

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO  
(THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO)  
*THE CHARTERED ACCOUNTANTS ACT, 2010*

**DISCIPLINE COMMITTEE**

**IN THE MATTER OF:** An allegation against **SANDEEP UPPAL**, a suspended Member, under **Rule 201.1** of the Rules of Professional Conduct, as amended.

**TO:** Mr. Sandeep Uppal

**AND TO:** The Professional Conduct Committee

**REASONS**

**(Decision and Order made December 19, 2013)**

1. This tribunal of the Discipline Committee met on December 19, 2013 to hear an allegation of professional misconduct brought by the Professional Conduct Committee against Sandeep Uppal, a suspended Member.

2. Mr. Paul Farley appeared on behalf of the Professional Conduct Committee (PCC), accompanied by the investigator, Mr. Scott Porter. Mr. Uppal attended with his counsel Mr. Kim Ferreira. Mr. Glenn Stuart attended the hearing as counsel to the Discipline Committee.

3. The decision of the tribunal was made known at the conclusion of the hearing on December 19, 2013, and the written Decision and Order sent to the parties on December 20, 2013. These reasons, given pursuant to Rule 20.04 of the Rules of Practice and Procedure, include the allegations, the decision, the order, and the reasons of the tribunal for its decision and order.

**Allegations**

4. The following allegation was made against Mr. Uppal by the Professional Conduct Committee on June 28, 2013:

THAT, Sandeep Uppal, in or about the period November 1, 2008 through March 31, 2011, while employed as Senior Vice-President and CFO of TEMI Company, abused the trust of his employer, in that he deposited into his personal bank account or bank accounts under his control and converted to his own use \$33,500 of his employer's monies, without the knowledge of his employer, and did thereby fail to conduct himself in a manner which will maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1 of the rules of professional conduct.

**Plea**

5. Mr. Uppal entered a plea of no contest to the allegation. The parties agreed that the effect of this plea was that a plea of not guilty would be entered on Mr. Uppal's behalf, but an Agreed Statement of Facts would be filed and Mr. Uppal would make no submissions to contradict that Agreed Statement. Consequently, the Chair entered a plea of not guilty on Mr. Uppal's behalf.

### **The case for the PCC**

6. Mr. Farley advised the tribunal that the case for the PCC would be presented by way of an Agreed Statement of Facts, and there would be no other evidence submitted by the Member. He then filed the Agreed Statement of Facts (Exhibit 1). Mr. Farley distributed an Authorities Brief containing similar cases under Rule 201.1. The Agreed Statement of Facts was signed by Mr. Uppal on his own behalf and by Mr. Farley on behalf of the PCC.

7. In presenting the case for the PCC, Mr. Farley reviewed the Agreed Statement of Facts and made reference to the relevant documents in the Authorities Brief. No other evidence was called on behalf of the PCC.

### **The relevant facts**

8. The relevant facts are fully set out in the Agreed Statement of Facts. Mr. Uppal, who is currently under suspension for non-payment of membership fees, has been a member since 1989. From 2000 to 2011, Mr. Uppal served as the Chief Financial Officer for an insurance company, responsible for managing financial resources and ensuring the integrity of the organization's policies and practices. During that period, Mr. Uppal was also assigned responsibilities as Senior Vice-President, and President of a related company. By 2010, Mr. Uppal's salary was over \$400,000 per year plus bonuses and benefits of approximately \$300,000.

9. In December 2007, a cheque in the amount of \$120,000 was requisitioned from the insurance company payable to a consulting company incorporated by a friend of Mr. Uppal. The cheque requisition description was for consulting services. This cheque was never cashed, and it was cancelled in November 2008. A second cheque for \$126,000 was requisitioned by Mr. Uppal in November 2008, payable to a consulting company registered to Mr. Uppal's brother-in-law AM. Mr. Uppal requisitioned this cheque to engage a consultant to produce a broker training manual and provide IT services to the insurance company. The consultant was a friend and relative by marriage of Mr. Uppal.

10. An engagement letter from the consultant was never located in the insurance company's files, but an engagement letter, dated January 22, 2008, addressed to Mr. Uppal has been produced. The cheque was not payable to the consultant but rather to the consulting business registered to AM. The consulting business was registered as a sole proprietorship at Mr. Uppal's request, with a name provided by Mr. Uppal. Mr. Uppal deposited the cheque from the insurance company into the consulting business' bank account. AM had said he reviewed training materials, provided by Mr. Uppal, which he believed were for the insurance company, for 15 to 20 hours..

11. Two weeks after the \$126,000 deposit, two cheques totaling \$108,050 were prepared by AM at Mr. Uppal's direction from the consulting business, payable to another unregistered business and a numbered company incorporated at the request of Mr. Uppal. Mr. Uppal's brother-in-law BM opened bank accounts for the two companies in order to deposit the cheques. AM kept \$17,950 in payment for the consulting work he had done. On December 22, 2008, the unregistered business was registered by BM as a sole proprietorship at the direction of Mr. Uppal, and the next day BM deposited the two cheques into the bank accounts of the registered sole proprietorship and the numbered company.

