

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

**DISCIPLINE COMMITTEE**

**IN THE MATTER OF:** Charges against **EDWIN VICTOR PYNE, CA**, a member of the Institute, under **Rules 203.2 and 206** of the Rules of Professional Conduct, as amended.

**TO:** Mr. Edwin V. Pyne, CA  
170 Moore Avenue  
KITCHNER, ON N2H 3S8

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

**REASONS**  
**(Decision and Order made September 11, 2007)**

1. This panel of the Discipline Committee convened on September 11, 2007, to hear charges brought by the Professional Conduct Committee against Edwin Victor Pyne, a member of the Institute.
2. Mr. Paul Farley appeared as counsel for the Professional Conduct Committee. He had with him the investigator appointed by the Professional Conduct Committee, Mr. Raymond Harris, FCA. Also attending with Mr. Farley was Ms. Alexandra Hersak, associate counsel for the Professional Conduct Committee.
3. Mr. Pyne was present and represented by his counsel, Mr. Timothy McGurrin.
4. The decision of the panel was made known at the conclusion of the hearing on September 11, 2007. The written Decision and Order of the Discipline Committee, dated September 27, 2007, was sent to the parties that day. These Reasons, given pursuant to Bylaw 574, include the Charges, the Decision and Order, as well as the reasons of the panel for the Decision and Order.

**Decision on the Charges**

5. On February 27, 2007, the Professional Conduct Committee made five Charges against Edwin Victor Pyne. At the hearing on September 11, 2007, the Professional Conduct Committee withdrew particular (i) of Charge 2. The charges, as amended, read as follows:

1. THAT, the said Edwin V. Pyne, CA, in or about the period January 19, 2007 through February 6, 2007, failed to co-operate with an

investigator engaged by the Professional Conduct Committee, contrary to Rule 203.2 of the Rules of Professional Conduct.

2. THAT, the said Edwin V. Pyne, CA, in or about the period September 1, 2002 through October 31, 2002, while engaged to audit the financial statements of T.R. Manor Inc. for the year ended August 31, 2002, 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, contrary to Rule 206 of the Rules of Professional Conduct, in that he associated himself with an Auditor's Report attached to the financial statements when:
  - (ii) Accrued interest, prepaid expenses and accounts payable and accrued expenses are incorrectly described as cash equivalents in Note 8;
  - (iii) The balance sheet grouping "Restricted Cash and Deposits \$348,624" does not agree with the amounts set out in "Note 9 Restricted Cash and Deposits";
  - (iv) The balance sheet item showing the 2001 comparative figure "Fixed [Assets] \$1,453,625 " does not agree with the amount of \$1,542,260 shown in "Note 6 Fixed Assets";
  - (v) The current portion of the balance sheet item "Long-Term Debt (note 4) \$1,373,435" does not agree with the amount of \$1,305,722 disclosed in "Note 4 Mortgage Payable";
  - (vi) The financial statements failed to provide a description of each of the reserve funds as required by the CICA Handbook;
  - (vii) The financial statements failed to disclose the source and purpose of the transfer of \$15,278 to the Replacement Reserve Fund as required by the CICA Handbook;
  - (viii) Note 1 to the financial statements "Organization" failed to disclose the company's status under income tax legislation as required by the CICA Handbook;
  - (ix) The financial statements failed to include a Statement of Cash Flows and such a statement would provide additional useful information;
  - (x) Note 2 "Significant Accounting Policies" is incorrect with respect to the description of the basis of depreciation

and, in addition, the rate of funding for the replacement reserve of \$32,233 does not tie in to the financial statements;

