

**THE CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO**  
**and**  
**THE CERTIFIED GENERAL ACCOUNTANTS OF ONTARIO**  
  
**(CERTIFIED GENERAL ACCOUNTANTS ACT, 2010)**  
**(CHARTERED ACCOUNTANTS ACT 2010)**

**TO:** Suman Banerjee, CPA, CGA

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

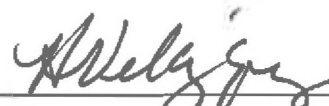
**AND TO:** The Discipline Committee of CGA Ontario

The Professional Conduct Committees of CPA Ontario and CGA Ontario hereby make the following allegations against SUMAN BANERJEE, a member of CPA Ontario and CGA Ontario:

1. THAT the said Suman Banerjee, in or about the period July 2, 2014 through September 4, 2015, while registered as a CGA student, engaged in misconduct of a reprehensible or serious nature which reflected adversely on his honesty, integrity or trustworthiness, contrary to Rule 108 of the Rules of Conduct of CGA Ontario, in that:
  - a. on or about August 21, 2014, he submitted a curriculum vitae and other employment related correspondence to a potential employer (the "Employer") stating that he obtained his CGA designation when he did not;
  - b. on or about October 1, 2014, he left a voicemail for the Employer stating that he completed his CGA designation and received his certificate from CGA Ontario when he did not;
  - c. on or about October 2, 2014, he provided an invoice to the Employer to support his representation that he was a designated CGA and had paid his membership fees (the "Invoice"), which Invoice:
    - i. referenced a Member number that did not correspond to any Member number on record with CPA Ontario; and
    - ii. referenced an invoice number that was associated with another CGA Member; and
  - d. between July 2, 2014 and September 4, 2015, he held himself out to be a CGA on his LinkedIn profile, when he was not.
2. THAT the said Suman Banerjee, in or about the period July 2, 2014 and September 4, 2015, while registered as a CGA student, made references to the CGA designation, contrary to Rule 614 of the Rules of Conduct of CGA Ontario, in that:

- a. on or about August 21, 2014, he submitted a curriculum vitae and other employment related correspondence to a potential employer (the "Employer") stating that he obtained his CGA designation when he did not;
  - b. on or about October 1, 2014, he left a voicemail for the Employer stating that he completed his CGA designation and received his certificate from CGA Ontario when he did not; and
  - c. between July 2, 2014 and September 4, 2015, he held himself out to be a CGA on his LinkedIn profile, when he was not.
3. THAT the said Suman Banerjee, in or about the period July 2, 2014 September 4, 2015, while registered as a CGA student, made statements and representations which he knew, or ought to have known were false or misleading, contrary to Rule 205 of the Rules of Professional Conduct, in that:
  - a. on or about August 21, 2014, he submitted a curriculum vitae and other employment related correspondence to a potential employer (the "Employer") stating that he obtained his CGA designation when he did not;
  - b. on or about October 1, 2014, he left a voicemail for the Employer stating that he completed his CGA designation and received his certificate from CGA Ontario when he did not;
  - c. on or about October 2, 2014, he provided an invoice to the Employer to support his representation that he was a designated CGA and had paid his membership fees (the "Invoice"), which Invoice:
    - i. referenced a Member number that did not correspond to any Member number on record with CPA Ontario; and
    - ii. referenced an invoice number that was associated with another CGA Member; and
  - d. between July 2, 2014 and September 4, 2015, he held himself out to be a CGA on his LinkedIn profile, when he was not.

Dated at Toronto, Ontario this 31 day of October, 2016

  
HARRIET VELAZQUEZ, DEPUTY CHAIR  
PROFESSIONAL CONDUCT COMMITTEE

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

**DISCIPLINE COMMITTEE**

**IN THE MATTER OF:** Allegations against Suman Banerjee, a Member, under **Rule 108** and **Rule 614** of the Rules of Conduct of The Certified General Accountants Association of Ontario and **Rule 205** of the Rules of Professional Conduct of the Chartered Professional Accountants of Ontario.

**TO:** Mr. Suman Banerjee

**AND TO:** The Professional Conduct Committee

**DECISION AND ORDER MADE JUNE 14, 2017**

**DECISION**

The Professional Conduct Committee having withdrawn Allegation Nos. 1 and 2;

Mr. Banerjee having admitted the particulars of Allegation No. 3;

The Discipline Committee, having seen and considered the evidence, including the agreed statement of facts, finds:

THAT the particulars of Allegation No. 3, have been established;

THAT Rule 205 has been breached; and

THAT Suman Banerjee, CPA, CGA has thereby committed professional misconduct.

**ORDER**

IT IS ORDERED in respect of the Allegation:

1. THAT Mr. Banerjee be reprimanded in writing by the Chair of the hearing.
2. THAT Mr. Banerjee be and he is hereby fined the sum of \$5,000 to be remitted to CPA Ontario within thirty-six (36) months from the date this Order is made.
3. THAT Mr. Banerjee's membership in CPA Ontario be and it is hereby suspended for a period of six (6) months from the date this Order is made.
4. THAT Mr. Banerjee be and he is hereby required to complete, by paying for and attending, within twelve (12) months from the date this Order is made, the following professional development courses made available through CPA Canada:
  - *Professional Ethics: Current challenges, underlying values Part 1 and Part 2*
  - *Ethical Principles and the accounting profession: Code decoded*or, in the event the course(s) listed above becomes unavailable, the successor course(s) which takes its place.

