

Jerrold Paul Greenspan: Summary, as Published in *CheckMark*

Jerrold Paul Greenspan, of Concord, was found guilty of two charges under Rule 201.1 of failing to maintain the good reputation of the profession and its ability to serve the public interest, one charge under Rule 205 of signing or associating himself with documents which he knew or should have known were false or misleading, and one charge under Rule 206 of failing to perform his professional services in accordance with generally accepted standards of practice of the profession. While a corporate officer, director and shareholder, Mr. Greenspan overstated the value of company equipment to a bank in support of a loan application. He also prepared and issued a T4 slip to an employee which he knew was false or misleading, and prepared financial statements without including appropriate communication. After his company went bankrupt, the member prepared certain payroll information for the trustee in bankruptcy which he knew was false or misleading. Mr. Greenspan was fined \$7,500 and suspended from membership for six months.

Mr. Greenspan returned to MEMBERSHIP IN GOOD STANDING on October 28, 1998

CHARGE(S) LAID re Jerrold Paul Greenspan

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

1. THAT, the said, in or about October 1994, failed to conduct himself in a manner which will maintain the good reputation of the profession and its ability to serve the public interest, in that while he was an officer, director and shareholder of Double GG Industries Inc., he provided to the Toronto Dominion Bank in support of an application for a loan, invoices for the purchase of equipment by Double GG Industries Inc., when he knew or should have known that the invoices overstated the value of the equipment, contrary to Rule 201.1 of the rules of professional conduct.
2. THAT, the said Jerrold P. Greenspan, in or about February 1995, failed to conduct himself in a manner which will maintain the good reputation of the profession and its ability to serve the public interest in that he issued a T4 slip for 1994 to Simon Gratch on behalf of Double GG Industries Inc. which understated Simon Gratch's employment income before deductions, ~~Canada Pension Plan contributions~~, unemployment insurance premiums and income tax deducted, contrary to Rule 201.1 of the rules of professional conduct.
3. THAT, the said Jerrold P. Greenspan, in or about February 1996, signed or associated himself with documents which he knew or should have known were false or misleading, in that he supplied financial information to the trustee in bankruptcy for Double GG Industries Inc. to enable the trustee to prepare a T4 slip for Simon Gratch for 1995 when he knew or should have known that the information he gave understated Simon Gratch's employment income before deductions, ~~Canada Pension Plan contributions~~, unemployment insurance premiums and income tax deducted, contrary to Rule 205 of the rules of professional conduct
4. ~~THAT, the said Jerrold P. Greenspan, in or about September 1993, while an officer, director and shareholder at Double GG Industries Inc., participated in a scheme with A-1 Sewing Machine Co., in which A-1 Sewing Machine Co. exercised its lien over certain equipment owned by Rolo Manufacturing Inc. valued at approximately \$48,200 and sold it to Double GG Industries Inc. for \$7,804 which was the amount owing under A-1 Sewing Machine Co.'s lien, when he knew or should have known that the sale of the equipment for substantially less than its value may have been detrimental to Rolo Manufacturing Inc. or its creditors, contrary to Rule 201.1 of the rules of professional conduct.~~
5. THAT, the said Jerrold P. Greenspan, in or about the period May to August 1995, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, including the Recommendations set out in the *CICA Handbook*, contrary to Rule 206 of the rules of professional conduct in that
 - (a) he compiled the financial statements of Double GG Industries Inc. for the period ended April 30, 1995 without including the required communication; and

- (b) he prepared and associated himself with the financial statements of Double GG Industries Inc. for the period ended April 30, 1995 without appropriately communicating the nature and extent of his involvement with the financial statements when generally accepted standards of practice of the profession required such a communication.

Dated on this 13th day of May, 1997

JENNIFER L. FISHER, CA - CHAIR
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Jerrold Paul Greenspan

DECISION AND ORDER IN THE MATTER OF: Charges against **JERROLD PAUL GREENSPAN, CA**, a member of the Institute, under **Rules 201.1, 205 and 206** of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE OCTOBER 24, 1997

DECISION

THAT, having seen and considered the evidence, including the agreed statement of facts, filed, charges Nos. 2 and 3 having been amended and charge No. 4 having been withdrawn, and having heard the plea of guilty to charges Nos. 1, 2, 3 and 5, as amended, the Discipline Committee finds Jerrold Paul Greenspan guilty of charges Nos. 1, 2, 3 and 5, as amended.

