

### **Andrew I. Carson: Summary, as Published in *CheckMark***

**Andrew I. Carson**, of Orangeville, was found guilty of a charge under Rule 101 of contravening the Bylaw 106(5) prohibition against practising or holding out as a chartered accountant while under suspension from the rights and privileges of membership in the Institute. While under suspension for non-payment of Institute fees, Mr. Carson continued to carry on his practice as a chartered accountant. Mr. Carson was fined \$5,000, charged costs of \$2,000, and ordered to complete a professional development course.

## **CHARGE(S) LAID re Andrew I. Carson**

The Professional Conduct Committee hereby makes the following charge against Andrew Ian Carson, a member of the Institute:

1. THAT the said Andrew Ian Carson, in or about the period September 19, 2001 to October 16, 2002, practiced or held himself out as a chartered accountant when his rights and privileges as a member were suspended, and did thereby contravene the provisions of Bylaw 106(5), contrary to Rule 101 of the rules of professional conduct.

Dated at Toronto, Ontario this 11<sup>th</sup> day of March, 2003.

RICHARD JOHNSTON, FCA - DEPUTY CHAIR  
PROFESSIONAL CONDUCT COMMITTEE

## **DISCIPLINE COMMITTEE re Andrew I. Carson**

**DECISION AND ORDER IN THE MATTER OF:** A charge against **ANDREW IAN CARSON, CA**, a member of the Institute, under **Rule 101** of the Rules of Professional Conduct, as amended.

**DECISION AND ORDER MADE JUNE 19, 2003**

### **DECISION**

THAT, having seen, heard and considered the evidence, and having heard the plea of guilty to the charge, the Discipline Committee finds Andrew Ian Carson guilty of the charge.

### **ORDER**

IT IS ORDERED in respect of the charge:

1. THAT Mr. Carson be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Carson be and he is hereby fined the sum of \$5,000, at least half of which is to be remitted to the Institute within one (1) year from the date this Decision and Order becomes final under the bylaws, and the balance of which is to be remitted to the Institute within two (2) years from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Carson be and he is hereby charged costs fixed at \$2,000, at least half of which is to be remitted to the Institute within one (1) year from the date this Decision and Order becomes final under the bylaws, and the balance of which is to be remitted to the Institute within two (2) years from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Carson be and he is hereby required to complete, by paying for and attending in its entirety, within one (1) year from the date this Decision and Order becomes final under the bylaws, the professional development course *Staying Out Of Trouble*, made available through the Institute, or, in the event the course becomes unavailable, the successor course which takes its place.
5. THAT notice of this Decision and Order, disclosing Mr. Carson'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 the Public Accountants Council for the Province of Ontario;
  - (b) to the Canadian Institute of Chartered Accountants; and
  - (c) by publication in *CheckMark*.

6. THAT in the event Mr. Carson fails to comply with any of the requirements of this Order, 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 above, and in the local Orangeville/Brampton press.

DATED AT TORONTO THIS 24TH DAY OF JUNE, 2003.  
BY ORDER OF THE DISCIPLINE COMMITTEE

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

## **DISCIPLINE COMMITTEE re Andrew I. Carson**

**REASONS FOR DECISION AND ORDER IN THE MATTER OF:** A charge against **ANDREW IAN CARSON, CA**, a member of the Institute, under **Rule 101** of the Rules of Professional Conduct, as amended.

### **REASONS FOR THE DECISION AND ORDER MADE JUNE 19, 2003**

1. This panel of the discipline committee of the Institute of Chartered Accountants of Ontario convened on June 19, 2003 to hear a charge brought by the professional conduct committee against Mr. Andrew Ian Carson, a member of the Institute.
2. The professional conduct committee was represented by Ms. Barbara Glendinning, who was accompanied by Mr. Bruce Armstrong, the investigator appointed by the professional conduct committee in this matter. Mr. Carson 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 19 was signed by the committee secretary and sent to the parties on June 24. These reasons, given pursuant to Bylaw 574, include the charges, the decision, and the order as well as the reasons of the discipline committee.

### **DECISION ON THE CHARGE**

4. The charge laid by the professional conduct committee dated March 11, 2003, reads as follows:

THAT the said Andrew Ian Carson, in or about the period September 19, 2001 to October 16, 2002, practiced or held himself out as a chartered accountant when his rights and privileges as a member were suspended, and did thereby contravene the provisions of Bylaw 106(5), contrary to Rule 101 of the rules of professional conduct.

5. Mr. Carson entered a plea of guilty to the charge, and confirmed for the record that he understood that on the basis of his plea of guilty, and on that basis alone, he could be found guilty of the charge.
6. Ms. Glendinning gave a brief overview of the case, and filed a document brief containing correspondence and other documents relating to Mr. Carson's unpaid Institute fees. Some of the correspondence from Mr. Carson was on letterhead of "Andrew I. Carson chartered accountant", and was signed by him using the CA initials after his name. The document brief also contained photographs showing an "Andrew I. Carson chartered accountant" sign above the front entrance to Mr. Carson's office. These uses of the CA designation took place at a time during which Mr. Carson's membership in the Institute was under suspension for non-payment of Institute fees.

