

DISCIPLINE DIGEST

The Society of Notaries Public of British Columbia

October 2013

Notary 002

At the discretion of the Board of Directors, the Member's Name is not published

The member was charged with a breach of Rule 4.19 and professional misconduct by failing to meet his obligations to pay Harmonized Sales Tax and/or Goods and Services Tax for 2007, 2008, 2009, 2010, 2011, and 2012 as required.

The member and the Society entered into an agreed statement of facts, admission and proposed penalty in the matter and the member attended at the hearing to apologize, to give oral clarification of the facts and to provide his assurances regarding his understanding of the charge, facts and admission.

Background:

1. The Member self-reported to the Society and to the Audit Committee in November of 2012 that he had consistently failed to meet his obligations to submit returns and pay taxes regarding Harmonized Sales Tax and/or Goods & Services Tax since the incorporation of his professional corporation in 2007.
2. The Member has now processed all of his outstanding tax returns and paid all outstanding tax, penalties and interest to the current date.
3. The Member's other filings and payments related to payroll deductions, Provincial Sales Tax, Workers Compensation, Trust Administration Fee and supplier accounts have been maintained on time and in accordance with the Society's rules and good business practice.
4. The Member's practice has been inspected since his self-report and no further significant transgressions regarding his practice and his accounting systems have been noted.
5. The Member admits that his failure to properly deal with his HST/GST obligations is inexcusable. The Member was busy with personal and business activities and simply let the matter of his HST/GST slide to the point where he became overwhelmed and physically and emotionally stressed by the perceived mountain of effort it was going to take to rectify the situation.
6. The Member self-reported his breach and apologized to the Society and the Audit Committee for putting them in a position where his lack of action could hurt them.
7. That member admits that he breached Rule 4.09 of the Society accounting rules and that his breach constitutes professional misconduct;

Findings:

The Board accepts that the Member allowed the situation of his tax filing obligations to get the better of him and that his failure to meet this obligation is out of character for a Member who has served his community well since his commission. The Board commends the member for having come forward to admit his lapse and to take responsibility for it and to rectify it in a short period of time. The Board understood the member's remorse and acceptance of his responsibility to the Society and the public.

The Member has no discipline history.

The Board finds the Member in breach of Rule 4.19 and that such breach constitutes professional misconduct.

Penalty

In considering the proposed agreed penalty, the Board took into account the following:

- a. The Member's lack of discipline history;
- b. The Member's self-report;
- c. The Member's clear remorse;
- d. The Member's attention to his other tax matters;
- e. The fines and interest he has paid to the government as a result of his failure to remit;
- f. The fact that at all times the member held the funds owed rather than making use of them for his own purposes.

Accordingly, the Board considers the proposed penalty to be acceptable and so orders.

- a. The member be reprimanded;
- b. The member pay a fine of \$1,000;
- c. The member pay \$500 towards the costs of the proceedings.

Pursuant to Society policy, the Board of Directors exercised its discretion regarding publication and ordered that the findings be published without the member's name.