

Norman Gorfinkel: Summary, as Published in *CheckMark*

Member Norman Gorfinkel pleaded guilty to one charge of failing to perform his professional services with due care, contrary to Rule of Professional Conduct 202; one charge of failing to comply in all material respects with the generally accepted auditing standards of the profession, contrary to Rule of Professional Conduct 206.2; and on charge of failing to comply with the recommendation of the *CICA Handbook* for financial statements with which he was associated but on which he was not required to express an opinion, contrary to Rule of Professional Conduct 206A.

The discipline committee found him guilty and assessed him costs of \$750 to be paid by a specified date. Mr. Gorfinkel was also ordered to complete four professional development courses by a specified date. Failure to comply with any of the terms of the order will result in his suspension from membership until such time as he has complied with all terms of the order. If he has still not complied by June 30, 1986, he will be expelled from membership.

Norman Gorfinkel, of Scarborough, a member already suspended for non-payment of the annual membership fee, was found guilty by the discipline committee of three charges of professional misconduct, laid by the professional conduct committee, under Rule of Professional Conduct 104, each of failing to reply to a [different] letter from the Institute.

The committee ordered that Mr. Gorfinkel

- be reprimanded in writing by the chairman of the hearing;
- be fined \$750 and assessed costs of \$750, to be paid within a specified time; and
- be suspended from membership in the Institute until he replies in writing to the Institute letters which gave rise to the charges, which replies are to be made within a specified time.

Mr. Gorfinkel failed to comply with the order and has, therefore, been expelled from the Institute.

CHARGE(S) LAID re Norman Gorfinkel

The Professional Conduct Committee hereby makes the following charges against Norman Gorfinkel, a member of the Institute.

1. THAT, the said Norman Gorfinkel failed to promptly reply in writing to a letter from the Institute, referring to File Number 2240, in respect of a matter of professional conduct, signed by the assistant director of ethics, dated February 10, 1988 and served on Norman Gorfinkel on the 24th day of February, 1988, in which a reply was specifically requested, contrary to Rule 104 of the Rules of Professional Conduct, approved June 15, 1981.
2. THAT, the said Norman Gorfinkel failed to promptly reply in writing to a letter from the Institute, referring to File Number 2321, in respect of a matter of professional conduct, signed by the assistant director of ethics, dated February 10, 1988 and served on Norman Gorfinkel on the 24th day of February, 1988, in which a reply was specifically requested, contrary to Rule 104 of the Rules of Professional Conduct, approved June 15, 1981.
3. THAT, the said Norman Gorfinkel failed to promptly reply in writing to a letter from the Institute, referring to File Number 2322, in respect of a matter of professional conduct, signed by the assistant director of ethics, dated February 10, 1988 and served on Norman Gorfinkel on the 24th day of February, 1988, in which a reply was specifically requested, contrary to Rule 104 of the Rules of Professional Conduct, approved June 15, 1981.

DATED at Toronto this 7th day of April, 1988.

J.R. BONES, FCA - CHAIRMAN
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Norman Gorfinkel

DECISION AND ORDER IN THE MATTER OF: Charges against NORMAN GORFINKEL, a suspended member of the Institute, under Rule 104 of the Rules of Professional Conduct approved June 15, 1981.

DECISION AND ORDER MADE NOVEMBER 7, 1988

DECISION

THAT, having seen, heard and considered the evidence presented by the professional conduct committee, and having decided to proceed with the hearing in the absence of Mr. Gorfinkel, pursuant to Institute Bylaw 87(d), being satisfied that he had proper notice of the hearing, and having entered on his behalf a plea of not guilty to each of the charges, THE DISCIPLINE COMMITTEE FINDS Norman Gorfinkel guilty of charges Nos. 1, 2 and 3.

