

Andreas Dengler: Summary, as Published in *CheckMark*

Andreas Dengler, of Georgetown, was found guilty of a charge under Rule 201.1 of failing to maintain the good reputation of the profession and its ability to serve the public interest arising out of his convictions for forgery, stealing and attempted stealing contrary to the Criminal Code of Bermuda. While working as a chartered accountant in Bermuda, Mr. Dengler used his position to forge documents and steal in excess of \$91,000 (Bermudian), and to attempt to steal a further \$97,000 (Bermudian), in order to support his addiction to gambling. Mr. Dengler was fined \$10,000 and expelled from the Institute.

CHARGE(S) LAID re Andreas Dengler

The Professional Conduct Committee hereby makes the following charge against Andreas Dengler, a member of the Institute:

1. THAT, the said Andreas Dengler, in or about the month of June, 2001, failed to conduct himself in a manner that will maintain the good reputation of the profession and its ability to serve the public interest in that he was convicted of charges that he, within the period of the 17th day of November 2000, and the 16th day of February 2001, in the Islands of Bermuda, did commit the offences of Forgery, Stealing and Attempted stealing contrary to the Criminal Code of Bermuda, all of which is contrary to Rule 201.1 of the rules of professional conduct.

Dated at Toronto this 9th day of April 2002.

GERRY MILLS, CA – DEPUTY CHAIR
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Andreas Dengler

DECISION AND ORDER IN THE MATTER OF: A charge against **ANDREAS DENGLER, CA**, a member of the Institute, under **Rule 201.1** of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE JUNE 26, 2002

THAT, having seen and considered the evidence, and having heard the plea of guilty to the charge, the Discipline Committee finds Andreas Dengler guilty of the charge.

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Dengler be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Dengler be and he is hereby fined the sum of \$10,000, 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. Dengler be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Dengler'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 Globe and Mail* and the *Bermuda Sun*.
5. THAT Mr. Dengler 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 9TH DAY OF JULY, 2002
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re Andreas Dengler

REASONS FOR DECISION AND ORDER IN THE MATTER OF: A charge against **ANDREAS DENGLER, CA**, a member of the Institute, under **Rule 201.1** of the Rules of Professional Conduct, as amended.

REASONS FOR THE DECISION AND ORDER MADE JUNE 26, 2002

1. This panel of the discipline committee of the Institute of Chartered Accountants of Ontario convened on June 26, 2002 to hear the charge brought by the professional conduct committee against Mr. Andreas Dengler, a member of the Institute.
2. The professional conduct committee was represented by Mr. Paul Farley. Mr. Dengler appeared on his own behalf and confirmed for the record that he understood that he was entitled to be represented by counsel.
3. The formal decision and order made on June 26, 2002 was signed by the discipline committee secretary on July 9, 2002 and sent to Mr. Dengler that day. These reasons, given pursuant to Bylaw 574, include the charge, and the decision and the order as well as the reasons of the committee.

DECISION ON THE CHARGE

4. The charge laid by the professional conduct committee on April 9, 2002, reads as follows:

THAT, the said Andreas Dengler, in or about the month of June, 2001, failed to conduct himself in a manner that will maintain the good reputation of the profession and its ability to serve the public interest in that he was convicted of charges that he, within the period of the 17th day of November 2000, and the 16th day of February 2001, in the Islands of Bermuda, did commit the offences of Forgery, Stealing and Attempted stealing contrary to the Criminal Code of Bermuda, all of which is contrary to Rule 201.1 of the rules of professional conduct.

5. Mr. Dengler entered a plea of guilty to the charge and confirmed he understood that on the basis of the plea, and that basis alone, he could be found guilty of professional misconduct.
6. Mr. Farley gave a brief overview of the case for the professional conduct committee, which he said would be proven through the filing of a document brief setting out the following:
 - the indictment against Mr. Dengler in the Supreme Court of Bermuda;
 - an excerpt from the *Bermuda Criminal Code Act 1907*, setting out the provisions with respect to forgery, stealing and attempted stealing of which Mr. Dengler was charged;
 - the Certificate of Conviction for forgery, stealing and attempted stealing; and
 - a transcript of the judge's notes on the sentencing of Mr. Dengler.

7. The essence of the misconduct alleged was that while working as a chartered accountant in Bermuda Mr. Dengler used his position to forge documents and steal in excess of \$91,000 (Bermudian), and to attempt to steal in excess of \$97,000 (Bermudian), to support his addiction to gambling. He used his position as a chartered accountant to commit the criminal offences.

8. Upon deliberation, the committee concluded on the uncontradicted evidence that the charge had been proven and that the conduct amounted to professional misconduct. Accordingly, Mr. Dengler was found guilty of the charge. When the hearing reconvened, the chair read the following decision into the record:

DECISION

THAT, having seen and considered the evidence, and having heard the plea of guilty to the charge, the Discipline Committee finds Andreas Dengler guilty of the charge.

ORDER AS TO SANCTION

9. After hearing submissions from both parties, the committee deliberated. When the parties returned to the hearing the chair read into the record the terms of the committee's order. The formal order signed by the secretary and sent to Mr. Dengler reads as follows:

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Dengler be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Dengler be and he is hereby fined the sum of \$10,000, 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. Dengler be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Dengler'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 Globe and Mail* and the *Bermuda Sun*.
5. THAT Mr. Dengler 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.

Reprimand

10. The committee ordered that Mr. Dengler be reprimanded in writing by the chair of the hearing in order to stress to him the unacceptable nature of his actions.

Fine

11. Mr. Dengler's conduct was of a most serious nature, involving a breach of trust. A fine serves both as a specific deterrent and a general deterrent to like-minded members. The fine of \$10,000 is at the lower end of the range suggested by Mr. Farley on behalf of the professional conduct committee.

Expulsion

12. The committee took into account mitigating factors applicable to Mr. Dengler. We were advised that he entered an early guilty plea at his criminal hearing, provided full cooperation, and made restitution. The committee also heard that Mr. Dengler's actions were out of character, and that he was genuinely remorseful.

13. Notwithstanding the mitigating factors, however, Mr. Dengler carried out a series of acts of forgery and stealing. The profession cannot tolerate members in positions of trust breaching that trust for personal gain.

14. The committee was left with no choice but to expel Mr. Dengler, to send a message to all members that there is no room in the profession for those who commit such acts of moral turpitude.

Notice

15. Mr. Dengler requested that publicity be withheld in this case in order to spare his family further embarrassment. In various cases in the past, members in similar circumstances have requested that newspaper publication be withheld as unnecessary to protect the public and as unfair to the member or the member's family.

16. Previous discipline and appeal committee decisions have made it clear that publication of disciplinary notices is an important and significant general deterrent, and that such notices must include members' names unless rare and unusual circumstances in a particular case warrant the withholding of the member's name. As difficult as it may be for Mr. Dengler and his family, the committee concluded that the embarrassment to the member and the discomfort to his family are not rare and unusual circumstances, and do not warrant withholding Mr. Dengler's name from publication.

Return of Certificate

17. Mr. Dengler's certificate of membership belongs to the Institute. As he has been expelled, the certificate must be returned.

DATED AT TORONTO THIS 27TH DAY OF SEPTEMBER, 2002
BY ORDER OF THE DISCIPLINE COMMITTEE

H.B. BERNSTEIN, CA – DEPUTY CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

D.W. DAFOE, FCA
B.L. HAYES, CA
S.W. SALTER, CA
B.A. YOUNG (Public representative)