

James Platis: Summary, as Published in *CheckMark*

James Platis, of Mississauga, 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 Mr. Platis' Criminal Code conviction for defrauding an insurance company of money in excess of \$1,000. While the president and chief executive officer of an insurance company, Mr. Platis transferred to his wife an automobile for which his employer paid over \$37,000. Prior to his criminal conviction, he repaid this amount to the company. He was fined \$10,000 and expelled from the Institute. Mr. Platis' appeal of the discipline committee's decision and order was dismissed by the appeal committee.

CHARGE(S) LAID re James Platis

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

1. That, the said James Platis, on or about March 25, 1997, 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 he was convicted by the Ontario Court of Justice (General Division) of a criminal offense, namely that, on or between the 1st day of December, 1993 and the 1st day of December, 1994, inclusive, at the City of St. Catharines in the Regional Municipality of Niagara, Central South Region, and elsewhere in the Province of Ontario, did by deceit, falsehood or other fraudulent means defraud York Fire and Casualty Insurance Company, of monies exceeding on thousand dollars, contrary to the provisions of Section 380(1)(a) of the Criminal Code of Canada

Dated at Toronto this 26th day of September, 1997

EDWARD M. REITEROWSKI, CA –ACTING/DEPUTY CHAIR
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re James Platis

DECISION AND ORDER IN THE MATTER OF: A charge against **JAMES PLATIS, CA**, a member of the Institute, under **Rule 201.1** of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE JANUARY 30, 1998

DECISION

THAT, having seen, heard and considered the evidence, the Discipline Committee finds James Platis guilty of the charge.

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Platis be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Platis be and he is hereby fined the sum of \$10,000, to be remitted to the Institute within thirty (30) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Platis be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Platis= 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;
 - (c) to the Society of Management Accountants of Ontario;
 - (d) to the Ontario Insurance Commission;
 - (e) by publication in *CheckMark*; and
 - (f) by publication in *The Globe and Mail*.
5. THAT Mr. Platis 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 2ND DAY OF FEBRUARY, 1998
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re James Platis

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: A charge against **JAMES PLATIS, CA**, a member of the Institute, under **Rule 201.1** of the Rules of Professional Conduct, as amended.

REASONS FOR THE DECISION AND ORDER MADE JANUARY 30, 1998

This panel of the discipline committee of the Institute of Chartered Accountants of Ontario convened on January 28, 29 and 30, 1998, to conduct a hearing into a charge brought by the professional conduct committee against Mr. James Platis, CA.

The professional conduct committee was represented by Ms. Deborah McPhadden, and Mr. Brian Belmont represented the member.

At the commencement of the hearing, Mr. Belmont asked that two individuals present in the hearing room be excluded from the proceeding. The two individuals were identified as Mr. Rick Jenkins, a former employee of York Fire and Casualty Insurance Company, and Mr. Alex Jenkins (no relation), a reporter for the publication *Thompson's World Insurance News*. Mr. Belmont indicated that the presence of these two individuals made Mr. Platis very uncomfortable. Noting, however, that Mr. Belmont was not asking that the hearing proceed *in camera*, the panel decided to allow the observers to remain in the hearing room, but indicated that it would reconsider the objection at the time Mr. Platis was called as a witness.

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

THAT, the said James Platis, on or about March 25, 1997, 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 he was convicted by the Ontario Court of Justice (General Division) of a criminal offense, namely that, on or between the 1st day of December, 1993 and the 1st day of December, 1994, inclusive, at the City of St. Catharines in the Regional Municipality of Niagara, Central South Region, and elsewhere in the Province of Ontario, did by deceit, falsehood or other fraudulent means defraud York Fire and Casualty Insurance Company, of monies exceeding one thousand dollars, contrary to the provisions of Section 380(1)(a) of the Criminal Code of Canada.

Mr. Platis entered a plea of not guilty to the charge.

