

## **Manfred Stebner: Summary, as Published in *CheckMark***

**Manfred Stebner**, of Weston, was found guilty under Rule 201.1 of failing to conduct himself in a manner that would maintain the good reputation of the profession and its ability to serve the public interest. The charge arose from his conviction under the *Income Tax Act* of tax invasion. Mr. Stebner assisted in the evasion or attempted evasion of approximately \$189,600 in taxes through falsification of the returns of 39 separate taxpayers. Mr. Stebner was fined \$10,000 and expelled from the Institute. The discipline committee also ordered that the Toronto Real Estate Board be notified of its decision and order, since Mr. Stebner is or was a member of that association.

## **CHARGE(S) LAID re Manfred Stebner**

The Professional Conduct Committee hereby makes the following charges against Manfred Stebner, a suspended member of the Institute:

1. THAT, the said Manfred Stebner, failed to conduct himself in a manner which will maintain the good reputation of the profession and its ability to serve the public interest in that, on or about the 2<sup>nd</sup> day of November, 1994, he was convicted of those offences under section 239(1)(d) of the Income Tax Act, R.S.C. 1952, c. 148 as amended, shown as counts 90, 91 and 92 in the indictment attached as Schedule "A", all of which allege that he unlawfully did willfully evade or attempt to evade the payment of taxes imposed by the said Income Tax Act, contrary to Rule 201.1 of the rules of professional conduct.

Dated at Toronto, this 12th day of January, 1995.

J. L. FISHER, CA - CHAIR  
PROFESSIONAL CONDUCT COMMITTEE

## **DISCIPLINE COMMITTEE re Manfred Stebner**

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

### **DECISION AND ORDER MADE JULY 18, 1995**

#### **DECISION**

THAT, having seen and considered the evidence, and having determined to proceed with the hearing in the absence of Mr. Stebner, pursuant to Institute Bylaw 560 (formerly Bylaw 87(2)(c)), 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 Manfred Stebner guilty of the charge.

#### **ORDER**

IT IS ORDERED in respect of the charge:

1. THAT Mr. Stebner be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Stebner be and he is hereby fined the sum of \$10,000, 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. Stebner be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Stebner'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;
  - (c) to the Canadian Institute of Chartered Accountants; and
  - (d) to the Toronto Real Estate Board.
5. THAT Mr. Stebner 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 21ST DAY OF JULY, 1995  
BY ORDER OF THE DISCIPLINE COMMITTEE

BRYAN W. STEPHENSON, BA, LLB

## SECRETARY - DISCIPLINE COMMITTEE

## **DISCIPLINE COMMITTEE re Manfred Stebner**

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

### **WRITTEN REASONS FOR THE DECISION AND ORDER MADE JULY 18, 1995**

These proceedings before this panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on July 18, 1995. Ms. Deborah McPhadden attended on behalf of the professional conduct committee. Mr. Stebner was not present at the hearing.

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

1. *THAT, the said Manfred Stebner failed to conduct himself in a manner which will maintain the good reputation of the profession and its ability to serve the public interest in that, on or about the 2nd day of November, 1994, he was convicted of those offences under section 239(1)(d) of the Income Tax Act, R.S.C. 1952, c. 148 as amended, shown as counts 90, 91 and 92 in the indictment attached as Schedule "A", all of which allege that he unlawfully did wilfully evade or attempt to evade the payment of taxes imposed by the said Income Tax Act, contrary to Rule 201.1 of the rules of professional conduct.*

Counsel for the professional conduct committee filed as an exhibit an affidavit of service of Brigitta Garrity, process server, stating that she personally served Mr. Stebner with the charge, Notice of Assignment Hearing, procedural outline and Bylaws 80 to 90. This affidavit had been endorsed by the chair of the assignment hearing on March 2, 1995 that he was satisfied proper notice of the assignment hearing had been given to Mr. Stebner. The July 18, 1995 hearing was set by the chair of the assignment hearing in Mr. Stebner's absence.

Also filed as an exhibit was an affidavit of service, signed by the secretary of the discipline committee, stating that Mr. Stebner had been notified by prepaid first class mail of the July 18 hearing date.

