

Lawrence Earl Adair: Summary, as Published in *CheckMark*

Lawrence Earl Adair, of Oakville, was found guilty of a charge of professional misconduct, under Rule 201, arising from his criminal conviction for fraud, and was expelled from membership in the Institute.

CHARGE(S) LAID re Lawrence Earl Adair

The professional conduct committee hereby makes the following charge against Lawrence Earl Adair, CA, a member of the Institute:

1. THAT, the said Lawrence Earl Adair, failed to conduct himself in a manner that will maintain the good reputation of the profession and its ability to serve the public interest in that, on or about the 12th day of May 1989, at the Municipality of Metropolitan Toronto, in the Judicial District of York he was convicted of criminal offences, contrary to Rule 201 of the rules of professional conduct, namely that he:
 - (a) during the month of August 1988 in the Municipality of Metropolitan Toronto in the Judicial District of York, unlawfully did by deceit, falsehood or other fraudulent means defraud the Royal Bank of Canada of a sum of, monies of a value exceeding one thousand dollars contrary to Section 338(1) of the Criminal Code;
 - (b) during the months of June and July 1988, at the Municipality of Metropolitan Toronto in the Judicial District of York unlawfully did by deceit, falsehood or other fraudulent means defraud Sholia Resources Limited of a sum of monies of a value exceeding one thousand dollars contrary to Section 338(1) of the Criminal Code;
 - (c) during the months of June and July 1988, at the Municipality of Metropolitan Toronto in the Judicial District of York unlawfully did by deceit, falsehood or other fraudulent means defraud Mary-Ellen Resources Limited of a sum of monies of a value exceeding one thousand dollars contrary to Section 338(1) of the Criminal Code;
 - (d) during the month of April 1988, at the Municipality of Metropolitan Toronto in the Judicial District of York unlawfully did by deceit, falsehood or other fraudulent means defraud Argentex Resource Exploration Corporation of a sum of monies of a value exceeding one thousand dollars contrary to Section 338(1) of the Criminal Code; and
 - (e) during the months of March, April and May 1988, at the Municipality of Metropolitan Toronto in the Judicial District of York unlawfully did by deceit, falsehood or other fraudulent means defraud Lenora Explorations Limited of a sum of monies of a value exceeding one thousand dollars contrary to Section 338(1) of the Criminal Code.

DATED at Toronto this 9th day of May 1991.

R.G. LONG, FC - CHAIR
PROFESSION CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Lawrence Earl Adair

DECISION AND ORDER IN THE MATTER OF: A charge against LAWRENCE EARL ADAIR, a suspended member of the Institute, under Rule 201 of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE MAY 13, 1992

DECISION

THAT, having seen and considered the evidence, and having heard the plea of guilty to the charge, THE DISCIPLINE COMMITTEE FINDS Lawrence Earl Adair guilty of the charge.

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Adair be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Adair be and he is hereby expelled from membership in the Institute.
3. THAT notice of this Decision and Order, disclosing Mr. Adair'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.
4. THAT Mr. Adair 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 19TH DAY OF MAY, 1992
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re Lawrence Earl Adair

IN THE MATTER OF: A charge against LAWRENCE EARL ADAM a suspended member of the Institute, under Rule 201 of the Rules of Professional Conduct, as amended.

WRITTEN REASONS FOR THE DECISION AND ORDER MADE MAY 13, 1992

These proceedings before a panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on May 13, 1992.

Mr. Paul Farley attended on behalf of the professional conduct committee, and Mr. Adair attended without counsel. The member confirmed for the record that he understood he had a right to counsel, but that he wished to proceed without counsel.

The professional conduct committee had laid one charge of professional misconduct against Mr. Adair, to which he pleaded guilty. The chairman confirmed with Mr. Adair that he understood that upon a plea of guilty, and upon that basis alone, he could be found guilty of the charge.

The charge against Mr. Adair was that he failed to conduct himself in a manner that would maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule of Professional Conduct 201. The charge was based upon his criminal convictions for fraud.

A document brief was submitted by counsel for the professional conduct committee, which clearly set out the nature of the criminal charges of which Mr. Adair was convicted, as well as sentencing information which provided considerable background with respect to the matter. Based upon the information contained in the document brief, and, in particular, the certified copy of the original information setting out the criminal charges against him, the discipline committee found Mr. Adair guilty of the Rule 201 charge.

After hearing evidence and submissions as to sanction, including the oral testimony of a character witness for Mr. Adair, and after reading letters presented by Mr. Adair, the committee deliberated, and then made the following order:

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Adair be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Adair be and he is hereby expelled from membership in the Institute.
3. THAT notice of this Decision and Order, disclosing Mr. Adair'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.

4. THAT Mr. Adair 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.

Briefly, the reasons for the committee's sanctions are set out below, with the numbers corresponding to the numbered paragraphs of the Order:

1. The committee is of the view that a reprimand is necessary to clearly stress to Mr. Adair the unacceptability of his conduct as a chartered accountant.
2. Mr. Adair's actions were blatant and conscious acts of moral turpitude for which he was criminally convicted of fraud. Mr. Adair held a senior position of trust with his employer and he abused that trust. As the trust placed in him largely emanated from his stature as a chartered accountant, by his actions Mr. Adair also abused the public's trust in the chartered accountancy profession as a whole. Conduct of this nature strikes at the very heart of the integrity of the profession and is conduct that cannot be tolerated in a member of the Institute. By breaching the faith placed in members of the profession by the public, Mr. Adair's conduct undermined the profession's reputation and its ability to serve the public interest. The committee determined it to be appropriate in these circumstances that Mr. Adair be expelled from membership in the Institute. During his submissions, Mr. Adair had made no argument against the appropriateness of expulsion in the circumstances.
3. The committee included in its Order the usual provision as to the giving of notice of its Decision and Order, to include disclosure of the member's name. Mr. Adair indicated in his submissions that he recognized the importance of the principle of general deterrence, but that he was very concerned about the negative impact that further disclosure of his name would have on his family. He asked that his name be withheld from disclosure. The discipline committee was sympathetic to Mr. Adair's concerns, but did not consider withholding of his name to be appropriate.

The committee accepted Mr. Farley's argument that it is inevitable and unavoidable that some adverse effects will be suffered by the families of members whose names are publicized for having been found guilty of professional misconduct. The realization by members, that public disclosure of their names for misconduct can adversely affect not only them but their families as well, is one aspect of general deterrence that the committee trusts will help dissuade members in future from embarking upon courses of conduct similar to the one engaged in by Mr. Adair.

Past tribunals of both the discipline and appeal committees have decided that disclosure of the name of a member found guilty of professional misconduct should be withheld only in rare and unusual circumstances. The panel did not find such circumstances to exist in this case.

Aside from considerations of deterrence, publication of disciplinary decisions and orders, particularly when disclosing the names of the offending members, is important as a method of demonstrating to the public that the profession is regulating itself, so as to retain public confidence in the profession's ability to self-govern.

In the event the applications committee is ever called upon in future to consider an application by Mr. Adair for readmission to membership, this panel asks that it give particular weight to the serious nature of the conduct that resulted in Mr. Adair's expulsion.

DATED AT TORONTO, THIS 9th DAY OF June, 1992
BY ORDER OF THE DISCIPLINE COMMITTEE

E.W. SLAVENS, FCA - CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

G.W. CLARKSON, FCA
L.R. FLEMMING, CA
J.J. LONG, CA
D.P. SETTERINGTON, CA
B.W. BOWDEN, PhD (Public representative)