

**IN THE MATTER OF a Proceeding under
The *Certified General Accountants Act, 2010* and the Bylaws**

**IN THE MATTER OF Bhavesh Patel, a member of
The Certified General Accountants Association of Ontario**

B E T W E E N:

The Discipline Committee of The Certified General Accountants Association of Ontario

- and -

Bhavesh Patel

DECISION AND REASONS FOR DECISION OF THE PROFESSIONAL CONDUCT TRIBUNAL

Members of the Professional Conduct Tribunal Panel:

Alexis Perera, CPA, CGA, Chair
John Biancucci, CPA, CGA
Fraser Scantlebury, Public Representative

Appearances:

Karen Jolley, Counsel for the Discipline Committee
Bhavesh Patel, Member
Lisa Braverman, Independent Legal Counsel to the Professional Conduct Tribunal

Hearing Dates:

March 3, 2014, Toronto
June 12, 2014, Toronto

OVERVIEW

A panel of the Professional Conduct Tribunal of The Certified General Accountants Association of Ontario heard this matter on March 3, 2014 and on June 12, 2014, at Toronto.

ALLEGATIONS

Counsel for the Discipline Committee entered into evidence the Notice of Hearing dated December 6, 2013 (Exhibit 1), and the Affidavit of Service (Exhibit 2), relating to the Notice of Hearing.

The allegations against the member are that he breached the following provisions of the Code of Ethical Principles and Rules of Conduct as stated in the Notice of Hearing:

Rule 509 Advertising and Other Forms of Solicitation

A member shall not seek to obtain clients by advertising or other form of solicitation, which:

- (a) is false or deceptive.
- (b) includes the use of harassing conduct.
- (c) creates an unjustified expectation of favourable results.
- (d) contains self-laudatory statements that are not verifiable.
- (e) is demonstrably false or inaccurate.
- (f) is either misleading, confusing, or deceptive, or likely to mislead, confuse or deceive.
- (g) is not in the best interests of the public, inconsistent with a high standard of professionalism or contravenes professional good taste.
- (h) suggests qualitative superiority to other professional accountants.
- (i) suggests or implies that the member is aggressive.
- (j) disparages or demeans other members, persons, groups, organizations or institutions.

Rule 514 Registration

For the period 2009 to June 2010:

A member shall, if engaged in a professional practice or the practice of public accounting part-time or full-time, register in accordance with the requirements prescribed by the Association. This rule also shall apply to members who own, operate or control a professional corporation engaged in a professional practice or the practice of public accounting.

For the period June 2010 to present:

A member shall, if engaged in the practice of public accounting or the preparation of compilation engagements or tax returns part-time or full-time, register in accordance with the requirements prescribed by the Association. This rule also shall apply to members who own, operate or control a professional corporation engaged in the practice of public accounting or the preparation of compilation engagements or tax returns.

Rule 515 Practice Inspection Requirements

For the period 2011 to present:

A member shall comply with, and adhere to, the practice inspection requirements of the Association and the standards contained therein.

Rule 516 Professional Liability Insurance

For the period 2009 to June 2010:

A member engaged in a professional practice or the practice of public accounting shall maintain professional liability insurance as specified, and provide evidence as required, by the Association.

For the period June 2010 to present:

A member engaged in the practice of public accounting or the preparation of compilation engagements or tax returns part-time or full-time shall maintain professional liability insurance as specified, and provide evidence as required, by the Association.

Code – Responsibilities to the Profession

Members shall always act in accordance with the duties and responsibilities associated with being members of the profession, and shall carry on work in a manner that will enhance the image of the profession and the Association. A member shall comply with the *Association Bylaws* and the *Code of Ethical Principles and Rules of Conduct* of the Association as amended from time to time, and with any order or resolution of the board of directors or its committees under the *Association Bylaws*.

The particulars of the allegations against the member as stated in the Notice of Hearing are as follows:

1. Bhavesh Patel ("Patel") became a member of CGA Ontario in 2009.
2. Patel's CGA Ontario certificate number is 22737. His CGA Canada certificate number is 367558.