5. THAT notice of this Decision and Order, disclosing Mr. Banerjee'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.
6. THAT Mr. Banerjee surrender his CGA and CPA certificates to the Adjudicative Tribunals Secretary within ten (10) days from the date this Order is made to be held during the period of suspension and thereafter returned to Mr. Banerjee.
7. THAT in the event Mr. Banerjee fails to comply with the requirements of this Order, he shall be suspended from membership in CPA Ontario until such time as he does comply, provided that he complies within sixty (60) days from the date of his suspension. In the event he does not comply within the sixty (60) day period, his membership in CPA Ontario shall thereupon 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 Mr. Banerjee's employment. All costs associated with this publication shall be borne by Mr. Banerjee and shall be in addition to any other costs ordered by the committee.

AND IT IS FURTHER ORDERED:

8. THAT Mr. Banerjee be and he is hereby charged costs fixed at \$15,000 to be remitted to CPA Ontario within thirty-six (36) months from the date this Order is made.

DATED AT TORONTO THIS 19<sup>th</sup> DAY OF JUNE, 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:** An Allegation against Suman Banerjee, a Member, under **Rule 205** of the Rules of Professional Conduct of the Chartered Professional Accountants of Ontario.

**TO:** Mr. Suman Banerjee

**AND TO:** The Professional Conduct Committee

**REASONS**

**(Decision and Order made June 14, 2017)**

1. This tribunal of the Discipline Committee met on June 14, 2017 to hear an allegation of professional misconduct brought by the Professional Conduct Committee (PCC) against Suman Banerjee, a member of CPA Ontario.

2. Ms. Alix Hersak appeared on behalf of the PCC. Mr. Banerjee attended with his counsel, Mr. John Navarrete. Ms. Lisa Braverman 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 June 14, 2017, and the written Decision and Order was sent to the parties on June 19, 2017. These reasons, given pursuant to Rule 20.04 of the Rules of Practice and Procedure, include the allegation, the decision, the order, and the reasons of the tribunal for its decision and order.

4. A preliminary matter was dealt with, arising from the passage of the *Chartered Professional Accountants of Ontario Act, 2017* on May 17, 2017. At the time the allegations were brought, Mr. Banerjee was subject to Rules of Conduct of CGA Ontario as well as the Rules of Professional Conduct of CPA Ontario. As a result of the passing of the new legislation, it would be inappropriate to proceed with allegations under both sets of Rules. As such, Allegation Nos. 1 and 2 were withdrawn by the PCC.

**Allegation**

5. Three allegations of professional misconduct were made against Mr. Banerjee by the Professional Conduct Committee on October 31, 2016. Ms. Hersak, on behalf of the PCC, withdrew Allegation Nos. 1 and 2 at the outset of the hearing. Mr. Navarrete agreed with the withdrawal of these Allegations. The tribunal agreed with the withdrawal of these Allegations. The PCC proceeded with the following allegation of professional misconduct before the tribunal:

3. THAT the said Suman Banerjee, in or about the period July 2, 2014 September 4, 2015, while registered as a CGA student, made statements and representations which he knew, or ought to have known were false or misleading, contrary to Rule 205 of the Rules of Professional Conduct, in that:

- a. on or about August 21, 2014, he submitted a curriculum vitae and other employment related correspondence to a potential employer (the "Employer") stating that he obtained his CGA designation when he did not;
- b. on or about October 1, 2014, he left a voicemail for the Employer stating that he completed his CGA designation and received his certificate from CGA Ontario when he did not;
- c. on or about October 2, 2014, he provided an invoice to the Employer to support his representation that he was a designated CGA and had paid his membership fees (the "Invoice"), which Invoice:
  - I. referenced a Member number that did not correspond to any Member number on record with CPA Ontario; and
  - II. referenced an invoice number that was associated with another CGA Member; and
- d. between July 2, 2014 and September 4, 2015, he held himself out to be a CGA on his LinkedIn profile, when he was not.

#### **Plea**

6. Mr. Banerjee admitted Allegation No. 3.

#### **Case for the PCC**

7. Ms. Hersak gave an opening statement. The allegation arises out of Mr. Banerjee's application for employment made in August of 2014. In several different instances and manners, while registered as a CGA student, Mr. Banerjee stated orally and in writing he had his CGA designation when he did not. Mr. Banerjee did not get his CGA designation until April of 2016. These statements were false or misleading and Mr. Banerjee knew or ought to have known that they were false or misleading when he made them.

8. Ms. Hersak filed an Agreed Statement of Fact (Exhibit 1) signed by Mr. Banerjee on his own behalf and by Ms. Hersak on behalf of the PCC, a Document Brief (Exhibit 2) and a Timeline of Key Dates (Exhibit 3). Ms. Hersak advised the tribunal that the facts in the Agreed Statement of Fact and the documents in the Document Brief are the evidence in support of the allegation. No other evidence was presented on behalf of the PCC.

#### **Agreed Statement of Fact**

9. In presenting the case for the PCC, Ms. Hersak reviewed the Agreed Statement of Fact, which also included references to documents in the Document Brief.

10. Mr. Banerjee graduated from Ryerson University in 2012, with a Bachelor of Commerce in accounting. Following that, he registered with CGA Ontario as a student to complete the necessary courses to obtain his CGA designation.

11. Mr. Banerjee's *curriculum vitae* lists various employers from 2006 through September 2014, indicating that these were all financial or accounting roles.

12. From October 2014 to April 2015 Mr. Banerjee stated that he worked at a small accounting firm; however that firm remains unidentified as in February 2016 Mr. Banerjee

advised the PCC investigator that he was unable to recall its name. He stated that he did not prepare audit, review or notice to reader engagements in the course of this employment.

