



FOUNDED 1879

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO

CHARTERED ACCOUNTANTS ACT, 2010

TO: SANDRO PINGITORE (Suspended)

AND TO: The Discipline Committee of CPA Ontario

The Professional Conduct Committee of CPA Ontario hereby makes the following Allegation of professional misconduct against Sandro Pingitore, a suspended member of CPA Ontario and CGA Ontario:

1. THAT the said Sandro Pingitore, in or about the period April 7, 2016 to May 31, 2016, failed to co-operate with the regulatory process of CPA Ontario contrary to Rule 104.2(a) of the Rules of Professional Conduct of CPA Ontario, in that he failed to promptly reply in writing to communications from CPA Ontario to which a written reply is specifically required, namely letters dated March 17, 2016 and May 4, 2016, from Ms. Theresa Tonelli, CPA, CA, Director of Standards Enforcement at CPA Ontario.

Dated at Toronto, Ontario this ^{19th} day of July, 2016

HARRIET VELAZQUEZ, DEPUTY CHAIR
PROFESSIONAL CONDUCT COMMITTEE



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CHARTERED ACCOUNTANTS ACT, 2010

TO: SANDRO PINGITORE (Suspended)

AND TO: The Discipline Committee of CPA Ontario

The Professional Conduct Committee of CPA Ontario hereby makes the following Allegations against Sandro Pingitore, a suspended member of CPA Ontario and CGA Ontario:

1. THAT the said Sandro Pingitore, in or about the period February 19, 2015 to June 2, 2015, failed to co-operate with the regulatory process of CPA Ontario contrary to Rule 104.2(a) of the Rules of Professional Conduct of CPA Ontario, in that he failed to promptly reply in writing to communications from CPA Ontario to which a written reply is specifically required, namely letters dated January 28 and March 17, 2015, from Ms. Theresa Tonelli, CPA, CA, Director of Standards Enforcement at CPA Ontario.
2. THAT the said Sandro Pingitore, in or about the period July 21, 2015 to July 28, 2015, failed to co-operate with the regulatory process of CPA Ontario contrary to Rule 104.2(a) of the Rules of Professional Conduct of CPA Ontario, in that he failed to promptly reply in writing to a communication from CPA Ontario to which a written reply is specifically required, namely a letter dated July 2, 2015, from Ms. Theresa Tonelli, CPA, CA, Director of Standards Enforcement at CPA Ontario.

Dated at Toronto, Ontario this ^{4th} day of September, 2015

ROSELINE BRENNAN, CPA, CGA, DEPUTY CHAIR
PROFESSIONAL CONDUCT COMMITTEE

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO
THE CHARTERED ACCOUNTANTS ACT, 2010

DISCIPLINE COMMITTEE

IN THE MATTER OF: Allegations against **SANDRO PINGITORE**, a suspended member of CPA Ontario and CGA Ontario, under **Rule 104.2(a)** of the Rules of Professional Conduct of CPA Ontario and **Rule 104.2(a)** of the CPA Code of Professional Conduct.

TO: Mr. Sandro Pingitore

AND TO: The Professional Conduct Committee

DECISION AND ORDER MADE APRIL 25, 2017

DECISION

THAT, having determined to proceed with the hearing in the absence of Sandro Pingitore ("Mr. Pingitore"), being satisfied that he had proper notice of the hearing, and having entered on his behalf a plea of not guilty to the Allegations, and having seen and considered the evidence, the Discipline Committee finds Mr. Pingitore guilty of Allegation Nos. 1 and 2 of professional misconduct dated September 4, 2015 and guilty of Allegation No. 1 of professional misconduct dated July 19, 2016.

