



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO

Founded 1879

APPROVED BY THE DISCIPLINE COMMITTEE ON JUNE 10, 2009

IN THE MATTER OF: CHARGES AGAINST B. DESMOND P.
WEATHERHEAD, CA, A MEMBER OF THE
INSTITUTE, BEFORE THE DISCIPLINE
COMMITTEE

SETTLEMENT AGREEMENT

*made pursuant to Bylaw 510 (7.1) of the Bylaws of the
Institute of Chartered Accountants of Ontario*

Introduction

1. The Professional Conduct Committee, at their meeting of June 3, 2008, approved draft charges against B. Desmond P. Weatherhead, CA ("Weatherhead") **Doc 1**.
2. The first draft charge pertains to professional work done by Weatherhead with respect to the audit of financial statements of "RCL 136" ("RCL") for the year ended May 31, 2007.
3. The second draft charge pertains to professional work done by Weatherhead with respect to the audit of financial statements of "HCC 57" ("HCC") for the year ended January 31, 2007.
4. The last draft charge pertains to professional work done by Weatherhead with respect to the review of financial statements of "SE Motor Sales Inc." ("SE Motor") for the year ended September 30, 2007.
5. The documents referred to in this agreement are found in the Document Brief. The applicable *CICA Handbook* sections are found in the Brief of Authorities.

6. The Professional Conduct Committee and Weatherhead agree with the facts and conclusions set out in this settlement agreement for the purpose of this proceeding only, and further agree that this agreement of facts and conclusions is without prejudice to Weatherhead in any other proceedings of any kind, including, but without limiting the generality of the foregoing, any civil or other proceedings which may be brought by any other person, corporation, regulatory body or agency.

Background

6. Following graduation from high school in Barbados in 1963, Weatherhead became a CA student with Touche Ross in Toronto in 1965. He received his Chartered Accountancy designation in 1970. Shortly thereafter, he moved to Barbados and was employed as an audit manager with Thorne Riddell between 1971-1978. He then operated as a sole practitioner in Barbados until 1982 at which time he took employment as a controller with a Barbados hotel.
7. Weatherhead returned to Canada in 1984 to work as a controller with Surbond Lubricants in Milton, Ontario. From 1988 to 2004 he practiced in the partnership Leggett Weatherhead, Chartered Accountants in Milton. Since 2004 he has practiced as B.D.P. Weatherhead, CA Professional Corporation, and his current practice includes assurance work, compilations, bookkeeping, and tax planning and tax return preparation. Weatherhead employs one technician and one administrative assistant in his practice.
8. Weatherhead appeared before the Discipline Committee of the Institute on June 28, 2006, and was found guilty of a charge under Rule 206.1 of the Rules of Professional Conduct. In Reasons dated November 17, 2006 (**Doc 2**) the Discipline Committee required that Weatherhead take three professional development courses, to be followed by a re-investigation by the Professional Conduct Committee.
9. A re-investigation examining Mr. Weatherhead's assurance files was conducted in January, 2008, the results of which give rise to this Settlement Agreement.

Charge One - The Audit of Financial Statements of RCL for the year ended May 31, 2007

8. RCL is a non-profit corporation without share capital that owns and operates Canadian Legion premises in Milton, Ontario. RCL has been a client of Weatherhead for twenty-one years. It is an audit engagement.
9. The financial statements for RCL for the year ended May 31, 2007 are reproduced at **Doc 3**.
10. Weatherhead signed the Auditor's Report attached to these financial statements and presented it and the financial statements to the executive members of RCL.

Charge 1(a) – Disclosure in “Note 2 – Accounting Policies - Financial Instruments”

11. “Note 2 – Accounting Policies - Financial Instruments” **Doc 3** does not disclose the fair value of each class of financial asset and financial liability, as must be done to meet the requirements of the *CICA Handbook*, Section 3860.78 **Tab A**.

Charge 1(b) – Management Representation Letter

12. The letter obtained from management **Doc 4** does not contain representations respecting fraud and illegal and possibly illegal acts required by *CICA Handbook* Section 5135.090 **Tab B** and 5136.21 **Tab C**.

