

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: Allegations against **ALAN G. WALKER, CPA, CMA**, a member of the Chartered Professional Accountants of Ontario, under **Rules 201.1, 205 and 212.2** of the CPA Ontario Code of Professional Conduct.

BETWEEN:

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

-and-

Alan G. Walker

APPEARANCES:

For the Professional Conduct Committee: Lindsay Bandini, Counsel

For Alan G. Walker: Present
Robert M. Isles, Counsel

Heard: November 15 and 22, 2024; January 23, 27 and 31, 2025; March 11, 2025 and April 3, 2025.

Decision and Order effective: May 12, 2025

Release of written reasons: July 17, 2025

REASONS FOR THE DECISION AND ORDER MADE MAY 12, 2025

I. OVERVIEW

[1] The Professional Conduct Committee of the Chartered Professional Accountants of Ontario (the “PCC”) made Allegations of Professional Misconduct that Alan Walker (the “Member”) committed professional misconduct, being that he failed to handle with due care funds entrusted to him by JD; he misappropriated approximately \$40,000 from JD; and he associated himself with statements that he knew or should have known were false or misleading.

[2] A hearing was held to determine whether the Allegations were established and whether

the conduct breached Rules 212.2, 201.1 and 205 of the CPA Code of Professional Conduct (the “Code”).

- [3] For reasons set out below, the Panel found that the Member engaged in serious professional misconduct and revoked his membership in CPA Ontario. The Panel also ordered that the Member pay a fine of \$40,000 and costs of \$55,000.

II. THE COMPLAINT AND THE ALLEGATIONS

- [4] At the time of the hearing, JD was a 90-year-old woman with significant health issues who lived alone in a rented apartment in Toronto. On August 8, 2023, JD and a friend (KW) complained to CPA Ontario about the Member.

- [5] In the complaint, JD said that the Member had completed and filed her tax returns for many years, and she considered the Member and his wife as friends. In June 2020, JD received a cheque for approximately \$75,000 for an insurance settlement from a 2017 automobile accident (the “Settlement Funds”). She told the Member about the Settlement Funds and claimed that he gave her advice to deposit the cheque into his bank account. The Member returned some of the Settlement Funds to her over the course of the next two years, however, in mid-2022 when she asked for the remainder to be returned to her (approximately \$40,000), the Member did not respond to her for over a year. When JD threatened police involvement, the Member did not immediately return the full amount owed to her. Moreover, he claimed to have paid her \$5,000 when he had not done so.

- [6] The complaint was investigated by Patricia Harris, who was appointed by the PCC (the “Investigator”). The Investigator interviewed the Member on December 5 and 13, 2023.

- [7] The PCC issued Allegations dated April 9, 2024, which contended as follows:

Allegation 1: While providing professional services to JD, the Member did not handle her Settlement Funds with due care. In particular,

- (a) he failed to document the terms of the agreement with JD;
- (b) he failed to keep the Settlement Funds separate from his personal funds;
- (c) he used the Settlement Funds to offset his personal bank debts without notice or authorization from JD;
- (d) he failed to account for the interest on JD’s Settlement Funds;
- (e) he failed to keep contemporaneous records of any repayments to JD from the Settlement Funds; and
- (f) he failed to return the remaining balance of the Settlement Funds to JD when she asked him to do so.

Allegation 2: The Member misappropriated \$40,000 from JD.

Allegation 3: The Member associated himself with statements which he knew or should have known were false or misleading in that he advised JD that:

- (a) she could avoid negative tax consequences by depositing the Settlement Funds with

him; and

(b) he had repaid her the amount of \$5,000 in cash when he had not done so.

III. PRELIMINARY ISSUES AND MOTIONS

[8] Before and during the hearing, there were several procedural requests (motions), most of which were made by the Member. The following is a summary of these issues.

[9] The key document at issue in many of these motions was an affidavit affirmed by JD on March 30, 2024 (“JD’s Affidavit”).

Pre-Hearing Conferences – June and July 2024

[10] The parties attended pre-hearing conferences on June 10, 2024 and July 15, 2024. On June 10, 2024, the hearing was scheduled for two days. The parties were directed to exchange documents prior to the hearing, including witness statements and submissions respecting their proposed sanctions and costs by mid-July 2024.

[11] On July 4, 2024, counsel for the PCC advised the Member’s counsel that she did not intend to call JD as a witness at the hearing due to JD’s ailing health. Counsel indicated that she would submit JD’s Affidavit as evidence at the hearing, in addition to the oral evidence of KW and the Investigator and other documentary evidence.

[12] On July 15, 2024, there was a second pre-hearing conference. Counsel for the Member indicated that he wished to cross-examine JD at the hearing and the parties agreed that this issue would be determined at a preliminary motion before the start of the hearing. A schedule for the motion was directed with the consent of the parties, starting with the Member’s filing and service of their motion materials on the PCC by August 27, 2024. The motion was set for September 26, 2024. The hearing was still anticipated to be a two-day hearing commencing on November 15, 2024.

Abandoned Preliminary Motion – September 2024

[13] When the August 27 deadline for the filing of the Member’s motion material had passed, the Tribunals Office notified counsel for the Member that the materials were late, but did not receive any response. The PCC did not receive any motion materials and could not reach the Member’s counsel. The preliminary motion date was eventually vacated on September 10, 2024 by the Tribunals Office.

[14] As agreed at the pre-hearing conferences, on November 5, 2024, the PCC filed the JD Affidavit, a Document Brief and a Communication Brief. Neither the Member nor his counsel communicated with counsel for the PCC or the Tribunals Office from late July 2024 until they appeared on the morning of the hearing.

PCC Motion – Member’s Failure to Disclose – November 15, 2024

[15] At the outset of the hearing on November 15, 2024, counsel for the PCC raised a preliminary matter. PCC counsel said that she was surprised that the Member and his counsel were in attendance at the hearing given their failure to respond to communications for many months. The PCC argued that they were disadvantaged because the Member

had failed to comply with the directions from the pre-hearing conference dated June 10, 2024 requiring the Member to provide witness statements, his position on sanction and any documents upon which he would rely at the hearing. She asked that the Panel review the pre-hearing conference directions which the Panel had not seen at that time.

- [16] Counsel for the Member did not dispute the statement that he had not complied with his disclosure requirements but argued that this entire matter was unfortunate given that JD was 90 years old and she had health issues including hearing loss, blindness and mobility issues, some of which may have been caused by her 2017 car accident. He asked that the Panel proceed with the hearing.
- [17] The Panel denied the request by the PCC to submit the pre-hearing conference directions at that time. Under Rule 12 of the CPA Ontario Rules of Practice and Procedure, pre-hearing conferences are confidential and discussions conducted during the pre-hearing conferences are not to be disclosed. The Panel was prepared to accept PCC counsel's statements (which were not contested) about the outcomes of the pre-hearing conferences without receiving the documentation from the pre-hearing conferences.
- [18] The Panel appreciated that as a result of the Member's admitted failure to comply with the pre-hearing conference directions, and the failure of the Member and his counsel to communicate with the PCC for many months, the PCC was put in a difficult position on the first day of the hearing. The Panel agreed that if, during the first day of the hearing, the PCC requested more time to respond to new information that had not been disclosed by the Member, they would be granted sufficient time to respond. The hearing proceeded.

Member's Objection to Admission of JD Affidavit – November 15, 2024

- [19] The Chair noted that the Panel had received documents from the PCC, including the affidavit of JD, and said that they would be marked as exhibits subject to any objections made by the Member. The Member's counsel did not object and the JD Affidavit was marked as Exhibit 1.
- [20] The Chair asked the parties to advise her of the witnesses who would be presented at the hearing. Counsel for the PCC indicated that she would be calling KW and the Investigator. The Member's counsel then complained that the Panel should not admit JD's Affidavit if JD was not going to testify and be subjected to cross-examination. He asked for an adjournment of the hearing to make this argument in full.
- [21] Counsel for the PCC argued that the Member had known that PCC was not going to call JD to testify for many months and explained the procedural history of the motion scheduled in September 2024, which was ultimately vacated for the Member's failure to file motion materials. PCC counsel opposed the adjournment request.
- [22] The Panel denied the Member's request for an adjournment and continued with the hearing. However, in recognition of the importance of this issue and the need for careful consideration of the issue with proper notice, an evidentiary record and submission, the Panel agreed to consider the admissibility of JD's Affidavit on the next hearing date. The Chair asked both counsel if there were any other preliminary issues and they confirmed there were none.

