

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: Allegations against **KISHAN MOOLJEE, CPA, CA**, under Rules 201.1 and 206.1 of the CPA Code of Professional Conduct.

BETWEEN:

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

-and-

Kishan Mooljee

APPEARANCES:

For the Professional Conduct Committee: Kelvin Kucey, Counsel

For Kishan Mooljee: Present
Kim Duong, Counsel

Heard: October 30, 2024

Decision and Order effective: October 30, 2024

Amended Decision and Order effective: December 3, 2024

Release of written reasons: February 5, 2025

**REASONS FOR THE DECISION AND ORDER MADE OCTOBER 30, 2024, AND
SUBSEQUENTLY AMENDED DECEMBER 3, 2024**

I. OVERVIEW

- [1] The Professional Conduct Committee of the Chartered Professional Accountants of Ontario (“PCC”) made Allegations of Professional Misconduct that Kishan Mooljee (the “Member”) failed to maintain the good reputation of the profession and failed to perform his professional services in accordance with generally accepted standards of practice of the profession dated June 4, 2024 (the “Original Allegations”). During the hearing, PCC withdrew one of the Allegations with the agreement of the Member, resulting in the Allegations being amended from those previously issued on June 4, 2024 (the “Amended Allegations”).

- [2] This hearing was held to determine whether the Allegations and subsequently the Amended Allegations were established and whether the alleged conduct of the Member breached Rules 201.1 and 206.1 of the *CPA Code of Professional Conduct* (the "Code").
- [3] The Member admitted the Amended Allegations made by the PCC.

II. THE COMPLAINT, THE ALLEGATIONS AND THE AMENDED ALLEGATIONS

- [4] On April 6, 2023, the Practice Inspection Committee filed a professional conduct complaint against the Member asserting that he did not maintain professional standards, which reflected adversely upon his professional competence. The basis of the complaint was that following a Review Meeting with an inspector conducting a practice inspection, the Member submitted documents to the inspector that had not been prepared at the time the relevant engagements were performed.
- [5] The PCC investigated the complaint and reviewed an additional audit and three additional review engagement files.
- [6] On June 4, 2024, Allegations of Professional Misconduct against the Member were issued. The three main Allegations are summarized as follows:
- a) Contrary to Rule 201.1 of the Code, the Member failed to conduct himself in a manner that would maintain the good reputation of the profession and serve the public interest, as follows:
 - i) in or about the period of November 1, 2022, to December 31, 2022, he altered a working paper associated with the audit file of "255XXXX Ontario Inc." for the year ended December 31, 2021, following a meeting with the practice inspector [Amended Allegation 3]; and
 - ii) in or about January 2024, he created or modified working papers associated with a review file for "TLP" for the year ended December 31, 2021, after being requested by CPA Ontario investigators to provide all documents associated with the file [Amended Allegation 1].
 - b) Contrary to Rule 206.1 of the Code, the Member failed to perform his professional services in accordance with generally accepted standards of practice of the profession, with respect to the following:
 - i) an audit of the financial statements of "255XXXX Ontario Inc." for the year ended December 31, 2021 (17 particulars and sub-particulars) [Amended Allegation 4];
 - ii) a review of the financial statements for "TLP" for the year ended December 31, 2021 (8 particulars and sub-particulars) [Amended Allegation 2];
 - iii) a review of the financial statements of "HHHH" for the year ended June 30, 2022 (10 particulars and sub-particulars) [Amended Allegation 5]; and

iv) a review of the financial statements of "267XXXX Ontario Inc." for the year ended December 31, 2021 (originally 11 particulars, amended to 10 particulars during the hearing) [Amended Allegation 6].

c) Contrary to Rule 206.1 of the Code, in or about the period of December 1, 2021 to December 31, 2023, the Member failed to perform his professional services in accordance with the generally accepted standards of practice of the profession in that the Quality Assurance Manual prepared and put in place by him, did not establish a quality objective that required engagement documentation for review engagements to be assembled on a timely basis after the date of the engagement [Amended Allegation 7].

[7] During the hearing, because of a concern raised by the Panel, the parties agreed that one of the particulars of the Allegations (particular (a) of Allegation 6) respecting 255XXXX Ontario Inc. was incorrect. The parties submitted an Amended Agreed Statement of Facts and Amended Allegations striking out this particular.

III. ISSUES

[8] The Panel identified the following issues arising from the Amended Allegations:

A. Did the evidence establish, on a balance of probabilities, the facts on which the Amended Allegations 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 Amended Allegations constitute professional misconduct?

IV. DECISION

[9] Based upon the Amended Agreed Statement of Facts (the "Amended ASF"), the Panel found that the evidence established, on a balance of probabilities, the facts set out in the Amended Allegations.

[10] The Panel was satisfied that the Amended Allegations constituted breaches of Rules 201.1 and 206.1 of the Code, and having breached these Rules, the Member committed professional misconduct.

VI. REASONS FOR THE DECISION ON MISCONDUCT

Background

[11] The Member obtained his Chartered Accountant designation in 2001 and held a Public Accounting Licence ("PAL") at the time of the hearing.

[12] In or about 2012, the Member joined M & Co. as a partner, sharing responsibilities for administration, staffing and marketing with another partner, each remaining individually responsible for their own client engagements.

- [13] M & Co. staff consisted of six CPAs, nine associates, one administrator and two CPA students. For 2023, the Member's practice was composed of two audit clients, one review client and a robust combination of compilation engagements, business advisory and tax planning services.
- [14] CPA Ontario's Practice Inspection division ("PI") inspected M & Co. in 2019. At that time, PI provided the Member with a specified course of action to meet the standards of practice of the profession.

Complaint and Investigation

- [15] On or about November 22 and 23, 2022, as part of a larger inspection of M & Co.'s assurance work, the Member uploaded five working paper files for review by an inspector of PI (the "PI Inspector"). While not explicitly stated, it was expected that the Member would upload the entire working file for each engagement requested by the PI Inspector.
- [16] On November 24, 2022, the PI Inspector uploaded his draft inspection report for the Member's review, in advance of their virtual meeting on November 28, 2022 ("Review Meeting").
- [17] During the Review Meeting, the PI Inspector identified deficiencies that included missing documentation from the Member's working papers. In response, the Member advised that he believed he had additional documentation that related to the deficiencies that had been identified in other file folders at his office. The PI Inspector agreed that the Member could provide the missing documents after the meeting.
- [18] On December 2, 2022, the Member uploaded ten (10) documents related to some of the deficiencies that the PI Inspector identified at the Review Meeting. The Member explained that the new documents had been prepared during the engagements but were inadvertently excluded in the working paper upload. The Member then uploaded eleven (11) additional documents on December 7, 2022.
- [19] On December 13, 2022, the PI Inspector conducted a second meeting with the Member. The PI Inspector advised the Member that he did not consider the documents that had been provided by the Member after the Review Meeting, because he questioned whether they had been prepared at the time of the relevant engagements.
- [20] On April 6, 2023, the Practice Inspection Committee filed a professional conduct complaint against the Member asserting that he did not maintain professional standards, which reflected adversely upon his professional competence (the "PI Complaint").
- [21] On December 5, 2023, the PCC appointed investigators (the "PCC Investigators") to investigate the Member's professional conduct, standards of practice and the circumstances surrounding the PI Complaint. The PCC Investigators also reviewed Member's Quality Assurance Manual ("QAM") and the following assurance engagements performed by the Member:
- a) audit of the financial statements of 255XXXX Ontario Inc. for the year ended December 31, 2021;
 - b) review of the financial statements of HHHH for the year ended June 30, 2022;

- c) review of the financial statements of TLP for the year ended December 31, 2021; and
- d) review of the financial statements of 267XXXX Ontario Inc. for the year ended December 31, 2021.

