

Norman Harry Solmon: Summary, as Published in *CheckMark*

Norman Harry Solmon, of Toronto, was found guilty by the discipline committee of four charges of professional misconduct, laid by the professional conduct committee, under Rule of Professional Conduct 202, of failing to perform his professional services with due care.

The committee ordered that he

- be reprimanded in writing by the chairman of the hearing;
- be assessed costs of \$6,000, to be paid within a specified time; and
- be required to take three specified professional development courses within a prescribed time.

Mr. Solmon appealed the term of the discipline committee's order requiring publication of his name in *CheckMark*. The appeal committee dismissed the appeal.

Failure to comply with the second and third terms of the order as set out above would have resulted in Mr. Solmon's suspension from membership. Continuation of the suspension for more than sixty days without complying with the said terms would have resulted in his expulsion from membership.

Mr. Solmon has complied with the order.

CHARGE(S) LAID re Norman Harry Solmon

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

1. THAT, contrary to Rule 202 of the Rules of Professional Conduct, approved June 11, 193 the said Norman H. Solmon, in or about the month of July, 1987, failed to perform his professional services with due care wizen carrying out an audit of Diemaster Tools Inc. for the year ended April 30, 198:
 - (a) he failed to perform adequate verification of capital stock by reviewing the minutes of the corporation or taking other audit steps where those minutes were deficient;
 - (b) he failed to adequately follow up inquiry letters sent to the law firms identified as having legal claims or possible claims outstanding;
 - (c) he failed to perform an adequate reconciliation of returned confirmation to accounts payable ledger balances;
 - (d) he **frequently** failed to explain audit symbols or otherwise evidence his scope of testing in the working papers; **(AMMEDED ON CONSENT BWS)**
 - (e) he incorrectly credited government assistance on the acquisition of fixed assets to contributed surplus and further transferred a portion of this surplus to retained earnings;
 - (f) he inadequately disclosed investment tax credits accruing same when there was no reasonable assurance that the credits would be realised and did not account for investment tax credits using the cost reduction approach;
 - (g) ~~he failed to disclose adequately the basis of recognizing revenue for long-term military contracts;~~ **(WITHDRAWN BY THE P.C.C. BWS)**
 - (h) ~~he failed to disclose other interest separately from interest on indebtedness initially incurred for more than one year;~~ **(WITHDRAWN BY THE P.C.C. BWS)**
 - (i) ~~he failed to account properly for refundable corporation taxes which were accrued in the accounts when there was no reasonable assurance that the credits would be realized;~~ **(WITHDRAWN BY THE P.C.C. BWS)**
 - (j) he failed to complete the inventory certificate as to inventory classification, basis of valuation or dollar value of inventory;
 - (k) ~~he failed to reflect the mortgage payable as a current liability and rather showed same as a long term liability.~~ **(WITHDRAWN BY THE P.C.C. BWS)**

