

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: An Allegation against **Christopher L. Cook, CPA, CA**, a member of the Chartered Professional Accountants of Ontario, under **Rule 104.2** of the CPA Ontario Code of Professional Conduct

BETWEEN:

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

-and-

Christopher L. Cook

APPEARANCES:

For the Professional Conduct Committee:	Jean Iu, Counsel
For Christopher L. Cook:	Present Nick Cake, Counsel
Heard:	May 18, 2023
Decision and Order effective:	May 18, 2023
Release of written reasons:	June 15, 2023

REASONS FOR THE DECISION AND ORDER MADE MAY 18, 2023

I. OVERVIEW

- [1] This case is about the Member's failure to cooperate with his governing body with respect to one investigation. On April 27, 2022, the Standards Enforcement Branch of the Chartered Professional Accountants of Ontario ("CPA Ontario") received a complaint against Christopher L. Cook ("the Member"). An investigation was opened and multiple attempts to communicate with the Member were made. The Member failed to respond to any of Standards Enforcement staff's requests for information in relation to this complaint. As a result, staff were unable to investigate the complaint.
- [2] The evidence in support of the allegation was tendered in the form of the Affidavit of Alberta Tam, sworn March 15, 2023, and marked Exhibit 1.

II. THE COMPLAINT AND THE ALLEGATIONS

- [3] The Professional Conduct Committee (“PCC”) of CPA Ontario has made the following Allegation against the Member:

1. THAT the said Christopher L. Cook, CPA, CA, in or about the period of August 2, 2022 to January 11, 2023 failed to cooperate with the regulatory process of CPA Ontario, contrary to Rule 104.2 of the CPA Code of Professional Conduct, in that he failed to promptly reply in writing to communications from CPA Ontario to which a written reply is specifically required, namely letters written from Standards Enforcement staff dated August 2, 2022, September 9, 2022 and December 1, 2022.

III. PRELIMINARY ISSUES

- [4] Neither party raised any preliminary issues.

IV. ISSUES

- [5] The Panel identified the following issues arising from the Allegations:
- A. Did the evidence establish, on a balance of probabilities, the facts on which the Allegations by the PCC were based?
 - B. If the facts alleged by the PCC were established on a balance of probabilities, did the Allegations constitute professional misconduct?
 - C. If the answer to B. is yes, what is the appropriate sanction?

V. DECISION AND ORDER

- [6] The Panel found that the evidence established, on a balance of probabilities, the facts set out in the Allegation of professional misconduct.
- [7] The Panel was satisfied that the Allegation constituted a breach of Rule 104.2 of the Rules of Professional Conduct, and, having breached these Rules, the Member committed professional misconduct.
- [8] The Panel imposed the following Order on sanction and costs:
- 1. Christopher L. Cook shall pay a fine of \$5,000 to CPA Ontario by June 19, 2023;
 - 2. Christopher L. Cook shall be reprimanded in writing by the Chair of the hearing;

3. Notice of this Decision and Order, disclosing Christopher L. Cook's name, shall 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.

4. In the event that he fails to comply with any of the terms of this Order, Mr. Cook's membership with CPA Ontario shall be immediately suspended for a period of 60 days pending his compliance with the terms of the Order. If, after 60 days of membership suspension, his non-compliance with the terms of the Order continues, his membership in CPA Ontario shall be revoked forthwith and notice of the revocation, disclosing his name, shall be given in the manner specified above, and published in the Globe and Mail newspaper. All costs associated with this publication shall be borne by Christopher L. Cook and shall be in addition to any other costs ordered by the Panel.
5. Christopher L. Cook shall pay costs of \$2,200 to CPA Ontario by June 19, 2023.

VI. REASONS FOR THE DECISION ON MISCONDUCT

Findings Regarding the Conduct of Mr. Cook

- [9] Over a period of four months, the Member received five communications from Standards Enforcement staff. The communications were sent to the Member's email address and phone number on record with CPA Ontario. The Member did not respond to any of these communications, nor did he provide the requested information during the investigation.
- [10] The chart below sets out the dates, format and content of the communications:

DATE	FORMAT OF COMMUNICATION	CONTENT
August 2, 2022	Email and upload to FileCloud ¹	A copy of the complaint was provided to the Member with enclosures. The covering letter requested a response on or before August 23, 2022 .
September 9, 2022	Email and upload to FileCloud	The correspondence of August 2, 2022 was sent with a request for a response by September 22, 2022 .
October 3, 2022	Phone call	A voicemail message was left for the Member requesting a response to previous correspondence as soon

¹ FileCloud is a secure file transfer application used by Standards Enforcement Branch staff to communicate with Members.

DATE	FORMAT OF COMMUNICATION	CONTENT
		as possible.
December 1, 2022	Email and upload to FileCloud	The correspondence of August 2, 2022 was sent with a request for a response by December 8, 2022.
December 9, 2022	Phone call	A voicemail message was left for Member requesting a response to previous correspondence as soon as possible.