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Greenspan be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Greenspan be and he is hereby fined the sum of \$7,500, to be remitted to the Institute within five (5) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Greenspan be suspended from the rights and privileges of membership in the Institute 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. Greenspan's 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; and
 - (c) by publication in *CheckMark*.
5. THAT Mr. Greenspan 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, to be held during the period of suspension and thereafter returned to Mr. Greenspan. In the event Mr. Greenspan fails to surrender his certificate of membership within this ten day period, his suspension pursuant to paragraph 3 shall be extended one day for each day the certificate remains undelivered to the secretary.

6. THAT in the event Mr. Greenspan fails to comply with the requirements of this Order within the time periods specified, his suspension pursuant to paragraph 3 shall continue for a period of thirty (30) days from the date of his failure to comply, and in the event he does not comply within this further 30 day period, 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 4 hereof, and by publication in *The Globe and Mail*.

DATED AT TORONTO THIS 4TH DAY OF NOVEMBER 1997
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re Jerrold Paul Greenspan

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: Charges against **JERROLD PAUL GREENSPAN, CA**, a member of the Institute, under **Rules 201.1, 205 and 206** of the Rules of Professional Conduct, as amended.

REASONS FOR THE DECISION AND ORDER MADE OCTOBER 24, 1997

This panel of the discipline committee of the Institute of Chartered Accountants of Ontario met on October 24, 1997, to hear evidence concerning charges brought by the professional conduct committee against Mr. Jerrold Paul Greenspan, CA.

The professional conduct committee was represented by Ms. Deborah McPhadden. Mr. Frank Bowman represented Mr. Greenspan, who was present.

At the commencement of the hearing Ms. McPhadden indicated that the professional conduct committee had instructed her to withdraw charge No. 4, and to propose amendments to charges Nos. 2 and 3. On behalf of the member, Mr. Bowman agreed to the withdrawal of charge No. 4 and to the proposed amendments.

As amended, the charges laid by the professional conduct committee read as follows:

1. *THAT, the said Jerrold P. Greenspan, in or about October 1994, failed to conduct himself in a manner which will maintain the good reputation of the profession and its ability to serve the public interest, in that while he was an officer, director and shareholder of Double GG Industries Inc., he provided to the Toronto Dominion Bank in support of an application for a loan, invoices for the purchase of equipment by Double GG Industries Inc., when he knew or should have known that the invoices overstated the value of the equipment, contrary to Rule 201.1 of the rules of professional conduct.*
2. *THAT, the said Jerrold P. Greenspan, in or about February 1995, failed to conduct himself in a manner which will maintain the good reputation of the profession and its ability to serve the public interest in that he issued a T4 slip for 1994 to Simon Gratch on behalf of Double GG Industries Inc. which understated Simon Gratch's employment income before deductions, unemployment insurance premiums and income tax deducted, contrary to Rule 201.1 of the rules of professional conduct.*
3. *THAT, the said Jerrold P. Greenspan, in or about February 1996, signed or associated himself with documents which he knew or should have known were false or misleading, in that he supplied financial information to the trustee in bankruptcy for Double GG Industries Inc. to enable the trustee to prepare a T4A slip for Simon Gratch for 1995 when he knew or should have known that the information he gave understated Simon Gratch's employment income before deductions, unemployment insurance premiums and income tax deducted, contrary to Rule 205 of the rules of professional conduct.*
4. Withdrawn.

5. *THAT, the said Jerrold P. Greenspan, in or about the period May to August 1995, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, including the Recommendations set out in the CICA Handbook, contrary to Rule 206 of the rules of professional conduct, in that*

- (a) he compiled the financial statements of Double GG Industries Inc. for the period ended April 30, 1995 without including the required communication; and*
- (b) he prepared and associated himself with the financial statements of Double GG Industries Inc. for the period ended April 30, 1995 without appropriately communicating the nature and extent of his involvement with the financial statements when generally accepted standards of practice of the profession required such a communication.*

Mr. Greenspan entered a plea of guilty to each of the charges, as amended, and assured the chair that he understood that he could be found guilty based on his plea alone.

DECISION ON THE CHARGES

Ms. McPhadden opened her case by summarizing the transactions which led to the charges. She then filed an agreed statement of facts (Exhibit 3) and a document brief (Exhibit 4), which the panel reviewed. Mr. Greenspan did not offer any evidence with respect to the charges.

The panel concluded, on the basis of the agreed statement of facts and document brief, that the facts alleged in the charges were true, and that Mr. Greenspan was guilty of professional misconduct. In particular, the panel concluded that Mr. Greenspan knowingly:

- overstated the value of certain equipment to the Toronto-Dominion Bank in support of a loan application;
- prepared and issued a T4 slip to Mr. Simon Gratch which he knew was false or misleading;
- prepared certain payroll information for the trustee in bankruptcy of Double GG Industries Inc. which he knew was false or misleading; and
- prepared financial statements without including the appropriate communication.

