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CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO

CHARTERED PROFESSIONAL ACCOUNTANTS OF ONTARIO ACT, 2017

TO: TERRENCE JEWETT

AND TO: The Discipline Committee of CPA Ontario

The Professional Conduct Committee of CPA Ontario hereby makes the following allegation of professional misconduct against TERRENCE JEWETT, a suspended member of CPA Ontario:

1. THAT, the said Terrence Jewett, in or about the period of June 21, 2019 to November 6, 2019, failed to co-operate with the regulatory process of CPA Ontario contrary to Rule 104.2(a) of the CPA Code of Professional Conduct in that he failed to promptly reply in writing to CPA Ontario communications to which a written reply is specifically required, namely the correspondence of Ms. Theresa Tonelli, CPA, CA, Director of Standards Enforcement, dated May 31, 2019 and the correspondence of Ms. Tatiana Rabinovitch, CPA, CA, Standards Enforcement Officer, dated July 2, 2019.

Dated at Toronto Ontario, this 25th day of November 2019.

Glenn Fagan

H. G. FAGAN, FCPA, FCA, DEPUTY CHAIR
PROFESSIONAL CONDUCT COMMITTEE

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: An allegation against **TERRENCE JEWETT**, a suspended Member of CPA Ontario, under **Rule 104.2(a)** of the Professional Code of Conduct.

TO: Terrence Jewett

AND TO: The Professional Conduct Committee

DECISION AND ORDER MADE FEBRUARY 24, 2020

DECISION

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

ORDER

IT IS ORDERED THAT:

1. Terrence Jewett be reprimanded in writing by the chair of the hearing;
2. Terrence Jewett shall pay a fine of \$3,500.00 to the Chartered Professional Accountants of Ontario ("CPA Ontario") by August 24, 2020;
3. Terrence Jewett shall cooperate with the Professional Conduct Committee by March 25, 2020 by providing full responses to the correspondence of Ms. Theresa Tonelli, CPA, CA, Director of Standards Enforcement, dated May 31, 2019 and the correspondence of Ms. Tatiana Rabinovitch, CPA, CA, Standards Enforcement Officer, dated July 2, 2019;
4. Notice of this Decision and Order, disclosing Terrence Jewett's name, is to be given in the form and manner determined by the Discipline Committee:
 - (a) to all members of CPA Ontario;
 - (b) to the Public Accountants Council for the Province of Ontario;
 - (b) to all provincial bodies;and shall be made available to the public;
5. In the event Terrence Jewett fails to comply with the terms of this Order, his membership in CPA Ontario shall be revoked, and notice of his membership revocation, disclosing his name, shall be given in the manner specified above, and in a newspaper distributed in the geographic area of Terrence Jewett's practice. All costs associated with this publication

shall be borne by Terrence Jewett and shall be in addition to any other costs ordered by the Panel.

AND THAT:

6. Terrence Jewett shall pay costs of \$4,500.00 to CPA Ontario by August 24, 2020.

DATED at Toronto this 24th day of February, 2020.

A handwritten signature in blue ink, appearing to read "Dineley", with a stylized, cursive script.

Stephen Dineley, FCPA, FCA
Discipline Committee – Deputy Chair

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: An allegation of professional misconduct against **Terrence Jewett**, a suspended member of the Chartered Professional Accountants of Ontario, under **Rule 104.2(a)** of the CPA Code of Professional Conduct.

BETWEEN:

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

-and-

Terrence Jewett

APPEARANCES:

For the Professional Conduct Committee:	Kelvin Kucey, Counsel
For Mr. Jewett:	Present and Not Represented
Heard:	February 24, 2020
Decision and Order effective:	February 24, 2020
Release of written reasons:	March 5, 2020

REASONS FOR THE DECISION AND ORDER MADE FEBRUARY 24, 2020

I. OVERVIEW

- [1] This hearing was held to determine whether Terrence Jewett, a suspended member of CPA Ontario, failed to co-operate with the regulatory process of the Chartered Professional Accountants of Ontario (“CPA Ontario”) by failing to promptly reply in writing to CPA Ontario communications.
- [2] Mr. Jewett received his CA designation and became a member of the predecessor to CPA Ontario on April 12, 1975. He received his CPA designation in November 2012 with the unification of the accounting profession.
- [3] The allegation in this matter arises out of a complaint made by S.D., the executor of her husband’s estate. According to the complainant, Mr. Jewett had been appointed by CPA

Ontario to take carriage of S.D.'s husband's accounting practice following his death on February 16, 2017.