Failure to Register His Income Tax Return Preparation Practice

3. Patel was required to register with the Association to prepare income tax returns.
4. For each of 2009, 2010, 2011, 2012 and 2013, Patel prepared individual and corporate income tax returns for clients.
5. Patel prepared approximately 51 individual income tax returns in 2010 for the income tax year 2009, approximately 124 income tax returns in 2011 for the income tax year 2010, approximately 240 income tax returns in 2012 for the income tax year 2011, approximately 248 income tax returns in 2013 for the income tax year 2012. Patel further prepared an unspecified number of individual income tax returns in 2009.
6. In addition, for each of 2009 to 2013, inclusive, Patel prepared approximately 45 corporate income tax returns for clients.
7. From 2009 onward, Patel did not register his income tax preparation practice with the Association.

Failure to Register His Professional Practice/Compilation Engagement Practice

8. For each of 2011, 2012 and 2013, Patel offered accounting services through a website, www.patelcga.com and through Aditya Financial Services, a business which he owned.
9. Patel offered to provide all aspects of accounting including financial statement preparation, financial projections and comparative financial statements, among other financial accounting services.
10. A member who is associated with financial statements must register. Financial statements include interim and year end statements, forecasts and projections.

11. Patel's email address offered in connection with those services was patelCGA@gmail.com.
12. Patel was required to register his professional practice (for the period 2009 and 2010) and his compilation practice (for the period 2011 to 2013) with the Association.
13. Patel did not register with the Association when he offered to provide or did provide financial statement preparation, compilation engagements or the other range of services he offered to the public for 2011, 2012 and 2013.
14. Patel earned income from carrying on the practice that he was operating in violation of the Association's Code of Ethical Principles and Rules of Conduct (the "Code").
15. Patel knew that he was required to register his practice as early as 2009 but failed to do so.

Failure to Adhere to Practice Inspection Requirements

16. Rule 515 of the Code requires a member to adhere to the practice inspection requirements of the Association.
17. The Association requires members who offer or carry out a professional practice or offer or carry out a compilation practice to undergo a practice inspection.
18. Patel did not undergo a practice inspection for the years 2011, 2012 or 2013, as he had not registered his practice as he was required to do.

Failure to Maintain Professional Liability Insurance

19. Rule 516 of the Code requires a member engaged in a professional practice or the practice of public accounting or the preparation of compilation engagements or tax returns part time or full time to maintain professional liability insurance.
20. For the period 2009 to 2013 inclusive Patel operated the practice outlined above without carrying professional liability insurance contrary to Rule 516 of the Code.
21. The cost of professional liability insurance for the years 2009 to 2013 inclusive was \$5,221.26 inclusive of applicable tax.

Failure to Purchase the Public Practice Manual

22. Patel was required to but did not purchase the Public Practice Manual (the "PPM") for 2011, 2012 and 2013 when he was engaged in a professional practice or the practice of public accounting part time or full time.
23. The cost of the PPM for the three years in question was \$864.45 inclusive of applicable tax.

Failure to Purchase the CICA Handbook

24. Patel was required to but did not purchase the CICA Handbook (the "Handbook") for each of the years 2011, 2012 and 2013 when he was engaged in a professional practice or the practice of public accounting part time or full time.
25. The cost of the Handbook for 2011 to 2013 inclusive, was \$1,542.45 inclusive of applicable tax.

Misleading Advertising

26. Rule 509 of the Code prohibits members from using the CGA designation on their website or in other advertising to attract clients for compilation or tax return work to give the impression that they are registered with the Association to do that work when they are not registered to do so.
27. Patel maintained a website, www.patelcga.com (the "Website") where he offered to provide accounting services including "financial statements preparation", income statement, financial projections and comparative statements, among other services.
28. Patel's email address for the Website was patelCGA@gmail.com.
29. In using the CGA designation and in offering to provide services to the public which he was not permitted to offer, Patel breached Rule 509.
30. Patel's conduct as outlined above was not in accordance with the duties and responsibilities associated with being a member of the profession and did not enhance the image of the profession or the Association. Further his conduct breached the Association's Code, specifically the Principle of Responsibilities to the Profession.
31. Patel's conduct in breaching the Code as outlined above amounted to professional misconduct.

MEMBER'S PLEA

The member denied the allegations set out in the Notice of Hearing.

