

George Anas: Summary, as Published in *CheckMark*

George Anas, of London, was found guilty of two charges under Rule 104 of failing to promptly reply in writing to letters from the Institute's standards enforcement area in respect of a matter of professional conduct. At his discipline hearing, Mr. Anas read into the record a statement explaining his failure to respond. He stated that he was unable to complete the financial statements for three separate companies because he could not obtain the required information as a result of a shareholder dispute. He did not respond to the complaint, made by one of the disputing shareholders, because he was concerned that to do so would disclose information without appropriate authorization. At the hearing he acknowledged both that he should have responded to the complaint and that there were appropriate ways to do so. His explanatory statement was treated as his official response to the standards enforcement enquiry. Mr. Anas was fined \$3,000 and charged costs of \$4,000.

CHARGE(S) LAID re George Anas

The Professional Conduct Committee hereby makes the following charge against George Anas, a member of the Institute:

1. THAT the said George Anas, in or about the period February 9, 2003 to March 31, 2003, failed to promptly reply in writing to a letter from the Institute in respect of a matter of professional conduct signed by the director of standards enforcement and dated January 20, 2003 in which a written reply was specifically requested, contrary to Rule 104 of the rules of professional conduct.
2. THAT the said George Anas, in or about the period February 27, 2003 to March 31, 2003, failed to promptly reply in writing to a letter from the Institute in respect of a matter of professional conduct signed by the associate director of standards enforcement and dated February 24, 2003 in which a written reply was specifically requested, contrary to Rule 104 of the rules of professional conduct.

Dated at Cornwall, Ontario this 2nd day of April 2003.

R. A. JOHNSTON, FCA - DEPUTY CHAIR
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re George Anas

DECISION AND ORDER IN THE MATTER OF: Charges against **GEORGE ANAS, CA**, a member of the Institute, under **Rule 104** of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE AUGUST 26, 2003

DECISION

THAT, having seen and considered the evidence, and having heard the plea of guilty to charges Nos. 1 and 2, the Discipline Committee finds George Anas guilty of charges Nos. 1 and 2.

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Anas be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Anas be and he is hereby fined the sum of \$3,000, to be remitted to the Institute within six (6) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Anas be and he is hereby charged costs fixed at \$4,000, to be remitted to the Institute within six (6) months from the date this Decision and Order becomes final under the bylaws.
4. THAT notice of this Decision and Order, disclosing Mr. Anas' 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 in the event Mr. Anas 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 local newspaper.

DATED AT TORONTO THIS 28TH DAY OF AUGUST, 2003
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re George Anas

REASONS FOR DECISION AND ORDER IN THE MATTER OF: Charges against **GEORGE ANAS, CA**, a member of the Institute, under **Rule 104** of the Rules of Professional Conduct, as amended.

REASONS FOR THE DECISION AND ORDER MADE AUGUST 26, 2003

1. This panel of the discipline committee of the Institute of Chartered Accountants of Ontario convened on August 26, 2003 to hear charges brought by the professional conduct committee against Mr. George Anas, a member of the Institute.
2. The professional conduct committee was represented by Ms. Barbara Glendinning. Mr. Anas appeared at the hearing on his own behalf and confirmed for the record that he understood that he was entitled to be represented by counsel.
3. The formal decision and order made on August 26, 2003 was signed by the discipline committee secretary and sent to the parties on August 28, 2003. These reasons, given pursuant to Bylaw 574, include the charges, the decision and the order as well as the reasons of the discipline committee.

DECISION ON THE CHARGES

4. The charges laid by the professional conduct committee dated April 2, 2003 read as follows:
 1. THAT the said George Anas, in or about the period February 9, 2003 to March 31, 2003, failed to promptly reply in writing to a letter from the Institute in respect of a matter of professional conduct signed by the director of standards enforcement and dated January 20, 2003 in which a written reply was specifically requested, contrary to Rule 104 of the rules of professional conduct.
 2. THAT the said George Anas, in or about the period February 27, 2003 to March 31, 2003, failed to promptly reply in writing to a letter from the Institute in respect of a matter of professional conduct signed by the associate director of standards enforcement and dated February 24, 2003 in which a written reply was specifically requested, contrary to Rule 104 of the rules of professional conduct.
5. Mr. Anas entered a plea of guilty to the charges.
6. Ms. Glendinning gave a brief overview of the case for the professional conduct committee, and filed affidavits of two members of the standards enforcement staff of the Institute.

7. The essence of the charges against Mr. Anas is that, despite repeated requests to do so, he failed to respond in writing to correspondence from the standards enforcement area concerning a complaint received about his professional conduct. The affidavits filed by Ms. Glendinning describe the various unsuccessful attempts to contact Mr. Anas and elicit his response to the complaint.

