

Albert Chu: Summary, as Published in *CheckMark*

Albert Chu, of Toronto, was found guilty of a charge of failing to retain, for a reasonable period of time, working papers, records and other documentation to reasonably evidence the nature and extent of audit work done by him, contrary to Rule 218, and a charge of failing to cooperate in a professional conduct committee investigation, contrary to Rule 203.2. Mr. Chu was fined \$3,500, suspended from membership for three months, and ordered to respond to a letter from the associate director of standards enforcement, within a specified time, to provide information in relation to a professional conduct committee investigation.

CHARGE(S) LAID re Albert Chu

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

1. THAT, the said Albert Chu, in or about the period November 1990 to November 1995, failed to retain for a reasonable period of time his working papers, records or other documentation which reasonably evidence the nature and extent of the work done in respect of his audits of Alpha House Mortgage Corporation Inc. for the years ended November 30, 1990, 1991 and 1992, contrary to Rule 218 of the rules of professional conduct.
2. THAT, the said Albert Chu, in or about the period April 1992 to November 1995, failed to maintain the good reputation of the profession and its ability to serve the public interest in that he engaged in the practice of public accounting without having a current license to do so as required by the Public Accountancy Act, RSO 1990, chapter P. 37, contrary to Rule 201.1 of the rules of professional conduct.
3. THAT, the said Albert Chu, in or about the period June to November 1995, failed to co-operate 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 in that, having been sent correspondence from the Institute dated June 26, 1995 which asked him to provide certain information with respect to an investigation, he failed to provide the information requested, contrary to Rule 203.2 of the rules of professional conduct.

Dated at Toronto this 5th day of June, 1997.

NICHOLAS M. HODSON, CA - ACTING 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 201.1, 203.2 and 218** of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE MAY 30, 1996

DECISION

THAT, having seen and considered the evidence, including the agreed statement of facts, filed, and having heard the plea of guilty to charges Nos. 1 and 3, charge No. 2 having been withdrawn, the Discipline Committee finds Albert Chu guilty of charges Nos. 1 and 3.

ORDER

IT IS ORDERED in respect of charges Nos. 1 and 3:

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 \$3,500, to be remitted to the Institute as follows:
 - (a) \$1,000 within thirty (30) days from the date this Decision and Order becomes final under the bylaws; and
 - (b) the balance of \$2,500 within six (6) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Chu be suspended from the rights and privileges of membership in the Institute for a period of three (3) months from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Chu respond to the letter of June 26, 1995 from the Institute's associate director of standards enforcement within thirty (30) days from the date this Decision and Order becomes final under the bylaws.
5. 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.
6. THAT in the event Mr. Chu fails to comply with any requirement of paragraph 2 or 4 of this Order within the time period therein specified, 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 in paragraph 5 hereof.

DATED AT TORONTO THIS 3rd DAY OF JUNE, 1996
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 CHU, CA**, a member of the Institute, under **Rules 201.1, 203.2 and 218** of the Rules of Professional Conduct, as amended.

REASONS FOR THE DECISION AND ORDER MADE MAY 30, 1996

This panel of the discipline committee of the Institute of Chartered Accountants of Ontario convened on May 30, 1996 to hear charges brought by the professional conduct committee against Mr. Albert Chu, CA.

The professional conduct committee was represented by Ms. Deborah McPhadden, and Mr. Chu was represented by Mr. Frank Bowman.

DECISION ON THE CHARGES

Originally there were three charges of professional misconduct, but at the commencement of the hearing Charge No. 2 was withdrawn at the request of the professional conduct committee. Mr. Chu pleaded guilty to charges Nos. 1 and 3, and confirmed for the record that he understood that he could be found guilty by the panel solely on the basis of his guilty pleas.

An agreed statement of facts and a document brief were filed. At the conclusion of the evidence and the submissions, the panel deliberated and found Mr. Chu guilty of the charges, for the reasons set out below.

Charge 1

Although Mr. Chu spent 10 - 20% of his time on his public accounting practice, Alpha House Mortgage Corporation Inc. (Alpha House) was Mr. Chu's sole audit client until approximately February 1994. In February 1994, Mr. Chu received a letter from Mr. B. Antman, CA, advising him that Mr. Antman had been requested to accept the engagement as accountant for Alpha House, and requesting a meeting with Mr. Chu so that Mr. Antman could review the files.

The meeting did not take place, as Mr. Chu was, and still is, unable to locate the files. As a result, Mr. Antman had to issue a qualified audit report on Alpha House to fulfil the obligation of this company to the Ministry of Finance.

Mr. Chu agrees that he breached Rule 218 by failing to retain his files relating to the Alpha House audit for a reasonable period of time, which Council Interpretation 218 says is 10 years or longer.