- ~~2. THAT, the said Norman H. Solmon, on or about the 3rd day of July, 1987, expressed an opinion on the financial statements of Diemaster Tool Inc. as at April 30, 1987 and failed to retain documentation and working papers which would reasonably evidence the nature and extent of the audit work done, contrary to Rule 218 of the Rules of Professional Conduct, added June 15, 1981. **(WITHDRAWN BY THE P.C.C. BWS)**~~
3. THAT, contrary to Rule 202 of the Rules of Professional Conduct, approved June 11, 1973, the said Norman H. Solmon, in or about the month of August, 1987, failed to perform his professional services with due care, when carrying out an audit of Manners Class Service Limited for the year ended May 31, 1987:
- (a) he failed to perform direct confirmation of accounts receivable and provided inadequate evidence of substantiation of accounts receivable;
 - (b) he failed to perform adequate verification of shareholder's loans;
 - (c) he failed to perform adequate verification of capital stock.;
 - (d) he failed to perform adequate verification of the pricing of the inventory or provide substantiation of the clerical accuracy of the inventory;
 - (e) he failed to perform tests to substantiate the accuracy of sales or inventory cut-off;
 - (f) ~~he failed to forward legal inquiry letters to any law firm; **(WITHDRAWN BY THE P.C.C. BWS)**~~
 - (g) he failed to complete the inventory certificate as to inventory classification, basis of valuation and dollar value and further did not complete the date on the financial statements liability certificate;
 - ~~(h) he failed to disclose the basis of valuation of long term investment; **(WITHDRAWN BY THE P.C.C. BWS)**~~
 - ~~(i) he failed to disclose the interest rate payable on long term obligations; **(WITHDRAWN BY THE P.C.C. BWS)**~~
 - (j) he failed to disclose the components of cash in the statement in changes of financial position;
 - (k) he failed to adequately disclose the changes and non-cash components of working capital as they were not included with cash from operations;
 - ~~(l) he failed to disclose that the bank overdraft was secured and failed to describe the secured liability correctly. **(WITHDRAWN BY THE P.C.C. BWS)**~~
- ~~4. THAT, the said Norman H. Solmon, on or about the 18th day of August, 1987, expressed an opinion on the financial statements of Manners Class Service Limited as at May 31, 1987 and failed to retain documentation and working papers which reasonably evidenced the nature and extent of the audit work done contrary to Rule 218 of the~~

~~Rules of Professional Conduct added June 15, 1981. (WITHDRAWN BY THE P.C.C. BWS)~~

5. THAT, contrary to Rule 202 of the Rules of Professional Conduct approved June 11, 1983 the said Norman H. Solmon, in or about the month of February, 1988, failed to perform his professional services with due care, when carrying out an audit of Pembroke Salvage Company Limited operating Pemco Recycling and Pemco Steel for the year ended December 31, 1987, in that:

- (a) he failed to perform substantive procedures with respect to inventory including attendance of stock taking, tests of quantities, pricing and clerical accuracy;
- (b) he failed to obtain appropriate audit evidence to substantiate his opinion with respect to accuracy of sales or inventory cut-off;
- (c) he failed to obtain appropriate audit evidence of outstanding cheques or deposits by reference to banking transactions in January, 1988;
- (d) he failed to properly verify accounts receivable;
- (e) he failed to properly verify accounts payable;
- (f) he failed to adequately confirm or otherwise verify shareholder loan balances;
- (g) he failed to adequately review evidence or otherwise verify capital stock;
- (h) he failed to perform procedures subsequent to the financial year;
- ~~(i) he failed to send legal inquiry letters to any law firm; (WITHDRAWN BY THE P.C.C. BWS)~~
- ~~(j) he failed to disclose the basis of the valuation of intangible assets; (WITHDRAWN BY THE P.C.C. BWS)~~
- (k) he failed to disclose the dividend rate and redemption provisions of authorized capital;
- (l) he failed to include changes in non-cash components of working capital with cash from operation;
- ~~(m) he failed to disclose the market value of marketable securities and value such investments at the lower value of cost or market value; (WITHDRAWN BY THE P.C.C. BWS)~~
- ~~(n) he failed to adequately disclose the amounts of loan payable due to or from related parties. (WITHDRAWN BY THE P.C.C. BWS)~~

6. THAT, the said Norman H. Solmon, on or about the 11th day of February, 1988, expressed an opinion on the financial statements of Pembroke Salvage Company Limited operating Pemco Recycling and Pemco Steel as at December 31, 1987 and failed to retain documentation and working papers which reasonably evidenced the

~~nature and extent of the audit work done contrary to Rule 218 of the Rules of Professional Conduct added June 15, 1981. (WITHDRAWN BY THE P.C.C. BWS)~~

