

James Phillip Webb: Summary, as Published in *CheckMark*

James Phillip Webb, of Toronto, was found guilty of five charges of professional misconduct, under Rules 204.1, 204.2, 206, 207 and 218, relating to his lack of objectivity, failure to inform a client of a possible conflict of interest, failure to perform his professional services in accordance with the generally accepted standards of practice of the profession, and failure to retain for a reasonable time period documentation and working papers which reasonably evidence the nature and extent of work done in respect of a professional engagement. He was fined \$4,000, suspended for three months, and ordered to take certain professional development courses. In addition, he is to be reinvestigated by the professional conduct committee at a specified future time.

Mr. Webb returned to MEMBERSHIP IN GOOD STANDING on December 20th, 1993.

CHARGE(S) LAID re James Phillip Webb

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

1. THAT, the said James P. Webb, while engaged in the practice of public accounting, during the period April 1988 to January 1991, failed to inform Ernest Kulnies, his client, of any business connections, affiliations, and interests which Ernest Kulnies might reasonably expect to be informed of, contrary to Rule 207 of the Rules of Professional Conduct, in that:
 - (a) in or about April 1988, he entered into the purchase of a property at 950 Middlegate Road, Mississauga, Ontario in partnership with John McGill, the business partner of Ernest Kulnies;
 - (b) he held a one-half interest in a partnership known as 950 Middlegate Road which leased the land and premises at 950 Middlegate Road, Mississauga, Ontario to Multi Pallet Limited, a company in which Ernest Kulnies held a 49% interest;
 - (c) in or about 1988 he had entered into business and investment opportunities with John McGill, the business partner of Ernest Kulnies and the holder of a 51% interest in Multi Pallet Limited;
 - (d) he provided advice to John McGill, the business partner of Ernest Kulnies, with respect to the value of Multi Pallet (Scarboro) Inc. and Multi Pallet Limited before John McGill made an offer to purchase Ernest Kulnies interest in those two companies.
2. THAT, the said James P. Webb, while engaged as an auditor to express an opinion on the financial statements of Multi Pallet Limited, during the period April 1988 to March 1990, failed to hold himself free of any influence, interest or relationship which, in respect of the engagement, impaired his professional judgement or objectivity, or which in the view of the reasonable observer would impair his professional judgement or objectivity, contrary to Rule 204.1 of the Rules of Professional Conduct, in that he acquired a 50% ownership interest in the lands and premises situate at 950 Middlegate Road, Mississauga, Ontario which were leased to Multi Pallet Limited.
3. THAT, the said James P. Webb, while engaged to conduct a review of financial statements, on or about the 28th day of April 1989 and November 28, 1990, did issue a review engagement report attached to the financial statements of 950 Middlegate Road as at October 31, 1988 and October 31, 1989 respectively, and failed to hold himself free of any influence, interest or relationship which, in respect of the engagement, impaired his professional judgement or objectivity, or which in the view of a reasonable observer would impair his professional judgement or objectivity, contrary to Rule 204.2 of the Rules of Professional Conduct, in that he held a 50% interest in the partnership known as 950 Middlegate Road at the time.
4. THAT, the said James P. Webb, while engaged in the practice of public accounting did express an unqualified audit opinion on the financial statements of Multi Pallet Limited as at October 31, 1988, and October 31, 1989, and did not comply in all material respects with the generally accepted standards of practice of the profession, including those recommendations set out in the CICA *Handbook*, contrary to Rule 206 of the Rules of Professional Conduct, in that the financial

statements did not disclose transactions between related parties and in particular the lease between Multi Pallet Limited and 950 Middlegate Road which were related parties.

5. THAT, the said James P. Webb, during the period October 19, 1987 to January 1991, failed to retain for a reasonable time period documentation and working papers which reasonably evidence the nature and extent of the work done in respect of a professional engagement with Multi Pallet Limited for the years ended October 31, 1987 and October 31, 1989, contrary to Rule 218 of the Rules of Professional Conduct.

DATED at Toronto this 9th day of March, 1993.

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

DISCIPLINE COMMITTEE re James Phillip Webb

DECISION AND ORDER IN THE MATTER OF: Charges against JAMES PHILLIP WEBB, CA, a member of the Institute, under Rules 204.1, 204.2, 206, 207 and 218 of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE JUNE 29, 1993

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, 2, 3, 4 and 5, THE DISCIPLINE COMMITTEE FINDS James Philip Webb guilty of charges Nos. 1, 2, 3, 4 and 5.

