

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

**DISCIPLINE COMMITTEE**

**IN THE MATTER OF:** Allegations against **SHAMSUDDIN TEJANI, CPA, CA**, a member of the Chartered Professional Accountants of Ontario, under **Rules 201.1** and **206.1** of the CPA Ontario Code of Professional Conduct

**BETWEEN:**

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

**-and-**

**Shamsuddin Tejani**

**APPEARANCES:**

**For the Professional Conduct Committee:** Jean Iu, Counsel

**For Shamsuddin Tejani:** Present  
Ali Tejani, Counsel

Heard: September 22, 2023

Decision and Order effective: September 22, 2023

Release of written reasons: October 23, 2023

**REASONS FOR THE DECISION AND ORDER MADE SEPTEMBER 22, 2023**

**I. OVERVIEW**

- [1] This hearing was held to determine whether Shamsuddin Tejani (“the Member”) failed to comply with a prior order of the Discipline Committee and whether he failed to provide professional services in accordance with generally accepted standards of practice of the profession.
- [2] In a previous disciplinary hearing held on June 1, 2021, the Member was found to have engaged in professional misconduct when, between December 1, 2018 to July 31, 2019, he failed to perform professional work in accordance with the generally accepted standards of the profession in relation to 3 audit engagements and 2 review engagements. Having found that the Member had engaged in professional misconduct, the Discipline Committee imposed a number of sanctions including a requirement that the Member enter into a

Supervision Agreement for a period of 24 months whereby all assurance work undertaken by the Member would be reviewed by a Supervisor. The Member entered into a Supervision Agreement on July 2, 2021.

- [3] As a result of inquiries made by the Vice-President, Investigations and Prosecutions, CPA Ontario ("Vice-President") in November 2022, it was discovered that the Member had not provided files to his Supervisor as required by the Supervision Agreement. In response to inquiries by the Vice-President, the Member subsequently provided a list of 8 audit engagements and 2 review engagements which he had completed since the June 1, 2021 disciplinary hearing and Order. In his response to the Vice-President, the Member acknowledged that he had not provided the engagement files he had prepared to the Supervisor prior to issuing the assurance engagement reports, as required by the Supervisory Agreement.
- [4] In the present matter, the onus was on the Professional Conduct Committee ("PCC") to show on a balance of probabilities that the Member's conduct breached Rules 201.1 and 206.1 of the CPA Ontario Code of Professional Conduct, and that his conduct constituted professional misconduct.
- [5] The parties entered into an Agreed Statement of Facts ("ASF") in which the Member admitted the facts set out therein and that by engaging in such conduct, he has committed professional misconduct.

## **II. ISSUES**

- [6] The Panel proceeded to consider the following issues:
  - 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 have been established on a balance of probabilities, did the Allegations constitute professional misconduct?

## **III. DECISION**

- [7] The Panel found that the facts and admissions as set out in the ASF and in the Document Brief established, on a balance of probabilities, the facts upon which the Allegations made by the PCC were based.
- [8] The Panel was satisfied that the facts as proven by the PCC and admitted by the Member constituted a breach of Rules 201.1 and 206.1 of the CPA Ontario Code of Professional Conduct and that the violation of those Rules amounted to professional misconduct.

