

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

**DISCIPLINE COMMITTEE**

**IN THE MATTER OF:** A charge of professional misconduct against **ALFRED WILLIAM BURRILL, CA**, a member of the Institute.

**TO:** Mr. Alfred W. Burrill, CA  
PO Box 27  
4809 Crockett Street  
MAYERTHORPE, AB T0E 1N0

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

**REASONS**  
**(Decision and Order made August 12, 2008)**

1. This panel of the Discipline Committee of the Institute of Chartered Accountants met on August 12, 2008 to hear a charge of professional misconduct laid by the Professional Conduct Committee against Mr. Alfred W. Burrill, CA, a member of the Institute.
2. Mr. Paul Farley appeared on behalf of the Professional Conduct Committee. Mr. Burrill did not attend and was not represented by counsel or an agent.
3. The panel determined that Mr. Burrill had been provided proper notice of the hearing and decided to proceed in his absence.
4. The decision of the panel was made known at the conclusion of the hearing and the written Decision and Order sent to the parties on August 20, 2008. These reasons, given pursuant to Bylaw 573, contain the charge, the decision, the order, and the reasons of the panel for the decision and order.

**CHARGE**

5. The following charge was laid by the Professional Conduct Committee against Mr. Burrill on April 1, 2008:

THAT, the said Alfred W. Burrill, in or about the period January 1, 2004 through December 31, 2007, failed to conduct himself in a manner which will maintain the good reputation of the profession and its ability to serve the public interest, in that he misappropriated from the Whitecourt Ste. Anne Progressive Conservative Association, money in the approximate amount of \$55,000 (which fact he confirmed in a sanction agreement with the Complaints Inquiry Committee of the Alberta Institute of Chartered Accountants) contrary to Rule 201.1 of the rules of professional conduct.

## **PLEA**

6. A plea of not guilty was entered on behalf of Mr. Burrill.

## **EVIDENCE**

7. The evidence in this matter consisted of a certified copy of a sanction agreement (Exhibit 5), between the Institute of Chartered Accountants of Alberta and Mr. Burrill, regarding the same facts as provide the basis for the charge before this panel. In that agreement, Mr. Burrill admitted to diverting \$55,000 belonging to the Whitecourt Ste. Anne Progressive Conservative Association to his personal use.

## **DECISION**

8. The evidence in this matter is clear, cogent, convincing and uncontradicted, and establishes the professional misconduct alleged in the charge. After deliberating, the panel made the following decision:

THAT, having seen and considered the evidence, and having determined to proceed with the hearing in the absence of Mr. Burrill pursuant to 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 Mr. Alfred William Burrill guilty of the charge.

## **REASONS FOR THE DECISION**

9. The acts for which Mr. Burrill was charged under Rule 201.1 were not committed in Ontario, and they were the subject of discipline proceedings and sanction in Alberta, where he was also a member.

10. The finding and sanction of the Institute of Chartered Accountants of Alberta were considered by this panel pursuant to Ontario Institute of Chartered Accountant's Rule 201.3:

Notwithstanding any other provisions of the bylaws or these rules of professional conduct, where a member or firm is charged under Rule 201.1 on account of having been suspended or expelled or having a restriction placed on the member's or firm's right to practise through the disciplinary process of another provincial institute, and a certified copy of the other provincial institute's disciplinary decision and order is filed with the discipline or appeal committee, there is a rebuttable presumption that the member or firm charged failed to maintain the good reputation of the profession and its ability to serve the public interest.

11. This panel received a certified copy of the sanction agreement with the Alberta Institute in which Mr. Burrill agreed to cancellation of his registration, payment of a fine and costs and full publicity. While it is not a "disciplinary decision and order" in the format used by this Institute, it does contain the same information, and "is to be considered and treated, for all purposes, as a decision and order" under the Alberta Regulated Accounting Profession Act (Exhibit 4). We have therefore found it to be included within the ambit of decision and order document as specified in Rule 201.3.

12. The rebuttable presumption of a breach of Rule 201.1 therefore arises. No information or evidence was brought before the panel to displace that presumption. The panel notes that Mr. Burrill was aware of today's hearing and its possible outcome, through his correspondence with the Institute, and chose not to attend or participate (Exhibits 1 and 2). Mr. Burrill is, by the operation of Rule 201.3, guilty of breaching Rule 201.1. That breach was of a serious nature, and constitutes professional misconduct.

## **SANCTION**

13. Mr. Farley, on behalf of the Professional Conduct Committee, submitted that a sanction of: a written reprimand; expulsion; and full publicity of this matter, is appropriate and required in this case. He also sought nominal costs in the amount of \$1,000, to partially defray the costs of the investigation and hearing.

14. While Mr. Farley noted a number of factors in mitigation, including the fact that Mr. Burrill has no discipline record, he cooperated with the investigation, he has made full restitution, and he has fully satisfied the Alberta order, he also pointed out that Mr. Burrill misappropriated a substantial sum of money, and that such an act is one of significant moral turpitude and requires the sanction of expulsion.