DECISION ON THE CHARGE

Facts

Ms. McPhadden filed a certified copy of the criminal charges that had been laid against Mr. Platis, including the proof of conviction on the charge of fraud, together with a certified transcript of the criminal court proceeding held on March 25, 1997. The transcript describes the facts supporting the fraud conviction. Mr. Platis, who was represented by counsel (not Mr. Belmont),

entered a plea of guilty to the charge of fraud, whereupon the Crown prosecutor withdrew the second charge of theft.

In general, the fraud began with a damage claim made by an insured of York Fire and Casualty. The insured was involved in a motor vehicle accident, and suffered damage to his Mazda automobile. York Fire and Casualty, in the course of settling the claim, both purchased a replacement vehicle from Downtown Mazda, and authorized the repair of the damaged vehicle by 427 Auto Collision. An invoice for \$37,675.77 was issued by Downtown Mazda to York Fire and Casualty for the cost of the replacement vehicle. The cost of repairs to the damaged vehicle amounted to \$18,123.90. York Fire and Casualty had Downtown Mazda pay 427 Auto Collision for the repair costs to the damaged car, and add the amount to a new invoice issued to York Fire for the combined cost of the replacement car and the damaged car repairs, totaling \$55,799.67, which York Fire then paid. The customer received his repaired Mazda, and the new Mazda was registered to York Fire and Casualty. A few days later, the new Mazda was in turn registered to Mr. Platis' wife, Krista Halder.

It is clear from the criminal court transcript that Mr. Platis' counsel confirmed the accuracy of the summary of facts made by the Crown Attorney to the court, and it is also clear that Mr. Platis was present in the courtroom when this was done.

After reviewing the document brief and the facts set out therein, Ms. McPhadden advised the panel that that was the case for the professional conduct committee. She submitted that, having proven Mr. Platis had been convicted of fraud, she was entitled to rely upon the rebuttable presumption contained in Rule 201.2 to establish his guilt under Rule 201.1. Essentially, Rule 201.2 provides that when certified proof of conviction of certain offences, of which fraud is one, is filed with the discipline committee, a rebuttable presumption arises that the member charged failed to maintain the good reputation of the profession and its ability to serve the public interest, and therefore breached Rule 201.1.

As Mr. Platis pleaded not guilty to the charge, he faced the task of rebutting the presumption contained in Rule 201.2, and proving to the discipline committee that his conduct, and the criminal conviction arising from his conduct, did not amount to a failure on his part to maintain the good reputation of the profession and its ability to serve the public interest.

Before Mr. Belmont proceeded with his evidence, the panel heard submissions from Ms. McPhadden and Mr. Belmont regarding the type of evidence that Mr. Belmont should be allowed to present to rebut the Rule 201.2 presumption of guilt.

In summary, it was Ms. McPhadden's position that, as Mr. Platis was not contending that his criminal conviction was obtained by fraud or collusion, and as he had not instituted proceedings to set aside the conviction, he could not challenge the conviction in these proceedings. She submitted that the panel must accept the criminal conviction against Mr. Platis by the Ontario Court (General Division), and not allow evidence that would have the effect of retrying the criminal case or the conviction. The evidence before the panel, she stated, should be restricted to evidence called to rebut the presumption that the reputation of the profession has been damaged by the criminal conviction of Mr. Platis.

Mr. Belmont's submission was that the panel required the details of the events surrounding the conviction in order for it to decide whether the reputation of the profession had been damaged. He indicated that it was necessary for the panel to have a full understanding of all of the actions of Mr. Platis during the relevant time in order for it to properly evaluate the damage to the profession.

The panel deliberated, and ruled that all evidence relating to the issue of whether the criminal conviction had damaged the reputation of the profession would be heard by the panel. In giving the ruling, the chair added that the panel would also hear evidence in mitigation of Mr. Platis' conduct. The panel understood that it was not going to hear evidence intended to suggest that a fraud did not take place, or that the criminal conviction should be ignored.

Prior to hearing the testimony of Mr. Platis, the panel revisited Mr. Belmont's request to exclude the two visitors present at the hearing. Mr. Belmont opposed their presence for the following reasons:

- Mr. Platis was generally uncomfortable with their presence, and this discomfort would be exacerbated when he testified.
- Personal financial information would be presented that Mr. Platis would prefer to be kept confidential.
- Certain details of transactions that occurred would be put into evidence, and this would be information that the public had not yet heard.
- One of the visitors may assist the professional conduct committee with its case.

