

## **Lawrence Teltscher: Summary, as Published in *CheckMark***

### **Notice of Readmission**

**Lawrence Teltscher**, of North York, was expelled from the Institute for failing to cooperate in a professional conduct committee investigation, and his expulsion was reported in the Spring 2002 issue of *CheckMark*. He subsequently cooperated, enabling the professional conduct committee to complete its investigation and close its file with no further action taken. Mr. Teltscher applied to the discipline committee to be readmitted and has been readmitted to the Institute.

### **Lawrence Teltscher: Summary, as Published in *CheckMark***

**Lawrence Teltscher**, of North York, was found guilty of one charge under Rule 203.2 of failing to cooperate in a professional conduct committee investigation. He indicated that he had refused to cooperate, and would continue to refuse to cooperate, on the advice of his legal counsel, in order to avoid the risk of prejudicing his legal rights in a separate proceeding in another jurisdiction. Mr. Teltscher was fined \$3,500 and expelled from the Institute.

### **CHARGE(S) LAID re Lawrence Teltscher**

The Professional Conduct Committee hereby makes the following charge against Lawrence Teltscher, CA, member of the Institute:

THAT the said Lawrence Teltscher, in or about the period January 2, 2001 through to June 1, 2001, 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, contrary to Rule 203.2 of the rules of professional conduct.

Dated at Toronto, Ontario this 1st day of June, 2001.

R. A. VICKERS – CHAIR  
PROFESSIONAL CONDUCT COMMITTEE

## **DISCIPLINE COMMITTEE re Lawrence Teltscher**

**DECISION AND ORDER IN THE MATTER OF:** A charge against **LAWRENCE TELTSCHER, CA**, a member of the Institute, under **Rule 203.2** of the Rules of Professional Conduct, as amended.

**DECISION AND ORDER MADE NOVEMBER 7, 2001**

### **DECISION**

THAT, having seen and considered the evidence, and having heard the plea of guilty to the charge, the Discipline Committee finds Lawrence Teltscher guilty of the charge.

### **ORDER**

IT IS ORDERED in respect of the charge:

1. THAT Mr. Teltscher be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Teltscher be and he is hereby fined the sum of \$3,500, to be remitted to the Institute within three (3) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Teltscher be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Teltscher'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 the Public Accountants Council for the Province of Ontario;
  - (b) to the Canadian Institute of Chartered Accountants;
  - (c) by publication in *CheckMark*; and
  - (d) by publication in *The Globe and Mail*.
5. THAT Mr. Teltscher surrender his 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.

DATED AT TORONTO THIS 8TH DAY OF NOVEMBER, 2001  
BY ORDER OF THE DISCIPLINE COMMITTEE

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

## **DISCIPLINE COMMITTEE re Lawrence Teltscher**

**REASONS FOR THE DECISION AND ORDER IN THE MATTER OF:** A charge against **LAWRENCE TELTSCHER, CA**, a member of the Institute, under **Rule 203.2** of the Rules of Professional Conduct, as amended.

### **REASONS FOR THE DECISION AND ORDER MADE NOVEMBER 7, 2001**

1. This panel of the discipline committee of the Institute of Chartered Accountants of Ontario convened on November 7, 2001 to hear a charge brought by the professional conduct committee against Lawrence Teltscher, a member of the Institute.
2. Ms. Barbara Glendinning represented the professional conduct committee. The member was present at the hearing and was represented by his counsel, Ms. Janice Wright.
3. The panel's decision and order was issued on November 9, 2001. These reasons, issued in writing pursuant to Bylaw 574, contain the panel's decision and order, and the charge laid by the professional conduct committee, as well as the reasons of the panel.

### **DECISION ON THE CHARGE**

4. The charge made by the professional conduct committee against Mr. Teltscher dated June 1, 2001 reads:

THAT the said Lawrence Teltscher, in or about the period January 2, 2001 through to June 1, 2001, 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, contrary to Rule 203.2 of the rules of professional conduct.

5. Mr. Teltscher entered a plea of guilty to the charge and confirmed for the record that he understood that on the basis of his plea, and on that basis alone, he could be found guilty of the charge.

### **The case for the professional conduct committee**

6. The professional conduct committee filed an affidavit of Bruce Armstrong, CA, the investigator it appointed. The affidavit described Mr. Armstrong's efforts to meet with Mr. Teltscher to obtain information with respect to an allegation that he had used confidential information obtained through his position as a partner of a firm of chartered accountants when he bought shares in a certain company. Mr. Teltscher refused to meet with Mr. Armstrong.
7. Included in the exhibits to the affidavit was a letter from Mr. Teltscher's counsel to counsel for the professional conduct committee which made it clear that his refusal to cooperate was and is based on legal advice.

