

George H. Wall: Summary, as Published in *CheckMark*

Special note: the following two cases were related and heard together by the discipline committee.

George H. Wall, of Toronto, was found guilty of one charge under Rule 201.1 of failing to maintain the good reputation of the profession and its ability to serve the public interest; seven charges under Rule 202 of failing to perform his professional services with due care; one charge under Rule 206 of failing to perform his professional services in accordance with generally accepted standards of practice of the profession, including the Recommendations set out in the *CICA Handbook*; and one charge under Rule 401 of using the name or style *Wall & Associates* when he had no partners, which use was therefore misleading.

Robert Novoselac, of Hamilton, was found guilty of one charge under Rule 201.1 of failing to maintain the good reputation of the profession and its ability to serve the public interest; seven charges under Rule 202 of failing to perform his professional services with due care; and one charge under Rule 203.1 of failing to sustain his professional competence by keeping informed of, and complying with, developments in professional standards in all functions in which he practised or was relied upon.

The charges laid against the members were virtually identical, and related to review engagements and tax work done for various information technology companies. Mr. Wall carried on practice under the name of Wall & Associates. He had no partners, but usually employed at least one chartered accountant or had a chartered accountant work for him on a contract basis. During the relevant period, Mr. Novoselac worked on a contract basis for Mr. Wall. A significant number of the clients of the firm were small information technology professional consulting companies that did business in the United States. As a result, Messrs. Wall and Novoselac, through Mr. Wall's firm, were required to deal with Canada/US tax issues. The client files reviewed by the professional conduct committee's investigator contained numerous deficiencies, and showed that little if any work had been done to support the positions taken on the tax returns filed. Both Mr. Wall and Mr. Novoselac placed heavy reliance on the support staff of the firm, most of whom did not have the expertise or training to carry out the work assigned to them. The staff was not properly supervised, and its work was given a limited review, if any, before being released.

Mr. Wall was fined \$30,000; charged costs of \$5,000; and ordered to take two professional development courses, be reinvestigated by the professional conduct committee, engage a chartered accountant to act as a resource to him on U.S. tax issues, and subscribe to various publications.

Mr. Novoselac was fined \$15,000; charged costs of \$3,000; and ordered to take two professional development courses, and be reinvestigated by the professional conduct committee.

CHARGE(S) LAID re George H. Wall

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

1. THAT, the said George H. Wall, in or about the period January 1, 1999 through September 11, 2001, failed to perform his professional services with due care, contrary to Rule 202 of the rules of professional conduct, in that;
 - a) he failed to have in place policies and procedures to ensure that, in the conduct of his practice, members of the Institute associated with him and employees or other persons with whom he has contracted to carry out professional services on behalf of clients were properly supervised;
 - b) he failed to ensure that individuals assigned responsibilities for client files had sufficient training and competence to carry out the tasks assigned;
 - c) he failed to have in place adequate policies and procedures, including checklists, to ensure the adequate review of client files;
 - d) he failed to ensure that general tax positions developed by him or on his behalf were appropriately applied to individual clients.
2. THAT, the said George H. Wall, in or about the period December 31, 1999 through September 11, 2001, while engaged to perform a review of the financial statements of C.Tour Inc. as at December 31, 1999, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, including the Recommendations set out in the *CICA Handbook*, contrary to Rule 206 of the rules of professional conduct, in that;
 - a) he failed to properly supervise the staff person carrying out the review work;
 - b) he failed to carry out sufficient appropriate enquiry discussion and analysis to enable him to assess whether the information provided to him was plausible;
 - c) he failed to document matters important to support the content of the report.
3. THAT, the said George H. Wall, in or about the period January 1, 2000 through July 30, 2000, while engaged to compile financial statements as at January 31, 2000 and prepare personal and corporate tax returns and information slips for the 1999 and 2000 taxation year for J.S. Inc. and Julianna S., failed to perform his professional services with due care contrary to Rule 202 of the rules of professional conduct, in that;
 - a) he failed to adequately review the working paper files or the tax returns before they were released;

- b) he placed undue reliance on a non-member, Rama Nutakki, for the tax positions taken on the file and failed to supervise her properly;
 - c) he approved a Canadian T2 tax return in which deductions were claimed on all income earned by the company from U.S. contracts without making sufficient enquiry and analysis of the source of such income for tax purposes and its eligibility for such deductions;
 - d) he did not ensure that a Maryland state tax return for the company was prepared as required;
 - e) he did not ensure that a Massachusetts state tax return for the company was prepared as required;
 - f) he improperly participated in the allocation of director's fees of \$34,500 to Lucy C. on her T4 slip when there were no corporate cheques payable to Lucy C. and no evidence that she participated as a director;
 - g) he improperly approved the allocation of director's fees of \$34,500 said to be payable to Lucy C. as a credit to the shareholder account of Julianna S. when there was insufficient evidence that there had been an assignment of the fees;
 - h) he did not ensure that a Maryland state tax return was filed by the shareholder, Julianna S., as required;
 - i) given his assumption that Julianna S. had no permanent establishment or permanent place of business in the U.S., he improperly participated in the reporting of her Canadian director's fees as Canadian source income on her U.S. 1040NR tax return instead of reporting a nil 1040NR;
 - j) given that he did report the directors fees on Julianna S.'s 1040NR he should have claimed a foreign tax credit on her Canadian tax return for the approximately \$1,010 US tax paid on the 1040NR and failed to do so;
 - k) he failed to carry out sufficient enquiry discussion and analysis to determine whether expenses paid by the company for a US apartment on behalf of the sole shareholder, qualified as a travel expense for the company for income tax purposes;
 - l) he failed to ensure a form TD4 was completed and retained for the company in order to claim an exemption from the requirement of the company to report the expenses as remuneration of the shareholder.
4. THAT, the said George H. Wall, in or about the period January 1, 2000 through July 30, 2000, while engaged to compile financial statements and prepare tax returns for the year ended January 31, 2000 for D. Incorporated and for its shareholder Navdeep D., failed to perform his professional services with due care contrary to Rule 202 of the rules of professional conduct, in that;

