

IN THE MATTER OF
**CHARTERED PROFESSIONAL ACCOUNTANTS
OF BRITISH COLUMBIA**

("CPABC")

AND
A COMPLAINT AGAINST

STEPHEN HENRY PATTERSON, CPA,CA

("Member")

For the CPABC:
G. Cadman, QC

For the Member:
On his own behalf

Hearing held in Vancouver BC on September 23 and 24, 2019

DECISION

1. The Member received his CA designation in 1991. He changed his name from Cotter to Patterson in 2017. The Statement of Complaint alleges multiple violations of the *Rules of Professional Conduct* by the Member which the CPABC contends warrant cancellation of his membership.

Background

2. For sixteen years, the Member was employed as the financial controller for the Point Grey Golf & Country Club. After being dismissed in 2013, he unsuccessfully sued the Club.
3. From September 2015 through March 2017, the Member was employed under a verbal contract as the Chief Financial Officer of Eilat Exploration Ltd and Kitov Resources Ltd.

4. In 2014, Eilat sold some mineral claim assets to Skeena Resources Limited, a publicly traded company, in exchange for shares of Skeena, some of which Eilat sold in 2015.
5. In June 2016, Skeena applied to the BC Supreme Court to stop Eilat from selling more of its Skeena shares. The Court allowed them to be sold on certain conditions.
6. Eilat subsequently sought Court approval to sell its Skeena shares to Maineks LLC and, in September 2016, the Member filed an affidavit in the proceedings attesting that the proposed sale met the conditions set by the Court. In documents exhibited to his affidavit, the Member purported to be a Director of Eilat.
7. In July 2017, the Member sued Eilat, claiming he was owed \$158,333 in salary for his CFO services and \$109,252 for expenses related to other duties which were part of his employment.
8. In November 2017, the Member told the President of Eilat that if he was not paid the salary and expenses claimed in his law suit, he would disclose confidential information of Eilat to Skeena.
9. When the President of Eilat refused to pay, the Member did disclose confidential business information of Eilat to the President of Skeena and to Skeena's legal counsel.
10. Skeena used the confidential information given to it by the Member to apply to the Court for preservation of the Skeena shares Eilat had transferred to Maineks. In support of Skeena's application, the Member in December 2017 filed another affidavit, withdrawing the evidence in his previous 2016 affidavit in support of Eilat in which he had attested the sale met the conditions set by the Court, and swearing instead that the transaction was a "sham".
11. Subsequently, the Court rejected the Member's changed evidence and set aside the preservation order Skeena had obtained.
12. In the meantime, in August 2017, the Member had enrolled in the Canada Revenue Agency's Offshore Tax Informant Program and also disclosed confidential information of Eilat to the CRA.

Considerations

13. The allegations against the Member in the Statement of Complaint are uncontroverted. They have all been proven and for the most part were admitted by the Member.
14. In the circumstances, CPABC contends that the Member's conduct contravened Rules 101.1(a), 201.1, 202.1, 202.2, 205(a), 208.1, and 208.2(a),(b), and (c) of the *CPABC Code of Professional Conduct*, and that the contraventions constitute professional misconduct under sections 53(2)(c) and (d) of the *Chartered Professional Accountants Act*.
15. Central to the Member's impugned behavior is his disclosure of confidential information.
16. Rule 201.1 of the *Code of Professional Conduct* states:

Maintenance of the good reputation of the profession

201.1 A registrant shall act at all times with courtesy and respect and in a manner which will maintain the good reputation of the profession and serve the public interest.

17. Rule 202 states:

Integrity and due care

202.1 A registrant shall perform professional services with integrity and due care.

Objectivity

202.2 A registrant shall not allow his or her professional or business judgment to be compromised by bias, conflict of interest or the undue influence of others.

18. And, Rule 208 states:

Confidentiality of Information

208.1 A registrant shall not disclose any confidential information concerning the affairs of any client, former client, employer or former employer except when:

- (a) *properly acting in the course of carrying out professional duties;*
- (b) *such information should properly be disclosed for purposes of Rules 101, 211 or*

302 or under the Act or bylaws;

- (c) *such information is required to be disclosed by order of lawful authority or, in the proper exercise of their duties, by the Board, or a committee, officer or other agent of CPABC;*
- (d) *justified in order to defend the registrant or any associates or employees of the registrant against any lawsuit or other legal proceeding or against alleged professional misconduct or in any legal proceeding for recovery of unpaid professional fees and disbursements, but only to the extent necessary for such purpose; or*
- (e) *the client, former client, employer or former employer, as the case may be, has provided consent to such disclosure.*

208.2 *A registrant shall not use confidential information of any client, former client, employer or former employer, as the case may be, obtained in the course of professional work for such client or employer:*

- (a) *for the advantage of the registrant;*
- (b) *for the advantage of a third party; or*
- (c) *to the disadvantage of such client or employer without the consent of the client, former client, employer or former employer.*