15. Mr. Farley advised the panel that, as this matter had arisen in Alberta, where Mr. Burrill resides and practises, has been dealt with by that jurisdiction, and the fine of \$10,000 agreed to in the sanction agreement had been paid to the Institute of Chartered Accountants of Alberta, he was not seeking an order for a fine.

16. Mr. Burrill, by his letter to Mr. Farley of April 21, 2008 (Exhibit 1) was aware the Professional Conduct Committee was seeking a sanction of expulsion and publicity, made no submissions or comments then or at any later time as to the propriety of that position. Mr. Burrill returned his certificate of membership in the Ontario Institute with his letter to Mr. Farley.

## **ORDER**

17. After deliberating, the panel made the following order:

IT IS ORDERED in respect of the charge:

1. THAT Mr. Burrill be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Burrill be and he is hereby expelled from membership in the Institute.
3. THAT notice of this Decision and Order, disclosing Mr. Burrill'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 all members of the Institute; and
  - (b) to all provincial institutes/Ordre, and shall be made available to the public.
4. THAT notice of the expulsion disclosing Mr. Burrill's name, be given by

publication on the Institute's website.

AND IT IS FURTHER ORDERED:

5. THAT Mr. Burrill be and he is hereby charged costs fixed at \$1,000 to be remitted to the Institute within one (1) year from the date this Decision and Order becomes final under the bylaws.

**REASONS FOR THE ORDER**

18. Mr. Burrill misappropriated money. Misappropriation is theft. Mr. Burrill was entrusted with funds and, instead of holding those funds in and with trust, he used them for his own benefit. Such an act brings the entire profession into disrepute and can not be tolerated. The Institute of Chartered Accountants of Alberta has already cancelled Mr. Burrill's registration. Ontario can take no lesser action.

19. The Professional Conduct Committee has sought a written reprimand in this case, and the panel has acquiesced. A reprimand is intended to reinforce to the member the severity of the conduct and the Institute's disapprobation. The panel has some doubt that such reinforcement is necessary when Mr. Burrill's connection to the Ontario Institute is both tenuous and dated, and expulsion itself may be expected to achieve those objects in a more forceful manner than a reprimand could.

20. Ordinarily, the panel would impose a fine for such conduct as this, to ensure not only that the member understood the gravity of his offence, but that he and any other person tempted to abuse the public trust would be deterred. In this case, the Professional Conduct Committee has not sought a fine, on the basis that Mr. Burrill was fined by the Alberta Institute for this conduct and that it would be inappropriate for this Institute to increase that sanction without any increase in culpability. The panel agrees with that submission.

21. Although Mr. Burrill is not resident or practising in this province, it is important that the membership, the public, and other interested regulators know the sanction imposed by this Institute. The publicity ordered is required to achieve that object.

22. Bylaw 575(3) reads, in part, as follows:

Notice of expulsion of any member ... shall be given to the public by publication on the Institute's website and in a newspaper or newspapers distributed in the geographic area of the member's current or former practice, employment and/or residence, or in such other manner as the discipline committee may determine to be appropriate, unless the committee determines that the circumstances of the case are of a nature that such notice is not necessary for the protection of the public and would be unfair to the member, in which case the committee shall provide written reasons for not ordering publication of the notice.

23. The panel has considered the provisions of this Bylaw, and has ordered publication on the Institute's website. However, it has not ordered newspaper publication. Mr. Burrill has not resided or practised in Ontario for over thirty years. He has no substantive connection to this jurisdiction. His connection, his residence and his practice are all in Alberta. His expulsion from that Institute has been published in both the *Edmonton Journal* and the *Whitecourt Star*. The members of the

public who might be at risk from Mr. Burrill are within that catchment area, and have been protected, to the extent that newspaper publication can provide protection. Publication in a newspaper in Ontario would not further that protection, and it would work an inequity to Mr. Burrill, as he would be required to pay the costs of such publication (Bylaw 575(3.1)).

24. The panel has ordered that Mr. Burrill be expelled from membership in the Institute. Mr. Burrill, therefore, no longer has a right to possess a membership certificate from the Institute. The panel has not made the usual order that the certificate be surrendered to the Institute only because Mr. Burrill took the proactive step of returning his certificate prior to the hearing.

25. The costs involved in the investigation and hearing into Mr. Burrill's misconduct are far less than in many matters. Nevertheless, costs have been incurred, and it is appropriate that the member charged, rather than the membership as a whole, bear a portion of those costs, as it was his actions which necessitated the engaging of the discipline process. Having regard for the quantum of the costs incurred, the sanctions imposed both here and by the Institute of Chartered Accountants of Alberta, and the means of the member, it is appropriate he pay the nominal amount of \$1,000 towards those costs.

DATED AT TORONTO THIS 22ND DAY OF OCTOBER, 2008  
BY ORDER OF THE DISCIPLINE COMMITTEE

B.L. HAYES, CA – DEPUTY CHAIR  
DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

B.D. LOVE, CA  
P. MCBURNEY (PUBLIC REPRESENTATIVE)