

Elliot Milton Fromstein: Summary, as Published in *CheckMark*

Elliot Milton Fromstein, of Downsview, was found guilty by the discipline committee of a charge of professional misconduct, laid by the professional conduct committee, under Rule of Professional Conduct 104, of failing to reply to a letter from the Institute in which a specific reply was requested.

The committee ordered that he

- be reprimanded in writing by the chairman of the hearing; and
- be assessed costs of \$750, to be paid within a specified time.

Failure to comply with the second term of the order as set out above would have resulted in Mr. Fromstein's suspension from membership. Continuation of the suspension for more than six months without complying with the said term would have resulted in his expulsion from membership.

Mr. Fromstein has complied with the order and has remained a MEMBER IN GOOD STANDING.

CHARGE(S) LAID re Elliot Milton Fromstein

The professional conduct committee hereby makes the following charge against Elliot M. Fromstein, CA, a member of the Institute:

1. THAT, the said Elliot M. Fromstein, 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 May 9, 1990, 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 14th day of August 1990.

R.G. LONG, CA - CHAIRMAN
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Elliot Milton Fromstein

DECISION AND ORDER IN THE MATTER OF: A charge against ELLIOT MILTON FROMSTEIN, a member of the Institute, under Rule 104 of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE OCTOBER 5, 1990

DECISION

THAT, having seen and considered the evidence, including the agreed statement of facts, filed, and having heard the plea of guilty to the charge, THE DISCIPLINE COMMITTEE FINDS

Elliot Milton Fromstein guilty of the charge.

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Fromstein be reprimanded in writing by the chairman of the hearing.
2. THAT Mr. Fromstein be and he is hereby charged costs of \$750, to be remitted to the Institute within thirty (30) days from the date this Decision and Order becomes final under the bylaws.
3. THAT notice of this Decision and order, disclosing Mr. Fromstein'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.
4. THAT in the event Mr. Fromstein fails to comply with the requirement of paragraph 2 of this Order within the time period therein 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 3 hereof.
5. THAT in the event Mr. Fromstein is suspended pursuant to paragraph 4 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 six (6) months from the date of his suspension.
6. THAT in the event Mr. Fromstein fails to terminate suspension within six (6) 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 3 hereof.

DATED AT TORONTO, THIS 9TH DAY OF OCTOBER, 1990
BY ORDER OF THE DISCIPLINE COMMITTEE

B.W. STEPHENSON - SECRETARY
THE DISCIPLINE COMMITTEE

DISCIPLINE COMMITTEE re Elliot Milton Fromstein

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: A charge against ELLIOT MILTON FROMSTEIN, a member of the Institute, under Rule 104 of the Rules of Professional Conduct, as amended.

WRITTEN REASONS FOR THE DECISION AND ORDER MADE OCTOBER 5, 1990

These proceedings before the discipline committee of the Institute of Chartered Accountants of Ontario were convened on October 5, 1990.

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

Mr. Fromstein pleaded guilty to the charge laid by the professional conduct committee under Rule of Professional Conduct 104. He confirmed that he understood that upon the plea of guilty, and upon that basis alone, he could be found guilty by the discipline committee.

An agreed statement of facts, signed by the member and counsel for the professional conduct committee, was filed as an exhibit. Based upon his plea of guilty and the agreed statement of facts, the discipline committee found Mr. Fromstein guilty of the charge. After hearing submissions as to sanction, the committee made the following order:

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Fromstein be reprimanded in writing by the chairman of the hearing.
2. THAT Mr. Fromstein be and he is hereby charged costs of \$750, to be remitted to the Institute within thirty (30) days from the date this Decision and Order becomes final under the bylaws.
3. THAT notice of this Decision and order, disclosing Mr. Fromstein'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.
4. THAT in the event Mr. Fromstein fails to comply with the requirement of paragraph 2 of this Order within the time period therein 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 3 hereof.

5. THAT in the event Mr. Fromstein is suspended pursuant to paragraph 4 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 six (6) months from the date of his suspension.
6. THAT in the event Mr. Fromstein fails to terminate suspension within six (6) 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 3 hereof.

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

The imposition of costs is appropriate in this case and the committee concluded that the amount of \$750 was the appropriate amount in light of the member's plea and the length of the hearing. This is the amount generally levied in respect of half-day hearings.

The committee decided not to impose a fine in this case, given the following factors:

- the member's plea of guilty;
- the fact that he had made the necessary response to the Institute prior to the hearing, albeit only on the morning of the hearing; and
- the member's recognition that he had been careless in failing to fulfil his responsibility to respond in a timely fashion.

The committee felt that the need for a fine, as a deterrent, had to be balanced against the extent and nature of the member's practice. Mr. Fromstein's practice consisted of only 61 chargeable hours in 1989, was in the process of winding down, consisted largely of bookkeeping assignments and did not involve audit or review engagements. It was felt that the imposition of a fine in these circumstances would be an unnecessarily harsh penalty.

The giving of notice of the committee's order in the manner specified, including disclosure of the member's name, is a well established practice of the discipline committee, which it follows unless a persuasive reason not to is presented. As no such reason was submitted in this case, the committee made its usual order as to notice.

The committee is of the view that if members know that their names will be published in the event they are found guilty of breaching the rules of professional conduct, such knowledge will act as a general deterrent to all members.

DATED AT TORONTO, THIS 26th DAY OF NOVEMBER, 1990
BY ORDER OF THE DISCIPLINE COMMITTEE

R.C.H. ANDREWS, CA - DEPUTY CHAIRMAN
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

C.J. BURKE, FCA
H.R. KLEIN, CA
R.J. NOBES, FCA
L.W. RICH, CA
V.G. STAFL (Public Representative)