

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: An Allegation against **Paul W. Easterbrook, CPA, CA**, a member of the Chartered Professional Accountants of Ontario, under **Rule 201.1** of the CPA Ontario Code of Professional Conduct

BETWEEN:

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

-and-

Paul W. Easterbrook

APPEARANCES:

For the Professional Conduct Committee:	Jean Iu, Counsel
For Paul W. Easterbrook:	Present Mitchell Worsoff, Counsel
Heard:	May 4, 2023
Decision and Order effective:	May 4, 2023
Release of written reasons:	June 5, 2023

I. OVERVIEW

- [1] The Professional Conduct Committee of the Chartered Professional Accountants of Ontario (“PCC”) has alleged that Paul W. Easterbrook failed to maintain the good reputation of the profession and serve the public interest in that he sent electronic messages that were unprofessional and inappropriate given the nature of the relationship between Easterbrook and the recipient of the messages.
- [2] This hearing was held to determine whether the Allegation was established, whether the conduct breached Rule 201.1 of the CPA Ontario Code of Professional Conduct (“Code”) and whether the conduct amounted to professional misconduct.

[3] Easterbrook obtained his CPA, CA in April 2014. He began his career with Company A in May 2010 as a summer intern in the Toronto office. He left Company A in March 2014 when he was a Senior Accountant to work as an associate with Company B. Easterbrook has held various investment banking jobs, most recently joining Company C in June 2021 as Director of Investment Banking. He was terminated from his position in June 2022 because of a complaint made by the same complainant as this matter.

[4] From 2017 to 2022, Easterbrook was a facilitator for the CPA Ontario Professional Education Program (“PEP”), a graduate level program offered by CPA Ontario that makes up the educational portion of the CPA certification program. He facilitated his first course during the Winter 2017 session. As a facilitator, he was responsible for providing feedback on assignments submitted by students.

[5] The onus was on the PCC to show on a balance of probabilities that Easterbrook’s conduct breached Rule 201.1 and constituted professional misconduct.

[6] Easterbrook signed an Agreed Statement of Facts (“ASF”) (Exhibit 1) and admitted the Allegation of professional misconduct made by the PCC. Easterbrook confirmed these admissions before the Panel.

II. PRELIMINARY ISSUES

[7] Both parties agreed that there were no preliminary issues.

III. ISSUES AT THE HEARING

[8] The issues for this Panel to address were the following:

- a) Did the evidence establish, on a balance of probabilities, the facts on which the Allegation alleged by the PCC was based?
- b) If the Allegation made by the PCC was established on a balance of probabilities, did the Allegation constitute professional misconduct?

IV. DECISION

[9] The Panel was satisfied that the evidence established, on a balance of probabilities, the facts set out in the Allegation of professional misconduct.

[10] The Panel was satisfied that the Allegation constituted a violation of section 201.1 and having breached this Rule, Easterbrook committed professional misconduct.

V. REASONS FOR THE DECISION ON MISCONDUCT

Findings Regarding the Conduct of Easterbrook

[11] The complainant was an international student in the PEP program for which Easterbrook was the facilitator.

[12] After completing her Core 1 module in the PEP program, the complainant contacted Easterbrook for career advice. They later met at a coffee shop during which they discussed career opportunities in investment banking. Easterbrook also provided the complainant with resource material to assist her in preparing herself for professional interviews.

[13] In May 2022, the day after their meeting at the coffee shop, Easterbrook sent the complainant the following series of unwanted sexually suggestive text messages within a span of approximately 5-10 minutes:

Complainant: Yes, I live in downtown Toronto
Easterbrook: Ok. Happy to do a mock interview as well
Easterbrook: Up to you
Complainant: That's so nice of you! Thank you, Paul! Really appreciate it! I'll read through it and set up the meeting
Easterbrook: You still dating that guy?
Easterbrook: Sorry wrong person
Easterbrook: Lol
Complainant: No worries. 😊 Lol figured that.
Easterbrook: Could have made the interview more interesting
Easterbrook: Lol
Easterbrook: Sorry. Almost sent you a pic that I shouldn't. Realized you didn't have the context there
Complainant: Lol no worries 😊
Easterbrook: I can still send it if you want lol Jk
Complainant: No need no need Lol

