

Louis Albert Falco: Summary, as Published in *CheckMark*

Louis Albert Falco, of Burlington, 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. The charge arose from Mr. Falco's Criminal Code conviction for stealing money in excess of \$5,000. Mr. Falco stole more than \$2,000,000 from a total of 34 clients over a three-year period, leaving a number of them on the verge of financial ruin. At the date of the hearing, no restitution had been made. He was fined \$25,000 and expelled from the Institute.

CHARGE(S) LAID re Louis Albert Falco

The Professional Conduct Committee hereby makes the following charge against Louis A. Falco, a member of the Institute:

1. THAT, the said Louis A. Falco, on or about the 11th day of September, 1998, 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 he was convicted of a charge that he, within the period of the 1st day of January in the year 1994, and the 31st day of May, in the year 1997, at the City of Burlington, in the Central West Region, and elsewhere in the Province of Ontario, did steal a sum of money, the property of those set out in Schedule "A", of a value exceeding \$5,000.00 contrary to Section 334 of the *Criminal Code of Canada*, all of which is contrary to Rule 201.1 of the rules of professional conduct.

Dated at Toronto this day of September 1998.

UWE MANSKI, FCA – DEPUTY CHAIR
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Louis Albert Falco

DECISION AND ORDER IN THE MATTER OF: A charge against **LOUIS ALBERT FALCO**, a suspended member of the Institute, under **Rule 201.1** of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE OCTOBER 21, 1998

DECISION

THAT, having seen and considered the evidence, and having determined to proceed with the hearing in the absence of Mr. Falco pursuant to Institute Bylaw 560, being satisfied that he had proper notice of the hearing, and having entered on his behalf a plea of not guilty to the charge, the Discipline Committee finds Louis Albert Falco guilty of the charge.

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Falco be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Falco be and he is hereby fined the sum of \$25,000, to be remitted to the Institute within six (6) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Falco be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Falco's name, be given after this Decision and Order becomes final under the bylaws:
 - (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* and *The Hamilton Spectator*.
5. THAT Mr. Falco 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 27TH DAY OF OCTOBER, 1998
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re Louis Albert Falco

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

REASONS FOR THE DECISION AND ORDER MADE OCTOBER 21, 1998

This panel of the discipline committee of the Institute of Chartered Accountants of Ontario convened on October 21, 1998 to hear a charge of professional misconduct laid against Louis A. Falco. The professional conduct committee was represented by Mr. Paul Farley. Mr. Falco was not present and was not represented by counsel.

DECISION ON THE CHARGE

The professional conduct committee had laid the following charge against Mr. Falco:

THAT, the said Louis A. Falco, on or about the 11th day of September, 1998, 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 he was convicted of a charge that he, within the period of the 1st day of January in the year 1994, and the 31st day of May, in the year 1997, at the City of Burlington, in the Central West Region, and elsewhere in the Province of Ontario, did steal a sum of money, the property of those set out in Schedule "A", of a value exceeding \$5,000.00 contrary to Section 334 of the Criminal Code of Canada, all of which is contrary to Rule 201.1 of the rules of professional conduct.

The discipline committee reviewed the service of the Notice of Assignment Hearing and the Notice of Hearing, and was satisfied that it could proceed in the absence of the member pursuant to Bylaw 560. A plea of not guilty to the charge was entered into the record on Mr. Falco's behalf.

In presenting its case, the prosecution filed as an exhibit a document brief, which contained a copy of the indictment of Mr. Falco, and a transcript of the criminal court proceeding. Mr. Falco had pleaded guilty before the court, and was scheduled to be sentenced on November 2, 1998.

Based on the evidence filed, the discipline committee found Mr. Falco guilty of the charge laid against him by the professional conduct committee.

ORDER AS TO SANCTION

Mr. Farley made submissions on behalf of the professional conduct committee, which can be summarized as follows. Mr. Falco stole over \$2 million dollars from a total of 34 clients in the period from 1994 to 1997. A number of the clients from whom Mr. Falco stole money are now on the verge of financial ruin because of the theft. Mr. Falco deliberately misled some of the affected clients about what was happening by advising them that the problems related to a banking mix-up. No restitution has been offered to the affected clients by Mr. Falco to date. His thefts were discovered by Revenue Canada. The only mitigating circumstance that Mr. Farley

was able to refer to was the fact that Mr. Falco cooperated with the Institute in its investigation of this matter.

The three principles - rehabilitation, general deterrence and specific deterrence - which are to guide the discipline committee when imposing a sanction, are well known. It is also well known that when a member of the Institute abuses the trust placed in him and steals money, the principle which is of paramount importance is general deterrence.

Counsel for the professional conduct committee submitted that a reprimand, a fine, expulsion, and notice of the expulsion, including publication of the fact in a national newspaper and in a newspaper in the area where Mr. Falco lives, would be the appropriate sanction to achieve the purpose of general deterrence. The discipline committee agreed that the cumulative effect of the Order should be to specifically deter Mr. Falco, and generally deter like-minded members, from engaging in future in the type of conduct exhibited in this case.

The discipline committee deliberated and made the following Order:

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Falco be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Falco be and he is hereby fined the sum of \$25,000, to be remitted to the Institute within six (6) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Falco be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Falco's name, be given after this Decision and Order becomes final under the bylaws:
 - (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* and *The Hamilton Spectator*.
5. THAT Mr. Falco 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.

The reasons for the discipline committee's Order are briefly set out below.

Reprimand

The committee was 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

The professional conduct committee requested a fine of \$25,000. After considering the precedents, and particularly the orders of the discipline committee over the past five years, the committee concluded that a fine of \$25,000 was appropriate in this case, both as a general

deterrent to like-minded members, and as a demonstration to the public of the profession's intolerance of the type of behaviour demonstrated by Mr. Falco.

Expulsion

The principle of general deterrence is of utmost importance in this case. The committee felt that expulsion was required, as Mr. Falco was guilty of a crime of moral turpitude involving a substantial number of clients over a prolonged period of time. The profession cannot tolerate members who, being placed in a position of trust, breach that trust for personal gain.

Notice

Publication of the decision and order, including Mr. Falco's name, is, in the opinion of the discipline committee, a general deterrent. Communication of the fact that the profession views breaches of its bylaws and rules of professional conduct seriously is an important factor in the governance of the profession. Such notification is 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.

Surrender of Certificate

As is usual in cases of expulsion, the member was ordered to surrender his certificate of membership in the Institute.

DATED AT TORONTO, THIS DAY OF FEBRUARY, 1999
BY ORDER OF THE DISCIPLINE COMMITTEE

M. BRIDGE, CA - DEPUTY CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

E.R. ARCHIBALD, CA
N.A. MACDONALD EXEL, CA
F. SAMMEROFF, FCA
B.A. TANNENBAUM, CA
B.W. BOWDEN (Public representative)