

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: An Allegation against **SALAH HASSAN, 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-

Salah Hassan

APPEARANCES:

For the Professional Conduct Committee: Lindsay Bandini, Counsel

For Salah Hassan: Present (April 18, 2024)
Prabh Gill, Paralegal

Heard: April 18, 2024 and September 12, 2024

Decision and Order effective: September 12, 2024

Release of written reasons: November 19, 2024

REASONS FOR THE DECISION AND ORDER MADE SEPTEMBER 12, 2024

I. OVERVIEW

- [1] The Professional Conduct Committee (PCC) of the Chartered Professional Accountants of Ontario (CPA Ontario) made an Allegation that Salah Hassan (the Member) failed to cooperate with the regulatory process of CPA Ontario, by failing to respond to correspondence from a Standards Enforcement Officer between September 22, 2023 and November 8, 2023.
- [2] The Member had been admitted to membership in CPA Ontario through the Certified General Accountants Association of Ontario legacy program in 2014. The Member had changed his employment status to 'retired' as of 2017, and his membership in CPA Ontario was active as at the time of the Allegations.
- [3] In August 2023, CPA Ontario received an anonymous complaint that the Member

produced an audit report that did not meet the standards of the profession. The complaint referenced a news report that a former mayoral candidate in London, Ontario was questioned by the local Compliance Audit Committee about apparent discrepancies in his campaign finances. Some of the questions related to the mayoral candidate's single-paragraph audit report, which was authored by the Member.

- [4] After receiving the complaint, CPA Ontario Standards Enforcement staff contacted the Member, requesting his response to the issues raised. They followed up with additional correspondence and voicemails to ensure a reply.
- [5] On November 28, 2023, having received no response from the Member, the PCC issued the Allegation that the Member had failed to cooperate with the regulatory process of CPA Ontario, contrary to Rule 104.2 of the Code.
- [6] The onus was on the PCC to show, on a balance of probabilities, that the Member's conduct breached Rule 104.2 of the Code.
- [7] The hearing was scheduled for one day on April 18, 2024, but was not completed. The PCC finished its case by calling the Standards Enforcement Officer as a witness, but time ran out before the Member could testify. Due to scheduling issues, the hearing did not resume until September 12, 2024. At the resumption of the hearing, the representative for the Member requested an adjournment on the basis that the Member was not well enough to participate in the hearing. The Panel denied the adjournment request. As the Member was not present, the Panel proceeded in his absence to hear submissions from the parties on conduct and found, on a balance of probabilities, that the Allegation was established. The Panel then moved to the sanctions phase of the hearing and ultimately ordered that the Member be fined \$5,000 and be required to cooperate with Standards Enforcement within 30 days.

II. PRELIMINARY ISSUES

- [8] The Panel had received materials from both parties in advance of the hearing, which were marked as Exhibits on consent. The Affidavit dated April 11, 2024 of Sharleen Saldanha, CPA, CA, ("Saldanha"), Standards Enforcement Officer, was marked as Exhibit 1. The Document Brief of the PCC was marked as Exhibit 2. The Document Brief and Factum of the Member was marked as Exhibit 3.

PCC Motion to Introduce Additional Documents into Evidence (April 18, 2024)

- [9] The PCC brought a motion to introduce into evidence two additional documents relating to events that occurred subsequent to the time period of the Allegation. The PCC submitted that these two documents would show that the Member's failure to cooperate continued well after the dates of the Allegation, and were relevant to refute the Member's position that he had remedied his non-cooperation as soon as he was able to do so. The PCC referenced the Member's submissions filed with the Tribunal in advance of the hearing (Exhibit 3). In these submissions, the Member asserted that he was unable to respond to the Standards Enforcement Officer during the time period of the Allegations because of his wife's illness and a family emergency in Egypt. He further stated that he

cooperated with the investigation and remedied his non-cooperation as soon as he was able to, after the Allegation was issued. The PCC submitted that by taking this position, the Member had put his post-Allegation conduct into issue, and that the evidence the PCC sought to introduce, showing a continued failure to cooperate, was therefore relevant.

