

Glen Thomas Gourlay: Summary, as Published in *CheckMark*

Glen Thomas Gourlay, of Bramalea, was found guilty of a charge under Rule 201.1 of failing to maintain the good reputation of the profession and its ability to serve the public interest. The charge arose from his convictions under the *Criminal Code* for robbery, possession of a prohibited weapon, and use of a firearm during flight after committing an indictable offence. Mr. Gourlay attempted an armed robbery in which both he and an armoured car guard were wounded by firearms. He was sentenced by the criminal court to 53 months in prison. Mr. Gourlay was fined \$5,000 and expelled from membership.

CHARGE(S) LAID re Glen Thomas Gourlay

The Professional Conduct Committee hereby makes the following charges against Glen Thomas Gourlay, CA, a member of the Institute:

1. THAT, the said Glen T. Gourlay, failed to conduct himself in a manner that will maintain the good reputation of the profession and its ability to serve the public interest in that, on or about December 22, 1993 he was convicted of criminal offences, namely that he, on or about the 10th day of September in the year 1993, at the Municipality of Metropolitan Toronto in the Toronto Region,
 - (a) did rob Fran Messina contrary to the *Criminal Code*;
 - (b) did use a firearm to wit: a 38 calibre handgun, during his flight after committing an indictable offence contrary to the *Criminal Code*; and
 - (c) did have in his possession a prohibited weapon, to wit: mace, contrary to the *Criminal Code*;

all of which is contrary to Rule 201.1 of the rules of professional conduct.

Dated at Toronto, this 13th day of May, 1994.

J.L.M. BADALI, FCA - CHAIR
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Glen Thomas Gourlay

DECISION AND ORDER IN THE MATTER OF: A charge against GLEN THOMAS GOURLAY, a suspended member of the Institute, under Rule 201.1 of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE JANUARY 26, 1996

DECISION

THAT, having seen and considered the evidence, and having determined to proceed with the hearing in the absence of Mr. Gourlay, 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 Thomas Gourlay guilty of the charge.

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Gourlay be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Gourlay be and he is hereby fined the sum of \$5,000, to be remitted to the Institute within six (6) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Gourlay be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Gourlay's name, be given after this Decision and Order becomes final under the bylaws:
 - (a) by publication in *CheckMark*;
 - (b) to the Public Accountants Council for the Province of Ontario; and
 - (c) to the Canadian Institute of Chartered Accountants.
5. THAT Mr. Gourlay surrender his certificate of membership in the Institute to the discipline committee secretary within ten (10) days from the date this Decision and Order becomes final under the bylaws.

DATED AT TORONTO THIS 9TH DAY OF FEBRUARY, 1996
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re Glen Thomas Gourlay

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: A charge against GLEN THOMAS GOURLAY, a suspended member of the Institute, under Rule 201.1 of the Rules of Professional Conduct, as amended.

WRITTEN REASONS FOR THE DECISION AND ORDER MADE JANUARY 26, 1996

These proceedings before this panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on January 26, 1996. Ms. Deborah McPhadden attended on behalf of the professional conduct committee. Mr. Gourlay was not present at the hearing.

The professional conduct committee had laid the following charge against Mr. Gourlay:

THAT, the said Glen T. Gourlay, failed to conduct himself in a manner that will maintain the good reputation of the profession and its ability to serve the public interest in that, on or about December 22, 1993 he was convicted of criminal offences, namely that he, on or about the 10th day of September in the year 1993, at the Municipality of Metropolitan Toronto in the Toronto Region,

- (a) did rob Frank Messina contrary to the Criminal Code;*
- (b) did use a firearm to wit: a 38 calibre handgun, during his flight after committing an indictable offence contrary to the Criminal Code; and*
- (c) did have in his possession a prohibited weapon, to wit: mace, contrary to the Criminal Code;*

all of which is contrary to Rule 201.1 of the rules of professional conduct.

As Mr. Gourlay was not present, the first issue to be dealt with was whether or not the hearing would proceed in his absence. Affidavits of Service of both the Notice of Assignment Hearing and the Notice of Hearing were filed with the committee. In addition, counsel for the professional conduct committee advised the discipline committee that she had spoken with Mr. Gourlay who had said he did not intend to appear.

After reviewing the affidavits and hearing counsel for the professional conduct committee, the chair said he was satisfied that proper service of the Notice of Hearing had been given in accordance with the bylaws and that the hearing would proceed. The chair thereupon directed that a plea of not guilty be entered.

Counsel for the professional conduct committee filed as evidence in support of its case a document brief containing a certified copy of the police information regarding the criminal charges filed against Mr. Gourlay, and transcripts of the criminal court proceedings which occurred over two days. The transcripts disclosed that Mr. Gourlay attempted an armed robbery in which both he and an armoured car guard were wounded by firearms. Mr. Gourlay pleaded guilty to the criminal charges and was sentenced to 53 months in prison.

After reviewing the evidence before it, the discipline committee found Mr. Gourlay guilty of the charge under Rule 201.1.

The committee then heard submissions from the professional conduct committee as to sanction, and, upon deliberation, made the following order:

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Gourlay be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Gourlay be and he is hereby fined the sum of \$5,000, to be remitted to the Institute within six (6) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Gourlay be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Gourlay's name, be given after this Decision and Order becomes final under the bylaws:
 - (a) by publication in *CheckMark*;
 - (b) to the Public Accountants Council for the Province of Ontario; and
 - (c) to the Canadian Institute of Chartered Accountants.
5. THAT Mr. Gourlay surrender his certificate of membership in the Institute to the discipline committee secretary within ten (10) days from the date this Decision and Order becomes final under the bylaws.

The reasons for the discipline committee's order are briefly set out below.

Reprimand

The committee is of the view that a reprimand is necessary as a specific deterrent to the member, to stress to him the unacceptability of his criminal conduct.

Fine

The professional conduct committee requested a fine of \$5,000. The discipline committee concurred with counsel for the professional conduct committee that a fine serves both as a general and a specific deterrent. As a general deterrent to the membership, the committee is of the opinion that a substantial fine is necessary in a case such as this, in which a member is convicted of serious criminal offences.

Expulsion

The principle of general deterrence is of utmost importance in this case. The violent criminal activity resulting in Mr. Gourlay's conviction represents a type of conduct that cannot be tolerated by this profession. The discipline committee formed the opinion that the conduct of the member so undermined the reputation of the profession that nothing less than expulsion would be an appropriate sanction in this case.

Publicity

The committee ordered notice of its decision and order in the manner specified, including disclosure of the member's name, as a specific and general deterrent. The publication will serve to demonstrate to the membership and the public that this type of criminal behaviour will not be tolerated by the profession.

Surrender of Certificate

As is usual in cases of expulsion, the member was ordered to surrender his certificate of membership in the Institute.

DATED AT TORONTO, THIS _____ DAY OF _____, 1996
BY ORDER OF THE DISCIPLINE COMMITTEE

P.A. CAMPOL, CA - CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

P.B.A. CLARKSON, CA
L.R. FLEMMING, CA
S.A. GOODMAN, CA
B.A. TANNENBAUM, CA
R.W. WARKENTIN, P.Eng. (Public representative)