



## Notice of Motion: Reconsideration

Name of moving party: Michael Paul Cooper, CPA Ontario ID: 304006

Name of responding party: CPAO Professional Conduct Committee

This motion is to be heard: Orally

Committee the motion is to be heard by: Discipline

### THE MOTION IS FOR:

1. an order overturning the decision to revoke the membership of Mr. Michael Cooper on April 2, 2015 for non-compliance with an Order of the Discipline Committee made on February 19, 2015 (the "Order").
2. an order to readmit Mr. Michael Cooper to CPA Ontario membership pursuant to the application for readmission filed by Mr. Cooper on May 4, 2023 (the "Application").

### THE GROUNDS FOR THE MOTION ARE:

1. Mr. Cooper did not purposefully fail to cooperate with the regulatory processes of the CPA Ontario contrary to Rule 104.2(a) of the Rules of Professional Misconduct, in that he was not aware of the written or other communications sent by CPA Ontario at the relevant time.
2. Following the death of his mother in 2009, Mr. Cooper's personal life began to unravel, particularly in the years 2014-2017, during which Mr. Cooper and his former spouse, Suzanne (Cooper) Halberstadt, were embroiled in a very bitter separation and divorce. Mr. Cooper was distracted by this and other personal issues concerning one of his children.
3. Mr. Cooper did not appear at the hearings before the Discipline Committee as he was unaware of the various proceedings leading up to the Order.

4. Mr. Cooper learned of the matter concerning his suspension from membership from his cousin, Richard Cooper, and contacted the CPA Ontario forthwith.
5. As soon as Mr. Cooper confirmed the status of his membership with CPA Ontario, he contacted his existing clients and transferred his files that required the services of a CPA/CA to Mr. Paul White. From that time forward, Mr. Cooper never performed any services as a CPA and did not ever hold himself out to the public as a member of the CPA Ontario (see Affidavit of Paul White).
6. Once Mr. Cooper's personal life was getting back in order, in early 2017, Mr. Cooper engaged a lawyer to assist with his reinstatement to CPA Ontario membership. However, he did not have the funds available to pay the outstanding fines and lawyer fees and abandoned his efforts. It was not until 2021 that Mr. Cooper was able to obtain the funds to pay the outstanding fines that resulted from his suspension/revocation and he commenced proceedings to reinstate his membership with the CPA Ontario.
7. As Mr. Cooper was unable to afford hiring a lawyer, he was pursuing the matter on his own and working through this process with Ms. Anita Patel at the CPA Ontario who was most helpful throughout and confirmed to Mr. Cooper in late October, 2021 that he had fulfilled all of the steps required and just needed to await a hearing date.
8. After hearing nothing further and after making attempts to find out the status of the matter, in early March, 2022, Mr. Cooper asked Mr. Jim Lane to reach out the CPA Ontario on his behalf. Mr. Lane informed Mr. Cooper that there was a charge against him by the Ontario courts for holding himself out as a CA/CPA while under suspension and that he believed this was what was preventing Mr. Cooper from being readmitted. Mr. Cooper maintains that he never held himself out as a CA/CPA once he knew he was under suspension.
9. Upon learning of this matter, Mr. Cooper sought details from the CPA Ontario about the allegations of him holding himself out as a CA/CPA. Mr. Cooper ultimately obtained a copy of the October 2, 2018 decision of the Ontario Court of Justice concerning this charge (the "OCJ Decision").
10. Mr. Cooper, who was experiencing a great deal of personal and emotional stress, did not

appear before the Ontario Court of Justice hearing held on October 2, 2018. He does not recall receiving the summons and therefore was unable to provide any contrary evidence or submissions.

11. Had Mr. Cooper had an opportunity to appear before the Ontario Court of Justice, he would have provided evidence concerning the inclusion of the CA/CPA designation on an old resume of his after his suspension from membership.
12. A friend of Mr. Cooper, David Katz, had contacted another CPA Ontario member, Mr. Mark Feldstein, to hire Mr. Cooper. Mr. Katz stated that he explained to Mr. Feldstein that Mr. Cooper was having difficulty obtaining any work as he was not a member of the CPA Ontario and that his licence to practice had been suspended and ultimately revoked. Mr. Katz stated that Mr. Feldstein told him to have Mr. Cooper call him (see Affidavit of David Katz).
13. Mr. Cooper stated that he reached out to Mr. Feldstein by telephone and was asked to submit his resume. As Mr. Cooper had not been working and dealing with his personal issues, he did not have a current resume. He stated he advised Mr. Feldstein that he only had an older resume that included his CA/CPA designation and that he would need to make changes prior to forwarding his resume. Mr. Cooper stated that Mr. Feldstein instructed him to send the resume that he had and arranged for an interview with Mr. Cooper. Mr. Cooper stated he met with Mr. Feldstein and his staff, but never received a job with Mr. Feldstein.
14. It is noteworthy that in the OCJ Decision, evidence was submitted that "At the lunch that Mr. Feldstein had with Mr. Cooper **or somewhat before** (emphasis added)....", Mr. Cooper told Mr. Feldstein that he was a suspended chartered accountant. It is further noteworthy that the Court did not see fit to impose probation or the maximum penalty in that the Court had no evidence that any actual clients were actually aggrieved or that there was any monetary loss and it was a first offence.
15. Other than the inclusion of a designation as a CA/CPA in an old resume which Mr. Cooper clearly stated was no longer applicable due to his suspension, at no time did Mr. Cooper ever hold himself as a CA/CPA once he learned of his suspension or after his membership from the CPA Ontario was revoked. The very fact that he transferred to Mr. White all of his clients' files that required the CA/CPA designation to perform services supports this fact. No matter what was going on in Mr. Cooper's personal life, he ensured his clients were protected with an

orderly transition of his clients' files.