Charge 1(c) – Documentation

13. There were no working papers for this engagement to reflect any of the procedures performed by Weatherhead in respect of reviewing income controls and income records or in respect of the review of supporting documents for all significant expenses. This documentation is required to properly support the Auditor's Report, in accordance with *CICA Handbook* Section 5145.06. **Tab D**

Charge Two - The Audit of Financial Statements of HCC for the year ended January 31, 2007

14. HCC is a corporation without share capital incorporated under the provisions of the *Condominium Act* of Ontario. HCC manages and maintains common elements and provides common services for the benefit of the owners of 76 units in Milton, Ontario. HCC has been a client of Weatherhead for seven years. It is an audit engagement.
15. The financial statements for HCC for the year ended January 31, 2007 are reproduced at **Doc 5**.
16. Weatherhead signed the Auditor's Report attached to these financial statements and presented it and the financial statements to the Board of Directors of the corporation.

Charge 2(a) – "Reserve account – Term Deposits"

17. The Reserve account asset "Term deposits - \$290,001" on the Statement of Financial Position includes a GIC in the amount of \$100,000. Weatherhead failed to obtain sufficient appropriate audit evidence to be able to draw a reasonable conclusion with respect to that GIC, in that the bank confirmation **Doc 6** did not include it. Such audit evidence must be obtained in order to comply with *CICA Handbook* Section 5303.01. **Tab E**

Charge 2(b) – Disclosure of Financial Instruments

18. There is no disclosure in the Notes to the Financial Statements of the fair value of, and the related risks with respect to, each class of financial instrument as required by *CICA Handbook* Section 3860.44, 3860.57, 3860.67, and 3860.78. **Tab F**

Charge 2(c) – Cash and Cash Flows

19. The Statement of Cash Flows discloses the changes in net assets whereas it should disclose the inflows and outflows of cash and cash equivalents as required by *CICA Handbook* Section 1540.06(c) **Tab G** and 1540.12. **Tab H**

Charge 2(d) – Management Representation Letter

20. The letter obtained from management **Doc 7** does not contain representations respecting fraud and illegal and possibly illegal acts required by *CICA Handbook* Section 5135.090 **Tab B** and 5136.21. **Tab C**

Charge 2(e) – Documentation

21. There were no working papers for this engagement to reflect any of the procedures performed by Weatherhead in respect of the review of supporting documents for all significant expenses and enquiries into variances compared to 2006. This documentation is required to properly support the Auditor's Report, in accordance with *CICA Handbook* Section 5145.06. **Tab D**

Charge Three - Review of the Financial Statements of "SE Motor" for the year ended September 30, 2007

22. SE Motor is a corporation incorporated under the provisions of the Ontario *Business Corporations Act*, which operates as Lafert North America and is in the business of selling electric motors and related equipment. SE Motor has been a client of Weatherhead for sixteen years. It is a review engagement.
23. The financial statements for SE Motor for the year ended September 30, 2007 are reproduced at **Doc 8**.
24. Weatherhead signed the Review Engagement Report attached to these financial statements, and presented it and the financial statements to the Board of Directors of the corporation.

Charge 3(a) – Differential Reporting of Income Taxes

25. The differential reporting alternative method was applied to the Statement of Income item “Income taxes - \$56,238.” Weatherhead failed to ensure that the income tax rate or expense related to the income was reconciled to the statutory income tax rate or the dollar amount that would result from its application, and disclosed along with the nature and amount of each significant reconciling item. Such disclosure is required by *CICA Handbook* Section 3465.106(d). **Tab I**

Charge 3(b) – Disclosure of Interest and Dividends and Income Taxes

26. The Statement of Cash Flows does not disclose cash flows from interest and dividends nor from income taxes. *CICA Handbook* Sections 1540.34 and 1540.38 require this disclosure. **Tab J**