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Webb be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Webb be and he is hereby fined the sum of \$4,000, 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. Webb be suspended from the rights and privileges of membership in the Institute for a period of three (3) months from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Webb be and he is hereby required to complete, by attending in their entirety, by January 1, 1994, the following professional development courses made available through the Institute:
 1. Accounting Refresher;
 2. Auditing Refresher; and
 3. Small Practice Workshop,

or, in the event a course listed above becomes unavailable, the successor course which takes its place.

5. THAT Mr. Webb be reinvestigated by the professional conduct committee, or by a person retained by the professional conduct committee, on one occasion, between twelve (12) months and fifteen (15) months from the date this Decision and Order becomes final under the bylaws, the costs of the reinvestigation to be paid by Mr. Webb.
6. THAT notice of this Decision and Order, disclosing Mr. Webb'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.

7. THAT Mr. Webb surrender his certificate of membership in the Institute to the registrar of the Institute within ten (10) days from the date this Decision and Order becomes final under the bylaws, to be held by the registrar during the period of suspension and thereafter returned to Mr. Webb.
8. THAT in the event Mr. Webb 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 6 hereof.
9. THAT in the event Mr. Webb is suspended pursuant to paragraph 8 hereof, the suspension shall terminate upon his compliance with all the terms of the Order, provided that he complies within six (6) months from the date of his suspension.
10. THAT in the event Mr. Webb fails to terminate a suspension imposed pursuant to paragraph 8 hereof within the six (6) month period specified in paragraph 9, 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 6 hereof.

DATED AT TORONTO, THIS 9TH DAY OF JULY, 1993
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re James Phillip Webb

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: Charges against JAMES PHILIP WEBB, CA, a member of the Institute, under Rules 204.1, 204.2, 206, 207 and 218 of the Rules of Professional Conduct, as amended.

WRITTEN REASONS FOR THE DECISION AND ORDER MADE JUNE 29, 1993

These proceedings before this panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on June 29, 1993.

Ms. Karen Mitchell attended on behalf of the professional conduct committee. Mr. Webb attended with, and was represented by, his counsel, Mr. Jay Josefo.

Five charges had been laid against Mr. Webb by the professional conduct committee. Mr. Webb pleaded guilty to the charges. The chair of the hearing confirmed with Mr. Webb his understanding that the discipline committee could find him guilty based solely on his guilty plea.

After reviewing the agreed statement of facts and document brief, the discipline committee, upon deliberation, found Mr. Webb guilty of the charges, which read as follows:

1. *THAT, the said James P. Webb, while engaged in the practice of public accounting, during the period April 1988 to January 1991, failed to inform Ernest Kulnies, his client, of any business connections, affiliations, and interests which Ernest Kulnies might reasonably expect to be informed of, contrary to Rule 207 of the Rules of Professional Conduct, in that:*
 - (a) *in or about April 1988, he entered into the purchase of a property at 950 Middlegate Road, Mississauga, Ontario in partnership with John McGill, the business partner of Ernest Kulnies;*
 - (b) *he held a one-half interest in a partnership known as 950 Middlegate Road which leased the land and premises at 950 Middlegate Road, Mississauga, Ontario to Multi Pallet Limited, a company in which Ernest Kulnies held a 49% interest;*
 - (c) *in or about 1988 he had entered into business and investment opportunities with John McGill, the business partner of Ernest Kulnies and the holder of a 51% interest in Multi Pallet Limited;*
 - (d) *he provided advice to John McGill, the business partner of Ernest Kulnies, with respect, to the value of Multi Pallet (Scarboro) Inc. and Multi Pallet Limited before John McGill made an offer to purchase Ernest Kulnies interest in those two companies.*
2. *THAT, the said James P. Webb, while engaged as an auditor to express an opinion on the financial statements of Multi Pallet Limited, during the period April 1988 to March 1990, failed to hold himself free of any influence, interest or relationship which, in respect of the engagement, impaired his professional judgement or objectivity, or which in the view of the reasonable observer would impair his professional judgement or objectivity, contrary to Rule 204.1 of the*

Rules of Professional Conduct, in that he acquired a 50% ownership interest in the lands and premises situate at 950 Middlegate Road, Mississauga, Ontario which were leased to Multi Pallet Limited