[23] The Panel ordered that the parties submit written argument on the issue of the admissibility of the JD Affidavit if JD was not going to testify. The Panel set deadlines for the submission of the written materials by each party and agreed to hear the motion on the morning of the next hearing date, November 22, 2024. The Panel also ordered that the witness statements of the Member's witnesses (himself and his wife) be provided to the PCC. The hearing continued and the Panel heard opening arguments and the evidence of KW.

Member's Motion – Various Issues – November 22, 2024

[24] The following week, counsel for the Member filed a Notice of Motion and a Notice of Constitutional Question and the Member's Affidavit sworn November 19, 2024. In the motion, in addition to his request that the Panel refuse to admit JD's Affidavit, the Member raised the following new issues, contrary to counsel for the Member's earlier representation that there were no other issues:

- (a) The adequacy of the documentary disclosure made by the PCC;
- (b) The production of a video of the interview of JD by the Investigator on November 28, 2023; and
- (c) The production of the video and transcript of the interview of JD by the Toronto Police Service (TPS) on August 8, 2023.

[25] On the morning of November 22, 2024, when it had been agreed that the parties would argue the motion about JD's Affidavit, counsel for the Member asked for an adjournment because he was not prepared, and he wanted to submit further evidence. He argued that the materials filed by the PCC were voluminous. Counsel for the PCC replied that the materials were lengthy because of the new issues raised in the Member's motion.

[26] The Panel denied the Member's request to adjourn the motion for the following reasons:

- (a) The Member had agreed to the timelines and the process for the motion;
- (b) While the PCC's material was lengthy, it was necessary to respond to the new issues that the Member had raised; and
- (c) The Panel agreed to hear the motion as an accommodation because the Member had failed to bring the motion forward in September 2024 as directed at the pre-hearing conference.

[27] In light of his concern that he was not prepared, the Panel offered to give counsel for the Member additional time to consider and make oral submissions on the motion.

[28] Before hearing submissions on the motion, the Panel sought information from counsel for the PCC about the videos raised in the Member's motion materials and JD's availability to testify. Counsel for the PCC advised that the Investigator had a videoconference call with JD before JD affirmed her Affidavit and the PCC had a copy of the video that had not been previously produced to the Member. They also believed that they had a video of JD's interview with the TPS. Counsel for the PCC indicated that she understood from the counsel who had previously carriage of the matter that JD was not in good health, and they believed that the stress of participating in this hearing could be detrimental to JD

given JD's recent health challenges.

- [29] The Notice of Constitutional Question, which was not served on the Attorney General, was abandoned by the Member during oral argument on November 22, 2024.
- [30] During argument, counsel for the Member alleged that JD had not drafted her Affidavit and may not have understood it. He argued that interview videos of JD would demonstrate that she did not agree with what was in her Affidavit. Counsel for the Member said that it was necessary to hear the interviews to match them up with what was affirmed in the Affidavit.
- [31] The PCC acknowledged that the Investigator had drafted JD's Affidavit, but anticipated the Investigator would testify that she reviewed it carefully with JD before it was signed. KW had previously testified that when JD received the draft Affidavit, she and JD met with a Crown attorney and went over every line in the Affidavit to ensure it was correct before she affirmed its contents, and the Crown attorney commissioned it.
- [32] The Member's main submission respecting the admissibility of the JD Affidavit was that the right to cross-examine a witness is fundamental to our judicial system. He said that this is established in section 10.1 of the [Statutory Powers Procedure Act](#) (SPPA), which states:

- 10.1 A party to a proceeding may, at an oral or electronic hearing,
- (a) call and examine witnesses and present evidence and submissions; and
 - (b) conduct cross-examinations of witnesses at the hearing reasonably required for a full and fair disclosure of all matters relevant to the issues in the proceeding (emphasis added).

- [33] The Panel found that there was no statutory prohibition for administrative tribunals to rely on affidavit evidence without cross-examination on that evidence. Section 10.1 of the SPPA does not state that there is an absolute right to cross-examine an affiant—in fact, it limits cross-examination to what is “reasonably required for a full and fair disclosure of all [relevant] matters.” At the time of the motion, it was not clear if JD would attend the hearing as a witness for either party and the Panel found that it would be premature to make an order respecting the reliability, if any, of JD's Affidavit. The Panel determined that they could best analyze the reliability of the information in JD's Affidavit in the context of the entirety of the evidence. The Panel also noted that counsel for the Member had consented to the admission of JD's Affidavit into evidence and it was now part of the record.
- [34] As set out below, the Panel carefully considered the weight that it would eventually give to JD's Affidavit and whether it was reliable and credible, given all of the evidence at the hearing. As is noted below, the Member did not contest the majority of the statements in JD's Affidavit, other than her written evidence that he had given her advice about why she should deposit the Settlement Funds into his bank account.
- [35] In order to provide the Member with as much evidence as possible to challenge JD's Affidavit, the Panel ordered the PCC to provide the Member with the videos of JD's interviews with the TPS and the Investigator, if available. If JD was not going to be

produced as a witness for either party, the Panel invited the parties to file these videos to assist in the Panel's determination of the weight it should give to JD's Affidavit, if any.

- [36] Also, it was important for the Member and the Panel to know whether it was possible for JD to testify, as at the time of the motion, there was no current information about JD's health. The Panel ordered the PCC to obtain and file evidence about whether JD was available to attend the hearing. The hearing was scheduled to resume on January 23, 27 and 31, 2025, which were the next mutually available dates.

PCC Compliance with Panel's Order – December 2024

- [37] On December 30, 2024, as ordered by the Panel on November 22, 2024 with deadlines stipulated on December 9, 2024, the PCC filed a letter dated December 11, 2024 from Dr. SD. In the letter, Dr. SD stated that JD would have significant difficulty physically attending the hearing. JD had recently been receiving radiation treatment for lung cancer and she had a history of macular degeneration, a myocardial infarction, osteoporosis, multilevel degenerative disc disease of the spine and scoliosis. Considering these physical limitations combined with her significant anxiety, Dr. SD was of the opinion that appearing before a Panel would negatively impact on JD's overall health.

Member's Objection to Admission of JD's Interview Recordings – January 23, 27 and 31, 2025

- [38] On the next hearing date, January 23, 2025, despite previously asking for disclosure from the PCC, counsel for the Member objected to the admission of the video recordings of the TPS Interview dated August 8, 2023 and the PCC interview of JD dated November 28, 2023.
- [39] Because counsel for the Member had not given notice of this objection to the PCC, the Panel agreed to hear the parties' submissions about the admission of these documents on the next scheduled hearing date, January 27, 2025. The hearing continued with the evidence of the Investigator.
- [40] On January 27, 2025, counsel for the Member argued that the video recordings were not probative. Counsel for the PCC argued that the videos might assist the Panel in determining the weight to be given to JD's Affidavit, particularly when the Member had, at different times, alleged that JD was unduly influenced by KW or by the Investigator when preparing the Affidavit. The Panel agreed to receive the video recordings and determine whether they should be marked as exhibits on the next hearing day.
- [41] On the next hearing day, January 31, 2025, the Panel decided to admit the video recordings of JD's interviews with the Investigator and the TPS as they were relevant to the issues before the Panel and might assist in the determination of issues if JD was not called as a witness.

Adjournment of Hearing so that Member could Summons JD – January 31, 2025

- [42] At the end of the hearing day on January 31, 2025, counsel for the Member advised that he had obtained a summons to compel JD to appear at the hearing. He said that the Member had attempted to serve the summons on JD by going to her home but there was

no answer at the door. The Member asked for an adjournment so that JD could be served with the summons.