ORDER

IT IS ORDERED in respect of the charges:

1. That Mr. Gorfinkel be reprimanded in writing by the chairman of the hearing.
2. THAT Mr. Gorfinkel be and he is hereby fined the sum of \$750, to be remitted to the Institute within ten (10) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Gorfinkel be and he is hereby charged costs of \$750, to be remitted to the Institute within ten (10) days from the date this Decision and order becomes final under the bylaws.
4. THAT Mr. Gorfinkel be suspended from the rights and privileges of membership in the Institute, effective from the date this Decision and order becomes final under the bylaws, such suspension to continue until he has delivered to the Institutes director of ethics responses in writing to each of the following letters lamely:
 - (a) Letter from the assistant director of ethics, dated February 10, 1988, referring to Institute file No. 2240;
 - (b) Letter from the assistant director of ethics, dated February 10, 1988, referring to Institute file No. 2321; and
 - (c) Letter from the assistant director of ethics, dated February 10, 1988, referring to Institute file No. 2322;

PROVIDED THAT if the said written responses are not delivered to the Institute within ten (10) days from the date this Decision and Order becomes final under the bylaws, then Mr. Gorfinkel shall thereupon be expelled from the Institute within ten (10) days from the date this Decision an

membership in the Institute, and notice of his expulsion, disclosing his name, is to be given in the manner specified below.

5. THAT in the event Mr. Gorfinkel fails to comply with the requirements of paragraphs 2 and 3 of this Order within the time periods specified, he is thereupon expelled from membership in the Institute, and notice of his expulsion disclosing his name is to be given in the manner specified below.
6. THAT notice of this Decision and order, disclosing Mr. Gorfinkel's name, be given, after this Decision and order becomes final under the bylaws:
 - (a) by publication in Check Mark:
 - (b) to the Public Accountants Council for the Province of Ontario; and
 - (c) to the Canadian Institute of Chartered Accountants.
7. THAT in the event Mr. Gorfinkel is expelled pursuant to any of the terms of this order, he is thereupon required to surrender the certificate of membership in the Institute, bearing his name, to the registrar of the Institute forthwith.

DATED AT TORONTO, THIS 25TH DAY OF NOVEMBER, 1988
BY ORDER OF THE DISCIPLINE COMMITTEE

B.W. STEPHENSON - SECRETARY
THE DISCIPLINE COMMITTEE

DISCIPLINE COMMITTEE re Norman Gorfinkel

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: Charges against NORMAN GORFINKEL, a suspended member of the Institute, under Rule 104 of the Rules of Professional Conduct, approved June 15, 1981.

WRITTEN REASONS FOR THE DECISION AND ORDER MADE NOVEMBER 7, 1988

This hearing was convened before the discipline committee of the Institute of Chartered Accountants of Ontario on November 7, 1988, to hear three charges of professional misconduct laid against Norman Gorfinkel by the professional conduct committee.

Mr. Paul Farley attended on behalf of the professional conduct committee, but neither Mr. Gorfinkel nor anyone on his behalf appeared. A motion was made by the professional conduct committee that the hearing proceed, pursuant to Bylaw 87(d), in Mr. Gorfinkel's absence, and this motion was granted.

The committee reviewed two affidavits of service, one of the secretary to the discipline committee and the other of an independent process server. These affidavits, both of which were filed as exhibits, proved that Mr. Gorfinkel knew of the hearing. He telephoned to say he was not going to be present. In deciding to proceed, the committee noted that Mr. Gorfinkel had the option to be represented by counsel or other agent, and no one attended for him.

A plea of not guilty to each of the three charges was entered on behalf of the member, after which the committee heard the evidence and submissions presented by the professional conduct committee.

In reaching its decision, the committee examined the documentary evidence presented in the Exhibit Book filed as Exhibit No. 5. Contained in the Exhibit Book were copies of letters from the Institute requesting Mr. Gorfinkel to respond to three separate complaints.

