

Bernard Philip Isaacs: Summary as Published in *CheckMark*

Bernard Philip Isaacs, of Richmond Hill, was found guilty of one charge under Rule 204.1 of failing to hold himself free of any influence, interest or relationship which, in the view of a reasonable observer, would impair his professional judgment or objectivity in respect of an audit engagement; one charge under Rule 206 of failing to perform an audit in accordance with generally accepted standards of practice of the profession; and one charge under Rule 218 of failing to retain for a reasonable period of time such working papers, records or other documentation which reasonably evidence the nature and extent of the work done in respect of an audit engagement. The three charges related to Mr. Isaacs' audit of one client over a number of consecutive years, and it was determined by the discipline committee that the member's standard of practice had fallen below the acceptable level. Mr. Isaacs was fined \$2,000 and ordered to complete five professional development courses. It was also ordered that his practice be supervised until its next regularly scheduled inspection by the practice inspection committee.

CHARGE(S) LAID re Bernard Philip Isaacs

The Professional Conduct Committee hereby makes the following charges against Bernard P. Isaacs, CA, a member of the Institute:

1. THAT, the said Bernard P. Isaacs, during the period May 1991 to June 1996, failed to retain for a reasonable period of time such working papers, records or other documentation which reasonably evidence the nature and extent of the work done in respect of his audit of the financial statements of Tilley Endurables, Inc. for the years ended September 25, 1988, September 24, 1989 and September 23, 1990, contrary to Rule 218 of the rules of professional conduct.
2. THAT, the said Bernard P. Isaacs, failed to perform his audit of the financial statements of Tilley Endurables, Inc. for the year ended September 24, 1989 in accordance with generally accepted standards of practice of the profession, contrary to Rule 206 of the rules of professional conduct in that he failed to obtain sufficient appropriate audit evidence to support the content of his report relating to the item, "Inventory \$1,067,070".
3. THAT, the said Bernard P. Isaacs, failed to perform his audit of the financial statements of Tilley Endurables, Inc. for the years ended September 25, 1988 and September 24, 1989 in accordance with generally accepted standards of practice of the profession, contrary to Rule 206 of the rules of professional conduct, in that he failed to ensure that the financial statements of the company were consolidated with its subsidiary, Tilley Endurables Corporation, when it was appropriate to do so, or, in the absence of consolidation, he failed to issue an adverse opinion.
4. THAT, the said Bernard P. Isaacs, during the years 1987 to 1991, while he was engaged as the auditor for Tilley Endurables, Inc., failed to hold himself free of any influence, interest or relationship which, in the view of a reasonable observer, would impair his professional judgment or objectivity in respect of the engagement, in that a significant amount of the total fees billed by his practice and the time he spent performing professional services related to this client, contrary to Rule 204.1 of the rules of professional conduct.

Dated at Toronto this day of January, 1997.

JENNIFER L. FISHER, CA - CHAIR
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Bernard Philip Isaacs

DECISIONS AND INTERIM ORDER IN THE MATTER OF: Charges against **BERNARD PHILIP ISAACS**, a suspended member of the Institute, under **Rules 204.1, 206 and 218** of the Rules of Professional Conduct, as amended.

DECISION AND INTERIM ORDER MADE FEBRUARY 14, 1997

DECISION

THAT, having seen, heard and considered the evidence, including the agreed statement of facts, filed, and having heard the plea of guilty to the charges, the discipline committee finds Bernard Philip Isaacs not guilty of Charge No. 2 and guilty of Charges Nos. 1, 3 (as amended) and 4.