ORDER

IT IS ORDERED in respect of the Allegations:

1. THAT Mr. Pingitore be reprimanded in writing by the Chair of the hearing.
2. THAT Mr. Pingitore be and he is hereby fined the sum of \$3,500, to be remitted to the Chartered Professional Accountants of Ontario ("CPA Ontario") within three (3) months from the date this Decision and Order is made.
3. THAT Mr. Pingitore be suspended from the rights and privileges of membership in CPA Ontario until he complies with all of the terms within this Order but not for a period exceeding 90 days.
4. THAT notice of this Decision and Order, disclosing Mr. Pingitore' name, 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. THAT Mr. Pingitore surrender his CPA and CGA certificates to the Adjudicative Tribunals Secretary within 10 days from the date this Decision and Order is made, to be held during the period of suspension and thereafter returned to Mr. Pingitore assuming he is otherwise entitled to receive them.
6. THAT Mr. Pingitore is hereby ordered to cooperate with the Professional Conduct Committee by responding to the letters dated January 28, 2015, July 2, 2015, March 17, 2016 and May 4, 2016, from the Director, Standards Enforcement, within 20 days from the date this Decision and Order is made.
7. THAT in the event Mr. Pingitore fails to comply with the requirements of paragraphs 2, 6 and 8 of this Order, his membership in CPA Ontario shall thereupon be revoked, and notice of his membership revocation, disclosing his name, shall be given in the manner specified above and in the *Globe & Mail* newspaper. All costs associated with the publication shall be borne by Mr. Pingitore and shall be in addition to any other costs ordered by the committee.

IT IS FURTHER ORDERED:

8. THAT Mr. Pingitore be and he is hereby charged costs fixed at \$4,000, to be remitted to CPA Ontario within three (3) months from the date this Decision and Order is made.

Dated at TORONTO this 27th day of APRIL, 2017
by ORDER of the DISCIPLINE COMMITTEE



DIANE WILLIAMSON
ADJUDICATIVE TRIBUNALS SECRETARY

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: Allegations against **SANDRO PINGITORE**, a suspended member of CPA Ontario and CGA Ontario, under **Rule 104.2(a)** of the Rules of Professional Conduct of CPA Ontario and **Rule 104.2(a)** of the CPA Code of Professional Conduct.

TO: Mr. Sandro Pingitore

AND TO: The Professional Conduct Committee

REASONS

(Decision and Order made April 25, 2017)

1. This tribunal of the Discipline Committee met on April 25, 2017 to hear allegations of professional misconduct brought by the Professional Conduct Committee (PCC) against Sandro Pingitore, a suspended member.

2. Ms. Melissa Gentili appeared on behalf of the PCC. Mr. Pingitore was not represented by counsel and did not attend. Mr. Glenn Stuart attended the hearing as counsel to the Discipline Committee.

Proceeding in Mr. Pingitore's absence

3. Ms. Gentili filed the Order of the Chair of the Discipline Committee made February 2, 2017 (Exhibit 1), which authorized alternative service of the allegations and notice of this hearing by regular mail or by leaving a copy of all documents at a hotel where Mr. Pingitore was known to reside or to any other address at which Mr. Pingitore may have subsequently resided.

4. Ms. Gentili filed the Affidavit of Service of Katya Shtrachman, the Coordinator of Professional Standards (Exhibit 2), who had mailed four documents including the allegations to Mr. Pingitore at the hotel where Mr. Pingitore was known to reside on February 10, 2017. The mailed documents were not returned by Canada Post.

5. Ms. Gentili referred to the Affidavit of Attempted Service of Mervyn Archdall (Exhibit 3). Mr. Mervyn Archdall, process server, had attempted unsuccessfully to serve four documents including the allegations at Mr. Pingitore's business address of record. The office appeared to be abandoned, and the telephone numbers of record were not in service. Upon a return visit, Mr. Archdall was advised by other occupants of the building that Mr. Pingitore no longer owned or worked out of the unit. Mr. Archdall learned that Mr. Pingitore was residing at a hotel and on August 9, 2016 he attended at the hotel and advised the concierge he had a delivery for Mr. Pingitore. The concierge called the room and a man identifying himself as Sandro Pingitore told Mr. Archdall he was not interested in the documents from CPA Ontario.

