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THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO

IN THE MATTER OF: ALLEGATIONS OF PROFESSIONAL
MISCONDUCT AGAINST MORRIS
AGULNIK, CA, A MEMBER OF THE
INSTITUTE, BEFORE THE DISCIPLINE
COMMITTEE

SETTLEMENT AGREEMENT

*made pursuant to Section 34 (1)(c) of the Chartered
Accountants Act, 2010, and to ICAO Regulation 7-1, s.22.4*

Introduction

1. The Professional Conduct Committee approved draft allegations against Morris Agulnik, CA ("Agulnik") **Doc 1**.
2. The draft allegations pertain to professional work performed by Agulnik with respect to:
 - a) the review of the financial statements of "SEL" for the year ended September 30, 2009;
 - b) the review of the financial statements of "VTL" for the year ended November 30, 2009; and
 - c) the audit of the financial statements of "SHCC" for the year ended December 31, 2009.
3. The documents referred to in this agreement are found in the Document Brief. The applicable *CICA Handbook* sections are found in the Brief of Authorities.

4. The Professional Conduct Committee ("PCC") and Agulnik agree with the facts and conclusions set out in this settlement agreement for the purpose of this proceeding only, and further agree that this agreement of facts and conclusions is without prejudice to Agulnik in any other proceedings of any kind, including, but without limiting the generality of the foregoing, any civil or other proceedings which may be brought by any other person, corporation, regulatory body or agency.

Background

5. Agulnik graduated from Carleton University with a Bachelor of Commerce. He subsequently obtained his CA designation in 1955 and formed Agulnik Greenberg Chartered Accountants, a two-man partnership in Ottawa.
6. In 1970, the Agulnik Greenberg practice merged with two other CAs, Sidney Finkelman ("Finkelman") and Albert Rivers. When Greenberg passed away and Rivers retired, the remaining partners established Finkelman & Agulnik Chartered Accountants, and have practiced together in Ottawa under this name since 1975.
7. The practice services approximately 100 clients, including 250 T1s, 50 compilations, 7 reviews and 4 audit engagements. Of these, Agulnik is responsible for four review and two audit engagements. In 2010, gross billings for the practice were \$345,000. Working with Agulnik and Finkelman are a receptionist, two technicians, and Agulnik's son who is a CGA. Agulnik and Finkelman have no association with any other CAs.
8. Agulnik came to the attention of the PCC as a result of a referral from the Practice Inspection Committee following an initial inspection and a re-inspection of the practice. **Doc 2**

Allegation 1- The Review of the Financial Statements of SEL for the Year Ended September 30, 2009

9. The financial statements for SEL for the year ended September 30, 2009 are reproduced at **Doc 3**.
10. Agulnik signed the Review Engagement Report in the firm name and delivered it and the financial statements to the client.
11. SEL is a private company located in Ottawa. The company operates an electrical contracting business. In 2009 SEL had annual sales of \$1.47 million and a net loss of \$33,000.
12. Materiality for this engagement was set by Agulnik at \$20,000.

Allegation 1(a) – Bank Loans

13. The balance sheet item “BANK LOANS 85,000” **Doc 3, p. 18** relates to an operating loan, payable on demand with interest at bank prime plus 2%. The item is incorrectly included as a long-term liability on the balance sheet. *CICA Handbook* Section 3210.04 **Tab 1** requires that any portion of long-term debt payable within the year be classified as a current liability.
14. The *Handbook* also requires the public accountant to disclose the terms of the loan including the interest rate and the security however there is no note disclosure describing the terms of this liability.

Allegation 1(b) – Bank Indebtedness

15. The balance sheet item “Bank indebtedness 207,102” **Doc 3, p. 18** consists largely of outstanding cheques and is classified as a current liability. There is

no note to the financial statements describing the terms of this liability as required by *CICA Handbook* Section 3210 **Tab 1**

Allegation 1(c) – Cash Flows

16. The Statement of Cash Flows **Doc 3 p. 21** does not disclose the amounts of interest paid. *CICA Handbook* Section 1540.34 **Tab 2** requires interest received and paid and included in the determination of net income to be classified as a cash flow from operating activities and disclosed separately. Interest was not disclosed separately on the Statement of Cash Flows.

Allegation 1(d) – Significant Accounting Policies

17. There is no disclosure of the company's accounting policy for the recognition of revenue. *CICA Handbook* Section 3400.06-.09 **Tab 3** requires disclosure of revenue from sales and service transactions. The method of determining revenue, including use of the completed contract method or the percentage of completion method should have been disclosed but was not.

Allegation 1(e) – Financial Instruments

18. Although SEL had a number of financial instruments including bank indebtedness, bank loans and lien notes payable, there is no disclosure concerning financial instruments in the financial statements. *CICA Handbook* Section 3862.31 **Tab 4** requires extensive disclosure about financial instruments including an assessment by the accountant as to the credit, currency, interest rate, and equity risk. The entity is required to disclose to the users of the financial statements the nature and extent of the risk arising from financial instruments.

