

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO  
*THE CHARTERED ACCOUNTANTS ACT, 1956*

**DISCIPLINE COMMITTEE**

**IN THE MATTER OF:** Charges against **DENNIS PAUL SCHOOLEY, CA**, a member of the Institute, under **Rules 201.1 and 205** of the Rules of Professional Conduct, as amended.

**TO:** Mr. Dennis Paul Schooley, CA  
181 Albert Street  
STRATFORD, ON N5A 3K7

**AND TO:** The Professional Conduct Committee, ICAO

**REASONS**  
**(Decision And Order Made November 3, 2004)**

1. This panel of the Discipline Committee of the Institute of Chartered Accountants of Ontario met on November 3, 2004 to hear charges brought by the Professional Conduct Committee against Mr. Dennis Paul Schooley, a member of the Institute.
2. The Professional Conduct Committee was represented by Mr. Paul Farley. Mr. Schooley was present and was represented by Mr. Scott Ritchie of the law firm of Siskind, Cromarty, Ivey & Dowler, LLP.
3. The decision and the order of the discipline committee were made known at the hearing on November 3, 2004. The formal written decision and order made on November 3, 2004 was signed by the secretary on November 12, 2004 and sent to the parties that day. These reasons, given pursuant to bylaw 574, include the charges, the decision, the order and the reasons of this panel of the discipline committee for the decision and order.

**CHARGES**

4. The charges made by the Professional Conduct Committee on April 7, 2004 read as follows:
  1. THAT, the said Dennis P. Schooley, in or about the period March 26, 2001 through April 24, 2003, knowing that he was under investigation by the Professional Conduct Committee, destroyed documents relating to the investigation including banking records, correspondence, financial statements and other books and records and did thereby fail to conduct himself in a manner that will maintain the good reputation of the profession and its ability serve the public interest contrary to Rule 201.1 of the Rules of Professional Conduct.

2. THAT, the said Dennis P. Schooley, on or about March 26, 2001, pled guilty to and was found guilty of offences under the *Gaming Control Act* including a charge *That between March 15, 1994 and December 15, 1997 in the City of Stratford he did commit the offence of being a Director and an Officer of Stratford Baseball Association, a Corporation incorporated under the laws of the Province of Ontario, did between March 15, 1994 and December 15, 1997 knowingly furnish false returns respecting the fundraising accounts and the operation of the licenced games of chance for the Stratford Baseball Association and the National Stadium Foundation, and did thereby fail to maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1 of the Rules of Professional Conduct.*
3. THAT, the said Dennis P. Schooley, in or about the period March 15, 1994 through December 15, 1997 signed or associated himself with false returns respecting the fundraising accounts and the operation of licensed games of chance for the Stratford Baseball Association and the National Stadium Foundation which he knew or should have known were false and misleading contrary to Rule 205 of the Rules of Professional Conduct.

## **PROCEEDINGS**

5. Mr. Schooley entered a plea of guilty to the three charges. He confirmed that he understood that on the basis of his plea, and on that basis alone, he could be found guilty of the charges.
6. Mr. Farley gave a brief overview of the case and filed an Agreed Statements of Facts (Exhibit No. 5) and a Document Brief (Exhibit No. 6). This was the case for the Professional Conduct Committee. The member called no evidence.

## **FACTS AND DECISION**

7. When the panel of the discipline committee had reviewed the Agreed Statements of Facts and Document Brief and heard brief submissions from counsel, we deliberated. In our deliberations, we concluded that the facts acknowledged substantiated the allegations of professional misconduct and that the member was guilty of the three charges.
8. The charges themselves succinctly summarize the misconduct. The most relevant facts with respect to the issue of guilt are set out in paragraphs 9 to 11 below. The facts which are most relevant with respect to sanction are set out in that part of these reasons dealing with sanction.
9. Mr. Schooley, who had not practised as a public accountant since 1989 or 1990, was a professional sports agent in the period 1989 to 1996. He was also active volunteer with the Stratford Baseball Association and was the field manager of the Stratford Hillers from 1979 to 1997. He was involved with fundraising for the National Stadium Foundation in Stratford which raised money for the baseball stadium and to operate the baseball team. In this capacity, as a volunteer, he associated himself with 66 returns, required to be filed under the *Gaming Control Act*, which he knew or should have known were false and misleading.
10. Mr. Schooley was initially charged with 39 offences under the *Criminal Code* alleging fraud, theft and breach of trust. The charges were withdrawn on the express understanding that the charges of fraud or the taking of funds were not reasonably capable of proof and that

no payments were made for any purpose other than the payment of Stratford Baseball Association or National Stadium Foundation debts.

11. Mr. Schooley was charged with knowingly furnishing false returns respecting fundraising accounts and the operation of licensed games of chance under the *Gaming Control Act*. He pled guilty to the charges and was fined \$5,000.00 and he agreed to make a contribution of \$70,000.00 to the City of Stratford to be used to support the continuing development of the National Stadium.

12. When the fraud charges had been withdrawn and the offences under the *Gaming Control Act* disposed of by the court, Mr. Schooley destroyed records which the Professional Conduct Committee wanted its investigator to examine. At the time, Mr. Schooley knew that the Professional Conduct Committee investigation was going to proceed after the *Gaming Control Act* offences were dealt with.

