

**CERTIFIED MANAGEMENT ACCOUNTANTS OF ONTARIO
DISCIPLINE COMMITTEE**

Anne Mackenzie, CMA, (Chair of Panel)]
David Debenham, CMA]
James Karas, (Public Member)]

Thursday, 27 September 2012

IN THE MATTER of the *Certified Management Accountants Act, 2010*, Statutes of Ontario 2010, C.6, Schedule B, as amended (the "*Act*");

AND IN THE MATTER of a Hearing of a matter regarding the conduct of **Paul G. Tymchuk** as directed by the Complaints Committee of Certified Management Accountants of Ontario (the "Corporation") to be held according to the *Act* and Bylaws of the Corporation and the Rules of Procedure of the Discipline Committee of the Corporation.

BETWEEN:

Certified Management Accountants of Ontario

(Applicant)

-and-

Paul G. Tymchuk

(Respondent)

ORDER

THIS HEARING was heard at Victory Verbatim, Ernst & Young Tower, 17th floor, 222 Bay Street, Toronto, Ontario M5K 1H6, on Thursday, the 27th day of September 2012, in the presence of the lawyer for the Applicant, with the Respondent attending electronically.

UPON READING THE NOTICE OF HEARING filed by the Applicant and upon reading the Agreed Statement of Facts (both of which were filed as exhibits), AND UPON hearing the submissions of the lawyer for the Applicant and the submissions of the Respondent, AND UPON the consent of the lawyer for the Applicant and the consent of the Respondent to this Order including the penalty.

1. THE DISCIPLINE COMMITTEE FINDS AND DECLARES that the Respondent **Paul G. Tymchuk** is guilty of professional misconduct as that term is defined in Section 2.2(b) of the Professional Misconduct and Code of Professional Ethics Regulation and in breach of Section 3.3(d) of that Regulation; Sections 7(1), 7(2), 11(1) and 17(1) of the

Independent Consulting CMAs Offering Services to the Public Regulation; and Sections 25, 26 and 27 of the Bylaws of the Corporation.

2. THE DISCIPLINE COMMITTEE ISSUES, under the authority of paragraph 6 of section 35(4) of the *Act*, the Reprimand delivered with this Order; and DIRECTS that such Reprimand be recorded on the Respondent's record.
3. THE DISCIPLINE COMMITTEE DIRECTS, under the authority of paragraph 8 of Section 35(4) of the *Act*, that the Respondent shall pay a fine of one thousand dollars (\$1,000); and SPECIFIES that such payment shall be made within twelve (12) months of the date of this Order.
4. THE DISCIPLINE COMMITTEE ORDERS, under the authority of paragraph 11 of section 35(4) of the *Certified Management Accountants Act, 2010*, and in accordance with the provisions of section 15.6 of the Discipline Committee Rules of Procedure, that:

notice of the Decision and Order of the Discipline Committee disclosing the name of the Member and brief particulars of the professional misconduct be published and shall be distributed to the Board and to the Members in the CMA Ontario journal; and


the decision and order of the Discipline Committee disclosing the name of the Member, together with the written reasons for the decision with brief particulars of the finding of professional misconduct, will be published and maintained in the public area of CMA Ontario's website.

5. THE DISCIPLINE COMMITTEE ORDERS, under the authority of paragraph 11 of section 35(4) of the *Certified Management Accountants Act, 2010*, that Member shall provide confirmation within thirty (30) days of the date of this Order, to the satisfaction of the Registrar, that he has wound up his consulting services business and is no longer providing services to the public for a fee.
6. THE DISCIPLINE COMMITTEE ORDERS, under the authority of paragraph 11 of section 35(4) of the *Certified Management Accountants Act, 2010*, that the Member shall submit an application for practice registration within sixty (60) days of the re-commencement, if any, of his consulting practice as required by the Independent Consulting CMA's Offering Services to the Public Regulation.

7. THE DISCIPLINE COMMITTEE ORDERS, under the authority of paragraph 11 of section 35(4) of the *Certified Management Accountants Act, 2010*, that the Member shall report quarterly to the Registrar as to his employment status, and any consulting practice services offered to the public including services outlined in section 2(4) of the Independent Consulting CMA's Offering Services to the Public Regulation.
8. THE DISCIPLINE COMMITTEE makes no order as to costs.



