

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: An Allegation against **Gongshu (Grace) Huang, CPA, CGA**, 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-

Gongshu (Grace) Huang

APPEARANCES:

For the Professional Conduct Committee: Julia McNabb, Counsel

For Gongshu Huang: Present and Self-represented

Heard: May 25, 2023

Decision and Order effective: May 25, 2023

Release of written reasons: June 15, 2023

REASONS FOR THE DECISION AND ORDER MADE MAY 25, 2023

I. OVERVIEW

- [1] This case is about the Member's failure to cooperate with her governing body with respect to one investigation. On April 20, 2022, the Standards Enforcement Branch of the Chartered Professional Accountants of Ontario ("CPA Ontario") opened an investigation into the conduct of Gongshu (Grace) Huang ("the Member"). Multiple attempts to communicate with the Member were made. The Member failed to provide a substantive response 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 Jennifer Carriere, sworn May 3, 2023, and marked Exhibit 1.

II. THE COMPLAINT AND THE ALLEGATIONS

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

1. THAT the said Gongshu Huang, CPA, CGA, in or about the period of May 20, 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 she 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 April 29, 2022, July 14, 2022 and September 14, 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 this Rule, the Member committed professional misconduct.
- [8] The Panel imposed the following Order on sanction and costs:
- 1. Gongshu (Grace) Huang shall pay a fine of \$5,000 to CPA Ontario by February 25, 2024;
 - 2. Gongshu (Grace) Huang shall be reprimanded in writing by the Chair of the hearing;

3. Notice of this Decision and Order, disclosing Gongshu (Grace) Huang'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 Gongshu (Grace) Huang fails to comply with the terms of this Order, her membership in CPA Ontario shall be suspended until such time as she does comply, provided that she complies within 30 days from the date of her suspension. In the event she does not comply within the 30-day period, her membership in CPA Ontario shall be revoked, and notice of the revocation, disclosing her name, shall be given in the manner specified above, and in a newspaper distributed in the geographic area of her practice. All costs associated with this publication shall be borne by Gongshu (Grace) Huang and shall be in addition to any other costs ordered by the Panel.

5. Gongshu Grace Huang shall pay costs of \$3,000 to CPA Ontario by February 25, 2024.

VI. REASONS FOR THE DECISION ON MISCONDUCT

Findings Regarding the Conduct of Ms. Huang

- [9] On April 20, 2022, while reviewing an unrelated matter, Standards Enforcement staff received information suggesting the Member may have been providing accounting services to the public in corporate form through a firm, without having registered the firm with CPA Ontario. A file was opened for the purpose of investigating this matter.
- [10] Over a period of five months, the Member received nine communications from Standards Enforcement staff. The communications were sent to the Member's email address or made to the phone number on record with CPA Ontario as well as an alternate email address and the Member's mobile phone number. Although the Member communicated with Standards Enforcement Staff over this period, the Member did not provide the requested information during the investigation.
- [11] The chart below sets out the dates, format, and content of the communications:

DATE	FROM	FORMAT OF COMMUNICATION	CONTENT
April 29, 2022	Standards Enforcement	Email and upload to FileCloud ¹	Correspondence was sent to the Member notifying her that a file had been opened relating to an

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

DATE	FROM	FORMAT OF COMMUNICATION	CONTENT
			allegation that she was providing accounting services to the public through an unregistered firm. The covering letter requested a response on or before May 20, 2022 .
May 4, 2022	Member	Email	The Member wrote to Standards Enforcement staff indicating she was unable to access FileCloud.
May 5, 2022	Standards Enforcement staff	Phone Call	Standards Enforcement staff called the Member and spoke with the Member's assistant. Staff asked to speak with the Member who was not available. Staff emphasized the urgency and importance of the matter.
May 5, 2022	Standards Enforcement staff	Email	Standards Enforcement staff provided a manual for instructions on how to login to FileCloud and access documents.
May 25, 2022	Standards Enforcement staff	Phone Call	Standards Enforcement staff called the Member on her cell phone. Staff informed the Member they had not received her response. The Member expressed the view that she thought she had responded. Staff explained that she had responded to a different investigation, but that this was a new investigation she was required to respond to. Staff gave the Member an extension to June 10, 2022 .
May 25, 2022	Standards Enforcement staff	Email	The original correspondence from April 29, 2022, was sent and the new response date of June 10, 2022 was confirmed.
May 25, 2022	Member	Email	The Member responded "Thanks. I will work on it."
July 14, 2022	Standards Enforcement staff	Email	The Member was reminded of her obligation to respond to her governing body; she was cautioned that failure to do so could result in discipline, and the deadline was extended to July 28, 2022 . The original letter of April 29, 2022 was enclosed.

