

Andrew Adam Ferri: Summary, as Published in *CheckMark*

Andrew Adam Ferri, of Welland, was found guilty by the discipline committee of a charge of professional misconduct, laid by the professional conduct committee, under Rule of Professional Conduct 201, of failing to conduct himself in a manner which maintains the good reputation of the profession and its ability to serve the public interest.

Mr. Ferri appealed the discipline committee's order to the appeal committee. The appeal committee confirmed the discipline committee's order that Mr. Ferri

- be assessed costs of \$650, to be paid within a specified time; and
- be expelled from membership in the Institute.

CHARGE(S) LAID re Andrew Adam Ferri

The Professional Conduct Committee hereby makes the following charges against Andrew Adam Ferri, a member of the Institute.

1. THAT, the said Andrew Adam Ferri failed to conduct himself at all times in a manner which will maintain the good reputation of the profession and its ability to serve the public interest in that, on or about July 12, 1984, he was convicted of a criminal offence, to wit that, between January 1st, 1972 and July 1st, 1980 at the City of Niagara Falls, in the Judicial District of Niagara South, and elsewhere in the Province of Ontario, and elsewhere in Canada, he unlawfully did by deceit, falsehood or other fraudulent means defraud of money or other valuable securities of a value in excess of \$200 members of the public who were induced into investing money or other valuable securities in various investment funds operated by Astra Trust Company, contrary to the Criminal Code of Canada: all of which is contrary to Rule 201 of the rules of professional conduct approved June 11, 1973.

DATED at Toronto this 6th day of March, 1987

J.R. BONES, FCA - CHAIRMAN
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re ANDREW ADAM FERRI

DECISION AND ORDER IN A MATTER OF: Charges against ANDREW ADAM FERRI, CA, a member of the Institute, under Rule 201 of the Rules of Professional Conduct, approved June 1, 1973.

DECISION AND REASONS FOR DECISION

This hearing was convened before the discipline committee of the Institute of Chartered Accountants of Ontario on June 26, 1987. The professional conduct committee laid one charge of professional misconduct against Mr. Ferri. Mr. Ferri pleaded guilty to the charge. The discipline committee found Mr. Ferri guilty as charged.

The committee heard submissions with respect to the appropriate sanction and after deliberation decided that Mr. Ferri should be assessed costs of \$650, to be paid within 60 days, that he should be expelled from membership in the Institute, and that notice of the Decision and order, which is to be published in Check Mark, to the Public Accountants Council for the Province of Ontario and to the Canadian Institute of Chartered Accountants, should disclose Mr. Ferri's name. At the conclusion of the hearing, after Mr. Ferri was told of the sanctions imposed, Mr. Ferri asked that the committee give its reasons for its decision, with respect to the sanctions, in writing. The reasons are stated below.

The committee, in referring to the Agreed Statement of Facts (filed as Exhibit 4), noted on page 4, paragraph 7, that "on the 12th day of July, 1984, Mr. Ferri was convicted after trial ... of a charge that he did unlawfully by deceit, falsehood or other fraudulent means defraud, of money or other valuable securities of a value in excess of \$200, members of the public who were induced into investing money or other valuable securities in various investment funds operated by Astra Trust Company, contrary to the Criminal Code of Canada."

The committee also noted on page 1 of Exhibit 4, paragraph 2, that "Mr. Montemurro was using Mr. Ferri's credibility to maintain the favorable public perception of Astra Trust since Mr. Ferri was a chartered accountant".

In determining the sanctions, the committee gave consideration to the issues of general deterrence, specific deterrence and rehabilitation.

While the committee gave due regard to Mr. Ferri's letters of reference (filed as Exhibit 5), it could not ignore the moral turpitude involved in the events leading to Mr. Ferri's conviction. Any question of leniency for Mr. Ferri had to be weighed against the need to protect the integrity of the profession.

There is evidence to suggest that in terms of specific deterrence and rehabilitation, Mr. Ferri is unlikely to become involved again in the kind of activities which led to his criminal conviction. However, the committee noted that in the past the appropriate sanction for cases involving fraud has been' expulsion from membership. The issue of general deterrence, as it applies to the protection of the public interest through the observance by all chartered accountants of professional and ethical standards and the maintenance of the good reputation and integrity of the profession, warranted Mr. Ferris expulsion from membership.

E.W. SLAVENS, FCA - DEPUTY CHAIRMAN
THE DISCIPLINE COMMITTEE

APPEAL COMMITTEE re Andrew A. Ferri

REASONS FOR THE DECISION AND ORDER OF THE APPEAL COMMITTEE IN THE MATTER OF: An appeal lodged by Andrew A. Ferri, CA, a member of the Institute against the decision and order of the discipline committee made on June 26, 1987.

This matter came before a panel of the appeal committee of the Institute of Chartered Accountants of Ontario on January 20, 1989, in the presence of counsel for the professional conduct committee, and counsel for Mr. Ferri the appellant.

DECISION

The committee, after reading the evidence and hearing the submissions of both counsel upheld the decision and order of the discipline committee made on June 26, 1987.

ORDER

The appeal committee hereby orders that the appeal of Mr. Andrew Ferri be dismissed and the discipline committee's decision and order be upheld in its entirety.

The appeal committee recognized that because of the seriousness of the matter, it was not unreasonable for Mr. Ferri to appeal and therefore, no additional costs or penalties have been imposed as a result of this hearing.

REASONS

The appeal filed by Mr. Ferri was based solely on the sanction of expulsion. The relief requested by Mr. Ferri was that a term of suspension be ordered instead of expulsion.

The appeal committee considered whether the order of the discipline committee was appropriate, given both the facts before it, and the weight of the arguments presented by Mr. Ferri's counsel. The committee also had to consider that fraud was involved with moral turpitude in respect to Mr. Ferri's participation in a public company.

The appeal committee agreed with the reasons of the discipline committee in particular, where it stated:

"In determining the sanctions, the committee gave consideration to the issues of general deterrence, specific deterrence and rehabilitation.

While the committee gave due regard to Mr. Ferri's letters of reference (filed as Exhibit 5), it could not ignore the moral turpitude involved in the events leading to Mr. Ferri's conviction. Any question of leniency for Mr. Ferri had to be weighed against the need to protect the integrity of the profession.

There is evidence to suggest that the terms of specific deterrence and rehabilitation, Mr. Ferri is unlikely to become involved again in the kind of activities which led to his criminal conviction. However, the committee noted that in the past the appropriate sanction for cases involving fraud has been expulsion from membership. The issue of general deterrence, as it applies to the

protection of the public interest through the observance by all chartered accountants of professional and ethical standards and the maintenance of the good reputation and integrity of the profession, warranted Mr. Ferri's expulsion from membership."

Accordingly, the appeal committee dismissed Mr. Ferri's appeal and upheld the order of the discipline committee.

Dated at Toronto this 24th day of April, 1989 .

W.R. WALKER, FCA
CHAIRMAN - APPEAL COMMITTEE

W.G. BROWN, FCA
PANEL MEMBER - APPEAL COMMITTEE

R CLARK, FCA
PANEL MEMBER - APPEAL COMMITTEE