13. Mr. Banerjee stated that in May, 2015 he was working on a per hour contract basis for a start-up import/export company which was not yet operational, providing overall business advice and having involvement in the planning, budgeting, and issuing of payments. While engaged in this work, Mr. Banerjee stated that he was seeking full-time employment.

14. In or about February, 2016, Mr. Banerjee completed the requisite courses and became eligible for membership with CPA Ontario. Mr. Banerjee was admitted to membership in April, 2016, while the investigation into this matter was ongoing. Mr. Banerjee does not hold a public accounting licence.

15. Mr. Banerjee came to the attention of the PCC as a result of due diligence inquiries made by a prospective employer to CPA Ontario in respect of Mr. Banerjee's membership status. In the course of those inquiries it came to light that although Mr. Banerjee was registered as a student with CPA Ontario, he may have been holding himself out as a designated member.

16. In or about August, 2014, an Employer posted a job opportunity which did not require an accounting designation but requested that applicants have "*a recognized accounting designation or substantially [sic] progress towards completion of designation.*" Mr. Banerjee submitted a covering letter, and *curriculum vitae* (the "CV") to the Employer on August 21, 2014. Although he was registered as a CGA student at the time, the documents submitted by Mr. Banerjee indicated that he was a CPA, CGA. Specifically, in his covering letter Mr. Banerjee wrote "*I completed my CGA designation last year...*" The CV attached was that of "*Suman Banerjee, CGA*" and described Mr. Banerjee as "*an experienced Certified General Accountant specializing in financial reporting & analysis, planning, budgeting & forecasting.*" The education section of the CV stated that Mr. Banerjee was a "*Designated Certified General Accountant of Ontario.*" This covering letter and CV is the subject of Allegation No. 3(a).

17. On or about September 22, 2014, Mr. Banerjee was interviewed by "MP," CPA, CGA, who is staff of the Employer, along with another staff member. Following the interview, MP commenced due diligence with respect to offering Mr. Banerjee the posted position.

18. As part of the Employer's due diligence process, MP corresponded with CPA Ontario on September 29, 2014 in order to confirm Mr. Banerjee's membership standing and the year in which he obtained his designation.

19. In the course of contacting CPA Ontario, MP was unable to access a database of CGA members, and had encountered some difficulty obtaining the information she sought. She attributed these differences to administrative issues associated with the recent unification of CPA Ontario and CGA Ontario. Accordingly while proceeding to make inquiries with CPA Ontario, MP also requested additional information from Mr. Banerjee to assist her in confirming his membership status. Among the items MP requested from Mr. Banerjee were a copy of his CGA Certificate, and a copy of his membership invoice indicating that he had paid his annual member fees.

20. On or about October 1, 2014, CPA Ontario confirmed to MP that Mr. Banerjee was "*a student in the CGA program in good standing.*" The Employer's understanding, based on MP's course of communications with Mr. Banerjee, including those in the interview, was that Mr.

Banerjee was a designated CPA, CGA. Throughout the application and interview process, Mr. Banerjee did not advise the Employer that he was a student. MP therefore continued her follow-up with CPA Ontario and with Mr. Banerjee in order to clarify his membership status.

21. In response to an ensuing inquiry from MP, on October 1, 2014 Mr. Banerjee left a voicemail message for her, again stating that he had completed his CGA designation and had received his Certificate from CGA Ontario. His message stated that his "designation is completed" and he received his "Certificate from CGA Ontario". He went on to say that because he did not have a current job, he decided to take an extra course which would explain his "student status". Mr. Banerjee's message stated that he has all the necessary paperwork to show completion of courses from CGA Ontario and his "designation is complete". This voicemail message is the subject of Allegation No. 3(b).

22. The following day, October 2, 2014, Mr. Banerjee emailed MP, attaching what he described as a *"print screen of my latest membership dues invoice as per your request,"* as confirmation of his status as a designated member of CPA Ontario. The attachment he provided was a copy of an invoice dated May 1, 2014, addressed to Suman Banerjee, bearing a member ID number and an invoice reference number. The invoice was for Member Dues CGA Canada and Member Dues CGA Ontario. This invoice is the subject of Allegation No. 3(c).

23. On October 2, 2014, MP provided CPA Ontario with the invoice in seeking further clarification of Mr. Banerjee's membership status. CPA Ontario confirmed that Mr. Banerjee was not a CPA, CGA member, but rather a student of the CGA Program of Professional Studies in good standing, and that the member identification number on the invoice did not exist. The Employer subsequently notified Mr. Banerjee that they were no longer considering him for the position.

24. In the course of reviewing the invoice provided to CPA Ontario by MP, CPA Ontario employees noted that the invoice reference number did not correspond with any invoice on Mr. Banerjee's file.

25. Additional review of the matter by CPA Ontario staff revealed that Mr. Banerjee maintained a LinkedIn profile which stated that he was a *"designated CGA seeking new opportunities."* The profile, like the CV, stated that Mr. Banerjee is *"an experienced Certified General Accountant specializing in financial reporting and analysis, planning, budgeting & forecasting."* This LinkedIn profile is the subject of Allegation No. 3(d).

26. As a result of the Employer's due diligence inquiries, CPA Ontario Standards Enforcement became aware that Mr. Banerjee may have been holding himself out as a designated member while still a registered student. Standards Enforcement therefore began correspondence with Mr. Banerjee.

