

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO
THE CHARTERED ACCOUNTANTS ACT, 1956

APPEAL COMMITTEE

IN THE MATTER OF: An appeal by **MICHAEL GEORGE PERRIS, CA**, a member of the Institute against the Decision and Order of the Discipline Committee made on November 27, 2007 pursuant to the bylaws of the Institute, as amended.

TO: Mr. Michael G Perris, CA
Perris & McIntyre
2465 Lakeshore Road West
OAKVILLE, ON L6L 1H9

AND TO: The Professional Conduct Committee, ICAO

REASONS
(Decision Made October 21, 2008)

1. This appeal was heard by a panel of the Appeal Committee of the Institute of Chartered Accountants of Ontario on October 21, 2008. Alexandra Hersak appeared on behalf of the Professional Conduct Committee. Deborah Squires appeared and represented Mr. Perris, who was unable to attend because of illness.

2. The following charge was laid against Mr. Perris by the Professional Conduct Committee on March 21, 2007:

THAT, the said Michael G. Perris, in or about the period February 9, 1989 through December 31, 2001, while engaged in the practice of public accounting, referred a client or clients to products or services of others, and directly or indirectly accepted a commission or other compensation for that referral, contrary to Rule 216 of the Rules of Professional Conduct.

3. The Decision and Order appealed from dated November 27, 2007 reads as follows:

DECISION

THAT, having seen, heard and considered the evidence and having heard the plea of not guilty to the charge, the Discipline Committee finds Mr. Michael George Perris guilty of the charge.

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Perris be reprimanded in writing by the chair of the hearing.

2. THAT Mr. Perris be and he is hereby fined the sum of \$5,000 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. Perris be and he is hereby charged costs fixed at \$7,500 to be remitted to the Institute within six (6) months from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Perris be and he is hereby required to complete, by paying for and attending in its entirety, within one (1) year from the date this Decision and Order becomes final under the bylaws, the professional development course made available through the Institute *Staying Out of Trouble* or, in the event this course becomes unavailable, the successor course which takes its place.
5. THAT notice of this Decision and Order, disclosing Mr. Perris' name, be given after this Decision and Order becomes final under the bylaws, in the form and manner determined by the Discipline Committee:
 - (a) to all members of the Institute;
 - (b) to the Public Accountants Council for the Province of Ontario; and
 - (c) to all provincial institutes/Ordre,and shall be made available to the public.
6. THAT in the event Mr. Perris fails to comply with any of the requirements of this Order, he shall thereupon be suspended from the rights and privileges of membership in the Institute until such time as he does comply, provided that he complies within three (3) months from the date of his suspension, and in the event he does not comply within the three month period, 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 above, and in a newspaper distributed in the geographic area of Mr. Perris' practice, employment and/or residence. All costs associated with the publication shall be borne by Mr. Perris and shall be in addition to any other costs ordered by the committee.
7. THAT in the event Mr. Perris fails to comply with any of the requirements of this Order, his public accounting license shall thereupon be suspended until such time as he does comply, provided that he complies within three (3) months from the date of his suspension, and in the event he does not comply within the three month period, his license shall thereupon be revoked. Notice of his license suspension and revocation, disclosing his name, shall be given in the manner specified above, and in a newspaper distributed in the geographic area of Mr. Perris' practice, employment and/or residence. All costs associated with the publication shall be borne by Mr. Perris and shall be in addition to any other costs ordered by the committee.

SUBMISSIONS

4. With respect to the decision made and sanctions imposed by the Discipline Committee, Mr. Perris submitted in his Notice of Appeal of February 19, 2008 (Exhibit 1, Tab 2) that:

1. The Discipline Committee erred in fact and law in applying Rule 216 to the circumstances of this particular case.
2. The evidence does not support a finding of guilt of the charge under Rule 216.
3. The amount of the fine ordered is extreme under the circumstances of the charge before the Discipline Committee.
4. The costs ordered are extreme under the circumstances of the charge before the Discipline Committee.
5. The requirement of attending a one-half day professional development course, given the amount of time the member has been involved with this investigation and charge, is excessive.
6. The penalty of suspension and then potentially expulsion from membership in the Institute for failure to pay the fine and the publication of the Order in CheckMark are extreme under the circumstances of the charge before the Discipline Committee.
7. Such further and other grounds as counsel may further advise prior to the hearing of the appeal.

