

Alexander Thomas Ciolfe: Summary as Published in *CheckMark*

Alexander Thomas Ciolfe, of Cambridge, was found guilty of a charge under Rule 203.2 of failing to cooperate in a professional conduct committee investigation. He did not return telephone calls or file requested documents, and failed to attend, as required, before both the professional conduct committee and the discipline committee. Mr. Ciolfe was fined \$5,000, and, it being found that he had demonstrated himself to be ungovernable, he was expelled from membership in the Institute.

CHARGE(S) LAID re Alexander Thomas Ciolfe

The Professional Conduct Committee hereby makes the following charges against Alexander T. Ciolfe, CA, a member of the Institute:

1. THAT, the said Alexander T. Ciolfe, during the period August, 1995 to June 27, 1996, failed to cooperate with officers, servants or agents of the Institute who were 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 in that:
 - (a) He failed to attend the professional conduct committee meeting on January 16, 1996 when required to do so by notice dated December 18, 1995 signed by the deputy chair and served on him in accordance with the bylaws;
 - (b) He failed to return telephone messages left for him by Institute staff and the investigator appointed by the professional conduct committee; and
 - (c) He failed to produce documents required of him by the chair of the professional conduct committee and relevant to an investigation by that committee, to the investigator appointed by the professional conduct committee at the time and place agreed to.

Dated at Toronto this 27th day of June, 1996

JENNIFER L. FISHER, CA – CHAIR
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Alexander Thomas Ciolfe

DECISION AND ORDER IN THE MATTER OF: A charge against **ALEXANDER THOMAS CIOLFE**, a suspended member of the Institute, under **Rule 203.2** of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE DECEMBER 17, 1996

DECISION

THAT, having seen, heard and considered the evidence, and having determined to proceed with the hearing in the absence of Mr. Ciolfe, pursuant to Institute Bylaw 560, being satisfied that he had proper notice of the hearing, and having entered on his behalf a plea of not guilty to the charge, the Discipline Committee finds Alexander Thomas Ciolfe guilty of the charge.

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Ciolfe be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Ciolfe be and he is hereby fined the sum of \$5,000, to be remitted to the Institute within ninety (90) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Ciolfe be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Ciolfe's name, be given after this Decision and Order becomes final under the bylaws:
 - (a) to the Public Accountants Council for the Province of Ontario;
 - (b) to the Canadian Institute of Chartered Accountants;
 - (c) by publication in *CheckMark*; and
 - (d) by publication in the *Kitchener-Waterloo Record* and *The Globe and Mail*.
5. THAT Mr. Ciolfe surrender his certificate of membership in the Institute to the discipline committee secretary within ten (10) days from the date this Decision and Order becomes final under the bylaws.

DATED AT TORONTO THIS 3RD DAY OF JANUARY, 1997
BY ORDER OF THE DISCIPLINE COMMITTEE

BRYAN W. STEPHENSON, BA, LLB

SECRETARY - DISCIPLINE COMMITTEE

DISCIPLINE COMMITTEE RE Alexander Thomas Ciolfe

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: A charge against **ALEXANDER THOMAS CIOLFE**, a suspended member of the Institute, under Rule 203.2 of the Rules of Professional Conduct, as amended.

REASONS FOR THE DECISION AND ORDER MADE DECEMBER 17, 1996

These proceedings before this panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on December 17, 1996.

Ms. Deborah McPhadden attended on behalf of the professional conduct committee. Mr. Ciolfe was not present at the hearing.

The discipline committee reviewed the affidavits of service of the notice of assignment hearing and the notice of hearing, which were filed as exhibits. The committee was satisfied that Mr. Ciolfe had proper notice of the hearing and determined to proceed with the hearing in his absence pursuant to Institute Bylaw 560. Prior to proceeding, the secretary of the discipline committee searched the common areas around the hearing room, but Mr. Ciolfe was not present.