#### IV. REASONS FOR THE DECISION

##### *Findings Regarding Conduct of the Member*

- [9] The Member was represented at the hearing by counsel, Ali Tejani.
- [10] The PCC filed an ASF (Exhibit 1), which had been executed by the PCC and the Member on September 5, 2023. At the time the Member signed the ASF, he declined the assistance of counsel. At the hearing, the Member was represented by counsel. Neither he nor his counsel opposed the filing of the ASF, nor did the Member or his counsel seek to alter or resile from any of the facts therein. The Panel noted that in paragraph 49 of the ASF, the Member was admitting to the facts found in paragraphs 42 to 47 of the document. Both the PCC and the Member acknowledged that this was a typographical error and advised that the Member was also admitting to the facts set out in paragraph 48 of the ASF. The document was amended accordingly.
- [11] In the ASF, both the PCC and the Member acknowledged that they agreed with all the facts as set out in the document. In addition to acknowledging the facts contained in the ASF, the document contains admissions by the Member that he had engaged in professional misconduct as alleged against him.
- [12] In addition to the ASF, the PCC filed a Document Brief (Exhibit 2) containing documents upon which the parties agreed would form part of the ASF.
- [13] Neither party called any witnesses. The Member made a brief statement, again accepting the facts as presented in the ASF, acknowledging and admitting the Allegations made against him.
- [14] The facts are as follows: The Member obtained a Bachelor of Commerce degree from the University of Karachi, Pakistan in 1983. In 1988, he obtained his Chartered Accountant designation from The Institute of Chartered Accountants of Pakistan. He became a CPA member through the Colorado State Board of Accountancy in 1996, and subsequently became a member of the Institute of Chartered Accountants of Ontario (now CPA Ontario) in 2000.
- [15] In 2007, the Member joined Firm #1 as a partner. On October 22, 2009, he became a partner at Firm #2 which began its public accounting practice on January 1, 2010, as its predecessor firm, Firm #1, had ceased operations effective December 31, 2009.
- [16] In December 2015, the Member's partner was diagnosed with lung cancer and passed away on July 31, 2016. The Member was significantly impacted by the death of his partner, and he developed mental health issues as a result of the loss.
- [17] Following the death of his partner, the Member continued to practice and most recently, was practicing as a sole practitioner without employees in Markham, Ontario.

##### *i. Prior Disciplinary History – June 1, 2021 Order*

- [18] In 2021, the Member was the subject of a disciplinary hearing ("the 2021 disciplinary

hearing”) in which it was alleged that he had failed to perform his professional services in accordance with the generally accepted standards of practice of the profession in relation to 3 audits and 2 reviews which were performed during the period from December 1, 2018 to July 31, 2019.

- [19] In the 2021 disciplinary hearing an Agreed Statement of Facts was filed. In that document, the Member admitted the facts upon which the allegations were based, and he admitted that he had engaged in professional misconduct.
- [20] In the 2021 disciplinary hearing, the Member and the PCC submitted a joint position on sanction for the Panel’s consideration. The sanction proposed by the parties included a fine in the amount of \$10,000, as well as costs in the amount of \$10,000 with 24 months to pay both the fine and costs. It was also proposed that the Member be ordered to attend a specific number of professional development courses and that he enter into a Supervision Agreement no later than 30 days after the Panel’s Order. As part of the Supervision Agreement, it was proposed by the Member and the PCC that all assurance work undertaken by the Member would be reviewed by an approved supervisor over the course of 24 months commencing with the first audit work undertaken by the Member following the Order.
- [21] The Panel accepted the joint position on sanction and granted the Order as proposed that same day. In its written Reasons released on June 15, 2021, the Panel set out the factors it considered on the issue of sanction:

*On the facts of this case, we have to look at: a) The duration of the misconduct; b) the repetitive or ongoing nature of the misconduct; c) the potential the misconduct created a risk of harm to others; d) the subject acted without any supervisor and without any checks or other measures to avoid recurrence of the misconduct; and e) Whether the misconduct could undermine confidence in the standards of conduct of members of CPA Ontario. In this case, the conduct occurred over a period of nine months, the Member had previously been the subject of a reinspection of his practice, and the conduct is serious. On the other hand, the Member explained to us in his submissions that prior to the misconduct his business partner had become very ill and ultimately passed away. The Member himself fell into a depression. He assured the Panel that he now has access to resources to assist him with any mental health issues that arise. In all of the circumstances, we conclude that a reprimand is warranted. We are not suggesting that a reprimand is appropriate in every case involving a finding or concession of professional misconduct involving standards or otherwise. Rather, each case must be considered on its own merits. ([para.39 of Reasons for Decision and Order in CPAO v. Tejani, June 1, 2021](#))*

The Panel’s written reasons were released on June 15, 2021.

ii. *The Member’s Conduct Following the June 1, 2021 Hearing and Order*

- [22] Within a month of the Order being made and within two weeks of the release of the Panel’s

Reasons, on June 27, 2021, the Member issued an assurance engagement report for TCA. On June 28 and 29, 2021, the Member issued 2 further assurance engagement reports for CCAI and DVEFL respectively. The very issue of the 2021 disciplinary hearing was the quality of the Member's work and he acknowledged that it was appropriate that he be under the scrutiny of a supervisor who would review his work before it was issued. Yet he proceeded to issue 3 assurance engagement reports without having them reviewed.