12. In February 2009, \$100,000 of the monies was placed in two GICs for several months until they were cashed in mid-July. In April 2009, before the entire engagement could be completed and implemented, the insurance company instituted a moratorium on all broker lending initiatives, and the engagement was captured by the moratorium.

13. In July 2009, BM was advised by Mr. Uppal to return the funds deposited in the two accounts to Mr. Uppal's wife. Two cheques totaling \$107,000 were paid to Mrs. Uppal, and BM paid Mr. Uppal \$1,050 in cash. Mrs. Uppal deposited the \$107,000 into a joint account she held with Mr. Uppal.

14. No funds received from the insurance company were paid directly to Mr. Uppal's consultant friend. Mr. Uppal advised he had made cash payments from his personal funds totaling \$74,500. The last payment was made in June 2009 and, with the moratorium in place, the remainder of the consulting engagement ended. No one at the insurance company was aware of how the engagement was structured and paid.

15. After all the amounts had been dispersed, \$33,500 of the initial \$126,000 remained with Mr. Uppal in his personal bank account or bank accounts under his control. The insurance company was not aware Mr. Uppal had retained this money and did not authorize his retention of the funds. After a forensic investigation into an unrelated matter revealed the \$126,000 transaction, the insurance company terminated Mr. Uppal in January 2011 and has instituted a civil action against him.

16. Mr. Uppal did not tell his employer about the \$33,500 in his possession from November 2008 until June 2009, even when he was terminated. In March 2011, Mr. Uppal paid \$126,000 into court.

#### **Submissions**

17. Mr. Farley submitted that based on the facts as set out above, agreed to by Mr. Uppal in the Agreed Statement of Facts, Mr. Uppal has committed professional misconduct and should be found guilty of same. Mr. Farley stated that Mr. Uppal abused the trust of his employer by depositing and converting money to his own use which constitutes a breach of Rule 201.1. Mr. Farley distributed the *McWilliams* case as a precedent for the tribunal.

18. Mr. Ferreira stated that he had nothing to add on behalf of Mr. Uppal.

#### **Decision**

19. The tribunal found, on the uncontested evidence which was clear, cogent and convincing that the allegation had been proven. After deliberating, the tribunal announced the following decision:

THAT having heard the plea of no contest by Mr. Uppal to the allegation, and having entered on his behalf a plea of not guilty to the allegation, and having seen and considered the evidence, including the Agreed Statement of Facts, filed, the Discipline Committee finds Sandeep Uppal guilty of the allegation.

#### **Reasons for Decision**

20. The tribunal accepted the Agreed Statement of Facts as evidence that Mr. Uppal improperly used the position of trust and significant influence with his employer in order to convert funds of his employer to his own use without the employer's knowledge and authorization.

21. The tribunal further unanimously agreed that these actions were professional misconduct.

### Sanction

22. Mr. Farley and Mr. Ferreira did not call any additional evidence with respect to sanction. Both made submissions.

23. Mr. Farley submitted that Mr. Uppal had participated in a high level of serious misconduct by abusing the trust of his employer.

24. Mr. Farley, on behalf of the PCC, and with the agreement of Mr. Uppal, submitted that an appropriate sanction in this matter would be: a written reprimand; revocation of membership and public accounting licence, if applicable; a fine in the amount of \$20,000; and full publicity including publication in the local newspaper, the *Waterloo Record*. The PCC also sought an order for costs of \$41,000, which was not part of an agreement on sanction with Mr. Uppal who requested \$5,000 less in costs.

25. Mr. Farley indicated that as Senior Vice-President and CEO, Mr. Uppal was in a position of trust and took advantage of this. The money was in accounts to which he had access for a lengthy period of time, and he had personal use of the money. Mr. Uppal had many opportunities to return the money but chose not to do so. Mr. Uppal never confessed or admitted taking the money and returned \$126,000 only after a lawsuit was commenced against him.

26. Mr. Farley stated that the mitigating factors were that Mr. Uppal did cooperate with the PCC investigation and signed an Agreed Statement of Facts. There is no history of any disciplinary matters involving Mr. Uppal.

27. Mr. Farley submitted that the penalty proposed of revocation is appropriate in a case of misappropriation, and Mr. Uppal would not be able to apply for readmission to membership for a period of five years. Mr. Farley stated that this is a serious matter involving moral turpitude which damages the good reputation of the profession. Chartered accountants are in a position of great trust in a role such as Vice-President of Finance, being relied on to attest to the correctness of financial information. Mr. Uppal's conduct affects how the public perceives chartered accountants. Mr. Farley stated that in a case of dishonesty, rehabilitation takes a back seat to general and specific deterrence.

28. Mr. Farley referred to the case brief containing *Locke*, *Shillington*, *Quick*, *McCutcheon*, and *Butler*, as well as the *McWilliams* reasons, pointing out relevant items in each case. The precedents contained a common theme of excuses or reasons for misappropriation.