- (xi) He failed to retain sufficient appropriate audit evidence to document the work done on the engagement.
3. THAT, the said Edwin V. Pyne, CA, in or about the period September 1, 2003 through October 31, 2003, while engaged to audit the financial statements of T.R. Manor Inc. for the year ended August 31, 2003, 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, contrary to Rule 206 of the Rules of Professional Conduct, in that he associated himself with an Auditor's Report attached to the financial statements when:
- (i) The Auditor's Report does not conform to the requirements of the CICA Handbook;
  - (ii) Accrued interest, prepaid expenses and accounts payable and accrued expenses are incorrectly described as cash equivalents in Note 8;
  - (iii) The balance sheet grouping "Restricted Cash and Deposits \$370,998" does not agree with the amounts set out in "Note 9 Restricted Cash and Deposits";
  - (iv) The balance sheet items "Fixed [Assets] \$1,269,705" for 2003 and "\$1,375,298" for 2002 do not agree with the amounts disclosed in "Note 6 Fixed Assets";
  - (v) The current portion of the balance sheet item "Long-Term Debt (note 4) \$105,593" does not agree with the amount of "\$109,956" disclosed in "Note 4 Mortgage Payable";
  - (vi) The financial statements failed to provide a description of each of the reserve funds as required by the CICA Handbook;
  - (vii) The financial statements failed to disclose the source and purpose of the transfer of \$27,343 to the Replacement Reserve Fund as required by the CICA Handbook;
  - (viii) Note 1 to the financial statements "Organization" failed to disclose the company's status under income tax legislation as required by the CICA Handbook;

- (ix) The financial statements failed to include a Statement of Cash Flows and such a statement would provide additional useful information;
  - (x) Note 2 "Significant Accounting Policies" is incorrect with respect to the description of the basis of depreciation and, in addition, the rate of funding for the replacement reserve of \$32,233 does not tie in to the financial statements;
  - (xi) He failed to retain sufficient appropriate audit evidence to document the work done on the engagement.
4. THAT, the said Edwin V. Pyne, CA, in or about the period September 1, 2004 through December 31, 2004, while engaged to audit the financial statements of T.R. Manor Inc. for the year ended August 31, 2004, 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, contrary to Rule 206 of the Rules of Professional Conduct, in that he associated himself with an Auditor's Report attached to the financial statements when:
- (i) The Auditor's Report does not conform to the requirements of the CICA Handbook;
  - (ii) The balance sheet grouping "Restricted Cash and Deposits (Note 5)" does not agree with the amounts set out in "Note 5 Restricted Cash and Deposits";
  - (iii) The financial statements failed to provide a description of the Social Activities Fund as required by the CICA Handbook;
  - (iv) There is no statement of the Social Activities Fund;
  - (v) The amounts disclosed in Note 7 do not agree with the amounts disclosed on the balance sheet;
  - (vi) The 2003 comparative figures disclosed in the financial statements in many cases do not agree with the figures disclosed in the 2003 financial statements;
  - (vii) The numbers in the Statement of Cash Flows do not agree with the information in the other financial statements reported on;
  - (viii) Note 11 to the financial statements "Adjustments for Prior Years Accounting" does not properly disclose the many

adjustments made to the 2003 financial statements reported on by the member;

- (ix) He failed to retain sufficient appropriate audit evidence to document the work done on the engagement.
5. THAT, the said Edwin V. Pyne, CA, in or about the period January 1, 2006 through July 31, 2006, while engaged to review the financial statements of S.C. Project Management Inc. for the year ended December 31, 2005, 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, contrary to Rule 206 of the Rules of Professional Conduct, in that he associated himself with a Review Engagement Report attached to the company's T2 Corporation Income Tax Return when:
- (i) There was no balance sheet or notes to financial statements as required for fair presentation in accordance with GAAP;
  - (ii) There was no cash flow statement as required by the CICA Handbook;
  - (iii) He failed to plan the engagement;
  - (iv) He failed to carry out any enquiry or discussion;
  - (v) He failed to carry out sufficient appropriate analytical procedures to support his report;
  - (vi) He failed to properly document items important to support his report.

### **Plea**

6. Mr. Pyne entered a plea of guilty to each of the five charges and confirmed that he understood that he could be found guilty on the basis of his plea and on that basis alone.

### **The case for the Professional Conduct Committee**

7. Mr. Farley made an opening statement and filed an Agreed Statement of Facts (Exhibit 2) and a Document Brief (Exhibit 3). The Agreed Statement of Facts had been signed by Mr. Pyne on his own behalf and by Mr. Farley on behalf of the Professional Conduct Committee. The documents referred to in the Agreed Statement of Facts were included in the Document Brief.