5. Ms. Squires indicated in her submissions before the panel that she would specifically address points 1 and 2 of the appeal and that her submissions on the remaining points would be set out in the written submissions of the appellant (Exhibit 4). Further, Ms. Squires indicated that she was not taking issue with the Discipline Committee's findings of fact.

6. Ms. Squires submitted that Rule 216 of the Rules of Professional Conduct did not apply to this case because there was "no referral fee", as a referral fee would be paid for a referral regardless of whether Mikary Investments benefitted from the referral. She submitted that, if there had been no sale of the limited partnership interest by Mikary Investments, there would not have been any commission to Mikary and correspondingly no amount paid to Mr. Perris as a salary by Mikary. Because it is possible that no commission would be paid to Mr. Perris, there was essentially no referral fee. In other words, a referral fee would be paid for the act of referring, not the subsequent compensation which may or may not be paid. Ms. Squires highlighted that in her submission no amount was paid to Mr. Perris or Mikary for "referring" a client of Mr. Perris' public accounting practice for an investment opportunity, nor was there any evidence that this had occurred.

7. Ms. Squires submitted that Rule 216 would be in conflict with Rule 207 if Rule 216 was interpreted as applying to anything other than an actual referral fee. Rule 207 states:

A member or student shall not, in connection with any transactions involving a client or an employer, and a firm shall not, in connection with any transaction involving a client, hold, receive, bargain for, become entitled to or acquire, directly or indirectly,

any fee, remuneration or benefit for personal advantage or for the advantage of a third party without the knowledge and consent of the client or employer, as the case may be.

8. Ms. Squires further submitted that a member must have the knowledge and consent of a client before a benefit from any transaction can be realized. Consequently, she submitted that Rule 216 must be limited in scope to “referral fees”.

9. Ms. Hersak submitted that the Discipline Committee found that Rule 216 was applicable to Mr. Perris as a member engaged in the practice of public accounting. As such, Mr. Perris must not “accept directly or indirectly from any person who is not a public accountant a commission or other compensation for a referral to a client of products or services of others.”

10. Ms. Hersak referred to the finding of fact by the Discipline Committee that, although the remuneration paid to Mr. Perris by Mikary was not a direct result of the referral, it was an indirect result.

11. Ms. Hersak also submitted that, as a member engaged in the practice of public accounting, Mr. Perris was bound by Rule 216. Further, Ms. Hersak submitted that Mr. Perris essentially acknowledged that he indirectly accepted a commission when he received a salary from Mikary, whose sole source of income was from commissions on the sale of the limited partnership interests.

12. Ms. Hersak argued that Rule 216 is intended to prevent the acceptance of a personal benefit by a member engaged in the practice of public accounting for referring clients to the products or services of others. This is because this conduct can undermine the objectivity of the member.

DECISION

Finding

13. The panel considered the submissions of Ms. Squires and Ms. Hersak regarding the applicability of Rule 216 and whether Rule 207 impacts on Rule 216. Rule 207 is applicable to all members of the profession whereas Rule 216 is applicable to members, firms, and, students employed by a member or firm, engaged in the practice of public accounting.

14. Rule 216 prohibits the member, student or firm from accepting directly or indirectly from any person who is not a public accountant a commission or other compensation for a referral to a client of products or services of others. Specifically, Rule 216 states as follows:

Other than in relation to the sale and purchase by a member or firm of an accounting practice, a member or firm engaged in the practice of public accounting or a student while employed by a member or firm engaged in the practice of public accounting shall not directly or indirectly pay to any person who is not an employee of the member or firm or who is not a public accountant a commission or other compensation to obtain a client, nor shall the member, student or firm accept directly or indirectly from any person who is not a public accountant a commission or other compensation for a referral to a client of products or services of others.

15. The panel considered the meaning of “accept directly or indirectly from any person who is not a public accountant a commission or other compensation for a referral to a client of products or

services of others". Compensation was received by Mr. Perris from Mikary in the form of a salary arising from the fact that Mikary had sold a product to Mr. Perris' client. The salary of Mr. Perris was derived from the commission received by Mikary. Mikary received the commission because the client of Mr. Perris purchased the product from Mikary. The client purchased the product from Mikary because he had been referred to Mikary by Mr. Perris. The panel considered the meaning of the words "directly or indirectly" found in Rule 216 and concluded that Mr. Perris had received compensation indirectly as a result of his referral of Mikary to the client of his public accounting practice. There was a referral and there was compensation. The compensation was indirectly related to the referral.