27. On May 14, 2015, Mr. Banerjee responded in writing to Standards Enforcement stating that he had explained to MP during the interview process that he *"was a CGA student in the final stages of obtaining his designation and was near completion"* but mistakenly used the term *"student member"* because he believed he *"was a student taking courses with CGA but also a member of the CGA affiliation"*.

28. In his response, Mr. Banerjee wrote that he had updated his LinkedIn profile in the summer of 2014 in anticipation of passing his last exam and failed to update the LinkedIn profile subsequently, adding that he did not think it mattered because he did not apply for the position



through his LinkedIn account and did not think the Employer would look in his profile.

29. In his response, Mr. Banerjee wrote that the invoice attached in the package was erroneous as he did not pay any of it and his student number was wrong.

30. In his response, Mr. Banerjee wrote that he would not falsely identify himself as a designated accountant just to get his foot in the door as he is aware that a potential employer can verify this information with CPA Ontario. Mr. Banerjee wrote that he had clarified the information with MP and asked to be removed from the application process even though he was a qualified candidate.

31. In his response, Mr. Banerjee wrote that he is now aware of the right terms to be used and has updated his LinkedIn profile.

32. When provided with Mr. Banerjee's response for comment, MP advised Standards Enforcement that at no time during his application did Mr. Banerjee advise the Employer he was a student of CPA/CGA; Mr. Banerjee's covering letter and CV indicated that he was designated. MP advised that a voicemail left for her by Mr. Banerjee confirmed that Mr. Banerjee had his designation and was taking extra courses while seeking work. MP advised that the invoice provided by Mr. Banerjee showing payment of membership dues was not related to Mr. Banerjee. MP advised that at no time did Mr. Banerjee apologize for the misinformation or ask to be removed from the application process.

33. MP also noted that she had not initially contacted CPA Ontario as a complainant, but rather did so with a view to hiring Mr. Banerjee.

34. The PCC appointed an investigator to obtain further information. Mr. Banerjee made a variety of representations to the PCC investigator with respect to the issues in this matter, including stating that the job posting was clear that the applicant could either be designated or near completion, and he maintained that he advised the Employer that he was still a student. Mr. Banerjee now agreed that he did not tell MP that he was a CGA student. Mr. Banerjee agreed that at all material times, Mr. Banerjee held himself out to the Employer and to MP as a designated CPA, CGA when he was not.

35. Mr. Banerjee told the investigator he disputed the legitimacy of the covering letter and CV provided to CPA Ontario by MP, instead asserting to the investigator that a different version of each ("Letter 2/CV 2") was what he had actually presented to the Employer. Letter 2 indicated *"I'll be completing my CGA designation this year..."* and CV 2 used only the name *"Suman Banerjee"* rather than *"Suman Banerjee, CGA."* The education section of CV 2 stated that Mr. Banerjee was *"Enrolled in PACE Level 5 – Certified General Accountant of Ontario."*

36. The Employer/MP did not receive Letter 2 or CV 2 at any time. MP's due diligence inquiries were made for the purpose of confirming that Mr. Banerjee was a designated member as he stated in his covering letter and CV. The covering letter and CV in MP's possession had not been modified subsequent to the time the Employer received them electronically from Mr. Banerjee.

37. Mr. Banerjee now conceded that he submitted the covering letter and CV to the Employer stating that he had obtained his CGA designation when he did not.

38. When asked to explain the voicemail and his representations in it, Mr. Banerjee advised

the investigator several times that he did not recall leaving the voicemail and suggested that its contents did not make sense. He reiterated that he had contacted MP to apologize for the confusion as to his designation and that he was qualified for the position based on his near completion of his designation. Mr. Banerjee told the investigator that he was not trying to present himself falsely as he was qualified for the job, and could not comment on his state of mind at the time.

39. Mr. Banerjee acknowledged and agreed that at the time he left the voicemail for the Employer, his designation had not been obtained, and he had not received his Certificate from CGA Ontario contrary to his statements. Mr. Banerjee's statements in the voicemail were false at the time they were made.

40. The invoice provided by Mr. Banerjee to MP was an invoice which was altered from the format in which it had originally been issued by CPA Ontario. This invoice was not issued by CPA Ontario. The member ID number on the invoice was not an ID number that existed in CPA Ontario's records, and was not the registered student number of Mr. Banerjee. Although an invoice bearing the reference number was issued by CPA Ontario, it was issued to a CPA, CGA who was not Mr. Banerjee.

41. Mr. Banerjee advised the investigator that he did not send the invoice to MP. Mr. Banerjee told the investigator that he had sent a different invoice to MP, "Invoice 2". Invoice 2 had a different member ID number, a different reference number and a different description. The Employer/MP did not receive Invoice 2 at any time. The invoice in MP's possession had not been modified subsequent to the time the Employer received it electronically from Mr. Banerjee.

42. Mr. Banerjee now conceded that he provided the invoice to the Employer as support for his false representation that he was a designated CGA and had paid his membership dues, and that the invoice itself contained false information.

43. Mr. Banerjee advised the investigator that he understood that his LinkedIn profile would have served the purpose of a CV if he were to use it to apply for jobs or have reference to his profile in his applications. As he had no reference in his application to the Employer to his LinkedIn profile, he did not think the Employer would check it as part of due diligence. Mr. Banerjee told the investigator he did not know exactly when he updated his LinkedIn profile to reflect that he was a designated CPA, CGA, but guessed that he did so sometime before his MS2 marks came out in May 2014 because he knew he would be taking the last of the courses required in the CGA program, having passed MS2. At that point in time, Mr. Banerjee had yet to complete three courses, which were not ultimately completed until February, 2016. Mr. Banerjee told the investigator it was premature excitement that caused him to update his profile to reflect himself as a designated member in advance of completing his courses. He did not use his LinkedIn profile to apply for jobs and he did not go back to change it on the site.