INTERIM ORDER

IT IS ORDERED:

1. THAT Mr. Isaacs undergo a psychological assessment to determine his ability to rehabilitate himself, and to recommend what steps or courses of action, if any, he can take to facilitate such rehabilitation.
2. THAT Mr. Isaacs pay the costs of the assessment, which costs shall be taken into consideration by the discipline committee when making its final determination on the issue of a fine.
3. THAT Mr. Isaacs be and he is hereby suspended until the discipline committee receives the assessment, and hears the parties' submissions on the assessment and on the issue of appropriate sanctions generally.
4. THAT Mr. Isaacs forthwith surrender his certificate of membership in the Institute to the discipline committee secretary, to be held by the secretary pending final disposition of this case.
5. THAT, subject to paragraph 6, in the event the assessment is not received by the secretary of the discipline committee by the 1st day of September, 1997, Mr. Isaacs shall thereupon be expelled from membership in the Institute.
6. THAT in the event it appears to either party that the assessment cannot be completed and delivered by the due date, as stipulated in paragraph 5, the party may apply to the hearing chair for an extension of the due date.
7. THAT in the event there are any other practical matters which either party needs to have addressed, the party may apply to the hearing chair, who shall give such directions on the matters as he considers necessary.
8. THAT this hearing be adjourned until such time as it is reconvened by the chair.

DATED AT TORONTO THIS 10TH DAY OF APRIL, 1997
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re Bernard Philip Isaacs

ORDER IN THE MATTER OF: Charges against **BERNARD PHILIP ISAACS**, a suspended member of the Institute, under **Rules 204.1, 206 and 218** of the Rules of Professional Conduct, as amended.

ORDER MADE NOVEMBER 3, 1997

Having, on February 14, 1997, found Bernard Philip Isaacs guilty of three charges of professional misconduct under Rules of Professional Conduct 204.1, 206 and 218, and having on that day made an interim order, the Discipline Committee, having today heard submissions from the parties as to sanction, orders in respect of the charges:

1. THAT Mr. Isaacs be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Isaacs be and he is hereby fined the sum of \$2,000, 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. Isaacs be and he is hereby required to complete, by attending in their entirety, within two (2) years from the date this Decision and Order becomes final under the bylaws, the following professional development courses made available through the Institute:
 - Accounting & Auditing Update;
 - Accounting Refresher;
 - Auditing Refresher;
 - Developing an Audit Strategy; and
 - Financial Statement Presentation & Disclosure.
4. THAT Mr. Isaacs be and he is hereby required to complete a period of supervised practice upon the following terms and conditions:
 - (a) Mr. Isaacs shall retain a chartered accountant in public practice to supervise his accounting practice and shall advise the professional conduct committee in writing of the name of the chartered accountant he selects within 30 days from the date this Decision and Order becomes final under the bylaws;
 - (b) in the event Mr. Isaacs has not resumed the practice of public accounting at the date this Decision and Order becomes final under the bylaws, he shall also advise the professional conduct committee of this fact when he advises which chartered accountant he has selected to supervise his practice, and when Mr. Isaacs does resume the practice of public accounting he shall forthwith advise the professional conduct committee of that fact in writing;
 - (c) Mr. Isaacs shall report annually to the professional conduct committee, within 30 days from the anniversary of the date this Decision and Order

becomes final under the bylaws, either as to the files supervised during the preceding year by his supervisor, or as to the fact that he has not carried on an accounting practice during the preceding year;

- (d) the period of supervised practice shall continue until the next actual practice inspection of Mr. Isaac=s practice whenever that shall be, and in the event he has not resumed the practice of public accounting and is excused from practice inspection the next time one would otherwise be scheduled, this order shall continue in effect until Mr. Isaacs does resume the practice of public accounting and there has been an actual practice inspection of Mr. Isaacs= practice;
- (e) a copy of this Decision and Order shall be delivered by the discipline committee secretary to the director of practice inspection.

5. THAT notice of this Decision and Order, disclosing Mr. Isaacs= 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; and
- (c) by publication in *CheckMark*.

6. THAT in the event Mr. Isaacs fails to comply with any of the requirements of paragraphs 2, 3 or 4 of this Order within the time periods therein specified, 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 in paragraph 5 hereof, and by publication in *The Globe and Mail*.

