

George Anas: Summary, as Published in *CheckMark*

George Anas, of London, was found guilty of one charge under Rule 201.1 of failing to conduct himself in a manner that will maintain the good reputation of the profession. While engaged as the accountant for a group of companies, Mr. Anas failed to prepare the financial statements for a number of fiscal years in a timely manner. Mr. Anas was caught in a dispute between shareholders and was unable to understand how he should or could fulfill his professional obligations under the circumstances. He failed to seek advice as to how to deal with the difficult situation in which he found himself. Mr. Anas was fined \$1,000, charged costs of \$2,000 and ordered to complete a prescribed professional development course.

CHARGE(S) LAID re George Anas

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

1. THAT the said George Anas, in or about the period January 2002 through May 17, 2004, while engaged as the accountant for a group of companies, being 433013 Ontario Limited, 829935 Ontario Limited and Farmore Foods Ltd., failed to conduct himself in a manner that will maintain the good reputation of the profession, contrary to Rule 201.1 of the rules of professional conduct, in that, having been engaged to prepare the financial statements for the said companies for the 1999 and following fiscal years, he failed to do so in a timely manner.

Dated at Leamington, Ontario this 20th day of May 2004.

D. P. SETTERINGTON, FCA - DEPUTY CHAIR
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re George Anas

DECISION AND ORDER IN THE MATTER OF: A charge against **GEORGE ANAS, CA**, a member of the Institute, under **Rule 201.1** of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE FEBRUARY 16, 2005

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 George Anas guilty of the charge.

ORDER

IT IS ORDERED in respect of the charge:

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 \$1,000, to be remitted to the Institute within three (3) 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 \$2,000, to be remitted to the Institute within three (3) months from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Anas be and he is hereby required to complete, by paying for and attending in its entirety, within one (1) year from the date this Decision and Order becomes final under the bylaws, the professional development course *Staying Out of Trouble* made available through the Institute, or, in the event the course becomes unavailable, the successor course which takes its place.
5. 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*.

6. THAT in the event Mr. Anas fails to comply with any of the requirements of this Order, he shall thereupon be suspended from the rights and privileges of membership in the Institute until such time as he does comply, provided that he complies within three (3) months from the date of his suspension, and in the event he does not comply within this three (3) month period, 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. Anas' current or former practice, employment and/or residence.

DATED AT TORONTO THIS 22ND DAY OF FEBRUARY, 2005
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re George Anas

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: A charge against **GEORGE ANAS, CA**, a member of the Institute, under **Rule 201.1** of the Rules of Professional Conduct, as amended.

REASONS FOR THE DECISION AND ORDER MADE FEBRUARY 16, 2005

1. This panel of the discipline committee of the Institute of Chartered Accountants of Ontario met on February 16, 2005 to hear a charge 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. She was accompanied by Mr. Bruce Armstrong, C.A., the investigator appointed by the professional conduct committee.
3. Mr. Anas was present at the hearing. He was not represented by counsel but he did confirm that he understood he had the right to be represented by counsel.
4. The decision and order of the panel were made known at the hearing. The formal, written decision and order was signed by the secretary to the discipline committee and sent to the parties on February 23, 2005. These reasons, given in writing pursuant to Bylaw 574, set out the charge, the decision, the order and the reasons of this panel of the discipline committee for the decision and order.

THE CHARGE AND THE PLEA

5. The charge made by the professional conduct committee on May 20, 2004, reads as follows:

1. THAT the said George Anas, in or about the period January 2002 through May 17, 2004, while engaged as the accountant for a group of companies, being 433013 Ontario Limited, 829935 Ontario Limited and Farmore Foods Ltd., failed to conduct himself in a manner that will maintain the good reputation of the profession, contrary to Rule 201.1 of the rules of professional conduct, in that, having been engaged to prepare the financial statements for the said companies for the 1999 and following fiscal years, he failed to do so in a timely manner.
6. Mr. Anas entered a plea of guilty to the charge. He confirmed for the record that he understood that upon 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

7. Ms. Glendinning filed with the discipline committee an Agreed Statement of Facts (Exhibit No. 7) and a Document Brief (Exhibit No. 8) which contained 47 documents, some of which were specifically referred to in the Agreed Statement of Facts. In addition, Ms. Glendinning filed as Exhibit No. 9, a two-page memorandum dated November 10, 2004 from Mr. Anas to the shareholders of the three companies whose financial statements he had undertaken to prepare. The hearing recessed and the parties and the shorthand reporter left the Council Chambers while the panel reviewed the Document Brief, the Agreed Statement of Facts and the memorandum.

