

## **David Bryan Burchill: Summary, as Published in *CheckMark***

**David Bryan Burchill**, of Ottawa, was found guilty by the discipline committee of a charge of professional misconduct, laid by the professional conduct committee, under Rule of Professional Conduct 202, of failing to perform his professional services with due care.

The committee ordered that Mr. Burchill

- be reprimanded in writing by the chair of the hearing;
- be fined \$10,000, to be paid within a specified time;
- be suspended from membership in the Institute for a period of four months;
- be required to take three professional development courses within a prescribed time; and
- surrender his certificate of membership in the Institute to the registrar, for the period of suspension.

Failure to comply with the fourth term of the order as set out above will result in Mr. Burchill's suspension from membership. Continuation of the suspension for more than three months without complying with the said term will result in his expulsion from membership.

Mr. Burchill has complied with the second and fifth terms of the order as set out above.

Mr. Burchill returned to MEMBERSHIP IN GOOD STANDING on July 1<sup>st</sup>, 1993.

## CHARGE(S) LAID re David Bryan Burchill

The Professional Conduct Committee hereby makes the following charges against D. Bryan Burchill, CA, a member of the Institute:

1. ~~THAT, the said D. Bryan Burchill, on or about February 29, 1988 did express an opinion on the financial statements of Ottawa Community Credit Union Limited for the year ended December 31, 1987 when he had failed to comply in all material respects with generally accepted auditing standards of the profession contrary to Rule 206.2 of the Rules of Professional Conduct in that:~~ **(WITHDRAWN BY THE PCC BWS)**
  - (a) ~~insufficient substantive auditing procedures were performed to verify the balance sheet item "Allowance for doubtful loans (Note 4) ... (\$137,100)".~~ **(WITHDRAWN BY THE PCC BWS)**
2. THAT, the said D. Bryan Burchill, on or about February 29, 1988 failed to perform his professional services with due care in carrying out an audit of the financial statements of Ottawa Community Credit Union Limited for the year ended December 31, 1987, contrary to Rule 202 of the Rules of Professional Conduct in that:
  - (a) he failed to carry out sufficient or appropriate tests in order to assess the reliability of the "Report Covering Allowance for Doubtful Loans";
  - (b) he failed to carry out sufficient or appropriate tests to assess the collectibility of non-current loans and individual overdraft/line of credit balances;
  - (c) he failed to assess the adequacy of the minimum standards of Bylaw 6 issued by the Ontario Share and Deposit Insurance Corporation for the allowance for doubtful loans.
3. ~~THAT, the said D. Bryan Burchill, on or about February 29, 1988 expressed an opinion on the financial statements of Ottawa community Credit Union Limited as at December 31, 1987 and failed to retain documentation and working papers which reasonably evidenced the nature and extent of the audit work done, contrary to Rule 218 of the Rules of Professional Conduct.~~ **(WITHDRAWN BY THE PCC BWS)**

DATED at Toronto this 11<sup>th</sup> day of February, 1991.

R.G. LONG, FCA - CHAIR  
PROFESSIONAL CONDUCT COMMITTEE

## **DISCIPLINE COMMITTEE re David Bryan Burchill**

**DECISION AND ORDER IN THE MATTER OF:** Charges against DAVID BRYAN BURCHILL, CA, a member of the Institute, under Rules 202, 206.2 and 218 of the Rules of Professional Conduct, as amended.

### **DECISION AND ORDER MADE JUNE 17, 1991**

#### DECISION

THAT, having seen, heard and considered the evidence, charges Nos. 1 and 3 having been withdrawn, THE DISCIPLINE COMMITTEE FINDS David Bryan Burchill guilty of charge No. 2.

#### ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Burchill be reprimanded in writing by the chairman of the hearing.
2. THAT Mr. Burchill be and he is hereby fined the sum of \$10,000, to be remitted to the Institute within thirty (30) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Burchill be suspended from the rights and privileges of membership in the Institute for a period of four (4) months from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Burchill be and he is hereby required to complete, by attending in their entirety, by December 31, 1992, the following professional development courses made available through the Institute:

1. Audit and Review Engagement Refresher;
2. Materiality and Audit Risk; and
3. Implementing a Quality Control Program,

or, in the event a course listed above becomes unavailable, the successor course which takes its place.