Anne Mackenzie,
Chair of the Panel of the Discipline Committee



David Debenham



James Karas

Certified Management Accountants of Ontario
Applicant

and

Paul G. Tymchuk
Respondent

CMAO File No: C1112-06

CERTIFIED MANAGEMENT ACCOUNTANTS
OF ONTARIO
DISCIPLINE COMMITTEE

ORDER

MILLER THOMSON LLP

Scotia Plaza
40 King Street West, Suite 5800
P.O. Box 1011
Toronto, ON Canada M5H 3S1

Hugh M. Kelly LSUC#: 09800T
Tel: 416.595.8176
Fax: 416.595.8695

Lawyers for the Discipline Committee
Certified Management Accountants of Ontario

**CERTIFIED MANAGEMENT ACCOUNTANTS OF ONTARIO
DISCIPLINE COMMITTEE**

IN THE MATTER of the *Certified Management Accountants Act, 2010*, Statutes of Ontario 2010, C.6, Schedule B, as amended (the "*Act*");

AND IN THE MATTER of a Hearing of a matter regarding the conduct of **Paul G. Tymchuk** as directed by the Complaints Committee of Certified Management Accountants of Ontario (the "Corporation") to be held according to the *Act* and Bylaws of the Corporation and the Rules of Procedure of the Discipline Committee of the Corporation.

BETWEEN:

Certified Management Accountants of Ontario

(Applicant)

-and-

Paul G. Tymchuk

(Respondent)

REASONS OF THE DISCIPLINE COMMITTEE

The Discipline Committee held a Hearing at Victory Verbatim, Ernst & Young Tower, 17th floor, 222 Bay Street, Toronto, Ontario M5K 1H6, on Thursday, the 27th day of September 2012, to hear evidence, and submissions and argument, and to consider and to deliver its decision, respecting matters arising out of a complaint regarding the conduct of Paul G. Tymchuk, a Member of Certified Management Accountants of Ontario.

The panel of the Discipline Committee conducting the hearing was composed of:

Anne Mackenzie, CMA (Chair of Panel)

David Debenham, CMA

James Karas, (Public Member)

Counsel for the Applicant was Ms. Jennifer Cooper, of Certified Management Accountants of Ontario.

The Respondent was not represented.

Counsel for the Discipline Committee was Mr. Hugh M. Kelly, Q.C., of Miller Thomson LLP, Barristers & Solicitors.

The Respondent was present by a conference telephone connection.

Ms. Cooper advised the Committee that the Applicant and the Respondent had agreed to a Statement of Facts, and that they each would be presenting submissions on penalty.

Ms. Cooper tendered a Notice of Hearing in this matter dated July 24, 2012; this was marked as Exhibit 1. Mr. Tymchuk confirmed that he had been properly served with this Notice.

Preliminary Matters

As no objections were raised against the matter proceeding or as to the jurisdiction of the Discipline Committee to hear the matter, the hearing commenced.

Charges

Ms. Cooper read the charges (as set out in the Notice of Hearing, Exhibit 1), as follows:

1. That on or about the month of February 2009 to March 2011, the Respondent provided management accounting services to Global Auto Car Inc. on a fee for services basis in excess of \$500 without providing/obtaining a Letter of Engagement or Contract with Global Auto Car Inc. outlining the service to be performed, the timing of delivery, the terms and basis of the fee structure, and other information that was relevant to the engagement; and
2. That commencing on or around May 20, 2009, the Respondent offered management accounting services to the public on a fee for service basis without registering his practice with CMA Ontario and continue to provide such services without registering his practice.

BY REASON OF the foregoing, it is alleged that the Respondent is guilty of professional misconduct as that term is defined in Section 2.2(b) of the Professional Misconduct and Code of Professional Ethics Regulation and is in breach of Section 3.3(e) of that Regulation; Sections 7(1), 7(2), 11(1) and 17(1) of the Independent Consulting CMAs Offering Services to the Public Regulation; and Sections 25, 26 and 27 of the Bylaws of the Corporation.

When the Discipline Committee questioned the reference to Section 3.3(e) of the Independent Consulting CMAs Offering Services to the Public Regulation, Ms. Cooper moved to amend the

reference to read "Section 3.3(d)". After Mr. Tymchuk consented to that amendment, the Discipline Committee ordered that the allegation be amended to read:

BY REASON OF the foregoing, it is alleged that the Respondent is guilty of professional misconduct as that term is defined in Section 2.2(b) of the Professional Misconduct and Code of Professional Ethics Regulation and is in breach of Section 3.3(d) of that Regulation; Sections 7(1), 7(2), 11(1) and 17(1) of the Independent Consulting CMAs Offering Services to the Public Regulation; and Sections 25, 26 and 27 of the Bylaws of the Corporation.

