

Paul Gerald Duchesne: Summary, as Published in *CheckMark*

Paul Gerald Duchesne, of Port Hope, was found guilty under Rules 202 and 206 of failing to perform his professional services with integrity and due care, and in accordance with generally accepted standards of practice of the profession. Rather than perform any work upon a review engagement, Mr. Duchesne took the financial statements prepared by the client's bookkeeper, and reissued them on his own letterhead with his review engagement report. Then, upon discovering that the financial statements were inaccurate, he failed to ensure that the client's bank was notified that he was withdrawing his report. He was fined \$3,000, suspended for three months, and ordered to take certain professional development courses. As a result of his failure to pay the fine within the time specified, Mr. Duchesne was suspended from membership pursuant to the discipline committee's order. Non-compliance with the order for a further specified period of time will result in Mr. Duchesne's expulsion from the Institute. (This matter was first reported in the July 1994 issue of *CheckMark*)

Paul Gerard Duchesne, of Port Hop, was found guilty of three charges of professional misconduct, under Rules 202 and 206. He accepted a review engagement without obtaining an understanding from the client as to the nature of the engagement, knowing that he would not be able to complete the work within the allotted time, and knowing that the client's bank would be relying upon the financial statements. Mr. Duschesne performed no work on the engagement. Instead, he simply retyped on his own letterhead the financial statements prepared by the client's bookkeeper, attached and signed a review engagement report, and sent them to the client's bank. On discovering that the financial statements were inaccurate, he failed to ensure that the bank was notified that he was withdrawing his report. Mr. Duschesne was fined \$3,000, suspended for three months and ordered to take certain professional development courses. It was also ordered that the member be reinvestigated by the professional conduct committee within a specified time.

Mr. Duchesne returned to MEMEBERSHIP IN GOOD STANDING on October 15, 1994.

CHARGE(S) LAID re Paul Gerald Duchesne

The Professional Conduct Committee hereby makes the following charges against Paul G. Duchesne, a member of the Institute:

1. THAT, the said Paul Duchesne, in or about the period December, 1989 through February, 1990, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule 206 of the Rules of Professional Conduct in that, being engaged to carry out a review of the financial statements of Howes Haulage as at August 31, 1989, and having attached a review engagement report dated December 17, 1989 and another review engagement report dated December 21, 1989 to those financial statements;
 - (a) he failed to obtain an understanding with the client as to the nature of the engagement;
 - (b) he failed to adequately plan and properly execute the review;
 - (c) he failed to carry out sufficient enquiry, analysis and discussion to properly ascertain whether the financial statements were plausible;
 - (d) he failed to document those items important to support the content of his report;
2. THAT, the said Paul Duchesne, in or about the period December 1989 through February 1990, failed to perform his professional services with integrity and due care in that he agreed to attach a review engagement report to the financial statements of Howes Haulage as at August 31, 1989 and released same knowing that he had done insufficient work in reviewing the balance sheet and the statements of operations and cash flows for the August 31, 1989 year end, and instead relied on the representations and work done by an unqualified and unsupervised non-member, contrary to Rule 202 of the Rules of Professional Conduct.
3. THAT, the said Paul Duchesne, in or about the period December 1989 through February 1990, failed to perform his professional services with due care in that, having become aware of circumstances which caused him to believe that the financial statements for Howes Haulage for the year ended August 31, 1989 were inaccurate in a material respect and knowing that the financial statements and his Review Engagement Reports dated December 17 and 21, 1989 had been released to interested parties including Royal Bank was properly and promptly notified that he had withdrawn the report and the financial statements to which the reports refers, contrary to Rule 202 of The Rules of Professional Conduct.
4. THAT, the said Paul Duchesne, in or about the period December 1, 1991 through February 1, 1992 failed to perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule 206 of the Rules of Professional Conduct in that, being engaged to carry out a review of the financial statements of Cryoleasing Company Inc. as at December 31, 1991, and having attached a review engagement report dated January 23, 1992 to those financial statements;

- (a) he failed to adequately plan and properly execute the review;
- (b) he failed to carry out sufficient enquiry, analysis and discussion to properly ascertain whether the financial statements were plausible;
- (c) he failed to document those items important to support the content of his report;

DATED at Toronto this 26th day of October 1993

J.L.M. BADALI, FCA – CHAIR
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Paul Gerald Duchesne

DECISION AND ORDER IN THE MATTER OF: Charges against **PAUL GERARD DUCHESNE, CA**, a member of the Institute, under **Rules 202 and 206** of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE MARCH 30, 1994

DECISION

THAT, having seen, heard and considered the evidence, including the agreed statement of facts, filed, and having determined to proceed with the hearing in the absence of Mr. Duchesne, pursuant to Institute Bylaw 87(2)(c), 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 Paul Gerard Duchesne not guilty of charge No. 4 and guilty of charges Nos. 1, 2 and 3.

