

Glen Edwin Byers: Summary, as Published in *CheckMark*

Glen Edwin Byers, of Newmarket, was found guilty of one charge under Rule 104 of failing to promptly reply in writing to a letter from the associate director of standards enforcement in respect of a matter of professional conduct. He was ordered to cooperate with the professional conduct committee, and was suspended as of the hearing date until either the conclusion of the professional conduct committee investigation and the closing of its file or files without the laying of any further charges, or the conclusion of discipline proceedings in the event of the laying of further charges. Mr. Byers cooperated in the investigation, no further charges were laid, and he was reinstated to membership in good standing.

CHARGE(S) LAID re: Glen E. Byers

The Professional Conduct Committee hereby makes the following charge against Glen E. Byers, CA, a member of the Institute:

1. THAT, the said Glen E. Byers, during the period October 16, 2000 to December 12, 2000, 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 and sent October 16, 2000 in which a written reply was specifically required, contrary to Rule 104 of the rules of professional conduct.

Dated at Toronto this 12th day of December, 2000.

MICHAEL CONNOLLY, FCA
DEPUTY CHAIR, PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Glen Edwin Byers, CA

DECISION AND ORDER IN THE MATTER OF: A charge against **GLEN EDWIN BYERS, CA**, a member of the Institute, under **Rule 104** of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE MAY 29, 2001

THAT, having seen and considered the evidence, and having determined to proceed with the hearing in the absence of Mr. Byers pursuant to Institute Bylaw 560, being satisfied that he had proper notice of the hearing, and having entered on his behalf a plea of not guilty to the charge, the Discipline Committee finds Glen Edwin Byers guilty of the charge.

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Byers be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Byers cooperate with the professional conduct committee, its servants and agents, with respect to the investigation of any complaint against him.
3. THAT Mr. Byers be and he is hereby suspended from the rights and privileges of membership in the Institute, such suspension to commence on this day, May 29, 2001, and continue until either:
 - (a) the professional conduct committee closes its file or files relating to any investigation it makes arising from concerns discovered while investigating Mr. Byers; or
 - (b) Mr. Byers is charged and the related discipline proceedings have been concluded.
4. THAT notice of this Decision and Order, disclosing Mr. Byers' name, be given after this Decision and Order becomes final under the bylaws:
 - (a) to the Public Accountants Council for the Province of Ontario;
 - (b) to the Canadian Institute of Chartered Accountants; and
 - (c) by publication in *CheckMark*.
5. THAT Mr. Byers surrender his certificate of membership in the Institute to the discipline committee secretary within ten (10) days from the date of his receipt of this Decision and Order.

DATED AT TORONTO THIS 5TH DAY OF JUNE, 2001
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re Glen Edwin Byers, CA

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: A charge against **GLEN EDWIN BYERS, CA**, a member of the Institute, under **Rule 104** of the Rules of Professional Conduct, as amended.

REASONS FOR THE DECISION AND ORDER MADE MAY 29, 2001

1. This panel of the discipline committee of the Institute of Chartered Accountants of Ontario convened on May 29, 2001 to hear a charge made by the professional conduct committee against Glen Byers.
2. The professional conduct committee was represented by Ms. Christine O'Donohue. Mr. Byers was not present at the hearing and was not represented by counsel.
3. The hearing concluded on May 29, and the panel's decision and order was sent to Mr. Byers on June 5. These reasons, issued in writing pursuant to Bylaw 574, contain the charge as well as the decision and order.

DECISION TO PROCEED IN THE ABSENCE OF THE MEMBER

4. Mr. Byers was not present in the Council Chamber when the hearing was scheduled to commence, and after a search the discipline committee secretary advised that Mr. Byers was not in the area adjacent to the Council Chamber. The chair reviewed the exhibits which had already been filed at past assignment hearings, and then filed the Notice of Hearing dated April 17, 2001.
5. Ms. O'Donohue filed with the committee a letter received from Mr. Byers dated May 28, 2001, which attached a letter from Dr. Barabtarlo dated May 25, 2001.
6. The panel reviewed the documents, and, upon being satisfied that Mr. Byers had been properly served and was aware of these proceedings, decided to proceed in his absence pursuant to Bylaw 560.

THE CHARGE

7. The charge laid by the professional conduct committee against Mr. Byers reads:

THAT, the said Glen E. Byers, during the period October 16, 2000 to December 12, 2000, 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 and sent October 16, 2000 in which a written reply was specifically required, contrary to Rule 104 of the rules of professional conduct.

The chair entered on the record a plea of not guilty to the charge on behalf of Mr. Byers.

