

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

**DISCIPLINE COMMITTEE**

**IN THE MATTER OF:** Charges against **NASIR HASAN**, a member of the Institute, under **Rules 303.1 and 303.2** of the Rules of Professional Conduct, as amended.

**TO:** Mr. Nasir Hasan, BSC, CA  
Liverton Hotels International Inc.  
108 Chestnut Street, 27th Floor  
TORONTO, ON M5G 1R3

**AND TO:** The Professional Conduct Committee, ICAO

**REASONS**  
**(Decision And Order Made February 27, 2006)**

1. This panel of the Discipline Committee of the Institute of Chartered Accountants of Ontario met on February 27, 2006 to hear charges of professional misconduct against Nasir Hasan, a member of the Institute.
2. Mr. Paul Farley appeared on behalf of the Professional Conduct Committee. Mr. Hasan was in attendance and was represented by his counsel, Mr. Frank Bowman.
3. The decision of the panel was made known to the parties at the conclusion of the hearing on February 27, 2006, and the written Decision and Order served on them at that time. These reasons, given pursuant to Bylaw 574, include the charge, the decision, the order, and the reasons of the panel for its decision and order.

**CHARGES**

4. The following charges were laid by the Professional Conduct Committee against Mr. Hasan on November 8, 2005:
  1. THAT the said Nasir Hasan, in or about the period May 4, 2004 through September 20, 2005, having been instructed by his client, E.D., to supply to the successor accountant reasonable information about the work done, failed to do so on a timely basis, contrary to Rule 303.1 of the rules of professional conduct.
  2. THAT the said Nasir Hasan, in or about the period May 4, 2004 through September 20, 2005, having been requested by his client, E.D., to transfer to the successor accountant all books, documents, and other property belonging to the client which were in his possession, failed to do so promptly, contrary to Rule 303.2 of the rules of professional conduct.

**PLEA**

5. Mr. Hasan entered a plea of guilty to Charges Nos. 1 and 2. He acknowledged that he understood that, on the basis of the plea of guilty and on that basis alone, he could be found guilty of the charge.

**EVIDENCE**

6. The evidence in this matter was presented by way of an Agreed Statement of Facts (Exhibit 5) and an accompanying Document Brief (Exhibit 6). Neither party called any further evidence.

7. The panel finds the evidence as contained in the Exhibits is clear, cogent and convincing, and that it supports the allegations of misconduct as set out in the charges. In particular, the panel finds that Mr. Hasan failed to cooperate with a successor accountant as required by the Rules of Professional Conduct.

**DECISION**

8. After deliberation, the panel was satisfied that the allegations set out in the charges have been proven and that the nature and extent of the departure from the required standard of practice are so significant as to constitute professional misconduct. The panel found Mr. Hasan guilty of the charges. The Chair read the following decision:

THAT, having seen, and considered the evidence, including the agreed statement of facts, filed, and having heard the plea of guilty to charge Nos. 1 and 2, the Discipline Committee finds Nasir Hasan guilty of charge Nos. 1 and 2.

**REASONS FOR THE DECISION**

9. The evidence discloses that Mr. Hasan carried on a small public accounting practice. One of Mr. Hasan's clients was a corporation which essentially had two shareholders. The shareholders parted company and one of the shareholders decided that he would change accountants.

10. Mr. Hasan replied promptly to the courtesy letter from the new accountant and said that he would deliver his files. He did not deliver any documents for two months, and when he did it was apparent that there were other documents and information required.

11. One month later Mr. Hasan delivered additional documents, including source documents. But he agreed there were other documents and other information which he needed to provide. He also acknowledged that there was work not yet completed which he undertook to complete.

12. However, it was more than one year later, after a complaint had been made to the Institute, and after the investigator appointed by the Professional Conduct Committee had intervened, that Mr. Hasan provided the documents which he did have and acknowledged that he had not finished the work.

13. As a result, the client was invoiced almost \$28,000 by the new accountant for work done, at least in part, to enable income tax returns to be filed for five years. Mr. Hasan has said that he will reimburse the client for the costs and any penalties incurred.

14. Mr. Hasan did have some serious health problems during the relevant period. But he completed work for other clients. Further, he took on a job outside of public accounting and worked diligently at that job, even receiving bonuses for his efforts.