[22] The PCC Investigators released their report on April 2, 2024.

Allegation 3: Member Altered a Working Papers Provided to the Practice Inspector

[23] While acting as the lead engagement partner for the 255XXXX Ontario Inc. audit engagement, the Member provided initial working papers to the PI Inspector on November 22, 2022. Following the Review Meeting, the Member sent a second version of the working papers to the PI Inspector on November 23, 2022, that was a larger PDF file than the initial version.

[24] The Member told CPA Ontario that the second version was provided “because of a call with the PI Inspector which resulted in the inclusion of additional documents saved in a supplementary file folder on the firm's server that were not initially provided to PI [Inspector].” He stated that the larger PDF had been saved elsewhere and was missed on compiling the initial submission of 255XXXX Ontario Inc. audit file in November 2022.

[25] In the Amended ASF, the Member admitted that he altered one working paper in the said file [A590-2-AL] after he met with the PI Inspector at the Review Meeting by adding a red box to include a narrative detailing the assessment and conclusion of risk. The Member admitted to doing so, in what he misunderstood, to be an “authorized” attempt to address missing information.

[26] The Member acknowledged that this act was not permitted. Notwithstanding his modification of the working paper, the Member agreed that he did not meet the required auditing standard to detail the auditor's evaluation of risks.

[27] The Member admitted that after the Review Meeting, he learned that a member of M & Co. had altered a working paper associated with the 255XXXX Ontario Inc. audit engagement by adding N/A to the document to address file deficiencies noted by the PI Inspector. During the submissions, the Member acknowledged that he accepted responsibility for the actions of the other firm member.

Allegation 1: Member Created and/ or Modified Working Papers Provided to the PCC Investigator

[28] The Member was asked by the PCC Investigators to provide working papers related to the review file for TLP for the year ended December 31, 2021.

[29] The Independent Practitioner's Review Engagement Report was dated July 7, 2022. The users of the financial statements are the Board of Directors, the funders and donors.

[30] The Member had prepared this file and there was no documented independent reviewer.

[31] The working papers that the Member submitted to the PCC Investigators to support certain financial statement areas (six areas in all) included comparative lead sheets with notations. The working papers were included in the CaseWare index as reviewed by "KM" (the Member) on July 7, 2022. However, as set out below, the notations were identified as having been created and/or modified by the Member on either January 26, 2024, or January 29, 2024. The dates when the notations were created on the specific working papers are as follows:

Specific file areas	Date created/ modified [Number of notations]
Cash	January 29, 2024 [five items]
HST receivable	January 29, 2024 [five items]
Accounts payable and accrued charges	January 26, 2024 [one item]
Government CEBA loan	January 26, 2024 [one item]
Revenue	January 29, 2024 [two items]
Expenses	January 29, 2024 [five items]

[32] Upon being interviewed by the PCC Investigators on February 22, 2024, the Member confirmed that 'he' was the one who had created the annotations. When asked why the notations were dated January 26, or January 29, 2024, he stated: "*These were done beforehand, when I did the work*" and admitted to ignorance regarding the discrepancy in the dates.

[33] The Member admitted that he had breached Rule 201.1 of the Code.

Allegations 2, 4, 5, 6 and 7: Member's Professional Services Not in Accordance with Generally Accepted Standards of Practice

[34] The Member admitted that as the engagement partner for the audit engagement of 255XXXX Ontario Inc., and the review engagements of HHHH, TLP, and 267XXXX Ontario Inc., he did not perform his professional services in accordance with generally accepted standards of practice of the profession that include:

- Canadian Standards for Quality Control ("CSQC") 1, as applicable to audits and reviews, up to December 14, 2022,
- Canadian Standards for Quality Management ("CSQM") 1, as applicable to audits and reviews, effective from December 15, 2022,¹
- Canadian Auditing Standards ("CAS"), applicable to audit engagements,
- Canadian Standards for Review Engagements ("CSRE 2400"), applicable to review engagements,

¹ The Member's files related to year end corresponding with December 2021 and June 2022. At that time, the Member (and the firm) was required to comply with CSQC 1. However, when referring to the quality standards, the Amended ASF used CSQC 1 and CSQM 1 inter-changeably. At the time of conclusion of the investigation in 2024, CSQM 1 was applicable. Based on the limited information in the ASF, the Panel reviewed both standards as applicable.

- Canadian Accounting Standards for Private Enterprises (“ASPE”), and
- Canadian Accounting Standards for Not-For-Profit Organizations (“ASNPO”).

[35] Compliance with the above noted generally accepted standards of practice is not optional.

Allegation 4: Audit of 255XXXX Ontario Inc.

[36] The Independent Auditor’s Report was dated July 14, 2022. The financial statements were prepared using ASPE. Materiality was determined at approximately \$20,000, with performance materiality being set at approximately \$15,000.

[37] 255XXXX Ontario Inc. operated an early learning and childcare center. The users of the financial statements were the shareholder, the funders and the Canada Revenue Agency (“CRA”).

[38] The file was prepared by another CPA in the employ of M & Co. and was reviewed by the Member as the engagement partner, as well as partially reviewed by the Member’s partner in M & Co.

[39] A number of errors or omissions were noted in the financial statement as outlined in the Amended ASF, including the following:

Particular 4(a)

- a) The Member failed to ensure the reporting of the policy for revenue recognition for all the sources of revenue, particularly grant revenue. ASPE 1505.06 requires the entity to disclose information on accounting policies when a selection has been made from alternative acceptable accounting principles and methods.

Particular 4(b)

- b) The Member failed to ensure proper disclosure of the policy for determining the composition of cash and cash equivalents presented in its cash flow statement as required. ASPE 1540.43 requires an entity to disclose the policy that it adopted.