DATED AT TORONTO THIS 24TH DAY OF NOVEMBER, 1997
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re Bernard Philip Isaacs

REASONS FOR DECISION AND ORDER IN THE MATTER OF: Charges against **BERNARD PHILIP ISAACS**, a suspended member of the Institute, under **Rules 204.1, 206 and 218** of the Rules of Professional Conduct, as amended.

TO: Mr. Bernard Philip Isaacs
40 Dunloe Road
RICHMOND HILL, Ontario
L4B 2J1

REASONS FOR DECISION MADE FEBRUARY 14 AND ORDER MADE NOVEMBER 3, 1997

These proceedings before this panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on February 13 and 14, 1997, and reconvened on November 3, 1997.

The professional conduct committee was represented by Mr. Paul Farley. The member, Mr. Bernard Philip Isaacs, was present and not represented by counsel on February 13 and 14, 1997. He acknowledged that he understood that he had the right to be represented by legal counsel in this proceeding and that he had been made aware of this prior to the hearing. When the hearing reconvened on November 3, 1997, Mr. Isaacs was represented by Mr. Clifford Cole.

The professional conduct committee had originally laid five charges against the member. At the beginning of the hearing, on consent, charges Nos. 3 and 5 were amended and charge No. 4 was withdrawn. Charge No. 5, as amended, was renumbered No. 4.

Charge No. 1 alleged that Mr. Isaacs failed to retain working papers and other documents to evidence the nature and extent of the audit work done on the audit of Tilley Endurables, Inc. for the years 1988, 1989, and 1990, contrary to Rule 218. Charge No. 2 alleged that Mr. Isaacs failed to obtain sufficient appropriate audit evidence to support the item AInventory \$1,067,070@ for 1989, contrary to Rule 206. Charge No. 3 alleged that Mr. Isaacs failed to ensure that the financial statements of the company were consolidated with its subsidiary when it was appropriate to do so, or, in the absence of that consolidation, failed to issue an adverse opinion@, contrary to Rule 206. Later in the hearing, a question arose as to the term Aadverse opinion@ because of the uncertainty as to the date of the pertinent financial statement. The charge was then further amended to include at the end the words Aor a denial@. The fourth charge alleged that Mr. Isaacs failed to hold himself free of any influence, interest or relationship which, in the view of a reasonable observer, would impair his professional judgment or objectivity in respect of the engagement, as a significant amount of the total fees billed by his practice and the time he spent performing services related to the one client Tilley Endurables, Inc., contrary to Rule 204.1.

Mr. Isaacs pleaded guilty to the amended charges and confirmed that he understood that upon the basis of his plea and upon that basis alone, he could be found guilty of the charges.

Determination of Guilt or Innocence

The chair outlined the procedure which would be followed, and in doing so had the order entitled ADirections for Hearing@, dated December 4, 1996, filed as an exhibit. This document outlined both what had taken place since June 27, 1996, and how the matter was to proceed during January and February, 1997.

In his brief opening statement, counsel for the professional conduct committee indicated that there were two issues in this case, one being competence, the other being conduct. Mr. Farley filed an agreed statement of facts and document brief. The committee was told that the agreed statement of facts, which was signed by Mr. Isaacs, had been reviewed the evening before by a lawyer (not Mr. Cole) retained by Mr. Isaacs. Mr. Farley called the professional conduct committee=s investigator, Mr. Michael Cashion, to specifically address the issue of charge No. 3, namely the lack of consolidation of the financial statements and the inappropriate opinion on the audit report.

The investigator explained the consolidation issues in detail to the committee, using the document brief and other exhibits filed. At the end of the investigator=s testimony, Mr. Farley concluded his case.

