

### **Norman Howard Allen: Summary, as Published in *CheckMark***

**Norman Howard Allen**, of Oakville, was found guilty of one charge under Rule 201.1 of failing to maintain the good reputation of the profession and its ability to serve the public interest, and one charge under Rule 205 of associating himself with financial statements which he knew were false or misleading. Mr. Allen misappropriated monies entrusted to his care in the approximate amount of \$2.5 million. He solicited funds from clients for the stated purpose of making relatively secure investments that would earn certain if moderate returns, and instead used the money for his own speculative purposes. Mr. Allen was fined \$7,000 and expelled from the Institute. It was also ordered that notice of his misconduct be published in *The Globe and Mail* and *The Toronto Star* as well as in *CheckMark*.

## **CHARGE(S) LAID re Norman Howard Allen**

The Professional Conduct Committee hereby makes the following charge against Norman H. Allen, a member of the Institute:

1. THAT, the said Norman H. Allen, in or about the period January 1, 1988 through to December 31, 1997, while acting on behalf of investors in Wanstead Investments (1985) Limited, Wanstead Investments Limited and Beacontree Investment Corporation, misappropriated monies entrusted to his care in the approximate amount of \$2.5 million by investing in enterprises that he was associated with instead of mortgage investments as represented to investors and thereby failed to maintain the good reputation of the profession and its ability to maintain the public interest contrary to Rule 201.1 of the rules of professional conduct.
2. THAT, the said Norman H. Allen, in or about the period December 31, 1992 through December 31, 1993, associated himself with the financial statements of Wanstead Investments (1985) Limited, Wanstead Investments Limited and Beacontree Investment Corporation for the year ended December 31, 1992 which he knew were false or misleading contrary to Rule 205 of the rules of professional conduct.

Dated at Niagara on the Lake this 26<sup>th</sup> day of April 2000.

DOUGLAS BOUFFORD – CHAIR  
PROFESSIONAL CONDUCT COMMITTEE

## **DISCIPLINE COMMITTEE re Norman Howard Allen**

**DECISION AND ORDER IN THE MATTER OF:** Charges against **NORMAN HOWARD ALLEN, CA**, a member of the Institute, under **Rules 201.1 and 205** of the Rules of Professional Conduct, as amended.

**DECISION AND ORDER MADE JULY 5, 2000**

### **DECISION**

THAT, having seen, heard and considered the evidence, the Discipline Committee finds Norman Howard Allen guilty of charges Nos. 1 and 2, as amended.

### **ORDER**

IT IS ORDERED in respect of the charges:

1. THAT Mr. Allen be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Allen be and he is hereby fined the sum of \$7,000, to be remitted to the Institute within three (3) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Allen be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Allen'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;
  - (c) by publication in *CheckMark*; and
  - (d) by publication in *The Globe and Mail* and *The Toronto Star*.
5. THAT Mr. Allen surrender his certificate of membership in the Institute to the discipline committee secretary within ten (10) days from the date this Decision and Order becomes final under the bylaws.

DATED AT TORONTO THIS 7TH DAY OF JULY, 2000  
BY ORDER OF THE DISCIPLINE COMMITTEE

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

## **DISCIPLINE COMMITTEE re Norman Howard Allen**

**REASONS FOR DECISION AND ORDER IN THE MATTER OF:** Charges against **NORMAN HOWARD ALLEN, CA**, a member of the Institute, under **Rules 201.1 and 205** of the Rules of Professional Conduct, as amended.

### **REASONS FOR THE DECISION AND ORDER MADE JULY 5, 2000**

This panel of the discipline committee of the Institute of Chartered Accountants of Ontario convened on July 5, 2000 to hear charges of professional misconduct laid by the professional conduct committee against Mr. Norman H. Allen.

The professional conduct committee was represented by Mr. Paul Farley. Mr. Allen was present and represented by his counsel, Mr. Frank Bowman.