Particular 4(c)

- c) The Member failed to ensure proper disclosure of inventories as required by ASPE 1400.03 and 1400.04 that require fair presentation in the financial statements in a manner that is clear and understandable. The financial statements of 255XXXX Ontario Inc. included a policy on inventories while such policy was not applicable to the entity and could be misleading.

Particular 4(d)

- d) The Member failed to ensure proper disclosure of the nature of the existing related party relationship for a related party transaction as required by ASPE 3840.51. While the financial statements reported advances from a related party, they did not include a description of the relationship between the entities.

[40] In the Amended ASF, a number of deficiencies and/or errors were noted relating to the performance of the audit engagement, including the following:

Particular 4(e)

- a) The Member failed to agree and properly document the terms of the audit engagement with management and/or those charged with governance ("TCWG"). CAS 210.9 requires the auditor to agree the terms of the audit engagement with management or TCWG, as appropriate. CAS 210.10 outlines the six areas of agreement to be recorded in an audit engagement letter or other suitable form of written agreement. The Member did not retain a copy of the signed engagement letter in the file, as the file copy was unsigned.
- b) The Member's submission of the 255XXX Ontario Inc. working papers after the Review Meeting contained an unsigned version of the engagement letter which was missing certain required elements. The Member provided the PI Inspector with the signed engagement letter on December 2, 2022, in PDF format, and a duplicate of the signed engagement letter on December 7, 2022, in PDF format. The Member stated that the signed version of the letter was saved in a shared Google drive created by the client. The signed engagement letter contained the missing elements, the screenshot of the document properties of the PDF file provided by the Member on February 22, 2024, indicated that the PDF was last modified on June 30, 2022, approximately 24 days after the date indicated on the signed engagement letter and 14 days prior to the engagement report date.

Particular 4(f)

- c) The Member failed to sufficiently document his assessment of the risks of material misstatement at the financial statement level and at the assertion level for classes of transactions, account balances and disclosures as required by CAS 315.25 and 315.32. The working papers did not include appropriate documentation to support the Member's assessment of risks of material misstatement.
- d) After the Review Meeting, the Member provided an additional working paper, Form 590-2 AL,81 entitled "Engagement scoping/summary of assessed risks at the assertion level," which was intended to identify material financial statement areas and disclosures and related control processes to facilitate the use of professional judgement in assessing the risks of material misstatement and to summarize the proposed audit response. The form was not completed, other than a preparer and reviewer sign off at the bottom of the document. This working paper had additional and new commentary: "*Based on our understanding of the entity, the environments, its internal controls and other factors, we conclude that there is a very low risk and the risk of material misstatement is low at the assertion level for all accounts, classes of transactions, and related disclosures.*" Despite the post-inspection additional inclusion of this document, its content was insufficient to support the auditor's evaluation of risks.

Particular 4(g)

- e) The Member failed to sufficiently document his design, procedures and evaluation of the results for audit sampling with respect to sampling procedures performed over general journal entries, cash, accounts receivable and revenue.
- f) CAS 530 on audit sampling requires the auditor to the sample design, size and selection of items testing, the performance of the audit procedures, the response to deviations and/or misstatements and the evaluation of the results of audit sampling as a reasonable basis for conclusion about the population that has been tested.
- General journal entries: CAS 240.33(a) requires the auditor to design and perform audit procedures to test the appropriateness of journal entries recorded in the general ledger and other adjustments made in the preparation of the financial statements. The auditor is required to select journal entries and other adjustments made at the end of the reporting period and consider the need to test journal entries and other adjustments throughout the period.

There was no documentation in the 255XXXX Ontario Inc. working papers related to auditing journal entries. After the Review Meeting, the Member provided an Excel document for General Journal Testing, which noted: "*M & Co. scanned the GL and identified certain manual journal entries. A sample of these entries were selected for testing to determine if they were appropriately authorized and approved by Management. Based on our finding, we determined that there were no unauthorized entry or sentries overridden.*" However, there was no documentation as to which entries were sampled.

- Cash (over \$250,000): Procedures related to agreeing details to the bank confirmation and review of bank reconciliation (using sampling procedures) were marked as "completed, no exceptions". However, bank confirmations as well as details of testing over cash balances were not included in the file.
- Accounts receivable (over \$50,000): Procedures relating to obtaining and agreeing a sample of confirmations, testing of aged receivables, and evaluation of allowance for doubtful accounts were marked as "completed, no exceptions". There was no evidence in the file that these procedures were performed.
- Service and fees (almost \$300,000): Procedure was documented on the lead sheet and referenced to a working paper in the file that was unrelated to the type of revenue that was noted on the lead sheet. Additionally, a detailed listing for the income schedule was included in the file but no evidence that either the balance was audited or the significant variance from prior year analyzed.

Particular 4(h)

- g) The Member failed to design and perform audit procedures to test the appropriateness of journal entries recorded in the general ledger and other adjustments made in the preparation of the financial statements as required by CAS 240.33(a).

The auditor is required to select journal entries and other adjustments made at the end of the reporting period and consider the need to test journal entries and other adjustments throughout the period. There was no documentation related to procedures for auditing journal entries.

- h) After the Review Meeting, the Member provided an Excel document for General Journal Testing which noted: "M & Co. scanned the GL and identified certain manual journal entries. A sample of these entries were selected for testing to determine if they were appropriately authorized and approved by Management. Based on the PCC Investigator's finding we determined that there were no unauthorized entry or entries overridden." There was no documentation as to which entries were sampled.

Particular 4(i)

- i) The Member failed to obtain sufficient appropriate audit evidence with respect to a number of account balances and classes of transactions recorded in the financial statements. CAS 500.6 requires the auditor to design and perform audit procedures that are appropriate in the circumstances for the purpose of obtaining sufficient appropriate audit evidence. The working papers did not provide sufficient appropriate audit evidence for the following financial statement items:
- Cash (over \$250,000): No evidence was included in the file to support procedures performed over cash balances.
 - Accounts receivable (over \$50,000): Balance reported in the financial statements represented daycare client receivables (small dollar value) and a grant receivable (large dollar value). Work performed included a reference to subsequent collection of grant receivable in the amount of over \$65,000, which was higher than the entire balance receivable at year end, without including the daycare client receivables. The working papers did not include any explanation of variance (amount recorded vs. collected).
 - Advances to related parties (almost \$500,000): Working papers to support these balances did not tie to the financial statements. Additionally, neither balance confirmation from these related parties was included in the file nor was there any documentation of terms of the advances or relationships with these parties.
 - Accounts payable and accrued payables (over \$75,000): A listing or breakdown was included in the file, but no documentation of how these balances were audited, including testing to be performed for search for unrecorded liabilities.
 - Government CEBA (\$20,000): No documentation or evidence that procedures were performed to justify inclusion of the potential forgiveness as revenue in the amount of \$20,000 or assessment of contingency for repayment of the amount was included.