7. THAT, contrary to Rule 202 of the Rules of Professional Conduct, approved June 11, 1983, the said Norman H. Solmon, in or about the month December, 1987, failed to perform his professional services with due care, when carrying out a review engagement of Philstein Limited operating as Quest Tavern as of July 31, 1987, in that:
- (a) he failed to disclose the gain on disposal of tavern equipment, in that same was reflected in the income statement as negative depreciation rather than being disclosed as an extraordinary item;
 - (b) ~~he failed to disclose the basis of valuation and the market value of marketable securities; (WITHDRAWN BY THE P.C.C. BWS)~~
 - (c) ~~he failed to disclose the basis of valuation of intangible assets; (WITHDRAWN BY THE P.C.C. BWS)~~
 - (d) ~~he failed to disclose the dividend rate of authorized capital and whether the dividends were cumulative; (WITHDRAWN BY THE P.C.C. BWS)~~
 - (e) he failed to disclose the contents of cash in a statement of changes in financial position;
 - (f) he failed to include changes in non-cash components of working capital with cash from operations;
 - (g) he failed to disclose proceeds of disposal of fixed assets.
8. ~~THAT, the said Norman H. Solmon, on or about the 29th day of December, 1987, associated himself with the financial statements of Philstein Limited operating as Quest Tavern as July 31, 1987 and failed to retain documentation and working papers which reasonably evidenced the nature and extent of the work done contrary to Rule 218 of the Rules of Professional Conduct, added June 15, 1981. (WITHDRAWN BY THE P.C.C. BWS)~~

DATED at Toronto this 3rd day of March 1989

H.H. SMITH, FCA - DEPUTY CHAIRMAN
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Norman Harry Solmon

DECISION AND ORDER IN THE MATTER OF: Charges against NORMAN HARRY SOLMON, CA, a member of the Institute, under Rule 202 of the Rules of Professional Conduct, approved June 11, 1973, and under Rule 218 of the Rules of Professional Conduct, added June 15, 1981.

DECISION AND ORDER MADE JUNE 28, 1989

DECISION

THAT, having seen, heard and considered the evidence, and having recognized that the professional conduct committee withdrew charges Nos. 2, 4, 6 and 8; and particulars (g), (h), (i) and (k) of charge No. 1; particulars (f), (h), (i) and (1) of charge No. 3; particulars (i), (j), (m) and (n) of charge No. 5; and particulars (b), (c) and (d) of charge No. 7; and having heard the plea of guilty to charges Nos. 1, 3, 5 and 7, THE DISCIPLINE COMMITTEE FINDS Norman Harry Solmon guilty of charges Nos. 1, 3, 5 and 7.

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Solmon be reprimanded in writing by the chairman of the hearing.
2. THAT Mr. Solmon be and he is hereby charged costs of \$6,000, 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. Solmon be and he is hereby required to complete, by attending in their entirety, within six (6) months from the date this Decision and Order becomes final under the bylaws, the following professional development courses made available through the Institute:
 1. Practical Skills for the Review of Working Papers;
 2. Review and Compilation Engagements – Implementation Issues; and
 3. Handbook Refresher Workshop;or, in the event a course listed above becomes unavailable, the successor course which takes its place.
4. THAT notice of this Decision and order, disclosing Mr. Solmon's name, be given after this Decision and Order becomes final under the bylaws:
 - (a) by publication in CheckMark;
 - (b) to the Public Accountants Council for the Province of Ontario; and
 - (c) to the Canadian Institute of Chartered Accountants.

5. THAT in the event Mr. Solmon fails to comply with any of the requirements of this order within the time periods specified, he is and shall be thereupon suspended from the rights and privileges of membership in the Institute, and notice of his suspension, disclosing his name, shall be given in the manner specified herein.
6. THAT in the event Mr. Solmon is suspended pursuant to paragraph 5 hereof, the suspension shall terminate upon compliance with all the terms of the order, provided that he complies within sixty (60) days from the date of his suspension. In the event he fails to terminate suspension within sixty (60) days, he is and shall be thereupon expelled from membership in the Institute, and notice of his expulsion, disclosing his name, shall be given in the manner specified herein.