- [4] It is alleged that Mr. Jewett failed to co-operate with the regulatory process of CPA Ontario in the period of June 21, 2019 to November 6, 2019 when he failed to promptly reply in writing to CPA Ontario communications dated May 31, 2019 and July 2, 2019.
- [5] The onus was on the Professional Conduct Committee ("PCC") to show on a balance of probabilities that Mr. Jewett's conduct breached the CPA Code of Professional Conduct, and whether such a breach constituted professional misconduct.

II. PRELIMINARY ISSUES

- [6] On its own initiative, the Panel brought a motion pursuant to Rule 15.04 of the Rules of Practice and Procedure seeking an order to allow the hearing to proceed in electronically, allowing Mr. Jewett to attend by way of video conference.
- [7] The parties consented to the motion.
- [8] The Panel ordered that the hearing proceed by way of video conference.
- [9] During the course of the hearing, Mr. Jewett advised the Panel he did not have documentation being relied upon by the PCC readily available. He also asked that the Panel be provided a two page document upon which he intended to rely. On three occasions during the course of the hearing, the Panel briefly adjourned the hearing in order to ensure all the parties had documentation before them that was being relied upon.

III. ISSUES

- [10] The Panel identified the following issues arising from the allegation:
 - A. Did the evidence establish, on a balance of probabilities, the facts on which the particular alleged by the PCC was based?
 - B. If the allegation made by the PCC was established on the evidence presented on a balance of probabilities, did the allegation constitute professional misconduct?

IV. DECISION

- [11] The Panel found that the evidence presented at the hearing was clear, cogent and convincing evidence which established on a balance of probabilities that Mr. Jewett failed to cooperate with the regulatory process of CPA Ontario from June 21, 2019 to November 6, 2019.
- [12] The Panel was satisfied that the facts presented during the course of the hearing constituted a breach of Rule 104.2(a) of the CPA Code of Professional Conduct. The Panel found that having breached this Rule, Mr. Jewett had committed professional

misconduct.

V. REASONS FOR THE DECISION

Findings regarding the conduct of Mr. Jewett

- [13] Mr. Jewett denied the allegation of professional misconduct made against him.
- [14] The PCC relied upon the evidence found in the Affidavit of Theresa Tonelli, Director of Standards Enforcement with CPA Ontario (Exhibit 1).
- [15] On or about January 29, 2019, CPA Ontario received a complaint against Mr. Jewett from SD. SD alleged that Mr. Jewett, while appointed by a third party to act as an accountant to administer the accounting practice of SD's late husband, failed to deal with accounts, respond to her inquiries, keep her updated and had unilaterally disposed of property relating to her late husband's practice.
- [16] The complaint alleged that Mr. Jewett was retained on February 16, 2017, and while they had had communications in February 2018, SD claims that since April 2018, Mr. Jewett has not returned her calls. SD alleged that Mr. Jewett failed to provide information regarding the status of the practice and did not return property of her late husband's practice which she had requested.
- [17] On May 31, 2019, Ms. Tonelli wrote to Mr. Jewett advising him that CPA Ontario had received a complaint from SD. A copy of the complaint was enclosed and Ms. Tonelli requested that Mr. Jewett provide a written response to the issues raised in the complaint, inviting him to provide comments, information and/or documentation that Mr. Jewett might want to have considered during the course of the review of the complaint.
- [18] In her letter, Ms. Tonelli reminded Mr. Jewett that his written response was required in accordance with Rule 104 of the Code and requested that the response be provided by June 21, 2019. Ms. Tonelli also advised:

