

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: Allegations against **Brian R. Dawe, CPA, CA**, under **Rule 104.2** of the CPA Ontario Code of Professional Conduct and Allegations against **Brian R. Dawe, CPA, CA**, under **Rule 104.2** of the CPA Ontario Code of Professional Conduct.

BETWEEN:

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

-and-

Brian R. Dawe

APPEARANCES:

For the Professional Conduct Committee: Julia McNabb, Counsel

For Brian R. Dawe: Present
James Lane, Counsel

Heard: May 21, 2025

Decision and Order effective: May 21, 2025

Release of written reasons: June 16, 2025

REASONS FOR THE DECISION AND ORDER MADE MAY 21, 2025

I. OVERVIEW

- [1] This case is about the Member's failure to cooperate with his governing body with respect to two investigations. On or about June 28, 2024, the Standards Enforcement department of the Chartered Professional Accountants of Ontario ("CPA Ontario") opened an investigation into the conduct of Brian R. Dawe ("the Member"). Subsequently, CPA Ontario received a second complaint against the Member, and on or about September 3, 2024, Standards Enforcement opened a second investigation into the Member's conduct. Multiple attempts to communicate with the Member in relation to both investigations were made. The Member provided one response to the Standards Enforcement staff's ("Staff") communications but failed to respond to follow-up queries.

- [2] Staff attempted over a period of six months to elicit information from the Member. The Member failed to provide complete responses to Staff's requests for information. As a result, Staff were unable to investigate either complaint. The first Allegation against the Member was issued in September of 2024 and the second Allegation was issued in December of 2024. In the five months between the second Allegation being issued and the date of his discipline hearing, the Member did not provide the requested information.
- [3] The evidence in support of the Allegations was tendered in the form of the Affidavit of Sharleen Saldanha, a Standards Enforcement Officer employed by CPA Ontario, affirmed April 15, 2025 and marked Exhibit 1.
- [4] For the reasons set out below, the Panel made findings of professional misconduct as alleged in the Allegations. The Panel imposed the standard sanction for failure to cooperate cases, namely a fine, requirement to cooperate failing which the Member's membership will be suspended and ultimately revoked, and publication to all members of CPA Ontario and all provincial bodies. In addition, the Member was ordered to pay \$4,000 in costs.

II. THE COMPLAINT AND THE ALLEGATIONS

- [5] The Professional Conduct Committee ("PCC") of CPA Ontario made the following Allegations against the Member:
 - 1. THAT the said Brian R. Dawe, CPA, CA, in or about the period of June 28, 2024 to September 11, 2024, failed to cooperate with the regulatory process of CPA Ontario, contrary to Rule 104.2 of the CPA Ontario Code of Professional Conduct, in that he failed to promptly reply in writing to the communications from CPA Ontario to which a written reply was specifically required, namely correspondence from Standards Enforcement staff dated June 28, 2024, August 1, 2024, August 9, 2024 and August 16, 2024.
 - 2. THAT the said Brian R. Dawe, CPA, CA, in or about the period of September 3, 2024 to December 4, 2024, failed to cooperate with the regulatory process of CPA Ontario, contrary to Rule 104.2 of the CPA Ontario Code of Professional Conduct, in that he failed to promptly reply in writing to the communications from CPA Ontario to which a written reply was specifically required, namely correspondence from Standards Enforcement staff dated September 3, 2024, September 18, 2024, September 26, 2024, November 7, 2024 and November 27, 2024.

III. PRELIMINARY ISSUES

- [6] The Allegations in this matter arose from two separate investigations and were articulated in two sets of Allegations. At the outset of the hearing, counsel for the PCC brought a motion to combine the proceedings, D-24-020 and D-24-028, and have them heard at the same time. Counsel for the Member consented to the proceedings being combined.
- [7] Rule 6.01 of the CPA Ontario [Rules of Practice and Procedure](#) governs combining proceedings. A Panel may order proceedings to be combined if:

- (a) the proceedings have a question of fact, law or mixed fact and law in common;
 - (b) the proceedings involve the same parties;
 - (c) the proceedings arise out of the same transaction or occurrence or series of transactions or occurrences; or
 - (d) for any other reason an order ought to be made under this Rule.
- [8] The Panel granted the motion and ordered that the two proceedings be combined. The facts supporting the Allegations are almost identical, both proceedings involve the same parties, and the time frame of the Member's failures to cooperate overlap and are sequential.

IV. ISSUES

- [9] 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 ON FINDING OF PROFESSIONAL MISCONDUCT

- [10] The Panel found that the evidence established, on a balance of probabilities, the facts set out in the Allegations of professional misconduct.
- [11] The Panel was satisfied that the Allegations constituted a breach of Rule 104.2 of the [CPA Ontario Code of Professional Conduct](#) (the "Code"), and having breached this Rule, the Member committed professional misconduct.

