

Dennis Chalmers Brooks: Summary, as Published in *CheckMark*

Dennis Chalmers Brooks, of Stoney Creek, was found guilty by the discipline committee of two charges of professional misconduct, laid by the professional conduct committee, under Rule of Professional Conduct 104, of failing to reply to two letters from the Institute.

The committee ordered that he

- be reprimanded in writing by the chairman of the hearing;
- be fined \$1,500 and assessed costs of \$750, to be paid within a specified time; and
- be suspended from membership in the Institute until he replies in writing to the Institute letters which gave rise to the charges, which replies are to be made within a specified time.

Mr. Brooks failed to comply with the second term of the order as set out above and has therefore been expelled from membership.

CHARGE(S) LAID re Dennis Chalmers Brooks

The Professional Conduct Committee hereby makes the following charges against Dennis C. Brooks, CA, a member of the Institute:

1. THAT, the said Dennis C. Brooks, failed to promptly reply in writing to a letter from the Institute, in respect of a matter of practice inspection, signed by the director of practice inspection and dated and sent November 8, 1989, in which a reply was specifically requested, contrary to Rule 104 of the Rules of Professional Conduct, approved June 15, 1981.
2. THAT, the said Dennis C. Brooks, failed to promptly reply in writing to a letter from the Institute, in respect of a matter of professional conduct, signed by the associate director of ethics and dated and sent September 8, 1989, in which a reply was specifically requested, contrary to Rule 104 of the Rules of Professional Conduct, approved June 15, 1981.

DATED at Toronto this 19th day of January, 1990

R.G. LONG, C.A - CHAIRMAN
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Dennis Chalmers Brooks

DECISION AND ORDER IN THE MATTER OF: Two charges laid against DENNIS CHALMERS BROOKS, a suspended member of the Institute, under Rule 104 of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE JUNE 14, 1990

DECISION

THAT, having seen and considered the evidence, and having heard the plea of guilty to charges Nos. 1 & 2, THE DISCIPLINE COMMITTEE FINDS Dennis Chalmers Brooks guilty of charges Nos. 1 & 2.

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Brooks be reprimanded in writing by the chairman of the hearing.
2. THAT Mr. Brooks be and he is hereby fined the sum of \$1,500, to be remitted to the Institute within sixty(60) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Brooks be and he is hereby charged costs of \$750, to be remitted to the Institute within sixty(60) days from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Brooks be suspended from the rights and privileges of membership in the Institute, effective from the date this Decision and Order becomes final under the bylaws, such suspension to continue until
 - (a) he has delivered to the Institutes director of practice inspection a response in writing to the said director's letter to Mr. Brooks of November 8, 1989; and
 - (b) he has delivered to the Institute's director of standards enforcement a response in writing to the former associate director of ethic's letter to Mr. Brooks of September 8, 1989,

PROVIDED THAT if the said written responses are not delivered to the Institute within ten (10) days from the date this Decision and Order becomes final under the bylaws, then Mr. Brooks 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.

5. THAT notice of this Decision and order, disclosing Mr. Brooks' 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 in the event Mr. Brooks fails to comply with the requirements of paragraphs 2 or 3 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.

DATED AT TORONTO, THIS 3RD DAY OF JULY, 1990
BY ORDER OF THE DISCIPLINE COMMITTEE

B.W. STEPHENSON - SECRETARY
THE DISCIPLINE COMMITTEE

DISCIPLINE COMMITTEE re Dennis Chalmers Brooks

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: Two charges laid against **DENNIS CHALMERS BROOKS**, a suspended member of the Institute, under Rule 104 of the Rules of Professional Conduct, as amended.

WRITTEN REASONS FOR THE DECISION AND ORDER MADE JUNE 14, 1990

This hearing was convened before the discipline committee of the Institute of Chartered Accountants of Ontario on June 14, 1990 to hear two charges laid by the professional conduct committee against Dennis Chalmers Brooks under Rule of Professional Conduct 104.

Mr. Paul Farley attended on behalf of the professional conduct committee. Mr. Brooks attended the hearing without counsel and confirmed for the record that he did understand that he had a right to counsel and that he waived such right.

Before the charges were entered as an exhibit, they were amended so that Mr. Brooks was described as a suspended member of the Institute. Mr. Brooks made no objection to the amendment, though he was somewhat confused about the suspension. The Institute's records indicated that he had been suspended effective December 1, 1989, for non-payment of the 1989-90 annual practitioner fee.