6. Ms. Gentili referred to the Affidavit of Diane Williamson, the Adjudicative Tribunals Secretary (Exhibit 4) who stated that a letter requesting hearing date availability had been mailed to Mr. Pingitore on March 27, 2017, and the Notice of Hearing had been mailed to Mr. Pingitore on April 6, 2017. Both letters were mailed to the hotel address, and the mail was not

returned by Canada Post.

7. The tribunal determined that Mr. Pingitore had received proper notice of the hearing and decided to proceed in his absence.

8. The decision of the tribunal was made known at the conclusion of the hearing on April 25, 2017, and the written Decision and Order was sent to the parties on April 27, 2017. 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

9. The following allegations were made against Mr. Pingitore by the Professional Conduct Committee on September 4, 2015.

1. THAT the said Sandro Pingitore, in or about the period February 19, 2015 to June 2, 2015, failed to co-operate with the regulatory process of CPA Ontario contrary to Rule 104.2(a) of the Rules of Professional Conduct of CPA Ontario, in that he failed to promptly reply in writing to communications from CPA Ontario to which a written reply is specifically required, namely letters dated January 28 and March 17, 2015, from Ms. Theresa Tonelli, CPA, CA, Director of Standards Enforcement at CPA Ontario.
2. THAT the said Sandro Pingitore, in or about the period July 21, 2015 to July 28, 2015, failed to co-operate with the regulatory process of CPA Ontario contrary to Rule 104.2(a) of the Rules of Professional Conduct of CPA Ontario, in that he failed to promptly reply in writing to a communication from CPA Ontario to which a written reply is specifically required, namely a letter dated July 2, 2015, from Ms. Theresa Tonelli, CPA, CA, Director of Standards Enforcement at CPA Ontario.

10. The following allegation was made against Mr. Pingitore by the Professional Conduct Committee on July 19, 2016. At the hearing on April 25, 2017, the tribunal granted leave to make an amendment to the allegation to replace a reference to the Rules of Professional Conduct with CPA Code of Professional Conduct:

1. THAT the said Sandro Pingitore, in or about the period April 7, 2016 to May 31, 2016, failed to co-operate with the regulatory process of CPA Ontario contrary to Rule 104.2(a) of the CPA Code of Professional Conduct of CPA Ontario, in that he failed to promptly reply in writing to communications from CPA Ontario to which a written reply is specifically required, namely letters dated March 17, 2016 and May 4, 2016, from Ms. Theresa Tonelli, CPA, CA, Director of Standards Enforcement at CPA Ontario.

Plea

11. A plea of not guilty to the allegations was entered on Mr. Pingitore's behalf.

Submissions of the PCC

12. Ms. Gentili stated that Mr. Pingitore, a suspended member of CPA Ontario and CGA Ontario, was subject to the jurisdiction of both organizations and is required to follow the CPA and CGA rules. The PCC was entitled to bring allegations under one or both sets of rules,

depending on the time of the misconduct. Mr. Pingitore had only been charged under the CPA Rules of Professional Conduct and CPA Code of Professional Conduct as the rules speak to member obligations to respond to communications from CPA Ontario.

13. Ms. Gentili submitted that this case involved a failure to co-operate with the regulatory process of CPA Ontario and that she was relying on affidavit evidence to support her case. The events leading up to the allegation are outlined in the Affidavit of Theresa M. Tonelli, CPA, CA, Director of Standards Enforcement, Professional Standards (Exhibit 5). On October 29, 2014, Ms. Tonelli had received a complaint from a client of Mr. Pingitore. The client had been attempting unsuccessfully to obtain from Mr. Pingitore corporate financial documents for his company's 2013 tax returns, which had not been filed. Mr. Pingitore had disappeared, and the client was trying to deal with Canada Revenue Agency. Ms. Tonelli had written to Mr. Pingitore on January 28, 2015, advising him about the complaint and requiring a written response by February 19, 2015.