8. When the hearing reconvened, Ms. Glendinning made submissions on behalf of the professional conduct committee. She reviewed the facts, particularly the commitments Mr. Anas made with respect to the engagement and pointed out his failures to meet his commitments. Ms. Glendinning submitted that it had taken Mr. Anas almost three years to prepare the financial statements he had been engaged to prepare and thus was guilty of failing to perform his services in a timely manner. She asked that Mr. Anas be found guilty of the charge.

9. Mr. Anas also made submissions. He expressed regret and apologized for his conduct. He pointed out that he had not received information he needed to prepare the financial statements and acknowledged that he had not been diligent in demanding that the clients provide him with the required information. He also acknowledged that he had been lax with respect to the work that he could have done.

DECISION ON THE CHARGE

10. A dispute arose between shareholders who owned three companies. While there were three shareholders, two were husband and wife and essentially the dispute was between two parties. Mr. Anas was asked to complete the financial statements for the three companies for the years 1996, 1997 and 1998. By letter dated April 18, 1999, Mr. Anas sent to the three companies final financial statements for the year 1996, draft financial statements for the years 1997 and 1998, and a four page letter setting out information he needed and questions which had to be addressed before he could finalize the financial statements for 1997 and 1998.

11. In January 2002, a lawyer for one of the shareholders, Ms. Dinnert, wrote to Mr. Anas and advised him that the shareholders were still "warring" and that the assets of the companies had been liquidated. She advised Mr. Anas that the parties needed "your financial statements" to conduct an accounting and conclude the litigation.

12. By the end of August 2002, Mr. Anas had received the books and records from one of the parties and his outstanding account had been paid and he was asked to prepare the financial statements.

13. Despite assurances from Mr. Anas that he was reviewing the records and would complete the financial statements, it was not until May 12, 2003 that he wrote to the lawyers advising them that he needed information and in particular answers to questions which were set out in his letter of April 18, 1999, a copy of which was enclosed with his letter.

14. Ms. Dinnert replied to Mr. Anas on July 15, 2003, and said that the questions raised could only be answered when the issues had been settled and that “your financial statements are required to frame and facilitate a settlement of those issues.”

15. Mr. Anas’ letter of May 12, 2003 was written after he had been charged on April 2, 2003 with failing to reply to a letter from the Associate Director of Standards Enforcement, contrary to Rule 104 of the Rules of Professional Conduct. The charge followed a complaint from Ms. Dinnert that she could not get a response from Mr. Anas. The reasons for the decision and order of the discipline committee made August 26, 2003, were included in the Document Brief. Mr. Anas appeared before the discipline committee on August 26, 2003, entered a plea of guilty to the charge and explained to the discipline committee that he thought he was caught in a dispute between two parties and that he could not respond to the complaint without inappropriately disclosing information.

16. Mr. Anas was found guilty of professional misconduct, received a reprimand, a fine of \$3,000.00, was charged costs of \$4,000.00, and notice of the decision and order disclosing Mr. Anas’ name was published in *CheckMark*.

17. On November 10, 2004, almost six months after the second charge was made (the charge in this case), and more than 14 months after the discipline committee hearing of August 2003, Mr. Anas wrote to the parties enclosing draft financial statements and setting out as much information as he could.

18. We had considerable sympathy for Mr. Anas. He was attempting to assist “warring shareholders” to use Ms. Dinnert’s term, and he did not have the information he needed. Perhaps he had not understood in September 2002 that Ms. Dinnert and the warring shareholders needed him to frame the issues for them to settle. If he had concerns about providing the information to the two lawyers representing the warring shareholders he should have sought advice from his partners, his own lawyer or the practice advisory services of the Institute. Mr. Anas’ conduct up until May 12, 2003 was not exemplary, but we were not required to determine whether his conduct as of May 12, 2003 or July 2003 fell so far short of the required standard that it constituted professional misconduct.

19. Unfortunately, even after the discipline hearing of August 26, 2003, it took Mr. Anas over 14 months to complete the work which he could complete and provide the information which he could provide. The only conclusion we could come to was that he had failed to provide his professional services in a timely manner. His conduct fell so far short of the required standard that it constituted professional misconduct.

20. When the hearing resumed after our deliberations, the Chair read the decision of the panel for the record. He said:

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 George Anas guilty of the charge.

SANCTION

21. Neither party called evidence with respect to sanction. Both Ms. Glendinning and Mr. Anas made submissions with respect to the appropriate sanction.

