct.
- [9] The Panel was satisfied that the Allegation constituted a breach of Rule 104.2(a) and, having breached this Rule, Mr. Choy committed professional misconduct.

## V. REASONS FOR THE DECISION

### *Findings regarding Conduct of Mr. Choy*

- [10] The evidence in support of the Allegation was placed before the Panel through the Affidavit of Boris Antonic, CPA, CA, CFF, a Standards Enforcement Officer with CPA Ontario (Exhibit 4). This evidence was uncontested by Mr. Choy.
- [11] Mr. Antonic wrote to Mr. Choy on December 23, 2019 (the “December letter”) to advise him that information had been received from CPA Ontario student services pertaining to him, and that it appeared he was providing accounting services to the public in a corporate form without having registered that practice with CPA, without being subject to practice inspections and without maintaining professional liability insurance. The letter contained a list of questions to be answered by January 20, 2020 in accordance with Rule 104 of the Code, and indicated that failure to respond may result in an allegation of professional misconduct. The letter provided Mr. Antonic’s contact information (phone and email) and asked that Mr. Choy contact him if he had any questions or concerns. This letter was sent by registered and regular mail to Mr. Choy’s employment address on record with CPA Ontario. Mr. Choy did not respond to this letter.
- [12] Mr. Antonic wrote a second letter to Mr. Choy on January 28, 2020 (the “January letter”), enclosing his original request for information and requiring that he respond by February 12, 2020. In addition, this second letter set out the provisions of Rule 104 (“Requirement to co-operate”). The letter provided Mr. Antonic’s contact information (phone and email) and asked that Mr. Choy contact him if he had any questions or concerns. This letter was sent by registered and regular mail to Mr. Choy’s employment address on record with CPA Ontario, and was also sent by email to Mr. Choy’s email address on record with CPA Ontario.
- [13] Mr. Choy did not respond to this letter by March 5, 2020, the date on which the PCC considered this matter. As of June 3, 2020, the date of the affidavit, Mr. Antonic had still not received a response from Mr. Choy.
- [14] It was confirmed during the hearing that Mr. Choy had not responded to the letters from Standards Enforcement by the date of the hearing.
- [15] In his evidence, Mr. Choy admitted receiving the December and January letters. He admitted that he did not respond to them.
- [16] Mr. Choy testified that since receiving the December letter from Mr. Antonic, the only time he attempted to contact anyone at CPA Ontario was in the lead-up to the hearing, when he was not able to reach an individual through the automated answering service and he did not leave a message.
- [17] The Allegation asserted that Mr. Choy did not respond to two letters, the

December letter and January letter, from Standards Enforcement during the period of January 2020 through March 5, 2020. The Panel was satisfied that there was clear, cogent and compelling evidence to demonstrate that these letters had been delivered to the addresses Mr. Choy had provided to CPA Ontario and that Mr. Choy had not responded to either letter in any way during the required period, or, in fact, by the date of the hearing.

### *Finding of Professional Misconduct*

- [18] In determining whether the facts demonstrated by the evidence amounted to professional misconduct, the Panel considered the evidence provided by Mr. Choy regarding his circumstances and his response to receiving the two letters from the Standards Enforcement officer.
- [19] Mr. Choy confirmed he was in the office almost every day during the time period in question, dealing with client and other matters. He provided various explanations for why he did not respond to the letters, including that he was busy at the time, that he was unsure what he should say in response to the two letters, that he felt that he would face a penalty whether or not he responded, and that he set the letters aside and then forgot to get back to them.
- [20] The obligation on a member to cooperate with the regulatory process under Rule 104.2(a) is clear and unequivocal. Absent compelling evidence that demonstrates a member was unable to respond due to an illness or disability, the failure of a member to respond constitutes a breach of that Rule. Mr. Choy's evidence did not demonstrate such an inability to respond. The Panel was satisfied that the evidence as a whole constituted clear, cogent and convincing evidence that Mr. Choy's failure to respond to the December and January letters constituted a failure to cooperate with the regulatory process of CPA Ontario in breach of Rule 104.2(a) of the Code of Professional Conduct.