14. The January 2015 letter was sent to Mr. Pingitore by regular and registered mail and cautioned him that failure to respond could result in allegations of professional misconduct being made against him. The registered letter was signed for by "Grant, M" on February 3, 2015, and the copy sent by regular mail was not returned by Canada Post.

15. In the absence of a response, Ms. Tonelli wrote to Mr. Pingitore again on March 17, 2015, by registered and regular mail, requiring a written response by April 9, 2015 and reminding him that failure to respond would result in a referral to the PCC and could result in allegations of professional misconduct being made against him. The registered letter was signed for by "G,M" on March 19, 2015, and the copy sent by regular mail was not returned by Canada Post.

16. As at June 2, 2015, Mr. Pingitore had not responded to the January or March letters. All correspondence had been directed to Mr. Pingitore's address of record with CPA Ontario.

17. On June 22, 2015, Ms. Tonelli received a second complaint from a client who had given Mr. Pingitore financial statements, bank statements, previous tax returns and minute book for his company. Mr. Pingitore had not returned those documents, and the client had been trying to get a response from him for 15 months. On July 2, 2015, Ms. Tonelli wrote to Mr. Pingitore, by regular and registered mail, advising him about the complaint and requiring a written response by July 21, 2015, cautioning him that failure to respond could result in allegations of professional misconduct. The registered letter was signed for by "Grant, M" on July 6, 2015, and the copy sent by regular mail was not returned by Canada Post.

18. As at July 28, 2015, Mr. Pingitore had not responded to the June 2015 letter that was directed to his address of record with CPA Ontario.

19. On February 29, 2016, Ms. Tonelli received a third complaint from a client who said Mr. Pingitore had not completed his 2013 and 2014 corporate tax returns and had not returned the client's personal and corporate records. On March 17, 2016, Ms. Tonelli wrote to Mr. Pingitore, by regular and registered mail, advising him about the complaint and requiring a written response by April 7, 2016, cautioning him that failure to respond could result in allegations of professional misconduct. The registered letter was signed for by "Albert, M" on March 22, 2016 and the copy sent by regular mail was not returned by Canada Post.

20. In the absence of a response, Ms. Tonelli wrote to Mr. Pingitore again on May 4, 2016, by registered mail and e-mail, requiring a written response by May 25, 2016 and reminding him that failure to respond could result in allegations of professional misconduct being made against

him. The registered letter was signed for by "Grant, M" on May 6, 2016, and Ms. Tonelli received notification that the e-mail delivery had failed.

21. Ms. Tonelli stated that all correspondence was directed to Mr. Pingitore's address of record and e-mail of record with CPA Ontario. Ms. Tonelli has had no further contact from Mr. Pingitore, who was a suspended member of CPA Ontario.

22. Ms. Gentili stated that it was not until the process server was sent to deliver the documents that Standards Enforcement became aware Mr. Pingitore was residing at a hotel.

23. In her closing argument, Ms. Gentili submitted that the evidence is clear, cogent and convincing that Mr. Pingitore failed to co-operate in accordance with the CPA Rules and Code of Professional Conduct. Despite five attempts to contact him concerning three separate complaints, Mr. Pingitore had not provided any form of response to the letters. It was submitted that Mr. Pingitore's conduct was contrary to Rule 104.2(a) of the CPA Code of Professional Conduct (formerly the Rules of Professional Conduct), and he should be found guilty of the allegations of professional misconduct.

The Decision

24. The tribunal found, on the uncontested evidence, that the allegations had been proven. After deliberating, the tribunal announced the following decision:

THAT, having determined to proceed with the hearing in the absence of Sandro Pingitore ("Mr. Pingitore"), being satisfied that he had proper notice of the hearing, and having entered on his behalf a plea of not guilty to the Allegations, and having seen and considered the evidence, the Discipline Committee finds Mr. Pingitore guilty of Allegation Nos. 1 and 2 of professional misconduct dated September 4, 2015 and guilty of Allegation No. 1 of professional misconduct dated July 19, 2016.