VI. REASONS FOR THE DECISION ON FINDING OF PROFESSIONAL MISCONDUCT

The Member

- [12] The Member is 76 years old and became a member of the predecessor to CPA Ontario in and around 1977. For most of his career, he worked in the public sector. The Member stated that prior to his retirement in 2004, he was President of the Scarborough Hospital Foundation. Since 2004, the Member has limited the scope of his work to providing tax return services to friends and neighbours. The Member said he no longer provides these services.
- [13] The two investigations at issue arose from two former clients for whom the Member had agreed to file corporate and personal tax returns.

Findings Regarding the Conduct of the Member

1st Complaint

- [14] On May 3, 2024, Standards Enforcement Staff received a complaint from a member of the public. The complainant alleged that the Member was engaged to complete the 2021 and 2022 corporate taxes for the complainant's company yet failed to do so. The complainant further alleged that the Member had avoided phone calls, texts and visits to his office. In addition, the Member had failed to return documents, thus preventing the complainant from engaging another accountant to file his returns.
- [15] Over a period of two and a half months, Staff contacted or attempted to contact the Member on nine separate occasions. The communications were sent to the Member's email address or made to the phone number on record with CPA Ontario. The Member did not respond to Staff at all.
- [16] The chart below sets out the dates, format, and content of the communications sent from Standards Enforcement to the Member:

DATE	FORMAT OF COMMUNICATION	CONTENT
June 28, 2024	Email and upload to FileCloud ¹	Correspondence was sent via email and uploaded to FileCloud notifying the Member that a file had been opened relating to a client complaint regarding the Member's failure to prepare and file corporate tax returns as requested, the Member's failure to communicate with the client and the Member's failure to return the client's documents. The complaint was attached to the correspondence, and Staff asked the Member to provide a response to the issues raised in the complaint. A deadline of July 12, 2024 for the Member's response was set.
July 18, 2024	Staff attempted to call the Member at the number on file with CPA Ontario. No one answered and there was no space to leave a voicemail.	N/A
July 18, 2024	Email	An email was sent to the Member noting that he had not responded to the previous correspondence and reminding the Member of his obligations under Rule 104 of the Code. A new deadline of July 25, 2024 for receipt of the Member's representations was set.
July 31, 2024	Staff called two phone numbers. Staff left a voicemail at one of the numbers.	Staff noted that no response to previous communications had been received. Staff requested that the Member contact them via telephone.

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

DATE	FORMAT OF COMMUNICATION	CONTENT
August 1, 2024	Email and upload to FileCloud.	Correspondence was sent via email and uploaded to FileCloud noting that the Member had not responded to the previous correspondence, and reminding the Member of his obligations under Rule 104 of the Code. The letter noted that failure to respond could result in allegations of professional misconduct. A new deadline of August 8, 2024 for receipt of the Member's representations was set.
August 9, 2024	Email and upload to FileCloud.	Correspondence was sent via email and uploaded to FileCloud noting that the Member had not responded to the previous correspondence, and reminding the Member of his obligations under Rule 104 of the Code. The letter noted that failure to respond could result in allegations of professional misconduct. A new deadline of August 15, 2024 for receipt of the Member's representations was set.
August 15, 2024	Staff attempted to call the Member at the number on file with CPA Ontario. No one answered and there was no space to leave a voicemail.	N/A
August 16, 2024	Email and upload to FileCloud	Correspondence was sent via email and uploaded to FileCloud noting that the Member had not responded to the previous correspondence, and reminding the Member of his obligations under Rule 104 of the Code. The letter noted that failure to respond could result in allegations of professional misconduct. A new deadline of August 22, 2024 for receipt of the Member's representations was set.
August 16, 2024	Staff attempted to call the Member at the number on file with CPA Ontario. No one answered and there was no space to leave a voicemail.	N/A

2nd Complaint

- [17] On August 20, 2024, CPA Ontario received a second complaint against the Member from a member of the public. The complainant alleged that the Member was hired in 2010 to

prepare and file personal and corporate returns for the complainant, but that he failed to provide the services promised. The complainant alleged he only discovered the Member's lapse when Revenue Canada garnished the complainant's bank account. The complainant further alleged that the Member failed to respond to multiple communications and failed to return original documents.

[18] Over a period of three months Staff contacted or attempted to contact the Member on ten separate occasions. The communications were sent to the Member's email address or made to the Member's phone number on record with CPA Ontario. The Member responded on one occasion via an email dated October 10, 2024. In this email, the Member provided a partial response to the complaint. When Staff responded with a further and detailed request for information, the Member failed to respond.

