

Marvin Norman Winick: Summary, as Published in *CheckMark*

Marvin Norman Winick, of Thornhill, was found guilty by the discipline committee of a charge of professional misconduct, laid by the professional conduct committee, under Rule of Professional Conduct 203.2, of failing to co-operate with officers, servants or agents of the Institute appointed to arrange or conduct an investigation on behalf of the professional conduct committee.

The committee ordered that Mr. Winick

- be reprimanded in writing by the chair of the hearing;
- be fined \$10,000, to be paid within a specified time; and
- be expelled from membership in the Institute.

CHARGE(S) LAID re Marvin Norman Winick

The Professional Conduct Committee hereby makes the following charges against Marvin N. Winick, CA, a member of the Institute:

1. THAT, the said Marvin N. Winick, CA, in or about the period April 4th, 1991 through October 8th, 1991, failed to co-operate with officers, servants or agents of this Institute 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 this 31st day of October, 1991.

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

DISCIPLINE COMMITTEE re Marvin Norman Winick

DECISION AND ORDER IN THE MATTER OF: A charge against MARVIN NORMAN WINICK, CA, a member of the Institute, under Rule 2032 of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE FEBRUARY 13, 1992

DECISION

THAT, having seen, heard and considered the evidence, and having determined to proceed with the hearing in the absence of Mr. Winick, pursuant to Institute 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 Marvin Norman Winick guilty of the charge.

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Winick be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Winick be and he is hereby fined the sum of \$10,000, to be remitted to the Institute within sixty (60) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Winick be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Winick'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.
5. THAT Mr. Winick surrender his certificate of membership in the Institute to the registrar of the Institute within ten (10) days from the date this Decision and Order becomes final under the bylaws.

DATED AT TORONTO, THIS 21ST DAY OF FEBRUARY, 1992
BY ORDER OF THE DISCIPLINE COMMITTEE

B.W. STEPHENSON, BA, LLB
SECRETARY - THE DISCIPLINE COMMITTEE

DISCIPLINE COMMITTEE re Marvin Norman Winick

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

WRITTEN REASONS FOR THE DECISION AND ORDER MADE FEBRUARY 13, 1992

These proceedings before this panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on February 13, 1992.

Mr. Paul Farley attended on behalf of the professional conduct committee. Mr. Winick was not present.

The discipline committee reviewed the affidavits of service of the Notice of Assignment Hearing and the Notice of Hearing, which were filed as exhibits. The committee was satisfied that Mr. Winick had proper notice of the hearing and determined to proceed with the hearing in his absence pursuant to Institute Bylaw 87(2)(c). Prior to proceeding, the secretary to the discipline committee searched the common areas around the hearing room, but Mr. Winick was not present.

A plea of not guilty was then entered on behalf of Mr. Winick to the following charge laid against him by the professional conduct committee:

THAT, the said Marvin N. Winick, CA, in or about the period April 4th 1991 through October 8th, 1991, failed to co-operate with officers, servants or agents of this Institute 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.

After reviewing the documentary evidence filed, and hearing the testimony of the investigator for the professional conduct committee and the submissions made by Mr. Farley, the discipline committee, upon deliberation, found Mr. Winick guilty of the charge laid against him.

The committee was satisfied that Mr. Winick had been made aware of the investigation being conducted by the professional conduct committee. In particular, the committee took note of the affidavit of service of a letter dated September 5, 1991, from Stuart Douglas, the investigator, to Mr. Winick, which clearly indicated the appointment of Mr. Douglas as an investigator for the professional conduct committee regarding three specific matters, and which requested Mr. Winick to contact Mr. Douglas. Mr. Douglas testified that he did not receive a reply to his letter. The committee also considered certain other evidence presented, though as the evidence was considered to be hearsay evidence, the committee evaluated it accordingly. In totality, the evidence showed that Mr. Winick was aware of the investigation of the professional conduct committee and that he failed to cooperate in that investigation.

After finding Mr. Winick guilty of the charge, the discipline committee heard the submissions of the professional conduct committee with respect to sanction and, upon deliberation, made the following order:

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Winick be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Winick be and he is hereby fined the sum of \$10,000, to be remitted to the Institute within sixty (60) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Winick be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Winick'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.
5. THAT Mr. Winick surrender his certificate of membership in the Institute to the registrar of the Institute within ten (10) days from the date this Decision and Order becomes final under the bylaws.

The professional conduct committee's investigation centred upon three specific complaints concerning the conduct of Mr. Winick. The discipline committee does not know whether or not the allegations are true and determined that it did not want to be informed of the specific nature of the allegations. However, the committee is satisfied that Mr. Winick was aware of the allegations and, as a chartered accountant, he was required to cooperate with the investigation of the professional conduct committee. Mr. Winick failed to provide this cooperation.

The committee took into consideration the fact that Mr. Winick had appeared before the discipline committee on two previous occasions, March 26, 1986, and November 9, 1990. Based on his conduct in respect of this particular charge, and on his previous conduct, the committee concluded that Mr. Winick is ungovernable by the Institute. Accordingly, the committee determined that the expulsion of Mr. Winick from the Institute was appropriate.

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

As a further demonstration of the seriousness with which the discipline committee views behavior of the sort displayed by Mr. Winick, he has been fined the sum of \$10,000. This fine is considered to be significant as both a specific deterrent and a general deterrent to other members of the Institute.

Notice and publication of the Decision and Order in the manner specified, including disclosure of the member's name, is a well-established practice of the discipline committee, which it follows unless a persuasive reason not to is presented.

While it is understood to be the usual practice of the applications committee in any event, the discipline committee nevertheless considers it important to state in its reasons its concern that, in the event this member ever applies for readmission to membership, his entire previous Institute history be reviewed by the applications committee. The fact that Mr. Winick had

appeared before the discipline committee three times would clearly be of great weight in a consideration as to his entitlement to readmission to the Institute.

DATED AT TORONTO, THIS 20TH DAY OF MARCH, 1992
BY ORDER OF THE DISCIPLINE COMMITTEE

E.W. SLAVENS, FCA - CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

G.W. CLARKSON, FCA
L.R. FLEMMING, CA
H.R. KLEIN, CA
P. RAYSON, CA
S.F. ANDRUNYK (Public representative)