- a) he approved a Canadian T2 tax return in which deductions were claimed on all income earned by the company from U.S. contracts without making sufficient enquiry and analysis to determine where the company was taxable, the source of such income for tax purposes and its eligibility for such deductions;
 - b) in determining the company's eligibility for the ~~small business~~ deductions on its Canadian tax return he failed to carry out sufficient enquiry discussion and analysis to determine where a contract for services with a U.S. customer was negotiated and signed; *AMENDED AT HEARING*
 - c) he failed to carry out sufficient enquiry discussion and analysis to determine whether expenses paid by the company for a New York apartment on behalf of the sole shareholder, qualified as a travel expense for the shareholder for income tax purposes;
 - d) he failed to ensure that a Form TD4 was completed and retained by the company, such form being necessary to exempt the company from including Navdeep D.'s personal living expenses paid by the company in Navdeep D.'s income;
 - e) he failed to ensure that a New York state tax return was prepared for either Navdeep D. or the company as required by New York state law;
 - f) he improperly cited Article 14 rather than Article 7 on Form 8833, Treaty Based Return Position Disclosure prepared for D. Incorporated;
 - g) given his assumption that Navdeep D. had no permanent establishment or permanent place of business in the U.S., he improperly reported Navdeep D.'s consulting income from D. Incorporated as Canadian source income on Navdeep D.'s U.S. 1040NR and the claiming of a foreign tax credit for Canadian taxes paid rather than filing a nil 1040NR;
 - h) he improperly recorded on the T2 corporate tax return personal expenses, including personal clothing, grooming and groceries, of Navdeep D. paid by the company as tax deductible business expenses of the company. In addition he failed to ensure that such personal expenses paid for by the company were included in the personal taxable income of Navdeep D..
5. THAT, the said George H. Wall, in or about the period January 1, 2000 through July 30, 2000, while engaged to compile financial statements and prepare tax returns for the year ended April 20, 2000 for B. Consulting Inc., failed to perform his professional services with due care contrary to Rule 202 of the rules of professional conduct, in that;

- a) he improperly set-up a \$75,000 housing loan to the shareholder, B. V. without sufficient evidence that the funds withdrawn from the company were used to acquire a home;
 - b) he improperly included home office expenses on the corporate tax return which included principal paid on a home mortgage, and capital costs for furniture and appliances;
 - c) he improperly deducted personal expenses of the shareholder on the corporate tax return as business expenses of the company, including clothes, dry cleaning, personal grooming, hair cuts, cosmetics and fitness club dues. In addition he failed to ensure that such personal expenses paid for by the company were included in the personal taxable income of the shareholder.
6. THAT, the said George H. Wall, in or about the period January 1, 2000 through July 30, 2000, while engaged to compile financial statements and prepare tax returns for the year ended September 30, 1999 for S.W. Development Corporation, failed to perform his professional services with due care contrary to Rule 202 of the rules of professional conduct, in that;
- a) he improperly prepared the T2 tax return in which deductions were claimed on all income earned by the company from U.S. contracts without sufficient inquiry into and analysis of the source for tax purposes of such income and its eligibility for such deductions;
 - b) he failed to carry out sufficient enquiry to determine whether or not the expenses paid by the company for the shareholder's apartment in the U.S. qualified as a travel expense for income tax purposes;
 - c) he failed to ensure that a Maryland tax return was prepared for S. A., the shareholder of the company, when he was resident in Maryland for more than 6 months in 1999.
7. THAT, the said George H. Wall, in or about the period January 1, 2000 through July 30, 2000, while engaged to compile financial statements and prepare tax returns for the year ended February 28, 2000 for S. A. Inc., failed to perform his professional services with due care contrary to Rule 202 of the rules of professional conduct, in that;
- a) he failed to carry out sufficient enquiry to determine whether the expenses paid by the company for the shareholder's apartment in the U.S. qualified as a travel expense for income tax purposes;

- b) he improperly included personal expenses paid by the company for S.A. on the T2 corporate tax return as tax deductible business expenses of the company including personal grooming, haircuts, shoe repairs, clothes, dry cleaning, groceries, fitness club fees and his wife's air fare for a personal trip to India. In addition he failed to ensure that such personal expenses paid for by the company were included in the personal taxable income of the shareholder.
8. THAT, the said George H. Wall in or about the period January 1, 2000 through to September 11, 2001, failed to conduct himself in a manner which will maintain the good reputation of the profession and its ability to serve the public interest contrary to Rule 201.1 of the rules of professional conduct in that, while engaged to provide professional services to J.S. Inc., D. Incorporated, B. Consulting Inc. and S.W. Development Corp. and to the shareholders of these companies;
- a) he failed to adequately research aggressive tax filing positions taken on behalf of his clients;
 - b) he failed to carry out sufficient enquiry of sources of income for tax purposes;
 - c) he failed to carry out sufficient enquiry of the appropriateness of deductions from income claimed on behalf of his clients;
 - d) he failed to adequately discuss with the respective clients the risks of aggressive tax filing positions and failed to document any discussions he did have with clients.
9. THAT, the said George H. Wall, in or about the period December 31, 1999 through March 31, 2000, while engaged in the practice of public accounting, used the name or style Wall & Associates, when he had no partners, which use was therefore misleading, contrary to Rule 401 of the rules of professional conduct.
10. THAT, the said George Wall, in or about the period June 1, 1998 to December 31, 2000, while engaged to compile financial statements as at June 30, 1998 and June 30, 1999 for J. Enterprises Inc. and to compile financial statements as at November 30, 1998 and November 30, 1999 for A. Information Inc. and to prepare corporate tax returns for both companies for the 1999 year end, failed to perform his professional services with due care contrary to Rule 202 of the rules of professional conduct in that:
- a) he failed to review the working paper files prepared by his staff or the tax returns before they were released;

- b) he reversed an intercompany income item in the approximate amount of \$103,000 in J. Enterprises Inc. because there was no related expense recorded on the books of A. Information without first determining why the income was set up in the first place and whether there was any evidence to support the reversal.
- c) he reclassified dividends payable to a shareholder, the T. Family Trust to T. personally without documentation or evidence as to why such reclassification was appropriate;
- d) he failed to obtain sufficient appropriate evidence of the share ownership of the two companies in order to make decisions regarding dividend allocations.

Dated at London, this 18th day of August, 2003.

GERRY MILLS, FCA, CHAIR
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re George H. Wall

DECISION AND ORDER IN THE MATTER OF: Charges against **GEORGE H. WALL, CA**, a member of the Institute, under **Rules 201.1, 202, 203.1, 205, 206 and 401** of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE SEPTEMBER 11, 2003

DECISION

THAT, having seen and considered the evidence, including the agreed statement of facts, filed, charge No. 4(b) having been amended, and having heard the plea of guilty to charges Nos. 1, 2, 3, 4 as amended, 5, 6, 7, 8, 9 and 10, the Discipline Committee finds George H. Wall guilty of charges Nos. 1, 2, 3, 4 as amended, 5, 6, 7, 8, 9 and 10.