- [23] On July 2, 2021, the Member entered into a Supervision Agreement with Rosaria Femia, CPA, CA ("the Supervisor"). The Agreement was approved by the Director of Standards Enforcement at CPA Ontario on July 6, 2021. The 3 assurance reports he had prepared days prior to signing the Supervision Agreement which contained a condition that such reports be reviewed, were not submitted for the Supervisor's review.
- [24] On the following dates, the Member issued 7 more assurance engagement reports: October 7, 2021, March 17, 2022, June 20, 2022, July 5, 2022, August 30, 2022, and 2 reports were issued on September 29, 2022. None of these assurance engagement reports were subjected to review by the Supervisor.

*iii. The Investigation*

- [25] On November 10, 2022, not having received any communications from the Member's Supervisor, the Vice-President wrote to the Supervisor requesting an update on the status of the matter. The Supervisor responded she had not heard from the Member and that she was not aware that she had been approved as his supervisor. She further advised she had not received any files for review from the Member.
- [26] On November 21, 2022, the Vice-President wrote to the Member inquiring as to why files had not been provided to the Supervisor. The Member responded by way of letter dated November 25, 2022. In his response, the Member explained that following the findings of the Discipline Committee in June of 2021, he had informed his clients of the 2021 disciplinary hearing and Order, after which most of his assurance clients no longer retained his services. The Member explained that during this time, he suffered mental health challenges beyond his pre-existing health issues. While he had contacted the Supervisor in September 2021, he acknowledged in his letter to the Vice-President that he had not provided any files for review. The Member expressed his regret for having failed to provide the files to the Supervisor and he advised that he was considering giving up the remaining few assurance engagements he had, focusing instead on compilation and income tax work.
- [27] With his letter of November 25, 2022, the Member submitted a list setting out the 8 audits and 2 review engagements he had performed for 6 clients between June 1, 2021 and November 25, 2022.
- [28] As a result of the information provided by the Member, an Investigator was retained and tasked, amongst other things, to select 3 assurance engagement files completed by the Member after the date he had signed the Supervision Agreement and determine whether the Member met the standards of practice with respect to the work performed on the selected files. The Investigator was also tasked with gathering information/evidence concerning the Member's health issues that may impact on his ability to perform professional

services.

- [29] Following a request to provide the working papers for the 3 audits chosen by the Investigator, the Member provided the Investigator with incomplete files in January 2023. The Member was unable to provide further materials to complete the files, claiming that he had not retained back-ups of his files.
- [30] The investigation disclosed several significant deficiencies in the Member's work and a failure to meet the requirements of the applicable Canadian Auditing Standards ("CAS") in the 3 selected files. The conduct uncovered by the investigation included the following Allegations:
- i) Failures to prepare audit documentation on a timely basis (CAS 230.7);
  - ii) Failures to document his understanding of the entity and its environment (230.A17);
  - iii) Failures to prepare an overall audit strategy and plan (CAS 300.12);
  - iv) Failures to document the calculation of performance materiality (CAS 320.14);
  - v) Failure to document the review of the materiality calculations (CAS 230.9);
  - vi) Failures to document the internal control relevant to the audit (CAS 230.A17);
  - vii) Failures to obtain sufficient appropriate audit evidence to identify and assess the risks of material misstatement, whether due to fraud or error, at the financial statement and assertion level, including inquiries of management and those charged with governance (CAS 300.7-10 & 12, CAS 240.17 & 18-25);
  - viii) Failures to test journal entries for unauthorized entries and management override (CAS 240.33, CAS 330.20);
  - ix) Failures to obtain sufficient appropriate audit evidence to form a conclusion with respect to events occurring between the date of the financial statements and the date of the auditor's report (CAS 560.6-8);
  - x) Failures to obtain sufficient appropriate audit evidence to form a conclusion with respect to related party transactions (CAS 550.21-23, .28);
  - xi) Failures to obtain sufficient appropriate audit evidence to form a conclusion with respect to going concern considerations (CAS 570.10-11);
  - xii) Failures to obtain sufficient appropriate audit evidence to form a conclusion with respect to material misstatement related to litigation and claims (CAS 501.9);
  - xiii) Failures to perform analytical procedures near the end of the audit that assist the auditor when forming an overall conclusion as to whether the financial statements are consistent with the auditor's understanding of the entity (CAS 520.6);

