

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: A charge against **GEOFFREY BECKER**, CA, a member of the Institute, under Rule 205 of the Rules of Professional Conduct, as amended.

TO: Mr. Geoffrey Becker, CA
27 Bronte Road
Thornhill, ON L3T 7H9

AND TO: The Professional Conduct Committee, ICAO

REASONS
(Decision and Order made May 21, 2008)

1. This panel of the Discipline Committee of the Institute of Chartered Accountants of Ontario convened on May 21, 2008, to hear a charge of professional misconduct brought by the Professional Conduct Committee against Geoffrey Becker, a member of the Institute.

2. Paul Farley appeared as counsel for the Professional Conduct Committee. Mr. Becker was present, and was represented by his counsel, Larry Banack. Marilyn Becker, Mr. Becker's wife, was also present.

3. The decision of the panel was made known at the conclusion of the hearing and the written Decision and Order sent to the parties on May 26, 2008. These reasons, set out in writing pursuant to Bylaw 574, contain the charge, the decision, the order, and the reasons of the Discipline Committee.

The Charge and the Plea

4. The following charge was laid against Mr. Becker by the Professional Conduct Committee:

1. THAT the said Geoffrey Becker, CA, in or about the period November 30, 2001 through March 11, 2004, while engaged as the accountant for "G. R." and/or his companies, associated himself with statements and representations which he knew or should have known were false or misleading, contrary to Rule 205 of the rules of professional conduct in that:
 - a) He prepared invoices dated November 30, 2001, December 31, 2001, May 31, 2002, May 31, 2002, July 4, 2002, September 12, 2002 and March 11, 2004, which contained false or misleading information, knowing that they were to be submitted by G.R. to HRDC to support claims for reimbursement.

5. Mr. Becker entered a plea of guilty to the charge and confirmed that he understood that on the basis of his plea of guilty, and on that basis alone, he could be found guilty of the charge.

The case for the Professional Conduct Committee

6. Mr. Farley made a brief opening statement. He submitted the evidence would show that on seven occasions between November 30, 2001 and March 11, 2004, Mr. Becker submitted false invoices to his clients knowing that those invoices would be passed on to and paid by Human Resources Development Canada (HRDC).

7. Mr. Farley filed an Agreed Statement of Facts which he signed on behalf of the Professional Conduct Committee and Mr. Becker signed on his own behalf. Mr. Banack agreed that the facts set out in the Agreed Statement of Facts supported a finding of guilty on the charge.

The relevant facts

8. At the request of his client, Mr. Becker prepared seven invoices on the dates specified in the charge and submitted them to his client knowing that his client intended to submit the invoices to HRDC for reimbursement. The invoices were submitted before the work described in those invoices was complete and the work which was eventually performed did not relate specifically to the projects described in the invoices.

9. The total amount invoiced, just over \$28,000, was not material to Mr. Becker's practice. The invoices submitted were not for an amount in excess of the usual fees for the services he anticipated would be performed and the final billing to the client did not exceed the total value of the work actually performed. While Mr. Becker received no personal benefit from this misconduct, the invoices were false and misleading.

Decision

10. After hearing the evidence and upon deliberation, the panel determined that the facts were as set out above, that the charge had been proven and that Mr. Becker was guilty of professional misconduct. The hearing was reconvened and the Chair read for the record the decision of the panel which was:

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 Geoffrey Becker guilty of the charge.

SANCTION

12. Mr. Farley set out the terms of the order which both parties submitted would be appropriate in this case. The joint submission was that the appropriate order would include: a written reprimand; a suspension for three months; a fine of \$5,000; publicity in the usual course; and an award of costs of \$5,000.

13. Mr. Farley submitted that the three principles which the Discipline Committee considers when imposing a sanction, general deterrence, specific deterrence and rehabilitation were all applicable in this case. He also submitted that the principle of rehabilitation should be given priority in this case.

14. Mr. Farley pointed out the mitigating circumstances namely: the member had reported himself to the Institute when he had been contacted by the police who were investigating the client; the member had already suffered serious consequences for the misconduct as he had been asked to withdraw from his firm; the member had cooperated fully with the Professional Conduct Committee; and this cooperation included a plea of guilty, and an Agreed Statement of Facts which had saved time and expense. Mr. Farley also said that the member, who the Professional Conduct Committee thought was truly remorseful, had no prior involvement of any kind with the discipline process.

15. Mr. Farley pointed out the aggravating factor in this case, namely that the seven incidents of misconduct took place over two and a half years.

