

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO  
*THE CHARTERED ACCOUNTANTS ACT, 1956*

**DISCIPLINE COMMITTEE**

**IN THE MATTER OF:** A charge against **THOMAS PING KIT LO, CA**, a member of the Institute, under **Rule 203.2(a)** of the Rules of Professional Conduct, as amended.

**TO:** Mr. Thomas P.K. Lo, CA  
4635 14th Avenue  
Markham, ON L3S 3K2

**AND TO:** The Professional Conduct Committee, ICAO

**REASONS**  
**(Decision and Order made March 24, 2009)**

1. This panel of the Discipline Committee of the Institute of Chartered Accountants of Ontario met on March 24, 2009 to hear a charge of professional misconduct laid by the Professional Conduct Committee against Thomas Ping Kit Lo, CA, a member of the Institute.
2. Alexandra Hersak appeared on behalf of the Professional Conduct Committee. Mr. Lo attended and was unrepresented. He acknowledged he understood he had the right to be represented by counsel and was waiving that right.
3. The decision of the panel was made known at the conclusion of the hearing, and the written Decision and Order sent to the parties on March 27, 2009. These reasons, given pursuant to Bylaw 574, include the charge, the decision, the order, and the reasons of the panel for its decision and order.

**CHARGE**

4. The following charge was laid against Mr. Lo by the Professional Conduct Committee on October 17, 2008:

THAT the said Thomas P.K. Lo, in or about the period August 11, 2008 to October 7, 2008, failed to co-operate with officers, servants or agents of the Institute who have been appointed to arrange or conduct a practice inspection, contrary to Rule 203.2(a) of the Rules of Professional Conduct.

**PLEA**

5. Mr. Lo entered a plea of guilty to the charge. He acknowledged he understood that, on the basis of the plea and the plea alone, he could be found guilty of professional misconduct.

## **EVIDENCE**

6. The Professional Conduct Committee filed the affidavits of Grant Dickson, FCA, Director of Practice Inspection (Exhibit 3) and Tatiana Rabinovitch, CA, Associate Director of Standards Enforcement (Exhibit 4).

7. As set out in the affidavits, Mr. Lo's practice was randomly selected for practice inspection in the 2008-09 inspection year. On January 31, 2008, Mr. Dickson wrote to Mr. Lo, requiring him to provide certain forms to the Institute by March 7, 2008. Mr. Lo did not respond to the letter, and Mr. Dickson sent a follow up letter on March 20, 2008, requiring the forms by May 15, 2008, and warning Mr. Lo that a failure to respond could result in charges of professional misconduct.

8. On May 13, 2008, a coordinator in Practice Inspection e-mailed Mr. Lo as the Institute had not received his forms. Mr. Lo responded to the e-mail that day, requesting a further extension of time. He was granted an extension until June 20, 2008. On June 20, 2008, the coordinator sent another e-mail to Mr. Lo, as the Institute had not received the forms. The coordinator informed Mr. Lo that, should the Institute not receive the forms by July 22, 2008, the matter would be referred to the Professional Conduct Committee. On July 21, 2008, Mr. Lo responded by e-mail, requesting a further extension of time. An extension to August 11, 2008 was granted.

9. Mr. Lo did not provide the required forms and, on August 13, 2008, Practice Inspection referred the matter to the Professional Conduct Committee. On August 14, 2008, Ms. Rabinovitch wrote to Mr. Lo, requiring his response by September 5, 2008. Mr. Lo responded by letter on September 4, 2008, and stated that he had missed the previous deadlines because he had been overseas and had taken ill. He indicated he would file the required forms by September 10, 2008. He did not do so, and had not filed the forms by October 7, 2008.

10. Mr. Lo testified on his own behalf. He did not dispute the evidence in the affidavits, and admitted he had not, as of the date of the hearing, filed the required forms with the Institute. He stated that he has experienced personal and professional difficulties over the past year, and had been uncertain whether he wished to retain his designation. He is still considering moving his business to a country overseas. He indicated he intended to cooperate with the Institute and would be filing his forms after the hearing.

## **DECISION**

11. After considering the evidence and submissions, and deliberating, the panel decided that Mr. Lo had been proven guilty of professional misconduct as set out in the charge, and read the following decision:

THAT, having heard the plea of guilty to the charge and having seen, heard, and considered the evidence, the Discipline Committee finds Mr. Thomas P.K. Lo guilty of the charge.

## **REASONS FOR THE DECISION**

12. The evidence in this matter is clear, cogent and convincing. Mr. Lo, for over a year, failed to comply with his professional obligations to his governing body by failing to provide the forms required by Practice Inspection, despite being given many opportunities to do so. Mr. Lo himself admits he failed to cooperate and that to this date he has still not complied with this very basic requirement of all members to respond to Practice Inspection when requested to do so. Mr. Lo also admits he had the capacity to respond to the Institute as requested and was aware of his responsibility to do so. He simply chose not to comply. While he has provided some explanation for his conduct, the explanations do not excuse it and the panel found nothing in the evidence and testimony to support a finding other than guilty.