- xiv) Failures to perform substantive procedures to form a conclusion with respect to material classes of transactions and account balances (CAS 330.18, CAS 500.6);
  - xv) Improperly disclosing a security bond deposits as current assets (ASPE s.1510.07(a));
  - xvi) Failures to correctly reconcile the amount of income taxes payable per the financial statements to income taxes payable using the statutory income tax rate (ASPE s.3465.88), and
  - xvii) Failure to obtain sufficient appropriate audit evidence prior to making an adjustment to the client's records in respect of expenses incurred by the shareholders personally, the amount of which was credited to the shareholders' loan account (CAS 500.4 & 6).
- [31] In February 2023, the Member provided the Investigator with a letter from his health care providers confirming that he had attended 26 treatment sessions since September 2019. The letter addressed the impact the sudden loss of his partner of 10 years in 2016 had on the Member's mental health and the increased responsibility that came with running the business while mourning the loss of his partner. The Member's health care providers noted positive progress through treatment and recommended that the Member continue to pursue treatment to assist in managing and addressing any ongoing symptoms. In the ASF, the Member admitted that he did not provide the review files to the Supervisor prior to the issuance of the audit or review reports, and that he had failed to meet the requisite standards of practice in preparing the reports. The Member also admitted that his conduct amounted to professional misconduct.
- [32] In addition to the admissions of fact and of professional misconduct made by the Member in the ASF, in a prepared written statement which he read to the Panel, the Member again admitted that he had engaged in the conduct alleged and that his conduct amounted to professional misconduct. In his statement to the Panel, the Member explained that as a result of the financial pressures that followed the 2021 disciplinary hearing, he suffered more anxiety and stress, resulting in greater health issues. He explained that he avoided critical tasks and problems, hoping that they would disappear. The Member acknowledged that in failing to address those critical tasks and the problems that arose therefrom, he failed to meet his professional obligations and had engaged in professional misconduct.

### *Finding of Professional Misconduct*

- [33] The onus was on the PCC to show on a balance of probabilities that the Member engaged in conduct that breached Rules 201.1 and 206.1 of the CPA Ontario Code of Professional Conduct, and that such conduct constituted professional misconduct.
- [34] Both in the ASF he signed on September 5, 2023 and in his statements to this Panel, the Member clearly admitted the facts upon which the Allegations of professional misconduct were based. The Member also admitted that the conduct he engaged in breached the Rules of the CPA Ontario Code of Professional Conduct and amounted to professional

misconduct. It is abundantly clear to this Panel that the Member accepts full responsibility for his actions.

- [35] While there was some medical evidence referenced by the Member in his statement to the Panel which echoed the information found in the ASF and in the Document Brief, the evidence was not presented in defence of his conduct, nor did the Panel find that the evidence would have amounted to a defence. It was however helpful to have such evidence presented to the Panel to understand the context against which the Member's conduct unfolded.
- [36] Given the evidence presented by the PCC and the Member's admissions, the Panel found that there was clear, cogent and compelling evidence that the Member had breached the Supervision Agreement he had executed on July 2, 2021. The Supervision Agreement was created in order to provide the Member with an opportunity to continue practicing given the mental health challenges he suffered, while also protecting the public. The Member had joined the PCC in recommending that the sanction he received in 2021 include a condition that he enter into a Supervision Agreement and that his assurance work be reviewed. Despite being granted the opportunity to continue practicing, within weeks of the hearing and days before the Supervision Agreement was signed, the Member issued 3 review reports. After having signed the Agreement, he continued to issue reports without providing them to his Supervisor as required by the very Supervision Agreement he had advocated for. His flagrant disregard of the checks put in place to assist him and protect the public, coupled with the repetition of the very same conduct which was the subject of the 2021 disciplinary hearing amounted to conduct that failed to maintain the good reputation of the profession and serve the public interest, contrary to Rule 201.1.
- [37] Further, the Panel found that there was clear, cogent and compelling evidence that the Member failed to perform his professional services in accordance with generally accepted standards of practice of the profession while engaged to perform 3 audits of financial statements between December 17, 2021 and September 29, 2022, contrary to Rule 206.1 of the CPA Ontario Code of Professional Conduct. The Panel found without question that the Member's conduct, which mirrored the conduct which was the subject of the 2021 disciplinary hearing, amounted to professional misconduct.

