

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO
THE CHARTERED ACCOUNTANTS ACT, 1956

DISCIPLINE COMMITTEE

IN THE MATTER OF: Charges against **ALAUDIN A. JAMAL, CA**, a member of the Institute, under **Rule 206** of the Rules of Professional Conduct, as amended.

TO: Mr. Alaudin Alibhai Jamal, CA
7100 Woodbine Avenue, Suite 305
MARKHAM, ON L3R 5J2

AND TO: The Professional Conduct Committee, ICAO

REASONS
(Decision And Order Made May 10, 2005)

1. This panel of the Discipline Committee of the Institute of Chartered Accountants of Ontario met on May 10, 2005 to hear charges brought by the Professional Conduct Committee against Alaudin A. Jamal, a member of the Institute.
2. The Professional Conduct Committee was represented by Ms. Barbara Glendinning. She was accompanied by the investigator appointed by the Professional Conduct Committee, Mr. Paul Gibel, CA.
3. Mr. Alaudin A. Jamal was present and accompanied by his counsel Ms. Cynthia Amsterdam.
4. The decision and order of the panel were made known at the hearing. The formal, written decision and order was sent to the parties on May 12, 2005. These reasons, given in writing pursuant to Bylaw 574, set out the charges, the decision and the order, as well as the reasons of the Discipline Committee.

CHARGES

5. After the Notice of Hearing dated February 16, 2005 and the charges dated July 20, 2004 were marked as Exhibits 2 and 3 respectively, Ms. Glendinning said there was a preliminary matter which should be dealt with prior to taking a plea to the charges. On consent, the charges were amended.
6. The charges made by the Professional Conduct Committee against Mr. Jamal on July 20, 2004, as amended, read as follows:
 1. THAT the said Alaudin A. Jamal, in or about the period June 30, 2002 to November 26, 2002, while engaged to perform an audit of the financial statements of Canafriac Inc. as at June 30, 2002, failed to perform his professional services in accordance with generally accepted standards of

practice of the profession, including the Recommendations set out in the CICA Handbook, contrary to Rule 206 of the Rules of Professional Conduct, in that,

- (a) he failed to properly assess materiality and audit risk;
 - (b) he failed to obtain sufficient appropriate audit evidence to support the balance sheet item 'Inventory – \$450,808';
 - (c) he failed to obtain sufficient appropriate audit evidence to support the balance sheet item 'Prepaid Expenses – \$37,920';
 - (d) he failed to ensure proper disclosure of a related party transaction;
 - (e) he failed to properly document items important to support his report, in that his working papers contained no documentation to support \$45,457 of the \$59,605 "Other receivables" item on the balance sheet.
2. THAT the said Alaudin A. Jamal, in or about the period March 31, 2003 to May 31, 2003, while engaged to perform an audit of the financial statements of Steel Canada Limited as at March 31, 2003, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, including the Recommendations set out in the CICA Handbook, contrary to Rule 206 of the Rules of Professional Conduct, in that;
- (a) he failed to obtain sufficient appropriate audit evidence to support the balance sheet item 'Inventory – \$4,320,950';
 - (b) he failed to ensure proper disclosure of the fair value information and interest and currency risk;
 - (c) he failed to adequately describe the transaction disclosed in Note 12 "Related Party Transactions"; and
 - (d) he failed to properly document items important to support his report, in that his working papers contained insufficient or no documentation to evidence:
 - (i) the procedures used to audit inventory valuation;
 - (ii) the reconciliations of accounts payable;
 - (iii) the calculation of the interest components of capital leases;
 - (iv) the analytical review of expenses.

7. Mr. Jamal entered a plea of guilty to the charges, and acknowledged that on the basis of the plea of guilty and on the basis alone he could be found guilty of the charges.

EVIDENCE

8. Ms. Glendinning filed a Document Brief (Exhibit 5) and called Mr. Gibel as a witness.

9. Mr. Gibel testified about his investigation and meeting with Mr. Jamal. He reviewed the Document Brief and related the various documents to the allegations set out in the two charges. Ms. Amsterdam cross-examined Mr. Gibel briefly.

10. Ms. Glendinning made submissions on behalf of the Professional Conduct Committee. Ms. Amsterdam did not make submissions on behalf of Mr. Jamal.