8. The hearing adjourned while the panel read the Agreed Statement of Facts and reviewed the Document Brief. When the parties re-entered the Council Chamber, Mr. Farley confirmed that the case for the Professional Conduct Committee consisted of the

evidence set out in the Agreed Statement of Facts and the Document Brief and that no other evidence would be called. Mr. McGurrin advised the panel that the member would not call evidence with respect to the charges.

9. Mr. Farley submitted that the Agreed Statement of Facts and Document Brief provided clear, cogent and compelling evidence that Mr. Pyne was guilty of the charges. Mr. McGurrin did not make submissions.

### **The relevant facts**

10. The relevant facts, as the panel finds them to be, were not in dispute. The Professional Conduct Committee received a complaint from a successor chartered accountant with respect to financial statements to which Mr. Pyne had attached an unqualified audit opinion. As a result of receiving the complaint, the Professional Conduct Committee appointed Raymond Harris, FCA, to investigate. Mr. Harris did have an initial meeting with Mr. Pyne at which he obtained copies of the relevant files, but he was not able to arrange a second meeting with Mr. Pyne to discuss the files. Mr. Harris attempted to contact Mr. Pyne to arrange another meeting, on a number of occasions, but Mr. Pyne did not return any of Mr. Harris' numerous phone calls.

11. Mr. Pyne was advised the he was required to attend the Professional Conduct Committee meeting on February 6, 2007. He did not do so.

12. Mr. Pyne, as he acknowledged, did not provide his professional services with respect to the audits (charge Nos. 2, 3 and 4), or the review engagement (charge No. 5), in accordance with the generally accepted standards of the profession. The nature and extent of the departures from the required standards of the profession are succinctly set out in the particulars of these four charges. Many of the errors Mr. Pyne made are readily apparent on the face of the financial statements themselves and no reasonably competent chartered accountant would attach an audit or review opinion to such financial statements. Mr. Pyne admitted to the errors identified in the financial statements referred to in the charges.

### **DECISION**

13. The panel concluded on the basis of the uncontested relevant facts, which are summarized above, that the charges had been proven. The panel also concluded that the failure to cooperate with the Professional Conduct Committee as required by Rule 203.2, and the failure to adhere to the required standards of the profession as required by Rule 206, constituted professional misconduct. Accordingly, Mr. Pyne was found guilty of each of the five charges. When the hearing resumed, the Chair set out on the record the following decision.

THAT, having seen and considered the evidence, including the Agreed Statement of Facts, filed, and Charge No. 2(i) having been withdrawn at the hearing, and having heard the plea of guilty to Charge Nos. 1, 2, 3, 4 and 5, as amended, the Discipline Committee finds Mr. Edwin Victor Pyne guilty of charge Nos. 1, 2, 3, 4 and 5, as amended.

**SANCTION**

14. Mr. Farley advised the panel that the Professional Conduct Committee would not call evidence with respect to sanction.

15. Mr. McGurrin said that the member did wish to call evidence with respect to sanction, and with the agreement of the Professional Conduct Committee, he filed an Affidavit which Mr. Pyne swore on September 7, 2007. In the Affidavit (Exhibit 5) Mr. Pyne deposed that:

- a. he has suffered from periods of mental illness and depression for decades;
- b. he is a manic depressive and bipolar;
- c. he has been hospitalized several times and that his most recent hospitalization was in March 2007;
- d. during particularly severe periods of mental illness he becomes reclusive, his personality changes, he is unable to complete normal tasks, he makes errors and is sometimes blind to such errors, he does not return telephone messages or answer correspondence and that his judgment may be impaired and he may not be governed by the same concerns or rationality as a healthy individual; and
- e. the errors, which he acknowledged in the Agreed Statement of Facts, were made because he suffered from mental illness and was not able to function properly or carry out his responsibilities and not due to carelessness, personal gain or intent.

