

Loganathan Senathirasa: Summary, as published in *CheckMark*

Loganathan Senathirasa, of Scarborough, was found guilty of a charge, under Rule 201.3, of engaging in the practice of public accounting, while registered as a student-in-accounts, outside a designated office of a practising member qualified to employ students; and a charge, under Rule 208, of paying himself more remuneration than had been agreed upon with his employer, during a time that the employer was absent from the office due to illness. Mr. Senathirasa was fined \$3,000. In deciding not to order a period of suspension in addition to the fine, the discipline committee found that, as Mr. Senathirasa had received bonuses in previous years related to overtime, and as he had worked a significant amount of overtime during his employer's absence, he had reason to believe that his employer would agree that he should receive the extra compensation as a bonus. Mr. Senathirasa made no effort to conceal his receipt of the additional remuneration. The committee determined that the misconduct was the result of inexperience, poor judgment and lack of knowledge of the rules, rather than conscious effort to thwart them.

CHARGE(S) LAID re Loganathan Senathirasa

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

1. THAT, the said Loganathan Senathirasa, in the period February 1, 1992 through June 30, 1992 while a student-in-accounts employed by Reginald Stanley, CA, a member of the Institute, received remuneration or benefit from the said employer in the amount of approximately \$8,600 more than he was entitled to without the employer's knowledge or consent, contrary to Rule 208 of the rules of professional conduct.
2. THAT, the said Loganathan Senathirasa, in or about the period December, 1992 to November, 1993, while registered as a student-in-accounts with the Institute, was engaged in the practice of public accounting outside of a designated office of a practising member qualified to employ students, contrary to Rule 201.3 of the rules of professional conduct.

DATED at Toronto this 21st day of September 1995.

JENNIFER FISHER, CA - CHAIR
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Loganathan Senathirasa

DDECISION AND ORDER IN THE MATTER OF: Charges against **LOGANATHAN SENATHIRASA, CA**, a member of the Institute, under **Rules 201.3 and 208** of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE MARCH 6, 1996

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 Loganathan Senathirasa guilty of charges Nos. 1 and 2.

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Senathirasa be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Senathirasa be and he is hereby fined the sum of \$3,000, to be remitted to the Institute within twelve (12) months from the date this Decision and Order becomes final under the bylaws.
3. THAT notice of this Decision and Order, disclosing Mr. Senathirasa'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 in the event Mr. Senathirasa fails to comply with the requirement of paragraph 2 of this Order within the time period therein specified, he shall thereupon be suspended from the rights and privileges of membership in the Institute, and notice of his suspension, disclosing his name, shall be given in the manner specified in paragraph 3 hereof.
5. THAT in the event Mr. Senathirasa is suspended pursuant to paragraph 4 hereof, the suspension shall terminate upon his compliance with the requirement of paragraph 2 of this Order, provided that he complies within six (6) months from the date of his suspension.
6. THAT in the event Mr. Senathirasa fails to terminate a suspension imposed pursuant to paragraph 4 hereof within the time period specified in paragraph 5, 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 3 hereof.

DATED AT TORONTO THIS 15TH DAY OF MARCH, 1996
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re Loganathan Senathirasa

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: Charges against **LOGANATHAN SENATHIRASA, CA**, a member of the Institute, under **Rules 201.3 and 208** of the Rules of Professional Conduct, as amended.

REASONS FOR THE DECISION AND ORDER MADE MARCH 6, 1996

These proceedings before this panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on March 6, 1996. Mr. Paul Farley attended on behalf of the professional conduct committee, and Mr. Senathirasa attended with his counsel Ms. Cynthia Amsterdam.

Two charges had been laid against Mr. Senathirasa by the professional conduct committee. Mr. Senathirasa pleaded guilty to both charges, and confirmed that he understood that upon a plea of guilty, and upon that basis alone, he could be found guilty of the charges by the discipline committee. The charges read as follows:

1. *THAT, the said Loganathan Senathirasa, in the period February 1, 1992 through June 30, 1992 while a student-in-accounts employed by Reginald Stanley, CA, a member of the Institute, received remuneration or benefit from the said employer in the amount of approximately \$8,600 more than he was entitled to without the employer's knowledge or consent, contrary to Rule 208 of the rules of professional conduct.*
2. *THAT, the said Loganathan Senathirasa, in or about the period December, 1992 to November, 1993, while registered as a student-in-accounts with the Institute, was engaged in the practice of public accounting outside of a designated office of a practising member qualified to employ students, contrary to Rule 201.3 of the rules of professional conduct.*

Mr. Farley entered as exhibits an agreed statement of facts and a document brief. These exhibits disclosed that in 1992, while Mr. Senathirasa was employed as a student-in-accounts, he received remuneration in excess of the amount agreed upon with his employer, Mr. Stanley. This conduct occurred during a period of time when Mr. Senathirasa's employer was ill and not present in the office.

The evidence also indicated that during the period December 1992 to November 1993, Mr. Senathirasa, after leaving the employ of Mr. Stanley, issued financial statements using his certified management accountant designation while still registered with the Institute as a student-in-accounts. This conduct constituted the practising of public accounting outside of a designated office of a practising member qualified to employ students.