Mr. Isaacs was then asked whether or not he would like to call evidence. The discipline committee=s counsel explained in some detail the difference between making submissions and giving evidence. Mr. Isaacs said he wished to give evidence with respect to the issue of guilt or innocence. He was sworn, but after reading the Notice to Witness, which is a document all witnesses are asked to read explaining the obligation to testify and the protections afforded witnesses, Mr. Isaacs said he would not give evidence.

Both parties then made their submissions with respect to guilt or innocence, after which, following its deliberations, the discipline committee found Mr. Isaacs not guilty of charge No. 2, and guilty of charges Nos. 1, 3 and 4. The committee determined that charge No. 2, relating to the failure to obtain sufficient appropriate audit evidence to support an inventory item, had not been proven by the professional conduct committee. As a result, notwithstanding Mr. Isaacs= plea of guilty to charge No. 2, the committee found him not guilty of the charge.

Sanction

The discipline committee then asked both parties to present their position with respect to the appropriate sanction. Neither party called evidence in this regard.

Stating that the submissions were joint in all respects with the exception of the issue of publication of Mr. Isaacs= name, Mr. Farley made his submissions as to what the professional conduct committee felt would be an appropriate sanction in this case, namely:

- a reprimand;
- a fine of \$ 2,500, with up to two years to pay;
- four professional development courses pertaining to accounting and auditing;
- reinvestigation of Mr. Isaacs= practice by the professional conduct committee within 2 years, with Mr. Isaacs to bear the cost up to \$ 2,000; and

- notification of the Decision and Order, disclosing the member's name, to the Public Accountants Council for the Province of Ontario, to the Canadian Institute of Chartered Accountants, and by way of publication in *CheckMark*.

Mr. Farley referred to previous cases, and to the principles which govern the imposition of sanctions, namely specific deterrence, general deterrence and rehabilitation, and related them to the facts of this case.

Mr. Isaacs spoke at length on the issue of publication only, and agreed with the other terms of the sanction requested by the professional conduct committee.

Interim Order

After deliberating on the parties' submissions, the panel concluded that it was not able to make an appropriate determination as to sanction. The parties were recommending a rehabilitative order, but, on the basis of what the panel had seen and heard, it had some concern as to Mr. Isaacs' ability to rehabilitate himself. Accordingly, the panel decided to make an interim order, the primary component of which was that Mr. Isaacs was to undergo a psychological assessment to determine his ability to rehabilitate himself, and to recommend what steps or courses of action, if any, he can take to facilitate such rehabilitation. In explaining the panel's decision to the parties, the chair had this to say:

The panel does not think they have sufficient information and evidence to determine an appropriate sanction which is intended to finally dispose of Mr. Isaacs' case. In stating our concerns, we are setting out the issues or concerns which we wish the psychological assessment to consider.

Mr. Isaacs has signed an agreed statement of facts which acknowledges that he has breached the rules. He entered a plea of guilty, but he does not seem remorseful. He blames other people or other events for the problems. He even says that the Institute is persecuting him by bringing charges against him.

It is unclear that he accepts responsibility for what he did or failed to do. It is unclear that he has the confidence to practice in a competent fashion, or that he has a sense of independence or the financial independence to be objective.

It is unclear to this panel that he has the ability to discern his own intentions. Mr. Isaacs apparently has wide mood swings. At the last assignment hearing he exhibited rage and made threats, but at this hearing he has at times seemed withdrawn, confused and depressed.

On other occasions he has seemed confused. Sometimes what he apparently had grasped earlier in the hearing seems to have entirely escaped him later on. On some occasions he did not seem to understand simple points, but on other occasions he has exhibited skills of expression which are eloquent and impressive.

In those circumstances this panel is not willing to reach a final decision which it thinks would properly apply the principles of rehabilitation, specific deterrence and general deterrence, and which would protect the public....

We trust that it will be clear from what we have said that our concerns are two-fold: number one, that Mr. Isaacs be rehabilitated, and if so, how can that rehabilitation best be achieved; number two, the protection of the public,

because, as he has appeared before us, Mr. Isaacs does not appear to be competent to practice as a chartered accountant....