ORDER

IT IS ORDERED in respect of charges Nos. 1, 2 and 3:

1. THAT Mr. Duchesne be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Duchesne be and he is hereby fined the sum of \$3,000, 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. Duchesne be suspended from the rights and privileges of membership in the Institute for a period of three (3) months from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Duchesne be and he is hereby required to complete, by attending in their entirety, on or before December 31, 1995, the following professional development courses made available through the Institute:
 1. Accounting and Auditing Update;
 2. Performing Review and Compilation Engagements;
 3. Bylaws and Ethics,or, in the event a course listed above becomes unavailable, the successor course which takes its place.
5. THAT Mr. Duchesne be reinvestigated by the professional conduct committee, or by a person retained by the professional conduct committee, on one occasion, between eighteen (18) and twenty-four (24) months from the date this Decision and Order becomes final under the bylaws, the costs of the reinvestigation, to a maximum of \$2,000, to be paid by Mr. Duchesne.

6. THAT notice of this Decision and Order, disclosing Mr. Duchesne'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.
7. THAT Mr. Duchesne surrender his certificate of membership in the Institute to the registrar of the Institute within ten (10) days from the date this Decision and Order becomes final under the bylaws, to be held by the registrar during the period of suspension and thereafter returned to Mr. Duchesne.
8. THAT in the event Mr. Duchesne fails to comply with any of the requirements of this Order within the time periods specified, he shall thereupon be 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 in paragraph 6 hereof.
9. THAT in the event Mr. Duchesne is suspended pursuant to paragraph 8 hereof, the suspension shall terminate upon his compliance with the term of the Order in respect of which he was suspended, provided that he complies within six (6) months from the date of his suspension.
10. THAT in the event Mr. Duchesne fails to terminate a suspension imposed pursuant to paragraph 8 hereof within the six (6) month period specified in paragraph 9, 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 in paragraph 6 hereof.

DATED AT TORONTO THIS 8TH DAY OF APRIL, 1994
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re Paul Gerald Duchesne

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: Charges against **PAUL GERARD DUCHESNE, CA**, a member of the Institute, under **Rules 202 and 206** of the Rules of Professional Conduct, as amended.

WRITTEN REASONS FOR THE DECISION AND ORDER MADE MARCH 30, 1994

These proceedings before this panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on March 30, 1994.

Mr. Paul Farley attended on behalf of the professional conduct committee. Mr. Duchesne was not present nor was he represented. Mr. Farley indicated, however, that he had corresponded with Mr. Duchesne, and that, in fact, he and the member had signed an agreed statement of facts, which he would be filing as an exhibit.

Counsel for the professional conduct committee then filed exhibits to prove service of the notice of assignment hearing and the notice of hearing. The committee satisfied itself that Mr. Duchesne had been given proper notice of the hearing, and, accordingly, decided to proceed in his absence, pursuant to Bylaw 87(2)(c).

The charges against the member read as follows:

1. *THAT, the said Paul Duchesne, in or about the period December, 1989 through February, 1990, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule 206 of the Rules of Professional Conduct in that, being engaged to carry out a review of the financial statements of Howes Haulage as at August 31, 1989, and having attached a review engagement report dated December 17, 1989 and another review engagement report dated December 21, 1989 to those financial statements;*
 - (a) *he failed to obtain an understanding with the client as to the nature of the engagement;*
 - (b) *he failed to adequately plan and properly execute the review;*
 - (c) *he failed to carry out sufficient enquiry, analysis and discussion to properly ascertain whether the financial statements were plausible;*
 - (d) *he failed to document those items important to support the content of his report.*
2. *THAT, the said Paul Duchesne, in or about the period December 1989 through February 1990, failed to perform his professional services with integrity and due care in that he agreed to attach a review engagement report to the financial statements of Howes Haulage as at August 31, 1989 and released same knowing that he had done insufficient work in reviewing the balance sheet and the statements of operations and cash flows for the August 31, 1989 year end, and instead relied on the representations and work done by an unqualified and unsupervised non-member, contrary to Rule 202 of the Rules of Professional Conduct.*