A plea of not guilty was then entered on behalf of Mr. Ciolfe to the following charge laid against him by the professional conduct committee:

THAT, the said Alexander T. Ciolfe, during the period August, 1995 to June 27, 1996, failed to cooperate with officers, servants or agents of the Institute who were 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 in that:

- (a) he failed to attend the professional conduct committee meeting on January 16, 1996 when required to do so by notice dated December 18, 1995 signed by the deputy chair and served on him in accordance with the bylaws;
- (b) he failed to return telephone messages left for him by Institute staff and the investigator appointed by the professional conduct committee; and
- (c) he failed to produce documents required of him by the chair of the professional conduct committee and relevant to an investigation by that committee, to the investigator appointed by the professional conduct committee at the time and place agreed to.

After reviewing the evidence, including the letters which were sent by the complainants and the member to the Institute, and upon deliberation, the committee found the member guilty of the charge. It was clear from the evidence that Mr. Ciolfe did not cooperate with the professional conduct committee in the investigation of a complaint made by a former client, that he did not reply as required to correspondence from the professional conduct committee, and that he did not produce documents required of him by the professional conduct committee relevant to its

investigation. A former client has been disadvantaged by Mr. Ciolfe's refusal or failure to return phone calls, answer faxes or otherwise deal with the complainant's concerns.

After making its finding of guilt on the charge, the discipline committee heard the submissions of the professional conduct committee with respect to sanctions and, upon deliberation, made the following order:

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Ciolfe be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Ciolfe be and he is hereby fined the sum of \$5,000, to be remitted to the Institute within ninety (90) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Ciolfe be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Ciolfe's name, be given after this Decision and Order becomes final under the bylaws:
 - (a) to the Public Accountants Council for the Province of Ontario;
 - (b) to the Canadian Institute of Chartered Accountants;
 - (c) by publication in *CheckMark*; and
 - (d) by publication in the *Kitchener-Waterloo Record* and *The Globe and Mail*.
5. THAT Mr. Ciolfe surrender his certificate of membership in the Institute to the discipline committee secretary within ten (10) days from the date this Decision and Order becomes final under the bylaws.

On considering the appropriate sanction, the committee considered the three general principles of sentencing, namely rehabilitation, general deterrence and specific deterrence. The committee concluded that Mr. Ciolfe was ungovernable and, accordingly, rehabilitation did not seem a reasonable objective.

Reprimand

The discipline committee believes that a reprimand in writing from the chair of the hearing stresses to Mr. Ciolfe the unacceptability of his conduct as a chartered accountant.

Fine

The professional conduct committee submitted that a fine should be levied against Mr. Ciolfe in the amount of \$3,000 to \$5,000. The discipline committee agreed that a fine was appropriate in this case, both as a general deterrent to like-minded members, and as a demonstration to the public of the profession's intolerance of the type of behaviour demonstrated by Mr. Ciolfe. Mr. Ciolfe's failure to cooperate with the professional conduct committee's investigation is totally unprofessional conduct. The committee determined that \$5,000 was the appropriate fine in this case.

Expulsion

The committee's decision that Mr. Ciolfe should be expelled from membership was based on the fact that he had shown himself to be ungovernable through his failure to cooperate with the professional conduct and discipline committee processes of the Institute.

Notice

Publication of the committee's decision and order, disclosing Mr. Ciolfe's name, is, in the opinion of the discipline committee, a general deterrent. It was not considered within the scope of this hearing for the committee to pass judgment on the actions that provoked the original complaint to the Institute. However, the committee did consider it its responsibility to ensure that members of the profession and the general public are made aware that failure to cooperate in an Institute investigation of a complaint will result in the imposition of a serious sanction. In addition to notification to the membership through publication in *CheckMark*, the committee felt it important that Mr. Ciolfe's expulsion be made known to the community in which he lives and works. The committee thus ordered that local area newspapers be notified of the decision and order.

Certificate of membership

Since protection of the public interest is one of the basic pillars of the profession, the committee concluded that it is of utmost importance that Mr. Ciolfe no longer appear to be a member of the chartered accountancy profession after his expulsion. Accordingly, he was ordered to surrender his certificate of membership in the Institute to the discipline committee secretary.

DATED AT TORONTO THIS DAY OF MAY, 1997
BY ORDER OF THE DISCIPLINE COMMITTEE

L.P. BOOKMAN, CA - DEPUTY CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

H.B. BERNSTEIN, CA
L.R. FLEMMING, CA
P.A. GOGGINS, CA
V.G. STAFL (Public Representative)