## **SANCTION**

15. The Professional Conduct Committee submitted that a sanction of: a written reprimand; a fine in the amount of \$5,000; a suspension of 3 to 6 months; professional development; the usual publication of notice; and costs of \$2,500 would serve to both rehabilitate the member and to further the principles of general and specific deterrence.

16. The member, through his counsel, took issue with only two aspects of the sanction recommended by the Professional Conduct Committee – the suspension and the publication of notice sought. Mr. Hasan testified with respect to sanction and provided extensive information to the panel about personal, health, professional and financial difficulties he has suffered. He indicated to the panel that he had not informed his current employer of this matter because, due to the culture at his workplace, he feared he would lose his job. He also brought to the panel's attention a previous disciplinary matter in which he had been found guilty of professional misconduct and gave an explanation for that occurrence.

17. Mr. John MacMillan testified on behalf of the member. His company had utilized Mr. Hasan's services until a decision was made to go public and the other partners thought an audit by a large firm was necessary. He emphasized that the decision to change accountants was in no way the result of any concerns with the quality or timeliness of Mr. Hasan's work. Mr. MacMillan characterized Mr. Hasan as an "ethical professional" and stated he was "proud to call him a friend." He further testified that he had no problems with Mr. Hasan's ethics, punctuality or reliability.

18. The Professional Conduct Committee submitted that specific deterrence is the primary principle embodied by the recommended sanction. Counsel pointed out that Mr. Hasan had been before the Discipline Committee for a similar matter in 1997, and that there appeared to be an inappropriate pattern developing of Mr. Hasan dealing with matters on the basis of interest rather than urgency. Specifically, he noted that the previous sanction had failed to deter Mr. Hasan and that a suspension was necessary in this instance to bring home to him the importance of meeting his obligations. With respect to publicity, he submitted that the member bore the onus of satisfying the panel that the usual order for publicity should not be made and that such onus was not met on a bare assertion Mr. Hasan's employment might be negatively affected.

19. Mr. Bowman, on behalf of Mr. Hasan, drew the panel's attention to the valuable contributions Mr. Hasan has made to the profession and the community, and further made reference to the numerous reversals he has suffered. He submitted that Mr. Hasan is in the process of leaving public accounting, as soon as provision is made for his clients, and that he has no interest in practising in that area again. Mr. Hasan has found employment in a sector that appears to be a good fit and has the potential of providing him with the means to support his family. He was in ill health and suffering emotional trauma at the time he failed to cooperate with the successor accountant, and his entire career should not be put at risk for events not entirely within his control.

## ORDER

20. After consideration, the panel made the following order:

IT IS ORDERED in respect of the charges:

1. THAT Mr. Hasan be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Hasan be and he is hereby fined the sum of \$5,000, 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. Hasan be and he is hereby charged costs fixed at \$5,000 to be remitted to the Institute within twelve (12) months from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Hasan be suspended from the rights and privileges of membership in the Institute for a period of six (6) months from the date this Decision and Order becomes final under the bylaws.
5. THAT Mr. Hasan be and he is hereby required to complete, by paying for and attending in its entirety, within twelve (12) months from the date this Decision and Order becomes final under the bylaws, the professional development course *Staying Out of Trouble*, made available through the Institute, or, in the event the course becomes unavailable, the successor course which takes its place.
6. THAT notice of this Decision and Order, disclosing Mr. Hasan's 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 the Public Accountants Council for the Province of Ontario;
  - (b) to the Canadian Institute of Chartered Accountants; and
  - (c) by publication in *CheckMark*.
7. THAT Mr. Hasan surrender his certificate of membership in the Institute to the Secretary to the Discipline Committee within ten (10) days from the date this Decision and Order becomes final under the bylaws.
8. THAT in the event Mr. Hasan fails to comply with any of the requirements of this Order, 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. Hasan's employment and/or residence.

## REASONS FOR THE ORDER

### Reprimand

21. The panel orders Mr. Hasan be reprimanded in writing by the Chair of the panel to emphasize to Mr. Hasan that his conduct fell well below the acceptable standards of practice of the profession and cannot be tolerated by either the profession or the public.

**Fine**

22. The panel recognizes that the fine will impose a significant burden on Mr. Hasan, and believes it is necessary to demonstrate to Mr. Hasan, the profession and the public that the Institute regards actions by an accountant that prejudice a client as extremely serious.