Based on the above exhibits, and after waiting a reasonable amount of time and searching for the member throughout the public areas of the Institute premises, the hearing chair ruled that he was satisfied proper service of notice of this hearing had been given in accordance with the bylaws, and that, therefore, the hearing would proceed. The chair then entered a plea of not guilty to the charge on behalf of the member.

The evidence before the discipline committee consisted of a copy of an agreed statement of facts filed by Mr. Stebner at his criminal trial, and the transcript of the criminal court proceeding. The evidence indicated that for the 1989, 1990 and 1991 taxation years, Mr. Stebner, in his capacity as a chartered accountant, assisted in the evasion or attempted evasion of approximately \$189,600 in taxes through falsification of the returns of 39 separate taxpayers. He made false statements in the clients' returns and created false documentation to back up the false claims.

Mr. Stebner met most of his tax clients in his capacity as a real estate agent, and in most instances suggested to the taxpayer that he would be able to get him or her a larger income tax refund because of his expertise as a chartered accountant. In some cases the taxpayers actively assisted in creating false deductions, while in others the clients were unaware of the false nature of the returns, in as much as they were unable to speak fluent English and had little tax knowledge.

The false deductions related to fabricated businesses, business losses, rental losses and overstatements of actual expenses. In many cases, Mr. Stebner encouraged the taxpayers to create businesses for the purpose of claiming false expenses.

Once the taxpayers were contacted by Revenue Canada and asked for supporting documentation for the false claims in their returns, Mr. Stebner was involved in instructing them to create false, inflated and backdated invoices. In addition, he provided nine taxpayers with false, backdated and grossly inflated receipts for his own professional services.

In one case, Mr. Stebner prepared and executed an agreement with a client in which he guaranteed a large tax refund if the client would split the refund with him, and if the agreement of purchase and sale for the client's house was accepted. In another case, Mr. Stebner guaranteed a couple who contacted him regarding the purchase of a house that they would receive a tax refund of \$5,000 if they purchased a house through him.

All of the taxpayers for whom Mr. Stebner prepared false returns have been reassessed by Revenue Canada and must pay back taxes and interest, and, in some cases, penalties for late payment.

After reviewing the evidence before it, the discipline committee found Mr. Stebner guilty of the charge.

The committee then heard submissions from the professional conduct committee on sanctions, and, upon deliberation, made the following order:

### **ORDER**

IT IS ORDERED in respect of the charge:

1. THAT Mr. Stebner be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Stebner be and he is hereby fined the sum of \$10,000, 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. Stebner be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Stebner'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;
  - (c) to the Canadian Institute of Chartered Accountants; and
  - (d) to the Toronto Real Estate Board.

5. THAT Mr. Stebner 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 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**

The professional conduct committee requested a fine of \$5,000. The discipline committee concurred with counsel for the professional conduct committee that a fine serves both as a general and a specific deterrent. As a general deterrent to the membership, the committee is of the opinion that a substantial fine is necessary in a case such as this, in which a member holds himself out as a chartered accountant and through fraudulent means attempts to personally benefit from his actions.

### **Expulsion**

The principle of general deterrence is of utmost importance in this case. The charge of which Mr. Stebner was found guilty involved moral turpitude. His conduct took place over an extended period of time and was not isolated to one incident. His behaviour also involved numerous clients. Counsel for the professional conduct committee asked for the expulsion of Mr. Stebner as the appropriate specific and general deterrent. The discipline committee formed the opinion that the conduct of this member so undermined the reputation of the profession that nothing less than expulsion would be an appropriate sanction in this case.

### **Notice**

The disciplinary process of a self-governing professional body must be viewed by its members and the public as an open process. Not having been advised of any rare or unusual circumstances to persuade it to withhold the member's name from publication when giving notice of this case, the committee made the usual order as to the giving of notice, and also ordered that the Toronto Real Estate Board be notified, since Mr. Stebner is or was a member of that association.

### **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 \_\_\_\_\_, 1995  
BY ORDER OF THE DISCIPLINE COMMITTEE

D.P. SETTERINGTON, CA - DEPUTY CHAIR  
THE DISCIPLINE COMMITTEE

### **MEMBERS OF THE PANEL:**

R.E. ELLIS, CA  
P.A. GOGGINS, CA

H.R. KLEIN, CA

J.J. LONG, CA

B.A. YOUNG, P.Eng. (Public representative)