

### **Nazmin Mohamed: Summary, as Published in *CheckMark***

**Nazmin Mohamed**, of Thornhill, was found guilty of two charges under Rule 203.2 of failing to cooperate in a professional conduct committee investigation. He was fined \$3,000 and ordered to cooperate with the professional conduct committee within a specified time, which he did.

## **CHARGE(S) LAID re Nazmin Mohamed, CA**

The Professional Conduct Committee hereby makes the following charge against Nazmin Mohamed, CA, a member of the Institute:

1. THAT, the said Nazmin Mohamed, in or about the period June 23, 1999 to December 20, 1999, failed to co-operate with officers, servants or agents of the Institute who were 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 Niagara-on-the-Lake this 21st day of December, 1999.

DOUGLAS A. BOUFFORD, CA – CHAIR  
PROFESSIONAL CONDUCT COMMITTEE

## **CHARGE(S) LAID re Nazmin Mohamed, CA**

The Professional Conduct Committee hereby makes the following charge against Nazmin Mohamed, CA, a member of the Institute:

1. THAT, the said Nazmin Mohamed, in or about the period December 21, 1999 to November 17, 2000, failed to co-operate with officers, servants or agents of the Institute who were 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 Ottawa this 17th day of November, 2000.

MICHAEL T. CONNOLLY, FCA – DEPUTY CHAIR  
PROFESSIONAL CONDUCT COMMITTEE

## **DISCIPLINE COMMITTEE re NAZMIN MOHAMED, CA**

**DECISION AND ORDER IN THE MATTER OF:** Charges against **NAZMIN MOHAMED, CA**, a member of the Institute, under **Rule 203.2**, of the Rules of Professional Conduct, as amended.

### **DECISION AND ORDER MADE MAY 30, 2001**

THAT, having seen, heard and considered the evidence, the Discipline Committee finds Nazmin Mohamed guilty of the charge dated December 21, 1999, and guilty of the charge dated November 17, 2000.

### **ORDER**

IT IS ORDERED in respect of the charges:

1. THAT Mr. Mohamed be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Mohamed be and he is hereby fined the sum of \$3,000, to be remitted to the Institute within thirty (30) days from the date this Decision and Order becomes final under the bylaws.
3. THAT notice of this Decision and Order, disclosing Mr. Mohamed's name, be given after this Decision and Order becomes final under the bylaws:
  - (a) to the Public Accountants Council for the Province of Ontario;
  - (b) to the Canadian Institute of Chartered Accountants; and
  - (c) by publication in *CheckMark*.
4. THAT in the event Mr. Mohamed fails to comply with paragraph 2, 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 *The Globe and Mail*.
5. THAT Mr. Mohamed cooperate with the officers, servants and agents of the professional conduct committee, and in particular that he meet with Mr. Bruce Armstrong within thirty (30) days from the date this Decision and Order is made, and provide Mr. Armstrong with the information requested and identified in Mr. Armstrong's memorandum of September 6, 2000 to the extent that Mr. Mohamed can provide that information, and also that Mr. Mohamed provide such other information as Mr. Armstrong may request as a result of the information he does receive from Mr. Mohamed.
6. THAT this hearing be and it is hereby otherwise adjourned until August 31, 2001, at which time the hearing shall reconvene to consider whether or not a further sanction such as an increased fine, a suspension or expulsion is appropriate, unless prior to that time counsel for the professional conduct committee advises the discipline committee secretary that the professional conduct committee has concluded its investigation, or that it is satisfied that re-attendance on August 31 is not required.

DATED AT TORONTO THIS 15TH DAY OF JUNE, 2001  
BY ORDER OF THE DISCIPLINE COMMITTEE

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

## **DISCIPLINE COMMITTEE re NAZMIN MOHAMED, CA**

**REASONS FOR THE DECISION AND ORDER IN THE MATTER OF:** Charges against **NAZMIN MOHAMED, CA**, a member of the Institute, under **Rule 203.2**, of the Rules of Professional Conduct, as amended.

### **REASONS FOR THE DECISION AND ORDER MADE MAY 30, 2001**

1. This panel of the discipline committee of the Institute of Chartered Accountants of Ontario met on May 25 and May 30, 2001 to hear evidence concerning charges brought by the professional conduct committee against Nazmin Mohamed.
2. The professional conduct committee was represented by Ms. Christine O'Donohue, who was accompanied by Mr. Bruce Armstrong, the investigator appointed by the professional conduct committee. Mr. Mohamed was present at the hearing and was represented by his counsel, Ms. Lily Harmer.
3. On May 30, 2001, the panel made its decision and order known, and the written decision and order was issued on June 15, 2001. These reasons set out the decision and order made on May 30, and the charges laid by the professional conduct committee.
4. As will be clear from paragraph 6 of the order, the hearing did not conclude on May 30, but was adjourned to August 31, 2001. The panel will only meet on August 31 if it is necessary to deal with the issue of whether or not Mr. Mohamed cooperates after May 30. If it is not necessary to meet, the order made on May 30 will become the final order, and these reasons will be complete. While we recognize the bylaws provide that the final reasons be given in writing, and that the discipline committee does not deliver written interim reasons, we thought it was important for Mr. Mohamed to know why this panel made the order it did on May 30.

