

## **James Grant: Summary, as Published in *CheckMark***

**James Grant**, of Toronto, was found guilty by the discipline committee of two charges of professional misconduct, laid by the professional conduct committee, namely

- one charge, under Rule of Professional Conduct 206, of failing to perform his professional services in accordance with generally accepted standards of practice of the profession; and
- one charge, under Rule of Professional Conduct 406(2), of engaging in the practice of public accounting as a sole proprietor under a name other than his own.

The committee ordered that Mr. Grant

- be reprimanded in writing by the chair of the hearing;
- be fined \$1,000, to be paid within a specified time;
- be required to take two professional development courses within a prescribed time; and
- be reinvestigated by the professional conduct committee, or a person retained by it, in a specified manner.

Failure to comply with the fourth term of the order as set out above will result in Mr. Grant's suspension from membership. Continuation of the suspension for more than twelve months without complying with the said term will result in his expulsion from membership.

Mr. Grant has complied with the second and third terms of the order as set out above.

Mr. Grant has complied with the order and is still a MEMBER IN GOOD STANDING.

## CHARGE(S) LAID re James Grant

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

1. THAT, the said James Grant, on or about the 8th day of August, 1989, while engaged in the practice of public accounting, associated himself with financial statements of Bon Echo Investments Limited for the year ended May 31, 1989 by attaching thereto Accountant's Comments, and failed to perform his professional services in accordance with generally accepted standards of practice of the profession contrary to Rule 206 of the Rules of Professional Conduct in that he failed;
  - (a) to carry out such enquiry, analytical procedures and discussion as would reasonably enable him to assess whether the information being reported on was plausible in the circumstances;
  - (b) to make a suitable reservation in his Accountant's Comments when there was a significant departure from generally accepted accounting principles since depreciation of fixed assets was not recorded;
  - (c) to attach a statement of changes in financial position when such statement was required for fair presentation of financial position;
  - (d) to prepare his report in accordance with the format required in the *CICA Handbook* at the material time which specified a Review Engagement Report;
  - (e) to include in current liabilities the amount shown on the balance sheet as "Loan Payable 50,925" when that amount was payable within one year from the date of the balance sheet;
  - (f) to disclose that the balance sheet item "Loan Payable 50,925" was a related party transaction when it was payable to the mother of a company Director;
  - (g) to disclose details of authorized and issued share capital; and
  - (h) to disclose the loss carry-forward for tax purposes when potential tax benefits resulting from business losses were not recognized in the financial statements.
2. THAT, the said James Grant, during the period May 1985 through to September 1988, while engaged in the practice of public accounting as a sole proprietor, practised under a name other than his own, to wit, Grant Financial Services, contrary to Rule 406 (2) of the Rules of Professional Conduct.

DATED at Toronto this 7<sup>th</sup> day of February, 1991.

R. G. LONG, CA - CHAIR  
PROFESSIONAL CONDUCT COMMITTEE

## **DISCIPLINE COMMITTEE re James Grant**

**DECISION AND ORDER IN THE MATTER OF:** Charges against JAMES GRANT, CA, a member of the Institute, under Rules 206 and 406(2) of the Rules of Professional Conduct, as amended.

### **DECISION AND ORDER MADE JULY 29, 1991**

#### DECISION

THAT, having seen, heard and considered the evidence, and having heard the plea of guilty to particulars (b), (d), (f), (g) and (h) of charge No. 1, particular (a) of charge No. 1 having been withdrawn, THE DISCIPLINE COMMITTEE FINDS James Grant not guilty of particular (e) of charge No. 1 and guilty of particulars (b), (c), (d), (f), (g) and (h) of charge No. 1 and of charge No. 2.

#### ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Grant be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Grant be and he is hereby fined the sum of \$1,000, to be remitted to the Institute within ninety (90) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Grant be and he is hereby required to complete, by attending in their entirety, the following professional development courses made available through the Institute:
  1. Accounting Refresher - October 15 & 16, 1991, Toronto; and
  2. Accounting & Auditing Update - November 20, 1991, Hamilton,or, in the event a course listed above becomes unavailable, the next available offering of the course.
4. THAT Mr. Grant be reinvestigated by the professional conduct committee, or by a person retained by the professional conduct committee, on one occasion, namely within one year from the last completion of the courses listed above.
5. THAT notice of this Decision and Order, disclosing Mr. Grant'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.