- [43] Counsel for the PCC protested the appropriateness of the Member himself attempting to serve JD, rather than an independent process server, given the circumstances. She opposed the adjournment request, noting that this was another attempt to delay the process.
- [44] The Panel reluctantly granted the adjournment, despite the fact that the Member had known since as early as July 2024 that JD was not going to be asked by the PCC to testify.
- [45] The hearing was scheduled to continue on March 11, 2025 for closing submissions respecting Finding and the Panel was prepared to hear JD's evidence on that date, if she appeared.
- [46] In order to make efficient use of the March 11, 2025 hearing date, the Panel ordered the parties to provide written closing submissions with respect to professional misconduct and proof of service of the summons on JD by March 7, 2025.

Adjournment of Hearing – March 11, 2025

- [47] The parties both provided written closing submissions as ordered. The Member did not file proof of service of the summons with the Tribunal.
- [48] On the morning of March 11, 2025, counsel for the Member advised that he had a medical emergency and would not be able to attend the hearing. The Member attended the hearing and advised that a process server had taped the summons to JD's apartment door a few days earlier.
- [49] Counsel for the PCC expressed concern that this was not proper service.
- [50] The Panel adjourned the hearing to April 3, 2025, and advised that on that date, it expected to hear oral submissions on Finding and, if a decision on Finding was made, to proceed to the Sanction stage of the proceedings the same day.

Adjournment of Hearing on Sanctions - April 3, 2025

- [51] On April 3, 2025, the parties made their oral submissions on Finding. After taking a break to deliberate, the Panel advised the parties that it had made a finding of professional misconduct.
- [52] Counsel for the Member then said that he was not prepared to argue Sanctions that day, despite the Panel indicating on the previous hearing date that the parties should be prepared to do so.
- [53] The Panel ordered that counsel for the Member comply with the June 10, 2024 pre-hearing conference direction that he give the Member's position respecting Sanctions to the PCC. The Panel also ordered that the parties exchange and file written submissions with respect to Sanction and supporting documents. As counsel for the Member was going to be out of the country for a lengthy period in April 2025, the Panel agreed to accept submissions on Sanction in writing, rather than convening another virtual hearing day. The parties did not

object.

- [54] The submissions of the Member were filed on April 9, 2025, a day after they were ordered. The Panel nevertheless accepted the Member's submissions on Sanctions.

IV. ISSUES ON FINDING

- [55] 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 made by the PCC were based?

(b) If the facts alleged by the PCC were established on the evidence on a balance of probabilities, did the Allegations constitute professional misconduct?

V. DECISION ON FINDING

- [56] On April 3, 2025, the Panel determined that the Allegations that the Member had breached Rules 201.1, 205 and 212.2 of the Code had been established, and he was found to have committed professional misconduct.

VI. REASONS FOR DECISION ON FINDING OF MISCONDUCT

- [57] The Panel heard the evidence of KW (JD's friend), the Investigator, the Member and the Member's wife. The Panel also received and relied upon the following evidence:

(a) JD's Affidavit affirmed on March 30, 2024 (Exhibit 1);

(b) Document Brief and Communications Brief of the PCC (Exhibits 2 and 3, respectively);

(c) Member's Affidavit sworn on November 19, 2024 (Exhibit 5);

(d) Letter from Dr. SD (Exhibit 11); and

(e) Video Recordings of the Interviews of JD by Toronto Police Services and by the Investigator (Exhibits 12 and 13, respectively).

- [58] The following is a summary of the evidence related to the Allegations. Most of the evidence was admitted by the Member during his cross-examination. However, where there was disagreement, it is noted below. The Panel's findings respecting the disputed facts are discussed under the heading "*Analysis*."

Member's Background

- [59] The Member graduated from college in 1989 and received his CMA designation in 1994. He worked as a controller in various industries until the early 2000s, when he started a marketing and accounting business. When he swore his Affidavit (November 2024), the Member stated that he operated his own accounting practice with 60-80 corporate clients and 300-400 personal tax clients.

The Member's Relationship with JD

- [60] The Member and JD met when they both worked at a timeshare company. JD was a general administration clerk. JD retired at age 70 and at the time of the hearing, she was 90 years old. JD received income from Old Age Security, Canada Pension Plan and the Guaranteed Income Supplement (GIS). The Member indicated that at one point, JD told him that she also received rental income but said that she did not declare that on her taxes. KW testified that JD lived from “cheque to cheque,” suggesting that she did not have significant savings. This was supported by the fact that JD received the GIS, which is a non-taxable monthly payment for low-income seniors in Canada.
- [61] The Member prepared and filed JD’s tax returns for approximately 20 years before 2023. Although JD did not pay the Member for this work, she gave him gift cards and assisted the Member and his wife by helping with their aged mother-in-law. JD met with the Member once every year in relation to the preparation of her taxes and they would occasionally see each other when she was visiting the Member’s wife. JD and the Member’s wife were good friends, but JD also considered the Member to be her friend.

Deposit of JD’s Settlement Funds into Member’s Account

- [62] JD was in a car accident on July 26, 2017. She received an insurance settlement of \$75,435.35 that was enclosed in a letter from a law firm dated June 15, 2020.
- [63] She contacted the Member for assistance as this was a lot of money to her. The Member testified that he offered to deposit her Settlement Funds into his bank account. The reason why JD did this is disputed, and the evidence of both parties will be reviewed below under the heading “*Allegation 3: Rule 205 – Member’s False or Misleading Advice to JD.*”
- [64] On June 19, 2020, JD and the Member both met at the Member’s bank. JD’s settlement cheque was then deposited into the Member’s bank account, and it was co-mingled with the Member’s personal money.
- [65] There was no written agreement or documentation with respect to how these funds would be managed or used by the Member. There was a verbal understanding that the Member would hold the money for JD and return it to her upon request. It was also understood by JD and the Member that he would keep track of her money until it was returned in full to JD.
- [66] The Member did not tell his wife or any other person that he held JD’s monies in his bank account.
- [67] On June 22, 2020, the Member used JD’s money, that was now in his savings account, to pay his line of credit (\$75,000). The Member did not tell JD (or anyone else) that he had used her funds to pay down his personal debt.
- [68] Up until July 2022, when JD asked the Member for the return of some of the Settlement Funds to pay for unexpected expenses (in \$2,000 and \$2,500 increments), the Member would e-transfer her the requested amounts. Each time JD asked for her money, the Member asked her what she was going to do with the money. By July 2022, the Member had paid JD \$34,000 and there was approximately \$41,000 still owed to JD by the Member.

- [69] In or about July 2022, JD asked the Member to return to her the entire amount remaining from the Settlement Funds. In her Affidavit, she stated that she was becoming upset because the Member was always asking her why she needed the money and she was worried that if she died, the money would not be in her estate. In July 2022, the Member told JD that he needed some time to get her the money, and she agreed to wait because of their friendship.
- [70] When the Member did not get back to her for many months, JD made subsequent requests for the return of her monies on February 28, March 15, April 18, June 26 and July 26, 2023. In April 2023, the Member responded and explained that he had been unwell and admitted to the hospital, but did not address her request to return her monies.
- [71] In a text message dated February 28, 2023, JD told the Member that she needed the money because a lawyer was helping her to prepare her will. This was not true. The Member's response was: "You want to get all this settled! Thought it was already settled." JD replied, "No, not really."
- [72] It was clear from the text messages that JD was becoming increasingly concerned over the Member's failure to respond to her. This came to a head in early July 2023 when JD saw a social media post from the Member's wife with a picture of her and the Member smiling on an airplane. JD assumed that they were going on vacation, but the Member and his wife later testified that this was not a vacation.
- [73] On August 1, 2023, in response to another text from JD, the Member asked JD if he could speak to her later. She agreed that they could speak later, but he did not call her. When she tried to call the Member, he did not answer the phone. On August 2, 2023, JD texted the Member: "I am waiting and this is serious." He did not respond despite her phoning him several times.
- [74] On August 4, 2023, JD phoned the Member's wife to say that he was not returning her phone calls. The Member's wife promised that the Member would call JD, but he did not.
- [75] JD eventually confided in her friend, KW, about her predicament with the Member. KW worked for Victim Services with the Ministry of the Attorney General. On August 7, 2023, KW and her aunt came to JD's home to assist JD. They telephoned the Member using JD's phone, but he did not answer. The three women then phoned the Member using KW's phone (which did not have caller ID) and the Member immediately answered. He said that he was "behind on his finances" due to his health problems and had used the money to pay his debts. When KW accused the Member of using JD's money without her consent, the Member hung up.
- [76] The Member then called JD's phone directly and KW put the call on speaker. KW threatened that they would go to the police if the Member did not return what was outstanding on the Settlement Funds immediately. The Member said that he could only repay \$2,500 and it would take him time to pay the balance. JD made KW end the call.
- [77] The Member then sent JD a text message that read "phone call dropped" and attached a photo of a spreadsheet (the "Member's Spreadsheet"). Included on the Member's Spreadsheet were two payments of \$2,500 allegedly made on November 11, 2020 and

March 25, 2021 with the notations “teeth” and “cash” written beside each entry respectively.