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Wall be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Wall be and he is hereby fined the sum of \$30,000, to be remitted to the Institute within three (3) years from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Wall be and he is hereby charged costs fixed at \$5,000, to be remitted to the Institute within three (3) years from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Wall be and he is hereby required to complete, by paying for and attending in their entirety, on or before December 31, 2004, the following professional development courses made available through the Institute, or, in the event a course becomes unavailable, the successor course which takes its place:
 1. *Staying Out of Trouble; and*
 2. *Basic but Essential Income Tax Issues.*
5. THAT Mr. Wall be reinvestigated by the professional conduct committee, or by a person retained by the professional conduct committee, on one occasion between twelve (12) and eighteen (18) months from the date this Decision and Order becomes final under the bylaws, the cost of the reinvestigation, up to \$5,000, to be paid by Mr. Wall within thirty (30) days of receiving notification of the cost of the reinvestigation.
6. THAT Mr. Wall be and he is hereby required to engage a chartered accountant, acceptable to the professional conduct committee, to act as a resource to him for U.S. tax issues.
7. THAT Mr. Wall be and he is hereby required to subscribe to the following publications:

1. *The Canadian Companion to 1040 Preparation [CCH];*
 2. *2003 U.S. Master Tax Guide [CCH];*
 3. *State Tax Handbook [CCH];*
 4. *Cross-Border Relocation Law [CCH];*
 5. *Canada – U.S. Employment Transfers [CCH];*
 6. *Tax Analysts Service; and*
 7. *Brunton's U.S. Taxletter.*
8. THAT notice of this Decision and Order, disclosing Mr. Wall'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 the Public Accountants Council for the Province of Ontario;
 - (b) to the Canadian Institute of Chartered Accountants; and
 - (c) by publication in *CheckMark*.
9. THAT in the event Mr. Wall 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 the appropriate press.

DATED AT TORONTO THIS 26TH DAY OF SEPTEMBER, 2003
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re George H. Wall

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: Charges against **GEORGE H. WALL, CA**, a member of the Institute, under **Rules 201.1, 202, 203.1, 205, 206 and 401** of the Rules of Professional Conduct, as amended.

REASONS FOR THE DECISIONS AND ORDERS MADE SEPTEMBER 11, 2003

1. This panel of the discipline committee of the Institute of Chartered Accountants of Ontario met on September 3, 2003 to hear charges brought by the professional conduct committee against George H. Wall and Robert Novoselac, both members of the Institute.
2. Mr. Paul Farley represented the professional conduct committee in both matters. He was accompanied by Ms. Peggy Bennett, the investigator appointed by the professional conduct committee.
3. Mr. Frank Bowman represented Mr. Wall. Mr. Novoselac was present at the hearing, but was not represented by counsel. He acknowledged for the record that he understood that he had the right to be represented by counsel at the hearing.
4. Before any exhibits were entered into the record or any pleas taken, the parties were asked if there were any preliminary matters to be dealt with. Mr. Farley requested an adjournment of both matters and provided the panel with a brief history. At the June 10, 2003 assignment hearing, five hearing dates in September 2003 were set to hear the charges laid against both members. At that time, the hearing was expected to be lengthy. Over the summer months, Mr. Farley, Mr. Bowman, Mr. Novoselac and Mr. Novoselac's various counsel from time to time tried to reach agreed statements of facts. Although the parties all represented that they were close to reaching agreement prior to the hearing scheduled to commence on September 3, they were unable to do so. As a result, Mr. Farley requested that the hearings proceed separately, that the hearing for Mr. Wall proceed in the week of November 3, and that the hearing for Mr. Novoselac be set over to the next assignment hearing.
5. After deliberation, the panel decided to reconvene the hearing on September 11, 2003 to allow the parties time to resolve their differences if at all possible so that the hearing could proceed by way of agreed statements of facts. The panel told the parties that if the hearings could not proceed on September 11, dates would be set for Mr. Wall's hearing that day, and dates for Mr. Novoselac's hearing before a different panel would be set at the next ensuing assignment hearing.
6. On September 11, 2003, the same parties were present at the hearing, and the hearing proceeded by way of agreed statements of facts.
7. The decisions and orders of the discipline committee for Mr. Wall and Mr. Novoselac were announced at the hearing on September 11, 2003. These reasons, given in writing pursuant to Bylaw 574, set out the charges, the decisions, the orders, and the reasons of the discipline committee for both Mr. Wall and Mr. Novoselac.

THE CHARGES AND THE PLEAS

8. The Notices of Assignment Hearing for the two members were filed as Exhibits 2 and 3, the Notices of Hearing were filed as Exhibits 4 and 5, and the charges were filed as Exhibits 6 and 7, respectively.

9. The charges laid by the professional conduct committee against Mr. Wall read as follows:

1. THAT, the said George H. Wall, in or about the period January 1, 1999 through September 11, 2001, failed to perform his professional services with due care, contrary to Rule 202 of the rules of professional conduct, in that;
 - a) he failed to have in place policies and procedures to ensure that, in the conduct of his practice, members of the Institute associated with him and employees or other persons with whom he has contracted to carry out professional services on behalf of clients were properly supervised;
 - b) he failed to ensure that individuals assigned responsibilities for client files had sufficient training and competence to carry out the tasks assigned;
 - c) he failed to have in place adequate policies and procedures, including checklists, to ensure the adequate review of client files;
 - d) he failed to ensure that general tax positions developed by him or on his behalf were appropriately applied to individual clients.
2. THAT, the said George H. Wall, in or about the period December 31, 1999 through September 11, 2001, while engaged to perform a review of the financial statements of C.Tour Inc. as at December 31, 1999, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, including the Recommendations set out in the *CICA Handbook*, contrary to Rule 206 of the rules of professional conduct, in that;
 - a) he failed to properly supervise the staff person carrying out the review work;
 - b) he failed to carry out sufficient appropriate enquiry discussion and analysis to enable him to assess whether the information provided to him was plausible;
 - c) he failed to document matters important to support the content of the report.