FACTS AND EVIDENCE

Counsel for the Discipline Committee entered into evidence the following documents:

<u>Exhibit #</u>	<u>Description</u>
1.	Notice of Hearing
2.	Affidavit of Service dated January 3, 2014
3.	Discipline Brief
4.	Notice Under The Evidence Act (Business Records)
5.	Affidavit of Service dated February 3, 2014
6.	A Letter sent by Ted Wigdor to Bhavesh Patel dated May 7, 2013
7.	Copy of Business Card of Aditya Bookkeeping Services
8.	Corporation Profile Report of 2180877 Ontario Inc.
9.	Copy of web pages on Aditya
10.	CGA Ontario's Professional Practice Entrance and Continuing Standards
11.	Copy of Business Card of Guard Financial Inc., with Bhavesh Patel CGA on it

Ms. Jolley called Mr. James Yakimovich as a witness for the Discipline Committee and Mr. Bhavesh Patel testified himself as a witness for the defence.

TESTIMONY OF JAMES YAKIMOVICH (YAKIMOVICH)

- a) He was requested by the Discipline Committee of the Certified General Accountants of Ontario (CGAO), to visit an address at 4 Robert Speck, to determine whether there was an accounting firm called 'Aditya Financial Services' (Aditya), operated by a member of the CGAO at the premises. Yakimovich visited the said premises and did not find any signage for Aditya. He referred the panel to tab 3 of Exhibit three, which had an email address of "patelCGA@gmail.com". Yakimovich said that a Google search linked Aditya to another web site called www.patelcga.com. When clicked, this referred back again to the Aditya web site.
- b) Bhavesh Patel (Patel), was not registered with the CGAO for public practice. Yakimovich referred to tab 3 again and pointed out a list of all financial services that Aditya was offering to the public. Some of these services required registration with the CGAO but Patel had not done so. The contact email address on the Aditya website cited patelCGA@gmail.com and its address as 4 Robert Speck.
- c) CGAO had written to Patel at his 51 Heartview Rd residence (tab 4 and Exhibit 6), in Brampton on 7th May 2013. In the letter, Ted Wigdor quoted a telephone conversation with Lana Tom in which Patel had admitted being the owner of Aditya and that he was engaged in preparing personal and corporate tax returns. The letter requested Patel to send information on his professional practice and professional liability insurance.
- d) At a meeting with Patel at Guard Financial at 1515 Britannia Rd E, Mississauga on 24th June 2013, Patel had confirmed that he was the owner of Aditya and that he performed accounting and tax services as stated in the advertising. Patel also stated that Aditya was a division of a numbered company. He provided Yakimovich with the business card for Guard (Exhibit 11) and the Aditya business card (Exhibit 7). The business card of Aditya stated that it was a division of 2180877 Ontario Inc. (2180877)
- e) According to Revenue Canada records, Patel had Efiled 124 tax returns in 2010, 240 tax returns in 2011 and 248 tax returns in 2012. To date, Patel did not have any practice inspections by the CGAO, did not have any professional liability insurance, and had not purchased the Public Practice Manual and the CICA handbook.
- f) He had made a corporate search of 2180877 and the search document revealed that Patel was the administrator of the said corporation and that he was also a director, along with his wife Harshal Patel. Patel admitted that he and his wife owned 2180877. The registered address of the corporation was in the name of Bhavesh Patel at 51 Heartview Rd, Brampton. Patel also admitted that Aditya was the public face of the accounting, tax and other financial services and that he rendered these services from his residence.

TESTIMONY OF BHAVESH PATEL (PATEL)

- a) In his testimony, Patel said that he had prepared the CGAO registration documents in 2009, but did not send them in. He said that there was not much revenue to register his practice with CGAO. He also admitted to Aditya advertising on the website www.patelcga.com and that its contact email was patelCGA@gmail.com.

- b) The Aditya website was a domain purchased by him, in order to re-sell it later. This website had been developed by a person named Dave in the UK. Patel also said that the services mentioned by Yakimovich were already included in the package and that he tried to remove it by himself without success. He then requested Dave to remove it and Dave has not done so.
- c) Patel admitted that when he met with Yakimovich in 2013, he gave him 27 pages of clients that he prepared tax returns for. He said that all he did was to put in the numbers into the computer and the software did the calculations and generated the statements. Patel has not issued 'Notice to Reader' to his clients.
- d) He has not signed any statement or return as a CGA and that he has not made any reference to his CGA designation. Patel said that services up to Trial Balance level did not require registration with CGAO. He also stated that he was an employee of the company. Therefore he did not have to register his practice with CGAO.