Charge 3(c) – Disclosure of Financial Instruments

27. The differential reporting alternative method was applied to the disclosure of information regarding financial assets and liabilities but although the fair values were readily obtainable, “Note 2 (c) - Financial Instruments” fails to identify the fair value of each class of financial asset and financial liability, as must be done to meet the requirements of *CICA Handbook* Section 3861.89. **Tab K**

Charge 3(d) – Management Representation Letter

28. The letter obtained from management **Doc 9** does not contain representations respecting the application of differential reporting options required by *CICA Handbook* Section 8200.50. **Tab L**

Charge 3(e) – Review Engagement Report

29. The Review Engagement Report failed to indicate that the financial statements had been prepared in accordance with Canadian generally accepted accounting principles using differential reporting options available to non-publicly accountable enterprises, and did not refer to the summary of accounting policies in the financial statements that describes each differential reporting option applied as required by *CICA Handbook* Section 8200.51. **Tab L**

Failure to Comply with Generally Accepted Standards of Practice of the Profession

30. It is agreed that, with respect to the audit of the financial statements of RCL for the year ended May 31, 2007, the audit of the financial statements of HCC for the year ended January 31, 2007 and the review of the financial statements of SE Motor for the year ended September 30, 2007, Weatherhead failed to perform his professional services in accordance with generally accepted standards of practice of the profession, including the recommendations set out in the *CICA Handbook*, in the manner described above.

Considerations Supporting Settlement

31. In addition to all of the circumstances described above, the Professional Conduct Committee took the following factors into consideration on entering into this Agreement:
- a. Weatherhead acknowledges the deficiencies in his assurance standards of practice as set out above;
 - b. Weatherhead has provided a written undertaking to the Institute not to perform assurance engagements in future; and
 - c. Weatherhead has indicated his intention to retire from practice as a Chartered Accountant in the next calendar year.

Terms of Settlement

32. Weatherhead and the Professional Conduct Committee agree to the following Terms of Settlement:

- a) A reprimand in writing by the Chair of the Discipline Committee;
- b) A payment by way of fine in the amount of \$2,000;
- c) Notice of the terms of this Settlement is to be published in accordance with the provisions of Bylaw 575(2), including notice to be given to the CICA, the Public Accountants' Council and in *Checkmark* Magazine; and
- d) Weatherhead will be allowed three months from the time the Discipline Committee accepts this Settlement Agreement to pay the fine referred to herein.

33. Should the Discipline Committee accept this Settlement Agreement, Weatherhead agrees to waive his right to a full hearing, judicial review or appeal of the matter subject to the Settlement Agreement. Upon the member fulfilling the requirements of this Settlement Agreement, the draft charges approved by the Professional Conduct Committee and dated June, 2008 shall be forever stayed.

34. If for any reason this Settlement Agreement is not approved by the Discipline Committee, then:

- a) This Settlement Agreement and its terms, including all Settlement Negotiations between the Professional Conduct Committee and Weatherhead leading up to its presentation to the Discipline Committee, shall be without prejudice to the Professional Conduct Committee and Weatherhead; and
- b) The Professional Conduct Committee and Weatherhead shall be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the allegations set out in the charges, or negotiating a new Settlement Agreement, unaffected by this Settlement Agreement or the Settlement Negotiations.

Disclosure of Settlement Agreement

35. This Settlement Agreement and its terms will be treated as confidential by the Professional Conduct Committee and Weatherhead, until approved by the Discipline Committee, and forever if for any reason whatsoever this Settlement Agreement is not approved by the Discipline Committee, except with the written consent of the Professional Conduct Committee and Weatherhead, or, as may be required by law.

36. Any obligations of confidentiality shall terminate upon approval of the Settlement Agreement by the Discipline Committee.

All of which is agreed to for the purpose of this proceeding alone this ^{7th} day of ^{April} ~~March~~, 2009.



ROBERT SIMON, CA
DEPUTY CHAIR
PROFESSIONAL CONDUCT COMMITTEE



B. DESMOND P.
WEATHERHEAD, CA
on his own behalf