Plea

The Respondent pleaded guilty to the charge of a breaches of 2.2(b) of the Professional Misconduct and Code of Professional Ethics Regulation; and of Section 3.3(d) of that Regulation; and of Sections 7(1), 7(2), 11(1) and 17(1) of the Independent Consulting CMAs Offering Services to the Public Regulation; and of Sections 25, 26 and 27 of the Bylaws of the Corporation.

Agreed Statement of Facts

Ms. Cooper tendered an "Agreed Statement of Facts" signed by Mr. Tymchuk on the 5th day of September 2012, and by Ms. Cooper as Prosecutor for Certified Management Accountants of Ontario on the 11th day of September 2012. The Respondent acknowledged and confirmed to the Discipline Committee his agreement with the content of the Agreed Statement of Facts.

This document was entered as Exhibit 2.

Findings on the Charge

The Discipline Committee considered the Agreed Statement of Facts (Exhibit 2), and in the light of the Respondent's plea of guilty, found that the Respondent was guilty of professional misconduct as that term is defined in Section 2.2(b) of the Professional Misconduct and Code of Professional Ethics Regulation and is in breach of Section 3.3(d) of that Regulation; Sections 7(1), 7(2), 11(1) and 17(1) of the Independent Consulting CMAs Offering Services to the Public Regulation; and Sections 25, 26 and 27 of the Bylaws of the Corporation.

Penalty

Ms. Cooper made submissions as to, and itemized the components of, the penalty to be imposed by the Committee, and Mr. Tymchuk acknowledged that such penalty proposed by Ms. Cooper was acceptable to him. Following further discussions with the Discipline Committee and

a brief recess to permit further consultations between Ms. Cooper and Mr. Tymchuk, the Discipline Committee determined that the penalty would be as follows:

1. The Discipline Committee will issue, under the authority of paragraph 6 of section 35(4) of the *Certified Management Accountants Act, 2010*, the Reprimand delivered with this Order; and direct that such Reprimand be recorded on the Respondent's record.
2. The Discipline Committee will direct, under the authority of paragraph 8 of Section 35(4) of the *Certified Management Accountants Act, 2010*, that the Respondent shall pay a fine of one thousand dollars (\$1,000); and that such payment shall be made within twelve (12) months of the date of the Order.
3. The Discipline Committee will order, under the authority of paragraph 11 of section 35(4) of the *Certified Management Accountants Act, 2010*, and in accordance with the provisions of section 15.6 of the Discipline Committee Rules of Procedure, that:

notice of the Decision and Order of the Discipline Committee, disclosing the name of the Member and brief particulars of the professional misconduct, be published and distributed to the Board and to the Members in the CMA Ontario journal; and


the decision and order of the Discipline Committee disclosing the name of the Member, together with the written reasons for the decision with brief particulars of the finding of professional misconduct, will be published and maintained in the public area of CMA Ontario's website.

4. The Discipline Committee will order, under the authority of paragraph 11 of section 35(4) of the *Certified Management Accountants Act, 2010*, that the Member shall, within thirty (30) days of the date of the Order, provide confirmation to the satisfaction of the Registrar that he has wound up his consulting services business and is no longer providing services to the public for a fee.
5. The Discipline Committee will order, under the authority of paragraph 11 of section 35(4) of the *Certified Management Accountants Act, 2010*, that the Member shall submit an application for practice registration within sixty (60) days of the re-commencement, if any, of his consulting practice as required by the Independent Consulting CMA's Offering Services to the Public Regulation.

6. The Discipline Committee will order, under the authority of paragraph 11 of section 35(4) of the *Certified Management Accountants Act, 2010*, that the Member shall report quarterly to the Registrar as to his employment status, and any consulting practice services offered to the public including services outlined in section 2(4) of the Independent Consulting CMA's Offering Services to the Public Regulation.
7. The Discipline Committee will make no order as to costs.

The Discipline Committee thanks Ms. Cooper and Mr. Tymchuk for their cooperation in bringing this matter to an acceptable disposition, both to each of them and to the Discipline Committee.

All of which is respectfully submitted this day of October 2012



Anne Mackenzie,
Chair of the Panel of the Discipline Committee



David Debenham



James Karas

Certified Management Accountants of Ontario
Applicant

and

Paul G. Tymchuk
Respondent

CMAO File No: C1112-06

CERTIFIED MANAGEMENT ACCOUNTANTS
OF ONTARIO
DISCIPLINE COMMITTEE

REASONS

MILLER THOMSON LLP

Scotia Plaza
40 King Street West, Suite 5800
P.O. Box 1011
Toronto, ON Canada M5H 3S1

Hugh M. Kelly LSUC#: 09800T
Tel: 416.595.8176
Fax: 416.595.8695

Lawyers for the Discipline Committee
Certified Management Accountants of Ontario