

Mark Grunberg: Summary, as Published in *CheckMark*

Mark Grunberg, of Richmond Hill, was found guilty of two charges of professional misconduct, under Rules 202 and 206, performing an audit without due care and not in accordance with generally accepted standards of practice of the profession. He was fined \$20,000, and ordered to attend a professional development course, and be reinvestigated by the professional conduct committee.

Mr Grunberg's MEMBERSHIP IN GOOD STANDING was unaffected by the decision and order of the discipline committee.

CHARGE(S) LAID re Mark Grunberg

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

1. THAT, the said Mark Grunberg, on or about the 13th day of January, 1989, while engaged in the practice of public accounting, did express an unqualified opinion on the consolidated financial statements of Werner Dahnz Company Limited as at September 30, 1988, and did not perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule 206 of the rules of professional conduct, in that;
 - (a) he failed to carry out sufficient substantive audit procedures with respect to costs incurred by the company on contracts entered into with customers, including costs to complete the contract;
 - (b) he failed to adequately assess the validity of the calculation by the company of profits realized on contracts entered into with customers
 - (c) he failed to complete sufficient audit procedures with respect to errors found in a sampling of inventory pricing;
 - (d) he failed to obtain sufficient audit evidence to adequately verify accounts receivable;
 - (e) he failed to complete sufficient audit procedures with respect to the 25% gross margin applied by the company to calculate the value of inventory.
2. THAT, the said Mark Grunberg, in or about the period August, 1988 through January, 1989, failed to perform his professional services with due care, contrary to Rule 202 of the Rules of Professional Conduct, in that, while engaged to express an opinion on the consolidated financial statements of Werner Dahnz Company Limited as at September 30, 1988;
 - (a) he failed to properly assess the appropriateness of the accounting principles used in the recognition of revenue and profit on contracts entered into by the company;
 - (b) he improperly accepted the retail method of valuation of inventory including work in process when there were no adequate cost records retained by the company;
 - (c) he improperly accepted the representation of the company that the gross margin was 25% without taking sufficient steps to satisfy himself that this percentage was appropriate.

DATED at Toronto this 28th day of September 1992.

J.L.M. BADALI, FCA – CHAIR
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Mark Grunberg

DECISION AND ORDER IN THE MATTER OF: Charges against **MARK GRUNBERG, CA**, a member of the Institute, under **Rules 202 and 206** of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE MARCH 1, 1993

DECISION

THAT, having seen, heard and considered the evidence, THE DISCIPLINE COMMITTEE FINDS Mark Grunberg guilty of charges Nos. 1 and 2.

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Grunberg be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Grunberg be and he is hereby fined the sum of \$20,000, to be remitted to the Institute within ninety (90) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Grunberg be and he is hereby required to complete, by attending in its entirety, by December 31, 1993, the professional development course entitled Auditing Refresher, made available through the Institute, or, in the event this course becomes unavailable, the successor course which takes its place.
4. THAT Mr. Grunberg be reinvestigated by the professional conduct committee, or by a person retained by the professional conduct committee, on one occasion approximately twelve (12) months from the date this Decision and Order becomes final under the bylaws, the costs of the reinvestigation, to a maximum of \$2,000, to be paid by Mr. Grunberg.
5. THAT notice of this Decision and Order, disclosing Mr. Grunberg'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.
6. THAT in the event Mr. Grunberg fails to comply with any of the requirements of this Order within the time periods 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 5 hereof.
7. THAT in the event Mr. Grunberg is suspended pursuant to paragraph 6 hereof, the suspension shall terminate upon compliance with the term of the Order in respect of

which he was suspended, provided that he complies within ninety (90) days from the date of his suspension.

8. THAT in the event Mr. Grunberg fails to terminate a suspension imposed pursuant to paragraph 6 hereof within the ninety (90) day period provided in paragraph 7 hereof, 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 5 hereof.

DATED AT TORONTO, THIS 9TH DAY OF MARCH, 1993
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re Mark Grunberg

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: Charges against **MARK GRUNBERG, CA**, a member of the Institute, under **Rules 202 and 206** of the Rules of Professional Conduct, as amended.

WRITTEN REASONS FOR THE DECISION AND ORDER MADE MARCH 1, 1993

These proceedings before this panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on February 10 and March 1, 1993.

Mr. Brian Bellmore attended on behalf of the professional conduct committee. Mr. Grunberg attended with his counsel, Mr. Frank Bowman.

Mr. Grunberg was charged with two offences, one for failing to perform his professional services with due care, contrary to Rule of Professional Conduct 202, and the other for failing to perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule of Professional Conduct 206. Each of the two charges was divided into a number of particulars. Mr. Grunberg pleaded not guilty to both charges.

Counsel for the professional conduct committee filed a document brief, and the committee's investigator gave evidence in support of the charges laid against Mr. Grunberg. The evidence presented by the professional conduct committee and the submissions made by counsel for the professional conduct committee with respect to guilt were not challenged in any way.

Based upon the evidence presented in support of the charges, and not refuted, the panel found Mr. Grunberg guilty of both charges.

In its deliberations, the panel concluded that there was a degree of overlap between the first two particulars of each charge, such that the evidence presented could be taken to support either the first two particulars of charge No. 1 or the first two particulars of charge No. 2, but not both. As the evidence presented was sufficient to prove the other particulars of both charges, the guilty findings were made.