FINDINGS OF CREDIBILITY

James Yakimovich

The panel found Yakimovich and his testimony credible. In terms of ability to recall, Yakimovich had a good memory of the investigation, including the dates and places that he visited during the investigation. Yakimovich also referred to his notes during his testimony. In terms of appearance and demeanour, Yakimovich appeared to be an honest person and was not nervous during his testimony. Yakimovich maintained eye contact with the questioner when answering the questions. Yakimovich appeared calm and serene during his testimony. In terms of ability to observe, Mr. Yakimovich was an observant person. In terms of probability, Yakimovich gave evidence that made sense. Mr. Yakimovich provided the facts of his investigation and did not exaggerate when he gave evidence. In terms of external consistency, Yakimovich's evidence was consistent with the documents introduced as exhibits at the hearing.

Bhavesh Patel

Overall, the panel found that Patel and his testimony was not credible. In terms of ability to recall, Patel had a reasonably good memory of the events that occurred including Yakimovich's visits during the course of Yakimovich's investigation. In terms of appearance and demeanour, Patel appeared to be confused when he gave evidence. At some points, Patel was evasive in giving answers to questions. In terms of motivation, Patel's responses to questions appeared to be motivated to help him in his case. Patel tailored his evidence to benefit the outcome of his case. In terms of external consistency, Patel's evidence contradicted the documents submitted as exhibits at the hearing. These contradictions were in relation to important details.

Based on the oral evidence heard and the documents entered as exhibits at this hearing, the panel of the Professional Conduct Tribunal makes the following findings of facts from the particulars in the Notice of Hearing:

1. Bhavesh Patel ("Patel") became a member of CGA Ontario in 2009.
2. Patel's CGA Ontario certificate number is 22737. His CGA Canada certificate number is 367558.

Failure to Register His Income Tax Return Preparation Practice

3. Patel was required to register with the Association to prepare income tax returns.

4. For each of 2009, 2010, 2011, 2012 and 2013, Patel prepared individual and corporate income tax returns for clients.
5. Patel prepared approximately 51 individual income tax returns in 2010 for the income tax year 2009, approximately 124 income tax returns in 2011 for the income tax year 2010, approximately 240 income tax returns in 2012 for the income tax year 2011, approximately 248 income tax returns in 2013 for the income tax year 2012. Patel further prepared an unspecified number of individual income tax returns in 2009.
6. In addition, for each of 2009 to 2013, inclusive, Patel prepared approximately 45 corporate income tax returns for clients.
7. From 2009 onward, Patel did not register his income tax preparation practice with the Association.

Failure to Register His Professional Practice/Compilation Engagement Practice

8. For each of 2011, 2012 and 2013, Patel offered accounting services through a website, www.patelcga.com and through Aditya Financial Services, a business which he owned.
9. Patel offered to provide all aspects of accounting including financial statement preparation, financial projections and comparative financial statements, among other financial accounting services.
10. A member who is associated with financial statements must register. Financial statements include interim and year-end statements, forecasts and projections.
11. Patel's email address offered in connection with those services was patelCGA@gmail.com.
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13. Patel did not register with the Association when he offered to provide or did provide financial statement preparation, compilation engagements or the other range of services he offered to the public for 2011, 2012 and 2013.
14. Patel earned income from carrying on the practice that he was operating in violation of the Association's Code of Ethical Principles and Rules of Conduct (the "Code").
15. Patel knew that he was required to register his practice as early as 2009 but failed to do so.

Failure to Adhere to Practice Inspection Requirements

16. Rule 515 of the Code requires a member to adhere to the practice inspection requirements of the Association.
17. The Association requires members who offer or carry out a professional practice or offer or carry out a compilation practice to undergo a practice inspection.
18. Patel did not undergo a practice inspection for the years 2011, 2012, or 2013, as he had not registered his practice as he was required to do.

Failure to Maintain Professional Liability Insurance

19. Rule 516 of the Code requires a member engaged in a professional practice or the practice of public accounting or the preparation of compilation engagements or tax returns part time or full time to maintain professional liability insurance.
20. For the period 2009 to 2013 inclusive Patel operated the practice outlined above without carrying professional liability insurance contrary to Rule 516 of the Code.