19. While not disputing what he did, the Member contends his conduct did not contravene the *Code* because it comes within the exception in Rule 208.1(d), in that he was involved in litigation and that it was in the public interest that he made a disclosure to the CRA.
20. In view of the clear and overwhelming evidence, as well as the Member's demeanor at the hearing, the Panel is of the view that the Member's contention is not only wrong but disingenuous.
21. On multiple occasions the Member admitted that he disclosed Eilat's confidential information to Skeena and the CRA for the purpose of blocking the transfer of its assets, which would be to his personal benefit. He unequivocally testified, "*That was the goal.*".
22. Rule 208.2(a) expressly prohibits the use for personal advantage of the confidential information of a former client obtained in the course of professional work for that client. In those circumstances, Rule 208.2(b) also expressly prohibits the use of confidential information for the advantage of a third party. The Member understood full well that Skeena and CRA were not only third parties but that Skeena was a third

party adverse in interest to his former client. The Member's disclosure was thereby also contrary to Rule 208.2(c), in that it was, and was intended to be, to the disadvantage of Eilat. In that regard, the Member testified, "*That's why I told them.*".

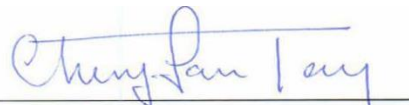
23. The exception in Rule 208.1(d) justifying the disclosure of information concerning the affairs of a former client applies only in specifically stated circumstances, none of which pertain to the Member. The threshold of the Rule is that the disclosure is necessary for the Member to defend himself in a lawsuit or legal proceedings. In this case, the Member was not "defending" himself in a lawsuit or legal proceeding. He was a witness in one and instigated the other.
24. In his reliance on Rule 208.1(d), the Member also contends that his lawsuit for the recovery of "salary and expenses" comes within the meaning of "professional fees and disbursements" contemplated by the Rule. Whether or not it does, however, is of no consequence. If it doesn't, the exception does not apply. If it does, the Rule in any event justifies disclosure only to the extent it is "necessary". In the view of the Panel, the Member's disclosure of confidential information to Skeena and CRA was by no standard necessary.
25. The Member's disclosures of confidential information to Skeena and the CRA were deliberate and made for the admitted self-serving purpose of endeavoring to freeze Eilat's assets for the benefit of his claims against Eilat. The Member also admitted that he had received legal advice that he was obliged not to disclose confidential information and that he chose to disregard that advice. And the Member acknowledged that he did so with the understanding that the duty of confidentiality to Eilat continued after he was no longer employed by Eilat.
26. The Member's explanation that he was compelled to make disclosure to the CRA because he considers it to be in the public interest to protect Canada from tax evasion is in the view of the Panel a smokescreen to cloak his behavior in false righteousness.
27. The Member's disclosure to the CRA was made shortly after he started his lawsuit against Eilat. He had no actual basis for alleging any tax non-compliance except that he had no personal knowledge of what was done with the proceeds of Eilat's sale of Skeena shares. While collateral evidence showed that, as the CFO of Eilat, the Member was indifferent to financial record keeping, his only basis for the allegation was that he had not personally seen any money transferred in relation to the transaction. Yet, under the guise of public interest, the Member presumed without proof to make serious allegations of fraud.

28. When the CRA advised the Member that it had closed the file because his information was insufficient to show tax non-compliance, the Member protested the decision and wrote to the CRA with additional information relating to the Skeena legal proceedings. He concluded his letter by saying, "*With your assistance, I would hope that the court would re-instate the preservation order and thereby protect CRA's position.*". He thereby made his real purpose clear.
29. Overall, in his testimony as well as in his pattern of behavior, the Member manifested a lackadaisical indifference to the truth, and revealed a malicious intent to act exclusively in his own self-interest at any cost. There is no exculpatory evidence or explanation to the contrary.
30. To hold the CPA designation is a professional privilege. The protection of confidential client information is central to the ethical obligations of the profession. In the view of the Panel, the Member's blatant and willful disregard of his professional obligations and responsibilities constitutes egregious professional misconduct in his contravention of the *Code of Professional Conduct* and makes him unfit to practice as a CPA.

Conclusion

31. Accordingly, the Panel hereby orders that:
 - a. the membership of Stephen Henry Patterson in the CPABC is hereby cancelled; and
 - b. Stephen Henry Patterson pay to the CPABC, in accordance with the Tariff of Costs in Bylaw Regulation 1208/1, its costs relating to conduct of the hearing and the investigation resulting in the hearing immediately upon being presented with its Statement of Costs, in regard to which the Panel reserves the jurisdiction to determine the amount of the costs in the event of a disagreement between Mr. Patterson and the CPABC.

October 22, 2019



For the Panel:

C. Y. Tay, FCPA,FCGA, Chair

Candace Nancke, FCPA,FCGA

Roy Wares, P.Eng, FEC