Mr. Brooks entered a plea of guilty to both of the charges and confirmed that he understood that on the pleas of guilty and on that basis alone he could be found guilty of the two charges of professional misconduct by the discipline committee.

On behalf of the professional conduct committee and with the consent of Mr. Brooks, Mr. Farley filed a document brief which was marked as an exhibit. The documents consisted in part of letters to Mr. Brooks from the director of practice inspection and the former associate director of ethics. Mr. Brooks confirmed that he agreed with the facts which Mr. Farley related to the committee while going through the exhibits.

In light of the plea of guilty and the document brief, particularly the letters to Mr. Brooks to which he acknowledged he had not responded, the committee found that both charges had been proven.

The evidence disclosed that one of Mr. Brooks' clients wrote to the Institute in July, 1989, complaining that Mr. Brooks had not completed his income tax return nor sent him the material so that he could complete the return himself. The Institute's then associate director of ethics wrote to Mr. Brooks on August 4, 1989. Mr. Brooks confirmed that he had received the letter and had discussed the letter and the need to reply to it with the director of ethics in early September, 1989. However, Mr. Brooks did not give a response to the letter of August 4, 1989, as a result of which the associate director of ethics sent a further letter, dated September 8, 1989, demanding a written response. No response was made by the member.

Mr. Brooks was first contacted by the director of practice inspection in August, 1988. Despite the matter having been referred to the professional conduct committee and indications from Mr. Brooks that he would cooperate with practice inspection, he did not do so. He did not reply to

the letter from the director of practice inspection dated November 8, 1989, either within the time requested or at all.

After the finding of guilty on both charges, Mr. Farley and Mr. Brooks had an opportunity to call evidence or make submissions regarding appropriate sanctions.

Mr. Farley made submissions on behalf of the professional conduct committee, with which Mr. Brooks did not disagree or take issue. Mr. Brooks did ask specifically which files he should list for the director of practice inspection. He was then asked if he wished to say anything further and he said he did not.

After considering the matter the committee made the following order:

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Brooks be reprimanded in writing by the chairman of the hearing.
2. THAT Mr. Brooks be and he is hereby fined the sum of \$1,500, to be remitted to the Institute within sixty (60) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Brooks be and he is hereby charged costs of \$750, to be remitted to the Institute within sixty (60) days from the date this Decision and order becomes final under the bylaws.
4. THAT Mr. Brooks be suspended from the rights and privileges of membership in the Institute, effective from the date this Decision and order becomes final under the bylaws, such suspension to continue until
 - (a) he has delivered to the Institutes's director of practice inspection a response in writing to the said director's letter to Mr. Brooks of November 8, 1989; and
 - (b) he has delivered to the Institute's director of standards enforcement a response in writing to the former associate director of ethic's letter to Mr. Brooks of September 8, 1989,

PROVIDED THAT if the said written responses are not delivered to the Institute within ten (10) days from the date this Decision and Order becomes final under the bylaws, then Mr. Brooks 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.

5. THAT notice of this Decision and Order, disclosing Mr. Brooks' 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 in the event Mr. Brooks fails to comply with the requirements of paragraphs 2 or 3 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.

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 \$1,500 is appropriate in this case in order to emphasize to 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 104.
3. The imposition of costs is appropriate in this case and the committee agrees the amount of \$750 is sufficient, recognizing the committee's finding and the member's plea.
4. Mr. Brooks had almost two years to provide a list of clients and describe his work for practice inspection, and almost one year to deal with the response to the complaint sent to him by the associate director of ethics in August, 1989.

The discipline committee does not think it would be onerous for Mr. Brooks to comply with either of the requests and, accordingly, ordered him to provide the information within a period of ten days, failing which he will be expelled. It appeared to this committee that Mr. Brooks had shown an unwillingness or an inability to meet the responsibilities of a member of the Institute for a significant period of time. Accordingly, it was decided that if he could not respond within ten days to the long-outstanding request, he should be expelled.

5. The committee has ordered publicity and notice of its Order, including disclosure of the member's name, as both a specific deterrent to the member and as a general deterrent to all members. In addition, the committee considers publicity necessary to demonstrate to the public that the profession is regulating itself, so as to retain public confidence in the profession's ability to self-govern.

DATED AT TORONTO, THIS 7th DAY OF AUGUST, 1990
BY ORDER OF THE DISCIPLINE COMMITTEE

P.A. CAMPOL, CA - DEPUTY CHAIRMAN THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

W.A. MOORHEAD, FCA
G.G. PENROSE, CA
P. RAYSON, CA
J.B. SCOTT, CA
R.W. WARKENTIN