

THE CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO

THE CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO ACT, 2017

IN THE MATTER OF: ALLEGATIONS OF PROFESSIONAL
MISCONDUCT AGAINST STEPHAN
RICHMOND, CPA, CGA, A MEMBER OF
CPA ONTARIO, BEFORE THE
DISCIPLINE COMMITTEE

SETTLEMENT AGREEMENT

***Made pursuant to Section 34 (3) (c) of the Chartered
Professional Accountants of Ontario Act, 2017 and to
CPAO Regulation 7-1, s.22.4***

Introduction

1. The Professional Conduct Committee approved draft Allegations against Stephan Richmond, CPA, CGA ("Richmond") (**Doc 1**).
2. The draft Allegations pertain to Richmond's failure to adhere to the following provisions of the CGA Ontario Code of Ethical Principles in the context of dealing with five clients and one professional colleague in or about the period October 1, 2009 through January 1, 2014:
 - a) Code Principle – Trust and Duties: *Members shall act in the interest of their clients, employers, and interested third parties, and shall be prepared to sacrifice their self-interest to do so. Members shall honour the trust bestowed on them by others, and shall not use their*

*privileged position without their principal's knowledge and consent.
Members shall strive to be independent of mind and in appearance;*

b) Code Principle – Due Care and Professional Judgment: *Members shall strive to continually upgrade and develop their technical knowledge and skills in the areas in which they practise as professionals. This technical expertise shall be employed with due professional care and judgment; and*

c) Code Principle – Practice of the Profession: *Members shall act openly and fairly towards others in the practice of their profession.*

3. The complaints from Richmond's clients giving rise to the draft Allegations related generally to quality of work performed, failure to file income tax returns and other government forms in a timely way or at all, and failure to return source documents when requested to do so in a timely way.
4. In addition, CGA Ontario received a complaint from another member, asserting that Richmond had not dealt with her in the open and fair manner required among professional colleagues by the Code of Ethical Principles.
5. The documents referred to in this agreement are found in the Document Brief ("Doc").
6. The Professional Conduct Committee ("PCC") and Richmond agree with the facts and conclusions set out in this settlement agreement for the purpose of this proceeding only, and further agree that this agreement of facts and conclusions is without prejudice to Richmond in any other proceedings of any kind, including, but without limiting the generality of the

foregoing, any civil or other proceedings which may be brought by any other person, corporation, regulatory body or agency.

Background of the Member and of this Proceeding

5. Richmond received his CGA designation in 2005. Until 2009, Richmond had worked in the accounting field for a very small number of clients, performing the work of a controller for three of them. He was finding it difficult to grow his practice.
6. At the end of October 2009, Richmond purchased a tax preparation business ("IT") from another member who is now retired. The business operated in the Kitchener-Waterloo area. At the time, IT had approximately 150 clients which was a significant increase in the volume of clients and work Richmond had dealt with in his professional practice to that point.
7. Richmond had no history of complaints or in the disciplinary process of CGA Ontario prior to purchasing IT. Between the fall of 2012 and the spring of 2013, CGA Ontario received the six complaints which are the subject of this Agreement.
8. Following an investigation by the CGA Ontario Discipline Committee, Allegations of misconduct were made against Richmond and a Notice of Hearing was issued.
9. The Allegations against Richmond were heard by the CGA Ontario Professional Conduct Tribunal on June 23-27, and July 28, 2014.
10. CGA Ontario and CPA Ontario entered a binding Unification Agreement and as of July 2, 2014 all CGA Ontario members, including Richmond, became members of CPA Ontario.