- [78] When JD reviewed her bank statements showing e-transfers from the Member’s bank account, the payments totaling \$5,000 did not appear as set out in the Member’s Spreadsheet. She calculated that he owed her \$41,435.35 rather than the \$36,435.35 set out on the Member’s Spreadsheet. The Member claimed that he had delivered cash to JD’s home, which was not true.
- [79] When the Member did not pay JD her money, JD and KW went to the police station the next afternoon. JD was interviewed by an officer with the TPS. While they were at the police station, JD received a text from the Member that he had deposited \$36,435 into her account. This was still short by \$5,000. JD pointed out the discrepancy to the Member and asked for the repayment within the next 20 minutes. Otherwise, she said, a police report would be issued. The Member e-transferred \$5,000 to JD. JD did not want to pursue the matter with the police, and no further action was taken by the police.

Analysis – Findings of Professional Misconduct

Allegation 1: Rule 212.2 – Failure to Handle JD’s Funds with Due Care

- [80] Rule 212.1 of the Code provides that a member of CPA Ontario must handle any entrusted property with due care in the course of providing professional services.
- [81] The Member argued that he did not act in the capacity of a CPA or accountant in his dealings with JD. The Member said that he was simply helping JD by completing and filing her tax returns as a favour to a friend. He also asserted that he was not holding the Settlement Funds in trust for JD.
- [82] The Panel found that the Member provided professional services to JD as defined by the Code. “Professional service” is defined in the Code as a service or activity of a member whether undertaken for remuneration or not, where the public is entitled to rely on the membership or registration with CPA Ontario as giving the member particular competence. The Panel further noted that as a CPA, one is held to the standards set out in the Code regardless of whether their actions are in a professional or personal capacity.
- [83] JD clearly relied on the Member to prepare and file her tax returns because he was a CPA, and not only because he was a friend. Similarly, when JD received the Settlement Funds and did not know what to do with the cheque, she contacted the Member. She did not go to her other friends for advice or even tell them about the cheque. Rather, she went to the Member who had a CPA designation and whom she had always trusted to prepare and file her taxes.
- [84] Furthermore, the Guidance to Rule 212.2 of the Code defines the term “trust funds” to include all amounts received by a member or firm to be held or disbursed on the instructions of the person from whom or on whose behalf the amounts are received, such person being referred to as a “client.”
- [85] The Panel found that JD entrusted her Settlement Funds to the Member and he was

providing professional services to her. She was his client. Pursuant to Rule 212.2, the Member had a duty to handle the Settlement Funds entrusted to him with due care.

Agreement with JD not Documented by the Member

- [86] Under section 2 of the Guidance for Rule 212 of the Code, each trust relationship should be documented in writing.
- [87] It was agreed that there was an oral agreement between JD and the Member that he would hold the Settlement Funds in trust for her and would send monies to her upon request. The Member did not agree that this was a “trust” but agreed that this was their understanding.
- [88] As far as his failure to document the arrangements with JD, the Member said that he was born and grew up in the rural community of Brighton, Ontario and he believed that “your word is your bond.” The Member argued that because his word is his bond, he did not need a written agreement with JD about the monies that he was holding for her.
- [89] The Panel found that it was the Member’s responsibility to document the agreement as he was a professional and he was holding the Settlement Funds in trust. The Member’s failure to document the agreement or even tell anyone (including his wife) that he was holding these monies in trust for JD, put JD at risk. If the Member had passed away before returning the Settlement Funds to JD, there was no record that the monies belonged to her.
- [90] The Panel found that the Member was not treating the Settlement Funds with “due care” as required by Rule 212.2 because, amongst other things, he did not keep a record of the transaction. Because he did not document the trust agreement, its terms were not clear beyond the most basic idea that this was her money, and she would get it back from him when she asked. If he had exercised his professional responsibility and documented the agreement, they would have had an opportunity to discuss what the Member was allowed to do with her money, including investment and interest.

JD’s Funds not Kept Separate from Member’s Funds

- [91] Under section 2 of the Guidance for Rule 212 of the Code, trust funds should be deposited without delay to a separate bank account which should be identified as an account for a specific client in trust.
- [92] The cheque for the Settlement Funds was deposited into the Member’s savings account. The Member’s counsel argued that JD knew that she was depositing the Settlement Funds into the Member’s account and so she must have been aware that she was co-mingling her money with that of the Member.
- [93] The Panel found that there was no evidence that JD appreciated that the Member was not going to transfer the Settlement Funds into a separate account, as would be expected of monies held in trust. JD was not a sophisticated investor – she lived from pension cheque to pension cheque and apparently had few savings. It is unlikely that JD would have been aware of a trustee’s obligation to keep monies received in trust separate. She clearly expected that the Member, as an accountant, would take good care of her money, but it

was unlikely that she put her mind to how he would do that.

- [94] In any event, the Panel believes that the Member had an obligation to act professionally and ethically regardless of JD's understanding of the Member's obligations.
- [95] Failure to create a separate trust account for the Settlement Funds resulted in the Member's inability to keep track of interest (although his misappropriation of the funds a few days after his receipt made this a theoretical issue only) or to maintain bank records that would accurately record the payments he made to JD over the years. Again, the Member failed to exercise "due care" of JD's trust monies by co-mingling them with his own monies.

Member Used JD's Funds to Offset his Personal Debt

- [96] Under section 2 of the Guidance for Rule 212 of the Code, trust funds should only be used for the purpose for which they are intended.
- [97] The Settlement Funds were deposited into the Member's bank account on June 19, 2020 and then transferred to pay his line of credit a few days later.
- [98] There was no benefit to JD to pay down the Member's personal line of credit and in fact this transaction meant that the Member no longer had a pool of trust funds to pay JD when she requested payments, which was their oral agreement. And, as it turned out, when the Member apparently had no other funds to pay JD because of the impact of his health issues on his professional practice, he said that he had trouble repaying her in August 2023.
- [99] In addition to the fact that the Member put the Settlement Funds out of reach by paying down his line of credit, which was lacking in the due care required to protect monies held in trust by a CPA, the Panel was concerned that the Member did not tell JD that he was using her monies for his own purposes. When asked about this on cross-examination, the Member indicated that there were no restrictions on how he could use JD's money. This was concerning, because the Member was clearly oblivious to his obligations under Rule 212 of the Code or even the most basic ethical requirement for holding something in trust for another person.

Member Failed to Account for Interest on JD's Funds

- [100] Under section 2 of the Guidance for Rule 212 of the Code, in the absence of express agreement to the contrary, any interest earned respecting the trust funds should be accounted for to the benefit of the client.
- [101] It was not disputed that the Member failed to account for interest respecting JD's Settlement Funds. This is because he almost immediately transferred her funds to pay down his line of credit.
- [102] The Panel found that the Member was holding JD's Settlement Funds in trust and had an obligation to maintain and prudently invest the funds in the best interests of the owner of the monies. This is expected of any trustee, but particularly by a trustee who is a CPA.