Proceeding on November 3, 1997

The interim order made on February 14, 1997 set a deadline of September 1, 1997 for delivery of the psychological assessment, and required the immediate surrender of Mr. Isaacs= certificate of membership. On the basis of a letter dated August 29, 1997 from a solicitor who was then representing Mr. Isaacs, the chair extended the time for the filing of the assessment to a future date. At that time, Mr. Isaacs was reminded that the interim order had called for the immediate surrender of his certificate.

The panel reconvened on November 3, 1997, at which time Mr. Isaacs was represented by legal counsel, Mr. Clifford Cole. The chair invited Mr. Farley and Mr. Cole to make submissions as to appropriate sanction in light of the psychological assessment done by J. Carson Bock which had been entered as an exhibit. Both counsel stated that the submission with respect to sanction was still a joint submission with the exception of the publication of Mr. Isaacs= name.

After hearing the submissions of counsel as to sanction, the panel deliberated. As there were still concerns about Mr. Isaacs= ability to rehabilitate himself, counsel were informed of the committee=s concerns and given the opportunity to make further submissions. After hearing these submissions, and deliberating further, the panel made the following order:

1. T Mr. Isaacs be reprimanded in writing by the chair of the hearing.
2. AT Mr. Isaacs be and he is hereby fined the sum of \$2,000, to be remitted to the Institute within two (2) years from the date this Decision and Order becomes final under the bylaws.
3. AT Mr. Isaacs be and he is hereby required to complete, by attending in their entirety, within two (2) years from the date this Decision and Order becomes final under the bylaws, the following professional development courses made available through the Institute:
 - Accounting & Auditing Update;
 - Accounting Refresher;
 - Auditing Refresher;
 - Developing an Audit Strategy; and
 - Financial Statement Presentation & Disclosure.
4. That Mr. Isaacs be and he is hereby required to complete a period of supervised practice upon the following terms and conditions:
 - (a) Mr. Isaacs shall retain a chartered accountant in public practice to supervise his accounting practice and shall advise the professional conduct committee in writing of the name of the chartered accountant he selects within 30 days from the date this Decision and Order becomes final under the bylaws;
 - (b) in the event Mr. Isaacs has not resumed the practice of public accounting at the date this Decision and Order becomes final under the bylaws, he shall also advise the professional conduct committee of this fact when he advises which chartered accountant he has selected to supervise his practice, and when Mr. Isaacs does resume the practice of public accounting he shall forthwith advise the professional conduct committee of that fact in writing;

- (c) Mr. Isaacs shall report annually to the professional conduct committee, within 30 days from the anniversary of the date this Decision and Order becomes final under the bylaws, either as to the files supervised during the preceding year by his supervisor, or as to the fact that he has not carried on an accounting practice during the preceding year;
 - (d) the period of supervised practice shall continue until the next actual practice inspection of Mr. Isaacs's practice whenever that shall be, and in the event he has not resumed the practice of public accounting and is excused from practice inspection the next time one would otherwise be scheduled, this order shall continue in effect until Mr. Isaacs does resume the practice of public accounting and there has been an actual practice inspection of Mr. Isaacs's practice;
 - (e) a copy of this Decision and Order shall be delivered by the discipline committee secretary to the director of practice inspection.
5. THAT notice of this Decision and Order, disclosing Mr. Isaacs'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; and
 - (c) by publication in *CheckMark*.
6. THAT in the event Mr. Isaacs fails to comply with any of the requirements of paragraphs 2, 3 or 4 of this Order within the time periods therein specified, 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 in paragraph 5 hereof, and by publication in *The Globe and Mail*.

It is common ground that Mr. Isaacs's standard of practice has fallen below the acceptable level. There is no question that he needs to be rehabilitated. He must also be specifically deterred from repeating his conduct or allowing his standard of practice to again fall below the acceptable level. In addition, general deterrence is a factor, because no member should allow his or her standard of practice to decline as Mr. Isaacs did.