11. The Decision and Reasons of the Professional Conduct Tribunal, issued on November 4, 2014, found that Richmond had breached the provisions of the CGA Ontario Code of Ethical Principles and Rules of Conduct. On February 10, 2015, the Professional Conduct Tribunal issued its Decision and Order with respect to penalty. That penalty included a reprimand, a fine, a payment of costs, publicity, and revocation of Richmond's membership.
12. Richmond appealed the Decisions of the Professional Conduct Tribunal to the CGA Ontario Appeal Tribunal at a hearing held August 12, 2015. In its decision issued November 9, 2015, the Appeal Tribunal dismissed Richmond's appeal, with costs payable to the Association.
13. Richmond's membership in CPA Ontario and in CGA Ontario was revoked effective November 9, 2015, with associated public notice of same given in accordance with the regulations, including newspaper publicity, pursuant to the Order of the Tribunal.
14. Richmond made an application for judicial review to the Ontario Divisional Court, which was heard on November 15, 2016. The ensuing decision of the Divisional Court dated April 26, 2017 set aside the decision of the CGA Ontario Professional Conduct Tribunal and consequently the decision of the Appeal Tribunal upholding same. The Divisional Court remitted the entire matter back to a differently constituted CPA Ontario Discipline Tribunal for rehearing on some or all of the Allegations as determined by the CPA Ontario Professional Conduct Committee. **(Doc 2)** Costs ordered by the Divisional Court related to the judicial review application were paid to Richmond by CPA Ontario.
15. Pursuant to the Order of the Divisional Court, on May 24, 2017 Richmond was notified in writing that his membership in CPA Ontario was reinstated, effective April 26, 2017. **(Doc 3)**

16. Pursuant to the Order of the Divisional Court, the CPA Ontario Professional Conduct Committee elected to proceed with respect to some but not all of the Allegations of misconduct previously made against Richmond by the CGA Ontario Discipline Committee. Allegations were directed by the Professional Conduct Committee and draft Allegations (**Doc 1**) were approved by the Chair. This Settlement Agreement between the PCC and Richmond is the outcome of that decision.

Allegation 1 – RN and his company CL&S Inc.

17. CL&S is a landscaping business owned and operated by RN which had been a client of IT prior to Richmond's purchase of the business.
18. Richmond was engaged to prepare and file GST/HST returns for CL&S for each quarter of 2010, and for the first three quarters of 2011 (the "CL&S Returns"). RN provided Richmond with documents as requested to enable the CL&S Returns to be prepared and filed.
19. Richmond delegated the responsibility for preparing and filing the CL&S returns to a bookkeeper who was under his supervision.
20. The bookkeeper prepared the four quarterly GST/HST returns for 2010, but failed to file them.
21. The returns for 2011 were neither prepared nor filed. Although Richmond states that the returns were not prepared because there was no client documentation to support them, the client was nonetheless invoiced for the work as though it had been completed.
22. The client received two invoices from Richmond. (**Doc 4**) A September 30, 2011 invoice included the descriptions, "year end bookkeeping 2011" and "T4s and GST returns completed." The October 3, 2011 invoice bore the description "preparation of 2011 T2 corporate return with financial

statements from client supplied information; year-end review meeting.”

These invoices led RN to believe that all of the GST/HST returns had been prepared and filed as Richmond had been engaged to do. Although the client negotiated the amount of the second invoice on the basis that it was higher than the fees he had paid prior to Richmond’s purchase of IT, the amount ultimately agreed to for both invoices was paid in full.

23. Until he was contacted by Canada Revenue Agency directly, RN was not aware that the CL&S returns had not been filed. Richmond did not advise RN of this fact, nor did he advise RN that he required additional documentation in order to file the returns. Richmond states that he was not aware the CL&S Returns had not been filed until RN made his complaint to CGA Ontario.
24. The CL&S Returns for 2010 were not filed by Richmond or his staff until on or about May 17, 2012.
25. At all material times, Richmond was responsible for adequately supervising the bookkeeper in performing the client engagement, and for ensuring the work was performed appropriately, including ensuring that the client’s returns were filed in a timely manner, but failed to do so.
26. Richmond acknowledges that his office was the designated address for CL&S mailings from CRA and WSIB. Richmond admits that among the correspondence he received on behalf of the client, the contents of the letters were not communicated to the client in every case. Richmond further agrees that some of this correspondence was never opened by him or his staff.
27. Richmond acknowledges that a consequence of his failure to ensure that the client’s mail was opened in a timely way or at all was that Richmond did

not know that the CL&S returns were not filed until RN made a complaint to CGA Ontario.

