

## **Maurizio LoRusso: Summary, as Published in *CheckMark***

**Maurizio LoRusso**, of Etobicoke, a registered student of the Institute, was found guilty of three charges of professional misconduct, under Rules 201.1, 201.3, and 205. He signed or associated himself with documents which he knew were false and misleading, engaged in the practice of public accounting while registered as a student, and failed to conduct himself in a manner so as to maintain the good reputation of the profession and its ability to serve the public interest. He prepared income tax returns for clients, a husband and a wife, in which he included statements of business income and expenses, when he knew that the taxpayers had not incurred the business expenses being claimed. He also deliberately dated documents incorrectly to support improper tax deductions.

Mr. LoRusso was fined \$3,000, suspended for six months, and ordered to take a professional development course. The discipline committee did not order that Mr. LoRusso be struck from the student register, though it acknowledged that such an order would not be inconsistent with decisions in many past cases involving breaches of Rule 205. In this case, the discipline committee concluded that the explanation for Mr. LoRusso's actions was not personal financial gain or some other motive that would constitute moral turpitude, but rather inexperience and perhaps naivety. Because of this, as well as Mr. LoRusso's youth and the interruption of his rights as a student by the discipline proceedings themselves, the committee decided that the suspension ordered was a sufficient penalty in the circumstances.

Mr. Lorusso returned to MEMBERSHIP IN GOOD STANDING on February 27<sup>th</sup>, 1996.

## **CHARGRE(S) LAID re Maurizio LoRusso**

The Professional Conduct Committee hereby makes the following charges against Maurizio LoRusso, a student member of the Institute:

1. THAT, the said Maurizio LoRusso, in or about the period February 1993 to April 1993 signed or associated himself with documents, statements or representations which he knew or should have known were false or misleading contrary to Rule 205 of the rules of professional conduct in that:
  - (a) he participated in a scheme to backdate certain documents relating to a potential investment by Roger Doma and Brenda Doma in a mining operation in Guyana for the purpose of making it appear that the documents were executed in 1992 in order to secure a tax benefit for each of them for the 1992 taxation year;
  - (b) he prepared 1992 personal tax returns for Roger Doma and Brenda Doma based on information from documents relating to a potential investment by them in a mining operation in Guyana knowing that the documents were false in that they indicated an investment in the 1992 taxation year when there was no such investment;
  - (c) he prepared a Statement of Business Income and Expenses, dated March 12, 1993, for Doma Mining and Resources for the fiscal period ending December 31, 1992 and, knowing it to be false, he attached it to the 1992 tax return of Roger Doma to support a tax loss that Roger Doma was not entitled to;
  - (d) he signed a promissory note dated January 1, 1992 as a witness to the signature of Roger Doma when Roger Doma had not signed the note;
2. THAT, the said Maurizio LoRusso, in or about the period February 1993 to April 1993 failed to conduct himself in a manner which will maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1 of the rules of professional conduct, in that:
  - (a) he participated in a scheme to backdate certain documents relating to a potential investment by Roger Doma and Brenda Doma in a mining operation in Guyana for the purpose of making it appear that the documents were executed in 1992 in order to secure a tax benefit for each of them for the 1992 taxation year;
  - (b) he prepared 1992 personal tax returns for Roger Doma and Brenda Doma based on information from documents relating to a potential investment by them in a mining operation in Guyana knowing that the documents were false in that they indicated an investment in the 1992 taxation year when there was no such investment;
  - (c) he prepared a Statement of Business Income and Expenses, dated March 12, 1993, for B.D. Mining and Exploration for the fiscal period

ending December 31, 1992 and, knowing it to be false, he attached it to the 1992 tax return of Brenda Doma to support a tax loss that Brenda Doma was not entitled to;

- (d) he prepared a Statement of Business Income and Expenses, dated March 12, 1993, for Doma Mining and Resources for the fiscal period ending December 31, 1992 and, knowing it to be false, he attached it to the 1992 tax return of Roger Doma to support a tax loss that Roger Doma was not entitled to;
- (e) he signed a promissory note dated January 1, 1992 as a witness to the signature of Roger Doma when Roger Doma had not signed the note;

3. THAT, the said Maurizio LoRusso, in or about the period December 1991 to March 1994, while registered as a student did engage on his own or in association with others in the practice of public accounting contrary to Rule 201.3 of the rules of professional conduct.

DATED at ~~Toronto~~ Belleville (JLF) this 4<sup>th</sup> day of April, 1994

JENNIFER L. FISHER, CA – DEPUTY CHAIR  
PROFESSIONAL CONDUCT COMMITTEE

## **DISCIPLINE COMMITTEE re Maurizio LoRusso**

**DECISION AND ORDER IN THE MATTER OF:** Charges against **MAURIZIO LORUSSO**, a student member of the Institute, under **Rules 201.1, 201.3 and 205** of the Rules of Professional Conduct, as amended.

