Joseph Kenneth Stanley: Summary, as Published in *CheckMark*

Joseph Kenneth Stanley, of Georgetown, 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 two charges under Rule 206 of failing to perform his professional services in accordance with generally accepted standards of practice of the profession. Mr. Stanley failed to perform sufficient work to satisfy himself as to the plausibility of the value of inventory stated in a client's financial statements, failed to properly document inventory valuation, and failed to express a reservation as to the value of the inventory in his review engagement report. When he later learned that the value of the inventory had been overstated, he failed to withdraw or amend his report. Mr. Stanley was fined $3,000, ordered to complete three professional development courses, and suspended from membership for four months.

CHARGE(S) LAID RE Joseph Kenneth Stanley

The Professional Conduct Committee hereby makes the following charges against Joseph K. Stanley, CA, a member of the Institute:

1. THAT, the said, Joseph K. Stanley, CA on or about February 12, 1997, while engaged as the accountant for William F. Kerr Holding Co. Ltd., signed or associated himself with a review engagement report attached to financial statements of the company as at December 31, 1996, which he knew or should have known were false and misleading, contrary to Rule 205 of the Rules of Professional Conduct in that,

   (a) the balance sheet contained a comparative figure for “Inventory – merchandise (note 4) $1,285,346” which he had reason to believe was overstated by approximately $500,000;

   (b) the statement of income showed “Inventory, opening $1,285,346” which he had reason to believe was overstated by approximately $500,000.

2. THAT, the said Joseph K. Stanley, CA, on or about February 5, 1997, while engaged as the accountant for William F. Kerr Holding Co. Ltd., 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,

   (a) in a meeting on February 5, 1997, convened to discuss the financial position of the William F. Kerr Holding Co. Ltd., he told Paul McCann, then Group Manager Corporate Development for Home Hardware Stores Ltd., that the inventory reflected in the financial statements for the December 31, 1995 year end was much higher than the physical count as it reflected balances he wanted to show the bank as they did not want to get the bank excited.

3. THAT, the said, Joseph K. Stanley, CA during the period December 1, 1995 through March 31, 1996, while engaged to carry out a review of the financial statements of William F. Kerr Holding Co. Ltd. as at December 31, 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 failed to perform sufficient appropriate enquiry, discussion and analysis to satisfy himself as to the plausibility of the balance sheet item “Inventory-merchandise (note 4) $1,285,346”;

   (b) he failed to properly document the valuation of inventory;

   (c) he failed to express a reservation in his review engagement report that the information reported on with respect to inventory may not be plausible.

4. THAT, the said, Joseph K. Stanley, CA, in or about the period March 1, 1996 to the present, while engaged to carry out a review of the financial statements of William F. Kerr Holding Co. Ltd. as at December 31, 1995 and having attached and signed a Review Engagement report to the financial statements for the company as at December 31, 1995 and having released the financial statements, 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,

   (a) having been made aware within 60 days of the issuance of his review engagement report that the balance sheet item “Inventory – merchandise (note 4) $1,285,346” was overstated by more than $500,000 he took no steps to withdraw or amend his review engagement report.

5. THAT, the said, Joseph K. Stanley, CA during the period December 1, 1996 through March 31, 1997, while engaged to carry out a review of the financial statements of William F. Kerr Holding Co. Ltd. as at December 31, 1996, 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 failed to perform sufficient appropriate enquiry, discussion and analysis to satisfy himself as to the plausibility of the balance sheet item “Inventory-merchandise (note 4) $675,000”;

   (b) he failed to properly document the valuation of inventory.

Dated at Toronto this day of 199 .

ED. REITEROWSKI, CA - DEPUTY CHAIR
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE RE Joseph Kenneth Stanley

DECISION AND ORDER IN THE MATTER OF: Charges against **JOSEPH KENNETH STANLEY, 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 MARCH 29, 1999

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 Joseph Kenneth Stanley guilty of charges Nos. 1, 2, 3, 4 and 5.

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Stanley be reprimanded in writing by the chair of the hearing.

2. THAT Mr. Stanley be and he is hereby fined the sum of $3,000, to be remitted to the Institute within four (4) months from the date this Decision and Order becomes final under the bylaws.