DATE	FROM	FORMAT OF COMMUNICATION	CONTENT
September 26, 2022	Standards Enforcement staff	Phone call	The Member expressed the view that she had already sent in her response. Standards Enforcement staff confirmed this was not the case. The Member asked for a one week extension to October 3, 2022 . Standards Enforcement staff agreed to the extension.
September 26, 2022	Standards Enforcement staff	Email	The Member was reminded that cooperation is required. An extension to October 7, 2022 was granted. All previous correspondence was provided to the Member.
October 12, 2022	Standards Enforcement staff	Phone Call	Standards Enforcement staff called the Member and advised they had not yet received her response to their letters. The Member advised she was too busy to attend to the matter. A new response date of October 14, 2022 was agreed upon.
October 12, 2022	Standards Enforcement staff	Email	All previous correspondence was sent and the new response date of October 14, 2022 was confirmed.

- [12] The Member did not provide Standards Enforcement staff with a response to their correspondence until after the Statement of Allegations was issued.
- [13] The Statement of Allegations in this matter was issued on January 19, 2023. On April 4, 2023, a Case Conference in this matter was held. Subsequently, on April 10, 2023, the Member provided a response to the request for information from Standards Enforcement staff. Counsel for the PCC, Ms. McNabb, confirmed that Standards Enforcement staff were satisfied that the Member had provided a complete response to their queries.

Finding of Professional Misconduct

- [14] 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 requested;
- (b) promptly produce documents when required to do so by CPA Ontario; and...

- [15] 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.
- [16] Moreover, the Member was present 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

- [17] The Member testified during the finding portion of the hearing. The Member's evidence during the finding portion of the hearing was relevant to sanction, rather than finding. However, as the Member was self-represented, the Panel allowed her to give her evidence and make her submissions at the finding portion of the hearing and to apply any relevant content to the sanction portion of the hearing. Both parties consented to this approach.
- [18] The Member accepted responsibility for her failure to respond promptly to her regulator and expressed genuine remorse for her conduct. Initially, there was confusion on the Member's part in that she believed that the requests related to this investigation were related to one investigation when, in fact, this was a separate, second investigation. This was made clear to the Member by Standards Enforcement staff during the phone call on May 12, 2022. The Member cited personal and professional challenges, some of which related to the pandemic, which contributed to her failure to respond to the requests for information made by Standards Enforcement staff. During the pandemic, the Member had to operate her business out of her home. At the relevant time, she had two small children who were attending school online at home, her aging parents were living with her and in 2022, she and her husband separated. In addition, the Member was very short staffed during the relevant time and was inundated with work. Finally, she had already responded to one investigation and felt overwhelmed when asked to respond to a second investigation. The Member felt so overwhelmed that she did not even open the documents provided to her via FileCloud.
- [19] At the sanction portion of the hearing, counsel for the PCC adduced the Affidavit of Zarina Moosa, sworn May 3, 2023 (Exhibit 2) and a costs outline (Exhibit 3). Zarina Moosa is a Professional Standards Coordinator in the Investigations and Prosecutions department of the Professional Standards division of CPA Ontario. Ms. Moosa's affidavit provided evidence of a previous complaint against the Member which resulted in the Chair of the Professional Conduct Committee authoring a Letter of Guidance and Advice to the Member, dated September 30, 2022. Counsel for the PCC informed the Panel that the Letter of

Guidance and Advice had limited relevance to the matter at hand. She submitted that while there were some overlapping themes in the conduct that led to the Letter of Guidance and Advice and the failure to cooperate, the Member did not have the benefit of the Letter of Guidance and Advice in the current matter until she received the last phone call and letter from Standards and Enforcement staff.