### **DECISION AND ORDER MADE SEPTEMBER 9, 1994**

#### **DECISION**

THAT, having seen, heard and considered the evidence, THE DISCIPLINE COMMITTEE FINDS Maurizio LoRusso guilty of charges Nos. 1, 2 and 3.

#### **ORDER**

IT IS ORDERED in respect of the charges:

1. THAT Mr. LoRusso be reprimanded in writing by the chair of the hearing.
2. THAT Mr. LoRusso 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 Mr. LoRusso be suspended from the rights and privileges of student membership in the Institute for a period of six (6) months from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. LoRusso be and he is hereby required to complete, by attending in its entirety, the professional development course *Running an Ethical Practice*, offered in the fall of 1994 through the Institute, or, in the event the course becomes unavailable, the successor course which takes its place.
5. THAT notice of this Decision and Order, disclosing Mr. LoRusso's name, be given after this Decision and Order becomes final under the bylaws, by publication in *CheckMark*.
6. THAT in the event Mr. LoRusso 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 student 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. LoRusso is suspended pursuant to paragraph 6 hereof, the suspension shall terminate upon his 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. LoRusso fails to terminate a suspension imposed pursuant to paragraph 6 hereof within the time period specified in paragraph 7, he shall thereupon be struck off the

register of students of the Institute, and notice of his having been struck off the register of students, disclosing his name, shall be given in the manner specified in paragraph 5 hereof.

DATED AT TORONTO THIS 16TH DAY OF SEPTEMBER, 1994  
BY ORDER OF THE DISCIPLINE COMMITTEE

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

## **DISCIPLINE COMMITTEE re Maurizio LoRusso**

**REASONS FOR THE DECISION AND ORDER IN THE MATTER OF:** Charges against **MAURIZIO LORUSSO**, a student member of the Institute, under **Rules 201.1, 201.3 and 205** of the Rules of Professional Conduct, as amended.

### **WRITTEN REASONS FOR THE DECISION AND ORDER MADE SEPTEMBER 9, 1994**

These proceedings before this panel of the discipline committee of the Institute of Chartered Accountants of Ontario were held on September 7, 8 and 9, 1994. Ms. Deborah McPhadden attended on behalf of the professional conduct committee, and Mr. LoRusso attended with his counsel, Mr. Paul Bates.

Mr. LoRusso was charged with three offenses:

- signing or associating himself with material that he knew or should have known was false or misleading, contrary to Rule 205 of the rules of professional conduct;
- failing to conduct himself in a manner that will maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1; and
- engaging in the practice of public accounting while registered as a student, contrary to Rule 201.3.

Mr. LoRusso pleaded not guilty to all three charges.

Counsel for the professional conduct committee filed a document brief, Exhibit No. 3, which contained the relevant documents, including the income tax returns, statements of business income and expenses, investment certificates and promissory notes which led to the charges. She also called four witnesses, including the committee's investigator. Counsel for Mr. LoRusso called three witnesses, including Mr. LoRusso himself.

After hearing and reviewing all the evidence, the discipline committee found Mr. LoRusso guilty of all three charges.

This case was efficiently and effectively prosecuted, and it was ably defended. Much but not all of the evidence was not seriously in dispute. Mr. LoRusso acknowledged that what he did was wrong. The essence of the defence was that the conduct did not breach the rules of professional conduct, even though it did amount to an error in professional judgment. The discipline committee cannot accept this view. In our opinion, Mr. LoRusso's conduct seriously breached the rules applicable to students and fell substantially below the standard required. We find all of the elements of each charge have been proven.

Mr. LoRusso prepared income tax returns for two people, a husband and wife, which included statements of business income and expenses relating to the year 1992, when the taxpayers had not incurred the business expenses claimed. Mr. LoRusso knew this because he had helped

prepare and deliver the investment certificates and promissory notes that were to constitute the business expenses the taxpayers allegedly incurred. The investment contracts and promissory notes were dated in 1992 even though they were not prepared or delivered until 1993, and the documents were deliberately dated incorrectly to enable the taxpayers to claim an income tax deduction. Moreover, Mr. LoRusso purported to witness the promissory notes that were dated January 1, 1992, even though they had not been signed. Further, Mr. LoRusso discussed the details of the investments, and the impact on the income taxes payable, with at least one of the two taxpayers for whom he was preparing these questionable, in fact false and misleading, 1992 income tax returns. Many of these facts were conceded by Mr. LoRusso when he was cross-examined. Mr. LoRusso signed or associated himself with documents that he knew were false and misleading. In doing so, he failed to conduct himself in a manner that would maintain the good reputation of the profession and its ability to serve the public interest. Further, he engaged in the practice of public accounting while registered as a student. Thus, he was found guilty of all three charges.