3. THAT, the said George H. Wall, in or about the period January 1, 2000 through July 30, 2000, while engaged to compile financial statements as at January 31, 2000 and prepare personal and corporate tax returns and information slips for the 1999 and 2000 taxation year for J.S. Inc. and Julianna S., failed to perform his professional services with due care contrary to Rule 202 of the rules of professional conduct, in that;
- a) he failed to adequately review the working paper files or the tax returns before they were released;
 - b) he placed undue reliance on a non-member, Rama Nutakki, for the tax positions taken on the file and failed to supervise her properly;
 - c) he approved a Canadian T2 tax return in which deductions were claimed on all income earned by the company from U.S. contracts without making sufficient enquiry and analysis of the source of such income for tax purposes and its eligibility for such deductions;
 - d) he did not ensure that a Maryland state tax return for the company was prepared as required;
 - e) he did not ensure that a Massachusetts state tax return for the company was prepared as required;
 - f) he improperly participated in the allocation of director's fees of \$34,500 to Lucy C. on her T4 slip when there were no corporate cheques payable to Lucy C. and no evidence that she participated as a director;
 - g) he improperly approved the allocation of director's fees of \$34,500 said to be payable to Lucy C. as a credit to the shareholder account of Julianna S. when there was insufficient evidence that there had been an assignment of the fees;
 - h) he did not ensure that a Maryland state tax return was filed by the shareholder, Julianna S., as required;
 - i) given his assumption that Julianna S. had no permanent establishment or permanent place of business in the U.S., he improperly participated in the reporting of her Canadian director's fees as Canadian source income on her U.S. 1040NR tax return instead of reporting a nil 1040NR;
 - j) given that he did report the directors fees on Julianna S.'s 1040NR he should have claimed a foreign tax credit on her Canadian tax return for the approximately \$1,010 US tax paid on the 1040NR and failed to do so;

- k) he failed to carry out sufficient enquiry discussion and analysis to determine whether expenses paid by the company for a US apartment on behalf of the sole shareholder, qualified as a travel expense for the company for income tax purposes;
 - l) he failed to ensure a form TD4 was completed and retained for the company in order to claim an exemption from the requirement of the company to report the expenses as remuneration of the shareholder.
4. THAT, the said George H. Wall, in or about the period January 1, 2000 through July 30, 2000, while engaged to compile financial statements and prepare tax returns for the year ended January 31, 2000 for D. Incorporated and for its shareholder Navdeep D., failed to perform his professional services with due care contrary to Rule 202 of the rules of professional conduct, in that;
- a) he approved a Canadian T2 tax return in which deductions were claimed on all income earned by the company from U.S. contracts without making sufficient enquiry and analysis to determine where the company was taxable, the source of such income for tax purposes and its eligibility for such deductions;
 - b) in determining the company's eligibility for the ~~small-business~~ deductions on its Canadian tax return he failed to carry out sufficient enquiry discussion and analysis to determine where a contract for services with a U.S. customer was negotiated and signed; *[amended at hearing]*
 - c) he failed to carry out sufficient enquiry discussion and analysis to determine whether expenses paid by the company for a New York apartment on behalf of the sole shareholder, qualified as a travel expense for the shareholder for income tax purposes;
 - d) he failed to ensure that a Form TD4 was completed and retained by the company, such form being necessary to exempt the company from including Navdeep D.'s personal living expenses paid by the company in Navdeep D.'s income;
 - e) he failed to ensure that a New York state tax return was prepared for either Navdeep D. or the company as required by New York state law;
 - f) he improperly cited Article 14 rather than Article 7 on Form 8833, Treaty Based Return Position Disclosure prepared for D. Incorporated;

- g) given his assumption that Navdeep D. had no permanent establishment or permanent place of business in the U.S., he improperly reported Navdeep D.'s consulting income from D. Incorporated as Canadian source income on Navdeep D.'s U.S. 1040NR and the claiming of a foreign tax credit for Canadian taxes paid rather than filing a nil 1040NR;
 - h) he improperly recorded on the T2 corporate tax return personal expenses, including personal clothing, grooming and groceries, of Navdeep D. paid by the company as tax deductible business expenses of the company. In addition he failed to ensure that such personal expenses paid for by the company were included in the personal taxable income of Navdeep D.
5. THAT, the said George H. Wall, in or about the period January 1, 2000 through July 30, 2000, while engaged to compile financial statements and prepare tax returns for the year ended April 20, 2000 for B. Consulting Inc., failed to perform his professional services with due care contrary to Rule 202 of the rules of professional conduct, in that;
- a) he improperly set-up a \$75,000 housing loan to the shareholder, B. V. without sufficient evidence that the funds withdrawn from the company were used to acquire a home;
 - b) he improperly included home office expenses on the corporate tax return which included principal paid on a home mortgage, and capital costs for furniture and appliances;
 - c) he improperly deducted personal expenses of the shareholder on the corporate tax return as business expenses of the company, including clothes, dry cleaning, personal grooming, hair cuts, cosmetics and fitness club dues. In addition he failed to ensure that such personal expenses paid for by the company were included in the personal taxable income of the shareholder.
6. THAT, the said George H. Wall, in or about the period January 1, 2000 through July 30, 2000, while engaged to compile financial statements and prepare tax returns for the year ended September 30, 1999 for S.W. Development Corporation, failed to perform his professional services with due care contrary to Rule 202 of the rules of professional conduct, in that;
- a) he improperly prepared the T2 tax return in which deductions were claimed on all income earned by the company from U.S. contracts without sufficient inquiry into and analysis of the source for tax purposes of such income and its eligibility for such deductions;
 - b) he failed to carry out sufficient enquiry to determine whether or not the expenses paid by the company for the shareholder's apartment in the U.S. qualified as a travel expense for income tax purposes;

- c) he failed to ensure that a Maryland tax return was prepared for S. A., the shareholder of the company, when he was resident in Maryland for more than 6 months in 1999.
- 7. THAT, the said George H. Wall, in or about the period January 1, 2000 through July 30, 2000, while engaged to compile financial statements and prepare tax returns for the year ended February 28, 2000 for S. A. Inc., failed to perform his professional services with due care contrary to Rule 202 of the rules of professional conduct, in that;
 - a) he failed to carry out sufficient enquiry to determine whether the expenses paid by the company for the shareholder's apartment in the U.S. qualified as a travel expense for income tax purposes;
 - b) he improperly included personal expenses paid by the company for S.A. on the T2 corporate tax return as tax deductible business expenses of the company including personal grooming, haircuts, shoe repairs, clothes, dry cleaning, groceries, fitness club fees and his wife's air fare for a personal trip to India. In addition he failed to ensure that such personal expenses paid for by the company were included in the personal taxable income of the shareholder.
- 8. THAT, the said George H. Wall in or about the period January 1, 2000 through to September 11, 2001, failed to conduct himself in a manner which will maintain the good reputation of the profession and its ability to serve the public interest contrary to Rule 201.1 of the rules of professional conduct in that, while engaged to provide professional services to J.S. Inc., D. Incorporated, B. Consulting Inc. and S.W. Development Corp. and to the shareholders of these companies;
 - a) he failed to adequately research aggressive tax filing positions taken on behalf of his clients;
 - b) he failed to carry out sufficient enquiry of sources of income for tax purposes;
 - c) he failed to carry out sufficient enquiry of the appropriateness of deductions from income claimed on behalf of his clients;
 - d) he failed to adequately discuss with the respective clients the risks of aggressive tax filing positions and failed to document any discussions he did have with clients.
- 9. THAT, the said George H. Wall, in or about the period December 31, 1999 through March 31, 2000, while engaged in the practice of public accounting, used the name or style Wall & Associates, when he had no partners, which use was therefore misleading, contrary to Rule 401 of the rules of professional conduct.

