

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO  
*THE CHARTERED ACCOUNTANTS ACT, 2010*

**DISCIPLINE COMMITTEE**

**IN THE MATTER OF:** An allegation against **NORMAN B. SHILLINGTON, CPA, CA**, a member of the Institute, under **Rule 201.1** of the Rules of Professional Conduct, as amended.

**TO:** Mr. Norman B. Shillington

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

**REASONS**  
**(Decision and Order made May 3, 2013)**

1. This tribunal of the Discipline Committee of the Institute of Chartered Accountants of Ontario met on May 3, 2013 to hear an allegation of professional misconduct brought by the Professional Conduct Committee against Norman B. Shillington, a member of the Institute.

2. Mr. Paul Farley appeared on behalf of the Professional Conduct Committee (PCC). Mr. Shillington was not represented by counsel and did not attend. Mr. Glenn Stuart attended the hearing as counsel to the Discipline Committee.

3. Mr. Farley advised the tribunal that Mr. Shillington had been personally served with the allegation by a process server who had provided an Affidavit of Service (Exhibit 1). The Notice of Hearing had been received by Mr. Shillington's counsel of record who subsequently advised that Mr. Shillington no longer required his services and he would not be representing Mr. Shillington at the hearing (Exhibit 2). Mr. Farley had spoken to Mr. Shillington subsequent to receipt of this letter, and Mr. Shillington said he would not be attending the hearing on May 3. The tribunal determined that Mr. Shillington had received proper notice of the hearing and decided to proceed in his absence.

4. The decision of the tribunal was made known at the conclusion of the hearing on May 3, 2013, and the written Decision and Order sent to the parties on May 7, 2013. These reasons, given pursuant to Rule 20.04 of the Rules of Practice and Procedure, include the allegation, the decision, the order, and the reasons of the tribunal for its decision and order. One tribunal member had to withdraw due to a personal emergency during the hearing and did not take part in the deliberations on decision and order. He is accordingly not listed as a tribunal member on these reasons. Under the provisions of Rule 17.01(3), the remaining tribunal members completed the hearing.

**Allegations**

5. The following allegation was laid against Mr. Shillington by the Professional Conduct Committee on February 15, 2013:

1. THAT, the said Norman B. Shillington, on or about the 30<sup>th</sup> day of May, 2012, was convicted of the charge attached as Schedule "A" that between the 1<sup>st</sup> day of January in the year 1990 and the 31<sup>st</sup> day of December in the year 2007 at the Municipality of Chatham-Kent, did by deceit, falsehood or other fraudulent means, defraud persons named in the charge of money of a value exceeding \$5,000 contrary to Section 380(1) of the Criminal Code of Canada, all of which is contrary to Rule 201.1 of the Rules of Professional Conduct.

### **Plea**

6. A plea of not guilty to the allegation was entered on Mr. Shillington's behalf.

### **Evidence**

7. Mr. Farley made an opening statement. He advised the tribunal that the case for the PCC would be presented by way of a certified copy of conviction, which was set out in Schedule "A" to the allegation, contained in a Document Brief. He then filed the Document Brief (Exhibit 3) which contained a certified copy of the information before the Ontario Court of Justice evidencing Mr. Shillington's conviction, the transcript of the hearing at which Mr. Shillington entered a plea of guilty to one count and the transcript of the sentencing hearing.

8. In presenting the case for the PCC, Mr. Farley reviewed the certified copy of the Information and made reference to the transcripts in the Document Brief which summarized Mr. Shillington's conduct that led to his criminal conviction. No other evidence was called on behalf of the PCC.

9. Mr. Farley submitted that based on the proof of his conviction of a criminal offence contained in the certified copy of the Information, supported by the sentence ordered and the reasons of the judge, Mr. Shillington should be found guilty of professional misconduct. Mr. Farley also submitted that under Rule 201.2, when proof of conviction is filed with the Discipline Committee, there is a rebuttable presumption that the member failed to maintain the good reputation of the profession.

### **The relevant facts**

10. The relevant facts in this case were not in dispute. Mr. Shillington, while a partner in a chartered accounting firm, provided financial advice and prepared income tax returns for clients over a number of years. He had built up a level of trust with the clients by involvement with either their family finances or business accounts. Starting in the early 1990s, Mr. Shillington would attend at the homes of clients or former clients to advise them on financial matters. He obtained knowledge of when various investments would come due and advised the clients that he could invest their money and produce a higher return rate than the financial institutions. Clients were told by Mr. Shillington that they would have to report interest on their income tax statement. The clients continued to give Mr. Shillington money to invest over a period of years.