- [10] The two documents the PCC sought to introduce were: (1) a second affidavit from Saldanha, dated April 11, 2024, which indicated that her requests remained outstanding as of that date; and (2) a Direction from the Pre-Hearing Conference dated February 12, 2024 that the Member respond to Standards Enforcement by February 19, 2024. The PCC submitted that this second document provided evidence of the Member's lack of cooperation by the date of the Direction.
- [11] The representative for the Member took the position that the Directions from the Pre-Hearing Conference were relevant to the issues before the Panel, but that the second affidavit of Saldanha, on continued non-compliance, was not relevant.
- [12] The Panel found both documents to be relevant. The Member framed his defence as an inability to respond during the time period of the Allegation, which he claimed was subsequently remedied as soon as he was able. This defence relied on the assertion that the later remedy of non-cooperation supported the inference of his inability to cooperate during the Allegation period, and that his failure to respond at that time did not constitute professional misconduct. Evidence indicating that the Member continued to fail to cooperate months after he claimed he had cooperated was therefore relevant to an issue before the Panel: would the failure of the Member to cooperate during the time period of the Allegation amount to professional misconduct? The Panel found that the second affidavit of Saldanha was relevant and reliable and admitted it into evidence as Exhibit 4 pursuant to Rule 19 of the Rules of Practice and Procedure. The Panel found that the Directions of the Pre-Hearing conference of February 12, 2024 were relevant and reliable and admitted them into evidence as Exhibit 5 pursuant to Rule 19 of the Rules of Practice and Procedure, and pursuant to Rule 12.09 of the Rules of Practice and Procedure, which provides that Directions arising from a Pre-Hearing Conference may be disclosed to the Panel with the consent of the parties, on the motion of a party, or on the Panel's own initiative.

The Member's Motion for an Adjournment (September 12, 2024)

- [13] At the resumption of the hearing on September 12, 2024, the Member did not attend the electronic hearing. Through his representative he moved for an adjournment, on the basis that he was not able to participate in the hearing due to physical and mental health challenges, and a lack of decision-making capacity. Through his representative, the Member provided written submissions and documentary evidence, consisting of a notification dated June 4, 2024 for an unspecified medical appointment at an unspecified date, and a notification dated August 26, 2024 for a follow-up appointment on September 17, 2024 to a colonoscopy which had already occurred (Exhibit 6).
- [14] The Member's written submissions erroneously stated that he was scheduled for a "colonoscopy/polypectomy" on September 17, 2024, which was characterized as an

“ongoing medical treatment for a serious physical condition [which] has caused considerable stress and precludes [the Member] from effectively engaging in the legal process.”

- [15] The Member’s written submissions further stated that he was facing “significant mental health challenges due to ongoing personal issues” including his wife’s deteriorating health; the recent passing of his sister and other family members; financial hardship; and the allegations of professional misconduct he was facing.
- [16] Finally, the Member’s written submissions stated that due to these physical and mental health issues, he was unable to provide instructions to his representative or make informed decisions about the case.
- [17] In oral submissions, the Member’s representative indicated that an adjournment of one month would be sufficient. He expressed confidence that the Member would be able to resume the hearing in one month, and also expressed confidence that he would be able to obtain medical evidence of the Member’s condition if granted an adjournment. In response to a question about why the motion was not brought earlier, the Member’s representative indicated that the problem only came to his attention a few weeks prior when he reached out to the Member in advance of the hearing’s resumption, and found that the Member’s condition had deteriorated.
- [18] The PCC opposed the adjournment request, arguing that the evidence presented in support of the motion did not specify the medical issue preventing the Member from participating in the hearing. The only evidence provided was regarding an upcoming follow-up to a colonoscopy which had already occurred. There was no evidence in respect of any mental health difficulties, or evidence suggesting that the Member was under the care of a mental health professional. None of the issues raised by the Member in the submissions were acute or arose recently. There was no evidence to support the Member’s submission that he was unable to participate in the hearing, and no evidence to support his position that the situation would be resolved in one month.
- [19] In determining whether the adjournment sought by the Member should be granted, the Panel considered Rule 14 of the Rules of Practice and Procedure. Rule 14 provides that adjournment requests should be brought as soon as practicable, and brought on notice absent unforeseen circumstances. Rule 14 sets out the factors a panel may consider in respect of an adjournment request, including prejudice to a person, the timing of the request, efforts made to avoid the adjournment, the public interest, the availability of witnesses, and the requirements for a fair hearing.
- [20] The Panel found a lack of evidence in support of the grounds relied on by the Member for the adjournment. While the Member’s submissions stated that he suffered physical and mental health challenges which made him unable to participate in the hearing, he did not present sufficient evidence to support such a finding. The Member presented no evidence relating to his mental health. The only evidence presented related to an upcoming follow-up to a colonoscopy, and confirmation of an unspecified appointment at an unspecified date. This evidence does not come close to supporting the claims made by the Member that he was “severely compromised”, “emotionally and mentally unfit to proceed with the hearing”, and unable to provide instructions to his representative.