6. THAT in the event Mr. Grant fails to comply with any of the requirements of this Order within the time periods specified, he shall thereupon be suspended from the rights and privileges of membership in the Institute, and notice of his suspension, disclosing his name, shall be given in the manner specified in paragraph 5 hereof.
7. THAT in the event Mr. Grant is suspended pursuant to paragraph 6 hereof, the suspension shall terminate upon compliance with the term of the Order in respect of which he was suspended, provided that he complies within twelve (12) months from the date of his suspension.
8. THAT in the event Mr. Grant fails to terminate suspension within twelve (12) months, 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 in paragraph 5 hereof.

DATED AT TORONTO, THIS 2ND DAY OF AUGUST, 1991  
BY ORDER OF THE DISCIPLINE COMMITTEE

B.W. STEPHENSON, BA, LLB  
SECRETARY - THE DISCIPLINE COMMITTEE

## **DISCIPLINE COMMITTEE re James Grant**

**REASONS FOR THE DECISION AND ORDER IN THE MATTER OF:** Charges against JAMES GRANT, CA, a member of the Institute, under Rules 206 and 406(2) of the Rules of Professional Conduct, as amended.

### **WRITTEN REASONS FOR THE DECISION AND ORDER MADE JULY 29, 1991**

These proceedings before a panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on July 29, 1991.

Mr. Paul Farley attended on behalf of the professional conduct committee. Mr. James Grant attended the hearing without counsel, and confirmed for the record that he understood he had a right to counsel but that he wished to proceed without counsel.

The professional conduct committee had laid charges under Rules 206 and 406 of the Rules of Professional Conduct. Before the charges were entered as an exhibit, the professional conduct committee withdrew particular (a) of charge No. 1.

Mr. Grant pleaded guilty to particulars (b), (d), (f), (g) and (h) of charge No. 1. He pleaded not guilty to particulars (c) and (e) of charge No. 1 and to charge No. 2.

Counsel for the professional conduct committee filed a document brief and called as a witness, Mr. Steve Holtom, investigator for the professional conduct committee.

Mr. Grant then cross-examined the witness. After the professional conduct committee had presented its case, Mr. Grant stated that he did not wish to present any evidence.

After considering the evidence, including reviewing the document brief filed by the professional conduct committee, the discipline committee, upon deliberation, found Mr. Grant not guilty of particular (e) of charge No. 1 and guilty of particulars (b), (c), (d), (f), (g) and (h) of charge No. 1 and of charge No. 2.

With respect to particular (c) of charge No. 1, the committee could not accept Mr. Grant's defence that, though he failed to provide a statement of changes in financial position with the financial statements, he did provide the statement subsequently. It was the committee's view that his failure to provide the statement when required, i.e. when the financial statements were released, put him in breach of Rule 206, and that his subsequent production of the statement was incapable of curing the breach.

With respect to particular (e) of charge No. 1, the committee agreed with Mr. Grant that the presentation of the "Loan Payable" on the balance sheet could be interpreted as a current liability.

With respect to charge No. 2, Mr. Grant asserted that as soon as he was informed that practice under the name Grant Financial Services contravened the rules of professional conduct, he ceased practising in this fashion. The committee understood Mr. Grant's statement to be to the effect that any breach of the rule had been unintentional and, therefore, did not amount to professional misconduct, rather than to be an admission that he was in fact guilty of the charge.

There may be circumstances where a committee could be persuaded that an unintentional technical breach of a rule does not constitute professional misconduct, but this is not a rule which is obscure or unimportant, and Mr. Grant had an obligation to understand and abide by it. Whether or not he intended to breach the rule is not relevant in this instance to the question of guilt. Accordingly, there was a determination of guilty on the charge.

