

Eric Fook-Hong Ng: Summary, as Published in *CheckMark*

Eric Fook-Hong Ng, of Scarborough, was found guilty of a charge under Rule 201.1 of failing to maintain the good reputation of the profession and its ability to serve the public interest. The charge arose out of Mr. Ng's criminal conviction for defrauding his employer of approximately \$4,700,000. The evidence before the discipline committee was the Mr. Ng was addicted to gambling in the stock market and that he stole the money from his employer to cover trading losses. Mr. Ng was fined \$10,000 and expelled from the Institute.

CHARGE(S) LAID re Eric Fook-Hong Ng

The Professional Conduct Committee hereby makes the following charges against Eric F. Ng, a suspended member of the Institute:

1. THAT, the said Eric F. Ng, on or about the 17th day of May, 1995, failed to conduct himself in a manner that will maintain the good reputation of the profession and its ability to serve the public interest in that he was convicted of a charge that he did, during the period 1992 to 1994, at the Municipality of Metropolitan Toronto, in the Toronto Region and elsewhere in the Province of Ontario, by deceit, falsehood or other fraudulent means defraud Stackpole Limited of \$4,696,654.00 in monies more or less, contrary to the *Criminal Code of Canada*, all of which is contrary to Rule 201.1 of the rules of professional conduct.

Dated at Toronto this day of February 1996.

NICHOLAS M. HODSON, CA - ACTING CHAIR
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Eric Fook-Hong Ng

DECISION AND ORDER IN THE MATTER OF: A charge against **ERIC FOOK-HONG NG**, a suspended member of the Institute, under **Rule 201.1** of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE AUGUST 27, 1996

DECISION

THAT, having seen and considered the evidence, and having heard the plea of guilty to the charge, the Discipline Committee finds Eric Fook-Hong Ng guilty of the charge.

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Ng be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Ng be and he is hereby fined the sum of \$10,000, to be remitted to the Institute within two (2) years from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Ng be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Ng=s name, be given after this Decision and Order becomes final under the bylaws:
 - (a) to the Public Accountants Council for the Province of Ontario;
 - (b) to the Canadian Institute of Chartered Accountants;
 - (c) by publication in *CheckMark*; and
 - (d) by publication in *The Globe and Mail*.
5. THAT Mr. Ng 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.

DATED AT TORONTO THIS 4TH DAY OF SEPTEMBER, 1996
BY ORDER OF THE DISCIPLINE COMMITTEE

BRYAN W. STEPHENSON, BA, LLB
SECRETARY - DISCIPLINE COMMITTEE

DISCIPLINE COMMITTEE re Eric Fook-Hong Ng

REASONS FOR DECISION AND ORDER IN THE MATTER OF: A charge against **ERIC FOOK-HONG NG**, a suspended member of the Institute, under **Rule 201.1** of the Rules of Professional Conduct, as amended.

WRITTEN REASONS FOR THE DECISION AND ORDER MADE AUGUST 27, 1996

This panel of the discipline committee of the Institute of Chartered Accountants of Ontario convened on August 27, 1996 to hear a charge of professional misconduct made against Eric F. Ng.

The professional conduct committee was represented by Ms. Christine O'Donohue. Mr. Ng was present and represented by his counsel, Mr. Peter Lindsay.

The professional conduct committee had laid the following charge against Mr. Ng, to which he pleaded guilty:

THAT, the said Eric F. Ng, on or about the 17th day of May, 1995, failed to conduct himself in a manner that will maintain the good reputation of the profession and its ability to serve the public interest in that he was convicted of a charge that he did, during the period 1992 to 1994, at the Municipality of Metropolitan Toronto, in the Toronto Region and elsewhere in the Province of Ontario, by deceit, falsehood or other fraudulent means defraud Stackpole Limited of \$4,696,654.00 in monies more or less, contrary to the *Criminal Code of Canada*, all of which is contrary to Rule 201.1 of the rules of professional conduct.

The member confirmed that he understood that upon a plea of guilty, and upon that basis alone, he could be found guilty of the charge by the discipline committee.

In presenting its case, the prosecution filed as an exhibit a document brief which contained a certified copy of 17 criminal charges laid against Mr. Ng, his plea of guilty to charge 17 and the withdrawal of charges 1 to 16, and the transcripts of Mr. Ng's guilty plea and the judge's reasons for sentencing. Mr. Ng was sentenced to three years imprisonment, with the court recommending minimum security and the earliest possible consideration for parole.