DATED AT TORONTO, THIS 5TH DAY OF JULY, 1989
BY ORDER OF THE DISCIPLINE COMMITTEE

B.W. STEPHENSON - SECRETARY
THE DISCIPLINE COMMITTEE

DISCIPLINE COMMITTEE re Norman Harry Solmon

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: Charges against NORMAN HARRY SOIMON, CA, a member of the Institute, under Rule 202 of the Rules of Professional Conduct, approved June 11, 1973, and under Rule 218 of the Rules of Professional Conduct, added June 15, 1981.

WRITTEN REASONS FOR THE DECISION AND ORDER MADE JUNE 28, 1989

These proceedings before the discipline committee of the Institute of Chartered Accountants of Ontario were convened on June 28, 1989.

Mr. Brian Bellmore attended on behalf of the professional conduct committee and Mr. Norman H. Solmon attended with his counsel, Mr. Joseph J. Colangelo.

Mr. Bellmore advised that the professional conduct committee was withdrawing charges Nos. 2, 4, 6 and 8: particulars (g), (h), (i) and (k) of charge No. 1; particulars (f), (h), (i) and (1) of charge No. 3: particulars (i), (j), (m) and (n) of charge No. 5; and particulars (b), (c) and (d) of charge No. 7. Mr. Solmon then entered a plea of guilty to each of charges Nos. 1, 3, 5 and 7, as amended.

The chairman confirmed with the member and his counsel that they understood that upon the plea of guilty, and upon that basis alone, the member could be found guilty by the committee.

Upon the consent of both parties, an amendment was made to particular (d) of charge No. 1.

Based upon the defendant's plea of guilty, and after giving consideration to the exhibits filed by the professional conduct committee and the testimony of Mr. Rodney Fraser, CA, the investigator for the professional conduct committee, the discipline committee found Mr. Solmon guilty of charges Nos. 1, 3, 5 and 7.

The committee then heard submissions from both the professional conduct committee and the member with respect to appropriate sanctions and, after deliberation, made the following order:

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Solmon be reprimanded in writing by the chairman of the hearing.
2. THAT Mr. Solmon be and he is hereby charged costs of \$6,000, 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. Solmon be and he is hereby required to complete, by attending in their entirety, within six (6) months from the date this Decision and order becomes final under the bylaws, the following professional development courses made available through the Institute:

1. Practical Skills for the Review of Working Papers;
2. Review and Compilation Engagements – Implementation Issues; and
3. Handbook Refresher Workshop;

or, in the event a course listed above becomes unavailable, the successor course which takes its place.

4. THAT notice of this Decision and Order, disclosing Mr. Solmon's name, be given after this Decision and order becomes final under the bylaws:
 - (a) by publication in CheckMark;
 - (b) to the Public Accountants Council for the Province of Ontario; and
 - (c) to the Canadian Institute of Chartered Accountants.
5. THAT in the event Mr. Solmon fails to comply with any of the requirements of this Order within the time periods specified, he is and shall be thereupon suspended from the rights and privileges of membership in the Institute, and notice of his suspension, disclosing his name, shall be given in the manner specified herein.
6. THAT in the event Mr. Solmon is suspended pursuant to paragraph 5 hereof, the suspension shall terminate upon compliance with all the terms of the Order, provided that he complies within sixty (60) days from the date of his suspension. In the event he fails to terminate suspension within sixty (60) days, he is and shall be thereupon expelled from membership in the Institute, and notice of his expulsion, disclosing his name, shall be given in the manner specified herein.

The reasons for the committee's sanctions are set out below, with the numbers corresponding to the numbered paragraphs of the order.

1. The committee is of the view that a reprimand is necessary as a deterrent to the member and to stress to the member the unacceptability of his conduct as a chartered accountant.
2. The imposition of costs is appropriate in this case, and the committee agrees that the amount of six thousand dollars (\$6,000) suggested by both counsel is sufficient, recognizing the committee's findings, the costs of the investigator for the professional conduct committee, the member's plea and the co-operation of the member.
3. In view of the fact that the deficiencies admitted by the member related to his failure to perform his professional services with due care when carrying out both audit and review engagements, and recognizing the submissions of both counsel that continuing professional development would be appropriate, the committee is of the view that compulsory attendance at the noted professional development courses is essential, both for the educational benefit of the member and for the protection of the public.
4. The committee ordered publicity and notice of its Order, including disclosure of the member's name, as both a specific deterrent to Mr. Solmon and as a general deterrent to all members. In addition, the committee considers publicity necessary to demonstrate to the public that the profession is regulating itself so as to retain public confidence in the profession's ability to self-govern.