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

- [21] 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 12 months, an order that Mr. Choy respond to the December letter by September 8, 2020, and the usual order as to publication of the decision to all members of CPA Ontario and in a manner available to members of the public.
- [22] In the event that Mr. Choy fails to comply with the Order, the Panel ordered that his membership with CPA Ontario be suspended until such time as he does comply, provided that he complies within 30 days of the date of the suspension,

failing which Mr. Choy's membership will be revoked.

- [23] The Panel also ordered that if Mr. Choy's membership is revoked, the fact of the revocation would be published in a newspaper in the geographic region of Mr. Choy's residence or employment.

## **VII. REASONS FOR DECISION AS TO SANCTION**

- [24] The PCC submitted that there were no reasons in this case to vary from the standard sanctions for failure to cooperate. The PCC submitted that the time and resources of CPA Ontario that were wasted by Mr. Choy's failure to cooperate, including those related to the necessity of having a hearing on the matter, constituted aggravating factors. The PCC submitted that the only mitigating factor was the absence of any disciplinary history on the part of Mr. Choy. The PCC emphasized the need for specific deterrence to Mr. Choy so that he personally accepts the requirement to cooperate with CPA Ontario by responding in a timely manner to the letters from Standards Enforcement, and emphasized the importance that the membership as a whole receive the message that they must cooperate with CPA Ontario.
- [25] Mr. Choy in his submissions pointed to his many years of service to the profession, noted his community leadership (including his donation of thousands of masks during the current pandemic), and requested leniency from the Panel.
- [26] Notwithstanding Mr. Choy's evidence of his solid career, the Panel accepted that there were no reasons in this case to vary from the standard sanctions for failure to cooperate. The written reprimand will impress upon Mr. Choy the seriousness of his misconduct, and that membership in CPA Ontario includes important responsibilities as well as benefits. The fine of \$5,000 is consistent with prior decisions for failure to cooperate, and serves as a deterrent to both Mr. Choy and to the general membership. The Order to cooperate provides Mr. Choy with a final opportunity to demonstrate that he is willing to respond to the inquiries from Standards Enforcement and remain a member of the profession, and is necessary to preclude the possibility of an indefinite lack of cooperation.
- [27] The PCC requested that the Order specify that Mr. Choy respond by email to the December letter of Mr. Antonic, to avoid the risk that a response sent by mail may not reach Mr. Antonic, due to the restrictions on the operation of CPA Ontario's physical office space during the pandemic.
- [28] The Panel was sensitive to the fact that Mr. Choy's evidence suggested a limited comfort with email and automated answering services. Accordingly, the Panel confirmed with Mr. Choy that he could in fact respond using email, and also made available to Mr. Choy the direct telephone numbers of the pertinent

individuals at CPA Ontario for his use, in the event that he did have any difficulties responding by email. Having done so, the Panel was satisfied that the order requiring Mr. Choy to respond by email was appropriate.

## VII. COSTS

[29] The PCC asked the Panel to award two thirds of the costs incurred in the prosecution of this matter, as reflected in the Costs Outline filed as Exhibit 6, to be adjusted for the length of the hearing. The total costs set out in the Costs Outline was \$6,050. Two thirds of this sum amounted to approximately \$4,000. Adjusted for the length of the hearing, the Panel decided that an order for costs in the amount of \$3,500 was reasonable in all the circumstances. The Panel ordered that Mr. Choy pay costs in the amount of \$3,500 within twelve months of the date of the order.

Dated at Toronto this 23<sup>rd</sup> day of September, 2020



Randal J. Adamkowski, CPA, CA  
Discipline Committee – Deputy Chair

### Members of the Panel

Ellen Bessner (Public Representative)  
John Friday, FCPA, FCA, CMA  
George G. Ireland, CPA, CA  
Soussanna Karas (Public Representative)

### Independent Legal Counsel

John Dent, Barrister & Solicitor