Written requests for an extension of the time to respond to this letter will be considered only in limited circumstances. Failure to respond to this letter will be referred to the Committee and may result in an allegation or allegations of professional misconduct.
- [19] Mr. Jewett did not respond to Ms. Tonelli's letter of May 31, 2019. During the course of the hearing, Mr. Jewett admitted that he did not open correspondence from CPA Ontario until after he had received notice of the disciplinary proceedings against him in November 2019.
- [20] On July 2, 2019, Tatiana Rabinovitch, Standards Enforcement Officer with CPA Ontario wrote to Mr. Jewett, advising that a response to Ms. Tonelli's letter dated May 31, 2019 had not been received from Mr. Jewett. A copy of Ms. Tonelli's letter was enclosed.

- [21] Ms. Rabinovitch reminded Mr. Jewett that in order for the PCC to promptly review complaints made against its members, it is necessary for members to respond in a timely fashion. She again advised him that his written response to the complaint was required pursuant to Rule 104 of the Code. Ms. Rabinovitch set out the specifics of Rule 104.1 and 104.2 for Mr. Jewett's review. Ms. Rabinovitch advised Mr. Jewett that his response was required on or before July 16, 2019.
- [22] Mr. Jewett did not respond to Ms. Rabinovitch's letter of July 2, 2019. During the course of the hearing, Mr. Jewett admitted that he did not open correspondence from CPA Ontario until after he had received notice of the disciplinary proceedings against him in November 2019.
- [23] On November 25, 2019 the PCC issued an allegation of professional misconduct against Mr. Jewett which was served upon him on November 28, 2019.
- [24] Mr. Jewett advised the Panel that on December 20, 2019 he wrote to Kristen Couch, Adjudicative Tribunals Assistant Secretary in response to correspondence he had received from Ms. Couch on December 19, 2019. In his letter to Ms. Couch, Mr. Jewett advised that he was unable to attend the disciplinary hearing in January and referred to health challenges and an upcoming cancer check-up. Mr. Jewett apologized for not responding and explained that he had "entered a state of denial regarding CPA mail" after having received a letter denying his request for a deferral of a practice inspection. Mr. Jewett surmised that "mental, emotional and physical trauma took over".
- [25] In his letter, Mr. Jewett denied the allegation of professional misconduct, but admitted that he did not read any correspondence from CPA Ontario until November 29, 2019. He attached his response to SD's complaint.
- [26] Mr. Jewett advised the Panel that in October 2018, he received a cancer diagnosis. He received treatment in March of 2019. He advised the Panel that after having received chemotherapy treatment, he received notice that he was to be the subject of a practice inspection by CPA Ontario. He advised that requests for an extension regarding the inspection were denied. According to Mr. Jewett he then began to avoid anything to do with CPA Ontario.
- [27] Mr. Jewett advised the Panel that it was not until he received notice of the allegation of professional misconduct in November of 2019 that he began to take action.
- [28] Mr. Jewett did not present any medical evidence that he was incapable of responding to the May 31, 2019 letter of Ms. Tonelli or the July 2, 2019 letter of Ms. Rabinovitch.
- [29] Based on Mr. Jewett's own admissions, he did not read any of the correspondence he had received from CPA Ontario until after he received notice of the disciplinary proceeding in November 2019.
- [30] While Mr. Jewett advises he provided a response to CPA Ontario on December 20, 2019 as an attachment to his letter to Ms. Couch, the Panel finds no response to the

complaint had been provided to Ms. Tonelli or Ms. Rabinovitch's letters by the deadlines set in each of their letters. It appears it was only upon learning that disciplinary proceedings had been commenced that Mr. Jewett finally opened his mail and learned of the complaint.