44. On September 4, 2015, an updated LinkedIn profile for Mr. Banerjee no longer referenced him as a designated CGA in any narrative. However, the "Certifications" section, stated "Certified General Accountant" and under the heading "Groups" was a "CGA" icon. Mr. Banerjee explained to the investigator that this was *"something in progress"* and that there was no opportunity to indicate whether he had partially or fully completed his courses.

45. As at the time of the investigation, there was no other publicly available web presence for Mr. Banerjee, including Facebook, Instagram, and Twitter, indicating that he was holding

himself out as a CPA, CGA when he was not yet designated.

46. Mr. Banerjee agreed that he held himself out to be a designated CGA on his LinkedIn profile between May, 2014 and September, 2015 when he had not yet obtained his designation, which was false and misleading.

47. Mr. Banerjee acknowledged and admitted that in the period July 2, 2014 to September 4, 2015, while registered as a CGA student, he made statements and representations which he knew, or ought to have known were false or misleading, contrary to Rule 205 of the Rules of Professional Conduct of CPA Ontario, in that:

- a) he submitted a CV and other employment related correspondence to the Employer stating that he obtained his CGA designation when he did not;
- b) he left a voicemail for the Employer stating that he completed his CGA designation and received his Certificate from CGA Ontario when he did not;
- c) he provided an invoice to the Employer that contained a Member number that did not correspond to any Member number on record with CPA Ontario and referenced an invoice number that was associated with another CGA Member; and
- d) he held himself out to be a CGA on his LinkedIn profile, when he was not.

48. After Ms. Hersak reviewed the Agreed Statement of Fact, Mr. Navarrete indicated that he had no additional submissions to make on behalf of Mr. Banerjee in regards to the Agreed Statement of Fact.

#### **Closing Submissions**

49. Ms. Hersak indicated that the parties were in agreement with the facts, the documents and the evidence. Ms. Hersak submitted that Mr. Banerjee has admitted the allegation, the evidence is clear, cogent and convincing and the evidence demonstrates that Mr. Banerjee made statements and representations that he knew or ought to have known were false or misleading, in a covering letter and CV, an invoice, a voicemail message and his LinkedIn profile.

50. Ms. Hersak indicated that it is the position of the PCC that the evidence supports the allegation and the PCC requests that the tribunal find Mr. Banerjee guilty of professional misconduct.

51. Mr. Navarrete submitted that Mr. Banerjee agreed to the Agreed Statement of Fact. Mr. Navarrete stated that he agreed with Ms. Hersak's position that there should be a finding of professional misconduct.

#### **The Decision**

52. After deliberating, the tribunal found that the allegation had been proven. The tribunal announced the following decision:

The Professional Conduct Committee having withdrawn Allegation Nos. 1 and 2;

Mr. Banerjee having admitted the particulars of Allegation No. 3;

The Discipline Committee, having seen and considered the evidence, including the agreed statement of facts, finds:

THAT the particulars of Allegation No. 3, have been established;

THAT Rule 205 has been breached; and

THAT Suman Banerjee, CPA, CGA has thereby committed professional misconduct.

### **Reasons for Decision**

53. The tribunal thoroughly reviewed and considered the evidence contained in the Agreed Statement of Fact and the Document Brief and found the evidence to be clear, cogent and convincing and supported a finding of professional misconduct on the allegation. Mr. Banerjee acknowledged and admitted in the Agreed Statement of Fact that while he was registered as a CGA student, he made statements and representations which he knew or ought to have known were false or misleading in a CV and other employment related correspondence, in a voicemail, in an invoice and on his LinkedIn profile. Mr. Banerjee's false or misleading representations and statements to a potential employer were contrary to Rule 205. The tribunal therefore found that the allegation had been established and Mr. Banerjee committed professional misconduct.

### **Submissions on Sanction**

54. Ms. Hersak stated that all of the PCC's evidence was presented by the Agreed Statement of Fact and the Document Brief. Ms. Hersak indicated that there was no additional evidence on sanction. Mr. Navarrete indicated that he had no witnesses to call on sanction but wanted to file a document.

55. Mr. Navarrete filed a letter of apology from Mr. Banerjee (Exhibit 4) stating that the document was drafted by Mr. Banerjee prior to the hearing and not in consultation with Mr. Navarrete. As such, Mr. Navarrete asserted that the end of the letter, where Mr. Banerjee discusses requests for sanction consideration including no publicity and no suspension, these will not be the submissions on sanction of the member.

56. Mr. Navarrete acknowledged that under the regulation, the tribunal can order publicity. Mr. Navarrete submitted that suspension in the range of zero to three months is being sought but he acknowledged that in these types of cases, the range can go up to six months' suspension.

57. Ms. Hersak stated that she had received the apology letter this morning. Ms. Hersak indicated that she had a discussion with Mr. Navarrete about the end of the letter. The discussion at the end of the letter of what Mr. Banerjee wants by way of sanction should be disregarded because it does not represent the position of the member. Ms. Hersak cautioned the tribunal on the weight to be given to the apology letter. In the letter, Mr. Banerjee speaks about his motivation and why he did what he did and Ms. Hersak wanted it made clear that none of these statements or explanations were raised during the investigation or provided to the PCC investigator. The facts are those contained in the Agreed Statement of Fact and now after the fact Mr. Banerjee has provided the tribunal with explanations for his conduct – evidence that was not investigated nor was it tested. After the tribunal accepted the apology letter and marked it as the next Exhibit, the Chair asked Ms. Hersak to proceed with her sanction submissions but allowed Ms. Hersak to respond to any matters raised from the letter after Mr. Navarrete speaks to it during his sanction submissions.

