



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO

Founded 1879

IN THE MATTER OF: DRAFT ALLEGATIONS AGAINST PETER
D. VANEK, A FORMER MEMBER OF THE
INSTITUTE, BEFORE THE DISCIPLINE
COMMITTEE

SETTLEMENT AGREEMENT

*made pursuant 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 ("PCC"), at their meeting of April 3, 2012, approved the drafting of allegations against Peter D. Vanek ("Vanek"). **TAB 1**
2. During the relevant period of time Vanek was a sole practitioner who obtained his CA designation in 1977. He operated a public accounting practice in Thornhill, Ontario, where he has practiced from his home since 1991. At the time of the allegations, he had only one audit being the condominium corporation which is the subject of Allegation 2.

Background

3. Vanek's membership in the Institute was suspended effective January 13, 2011. He was notified of his suspension by letter dated January 18, 2011 from the Institute's Director of Admissions, Membership & Licensing. **TAB 2** Vanek agrees that he received this notice that he was suspended and that he was aware that his suspension was effective January 13, 2011 on or about the date of the letter.

4. By virtue of section 4(3) of the Public Accounting Act (2004) a person licensed under that Act who ceases to be a member of a designated body (the institute) has their public accounting licence revoked as of the day he or she ceases to be a member of the designated body. As a result, as soon as Vanek was suspended from the Institute, his public accounting licence was automatically revoked and he could no longer hold himself out as a Public Accountant.
5. By letter dated June 14, 2011 from the Institute's Director of Admissions, Membership & Licensing, Vanek was notified that he could not be considered for reinstatement to membership because he had a shortfall of 53 continuing professional development ("CPD") hours. **TAB 3** He was again reminded in that correspondence that he could not practice or refer to himself as a Chartered Accountant or use the CA designation or initials. Vanek agrees that he received and read this letter on or about the date of the letter.
6. By letter dated July 26, 2011 from the Institute's Vice President & Registrar, Vanek was advised that his membership in the Institute was revoked effective July 26, 2011. He was again reminded that he could not use the designation "Chartered Accountant" and the initials "CA". **TAB 4** It is agreed that Vanek received this registered letter and was aware of its contents on or about the date of the letter.

The First Allegation

The first allegation is that Peter D. Vanek, in or about the period January 18, 2011 through March 7, 2012, while a suspended member of the Institute, failed to act in a manner which will maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1 of the Rules of Professional Conduct.

The Particulars to the Allegation

Allegation 1 (a) – he held himself out as a Chartered Accountant by posting a business sign outside of his home office at Thornhill, Ontario, identifying himself as a Chartered Accountant

7. Notwithstanding the fact that he was suspended from membership in the Institute and then had his membership revoked, Vanek continued to hold himself out as a Chartered Accountant.
8. The investigator engaged by the complaints committee arranged to meet with Vanek on March 7, 2012 at Vanek's office in Thornhill.
9. Vanek confirmed the meeting by email dated March 5, 2012 in which he identified himself as a CA. **TAB 5**
10. On attending Vanek's office on March 7, 2012, the investigator noted a business sign outside of the office which identified Vanek as a Chartered Accountant.
11. In the course of meeting with Vanek the investigator was provided with Vanek's business card which identified Vanek as a Chartered Accountant. **TAB 6**

Allegation 1 (b) – he held himself out as a Chartered Accountant by sending a fax transmission to the Institute of Chartered Accountants of Ontario dated June 10, 2011, enclosing his CPD Log which fax transmission identified himself as a Chartered Accountant when his membership was suspended

12. On June 10, 2011, Vanek sent a fax transmission to the Institute confirming his CPD hours. The cover sheet to the fax transmission identified Vanek as "Peter D. Vanek, Chartered Accountant". **TAB 7**
13. In addition, the fax transmittal notification at the bottom of the page identified Vanek as a "CA".

Allegation 1 (c) – he held himself out as a Chartered Accountant by sending correspondence to YCC No. xx2 dated July 22, 2011 identifying himself as a Chartered Accountant when his membership was suspended.

14. On July 22, 2011, Vanek sent correspondence to YCC xx2. **TAB 8** This correspondence was sent on Vanek's letterhead which identified him as a "Chartered Accountant". At the time Vanek sent this correspondence, he was aware that he was a suspended member and not entitled to hold himself out as a Chartered Accountant.

Allegation 1 (d) – on the letterhead of Peter D. Vanek, Chartered Accountant, he signed and attached an audit report to the financial statements of YCC xx2 dated July 26, 2011 in his capacity as a Licensed Public Accountant when his membership in the Institute and his license as a public accountant were revoked

15. On July 26, 2011, on the letterhead of "Peter D. Vanek, Chartered Accountant", Vanek signed and attached an audit report to the financial statements of YCC xx2 as a "licensed public accountant". **TAB 9**
16. At the time he signed the auditor's report, Vanek was aware that he was not a licensed public accountant and that his membership in the Institute and his license were both revoked.

The Second Allegation

The second allegation is that Peter D. Vanek, in or about the period January 1, 2011 through July 26, 2011, while engaged to perform an audit of the financial statements of YCC No. xx2 for the year ended January 31, 2011, 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, contrary to Rule 206.2 of the rules of professional conduct

The Particulars to the Allegation

Allegation 2 (a) – he failed to obtain an engagement letter until after the engagement was complete

17. As indicated, Vanek was engaged to audit the financial statements of YCC xx2 for the year ended January 31, 2011. He issued the audit opinion and released the financial statements on July 26, 2011. **TAB 9** Mr. Vanek did not obtain an engagement letter until September 20, 2011, two months after the financial statements were released. **TAB 10 - CICA Handbook Canadian Auditing Standards ("CAS") 210 Authorities Tab 1**

Allegation 2 (b) – he failed to retain a signed copy of the final audited financial statements in his working paper file

18. It is agreed that Vanek failed to retain a signed copy of the final audited financial statements in his working paper file as required by *CICA Handbook CAS 230 Authorities Tab 2*.