Allegation 1(f) – Documentation

19. Items required to support the Review Engagement Report are not adequately documented as required by *CICA Handbook* Section 8200, **Tab 5** including:
- a. information on the inter-relationship of key elements in the financial statements;
 - b. enquiry, discussion and analytical procedures;
 - c. explanation of key balance sheet ratios;
 - d. explanation of gross profit margins; and
 - e. GST & PST reasonableness test.
20. In addition, there is no evidence in the working papers that a quality control review was performed.

Allegation 2 - The Review of the Financial Statements of VTL for the Year Ended November 30, 2009

21. The financial statements for VTL for the year ended November 30, 2009 are reproduced at **Doc 4**.
22. Agulnik signed the Review Engagement Report in the firm name and delivered it and the financial statements to the client.
23. VTL is a private company located in Ottawa. The company operates a trailer sales and services business. In 2009, VTL had annual sales of \$1.687 million and a net income for the year of \$21,000.
24. Materiality for this review engagement was not documented by Agulnik.

Allegation 2(a) – Significant Accounting Policies

25. There is no disclosure of the company's accounting policy for the recognition of revenue. *CICA Handbook* Section 3400.06-.09 **Tab 3** requires disclosure

of revenue from sales and service transactions. The method of determining revenue, including use of the completed contract method or the percentage of completion method should have been disclosed but was not.

Allegation 2(b) – Cash Flows

26. The Statement of Cash Flows **Doc 4 p. 66** does not disclose the amounts of interest paid. *CICA Handbook* Section 1540.34 **Tab 2** requires interest received and paid and included in the determination of net income to be classified as a cash flow from operating activities and disclosed separately. Interest was not disclosed separately on the Statement of Cash Flows.

Allegation 2(c) – Financial Instruments

27. Although VTL had a number of financial instrument Short-term Debt, there is no disclosure concerning this financial instrument in the financial statements. *CICA Handbook* Section 3862.31 **Tab 4** requires extensive disclosure about financial instruments including an assessment by the accountant as to the credit, currency, interest rate, and equity risk. The entity is required to disclose to the users of the financial statements the nature and extent of the risk arising from financial instruments. ***Allegation 2(d) – Documentation***

28. Items required to support the Review Engagement Report are not adequately documented as required by *CICA Handbook* Section 8200, **Tab 5** including:

- a. information on the inter-relationship of key elements in the financial statements;
- b. knowledge of client's business;
- c. client's accounting procedures;
- d. internal controls;
- e. enquiry, discussion and analytical procedures;
- f. explanation of key balance sheet ratios;
- g. explanation of gross profit margins; and

h. GST & PST reasonableness test.

29. In addition, there is no evidence in the working papers that a quality control review was performed.

Allegation 3 - The audit of the Financial Statements of SHCC for the Year Ended December 31, 2009

30. The financial statements for SHCC for the year ended December 31, 2009 are reproduced at **Doc 5**.

31. Agulnik signed the Auditor's Report in the firm name and delivered it and the financial statements to the client.

32. 366### Ontario Inc. (o/a SHCC) is a private corporation operating a child care center in Ottawa. Total revenues in 2009 were \$682,240 and included government grants of \$152,374 and government subsidies of \$379,913 from the City of Ottawa. The City requires the company to annually complete and remit audited financial statements.

Allegation 3(a) – Quality Assurance Manual

33. Throughout the engagement, Agulnik failed to practice with a quality assurance manual as required by *CICA Standards on Quality Control* 1.32.

Tab 6

Allegation 3(b) – Audit Planning

34. *CICA Handbook* Sections 5100.02, 5150.02 and 5150.22 **Tab 7** require that an audit be performed by persons having adequate technical training with due care and an objective state of mind. The examination standards require that the audit work be adequately planned using a sufficient knowledge of the entity's business, and that the auditor obtain a sufficient understanding of the

internal control. Agulnik failed to adequately document the formal planning of the audit as required.

Allegation 3(c) – Reconciliation

35. Agulnik failed to document that SHCC's accounting records had been reconciled to the financial statements as required by *CICA Handbook* Section 5100.02. **Tab 7**

Allegation 3(d) – Subsequent Events Review

36. *CICA Handbook* Section 6550.06 **Tab 8** requires the auditor to perform a review, enquire and perform related procedures designed to determine whether events occurring the subsequent period may require adjustments to financial statements. Agulnik failed to document a subsequent events review.

Allegation 3(e) – Documentation of Substantive Audit Procedures

37. Agulnik failed to document any substantive audit procedures for revenue, expenses and payroll to afford a reasonable basis to support the content of his report as required by *CICA Handbook* Section 5100.02. **Tab 7**

Allegation 3(f) – Documentation of Analytic Procedures

38. Agulnik failed to document any analytic procedures performed at the end of the audit engagement to afford a reasonable basis to support the content of his report as required by *CICA Handbook* Section 5100.02. **Tab 7**

Allegation 3(g) – Materiality

39. *CICA Handbook* Section 5130.30 **Tab 9** requires the auditor to consider materiality as part of the planning of the audit engagement. Agulnik's working

papers did not include a calculation of materiality, nor documentation of consideration of materiality for the engagement.