- [21] The Panel also had concerns about the timing of the adjournment request. Over four months had passed since the previous hearing date, and the grounds raised by the Member for the adjournment were not based on recent developments. The Member did not provide an adequate explanation for why the adjournment request had not been brought at an earlier date, or why medical evidence in support of the adjournment was not available at the time the adjournment request was heard.
- [22] The Panel considered the possibility that the Member may not attend the hearing if the adjournment was not granted, and recognized that he had not yet given evidence in defence of the allegation against him. Had the Member presented compelling evidence that he was unable to meaningfully participate in the hearing, this factor would have weighed heavily in favour of an adjournment. However, the paucity of evidence supporting the assertion that he was unable to participate in the hearing mitigated concerns about prejudice to the Member and the fairness of the hearing.
- [23] The Panel considered the potential harm to the public interest if the adjournment were granted under these circumstances. The conduct subject to the Allegation began in September 2023, and the Panel received evidence that the Member continued to fail to cooperate as of April 11, 2024. CPA Ontario is mandated to govern the profession in the public interest, and that mandate is undermined if members fail to respond promptly to communications from Standards Enforcement. The Panel found that the Member's continued failure to provide the information required by Standards Enforcement to conduct its investigation risked undermining the public's confidence in the profession's ability to regulate itself. If an adjournment were granted in circumstances where there was evidence that the Member remained uncooperative, but inadequate evidence to support the Member's grounds for the adjournment, the public interest would be compromised.
- [24] After considering the factors outlined in Rule 14, the Panel concluded that they did not support granting an adjournment. Therefore, the request for an adjournment was denied.

III. ISSUES

- [25] 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 these facts were established on the evidence on a balance of probabilities, did the facts as alleged constitute professional misconduct?

IV. DECISION

- [26] The Panel found that the evidence established, on a balance of probabilities, the facts on which the Allegations by the PCC were based.
- [27] The Panel was satisfied that the facts alleged constituted a breach of Rule 104.2 of the Code, and having breached this Rule, the Member had committed professional misconduct.

V. REASONS FOR THE DECISION ON MISCONDUCT

Evidence Relating to the Conduct of the Member

- [28] Evidence in support of the Allegation was contained in the Saldanha Affidavit dated April 11, 2024 (Exhibit 1). Saldanha also testified.
- [29] The Member was engaged by KR to produce an audit report with the financial statements of his 2022 campaign for mayor of London, Ontario. Members of the local Compliance Audit Committee questioned KR about his campaign finances after concerns were raised in a public complaint. The questions put to KR referenced the single-paragraph audit report, which included the Member's name but not his signature.
- [30] On August 3, 2023, CPA Ontario received an anonymous complaint that referenced a CTV London news report on the above issue. The complaint alleged that the Member produced an audit report that did not meet the standard of a competent accountant, and did not meet the requirements for licensure in Ontario pursuant to the *Public Accounting Act, 2004*, S.O. 2004, c. 8 and the CPA Ontario By-Law (setting out the requirements relating to the practice of public accounting and a Public Accounting Licence (PAL)).
- [31] On September 8, 2023, Standards Enforcement staff wrote to the Member at his preferred email address on record with CPA Ontario, advising him that a matter has been brought to the attention of the Standards Enforcement department of CPA Ontario, which required his written response in accordance with Rule 104 of the Code by September 22, 2023. The email advised that the matter was described in the enclosed copy of a letter from Saldanha, which had been uploaded to FileCloud, a secure file sharing program that allows users to exchange documents. FileCloud has been used by Standards Enforcement since April 2020 as the primary way of corresponding with and sharing documents with members of CPA Ontario. The email provided instructions for accessing FileCloud including a link to the letter, and provided contact information in case the Member had issues accessing the letter on FileCloud. Saldanha confirmed in cross examination that Standards Enforcement no longer uses paper correspondence.
- [32] The letter on FileCloud was dated September 8, 2023, notifying the Member of the complaint, and requesting his response by September 22, 2023 in accordance with Rule 104 of the Code. In the letter, the following information was requested of the Member:
- (a) Copies of letters of engagement for the services agreed by KR;
 - (b) A copy of the audit report that had been referenced in the CTV News (London) report;
 - (c) A written response to the allegations raised, taking into account provisions of the Code, in particular Rules 201.1 (Maintenance of the good reputation of the profession), Rule 202.1 (Integrity and due care), Rule 205 (False or misleading documents and oral representations), and Rule 206 (Compliance with professional standards).
- [33] The Member did not respond to the email or letter, and did not access the letter on FileCloud.

