

Kent Michael Roy: Summary, as Published in *CheckMark*

Kent Michael Roy, of Caledonia, was found guilty of two charges of professional misconduct, under Rules 201.1 and 205. He improperly removed funds from the bank account of a not-to-profit association, of which he was a director and signing officer, and converted the funds to his own use. He then falsified the association's financial statements in an effort to cover up his misappropriation. He was fined \$3,000 and expelled from membership.

Mr. Roy was expelled from the Institute on July 5th, 1993, however, he was reinstated to MEMBERSHIP IN GOOD STANDING on July 14th, 1995.

CHARGE(S) LAID re Kent Michael Roy

The Professional Conduct Committee hereby makes the following charges against Kent M. Roy, CA, a member of the Institute:

1. THAT, the said Kent M. Roy, in or about the period November, 1990 through to February, 1992, failed to 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) While a director and signing officer on the bank account of Hamilton-Wentworth/Halton Junior Golf Tour Association, he improperly removed funds from the Hamilton-Wentworth/Halton Junior Golf Tour Association bank account in the amount of approximately \$11,770 and converted those funds to his own use.
2. THAT, the said Kent M. Roy, in or about the period September 30, 1991 through to February 29, 1992, prepared financial statements for Hamilton-Wentworth/Halton Junior Golf Tour Association and Bill Millar Challenge Junior Golf Fund and released those financial statements to the directors of the board of the organizations, knowing that the financial statements were false and misleading since he had deliberately overstated cash on the financial statements in an effort to cover up monies he had improperly removed and converted to his own use, contrary to Rule 205 of the Rules of Professional Conduct.

DATED at Toronto this 13th day of August, 1992.

B.G. BROOKS, CA - DEPUTY CHAIR
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Kent Michael Roy

DECISION AND ORDER IN THE MATTER OF: Charges against KENT MICHAEL ROY, CA, a member of the Institute, under Rules 201.1 and 205 of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE NOVEMBER 20, 1992

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 and 2, THE DISCIPLINE COMMITTEE FINDS Kent Michael Roy guilty of the charges.

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Roy be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Roy be and he is hereby fined the sum of \$3,000, to be remitted to the Institute within eighteen (18) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Roy be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Roy'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 Mr. Roy surrender his certificate of membership in the Institute to the registrar of the Institute within ten (10) days from the date this Decision and Order becomes final under the bylaws.

DATED AT TORONTO, THIS 27TH DAY OF NOVEMBER, 1992
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re Kent Michael Roy

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: Charges against KENT MICHAEL ROY, CA, a member of the Institute, under Rules 201.1 and 205 of the Rules of Professional Conduct, as amended.

WRITTEN REASONS FOR THE DECISION AND ORDER MADE NOVEMBER 20, 1992

These proceedings before this panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on November 20, 1992.

Mr. Paul Farley attended on behalf of the professional conduct committee. Mr. Roy attended with, and was represented by, his counsel, Mr. John M. Wigle.

At the outset, the member requested an adjournment of the hearing, on the basis of the unavailability of psychological evidence. Mr. Roy had been seeing a psychologist, whom he had intended to call as a witness on his behalf. This doctor recently discontinued seeing Mr. Roy, however, and recommended that his therapy be taken over by another psychologist. At the date of the hearing Mr. Roy had not yet seen a new doctor.

Mr. Farley opposed the adjournment request, arguing that Mr. Roy had had ample time to prepare his case, that the hearing had already been adjourned once at the member's request, and that no notice of an adjournment request had been given to the discipline committee, despite the caution contained in the committee secretary's letter of September 3, 1992 to Mr. Roy that at least seven days' notice of any adjournment request was required.

After deliberation upon the matter, the committee denied Mr. Roy's request. In addition to the facts that the committee had not been given notice, and that Mr. Roy had already had one adjournment, the determining factor in denying the request was that Mr. Roy did not actually have a psychologist upon whose medical evidence he would be able to rely. This was not a case simply of his doctor being unavailable to attend on this particular hearing date. Mr. Roy did not have a doctor. He might or might not get one in the future. If he did, the doctor might or might not be prepared to testify on his behalf. In any event, the future might be the near future or the distant future. The committee concluded that, given all this uncertainty, it would be inappropriate for it to postpone its adjudication of this serious matter.