11. Mr. Shillington took the investment money from former clients and converted it to his own personal use. He used new clients' money to pay the ongoing interest payments that were owed. This activity continued for more than a decade until 2007 when the scheme collapsed and Mr. Shillington filed for bankruptcy. It was at that time the clients learned that the money they had thought was invested by Mr. Shillington had been converted to Mr. Shillington's own use.

12. Mr. Shillington was charged under the Criminal Code of Canada with 34 counts of fraud. Mr. Shillington pleaded guilty to Count 5 which was amended during the court proceedings to include the names of four victims named in other counts. Mr. Shillington was found guilty of Count 5 and the other counts against him were withdrawn by the Crown. During the criminal proceedings, victim impact statements were read by former clients who had lost their life savings to Mr. Shillington who was considered a trusted friend and advisor. Mr. Shillington had been living a lavish lifestyle on the money entrusted to him, including life insurance and pensions from a widow whose late husband had trusted Mr. Shillington as a professional accountant and friend. All the victims, who are now seniors, had counted on the investments for their senior years; two of the victims have died since the criminal charges were laid against Mr. Shillington.

13. During the court proceedings, it was stated that Mr. Shillington, in an effort to cope with and satisfy his ill wife during her manic episodes, had commenced this scheme which enabled him to live way beyond his means. Mr. Shillington's lifestyle included a residence and cottage in Ontario and a

vacation home in South Carolina. At the time of his criminal conviction, Mr. Shillington was still an undischarged bankrupt, and to date restitution has not been made to the victims.

14. The Court sentenced Mr. Shillington to nine months in jail, a probation order of two years and a restitution order of \$539,075.80, with compensation being paid for the individual amounts owing to the victims or their estates.

### **Finding**

15. The tribunal accepted the uncontradicted evidence that Mr. Shillington was convicted of fraud of a value exceeding \$5,000, in relation to four investors of funds that he converted to his own use, contrary to the provisions of Rule 201.1.

### **Decision**

16. The evidence in this matter is clear, cogent and convincing. The misconduct as alleged has been proven and establishes the member is guilty of professional misconduct. Mr. Shillington failed to uphold the good reputation of the profession and its ability to serve the public interest. After deliberating, the tribunal made the following decision:

THAT, having determined to proceed with the hearing in the absence of Mr. Shillington, being satisfied that he had proper notice of the hearing, and having entered on his behalf a plea of not guilty to the allegation, and having seen and considered the evidence, the Discipline Committee finds Norman Bryce Shillington guilty of the allegation.

### **Sanction**

17. Mr. Farley did not call any additional evidence with respect to sanction.

18. Mr. Farley, on behalf of the PCC, submitted that an appropriate sanction in this matter would be: a written reprimand; a fine in the amount of \$20,000; revocation of membership; and full publicity including newspaper publication in *The Globe and Mail* and *The Chatham Daily News*. As there had been minimal investigation costs, the PCC sought an order for costs on a partial indemnity basis. The costs were limited to approximately \$6,000 since an investigator did not need to be appointed. The PCC was seeking an order for recovery of approximately 50% of the costs in the amount of \$3,000.

19. Mr. Farley submitted that Mr. Shillington's egregious misconduct has damaged his own and the profession's reputation and should result in the ultimate penalty of revocation of his membership. This is a matter of moral turpitude whereby Mr. Shillington was convicted of fraud by stealing money from trusting clients. Mr. Farley submitted that the facts are so serious in this case that rehabilitation does not come into play.

20. A written reprimand will let the member know how negatively his conduct is viewed by the Discipline Committee and the Institute. The suggested fine will act as a deterrent to other like-minded members of the profession, regardless of what excuse members make to rationalize their behavior. Full publicity, including publication in *The Globe and Mail* and in *The Chatham Daily* will inform the membership and the public that Mr. Shillington is no longer a CPA and CA.

21. Mr. Farley indicated that the aggravating factors included the misappropriation of over \$530,000 from vulnerable clients, many of whom lost their life's savings. Mr. Shillington, while in a position of trust, carried out his scheme for over a decade and went back numerous times to these clients for more money. On each occasion, Mr. Shillington could have considered whether what he was doing was right or wrong, but his actions only stopped when he became a bankrupt. No

restitution has been made to the victims whose lives have been impacted by financial and emotional loss.

22. Mr. Farley indicated the mitigating factors included that Mr. Shillington did plead guilty to one count in the criminal proceedings and has served his time in jail. Mr. Shillington has no previous criminal record and has no previous discipline history.