After making its findings of guilty to both charges, the discipline committee heard testimony from Mr. Senathirasa and several other witnesses, followed by submissions as to sanction from both parties, whereupon, after deliberation, it made the following order:

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Senathirasa be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Senathirasa be and he is hereby fined the sum of \$3,000, to be remitted to the Institute within twelve (12) months from the date this Decision and Order becomes final under the bylaws.
3. THAT notice of this Decision and Order, disclosing Mr. Senathirasa'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 in the event Mr. Senathirasa fails to comply with the requirement of paragraph 2 of this Order within the time period therein specified, he shall thereupon be suspended from the rights and privileges of membership in the Institute, and notice of his suspension, disclosing his name, shall be given in the manner specified in paragraph 3 hereof.
5. THAT in the event Mr. Senathirasa is suspended pursuant to paragraph 4 hereof, the suspension shall terminate upon his compliance with the requirement of paragraph 2 of this Order, provided that he complies within six (6) months from the date of his suspension.
6. THAT in the event Mr. Senathirasa fails to terminate a suspension imposed pursuant to paragraph 4 hereof within the time period specified in paragraph 5, 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 3 hereof.

The reasons for the discipline committee's order are briefly set out below. In determining the appropriate sanctions to levy in the circumstances of this case, the committee considered the sentencing principles of general deterrence, specific deterrence and rehabilitation.

Reprimand

The committee is of the view that a reprimand is necessary as a specific deterrent to the member, to stress to him the unacceptability of his conduct as a chartered accountant.

Fine and Suspension

Counsel for the professional conduct committee and counsel for the member made a joint submission as to sanction that included a \$3,000 fine and a six-month suspension. Both counsel referred to previous decisions of the discipline committee which they submitted supported the suggested sanction.

The discipline committee understands the importance of precedents and the appropriateness of consistent sanctions. One of the committee's tasks is to determine which previous decisions are truly precedents. The facts and findings of each case differ and the determining principles of general deterrence, specific deterrence and rehabilitation must be considered in light of the facts and findings.

In this case, the committee concluded that the conduct which gave rise to the first charge, conduct which was wrong, resulted from inexperience and poor judgment rather than moral turpitude. The conduct which gave rise to the second charge appeared to the committee to have resulted from poor judgment and a lack of knowledge of the rules rather than a conscious effort to thwart them. Previous cases cited as precedents which dealt with moral turpitude, often deliberately dishonest conduct intended to add credibility to misleading financial information, were not applicable.

The member is guilty of professional misconduct and the committee concluded that the principle of general deterrence requires that there be a fine.

The substantially difficult issue for the committee was determining whether the principle of general deterrence or specific deterrence required that a suspension be imposed, or whether the principle of rehabilitation would be best served by no suspension.

The committee was satisfied that Mr. Senathirasa, who had cooperated with the investigation throughout and exhibited real remorse for his actions, did not need to be specifically deterred from conduct of a similar nature in the future.

Mr. Senathirasa received over \$8,000 more than his agreement with his employer called for. However, in previous years he had received bonuses related to overtime, and it is at least plausible that he believed at some point his employer would have agreed that the amounts he received in excess of the agreement could be dealt with as a bonus. He had been left in a position where he could have tried to cover up or conceal the receipt of the money, but he did not.

The committee also took into account the fact that there had been a delay of about eighteen months in the prosecution of the charges. The original complaint was made in January, 1993, but the charges were not laid until September, 1995, although the investigation was relatively straightforward. The reason for the delay is that the complainant was also a member who was investigated, charged and convicted of professional misconduct. The professional conduct committee had good reason for wanting to deal with the complainant first.

The delay in prosecuting these charges caused a hiatus at an early stage in Mr. Senathirasa's career. Through no fault of the professional conduct committee, his career was put on hold and he suffered financially. The effect on Mr. Senathirasa was not unlike a suspension in some regards.

In light of this, the committee decided that the principle of general deterrence did not require a suspension, and that, having regard to all of the facts, the principle of rehabilitation would be better served if there was not a suspension. The committee repeats that it does not think the member needs to be specifically deterred from similar conduct in the future. The misconduct was the result of inexperience, poor judgment and a lack of knowledge of the rules, rather than a conscious effort to thwart them.

Publicity

The committee ordered notice of its decision and order in the manner specified, including disclosure of the member's name, as a specific and general deterrent. The committee considered such notification also necessary to demonstrate to the public that the profession is regulating itself, so as to retain public confidence in the profession's ability to self-govern.

Failure to comply

As is the normal practice of the committee, it ordered that failure to comply with any of the requirements of the order will result in suspension and, ultimately, expulsion of the member. This sort of provision ensures that orders of the discipline committee will be complied with by those who wish to retain their professional designation and membership in the Institute.

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

P.A. CAMPOL, CA - CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

H.B. BERNSTEIN, CA
L.P. BOOKMAN, CA
FJ. DUNN, CA
W.L. WOOD, CA
S.F. ANDRUNYK (Public representative)