- [20] 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

- [21] 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.

- [22] 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.
- [23] By the time the Member finally responded to Standard Enforcement staff's requests for information, almost a whole year had passed. During this entire time, the Member continued to provide services to the public under her CPA designation. The Member testified to a number of professional and personal circumstances that contributed to her failure to cooperate with the investigation. While the Panel is sympathetic to the personal challenges experienced by the Member during the period of non-cooperation, the Panel observes that the Member continued to provide services to the public and asserted she was often working 20-hour days, six or seven days a week.
- [24] It is unacceptable for members to shirk their duties to their regulator while simultaneously providing services to the public and benefitting from their designation. It is important to send a strong message to the profession that prioritizing their practice over their obligations to their regulator will not be tolerated.
- [25] Moreover, CPA Ontario expended considerable resources in its attempt to secure the

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

Member's cooperation. In the course of the investigation, staff wrote six emails enclosing three letters and made three phone calls to the Member. If staff were required to expend this type of effort in every investigation, the regulatory arm of CPA Ontario would quickly become dysfunctional. As noted by the Panel in *Hametaj (Re)*:

... a member's failure to cooperate delays investigations, jeopardizes the collection of evidence including documents that are destroyed over time, and the erosion of the recollection of witnesses, and ultimately results in a backlog of investigations. This can all lead to erosion of public confidence in the self-regulatory authority of the tribunal. Furthermore, members must be aware that their failure to co-operate and respond in a prompt and substantive fashion results in the implementation of a second investigative process to compel the member's compliance. This diverts CPAO attention from the primary complaint or investigation at a cost of time and resources funded by all members.³

- [26] CPA Ontario has the power to suspend or revoke a member when a member fails to respond to requests for information. The Panel is concerned that members who are not motivated by the consequences of failing to respond to their governing body, may be even less motivated to respond to a client who has genuine concerns about the services provided, but lacks the clout of CPA Ontario.
- [27] In this matter, the Member communicated with Standards Enforcement staff for a period of six months, was given five deadline extensions and was cautioned that the matter would be referred to the PCC and could result in an allegation of professional misconduct if she did not respond. Yet she failed to provide a substantive response in a timely fashion. Ultimately, however, the spectre of a suspension had the desired effect and the Member responded prior to the hearing.
- [28] In addition to a written reprimand, the Member is required to pay a \$5,000 fine, and this decision will be on the CPAO website. The Panel believes that the sanction imposed in this matter satisfies the requirements of specific and general deterrence and reinforces to both the public and the profession that CPA Ontario takes seriously the duty of members to respond promptly to their regulator.

IX. COSTS

- [29] The law is settled that an order against a member for costs with respect to the 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 of the costs of the investigation, prosecution and hearing arising from the member's misconduct.
- [30] Costs are awarded at the discretion of the Discipline Committee. It has become customary for the PCC to file a Costs Outline in the same form as used in civil proceedings, and to seek 2/3 of the costs incurred in the investigation and prosecution of the matter.

³ *Hametaj (Re)*, May 18, 2022 ¶ 57

- [31] In this matter, the PCC filed a Costs Outline. Legal fees and disbursements amounted to \$4,698.65. The parties agreed on costs in the amount of \$3000. This is an ordinary costs award which the Panel is prepared to order.
- [32] The Committee orders the Member to pay costs of \$3,000 to CPA Ontario on or before February 25, 2024.

DATED this 15th day of June, 2023.

A handwritten signature in black ink that reads "Bernard S. Schwartz". The signature is written in a cursive, flowing style.

Bernard S. Schwartz, FCPA, FCA
Discipline Committee – Deputy Chair

Members of the Panel

Alexandra Finkel, CPA, CA
Janice Sheehy, CPA, CMA
Michelle Sauv  , CPA, CA
Marianne Park Ruffin, Public Representative

Independent Legal Counsel

Lisa Freeman, Barrister & Solicitor