23. Mr. Farley distributed a case brief of fraud and misappropriation cases: *Shilson, McWilliams, Bell, Doutre* and *Weisbrod*, pointing out that the sanctions sought in this matter are consistent with those imposed for similar misconduct.

### **Order**

24. After deliberating, the tribunal made the following order:

IT IS ORDERED in respect of the allegation:

1. THAT Mr. Shillington be reprimanded in writing by the Chair of the hearing.
2. THAT Mr. Shillington be and he is hereby fined the sum of \$25,000 to be remitted to the Institute within three (3) months from the date this Decision and Order is made.
3. THAT Mr. Shillington's membership in the Institute be and is hereby revoked.
4. THAT notice of this Decision and Order, disclosing Mr. Shillington's name, be given after this Decision and Order is made:
  - (a) to all members of the Institute; and
  - (b) to all provincial institutes/Ordre;
 and shall be made available to the public.
5. THAT notice of the revocation of membership, disclosing Mr. Shillington's name, be given by publication on the Institute's website and in *The Globe and Mail*, *The Windsor Star* and a Chatham newspaper. All costs associated with the publication shall be borne by Mr. Shillington and shall be in addition to any other costs ordered by the committee.
6. THAT Mr. Shillington surrender his CA and CPA certificate of membership in the Institute to the Discipline Committee Secretary within ten (10) days from the date this Decision and Order is made.

IT IS FURTHER ORDERED:

7. THAT Mr. Shillington be and he is hereby charged costs fixed at \$3,000 to be remitted to the Institute within three (3) months from the date this Decision and Order is made.

### **Reasons for Sanction**

25. Mr. Shillington commenced misappropriating funds from his clients in the early 1990's and ceased to do so when he declared personal bankruptcy in 2007. As a CA (CPA), he abused his position as a trusted financial adviser to his clients. He had the opportunity to discontinue his inappropriate activity that carried on for approximately 15 years and did not do so. Mr. Shillington

perpetrated his misappropriation of his clients' funds on numerous occasions over an extended period of time.

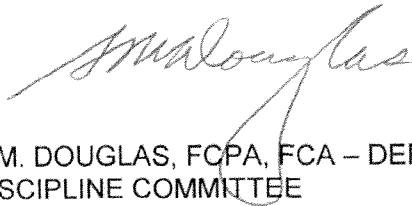
26. The tribunal found his conduct to be egregious, a breach of trust and debilitating to his clients as evidenced in their witness statements during his criminal trial. His behavior during his period of misappropriation is damaging to the profession. As a CA (CPA) he held a position of power and was trusted by those very clients from whom he misappropriated money. The amount quantified as misappropriated during his criminal trial was \$539,075.80. Although a restitution order was made against Mr. Shillington, the tribunal was advised that less than 1% had been repaid and that it was unlikely that any further repayments would be forthcoming.

27. The principles of general and specific deterrence require that a member who conducts himself or herself as Mr. Shillington did, in addition to having their membership revoked, should pay a substantial fine. The misconduct that resulted in a substantial amount of money being misappropriated from several clients was compounded by Mr. Shillington continuing the misappropriation over an extended period of time and only ceasing the scheme when he ultimately consumed the misappropriated funds and declared personal bankruptcy. In the circumstances, and given the precedents provided to the tribunal with the largest fine being \$25,000, the tribunal determined that Mr. Shillington's conduct warranted a fine of at least a similar amount and concluded that a fine of at least \$25,000 was appropriate. Accordingly, the tribunal levied a fine of \$25,000.

28. A further principle of general and specific deterrence is the publication of a notice advising the public and the profession of Mr. Shillington's membership revocation as a CA (CPA). In addition to the publication in *The Globe and Mail* and *The Chatham Daily News* sought by the Professional Conduct Committee, the tribunal determined that given the proximity to Chatham, publication in *The Windsor Star* was appropriate. As the conduct of Mr. Shillington was so egregious, the tribunal determined that, in the interest of the public, the additional publication was warranted.

29. Mr. Shillington is responsible for the costs of the investigation and hearing into his conduct. It was his misconduct which necessitated the hearing. It is appropriate that he, rather than the membership as a whole, bear a portion of those costs.

DATED AT TORONTO THIS 4<sup>th</sup> DAY OF JUNE, 2013  
BY ORDER OF THE DISCIPLINE COMMITTEE



S.M. DOUGLAS, FCPA, FCA – DEPUTY CHAIR  
DISCIPLINE COMMITTEE

MEMBERS OF THE TRIBUNAL:

G. KROFCHICK, CPA, CA  
P. McBURNEY (PUBLIC REPRESENTATIVE)