Upon the issue of sanction, the panel heard testimony from L.S. Rosen, FCA, called on behalf of Mr. Grunberg, and W.M. Cashion, CA, investigator for the professional conduct committee, reviewed documentary evidence filed, and listened to submissions from both counsel.

The panel found much of the testimony given on behalf of the member to be irrelevant, since it did not appear to be directed to the issue of sanction, and particularly the seriousness of the breach or breaches, but towards the issue of guilt or innocence, i.e. whether or not there had been a breach. The panel concluded that the testimony was intended to establish that Mr. Grunberg's responsibility for the charges upon which he had been found guilty was, or should be, limited. Having previously concluded that Mr. Grunberg was, in fact, guilty of the charges laid, however, the panel was not concerned with establishing the degree of guilt.

After considering all the evidence and submissions presented upon the issue of sanction, the panel made the following order:

ORDER

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1. THAT Mr. Grunberg be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Grunberg be and he is hereby fined the sum of \$20,000, to be remitted to the Institute within ninety (90) days from the date this Decision and Order becomes final under the bylaws.
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 - (a) by publication in *CheckMark*;
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7. THAT in the event Mr. Grunberg is suspended pursuant to paragraph 6 hereof, the suspension shall terminate upon compliance with the term of the Order in respect of which he was suspended, provided that he complies within ninety (90) days from the date of his suspension.
8. THAT in the event Mr. Grunberg fails to terminate a suspension imposed pursuant to paragraph 6 hereof within the ninety (90) day period provided in paragraph 7 hereof, 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 5 hereof.

The reasoning behind the panel's order on sanction is set out below. In reaching its conclusions, the panel considered the issues of general deterrence, specific deterrence and rehabilitation.

Reprimand

The panel believes that a reprimand in writing from the chair of the hearing is appropriate, to stress to Mr. Grunberg the unacceptability of his conduct as a chartered accountant, and to

serve as a reminder to him of his failure to comply with the standards of the profession and to execute his duties with the requisite due care.

Fine

During their submissions, both counsel agreed that a fine was appropriate in this case, though they did not agree on an amount.

In determining a suitable quantum, the panel considered whether or not it should order that Mr. Grunberg be suspended from membership. Counsel for the professional conduct committee requested a four-month suspension in addition to a fine, whereas counsel for Mr. Grunberg stated that no suspension was warranted. In reaching a decision not to impose a suspension, the panel noted the variety and circumstances of the cases presented as precedent by both counsel, and determined that, in the case of Mr. Grunberg

- there was no suggestion of moral turpitude, dishonesty, or lack of integrity;
- the member appeared to be a knowledgeable, experienced practitioner; and
- as the charges referred to one company and one audit, there was no suggestion of a pattern of failing to comply with professional standards or carry out responsibilities with due care.

Consequently, it is the belief of the panel that, in this particular case, a suspension, as a specific deterrent, is unnecessary, and that the principle of general deterrence can better be served by imposing a significant fine.

Failure to comply with the standards of the profession, and failure to undertake one's professional responsibilities with due care, are serious breaches of the trust which chartered accountants enjoy in the community. Accordingly, a substantial fine has been levied in order to emphasize to Mr. Grunberg, other members of the profession, and the general public, that inadequate standards of practice, such as those demonstrated in this case, are dealt with seriously by the profession.

Professional Development Courses

The panel believes that one of the purposes of the disciplinary process, in appropriate cases, is to encourage rehabilitation. Consequently, during its deliberations on the appropriateness of professional development courses, the panel concluded that it was important to the principle of rehabilitation, and to the image of the profession in the eyes of the general public, that Mr. Grunberg attend a professional development course to update his skills as an auditor.

In recognition of the importance of adequate documentation of judgmental decisions during an audit, the panel directs Mr. Grunberg's particular attention to the documentation segment of the "Audit Refresher" course which he has been ordered to take.

Reinvestigation

Reinvestigation was not proposed as an appropriate sanction by either counsel. The panel, however, noted and agreed with the statement made by the discipline committee panel in its reasons for the Hindocha decision and order of October 31, 1989, that

where a member is found guilty of not complying with generally accepted auditing standards, and where the member is allowed to rehabilitate himself and continue in public practice, this sanction must be imposed to ensure the member has met the profession's standards.

This panel also agrees with the panel in the Hindocha case that the costs of the reinvestigation should not be borne by the general membership. Accordingly, the panel ordered that these costs should be paid by Mr. Grunberg, to a limit of \$2,000.

Notice

Publication of the decision and order, disclosing Mr. Grunberg's name, is one of the most effective general deterrents available. Notifying its members of the Institute's efforts in disciplining those in breach of its bylaws and rules of professional conduct is an important function in the governance of the profession, which, in the opinion of the panel, helps to promote compliance.

DATED AT TORONTO, THIS _____ DAY OF _____, 1993
BY ORDER OF THE DISCIPLINE COMMITTEE

F.A. DROZD, FCA - DEPUTY CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

C.J. BURKE, FCA
L.R. FLEMMING, CA
W.S. HAZLITT, CA
B.W. BOWDEN, PhD (Public representative)