10. THAT, the said George Wall, in or about the period June 1, 1998 to December 31, 2000, while engaged to compile financial statements as at June 30, 1998 and June 30, 1999 for J. Enterprises Inc. and to compile financial statements as at November 30, 1998 and November 30, 1999 for A. Information Inc. and to prepare corporate tax returns for both companies for the 1999 year end, failed to perform his professional services with due care contrary to Rule 202 of the rules of professional conduct in that:

- a) he failed to review the working paper files prepared by his staff or the tax returns before they were released;
- b) he reversed an intercompany income item in the approximate amount of \$103,000 in J. Enterprises Inc. because there was no related expense recorded on the books of A. Information without first determining why the income was set up in the first place and whether there was any evidence to support the reversal.
- c) he reclassified dividends payable to a shareholder, the T. Family Trust to T. personally without documentation or evidence as to why such reclassification was appropriate;
- d) he failed to obtain sufficient appropriate evidence of the share ownership of the two companies in order to make decisions regarding dividend allocations.

10. The charges laid by the professional conduct committee against Mr. Novoselac read as follows:

1. THAT, the said Robert Novoselac, in or about the period December 31, 1999 through September 11, 2001, failed to perform his professional services with due care, contrary to Rule 202 of the rules of professional conduct, in that;
 - a) he failed to ensure that individuals assigned responsibilities for client files had sufficient training and competence to carry out the tasks assigned;
 - b) he failed to have in place adequate policies and procedures, including checklists, to ensure the adequate review of client files;
 - c) he failed to ensure that general tax positions adopted by the firm were appropriately applied to individual clients.
2. THAT, the said Robert Novoselac, in or about the period December 31, 1999, through September 11, 2001, failed to sustain his professional competence by keeping informed of, and complying with, developments in professional standards in all functions in which he practices or is relied upon contrary to Rule 203.1 of the rules of professional conduct.

3. THAT, the said Robert Novoselac, in or about the period January 1, 2000 through July 30, 2000, while engaged to compile financial statements as at January 31, 2000 and prepare personal and corporate tax returns and information slips for the 1999 and 2000 taxation year for J.S. Inc. and J. S. failed to perform his professional services with due care contrary to Rule 202 of the rules of professional conduct, in that;
- a) he failed to adequately review the working paper files or the tax returns before they were released;
 - b) he placed undue reliance on a non-member, Rama Nutakki, for the tax positions taken on the file and failed to supervise her properly;
 - c) he approved a Canadian T2 tax return in which the small business deduction was claimed on all income earned by the company from U.S. contracts without making sufficient enquiry and analysis of the source of such income for tax purposes and its eligibility to be taxed at the small business rate;
 - d) he did not ensure that a Maryland state tax return for the company was prepared as required;
 - e) he did not ensure that a Massachusetts state tax return for the company was prepared as required;
 - f) he improperly approved the allocation of director's fees of \$34,500 to L. C. on her T4 slip when there were no corporate cheques payable to L.C. and no evidence that she participated as a director;
 - g) he improperly approved the allocation of director's fees of \$34,500 said to be payable to L.C. as a credit to the shareholder account of J.S. when there was insufficient evidence that there had been an assignment of the fees;
 - h) he did not ensure that a Maryland state tax return was filed by the shareholder, J.S., as required;
 - i) given his assumption that J.S. had no permanent establishment or permanent place of business in the U.S., he improperly participated in the reporting of her Canadian director's fees as Canadian source income on her U.S. 1040NR tax return instead of reporting a nil 1040NR;
 - j) given that he did report the directors fees on J.S.'s 1040NR he should have claimed a foreign tax credit on her Canadian tax return for the approximately \$1,010 US tax paid on the 1040NR and failed to do so;

- k) he failed to carry out sufficient enquiry discussion and analysis to determine whether expenses paid by the company for a US apartment on behalf of the sole shareholder, qualified as a travel expense for the company for income tax purposes;
 - l) he failed to ensure a form TD4 was completed and retained for the company in order to claim an exemption from the requirement of the company to report the expenses as remuneration of the shareholder;
4. THAT, the said Robert Novoselac, in or about the period January 1, 2000 through July 30, 2000, while engaged to compile financial statements and prepare tax returns for the year ended January 31, 2000 for D. Incorporated, and for its shareholder Navdeep D., failed to perform his professional services with due care contrary to Rule 202 of the rules of professional conduct, in that;
- a) he approved a Canadian T2 tax return in which the small business deduction was claimed on all income earned by the company from U.S. contracts without making sufficient enquiry and analysis to determine where the company was taxable, the source of such income for tax purposes and its eligibility to be taxed at the small business rate;
 - b) in determining the company's eligibility for the small business deduction on its Canadian tax return he failed to carry out sufficient enquiry discussion and analysis to determine where a contract for services with a U.S. customer was negotiated and signed;
 - c) he failed to carry out sufficient enquiry discussion and analysis to determine whether expenses paid by the company for a New York apartment on behalf of the sole shareholder, qualified as a travel expense for the company for income tax purposes;
 - d) he failed to ensure that a Form TD4 was completed and retained by the company, such form being necessary to exempt the company from including Navdeep D.'s personal living expenses paid by the company in Navdeep D.'s income;
 - e) he failed to ensure that a New York state tax return was prepared for either Navdeep D. or the company as required by New York state law;
 - f) he improperly participated in the citing of Article 14 rather than Article 7 on Form 8833, Treaty Based Return Position Disclosure prepared for D. Incorporated;
 - g) given his assumption that Navdeep D. had no permanent establishment or permanent place of business in the U.S., he improperly participated in the reporting of Mr. D.'s consulting income from D. Incorporated as Canadian source income on Navdeep D.'s U.S. 1040NR and the claiming of a foreign tax credit for Canadian

taxes paid rather than filing a Nil 1040NR;