The professional conduct committee had laid two charges of professional misconduct against Mr. Roy, one charge under Rule of Professional Conduct 201.1, for failing to conduct himself in a manner so as to maintain the good reputation of the profession and its ability to serve the public interest, and the other charge under Rule of Professional Conduct 205, for preparing and releasing financial statements which he knew were false and misleading. Mr. Roy pleaded guilty to both charges.

The charges were based on the facts that

- in or about the period November 1990 through February 1992, Mr. Roy improperly removed approximately \$12,000 from the bank account of a not-for-profit association, of which he was a director and signing officer, and converted those funds to his own use; and

- in or about the period September 30, 1991 through February 29, 1992, he prepared financial statements for the association and a related fund, and released those financial statements to the directors of the boards of those organizations, knowing that the statements were false and misleading, since he had deliberately overstated the cash position on the statements in an effort to cover up monies which he had improperly removed and converted to his own use.

The evidence before the committee indicated that Mr. Roy made partial repayments of the embezzled funds, but subsequently continued to take money. When discovery of the misappropriation was certain, Mr. Roy acknowledged improperly removing the funds, made restitution in full, and, on the urging of his employer, reported the matter to the Institute.

Based on Mr. Roy's plea of guilty to both charges, and on the evidence presented, including the agreed statement of facts, the committee found Mr. Roy guilty of the charges.

The committee then heard the testimony of Mr. Roy, and the submissions of both counsel, upon the issue of sanction. After deliberation, the committee made the following order:

ORDER

IT IS ORDERED

in respect of the charges:

1. THAT Mr. Roy be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Roy be and he is hereby fined the sum of \$3,000, to be remitted to the Institute within eighteen (18) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Roy be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Roy'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 Mr. Roy surrender his certificate of membership in the Institute to the registrar of the Institute within ten (10) days from the date this Decision and Order becomes final under the bylaws.

The reasoning behind the committee's order as to sanction is set out below. In reaching its conclusions, the committee considered the issues of general deterrence, specific deterrence and rehabilitation.

Reprimand

The committee believes that a reprimand is a specific deterrent that is necessary to stress to Mr. Roy the unacceptability of his conduct and its negative impact on the image of the profession.

Fine

The imposition of a fine, the committee concluded, helps to emphasize to Mr. Roy, all members of the profession, and the general public, that conduct such as that demonstrated in this case are not tolerated by the profession.

Expulsion

Mr. Roy's conduct is a serious blow to the profession's reputation with the business community and the general public. While evidence was given that Mr. Roy had made restitution, and was attempting to deal with the factors that led to his actions, the committee was of the view that if such a breach of the profession's code of conduct were treated lightly, it would convey the message that such behavior is not viewed seriously by this profession, or that it is tolerable under mitigating circumstances. Such messages, would be totally erroneous and inappropriate.

Consequently, as a general deterrent, and in order to protect the integrity of the profession and maintain its reputation, the committee concluded that expulsion is the appropriate sanction in this situation involving such serious charges.

Notice

Publication of the Decision and Order, including Mr. Roy's name, is a significant general deterrent. In addition, providing information to members, to show that the profession is active in self-regulation, and intolerant of breaches of its bylaws and rules of conduct, is an important function in the governance of a profession.

Surrender of certificate

Since the protection of the public interest is a fundamental tenet of the profession, the committee believes that it is of utmost importance that expelled members not have the opportunity to appear to be members of the chartered accountancy profession through display of their certificates of membership in the Institute. Accordingly, orders of expulsion also routinely order that membership certificates be returned to the Institute, and that has been done in this case.

DATED AT TORONTO, THIS 12th DAY OF JANUARY, 1993
BY ORDER OF THE DISCIPLINE COMMITTEE

FA. DROZD, FCA - DEPUTY CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

H.R. KLEIN, CA
P. RAYSON, CA
J.B. SCOTT, CA
D.P. SETTERINGTON, CA
S.F. ANDRUNYK (Public representative)