

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: A charge against **KATHRYN ALISON CROUCHER, CA**, a member of the Institute, under **Rule 203.2(b)** of the Rules of Professional Conduct, as amended.

TO: Ms. Kathryn A. Croucher
138 Werstine Terrace
Cambridge, ON N3C 4H1

AND TO: The Professional Conduct Committee, ICAO

REASONS
(Decision and Order made July 21, 2009)

1. This panel of the Discipline Committee of the Institute of Chartered Accountants of Ontario met on July 21, 2009, to hear a charge of professional misconduct brought by the Professional Conduct Committee against Kathryn Alison Croucher, a member of the Institute.
2. Alexandra Hersak appeared on behalf of the Professional Conduct Committee. She was accompanied by Tatiana Rabinovitch, Associate Director, Standards Enforcement. Ms. Croucher was not represented by counsel and did not attend.
3. The Chair of the panel ruled that Ms. Croucher had received proper notice of the hearing in accordance with the bylaws and that there was jurisdiction to proceed in her absence. As there was no explanation for her absence, the Chair ruled the hearing would proceed.
4. The decision of the panel was made known at the conclusion of the hearing, and the written Decision and Order sent to the parties on July 22, 2009. These reasons, given pursuant to Bylaw 574, contain the charge, the decision, the order, and the reasons of the Discipline Committee for its decision and order.

CHARGES

5. Prior to the entering of Ms. Croucher's plea, the Professional Conduct Committee moved to amend the charge before the Discipline Committee to conform to the evidence to be heard. The following charge, as amended at the hearing, was laid against Ms. Croucher by the Professional Conduct Committee on April 20, 2009:

THAT having been personally served with a Notice to a Member to Attend Before the Professional Conduct Committee pursuant to Institute Bylaw 510(8) (9), the said Kathryn A. Croucher, on or about April 7, 2009, failed to co-operate with officers, servants or agents of the Institute who have been appointed to arrange or conduct an investigation on behalf of the Professional Conduct Committee in that she did not attend as required by the terms of the Notice, contrary to Rule 203.2(b) of the Rules of Professional Conduct.

PLEA

6. As Ms. Croucher was not present, a plea of not guilty to the charge was entered on her behalf by the Chair of the panel.

EVIDENCE

7. The evidence for the Professional Conduct Committee was presented by way of the testimony of Ms. Rabinovitch. She testified that Ms. Croucher was personally served with the notice to attend before the Professional Conduct Committee on April 7, 2009 at 9 a.m. at the Institute offices. On that date, Ms. Croucher did not appear. Ms. Rabinovitch and other staff members searched the public areas of the building and made attempts to contact Ms. Croucher by telephone and e-mail. The Committee, in deference to the fact Ms. Croucher would have been coming in from out of town, held the matter down for approximately two hours, but there was no sighting of or message from Ms. Croucher.

8. Rule 203.2(b) of the Rules of Professional Conduct requires all members to cooperate with an investigation by the Professional Conduct Committee. Bylaw 510(9) specifically requires a member summoned before the Professional Conduct Committee to attend before that committee.

DECISION

9. After deliberating, the panel found Ms. Croucher had breached the Rules of Professional Conduct and that the breach was of such a nature and degree as to constitute professional misconduct, and made the following decision:

THAT, having determined to proceed with the hearing in the absence of Ms. Croucher, pursuant to Bylaw 560, being satisfied that she had proper notice of the hearing, and having entered on her behalf a plea of not guilty to the charge, as amended and having seen, heard and considered the evidence, the Discipline Committee finds Ms. Kathryn Alison Croucher guilty of the charge.

SANCTION

10. Ms. Hersak, on behalf of the Professional Conduct Committee, filed two previous disciplinary decisions against Ms. Croucher (Exhibits 6 and 7). The more recent of the two involved the same complaint as the current matter. In that case, Ms. Croucher was disciplined for failing to provide information to the Professional Conduct Committee. In that case, Ms. Croucher eventually did provide the information, but not until the morning of the hearing. An examination of that information led to the requirement Ms. Croucher attend before the Professional Conduct Committee and answer further questions.

11. Ms. Hersak noted that Ms. Croucher has not contacted the Institute. She did not attend or send word to the Assignment Hearing for this matter, despite being personally served with notice. Likewise, she did not attend or send word to this hearing, despite similar notice. It was made clear to Ms. Croucher at her previous discipline hearing that, should she not comply with the requirements of her governing body, she risked her membership (Exhibit 7, ¶ 29). Ms. Hersak submitted that Ms. Croucher's ignoring the Professional Conduct Committee and the Discipline Committee in the face of that warning demonstrates she is not governable, and she must be expelled.

ORDER

12. After deliberating, the panel made the following order:

IT IS ORDERED in respect of the charge:

1. THAT Ms. Croucher be reprimanded in writing by the chair of the hearing.
2. THAT Ms. Croucher be and she is hereby fined the sum of \$3,000 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. Croucher be and she is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Ms. Croucher'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 all members of the Institute; and
 - (b) to all provincial institutes/Ordre,
 and shall be made available to the public.
5. THAT notice of the expulsion, disclosing Ms. Croucher's name, be given by publication on the Institute's website and in the *Cambridge Times*. All costs associated with the publication shall be borne by Ms. Croucher and shall be in addition to any other costs ordered by the committee.
6. THAT Ms. Croucher surrender her 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.

AND IT IS FURTHER ORDERED:

7. THAT Ms. Croucher be and she is hereby charged costs fixed at \$2,000 to be remitted to the Institute within twelve (12) months from the date this Decision and Order becomes final under the bylaws.

REASONS FOR SANCTION

13. Ms. Croucher has demonstrated that she does not respect her responsibilities and duties to the profession. This lack of respect and response to the profession's governance bodies indicates that Ms. Croucher is not governable. Even more egregiously, her refusal to abide by a mandated process has wasted time and resources and has stymied the Institute's attempts to investigate a complaint made by a member of the public and to assist that member of the public. Ms. Croucher has made it clear she does not wish to be a member of this profession. We can do no otherwise but to oblige her.

14. This profession cannot afford Ms. Croucher. The essence of self-regulation is a sacrosanct contract between the regulator and the member that the member will abide by the regulator's oversight, guidance and correction. Once that contract is broken, there can be no self-regulation, and not only is the reputation of the profession brought low, but the public placed at risk. Ms. Croucher is ungovernable. She must be expelled.

15. In order to maintain the public trust, Ms. Croucher's conduct must be denounced and any other member who might be tempted to act in such a manner must be swiftly and effectively deterred. These objectives are achieved through publicity of this matter, and through the imposition of a significant fine.

16. It is appropriate that the member whose conduct necessitated the investigation and hearing, rather than the membership as a whole, bear a portion of the costs of this matter, and it has been so ordered.

DATED AT TORONTO THIS 9TH DAY OF SEPTEMBER, 2009
BY ORDER OF THE DISCIPLINE COMMITTEE

S.F. DINELEY, FCA – DEPUTY CHAIR
DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

D.G. WILSON, CA

P. WONG (PUBLIC REPRESENTATIVE)