Member Failed to Maintain Accurate Records of Repayment

- [103] Under section 2 of the Guidance for Rule 212 of the Code, records should be maintained to show clearly trust funds received, paid or held on behalf of clients, clearly distinguishing the funds of each client from those of other clients and from the member's or firm's own funds.
- [104] The Member did not dispute that there was an implicit agreement with JD that he would maintain records of the Settlement Funds.
- [105] The only accounting provided by the Member to JD was the Member's Spreadsheet that he sent to her before she went to the police station in August 2023. The Member's Spreadsheet was inaccurate as it stated that the Member had paid \$2,500 to JD on two separate occasions when in fact this had not occurred.
- [106] The Panel noted that the Member's Spreadsheet did not indicate that this was JD's money and an outside party would be unable to determine what this document was without the assistance of the Member. Again, the poor record keeping is not in compliance with the requirements of Rule 212.2 of the Code.

Member failed to Return the Balance of the Settlement Funds when Requested

- [107] As set out above, JD made many requests for the return of the balance of her money held in trust by the Member in 2022 and 2023, but to no avail. The Member, who appeared to have been undergoing financial issues due to his poor health in 2022, was avoiding JD's texts and phone calls requesting the return of her Settlement Funds. This is most obvious from the Member's failure to answer the phone when JD called him in August 2023 but then he quickly answered KW's phone call (with no caller ID) immediately after JD's call.
- [108] Also, when pressured to pay JD back in August 2023, the Member told her that he owed her \$36,435.35, which was \$5,000 less than what he in fact owed her (not including interest). In calculating this amount, the Member admitted that he did not compare his spreadsheet against his own bank records, which would not have shown two payments for \$2,500.
- [109] Counsel for the PCC argued that the Member concocted the two entries on his spreadsheet to avoid paying JD what he actually owed her and then made up a story about delivering cash to JD in person.
- [110] The Panel found that had the Member maintained good bookkeeping records, this mistake would not have occurred.

Allegation 2: Rule 201.1 – Member's Misappropriation of JD's Funds

- [111] Rule 201.1 of the Code requires that a member act at all times with (a) courtesy and respect, (b) in a manner which will maintain the good reputation of the profession, and (c) serve the public interest.
- [112] Rule 201.1 governs an accountant's behaviour in their professional capacity as well as outside their formal practice when that behaviour tends to bring discredit upon the profession. It is sometimes referred to as "conduct unbecoming." When a CPA engages in impropriety connoting moral turpitude, their actions impact on the well-earned

reputations of all other CPAs.

- [113] The Member was found to have induced an unsophisticated client and friend to give him her settlement from a car accident and secretly used that money to pay his own personal debts. Clients, even when they do not pay for their services, should expect that the financial advice they receive from their accountant is in their best interests and that the accountant is not directing them to make decisions that instead benefit the accountant. The nature of the Member's misconduct directly strikes at the very foundation of the accounting profession.
- [114] The Panel found that the Member misappropriated JD's Settlement Funds when he used them to pay his personal line of credit in June 2020. The fact that he re-paid the monies, albeit under threat of police investigation, is not mitigating nor does it change the ethical impropriety of converting the trust funds to his own use. The essence of misappropriation is the unauthorized use of the funds in the first place, regardless of whether they are returned later.

Allegation 3: Rule 205 – Member's False or Misleading Advice to JD

- [115] Under Rule 205, a member shall not make or associate with any statement or representation which the member knows is false or misleading.
- [116] The PCC alleged that the Member gave the following false or misleading information to JD:
- (a) The Member told JD that she should deposit the cheque for the Settlement Funds into his bank account to avoid negative tax consequences and a potential reduction in her low-income supplement.
 - (b) He presented the Member's Spreadsheet to JD on August 7, 2023 that contained false or misleading information and then claimed that he made cash payments to her for \$5,000 when he had not done so.

Alleged Advice to JD about Depositing Cheque in Member's Bank Account

- [117] It was not disputed that JD met with the Member at his bank on June 19, 2020 and the cheque for the Settlement Funds that she received was deposited into the Member's bank account. Also, this transfer from JD to the Member was not a gift or a loan. The question before the Panel was whether the PCC established on a balance of probabilities that JD deposited the cheque into the Member's bank account based on his advice that this was in her best financial interest.
- [118] The Panel first considered the evidence of JD about why she deposited the cheque for the Settlement Funds into the Member's bank account, further detailed below. This evidence was found in JD's Affidavit, and two video recordings of her interviews with the Investigator and the officer at the TPS. This evidence was corroborated by KW, although her evidence was hearsay in that she said that she was reporting what JD had told her. In weighing this evidence, the Panel was mindful that JD did not attend the hearing, and the Member did not have an opportunity to challenge or test her evidence.

[119] The Panel then considered the Member's evidence, also detailed below. This evidence included his often contradictory statements to the Investigator in December 2023, his Affidavit sworn November 19, 2024, and his testimony at the hearing on January 27, 2025. Unlike JD, the Member's evidence was tested on cross-examination by counsel for the PCC and the Panel had an opportunity to observe him when he gave his evidence at the hearing.

[120] For reasons below, the Panel preferred JD's evidence over that of the Member's, even though it was not tested at the hearing. The Panel concluded that based on the totality of the evidence, the only reasonable explanation for JD to deposit her money into the Member's account was that the Member provided her with advice about the benefits to her in doing so, including that it would be beneficial to her from a tax perspective, and she would shield her low-income supplement. Whether this advice was correct or not was not before the Panel.

Evidence of JD

[121] In JD's Affidavit, she affirmed that after she received the settlement cheque, the following occurred:

8. I called [the Member] to ask for advice. I thought that he would be able to help because he was an accountant and a businessman.
9. [The Member] told me that if I deposited the Settlement Funds into his bank account, I would not have to pay taxes and my low-income supplement would not be affected. I didn't want to pay taxes or lose any of my income, so I agreed. I trusted him to do whatever was best for me.

[122] The Investigator testified that she drafted JD's Affidavit on the basis of the original complaint received by CPA Ontario and her interview with JD on November 28, 2023. The Investigator said that she also carefully reviewed the Affidavit with JD over the phone. KW testified that when the Investigator sent the draft Affidavit to JD, she and JD went to a Crown attorney to review it word for word before the Crown Attorney commissioned her oath.

[123] KW testified that when she went to JD's home in early August 2023, JD was upset that the Member was not returning her calls or responding to her requests to return the remainder of the Settlement Funds. JD told KW that when she received the settlement cheque, it was the most money she'd ever had in her life. Because she was overwhelmed, JD said that she reached out to the Member to ask him what she should do. JD told KW that the Member told her that if she deposited her cheque into his bank account, the government wouldn't tax her on it, and it wouldn't affect her old age income. The Panel found that KW was a fair and reliable witness whose testimony did not change during her cross-examination.

[124] The Panel listened to the video recordings of JD's interviews with the police officer on August 8, 2023 and the Investigator on November 28, 2023. The Panel noted that JD had a good recollection of these events and answered questions in a direct and articulate manner. JD's account of what happened as recorded in these videos was similar and

consistent with her Affidavit evidence. In the interviews, JD explained that she was very excited when she received the settlement cheque but also very nervous (she told the Investigator that she was a “nervous wreck”). JD said that she didn’t know what to do with the money so she phoned the Member, who she described as her accountant and friend, for advice. He told her to come to his bank with the cheque. She said that she understood that if she deposited the cheque into his bank account, she wouldn’t have to pay tax on it, and she would not jeopardize her low-income supplement.

[125] Counsel for the Member argued that JD “had a history of providing false statements to avoid confrontation.” The only example he provided was that JD texted the Member saying that she needed the money because she was working on her will with a lawyer. The context for this text, however, was that JD had asked the Member to return the remainder of her Settlement Funds, and he did not do so. At the time she sent the text, he was not responding to her requests. The Panel found that while JD may not have been honest about why she wanted her money back, she was understandably becoming frustrated by the situation. Rather than accuse the Member, who was a friend, of bad intentions, JD gave the Member a plausible (but untrue) reason why she wanted her money returned. As such, the Panel found that this behaviour did not significantly discredit the evidence that JD provided. There was no other evidence that JD had made any misrepresentations, and in fact, the Member agreed during his cross-examination that most of JD’s Affidavit was true.