- [34] On September 29, 2023, Standards Enforcement Staff wrote again to the Member at his preferred email address, advising him that a letter had been uploaded to FileCloud. The email message advised in bold text that a reply to the letter was required by October 6, 2023 pursuant to Rule 104 of the Code and that failure to respond by this date could result in an allegation of professional misconduct.
- [35] The letter on FileCloud dated September 29, 2023 indicated that no reply to the September 8, 2023 letter had been received, and that a written reply was required by October 6, 2023 pursuant to Rule 104 of the Code. The letter reproduced Rule 104 of the Code in bold text and warned that failure to respond by October 6, 2023 would be referred to the Professional Conduct Committee and could result in an allegation of professional misconduct.
- [36] Also on September 29, 2023, Standards Enforcement Staff left a voicemail for the Member on his preferred telephone number of record with CPA Ontario. The voicemail answering message identified the phone number as belonging to the Member. The voicemail left by Standards Enforcement Staff advised that the call was with respect to correspondence sent on September 8, 2023 and September 29, 2023 and requested that a response be provided as soon as possible. Standards Enforcement Staff provided a return number in case the Member had any questions.
- [37] The Member did not respond to the email or letter dated September 29, 2023 or call the number provided in the voicemail. The Member did not access the letter on FileCloud.
- [38] On October 10, 2023, Standards Enforcement Staff wrote again to the Member at his preferred email address, advising him that a letter had been uploaded to FileCloud, and was also attached to the email as a PDF file, with the password to the attachment forthcoming in a separate email. The email stated in bold text that his written reply to the letter was required in accordance with Rule 104 of the Code by October 17, 2023, failing which the matter would be referred to the PCC and could result in an allegation of professional misconduct.
- [39] The letter on FileCloud dated October 10, 2023 indicated that no reply to the letters of September 8 and 29, 2023 had been received and that the Member's written reply was required by October 17, 2023 pursuant to Rule 104 of the Code. Like the previous letter, Rule 104 of the Code was reproduced in bold text and the Member was warned that a failure to respond by October 17, 2023 would be referred to the PCC and could result in an allegation of professional misconduct.
- [40] Also on October 10, 2023, Standards Enforcement Staff left a voicemail for the Member on his preferred telephone number of record with CPA Ontario. The voicemail answering message identified the phone number as belonging to the Member. The voicemail left by Standards Enforcement Staff advised that the call was with respect to correspondence sent on September 8, 2023, September 29, 2023, and October 10, 2023, and requested that a response be provided as soon as possible.
- [41] The Member did not respond to the email or letter dated October 10, 2023 or respond to the voicemail. The Member did not access the letter on FileCloud.
- [42] Saldanha testified that Standards Enforcement protocol provides that after three email

messages and two voicemail messages the matter typically is transferred to Investigations and Prosecutions. This transfer occurred on November 8, 2023. By that date Standards Enforcement Staff had not received any response from the Member. As of that date, the Member had not viewed any of the three letters sent to him on FileCloud, though there was no indication that any of the emails sent to the Member had not been received or were undeliverable.

[43] The Member submitted materials in Exhibit 3 which included his communications to CPA Ontario expressing why he did not respond to the communications from Standards Enforcement within the time period of the Allegation.

[44] On November 30, 2023, the Member wrote to the Tribunals Office, apologizing for not responding to “your email.” The Member wrote:

This is because my wife was not feeling well and I was supporting her taking her to the hospital back and forth during the last three months. I also travelled to my home country on November 1 to support my sister and other family members who are suffering from health and other legal issues. I am currently in Egypt and my city close to Gaza. What do you need from me!!
(Exhibits 2 and 3)

[45] The Tribunals Office responded on the same day stating that they do not have any record of his file, and suggesting that he contact the Standards Enforcement department (email provided) for further information (Exhibit 2).