16. The panel therefore concludes that the Discipline Committee did not err in applying Rule 216 to the circumstances of this case nor in reaching its decision that Mr. Perris was guilty of the charge laid against him by the Professional Conduct Committee.

Sanction

17. The Appellant has submitted that the fine ordered is extreme under the circumstances of the charge before the Discipline Committee. The principles of sanction to be considered include rehabilitation, general deterrence and specific deterrence. The Discipline Committee decided that a fine was necessary as a general deterrent to indicate to members of the profession at large that this type of behaviour does not reflect well on the profession, and as a specific deterrent to Mr. Perris as he was not aware of the provisions of Rule 216 and did not express any remorse for his behaviour in so far as it relates to Rule 216.

18. Mr. Perris committed an offence under the Rules of Professional Conduct by indirectly accepting compensation, and attempted to avoid the application of Rule 216 by using a circuitous route to have his clients invest in a financial product through a company referred by Mr. Perris and owned by his spouse and from whom Mr. Perris received compensation. This conduct brings the objectivity and good name of the profession into doubt in the eyes of the public.

19. A sanction imposed by the Discipline Committee should not be varied simply because the Appeal Committee is of the opinion that the sanction should have been different. It has been held in previous Appeal Committee hearings of the ICAO that the Appeal Committee should not interfere unless the sanction is outside the range for that type of offence. In the ICAO Appeal Committee hearing of Jay Granatstein, (Exhibit 3, Tab 4) a reference was made to *R. v. Basha* wherein it was stated:

...a court of appeal should only interfere with a trial judge's discretionary powers as to sentencing if it is apparent that the judge has misapplied one or other of the accepted principles of sentencing, in all the circumstances of the case, with the result that the sentence imposed is outside the range of sentencing for that type of offence.

20. After considering the facts and precedents, the panel concluded that the fine was within a reasonable range for this offence. Further, the panel notes that Mr. Perris' only submission, through his counsel, at the Discipline Committee hearing was that he be given six months to pay the \$5,000 fine – a request granted by the Discipline Committee.

21. Mr. Perris was charged costs of \$7,500 with six months to pay from the date the Decision and Order becomes final under the bylaws. Initially, costs of \$24,853 were outlined by the Professional Conduct Committee. However, the Discipline Committee acknowledged that "it does

appear that the investigation was not directed by the Professional Conduct Committee with sufficient specificity, and this has resulted in some costs being incurred" (Exhibit 1, Tab 3). At the Discipline Committee hearing, the Professional Conduct Committee sought an order for costs of \$10,000. The Discipline Committee levied costs of \$7,500, which it considered to be appropriate. The panel considered the amount of costs awarded and concluded that the amount of \$7,500 is within a reasonable range.

22. The panel considered whether requiring Mr. Perris to attend a one-half day professional development course was "excessive". This requirement was reasonable in view of the fact that Mr. Perris did not express any remorse in any of his submissions and appeared totally unaware of Rule 216. The professional development course is appropriate to aid in Mr. Perris' rehabilitation, as was found by the Discipline Committee.

23. Mr. Perris also appealed paragraph six (6) of the order of the Discipline Committee:

THAT in the event Mr. Perris fails to comply with any of the requirements of this Order, he shall thereupon be suspended from the rights and privileges of membership in the Institute until such time as he does comply, provided that he complies within three (3) months from the date of his suspension, and in the event he does not comply within the three month period, 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 above, and in a newspaper distributed in the geographic area of Mr. Perris' practice, employment and/or residence. All costs associated with the publication shall be borne by Mr. Perris and shall be in addition to any other costs ordered by the committee.

24. After considering the facts in this case and the orders issued in other hearings of the Discipline Committee, this panel concurs with this order regarding the penalty of suspension, potential expulsion and the publication of the order in *CheckMark*. This paragraph will not be triggered should Mr. Perris abide by the other sanctions imposed by the Discipline Committee. Should he not, an issue will arise as to his governability. A member who is ungovernable cannot remain a member of the Institute.

25. Having found that the Discipline Committee has not committed any error in fact or in law and that the sanction imposed was within the normal range for cases involving conduct of this nature, this panel dismisses the appeal and upholds the decision of the Discipline Committee in its entirety.