Ms. McPhadden opposed the exclusion of the visitors on the grounds that the disciplinary process must be viewed as open, and that the public must be entitled to be present at disciplinary hearings. She further submitted that, as Mr. Belmont was not asking for an *in camera* hearing but only for an order excluding the particular visitors present, anyone could order a transcript of the proceeding and thereby obtain the information being presented.

The panel considered the submissions, and reviewed Bylaw 554 *Hearing to be public*, and concluded that there were no matters involving public security, and that there was no evidence that intimate financial or personal matters would be disclosed of such a nature as to outweigh the desirability of adhering to the principle that hearings should be open to the public. The panel also agreed with Ms. McPhadden that, as Mr. Belmont was not asking for a hearing *in camera*, transcripts of the hearing would be public documents. Accordingly, the panel concluded that all members of the public were entitled to attend the hearing, and denied Mr. Belmont's request for the exclusion of the visitors.

Mr. Belmont then proceeded with his evidence. He entered as an exhibit a document brief, and called numerous witnesses to corroborate the evidence contained in the document brief. Essentially, Mr. Platis contended that he had not committed a fraud and ought not to have been convicted. Ms. McPhadden objected to such evidence being presented, on the basis that the discipline committee had already ruled that it would not hear evidence to the effect that Mr. Platis had not committed fraud.

The chair had some sympathy for Ms. McPhadden's objection, as the defence evidence presented did, in fact, suggest that Mr. Platis had not committed fraud. On the other hand, the panel's ruling had been that evidence of mitigating circumstances surrounding Mr. Platis' actions would be allowed. It was therefore decided that the most expeditious way to proceed was to allow all the defence evidence to be presented, and to then let counsel address the issue of the relevance of that evidence during final submissions. The chair was confident the panel had a good understanding of the issue of relevance of evidence, and could make the appropriate judgment as to what was and what was not relevant, and therefore noted Ms. McPhadden's objection, and allowed Mr. Belmont to continue.

Mr. Belmont then called witnesses that testified they were unaware that Mr. Platis was a chartered accountant. The witnesses indicated that Mr. Platis was well known within the

insurance industry, but had gained his reputation on the basis of his sound business knowledge of the industry, and not on the basis of his being a chartered accountant. The insurance industry was generally unaware that Mr. Platis was a CA, they said.

After hearing final submissions from Ms. McPhadden and Mr. Belmont, the panel deliberated.

Conclusion

Mr. Platis did not seek to set aside the conviction under the Criminal Code on the grounds of fraud or collusion, and the existence of the conviction has not been challenged but admitted. The panel was advised by its counsel that, in these proceedings, the criminal conviction is an established fact, and that the conduct which resulted in the conviction is the conduct summarized for the court and confirmed by Mr. Platis' counsel in his presence, as set out in the transcript of the criminal proceeding. Thus, there is a rebuttable presumption under Rule 201.2 that the member failed to maintain the good reputation of the profession and its ability to serve the public interest, in breach of Rule 201.1.

The panel understands that the evidence led at this hearing by Mr. Platis, that he did not commit a crime, and only pleaded guilty because he could not afford a trial and because his father was gravely ill, amounts to an indirect or collateral attack on the criminal conviction, which is not permitted as a matter of law. It is not open to Mr. Platis to tell a different story to the discipline committee than was told to the criminal court. The defence assertion on behalf of Mr. Platis, that the uncontradicted evidence before the panel was that there had been no wrongdoing, is directly contradicted by the summary of the wrongdoing provided in the criminal proceeding.

The defence put forward required the discipline committee to find that Mr. Platis was a truthful witness, and Mr. Belmont urged the panel to make such a finding. Having had the opportunity to see and hear Mr. Platis, however, the panel came to the conclusion that he was not a truthful witness, and that the evidence he gave, as well as some of the evidence given on his behalf, was not credible.