Evidence of the Member

[126] On December 5, 2023, the Investigator conducted a recorded interview with the Member and they discussed, amongst other things, the circumstances of JD going to the Member’s bank and depositing the Settlement Funds into his bank account. He explained as follows:

- “[JD] came to the bank at the same point that I was there. I was at the bank also, and she signed the cheque and deposited it into my account” (Exhibit 3, page 21).
- When asked why JD deposited her cheque into his bank account, he said that JD put the money into his account because “[a]nyone can go and deposit funds into anybody else’s bank account across Canada” (Exhibit 3, page 21).
- The Member said that he wasn’t with her when she went up to the teller and deposited the cheque into his account. He said that JD dealt with the teller without him. He might have told the teller that “this lady needs to do something, too” (Exhibit 3, pages 21-23).
- When asked how JD would have known his bank account number, he said that the teller would have had that on her computer after he gave her his client card and before JD deposited her cheque (Exhibit 3, page 24).

During this interview, the Member did not mention that he had spoken to JD before the bank visit or that it had been arranged that they would meet there to deal with the cheque for the Settlement Funds, which he admitted at the hearing (see para [117] below).

[127] At a second interview on December 13, 2023, the Member was asked more about the events at his bank on June 19, 2020, and he told the Investigator the following:

- This was not a loan. It was just “[JD] depositing money” (Exhibit 3, page 73).
- When asked why JD would deposit her money into his account, the Member answered, “There isn’t a purpose...I don’t know what [JD]’s thought process was at that timeframe, Patricia” (Exhibit 3, page 73).
- When asked again if he knew why JD deposited the Settlement Funds into his bank account, the Member said that he did not ask her why but “people come to me over the years needing help, so I help where I can” (Exhibit 3, page 73).
- When the Investigator expressed puzzlement and asked if other people had given him money and put it into his account without giving him a reason or without documentation, the Member said that he had done this in the past (Exhibit 3, page 77).
- The Investigator asked what help the Member had provided to JD and he answered, “For whatever reason that she wanted to deposit the money into my account, that was reason enough” (Exhibit 3, pages 73-74).
- He was asked the same questions again, and he said that JD did not give him a reason and he did not ask why (Exhibit 3, page 74).
- The Investigator asked if the Member could speculate about what possible reason there would be for JD to do this, and he said he did not know. He added that he saw the cheque came from a lawyer, but he did not know it was a settlement from a car accident (Exhibit 3, page 75).
- The Investigator asked, “So, why not put it in a trust account? Why not have her earn interest if you’re managing. Why are you benefitting from this as opposed to her?” and the Member replied, “That thought process never came up” (Exhibit 3, page 78).

At no point in the interview with the Investigator did the Member mention that JD had concerns about her sons or that he and JD had spoken before they met at the bank.

[128] In his Affidavit sworn November 19, 2024 (after hearing the opening submissions and hearing the evidence of KW), the Member swore:

62. It is obvious that [the Member] never made those statements [about advice to JD that she could shield the Settlement Funds by depositing them into his bank account], in part, because (a) he did not make the statements, (b) the taxation concern is well known to be false and (c) 2 years later [JD] wanted the balance of the funds to be deposited to he [sic] account, indicating that she did not have a concern with it affecting her pension income or causing any possible taxation issues.

63. [JD] has 2 sons, each of whom suffers from mental illness. One [sic] her

sons also has an addition [sic] to alcohol. [JD] is concerned about the son with the alcohol addiction because he requests money from her regularly. This is the only reason that [JD] agreed to deposit the Settlement Funds from her automobile accident into [the Member]'s bank account in June 2020."

[129] During his direct evidence at the hearing on January 27, 2025, the Member testified that

- He and JD discussed the settlement money that she was going to get from her car accident about a month before JD received the Settlement Funds and she was concerned about getting the money.
- "She was very concerned that, you know, the one son, you know, coming forward and asking for money and [JD] giving it to her because a court and [JD]'s only worried she'd said over the course of her life that, you know, she's given him as much as she could. And so I said to her, I said if you want some help, I said I'll be more than happy to help you. You know, shield that money to a certain degree from, you know, your sons. You know, if that's what you're concerned about. And it was left at that and you know, then she came forward. You know, obviously once she got the cheque and wanted me take me up on. That particular offer, and I said, OK, well, you know, come on over to the bank. You know, whatever time you're good with and I'll meet you there."
- He denied that he gave JD tax advice about the Settlement Funds, saying that there was no tax advantage. He also denied that he gave her advice about her guaranteed income supplement because the Settlement Funds would not have affected that.

[130] When he was cross-examined by counsel for the PCC, the Member testified as follows:

- With a couple of minor corrections, such as the name of the company where she worked, he admitted the truth of almost all of the information found in JD's Affidavit, but disputed paragraphs 8 and 9.
- "She called me about a month before [going to the bank], stating that she was going to be receiving a cheque. What was the cheque for? No, no information was given to me at that time frame, nor was none asked. OK. It wasn't until I was at the bank with [JD] depositing the cheque...that I found out what the monies were for and what they were from."
- "After she had called me and said that she'd got her cheque, we agreed that we could meet at the bank. OK 'cause she'd asked for my help."
- It wasn't until they got to the bank that he knew about the car accident and the settlement.
- JD called him about a month before she got the cheque. "When she called me looking for advice a month before she got the cheque, I told her at that point in time if she needed some help, I'd be more than willing to help her for

whatever she needed to do in that time frame. So, when she called me and said she wanted to deposit the cheque, I'm like, if you want, we can meet at my bank and that's where we met". Later in the cross-examination, the Member denied that JD called him looking for advice.

- He said that he suggested to JD that she deposit the cheque into his account. He said that putting the money into his account was "one of the options" they had discussed in their phone call. When counsel for the PCC asked the Member what other options they discussed, he admitted that he did not advise her of any other options.
- When asked about what JD told him about why she was depositing the funds into his account, the Member said "she didn't tell me anything at the time" but they had previously had conversations about her son and "she was looking for some help that's going to help her to hang on to that money and not kill her sons either...That's only my assumption."
- On further questioning, the Member agreed that JD never told him that she was trying to hide money from her sons. The Member could not explain why he did not tell the Investigator about his assumption that JD was trying to shield the Settlement Funds from her sons.

Analysis

- [131] The Panel found that it was more likely than not that the Member gave JD advice that she should deposit the Settlement Funds into his account to shield it from taxes and prevent a reduction in the low-income supplement.
- [132] While the Panel was concerned that the Member did not have an opportunity to question JD about the information in her Affidavit, he agreed to most of that information. The Panel found that the PCC proved its case without JD testifying. While it may have been possible for either party to summons JD, this did not happen before the end of the oral portion of the hearing; a hearing that was extended from the original two days set in November 2024 to April 2025 in large part because of the Member's complaints about JD not attending the hearing. Given JD's serious health issues reported by Dr. SD, it was unlikely that even if she had been summonsed, JD would have been able or willing to participate in the hearing.
- [133] The Panel noted that there was no evidence that JD had discussed what to do with the Settlement Funds with anyone other than the Member, who was her accountant who had prepared her tax returns for over 20 years. Neither KW nor the Member's wife were contacted by JD about her receipt of a financial settlement and neither of them knew about JD's Settlement Funds until August 2023. KW testified that JD was a private person and had not told anyone about her settlement when she received it other than the Member.
- [134] It makes sense that JD did not know what to do with a relatively large sum of money, and as she told the Investigator, she was a nervous wreck. The Panel found that it was most probable that in the circumstances, JD would turn to her trusted accountant and friend for advice about what to do with this money.