DATED AT TORONTO THIS 21st DAY OF NOVEMBER, 2008
BY ORDER OF THE APPEAL COMMITTEE

S.R. MEEK, FCA - DEPUTY CHAIR
APPEAL COMMITTEE

MEMBERS OF THE PANEL:

K.N. ARMSTRONG, DVM (Public Representative)
A.D. BOSSIN, CA
P.B.A. CLARKSON, CA
M.A. MANERA, FCA

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO
THE CHARTERED ACCOUNTANTS ACT, 1956

DISCIPLINE COMMITTEE

IN THE MATTER OF: A charge against **MICHAEL GEORGE PERRIS, CA**, a member of the Institute, under **Rule 216** of the Rules of Professional Conduct, as amended.

TO: Mr. Michael G. Perris, CA
Perris & McIntyre LLP
2465 Lakeshore Road West
Oakville, ON L6L 1H9

AND TO: The Professional Conduct Committee, ICAO

REASONS
(Decision and Order Made November 27, 2007)

1. This panel of the Discipline Committee of the Institute of Chartered Accountants of Ontario met on November 27, 2007, to hear a charge of professional misconduct laid by the Professional Conduct Committee against Michael George Perris, CA, a member of the Institute.
2. Ms. Alexandra Hersak appeared on behalf of the Professional Conduct Committee. She was accompanied by Ms. Kelly Khalilieh, CA, the investigator appointed by the Professional Conduct Committee in this matter. Mr. Perris attended and was represented by his counsel, Ms. Deborah Squires.
3. The decision of the panel was made known at the conclusion of the hearing, and the written Decision and Order sent to the parties on November 30, 2007. These reasons, given pursuant to Bylaw 574, contain the charge, the decision, the order, and the reasons of the panel for its decision and order.

CHARGE

4. The following charge was laid against Mr. Perris by the Professional Conduct Committee on March 21, 2007:

1. THAT, the said Michael G. Perris, in or about the period February 9, 1989 through December 31, 2001, while engaged in the practice of public accounting, referred a client or clients to products or services of others, and directly or indirectly accepted a commission or other compensation for that referral, contrary to Rule 216 of the rules of professional conduct.

PLEA

5. Mr. Perris entered a plea of not guilty to the charge.

EVIDENCE

6. The Professional Conduct Committee called Ms. Khalilieh to testify. It also filed a Document Brief and Book of Authorities (Exhibit 2) and Transcripts of Interviews with Mr. Perris (Exhibit 3). With respect to the latter exhibit, Ms. Squires indicated that she was not objecting to its filing on the understanding that Ms. Khalilieh would testify to any portions of the interviews to be considered as evidence, and the exhibit was received on that basis. Mr. Perris testified in his own defence. There were no other witnesses called.

7. There was no disagreement between the parties as to the facts, and the facts as this panel has found them are set out below.

8. Mr. Perris, during the relevant time, was a partner in the firm of Perris & McIntyre LLP. His practice was comprised of notices to reader, reviews, and tax planning. He was also the President and sole salesman for Mikary Investments Ltd. (Mikary), an incorporated company owned solely by Mr. Perris' wife. Mikary received a limited market dealer's licence in October, 1989, and was in the business of selling investment products. Mikary itself was incorporated in February, 1989.

9. Mikary remained active until the end of 2001, although its earnings were minimal in the early 1990's, due to the real estate market. Mikary primarily marketed two investments: Allied Canadian in the early years and Atlantis Alliance in the latter.

10. Mr. Perris promoted Mikary's products to clients of his practice who would otherwise attract tax liabilities. If a person invested through Mikary, Mikary received 5% of the equity invested as a commission. Mr. Perris made full disclosure to his clients of his interest in Mikary.

11. Mikary did not retain earnings. Once expenses were paid, the remaining funds were dispersed among Mr. Perris, his wife, and one other family member as commissions. Mr. Perris reported the commissions he received from Mikary on his personal income tax return.

SUBMISSIONS

12. Ms. Hersak submitted that Mr. Perris is a member engaged in the practice of public accounting, as defined by the bylaws of the Institute, and therefore falls within the ambit of Rule 216, the Rule of Professional Conduct under which he has been charged. While Mr. Perris did make full disclosure to his clients as to his involvement with Mikary, that disclosure did not relieve him of the absolute prohibition against receiving any compensation for referring a client to a product or service.