8. Mr. Anas accepted the affidavits as filed, and did not express any wish to cross-examine the deponents. He presented no evidence, but did express a desire to read a statement into the record explaining his extenuating circumstances. It was explained to Mr. Anas that such a statement was better suited to be presented upon the issue of sanction should he be found guilty of the charges.

9. Upon deliberation, the panel concluded on the uncontradicted evidence that the charges had been proven, and Mr. Anas was found guilty. When the hearing reconvened, the chair read the following decision into the record:

DECISION

THAT, having seen and considered the evidence, and having heard the plea of guilty to charges Nos. 1 and 2, the Discipline Committee finds George Anas guilty of charges Nos. 1 and 2.

ORDER AS TO SANCTION

10. Ms. Glendinning recommended the following sanctions on behalf of the professional conduct committee: a reprimand, a fine of \$3,000, costs of \$4,000, the usual publicity, and an order that Mr. Anas be required to respond to the complaint or be expelled.

11. Counsel for the professional conduct committee submitted that specific deterrence and rehabilitation were the key sanctioning principles in this case, and that her suggested sanctions would serve these principles. She submitted that the fine, although at the low end of the possible range, was significant enough to send the appropriate message, and that publicity would serve as a future deterrent to Mr. Anas while at the same time sending a message to like-minded members.

12. Cases such as these always raise the question as to whether or not a member is governable. In this instance, Ms. Glendinning pointed out that, in his favour, Mr. Anas was in attendance at his discipline hearing and had provided an explanation for his actions.

13. It was initially suggested that our order to Mr. Anas include a requirement that he immediately respond to the request for information from the standards enforcement area. This became unnecessary when a statement prepared by the member for the hearing explaining his behaviour was offered and accepted as his response to the standards enforcement letters.

14. Mr. Anas' explanatory statement was entered as Exhibit 9, and was read into the record by the member. Briefly, the document explained that after being hired to prepare financial statements for three separate companies owned by two shareholders, Mr. Anas became caught in the middle of a shareholder dispute and was unable to complete the

financial statements because of missing information and required shareholder approvals. The incomplete financial statements became the basis for the complaint made against the member. Mr. Anas explained that he had felt he could not respond to the complaint without inappropriately disclosing certain information which was caught up in the dispute between the shareholders.

15. It was pointed out to Mr. Anas that such circumstances could not justify ignoring a request for information from the Institute, and that it was his responsibility to fashion an appropriate response, with the assistance of legal counsel if necessary. Mr. Anas acknowledged this, and as a result specifically requested that his explanatory statement which had been filed as an exhibit be treated as his official written response to the standards enforcement enquiry. Ms. Glendinning indicated that she was agreeable to this approach.

16. Mr. Anas made two requests regarding the other sanctions sought by the professional conduct committee. He asked that the fine and costs ordered be at the lowest possible level appropriate to the circumstances, and that his name not be publicized in order to save him additional grief.

17. Ms. Glendinning reminded the panel that it has been long established that withholding publication of a member's name is granted only in rare and unusual circumstances, and that the circumstances of this case did not justify such consideration.

18. After hearing submissions from both parties, the panel deliberated, following which the chair read into the record the terms of the order. The formal written order signed by the secretary and sent to the parties reads as follows:

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Anas be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Anas be and he is hereby fined the sum of \$3,000, to be remitted to the Institute within six (6) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Anas be and he is hereby charged costs fixed at \$4,000, to be remitted to the Institute within six (6) months from the date this Decision and Order becomes final under the bylaws.
4. THAT notice of this Decision and Order, disclosing Mr. Anas' 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 in the event Mr. Anas 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 local newspaper.

Reprimand

19. The panel ordered that Mr. Anas be reprimanded in writing by the chair of the hearing in order to stress to him the unacceptable nature of his actions.

Fine

20. The panel felt that under the circumstances of this case a fine of \$3,000, as recommended by Ms. Glendinning, was significant enough to serve both as a specific and general deterrent.

Costs

21. The panel charged costs fixed at \$4,000, as Ms. Glendinning had requested. This being generally an uncontested case, with full cooperation, the panel was satisfied with the appropriateness of the quantum of costs sought by the professional conduct committee.

Notice

22. In addition to its specific deterrent effect, notice disclosing a member's name is the best way the discipline committee has of attempting to ensure that other members will not misconduct themselves as the member before the committee had. The essence of Mr. Anas' misconduct was his failure to recognize that, despite his concerns over being caught between fighting shareholders, he was required to respond to the Institute concerning the complaint made against him. This is an important message not only for Mr. Anas but for all Institute members.

DATED AT TORONTO THIS 25TH DAY OF NOVEMBER, 2003
BY ORDER OF THE DISCIPLINE COMMITTEE

H.B. BERNSTEIN, CA – DEPUTY CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

P.J. HOLT, CA
N.A. MACDONALD EXEL, CA
R.A. VICKERS, FCA
R.A. WORMALD, FCA
B. RAMSAY (Public representative)