

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO  
*THE CHARTERED ACCOUNTANTS ACT, 1956*

**DISCIPLINE COMMITTEE**

**IN THE MATTER OF:** Charges against **KATHRYN A. COOK**, a suspended member of the Institute, under **Rules 202 and 203.1** of the Rules of Professional Conduct, as amended.

**TO:** Ms. Kathryn A. Cook  
204 McGillivray Street  
Ottawa, ON K1S 1L2

**AND TO:** The Professional Conduct Committee, ICAO

**REASONS**  
**(Decision And Order Made November 28, 2005)**

1. This panel of the Discipline Committee of the Institute of Chartered Accountants of Ontario met on November 28, 2005 to hear charges brought by the Professional Conduct Committee against Kathryn A. Cook, a suspended member of the Institute.

2. Mr. Paul Farley appeared on behalf of the Professional Conduct Committee, and was accompanied by Ms. Kim Mills, CA, the investigator appointed by the Professional Conduct Committee. Ms. Cook was in attendance and was represented by her counsel, Mr. Ian Smith.

3. The decision of the panel was made known to the parties at the conclusion of the hearing on November 28, 2005, and the written Decision and Order was sent to them on the same day. These reasons, given pursuant to Bylaw 574, include the charge, the decision, the order, and the reasons of the panel for its decision and order.

**CHARGES**

4. The following charges, as amended at the outset of the hearing, were laid by the Professional Conduct Committee against Ms. Cook on May 20, 2005:

1. THAT, the said Kathryn Cook, in or about the period April 1, 2000 through March 31, 2001, failed to perform her professional services with integrity and due care in that she participated in an arrangement whereby, for a fee of one hundred, two hundred or three hundred dollars per letter, she lent her name and designation to approximately ninety letters confirming her opinion that named investments were qualified investments for RRSPs in accordance with the Income Tax Act and Regulations when she knew or should have known that she did not have sufficient information or technical knowledge to provide the opinion; contrary to Rule 202 of the rules of professional conduct.
2. THAT, the said Kathryn Cook, in or about the period April 1, 2000 through March 31, 2001, failed to sustain her professional competence by keeping informed of, and complying with, developments in professional standards in which she practices or is

relied upon because of her calling, contrary to Rule 203.1 of the rules of professional conduct, in that:

On approximately ninety separate occasions she signed letters of opinion that named investments were "...qualified investments for the annuitant's RRSP in accordance with the definition contained in subsection 146(1) of the Income Tax Act and as defined in the Income Tax Act Regulation 4900(12) for small business corporations or venture capital corporations" and that the investments were not "...a small business property as defined in subsection 206(1) of the Income Tax Act of Canada..." without having an adequate understanding of the Income Tax Act and Regulations.

5. At the outset of the hearing the Professional Conduct Committee withdrew Charge No. 2. Ms. Cook entered a plea of guilty to Charge No. 1, as amended, and acknowledged that on the basis of the plea of guilty and on that basis alone she could be found guilty of the charges.

## **EVIDENCE**

6. The evidence in this matter was presented by way of an Agreed Statement of Facts (Exhibit 4), along with an accompanying Document Brief (Exhibit 5). Neither party called any further evidence.

7. The panel finds the evidence as contained in the Exhibits is clear, cogent and convincing.

8. In particular, the panel finds that Ms. Cook lacked the expertise necessary to provide the opinion letters she did, and that she failed either to inform herself of the requirements for such an opinion or to adequately investigate the investments to determine their eligibility.

9. The panel further finds that Ms. Cook was not an active participant in the investment scheme and that, through ignorance, had no idea it was a scheme. In effect, Ms. Cook allowed her designation to be used by unscrupulous persons.

## **DECISION**

10. The panel is satisfied that the allegations set out in the charges have been proven and that the nature and extent of the departure from the required standard of practice is so significant as to constitute professional misconduct. The panel found Ms. Cook guilty of the charge. The chair read the following decision:

THAT, having seen, and considered the evidence, charge No. 2 having been withdrawn by the Professional Conduct Committee, and charge No. 1 having been amended at the hearing, and having heard the plea of guilty to charge No. 1, the Discipline Committee finds Kathryn A. Cook guilty of charge No. 1, as amended.

## **SANCTION**

11. Counsel for the Professional Conduct Committee and Ms. Cook made a joint submission on sanction for the consideration of the panel. That submission encompassed a written reprimand; a fine in the amount of \$1,500; usual publicity and professional development, specifically the taking of the course, *Staying out of Trouble*.