After making its findings of guilty and not guilty on the charges, the discipline committee heard the submissions of counsel for the professional conduct committee and Mr. Grant with respect to sanction, and, upon deliberation, made the following Order:

### **ORDER**

IT IS ORDERED in respect of the charges:

1. THAT Mr. Grant be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Grant be and he is hereby fined the sum of \$1,000, to be remitted to the Institute within ninety (90) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Grant be and he is hereby required to complete, by attending in their entirety, the following professional development courses made available through the Institute:
  1. Accounting Refresher - October 15 & 16, 1991, Toronto; and
  2. Accounting & Auditing Update - November 20, 1991, Hamilton,

or, in the event a course listed above becomes unavailable, the next available offering of the course.

4. THAT Mr. Grant be reinvestigated by the professional conduct committee, or by a person retained by the professional conduct committee, on one occasion, namely within one year from the last completion of the courses listed above.
5. THAT notice of this Decision and Order, disclosing Mr. Grant'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.
6. THAT in the event Mr. Grant fails to comply with any of the requirements of this Order within the time periods specified, he shall thereupon be suspended from the rights and privileges of membership in the Institute, and notice of his suspension, disclosing his name, shall be given in the manner specified in paragraph 5 hereof.
7. THAT in the event Mr. Grant is suspended pursuant to paragraph 6 hereof, the suspension shall terminate upon compliance with the term of the Order in respect of which he was suspended, provided that he complies within twelve (12) months from the date of his suspension.
8. THAT in the event Mr. Grant fails to terminate suspension within twelve (12) months, 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 in paragraph 5 hereof.

Briefly, the reasons for the committee's sanctions are set out below, with the numbers corresponding to the numbered paragraphs of the Order.

1. The committee is of the view that a reprimand is necessary as a deterrent to the member and to stress the unacceptability of his conduct as a chartered accountant.
2. Counsel for the professional conduct committee suggested a minimum fine of \$2,000 in his submissions as to sanction. Mr. Grant, in his submissions, asked that the fine be waived or reduced, explaining that he had spent many hours preparing his defence to particular (a) of charge No. 1, which was withdrawn at the outset of the hearing. The committee felt that the charges upon which Mr. Grant was found guilty merited a fine, as both a specific and a general deterrent, and, upon deliberation, determined that a fine of \$1,000 was appropriate in the circumstances.
3. In addition to specific and general deterrence aspects, sanctions may also be rehabilitative in nature. It is with the latter objective in mind that the committee ordered that the member attend the professional development courses specified. It is the committee's opinion, after review of the syllabuses of all the professional development courses offered through the Institute, including those recommended by counsel for the professional conduct committee, that those courses ordered most directly address the issues raised in this case and, in particular, those issues in respect of which the member was found to be deficient. The committee's selection of courses is for the educational benefit of the member, to enable him to upgrade his standards. This, in turn, will serve to better protect the public interest.
4. It is the committee's view that reinvestigation is necessary in order to determine whether or not Mr. Grant benefits from, and puts into practice, the knowledge to be obtained from the professional development courses ordered. It is also necessary for the protection of the public where, as here, the charges of which the member was found guilty relate to his lack of professional competence.
5. The committee has ordered publication and notice of its Decision and Order, including disclosure of the member's name, as both a specific deterrent to the member charged and a general deterrent to all members. Publicity is also necessary in order to demonstrate to the public at large that the profession is monitoring itself, in order that it can retain the confidence of the public and the legislators in the profession's ability to self-govern.
- 6., 7. & 8. As is the normal practice of the committee, it ordered that failure to comply with any of the requirements of the Order will result in suspension and, ultimately, expulsion of the member, so as to demonstrate to this and all members the seriousness of failing to comply with Orders of the discipline committee.

DATED AT TORONTO, THIS 22nd DAY OF OCTOBER, 1991  
BY ORDER OF THE DISCIPLINE COMMITTEE

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



MEMBERS OF THE PANEL:

K.V. CHERNICK, FCA

H.R. KLEIN, CA

P. RAYSON, CA

L.L. WORTHINGTON, FCA

V.G. STAFL (Public representative)