- h) he improperly participated in the deduction on the T2 corporate tax return of personal expenses, including personal clothing, grooming and groceries, of Navdeep D. paid by the company as tax deductible business expenses of the company. In addition he failed to ensure that such personal expenses paid for by the company were included in the personal taxable income of Navdeep D.
5. THAT, the said Robert Novoselac, in or about the period January 1, 2000 through July 30, 2000, while engaged to compile financial statements and prepare tax returns for the year ended April 20, 2000 for B. Consulting Inc. failed to perform his professional services with due care contrary to Rule 202 of the rules of professional conduct, in that;
- a) he improperly participated in the set-up of a \$75,000 housing loan to the shareholder, B.V. without sufficient evidence that the funds withdrawn from the company were used to acquire a home;
 - b) he improperly participated in the calculation of home office expenses on the corporate tax return which included principal paid on a home mortgage, and capital costs for personal furniture and appliances;
 - c) he improperly participated in the deduction of personal expenses of the shareholder on the corporate tax return as business expenses of the company, including clothes, dry cleaning, personal grooming, hair cuts, cosmetics and fitness club dues. In addition he failed to ensure that such personal expenses paid for by the company were included in the personal taxable income of the shareholder.
6. THAT, the said Robert Novoselac, in or about the period January 1, 2000 through July 30, 2000, while engaged to compile financial statements and prepare tax returns for the year ended September 30, 1999 for S.W. Development Corporation failed to perform his professional services with due care contrary to Rule 202 of the rules of professional conduct, in that;
- a) he improperly participated in the preparation of the T2 tax return in which the small business deduction was claimed on all income earned by the company from U.S. contracts without sufficient inquiry into and analysis of the source for tax purposes of such income and its eligibility to be taxed at the small business rate;
 - b) he failed to carry out sufficient enquiry to determine whether or not the expenses paid by the company for the shareholder's apartment in the U.S. qualified as a travel expense for the corporation for income tax purposes;
 - c) he failed to ensure that a Maryland tax return was prepared for S.A., the shareholder of the company, when he was resident in Maryland for more than 6 months in 1999.

7. THAT, the said Robert Novoselac, in or about the period January 1, 2000 through July 30, 2000, while engaged to compile financial statements and prepare tax returns for the year ended February 28, 2000 for S.A. Inc., failed to perform his professional services with due care contrary to Rule 202 of the rules of professional conduct, in that;
 - a) he failed to carry out sufficient enquiry to determine whether the expenses paid by the company for the shareholder's apartment in the U.S. qualified as a travel expense for income tax purposes;
 - b) he improperly participated in the deduction of personal expenses paid by the company for S.A. on the T2 corporate tax return as tax deductible business expenses of the company including personal grooming, haircuts, shoe repairs, clothes, dry cleaning, groceries, fitness club fees and his wife's air fare for a personal trip to India. In addition he failed to ensure that such personal expenses paid for by the company were included in the personal taxable income of the shareholder.
8. THAT, the said Robert Novoselac, in or about the period January 1, 2000 through to September 11, 2001, failed to conduct himself in a manner which will maintain the good reputation of the profession and its ability to serve the public interest contrary to Rule 201.1 of the rules of professional conduct in that, while engaged to provide professional services to J.S. Inc., D. Incorporated, B. Consulting Inc. and S.W. Development Corp. and to the shareholders of these companies;
 - a) he failed to adequately research aggressive tax filing positions taken on behalf of these clients;
 - b) he failed to carry out sufficient enquiry of sources of income for tax purposes and its ability to be taxed at the small business rate;
 - c) he failed to carry out sufficient enquiry of the appropriateness of deductions from income claimed on behalf of these clients;
 - d) he failed to adequately discuss with the respective clients the risks of aggressive tax filing positions and failed to document any discussions he did have with clients.
9. *Withdrawn by the professional conduct committee at the hearing*
10. THAT, the said Bob Novoselac, in or about the period October 1, 1999 to December 31, 2000, while engaged to compile financial statements as at June 30, 1998 and June 30, 1999 for J. Enterprises Inc. and to compile financial statements as at November 30, 1999 for A. Information Inc. and to prepare corporate tax returns for both companies for the 1999 year end, failed to perform his professional services with due care contrary to Rule 202 of the rules of professional conduct in that;

- a) he recommended to the client and approved setting up salaries for the shareholder's children without evidence that services had been performed equal in value to the salaries;
- b) he participated in an arrangement to reverse an intercompany income item in the approximate amount of \$103,000 in J. Enterprises Inc. because there was no related expense recorded on the books of A. Information Inc. without first determining why the income was set up in the first place and whether there was any evidence to support the reversal;
- c) he participated in the reclassification of dividends payable to a shareholder, the T. Family Trust to T. personally without documentation or evidence as to why such reclassification was appropriate;
- d) he failed to obtain sufficient appropriate evidence of the share ownership of the two companies in order to make decisions regarding dividend allocations.

11. Mr. Wall and Mr. Novoselac both entered pleas of guilty to the respective charges laid against them, and confirmed that they understood that on the basis of their pleas to the charges, and on that basis alone, they could be found guilty of the charges.

THE CASE AGAINST THE MEMBERS

12. Mr. Farley filed an agreed statement of facts for each member and a combined document brief for both members. The panel adjourned to review these documents.

13. The charges against the members are virtually identical. The charges against Mr. Wall relate to his firm's work for several information technology companies. Mr. Wall carried (and carries) on practice under the name of Wall & Associates (W&A). He had (and has) no partners, although he usually employed at least one chartered accountant or had a chartered accountant work for him on a contract basis. In his agreed statement of facts, Mr. Wall agreed that he "is responsible for the professional work undertaken within the firm W&A and that ... [he] accepts professional responsibility for the work done by the firm W&A or any employee of the firm".

14. During the relevant period, Mr. Novoselac worked on a contract basis for Mr. Wall. Virtually all of Mr. Novoselac's professional time was spent with Mr. Wall, although he did have one or two other clients.

15. A significant number of the clients of W&A were (and are) small incorporated information technology (IT) professional consultants. Some do business in the United States and therefore Messrs. Wall and Novoselac, through Mr. Wall's practice, are required to deal with Canada/US tax issues.

16. The charges relate to review engagement/tax IT clients of W&A. The several Rule 202 charges (failure to perform professional services with due care) against each member relate to various clients. Mr. Novoselac's charges also include a Rule 201.1 charge (failure to maintain the good reputation of the profession) and a Rule 203.1 charge (failure to sustain professional competence). Mr. Wall's charges, in addition to those under Rule 202, include a Rule 201.1 charge (failure to maintain the good reputation of the profession), a Rule 206 charge (failure to perform professional services in accordance with generally accepted standards of practice of the profession), and a Rule 401 charge (use of a misleading firm name).