22. Ms. Glendinning requested an order which included: a reprimand; a fine in the range between \$1,500.00 and \$2,000.00; notice to be given in the usual way, to the Canada Institute of Chartered Accountants, the Public Accountants' Council for the Province of Ontario and to be published in *CheckMark* disclosing Mr. Anas' name; and she requested an order of costs in the amount of \$5,000.00.

23. Mr. Anas submitted that the effect of the requested order would be harsh and asked that the fine and costs be reduced.

24. After deliberating, the hearing resumed and the Chair set out on the record a summary of the order. The formal written order, as is said in paragraph four above, was sent to the parties on February 22, 2005. It reads as follows:

ORDER

IT IS ORDERED in respect of the charge:

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 \$1,000, to be remitted to the Institute within three (3) 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 \$2,000, to be remitted to the Institute within three (3) months from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Anas be and he is hereby required to complete, by paying for and attending in its entirety, within one (1) year from the date this Decision and Order becomes final under the bylaws, the professional development course *Staying Out of Trouble* made available through the Institute, or, in the event the course becomes unavailable, the successor course which takes its place.
5. 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*.

6. THAT in the event Mr. Anas fails to comply with any of the requirements of this Order, he shall thereupon be suspended from the rights and privileges of membership in the Institute until such time as he does comply, provided that he complies within three (3) months from the date of his suspension, and in the event he does not comply within this three (3) month period, 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. Anas' current or former practice, employment and/or residence.

25. We agreed with Ms. Glendinning that the appropriate order in this case should reflect the three principles of sanction, namely specific deterrence, general deterrence and rehabilitation, and that no one principle was more important or should have priority over the other two principles.

26. We concluded that a reprimand, fine and notice disclosing Mr. Anas' name were all required as a specific deterrent to Mr. Anas.

27. We also concluded that a fine and notice, particularly the notice in *CheckMark* disclosing the member's name, was appropriate in furtherance of the principle of general deterrence.

28. We were not persuaded that the discipline process itself had rehabilitated Mr. Anas. We thought Mr. Anas genuinely wanted to help his clients. But he failed to recognize that hoping to find a way out of a difficult situation rather than advising the clients and the lawyers what he could do and could not do, would not only prejudice the parties but would breach his professional obligations. Even after August 2003, Mr. Anas did not understand how to fulfill his professional obligations.

29. There are significant mitigating factors in this case. This is the only instance which the investigator found that Mr. Anas did not provide his services in a prompt and appropriate way. This is apparently an isolated incident in an otherwise unblemished professional career. Mr. Anas' seeming paralysis and inability to ask for help will result in two findings of professional misconduct and two notices published in *CheckMark*. We concluded that this is a substantial sanction for the misconduct and reduced the quantum of the requested fine and the amount of the requested costs.

REPRIMAND

30. The panel concluded that a written reprimand was necessary as a specific deterrent to the member to stress to him the serious nature of his offence and the unacceptability of his conduct as a chartered accountant.

FINE

31. The panel concluded that as a matter of specific and general deterrence, Mr. Anas should be fined the amount of \$1,000.00, to be remitted within three months from the date of the decision and order becoming final.

NOTICE

32. Notice of the decision and order is required as a general deterrent to all members. There was no suggestion that this was a rare and unusual circumstance in which publication of the decision and order, including disclosure of the member's name, was not appropriate.

COSTS

33. Given the mitigating factors set out above, the discipline committee concluded that costs in the amount of \$2,000.00 to be remitted to the Institute within three months from the date of the decision and order becomes final was the appropriate order.

FAILURE TO COMPLY

34. If the order did not provide for consequences for failing to comply with its terms, it would be meaningless. Accordingly, we stipulated that if Mr. Anas does not comply with the requirements of this order, he will be suspended, and if he remains suspended at the end of three months, he will be expelled.

ADVICE ON THE RECORD

35. We accepted Mr. Anas' apology as genuine and concluded that he was deeply remorseful for his misconduct. We also thought that Mr. Anas could have avoided two discipline hearings, two findings of professional misconduct and provided more effective service to his clients if he had sought advice as to how to deal with the difficult situation in which he found himself. Accordingly, after the terms of the order were set out on the record, the Chair encouraged Mr. Anas to avail himself of the Institute's practice advisory services, which are free, if in future he should find himself in a position where he is not certain how he should act and his partners are not able to assist him.

DATED AT TORONTO THIS 26th DAY OF APRIL, 2005
BY ORDER OF THE DISCIPLINE COMMITTEE

B.A. TANNENBAUM, FCA – DEPUTY CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

L.G. BOURGON, CA
R.J. ADAMKOWSKI, CA
J.G. SEDGWICK, CA
J.R.G. STAPLETON, CA
D.J. ANDERSON (Public representative)