3. THAT Mr. Stanley be suspended from the rights and privileges of membership in the Institute for a period of four (4) months from the date this Decision and Order becomes final under the bylaws.

4. THAT Mr. Stanley be and he is hereby required to complete, by attending in their entirety, within eighteen (18) months from the date this Decision and Order becomes final under the bylaws, the following professional development courses made available through the Institute:

    - Accounting, Auditing and Professional Practice Update;
    - Accounting Refresher; and
    - Review and Compilation Engagements,

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

5. THAT notice of this Decision and Order, disclosing Mr. Stanley 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.*

6. THAT Mr. Stanley 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. Stanley.

7. THAT in the event Mr. Stanley fails to comply with any requirement of this Order within the time period specified, 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 above, and by publication in a Georgetown newspaper and *The Globe and Mail*.

DATED AT TORONTO THIS 31ST DAY OF MARCH, 1999
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE RE Joseph Kenneth Stanley

REASONS FOR DECISION AND ORDER IN THE MATTER OF: Charges against **JOSEPH KENNETH STANLEY, 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 MARCH 29, 1999

These proceedings before this panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on March 29, 1999.

Mr. Paul Farley represented the professional conduct committee, and the investigator, Mr. Rod Fraser, CA accompanied him at the hearing. Mr. Stanley was present and represented by his legal counsel, Mr. Douglas McTavish.

DECISION ON THE CHARGES

Five charges had been laid against Mr. Stanley, pursuant to Rules 201.1, 205 and 206 of the rules of professional conduct. In general, the charges alleged that Mr. Stanley, while engaged as the accountant for William F. Kerr Holding Co. Ltd., failed to maintain the good reputation of the profession and its ability to serve the public interest, associated himself with a review engagement report which he knew or should have known was false and misleading, and failed to perform his professional services in accordance with generally accepted standards of practice of the profession.

The charges read as follows:

1. THAT, the said, Joseph K. Stanley, CA on or about February 12, 1997, while engaged as the accountant for William F. Kerr Holding Co. Ltd., signed or associated himself with a review engagement report attached to financial statements of the company as at December 31, 1996, which he knew or should have known were false and misleading, contrary to Rule 205 of the Rules of Professional Conduct in that,

    (a) the balance sheet contained a comparative figure for “Inventory – merchandise (note 4) $1,285,346” which he had reason to believe was overstated by approximately $500,000;

    (b) the statement of income showed “Inventory, opening $1,285,346” which he had reason to believe was overstated by approximately $500,000.

2. THAT, the said Joseph K. Stanley, CA, on or about February 5, 1997, while engaged as the accountant for William F. Kerr Holding Co. Ltd., 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,

(a) in a meeting on February 5, 1997, convened to discuss the financial position of the William F. Kerr Holding Co. Ltd., he told Paul McCann, then Group Manager Corporate Development for Home Hardware Stores Ltd., that the inventory reflected in the financial statements for the December 31, 1995 year end was much higher than the physical count as it reflected balances he wanted to show the bank as they did not want to get the bank excited.

3. THAT, the said, Joseph K. Stanley, CA during the period December 1, 1995 through March 31, 1996, while engaged to carry out a review of the financial statements of William F. Kerr Holding Co. Ltd. as at December 31, 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 failed to perform sufficient appropriate enquiry, discussion and analysis to satisfy himself as to the plausibility of the balance sheet item "Inventory-merchandise (note 4) $1,285,346";

(b) he failed to properly document the valuation of inventory;

(c) he failed to express a reservation in his review engagement report that the information reported on with respect to inventory may not be plausible.

4. THAT, the said, Joseph K. Stanley, CA, in or about the period March 1, 1996 to the present, while engaged to carry out a review of the financial statements of William F. Kerr Holding Co. Ltd. as at December 31, 1995 and having attached and signed a Review Engagement report to the financial statements for the company as at December 31, 1995 and having released the financial statements, 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,

(a) having been made aware within 60 days of the issuance of his review engagement report that the balance sheet item "Inventory – merchandise (note 4) $1,285,346" was overstated by more than $500,000 he took no steps to withdraw or amend his review engagement report.