58. Ms. Hersak filed a Case Brief containing *Postrado*, *LoRusso*, *Giannantonio*, *Bott*, *Simpson*, *Jean-Baptiste* and *Ghumman* cases and Mr. Navarrete filed one case, *Becker*.

59. Ms. Hersak stated that the PCC recommends the following sanction: a reprimand in writing by the Chair, fine of \$5,000, suspension of membership for six months, professional development courses in the area of ethics and publicity. The PCC also recommends 50% of costs fixed at \$12,500. Ms. Hersak noted that the member agrees with the reprimand, the professional development courses and publicity but the member does not agree with the quantum of the fine and costs and the length of the suspension. Ms. Hersak stated that the PCC does not oppose time to pay the amounts ordered by the tribunal, suggesting 24 months would be reasonable in light of the amounts the PCC is seeking.

60. Ms. Hersak stated that the tribunal has seen the Agreed Statement of Fact, noting that the conduct by Mr. Banerjee was serious in nature. Integrity and honesty go to the core of the profession and the public relies on CPAs to act with integrity and honesty. Ms. Hersak stated that association with false or misleading statements, Rule 205, is one of the most serious breaches of the Rules of Professional Conduct.

61. Ms. Hersak stated that the aggravating factors include conduct that was willful and intended to mislead. Mr. Banerjee set out to apply for employment as a student and represented himself as a member. The conduct was dishonest and where there is moral turpitude, the conduct is even more serious. Mr. Banerjee, when confronted by CPA Ontario, denied the conduct to the Director of Standards Enforcement. Mr. Banerjee denied the conduct to the investigator, provided different documents and implied that the Employer was misrepresenting the facts to CPA Ontario. In addition, Mr. Banerjee attempted to mislead the investigator appointed by the PCC, which is serious misconduct. Mr. Banerjee's misrepresentations involved numerous instances: the CV and covering letter, the voicemail, the invoice, his LinkedIn profile. Each instance was an opportunity for him to rethink and change his behavior but he did not take any of the opportunities. This gave the PCC a very serious concern about his repeated pattern of dishonesty.

62. Ms. Hersak stated that by holding himself out as a designated member when he was not, adds an additional element. Under the new *Chartered Professional Accountants of Ontario Act, 2017* but also under the former *Certified General Accountants Act, 2010* and *Chartered Accountants Act, 2010*, there is a prohibition that a person who is not a member may not hold himself or herself out as a member and could be liable for a penalty of up to \$25,000.

63. Ms. Hersak submitted that the mitigating factors are: Mr. Banerjee has no history before the Discipline Committee; he was a student at the time this conduct took place; he did respond to the Director of Standards Enforcement, met with the investigator and the PCC; he has expressed remorse and he has admitted the allegation. Mr. Banerjee cooperated by signing the Agreed Statement of Fact and agreed with many elements of the penalty. Mr. Banerjee has indicated that he has taken steps to correct his LinkedIn profile. Ms. Hersak noted that in the past the Discipline Committee has been more understanding of mistakes made earlier in a member's career and the PCC, in making the sanction recommendation that it has, took into consideration that Mr. Banerjee was a student at the time of the conduct.

64. Ms. Hersak submitted that the aggravating factors far outweigh the mitigating factors, and in arriving at an appropriate sanction, the principles of specific and general deterrence, and rehabilitation, should be considered. Public perception of the sanction is also important as they need to know that the regulator will not tolerate the conduct of the member in these circumstances. The public needs to know that the regulator is enforcing the Rules and members are expected to adhere to them.

65. Ms. Hersak stated that a reprimand addresses the principle of specific deterrence. A fine of \$5,000 addresses specific and general deterrence as members including Mr. Banerjee understand that there is a significant monetary penalty for professional misconduct. Ability to pay is only one factor to consider and when determining a fine in a case of moral turpitude, ability to pay should not be a significant factor. Ms. Hersak submitted that the member's financial circumstances are better addressed by setting a longer period of time to pay rather than decreasing the amount, as it is the amount of the fine that is the deterrent. Ms. Hersak suggested two years to pay the fine.

66. Ms. Hersak stated that the PCC considered the impact of a six-month suspension, taking into consideration that Mr. Banerjee was a student at the time. The PCC felt he could be rehabilitated but concluded he needed a serious sanction. Ms. Hersak indicated that a six-month suspension falls within the range and is appropriate.

67. Ms. Hersak stated that the two professional development courses recommended for completion within 12 months are meant to be rehabilitative. They are offered by CPA Canada and available online: *Professional Ethics: Current challenges, underlying values Part 1 and Part 2* and *Ethical Principles and the accounting profession: Code decoded*. These courses would not be in addition to the CPD requirements as a regular requirement of membership and therefore not an additional monetary penalty.

68. Ms. Hersak submitted that publicity addresses specific and general deterrence -- this informs the membership and the public that the matter is taken seriously by notification of Mr. Banerjee's professional misconduct. Only in rare and unusual circumstances would publicity not be ordered and this case does not meet the test as there are no rare and unusual circumstances in this case which would preclude publicity.