- Services and Fees (over \$290,000): While some documentation was included to support this balance, documentation requirements re: sample testing were not included. Specifically, the determination of the sample and methodology of selecting the sample, the results of the testing for each sample and the extrapolations of the results from the sample testing were not documented.
- Subsidies and grants (over \$1 million): Balance included items such as CEBA forgiveness, CEWS, rent subsidy, and Wage and GOP grant, some of them refundable when conditions associated with these subsidies and grants are not complied with. No documentation was retained in the file regarding the appropriateness of the calculations of CEWS and rent subsidies, compliance with conditions of these subsidies and grants, or assessment of whether contingency/liability to return subsidies and grants existed at year end.
- Salaries and benefits (over \$500,000): No documentation retained in the file to either support accuracy of payroll expense (based on approved pay rates and time worked) or completeness of payroll expense (based on accrual of vacation pay and wage accrual from last payroll to end of year).

Particular 4(j)

- j) The Member failed to design and perform analytical procedures near the end of the audit that assist the auditor when forming an overall conclusion as to whether the financial statements are consistent with the auditor's understanding of the entity in accordance with CAS 520.6. The Member's audit documentation was limited to a schedule of financial ratios for the current year and for the previous four years for comparison. The Member did not provide documentation of any analysis of the ratios generated by this report.

Allegation 2: Review of TLP

[41] Paragraph 29 of these reasons outline the materiality, report date, and users identified for the TLP review engagement for the year ended December 31, 2021.

[42] A number of errors or omissions found in the financial statements were outlined in the Amended ASF, including the following:

Particular 2(a)

- a) The Member failed to ensure proper disclosure of the policy for determining the composition of cash and cash equivalents presented in its cash flow statement. The TLP financial statement did not include the required accounting policy disclosure as required by ASPE 1540.43.

Particular 2(b)

- b) The Member failed to ensure proper disclosure of all information required for a fair presentation in accordance with ASPE 1400.09. Specifically, financial statement notes referenced exposure to credit risk through grants receivable, but TLP did not report any grants receivable at the beginning or end of the year.

[43] In the Amended ASF, a number of deficiencies and/or errors relating to performance of the engagement were identified, including the following:

Particular 2(c)

- a) The Member failed to obtain an understanding of the entity and its environment, its legal structure, and the applicable financial reporting framework, to identify areas in the financial statements where material misstatements are likely to arise. Specifically, the Member identified users of the financial statements incorrectly by implying that TLP was a charity when it was not.

Particular 2(d)

- b) The Member failed to date the report no earlier than the date on which he had obtained sufficient appropriate evidence as the basis for his conclusion on the financial statements as required by CSRE 2400.103. The working papers included in the file were reviewed by the Member on July 7, 2022. Several notations were identified as created and/or modified by the Member on either January 26 or 29, 2024.

Particular 2(e)

- c) The Member failed to document the inquiry and analytical procedures with respect to the consideration of the contingent liability for repayment with respect to government assistance under CEBA in accordance with ASPE 3800.27 and .31(b). The CEBA loan forgiveness was reported as revenue without assessing whether the criteria for loan forgiveness was met or whether the amount recorded as forgiven would need to be repaid.

Particular 2(f)

- d) The Member failed to sufficiently document the inquiry and analytical procedures performed with respect to occupancy costs. CSRE 2400.46 and 2400.104 require the practitioner to not only design and perform inquiry and analytical procedures, but also to document the results of their procedures as evidence of review and to support the balance. The costs for rent and utilities increased, however there was no indication that the terms of a lease were reviewed. The financial statements did not report lease commitment information for either a short-term or long-term lease.

Particular 2(g)

- e) The Member failed to make inquiries of management and others about whether management had identified and addressed any subsequent events up to the date of the practitioner's report that require adjustment of, or disclosure in, the financial statements in accordance with CSRE 2400.47(e). The subsequent events review checklist neither identified the client representative who was interviewed, nor when they were interviewed. The details completed on the checklist were minimal.

Particular 2(h)

- f) The Member failed to document an adequate general review of selected working papers to permit him to make an objective evaluation of the adequacy of the work performed in sensitive and key risk areas, significant judgements made, and the conclusions reached. The Amended ASF referred to non-compliance with CSQC 1.33 and provided details of the requirements. However, the reference to CSQC in the ASF was incomplete and details of the requirements were included inaccurately. The Panel extracted the appropriate reference to CSQC from the CPA Canada Handbook – Assurance (extract below) and relied on that to understand and conclude on this particular:

CSQC 1.32. The firm shall establish policies and procedures designed to provide it with reasonable assurance that engagements are performed in accordance with professional standards and applicable legal and regulatory requirements, and that the firm or the engagement partner issue reports that are appropriate in the circumstances. Such policies and procedures shall include:

- (a) Matters relevant to promoting consistency in the quality of engagement performance; (Ref: Para. A32-A33)*
- (b) Supervision responsibilities; and (Ref: Para. A34)*
- (c) Review responsibilities. (Ref: Para. A35)*

CSQC 1.33. The firm's review responsibility policies and procedures shall be determined on the basis that work of less experienced team members is reviewed by more experienced engagement team members.

- g) M & Co.'s QAM required working papers to include that the engagement partner is responsible for ensuring a detailed review and a general review performed on every engagement. The detailed working paper review requires a comprehensive inspection of all working papers. The general review performed by the engagement partner is to be confined to the inspection of selected working papers that enable the reviewer to make an objective evaluation of the adequacy of the work performed in sensitive and key risk areas, significant judgements made, and the conclusions reached. Contrary to the QAM, the Member failed to document an adequate general review of the TLP review engagement as he prepared the working papers, and the working papers were not subject to review by another member of the firm.

Allegation 5: Review of HHHH

- [44] The Independent Practitioner's Review Engagement Report was dated August 22, 2022. The financial statements were prepared using ASNPO. Materiality was determined at over \$3,500.
- [45] The purpose of HHHH was to provide supportive housing and other related services to those suffering from mental illness in York Region. The users of the financial statements were the Board of Directors, the funders, donors and the Charity Division of the CRA.
- [46] Another CPA at M & Co. prepared the file and the Member reviewed it.

[47] A number of errors or omissions found in the financial statements were outlined in the Amended ASF, including the following:

Particular 5(a)

- a) The Member failed to ensure the reporting of the policy for revenue recognition for all the sources of revenue, particularly grant revenue and rental income. ASPE 1505.06 requires the entity to disclose information on accounting policies when a selection has been made from alternative acceptable accounting principles and methods.

Particular 5(b)

- b) The Member failed to ensure proper disclosure of the nature and amount of changes in deferred contributions balances for the period as required by ASNPO 4410.53.

Particular 5(c)

- c) The Member failed to ensure proper disclosure of the policy for determining the composition of cash and cash equivalents presented in its cash flow statement as required. ASPE 1540.43 requires an entity to disclose the policy that it adopted.