In particular, there was a request dated October 16, 1987, from the assistant director of ethics, which was followed up by letters on November 19, 1987 and February 10, 1988. The letter of February 10, 1988 was personally served on Mr. Gorfinkel. No response was received to any of these letters, all of which related to Institute file No. 2240.

Two additional letters from the assistant director of ethics, both dated February 10, 1988, and each dealing with a separate complaint, were reviewed. These letters, one referring to Institute file No. 2321 and the other to Institute file No. 2322, were personally served on Mr. Gorfinkel and specifically requested a written reply, in accordance with Rule of Professional Conduct 104, within twenty days of receipt. No responses were ever received from the member to either of these letters.

The committee was satisfied that the above evidence was sufficient to support the three charges laid under Rule 104 and, accordingly, found Mr. Gorfinkel guilty of charges Nos. 1, 2 and 3.

After hearing submissions from the professional conduct committee as to appropriate sanction, the committee deliberated and made the following order:

ORDER

IT IS ORDERED in respect of the charges:

1. That Mr. Gorfinkel be reprimanded in writing by the chairman of the hearing.
2. THAT Mr. Gorfinkel be and he is hereby fined the sum of \$750, to be remitted to the Institute within ten (10) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Gorfinkel be and he is hereby charged costs of \$750, to be remitted to the Institute within ten (10) days from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Gorfinkel be suspended from the rights and privileges of membership in the Institute, effective from the date this Decision and Order becomes final under the bylaws, such suspension to continue until he has delivered to the Institute's director of ethics responses in writing to each of the following letters, namely:
 - (a) Letter from the assistant director of ethics, dated February 10, 1988, referring to Institute file No. 2240;
 - (b) Letter from the assistant director of ethics, dated February 10, 1988, referring to Institute file No. 2321; and
 - (c) Letter from the assistant director of ethics, dated February 10, 1988, referring to Institute file No. 2322;

PROVIDED THAT if the said written responses are not delivered to the Institute within ten (10) days from the date this Decision and Order becomes final under the bylaws, then Mr. Gorfinkel shall thereupon be expelled from membership in the Institute, and notice of his expulsion, disclosing his name, is to be given in the manner specified below.

5. THAT in the event Mr. Gorfinkel fails to comply with the requirements of paragraphs 2 and 3 of this Order within the time periods specified, he is thereupon expelled from membership in the Institute, and notice of his expulsion disclosing his name is to be given in the manner specified below.
6. THAT notice of this Decision and Order, disclosing Mr. Gorfinkel's name, be given after this Decision and Order becomes final under the bylaws:
 - (a) by publication in Check Mark;
 - (b) to the Public Accountants Council for the Province of Ontario; and
 - (c) to the Canadian Institute of Chartered Accountants.
7. THAT in the event Mr. Gorfinkel is expelled pursuant to any of the terms of this Order, he is thereupon required to surrender the certificate of membership in the Institute, bearing his name, to the registrar of the Institute forthwith.

The committee recognizes the importance of communication between the professional conduct committee and a member when a complaint is filed with the Institute. Without such communication the ability of the profession to fulfill its self-policing function is seriously eroded.

In this case, the committee was of the view that Mr. Gorfinkel should be given one last short period of time within which to comply with the requests for information. The committee took into account that he did attempt some communication with the Institute by relaying to the secretary to the discipline committee, albeit at the last minute, that he was aware of, though unable to attend, the hearing. If Mr. Gorfinkel does not respond within the ten day period granted in the Order, he will be expelled, in order to emphasize the importance the committee places on providing such responses.

Mr. Gorfinkel was fined \$750, also to reflect the seriousness of his failure to respond, and was assessed costs of \$750. The committee ordered publicity and notice of its Order, including disclosure of the member's name, as a general deterrent to all members, as well as, again, to emphasize to the full membership of the Institute the importance of responding in writing to requests for information from the professional conduct committee.

R.C.H. ANDREWS, CA - DEPUTY CHAIRMAN
THE DISCIPLINE COMMITTEE