## **V. REASONS FOR SANCTIONS**

- [38] By way of sanction, the PCC sought the revocation of the Member's membership in CPA Ontario commencing the day of the Panel's decision and a written reprimand by the Chair of the hearing. The Member did not oppose these sanctions.
- [39] With respect to notice of the Decision and Order, the PCC requested, and the Member did not oppose, that notice should be given to all members of CPA Ontario, all provincial bodies as well as to the public. The PCC also proposed, and the Member again did not oppose, that notice of this Panel's Decision and Order, disclosing the Member's name, be given by publication on the CPA Ontario website and in the Globe and Mail, with all costs associated with the publication of the notice to be borne by the Member.



[40] While both parties agreed a fine was an appropriate sanction, where the parties differed in their positions on sanction was on the issue of the quantum of fine and time to pay the fine imposed. The PCC took the position that the Member should pay a fine in the amount of \$20,000, with 2 years to pay the fine, or as long as 3 years depending on the total amount of fine and costs ordered by the Panel. The Member took the position that the fine should be in the amount of \$10,000 with time to pay, although no specific time period was suggested.

[41] There were several aggravating factors this Panel considered in concluding that revocation of the Member's membership is an appropriate sanction. The Member had a prior related disciplinary history. The Panel of the 2021 disciplinary hearing accepted the joint position proposed by the PCC and the Member finding that the proposed sanction:

*...amply satisfies the public interest test. In particular, the Panel accepts that courses and reinvestigation have been agreed to in this case, to allow the Member to rehabilitate himself. With respect to the fine and publicity the (sic) these will help to secure the principle of specific and general deterrence.*  
[\(para.37 of Reasons for Decision and Order in CPAO v. Tejani, June 1, 2021\)](#)

[42] Despite having proposed the very sanctions intended to assist the Member while protecting the public, within days after the Panel issued its written reasons on June 15, 2021, the Member issued 3 assurance engagement reports on June 27, 28 and 29, 2021 in complete disregard of the supervision requirement he had agreed to.

[43] The Member's misconduct took place over the course of 15 months. Three days after having issued the June 29 assurance engagement report, the Member signed the Supervision Agreement. He did not advise the Supervisor of the 3 assurance engagement reports he had issued in June. The Member proceeded to issue 7 more assurance engagement reports on October 7, 2021, March 17, June 20, July 5, August 30, 2022, with 2 other reviews being issued on September 29, 2022. In total, 10 assurance engagement reports were issued after the June 1, 2021 disciplinary hearing, on behalf of 6 clients. None of these reports were reviewed by the Supervisor. In addition to the obvious breach of the Supervision Agreement, the Vice-President's investigation into 3 of the 10 engagements revealed that the Member had failed to perform his professional services in accordance with generally accepted standards of practice of the profession. The Member's conduct undermined the very precautions he had requested be imposed upon him by the Panel in the 2021 disciplinary hearing.

[44] The PCC submitted that the Member blatantly disregarded the June 1, 2021 Order of the Discipline Committee. This Panel does not disagree. While this Panel accepts that for several years the Member has suffered from the loss of his business partner, he had assured the 2021 disciplinary hearing Panel that he had access to resources to assist him should any further health issues arise. Within weeks of giving this assurance, and despite having these resources, the Member breached the Supervision Agreement.