[48] In the Amended ASF, a number of deficiencies and/or errors relating to performance of the engagement were identified, including the following:

Particular 5(d)

- a) The Member failed to obtain an understanding of the entity and its environment and the applicable financial reporting framework to identify areas in the financial statements where material misstatements are likely to arise, as required by CSRE 2400.43. While the file included two working papers to document understanding of the entity, its environment, etc., these were minimally completed and did not demonstrate an appropriate level of understanding of the entity.

Particular 5(e)

- b) The Member failed to sufficiently document inquiry and analytical procedures performed, as required by CSRE 2400.46 and CSRE 2400.104, related to the following items:
 - Fundraising events (over \$50,000): While a lead sheet for revenue was included in file, no further analysis of the revenue sources was documented in the file, such as, comparison with prior year, analysis of new revenue sources. Additionally, the Revenue - Review procedures checklist was minimally completed, without documentary support for these review procedures being completed.
 - Government grants (over \$30,000): Government grants were primarily identified as "CMHC grant" and "Grants", each of which had material variances when compared to the prior year. No analysis was performed and there was no documentation of these variances. The review procedures and documentation were inadequate and there was no evidence that consideration was given to whether the terms of the conditions of the government grants were adhered to.

- Unrestricted donations (over \$40,000): This balance was comprised of Foundations revenue and Donations revenue, each of which had material variances when compared to prior year, which increased by a much larger amount. The review procedures and documentation were inadequate to support this conclusion.
- Rental income (over \$40,000): Rental income for the year had materially increased from the prior year but the referenced working paper did not include any further explanations.
- Salaries and benefits (over \$40,000): The file included the expense lead sheet with comparative amounts for all the expenses, including Salaries and Benefits. The lead sheet made reference to a salary reconciliation of the expense to the T4's for 2021 and a copy of the T4s. Additionally, the Payroll - Review procedures checklist was minimally completed, without documentary support for these review procedures being completed.

Particular 5(f)

- c) The Member failed to communicate with TCWG, all matters of sufficient importance to merit the attention of management or TCWG, in accordance with CSRE 2400.40. The file included a document entitled "Notes on significant decisions" that identified "increases in revenue[sic] and expenses" as a significant matter. Further notations identified the proposed resolution as "verified to agreements and invoices"; Conclusion reached as -"all amounts reasonable"; and Report to Those Charged with Governance? as – "Yes." There was no evidence in the working papers that revenue was verified to agreements or that the concern was reported to TCWG.

Allegation 6 – Review of 267XXXX Ontario Inc.

- [49] The Independent Practitioner's Review Engagement Report was dated August 31, 2022. The financial statements were prepared using ASPE. Materiality was determined. 267XXXX Ontario Inc. owned a motel property and ran a short-term rental operation. The users of the financial statements were the five shareholders, the lender and the CRA.
- [50] The file was prepared by another CPA and was reviewed by the Member as the engagement partner, as well as partially reviewed by the Member's partner in M & Co.
- [51] A number of errors or omissions found in the financial statements were outlined in the Amended ASF, including the following:

Particular 6(b)

- a) The Member failed to ensure proper disclosure of the aggregate amount of payments estimated to be required in each of the next five years to meet repayment provisions related to mortgage payable and the details of the mortgage security in accordance with ASPE 3856.45. The mortgage payable (Note 3) matured in April 2024 and was secured by guarantees, postponement, and subordination of related party balances in favour of the bank. The financial statements disclosed neither the five-year principal repayment schedule nor the details of the security provided for the debt.

Particular 6(c)

- b) The Member failed to ensure proper disclosure of the reconciliation of the income tax rate or expense related to income or loss for the period and the amount of unused income tax losses carried forward and unused income tax credits in accordance with ASPE 4565.88. The 267XXXX financial statements did not include the required disclosure.

Particular 6(d)

- c) The Member failed to ensure proper disclosure of government remittances liabilities as required by ASPE 1510.15. Specifically, the liabilities owed towards employee payroll related remittances and HST were not reported separately at the year end.

Particular 6(e)

- d) The Member failed to ensure proper disclosure of the exposures to risk arising from financial liabilities and how they arise, and any change in risk exposures from the previous period as required by ASPE 3856.53. The entity is required to disclose each significant risk arising from financial instruments, including derivatives, the exposures to risk and how they arise, and any change in risk exposures from the previous period. Notes to the financial statements provided a measure of the company's risks exposure and concentration as at September 30, 2020, not as at December 31, 2021 and there was no reference to the evaluation of risks for the previous year.

Particular 6(f)

- e) The Member failed to ensure proper disclosure of the nature and extent of risks arising from financial instruments to which the enterprise is exposed related to credit risks as required by ASPE 3856.53A. The entity is required to disclose information that enables users of its financial statements to evaluate the nature and extent of risks arising from financial instruments to which the enterprise is exposed at the end of the reporting period. Notes to the financial statements included reference to credit risk arising from holdbacks receivable under the *Construction Lien Act*. The company did not have holdbacks receivable and the reference to the *Construction Lien Act* was not applicable to 267XXXX Ontario Inc's operations.

[52] In the Amended ASF, a number of deficiencies and/ or errors relating to performance of the engagement were identified, including the following:

Particular 6(g)

- a) The Member failed to obtain an understanding of the entity and its environment and the applicable financial reporting framework, to identify areas in the financial statements where material misstatements are likely to arise, as required by CSRE 2400.43. While the file included two working papers to document understanding of the entity, its environment, etc., these were minimally completed and did not demonstrate an appropriate level of understanding of the entity.

Particular 6(h)

- b) The Member failed to identify areas in the financial statements where material misstatements were likely to arise as required by CSRE 2400.45. The working papers included two documents, both labelled Engagement Scope. The first document intended to identify pervasive material misstatements and financial statement areas, including disclosures, where material misstatements are likely to arise as well as identify the review procedures to be performed for these financial statement areas.
- c) This document was minimally completed and described "revenue and expense existence and completion" as an area where material misstatements are likely to arise and noted the planned procedures as "vouch transactions and increase substantive procedures". The working paper did not link to the specific areas in the working papers where these procedures were documented.
- d) The second document was prepared and signed off by the preparer and the reviewer, and was intended to identify significant accounts, record the related processes, assess internal control and document the relevant work program. This document was not deemed to be useful by the Member.
- e) Collectively, both documents did not provide evidence that the Member identified areas where material misstatements are likely to arise.