DECISION

11. The panel is satisfied that the allegations set out in the charges have been proven. While few of the particulars, in and of themselves, would constitute professional misconduct, the panel is satisfied that, taken as a whole, the number and nature of the departures from the required standard constitutes professional misconduct.

12. The most serious failure, particularized as (a) of Charge 2, is the failure to obtain sufficient appropriate audit evidence to support the balance sheet item inventory in excess of \$4,000,000. This amounted to 25% of the total assets of the steel company Mr. Jamal audited.

13. When the hearing resumed the Chair read the following decision:

THAT, having seen, heard and considered the evidence, and charges Nos. 1 and 2 having been amended at the hearing, and having heard the plea of guilty to charges Nos. 1 and 2, the Discipline Committee finds Alaudin Alibhai Jamal guilty of charges Nos. 1 and 2.

SANCTION

14. The Professional Conduct Committee did not call evidence with respect to sanction. Ms. Glendinning, on behalf of the Professional Conduct Committee, sought: a reprimand; a fine of \$5,000; three specified professional development courses; a period of 18 months of supervised practice; re-inspection following the period of supervised practice; notice in the usual course, disclosing Mr. Jamal's name; and costs in an amount not less than \$14,000.

15. Ms. Amsterdam stated that the member took issue with three aspects of the requested sanction. She submitted that the supervised practice was not warranted at all and, if it was warranted, it should be limited in time and scope. She submitted that the fine was at the high end of the appropriate range and should be reduced and that the costs sought should also be substantially reduced. Ms. Amsterdam submitted that the nature and extent of the problems discovered on the investigation, which led to the charges and conviction, were of a number and nature that should have been caught on a practice inspection.

16. Ms. Amsterdam filed a Document Brief (Exhibit 9) and called Mr. Jamal who testified with respect to his background, his practice, the files which were investigated and what he intends to do with his practice over the next several years as he has reached 65 years of age.

17. Mr. Jamal testified about the steps he had taken with respect to the issues uncovered in the investigation and about the difficulty which would result if there was an order for supervised practice. He also spoke about the impact that the discipline process had already had on him and the effect of a notice of the order published in *CheckMark*

would have on him and his practice.

18. Mr. Jamal was cross-examined by Ms. Glendinning. The panel had questions of Mr. Jamal, particularly with respect to his staff, planning and supervision of audits, and who exercises professional judgment.

19. Following the evidence, both Ms. Glendinning and Ms. Amsterdam made further submissions with respect to sanction. The panel then deliberated. At the conclusion of the deliberations the parties were invited back into the Council Chamber and the chair set out on the record a summary of the order.

20. The order itself is set out in the decision and order which was sent to the parties on May 12, 2005. The order provides:

IT IS ORDERED in respect of the charges:

1. THAT Mr. Jamal be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Jamal be and he is hereby charged costs fixed at \$1,000, to be remitted to the Institute within six (6) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Jamal be and he is hereby required to complete, by paying for and attending in their entirety, within one (1) year from the date this Decision and Order becomes final under the bylaws, the following professional development courses made available through the Institute, or, in the event a course listed below becomes unavailable, the successor course which takes its place:
 - (a) Differential Reporting;
 - (b) Accounting, Auditing & Professional Practice Update;
 - (c) Audit of a Small Business;
 - (d) Review & Compilation Engagements;
 - (e) Tax Issues for Private Corporate Group; and
 - (f) CRA Dispute Resolution.
4. THAT the Steel Canada Limited file and one other audit file must be independently reviewed by another member before being released, and the review is to be completed within six (6) months from the date this Decision and Order becomes final under the bylaws.
5. THAT notice of this Decision and Order, disclosing Mr. Jamal's name, be given after this Decision and Order becomes final under the bylaws, in the form and manner determined by the Discipline Committee:
 - (a) to the Public Accountants Council for the Province of Ontario;
 - (b) to the Canadian Institute of Chartered Accountants; and
 - (c) by publication in *CheckMark*.
6. THAT in the event Mr. Jamal fails to comply with any of the requirements of this Order, he shall thereupon be suspended from the rights and privileges of membership in the Institute until such time as he does comply, provided that

he complies within six (6) months from the date of his suspension, and in the event he does not comply within this six month period, he shall thereupon be expelled from membership in the Institute, and notice of his expulsion, disclosing his name, shall be given in the manner specified above, and in a newspaper distributed in the geographic area of Mr. Jamal 's practice or employment.