16. Mr. Farley submitted that the sanction proposed would have the appropriate deterrent effect, both general and specific. He submitted that the sanction sought was consistent with the sanction imposed in similar cases and he referred specifically to the cases of *Lee*, *Gera*, *Schooley*, *Davies* and *Matheson*, in support of this submission.

17. Mr. Banack filed letters of reference (Exhibit 7) which included three letters from the firm which Mr. Becker joined in January 2007. He submitted that it is clear from these letters that the firm found Mr. Becker to be honest and trustworthy and committed to both the profession and the clients he serves. It is also clear that the firm will ensure that his clients are served during any period of suspension imposed on Mr. Becker and that his relationship with the firm will continue when the suspension is concluded.

18. Mr. Banack also referred to a number of mitigating circumstances including Mr. Becker's unblemished record, his cooperation with the police when his client was charged and his cooperation with the Professional Conduct Committee.

19. Mr. Banack pointed out that Mr. Becker had been asked to withdraw from his firm on unfavourable terms; that he had never received any personal gain from the misconduct; that the client was not a major client; and that the amount of the invoices was insignificant to Mr. Becker's overall billing in the relevant period.

20. Mr. Banack submitted that as a result of the misconduct and the subsequent repercussions, Mr. Becker found it necessary to seek medical advice; and that with medical support and the support of his family he had faced the problems and begun his rehabilitation. He submitted that Mr. Becker had taken the appropriate professional development courses and disclosed the difficulty to his new firm where he practices under appropriate supervision.

21. Mr. Banack also said that should the panel impose the sanction which both parties submitted was appropriate, Mr. Becker would waive his right to appeal so that the sanction could take effect immediately.

Order

22. After hearing the submissions of the parties, the panel deliberated. When the hearing resumed the Chair set out, on the record, a summary of the terms of the order. The order itself, which was sent to the parties on May 26, 2008, reads as follows:

IT IS ORDERED in respect of the charge:

1. THAT Mr. Becker be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Becker be and he is hereby fined the sum of \$5,000 to be remitted to the Institute within ten (10) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Becker be and he is hereby charged costs fixed at \$5,000 to be remitted to the Institute within ten (10) days from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Becker 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.
5. THAT the public accounting licence of Mr. Becker be suspended for a period of three (3) months from the date this Decision and Order becomes final under the bylaws.
6. THAT notice of this Decision and Order, disclosing Mr. Becker'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.
7. THAT Mr. Becker surrender his certificate of membership in the Institute and public accounting licence to the Discipline Committee secretary within ten (10) days from the date this Decision and Order becomes final under the bylaws.

REASONS FOR THE ORDER

23. The panel concluded that the terms of the order proposed jointly by the parties fell within the appropriate range of sanction for the misconduct and the member in this case. The panel was satisfied that the misconduct was an aberration in the otherwise unblemished career of Mr. Becker and that in the future he would adhere to the standards of the profession. The panel also concluded that Mr. Becker had already demonstrated a degree of rehabilitation and that the arrangements he made with his new firm were appropriate.

24. The panel also concluded that a three-month suspension, a fine of \$5,000 and the publicity of the decision and order would serve as an adequate general and specific deterrent.

Reprimand

25. The panel ordered Mr. Becker be reprimanded to stress to him the unacceptable nature of his misconduct.

Fine and Suspension

26. The fine and three-month suspension were both imposed as a specific deterrent to Mr. Becker and general deterrent to other members.

Costs

27. It is appropriate that the member charged, rather than the membership as a whole, bear a portion of the costs of the hearing occasioned by his misconduct.

Notice

28. Publishing the names of members found guilty of professional misconduct is often the single most significant sanction that may be administered for general deterrence, education of the membership at large, and protection of the public. As this term, and the other terms of this order, were jointly submitted by both parties, no issue arose as to whether there should be publication of the decision and order.

Failure to Comply

29. At the conclusion of the hearing, counsel for Mr. Becker and for the Professional Conduct Committee filed the appropriate documents which made it clear that there would be no appeal and that Mr. Becker would comply with paragraphs two, three and seven of the order. Accordingly, it was not necessary to include the usual term providing consequences for a failure to comply with the terms of the order.

DATED AT TORONTO THIS 15TH DAY OF AUGUST, 2008
BY ORDER OF THE DISCIPLINE COMMITTEE.

B.L. HAYES, CA, – DEPUTY CHAIR
DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

D.L. FLEWELLING, CA
A. HANSON, CA
P.W. WONG (PUBLIC REPRESENTATIVE)