Particular 6(i)

- f) The Member failed to sufficiently document inquiry and analytical procedures performed, as required by CSRE 2400.46 and CSRE 2400.104, related to the following items:
 - Property and equipment (over \$3 million): The support for this balance included the comparative lead sheet and an annotation that outlined the procedures performed. The lead sheet included a balance for leasehold improvements that the Member was unable to identify. Amortization calculation was supported by a "Capital Cost Allowance Schedule" that was tied to the financial statements. However, it was based on income tax rates, rather than accounting policy as outlined in the financial statements. Specifically, no amortization was recorded on building in the above-mentioned schedule, however, the accounting policy would have necessitated amortization to be recorded at 4% declining balance basis. The Member was unable to provide any explanation for this discrepancy.
 - Advances from shareholders (over \$1.5 million): There were no working papers in the file to support this material balance. The worksheet "Related Parties" reported no related party balances. The file did not include any documentation of the terms of these advances that matched those disclosed in the financial statements. Additionally, notes to the financial statements indicated that the "*shareholders had waived in writing their rights to demand repayment within the next fiscal year*". However, confirmation from the five shareholders of their waiver of their rights were not obtained by the Member.

- Government CEBA loan (over \$30,000): There was no documentation in the working papers for this material balance. The CEBA loan forgiveness was reported as revenue without assessing whether the criteria for loan forgiveness was met or whether the amount recorded as forgiven would need to be repaid.
- Wages and benefits (over \$100,000): The support for this balance was the checklist for Payroll - Review procedures and a copy of the 2021 T4 summary. The checklist was minimally completed and balances in the T4 summary were not reconciled to the financial statements.

Particular 6(j)

- g) The Member failed to document discussions with management, TCWG and others of significant matters arising during the engagement as relevant to the performance of the review as required by CSRE 2400.106. The file included a document for "Notes on significant decisions" that identified the debt service ratio as a significant matter. The proposed resolution was reported that: "*Bank has given concession due to Covid impact on business. Operations and rentals have increased and debt payment will continue to be made from shareholders and operations. No going concern risk, mortgage is guaranteed by 5 wealth[y] shareholders.*" However, the working papers did not include documentation of the bank concession or the guarantees by the five shareholders. The Member asserted that he discussed the mortgage covenants with management and the bank manager but failed to document any of these discussions.

Particular 6(k)

- h) The Member failed to make inquiries of management and others, about whether management had identified and addressed any subsequent events up to the date of the practitioner's report that require adjustment of, or disclosure in, the financial statements in accordance with CSRE 2400.47(e). The subsequent events review checklist neither identified the client representative who was interviewed, nor when they were interviewed. The details completed on the checklist were minimal.

- [53] During the hearing, the Panel questioned the validity of the following Allegation (previously Particular 6(a) of the Original Allegations): *The Member had failed to ensure proper disclosure of the amortization method used for Goodwill.* The Original ASF also provided the following commentary by way of support for the Allegation:

Para 125. CPAH 3064.91 requires an entity to ensure that its financial statements disclose, for each intangible asset: the net carrying amount in total, the aggregate amortization expense for the period and the amortization method used, including the amortization rate.

Para 126. On the Balance Sheet, Goodwill was included as part of Property and equipment (Note 2) but should have been reported separately. Additionally, the accounting policy for the amortization of Goodwill was 5% declining balance, however, in Note 2 the amount of amortization for the year is less than the 5% declining balance.

- [54] The Panel noted that in 2021, when the 267XXXX Ontario Inc. financial statement was prepared, goodwill was not supposed to be amortized. The parties agreed that the Original ASF and Original Allegations were inaccurate as they alleged that the Member did not ensure proper disclosure of the amortization method for goodwill. No method for amortization was possible.
- [55] Consequently, the parties submitted the Amended ASF and Amended Allegations that removed reference to Particular (a) of Original Allegation 6, without renumbering the remaining allegations.

Allegation 7 – Quality Assurance Manual

- [56] In designing the firm's QAM, the Member failed to establish a quality objective that engagement documentation for review engagements would be assembled in a timely manner after the date of the engagement report. CSQM 1 applied to firms that perform assurance engagements and required the firms to design, implement, and operate a system of quality management for audits and reviews by December 15, 2022. Prior to the applicable date for CSQM 1, firms were required to apply an extant standard, CSQC 1 that also applied to review engagements.
- [57] The Amended ASF referred to non-compliance with CSQM 1, A83 and provided details of the requirements as follows:

CSQM 1, A83 asserts that for engagements conducted under the CASs or CSAEs, an appropriate time limit within which to complete the assembly of the final engagement file is ordinarily not more than 60 days after the date of the engagement report.

- [58] While the above assertion is accurate for engagements performed under CASs (i.e. audit engagements), it doesn't provide guidance for review engagements, which related to the Allegation under consideration.
- [59] The Panel reviewed the guidance in CSQM 1, A83 as included in CPA Canada Handbook – Assurance (extract below - not included in the Amended ASF) and relied on that to understand and conclude on the Allegation. Guidance was as follows:

Law, regulation or professional standards may prescribe the time limits by which the assembly of final engagement files for specific types of engagements are to be completed. Where no such time limits are prescribed in law or regulation, the time limit may be determined by the firm. (emphasis added)

- [60] Section 11.6 of M & Co.'s QAM detailed the practitioner's responsibilities at the end of an engagement as being responsible to assemble and collate (i.e. lock down) the engagement documentation into a completed engagement file within 60 days after the date of the engagement report. The Member asserted that this provision was applicable only to audit engagements and that the time for review engagements was limited to a year.

- [61] The QAM should be specific as to the timeline for completing the review engagement files in addition to the audit files.
- [62] Through the Investigation of the working paper files, there were several documents that were not included in the completed/lock down versions of the working papers. In addition, there were alterations to the completed/lock down working papers for which there was no evidence in the working papers of the required memorandum for the specific reasons for changes and when and by whom the changes were made and reviewed.
- [63] The Member admitted that in or about the period of December 1, 2021, to December 31, 2023, the QAM prepared and put in place by him did not establish a quality objective that engagement documentation for review engagements be assembled on a timely basis after the date of the engagement.

Finding of Professional Misconduct

- [64] The Panel concluded that the Amended Allegations, having been proven on the evidence set out in the Amended ASF, constituted breaches of Rules 201.1 and 206.1 of the Code.

VII. DECISION AS TO SANCTION

- [65] After considering the evidence, the law, and the joint submission of both parties, the Panel ordered (original Decision and Order dated October 30, 2024) that:
- a) The Member enter into an approved Supervision Agreement requiring all assurance work to be reviewed by an independent Supervisor for a period of 18 months, with costs to be borne by the Member;
 - b) The Member be subject to reinspection at the end of the 18-month supervision period, with costs to be borne by the Member;
 - c) The Member be fined an amount of \$15,000, and reimburse CPA Ontario for costs in the amount of \$20,000, with the fine and costs payable by April 30, 2025;
 - d) Notice of the Decision and Order to be provided to members of CPA Ontario, the Public Accounting Standards Committee, and all provincial bodies as well as published on the CPA Ontario website and in the Globe and Mail newspaper circulated in the Greater Toronto Region, with the Member bearing costs, where applicable; and
 - e) Failure to comply with the terms of the Order shall result in suspension and ultimately revocation with additional publication and costs arising therefrom being borne by the Member.
- [66] The Panel questioned PCC counsel and asked for confirmation whether paragraph b) above should refer to a “reinspection” or a “reinvestigation”. At the time, PCC counsel advised that the intention was that there would be a reinspection, and the Member’s counsel agreed. The Amended Decision and Order eventually changed “reinspection” to “reinvestigation” as requested by the parties.