28. Late filing penalties and interest were assessed for the entire period over which Richmond was responsible for the engagement. RN paid all late filing and interest charges.
29. Although RN requested that Richmond return CL&S documents in October, 2011, Richmond did not return them until June, 2012, in or about the time RN's complaint was made.
30. Richmond acknowledges that his conduct with respect to CL&S Inc. as set out above was not in keeping with the provisions of the Code Principles related to Trust and Duties and to Due Care and Professional Judgment.

Allegation 2 – DM and his business NIC

31. DM and his sole proprietorship NIC had been clients of IT prior to Richmond's purchase of the business.
32. DM retained Richmond to prepare and file his income tax returns. Richmond prepared the 2009 return for a fee of \$800 and the 2010 return for a fee of \$875. DM paid these fees.
33. DM again retained Richmond to prepare and file his income tax return for 2011. There was no major change to the NIC business sales or expenses in 2011. Richmond charged a fee of \$1,400 which he states was an interim billing associated with preparing the return and with moving the client's bookkeeping into Simply Accounting. The client paid the \$1,400 fee.

34. Richmond subsequently advised DM that he would not file the 2011 income tax return until a further \$2,600 fee was paid. DM disputed the appropriateness of this fee.
35. On June 15, 2012, the T1 filing deadline date, Richmond confirmed to DM that it was his policy not to file income tax returns until he had been paid in full, and that he would not file DM's return unless he was paid the additional \$2,600.
36. DM did not pay the disputed additional fee to Richmond. Instead, on June 15, 2012 he retained the former owner of IT to prepare and file his 2011 return so that it would be filed in accordance with the CRA deadline.
37. Despite telling the client that he would not do so without payment in full, Richmond did paper-file DM's 2011 T1 return on June 15, 2012. He did not advise DM that he filed the return at that time. (**Doc 5**)
38. On June 18, 2012, Richmond advised DM by email that his return had been filed however he did not specify that it had been filed on time.
39. In addition, although he had been engaged to file the NIC HST returns for 2010 and 2011, Richmond or his staff to whom he had delegated this task failed to do so. (**Doc 6**) Richmond states that he was not aware that these returns had not been filed but acknowledges that he was at all material times responsible for adequately supervising his staff in performing the client engagement, including ensuring that the returns were filed, but failed to do so.
40. In or about August 2012, DM advised Richmond that he would no longer use his services and requested the return of all of his business and personal records from Richmond.

41. Richmond advised that he would charge an additional fee for his time associated with removing any non-source documents or notes from DM's file prior to returning it to the client. Richmond told DM that he would not release his records to him absent payment of all outstanding fees.
42. When DM retained counsel to obtain the return of his documents, Richmond made the client documents available at his office for DM to pick them up on or about October 29, 2012.
43. Richmond acknowledges that his conduct with respect to DM and NIC as set out above was not in keeping with the provisions of the Code Principles related to Trust and Duties and to Due Care and Professional Judgment.

Allegation 3 – TV and her company TV Co.

44. In or about August, 2010, TV retained Richmond to prepare her personal income tax returns and those of her business, TV Co. TV Co. is a mortgage brokerage operating in the Kitchener-Waterloo area.
45. Richmond and TV met as members of a Kitchener-Waterloo area business group, and began a business relationship in 2010. In June, 2012, Richmond began subletting office space from TV.
46. Richmond states that although no engagement letter was signed with this client, the services which were agreed to be performed included set up of a bookkeeping file, preparation and filing of TV's T1 income tax returns for the years 2009, 2010, 2011, and 2012, and preparation and filing of TV Co.'s T2 income tax returns for the years 2011 and 2012.