The committee considered the evidence presented by Mr. Solmon's counsel with respect to sanctions and considered the member's advanced age, his unblemished career as an accountant and member of the Institute and the fact that the offence involved no moral turpitude. But the committee was of the opinion that the principles articulated in the above noted paragraph superseded these considerations and it was agreed that publication of the member's name was appropriate.

5. It is the committee's opinion that it is necessary to provide for a period of suspension should the member not comply with the provisions of the Order.
6. The committee is of the view that the contingency of expulsion, in the event of non-compliance with the terms of the Order, as a last resort, is a sanction necessary to the preservation of the profession's good reputation and ability to serve the public interest, as a way of enabling it to ultimately deal with members who will not be bound by the self-governing aspects of the profession.

E.W. SLAVENS, FCA - DEPUTY CHAIRMAN
THE DISCIPLINE COMMITTEE

APPEAL COMMITTEE re Norman Harry Solmon

IN THE MATTER OF: an appeal lodged by Murray A. Finkelman, CA, a member of the Institute against the order of the discipline committee made on July 17, 1989 and an appeal lodged by Norman H. Solmon, CA a member of the Institute against the order of the discipline committee made on June 28, 1989 both pursuant to the Chartered Accountants Act 1956 and Bylaw 81 of the Institute of Chartered Accountants of Ontario.

ORDER

Two appeals came before this panel of the appeal committee on February 12, 1990. The appellants were both represented by Mr. J.J. Colangelo. The professional conduct committee was represented by Mr. P.F. Farley on both appeals.

As both appeals were only with respect to the disclosure of the member's name in the notice to be published in *CheckMark*, the appeals were heard together.

After reviewing the decisions and reasons for the decisions of the discipline committee and the evidence that was before the discipline committee, the appeal committee dismissed both appeals and confirmed, in their entirety, the order of the discipline committee made on June 28, 1989, with respect to Mr. Solmon, and the order of the discipline committee made on July 17, 1989, with respect to Mr. Finkelman.

Dated this day of May, 1990

PETER S HOFIEL ' - SE ETARY
APPEAL COMMITTEE

APPEAL COMMITTEE re Norman Harry Solmon

IN THE MATTER OF: an appeal lodged by Murray A. Finkelman, CA, a member of the Institute against the order of the discipline committee made on July 17, 1989 and an appeal lodged by Norman H. Solmon, CA a member of the Institute against the order of the discipline committee made on June 28, 1989 both pursuant to the *Chartered Accountants Act 1956* and Bylaw 81 of the Institute of Chartered Accountants of Ontario.

DECISION

Two appeals came before this panel of the appeal committee on February 12, 1990. The appellants were both represented by Mr. J.J. Colangelo. The professional conduct committee was represented by Mr. P.F. Farley on both appeals.

As both appeals were only with respect to the disclosure of the members' name in the notice to be published in *CheckMark*, the appeals were heard together.

After reviewing the decisions and reasons for the decisions of the discipline committee and the evidence that was before the discipline committee, the appeal committee dismissed both appeals and confirmed, in their entirety, the order of the discipline committee made on June 28, 1989, with respect to Mr. Solmon, and the order of the discipline committee made on July 17, 1989, with respect to Mr. Finkelman.

REASONS FOR THE DECISION

Both counsel were advised of the decision after it had been reached.
We now give the reasons for our decision in writing as required under the Bylaws.

The appellants allege that in both cases the decision and order of the discipline committee is wrong in three ways.