[19] The chart below sets out the dates, format, and content of the communications sent from Standards Enforcement to the Member, and the one communication sent from the Member to Staff:

DATE	FORMAT OF COMMUNICATION	CONTENT
September 3, 2024	Email and upload to FileCloud	Correspondence was sent via email and uploaded to FileCloud notifying the Member that a file had been opened relating to a client complaint regarding the Member's failure to prepare and file corporate and personal tax returns as requested, the Member's failure to communicate with the client and the Member's failure to return the client's documents. The complaint was attached to the correspondence. Staff asked the Member to provide a response to the issues raised in the complaint. A deadline of September 17, 2024 for the Member's response was set.
September 18, 2024	Staff telephoned the Member at the telephone number on file. Staff left a voicemail message.	Staff indicated they were following up on the response that was due September 17, 2024.
September 18, 2024	Email and upload to FileCloud	An email was sent to the Member noting that he had not responded to the previous correspondence, reminding the Member of his obligations under Rule 104 of the Code, and cautioning him that failure to respond could result in referral to the Discipline Committee. A new deadline of September 24, 2024 for receipt of the Member's representations was set.
September 26, 2024	Telephone call with Member	Staff informed the Member that no response to previous communications had been received. The Member stated he had trouble opening the attachments

DATE	FORMAT OF COMMUNICATION	CONTENT
		on FileCloud and requested correspondence via email. A new deadline of October 2, 2024 was agreed upon.
September 26, 2024	Email and upload to FileCloud.	Correspondence was sent via email and uploaded to FileCloud noting that the Member had not responded to the previous correspondence, and reminding the Member of his obligations under Rule 104 of the Code. The letter noted that failure to respond could result in allegations of professional misconduct. A new deadline of October 2, 2024 for receipt of the Member's representations was set.
October 3, 2024	Telephone call with Member	Staff informed the Member that no response had been received. A new deadline of October 10, 2024 was agreed upon.
October 3, 2024	Email and upload to FileCloud.	Correspondence was emailed and uploaded to FileCloud noting that the Member had not responded to the previous correspondence, and reminding the Member of his obligations under Rule 104 of the Code. The letter noted that failure to respond could result in allegations of professional misconduct. A new deadline of October 10, 2024 for receipt of the Member's representations was confirmed.
October 10, 2024	Member emailed Staff	Member provided written representations in which he outlined a number of health issues he was facing. He also denied the allegations and stated that he had in fact prepared the complainant's corporate and personal tax returns.
November 7, 2024	Email and upload to FileCloud	Correspondence was emailed and uploaded to FileCloud requesting further and specific representations and documentation. A deadline of November 21, 2024 for receipt of the Member's further representations was set.
November 21, 2024	Staff attempted to call the Member at the number on file with CPA Ontario. No one answered and there was no space to leave a voicemail.	N/A
November 27, 2024	Email and upload to FileCloud	Correspondence was emailed and uploaded to FileCloud noting that the

DATE	FORMAT OF COMMUNICATION	CONTENT
		Member had not responded to the previous correspondence, and reminding the Member of his obligations under Rule 104 of the Code. The letter noted that failure to respond could result in allegations of professional misconduct. A new deadline of December 3, 2024 for receipt of the Member's representations was set.

- [20] The evidence demonstrated that over a period of six months, the Member failed to provide a complete response to the communications of his regulator. Even after the Allegations were issued in September and December of 2024 respectively, the Member did not provide any representations to his regulator other than the one email dated October 10, 2024, which was grossly inadequate to the task at hand.
- [21] The Member did not respond to his regulator's communications prior to the scheduled hearing date of May 21, 2025. The Member's failure to respond to his regulator thus extended over a period of almost 11 months.

Finding of Professional Misconduct

- [22] Rule 104.2 of the Code requires members to cooperate with the regulatory processes of CPA Ontario. For ease of reference Rule 104.2 is set out in relevant part below:

104.2 A member or firm shall:

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

- [23] At the outset of the hearing, the Member indicated he admitted the facts set out in Exhibit 1 and that he acknowledged the facts supported the Allegations of professional misconduct.
- [24] There is no question that the Member breached Rule 104.2 of the Code. It is indisputable that the Member failed to respond to Staff's requests for information for the duration of both investigations and even after the Allegations were issued. The Panel had no trouble finding that the Member committed professional misconduct in the manner alleged.