12. Counsel for the Professional Conduct Committee submitted that there were two issues to be considered on sanction: lack of due care and lack of integrity, and the primary principle was general deterrence, sending a message to others in the profession of the consequences of not zealously

guarding the designation and all that it stands for. He pointed out, in mitigation, that the matter arose a number of years ago and that the member has cooperated fully. However, he also noted that the conduct took place over a significant period of time and involved ninety different letters yet, during that time, Ms. Cook neither reconsidered her behaviour nor ceased the action.

13. Counsel for Ms. Cook provided information on the stresses on Ms. Cook at the time, which helped explain why she was so vulnerable to unscrupulous manipulation. He further outlined how her circumstances have changed and why specific deterrence should not be a concern.

## **ORDER**

14. After considering the joint submission, and bearing in mind that the panel is not bound by such a submission, the panel found that it was within the appropriate range and made the following order:

IT IS ORDERED in respect of the charges:

1. THAT Ms. Cook be reprimanded in writing by the chair of the hearing.
2. THAT Ms. Cook be and she is hereby fined the sum of \$1,500 to be remitted to the Institute within twelve (12) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Ms. Cook be and she is hereby required to complete, by paying for and attending in its entirety, within eighteen (18) months from the date this Decision and Order becomes final under the bylaws, the following professional development course made available through the Institute, or, in the event it becomes unavailable, the successor course which takes its place:
  - (a) *Staying Out of Trouble*.
4. THAT notice of this Decision and Order, disclosing Ms. Cook's name, be given after this Decision and Order becomes final under the bylaws, in the form and manner determined by the Discipline Committee:
  - (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 in the event Ms. Cook fails to comply with any of the requirements of this Order, she shall thereupon be suspended from the rights and privileges of membership in the Institute until such time as she does comply, provided that she complies within six (6) months from the date of her suspension, and in the event she does not comply within this six-month period, she shall thereupon be expelled from membership in the Institute, and notice of her expulsion, disclosing her name, shall be given in the manner specified above, and in a newspaper distributed in the geographic area of Ms. Cook's practice or employment.

## **REASONS FOR THE ORDER**

### **Reprimand**

15. The panel orders Ms. Cook be reprimanded in writing by the Chair of the panel to make it clear to Ms. Cook that her conduct is unacceptable. The public trust in the designation of chartered

accountant is crucial. Without that trust, the profession could not function. Ms. Cook's cavalier treatment of her designation cannot be tolerated.

### **Fine**

16. The panel finds that a fine in the amount of \$1,500 is sufficient to serve as a general and specific deterrent in the circumstances, including the nature and severity of the charges, the remorse shown by Ms. Cook, and the financial means of the member. Had her circumstances not been so constrained, the fine would have been much higher. Those circumstances also led the Professional Conduct Committee to forego seeking an order for costs and the panel from making any such order.

### **Professional Development**

17. While the panel accepts that Ms. Cook now understands the gravity and inappropriateness of what she did, it is concerned at the ease with which she was taken in. Therefore, for her benefit, as well as the protection of the public, the panel orders that she take the professional development course, *Staying out of Trouble*.

### **Notice**

18. Publishing names of members found guilty of professional misconduct is often the single most significant sanction that may be administered for general deterrence, education of the membership at large, and protection of the public. It is essential that the profession be reminded of the value of their designation and the reputation it entails, and of the consequences should they fail to uphold those values. The panel therefore orders the publication of this proceeding in *Checkmark* and orders that notice be given to the Public Accountants Council for the Province of Ontario and to the Canadian Institute of Chartered Accountants.

### **Failing to Comply**

19. To encourage compliance with discipline orders in cases in which members are not expelled outright, orders of a panel generally specify suspension, followed by, should the member still fail to comply, expulsion with newspaper notification to the public as an ultimate consequence for non-compliance. The panel so orders in this proceeding.

DATED AT TORONTO THIS 31<sup>st</sup> DAY OF JANUARY, 2006  
BY ORDER OF THE DISCIPLINE COMMITTEE

M.B. MARTENFELD, FCA – DEPUTY CHAIR  
DISCIPLINE COMMITTEE

### **MEMBERS OF THE PANEL:**

J.A. CULLMORE, CA  
J.G. SEDGWICK, CA  
H.G. TARADAY, CA  
B.M. SOLWAY (Public Representative)