Finding of Professional Misconduct

- [31] There is no evidence before this Panel that Mr. Jewett responded within the deadlines provided by Ms. Tonelli in her May 31, 2019 letter or by Ms. Rabinovitch in her July 2, 2019 letter. Mr. Jewett himself acknowledged that he did not respond to these letters until after an allegation of professional misconduct had been served upon him in November 2019.
- [32] While Mr. Jewett appears to have provided a response to Ms. Couch on December 20, 2019, that response was provided five months after the July 16, 2019 deadline set in Ms. Rabinovitch's reminder letter of July 2, 2019.
- [33] Mr. Jewett has been a member of CPA Ontario or its predecessor since 1975. Throughout that time, Mr. Jewett has been subject to the rules which govern both his conduct and practice – including the duty to respond promptly to communications from his regulator.
- [34] While the Panel is sympathetic to Mr. Jewett's stated health challenges, his decision to avoid all correspondence from his regulator following a denial of a request for an extension of his practice inspection, resulted in Mr. Jewett's failure to reply to his regulator in a timely manner.
- [35] As a result of his failure to respond, CPA Ontario's investigation into the allegations made by SD was stymied, impeding upon CPA Ontario's ability to fulfil its mandate to protect both the public and the reputation of this profession.
- [36] The evidence presented by the PCC by way of Ms. Tonelli's affidavit (Exhibit 1), along with the admissions made by Mr. Jewett were clear, cogent and convincing. The Panel concluded that Mr. Jewett had failed to cooperate with the regulatory process of CPA Ontario by failing to promptly respond to Ms. Tonelli's letter of May 31, 2019 and Ms. Rabinovitch's letter of July 2, 2019. The Panel found that Mr. Jewett's conduct breached Rule 104.2(a) of CPA Ontario's Rules of Professional Conduct and having breached that Rule, this Panel found that Mr. Jewett engaged in professional misconduct.

VI. SANCTIONS

- [37] By way of sanction, the PCC sought a reprimand to be delivered by the Chair of the Panel, a \$5000 fine with 6 months to pay, a direction that Mr. Jewett cooperate within 30 days following which his membership is to be revoked if he does not abide by the conditions of the order, the standard notice of finding in the usual publications, and publication in the event of revocation.

- [38] In support of its submissions on penalty, the PCC presented a letter of guidance dated May 24, 2011 written to Mr. Jewett by DP Settingington, FCA – Deputy Chair of the PCC. The Panel found this letter of little assistance given not only the passage of time since its issuance, but also the lack of direct relevance to the issue currently before this Panel.
- [39] The PCC also relied upon the principles set out in a series of cases presented to the Panel to support the sanctions being sought. The sanctions proposed by the PCC seek to specifically deter Mr. Jewett from engaging in similar misconduct in the future; seek to generally deter other members of this profession from similar misconduct, and offer Mr. Jewett an opportunity to rehabilitate himself by providing him with an opportunity to submit his response to the letters of Ms. Tonelli and Ms. Rabinovitch, thereby addressing the complaint made against him. The cases presented by the PCC relate to other instances in which members failed to cooperate with their regulator.
- [40] Mr. Jewett provided the Panel with information regarding his cancer diagnosis in October 2018, his subsequent treatment in March of 2019, his efforts to carry on practice following his diagnosis and the events surrounding his attempts to delay a practice audit. Mr. Jewett made it clear that after having been denied an extension, he ceased engaging with his regulator. It was only after being served with the notice of the disciplinary proceedings in November 2019 that he “snapped out of it” and opened the correspondence he had filed in his briefcase. Within a month thereafter, he communicated with Ms. Couch and on December 20, 2019, Mr. Jewett advises he provided a response to the complaint to Ms. Couch. Mr. Jewett repeatedly advised the Panel that he had re-engaged with his regulator, attending the hearing and providing information to the Panel.
- [41] When considering the aggravating factors in this case, Mr. Jewett’s failure to promptly respond to the complaint as requested by Ms. Tonelli and Ms. Rabinovitch in their letters of May 31 and July 2, 2019 respectively has delayed CPA Ontario’s ability to complete its investigation into a complaint made by a member of the public. His admitted decision not to engage with his regulator is the most aggravating of factors in this Panel’s opinion. That decision resulted in a disciplinary hearing. It is Mr. Jewett’s duty to ensure that he is engaged with his regulator. If he is unable to do so, it is incumbent upon Mr. Jewett to advise his regulator and seek accommodation.
- [42] Mitigating factors considered by the Panel include the fact that Mr. Jewett has no disciplinary history. The Panel notes he did receive a letter of guidance in 2011, but considers the letter of little relevance. Mr. Jewett advised, and this Panel accepts that he is re-engaged with his regulator. It appears that Mr. Jewett also provided a response to CPA Ontario on December 20, 2019. His attendance at the hearing shows a willingness and ability to engage with his regulator.
- [43] While the Panel had no medical evidence before it, the Panel accepted Mr. Jewett’s account of his diagnosis and the difficulties he experienced thereafter. The Panel notes that Mr. Jewett continued to practise after the diagnosis. His decision to disengage with his regulator exposed Mr. Jewett to the current situation he finds himself in.