VII. DECISION AS TO SANCTION

Evidence in Relation to Sanction

- [25] Neither party led evidence on sanction. However, the Member made an unaffirmed statement of explanation and remorse. The Member apologized for his failure to respond to his governing body. He noted that he has been a CPA for 48 years and does not have a discipline history. By way of explanation, he informed the Panel of a number of health issues

he has been experiencing over the last two years including a cardiac arrest, a diagnosis of Type 2 Diabetes and contracting COVID. The Member stated he has experienced fatigue, temporary cognitive impairment, and vertigo.

- [26] The Panel is mindful of the fact that the Member did not provide any medical evidence in support of his statement. However, the Panel accepted to some degree the Member's statement of remorse and understands that the purpose of the statement was to provide the Panel with some context for the Member's failure to respond to his governing body. The Panel would have been more persuaded that the Member takes responsibility for his failure to cooperate if he had provided the requested representations after the Allegations had been issued and prior to the hearing. It is not clear why this was not done, other than the Member's reliance on his medical challenges.

Decision on Sanction

- [27] The parties entered into a joint submission on sanction. The Panel accepted the joint submission and concluded that the appropriate sanction was a \$7,500 fine payable to CPA Ontario by November 21, 2025, order to cooperate within 30 days of the date of the Decision and Order failing which the Member's membership will be suspended and revoked if non-compliance continues, and notice of the Decision and Order disclosing the Member's name to be given to all members of CPA Ontario, all provincial bodies, and made available to the public on the CPA Ontario website.

VIII. REASONS FOR THE DECISION AS TO SANCTION

- [28] The Panel recognizes that a joint submission is entitled to a high level of deference. A joint submission should be accepted unless it is contrary to the public interest or would bring the regulatory process into disrepute because it was beyond 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.

- [29] The Panel is satisfied the proposed penalty is the standard penalty in cases of non-cooperation, and has no trouble accepting the joint submission.
- [30] In matters where a member has failed to cooperate in the context of one investigation, the standard fine is \$5,000. In this matter, the Member failed to cooperate with Staff with respect to two investigations. In light of this, the parties agreed that a fine of \$7,500 was appropriate.

² [*R. v. Anthony-Cook*, 2016 SCC 43 ¶ 34](#)

- [31] This is in line with the case of [*Chartered Professional Accountants of Ontario v. Hametaj*](#). In *Hametaj*, the member had been subject to three investigations and had failed to cooperate with staff requests for information in all three. Counsel for the PCC requested a fine of \$10,000 in lieu of the customary \$5,000.
- [32] The Panel in *Hametaj* considered as aggravating factors the length of time over which Mr. Hametaj failed to cooperate and the fact that he failed to cooperate with three separate investigations. The Panel observed that a failure to cooperate of this length and breadth shows a lack of respect for the process and undermines CPA Ontario's ability to fulfill its public mandate to effectively regulate its members.³ The Panel wholeheartedly agrees with these observations and their application to the conduct of the Member before us.
- [33] Notwithstanding the above, the Panel in *Hametaj* declined to order a \$10,000 fine in lieu of the standard \$5,000. Rather, the Panel ordered Mr. Hametaj to pay a fine of \$8,000. In so doing, the Panel explained that a fine of \$8,000 was significantly higher than the prevailing norm and thus sufficient to promote public confidence in the profession, achieve general deterrence and maintain the high ethical standards of the profession.⁴
- [34] A fine of \$7,500 in this matter, where the Member failed to cooperate with two investigations over a period of six months and then failed to remedy the misconduct for an additional five months prior to the hearing is sufficient to achieve the goals of sanction set out by the *Hametaj* Panel.
- [35] The remaining terms of the joint submission are standard terms ordered in virtually every failure to cooperate case.

IX. COSTS

- [36] The law is settled that an order against the 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.
- [37] Costs are awarded at the discretion of the Discipline Committee. It has become customary for the PCC to file a Bill of Costs 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.
- [38] The PCC's Bill of Costs is found at Exhibit 2. It totals \$6,102.81, 2/3 of which is approximately \$4,000, the amount sought by the PCC. The Member agrees with the PCC's costs submission.
- [39] The Panel orders a cost award of \$4,000 payable by November 21, 2025.

³ [*Chartered Professional Accountants of Ontario v Hametaj*, 2021 ONCPA 7 ¶ 46](#)

⁴ *Hametaj*, *supra*, ¶ 47

DATED this 16th day of June, 2025

A handwritten signature in black ink, appearing to read 'Jim Huang', with a long horizontal stroke extending to the right.

Jim Huang, CPA, CGA
Discipline Committee – Deputy Chair

Members of the Panel

Robert Barber, Public Representative
Brian Killah, CPA, CGA, LPA

Independent Legal Counsel

Lisa Freeman, Barrister & Solicitor