[46] On December 17, 2023, the Member wrote an email to Standards Enforcement, denying that he had violated any CPA Ontario “rules and regulations.” He wrote that the person who called him did not tell him what was in the email and that she should have told him. The Member wrote that the only email he had seen was a CPA survey. The Member wrote that he was busy with his wife in the hospital in September and October and travelled to Egypt for emergency family issues on November 1, 2023, where he still was (Exhibits 2, 3 and 4B).

[47] On January 25, 2024, the Member wrote to the PCC and Tribunals Office and indicated the following:

Please note that the person who called me, she told me that I have an email from CPA. I asked her what are the contents of the email, she did not respond, she said it is an email from the CPA. I looked at my email I did not see any email except a survey email from the CPA, I filled it and send it to CPA. I thought her call was a scam! I did not see any other email relating to the conflict of interest until you sent me the email that relates to this issue.

Please note that I was in the hospital with my wife and I was so busy with her during the month of September and October and I travelled to Egypt on November 1 for emergency family issues and I returned back on December 26, 2023. I did not have my Canada phone number with me.

Please note that I did not violate any rules or regulations in my life or

caused any harm to any human being or animals on earth. Unfortunately the person who called me did not provide me with information about the email.

Please accept my apology if unintentionally I did anything violates *[sic]* any of the CPA rules and regulations.” (Exhibits 2 and 3)

- [48] On January 26, 2024, the Member wrote to the PCC and the Tribunals Office, attesting to his longstanding membership, and “commitment and compliance” to CPA Ontario. He responded to the allegation of non-cooperation by stating that:

Regrettably, due to an unavoidable family matter in the Middle East, my communication channels were limited, and my phone was not operational in that region. During this time, I received a voicemail from one of your employees, wherein she mentioned an email. Misinterpreting her message, I believed it pertained to a survey conducted by your office which I promptly completed.

The Member wrote that upon his return and receiving the email outlining the misconduct allegation, he was “taken aback” as the miscommunication was unintentional and he had “no prior knowledge of any wrongdoing.” The Member concluded by requesting that the file be closed “based on my unblemished record and dedication to the association.”

- [49] Exhibit 2, submitted by the Member, included a doctor’s letter dated September 15, 2023, addressed “To Whom it May Concern”, stating that the Member accompanied his wife to the emergency department on September 15, 2023 due to “acute medical concerns” and that “[t]he patient will require ongoing treatment through our outpatient clinics.” The note indicated the patient was also seen in the Emergency Department on September 5, 2023 for similar concerns.
- [50] Exhibit 2 also included an Egyptair Electronic Ticket Receipt in the Member’s name for a flight from Toronto to Cairo leaving October 31, 2023 and arriving November 1, 2023.
- [51] According to the FileCloud activity log, the Member viewed the Standards Enforcement Staff letters dated September 8 and September 29, 2023 on February 6, 2024 (Exhibit 4D).

Findings Regarding the Conduct of the Member

- [52] The Panel concluded that the evidence established, on a balance of probabilities, the facts set out in the Allegation of professional misconduct. Specifically, the Panel concluded that the Member, from September 22, 2023 to November 8, 2023 failed to cooperate with the regulatory process of CPA Ontario, contrary to Rule 104.2 of the Code.
- [53] The wording of Rule 104.2 of the Code is clear, and includes the requirements that a member promptly reply in writing to any communication from CPA Ontario in which a written reply is specifically requested, and that a member must promptly produce documents when required to do so by CPA Ontario.
- [54] Pursuant to the Preamble to the Code, the Guidance to Rule 104 is intended to assist in

the understanding and application of the Rule. The relevant Guidance provisions of Rule 104 provide in part that:

- (2) Lack of co-operation includes attempts to delay, mislead or misdirect CPA Ontario by concealing relevant information, providing false, incomplete or misleading statements or information, failing to respond to communications or otherwise obstructing the regulatory processes of CPA Ontario. Lack of co-operation does not include good faith assertions of legal privilege.
- (3) The requirement for prompt written replies and production of documents contemplates the establishment of a reasonable timeframe to respond to the request. Requests for reasonable extensions will not normally be refused; however, repeated requests without adequate grounds will be refused.
- (6) The requirement to co-operate with CPA Ontario includes a requirement to co-operate with officers, staff, volunteers or agents acting on behalf of CPA Ontario in matters described in Rules 104.1 and 104.2.