It was also contended by the defence that Mr. Platis was not known as a chartered accountant, and therefore had not damaged the good reputation of the profession. This defence, however, was destroyed by Mr. Platis' own evidence. He was quite forthcoming about the prominence and success he had achieved within the firm of chartered accountants in which he had been a partner and established an insurance practice prior to embarking on his insurance industry career. It was as a chartered accountant that he had made his reputation as a person knowledgeable about the insurance industry. Mr. Atkinson testified that he had hired Mr. Platis for York Fire and Casualty as a CEO and not as a CA, but that he had always been aware that Mr. Platis was a chartered accountant.

It was further contended that Mr. Platis was not acting as a chartered accountant, and therefore could not be found guilty of a breach of the rules of professional conduct. However, Mr. Platis was a chartered accountant, and, as such, was obligated to comply with the rules.

The panel concluded that Mr. Platis had not rebutted the presumption that the reputation of the profession and its ability to serve the public interest had been damaged, and, accordingly, found Mr. Platis guilty of the charge.

ORDER AS TO SANCTION

The panel then heard submissions from both counsel on the issue of sanction, having earlier in the proceeding heard evidence from various witnesses as to Mr. Platis' good character and sound business knowledge. After deliberating on the evidence and submissions heard, the panel made the following order:

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Platis be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Platis be and he is hereby fined the sum of \$10,000, to be remitted to the Institute within thirty (30) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Platis be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Platis' 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;
 - (c) to the Society of Management Accountants of Ontario;
 - (d) to the Ontario Insurance Commission;
 - (e) by publication in *CheckMark*; and
 - (f) by publication in *The Globe and Mail*.
5. THAT Mr. Platis 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 as to sanction are set out below. In reaching its conclusions, the panel considered the principles of general deterrence, specific deterrence and rehabilitation.

Reprimand

The panel concluded that a letter of reprimand would be a specific deterrent to Mr. Platis, and serve to emphasize to him that conduct involving moral turpitude is not acceptable in a chartered accountant. The panel ordered that such a letter be prepared by the chair of the panel and sent to Mr. Platis.

Fine

The professional conduct committee requested a fine in the range of \$5,000 to \$7,000. The panel was of the view that a fraud conviction against a chartered accountant was an act of moral turpitude that struck at the heart of the profession, and concluded that a strong message had to be sent to the membership of the Institute that this type of behaviour is not acceptable. Accordingly, the panel ordered a fine of \$10,000 as a general deterrent to like-minded members.

Expulsion

Expulsion from the Institute is often ordered in cases involving moral turpitude, and the panel determined that expulsion was necessary in this case as both a specific and a general deterrent.

After considering all of the evidence in this case, particularly that of Mr. Platis, the panel found that:

- X at no time during the hearing did Mr. Platis acknowledge any wrongdoing. In fact, he contended throughout that he was not guilty of the criminal offence, and had pleaded guilty to it only because his lawyer at the time had in effect forced him to do so;
- X there were no mitigating circumstances to explain the behaviour of Mr. Platis in this case.

If a member testifies and his evidence is rejected, the question arises as to whether or not the member can be trusted by the public. In this case, considering his misconduct and his testimony, the panel concluded that there was no basis for confidence that Mr. Platis would conduct himself appropriately if allowed to continue to practise as a chartered accountant. The panel therefore ordered that he be expelled from the Institute.

Publication

The principle of general deterrence is served through notification, including publication, of discipline committee decisions and orders. It is considered important to inform other members that there are severe consequences to actions such as those of Mr. Platis, and to let the public know that the profession is regulating itself in the public's interest. The panel is aware as well of the requirement stated in the Institute's bylaws that, in cases of expulsion, notice be given to the public by publication in a newspaper distributed in the area in which the member resides or works. Accordingly, in addition to the usual forms of notice ordered in discipline cases, the panel ordered publication of the expulsion in *The Globe and Mail*, as well as notification to the Society of Management Accountants, of which Mr. Platis is a member, and to the Ontario Insurance Commission.