16. Attached to Mr. Pyne's Affidavit was a letter from Dr. S.J. Taylor which said: "Mr. Pyne suffers from bipolar disorder and as such, is incapable of effectively functioning as a chartered accountant."

17. Mr. Pyne also deposed in his Affidavit that:

- a. he had not practiced as a chartered accountant, or represented himself to be a chartered accountant, since May 2007; and
- b. he was unable to work or earn income, that he had limited financial resources and that a monetary award against him would be a significant hardship.

18. In his Affidavit, Mr. Pyne stated that he wished to resign from the Institute of Chartered Accountants and said that if he was permitted to do so he would undertake not to practice or represent himself as a chartered accountant in the future.

## Submissions

19. Mr. McGurrin submitted that it would be appropriate to allow Mr. Pyne to resign as his misconduct did not involve moral turpitude and was caused by the mental illness. He emphasised that not only was there no intent on Mr. Pyne's part to breach the Rules of Professional Conduct but that there was no evidence of concurrent knowledge on Mr. Pyne's part that he had breached the rules. Mr. McGurrin submitted that in such circumstances, the principles of sanction were not applicable. Rehabilitation and specific deterrence were not relevant as Mr. Pyne would not be practicing as a chartered accountant. General deterrence was not relevant as mental illness, the underlying cause of the misconduct, could not be deterred by an order of the Discipline Committee.

20. Mr. Farley advised the panel that the Professional Conduct Committee was not opposed to Mr. Pyne's application to resign because it was satisfied that the misconduct resulted from Mr. Pyne's mental illness and that Mr. Pyne had not held himself as a chartered accountant since May 2007, and would not do so in the future.

21. Mr. Farley did submit that permission to resign should be on certain conditions namely: the revocation of Mr. Pyne's public accounting licence; the return of Mr. Pyne's Certificate of Membership in the Institute; an undertaking by Mr. Pyne not to hold himself out as a chartered accountant or a public accountant; and notice given to the public that Mr. Pyne had been allowed to resign.

22. Mr. Farley said that the costs of the investigation and prosecution exceeded \$14,000; but in view of Mr. Pyne's financial circumstances and mental health the Professional Conduct Committee asked for a partial indemnity of \$5,000 to be paid within 12 months.

23. Mr. Farley submitted that if Mr. Pyne was not allowed to resign the appropriate order would include: a reprimand; a fine of \$5,000; a restriction on Mr. Pyne's right to practice; prescribed professional development courses; and reinvestigation. He also asked, whether or not Mr. Pyne was permitted to resign, that the order provide for publication of the Decision and Order to the CICA, the Public Accountants Council and to the profession in *CheckMark*, as well as for costs as outlined above.

24. Mr. Farley referred to two prior decisions of the Discipline Committee, one involving Robert Inglis in 1993, and one involving Wilfred Rellinger in 1983. Mr. Rellinger had been given 30 days to submit his resignation, return his Certificate of Membership and undertake not to apply or reapply for membership in the Institute. In fact, Mr. Rellinger did not tender his resignation and he was expelled for failure to comply with another provision of the Order which required him to write and pass an examination if he did not resign. Mr. Farley referred to the case as confirming the power set out in the bylaws to allow a member found guilty to resign, and as the one example he knew of when the Discipline Committee was prepared to allow a member found guilty to resign.

25. In *Inglis*, the Discipline Committee concluded that allowing the 70 year old member, with a previously unblemished record who had retired, to resign would not pose a risk to the public. However, the Discipline Committee concluded that as a matter of general deterrence, Mr. Inglis should be expelled as he had associated himself with



financial statements which he knew were false and misleading and had knowingly failed to observe the standards of the profession. Mr. Inglis appealed to the Appeal Committee asking that the expulsion be set aside and that he be allowed to resign. The Appeal Committee denied the appeal, concluding that it was not convinced the Discipline Committee had erred in principle or had made any reviewable error. Further, the Appeal Committee held: "Neither was the appeal committee convinced that the member's resignation rather than expulsion was a sufficient or appropriate specific and general deterrent in the circumstances of this case, notwithstanding the age or untarnished record of the member."