Allegation 3(h) – Risks of Material Misstatement

40. Agulnik failed to document the procedures performed and conclusions reached with respect to the risks of material misstatement as required by *CICA Handbook* Section 5135.110. **Tab 10**

Allegation 3(i) – Discussions with Management

41. *CICA Handbook* Sections 5135.034 and .043 **Tab 11** require the auditor to conduct discussions with management concerning the risk of fraud or material error and to document the procedures followed by the auditor to ensure that this risk is mitigated. Agulnik failed to document any such discussions or procedures.

Allegation 3(j) – Auditor's Report

42. SHCC recorded assets at cost without amortization or depreciation, which is not in accordance with generally accepted accounting principles. **Doc 5 p. 95** Agulnik failed to express a reservation in his auditor's report with respect to this departure from GAAP.

43. *CICA Handbook* Section 5510.12 **Tab 12** requires an auditor to express a reservation of an opinion in his audit report as a result of a client's decision not to comply with generally accepted accounting principles. The auditor should indicate clearly how and to what extent the financial statements are affected by the departure from this accounting principle.

Allegation 3(k) – Significant Accounting Policies

44. The financial statements do not include a revenue recognition policy concerning whether contributions are restricted or deferred, and there is no revenue recognition policy for revenues other than contributions. *CICA Handbook* Sections 1540.34 **Tab 2**, 3862.31 **Tab 4**, and 3400.06. **Tab 3**

Allegation 3(l) – Engagement Quality Control Review

45. *CICA Standards on Quality Control* 1.35 **Tab 13** requires that guidelines be established for Engagement Quality Control Reviews. Agulnik failed to assess whether an Engagement Quality Control Review was required for this audit engagement.

Acknowledgement

46. It is agreed that Agulnik failed to perform his professional services in accordance with generally accepted standards of practice of the profession, including the recommendations set out in the *CICA Handbook*, in the manner described above with respect to the following engagements:

- a. the review of the financial statements of “SEL” for the year ended September 30, 2009;
- b. the review of the financial statements of “VTL” for the year ended November 30, 2009; and
- c. the audit of the financial statements of “SHCC” for the year ended December 31, 2009.

Considerations Supporting Settlement

47. In addition to all of the circumstances described above, the Professional Conduct Committee took the following factors into consideration on entering into this Agreement:

- a. Agulnik acknowledges the deficiencies in his audit and review engagement standards of practice as set out above;
- b. Agulnik has been fully cooperative in the Professional Conduct Committee's investigation into his conduct;
- c. Agulnik has no prior history in the disciplinary process; and
- d. Agulnik has signed an irrevocable undertaking not to perform assurance engagements in future.

Terms of Settlement

48. Agulnik and the Professional Conduct Committee agree to the following Terms of Settlement:

- a) A payment by way of fine in the amount of \$3,000;
- b) Notice of the terms of this Settlement is to be published in accordance with the provisions of ICAO Regulation 7-3, s. 22, including notice to be given to the CICA, the Public Accountants' Council and in *CheckMark* Magazine; and
- c) Agulnik will be allowed 18 months from the time the Discipline Committee accepts this Settlement Agreement to pay the fine referred to herein.

49. Should the Discipline Committee accept this Settlement Agreement, Agulnik agrees to waive his right to a full hearing, judicial review or appeal of the matter subject to the Settlement Agreement. Upon the member fulfilling the requirements of this Settlement Agreement, the draft allegations approved by the Professional Conduct Committee and dated November, 2011, shall be forever stayed.

50. If for any reason this Settlement Agreement is not approved by the Discipline Committee, then:

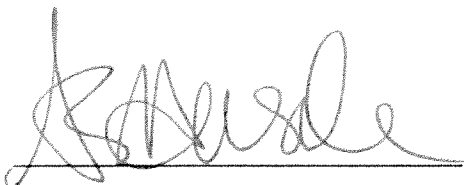
- a) This Settlement Agreement and its terms, including all Settlement Negotiations between the Professional Conduct Committee and Agulnik leading up to its presentation to the Discipline Committee, shall be without prejudice to the Professional Conduct Committee and Agulnik; and
- b) The Professional Conduct Committee and Agulnik shall be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the allegations, or negotiating a new Settlement Agreement, unaffected by this Settlement Agreement or the Settlement Negotiations.

Disclosure of Settlement Agreement

51. This Settlement Agreement and its terms will be treated as confidential by the Professional Conduct Committee and Agulnik, until approved by the Discipline Committee, and forever if for any reason whatsoever this Settlement Agreement is not approved by the Discipline Committee, except with the written consent of the Professional Conduct Committee and Agulnik, or, as may be required by law.

52. Any obligations of confidentiality shall terminate upon approval of the Settlement Agreement by the Discipline Committee.

All of which is agreed to for the purpose of this proceeding alone this 27 day of April, 2012.



ALEXANDRA E. HERSAK
COUNSEL

On behalf of:

THE PROFESSIONAL CONDUCT COMMITTEE



MORRIS AGULNIK, CA
on his own behalf