REASONS FOR THE SANCTION

21. The order imposed is substantially less onerous than that sought by the Professional Conduct Committee.

22. Mr. Jamal's evidence, given with respect to sanction, not guilt or innocence, convinced the panel that his departures from the required standard were not as marked as they appeared on hearing Mr. Gibel's evidence and reviewing the Document Brief. Mr. Jamal spoke to the cost of defending the case on the merits with respect to guilt or innocence. The panel accepts that this was a factor in his determination to plead guilty. The panel also realizes particular (a) of Charge 2 is of a serious nature.

23. The panel finds that Mr. Jamal has taken the discipline process seriously and made appropriate changes to his practice and plans for the future. In the circumstances, the panel does not think a fine is necessary as a specific deterrent to Mr. Jamal nor as general deterrent to other members.

Reprimand

24. The panel orders Mr. Jamal be reprimanded in writing by the Chair of the panel to stress to Mr. Jamal that his conduct is unacceptable.

Professional Development Courses

25. With respect to rehabilitation the panel is generally satisfied that Mr. Jamal has taken appropriate steps to rehabilitate himself. He agreed to take the six professional development courses specified.

Notice

26. With respect to specific and general deterrence, the panel is satisfied that publication of the notice in *CheckMark*, disclosing Mr. Jamal's name, will be an adequate specific deterrent to Mr. Jamal and should be an adequate general deterrent to other members.

27. The panel concludes there are no rare and unusual circumstances which would warrant or require withholding Mr. Jamal's name from the notice to be published in *CheckMark*.

28. Even in a standards case, such as this, where there is no suggestion of moral turpitude or lack of integrity, where no loss resulted, and where the departure from the required standard is just enough to constitute professional misconduct, the membership as a whole will be told of the fact of a finding of misconduct and the order which resulted. It is known that such notice is often drawn to the attention of clients and potential clients.

Supervised Practice

29. The panel is not persuaded that a lengthy period of supervised practice is required in the public interest or needed to ensure that Mr. Jamal's standard of practice is appropriate. As it appeared from Mr. Jamal's testimony that he and the client were still working on the inventory issue and how to adequately verify it, the panel concludes it would be appropriate that this audit file be independently reviewed by another member before the financial statements are released. The panel also finds it is reasonable that one other audit file be independently reviewed. If there is a dispute or concern with the nature and scope of the independent review, the matter can be brought on before an Assignment Hearing for directions from the Chair.

Costs

30. Ms. Glendinning submitted that the costs of the investigation and prosecution, even on a partial indemnity scale, were \$14,000 and accordingly sought an order of indemnity in that amount. The panel concluded an order of \$1,000 was appropriate.

31. The issues of costs and fine caused some difficulty for this panel. On the evidence we heard, an admonishment to Mr. Jamal would likely have been as appropriate as charging him with professional misconduct. Admonishment with a mechanism for following up to ensure he had resolved the inventory issue would have served the interest of the profession, the public and Mr. Jamal. We cannot emphasize enough that there was no evidence that Mr. Jamal's lapse from the required standard resulted in any loss or damage to his clients, their creditors or customers.

Failure to Comply

32. An order which does not provide consequences for the failure to comply with its terms would be meaningless. Accordingly, the panel orders that, in the event Mr. Jamal fails to comply with a term of the order, he will be suspended and, if his suspension continues for six months as a result of the failure to comply, he will be expelled. In the event he is expelled, notice will be given to the public by publication in the newspaper circulated where he resides or carries on practice.

DATED AT TORONTO THIS 17th DAY OF NOVEMBER, 2005
BY ORDER OF THE DISCIPLINE COMMITTEE

D. DAFOE, FCA – DEPUTY CHAIR
DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

R.J. ADAMKOWSKI, CA
M.B. MARTENFELD, FCA
R.A. VICKERS, FCA
R.A. WORMALD, FCA
V. INGLIS (Public Representative)