17. After deliberating, the panel concluded that there was no doubt that the charges against Mr. Wall and Mr. Novoselac had been proven. When the hearing reconvened, the chair read the following decisions into the record:

Decision Re: Mr. Wall

THAT, having seen and considered the evidence, including the agreed statement of facts, filed, charge No. 4(b) having been amended, and having heard the plea of guilty to charges Nos. 1, 2, 3, 4 as amended, 5, 6, 7, 8, 9 and 10, the Discipline Committee finds George H. Wall guilty of charges Nos. 1, 2, 3, 4 as amended, 5, 6, 7, 8, 9 and 10.

Decision Re: Mr. Novoselac

THAT, having seen and considered the evidence, including the agreed statement of facts, filed, charge No. 9 having been withdrawn, and having heard the plea of guilty to charges Nos. 1, 2, 3, 4, 5, 6, 7, 8 and 10, the Discipline Committee finds Robert Novoselac guilty of charges Nos. 1, 2, 3, 4, 5, 6, 7, 8 and 10.

ORDERS AS TO SANCTIONS

18. Mr. Farley, Mr. Bowman on behalf of Mr. Wall, and Mr. Novoselac on his own behalf, made a joint submission on sanction.

19. Mr. Farley submitted that this case was about the failure of the members to perform their professional services with due care. The investigator for the professional conduct committee asked for five client files to review. All of the client files reviewed by her contained numerous deficiencies. There was little if any work done to support the positions taken on tax returns filed. Both Mr. Wall and Mr. Novoselac placed heavy reliance on the support staff of W&A, most of whom did not have the expertise or training to carry out the work assigned to them. The staff of W&A were not supervised properly. The work done by the staff was given a limited review, if any, before it was released.

20. The professional conduct committee requested the following sanctions against Mr. Wall: a reprimand; a fine in the amount of \$30,000; costs in the amount of \$5,000; certain Institute-sponsored professional development courses (*Staying Out Of Trouble* and *Basic But Essential Income Tax Issues*); reinvestigation by the professional conduct committee in 18 months, with costs up to \$5,000 to be paid by Mr. Wall; the normal publicity; a requirement to subscribe to several tax publications; and a direction to Mr. Wall that he be required to hire a chartered accountant to act as a resource to him on United States tax issues. The professional conduct committee requested that the fine and costs be combined and that Mr. Wall be required to pay the Institute at the rate of \$1,000 per month.

21. The professional conduct committee requested the following sanctions against Mr. Novoselac: a reprimand; a fine in the amount of \$15,000; costs in the amount of \$3,000; the same professional development courses as requested for Mr. Wall; reinvestigation by the professional conduct committee in 18 months after Mr. Novoselac resumes the practice of public accounting, with costs up to \$5,000 to be paid by Mr. Novoselac; and the normal publicity. The professional conduct committee again requested that the fine and costs be combined and that Mr. Novoselac be required to pay the Institute at the rate of \$500 per month.

22. Mr. Farley acknowledged that the fines requested by the professional conduct committee were high for offences of this nature. He submitted that the fines were necessary for both members to ensure specific and general deterrence. The fines, particularly in the absence of a suspension, must be high so that they are not seen or considered to be merely a cost of doing business. The misconduct that led to the charges against each member arose out of a similar set of circumstances. As a result, the professional conduct committee's view was that the sanctions to be imposed on each member should be substantially the same. Since Mr. Novoselac will not be practising public accounting after the end of September 2003, an order of suspension would not be meaningful for him. As a result, a suspension order was not requested for either member.

23. Mr. Farley explained that the sanction requested for Mr. Wall was more severe than the sanction requested for Mr. Novoselac because Mr. Wall had primary responsibility for the misconduct of his firm and its employees.

24. Mr. Farley referred the panel to various precedents set out in his book of authorities. One precedent in particular was of interest to the panel – the 1993 case of Mr. Grunberg – in which the discipline committee stated at page 3 of its reasons:

Failure to comply with the standards of the profession, and failure to undertake one's professional responsibilities with due care, are serious breaches of trust which chartered accountants enjoy in the community. Accordingly, a substantial fine has been levied in order to emphasize to Mr. Grunberg, other members of the profession, and the general public, that inadequate standards of practice, such as those demonstrated in this case, are dealt with seriously by the profession.

In the panel's view, this reasoning in Grunberg applies equally well to the facts and circumstances of this case.

25. Mr. Bowman provided the panel with submissions in which he endorsed Mr. Farley's comments, particularly with respect to the high fines being requested, which he stated would act as both a specific and a general deterrent. He advised the panel that in his view the overall sanctions being requested were appropriate in all of the circumstances.

26. Mr. Novoselac also provided the panel with submissions. The panel was not assisted by his submissions, however, which focussed on whether the tax treatment recommended to clients was proper or valid, and not on the principal issue in the case, which was that Mr. Wall and he had failed to perform their professional services in accordance with the generally accepted standards of practice of the profession. Apparently there was doubt in the mind of the professional conduct committee at one time about the propriety or validity of the tax advice given by these members to their clients. The members, particularly Mr. Novoselac, seemed to want to continue to debate that issue, which was not the basis of the charges brought against them.

27. The panel adjourned to discuss the sanctions orders to be imposed against the members. The panel struggled principally with two issues – whether the sanctions requested for the members were appropriate to their misconduct or whether a suspension was required, and whether the quantum of the fines requested and the method of payment proposed amounted to a license fee for misconduct.

28. The first issue related to whether increased fines were an appropriate trade off for an order of suspension. The members' apparent inability to distinguish between whether their tax advice was right or wrong and the essence of their misconduct, being their failure to do sufficient work to justify the tax positions taken, caused the panel concern. Rehabilitation requires a member to recognize and accept the need for rehabilitation, and failing to acknowledge the problem in the first place is not a promising start. The panel wondered whether a suspension might be required in order to make the members understand the nature and seriousness of their misconduct. Though ultimately we decided to accept the joint submission as falling within the range of sanction which was appropriate, some panel members remained of the view that a suspension would also have been appropriate in both cases.

29. On the second issue, the panel asked for further submissions from Mr. Farley, Mr. Bowman and Mr. Novoselac.

30. Mr. Bowman provided us with helpful submissions with respect to Mr. Wall's current financial status. The revenues from his practice are down substantially following what has often been referred to as the high tech meltdown. As a result, Mr. Wall needs the requested three year period to pay the relatively high fine and costs. Mr. Wall took the witness stand and provided the panel with more detailed information regarding his current, fairly poor, financial situation.