Charge 17, to which Mr. Ng pleaded guilty in court, was that during the period 1992 to 1994 he defrauded his employer of \$4,696,654.00

Based on the evidence filed, and the plea of guilty, the discipline committee found Mr. Ng guilty of the charge made against him by the professional conduct committee.

The discipline committee then asked both parties to present their cases with respect to the appropriate sanction.

Mr. Ng testified on his own behalf and filed several exhibits, including numerous letters attesting to his character and present treatment for the gambling addiction that he represented to be the

cause of his criminal activity. Mr. Ng testified that when he stole the money he was addicted to gambling in the stock market, and to cover his losses in the market he used funds from his employer to satisfy his brokerage firm indebtedness.

Counsel for the professional conduct committee asked that the member be expelled. Counsel for Mr. Ng requested that he be allowed to resign, since that would have the same effect as expulsion. At the conclusion of the submissions, the discipline committee deliberated and then made the following order:

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Ng be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Ng be and he is hereby fined the sum of \$10,000, to be remitted to the Institute within two (2) years from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Ng be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Ng's name, be given after this Decision and Order becomes final under the bylaws:
 - (a) to the Public Accountants Council for the Province of Ontario;
 - (b) to the Canadian Institute of Chartered Accountants;
 - (c) by publication in *CheckMark*; and
 - (d) by publication in *The Globe and Mail*.
5. THAT Mr. Ng 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.

The reasons for the discipline committee's order are set out below.

The General Principles

The issue with respect to sanction, as counsel presented their cases, was whether Mr. Ng should be expelled or allowed to resign. They agreed, in effect, that the principles which should govern the determination of sanction in this case are general and specific deterrence.

The committee, when discussing rehabilitation, found it difficult to know what order, if any, would assist Mr. Ng in that regard. If the gambling addiction is incurable, as the judge who sentenced Mr. Ng to prison said in her reasons and as Mr. Ng testified before the committee, the underlying cause of his professional misconduct is something which can at best be curbed but not cured. In one sense, the principle of rehabilitation can best be served by Mr. Ng's resignation or expulsion from the Institute, in that, if Mr. Ng is no longer a chartered accountant he will not likely again be in a position with such easy access to the kinds of corporate funds which might tempt him to follow the same course of conduct again.

Reprimand

The committee is of the view that a reprimand in writing from the chair of the hearing is appropriate to stress to Mr. Ng the unacceptability of his conduct as a chartered accountant.

Fine

The professional conduct committee asked for a fine to be imposed of \$10,000. Conscious of Mr. Ng's financial position, the panel felt that a \$10,000 fine in this case was sufficient, to act as a general deterrent to the membership, and to emphasize both to the profession and the public that this type of professional misconduct will not be tolerated.

Expulsion

The principle of general deterrence is of utmost importance in this case. The charge of which Mr. Ng was found guilty involved moral turpitude. The fraudulent use of his employer's funds took place over an extended period of time and was not isolated to one incident.

This panel of the discipline committee felt that allowing Mr. Ng to resign would not act as a general deterrent. It therefore ordered that he be expelled from membership in the Institute.

Notice

Mr. Ng has paid a heavy price for his misconduct. He has been convicted of a criminal offence, gone to jail, lost his job and his status in the community, and had his marriage disrupted.

He testified that he felt punished and humiliated, and that wide publicity of these proceedings would cause unwarranted further humiliation.

The committee thought that Mr. Ng was remorseful and that he was trying to rehabilitate himself in the community. He has made determined and commendable efforts to curb his gambling addiction and contribute to the community and his family. The committee did not wish to punish Mr. Ng.

However, the disciplinary process of a self-governing professional body must be viewed by its members and the public as an open process. The principle of general deterrence will be served in part by the giving of proper notice of this matter. The committee concluded that there were not rare or unusual circumstances in this case to justify withholding the member's name from the notice to be given, including the notice required under Bylaw 575(3), which notice the committee concluded should be by way of publication in *The Globe and Mail*. The discipline committee understands Mr. Ng's feelings and accepts that he has paid a heavy price for his misconduct. But this is not rare or unusual for someone who has been convicted of a criminal offence.

Surrender of Certificate

As is usual in cases of expulsion, the member was ordered to surrender his certificate of membership in the Institute.

DATED AT TORONTO, THIS DAY OF DECEMBER, 1996
BY ORDER OF THE DISCIPLINE COMMITTEE

D.P. SETTERINGTON, CA - CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

H.B. BERNSTEIN, CA

M. BRIDGE, CA

R.D. WHEELER, FCA

W.L. WOOD, CA

B.A. YOUNG, PEng (Public representative)