CASE FOR THE PROFESSIONAL CONDUCT COMMITTEE

8. Counsel for the professional conduct committee filed an affidavit of Ms. Elizabeth Noonan, associate director of standards enforcement, which attached as exhibits a copy of the complaint letter dated September 20, 2000 received from Mr. John Fung, principal

of Constance Consultants Ltd., a client or former client of Mr. Byers; and copies of her letters to Mr. Byers of September 25 and October 16, 2000, asking Mr. Byers to reply in writing concerning the complaint received.

DECISION ON THE CHARGE

9. The affidavit of Ms. Noonan, and Mr. Byers' letter of May 28, 2001, establish that the member did not respond in writing as required, and is therefore guilty of the charge.
10. The decision reads as follows:

DECISION

THAT, having seen and considered the evidence, and having determined to proceed with the hearing in the absence of Mr. Byers pursuant to Institute Bylaw 560, being satisfied that he had proper notice of the hearing, and having entered on his behalf a plea of not guilty to the charge, the Discipline Committee finds Glen Edwin Byers guilty of the charge.

SANCTION

11. Ms. O'Donohue made submissions with respect to sanction but did not call evidence on the issue.
12. The panel concluded that there were two issues which the order should address.
13. First, it is necessary that Mr. Fung's complaint be investigated without further delay. While it seems that Mr. Byers' letter of May 28, 2001 is an answer to the letter of the associate director of standards enforcement dated October 16, 2000, this does not mean that the investigation of the professional conduct committee has been concluded. Accordingly, it is necessary that Mr. Byers cooperate with the professional conduct committee or it will not be able to fulfill its mandate in the public interest.
14. Mr. Byers must be specifically deterred from delaying the investigation of this complaint further. He must cooperate with the professional conduct committee, and its officers, servants and agents, who cannot wait weeks let alone months before concluding the investigation.
15. Often orders which provide effective specific deterrence also have the effect of facilitating a member's rehabilitation and return to a standard of practice which is acceptable. We hope Mr. Byers understands that this is one of the objectives of the order requiring him to cooperate.
16. The second issue the discipline committee had to address was the need to protect the public interest until Mr. Byers has shown that he is willing and able to be governed by the Institute. On the evidence we heard there is reason to suspect that Mr. Byers may be unwilling or unable to be governed by the Institute, and reason to think that he is not currently capable of carrying on the practice of a chartered accountant.
17. In the interests of protecting the public and facilitating Mr. Byers' rehabilitation, we ordered that the member be suspended immediately. His suspension shall continue until either the professional conduct committee has concluded its investigation(s) and closed its file(s), or he is again charged and the related discipline proceedings have been concluded.

18. In the event Mr. Byers is charged again, another panel of the discipline committee, based on the evidence it has before it at that time, will have to decide whether or not it is in the public interest to allow him to remain a chartered accountant.
19. The panel is aware that the order made may cause Mr. Byers some stress and anxiety. This is not our intention. We hope the order will prompt Mr. Byers to get help, not only with respect to his apparent medical problem but with respect to his professional problem.
20. The order made by the panel reads as follows:

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Byers be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Byers cooperate with the professional conduct committee, its servants and agents, with respect to the investigation of any complaint against him.
3. THAT Mr. Byers be and he is hereby suspended from the rights and privileges of membership in the Institute, such suspension to commence on this day, May 29, 2001, and continue until either:
 - (a) the professional conduct committee closes its file or files relating to any investigation it makes arising from concerns discovered while investigating Mr. Byers; or
 - (b) Mr. Byers is charged and the related discipline proceedings have been concluded.
4. THAT notice of this Decision and Order, disclosing Mr. Byers' name, be given after this Decision and Order becomes final under the bylaws:
 - (a) to the Public Accountants Council for the Province of Ontario;
 - (b) to the Canadian Institute of Chartered Accountants; and
 - (c) by publication in *CheckMark*.
5. THAT Mr. Byers surrender his certificate of membership in the Institute to the discipline committee secretary within ten (10) days from the date of his receipt of this Decision and Order.

Order to Cooperate

21. The requirement of the order that Mr. Byers cooperate with the professional conduct committee was made in the interests of specific deterrence and rehabilitation, and in order to permit the professional conduct committee to fulfill its duty to the public.

Immediate Suspension

22. The suspension was ordered to commence immediately in order to protect the public, and to provide time for Mr. Byers to rehabilitate himself.

DATED AT TORONTO THIS 22ND DAY OF AUGUST, 2001.
BY ORDER OF THE DISCIPLINE COMMITTEE

L.P. BOOKMAN, CA - CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

B.M. BYRNE, CA
D.L. FLEWELLING, CA
S.W. SALTER, CA
B.A. TANNENBAUM, FCA
N.C. AGARWAL (Public representative)