- [55] Case law recognizes that if a professional is unable to comply with their professional obligations for reasons beyond their control, then a finding of professional misconduct should not result. The Ontario Court of Appeal in *Law Society of Ontario v. Diamond* referred favourably to the reasons of the Appeal Division of the Law Society Tribunal which recognized that a licensee would not necessarily be found guilty of professional misconduct merely on the basis of failing to meet the Law Society's timelines. The Court wrote: "According to the Appeal Division, if factors beyond the licensee's control resulted in an inability to respond to the Law Society, then a finding of professional misconduct may not result." [[Law Society of Ontario v. Diamond, 2021 ONCA 255](#) at para. 46]
- [56] The caselaw of the Discipline Committee of CPA Ontario is consistent with this approach, finding that only in the absence of credible evidence that a member was unable to respond due to an illness or disability, would the failure of a member to respond promptly or completely constitute a breach of Rule 104 (see, for example, [Kagan](#) (2022) and [Choy](#) (2020)).
- [57] The Member did not deny that he failed to respond to the communications from Standards Enforcement from September 22 to November 8, 2023. Rather, the Member submitted that he was unable to respond to Standards Enforcement during the time period of the Allegation because he was too busy attending to his wife's medical needs, and because he had to travel to Egypt due to a family emergency. The Member also submitted that he was unaware from the communications from Standards Enforcement that they required a response from him in relation to anything other than a CPA survey.
- [58] The evidence in Exhibit 2 includes a doctor's note dated September 15, 2023 indicating that the Member accompanied his wife to the Emergency Department of the Mackenzie Health Hospital on September 15, 2023 due to acute medical concerns, and that his wife was also seen in the Emergency department on September 5, 2023. The note further stated that the Member's wife will require ongoing treatment through outpatient clinics. The evidence in Exhibit 2 also included a receipt in the Member's name for a ticket from Toronto to Cairo, leaving October 31, 2023.

- [59] While the Panel is sympathetic to the stress the Member faced due to his wife's medical situation, it did not find that the evidence relating to his wife's hospital visits in September or the Member's trip to Egypt on October 31 supported a finding that he was unable to respond to the communications from Standards Enforcement dated September 8, September 29, or October 10, 2023, which required his response.
- [60] The Member's submissions, made in writing and orally through his representative, sought to characterize the Member as lacking the capacity to respond, due to the illness of his wife and his sister in Egypt. The Member, however, presented no evidence of his own physical or mental capacity to support this position. In the context of such a claim, the case law of the Discipline Committee is clear that absent credible evidence that the member was unable to respond due to an illness or disability, the failure of a member to respond promptly or completely to the correspondence from Standards Enforcement constitutes a breach of Rule 104.
- [61] The Member also submitted that when he was in Egypt, he had limited access to his emails and his phone messages. However, the communications from Standards Enforcement were all sent before the Member left for Egypt on October 31, 2023. Further, the Member presented no evidence to support his submission of limited access to his email and phone messages while in Egypt, and in fact provided two emails which he wrote to CPA Ontario from his preferred email address, dated November 30, 2023, and December 17, 2023, during the period he said he was in Egypt. This evidence supports a finding that, even if the Member did have limited email and phone access while he was in Egypt, he was not unable to respond to Standards Enforcement during this time.
- [62] The Member submitted that the communications from Standards Enforcement did not alert him to the urgency of responding. The Panel found no merit in this submission. Each email message from Standards Enforcement indicated that a response from the Member was required by a specific date, in accordance with Rule 104 of the Code. The emails of September 29 and October 8, 2023 highlighted in bold text that failure to respond would be referred to the PCC and could result in an allegation of professional misconduct. The Panel found that these email messages clearly communicated the urgency of responding, with bold text setting out the potential consequence of an allegation of professional misconduct if the Member failed to respond. Even if the Member did not access the letters uploaded to FileCloud, the emails clearly advised the Member of the jeopardy (allegations of professional misconduct) that he faced if he did not respond.
- [63] The emails also included a phone number and email address which the Member could have used to contact CPA Ontario if he had any confusion about the messages or difficulty accessing FileCloud. The voicemail left for the Member on September 29, 2023 included a phone number for the Member to call if he had any questions. The Member did not take advantage of the opportunity to seek clarification of any questions he may have had, or to ask for an extension of time if he was having difficulty responding in the time requested. The Member made no contact with CPA Ontario until November 30, 2023, after the Allegation of professional misconduct had been issued.
- [64] The Member also submitted that Standards Enforcement should have attempted to reach him through regular mail when he failed to respond to their emails. The Panel found that

it was not for the Member to choose the method of communication used by Standards Enforcement. It is an obligation of every member of CPA Ontario to provide updated contact information, including telephone numbers, mailing addresses and email addresses to which communications are sent. As the Panel found in [Young \(2024\)](#), if the member is unable to access a mode of communication and requires an accommodation, it is the member's responsibility to seek assistance and/or accommodation.