The charges dated April 26, 2000 were filed as an exhibit at the hearing, and were amended to correct the spelling of Becontree Investment Corporation. As amended the charges read:

1. THAT, the said Norman H. Allen, in or about the period January 1, 1988 through to December 31, 1997, while acting on behalf of investors in Wanstead Investments (1985) Limited, Wanstead Investments Limited and Becontree Investment Corporation, misappropriated monies entrusted to his care in the approximate amount of \$2.5 million by investing in enterprises that he was associated with instead of mortgage investments as represented to investors and thereby failed to maintain the good reputation of the profession and its ability to maintain the public interest contrary to Rule 201.1 of the rules of professional conduct.
2. THAT, the said Norman H. Allen, in or about the period December 31, 1992 through December 31, 1993, associated himself with the financial statements of Wanstead Investments (1985) Limited, Wanstead Investments Limited and Becontree Investment Corporation for the year ended December 31, 1992 which he knew were false or misleading contrary to Rule 205 of the rules of professional conduct.

Mr. Allen entered a plea of not guilty to the charges.

### **DECISION ON THE CHARGES**

Mr. Stuart Douglas, the investigator for the professional conduct committee, gave evidence during which he made reference to a document brief filed as an exhibit. The document brief contained copies of an offering memorandum for Wanstead Investments Limited, a number of schedules summarizing the investments made by clients of Mr. Allen, and financial statements for Wanstead Investments Limited, Wanstead Investments (1985) Limited, and Becontree Investment Corporation.

Mr. Allen carried on a practice of public accounting in partnership with his brother. He set up the three mortgage investment corporations [MICs], Wanstead Investments Limited, Wanstead Investments (1985) Limited, and Becontree Investment Corporation. He solicited investments from his clients for the purpose of investing in mostly residential mortgages. The offering memorandum which he provided to his clients specified:

The Corporation has been incorporated as a mortgage investment corporation as defined under the Income Tax Act primarily for the purpose of investing its funds in the acquisition of mortgages on real estate in Canada, in accordance with its investment restrictions as prescribed by the Income Tax Act.

In the beginning, the investments were made in mortgages. Starting in 1988, however, money was loaned by the three MICs to two other companies owned by Mr. Allen, Fintact Incorporated and Campvil Management Corporation. These companies did not invest in residential mortgages but in The Parriser Group Limited, which controlled two pizza chains and another company which made biomechanical devices and orthotics. The investments in these three entities were essentially lost.

Mr. Allen sent the investors financial statements of Wanstead Investments Limited, Wanstead Investments (1985) Limited, and Becontree Investment Corporation which he knew were false and misleading.

A summary of the evidence given by Mr. Douglas was filed as an exhibit.

Mr. Bowman did not call evidence or make submissions with respect to the issue of guilt or innocence.

Mr. Farley made submissions with respect to a determination of guilt on the charges.

The panel deliberated and considered the evidence it had heard and reviewed the document brief, and concluded that the charges had been proven and that Mr. Allen was guilty of professional misconduct. When the parties returned to the hearing chamber, the chair advised them of the panel's decision as follows:

### **DECISION**

THAT, having seen, heard and considered the evidence, the Discipline Committee finds Norman Howard Allen guilty of charges Nos. 1 and 2, as amended.

### **ORDER AS TO SANCTION**

Though neither party called evidence with respect to sanction, both Mr. Farley and Mr. Bowman made submissions, the major difference between them being with respect to the alternative proposals of expulsion and suspension.

Mr. Farley submitted that Mr. Allen had been in a position of trust, that he had breached that trust, and that many of his clients had lost substantial amounts of money as a result. He submitted that this conduct in and of itself warranted expulsion, but also reviewed and emphasized a number of aggravating factors which he asked the panel to consider. These included the fact that the misconduct took place over a lengthy period of time, and that Mr. Allen misled the investors – his clients – by providing financial statements to them which he knew were false and misleading. In Mr. Farley's submission, the mitigating factors – Mr. Allen's plea of guilty at an early stage, and his cooperation in the investigation of the professional conduct committee, which extended to providing schedules of the various losses – were factors which, though deserving of consideration, did not warrant the imposition of a suspension in place of expulsion. He stated that it was in recognition of the mitigating factors in this case that the professional conduct committee was seeking a lesser fine than it normally would for professional misconduct of this sort.