The committee heard submissions from both counsel as to the appropriate sanction for Mr. LoRusso, and, after deliberation, made the following order:

### **ORDER**

IT IS ORDERED in respect of the charges:

1. THAT Mr. LoRusso be reprimanded in writing by the chair of the hearing.
2. THAT Mr. LoRusso 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 Mr. LoRusso be suspended from the rights and privileges of student membership in the Institute for a period of six (6) months from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. LoRusso be and he is hereby required to complete, by attending in its entirety, the professional development course *Running an Ethical Practice*, offered in the fall of 1994 through the Institute, or, in the event the course becomes unavailable, the successor course which takes its place.
5. THAT notice of this Decision and Order, disclosing Mr. LoRusso's name, be given after this Decision and Order becomes final under the bylaws, by publication in *CheckMark*.
6. THAT in the event Mr. LoRusso 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 student 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. LoRusso is suspended pursuant to paragraph 6 hereof, the suspension shall terminate upon his 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. LoRusso fails to terminate a suspension imposed pursuant to paragraph 6 hereof within the time period specified in paragraph 7, he shall thereupon be struck off the register of students of the Institute, and notice of his having been struck off the

register of students, disclosing his name, shall be given in the manner specified in paragraph 5 hereof.

In determining the sanctions to impose, the committee considered the issues of general deterrence, specific deterrence and rehabilitation. The most troublesome aspect of this case is whether or not Mr. LoRusso is someone who can be rehabilitated and should be given the chance. Normally members and students signing or associating themselves with false and misleading documents should not expect to enjoy the benefits of continued membership or enrolment. The difficult issue is whether Mr. LoRusso should be struck from the register of students, and thereby precluded from writing the Uniform Final Examination and, if successful, becoming a member of the Institute.

### Reprimand

The discipline committee believes that a reprimand in writing from the chair of the hearing is appropriate. Such a letter stresses to Mr. LoRusso the unacceptability of his conduct as a registered student in the chartered accountancy profession, and serves to remind him that he has failed to live up to the standards of the profession. The committee also believes that such a letter will emphasize to Mr. LoRusso that, while not all rules apply to students, those which do are as binding on students as the rules which apply to members.

### Fine

Both counsel agreed that a fine was appropriate. Association with false or misleading documents and failure to conduct oneself in such a manner as to uphold the reputation of the profession are serious breaches of the rules of professional conduct. Accordingly, the fine was levied so as to demonstrate to Mr. LoRusso, all members -- including student members -- of the profession, and the general public, that actions such as those of Mr. LoRusso will not be tolerated by the profession.

### Suspension

Counsel for the professional conduct committee understandably asked that Mr. LoRusso, having been found guilty of serious offences, be struck from the register of students. This would be consistent with the discipline committee's determinations in many cases where there has been a conviction for professional misconduct under Rule 205.

Counsel for Mr. LoRusso argued that in the case of this young man at the beginning of his career, the discipline committee should focus on the question of whether or not he could be rehabilitated. If the committee found that Mr. LoRusso could be rehabilitated, counsel submitted, it ought to suspend him for a short period of time, rather than strike him from the student register.

Mr. LoRusso had cooperated with the professional conduct committee throughout. While not admitting professional misconduct, he did acknowledge that what he had done was wrong. It seemed to the committee that the explanation for Mr. LoRusso's actions was not personal financial gain or some other motive that would constitute moral turpitude, but rather inexperience and perhaps even naivety. Taking these factors into account, we decided that a period of suspension rather than, in effect, expulsion, was the more appropriate sanction.

The six-month period of suspension ordered is appropriate because Mr. LoRusso has already missed one opportunity to write the Uniform Final Examination on account of the charges and the hearing. As he has completed his practical experience requirements, a suspension in some



respects may not be significant to Mr. LoRusso. But the effect of the charges and the need to prepare for the hearing, and the dates of the hearing, precluded him from writing the Uniform Final Examination in 1994. The suspension in itself is intended to be a significant general deterrent, and it should be understood that, in the context of this case, the length of time Mr. LoRusso will have been precluded from enjoying what would otherwise have been his rights as a student is more than six months. The discipline committee wishes to make it clear that we do not wish to deprive Mr. LoRusso of his opportunity to write the Uniform Final Examination in 1995. Accordingly, a six-month suspension is thought appropriate.

#### Professional Development Courses

We require Mr. LoRusso to take a professional development course in the expectation that it will assist in his rehabilitation. In this case we have given priority to the principle of rehabilitation, and we want everyone -- Mr. LoRusso, the profession, and the general public -- to know this, and to know that we want our order to facilitate that rehabilitation.

#### Notice

Publication of the Decision and Order including Mr. LoRusso's name is, in the opinion of the discipline committee, a very significant general deterrent. Communication of the fact that the profession is intolerant of breaches of its bylaws and rules of conduct is an important factor in the governance of the profession and, in the opinion of the committee, will promote compliance.

DATED AT TORONTO, THIS \_\_\_\_\_ DAY OF JANUARY, 1995  
BY ORDER OF THE DISCIPLINE COMMITTEE

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

#### MEMBERS OF THE PANEL:

F.J. DUNN, CA  
B.L. STEPHENS, CA  
W.L. WOOD, CA  
S.F. ANDRUNYK (Public representative)