Reasons for Decision

25. Having seen and considered the evidence provided on behalf of the PCC, the tribunal concluded that the evidence was clear, cogent and convincing to prove on a balance of probabilities that Mr. Pingitore had failed to co-operate with CPA Ontario.

26. The PCC has a mandate to investigate complaints made against its members. This mandate is essential to maintaining the reputation of the profession which in turn is essential to the effectiveness of the profession. This mandate applies to all CPA members including all legacy members and including active and suspended members. It was clear from the evidence that Mr. Pingitore was subject to this mandate.

27. It is not essential to the charges made here that the complaints that caused PCC to make the subject inquiries of Mr. Pingitore are valid or, if they are valid, that they would lead to a finding of professional misconduct to any resulting allegation(s). However, the PCC inquiries were the result of three separate complaints from the public all relating to similar conduct of the member. The inquiries by PCC or Mr. Pingitore were a legitimate response to these complaints, each requiring a response from Mr. Pingitore.

28. These inquiries by PCC were properly made and delivered to Mr. Pingitore. PCC went to extra lengths to ensure these letters were delivered to Mr. Pingitore by tracking leads to locate Mr. Pingitore at his current residence (a hotel) not previously disclosed to CPA Ontario.

29. The cooperation of its members is essential for CPA Ontario to fulfill its important mandate to enforce our Rules of Professional Conduct. A member who consistently fails to cooperate is not governable. The facts of this case demonstrate how a failure to cooperate, in this case failing to respond to straightforward letters of inquiry, can frustrate the PCC's mandate to protect the public interest. Clearly, Mr. Pingitore's failures to act by responding to these inquiry letters was the direct cause leading to these public complaints not being investigated, and consequently must be considered professional misconduct.

Sanction

30. Ms. Gentili, on behalf of the PCC, submitted that an appropriate sanction in this matter would be: a written reprimand from the Chair of the tribunal; a fine in the amount of \$3,500; the usual order with respect to publicity and an order that he cooperate by responding to Ms. Tonelli's letters within 20 days; followed by suspension of membership for an additional 20 days and then revocation if he does not cooperate, including newspaper publicity of that outcome. The PCC also sought an order for approximately two-thirds of the costs incurred.

31. The aggravating factors, Ms. Gentili stated, included the fact that there were three similar complaints made against Mr. Pingitore; he failed to respond to the allegations despite numerous communications; and, he was not in attendance at the hearing. The process server was able to locate and speak to Mr. Pingitore, who indicated he was not interested in receiving anything from CPA Ontario

32. Ms. Gentili submitted that the sanctions requested will address general and specific deterrence, as well as the issue of governability. Mr. Pingitore has exhibited a blatant disregard for the PCC investigative process and has impeded the PCC from carrying out its mandate to investigate every complaint.

33. Ms. Gentili stated that a reprimand was intended to highlight the seriousness of the professional misconduct and deter him from engaging in this behavior in the future. The fine proposed was within the range of the amount ordered in similar cases, and would act as a specific and general deterrent to like-minded members. Publication acts as an effective general and specific deterrent.

34. Ms. Gentili stated that requiring a response to the letters would give Mr. Pingitore one more opportunity to cooperate and would allow the PCC to fulfill its mandate to investigate the complaints if he did send a response. Ms. Gentili submitted, however, that Mr. Pingitore has indicated that he was not interested in receiving anything from CPA Ontario.

35. Ms. Gentili distributed a case brief containing *Gunn, Titus, Cooper* and *Zhu*, matters involving failure to cooperate with the regulatory processes of CPA Ontario.

36. Ms. Gentili filed a Costs Outline (Exhibit 6) showing the costs to be just over \$6,900, of which the PCC was seeking partial indemnity costs of \$4,000, approximately two-thirds. Ms. Gentili noted that the issues in this case were important as they address the governability of a member. The costs incurred were reasonable, both for legal costs and disbursements. Ms. Gentili stated that costs are considered an indemnification, not a penalty. Since the tribunal and the PCC are at this hearing because of Mr. Pingitore's behavior, he should bear the burden of paying a portion of the costs.