8. While asserting Mr. Teltscher's complete innocence of the allegation that he had used confidential information in acquiring shares, Mr. Teltscher's counsel asserted in her letter that he could prejudice his legal rights or position vis-à-vis the Securities and Exchange Commission in the United States (the "SEC") if he cooperated with the professional conduct committee. According to his counsel, this potential prejudice arises because of the differences between the constitutional and evidentiary protection in Canada and the United States. In Canada, witnesses are compelled to testify but their testimony cannot be used to incriminate them. In the United States, witnesses cannot be compelled to testify, but if they do their evidence can be used against them.

9. The reply letter from counsel for the professional conduct committee did not explicitly address the legal assertion advanced in Ms. Wright's letter. The reply did make it clear the professional conduct committee was not prepared to defer its investigation or consider an alternative solution to resolve the impasse.

10. While the panel understood the reason why Mr. Teltscher would not cooperate, we also understood that the member was not advancing a defence, and we were not required to assess the merits of the member's position set out in his counsel's correspondence.

11. Upon deliberation of the evidence and submissions made to the panel, it was clear that the member was guilty of the charge and accordingly he was found guilty. The decision, which was sent to the member on November 9, 2001, reads:

#### DECISION

THAT, having seen and considered the evidence, and having heard the plea of guilty to the charge, the Discipline Committee finds Lawrence Teltscher guilty of the charge.

#### ORDER AS TO SANCTION

12. Neither party called evidence with respect to the issue of sanction.

13. The professional conduct committee requested an order which provided for a reprimand, a fine in the amount of \$3,500, and expulsion from the Institute with notice of the expulsion to be published in *CheckMark* and *The Globe and Mail*.

14. Counsel for Mr. Teltscher confirmed that in the event the discipline committee were to make an order giving Mr. Teltscher one last opportunity to cooperate, failing which he would be expelled, he would refuse to cooperate.

15. Ms. Wright made two other points with respect to sanction. First, she stated that she thought the order requested by the professional conduct committee was fair. Secondly, she indicated that when the SEC investigation is completed and there no longer exist what Mr. Teltscher and his counsel regard as very real legal concerns, he will apply for readmission to the Institute.

16. Mr. Teltscher is no longer a partner in a chartered accounting firm. In fact, he does not practise public accounting, and agreed not to use his designation. He is currently employed with an agency which provides accountants by assignment. Mr. Teltscher was forthright with respect to his intentions while the SEC investigation continues and after it has been completed. He will not cooperate with the Institute while the investigation is ongoing, and he expects to apply for readmission to membership when the investigation has concluded.

17. While the committee did consider the three general principles which apply when a sanction is imposed, namely rehabilitation, specific deterrence and general deterrence, there is no point in fashioning an order intended to rehabilitate or specifically deter a member who refuses, for whatever reason, to be governed by the Institute.

18. After deliberating on the submissions heard, the committee made the following order:

### ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Teltscher be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Teltscher be and he is hereby fined the sum of \$3,500, to be remitted to the Institute within three (3) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Teltscher be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Teltscher'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 the Public Accountants Council for the Province of Ontario;
  - (b) to the Canadian Institute of Chartered Accountants;
  - (c) by publication in *CheckMark*; and
  - (d) by publication in *The Globe and Mail*.
5. THAT Mr. Teltscher surrender his 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.

### **Reprimand**

19. The purpose of the reprimand is to stress to Mr. Teltscher the unacceptability of his conduct and the importance of cooperating with the professional conduct committee when it is investigating allegations or complaints.

### **Fine**

20. The fine is intended to be a general and specific deterrent. In the panel's view, a fine of \$3,500 was appropriate in the circumstances of this case.

## **Expulsion**

21. Mr. Teltscher, through his counsel, advised that he did not intend to cooperate with the professional conduct committee – even if ordered to do so by the discipline committee. As a result, Mr. Teltscher is not governable by the Institute, and it was the decision of the panel that an order of expulsion was appropriate.

## **Notice**

22. The purpose of giving notice is to ensure that the public is advised of Mr. Teltscher's expulsion. Notice of expulsion is ordered in all cases except in rare and unusual circumstances. Those circumstances do not exist in this case.

23. Counsel for Mr. Teltscher raised a concern about the notice that would be published in *The Globe and Mail* and in *CheckMark*, and it was agreed that the notice to be published would be determined by the discipline committee.

## **Certificate**

24. The panel determined that it was appropriate for Mr. Teltscher to surrender his certificate of membership.

DATED AT TORONTO THIS 18TH DAY OF DECEMBER, 2001  
BY ORDER OF THE DISCIPLINE COMMITTEE

M. BRIDGE, CA – DEPUTY CHAIR  
THE DISCIPLINE COMMITTEE

### MEMBERS OF THE PANEL:

E.R. ARCHIBALD, CA  
P.M. CLEVELAND, FCA  
R.I. COWAN, CA  
J.M. MULHALL, CA  
P.W. WONG (Public representative)