3. *THAT, the said James P. Webb, while engaged to conduct a review of financial statements, on or about the 28th day of April 1989 and November 28, 1990, did issue a review engagement report attached to the financial statements of 950 Middlegate Road as at October 31, 1988 and October 31, 1989 respectively, and failed to hold himself free of any influence, interest or relationship which, in respect of the engagement, impaired his professional judgement or objectivity, or which in the view of a reasonable observer would impair his professional judgement or objectivity, contrary to Rule 204.2 of the Rules of Professional Conduct, in that he held a 50%' interest in the partnership known as 950 Middlegate Road at the time.*
4. *THAT, the said James P. Webb, while engaged in the practice of public accounting did express an unqualified audit opinion on the financial statements of Multi Pallet Limited as at October 31, 1988, and October 31, 1989, and did not comply in all material respects with the generally accepted standards of practice of the profession, including those recommendations set out in the CICA Handbook, contrary to Rule 206 of the Rules of Professional Conduct, in that the financial statements did not disclose transactions between related parties and in particular the lease between Multi Pallet Limited and 950 Middlegate Road which were related parties.*
5. *THAT, the said James P. Webb, during the period October 19, 1987 to January 1991, failed to retain for a reasonable time period documentation and working papers which reasonably evidence the nature and extent of the work done in respect of a professional engagement with Multi Pallet Limited for the years ended October 31, 1987 and October 31, 1989, contrary to Rule 218 of the Rules of Professional Conduct.*

After making its finding of guilty, the discipline committee heard a joint submission from counsel with respect to sanction. Counsel for Mr. Webb introduced reference letters as an exhibit with respect to sanction. Upon deliberation, the committee then made the following order:

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Webb be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Webb be and he is hereby fined the sum of \$4,000, 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. Webb be suspended from the rights and privileges of membership in the Institute for a period of three (3) months from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Webb be and he is hereby required to complete, by attending in their entirety, by January 1, 1994, the following professional development courses made available through the Institute:
 1. Accounting Refresher;
 2. Auditing Refresher; and
 3. Small Practice Workshop,

or, in the event a course listed above becomes unavailable, the successor course which takes its place.

5. THAT Mr. Webb be reinvestigated by the professional conduct committee, or by a person retained by the professional conduct committee, on one occasion, between twelve (12) months and fifteen (15) months from the date this Decision and Order becomes final under the bylaws, the costs of the reinvestigation to be paid by Mr. Webb.
6. THAT notice of this Decision and Order, disclosing Mr. Webb'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.
7. THAT Mr. Webb surrender his certificate of membership in the Institute to the registrar of the Institute within ten (10) days from the date this Decision and Order becomes final under the bylaws, to be held by the registrar during the period of suspension and thereafter returned to Mr. Webb.
8. THAT in the event Mr. Webb 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 6 hereof.
9. THAT in the event Mr. Webb is suspended pursuant to paragraph 8 hereof, the suspension shall terminate upon his compliance with all the terms of the Order, provided that he complies within six (6) months from the date of his suspension.
10. THAT in the event Mr. Webb fails to terminate a suspension imposed pursuant to paragraph 8 hereof within the six (6) month period specified in paragraph 9, 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 6 hereof.

The reasons for the committee's sanctions are as follows:

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 conduct as a chartered accountant.

Fine

The joint submission on sanction had recommended a fine of \$2,500 to be paid by Mr. Webb. The committee felt that Mr. Webb's conduct indicated the need for a more substantial fine. In the view of the committee, Mr. Webb's conduct as outlined in the charges was not just an oversight. By his conduct Mr. Webb compromised his independence and the appearance of independence. A fine of \$4,000 was imposed to emphasize to Mr. Webb, and to other members of the profession, that actions such as Mr. Webb's are not to be tolerated.

Suspension

The committee felt that the imposition of a suspension was appropriate as both a specific and a general deterrent. Mr. Webb's previously unblemished record was taken into account in assessing the three-month suspension.

Professional development courses

The committee ordered Mr. Webb to complete three professional development courses. The committee felt that these courses would help Mr. Webb exercise a higher standard of judgment in similar situations in the future.

Reinvestigation

To provide a measure of assurance that the member would benefit from the courses outlined above, a reinvestigation by the professional conduct committee was ordered.

Notice

Providing evidence to members that the Institute is active in self-regulation, and vigilant to discipline breaches of its bylaws and rules of conduct, is important to the Institute's role in the governance of the profession. Such evidence is provided through notification of the decisions and orders of the Institute's disciplinary committees, and is, in the opinion of the panel, a practice that has significant general deterrent value.

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 member and all members the seriousness of failing to comply with Orders of the discipline committee.

DATED AT TORONTO, THIS 20th DAY OF August, 1993
BY ORDER OF THE DISCIPLINE COMMITTEE

PA CAMPOL, CA - DEPUTY CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

L.R. FLEMMING, CA
H.R. KLEIN, CA
J.J. LONG, CA
W.L. WOOD, CA
S.F. ANDRUNYK (Public representative)