## **ORDER**

26. After considering the submissions and precedents, and deliberating, the panel made the following Order:

**IT IS ORDERED** in respect of the charges:

1. THAT Mr. Pyne be permitted to resign from membership in the Institute within ten (10) days of the issuing of this Decision and Order.
2. THAT the public accounting licence of Mr. Pyne be and is hereby revoked.
3. THAT Mr. Pyne surrender his certificate of membership in the Institute and public accounting licence to the discipline committee secretary within ten (10) days from the issuing of this Decision and Order, and no later than he submits his resignation.
4. THAT notice of this Decision and Order, disclosing Mr. Pyne'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 all members of the Institute;
  - (b) to the Public Accountants Council for the Province of Ontario; and
  - (c) to all provincial institutes/Ordre,
 and shall be made available to the public.
5. THAT notice of the resignation and of the revocation of the public accounting licence, disclosing Mr. Pyne's name, be given by publication on the Institute's website and in *The Kitchener-Waterloo Record*.
6. THAT in the event Mr. Pyne fails to resign within ten (10) days, or fails to comply with any of the requirements of this Order, 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. Pyne's practice, employment and/or residence. All costs

associated with the publication shall be borne by Mr. Pyne.

### **Resignation**

27. The panel was satisfied that in this unusual case it was in order to allow Mr. Pyne to resign from membership in the Institute.

28. Other than his refusal to cooperate with the Professional Conduct Committee, the misconduct in this case involved a failure to comply with the standards of the profession. While this failure was wide ranging and pervasive with respect to the financial statements of two clients, there is no evidence that the misconduct caused harm to the clients. Further it is clear the misconduct did not involve moral turpitude, or association with false and misleading financial information, or an intentional breach of any of the Rules of Professional Conduct including failing to adhere to the standards of the profession. The panel concluded the misconduct occurred because the member was mentally ill. The member recognizes he is not competent to practise as a chartered accountant so the principles of specific deterrence and rehabilitation do not require a sanction to be imposed. Further, there is no sanction which could deter other members from misconduct which results from mental illness.

29. The panel did think that it was appropriate that Mr. Pyne return his Certificate of Membership, undertake not to reapply for admission in the Institute, undertake not to hold himself out as a chartered accountant, acknowledge that with his resignation he no longer has a licence to practise public accounting and that he waive any right of appeal. The panel concluded that if Mr. Pyne fulfilled these requirements, and appropriate notice is given to the public of his resignation and the Decision and Order, that the public would not be at risk, and Mr. Pyne should be allowed to resign.

### **Public accounting licence and Certificate of Membership**

30. As Mr. Pyne will resign or be expelled, his public accounting licence must be revoked as provided in the bylaws, and he should return the Certificate of Membership to the Institute.

### **Publication**

31. It was not suggested that this was one of those rare and unusual cases when it would not be appropriate to publish Notice of the Decision and Order including the member's name. Further, as Mr. Pyne will no longer be a chartered accountant it is important to notify the public in the area where Mr. Pyne resides and once practiced of this Decision and Order and his resignation. Accordingly, it was ordered that a notice be placed in the *Kitchener – Waterloo Record*.

### **Expulsion for failure to comply**

32. In the event Mr. Pyne fails to satisfy the conditions set by the panel for his resignation, he should be expelled and notice should be given to the public in the geographic area of his practice and residence.

**Costs**

33. The panel heard uncontested evidence that Mr. Pyne did not have any significant financial resources and, as a result of his illness, was unable to work or earn income. Thus, the requirement to pay costs would result in significant hardship and stress.

34. The panel thus concluded that Mr. Pyne should not be required to contribute to the cost of his investigation or the hearing.

DATED AT TORONTO THIS 7<sup>th</sup> DAY OF NOVEMBER, 2007  
BY ORDER OF THE DISCIPLINE COMMITTEE

M.B. MARTENFELD, FCA – CHAIR  
DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

R.J. ADAMKOWSKI, CA

M.S. LEIDERMAN, CA

B.M. SOLWAY (PUBLIC REPRESENTATIVE)