

KATHRYN ALISON GRAY: Summary, as Published in *CheckMark*

Kathryn Alison Gray, of Burlington, was found guilty of one charge under Rule 202 of failing to perform her professional services with integrity and due care, and two charges under Rule 205 of signing or associating herself with reports and statements which she knew or should have known were false or misleading. While volunteer treasurer of a non-profit organization, Ms. Gray failed to ensure that bingo proceeds were properly accounted for, signed bingo lottery reports for the Gaming Control Commission containing incorrect figures, and prepared and presented financial statements for the organization which did not disclose receipts or assets from its bingo activities. Ms. Gray was fined \$2,500 and suspended until her completion of a specified professional development course. Upon her completion of the course Ms. Gray was reinstated to membership in good standing.

CHARGE(S) LAID re Kathryn A. Gray

The Professional Conduct Committee hereby makes the following charges against Kathryn A. Gray, CA, a member of the Institute:

1. THAT, the said Kathryn A. Gray, in or about the period December 1995 to December 1997, failed to perform her professional services with integrity and due care in that, while responsible as treasurer of Telecare Burlington for ensuring that the proceeds of bingo events were properly accounted for, did not ensure that bingo proceeds in the approximate amount of \$8,200 were accounted for, contrary to Rule 202 of the rules of professional conduct.
2. THAT, the said Kathryn A. Gray, in or about the period January 1997 to September 1997, signed or associated herself with Bingo Lottery Reports for the Gaming Control Commission which she knew or should have known were false or misleading, in that the figures given for the Lottery Trust Account were not correct, contrary to Rule 205 of the rules of professional conduct.
3. THAT, the said Kathryn A. Gray, in or about the period October 1995 to April 1998, prepared and presented to the executive of Telecare Burlington, financial statements that did not disclose Telecare Burlington's receipts or assets from its bingo activities, and thereby associated herself with statements which she knew or should have known were false or misleading, contrary to Rule 205 of the rules of professional conduct.

Dated at Toronto this 16th day of May, 2000.

R.A. JOHNSTON, FCA – DEPUTY CHAIR
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Kathryn Alison Gray

DECISION AND ORDER IN THE MATTER OF: Charges against KATHRYN ALISON GRAY, CA, a member of the Institute, under Rules 202 and 205 of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE NOVEMBER 1, 2000

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 and 3, the Discipline Committee finds Kathryn Alison Gray guilty of charges Nos. 1, 2 and 3.

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Ms. Gray be reprimanded in writing by the chair of the hearing.
2. THAT Ms. Gray be and she is hereby fined the sum of \$2,500, to be remitted to the Institute within six (6) months from the date this Decision and Order is made.
3. THAT Ms. Gray be and she is hereby suspended effective immediately from the rights and privileges of membership in the Institute, either for a period of six (6) months from the date this Decision and Order is made, or until she complies with paragraph 4 of this Order.
4. THAT Ms. Gray be and she is hereby required to complete, by paying for and attending in its entirety, within six (6) months from the date this Decision and Order is made, the professional development course made available through the Institute entitled "Staying Out of Trouble".
5. THAT notice of this Decision and Order, disclosing Ms. Gray'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 Ms. Gray surrender her certificate of membership in the Institute to the discipline committee secretary within ten (10) days from the date this Decision and Order is made, to be held during the period of suspension and thereafter returned to Ms. Gray.
7. THAT in the event Ms. Gray fails to comply with any of the requirements of this Order within the time periods specified, 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 in paragraph 5 hereof, and in a newspaper distributed in the geographic area of Ms. Gray's practice, employment and/or residence.

DATED AT TORONTO THIS 7TH DAY OF NOVEMBER, 2000
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re Kathryn Alison Gray

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: Charges against KATHRYN ALISON GRAY, CA, a member of the Institute, under Rules 202 and 205 of the Rules of Professional Conduct, as amended.