- [135] The Panel found that the Member's suggestion that JD was trying to shield her money from her sons was entirely speculative despite the Member's assertion in paragraph 63 of his Affidavit and his direct evidence that this is why JD wanted to put her money into his account. The Panel noted that the Member did not provide this explanation during his interview with the Investigator and his evidence at the hearing was contradictory and not credible on this point.
- [136] In reviewing the transcript of the Member's interviews with the Investigator, the Panel found that the Member was evasive and gave non-answers to many of the critical questions that he was asked. For example, he initially implied that JD just happened to show up at his bank. He also failed to mention to the Investigator that he was aware that JD had a settlement cheque, or he suggested that she put the Settlement Funds into his account. The Member's explanation about shielding the money from JD's sons was only provided at the hearing and the Member's evidence was confusing and inconsistent about this story.
- [137] The Panel also found that it was highly unlikely that when JD contacted the Member to tell him she had received a large cheque, he did not ask her what that was about. He was her accountant and friend, and it defied logic that he would not make some enquiry, particularly as he was going to deposit this cheque into his own account.
- [138] Overall, the evidence of the Member did not have the ring of truth, particularly since his various versions of events were internally inconsistent. The explanation given by JD in her videotaped conversations with the police officer and the Investigator were more likely than not to reflect what actually happened and explain why JD did not keep the Settlement Funds herself but rather deposited the cheque into her accountant's bank account.
- [139] The Panel also took into account the fact that the Member benefitted from receipt of the Settlement Funds in that he paid down his line of credit. He had a motive to provide JD with advice to give the Settlement Funds to him. The Panel noted that the Member did not tell his wife about this arrangement until August 2023 when JD involved others to help her recover the remainder of the Settlement Funds.
- [140] The Panel found that on a balance of probabilities, the PCC established that the Member advised JD to deposit the Settlement Funds into his bank account so that he could shield her from taxes or the possibility that there would be a negative impact on her low-income supplement if she held the Settlement Funds in her own name.

Allegation that Member Advised JD that he had Repaid her the Amount of \$5,000 in case when he had not done so

- [141] It was not disputed that the Member's Spreadsheet that he provided to JD on August 7, 2023 contained false or misleading information. After sending the Spreadsheet to JD, the Member then attempted to justify the discrepancy between her bank statements and his numbers by claiming that he made cash payments to her for \$5,000. This was not true. The Member subsequently admitted that he did not go to JD's apartment nor give her cash payments.
- [142] The Panel also found that the Member should have made some effort to verify what

monies he paid to JD before falsely representing to her that he made cash payments. He had a fiduciary obligation to maintain accurate records of the monies that JD had entrusted to him and to confirm that the information that he provided to JD about the status of the trust monies was true.

[143] In any event, the Panel found that on a balance of probabilities, the evidence established that the Member made false and misleading statements to JD in breach of Rule 205 of the Code.

VII. DECISION AS TO SANCTION AND COSTS

[144] On May 12, 2025, after considering the evidence, the law, and the submissions of the parties, the Panel ordered that the Member's membership in CPA Ontario be revoked, that the Member pay a fine of \$40,000 to CPA Ontario by November 12, 2026, and that notice of the decision and order be given to all members of CPA Ontario, all provincial bodies, be made available to the public, and be published in the Globe and Mail Newspaper.

VIII. REASONS FOR DECISION AS TO SANCTION

[145] The Panel asked the parties to submit their positions on sanction and costs and written submissions in support of their positions.

[146] In her submissions on sanction, counsel for the PCC asked the Panel for an Order revoking the CPA Ontario membership of the Member and requiring the Member to pay a fine of \$40,000. The PCC also asked for publication of the outcome of the hearing in accordance with Regulation 6-2.

[147] The Member's position was that an appropriate sanction was a 6-month suspension and a fine of \$5,000.

[148] The purpose of sanction in a professional discipline matter is to provide specific deterrence to the member or student who has committed professional misconduct and general deterrence to others in the profession at large. Sanctions are intended to demonstrate to the public that CPA Ontario is diligent about disciplining its members and students for contraventions of their respective Codes. Sanctions are intended to protect both the public and the high reputation of the profession.

[149] The Panel considered the following mitigating factors in this matter:

(a) The Member attended interviews with the Investigator.

(b) He had no prior discipline history (although he had a caution, which is discussed below).

(c) The Member gave JD her money back (although under threat of police intervention).

[150] In his submissions on sanction, counsel for the Member argued that this was a unique matter where there was an almost 20-year friendship between the Member and JD. He also argued that the Member experienced health issues in 2023 and he eventually repaid JD in August 2023. Finally, the Member noted that the TPS did not charge him with fraud.

[151] The Panel found that the friendship between the Member and JD was not a mitigating

factor. The fact that JD trusted the Member was not to the Member's credit because he breached her trust in multiple ways: by not telling her that he had used her funds for his own benefit, by failing to properly account for her monies and by ignoring her many requests for payment of the remainder of the trust monies for about a year, during which time she became increasingly anxious and worried.

[152] The Member's health issues did not prevent the Member from honouring his fiduciary obligation to return JD's money to her on request.

[153] Also, the fact that the police were not involved after JD's money was returned to her did not mitigate against the Member's serious breach of trust and his professional misconduct.

[154] The Panel found that there were numerous aggravating factors related to the Member's misconduct in this matter:

(a) The misconduct was ongoing for approximately 3 years, from June 2020, when the Member gave advice to JD about the Settlement Funds, to August 2023, when the Member finally returned the remainder of the Settlement Funds to JD under threat of police intervention. The Panel found this to be a lengthy period of misconduct.

(b) The Member's actions were intentional and premeditated. He induced JD to deposit her funds into his bank account by providing incorrect financial advice, knowing he would benefit from the arrangement. The Member almost immediately used JD's Settlement Funds to reduce his own debt without her knowledge, the timing of which suggested premeditation. The Member then ignored JD's requests to return her remaining funds for about a year, all the while knowing that she wanted her monies back.

(c) The misconduct involved serious ethical violations, including dishonesty and deception of a client, breach of trust and misappropriation. In addition, the Member's failure to document the agreement that he had with JD exposed her to a significant risk if he predeceased her – no one, not even his wife, knew that he owed JD for the Settlement Funds that she had entrusted to him.

(d) The Member benefited from his misconduct in that he was able to pay his personal line of credit. He knowingly put JD at risk by not keeping the Settlement Funds in a separate account where it would earn interest.

(e) JD was a vulnerable victim of the Member's misconduct. She was a 90-year-old woman who lived alone and suffered from several health issues including cancer, declining vision and hearing, and ambulation challenges. JD supported herself from government pensions and subsidies and was not financially sophisticated. She trusted the Member and he betrayed that trust.

(f) Throughout the investigation and the discipline hearing, the Member showed no remorse or compassion for the impact of his professional misconduct on JD or the profession. He maintained that he had done nothing improper. At one point in his evidence, the Member admitted unabashedly that he had similar arrangements with other clients. The Panel was shocked when the Member said that he was not aware

of the provisions of the Code, even those that he was found to have breached. The closest that the Member came to being remorseful was his counsel's submission on closing that he "should have documented the situation with more clarity." Because of the Member's total lack of insight into his professional misconduct, the Member had not taken any steps to ensure that the situation would not repeat itself.

- [155] The Panel found it extremely troubling that the Member received a caution from the PCC on May 19, 2021 advising him that he had failed to exercise due care with respect to a work engagement for financially unsophisticated clients. The PCC expressed concern that the Member had created work products for two companies that lacked accuracy and veracity. In particular, the Member had failed to document a transfer of his client's shares to himself or document his own purchase of a company vehicle.
- [156] When he received this caution, the Member had an opportunity to reflect on his arrangement with JD and disclose to her that he had used her money for personal reasons. He might have used the PCC's guidance to clearly document the agreement he had with JD and to start to keep better records of the status of the trust monies. The Member did not heed the PCC's warning and showed himself to be ungovernable by CPA Ontario.
- [157] The Panel found that the misconduct of the Member was extremely serious, and it undermined the reputation of the profession and public confidence that members of the profession will act with integrity and honesty. The Member clearly did not understand his fiduciary responsibilities as a CPA or recognize that CPAs are held to a high standard, whether they are working for multinational corporations or vulnerable senior citizens. The Member's lack of insight or acceptance of any responsibility in this matter was very concerning.
- [158] Counsel for the PCC provided the Panel with the following cases where the Discipline Committee revoked the memberships of the individuals who had misappropriated monies from clients or their employers: [Chu](#), February 7, 2022; [Moyal](#), August 29, 2017; [Sheikh](#), August 16, 2021; [Anis](#), May 8, 2024; [Spitters](#), September 18, 2023; [Khosla](#), January 2, 2024; and [McWilliams](#), March 13, 2008.
- [159] In *Chu*, the Discipline Committee accepted an agreed statement of facts wherein Mr. Chu admitted that he had improperly made expense claims of \$53,000 at the company where he worked as the Director of Finance and Corporate Controller. It was found to be mitigating that Mr. Chu had repaid the monies improperly expensed to his company, he entered an agreed statement of facts with the PCC, and he had no discipline history.
- [160] The Discipline Committee in *Chu* found at para 42 that revocation is necessary where there has been serious misconduct involving breach of trust to protect members of the public, promote public confidence in the profession, deter other members from engaging in misconduct and to maintain the public's confidence in the profession. Absent significant extenuating or mitigating circumstances, revocation is the only appropriate remedy where a member has engaged in misappropriation. The Discipline Committee observed at para 44 as follows:

Honesty and integrity are the hallmark of the profession and Mr. Chu

exhibited neither of these characteristics. Members of the public must be able to trust their accountants and count on their honesty and competence. They must be able to count on CPA Ontario to firmly discipline any accountant who breaches these most fundamental covenants.

- [161] In *Moyal*, the Discipline Committee found that the conversion of client monies by Mr. Moyal for his own use was particularly egregious. They noted at para 49 that in matters involving dishonesty and moral turpitude, rehabilitation must give way to specific and general deterrence. Mr. Moyal expressed his apologies for his actions and mistakes and was “consumed by guilt and was truly remorseful” (para 36). Although he asked the Discipline Committee to suspend his membership, they found that suspension would not guarantee that Mr. Moyal had been rehabilitated at the end of the suspension period.
- [162] In *Sheikh*, the finding of serious professional misconduct of the member as a licensee with the Law Society of Ontario resulted in the revocation of his membership in CPA Ontario. The Discipline Committee considered Rule 201.1 and found that it did not matter if the professional misconduct took place in a member’s personal or professional capacity – both reflected on the integrity of the CPA because CPAs are expected to act with the highest degree of integrity and honesty.
- [163] In reviewing these decisions, the Panel concluded that revocation must be the presumptive penalty for misappropriation. The Member took advantage of an elderly and vulnerable client and friend for his own self-interest. He induced her to deposit the Settlement Funds into his own bank account and then used her funds without authorization to pay down his own line of credit. When she asked for the return of the remainder of her funds, he essentially ignored her for a year and then, only under threat of police intervention, he repaid her. The Member failed to pay JD what he owed her until pressured to do so. This was an abuse of the Member’s position of trust from a longstanding member of the profession.
- [164] Furthermore, it was clear that even after receiving a guidance letter from the PCC respecting his ethical obligations and following a lengthy discipline hearing, the Member remained unaware of or concerned about his professional obligations. He did not express any regret or remorse for his actions.
- [165] The Panel considered the PCC’s request for a fine in the amount of \$40,000 and the Member’s position that a fine of \$5,000 was appropriate. The Panel reviewed the case law provided by the PCC and found that \$40,000 was within the range of fines in cases for similar misconduct. The Panel found that the Member should be given until November 12, 2026 (18 months) to pay the fine.
- [166] One of the Panel members would have ordered a higher fine given the Member’s exploitation of a vulnerable client, lack of remorse, and a total disregard for his professional obligations. In their view, this is a deeply troubling combination that warranted the maximum fine to serve as a strong deterrent.
- [167] The Panel also considered whether they should order the Member to reimburse JD for the

interest that she had lost due to the Member's failure to segregate the monies he was holding in trust for her and his use of her funds for his own benefit. The PCC did not request this sanction, and the Panel appreciated that it might have been challenging to calculate the damages owed to JD as a result of the Member's misconduct. Because there was insufficient evidence to determine the appropriate amount of any reimbursement to JD and the PCC did not request this sanction, the Panel decided not to make this order.

[168] The Panel made the standard order with respect to publication pursuant to sections 45, 48, and 52 of Regulation 6-2. This was not contested by the Member.

IX. COSTS

[169] The Panel found that the Bill of Costs dated May 9, 2025 submitted by the PCC showing their actual costs of \$69,344.13 was reasonable. The PCC proposed that the Panel award costs that were 2/3 of their actual costs (\$46,229.42). The Member asked that no amount greater than \$10,000 be awarded against him.

[170] The purpose of costs is not to punish the Member who has committed professional misconduct but to indemnify the profession for the costs associated with the Member's misconduct. To the extent that the Member does not pay these costs, other members of CPA Ontario must assume responsibility for these costs.

[171] The Panel has discretion to order costs appropriate to the matter. The Panel appreciated that the PCC usually asks for costs to be calculated at 2/3 of their actual costs. A reduction from the actual amount of costs is based in part on the assumption that both parties are being respectful of the hearing process by being prepared and using hearing time efficiently and in good faith. It is expected that parties will not unduly prolong the proceedings by bringing frivolous motions or taking untenable positions.

[172] The Panel found that this was an unusual situation where the CPA Ontario discipline process was not respected by the Member and unnecessary costs and delays were caused exclusively by the Member. In the circumstances, the Panel determined that costs of \$55,000 better reflected the appropriate and fair costs of this matter.

[173] Some examples of the Member's conduct that warranted a higher award of costs were as follows:

(a) This hearing was scheduled on consent to be a two-day hearing on the basis that the Member was ordered to bring a motion in September 2024 respecting the PCC's decision that they were not calling JD as a witness. The Member did not bring that motion and the motion was vacated.

(b) The Member and his counsel stopped communicating with CPA Ontario from July 2024 to November 15, 2024, the morning of the hearing.

(c) After consenting to the admission of JD's Affidavit into evidence, the Member complained about the fairness of the hearing if the Affidavit was admitted and effectively brought an oral motion without notice or a proper record before the Panel. This motion was to address the very issue the Discipline Committee was to decide in September 2024. Despite the Member's failure to comply with the pre-hearing

conference directions, to ensure the fairness of the hearing to the Member, the Panel had no choice but to order that the motion be properly brought and heard, thus delaying the hearing.

- (d) When the Member submitted his motion material, he ignored the Chair's direction that the motion was to be in respect of the admission of JD's Affidavit and added several new issues, such as the adequacy of the PCC's documentary disclosure made April 9, 2024. These new issues were raised despite counsel for the Member's assurance that there were no other preliminary issues. Also, many of these issues should have been raised at the various pre-hearing conferences. The Member also brought a constitutional challenge that he had not served on the Attorney General. The PCC spent many hours responding to these extra motions, many of which were ultimately dismissed.
- (e) The Member then sought an adjournment on the morning of November 22, 2024 (when the Panel had indicated that argument on his motion would take place) because his counsel was not ready to proceed.
- (f) Despite being given additional time (five weeks) to summons JD (which he had agreed to do at the pre-hearing conference in July 2024), the Member failed to make reasonable efforts to summons her. The Panel found it concerning that the Member said that he attended at JD's apartment with a summons himself, rather than sending a process server. When given another opportunity to properly serve JD through a process server, the Member did not do so.
- (g) Throughout the hearing, counsel for the Member ignored the Chair's rulings and repeated his submissions about JD's Affidavit even after a decision was made. There were several other instances where counsel for the Member ignored the evidentiary rulings of the Panel or sought adjournments. It appeared to the Panel that the Member was attempting to delay this discipline process.

[174] In conclusion, the Panel found that the Member conducted this hearing in a manner that was vexatious and disrespectful to the hearing process established by CPA Ontario. As a result, the Panel found that the membership should not be expected to contribute or subsidize 1/3 of the actual costs of this matter. The Panel made an order of \$55,000 for costs.

DATED this 17th day of July, 2025



Alexandra Finkel, CPA, CA
Discipline Committee – Deputy Chair

Members of the Panel

Edward Asare-Quansah, CPA, CA
Nancy Tran, Public Representative
John Wilkinson, Public Representative

Independent Legal Counsel
Susan Heakes, Barrister & Solicitor