VIII. REASONS FOR THE DECISION AS TO SANCTION

Objectives of Sanctions

- [67] The purpose of sanctions in a professional discipline matter is to provide specific deterrence to the member who has committed professional misconduct and general deterrence to the members of the profession at large. The sanctions are intended to demonstrate to the public that CPA Ontario is serious about disciplining its members for contraventions of the Code, protecting members of the public and promoting public confidence in the profession.

Joint Submission of Sanction

- [68] Where there is a joint submission from the parties about the appropriate sanctions, the agreement reached by the parties is entitled to a high level of deference. A joint submission should be adopted unless it is contrary to the public interest, and it would bring the regulatory process into disrepute because it was beyond the reasonable range of sanction for similar professional misconduct. In the words of Justice Moldaver of the Supreme Court of Canada in the matter of [R. v. Anthony Cook](#):

[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. (*emphasis added*)

- [69] The Panel considering a joint submission on sanctions must review the agreement reached by the parties to determine if it is unreasonable in the circumstances of the case. The Panel may have arrived at a different outcome but must be mindful of the high threshold for overturning a joint agreement as set out in *Anthony-Cook*.

Consideration of the Reasonableness of the Joint Submission

- [70] In concluding that the joint submission on sanctions was reasonable, the Panel considered the seriousness of the Member's professional misconduct, mitigating factors and whether the proposed sanctions were consistent with sanctions made against other Members in similar circumstances.

Seriousness of Misconduct

Allegations 1 and 3

- [71] The Panel found that the Member's misconduct in submitting altered working papers for 255XXXX Ontario Inc. to the PI Inspector in 2022 and again creating or modifying working papers for TLP in 2024 for the consideration of the PCC Investigators to be very serious. The Member has been a member of CPA Ontario for over two decades and should have known better.

[72] The Amended ASF included an explanation from the Member regarding his reason for creating and/ or modifying working papers to be that 'he misunderstood that an attempt to do so would be permissible / authorized'. The Panel found the Member's explanation difficult to accept, especially coming from a senior member of CPA Ontario.

Allegations 2, 4, 5, and 6

[73] These allegations related to deficiencies noted in one audit and three review engagement files and included shortcomings in the financial statements as well as performance of the respective assurance engagements. In all, forty-six (46) particulars and sub-particulars were identified related to the various deficiencies and/or errors.

[74] The Panel found that the significant number of deficiencies and/or errors noted by the PCC Investigators demonstrated either a lack of professional knowledge or a lack of concern for compliance with standards of the practice of the profession on the part of the Member. Many individuals, entities, and in some cases, the public were relying on the financial statements prepared by the entities. As the Member issued unmodified opinions and/or conclusions in relation to these engagements, there was a potential that the users were misled by the financial statements.

[75] Additionally, the Panel found that due to the significant number of deficiencies and/or errors noted, it is possible that the Member did not have a basis for the opinion/conclusions issued by him. No explanation was provided by the Member for his serious lapse of professionalism.

Mitigating Circumstances

[76] The parties agreed that there were several mitigating factors in this matter, including: the Member had no prior discipline record with CPA Ontario, the Member's misconduct did not result in any 'demonstrable' financial or other harm to the stakeholders or the public, and the Member cooperated with the investigation, PCC appearance, and the discipline proceeding.

[77] The Member advised that a specialist had been retained to conduct a thorough review of M & Co.'s QAM and in particular to consider the quality objective related to the engagement documentation for review engagements. The Member further asserted that an entire overhaul of the firm's QAM and practice management had been performed since the 2022 inspection. Additionally, in January 2023, M & Co. hired a person to supervise quality assurance. The Member and his firm's 2023 reinspection required no further action to be taken, indicating a marked improvement in his practice.

[78] Further, in arriving at the Amended ASF, the Member saved the PCC and the Discipline Committee the time and expense of a lengthy hearing.

[79] The Panel was concerned about the non-inclusion of mandatory assurance and ethics related professional development courses as a part of sanctions. The Member's counsel advised that the Member had already engaged in the following professional development courses offered by CPA Ontario:

- a) Quality Management Overview (February 2023);
- b) Meet Your Regulator – Professional Ethics (March 2023);
- c) Audit engagements for simple entities (May 2023); and
- d) Other courses on review engagements and the application of the standards CSRE 2400 (during 2023).

[80] In addition, the Member's counsel advised that staff at M & Co. had been mandated to undertake professional development courses to bring them up to speed on standards of practice of the profession, including procedures for organizing and maintaining audit and assurance engagement documents.

[81] Based on the efforts initiated by the Member to engage in professional development courses for himself as well as his staff, the Panel noted that the non-inclusion of mandatory assurance and ethics related courses was reasonable.

Comparable Jurisprudence

[82] The Panel was provided with a Joint Brief of Authorities. The Brief of Authorities included the following eight (8) cases of the Discipline Committee heard between September 2019 and November 2023 where there were issues related to the failure of members to perform professional work in accordance with the generally accepted standards of the profession: [White](#) (September 13, 2019); [Vriend](#) (October 20, 2021); [MacNeil](#) (February 24, 2021); [Hinchcliffe](#) (June 8, 2022); [Edgecombe](#) (August 17, 2023); [Jakubos](#) (August 17, 2023); [Sutherland](#) (February 10, 2023); and [Viola](#) (November 28, 2023).

[83] The Panel noted that fines in these matters ranged from \$7,500 (White) to \$75,000 (MacNeil). Several of the members in these matters were suspended for periods from four (4) to six (6) months. However, some of these members were not suspended and one member was revoked. The costs that were ordered ranged from \$12,000 to \$180,000. Overall, these cases were fact-specific and did not provide a significant amount of guidance to the Panel.

[84] Furthermore, the Panel noted that in some of the previous cases, the respective members were categorically found to "not" have acted dishonestly. In this case, the Member deliberately and intentionally created and/or modified working papers prior to submission to the PI Inspector as well as PCC Investigators.

Conclusion Respecting Proposed Sanctions

[85] While that Panel found the behaviour of the Member to be very concerning, particularly for a senior member of CPA Ontario, in absence of additional proof and in the context of the Amended ASF, the Panel accepted the joint submission. In doing so, the Panel assessed the merits of the sanctions against the backdrop of Anthony-Cook, as outlined in paragraph [68] above and concluded that the proposed sanctions were reasonable.