47. Richmond acknowledges that the failure to obtain a signed engagement letter caused confusion for the client as to what services were agreed to be performed.
48. Richmond was aware at the time he was engaged to perform accounting services for TV and her company in August, 2010, that TV had not paid any taxes for 2009. Although Richmond states that he advised TV to estimate and pay Canada Revenue Agency ("CRA") amounts for her 2009 income taxes, and in addition to begin paying installments for 2010, he had no knowledge as to whether or not she made those payments, or if so in what amount.
49. Although the client states that Richmond had been appointed her representative with CRA, Richmond states that he was not so appointed. This was yet another area of misunderstanding for the client which was not clarified by Richmond in the course of providing accounting services to her.
50. Richmond further states that the client may not have understood what responsibilities lay with her to remedy her situation with CRA, but acknowledges that in the course of providing accounting services to her he did not clarify these responsibilities with her nor did he take any measures to determine or ensure that she had completed those steps.
51. Although engaged to do so, Richmond did not file T1 income tax returns for TV for the years 2009, 2010, 2011 or 2012, nor did he file T2 income tax returns for TV Co. for 2011 or 2012.
52. TV requested the return of the accounting documents for herself and her business from Richmond in early November, 2012. Although TV and Richmond were sharing office space, TV's documents had been removed from the shared office premises and stored at Richmond's home.

53. Richmond had not returned TV's documents to her as requested by November 29, 2012. On that date, TV sought the assistance of the police, who she requested to accompany her to Richmond's home so that she might obtain her documents.
54. Richmond states that it was unnecessary for TV to involve the police in order to obtain her records, and that he returned all of TV's documents which were in his possession to her on or about December 4, 2012. Nonetheless, it is agreed that Richmond did not return TV's documents to her in a timely way although he could have done so. Richmond further acknowledges that the deterioration of the client relationship and the elapsed time between TV's request for her records' return in early November 2012 and November 29, 2012 contributed to the client's perception that police intervention was necessary in order to obtain her records.
55. Richmond acknowledges that his conduct with respect to TV and TV Co. as set out above was not in keeping with the provisions of the Code Principles related to Trust and Duties and to Due Care and Professional Judgment.

Allegation 4 – EC and his company MA

56. EC and his company MA, a used car dealership, had been clients of IT prior to Richmond's purchase of the business. Richmond took on EC and MA as clients when he purchased IT.
57. Richmond was engaged to perform EC and MA's bookkeeping from the time he purchased IT until the end of 2011.
58. A PST audit of MA was conducted in 2011 and it was determined that more than \$10,000 in PST had been incorrectly recorded or was omitted from the bookkeeping records of MA.

59. Although some of the errors or omissions identified in the PST audit may have existed prior to Richmond's purchase of IT, Richmond acknowledges and admits that errors were made by his bookkeeping staff and that he is ultimately responsible for supervising the work performed by his staff and for ensuring that it is performed appropriately.
60. Richmond's failure to adequately supervise his bookkeeping staff with respect to this engagement is exacerbated by the fact that the bookkeeping was performed and the errors occurred during the period of transition from PST to HST. Richmond acknowledges that these were complex transitions in sales tax for which non-designated bookkeepers on staff required close and careful oversight and instruction which he should have provided, but did not.
61. EC ultimately retained another accountant to correct the errors in his bookkeeping and to assist him in dealing with CRA.
62. In 2011, EC met with Richmond and demanded the return of his records and source documents. The meeting devolved into an altercation in which both EC and Richmond called for police assistance. One month afterward, Richmond returned all of the EC/MA files in his possession to the client.
63. Richmond acknowledges that he did not return the EC/MA documents to EC when they were requested by the client, or in a timely way. Richmond further acknowledges that the client's request for intervention by the police reflects negatively on Richmond's professionalism and on the profession generally. The request for police intervention stemmed from the breakdown in Richmond's relationship with the client for which Richmond, as a member of the profession, agrees he must take responsibility.
64. Richmond acknowledges that his conduct with respect to EC and MA as set out above was not in keeping with the provisions of the Code Principles related to Trust and Duties and to Due Care and Professional Judgment.

Allegation 5 – TT and his company MS

65. TT and his company MS, had been clients of IT prior to Richmond's purchase of the business.
66. Richmond was engaged to prepare T2 returns for MS for 2011. It is agreed that the returns were not filed in a timely manner, despite the fact that the client provided all of the documents required to prepare the 2011 T2 return to Richmond in early September, 2011.
67. At no time did Richmond communicate to the client that he was unable to prepare and file the 2011 T2 return for MS on or before the December 31, 2011 filing deadline.
68. The Notice to Reader financial statement for the June 30, 2011 year end which Richmond prepared for filing along with the 2011 T2 return for MS is dated February 10, 2012, after the T2 filing deadline.
69. Although TT paid Richmond to prepare and file the T2 income tax return for MS on time, Richmond issued the T2 to the client and failed to advise TT that he had not filed the T2 in a timely way. Further, he failed to communicate to TT that MS owed income tax for the 2011 taxation year, and the amount owing.
70. Richmond states that his failures to file the T2 on time and to advise the client of the tax owing were inadvertent but acknowledges that nonetheless TT was required to pay penalties and interest associated with the late filing of the T2 return for MS.