5. THAT, the said, Joseph K. Stanley, CA during the period December 1, 1996 through March 31, 1997, while engaged to carry out a review of the financial statements of William F. Kerr Holding Co. Ltd. as at December 31, 1996, 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 failed to perform sufficient appropriate enquiry, discussion and analysis to satisfy himself as to the plausibility of the balance sheet item "Inventory-merchandise (note 4) $675,000";

(b) he failed to properly document the valuation of inventory.

Mr. Stanley pleaded guilty to the charges, and confirmed that he understood that upon a plea of guilty, and upon that basis alone, he could be found guilty of the charges by the discipline committee.

Neither counsel called evidence. Mr. Farley filed as exhibits an agreed statement of facts and an accompanying document brief. The document brief set out the various working papers and financial statements of William F. Kerr Holding Co. Ltd. for the relevant periods. The agreed statement of facts, which made specific reference to the document brief, established that Mr. Stanley was guilty of the charges.

The panel reviewed the exhibits filed, and, based on this review, and on the member's plea of guilty, found Mr. Stanley guilty of the five charges laid against him.

ORDER AS TO SANCTION

Having found Mr. Stanley guilty of the five charges, the hearing proceeded to the determination of the appropriate sanction.

Mr. McTavish called a witness on Mr. Stanley's behalf. Both counsel then made submissions as to the appropriate sanction.

Mr. Farley said that his instructions from the professional conduct committee were to ask for:

- a reprimand;
- a fine of $3,000;
- a requirement that Mr. Stanley take three (3) professional development courses; and,
- the usual notice in *CheckMark*, to the Canadian Institute of Chartered Accountants and to the Public Accountants Council.

Mr. Farley reviewed the facts of the case and pointed out the seriousness of the member's conduct. He also pointed out that there were a number of mitigating circumstances. The investigator had reviewed the one other review engagement which Mr. Stanley had, as well as a number of compilation engagements. The Kerr Holdings file, and, more particularly, the financial statements leading to the charges herein, was the only engagement which raised concern. While serious, therefore, this is, in effect, a single and isolated incident.

Mr. Stanley is 63 years of age and has not previously been the subject of a complaint or investigation. He cooperated with the professional conduct committee throughout the investigation, and he acknowledged his breach of the rules of professional conduct.

Mr. Farley took the panel through a number of cases, in particular *Grunberg, Hickman, McKechnie* and *Rutherford*, which, he submitted, showed that the suggested sanction fell within the range of appropriate sanctions for the misconduct before the panel. He submitted that the primary concern of the panel in fashioning a sanction in this case should be rehabilitation, that the objective should be to make an order designed to ensure that Mr. Stanley will not "go off the rails" again.

Mr. McTavish characterized the misconduct as competence-related with respect to one particular issue - inventory - over a period of two financial years. He submitted that the sanction proposed by the professional conduct committee was the appropriate sanction, and was properly directed at ensuring the rehabilitation of Mr. Stanley, who had made a mistake and had acknowledged it with a plea of guilty.

Both counsel agreed that the discipline committee had the responsibility to determine the appropriate sanction.

After deliberating for some time, the panel invited the parties back into the Council Chamber to outline the concerns the panel had with the proposed sanction, and to give the parties an opportunity to address the concerns. The chair pointed out that the agreed statement of facts, in particular paragraphs 13 and 19, showed the graveness of the misconduct, which was not merely a competence-related failure to attribute the appropriate value to inventory, but, rather, was a conscious choice to put forward an inventory value which was known to be wrong. The problem was not that Mr. Stanley did not have the knowledge or competence to deal properly with inventory. The problem was that he knew the attributed value was false and misleading and yet chose to present it as fair.

Governing Principles Applied

Both counsel addressed the panel's concern, but did not persuade the panel that the recommended order adequately ensured Mr. Stanley's rehabilitation. The panel concluded that, while professional development courses should help sensitize Mr. Stanley to the relevant issues, his rehabilitation depended on his being specifically deterred from reporting again in the future, as he did in this case, that:

> "nothing has come to my attention that causes me to believe that these financial statements are not, in all material respects, in accordance with generally accepted accounting principles"

when he knows the financial statements are false and misleading.