5. THAT notice of this Decision and Order, disclosing Mr. Burchill's name, be given after this Decision and Order becomes final under the bylaws:
  - (a) by publication in *CheckMark*;
  - (b) to the Public Accountants Council for the Province of Ontario; and
  - (c) to the Canadian Institute of Chartered Accountants.

6. THAT Mr. Burchill be and he is hereby ordered to surrender his certificate of membership in the Institute to the registrar of the Institute within ten (10) days from the date this Decision and Order becomes final under the bylaws, to be held by the registrar during the period of suspension and thereafter returned to Mr. Burchill.
7. THAT in the event Mr. Burchill fails to comply with any of the requirements of this Order within the time periods specified, he shall thereupon be suspended from the rights and privileges of membership in the Institute, and notice of his suspension, disclosing his name, shall be given in the manner specified in paragraph 5 hereof.
8. THAT in the event Mr. Burchill is suspended pursuant to paragraph 7 hereof, the suspension shall terminate upon compliance with the term of the Order in respect of which he was suspended, provided that he complies within three (3) months from the date of his suspension.
9. THAT in the event Mr. Burchill fails to terminate suspension within three (3) months, 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.

DATED AT TORONTO, THIS 26TH DAY OF JUNE, 1991  
BY ORDER OF THE DISCIPLINE COMMITTEE

B.W. STEPHENSON, BA, LLB  
SECRETARY - THE DISCIPLINE COMMITTEE

## **DISCIPLINE COMMITTEE re David Bryan Burchill**

**REASONS FOR THE DECISION AND ORDER IN THE MATTER OF:** Charges against DAVID BRYAN BURCHILL, CA, a member of the Institute, under Rules 202, 206.2 and 218 of the Rules of Professional Conduct, as amended.

### **WRITTEN REASONS FOR THE DECISION AND ORDER MADE JUNE 17, 1991**

These proceedings before this panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on June 17, 1991.

Mr. Brian Bellmore attended on behalf of the professional conduct committee and the member attended with his counsel, Mr. G.P. Kelly.

The professional conduct committee had laid one charge of professional misconduct under each of Rules of Professional Conduct 202, 206.2 and 218. Mr. Burchill pleaded not guilty to all three charges. Subsequently, charge No. 1 under Rule 206.2, and charge No. 3 under Rule 218, were withdrawn by the professional conduct committee.

Counsel for the professional conduct committee then outlined the procedure which counsel for both parties had agreed to and proposed to follow at this hearing. It was proposed that counsel for the professional conduct committee would open his case and file an agreed document brief, following which Mr. Richard. Buski, the professional conduct committee investigator, would give evidence, on which there would be no cross-examination.

After hearing the investigator for the professional conduct committee and the submissions made by Mr. Bellmore, and after reviewing the documentation filed by the professional conduct committee, and confirming its withdrawal of charges Nos. 1 and 3, the discipline committee, upon deliberation, found Mr. Burchill guilty of charge No. 2, under Rule of Professional Conduct 202.

The testimony of the investigator with reference to the lack of audit evidence in the document brief provided clear evidence that Mr. Burchill had failed to perform his professional services with due care in carrying out his audit of the financial statements of the Ottawa Community Credit Union Limited.

After making its finding of guilty, the discipline committee heard the submissions of counsel for the professional conduct committee with respect to sanction and, upon deliberation, made the following order:

### **ORDER**

IT IS ORDERED in respect of the charge:

1. THAT Mr. Burchill be reprimanded in writing by the chairman of the hearing.

2. THAT Mr. Burchill be and he is hereby fined the sum of \$10,000, to be remitted to the Institute within thirty (30) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Burchill be suspended from the rights and privileges of membership in the Institute for a period of four (4) months from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Burchill be and he is hereby required to complete, by attending in their entirety, by December 31, 1992, the following professional development courses made available through the Institute:

1. Audit and Review Engagement Refresher;
2. Materiality and Audit Risk; and
3. Implementing a Quality Control Program,

or, in the event a course listed above becomes unavailable, the successor course which takes its place.