### **THE CHARGES**

5. After the hearing had been called to order, two charges, one dated December 21, 1999, and one dated November 17, 2000, were entered as exhibits.
6. The charge dated December 21, 1999 reads as follows:

THAT, the said Nazmin Mohamed, in or about the period June 23, 1999 to December 20, 1999, failed to co-operate with officers, servants or agents of the Institute who were 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.
7. The charge dated November 17, 2000 reads as follows:

THAT, the said Nazmin Mohamed, in or about the period December 21, 1999 to November 17, 2000, failed to co-operate with officers, servants or agents of the Institute who were 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.

8. Mr. Mohamed entered a plea of not guilty to both charges.

### **DECISION ON THE CHARGES**

9. Ms. O'Donohue, after opening her case, called two witnesses, Ms. Elizabeth Noonan, associate director of standards enforcement, and the professional conduct committee's investigator, Mr. Bruce Armstrong. Ms. O'Donohue also filed a document brief consisting primarily of correspondence between the Institute and Mr. Mohamed or his representatives. Both witnesses for the professional conduct committee were cross-examined by Ms. Harmer.
10. Ms. Harmer called Mr. Mohamed as a witness. In his evidence, he referred at some length to the relevant documents in the document brief.
11. On June 23, 1999, Ms. Noonan (at that time, Ms. Hare) wrote to Mr. Mohamed requesting, among other things, answers to six specific questions on or before July 13, 1999. By July 20, 1999, no reply had been received from Mr. Mohamed. Ms. Noonan, accordingly, sent Mr. Mohamed a further letter by registered mail requesting a reply to her letter of June 23, 1999 on or before August 9, 1999.
12. On August 9, 1999, Mr. Mohamed wrote to Ms. Noonan responding to her letter of June 23, 1999. However, his letter did not answer any of the six questions. On August 11, 1999, Ms. Noonan sent a further registered letter to Mr. Mohamed requesting a response to the questions in her letter of June 23, 1999 on or before August 31, 1999.
13. Mr. Mohamed did write to Ms. Noonan on August 30, 1999, however once again his letter did not answer the questions in Ms. Noonan's original letter.
14. Ms. Noonan wrote to Mr. Mohamed once again on September 13, 1999 reminding Mr. Mohamed that he had still not provided answers to the questions posed in her letter of June 23, 1999. Ms. Noonan advised Mr. Mohamed that if he failed to reply on or before September 30, 1999, the matter would be referred to the professional conduct committee.
15. While there was subsequent correspondence, the questions were still not answered, and Mr. Mohamed was given notice to appear before the professional conduct committee on December 14, 1999. He did appear before the committee, whose members were not satisfied with his answers, nor his refusal to answer questions from the chair. Consequently, the professional conduct committee laid the charge dated December 21, 1999.
16. Mr. Mohamed's evidence was that he had requested time to consult with legal counsel, and that he understood the professional conduct committee had concurred with this request. Accordingly, he was surprised to receive the charge dated December 21, 1999.
17. On February 10, 2000, Mr. Mohamed wrote to Ms. McPhadden, the associate counsel, professional conduct committee, which letter appears on page 40 of the document brief. While this letter purported to answer the six questions requested in Ms. Noonan's letter of June 23, 1999, in fact he made only partial replies to some of the questions. As a

result, the professional conduct committee appointed Mr. Armstrong to investigate the matter.

18. Mr. Armstrong met with Mr. Mohamed and his brother and advisor, Mani Darani, on May 23, 2000. He left a memo with Mr. Mohamed setting out information which he required to complete his investigation. Mr. Armstrong's evidence was that he obtained from Mr. Mohamed an undertaking to provide him with the information. Mr. Mohamed's evidence did not agree with this. While there was subsequent correspondence, the issue as to whether or not Mr. Mohamed had provided the answers he could to Mr. Armstrong was resolved on Mr. Mohamed's cross-examination when he acknowledged he had not provided all of the information requested by Mr. Armstrong which he had had within his power to provide to him.
19. It was clear from the evidence that Mr. Mohamed was guilty of charge No. 1 in that he did not adequately answer the questions asked in the letter of June 23, 1999.
20. It was also clear that Mr. Mohamed was guilty of the charge dated November 17, 2000 in that, even at the date of this hearing, he had not provided all of the information which he could have to Mr. Armstrong.
21. After deliberating upon the evidence heard, the panel concluded that the charges had been proven and that Mr. Mohamed was guilty of professional misconduct. The decision was as follows:

## DECISION

That, having seen, heard and considered the evidence, the Discipline Committee finds Nazmin Mohamed guilty of the charge dated December 21, 1999, and guilty of the charge dated November 17, 2000.