13. Ms. Squires took exception to the use to which the Professional Conduct Committee submitted the panel should put the interview transcripts entered as Exhibit 3, and reminded the panel of their limited admissibility. It was Ms. Squires' argument that Rule 216 is limited to referral fees, and that Mr. Perris was not paid a fee for referring a client, and therefore was not in breach of the rule. She directed the panel's attention to Rule 207, under which Mr. Perris was not charged, which would have encompassed his behaviour had he not made full disclosure, and argued that there is no prohibition against referring a client to a product or service, under Rule 216, so long as there is no payment for the referral itself. In this case, there was no fee for the referral, but rather a payment to a company, which then paid Mr. Perris, only if the investment was made. The payment was therefore not for the referring but for the investing, and the rule does not prohibit those payments being made to a company, which then would compensate the accountant.

DECISION

14. After considering the evidence and submissions, and deliberating, the panel was satisfied the charge had been made out on clear, cogent and compelling evidence, and made the following decision:

THAT, having seen, heard and considered the evidence and having heard the plea of not guilty to the charge, the Discipline Committee finds Mr. Michael George Perris guilty of the charge.

REASONS FOR THE DECISION

15. Mr. Perris steered certain clients of his public accounting practice to particular investments made through a company in which his wife was the sole owner and he was the President, and from which he received compensation. That compensation was derived from commissions paid by the clients (and others) when they invested through the company. The issue is whether that conduct contravened Rule 216.

16. Prior to addressing Rule 216, there were two matters the panel considered and set out as follows. First, in its deliberations and in arriving at its decision, the panel considered only those portions of the transcribed interviews (Exhibit 3) that Ms. Khalilieh had testified to. Second, reference was made in submissions to Rule 207 and its relevance in these proceedings. Rule 207 applies to all members, not just members in public practice, and it is directed to ensuring there is full disclosure so that the client may make an informed decision. It is therefore quite different, in scope and purpose, from Rule 216. For these reasons, the panel determined that Rule 207 was irrelevant to its deliberations as to whether Rule 216 was breached.

17. The scope of Rule 216 is limited to those members engaged in the practice of public accounting. Mr. Perris fits within that scope. The rule requires Mr. Perris shall not: "accept directly or indirectly from any person who is not a public accountant a commission or other compensation for a referral to a client of products or services of others." The panel was also guided by Council Interpretation 216 which explains the reasoning behind the Rule.

18. There is no question that Mr. Perris received compensation from Mikary, and that at least a portion of that compensation was derived from investments made through Mikary by clients of his public accounting practice. Ms. Squires argued that the rule is limited to compensation received as a referral fee. The panel does not agree.

19. Commissions were paid to Mikary when a client referred by Mr. Perris bought the recommended investments. A referral did not result in a commission unless a sale was completed. Mr. Perris received compensation from Mikary, whose source of revenue was commissions derived from recommended investment sales. While the remuneration paid to Mr. Perris was not directly as a result of the referral, it was an indirect result. The referral was the precipitating event, and all else flowed from that. Therefore, Mr. Perris received commissions from his referrals, albeit indirectly, and has contravened Rule 216.

SUBMISSIONS ON SANCTION

20. On behalf of the Professional Conduct Committee, Ms. Hersak sought a sanction of: a written reprimand; a fine of \$5,000; professional development; and full publicity of the matter. She

also sought costs in the amount of 50% of those incurred in the investigation and prosecution of the matter.

21. While acknowledging that the conduct took place some time ago, and has not continued, Ms. Hersak expressed concern that Mr. Perris was not aware of the provisions of Rule 216, and has never indicated any remorse for or insight into his behaviour. Therefore, both general and specific deterrence are relevant. As Mr. Perris is still engaged in public accounting, rehabilitation must also be considered.

22. Ms. Hersak submitted that it was critical to the public trust that clients know any advice provided by their professional advisor is untainted by any possibility of personal gain by that advisor. She noted that Mr. Perris had profited significantly from the commissions he received, and urged the panel to impose a fine that would not merely be seen as a licensing fee.

23. With respect to costs, Ms. Hersak provided a costs outline (Exhibit 7) setting out the costs incurred as (with a reduction for the second day of hearing which was not required) \$20,300, and requested a costs order of \$10,000.

24. Ms. Squires, on behalf of Mr. Perris, took no issue with most of the proposed sanction. In particular, she accepted that a written reprimand and full publicity were appropriate. With respect to the fine, her only submission was that her client should be given six months to pay the \$5,000. She submitted that Mr. Perris has been rehabilitated by the discipline process itself and, as he is no longer associated with a market dealer, the proposed professional development course, *Staying out of Trouble*, was unnecessary.