- [11] Standards Enforcement Staff were able to determine that the Member had viewed the correspondence on his FileCloud account on August 2, August 22, and October 18, 2022.
- [12] On January 26, 2023, CPA Ontario issued the Statement of Allegations. Subsequently, at the end of March 2023, the Member provided a substantive response to the previous requests for information authored by Standards Enforcement staff.
- [13] Counsel for the PCC informed the Panel that the PCC was satisfied that the Member had provided a complete response to the Standards Enforcement Branch's request for information.
- [14] The evidence demonstrates that Standards Enforcement Staff made multiple efforts, via email and telephone to communicate with the Member. The correspondence was sent to the Member's email address on record with CPA Ontario, and the telephone messages were left on the Member's telephone number on record with CPA Ontario. Although it is not necessary for the PCC to prove that the Member reviewed the correspondence, the evidence demonstrates that he was aware of the correspondence and had opened it in FileCloud. The Panel finds that the PCC has proved the facts underlying the misconduct on a balance of probabilities.

Finding of Professional Misconduct

- [15] Rule 104.2 of the *Rules of Professional Conduct* requires members to cooperate with the regulatory processes of CPA Ontario. For ease of reference Rule 104 is set out in relevant part below:

104.1 A member or firm shall co-operate with the regulatory processes of CPA Ontario.

104.2 A member or firm shall:

- (a) promptly reply in writing to any communication from CPA Ontario in which a written reply is specifically required;
 - (b) promptly produce documents when required to do so by CPA Ontario;
- and

- [16] There is no question that the Member breached Rules 104.1 and 104.2. It is indisputable that the Member failed to respond promptly to staff's requests for information. The Panel had no trouble finding that the Member committed professional misconduct in the manner alleged.
- [17] Moreover, the Member was present and represented at the hearing and did not contest the facts. The Member conceded that the facts constituted a breach of Rule 104.2 and constituted professional misconduct.

VII. DECISION AS TO SANCTION

Evidence in Relation to Sanction

- [18] Neither party adduced evidence on sanction, other than the PCC's costs outline, discussed below.
- [19] The parties entered into a joint submission on sanction. The Panel accepted the joint submission. The Panel's Order is set out in paragraph 8 above.

VIII. REASONS FOR THE DECISION AS TO SANCTION

- [20] A joint submission should be accepted unless it is contrary to the public interest or would bring the regulatory process into disrepute because it fell outside the reasonable range of sanction. In the words of Justice Moldaver in the matter of *R. v. Anthony-Cook*:²

[34] ... a joint submission should not be rejected lightly, a conclusion with which I agree. Rejection denotes a submission so unhinged from the circumstances of the offence and the offender that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper functioning of the justice system had broken down. This is an undeniably high threshold — and for good reason, as I shall explain.

- [21] With the exception of the joint submission on costs, discussed below, the Panel had no difficulty accepting the joint submission of the parties on sanction. The penalty proposed is the standard penalty requested when a member has failed to cooperate with CPA Ontario, but has provided a complete response prior to the hearing.

2. [R. v. Anthony-Cook, 2016 SCC 43 ¶ 34](#)
[See also: Bradley v. Ontario College of Teachers, 2021 ONSC 2303](#)
[And: Reasons - Louis Sapi - CASE ID-D-21-014 \(cpaontario.ca\) ¶ 59](#)

IX. COSTS

- [22] The law is settled that an order against a member for costs with respect to a disciplinary proceeding is not a penalty. Costs are intended to indemnify the PCC, based on the underlying principle that the profession, as a whole, should not bear all the costs of the investigation, prosecution and hearing arising from the member's misconduct.
- [23] Costs are awarded at the discretion of the Discipline Committee. It has become customary for the PCC to file a Costs Outline, and to seek two thirds of the costs incurred in the investigation and prosecution of the matter.
- [24] The PCC Costs Outline was made Exhibit 2. The cost of the prosecution totalled \$4,436.12, two thirds of which amounts to \$2,957.41.
- [25] Both parties jointly submitted that a cost award of \$2,200, representing just under half of the actual costs incurred, is appropriate. The Panel was not provided with any evidence supporting Mr. Cook's strained financial circumstances which would justify a departure from the norm. In circumstances where the PCC is deviating from its customary position of seeking costs amounting to two thirds of the actual costs incurred, the Panel would expect to see some evidence in support of the departure. However, considering that the issue is costs, rather than penalty, that the parties joined in their submission on costs, and that the difference between ordering payment of half the costs versus two thirds of the costs is de minimus, the Panel has accepted the joint submission on costs.

DATED this 15th day of June, 2023



Andrea B. Mintz, CPA, CA, LPA
Discipline Committee – Chair

Members of the Panel

James C. Blackwell, CPA, CA
Ian Wollach, CPA, CA
John Wilkinson, Public Representative

Independent Legal Counsel

Lisa Freeman, Barrister & Solicitor