Easterbrook: Shoot sorry that was wrong person too
Easterbrook: Jesus. Apologies
Easterbrook: Ok. Let's chat when you're ready
Complainant: For sure. Thank you for your Support! Have a nice day!
Easterbrook: I want to stick my cock in your mouth and cum all over your face
Easterbrook: Sorry I think there is something wrong with my phone. Whenever I click on another chat it goes to this one when I type and I don't notice. Not sure what is going on. Need to reset
Easterbrook: Are you getting those messages. Wtfffd
Easterbrook: So sorry
Easterbrook: Can you do me a favour
Easterbrook: Can your delete our convo and I'll delete as well. My phone is glitching hard
Easterbrook: Are you receiving these? Sorry for the bother

Finding of Professional Misconduct

- [14] Easterbrook admitted that his actions as set out in the ASF constituted professional misconduct. The Panel agrees. The admitted conduct is a clear and indisputable violation of Rule 201.1 of the Code and amounts to professional misconduct.
- [15] Easterbrook's professional status as a CPA provided him with the opportunity to offer career advice. Instead of helping, he elected to harass the complainant by sending her unwelcome sexually explicit messages. In doing so, he failed to act in a manner that would uphold the good reputation of the profession and its capacity to serve the public interest.

VI. DECISION ON SANCTION

- [16] Counsel for the PCC sought the following as an appropriate sanction in this matter: a written reprimand by the Chair, a fine in the amount of \$10,000, that Easterbrook's membership in CPA Ontario be suspended for a period of six months, that Easterbrook not act as a facilitator in the PEP program, full publicity disclosing Easterbrook's name to all members of CPA Ontario and all provincial bodies as well as the public, and consequences for failing to comply with the order. The PCC also sought costs.

[17] Counsel for Easterbrook submitted that the appropriate penalty in the circumstances was a fine, although no specific quantum was suggested. It was submitted that a suspension was not necessary and that publicly disclosing Easterbrook's name would be unnecessarily harsh. Finally, it was submitted that costs in addition to any fine were not necessary and would be unduly punitive.

[18] Having considered all the evidence, the law and the submissions of both parties, and the aggravating and mitigating factors, the Panel concluded that the appropriate sanctions are as follows:

- (a) Easterbrook's membership with CPA Ontario be suspended for six months;
- (b) Easterbrook shall refrain from acting as a facilitator in the CPA Professional Education Program (PEP);
- (c) A fine in the amount of \$7,500 payable by May 4, 2024;
- (d) A written reprimand;
- (e) Notice of the terms of the order be given to all members of CPA Ontario and to all Provincial CPA bodies and be made available to the public; and
- (f) If Easterbrook fails to comply with the terms of the order, his membership is suspended until he complies or for one month, whichever comes first, at which time, if he has not complied his membership will be revoked.

The Panel also ordered costs in the amount of \$14,807.67, payable by November 4, 2023.

VII. REASONS FOR DECISION ON SANCTION

[19] In any discipline proceeding, a Panel must consider all principles of sanction including those articulated in the Chartered Professional Accountants of Ontario Sanction Guidelines. In applying these principles, the Panel concluded that Easterbrook's conduct undermines public confidence in the standards of members of CPA Ontario and the effectiveness of the regulatory role of CPA Ontario. Accordingly, a serious penalty was necessary to protect members of the public, deter other members from engaging in similar misconduct and to maintain the public's confidence in the profession.