25. On the issue of costs, Ms. Squires took the position that the time spent by the investigator was excessive, as was the counsel preparation time, and submitted that an amount of \$7,500 would be more appropriate.

ORDER

26. After considering the submissions, the circumstances of the misconduct and the circumstances of the member, the panel made the following order:

IT IS ORDERED in respect of the charge:

1. THAT Mr. Perris be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Perris be and he is hereby fined the sum of \$5,000 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. Perris be and he is hereby charged costs fixed at \$7,500 to be remitted to the Institute within six (6) months from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Perris be and he is hereby required to complete, by paying for and attending in its entirety, within one (1) year from the date this Decision and Order becomes final under the bylaws, the professional development course made available through the Institute *Staying Out of Trouble* or, in the event this course becomes unavailable, the successor course which takes its place.

5. THAT notice of this Decision and Order, disclosing Mr. Perris' name, be given after this Decision and Order becomes final under the bylaws, in the form and manner determined by the Discipline Committee:
 - (a) to all members of the Institute;
 - (b) to the Public Accountants Council for the Province of Ontario; and
 - (c) to all provincial institutes/Ordre, and shall be made available to the public.
6. THAT in the event Mr. Perris fails to comply with any of the requirements of this Order, he shall thereupon be suspended from the rights and privileges of membership in the Institute until such time as he does comply, provided that he complies within three (3) months from the date of his suspension, and in the event he does not comply within the three month period, 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 above, and in a newspaper distributed in the geographic area of Mr. Perris' practice, employment and/or residence. All costs associated with the publication shall be borne by Mr. Perris and shall be in addition to any other costs ordered by the committee.
7. THAT in the event Mr. Perris fails to comply with any of the requirements of this Order, his public accounting licence shall thereupon be suspended until such time as he does comply, provided that he complies within three (3) months from the date of his suspension, and in the event he does not comply within the three month period, his licence shall thereupon be revoked. Notice of his licence suspension and revocation, disclosing his name, shall be given in the manner specified above, and in a newspaper distributed in the geographic area of Mr. Perris' practice, employment and/or residence. All costs associated with the publication shall be borne by Mr. Perris and shall be in addition to any other costs ordered by the committee.

REASONS FOR THE SANCTION

27. Mr. Perris attempted to exempt himself from the operation of one of the Rules of Professional Conduct. By steering clients of his public accounting practice to certain investments, and then being compensated for their investing, Mr. Perris risked his objectivity and independence, and also risked bringing the objectivity of the profession into doubt in the eyes of the public. This is a serious matter, both for Mr. Perris and for the profession.

Reprimand

28. A reprimand is necessary to bring home to Mr. Perris the nature and gravity of his transgression, and the need to, at all times, guard the integrity of the profession against any perception that objectivity is being eroded.

Fine

29. A fine is appropriate in this matter, both as specific and general deterrence. Taking into consideration the circumstances of the offence, including the fact it ended some time ago and that Mr. Perris profited from it, a fine of \$5,000 is appropriate.

Professional Development

30. Ms. Squires has argued that professional development is not required, as Mr. Perris has learned from his mistakes. The panel is, however, concerned with Mr. Perris' apparent lack of understanding of the crucial importance of objectivity and the appearance of objectivity, and has decided he would benefit from attending *Staying Out of Trouble*.

Notice

31. As a self-governed profession, chartered accountants must always be mindful that they govern and are governed in the public interest. To ensure the public trust in our governance is maintained, the public and the profession must be made aware of the results of our disciplinary processes. Notice also provides a significant deterrent and educational value to the profession, and should be ordered in all but the most rare and unusual of circumstances. There are no such circumstances evident in this matter.

Failure to Comply

32. The imposition of a sanction for the failure to abide by the terms of the order is necessary to give full effect to the order, and to ensure that any breach of the order is dealt with expeditiously and effectively.

Costs

33. The panel considered the issue of the appropriate quantum of costs. It is not prepared to find that the investigator's use of her time was inefficient. However, it does appear that the investigation was not directed by the Professional Conduct Committee with sufficient specificity, and that this resulted in some costs being incurred. For this reason, the panel has determined that an appropriate amount for costs is \$7,500.

DATED AT TORONTO THIS 16th DAY OF JANUARY, 2008
BY ORDER OF THE DISCIPLINE COMMITTEE

A.D. NICHOLS, FCA – DEPUTY CHAIR
DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

R.A. WORMALD, FCA
H.G. TARADAY, CA
S.B. WALKER (Public Representative)