- [65] Standards Enforcement received no indication that any of the emails sent to the Member were not received by the Member. The Member implicitly admitted that he did receive at least the emails of September 29 and October 10, 2023, by stating in his submissions that only the first email of September 8, 2023 went into his spam folder.
- [66] Finally, the Member submitted that as soon as he returned to Canada, he promptly addressed the inquiries from Standards Enforcement, by adding his signature to his audit report for the mayoral campaign of KR. The Panel found that signing the audit report did not address the inquiries from Standards Enforcement and did not constitute cooperation with the regulatory process of CPA Ontario. The correspondence from Saldanha dated September 8, 2023 (Exhibit 1B) set out three items that the Member had to provide to Standards Enforcement in response to the complaint: copies of letters of engagement for the services agreed to by KR; a copy of the audit report that was referenced in the CTV News (London) report; and a written response to the issues raised in the complaint, having regard to Rules 201.1, 202.1, 205 and 206 of the Code. The evidence of Saldanha was that the Member did not provide Standards Enforcement with any of these materials upon his return to Canada and had not done so by April 11, 2024.

Finding of Professional Misconduct

- [67] It is critical to the profession's ability to regulate itself that its members cooperate fully with the regulatory process of CPA Ontario. The vital nature of the duty to cooperate has been emphasized consistently in the caselaw of the Discipline Committee.
- [68] The Panel in [Baksh \(2017\)](#) stated at para. 27:
- The privilege of membership in CPA Ontario carries with it a duty to actively co-operate with the regulator to resolve all matters where the regulator is acting to protect the public and the good name of the profession. This is essential to the viability of the profession continuing as a self-regulating profession. Failure to co-operate is a very serious matter, clearly constituting professional misconduct.
- [69] The Panel in [Iannone \(2023\)](#) stated at para. 20:

In order to fulfill its mandate to protect the public interest, CPA Ontario must ensure the accountability of its members. Rule 104 of the Code, requiring members to cooperate with the regulatory process, is a critical tool for this purpose. To properly investigate a complaint from the public, an investigator must be able to access the relevant facts in a timely manner. If members fail to respond promptly and completely to communications from Standards Enforcement, CPA Ontario's ability to fulfill its mandate of

governing the profession in the public interest is frustrated.

- [70] The Panel's finding that the Member did not respond to the communications from Standards Enforcement which required a response, in the absence of credible evidence that he was unable to respond due to factors beyond his control, supports the conclusion that the Member failed to cooperate with CPA Ontario in breach of Rule 104.2 of the Code and that he committed professional misconduct.

VI. DECISION AS TO SANCTION

- [71] After considering the evidence, the law, and the submissions, the Panel ordered that the Member be fined \$5,000 payable within one year, and that the Member cooperate with the requests of Standards Enforcement within 30 days. Notice of the decision and order is to be given to all members of CPA Ontario, all provincial bodies, and shall be made available to the public.
- [72] If the Member does not comply with the terms of the Panel's order, he will be suspended from membership in CPA Ontario until such time as he does comply. If he does not comply within 30 days of suspension, his membership in CPA Ontario will be revoked. Notice of the revocation will be provided as specified above and published in the *Globe and Mail* newspaper, with the costs of publication to be borne by the Member.

