

### **Lajbysz (Leo) Altberg: Summary, as Published in *CheckMark***

**Lajbysz (Leo) Altberg**, of Thornhill, was found guilty of a charge under Rule 201.1 of failing to maintain the good reputation of the profession and its ability to serve the public interest. While acting on behalf of a client, Mr. Altberg collected funds owing to the client from a third party and then improperly retained the funds. Mr. Altberg was fined \$5,000 and suspended from membership for twelve months. An appeal by Mr. Altberg was dismissed.

Mr. Altberg returned to MEMBERSHIP IN GOOD STANDING on May 1, 1998

## **CHARGE(S) LAID re Lajbysz (Leo) Altberg**

The Professional Conduct Committee hereby makes the following charges against Lajbysz Altberg, CA, a member of the Institute:

1. THAT, the said Lajbysz Altberg, in or about January, 1994, failed to maintain the good reputation of the profession and its ability to serve the public interest, in that, while acting on behalf of his client Ralph Oosterhuis, he collected \$1,639 from Barbara Johnstone which was owing to his client Ralph Oosterhuis or his client's company A Touch of Brass Sleep Shoppe, and then improperly retained the entire \$1,639, contrary to Rule 201.1 of the rules of professional conduct.

Dated at Toronto, this 21st day of September, 1995.

JENNIFER L. FISHER, CA - CHAIR  
PROFESSIONAL CONDUCT COMMITTEE

## **DISCIPLINE COMMITTEE re Lajbysz (Leo) Altberg**

**DECISION AND ORDER IN THE MATTER OF:** A charge against **LAJBYSZ ALTBERG, CA**, a member of the Institute, under **Rule 201.1** of the Rules of Professional Conduct, as amended.

### **ORDER MADE MAY 15, 1996**

Having, on February 2, 1996, found Lajbysz Altberg, CA, guilty of the charge under Rule of Professional Conduct 201.1 laid against him by the professional conduct committee, and having today heard submissions from the parties as to sanction, the discipline committee orders in respect of the charge:

1. THAT Mr. Altberg be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Altberg be and he is hereby fined the sum of \$5,000, to be remitted to the Institute within twelve (12) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Altberg be suspended from the rights and privileges of membership in the Institute for a period of twelve (12) months from the date this Decision and Order becomes final under the bylaws.
4. THAT notice of this Decision and Order, disclosing Mr. Altberg'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. Altberg surrender his certificate of membership in the Institute to the secretary of the discipline committee within ten (10) days from the date this Decision and Order becomes final under the bylaws, to be held by the secretary during the period of suspension and thereafter returned to Mr. Altberg.
6. THAT in the event Mr. Altberg fails to comply with the requirement of paragraph 2 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 in paragraph 4 hereof.

DATED AT TORONTO THIS 16TH DAY OF MAY, 1996  
BY ORDER OF THE DISCIPLINE COMMITTEE

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

## **DISCIPLINE COMMITTEE re Lajbysz (Leo) Altberg**

**REASONS FOR THE DECISION AND ORDER IN THE MATTER OF:** A charge against **LAJBYSZ ALTBERG, CA**, a member of the Institute, under **Rule 201.1** of the Rules of Professional Conduct, as amended.

### **REASONS FOR THE ORDER MADE MAY 15, 1996**

On February 2, 1996, this panel of the discipline committee found Mr. Lajbysz (known as Leo) Altberg, CA, guilty of one charge of professional misconduct under Rule 201.1. The reasons for decision were issued on April 12.

On May 15, this panel reconvened to enable the parties to call evidence and make submissions as to the appropriate sanction. The professional conduct committee was again represented by Mr. Brian Bellmore and Mr. Altberg again represented himself.

At the conclusion of the submissions by Messrs. Bellmore and Altberg, the panel deliberated and ordered that Mr. Altberg receive a written reprimand from the hearing chair, be fined \$5,000, and be suspended from membership in the Institute for a period of twelve months. In addition, the panel ordered that notice of its decision and order, disclosing Mr. Altberg's name, be published in *CheckMark*, and be given to the Public Accountants Council for the Province of Ontario and to the Canadian Institute of Chartered Accountants. The panel further ordered that in the event Mr. Altberg does not pay the fine within twelve months of the order's becoming final, he be expelled from membership in the Institute, with notice of his expulsion being given in the manner outlined above.

In reaching its decision on the appropriate sanction, the panel considered the principles of rehabilitation, specific deterrence and general deterrence. In this case, imposing a sanction that would both specifically deter Mr. Altberg from similar conduct in the future and help to rehabilitate him required a great deal of careful thought by the panel.

Mr. Altberg repeatedly characterized his conduct in the incident in question as a mistake, and appeared unable or unwilling to acknowledge that it was conduct found by the discipline committee to be professional misconduct. He also indicated that, while he understood the decision of the panel in finding him guilty, he believed that the facts of the case were different than what the panel found to be the facts. When specifically asked what he would do if a similar situation arose in the future, he indicated that he was unable to contemplate the hypothetical.

In light of the finding that Mr. Altberg had breached Rule 201.1, and Mr. Altberg's attitude, as partially disclosed by the comments set out above, the panel addressed such basic questions as:

- What sanction, if any, would specifically deter Mr. Altberg from repeating the misconduct that was the basis for the charge?
- Was Mr. Altberg in need of rehabilitation, and if so, what order or sanction would help achieve it?

- Should Mr. Altberg be expelled from membership in the profession because he is ungovernable?

While there were times during the hearing when Mr. Altberg's attitude suggested that he was ungovernable, the panel concluded that as the incident which gave rise to the charge appears to have been an isolated one, and as there was no evidence of general moral turpitude on the member's part, there was insufficient evidence that he was ungovernable to justify an order of expulsion. Mr. Altberg did acknowledge that, as a chartered accountant, he has a duty to conduct himself in a more professional and responsible manner than does someone who is not a chartered accountant. In this regard, he has made an honest attempt at restitution of the \$1,639.

Mr. Altberg said that he experienced pain and frustration as a result of the incident and the discipline process. His discomfort was evident. Mr. Altberg also disclosed that he had begun psychiatric counselling, which the panel found encouraging as an indication that Mr. Altberg recognizes his need for support, and which it recommends that he continue.

The panel concluded that, given all that has happened, should similar circumstances arise in the future Mr. Altberg would take a different course of action.

Accordingly, the panel concluded that the appropriate sanction was a fine and a one year suspension, rather than expulsion.

While the panel agreed with the submission made by counsel for the professional conduct committee that a fine in the range of \$3,000 to \$5,000 was appropriate in this case, it did not agree that a suspension of four to six months was an appropriate term, given the seriousness of the misconduct itself and Mr. Altberg's conduct at the hearing.

The panel concluded that a suspension of twelve months together with the fine of \$5,000 (bearing in mind that the particulars that gave rise to the charge involved the sum of \$1,639), would bring home specifically to Mr. Altberg, and generally to other members of the profession, that the conduct in issue in this case is regarded as a serious breach of the rules of professional conduct.

The panel also concluded that the principle of general deterrence required the giving of notice of its decision, including disclosure of the member's name. Such notice will also help the general public and other Institute members realize that a chartered accountant must take seriously his or her responsibilities to the public and to the individuals he or she serves.

DATED AT TORONTO THIS            DAY OF JULY, 1996  
BY ORDER OF THE DISCIPLINE COMMITTEE

F.A. DROZD, FCA - CHAIR  
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

M. BRIDGE, CA  
B.M. BYRNE, CA  
P.A. GOGGINS, CA  
V.G. STAFL (Public representative)