In such circumstances, the principle of general deterrence is also relevant. The membership should know that the cost of misconduct similar to that of Mr. Stanley will not be simply a relatively modest fine.

In a number of the suggested precedent cases, in particular *McKechnie* and *Rutherford*, the member did not know that the financial statements presented were not in accordance with generally accepted accounting principles. Mr. Stanley's failure was not just that he did not adhere to the appropriate standard, and should have done more work to ensure the financial statements were fairly presented, but that he knew the statements were wrong, and presented them anyway.

After deliberation, the panel made the following order:

<u>ORDER</u>

IT IS ORDERED in respect of the charges:

1. THAT Mr. Stanley be reprimanded in writing by the chair of the hearing.

2. THAT Mr. Stanley be and he is hereby fined the sum of $3,000, to be remitted to the Institute within four (4) months from the date this Decision and Order becomes final under the bylaws.

3. THAT Mr. Stanley be suspended from the rights and privileges of membership in the Institute for a period of four (4) months from the date this Decision and Order becomes

final under the bylaws.

4. THAT Mr. Stanley be and he is hereby required to complete, by attending in their entirety, within eighteen (18) months from the date this Decision and Order becomes final under the bylaws, the following professional development courses made available through the Institute:

   - Accounting, Auditing and Professional Practice Update;
   - Accounting Refresher; and
   - Review and Compilation Engagements,

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

5. THAT notice of this Decision and Order, disclosing Mr. Stanley 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.*

6. THAT Mr. Stanley 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. Stanley.

7. THAT in the event Mr. Stanley fails to comply with any requirement of this Order within the time period specified, 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 above, and by publication in a Georgetown newspaper and *The Globe and Mail*.

Reprimand

The panel believes that a reprimand in writing from the chair of the hearing is necessary as a specific deterrent to the member, to stress to him the serious nature of the offense and the unacceptability of his conduct as a chartered accountant.

Fine

The panel agreed that the suggested fine of $3,000 was appropriate as a specific deterrent to Mr. Stanley, and as a general deterrent to like-minded members that the conduct displayed by Mr. Stanley is not appropriate.

Suspension

We have outlined above the concern we had about the recommended sanction. Although suspension of the member was not requested by the professional conduct committee, the panel felt very strongly that this sanction was necessary.

The integrity of financial information is the cornerstone of our profession. Mr. Stanley knowingly misrepresented financial information. The public expects and the Institute demands that its members will not engage in such conduct.

The panel felt that a suspension would clearly send a message to both Mr. Stanley and to other members that such conduct is not acceptable.

Professional Development Courses

The discipline committee believes that one of the purposes of the discipline process, in appropriate cases, is to encourage rehabilitation. This is of benefit to the member and to the public which the member serves. The panel agreed that the courses recommended by the professional conduct committee would help Mr. Stanley update his skills and assist in his rehabilitation. Mr. Stanley also agreed that the selected courses were appropriate in this case. The panel ordered the courses noted above.

Publication

Publication of the decision and order, including Mr. Stanley's name, is, in the opinion of the panel, a general deterrent. Communication of the fact that the profession views breaches of its bylaws and rules of professional conduct seriously is an important factor in the governance of the profession. The disciplinary process of a self-governing professional body must be viewed by its members and the public as an open process. The panel therefore ordered the normal publication of these proceedings.

Certificate of Membership

The panel felt that during the time of suspension it was important that Mr. Stanley not hold himself out to the general public as a chartered accountant. Accordingly, the panel ordered that Mr. Stanley submit his certificate of membership to the committee secretary, to be held during the period of suspension.

DATED AT TORONTO THIS DAY OF MAY, 1999
BY ORDER OF THE DISCIPLINE COMMITTEE

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

<u>MEMBERS OF THE PANEL</u>:

M. L. MACKAY, FCA
J. M. MULHALL, CA
G. R. PEALL, CA
R. D. WHEELER, FCA
J. T. ANDERS (Public representative)