VII. REASONS FOR THE DECISION AS TO SANCTION

- [73] In support of its position on sanction, the PCC introduced an affidavit dated August 20, 2024 from Saldanha (Exhibit 7), in which she stated that as of the date of the affidavit, the Member had still not responded to her correspondence of September 8, September 29, and October 10, 2023. Consequently, the complaint against the Member continued to remain active and on-going.
- [74] The PCC submitted that the Member should be fined \$5,000, with one year to pay, and that the Member should be granted one additional opportunity to cooperate with the investigation, failing which he would be suspended for 30 days, and if he continued to fail to cooperate within that additional 30-day period, his membership would be revoked.
- [75] The Member was not present on the second day of the hearing when the issue of sanction was addressed. The Member's representative advised that while he had spoken with the Member that day, he did not have instructions to take a position on sanction. The Member's representative had read to the Panel a statement which the Member conveyed to him by telephone on the second day of the hearing. In this statement, the Member expressed that he was sad and disillusioned by the outcome of the hearing, and that he was disappointed with CPA Ontario's focus on disciplinary action, which he said lacked regard for the value of his long career, the difficult personal challenges he faced, and the efforts that he had made to comply with the requests of Standards Enforcement. The Member complained that CPA Ontario prioritized punishment over other considerations, resulting in an unjust smear on his career that has left a permanent scar.
- [76] Pursuant to Regulation 6-2, in determining appropriate sanctions the Panel shall consider aggravating and mitigating factors, and may consider the relevant principles of sanction,

including protecting members of the public, promoting public confidence in the profession, denouncing the misconduct, achieving specific and general deterrence, maintaining high ethical standards of the profession, and facilitating rehabilitation.

- [77] In determining the appropriate sanction, the Panel considered the nature of the misconduct, as well as aggravating and mitigating circumstances, and the relevant caselaw cited by the PCC.
- [78] The Panel found that the nature of the misconduct, being the Member's complete failure to respond to the inquiries of Standards Enforcement, raised concerns about public confidence in the profession's ability to govern its own members. As noted above, CPA Ontario's ability to fulfil its mandate of governing the profession in the public interest is frustrated if members fail to respond to communications from Standards Enforcement Officers.
- [79] The Panel found that the Member's lengthy career with no prior disciplinary record constituted a mitigating factor. The Panel was sympathetic to the Member's submissions about the illness of his wife as well as other family members in Egypt, but the limited evidence provided, including how these circumstances impacted him, lessened the weight the Panel placed on this mitigating factor.
- [80] The Panel found that the Member continued to deny responsibility for his misconduct and demonstrated a lack of insight regarding his actions. The statement he provided to his representative, in which he blamed CPA Ontario for the harm to his reputation, reflected a complete absence of insight or remorse. Because the Member did not take responsibility for his actions and showed no insight, he was unable to benefit from the leniency he might have otherwise received had these mitigating factors been present.
- [81] The Panel found the continued failure of the Member to comply with the requests of Standards Enforcement to be a significant aggravating factor. Combined with his misleading claim that he had fully cooperated, the Member's ongoing failure to cooperate, 11 months after the initial request, constituted a shocking lack of respect for the regulatory process of CPA Ontario.
- [82] After considering the nature of the offence and weighing the mitigating and aggravating factors, the Panel found that the sanctions submitted by the PCC were appropriate in this case. A review of the caselaw, including *Iannone* (2023) and *Kagan* (2022), demonstrates that a fine of \$5,000 is standard where there is a single instance of a failure to cooperate. The Panel felt that this fine would provide sufficient specific and general deterrence, and that allowing the Member one year to pay would take into account any financial limitations he may be experiencing given his "retired" status.
- [83] While the Member's prolonged and continued failure to cooperate could have justified an immediate suspension, the Panel determined that it was appropriate to grant the Member the opportunity of an additional 30 days to provide the information required by Standards Enforcement, failing which he would be suspended.

VIII. COSTS

- [84] The law is settled that an order for costs against the Member 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.
- [85] Costs are ordered 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 two-thirds of the costs incurred in the investigation and prosecution of the matter.
- [86] The PCC's Costs Outline is Exhibit 9. The total costs were \$12,788.17, two-thirds of which is just over \$8,500, the amount sought by the PCC. The Panel found that this amount for costs was reasonable and found that it was appropriate for the Member to pay two-thirds of those costs, as is the standard practice of the Discipline Committee. Accordingly, costs were set at \$8,500, payable within one year.

DATED this 19th day of November, 2024

A handwritten signature in blue ink, appearing to read 'A. Finkel', with a stylized flourish at the end.

Alexandra Finkel, CPA, CA
Discipline Committee – Deputy Chair

Members of the Panel

Imran Kamal, Public Representative
Jana Marečková, Public Representative
Janice Sheehy, CPA, CMA
Ian Wollach, CPA, CA

Independent Legal Counsel

John Dent, Barrister & Solicitor