21. The cost of professional liability insurance for the years 2009 to 2013 inclusive was \$5,221.26 inclusive of applicable tax.

Failure to Purchase the Public Practice Manual

22. Patel was required to but did not purchase the Public Practice Manual (the "PPM") for 2011, 2012 and 2013 when he was engaged in a professional practice or the practice of public accounting part time or full time.
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26. Rule 509 of the Code prohibits members from using the CGA designation on their website or in other advertising to attract clients for compilation or tax return work to give the impression that they are registered with the Association to do that work when they are not registered to do so.
27. Patel maintained a website, www.patelcga.com (the "Website") where he offered to provide accounting services including "financial statements preparation", income statement, financial projections and comparative statements, among other services.
28. Patel's email address for the Website was patelCGA@gmail.com.
29. In using the CGA designation and in offering to provide services to the public, which he was not, permitted to offer, Patel breached Rule 509.
30. Patel's conduct as outlined above was not in accordance with the duties and responsibilities associated with being a member of the profession and did not enhance the image of the profession or the Association. Further, his conduct breached the Association's Code, specifically the Principle of Responsibilities to the Profession.

DECISION

The Discipline Committee has the onus of proving the allegations in the Notice of Hearing in accordance with the civil standard of proof. The standard of proof applied by the panel of the Professional Conduct Tribunal was a balance of probabilities based on clear, convincing and cogent evidence.

Having considered the evidence and the submissions of the parties, and the onus and standard of proof, the panel of the Professional Conduct Tribunal finds that Mr. Patel breached the following provisions of the Code of Ethical Principles and Rules of Conduct:

Rule 509 Advertising and Other Forms of Solicitation

A member shall not seek to obtain clients by advertising or other form of solicitation, which:

- (a) is false or deceptive.
- (b) includes the use of harassing conduct.
- (c) creates an unjustified expectation of favourable results.
- (d) contains self-laudatory statements that are not verifiable.
- (e) is demonstrably false or inaccurate.
- (f) is either misleading, confusing, or deceptive, or likely to mislead, confuse or deceive.
- (g) is not in the best interests of the public, inconsistent with a high standard of professionalism or contravenes professional good taste.
- (h) suggests qualitative superiority to other professional accountants.
- (i) suggests or implies that the member is aggressive.
- (j) disparages or demeans other members, persons, groups, organizations or institutions.

Rule 514 Registration

For the period 2009 to June 2010:

A member shall, if engaged in a professional practice or the practice of public accounting part-time or full-time, register in accordance with the requirements prescribed by the Association. This rule also shall apply to members who own, operate or control a professional corporation engaged in a professional practice or the practice of public accounting.

For the period June 2010 to present:

A member shall, if engaged in the practice of public accounting or the preparation of compilation engagements or tax returns part-time or full-time, register in accordance with the requirements prescribed by the Association. This rule also shall apply to members who own, operate or control a professional corporation engaged in the practice of public accounting or the preparation of compilation engagements or tax returns.

Rule 515 Practice Inspection Requirements

For the period 2011 to present:

A member shall comply with, and adhere to, the practice inspection requirements of the Association and the standards contained therein.

Rule 516 Professional Liability Insurance

For the period 2009 to June 2010:

A member engaged in a professional practice or the practice of public accounting shall maintain professional liability insurance as specified, and provide evidence as required, by the Association.

For the period June 2010 to present:

A member engaged in the practice of public accounting or the preparation of compilation engagements or tax returns part-time or full-time shall maintain professional liability insurance as specified, and provide evidence as required, by the Association.

Code – Responsibilities to the Profession

Members shall always act in accordance with the duties and responsibilities associated with being members of the profession, and shall carry on work in a manner that will enhance the image of the profession and the Association. A member shall comply with the *Association Bylaws* and the *Code of Ethical Principles and Rules of Conduct* of the Association as amended from time to time, and with any order or resolution of the board of directors or its committees under the *Association Bylaws*.

The panel of the Professional Conduct Tribunal also finds Mr. Patel guilty of professional misconduct.