[45] Weighing against the aggravating factors in this case are a number of mitigating factors which this Panel considered. This Panel is empathetic to the Member's health issues and

his ongoing struggles to overcome them. This Panel recognizes the level of cooperation the Member exhibited by admitting his failures during the course of the investigation, as well as during this hearing. His admissions of fact and of misconduct found in the ASF and in his statements to this Panel saved both time and resources. The Member's acknowledgement of his misconduct, his expressed remorse, and his recognition of the seriousness of his misconduct, most evident in his acknowledgement that the revocation of his membership in CPA Ontario is appropriate, are all mitigating circumstances this Panel has taken into consideration.

- [46] Despite the Panel's empathy and recognition of the Member's health struggles and the impact any sanction may have on his situation both personally and professionally, in a case such as this, the protection of the public, the promotion of public confidence in the profession and the requirement that members of this profession maintain high ethical standards are paramount considerations. This Panel finds that following the June 2021 disciplinary hearing, the Member showed himself to be ungovernable. Having been given an opportunity to continue practicing in 2021 after having engaged in similar misconduct while struggling with similar health issues, within weeks of receiving the Order for supervision, the Member proceeded to breach the very agreement that gave him an opportunity to return to practice. Despite having acknowledged failures to provide professional services in accordance with the generally accepted standards of practice of the profession in the 2021 disciplinary hearing, the Member continued to prepare assurance engagement reports without the benefit of review. This Panel agrees that revocation of the Member's membership in this profession is an appropriate sanction.
- [47] The PCC submitted, and the Member did not dispute, that the Member should be reprimanded for his misconduct. Reprimands act as a specific deterrent. In this case, the Member clearly expressed an understanding of the impact of his misconduct on the reputation of the profession. He expressed his feelings of remorse to this Panel. As such, the Panel felt that an oral reprimand was not necessary and ordered that a written reprimand be prepared by the Chair.
- [48] The PCC submitted, and the Member did not dispute, that a fine was an appropriate sanction in light of the seriousness of his misconduct and as a matter of general deterrence. The parties did however disagree on the quantum of the fine, with the PCC arguing that a fine in the amount of \$20,000 was just and with the Member taking the position that a fine in the amount of \$10,000 was appropriate given his financial situation and the potential impact a significant fine might have on his ability to seek ongoing treatment and support his family.
- [49] In arguing the appropriateness of a \$20,000 fine, the PCC argued that a fine in the amount of \$20,000 would be appropriate as a form of general deterrence given the aggravating factors reviewed above, the seriousness of the misconduct which arose shortly after the 2021 disciplinary hearing, and the fact that the Member had "squandered" the opportunities afforded to him in the previous disciplinary hearing. The PCC also argued that fines have been increasing over the years and that an increase in the fine would be appropriate. The PCC argued that the Member should be given 2 years to pay the fine, or alternatively as long as 3 years depending on the total amount of fine and costs ordered by the Panel. The PCC presented several cases in support of its position on the amount of the fine.

