

## **Joel Lionel Shuster: Summary, as Published in *CheckMark***

**Joel Lionel Shuster**, of Toronto, was found guilty by the discipline committee of a charge of professional misconduct, laid by the professional conduct committee, under Rule of Professional Conduct 201, of failing to conduct himself in a manner which maintains the good reputation of the profession and its ability to serve the public interest.

The committee ordered that he

- be reprimanded in writing by the chairman of the hearing; and
- be fined \$500 and assessed costs of \$1,500, to be paid within specified time.

Failure to comply with the second term of the order as set out above would have resulted in Mr. Shuster's suspension from membership. Continuation of the suspension for more than three months without complying with the said term would have resulted in his expulsion from membership.

Mr. Shuster has complied with the order.

## CHARGE(S) LAID re Joel Lionel Shuster

The Professional Conduct Committee hereby makes the following charge against Joel L. Shuster, a member of the Institute:

1. That, the said Joel L. Shuster, failed to conduct himself at all times in a manner which will maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201 of the Rules of Professional Conduct approved June 11, 1973, in that during the period April 1980 through December 1985:
  - a) ~~he undertook to carry out work on behalf of his client, Revere Apartments, with respect to the tax assessment on the property at 57 Neptune Drive, North York, without having a reasonable level of expertise or knowledge in that area;~~ **(WITHDRAWN BY THE P.C.C. BWS)**
  - b) ~~he commissioned affidavits with respect to property tax assessments prior to being appointed as a commissioner for taking affidavits;~~ **(WITHDRAWN BY THE P.C.C. BWS)**
  - c) he submitted an account for professional services . . . rendered with respect to a property tax assessment appeal on the property at 57 Neptune Drive, North York, to the president, the secretary-treasurer and a director of Revere Apartments Limited, in the amount of \$135,000 plus disbursements, which account was grossly in excess of a reasonable fee for proper professional services required in the circumstances;
  - d) ~~purported to enter into an agreement with the president, the secretary treasurer and a director of Revere Apartments Limited which provided for an unlimited fee payable to himself for professional services in connection with a tax assessment appeal on the property at 57 Neptune Drive, North York;~~ **(WITHDRAWN BY THE P.C.C. BWS)**
  - e) ~~he on or about October 2, 1985, applied for a property tax refund with respect to the property at 57 Neptune Drive, north York and certified that he was the person entitled to same, when he was not.~~ **(WITHDRAWN BY THE P.C.C. BWS)**
2. ~~THAT, the said Joel L. Shuster, in or about the period April 1980 through December 1985, being a member engaged in the practice of public accounting, agreed with the president, the secretary treasurer and a director of Revere Apartments limited, to render, professional services to Revere Apartments Limited, namely to appeal the tax assessment on the property at 57 Neptune Drive, North York, for a fee contingent on the results of such services, contrary to Rule 215 of the rules of professional conduct, approved June 11, 1973.~~ **(WITHDRAWN BY THE P.C.C. BWS)**

DATED at Toronto this 6<sup>th</sup> day of July 1989.

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

## **DISCIPLINE COMMITTEE re Joel Lionel Shuster**

**DECISION AND ORDER IN THE MATTER OF:** Charges against JOEL LIONEL SHUSTER, CA, a member of the Institute, under Rules 201 and 215 of the Rules of Professional Conduct, adopted June 11, 1973.

### **DECISION AND ORDER MADE AUGUST 20, 1990**

#### **DECISION**

THAT, having seen and considered the evidence, including the agreed statement of facts, filed, and having recognized that the professional conduct committee withdrew particulars (a), (b), (d) and (e) of charge No. 1, and charge No. 2, and having heard the plea of guilty to particular (c) of charge No. 1, THE DISCIPLINE COMMITTEE FINDS Joel Lionel Shuster guilty of charge No. 1.

#### **ORDER**

IT IS ORDERED in respect of the charge:

1. THAT Mr. Shuster be reprimanded in writing by the chairman of the hearing.
2. THAT Mr. Shuster be and he is hereby fined the sum of \$500, to be remitted to the Institute within sixty (60) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Shuster be and he is hereby charged costs of \$1,500, to be remitted to the Institute within sixty (60) days from the date this Decision and order becomes final under the bylaws.
4. THAT notice of this Decision and Order, disclosing Mr. Shuster'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.
5. THAT in the event Mr. Shuster 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 4 hereof.
6. THAT in the event Mr. Shuster is suspended pursuant to paragraph 5 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 three (3) months from the date of his suspension.

7. THAT in the event Mr. Shuster fails to terminate suspension within three (3) 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 4 hereof.

DATED at Toronto, this 21st day of August, 1990.