Mr. Bowman submitted that a suspension was appropriate. He reviewed Mr. Allen's background, including his unblemished Institute record since being admitted as a member in 1972, when he won

the gold medal. Mr. Bowman emphasized that his client had cooperated with the professional conduct committee throughout its investigation, and that he had consulted a psychiatrist and is continuing to receive counseling. He also emphasized that Mr. Allen has done all he can to make good the losses to his clients, using up all his own assets in the process, and that he intends to continue his efforts to pay off first the principal and then the interest owing. During the past seven years, it was submitted, Mr. Allen has worked long hours, often seven days a week, to pay back what he has to date. It was pointed out as well that Mr. Allen did not benefit financially from the investments made, as he did not receive any of the money.

Mr. Bowman advised that his client did not hold a public accounting licence, and was prepared to undertake never to apply for one in future. Mr. Farley submitted that no measure of comfort should be derived from this offer, as Mr. Allen's past misconduct had been perpetrated without the benefit of a licence, and that it was his CA designation that had to be removed.

The panel concluded that, as important as the principle of rehabilitation is in sanctioning, the principles of specific deterrence and, especially, general deterrence had priority in this case. In particular, the panel considered it essential that like-minded members be aware that, should they misconduct themselves as Mr. Allen has and be discovered, they should expect to be stripped of their rights and privileges of membership in the Institute. Mr. Allen's misconduct was such that, as a matter of general deterrence, the panel saw his expulsion as being required in this case.

After deliberation, the panel made the following order:

### **ORDER**

IT IS ORDERED in respect of the charges:

1. THAT Mr. Allen be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Allen be and he is hereby fined the sum of \$7,000, to be remitted to the Institute within three (3) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Allen be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Allen'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;
  - (c) by publication in *CheckMark*; and
  - (d) by publication in *The Globe and Mail* and *The Toronto Star*.
5. THAT Mr. Allen surrender his certificate of membership in the Institute to the discipline committee secretary within ten (10) days from the date this Decision and Order becomes final under the bylaws.

### **Reprimand**

In keeping with past cases, the panel ordered that the member be reprimanded in writing by the chair of the hearing, to stress to him the serious nature of the offences, and the unacceptability of his conduct as a chartered accountant.

### **Expulsion**

Mr. Allen took money from his clients for one purpose, being to make relatively secure investments

that would earn certain if moderate returns, and instead used the money for his own speculative purposes. He betrayed the trust his clients had placed in him, to the detriment of many who lost some or all of their investment.

### **Fine**

The professional conduct committee asked for a fine in the range of \$5,000 to \$10,000, an amount substantially less than other cases, such as *Silverman*, who misappropriated significantly less money from one client than Mr. Allen did from many clients, and *Hadjor*, who took less money but from a large number of clients.

The panel recognized that Mr. Allen had made substantial efforts to try to minimize his clients' losses, which distinguished his case from those of Messrs. Silverman, Hadjor and others, and concluded that a fine of \$7,000 was appropriate in this case as a result.

### **Notice**

The giving of notice, including publication, of the discipline committee's decision and order, disclosing Mr. Allen's name, is, in the opinion of the panel, a general deterrent. The discipline committee has a responsibility to ensure that members of the profession and the general public are made aware that the Institute does not take breaches of its bylaws and rules of professional conduct lightly. The notice ordered included publication in *The Globe and Mail* and *The Toronto Star*, there being no reason apparent in this case to dispense with newspaper publication of notice of expulsion. As for the notice to appear in *CheckMark*, Mr. Bowman's request that such notice disclose Mr. Allen's work to pay back the money lost did not seem to the panel to be unreasonable or inappropriate in this case.

### **Immediate Suspension**

New Bylaw 583, approved by the membership of the Institute in June 2000, provides:

#### **583 Suspension of membership when expulsion ordered**

When a panel of the discipline committee orders that a member be expelled, the member's rights and privileges of membership shall be and remain suspended from the time the order of expulsion is pronounced until the order becomes final or is set aside by the appeal committee, unless the panel of the discipline committee making the order of expulsion determines that in the circumstances of the case a suspension is not required for the protection of the public or in the public interest.

The panel concluded there was no reason why Bylaw 583 should not apply in this case.

DATED AT TORONTO THIS 12TH DAY OF SEPTEMBER, 2000  
BY ORDER OF THE DISCIPLINE COMMITTEE

D.P. SETTERINGTON, FCA – CHAIR  
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

E.R. ARCHIBALD, CA  
R.I. COWAN, CA  
S.W. SALTER, CA  
J. ANDERS (Public representative)