16. In 2023, after failed efforts by Mr. Cooper to work through the reinstatement process, he retained this firm, to act on his behalf. Upon being advised of the current amount owing as a result of the OCJ Decision, Mr. Cooper promptly paid the fine, notwithstanding his claim that he was innocent and did not hold himself out as a CA/CPA once he learned of his suspension.
17. Section 24.1 of Regulation 6-2 is satisfied because more than five years have elapsed since the Order.
18. Further to Section 24.11 of Regulation 6-2, there exists a material change in circumstances that makes the decision or order, or a part of the decision or order, unnecessary in that Mr. Cooper has complied with all of the requirements of the terms of the Order:
  - a. Mr. Cooper has paid the fine in the amount of \$3,500 to the Chartered Professional Accountants of Ontario in accordance with paragraph 2 of the Order;
  - b. Mr. Cooper has responded to the letter dated May 16, 2014 from the Director of Professional Standards in accordance with paragraph 3 of the Order; and
  - c. Mr. Cooper has paid the fixed cost in the amount of \$2,500 to the CPA Ontario in accordance with paragraph 6 of the Order.
19. Further to Section 24.2 of Regulation 6-2, the condition of Section 24.1.1 is met and the order revoking Mr. Cooper's membership will result in a miscarriage of justice that would be prevented by the reconsideration by reason that Mr. Cooper, who had no previous involvement with the Discipline Committee,
  - a. has satisfied all of the terms of the Order;
  - b. has complied with all of the requirements in order to be readmitted to membership, as confirmed by the letter from the CPA Ontario Registrar pursuant to Section 33 of Regulation 6-2 dated May 29, 2023;
  - c. has paid the fine levied by the Ontario Court of Justice in the OCJ Decision in the amount of \$17,104.50 (initially \$10,000);
  - d. is fully responding and cooperating with the regulatory process of the CPA Ontario; and
  - e. has endured significant hardship as a result of not being able to practice as a CPA and will be further prevented from earning his livelihood in his chosen profession if he is not readmitted to membership with the CPA Ontario.

20. Pursuant to Section 30 of Regulation 6-2, Mr. Cooper submitted to the CPA Ontario Registrar an Application for readmission to membership on May 4, 2023.
21. As part of the Application, Mr. Cooper (a) provided his declaration of good character (which was on file with the CPA Ontario Registrar), (b) provided his declaration that he had never been declared bankrupt or taken the benefit of any statutory provision for insolvency, (c) submitted logs confirming that he had completed all required courses and Continuing Professional Development hours in accordance with Regulation 7-2, including the triennial requirements, (d) provided two references on Referees' Recommendation Forms completed by two CPA members in good standing who are not related to him and who have known him for at least one year (the "Referee Forms"), and (e) paid all required fees and dues, with the exception of additional fees and dues that the CPA Ontario Registrar confirmed will be calculated once Mr. Cooper is readmitted to membership.
22. Pursuant to Section 33 of Regulation 6-2, Mr. Cooper received written confirmation from the CPA Ontario Registrar dated May 29, 2023 that although he was required to bring a motion for reconsideration, he had otherwise met the requirements for readmission set out in Regulation 7-1, with the exception of meeting the good character requirement which is the subject matter of this motion for reconsideration.
23. The CPA Ontario Registrar refrained from commenting on the good character provision based on Mr. Cooper's response in the affirmative that he had his professional licence suspended and revoked as a result of his non-compliance with the Order.
24. Pursuant to Section 35 of Regulation 6-2, Mr. Cooper has established that:
- a. in accordance with Section 35.1, confirmation under section 33 has been obtained from the CPA Ontario Registrar;
  - b. in accordance with Section 35.3, the requirements for reconsideration provided in section 24 have been met; and
  - c. in accordance with Section 35.4, Mr. Cooper has complied with all of the terms of the Order which led to a revocation of his membership.

DOCUMENTARY EVIDENCE that will be used at the hearing of the motion:

1. Application for Readmission to Membership submitted on May 4, 2023, including the Referee



Forms.

2. Letter from the CPA Ontario Registrar pursuant to Section 33 of Regulation 6-2 dated May 29, 2023.
3. Affidavit of Mr. Michael Cooper sworn September 27, 2023.
4. Affidavit of David Katz sworn September 22, 2023.
5. Affidavit of Paul White sworn September 26, 2023.
6. Transaction Receipt from the Ontario Court of Justice confirming payment of outstanding fine dated April 14, 2023.

Date 09/28/2023:



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AND TO  
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