ORDER AS TO SANCTION

Mr. Greenspan testified on his own behalf as to the circumstances that surrounded his actions. He stated that the motivation for his conduct was his desire to save Double GG from financial ruin. His attempts were unsuccessful, however, and he personally lost \$100,000. He said that he and Mr. Gratch were in conflict as the bankruptcy of the company unfolded, and that it was this conflict that led him to prepare the false information relating to the T4's.

In making submissions, both parties agreed that the three recognized principles which govern the imposition of sanction, namely, specific deterrence, general deterrence and rehabilitation, were applicable to the facts of this case.

The professional conduct committee asked for a reprimand, a substantial fine, a lengthy suspension and full publicity. On behalf of Mr. Greenspan, Mr. Bowman took issue with the appropriateness of the suggested fine and the length of the suggested suspension.

Though expulsion was not requested by the professional conduct committee, the first issue with which the discipline committee had to deal was whether or not specific and general deterrence required expulsion of the member in the circumstances of this case. There was no question that Mr. Greenspan=s misconduct was entirely unacceptable, and that expulsion was within the range of appropriate sanctions for such misconduct.

The committee compared the facts and the circumstances of members in other cases with the facts and the circumstances of the member in this case, and concluded that the expulsion of Mr. Greenspan was not required. Among the factors which persuaded the committee that expulsion was not necessary were the following:

- the professional conduct committee was not seeking expulsion;
- it did not appear that Mr. Greenspan was ungovernable;
- Mr. Greenspan recognized that what he had done was wrong;
- it appeared that the discipline process itself -- the investigation, charges and hearing -- had already had some rehabilitating effect upon the member; and
- there was no question as to Mr. Greenspan=s competence to practise.

Satisfying itself upon deliberation that a fine, suspension and publication would serve as adequate deterrence in this case, the discipline committee made the following order:

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Greenspan be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Greenspan be and he is hereby fined the sum of \$7,500, to be remitted to the Institute within five (5) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Greenspan be suspended from the rights and privileges of membership in the Institute 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. Greenspan=s 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; and
 - (c) by publication in *CheckMark*.
5. THAT Mr. Greenspan 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, to be held during the period of suspension and thereafter returned to Mr. Greenspan. In the event Mr. Greenspan fails to surrender his certificate of membership within this ten day period, his suspension pursuant to paragraph 3 shall be extended one day for each day the certificate remains undelivered to the secretary.

6. THAT in the event Mr. Greenspan fails to comply with the requirements of this Order within the time periods specified, his suspension pursuant to paragraph 3 shall continue for a period of thirty (30) days from the date of his failure to comply, and in the event he does not comply within this further 30 day period, 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 4 hereof, and by publication in *The Globe and Mail*.

The reasons for the discipline committee=s order as to sanction are set out below.

Reprimand

The discipline 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 professional conduct committee requested a fine in the range of \$5,000 to \$10,000, while Mr. Bowman submitted that a fine in the neighbourhood of \$2,000 to \$3,000 was appropriate in the circumstances.

The committee reviewed a number of cases involving fines and suspensions, and concluded that the appropriate fine was \$7,500.

Suspension

The professional conduct committee recommended a suspension of one to two years. Mr. Bowman submitted that a suspension in the order of three months was more appropriate.

After reviewing a number of cases involving suspension, the committee concluded that a six month suspension was appropriate for this sole practitioner.

Notice

The disciplinary process of a self-governing professional body must be viewed by its members and the public as an open process. Notification of the Institute=s efforts in disciplining those in breach of its bylaws and rules of professional conduct is an important function in the preservation of the integrity of the profession. Not having been advised of any unusual circumstances to persuade it to withhold notice, the committee ordered that notice including the member=s name be given to the PAC and the CICA, and by way of publication in *CheckMark*.

Certificate

The committee felt it was important that Mr. Greenspan not hold himself out to the public as a chartered accountant during his period of suspension. As a result, it ordered that he surrender his certificate of membership to the committee secretary within ten days from the date of the Decision and Order becoming final under the bylaws. In the event Mr. Greenspan does not comply with this requirement, his suspension will be extended one day for each day his certificate remains undelivered to the committee secretary.

Non-compliance

As in all discipline committee orders, failure on the part of the member to comply with the Order will ultimately lead to his expulsion. In that event, in addition to the other forms of notice prescribed in paragraph 4 the Order, notice of expulsion will be published in *The Globe and Mail* pursuant to paragraph 6.

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

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

MEMBERS OF THE PANEL

R. I. COWAN, CA
D. W. DAFOE, FCA
S. W. SALTER, CA
W. L. WOOD, CA
B. A. YOUNG (Public representative)