

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO
THE CHARTERED ACCOUNTANTS ACT, 1956

DISCIPLINE COMMITTEE

IN THE MATTER OF: Charges against **IVANO GIANNANTONIO**, a student of the Institute, under **Rule 201** of the Rules of Professional Conduct, as amended.

TO: Mr. Ivano Giannantonio
130 Findhorn Crescent
MAPLE, ON L6A 1M3

AND TO: The Professional Conduct Committee, ICAO

REASONS
(Decision And Order Made January 24, 2006)

1. This panel of the Discipline Committee of the Institute of Chartered Accountants of Ontario met on January 24, 2006 to hear charges brought by the Professional Conduct Committee against Ivano Giannantonio, a student of the Institute.
2. Mr. Paul Farley appeared on behalf of the Professional Conduct Committee, and was accompanied by Mr. Bruce Armstrong, CA, the investigator appointed by the Professional Conduct Committee. Mr. Giannantonio was in attendance and was represented by his counsel, Mr. Frank Bowman.
3. The decision of the panel was made known to the parties at the conclusion of the hearing on January 24, 2006, and the written Decision and Order sent to them on January 26, 2006. These reasons, given pursuant to Bylaw 574, include the charge, the decision, the order, and the reasons of the panel for its decision and order.

CHARGES

4. The following charges were laid by the Professional Conduct Committee against Mr. Giannantonio on October 31, 2005:
 1. THAT, the said Ivano Giannantonio, in or about the period October 1, 2001 through January 31, 2005, failed to conduct himself in a manner which would maintain the good reputation of the profession and its ability to serve the public interest in that, while employed as a CA student at the Chartered Accounting Firm of Litvak Adelman LLP, he borrowed \$17,500 from a Notice to Reader client of his employer without disclosing the loan to his employer; contrary to Rule 201 of the rules of professional conduct.
 2. THAT, the said Ivano Giannantonio, in or about the period October 1, 2002 through January 31, 2005, failed to conduct himself in a manner which would maintain the good reputation of the profession and its ability to serve the public interest in that, while employed as a CA student at the Chartered Accounting Firm of Litvak Adelman LLP, he became aware, and

did not inform his employer, that an amount of \$17,500 was inappropriately entered into the books of a Notice to Reader client of his employer as a payable to a supplier, and expensed, when he knew it to be a loan to himself; contrary to Rule 201 of the rules of professional conduct.

5. Mr. Giannantonio entered a plea of guilty to each of the charges and acknowledged that on the basis of the plea of guilty and on that basis alone he could be found guilty of the charges.

EVIDENCE

6. The evidence in this matter was presented by way of an Agreed Statement of Facts (Exhibit 4), along with an accompanying Document Brief (Exhibit 5). Neither party called any further evidence.

7. The panel finds the evidence as contained in the Exhibits clear, cogent and convincing.

DECISION

8. After deliberating, the panel found that the allegations set out in the charges have been proven and that the nature and extent of the departure from the required standard of practice is so significant as to constitute professional misconduct. The panel found Mr. Giannantonio guilty of the charges. The Chair read the following decision:

THAT, having seen, and considered the evidence, including the agreed statement of facts, filed, and having heard the plea of guilty to Charges Nos. 1 and 2, the Discipline Committee finds Ivano Giannantonio guilty of Charges Nos. 1 and 2.

REASONS FOR THE DECISION

9. Mr. Giannantonio placed himself in an untenable position by borrowing money from a former employer who was a client of his principal, and then not making his principal aware of that fact. Further, he signed a certificate of independence knowing that he was indebted, contrary to the Rules, to that client. He precluded his principal from appropriately discharging his duties to the public, the profession and the client by keeping relevant information from him. Finally, he himself was compromised. When he discovered that the loan had been entered in the books as payment to a supplier, Mr. Giannantonio was not able to bring that error to his principal's attention. Mr. Giannantonio's actions fell far below the standards required, and constitute professional misconduct.