4. THAT notice of this Decision and Order, disclosing Mr. Burchill's name, be given after this Decision and Order becomes final under the bylaws:
  - (a) by publication in *CheckMark*;
  - (b) to the Public Accountants Council for the Province of Ontario; and
  - (c) to the Canadian Institute of Chartered Accountants.
6. THAT Mr. Burchill be and he is hereby ordered to surrender his certificate of membership in the Institute to the registrar of the Institute within ten (10) days from the date this Decision and Order becomes final under the bylaws, to be held by the registrar during the period of suspension and thereafter returned to Mr. Burchill.
7. THAT in the event Mr. Burchill fails to comply with any of the requirements of this Order within the time periods specified, he shall thereupon be suspended from the rights and privileges of membership in the Institute, and notice of his suspension, disclosing his name, shall be given in the manner specified in paragraph 5 hereof.
8. THAT in the event Mr. Burchill is suspended pursuant to paragraph 7 hereof, the suspension shall terminate upon compliance with the term of the Order in respect of which he was suspended, provided that he complies within three (3) months from the date of his suspension.
9. THAT in the event Mr. Burchill fails to terminate suspension within three (3) months, 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.

Briefly, the reasons for the committee's sanctions are set out below, with the numbers corresponding to the numbered paragraphs of the Order.

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

2. The imposition of a fine of \$10,000 is appropriate in this case in order to emphasize to the member, the general membership of the Institute and the public the seriousness with which the discipline committee views members' failure to adhere to Rule of Professional Conduct 202.
3. Counsel for the professional conduct committee suggested a four-month suspension as part of the proposed sanctions, and supported this submission with reference to the Crawley case where, in similar circumstances, the discipline committee ordered a suspension of three months.

The panel, following some discussion, decided that a four-month suspension was appropriate in the circumstances of this case, as both a specific deterrent to Mr. Burchill and a general deterrent to all members.

4. In addition to specific and general deterrence aspects, sanctions may also be rehabilitative in nature. It is with the latter objective in mind that the committee ordered that the member attend the professional development courses specified. It is the committee's opinion, after review of the syllabuses of all the professional development courses offered through the Institute, including those recommended by counsel for the professional conduct committee, that those courses ordered most directly address the issues raised in this case and, in particular, those issues in respect of which the member was found to be deficient. The committee's selection of courses is for the educational benefit of the member, to enable him to upgrade his standards. This, in turn, will serve to better protect the public interest.
5. The committee has ordered publication and notice of its Decision and Order, including disclosure of the member's name, as both a specific deterrent to the member charged and a general deterrent to all members. Publicity is also necessary to demonstrate to the public at large that the profession is indeed monitoring itself, in order that it can retain the confidence of the public and the legislators in the profession's ability to self-govern.
6. The committee is of the opinion that surrender of the member's certificate of membership is appropriate during the period of suspension, in keeping with the intent of a suspension to withdraw the privileges of membership, and to ensure that the public cannot be misled, by the display of a certificate, into believing that a suspended member is actually in good standing.
7. The committee is of the opinion that it is necessary to provide for a period of suspension should the member not comply with the provisions of the Order. Failure to comply with the Order is a serious breach of professional conduct, and the imposition of a suspension is in order to engender respect for the disciplinary process and as a general deterrent to those members at large who might be like-minded.
8. & 9. The contingency of expulsion in the event of non-compliance with the terms of the Order, as a last resort, is a sanction which is necessary to the preservation of the profession's good reputation and its ability to effectively serve the public interest, as a method of enabling the profession to ultimately deal with those members who refuse to be bound by the self-regulating aspects of the profession.

DATED AT TORONTO, THIS 12<sup>th</sup> DAY OF AUGUST, 1991  
BY ORDER OF THE DISCIPLINE COMMITTEE

PA CAMPOL, CA - DEPUTY CHAIR,  
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL

F.J. DUNN, CA  
W.S. HAZLITT, CA  
J.J. LONG, CA  
D.P. SETTERINGTON, CA  
R.W. WARKENTIN (Public, Representative)