**Costs**

23. It is appropriate that the member charged, as opposed to the membership as a whole, bear a portion of the costs of the investigations and prosecution occasioned by his misconduct. The panel finds the submission of the Professional Conduct Committee, which is not disputed by the member, to be well within the appropriate range and therefore finds that the quantum of costs ordered should be \$5,000.

**Suspension**

24. The Professional Conduct Committee sought a suspension of three to six months. Mr. Hasan opposed this submission; unfortunately, without providing the panel with any specific reasons the suspension should not be imposed. While this is not a matter of moral turpitude, it is nevertheless very serious. The client was unable to proceed with the normal course of business, and attracted fines and penalties. Both the client and the successor accountant were forced to expend time and resources to make up for the lack of information and documentation forthcoming from Mr. Hasan. Further, Mr. Hasan was sanctioned by this Committee in 1997 for disturbingly similar conduct; in that case, failing to cooperate with practice inspection. In the previous disciplinary matter, as in this one, Mr. Hasan made promises and broke them, without ever providing an explanation to the people impacted by his behaviour. He could have mitigated the harm and delay caused by his actions by simply speaking to the successor accountant and explaining his circumstances. He did not do so. While the panel has sympathy for his personal circumstances, it cannot condone his actions. A message must be sent to him, to the profession and to the public, that a failure to give appropriate attention to the needs of a client is not to be tolerated. In these circumstances, a suspension of a significant length is required.

**Professional Development**

25. Of significant concern to the panel is Mr. Hasan's seeming inability to have learned from his previous misconduct. The requirement that he attend professional development is intended to address that concern and reduce the risk of recidivism.

**Notice**

26. Publishing names of members found guilty of professional misconduct is often the single most significant sanction that may be administered for general deterrence, education of the membership at large, and protection of the public. It is only in rare and unusual circumstances that the benefits of so doing are outweighed by the harm that is likely to result. In this case, the reason put forward for the request to withhold publication is Mr. Hasan's belief that, due to the culture at his place of employment, publication will cost him his job. No evidence was called in support of this assertion.

27. Counsel for Mr. Hasan drew the panel's attention to the matter of Robert J. C. Stevens, CA, a decision of the Discipline Committee, reasons dated June 17, 2005. In that case the panel

ordered the member's name not be published in *CheckMark*. As in this case, the member had suffered health problems and was concerned about losing his employment.

28. The facts in Stevens, however, are quite different from the facts, particularly as set out in paragraphs 10 to 15, of the present case. Unlike in Stevens, here there has been measurable harm to a client. The records and documents which should have been turned over to the successor accountant have now been forwarded, but he has not provided information to her as requested. Also, it appears that work he ought to have done was not done. There is no evidence to support the claim that publication will result in termination from his employment.

29. Further, Mr. Hasan was found guilty by the Discipline Committee on a previous occasion for similar professional misconduct.

30. Taking into account all the relevant factors, this panel finds that Mr. Hasan has not shown that his circumstances are rare or unusual. While the panel has sympathy with the reversals and difficulties he has suffered, these do not constitute a reason to withhold publication. The panel therefore orders the publication of the proceeding in *CheckMark* and orders that notice be given to the Public Accountants Council for the Province of Ontario and to the Canadian Institute of Chartered Accountants.

### **Certificate of Membership**

31. The certificate of membership belongs to the Institute. As Mr. Hasan has been suspended from membership in good standing, the membership certificate issued to him must be surrendered for the period of his suspension.

### **Expulsion for Failing to Comply**

32. To encourage compliance with discipline orders in cases in which the member is not expelled outright, orders of a panel generally specify expulsion with newspaper notification to the public as an ultimate consequence for non-compliance. The panel so orders in this hearing. The panel did consider whether a further period of suspension prior to such expulsion would be appropriate, and concluded that it would not, as Mr. Hasan is already to be suspended by this order, and this is his second similar matter before the Discipline Committee.

DATED AT TORONTO THIS 3<sup>rd</sup> DAY OF APRIL 6, 2006  
BY ORDER OF THE DISCIPLINE COMMITTEE

H. B. BERNSTEIN, CA – CHAIR  
DISCIPLINE COMMITTEE

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

R. J. ADAMKOWSKI, CA  
S. R. LOWE, CA  
R. A. WORMALD, FCA  
B. M. SOLWAY (PUBLIC REPRESENTATIVE)