71. Richmond acknowledges that his conduct with respect to TT and MS as set out above was not in keeping with the provisions of the Code Principles related to Trust and Duties and to Due Care and Professional Judgment.

Allegation 6 – JP

72. JP is a CPA, CGA practicing in the Kitchener-Waterloo area. In September, 2012, Richmond approached her with the suggestion that they establish a practice in the form of a limited liability partnership, together with one other practitioner.
73. In the course of his discussions with JP related to establishing a professional practice, Richmond made representations to JP concerning his professional income. On the basis of their discussions between September 2012, and October 2012, Richmond and JP agreed to enter into a professional practice together.
74. Richmond and JP agreed that the cost of leasing a practice premises and the practice set up costs, including lawyer's fees, signage, advertising, and telephone and internet expenses among others, would be shared equally between Richmond and JP.
75. On or about October 17, 2012, Richmond and JP signed an Agreement to Lease a practice premises in Waterloo, Ontario (the "Lease"). (**Doc 7**)
76. Richmond states that he did not seek legal advice with respect to his obligations under the Lease prior to signing it.
77. The first payment under the Lease was due on or about October 29, 2012. On or about that date, Richmond advised JP that he did not have funds to pay his agreed portion of that month's rent. It is agreed that at the time he

signed the Lease Richmond knew or ought to have known that he would not have sufficient funds to pay his portion of the rent due on or about October 29, 2012, however neither prior to nor at the time of signing the Lease did he disclose same to JP.

78. It was not until October 29, 2012 that Richmond advised JP that he was experiencing significant financial difficulties. These arose out of a marital breakdown, and were associated with difficulty collecting accounts receivable from clients. Richmond also did not disclose that he was engaged in ongoing litigation with some clients in respect of collections. Richmond agrees that all of these financial difficulties were known to him throughout the period from September through October, 2012, when he discussed setting up practice with JP and at the time he signed the Lease, yet he did not disclose same to her until after the Lease was signed and the first payment was due.
79. In late November, 2012, Richmond notified the landlord that he could not pay his portion of the Lease obligations going forward.
80. JP paid the balance of the amounts owing under the Lease for approximately one year until the premises were rented to other tenants. JP attempted to recover these amounts from Richmond in the civil courts and obtained a judgment however it was not collectable due to Richmond's eventual bankruptcy.
81. As part of setting up the practice, JP incurred costs including the costs of logo development, and legal fees among others. JP incurred these costs on the understanding that Richmond would reimburse her for half of them, however as a result of the financial difficulties described above he was unable to do so.

82. JP states that she would not have signed and become obligated under the Lease or have incurred the additional practice setup costs had Richmond disclosed his financial difficulties to her beforehand.
83. Richmond states that at the material time he still had a client base and was optimistic that with those clients and with financial support from family he would be able to build a practice with JP. He further states that he viewed financial liabilities of businesses with which he was associated were not his liabilities personally and that therefore it was not necessary to disclose them to JP.
84. In or about the period between September – October, 2012, Richmond was the subject of a complaint from a client which was before the CGA Ontario Discipline Committee with a proposed resolution. He did not disclose the complaint or the associated disciplinary process to JP. Richmond states that he initially did not disclose this complaint to JP on the basis of his understanding that proceedings associated with a complaint to the Association were subject to confidentiality restrictions. Richmond acknowledges that when he did disclose this complaint to JP after the Lease was signed, it was subject to the same confidentiality restrictions as it had been prior to signing the Lease.
85. JP states that had the complaint and Richmond's financial difficulties been disclosed to her in an open and fair manner prior to signing the Lease, she would not have agreed to enter into professional practice with Richmond.
86. Richmond acknowledges that his conduct with respect to JP as set out above was not in keeping with the provisions of the Code Principle related to Practice of the Profession.