- [20] Until now, this profession has not had to sanction a member for engaging in sexually harassing behaviour of this nature. As there is no prior precedent to rely upon, it is up to this Panel to craft a sanction that adequately conveys the profession's denunciation of such serious misconduct. In cases of misconduct of this nature, it is the view of the Panel, for the purposes of general deterrence and protection of the public, a suspension must be the starting point.
- [21] Suspending Mr. Easterbrook's membership is necessary to denounce the conduct and to act as a deterrent to other members. A strong message needs to be sent to the profession that sexually harassing behaviour will not be tolerated and that those who choose to engage in this type of misconduct will face significant consequences.
- [22] A substantial penalty is also warranted because of the power imbalance that existed between Easterbrook and the complainant. Easterbrook, by virtue of being a facilitator and his status in the investment banking industry, was in a position of influence over the complainant and was someone who the complainant would have perceived to be well positioned to offer her guidance and career advice. This power imbalance is even more concerning where the complainant was an international student in the PEP program. Indeed, the Panel was mindful that international students may have particular vulnerabilities.
- [23] Easterbrook's conduct reflects a terrible lack of judgment and total disregard to the respect and dignity of the complainant who was looking to him as a mentor. Judgment and respect are important hallmarks of this profession. Easterbrook exhibited neither of these characteristics. Members of the public and the profession must be able to trust their accountants or mentors and count on their judgment and respect. They must be able to count on CPA Ontario to firmly discipline any accountant who breaches these important qualities.
- [24] Although rehabilitation is not a penalty objective in this context, the Panel accepted that there were mitigating factors that needed to be considered. Easterbrook has been a member of CPA Ontario since 2014 and has no discipline history. His counsel advised that Easterbrook was remorseful for his conduct. This remorse was reflected in his admission, albeit very late in the process, of professional misconduct, and signing the

ASF. Finally, Easterbrook participated in a full day, one-to-one sensitivity training program that was catered to his specific misconduct. Easterbrook also addressed the Panel. Although he provided no explanation for why he sent the text messages, the Panel accepted Easterbrook's statement that he understood the seriousness of his misconduct and that it would not be repeated.

[25] Although a substantial fine was necessary to reflect the seriousness of Easterbrook's misconduct, the Panel did not think it necessary to impose the fine sought by the PCC. The Panel was satisfied that by engaging in sensitivity training, Easterbrook had demonstrated some accountability for his actions. The Panel was satisfied that a \$7,500 fine would adequately convey the professional disapproval of Easterbrook's misconduct. This is a significant fine which reflects the seriousness of the misconduct and this profession's denunciation of it. It sends a clear message to the membership that misconduct of this nature will be met with severe sanctions and it provides assurances to the public in our ability to self regulate.

[26] A reprimand is almost always called for in cases of serious misconduct. It is called for here. A reprimand will further demonstrate to Easterbrook the severity of his misconduct and how engaging in such misconduct brings the reputation of the profession into disrepute.

[27] Publication of the sanction is required in order that the deterrent message is conveyed to other members of CPA Ontario and the public. Without publication, the deterrent value of the Panel's decision would be undermined. Further, an open discipline process enhances the public trust in the profession and in the discipline process. Withholding the name of a member who fails to act in a manner which maintains the good reputation of the profession and its ability to serve the public interest will undermine the profession's reputation and integrity.

VIII. COSTS

[28] The law is quite clear that an order for costs with respect to the disciplinary proceeding is not a penalty. Costs are intended to indemnify the PCC based on the principle that the profession should not bear all the costs of the investigation, prosecution and hearing

arising from a member's misconduct. It is customary for the PCC to seek 2/3 of the costs incurred during the investigation and prosecution of the matter.

- [29] The PCC filed a Costs Outline (Exhibit 4) at the hearing. Legal fees and disbursements, including the costs of the investigation and preparation for the hearing of this matter amounted to \$22,101.01. Some of these costs could have been avoided had Easterbrook not waited until close to the hearing to resolve the matter and agree to an ASF. Doing so at such a late stage meant that counsel for the PCC had to prepare for a contested hearing.
- [30] In the Panel's view, Easterbrook has not offered any reason why costs ought not to be ordered and no reason to deviate from the standard costs award to reflect 2/3 of the total costs incurred.
- [31] The Panel orders that Easterbrook pay costs of \$14,807.67 to CPA Ontario on or before November 4, 2023.

DATED this 5th day of June, 2023

A handwritten signature in black ink, appearing to be 'John Love', written in a cursive style.

John Love, CPA, CMA
Discipline Committee – Deputy Chair

Members of the Panel

Brian Mbesha, CPA, CGA
Catherine Wong, CPA, CA
Jim Huang, CPA, CGA
Nancy Tran, Public Representative

Independent Legal Counsel

Seth Weinstein, Barrister & Solicitor