13. Chartered accountants add credibility to financial information. The fact that Mr. Schooley was not involved in a professional engagement does not excuse his participation in knowingly providing false and misleading reports and in doing so, he tarnished the reputation of the profession and its ability to serve the public interest.

14. When the hearing resumed, the Chair read the decision on the record. This decision is set out in the formal written decision and order and reads as follows:

THAT, having seen and considered the evidence, and having heard the plea of guilty to charges Nos. 1, 2 and 3, the Discipline Committee finds Dennis Paul Schooley guilty of charges Nos. 1, 2 and 3.

## **SANCTION**

15. The submissions with respect to sanction were joint submissions. The sanction the committee ordered is the sanction the parties requested. The panels of the discipline committee do not lightly interfere with a joint recommendation for sanction particularly when the evidence is provided by way of an Agreed Statement of Facts and the panel deciding the case does not see witnesses, or have an opportunity to explore the evidence with respect to the misconduct.

16. Nevertheless, this panel, as all panels imposing a sanction, must carefully consider the misconduct and impose a sanction commensurate with the sanction imposed in other cases involving similar misconduct.

17. Mr. Schooley's misconduct is serious misconduct. At first blush it appears it could be characterized as involving moral turpitude and demonstrates that he is unwilling to be governed by the Institute. Such misconduct could require a more serious sanction than suggested in the joint submission of the parties.

18. With respect to the first charge, it is relevant that the police had copies of many of the documents and his misconduct was already a matter of public record before the court where Mr. Schooley pled guilty. He should have kept the records for the Professional Conduct Committee's investigator rather than destroy them in the hope or expectation that these matters were behind him. We accepted that Mr. Schooley was genuinely remorseful, that other than destroying the records he was co-operative with the Professional Conduct

Committee and respectful of the discipline process. We were satisfied that he is willing and able to adhere to the standards required of a chartered accountant.

19. The misconduct did not relate to a professional engagement. While he was a chartered accountant in good standing at the time of his misconduct, it is relevant that Mr. Schooley was not engaged in the practice of public accounting at the time and had not been for a number of years. He did not betray the trust of a client.

20. The misconduct did not involve moral turpitude. Mr. Schooley did make a number of false reports with respect to the fundraising activity in which he was involved but all of the funds were spent for legitimate purposes.

21. As part of the agreed sanction with respect to the charge under the *Gaming Control Act*, Mr. Schooley paid a \$5,000.00 fine and made a contribution of \$70,000.00 to the City of Stratford to be used to support the continuing development of the National Stadium. In all, Mr. Schooley contributed more than 1000 hours of his own time and contributed over \$163,000.00 of his money to the Stratford Baseball Association and National Stadium Foundation. Mr. Schooley has paid a heavy price, both in dollars and in public esteem for his misconduct.

22. Further, Mr. Schooley's reputation will likely be further damaged in Stratford when notice of this decision and order is given.

23. Bearing these factors in mind, we were persuaded that the joint recommendation with respect to sanction was appropriate. We concluded the fine, suspension and publication of notice would satisfy the principle of general deterrence. We were satisfied the requirement to take the professional development course, the discipline process itself and the price Mr. Schooley has paid and will pay, particularly with respect to lost esteem, would satisfy the principles of specific deterrence and rehabilitation.

## **ORDER**

24. The terms of the order were summarized on the record at the hearing and set out in the formal decision and order sent to the parties. The provisions of the order read as follows:

IT IS ORDERED in respect of the charges:

1. THAT Mr. Schooley be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Schooley be suspended from the rights and privileges of membership in the Institute for a period of three (3) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Schooley be and he is hereby required to complete, by paying for and attending in its entirety, by December 31, 2005, the professional development course *Staying Out of Trouble* made available through the Institute, or, in the event the course becomes unavailable, the successor course which takes its place.
4. THAT notice of this Decision and Order, disclosing Mr. Schooley's name, be given after this Decision and Order becomes final under the bylaws, in the form and manner determined by the Discipline Committee:

- (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*.
5. THAT Mr. Schooley surrender his certificate of membership in the Institute to the discipline committee secretary within ten (10) days from the date this Decision and Order becomes final under the bylaws, to be held during the period of suspension and thereafter returned to Mr. Schooley.
6. THAT in the event Mr. Schooley fails to comply with any of the requirements of this Order, he shall thereupon be suspended from the rights and privileges of membership in the Institute until such time as he does comply, provided that he complies within twelve (12) months from the date of his suspension, and in the event he does not comply within this twelve (12) month period, 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 above, and in a newspaper distributed in the geographic area of Mr. Schooley's current or former practice, employment and/or residence.

DATED AT TORONTO THIS 29<sup>th</sup> DAY OF SEPTEMBER, 2005  
BY ORDER OF THE DISCIPLINE COMMITTEE

B. A. TANNENBAUM, FCA – DEPUTY CHAIR  
DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

L.G. BOURGON, CA  
R.I. COWAN, CA  
M.B. MARTENFELD, FCA  
A.D. NICHOLS, FCA  
D.J. ANDERSON (Public Representative)