Certificate

As in all cases of expulsion, it is important that Mr. Platis surrender his certificate of membership in the Institute, to which he is no longer entitled.

DATED AT TORONTO, THIS DAY OF MAY, 1998
BY ORDER OF THE DISCIPLINE COMMITTEE

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

MEMBERS OF THE PANEL

E.R. ARCHIBALD, CA
B.M. BYRNE, CA
P.B.A. CLARKSON, CA
M.L. MACKAY, FCA
J.T. ANDERS (Public representative)

APPEAL COMMITTEE re James Platis

REASONS DOR THE DECISION AND ORDER IN THE MATTER OF: An appeal by **JAMES PLATIS**, a suspended member of the Institute, of the decision and order of the discipline committee made on January 30, 1998, pursuant to the bylaws of the Institute, as amended.

DECISION AND REASONS FOR DECISION MADE NOVEMBER 18, 1998

DECISION

This panel of the appeal committee of the Institute of Chartered Accountants of Ontario convened on November 18, 1998 to hear an appeal launched by James Platis against the decision and order of the Institute's discipline committee made on January 30, 1998.

Ms. Deborah McPhadden appeared on behalf of the professional conduct committee. Mr. Platis was not in attendance, but Mr. Rohan Robinson appeared as counsel on his behalf for the limited purpose of seeking an adjournment of the appeal hearing.

After hearing the submissions of both counsel, and reviewing the documentary evidence filed, the panel deliberated and reached the following decisions:

1. That the request for an adjournment of the appeal hearing is denied.
2. That the appeal is dismissed, on the basis of the failure of Mr. Platis to provide a transcript of the discipline committee proceeding from which he was appealing, as he had agreed and had been ordered to do.

REASONS FOR DECISION

At an assignment hearing of the appeal committee convened on September 9, 1998, Mr. Platis appeared on his own behalf to set dates for the appeal hearing, and to apply for an order pursuant to Bylaw 614 dispensing with the requirement to file a complete transcript of the discipline committee proceeding, as provided in Bylaw 613. During the course of the assignment hearing, Mr. Platis abandoned his application and agreed to provide the transcript. On the basis of his agreement, the assignment hearing chair made an order that Mr. Platis obtain, pay for and file the complete discipline committee transcript prior to the appeal hearing, which was scheduled to take place on November 18 and 19, 1998.

Notwithstanding Mr. Platis' agreement to file the transcript, and the resulting order that he do so, and despite reminding from the appeal committee secretary, Mr. Platis failed to file the transcript. Ms. McPhadden indicated that when she enquired of the reporting firm two days before the appeal hearing, she was advised that no order had been placed for the production of the transcript.

Mr. Robinson submitted that Mr. Platis needed an adjournment of only about a month in order to obtain the transcript and proceed with the appeal, and argued that because of the serious consequences to Mr. Platis his interests should be considered paramount.

Ms. McPhadden agreed that there was a duty to be fair to Mr. Platis, but submitted that the duty had been amply fulfilled, and that Mr. Platis was simply attempting to delay the appeal committee's process.

While Mr. Robinson was able to advise that his firm had been retained by Mr. Platis to appeal his sentence on the criminal conviction that was the basis of the charge of professional misconduct laid against him in this case, he could not state that his firm had been retained to represent Mr. Platis on the appeal before this panel, as the firm's retainer in this matter extended only to the seeking of an adjournment.

After deliberating on all the evidence and submissions heard, the panel concluded that there was no legitimate ground for granting an adjournment in this case, and that, as the member had failed to do that which he had agreed to do, had been ordered to do, and had been given plenty of time to do, its appropriate course of action was to dismiss Mr. Platis' appeal.

DATED AT TORONTO, THIS DAY OF DECEMBER, 1998
BY ORDER OF THE APPEAL COMMITTEE

R.E. PARISI, CA – DEPUTY CHAIR
THE APPEAL COMMITTEE

MEMBERS OF THE PANEL

C.J. BURKE, FCA
D.J. HERLICK, CA
L.L. WORTHINGTON, FCA
A. BROWN (Public representative)