IX. COSTS

- [86] The Panel reviewed the Bill of Costs provided by PCC counsel and found that the costs requested, which were 2/3 of the actual costs, were reasonable. Most of the costs claimed were in respect of disbursements for the fees incurred for the PCC Investigators. The Member should be required to contribute to these costs as they were required as a result of his professional misconduct.

X. AMENDMENT TO THE DECISION AND ORDER

- [87] The Decision and Order was issued to the parties on October 31, 2024. It recorded the Decision of the Panel that the Member had breached Rules 201.1 and 206.1 of the Code, thereby committing professional misconduct. In addition to the standard publication and enforcement provisions, it ordered that the Member enter into an approved Supervision Agreement requiring all assurance work to be reviewed by an independent Supervisor for a period of 18 months, with costs to be borne by the Member, be subject to reinspection by PCC at the end of the 18-month supervision period, with costs to be borne by the Member, be fined an amount of \$15,000, and reimburse CPA Ontario for costs in the amount of \$20,000, with the fine and costs payable by April 30, 2025.

- [88] On November 13, 2024, PCC counsel wrote to the Tribunals Office on behalf of both parties and advised that they had made a mistake regarding the Decision and Order and on consent they asked that the Order be amended as follows:

The PCC shall reinvestigate [the Member]'s assurance practice following the 18-month supervisory period. [The Member]'s costs for reinvestigation shall be restricted to \$5,000. (emphasis added)

- [89] The Chair asked the parties for written submissions respecting this request. PCC counsel emailed the Panel on behalf of PCC and the Member on November 22, 2024. PCC counsel stated that they were seeking two (2) changes to the Order previously issued:

- a) Change "reinspection" of the Member's assurance practice to "reinvestigation"; and
- b) Limit the Members costs for reinvestigation to \$5,000.

- [90] PCC counsel submitted that pursuant to Rule 21.04 of the *Rules of Practice and Procedure* (the "Rules"), the Tribunals Office or the Panel may correct a minor error in an Order. He explained that in a companion prosecution against another member, another panel of the Discipline Committee directed a reinvestigation of that member's assurance practice and that it was in the interests of procedural fairness and consistency of remedy that these related files should reflect the same form of post-period review, namely a reinvestigation. This amendment, he submitted, would align with the PCC's practice of post-supervision review of members' assurance practices. PCC counsel also advised that it does not have the authority to conduct a reinspection of the Member's practice; the PCC may only reinvestigate.

- [91] PCC counsel did not provide any explanation for why the Member's obligations respecting the costs of the PCC's review process would change from being the Member's entire responsibility to having a limit of \$5,000.

- [92] In response to the parties' request to amend the Order, the Panel reconvened on December 3, 2024, to deliberate on the amendments requested by the parties, and were assisted by Independent Legal Counsel (ILC). ILC provided legal advice to the Panel that, despite the fact that the hearing had concluded, they had the authority to hear the submissions provided by PCC counsel and amend the Order to include the terms the parties were now seeking if they decided that the errors fell within the scope of Rule 21.04. ILC advised that the doctrine of *functus officio* did not prevent the Panel from correcting errors arising from the parties' inadvertent errors in the terms of their joint submission provided the errors fell within the scope of Rule 21.04 of the Rules - typographical errors, errors of calculation or similar minor errors made in the Order.
- [93] The Panel accepted the advice of ILC. The Panel found that the reference to the PCC conducting a reinspection rather than a reinvestigation was a minor error within the meaning of Rule 21.04, and it appeared that the Order could not be implemented or enforced without this correction. Furthermore, this amendment, jointly submitted, was not contrary to the public interest and would not bring the regulatory process into disrepute.
- [94] With respect to the proposed change to the Member's obligation to bear the entire costs of the reinvestigation, there was no evidence or argument before the Panel about how limiting the Member's costs qualified as a "minor error," other than it was consistent with the companion prosecution. While the Panel could speculate that costs of a reinvestigation might be higher than the costs of a reinspection, the Panel was unable to find that the change in the Member's obligations to pay costs was a "minor error" akin to a "typographical error" or an "error of calculation" in accordance with Rule 21.04. Accordingly, the Panel found that it had no jurisdiction to amend the Order regarding limiting the Member's costs as requested. The parties may decide to come to a separate agreement about limiting the costs of the reinvestigation, but the Panel does not have jurisdiction to change its Order at this time under the Rules. The time for renegotiation of a joint submission of sanction is not after the hearing has concluded.

XI. CONCLUSION

- [95] The Panel takes this opportunity to express their concern that materials that were provided to the Panel for the hearing, specifically the Allegations (Original and Amended) and the ASF (Original and Amended), were not carefully crafted. The Original Allegations contained one error and the Original ASF contained several errors, with one of the errors being of a nature that the Panel would have made an unwarranted finding of professional misconduct against the Member. To the credit of the parties, when brought to their attention, this error was acknowledged and Amended Allegations as well as Amended ASF were provided to the Panel during the hearing. In instances of other errors on the ASF and Amended ASF, the details of the Member's misconduct were not accurately, completely, and/or clearly articulated.

As a result, the Panel felt the need to apply its own understanding of the standards of practice to ascertain whether the evidence provided to the Panel established the facts on which the Amended Allegations were based and whether the Amended Allegations constituted professional misconduct.

- [96] The Panel sought legal advice on whether it was appropriate for it to apply its own understanding of the standards of practice and were advised by the ILC that this was permissible under section 16 of the Statutory Powers Procedure Act. Additionally, as described above, after the issuance of the Decision and Order, but before the issuance of these Reasons to the Decision and Order, Panel was required to Amend its Decision and Order.
- [97] In the case of joint submissions, panels should be able to rely on the evidence presented before it, specifically the Allegations and the ASF, including the joint position on sanctions. In particular, the facts as agreed must be carefully and clearly set out so that all Panel members and members of the public can understand why these facts constitute a breach of the Code without the need to refer to the standards of the profession on their own.
- [98] The Panel was disappointed that the materials that it received in this matter, which involved serious allegations relating to the professional conduct of the Member, were not given more scrutiny by the parties before it came before the Discipline Committee. The Panel takes this opportunity to express their expectation and confidence that parties will continue to ensure that the Allegation(s), evidence supporting the Allegation(s), and each element of a joint position on sanction is crafted with due care and is provided to a hearing panel of the Discipline Committee during the course of the hearing.

DATED this 5th day of February 2025



Richa Khanna, CPA, CA, LPA
Discipline Committee – Deputy Chair

Members of the Panel

Jana Marečková, Public Representative
Barbara Ramsay, Public Representative
Ian Wollach, CPA, CA

Independent Legal Counsel

Susan J. Heakes, Barrister & Solicitor