

Albert Chu: Summary, as Published in *CheckMark*

Albert Chu, of Toronto, was found guilty of a charge under Rule 104 of failing to promptly reply in writing to correspondence from the Institute in respect of a matter of professional conduct. The member finally made the necessary reply prior to the hearing. He was fined \$1,000.

CHARGE(S) LAID re Albert Chu

The Professional Conduct Committee hereby makes the following charges v against Albert Chu, a member of the Institute:

1. ~~THAT, the said Albert Chu, in or about the period July 9, 1992 through March 30, 1993 failed to cooperate with officers, servants or agents of the Institute who have been appointed to arrange or conduct an investigation on behalf of the professional conduct committee, contrary to Rule 203.2 of the Rules of professional Conduct.~~ **(WITHDRAWN BY THE P.C.C. BWS)**
2. That the said Albert Chu, in or about the period December 17, 1992 through March 30, 1993 failed to promptly reply in writing to a letter from an associate director of standards enforcement dated December 9, 1992 in which a written reply is specifically required, contrary to Rule 104 of the Rules of Professional Conduct.

DATED at Toronto this 30th day of March 1993.

J.L.M. BADALI, FCA - CHAIR,
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Albert Chu

DECISION AND ORDER IN THE MATTER OF: Charges against ALBERT CHU, CA, a member of the Institute, under Rules 104 and 203.2 of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE JUNE 17, 1993

DECISION

THAT, having seen, heard and considered the evidence, and having heard the plea of guilty to charge No. 2, charge No. 1 having been withdrawn, THE DISCIPLINE COMMITTEE FINDS Albert Chu guilty of charge No. 2.

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Chu be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Chu be and he is hereby fined the sum of \$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 notice of this Decision and Order, disclosing Mr. Chu's name, be given after this Decision and Order becomes final under the bylaws:
 - (a) by publication in *CheckMark*;
 - (b) to the Public Accountants Council for the Province of Ontario; and
 - (c) to the Canadian Institute of Chartered Accountants.
4. THAT in the event Mr. Chu fails to comply with the requirement of paragraph 2 of this Order within the time period specified, he shall thereupon be suspended from the rights and privileges of membership in the Institute, and notice of his suspension, disclosing his name, shall be given in the manner specified in paragraph 3 hereof.
5. THAT in the event Mr. Chu is suspended pursuant to paragraph 4 of this Order, the suspension shall terminate upon his compliance with paragraph 2 of this Order.

DATED AT TORONTO, THIS 30TH DAY OF JUNE, 1993
BY ORDER OF THE DISCIPLINE COMMITTEE

BRYAN W. STEPHENSON, BA, LLB
SECRETARY - DISCIPLINE COMMITTEE

DISCIPLINE COMMITTEE re Albert Chu

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: Charges against ALBERT CRU, CA, a member of the Institute, under Rules 104 and 203.2 of the Rules of Professional Conduct, as amended.

WRITTEN REASONS FOR THE DECISION AND ORDER MADE JUNE 17, 1993

These proceedings before this panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on June 17, 1993.

Ms. Deborah McPhadden attended on behalf of the professional conduct committee. Mr. Chu attended with his counsel, Mr. Douglas McTavish.

At the outset of the hearing, the professional conduct committee withdrew the charge under Rule 203.2, leaving one charge against Mr. Chu under Rule 104, which read as follows:

THAT, the said Albert Chu, in or about the period December 17, 1992 through March 30, 1993 failed to promptly reply in writing to a letter from an associate director of standards enforcement dated December 9, 1992 in which a written reply is specifically required, contrary to Rule 104 of the Rules of Professional Conduct.

Mr. Chu pleaded guilty to the charge under Rule 104, and confirmed that he understood that upon a plea of guilty, and upon that basis alone, he could be found guilty by the discipline committee. Based on the plea of guilty, and after a review of the document brief filed as an exhibit, the committee found Mr. Chu guilty of the charge.

The committee then heard submissions as to sanction and, after deliberation, made the following order:

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Chu be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Chu be and he is hereby fined the sum of \$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 notice of this Decision and Order, disclosing Mr. Chu's name, be given after this Decision and Order becomes final under the bylaws:
 - (a) by publication in *CheckMark*;
 - (b) to the Public Accountants Council for the Province of Ontario; and
 - (c) to the Canadian Institute of Chartered Accountants.

4. THAT in the event Mr. Chu fails to comply with the requirement of paragraph 2 of this Order within the time period specified, he shall thereupon be suspended from the rights and privileges of membership in the Institute, and notice of his suspension, disclosing his name, shall be given in the manner specified in paragraph 3 hereof.
5. THAT in the event Mr. Chu is suspended pursuant to paragraph 4 of this Order, the suspension shall terminate upon his compliance with paragraph 2 of this Order.

Mr. McTavish's submissions on sanction were directed towards factors that would distinguish this case from other similar ones, so as to warrant lessening the fine sought by the professional conduct committee, and not disclosing the member's name in *CheckMark*. However, the committee noted that:

- the director of practice inspection had been endeavouring to obtain clarification from Mr. Chu since June 1991;
- there were several letters to Mr. Chu which went unanswered; and
- the onus is on the member to respond in writing to the Institute where a written response is requested by the Institute. The panel was not impressed by Mr. McTavish's suggestion that the associate director of standards enforcement could have dealt with this member's non responsiveness by picking up the telephone and calling him.

The committee is of the view that a reprimand is necessary as a specific deterrent to the member and to stress to him the unacceptability of his conduct as a chartered accountant.

Prior decisions of this committee have established that, if a fine is to be imposed, a minimum of \$1,000 is necessary if the fine is to be an effective general deterrent. For reasons given above the committee is of the view that a \$1,000 fine is appropriate.

The discipline and appeal committees have required that notice be given of their Orders, including disclosure of the disciplined members' names, except in rare and unusual cases. As the Institute is a self-regulating professional body, it is important that all members respond promptly in writing to correspondence from it when a written response is requested. As a general deterrent to all members, it is important to publicize the results of hearings such as this, in order that all members may come to appreciate the seriousness of failing to respond promptly to Institute correspondence.

DATED AT TORONTO, THIS 29TH DAY OF JULY, 1993
BY ORDER OF THE DISCIPLINE COMMITTEE

R.C.H. ANDREWS, CA - CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

C.J. BURKE, FCA
F.J. DUNN, CA
W.L. WOOD, CA
A. CRANSTON (Public representative)