Charge 3

Mr. Chu also agrees that he did not, and has not, responded to a letter dated June 6, 1995 from the Institute's associate director of standards enforcement, which requested documents and other information with respect to a complaint against Mr. Chu that had been filed with the Institute by Mr. N. Hason. Mr. Chu had discussed this complaint, as well as the Alpha House matter, at the professional conduct committee meeting of May 17, 1995. Mr. Chu was advised, by registered letter dated June 26, 1995, that failure to respond to the June 6 letter could result in a charge of professional misconduct.

As a result of his failure to co-operate in the professional misconduct investigation, Mr. Chu agreed that he had breached Rule 203.2 of the rules of professional conduct.

Having heard Mr. Chu's guilty plea to the two charges, and reviewed the agreed statement of facts and the document brief, which established the facts set out above, the panel determined that Mr. Chu was guilty of breaching rules 218 and 203.2 of the rules of professional conduct.

SANCTIONS ORDER

After hearing submissions on sanction from Ms. McPhadden and Mr. Bowman, and following deliberation, the panel made an order that Mr. Chu:

- receive a written reprimand from the hearing chair;
- be required to respond to the letter of June 26, 1995 from the associate director of standards enforcement within thirty (30) days of the date of the decision and order becoming final under the bylaws;
- be fined \$3,500, with \$1,000 of the fine to be remitted to the Institute within thirty days, and the balance of \$2,500 to be remitted within six months, of the date of the decision and order becoming final; and
- be suspended from membership in the Institute for a period of three months.

In addition, the panel ordered that notice of its decision and order, disclosing Mr. Chu's name, be published in *CheckMark*, and be given to the Public Accountants Council for the Province of Ontario and to the Canadian Institute of Chartered Accountants.

The panel also determined that, should Mr. Chu fail to do that which he is ordered to do within thirty (30) days, namely respond to the associate director's letter of June 26, 1995, and remit one thousand dollars (\$1,000) to the Institute, he should be expelled from membership in the profession and notice of his expulsion given in the manner outlined in the preceding paragraph.

In reaching its decision on the appropriate sanction, the panel considered the principles of rehabilitation, specific deterrence and general deterrence. In applying those principles to this case, the most relevant facts were:

- Mr. Chu acknowledged that he had breached the rules by entering a plea of guilty. He co-operated with the professional conduct committee, to a degree, and that committee does not regard Mr. Chu as ungovernable.

- While Mr. Chu's public accounting practice did not occupy the majority of his time, this did not excuse him from maintaining the appropriate standards of practice. His failure to do so, which resulted in Charge No. 1, may have placed his former client in a prejudicial position with the Minister of Finance.
- Mr. Chu's conviction on Charge No. 3 is the second time that he has been convicted for a similar type of professional misconduct.
- Mr. Chu has had since June 1995 to answer the request for information of the associate director of standards enforcement. While it appears that the information required to respond is in the possession of a former partner, it also appears that Mr. Chu has made no efforts to obtain the needed information.

It was clear to the panel that the previous conviction and fine did not rehabilitate Mr. Chu, nor did it specifically deter him from similar conduct in this instance. Accordingly, the panel had to consider what sanction, if any, would specifically deter Mr. Chu from repeating the misconduct again.

The panel did not agree with the submission made by counsel for the professional conduct committee that a fine in the amount of \$3,000 was appropriate in this case. However, in view of the representations by Mr. Bowman that Mr. Chu's financial situation was not good, the panel balanced the need to catch Mr. Chu's attention with its wish not to impose a fine that would be impossible for him to pay.

The panel also concluded that the possibility of expulsion within thirty days would also cause Mr. Chu to reflect that his repeated professional misconduct was viewed seriously by the profession.

Moreover, the panel determined that requiring Mr. Chu to pay a portion of the fine and provide the information requested by the associate director of standards enforcement within thirty days would be an appropriate way to determine whether or not Mr. Chu is governable. If he does not comply, the panel concluded, that would be a clear indication that he is either unable or unwilling to conduct himself in accordance with the standards of the profession, and accordingly should be expelled.

The panel concluded that the principle of general deterrence required the giving of notice of its decision, including disclosure of the member's name. The general public and other Institute members need to be informed that a chartered accountant must take seriously his or her responsibilities to the public and to those individuals whom he or she serves.

DATED AT TORONTO THIS DAY OF AUGUST, 1996
BY ORDER OF THE DISCIPLINE COMMITTEE

F.A. DROZD, FCA - CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

H.R. BERNSTEIN, CA
L.R. FLEMMING, CA
S.A. GOODMAN, CA
H.R. KLEIN, CA
S.F. ANDRUNYK (public representative)