7. Ms. Glendinning called Mr. Armstrong to provide testimony regarding his investigation of the communications from the Institute to Mr. Carson about his unpaid dues and resulting suspension, and regarding Mr. Carson's continuing to carry on practice during his suspension.

8. The essence of Mr. Carson's misconduct was that, having been advised that his Institute fees were unpaid, and having taken no steps to pay them, and having been suspended and notified of his suspension for non-payment, he continued to carry on his practice as a chartered accountant.

9. Mr. Carson provided no evidence and made no submissions.

10. Upon deliberation, the panel concluded on the uncontradicted evidence that the charge had been proven and that Mr. Carson was guilty of professional misconduct. When the hearing reconvened, the chair read the following decision into the record:

#### DECISION

THAT, having seen, heard and considered the evidence, and having heard the plea of guilty to the charge, the Discipline Committee finds Andrew Ian Carson guilty of the charge.

#### **ORDER AS TO SANCTION**

11. Regarding sanctions, Ms. Glendinning requested an order which would include a reprimand, a fine of \$5,000, the usual order as to notice, the payment of costs of \$2,000, and attendance at two professional development courses at the member's expense.

12. Ms. Glendinning indicated that there was no true precedent for this particular case of one charge of practising while under suspension, as all previous cases in which this charge had been laid had also involved a charge or charges of other misconduct. She indicated that ordering the taking of some professional development courses would help to satisfy any element of rehabilitation thought to be required.

13. Ms. Glendinning submitted that specific and general deterrence could be achieved with a \$5,000 fine, adding that due to financial hardship Mr. Carson should be given twelve months to pay.

14. Presenting the panel with a copy of the Council policy statement on the costs of the discipline process, which had been adopted by the Council on February 21, 2003, Ms. Glendinning requested that \$2,000 in costs be levied against Mr. Carson, upon the same payment provisions as for the requested fine.

15. Mr. Carson made a statement indicating his remorse, and explaining that it had not been his intention to flagrantly ignore the Institute, but that he had simply wanted to rectify the problems he had made for himself on his own and in so doing had not paid as much attention to the Institute as he should have. He explained that his neglect was due to illness and financial hardship which he found difficult to deal with at the time. He also stated, in response to a direct question from the panel's counsel relating to the quantum of the fine and costs being sought by the professional conduct committee and the consequences of non-payment, that he did not wish to contest the amounts or the time suggested for payment. He acknowledged that the monetary amounts being requested would be a significant hardship for him, but stated that if he had to come up with the money he believed he could do so.

16. After hearing the parties' submissions, the panel deliberated, following which the chair read the terms of the order into the record. The formal order signed by the committee secretary and sent to the parties reads as follows:

#### ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Carson be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Carson be and he is hereby fined the sum of \$5,000, at least half of which is to be remitted to the Institute within one (1) year from the date this Decision and Order becomes final under the bylaws, and the balance of which is to be remitted to the Institute within two (2) years from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Carson be and he is hereby charged costs fixed at \$2,000, at least half of which is to be remitted to the Institute within one (1) year from the date this Decision and Order becomes final under the bylaws, and the balance of which is to be remitted to the Institute within two (2) years from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Carson be and he is hereby required to complete, by paying for and attending in its entirety, within one (1) year from the date this Decision and Order becomes final under the bylaws, the professional development course *Staying Out Of Trouble*, made available through the Institute, or, in the event the course becomes unavailable, the successor course which takes its place.

5. THAT notice of this Decision and Order, disclosing Mr. Carson'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 the Public Accountants Council for the Province of Ontario;
  - (b) to the Canadian Institute of Chartered Accountants; and
  - (c) by publication in *CheckMark*.
6. THAT in the event Mr. Carson fails to comply with any of the requirements of this Order, 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 above, and in the local Orangeville/Brampton press.

### **Reprimand**

17. The panel ordered that Mr. Carson be reprimanded in writing by the chair of the hearing in order to stress to him the unacceptable nature of his actions.

### **Fine**

18. The panel agreed that a fine of \$5,000 was required as a general and specific deterrent, and, taking into account Mr. Carson's personal financial circumstances, considered it appropriate to order an extended payment period of two years, subject to the stipulation that at least half the amount due be paid within one year.

### **Costs**

19. The panel felt that costs fixed at \$2,000 was reasonable, upon the same payment provisions as ordered for the fine.

### **Professional Development Course**

20. The discipline process often has a rehabilitative effect. Mr. Carson should have learned from his participation in this discipline proceeding that problems do not just go away on their own, and that they must be confronted and resolved rather than be held in perpetual abeyance. Believing this lesson needed to be reinforced, the panel ordered Mr. Carson to take the professional development course *Staying Out of Trouble*.



## **Notice**

21. Publishing names of members found guilty of professional misconduct is often the single most significant penalty that can be administered, and is one which address both the individual issues of specific deterrence and rehabilitation, and the wider issues of general deterrence, education of the membership-at-large, and protection of the public. The panel therefore ordered the normal publication of this proceeding.

DATED AT TORONTO THIS 19TH DAY OF AUGUST, 2003.  
BY ORDER OF THE DISCIPLINE COMMITTEE

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

### MEMBERS OF THE PANEL:

M.L. MACKAY BREHM, FCA  
S.W. SALTER, CA  
D.O. STIER, CA  
R.D. WHEELER, FCA  
P.W. WONG (Public representative)