- [50] The Member's counsel argued that the fine should be in the amount of \$10,000 and that he should be granted 3 years to pay the fine. In support of this argument, the Member provided an Affidavit (Exhibit 3) in which he provided further information regarding his health issues and set out in detail his current financial challenges and his revenue for 2021 and 2022. He submitted that given his current financial circumstances, coupled with the revocation of his membership in CPA Ontario, a substantial fine would "exacerbate his already challenging situation."
- [51] To assist the Panel in its deliberations, the PCC included the Sanction Guidelines for CPA Ontario ("Sanction Guidelines") in its Case Brief filed in support of the PCC's submissions on sanction. A fine is a monetary sanction intended as a form of specific and general deterrence, as well as a means by which the public is protected, and the reputation of the profession is maintained. The Sanction Guidelines note that "(t)he quantum of a fine should also reflect current economic realities and social values. Fines previously levied for similar misconduct may be insufficient to meet current objectives of deterrence and denunciation or in light of an evolving professional and regulatory landscape." ([Sanction Guidelines, October 2020, page 6](#)).
- [52] While the Member previously received a fine in 2021 for similar conduct related to meeting professional standards, the misconduct at the heart of these proceedings is more egregious given not only the fact that he breached the Supervision Agreement shortly after having advocated for and received an Order in 2021 which was intended to assist the Member to continue to practice. While the misconduct found in the 2021 disciplinary hearing only related to 5 files and lasted over the course of 9 months, in this matter, the Member issued 10 assurance engagement reports over the course of 15 months. In addition to his failure to meet the professional standards of this profession, the Member was in breach of the Supervision Agreement. These aggravating circumstances called for a fine greater than the \$10,000 fine imposed in the 2021 disciplinary hearing.
- [53] The Member's counsel filed an Affidavit in which the Member presented sworn evidence supported by accompanying documentation. The Affidavit included evidence regarding the Member's financial situation and included documentation attesting to his debts and his decreasing revenues from his practice over the past two years. The Member also included a letter from his treating physician which addressed his medical history and raised concerns regarding the potential impact a loss of income might have on the Member's health issues and his ability to pay for ongoing medical treatment. The PCC did not challenge this evidence.
- [54] In fashioning the appropriate sanction in this matter, the Panel carefully considered the evidence presented by the Member regarding his current financial situation and the impact the revocation of his membership to CPA Ontario will have on his income. In ordering a fine in the amount of \$12,500, the Panel sought to balance the realities of the Member's financial situation, with the fact that his conduct, which was more serious than that which was previously before the Discipline Committee, called for the imposition of a higher fine than was imposed in 2021. The Panel also concluded that based on the evidence relating to his financial situation, the Member should be given 3 years from the date of the Panel's Order to pay the fine. Such a fine, when considered in conjunction with the revocation of the Member's membership, still addresses both specific and general deterrence, while taking

into consideration the specific facts in this case.

- [55] With the revocation of the Member's membership in CPA Ontario, notice of the Decision and Order disclosing the Member's name is required and shall be given to all members of CPA Ontario, to all provincial bodies and shall be made available to the public. Notice of this Decision and the Panel's Order, disclosing the Member's name shall be given by publication on the CPA Ontario website and in the Globe and Mail, with costs associated with the publication to be borne by the Member. Publication of the Decision and Order serves as a general and specific deterrent. It informs the public that members of this profession are held accountable for breaches of the rules that govern them and face serious consequences for their actions.

## **VI. COSTS**

- [56] The PCC sought costs in the amount of \$20,000 representing approximately 2/3 of the total amount of costs which totaled \$30,206.32 as set out in the Costs Outline (Exhibit 4). In response to the Member's evidence of financial hardship, the PCC took the position that if the Panel wished to decrease the fine and/or the costs to be paid by the Member, the Panel should only decrease the amount of costs to be awarded. The PCC argued that a fine is intended to be punitive and act as a form of general deterrence, whereas costs are compensatory in nature. The PCC took the position that any considerations to be given to the Member's financial circumstances should impact the amount of costs, not the fine.
- [57] The Member's counsel argued that costs in the amount of \$5,000 would be appropriate given the Member's level of cooperation in the investigation and disciplinary proceedings, his repeated expressions of remorse, his mental health struggles, and his financial hardships.
- [58] Costs are not intended to be punitive. The profession should not bear the costs of members who fail to abide by their professional and ethical obligations. However, this Panel recognizes there are unique circumstances in this matter that warrant a reduction of the costs. The evidence of the Member's ongoing mental health concerns, the potential challenges of securing future treatment following the revocation of his membership, as well as his expressed remorse and his level of cooperation, justified a reduction in the amount of costs sought by the PCC. The Panel also noted that the hearing was shorter than originally anticipated by the PCC as set out in its Costs Outline.

[59] Considering all the evidence before it, the Panel determined that costs in the amount of \$15,000 were appropriate in this case and that those costs should be paid within 3 years of the date of the Order.

**DATED** this 23<sup>rd</sup> day of October, 2023

A handwritten signature in cursive script, appearing to read "Andrea B. Mintz".

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

Members of the Panel

Alexander Metaxas-Mariatos, CPA, CMA  
Jaspreet Singh, CPA, LPA  
Marianne Park-Ruffin, Public Representative  
Imran Kamal, Public Representative

Independent Legal Counsel

Nadia Liva, Barrister & Solicitor