Order

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

IT IS ORDERED in respect of the Allegations:

1. THAT Mr. Pingitore be reprimanded in writing by the Chair of the hearing.
2. THAT Mr. Pingitore be and he is hereby fined the sum of \$3,500, to be remitted to the Chartered Professional Accountants of Ontario ("CPA Ontario") within three (3) months from the date this Decision and Order is made.
3. THAT Mr. Pingitore be suspended from the rights and privileges of membership in CPA Ontario until he complies with all of the terms within this Order but not for a period exceeding 90 days.
4. THAT notice of this Decision and Order, disclosing Mr. Pingitore'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 bodies,
 and shall be made available to the public.
5. THAT Mr. Pingitore surrender his CPA and CGA certificates to the Adjudicative Tribunals Secretary within 10 days from the date this Decision and Order is made, to be held during the period of suspension and thereafter returned to Mr. Pingitore assuming he is otherwise entitled to receive them.
6. THAT Mr. Pingitore is hereby ordered to cooperate with the Professional Conduct Committee by responding to the letters dated January 28, 2015, July 2, 2015, March 17, 2016 and May 4, 2016, from the Director, Standards Enforcement, within 20 days from the date this Decision and Order is made.
7. THAT in the event Mr. Pingitore fails to comply with the requirements of paragraphs 2, 6 and 8 of this Order, his membership in CPA Ontario shall thereupon be revoked, and notice of his membership revocation, disclosing his name, shall be given in the manner specified above and in the *Globe & Mail* newspaper. All costs associated with the publication shall be borne by Mr. Pingitore and shall be in addition to any other costs ordered by the committee.

IT IS FURTHER ORDERED:

8. THAT Mr. Pingitore be and he is hereby charged costs fixed at \$4,000, to be remitted to CPA Ontario within three (3) months from the date this Decision and Order is made.

Reasons for Sanctions

38. .A reprimand is an accepted sanction that may be an effective motivation to a member who is capable of rehabilitating himself.

39. A fine that is appropriate to the professional misconduct is important for specific and general deterrence. The tribunal concluded that a fine of \$3,500 is appropriate in these circumstances.

40. The notice and publication of findings of misconduct is important for general deterrence and to maintain public confidence in the profession's effectiveness to police itself and is required in all but unusual circumstances. There was no compelling reason not to provide notice and publication of the results of this hearing and they were so ordered.

41. Members should be provided all reasonable opportunities to change their behaviour and abide by our Rules of Professional Conduct. An order to cooperate provides the member an opportunity to demonstrate that he is on route to rehabilitation. In this case, it was also important to try everything reasonable to allow PCC to investigate those complaints which were at the root of these allegations. A cooperation order also helps facilitate this result. Consequently, an order to cooperate with PCC was issued to Mr. Pingitore. During the time from this above-noted order to cooperate and the compliance of the member, the public must be protected and so a specific suspension is also ordered for this intervening time period. A continuing failure to cooperate or unwillingness to abide by the other sanctions herein can only be proof that this member is not governable and must not be allowed to continue to be a member. Therefore, should the member continue to fail to cooperate, a revocation order was included with the other ordered sanctions.

Costs

42. The tribunal considered the cost summary to represent reasonable costs. The tribunal also agreed with the principle of indemnification. Consequently, the tribunal concluded that costs of \$4,000 should be charged to Mr. Pingitore.

DATED AT TORONTO THIS *11TH* DAY OF AUGUST, 2017
BY ORDER OF THE DISCIPLINE COMMITTEE



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

MEMBERS OF THE TRIBUNAL:

C. DANCHUK, CPA, CA
P. McBURNEY (PUBLIC REPRESENTATIVE)
N. JANE RIVERS, CPA, CGA