SANCTION

10. The Professional Conduct Committee seeks a written reprimand, a fine in the amount of \$2000, a suspension of six months, and publication in the usual course. Given Mr. Giannantonio's means no costs are sought. In aggravation, the Professional Conduct Committee notes that the loan was outstanding for four years, and that Mr. Giannantonio signed off on inaccurate working papers and a certificate of independence. In mitigation, the Professional Conduct Committee would have the panel consider that the client was a "notice to reader", rather than review client, that Mr. Giannantonio has been cooperative and has exhibited remorse by his guilty plea and agreement on the facts, and that he has no disciplinary record. The Professional Conduct Committee was unable to find any precedents for this type of conduct, but indicated that the fine and suspension were both appropriate given the creation of inaccurate documents, particularly as Mr. Giannantonio knew

those documents would be relied on.

11. Mr. Bowman, for the student, takes no issue with the suggested sanction, with the exception of the length of the suspension, which he characterized as “high”. In further mitigation of Mr. Giannantonio’s actions, he brought to the panel’s attention the fact that Mr. Giannantonio, prior to his becoming a student in accounts, had developed not only an employment but a personal relationship with his employer, which blurred the lines of appropriate conduct. Further, as he had entered the CA training program through qualifying as a CGA, rather than the usual educational route, Mr. Giannantonio had no formal training in objectivity and avoidance of conflicts.

ORDER

12. After careful consideration of the submissions, the panel made the following order:

1. THAT Mr. Giannantonio be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Giannantonio be and he is hereby fined the sum of \$2,000 to be remitted to the Institute within twenty-four (24) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Giannantonio’s rights and privileges as a student of the Institute be suspended for a period of six (6) months from the date this Decision and Order becomes final under the bylaws.
4. THAT notice of this Decision and Order, disclosing Mr. Giannantonio’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*.
5. THAT in the event Mr. Giannantonio fails to comply with the requirements of this Order, he shall thereupon be struck off the register of students, and notice of such striking off, disclosing his name, shall be given in the manner specified above.

REASONS FOR THE ORDER

13. The panel views Mr. Giannantonio’s conduct as serious and completely lacking in professional judgment. The fact that the former employer was a personal friend as well as a client of his then employer does not excuse Mr. Giannantonio being indebted to him in circumstances where such indebtedness was clearly forbidden. His failing to disclose the loan either to his principal or on the certificate he was required to sign was also unacceptable. The fact that the statement provided to the client was a “notice to reader” is irrelevant. The client’s treatment of the loan as an expense was false and misleading. Mr. Giannantonio knew this and did not alert his principal.

Reprimand

14. A written reprimand is ordered to make it clear to Mr. Giannantonio his conduct is unacceptable and to emphasize the fundamental requirement of objectivity in the practice of chartered accounting.

Fine

15. Likewise, a fine is required to express the panel's disapprobation, to Mr. Giannantonio and to the profession, of any act which compromises the judgment or integrity of a member. The quantum of the fine is at the low end of the range, in consideration of the relatively heavy financial impact on Mr. Giannantonio.

Suspension

16. The panel was concerned about the effect of a suspension on Mr. Giannantonio's student requirements, and questioned his counsel in that regard. Based on the information provided, we are satisfied that the suspension will not prejudice Mr. Giannantonio beyond the fact of the suspension itself. A suspension of six months is ordered. The conduct struck at the very heart of chartered accounting and at the reputation of the profession. The public and the membership must be confident in the independence, judgment and objectivity of a chartered accountant at all times.

Notice

17. Publishing names of members or students found guilty of professional misconduct is often the single most significant sanction that may be administered for general deterrence, education of the membership at large, and protection of the public. The panel therefore orders the publication of this proceeding in *Checkmark* and orders that notice be given to the Public Accountants Council for the Province of Ontario and to the Canadian Institute of Chartered Accountants.

Expulsion for Failing to Comply

18. To encourage compliance with this order and provide a further sanction for defiance, this order provides for the striking off of Mr. Giannantonio should he fail to comply with the terms of the order.

DATED AT TORONTO THIS 24th DAY OF FEBRUARY, 2006
BY ORDER OF THE DISCIPLINE COMMITTEE

D. W. DAFOE, FCA – DEPUTY CHAIR
DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

R. J. ADAMKOWSKI, CA
A. HANSON, CA
S. R. LOWE, CA
D. O. STIER, CA
B. M. SOLWAY (Public Representative)