REASONS FOR THE DECISION AND ORDER MADE NOVEMBER 1, 2000

1. This panel of the discipline committee of the Institute of Chartered Accountants of Ontario convened on November 1, 2000 to hear charges of professional misconduct laid by the professional conduct committee against Ms. Kathryn A. Gray.
2. The professional conduct committee was represented by Ms. Deborah McPhadden, who was accompanied by the investigator Mr. Michael Cashion. Ms. Gray was present and represented by her counsel Mr. James Cimba.
3. The charges dated May 16, 2000 were filed as an exhibit at the hearing, and read as follows:
4. THAT, the said Kathryn A. Gray, in or about the period December 1995 to December 1997, failed to perform her professional services with integrity and due care in that, while responsible as treasurer of Telecare Burlington for ensuring that the proceeds of bingo events were properly accounted for, did not ensure that bingo proceeds in the approximate amount of \$8,200 were accounted for, contrary to Rule 202 of the rules of professional conduct.
5. THAT, the said Kathryn A. Gray, in or about the period January 1997 to September 1997, signed or associated herself with Bingo Lottery Reports for the Gaming Control Commission which she knew or should have known were false or misleading, in that the figures given for the Lottery Trust Account were not correct, contrary to Rule 205 of the rules of professional conduct.
6. THAT, the said Kathryn A. Gray, in or about the period October 1995 to April 1998, prepared and presented to the executive of Telecare Burlington, financial statements that did not disclose Telecare Burlington's receipts or assets from its bingo activities, and thereby associated herself with statements which she knew or should have known were false or misleading, contrary to Rule 205 of the rules of professional conduct.

Ms. Gray entered a plea of guilty to the charges against her and confirmed that she understood that on the basis of the plea, and on that basis alone, that she could be found guilty of the charges.

DECISION ON THE CHARGES

Ms. McPhadden outlined the case for the professional conduct committee, and filed a document brief and an agreed statement of facts as exhibits. The document brief consisted of 232 pages, and Ms. McPhadden reviewed the agreed statement of facts making reference to the pertinent pages in the brief.

Ms. Gray was a volunteer treasurer of Telecare Burlington ("Telecare") from June 1995 to June

1998. Telecare is a non-profit organization that operates a twenty-four hour distress telephone line staffed by trained volunteers. The majority of the revenues of Telecare during the time related to these charges was generated from bingos it operated.

Charge No. 1

During the relevant period there were 22 bingo reports and daily tally sheets, but in 10 instances the money deposited did not include all the money which should have been deposited according to the reports and tally sheets. Ms. Gray admitted she was responsible for depositing the money into Telecare's bank account and that the money has never been accounted for. The professional conduct committee investigator had made an overall reconciliation which showed that Ms. Gray did not ensure that approximately \$8,200 was deposited.

Charge No. 2

The bingo lottery reports submitted to the Ministry of Consumer and Commercial Relations contained banking information including the balance in the accounts. Ms. Gray signed these reports certifying that the information in them was correct when she should have known the bank balances were not correct.

Charge No. 3

There was apparently a desire not to disclose that Telecare raised a substantial amount of its revenue from bingo. A board member asked or directed that no reference be made in the financial statements to money from the bingo activities. Ms. Gray complied with this request. She acknowledges that the amount of money and the fact it came from bingo activities was material and that she was obliged to provide accurate financial information and failed to do so. Her willingness to accommodate the concerns of this albeit worthwhile organization of which she was treasurer took priority over her professional responsibilities and judgment as a chartered accountant.

Mr. Cimba did not call evidence or make submissions with respect to the issue of guilt or innocence. Ms. McPhadden made submissions with respect to a determination of guilt on the charges.

After deliberating upon the evidence heard, the panel concluded that the charges had been proven and that Ms. Gray was guilty of the charges. Its decision was as follows:

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 and 3, the Discipline Committee finds Kathryn Alison Gray guilty of charges Nos. 1, 2 and 3.

ORDER AS TO SANCTION

The professional conduct committee did not call evidence with respect to sanction. Mr. Cimba introduced five letters of reference on behalf of Ms. Gray. He also outlined her involvement with Telecare, including her duties as treasurer, and explained the circumstances in which Ms. Gray found herself.

In her submissions as to sanction, Ms. McPhadden outlined the mitigating circumstances of the case, including the facts that this was Ms. Gray's first time before the discipline committee, she was a relatively young CA, she acknowledged her mistake and was remorseful, and she appeared to have learned her lesson.

Mr. Cimba, in his submissions, contrasted this case with the facts in the *Wagner* case, which had been cited by Ms. McPhadden, as follows:

- Mr. Wagner had billed a client, whereas Ms. Gray was a volunteer;
- Mr. Wagner had been a senior chartered accountant, whereas Ms. Gray was relatively junior, both in age and experience;
- Mr. Wagner had pleaded not guilty and contested the issues, whereas Ms. Gray acknowledged her errors, and was remorseful and determined to rehabilitate herself.