Other Considerations

87. Richmond states that the practices he had operated prior to purchasing IT had significantly fewer clients than IT did and that in some cases the level of his service to the IT clients suffered because he was overwhelmed and unfamiliar with operating and managing a practice of this size. Richmond nonetheless acknowledges his professional responsibility to serve the clients of his practice.
88. Despite the number of clients initially purchased as part of IT's book of business, Richmond states that he did not experience the volume of business or associated fees he had anticipated at the time of purchase. He states that from very early on he had to use his personal financial reserves to meet the overhead expenses of the business, and having exhausted his personal resources, he carried on by borrowing from family members.
89. Richmond states that the fees previously charged to clients of IT were below market and that his attempts to increase fees were in many cases detrimental to establishing positive client relationships and ultimately to retaining clients.
90. Additionally, Richmond states that a medical condition has impacted and impaired his ability to communicate well and to connect with others which has caused him difficulty in his professional practice.
91. Richmond states that he has left public practice in favour of working in accounting roles in the capacity of an employee. He has resided in the United States since approximately 2013.

Acknowledgement

92. It is agreed that Richmond failed to adhere to the Code Principles of Trust and Duties, Due Care and Professional Judgment, and Practice of the Profession of the CGA Ontario Code of Ethical Principles in or about the period October 1, 2009 through January 1, 2014 in the manner described above.

Terms of Settlement

93. Richmond and the Professional Conduct Committee agree to the following Terms of Settlement:

- a) Richmond will pay a fine in the amount of \$5,000 within 36 months of this agreement receiving approval of the Discipline Committee;
- b) Notice of the terms of this Settlement is to be published in accordance with the provisions of CPA Ontario Regulation 7-3, s. 22, including notice to be given to all provincial bodies, and in a CPA Ontario publication; and
- c) A failure by Richmond to comply with any of the terms of settlement will result in his suspension from membership in CPA Ontario which suspension will continue until he complies PROVIDED THAT if his suspension under this section continues for three months his membership in the CPA Ontario will be revoked with full publicity in accordance with Regulation 7-3, s. 23.

94. Should the Discipline Committee accept this Settlement Agreement, Richmond agrees to waive his right to a full hearing, judicial review or appeal

of the matter subject to the Settlement Agreement. Upon the member fulfilling the requirements of this Settlement Agreement, the draft Allegations approved by the Professional Conduct Committee and dated March, 2018, shall be forever stayed.

95. If for any reason this Settlement Agreement is not approved by the Discipline Committee, then:

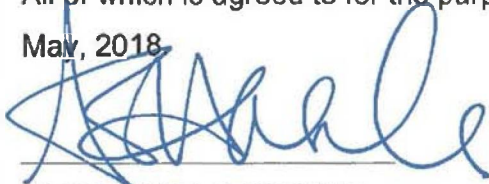
- a) This Settlement Agreement and its terms, including all Settlement negotiations between the Professional Conduct Committee and Richmond leading up to its presentation to the Discipline Committee, shall be without prejudice to the Professional Conduct Committee and Richmond; and
- b) The Professional Conduct Committee and Richmond shall be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the allegations, or negotiating a new Settlement Agreement, unaffected by this Settlement Agreement or the Settlement negotiations.

Disclosure of Settlement Agreement

96. This Settlement Agreement and its terms will be treated as confidential by the Professional Conduct Committee and Richmond, until approved by the Discipline Committee, and forever if for any reason whatsoever this Settlement Agreement is not approved by the Discipline Committee, except with the written consent of the Professional Conduct Committee and Richmond, or, as may be required by law.

97. Any obligations of confidentiality shall terminate upon approval of the Settlement Agreement by the Discipline Committee.

All of which is agreed to for the purpose of this proceeding alone this 15th day of May, 2018.



ALEXANDRA E. HERSAK



STEPHAN RICHMOND, CPA,
CGA,
on his own behalf

On behalf of:
THE PROFESSIONAL CONDUCT COMMITTEE

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