The first is that the orders requiring the disclosure of the members' names in the notice to be published in *CheckKark* is harsh and inappropriate given the circumstances of their cases. The second is that the discipline committee failed to exercise a discretion provided for in Bylaw 83(4). The third is that the publication of the members' names is not required in the interest of general deterrence or specific deterrence; and, that the other provisions of the discipline committee's orders, without the members' names, would be adequate for the purpose of general deterrence.

With respect to Mr. Solmon, it was also argued that there was inadequate consideration of his improvement and his willingness to further improve his practice, as well as inadequate consideration of his long standing unblemished reputation and good standing in the profession.

With respect to the issue of whether or not the discipline committee failed to exercise a discretion, the appeal committee carefully considered the words of Bylaw 83(4) which states:

"83(4) Notice given under this bylaw shall disclose the name of the person disciplined unless the discipline committee or the appeal committee, as the case may be, otherwise orders".

Lead with the other provisions of Bylaw 83, it is clear that the discipline committee or the appeal committee, has a wide power to determine the time and the way a notice is published, as well as the form of the notice.

As Bylaw 83(4) stipulates that unless the discipline committee "otherwise orders" the notice shall disclose the name of the member being disciplined, there should be an opportunity for the member to persuade the discipline committee to otherwise order, failing which the disciplined member's name will be disclosed. We are not certain that it helps to consider the question of onus, but the Bylaw seems to contemplate that the onus would be on the member being disciplined to persuade the discipline committee not to publish his or her name.

The discipline committee did consider whether or not the member's name should be published, and in doing so, it has not failed to exercise a discretion; but rather, it exercised the discretion against the members' requests. The question remains - did the discipline committee exercise its discretion correctly?

The appeal committee is of the view that it would be wrong to have a fixed rule or arbitrary guideline to determine how the discipline committee is to decide an issue before it. But it is right for the discipline committee to decide issues in a consistent way by following general principles.

The discipline committee considered two principles which this committee thinks are important. one was how best to deter other members from following a course of conduct which will result in their coming before the discipline committee; and the other was, that it is in the public interest as well as the interest of the Institute and its members, for the discipline process to be seen as open rather than closed or secretive.

This committee agrees with the discipline committee that the members value their reputation and one very effective way to ensure that other members adhere to the appropriate standards, is for it to be known that if a member is found not to have adhered to the standards, the notice of the order will refer to them by name and not just to an anonymous member.

We are also of the view that the public will have more confidence in the Institute's ability to govern itself if the discipline process, which includes publication of notice of orders made by the discipline committee, includes the name of the member disciplined. A basic requirement of the discipline process in a self-governing body is that it be open. The disclosure of a disciplined member's name contributes to the openness of the process and the perception that it is open.

The appeal committee is satisfied that the discipline committee did adequately consider the pleas of guilty of both members, and the evidence of their good character, and in Mr. Solmon's case, his improvement and willingness to continue to improve, together with his long standing unblemished reputation. It is common ground, that, other than the provision of the orders that the disciplined members names be disclosed, the sanctions reflect an appropriate consideration of these factors.

The misconduct of Mr. Finkelman and Mr. Solmon was that they allowed their standard of practice to fall below an acceptable level. The Reasons and the orders of the discipline committee make this clear. If the publication of a disciplined member's name implied-an offence of moral turpitude, the argument that the disclosure of the member's name would be harsh and unjust, would carry more weight. As the order clearly indicates the nature of the misconduct, we do not think the disclosure of the disciplined member's name is harsh or unjust.

The appeal committee wishes to make a general comment about Bylaw 83(4). We recognize that as long as the Bylaw provides that the discipline committee or the appeal committee may

"otherwise order" some members being disciplined will argue that in the particular circumstances of their case such an order should be made and publication of their name withheld. In light of the principle of general deterrence and the importance of confidence in the openness of the Institute's disciplinary process, this committee is of the view that circumstances which could persuade an appeal committee or the discipline committee not to publish a disciplined member's name will be rare and unusual.

R.G. MCNEILL, FCA - CHAIRMAN