69. Ms. Hersak stated that the costs being requested are \$12,500, which is approximately 50% of the total costs. Costs are sought as an indemnity and it is expected that the member bear a portion of the costs. Ms. Hersak filed a Costs Outline (Exhibit 5), noting the fact that Mr. Banerjee entered into an Agreed Statement of Fact, there are no witnesses and the member indicated that he would plead guilty at an early stage. There would have been greater costs incurred without the Agreed Statement of Fact. However, Mr. Banerjee's own actions led to a longer investigation such as his initial lying to the Employer and his cover-up story to the investigator as the investigator needed to verify the conflicting circumstances of this case. The investigator's fees were just under \$15,000. As Mr. Banerjee was a student at the time, Ms. Hersak indicated that the PCC is only seeking 50% of the costs, rather than the standard two-thirds of the costs asked for by the PCC in recent cases. Costs are discretionary. The tribunal can provide time to pay costs such as two years to address concerns about Mr. Banerjee's ability to pay.

70. Ms. Hersak referred to the Case Brief, noting that there has been a pattern by the Discipline Committee of giving students a second chance. Suspensions have been ordered rather than striking the students off the register for matters involving dishonesty. Ms. Hersak indicated that in the *Ghumman* case, a suspension was not ordered by the Discipline Committee but the Banerjee case can be distinguished from the *Ghumman* case. In the *Ghumman* case, there were very clear circumstances for why the Discipline Committee did not order a suspension: Mr. Ghumman did not intentionally mislead, there was no clear intention to mislead but that is not the case here. In this case, there was a clear intention by Mr. Banerjee to mislead in many instances. Ms. Hersak submitted that the *Becker* case, distributed by Mr.

Navarrete, is distinguishable from Mr. Banerjee's situation as there was a joint submission and the facts are different. In particular, there was a joint submission with Mr. Becker, no personal benefit to Mr. Becker, and the member self-reported, resulting in a three-month suspension. This is the opposite of what happened here as Mr. Banerjee sought to cover-up rather than come clean when the regulator investigated.

71. Mr. Navarrete submitted that the difference in positions between the parties is how a Rule 205 breach is categorized. While all ethical matters are serious, they are not all equal as reflected by the cases. Mr. Navarrete indicated that after reviewing the cases, he does not see the Rule 205 breach in the same light. Mr. Navarrete submitted that this case does not involve criminal conduct. Mr. Banerjee lied on a job application, tried to cover up his actions and it spiraled out of control. Mr. Banerjee lacked experience as he was not yet in the profession. Mr. Navarrete indicated that some of the cases were about individuals abusing their position as an accountant, which goes to the heart of the profession but Mr. Banerjee's conduct does not go to the heart of the profession. Mr. Navarrete indicated that not all breaches of Rule 205 are the same. On the scale of egregious conduct, Mr. Banerjee's conduct falls on the low end.

72. Mr. Navarrete stated that his submission of a lower fine of \$3,000 to \$5,000 will send the right message and hurt Mr. Banerjee financially. Mr. Navarrete suggested a zero to three month suspension and submitted that this lesser penalty still carries the same teeth and sends the right message. Mr. Navarrete noted that Mr. Banerjee agrees with the reprimand, the professional development courses and publicity.

73. Mr. Navarrete submitted that Mr. Banerjee's conduct could have been committed by anyone in any profession and is not unique to a CPA. Of the cases, *Jean-Baptiste* and *Becker* are the closest to Mr. Banerjee's situation but the difference is they involved fraud.

74. Mr. Navarrete stated that the manner in which Mr. Banerjee interacted with CPA Ontario is the most aggravating factor. In the face of evidence, Mr. Banerjee tried to talk his way out of it. Mr. Navarrete noted that Mr. Banerjee stated in his apology letter that he was experiencing personal, financial and health issues, things were spiraling out of control and Mr. Banerjee thought he could talk his way out of it.

75. Mr. Navarrete submitted that the costs being asked for are in the range of \$8,000 to \$10,000. Mr. Navarrete stated that in the end Mr. Banerjee admitted the allegation, avoided a more lengthy hearing and showed remorse.

76. As part of background, Mr. Navarrete noted that in 2015, Mr. Banerjee's gross income was \$30,000 and in 2016, Mr. Banerjee's gross income was \$40,000. Mr. Navarrete indicated that Mr. Banerjee's income is limited as he is currently employed part-time and paid on an hourly basis. Mr. Navarrete noted that in the apology letter, Mr. Banerjee admitted that he tried to cover up his mistake. Mr. Navarrete submitted that it takes a person on the road to rehabilitation to make such an admission. Mr. Banerjee can be rehabilitated. Mr. Navarrete submitted that the amount of the fine and costs that the PCC is seeking gets close to what Mr. Banerjee earns. When looking at the rehabilitative aspect, the amount of the fine and costs that is ordered by the tribunal needs to consider Mr. Banerjee's financial circumstances. Mr. Navarrete noted that while Ms. Hersak had submitted Mr. Banerjee could be given more time to pay, the tribunal could decrease the amount of the fine and costs and still get across the proper message.

77. Ms. Hersak, in reply, submitted that there was no documentation provided to support depression which was mentioned in Mr. Banerjee's letter (Exhibit 4).

78. Ms. Hersak stated that the sanctions suggested are the recommendation of the PCC, composed of 10 to 12 members of the profession from all legacy backgrounds and public representatives, with full knowledge of the cases. Mr. Navarrete's reference to three to four months of conduct is the period with respect to some of the conduct in the allegation but the overall timeline goes beyond that period, upwards of fourteen months.