REASONS FOR DECISION

Rule 509 Advertising and Other Forms of Solicitation

Rule 509 of the Code prohibits members from using the CGA designation on their website or in other advertising to attract clients for compilation or tax return work to give the impression that they are registered with the Association to do that work when they are not registered to do so. Patel clearly was not registered with CGAO for public practice. Patel also maintained a website, www.patelcga.com (the "Website") where he offered to provide accounting services including "financial statements preparation", income statement, financial projections and comparative statements, among other services. Patel's email address for the Website was patelCGA@gmail.com. Therefore, in using the CGA designation and in offering to provide services to the public that he was not permitted to offer, Patel breached Rule 509.

Rule 514 Registration

Patel was required to register with the Association to prepare income tax returns. Patel prepared approximately 51 individual income tax returns in 2010 for the income tax year 2009, approximately 124 income tax returns in 2011 for the income tax year 2010, approximately 240 income tax returns in 2012 for the income tax year 2011, approximately 248 income tax returns in 2013 for the income tax year 2012. Patel further prepared an unspecified number of individual income tax returns in 2009. In addition, for each of 2009 to 2013, inclusive, Patel prepared approximately 45 corporate income tax returns for clients.

Patel knew that he was required to register his practice as early as 2009 but failed to do so. Therefore, Patel breached Rule 514.

Rule 515 Practice Inspection Requirements

Rule 515 of the Code requires members who offer or carry out a professional practice or offer or carry out a compilation practice to undergo a practice inspection. Patel did not undergo a practice inspection for the years 2011, 2012, or 2013, as he had not registered his practice as he was required to do.

Therefore, Patel breached Rule 515.

Rule 516 Professional Liability Insurance

Rule 516 of the Code requires a member engaged in a professional practice or the practice of public accounting or the preparation of compilation engagements or tax returns part time or full time, to maintain professional liability insurance. For the periods 2009 to 2013 inclusive, Patel operated a practice without carrying professional liability insurance contrary to Rule 516 of the Code.

Code – Responsibilities to the Profession

The Code requires members to always act in accordance with the duties and responsibilities associated with being members of the profession, and to carry on work in a manner that will enhance the image of the profession and the Association. A member needs to comply with the *Association Bylaws* and the *Code of Ethical Principles and Rules* of the Association. By breaching the above Rules of the Association, by, in particular, misleading advertising, failing to register his practice, failing to undergo a practice inspection, failing to carry professional liability insurance, Patel's conduct was not in accordance with the duties and responsibilities associated with being a member of the profession and did not enhance the image of the profession or the Association. Therefore, Patel's conduct breached the Association's Code, specifically the Principle of Responsibilities to the Profession.

By breaching the above Rules of the Association, by, in particular, misleading advertising, failing to register his practice, failing to undergo a practice inspection, failing to carry professional liability insurance, the panel of the Professional Conduct Tribunal also finds Mr. Patel guilty of professional misconduct.

EVIDENCE ON PENALTY

Counsel for the Discipline Committee entered into evidence the following five documents:

<u>Exhibit #</u>	<u>Description</u>
12.	Letter from Karen Jolley to Bhavesh Patel dated Jan 16, 2014
13.	Letter from Sandy Whyte to Bhavesh Patel dated November 8, 2013 with attachment
14.	Response to Request to Admit
15.	Request to Admit Facts and Documents
16.	Costs Outline

PENALTY SUBMISSIONS

Counsel for the Discipline Committee submitted that the panel should make the following penalty order:

1. Mr. Patel be reprimanded for his breaches of Rule 509, Rule 514, Rule 515, Rule 516, Code – Responsibilities to the Profession, of the Code of Ethical Principles and Rules of Conduct
2. Mr. Patel's membership in the Association be suspended for 3 months
3. Mr. Patel pay \$5,000.00 fine, \$1,000.00 fine for each of the 5 breaches of the Code of Ethical Principles and Rules of Conduct
4. Mr. Patel pay \$5,221.26 fine for the costs of insurance
5. Mr. Patel pay \$1,542.45 fine for the costs of the Handbook
6. Mr. Patel pay \$864.45 fine for the costs of the Public Practice Manual
7. Mr. Patel pay \$5,000.00 costs of the hearing
8. Publication in a local newspaper, online, and any other member forum Discipline Committee deems appropriate

9. Mr. Patel return his CGA Ontario (22737) and CGA Canada (367558) certificates of membership for the duration of the suspension to the Association

Ms. Jolley provided the costs outline (Exhibit 16) and said that Mr. Patel was given two opportunities to lessen the costs by admitting facts and documents (Exhibit 15) and by agreeing to the proposed resolution (Exhibit 13). Since he did not do so, the costs of the hearing had escalated to \$17,062 to date and therefore the \$5,000 requested, is more than reasonable.