## **SANCTION**

13. The Professional Conduct Committee submitted that a sanction of: a written reprimand, a fine in the amount of \$3,500, an order that Mr. Lo cooperate with Practice Inspection within ten days, and publication of the matter, would be appropriate. The Professional Conduct Committee also sought costs of \$2,500 and filed a Costs Outline (Exhibit 5).

14. Ms. Hersak noted that, although Mr. Lo pleaded guilty, he has failed to comply with a simple requirement of the Institute for 15 months. She further noted that cooperation of the members is essential to the Institute's ability to govern those members, and that a failure to cooperate, particularly one still ongoing, is a serious matter, and one that requires the considerations of both specific and general deterrence. She provided the panel with a Brief of Authorities (Exhibit 6) to assist in its deliberations.

15. Mr. Lo submitted that he would have difficulty meeting the monetary sanctions sought by the Professional Conduct Committee and asked the panel to either reduce the quantum or to give him time to pay. He agreed to cooperate with Practice Inspection, and had no submissions on the other sanctions sought by the Professional Conduct Committee.

## **ORDER**

16. After deliberating, the panel made the following order:

IT IS ORDERED in respect of the charge:

1. THAT Mr. Lo be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Lo be and he is hereby fined the sum of \$3,000 to be remitted to the Institute within six (6) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Lo cooperate by completing and returning the relevant practice inspection form to the Director of Practice Inspection within ten (10) days from the date this Decision and Order becomes final under the bylaws.

4. THAT notice of this Decision and Order, disclosing Mr. Lo's name, be given after this Decision and Order becomes final under the bylaws, in the form and manner determined by the Discipline Committee:
  - (a) to all members of the Institute;
  - (b) to the Public Accountants Council for the Province of Ontario; and
  - (c) to all provincial institutes/Ordre, and shall be made available to the public.
5. That in the event Mr. Lo fails to comply with the requirements of this Order, he shall thereupon be suspended from the rights and privileges of membership in the Institute and his public accounting licence shall thereupon be suspended until such time as he does comply, provided that he complies within three (3) months from the date of his suspension, and in the event he does not comply within the three (3) month period, he shall thereupon be expelled from membership in the Institute and his licence shall thereupon be revoked, and notice of his expulsion and licence revocation, disclosing his name, shall be given in a newspaper distributed in the geographic area of Mr. Lo's practice. All costs associated with the publication shall be borne by the member and shall be in addition to any other costs ordered by the committee.

AND IT IS FURTHER ORDERED:

6. THAT Mr. Lo be and he is hereby charged costs fixed at \$2,000 to be remitted to the Institute within six (6) months from the date this Decision and Order becomes final under the bylaws.

**REASONS FOR SANCTION**

17. The practice inspection system is necessary and important for protecting the public interest and ensuring members practise in compliance with the standards and requirements of the profession. It is essential that all members cooperate with and facilitate practice inspections. Mr. Lo is not entitled to choose not to participate nor to determine the timing of his participation, and it is important for general deterrence purposes that this conduct is not seen as in any way acceptable.

18. It must be made clear to Mr. Lo that his inaction is not acceptable. The reputation of the profession is placed at risk if it cannot fulfill the responsibility to govern itself. For this reason, the panel ordered a reprimand.

19. The panel agreed with Ms. Hersak that a fine is appropriate and must be sufficient to act as a deterrent to Mr. Lo continuing to act as he has on this matter, and to act as a general deterrence to the membership at large. The panel also recognized that Mr. Lo maintained a dialogue with Practice Inspection has cooperated with the disciplinary process and has admitted his guilt and accepted his responsibility to cooperate in future. As a consequence of these considerations, the panel concluded that a fine at the lowest end of the range for infractions of this nature should be imposed. Given Mr. Lo's personal circumstances, the panel determined that it was appropriate for him to be allowed six months to pay the fine.

20. While Mr. Lo undertook at the hearing to comply with his responsibility to respond to Practice Inspection, the order to comply was determined to be necessary to emphasize the urgency with which this action should happen.

21. Publishing the names of members found guilty of professional misconduct is often the single most significant sanction that may be imposed for general deterrence, education of the membership at large, and protection of the public. It is only in the most exceptional circumstances that such important principles will be outweighed by privacy considerations. No such unusual circumstances were urged on the panel in this case and accordingly, the panel ordered the usual notice to be published to all members of the Institute, provincial institutes/Ordre and that it should be made available to the public.

22. The panel determined that the costs as outlined in Exhibit 5 were reasonable and further agrees with Ms. Hersak that the costs should be reduced for the unanticipated shortness of the hearing. It is appropriate that the member whose conduct caused the necessity of the investigation and hearing, rather than the membership as a whole, bear a significant portion of the costs incurred. Taking into account Mr. Lo's conduct, his response to the investigation, and his personal circumstances, the amount awarded and the granting of six months to pay the costs is reasonable.

DATED AT TORONTO THIS 29<sup>th</sup> DAY OF APRIL, 2009  
BY ORDER OF THE DISCIPLINE COMMITTEE

Signed

R.J. ADAMKOWSKI, CA – DEPUTY CHAIR  
DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

B.D. LOVE, CA  
R.H. CARRINGTON (PUBLIC REPRESENTATIVE)