It was determined that Mr. Isaacs's misconduct, in and of itself, did not require expulsion, either on account of general deterrence or specific deterrence. While the doubts about Mr. Isaacs's ability to rehabilitate himself were answered in part by Mr. Bock's report, in fashioning its order the panel attempted to make certain that Mr. Isaacs would rehabilitate himself and that the public would be protected.

Reprimand

The committee was of the view that a reprimand is necessary as a specific deterrent to the member to stress to him the unacceptability of his conduct as a chartered accountant.

Fine

The parties' joint submission as to the quantum of the fine was \$ 2,500 with two years to pay. In its interim order, the committee said it would take into consideration the cost of the psychological assessment when considering the quantum of a fine. The cost to Mr. Isaacs of the assessment was \$ 650. Accordingly, the committee felt a fine of \$ 2,000 would be the appropriate amount, with two years to pay. This fine was necessary as both a specific deterrent to the member and a general deterrent to the membership.

Professional Development Courses

Mr. Isaacs acknowledged in February, 1997 that he needed to take the courses suggested by the professional conduct committee. Not only was it a matter of disappointment to the panel that he did not take any of those courses between February and November of 1997, but his failure to do so was one of the reasons for the panel's continuing concern about Mr. Isaacs' ability or willingness to rehabilitate himself.

Supervised Practice

There were many reasons for deciding that Mr. Isaacs' practice should be supervised on an ongoing basis rather than simply be reinvestigated in two years. The following factors were important considerations for ordering supervised practice:

- a reinvestigation of Mr. Isaacs' practice would be meaningless if he were not to resume the practice of public accounting, and if he were to resume the practice of public accounting a reinvestigation in two years would not protect the public between the time of the resumption of practice and the reinvestigation;
- the discipline committee concluded that a review of each file would best protect the public interest;
- many sole practitioners engage another chartered accountant of their choice to review their files and thus achieve many of the benefits of a second partner review;
- the discipline of having to submit files for review will help ensure that Mr. Isaacs does rehabilitate himself;
- the discipline committee thought that requiring the approval of Mr. Isaacs' choice of supervisor by the professional conduct committee, or requiring the supervisor to report to the professional conduct committee, would unduly intrude into the working relationship which the panel hopes and expects will develop between Mr. Isaacs and the supervising chartered accountant;
- the supervising chartered accountant will be governed by Rule of Professional Conduct 211 in the event he or she and Mr. Isaacs cannot resolve questions which arise;
- the cost to Mr. Isaacs of supervised practice will not be prohibitive, as the time required to review a file varies according to the complexity of the file, and is usually a justified cost that can be passed on to the client;
- while recognizing that the practice inspection program is not part of the discipline process, the committee believed that if Mr. Isaacs' standard of practice were to continue to pose a possible danger to the public, this would be discovered during a practice inspection and appropriately dealt with at that time.

Notice

The disciplinary process of a self-governing professional body must be viewed by its members and the public as an open process. Notification of the Institute's efforts in disciplining those in breach of its bylaws and rules of professional conduct is an important function in the preservation of the integrity of the profession. There are no rare or unusual circumstances which would influence the committee to withhold the publication of Mr. Isaacs' name, especially in light of the psychological assessment's confirmation that Mr. Isaacs' personality and temperamental characteristics are within normal limits. The discipline committee ordered that notice of its Decision and Order be made in the manner specified as a specific and a general deterrent.

DATED AT TORONTO THIS DAY OF FEBRUARY, 1998
BY ORDER OF THE DISCIPLINE COMMITTEE

D.P. SETTERINGTON, CA - DEPUTY CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

P.B.A. CLARKSON, CA

L.R. FLEMMING, CA

B.L. HAYES, CA

S.W. SALTER, CA

B.W. BOWDEN (Public representative)