The panel recognized that Ms. Gray was a volunteer and did not appear to benefit from her actions. Ms. McPhadden stated that with reference to charges Nos. 1 and 2, there was no allegation of moral turpitude. As to the question of being a volunteer, the panel was of the opinion that once Ms. Gray became a member of the profession, with all of the responsibilities for integrity and ethics, she became obliged to adhere to the rules of professional conduct regardless of whether she was acting as a volunteer.

After hearing the submissions, the panel began its deliberations, during which some questions arose that the panel wished to put to the member to clarify certain areas not completely dealt with during the hearing.

The questions related to timing of when Ms. Gray first heard about the shortages, what she did when she learned of them, and who actually handled the cash and made deposits.

The public representative on the panel, noting that Ms. McPhadden had stated this was not a case of moral turpitude but one of money that had not been accounted for, asked whether the member had a belief as to who took the money. Mr. Cimba replied that it was believed to be either the person who organized the bingo, or that person's teenaged son.

After further deliberation, the panel made the following order:

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Ms. Gray be reprimanded in writing by the chair of the hearing.
2. THAT Ms. Gray be and she is hereby fined the sum of \$2,500, to be remitted to the Institute within six (6) months from the date this Decision and Order is made.
3. THAT Ms. Gray be and she is hereby suspended effective immediately from the rights and privileges of membership in the Institute, either for a period of six (6) months from the date this Decision and Order is made, or until she complies with paragraph 4 of this Order.
4. THAT Ms. Gray be and she is hereby required to complete, by paying for and attending in its entirety, within six (6) months from the date this Decision and Order is made, the professional development course made available through the Institute entitled "Staying Out of Trouble".
5. THAT notice of this Decision and Order, disclosing Ms. Gray'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 Ms. Gray surrender her certificate of membership in the Institute to the discipline

committee secretary within ten (10) days from the date this Decision and Order is made, to be held during the period of suspension and thereafter returned to Ms. Gray.

7. THAT in the event Ms. Gray fails to comply with any of the requirements of this Order within the time periods specified, 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 in paragraph 5 hereof, and in a newspaper distributed in the geographic area of Ms. Gray's practice, employment and/or residence.

Reprimand

In keeping with past cases, the panel ordered that the member be reprimanded in writing by the chair of the hearing, to stress to her the serious nature of the charges and the unacceptability of her conduct as a chartered accountant.

Fine

The professional conduct committee asked for a fine in the range of \$2,000 to \$3,000, which was contrasted with the fine of \$5,000 ordered in the similar case of Mr. Wagner. Mr. Cimba submitted that a fine in the range of \$1,000 would be more appropriate, given the size of Ms. Gray's practice and her financial circumstances. There was no evidence given to substantiate any financial difficulty. The panel concluded that a fine of \$2,500 would be an appropriate amount in this case.

Suspension

The professional conduct committee requested a suspension of two to three months. The member's counsel submitted that there should be no suspension, but that if one was ordered, it should be a minimal one. A chartered accountant's work must add credibility to financial information. The public expects as much, and the Institute requires it. The panel felt that a suspension of six months, effective as of the date of its order, was appropriate in this case, to send a message to both Ms. Gray and other members in similar circumstances that this member's departure from expected standards of competence and conduct is not acceptable.

Professional Development Course

The discipline committee believes that one of the purposes of the disciplinary process, in appropriate cases, is to encourage rehabilitation. During submissions, neither counsel suggested courses, but the panel felt it would be beneficial to both the member and the public she serves that Ms. Gray take a course called *Staying Out of Trouble*. The panel also believed that, upon the successful completion of the course, it would be appropriate that Ms. Gray's suspension be lifted, and so ordered.

Notice

The giving of notice of the decision and order, disclosing Ms. Gray's name, including by publication, 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. Such notification is also necessary to demonstrate to the public that the profession is self-regulating, and to maintain the public's confidence in the profession's ability to govern itself.

DATED AT TORONTO THIS 29TH DAY OF JANUARY, 2001
BY ORDER OF THE DISCIPLINE COMMITTEE

D.P. SETTERINGTON, FCA – CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

B.L. HAYES, CA
G.R. PEALL, CA
R.D. WHEELER, FCA
B.A. YOUNG (Public representative)