79. Ms. Hersak submitted that while the *Postrado* case had a profit element, Mr. Banerjee's actions were also for profit as he was seeking employment for his own benefit. If his application had been accepted at face value, Mr. Banerjee would have been employed and would have benefited financially. Mr. Banerjee wanted to become a member of the CPA profession while failing to uphold the values of that profession. While applying for an accounting role he made false or misleading representations to a professional colleague; he was attempting to deceive a potential employer and another member of the profession. Mr. Banerjee's conduct which involved a lack of integrity goes to the heart of the accounting profession.

#### **Order**

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

IT IS ORDERED in respect of the Allegation:

1. THAT Mr. Banerjee be reprimanded in writing by the Chair of the hearing.
2. THAT Mr. Banerjee be and he is hereby fined the sum of \$5,000 to be remitted to CPA Ontario within thirty-six (36) months from the date this Order is made.
3. THAT Mr. Banerjee's membership in CPA Ontario be and it is hereby suspended for a period of six (6) months from the date this Order is made.
4. THAT Mr. Banerjee be and he is hereby required to complete, by paying for and attending, within twelve (12) months from the date this Order is made, the following professional development courses made available through CPA Canada:
  - *Professional Ethics: Current challenges, underlying values Part 1 and Part 2*
  - *Ethical Principles and the accounting profession: Code decoded*
 or, in the event the course(s) listed above becomes unavailable, the successor course(s) which takes its place.
5. THAT notice of this Decision and Order, disclosing Mr. Banerjee'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.
6. THAT Mr. Banerjee surrender his CGA and CPA certificates to the Adjudicative Tribunals Secretary within ten (10) days from the date this Order is made to be held during the period of suspension and thereafter returned to Mr. Banerjee.



7. THAT in the event Mr. Banerjee fails to comply with the requirements of this Order, he shall be suspended from membership in CPA Ontario until such time as he does comply, provided that he complies within sixty (60) days from the date of his suspension. In the event he does not comply within the sixty (60) day period, his membership in CPA Ontario shall thereupon 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 Mr. Banerjee's employment. All costs associated with this publication shall be borne by Mr. Banerjee and shall be in addition to any other costs ordered by the committee.

**AND IT IS FURTHER ORDERED:**

8. THAT Mr. Banerjee be and he is hereby charged costs fixed at \$15,000 to be remitted to CPA Ontario within thirty-six (36) months from the date this Order is made.

**Reasons for Sanctions**

81. The tribunal agreed with counsel for the PCC that the nature of Mr. Banerjee's actions was very serious and agreed with their request on sanction on all points with the exception of the time to pay both the fine and the costs.

82. Ms. Hersak asked that a written reprimand from the Chair be issued, and that Mr. Banerjee should take two online professional development courses in ethics from CPA Canada within the next 12 months. Mr. Banerjee agreed with the reprimand and the courses. The tribunal agreed, and so ordered. Publicity to all members of CPA Ontario, the provincial bodies and the public is generally ordered by the Discipline Committee, and was agreed to by the parties. The tribunal agreed, and so ordered. The tribunal felt that the nature of Mr. Banerjee's actions required publication.

83. The tribunal appreciated that Mr. Banerjee's decision to admit the allegation and enter into an Agreed Statement of Fact reduced the time required by all involved. However, the tribunal did not think that it mitigated the seriousness of Mr. Banerjee's actions.

84. The tribunal felt that the seriousness of Mr. Banerjee's conduct required a six-month suspension instead of a zero to three-month suspension, contrary to the request of Mr. Banerjee's counsel. The tribunal considered counsel for Mr. Banerjee's submission of a zero to three-month suspension but found such a range to be inappropriate in light of the seriousness of the misconduct involved.

85. The tribunal felt that a fine of \$5,000, as requested by counsel for the PCC, was appropriate given the seriousness of Mr. Banerjee's conduct. The tribunal considered counsel for Mr. Banerjee's submission of a lower fine of \$3,000 to \$5,000 but found such a range to be inappropriate in light of the seriousness of the misconduct involved.

**Reasons for Costs**

86. The tribunal disagreed with counsel for the PCC's request of \$12,500 which is approximately 50% of the total costs and counsel for Mr. Banerjee's request of costs of \$8,000 to \$10,000. The standard request of the PCC in recent cases has been to ask for two-thirds of the costs and the tribunal felt that it was appropriate and reasonable to order approximately two-thirds of the costs in this case, along with a reduction for the fact that the hearing did not take a full day.

87. The tribunal felt that Mr. Banerjee had substantially contributed to the costs of the investigation when he continued to maintain that he had not in fact held himself out to be a CGA. Mr. Banerjee denied his conduct to the investigator, provided different documents to the investigator and made a variety of representations to the investigator. This made the costs substantially more and the tribunal believed that as a result he should be held accountable to pay a larger portion and therefore the tribunal ordered Mr. Banerjee to pay costs of \$15,000.

88. The tribunal did take into account Mr. Banerjee's financial issues and employment situation, and given that the amounts of the fine and costs were substantial, decided to give him an additional year to pay the fine and the costs which changed the time to pay from 24 months, as requested by counsel for the PCC, to 36 months.

DATED AT TORONTO THIS 21<sup>ST</sup> DAY OF AUGUST, 2017  
BY ORDER OF THE DISCIPLINE COMMITTEE



A. MACKENZIE, CPA, CMA – DEPUTY CHAIR  
DISCIPLINE COMMITTEE

MEMBERS OF THE TRIBUNAL:

B. SOLWAY (PUBLIC REPRESENTATIVE)  
S. SOMANI, CPA, CA  
P-J. VAILLANCOURT, CPA, CGA