Allegation 2 (c) – he had the client sign and mail the bank confirmation and failed to perform additional procedures when the confirmation was not returned

19. Vanek had the client sign a bank confirmation form **TAB 8** and asked the client to send it directly to the bank rather than returning it to him so that he could send it out himself.
20. When the confirmation was not returned, Vanek did not carry out any alternative audit procedures as required by *CICA Handbook CAS 505 Authorities Tab 3*.

Allegation 2 (d) – he had the client sign and mail the legal confirmation letter to the condominium corporation's lawyers and failed to perform additional procedures when the letter was not returned

21. Vanek asked the client to sign the legal confirmation letter to the condominium corporation's lawyers **TAB 11**, and failed to perform any additional audit procedures when the letter was not returned as required by *CICA Handbook CAS 505 Authorities Tab 3*.

Allegation 2 (e) – having requested confirmation from the insurance broker he failed to ensure the confirmation was returned to him

22. Vanek requested confirmation from the condominium corporation insurers regarding insurance policies in effect as at January 31, 2011. **TAB 12** The confirmation was not returned and Vanek took no further audit steps as required by *CICA Handbook CAS 505 Authorities Tab 3*.

Allegation 2 (f) – he failed to obtain sufficient appropriate audit evidence to support the balance sheet item “Accounts Payable and Accrued Liabilities - \$27,465”;

23. With respect to the balance sheet item “Accounts Payable and Accrued Liabilities - \$27,465” **TAB 9**, Vanek carried out no audit steps other than obtaining a listing of the accounts payable and accruals. **TAB 13** These amounts were material to the financial statements.
24. The audit work done with respect to accounts payable and accrued liabilities was not sufficient to comply with *CICA Handbook CAS 500 Authorities Tab 4*.

Allegation 2 (g) – he failed to include in the significant accounting policies note to the financial statements, notes with respect to revenue recognition, use of estimates, and financial instruments, when such notes were appropriate

25. In the significant accounting policies note to the financial statements (note 2 **TAB 9**), there are no notes with respect to revenue recognition, use of estimates and financial instruments. It is agreed that such notes were required by the *CICA Handbook*, Sections 4410.21, 1508.06-07 and 3862.21 respectively. **Authorities Tab 5**

Allegation 2 (h) – he failed to ensure that the auditor's report referred to "cash flows" rather than "changes in financial position"

26. It is agreed that the opinion paragraph of the auditor's report should refer to "cash flows" rather than "changes in financial position" as required by *CICA Handbook CAS 700 Authorities Tab 6*.

Allegation 2 (i) – he failed to document matters important to support the audit opinion

27. Vanek failed to properly document matters to support the audit opinion with respect to cut-off procedures and knowledge of the client.
28. There was no documentation with respect to the audit work done on various working papers contained in the file, and there were no initials or dates on any of the working paper files.
29. Documenting the work done on an audit is a required audit procedure. *CICA Handbook CAS 500 Authorities Tab 4*.

Terms of Settlement

30. Vanek and the Professional Conduct Committee agree to the following Terms of Settlement:

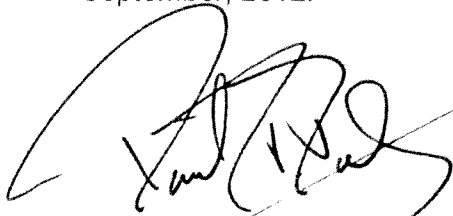
- a) Vanek will pay a fine in the amount of \$7,500 within twelve months of this agreement receiving approval of the Discipline Committee;
- b) Vanek irrevocably undertakes and agrees:
 - not to apply for membership in the Institute of Chartered Accountants;
 - not to apply to be licenced as a public accountant;
 - not to practice chartered accounting or hold himself out as a Chartered Accountant;
 - not to practice public accounting or hold himself out as a Public Accountant.
- c) Vanek will pay costs in the amount of \$8,500 within twelve months of this agreement receiving approval of the Discipline Committee;
- d) Notice of the terms of this Settlement Agreement will be given in accordance with the provisions of ICAO Regulation 7-3, sections 22 and 23, including in the newspaper(s) in the geographic area where the member practiced, Thornhill Ontario;

31. Should the Discipline Committee accept this Settlement Agreement, Vanek agrees to waive his right to a full hearing, judicial review or appeal of the matter subject to the Settlement Agreement. He further agrees that the terms of settlement will have the same force and effect as an order of the Discipline Committee for all purposes including the application of the Regulations of the Institute and for the purposes of enforcement of any of the terms of Settlement. The draft allegations approved by the Professional Conduct Committee attached to this agreement shall be stayed.

If Settlement Agreement Not Approved

32. 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 Vanek leading up to its presentation to the Discipline Committee, shall be without prejudice to the Professional Conduct Committee and Vanek;
 - b) The Professional Conduct Committee and Vanek 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;
 - c) The terms of this Settlement Agreement will not be referred to in any subsequent proceeding, or disclosed to any person, except with the written consent of the Professional Conduct Committee and Vanek or as may be required by law.
33. 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 24th day of September, 2012.



PAUL F. FARLEY
SENIOR COUNSEL,
PROFESSIONAL CONDUCT COMMITTEE
On behalf of the Committee



PETER D. VANEK
on his own behalf