In his submission on penalty, Mr. Patel said that he was OK with the penalty and then he said that he should not be penalized.

PENALTY DECISION

The panel deliberated and considered the Discipline Committee's submissions in terms of penalty and the member's submissions in terms of penalty. Accordingly, the panel orders the following penalty:

1. Mr. Patel is reprimanded for his breaches of Rule 509, Rule 514, Rule 515, Rule 516, Code – Responsibilities to the Profession, of the Code of Ethical Principles and Rules of Conduct
2. Mr. Patel's membership in the Association is suspended for 3 months
3. Mr. Patel pays \$5,000.00 fine, \$1,000.00 fine for each of the 5 breaches of the Code of Ethical Principles and Rules of Conduct
4. Mr. Patel pays \$5,221.26 fine for the costs of insurance
5. Mr. Patel pays \$1,542.45 fine for the costs of the Handbook
6. Mr. Patel pays \$864.45 fine for the costs of the Public Practice Manual
7. Mr. Patel pays \$5,000.00 costs of the hearing
8. Publication in a local newspaper, online, and any other member forum Discipline Committee deems appropriate
9. Mr. Patel must return his CGA Ontario (22737) and CGA Canada (367558) certificates of membership for the duration of the suspension to the Association

REASONS FOR PENALTY DECISION

It is the responsibility of the panel to ensure that penalties are in keeping with the proven violations of the member. These penalties must also address the seriousness of the violations and to act as a deterrent to others. Costs are awarded to compensate the successful party at least partly, for fees, expenses and disbursements incurred. The Tribunal concluded that the fines and other penalties sought by the Discipline Committee were appropriate.

As a self-regulated profession, The Certified General Accountants Association of Ontario has clearly defined the standards required to be a member of the Association and has set out the rules for membership. These rules must be adhered to, so that its members could perform their duties to the public in a professional manner. This entails registration of the practice, proper training, use of the Handbook and the Public Practice Manual, practice inspections and having professional liability insurance. Mr. Patel did not follow these rules and had acted quite contrary to the high standards expected from a CGA. He had breached five provisions of the Code of Ethical Principles and Rules of Conduct of the Association and was found guilty of professional misconduct.

The Panel also reviewed the submissions made by counsel for the Discipline Committee on penalties awarded in previous relevant disciplinary hearings involving CGA Ontario members. Mr. Patel engaged in public practice and held himself out as a CGA when he was not registered or insured.

The penalties ordered against Mr. Patel are meant to deter him and other members of the Association, from engaging in similar misconduct in the future. Through publication of this decision, the general public will have confidence in the Association that the CGA they hire meets with the high standards expected by the Certified General Accountants of Ontario.

Dated this 6th day of September, 2014

I, Alexis Perera, sign this Decision and Reasons for Decision as Chair of the panel of the Professional Conduct Tribunal on behalf of the members of the panel that heard this matter.



Alexis Perera CPA, CGA

NOTICE

This decision of the Professional Conduct Tribunal may be appealed to an Appeal Tribunal within thirty (30) days of the date of this decision.

The Notice of Appeal must be in writing, addressed to the vice-president responsible for regulatory affairs of the Association (Chartered Professional Accountants of Ontario), 240 Eglinton Avenue East, Toronto, Ontario, M4P 1K8) and must contain the grounds for the appeal.

TAKE NOTE THAT, in an appeal, the Appellant bears the onus of obtaining and delivering copies of the transcripts of the hearing before the Professional Conduct Tribunal for the Appeal Tribunal (4 copies) and for the Respondent (1 copy).

According to the Bylaws, a Notice of Appeal that fails to contain the grounds for the appeal, together with evidence that demonstrates that transcripts of the hearing giving rise to the appeal have been ordered, shall be void.