B.W..STEPHENSON SECRETARY  
THE DISCIPLINE COMMITTEE

## **DISCIPLINE COMMITTEE re Joel Lionel Shuster**

**REASONS FOR THE DECISION AND ORDER IN THE MATTER OF:** Charges against JOEL LIONEL SHUSTER, CA, a member of the Institute, under Rules 201 and 215 of the Rules of Professional Conduct, adopted June 11, 1973.

### **WRITTEN REASONS FOR THE DECISION AND ORDER MADE AUGUST 20, 1990**

These proceedings before the discipline committee of the Institute of Chartered Accountants of Ontario were convened on August 20, 1990.

Mr. Brian Bellmore attended on behalf of the professional conduct committee and Mr. Shuster attended with, and was represented by, his counsel, Mr. John Rosen.

The professional conduct committee had laid two charges of professional misconduct against Mr. Shuster. Mr. Bellmore advised at the outset of the hearing that the professional conduct committee was withdrawing particulars (a), (b), (d) and (e) of charge No. 1 and charge No. 2. Mr. Shuster then entered a plea of guilty to charge No. 1.

Mr. Shuster and his counsel both confirmed that they understood that on the plea of guilty and on that basis alone the member could be found guilty of the charge.

An agreed statement of facts was filed as an exhibit in the hearing upon the agreement of both the professional conduct committee and the member, and evidence was led relative to it.

After deliberation, having seen and considered the evidence, and having heard the plea of guilty to charge No. 1, the discipline committee found Mr. Shuster guilty of charge No. 1. The evidence led by counsel for the professional conduct committee, and agreed to on behalf of Mr. Shuster by his counsel, established clearly that he submitted an account for professional services which was grossly in excess of a reasonable fee for proper professional services required in the circumstances.

After reaching its finding on the charge, the committee heard submissions as to sanction and, after deliberation, made the following order:

### **ORDER**

IT IS ORDERED in respect, of the charge:

1. THAT Mr. Shuster be reprimanded in writing by the chairman of the hearing.
2. THAT Mr. Shuster be and he is hereby fined the sum of \$500, to be remitted to the Institute within sixty (60) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Shuster be and he is hereby charged costs of \$1,500, to be remitted to the Institute within sixty (60) days from the date this Decision and order becomes final under the bylaws.

4. THAT notice of this Decision and Order, disclosing Mr. Shuster'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.
5. THAT in the event Mr. Shuster 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 4 hereof.
6. THAT in the event Mr. Shuster is suspended pursuant to paragraph 5 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 three (3) months from the date of his suspension.
7. THAT in the event Mr. Shuster fails to terminate suspension within three (3) 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 4 hereof.

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 specific deterrent to the member and to stress to the member the unacceptability of his conduct as a chartered accountant.
2. The committee is of the opinion that, as a matter of principle, a fine is appropriate in this case. However, in view of the circumstances surrounding the billing and the question of whether or not it was a part of the member's professional practice, it was the decision of the committee that the fine ought not to be large. The need to stress to the member the inappropriateness and unacceptability of his conduct in a profession serving the public interest was the reason for the imposition of the fine.
3. The imposition of costs is appropriate in this case and, recognizing the committee's findings, the member's plea and his general co-operation, the committee was of the view that the amount of \$1,500 was fair. From the evidence led the committee was not able to determine specifically how much of the costs incurred since the laying of the charges were actually attributable to charge 1(c) and how much of the costs were attributable to the charges which were withdrawn. In the circumstances the committee was of the view that costs of \$1,500 were reasonable.
4. The committee ordered publicity and notice of its Order, including disclosure of the member's name, as both a specific deterrent to Mr. Shuster and a general deterrent to all members. The committee considered publicity necessary to demonstrate to the public that the profession is regulating itself so as to retain public confidence in the profession's ability to self-govern.

5, 6. and 7. It is the committee's opinion that it is necessary to provide for a period of suspension should the member not comply with the terms of the Order. The time periods for

compliance provided in the order are considered sufficient and are consistent with prior decisions of this committee. Compliance with the order will terminate any such suspension, provided it occurs within the period provided. Again, this is consistent with prior rulings. The committee is of the view that the contingency of expulsion in the event of non-compliance with the terms of the Order, as a last resort, is a sanction necessary to the preservation of the profession's good reputation and ability to serve the public interest, as a way of enabling the profession to ultimately deal with members who will not be bound by the self-regulating aspects of the profession.

DATED AT TORONTO, THIS 19<sup>TH</sup> DAY OF SEPTEMBER 1990  
BY ORDER OF THE DISCIPLINE COMMITTEE

C.F. FLEMING, FCA - CHAIRMAN  
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

W.S. HAZLITT, CA  
D.J. HERLICK, CA  
W.A. MOORHEAD, FCA  
D.P. SETTERINGTON, CA  
R.W. WARKENTIN