- [44] In considering the aggravating and mitigating circumstances in this proceeding, it is the decision not to engage with his regulator which stands out the most, calling both for specific and general deterrence. As such, the Panel accepts the PCC's submissions that a written reprimand should be delivered in order to ensure that Mr. Jewett understands the severity of his conduct. The Panel also agrees that Mr. Jewett should be provided with an opportunity to provide his response to the original complaint (and Ms. Tonelli's letter of May 31, 2019 and Ms. Rabinovitch's letter of July 2, 2019) within 30 days of the date of the hearing, thereby affording Mr. Jewett another opportunity to demonstrate that he is governable. If his December 20, 2019 response was somehow deficient, this condition will allow him time to provide another response. A failure to provide a response within 30 days of the hearing will result in the revocation of Mr. Jewett's membership. The Panel agrees that its Order should be publicized in the usual publications and that if his membership is revoked, it should be published in the newspaper in order to alert the public.
- [45] While the PCC requested a fine in the amount of \$5,000, in this particular case, the Panel orders a fine in the amount of \$3,500 to be remitted within 6 months of the date of the hearing and order. The cases presented by the PCC showed a range of fines for similar conduct have been imposed over recent years. While his illness and the impact of being denied an extension regarding a practice inspection did not amount to a defence to the conduct alleged, these events, coupled with Mr. Jewett's lack of disciplinary record and his recent re-engagement with his regulator merit some consideration. Mr. Jewett testified that he had sought assistance from CPA Ontario in the spring of 2019, albeit with respect to the practice inspection. The regulator's reaction, according to Mr. Jewett, failed to provide guidance, assistance or accommodation resulting in Mr. Jewett's disengagement from his regulator. While the Panel does not condone Mr. Jewett's disengagement, it would appear, based on the evidence before it, that better communication between the regulator and its members undergoing health issues, might have avoided this prosecution. The fine imposed is not insignificant and is not intended to detract from the severity of the conduct. It is intended to ensure that both Mr. Jewett and other members of this profession know that disengagement will not be tolerated, while at the same time recognizing the particular circumstances in this case. The fine is to be paid within 6 months of the hearing and order.

VII. Costs

- [46] The PCC presented a Costs Outline which was considered by the Panel. Total costs were in the amount of \$7,385.91. The PCC was seeking 2/3 of the total costs.
- [47] Had Mr. Jewett not decided to disengage from his regulator, this prosecution could have been averted. Costs were incurred as a result of Mr. Jewett's decision. He did not provide any evidence to suggest that he was unable to pay the costs award sought.
- [48] The Panel ordered costs in the amount of \$4,500. While slightly less than 2/3 of the total costs incurred, the Panel felt the amount was reasonable and fair in light of the

circumstances in this matter. Taking into consideration Mr. Jewett's health issues, the Panel has ordered that the costs be paid within 6 months of the Order.

Dated at Toronto this 5th day of March, 2020



Stephen Dineley, FCPA, FCA
Discipline Committee – Deputy Chair

Members of the Tribunal

David Handley (Public Representative)
Timothy Galvin, CPA, CA, CMA
George G. Ireland, CPA, CA
Salim Somani, CPA, CA, LPA

Independent Legal Counsel

Nadia Liva, Barrister & Solicitor