29. Mr. Farley stated that the proposed sanctions for revocation and fine, which have been jointly submitted with Mr. Ferreira, send out a strong message to Members and the public. If Mr. Uppal's membership is revoked, publication in a newspaper would be required.

30. Mr. Farley filed a Costs Outline (Exhibit 2) and stated that the PCC was seeking \$41,000 although the actual costs were \$122,677. The investigation into this matter was significant and a number of out-of-town witnesses had been interviewed and prepared for the originally anticipated two-week hearing. Three pre-hearing conferences were held prior to the agreement between the parties. The PCC usually asks for half the incurred costs, but taking Mr. Uppal's ability to pay into consideration, since he has been unemployed since 2011, the PCC was requesting one-third of the costs and suggesting 12 months for Mr. Uppal to pay.

31. Mr. Ferreira submitted that Mr. Uppal's willingness to partake in the Agreed Statement of Facts and his participation in the pre-hearing conferences avoided a costly two-week hearing.

Mr. Uppal has paid \$126,000 into court for the civil dispute and is involved in a legal dispute over his employment. Mr. Ferreira filed a Personal Net Worth statement of Mr. Uppal (Exhibit 3) and requested that Mr. Uppal be given 12 months to pay the fine and costs. Mr. Ferreira stated that Mr. Uppal had no issue with the fine suggested but was looking for the costs to be reduced by at least \$5,000, to \$36,000 or less.

32. Mr. Farley responded that while Mr. Uppal did participate in the pre-hearing conferences, such conferences are mandated by the rules for multi-day hearings and are not optional. Mr. Farley submitted that more time was spent on this matter than is shown in the costs outline and the amount has already been reduced substantially. Mr. Farley also noted that the \$126,000 Mr. Uppal has paid into the court in trust awaiting the outcome of the civil trial is not restitution.

#### **Order**

33. After deliberating, the tribunal made the following order:

IT IS ORDERED in respect of the allegation:

1. THAT Mr. Uppal be reprimanded in writing by the Chair of the hearing.
2. THAT Mr. Uppal's membership in CPA Ontario be and is hereby revoked.
3. THAT Mr. Uppal be and he is hereby fined the sum of \$20,000 to be remitted to CPA Ontario within twelve (12) months from the date this Decision and Order is made.
4. THAT notice of this Decision and Order, disclosing Mr. Uppal's name, be given in the form and manner determined by the Discipline Committee:
  - (a) to all members of CPA Ontario
  - (b) to all provincial institutes/Ordre;
 and shall be made available to the public.
5. THAT notice of the revocation of membership, disclosing Mr. Uppal's name, be given by publication on the CPA Ontario website and in the *Waterloo Region Record*. All costs associated with the publication shall be borne by Mr. Uppal and shall be in addition to any other costs ordered by the committee.
6. THAT Mr. Uppal surrender his CA and CPA certificates of membership in CPA Ontario to the Discipline Committee Secretary within ten (10) days from the date this Decision and Order is made.

IT IS FURTHER ORDERED:

7. THAT Mr. Uppal be and he is hereby charged costs fixed at \$38,000 to be remitted to CPA Ontario within twelve (12) months from the date this Decision and Order is made.

#### **Reasons for Sanction**

34. The tribunal unanimously decided that Mr. Uppal's actions amounted to moral turpitude and as such the sanctions needed to be severe so that a clear message would be sent to other Members, and also to the public, that our profession will not tolerate such actions by its Members, and thereby we hope to protect our good reputation that is so important to our

Members gaining positions of trust with the public they serve.

35. The tribunal agreed that the sanctions of reprimand, fine and revocation of membership are consistent with the goal noted above and are within the range of sanctions that have been previously imposed in similar cases.

36. The tribunal further concluded that publication to Members and the public at large is required to meet the deterrent and reputation-rebuilding goals that these sanctions need to meet. We note that Mr. Uppal had a position of significant influence including with the board members of his employer, the many people who directly or indirectly reported to him and clearly many others in the community, and all these people would have had their impressions of our profession impacted by Mr. Uppal's actions. Consequently, we need to reach out to rebuild those impressions, which we do through publication.

37. The tribunal balanced the arguments of both counsel in making its determination of appropriate costs to be imposed on Mr. Uppal and also on deciding the amount of time given to Mr. Uppal to settle the fine and costs ordered.

DATED AT TORONTO THIS 10TH DAY OF MARCH, 2014  
BY ORDER OF THE DISCIPLINE COMMITTEE



*Approved by and signed on behalf of:*

R.J. ADAMKOWSKI, CPA, CA – DEPUTY CHAIR  
DISCIPLINE COMMITTEE

MEMBERS OF THE TRIBUNAL:

M.I. FELDSTEIN, CPA, CA  
A.B. MINTZ, CPA, CA  
B.M. SOLWAY (PUBLIC REPRESENTATIVE)