## **ORDER AS TO SANCTION**

22. In addressing the matter of sanction, Ms. O'Donohue, on behalf of the professional conduct committee, submitted that the appropriate order would include:
  - a written reprimand from the chair of the hearing;
  - a fine of \$3,000;
  - an order that Mr. Mohamed cooperate within 14 days or be expelled; and
  - notice of the decision and order, disclosing Mr. Mohamed's name, to the Public Accountants Council and the Canadian Institute of Chartered Accountants, and by publication in *CheckMark*.
23. Ms. Harmer did not take issue with the requested reprimand, but did submit that a fine and a reprimand were both in the nature of a specific deterrent and that a fine was, therefore, not appropriate. In the alternative she stated that should the panel determine a fine to be warranted, the appropriate amount would be \$1,000. Ms. Harmer also requested that Mr. Mohamed be allowed 30 days instead of 14 to cooperate, and submitted that it was not necessary to publish Mr. Mohamed's name in order to create a general deterrent for other members, since the harm to his reputation of disclosing his name would outweigh the benefit of disclosing it.
24. Members of the panel sought to clarify what would constitute cooperation on the part of Mr. Mohamed. Both counsel for the member and the professional conduct committee



made submissions with respect to the issue.

25. Following its deliberations on the issue of sanction, the committee made the following order:

### ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Mohamed be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Mohamed be and he is hereby fined the sum of \$3,000, to be remitted to the Institute within thirty (30) days from the date this Decision and Order becomes final under the bylaws.
3. THAT notice of this Decision and Order, disclosing Mr. Mohamed's name, be given after this Decision and Order becomes final under the bylaws:
  5. to the Public Accountants Council for the Province of Ontario;
  6. to the Canadian Institute of Chartered Accountants; and
  7. by publication in *CheckMark*.
4. THAT in the event Mr. Mohamed fails to comply with paragraph 2, 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 *The Globe and Mail*.
5. THAT Mr. Mohamed cooperate with the officers, servants and agents of the professional conduct committee, and in particular that he meet with Mr. Bruce Armstrong within thirty (30) days from the date this Decision and Order is made, and provide Mr. Armstrong with the information requested and identified in Mr. Armstrong's memorandum of September 6, 2000 to the extent that Mr. Mohamed can provide that information, and also that Mr. Mohamed provide such other information as Mr. Armstrong may request as a result of the information he does receive from Mr. Mohamed.
6. THAT this hearing be and it is hereby otherwise adjourned until August 31, 2001, at which time the hearing shall reconvene to consider whether or not a further sanction such as an increased fine, a suspension or expulsion is appropriate, unless prior to that time counsel for the professional conduct committee advises the discipline committee secretary that the professional conduct committee has concluded its investigation, or that it is satisfied that re-attendance on August 31 is not required.

### **Reprimand**

26. The panel ordered that the member be reprimanded in writing by the chair of the hearing to stress to Mr. Mohamed the serious nature of the charges and the unacceptability of his conduct as a chartered accountant.

### **Fine**

27. The professional conduct committee asked for a fine of \$3,000, while Ms. Harmer submitted that a fine of \$1,000 would be more appropriate. The panel was of the opinion that a fine of \$3,000 was on the low side since there were two serious charges of non-cooperation which would indicate a fine of \$1,500 for each charge. While Ms. Harmer

submitted that a fine of \$3,000 was very severe, no evidence was provided to substantiate financial difficulty on the part of Mr. Mohamed. The panel, therefore, concluded that a fine of \$3,000 would be an appropriate amount in this case.

### **Notice**

28. Publication of the decision and order, disclosing Mr. Mohamed's name, is, in the opinion of the discipline committee, a general deterrent. It is important to demonstrate to both other members of the profession and to the public that the profession is regulating itself, and that failure on the part of members to comply with the rules of professional conduct will result in the imposition of serious sanctions.

### **Cooperation**

29. This panel of the discipline committee had a serious concern about future cooperation by Mr. Mohamed. The history of Mr. Mohamed's failure to cooperate, which we have set out above, will help explain our concern. But, we also thought it would be inappropriate for both Mr. Mohamed and the professional conduct committee if that committee, or its investigator and counsel, were left with the sole responsibility for determining whether or not Mr. Mohamed cooperates, and in effect, whether Mr. Mohamed will be expelled.
30. Accordingly, we adjourned the hearing so that this panel of the discipline committee could decide the issue if the professional conduct committee is of the opinion that Mr. Mohamed still refuses to cooperate. If the professional conduct committee is able to conclude its investigation or is satisfied about Mr. Mohamed's cooperation, the hearing will not have to resume and the order as made will stand.

DATED AT TORONTO THIS 16TH DAY OF JULY, 2001  
BY ORDER OF THE DISCIPLINE COMMITTEE

P.B.A. CLARKSON, CA - DEPUTY CHAIR  
THE DISCIPLINE COMMITTEE

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

D.M. FORTNUM, FCA  
A. HANSON, CA  
J.M. MULHALL, CA  
J.T. ANDERS (Public representative)