31. Mr. Novoselac also provided us with submissions, both on and off the witness stand. His financial circumstances are also poor and are not expected to recover in the near term. As a result, he also needs the requested three year period to pay the fine and costs requested.

32. Mr. Farley advised that the professional conduct committee was looking for both specific and general deterrence in the suggested sanctions. He reiterated that the fines being requested were high for what was essentially a standards case, and stated that the amounts of the fines would send an appropriate deterrent message. Finally, he advised that the quantum of the fines ordered was more important than the period of time provided for their payment.

33. Upon further deliberation, the panel decided that the quantum of the fines and costs were appropriate, but that the payment terms proposed in the joint submission were not. In the panel's view, putting the fines and costs on a monthly payment plan made the payments look too much like a licensing fee. As a result, the panel ordered that the fines and costs be paid within the requested three year period, but did not set out defined payment terms.

34. Following the panel's deliberations, the chair summarized the orders of the panel. The terms of the formal orders were sent to the parties on September 26, 2003, and read as follows:

Order Re: Mr. Wall

IT IS ORDERED in respect of the charges:

1. THAT Mr. Wall be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Wall be and he is hereby fined the sum of \$30,000, to be remitted to the Institute within three (3) years from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Wall be and he is hereby charged costs fixed at \$5,000, to be remitted to the Institute within three (3) years from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Wall be and he is hereby required to complete, by paying for and attending in their entirety, on or before December 31, 2004, the following professional development courses made available through the Institute, or, in the event a course becomes unavailable, the successor course which takes its place:
 1. *Staying Out of Trouble; and*
 2. *Basic but Essential Income Tax Issues.*
5. THAT Mr. Wall be reinvestigated by the professional conduct committee, or by a person retained by the professional conduct committee, on one occasion between twelve (12) and eighteen (18) months from the date this Decision and Order becomes final under the bylaws, the cost of the reinvestigation, up to \$5,000, to be paid by Mr. Wall within thirty (30) days of receiving notification of the cost of the reinvestigation.
6. THAT Mr. Wall be and he is hereby required to engage a chartered accountant, acceptable to the professional conduct committee, to act as a resource to him for U.S. tax issues.

7. THAT Mr. Wall be and he is hereby required to subscribe to the following publications:
 1. *The Canadian Companion to 1040 Preparation [CCH];*
 2. *2003 U.S. Master Tax Guide [CCH];*
 3. *State Tax Handbook [CCH];*
 4. *Cross-Border Relocation Law [CCH];*
 5. *Canada – U.S. Employment Transfers [CCH];*
 6. *Tax Analysts Service; and*
 7. *Brunton's U.S. Taxletter.*
8. THAT notice of this Decision and Order, disclosing Mr. Wall'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 the Public Accountants Council for the Province of Ontario;
 - (b) to the Canadian Institute of Chartered Accountants; and
 - (c) by publication in *CheckMark*.
9. THAT in the event Mr. Wall 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 the appropriate press.

Order Re: Mr. Novoselac

1. THAT Mr. Novoselac be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Novoselac be and he is hereby fined the sum of \$15,000, to be remitted to the Institute within three (3) years from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Novoselac be and he is hereby charged costs fixed at \$3,000, to be remitted to the Institute within three (3) years from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Novoselac be and he is hereby required to complete, by paying for and attending in their entirety, on or before December 31, 2004, the following professional development courses made available through the Institute, or, in the event a course becomes unavailable, the successor course which takes its place:
 1. *Staying Out of Trouble; and*
 2. *Basic but Essential Income Tax Issues.*

5. THAT Mr. Novoselac be reinvestigated by the professional conduct committee, or by a person retained by the professional conduct committee, on one occasion between twelve (12) and eighteen (18) months from the date this Decision and Order becomes final under the bylaws, provided that in the event Mr. Novoselac is not practising public accounting at the time this Decision and Order becomes final under the bylaws he shall forthwith advise the professional conduct committee if and when he resumes the practice of public accounting, whereupon the reinvestigation shall be conducted between twelve (12) and eighteen (18) months after he has resumed the practice of public accounting, and in either event the cost of the reinvestigation, up to \$5,000, shall be paid by Mr. Novoselac within thirty (30) days of receiving notification of the cost of the reinvestigation.
6. THAT notice of this Decision and Order, disclosing Mr. Novoselac'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 the Public Accountants Council for the Province of Ontario;
 - (b) to the Canadian Institute of Chartered Accountants; and
 - (c) by publication in *CheckMark*.
7. THAT in the event Mr. Novoselac 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 the appropriate press.

Reprimand

35. The panel determined that reprimands to these members were necessary in order to stress to them the serious nature of their offences and the unacceptability of their conduct as chartered accountants.

Fine and Costs

36. The panel determined that the requested fine and costs of \$30,000 and \$5,000, respectively, for Mr. Wall, and \$15,000 and \$3,000, respectively, for Mr. Novoselac, were appropriate in the circumstances, and ordered that all the fines and costs be paid within three years.

Professional Development Courses, Subscriptions and Hiring of Chartered Accountant as a Resource Person

37. The taking of professional development courses should assist these members to correct the misconduct that brought them before the discipline committee. For Mr. Wall it was considered appropriate in addition that he subscribe to various publications, and that he engage the services of a chartered accountant as a resource person to assist him on U.S. tax issues.

Reinvestigation by the Professional Conduct Committee

38. The panel agreed with the joint submission that the practices of these two members be reinvestigated, and ordered reinvestigation within the period of 12 to 18 months following the date the order becomes final under the bylaws, or, in the case of Mr. Novoselac, who may not be practising at the time the order becomes final, within 12 to 18 months following his resumption of public practice. The panel is hopeful that the experience these members have had with the discipline process, and the specific deterrent impact of the sanctions levied against them, will prompt them to take the steps necessary to rectify the serious deficiencies in their practices.

Publicity

39. The usual publicity was ordered in this case to stress to Mr. Wall and Mr. Novoselac, and to other like-minded members, the inappropriateness of the type of conduct demonstrated in this case.

DATED AT TORONTO THIS 18TH DAY OF DECEMBER, 2003
BY ORDER OF THE DISCIPLINE COMMITTEE

M. BRIDGE, CA – CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

J.A. CULLEMORE, CA
B.L. HAYES, CA
G.R. PEALL, CA
R.D. WHEELER, FCA
P.W. WONG (Public representative)