3. *THAT, the said Paul Duchesne, in or about the period December 1989 through February 1990, failed to perform his professional services with due care in that, having become aware of circumstances which caused him to believe that the financial statements of Howes Haulage for the year ended August 31, 1989 were inaccurate in a material respect and knowing that the financial statements and his Review Engagement Reports dated December 17 and 21, 1989 had been released to interested parties including The Royal Bank of Canada, he failed to take adequate steps to ensure that The Royal Bank was properly and promptly notified that he had withdrawn the report and the financial statements to which the report refers, contrary to Rule 202 of the Rules of Professional Conduct.*
4. *THAT, the said Paul Duchesne, in or about the period December 1, 1991 through February 1, 1992 failed to perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule 206 of the Rules of Professional Conduct in that, being engaged to carry out a review of the financial statements of Cryoleasing Company Inc. as at December 31, 1991, and having attached a review engagement report dated January 23, 1992 to those financial statements;*
 - (a) *he failed to adequately plan and properly execute the review;*
 - (b) *he failed to carry out sufficient enquiry, analysis and discussion to properly ascertain whether the financial statements were plausible;*
 - (c) *he failed to document those items important to support the content of his report.*

Since Mr. Duchesne was neither present nor represented at the hearing, the chair entered a plea of not guilty on the member's behalf to all four charges.

Mr. Farley entered as exhibits the agreed statement of facts, to which he had earlier referred, and a document brief. He then called the professional conduct committee investigator, Mr. John Douglas, who gave evidence and reviewed the document brief.

After deliberating upon the testimony and documentary evidence presented, the committee found Mr. Duchesne not guilty of charge No. 4, and guilty of charges Nos. 1, 2, and 3. The committee felt that the professional conduct committee had not presented enough evidence to prove charge No. 4. The other three charges were, however, proven to the committee's satisfaction.

The agreed statement of facts revealed that Mr. Duchesne accepted an engagement to carry out a review of a partnership's financial statements without obtaining an engagement letter or reaching an understanding with the client as to the nature of the engagement, and knowing that he would not be able to properly complete the work within the time frame indicated by the client. The member was made aware that the financial statements were going to be relied upon by the client's bank.

All the review work was done by the client's bookkeeper, with no supervision from the member. Mr. Duchesne had no involvement in either planning or executing the review. He did not carry out any enquiry, analysis or discussion, and he had no knowledge as to the expertise of the client's bookkeeper. There was no documentation of any item that might support the content of his report. Mr. Duchesne simply re-typed the bookkeeper's financial statements on his own letterhead, attached and signed a review engagement report, and sent them to the client's bank.

After the release of the financial statements, Mr. Duchesne carried out some procedures in support of his review engagement report, in the course of which he came to the conclusion that the financial statements which he had released were inaccurate in a material respect.

The member failed to take adequate steps to ensure that the bank was properly and promptly notified of his withdrawal of his report and the financial statements to which it referred.

These facts, in the committee's view, were sufficient for it to make findings of guilty on charges Nos. 1, 2 and 3.

After hearing and deliberating upon the professional conduct committee's submissions in respect of sanction, the committee made the following order:

ORDER

IT IS ORDERED in respect of charges Nos. 1, 2 and 3:

1. THAT Mr. Duchesne be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Duchesne be and he is hereby fined the sum of \$3,000, 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. Duchesne be suspended from the rights and privileges of membership in the Institute for a period of three (3) months from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Duchesne be and he is hereby required to complete, by attending in their entirety, on or before December 31, 1995, the following professional development courses made available through the Institute:
 1. Accounting and Auditing Update;
 2. Performing Review and Compilation Engagements;
 3. Bylaws and Ethics,or, in the event a course listed above becomes unavailable, the successor course which takes its place.
5. THAT Mr. Duchesne be reinvestigated by the professional conduct committee, or by a person retained by the professional conduct committee, on one occasion, between eighteen (18) and twenty-four (24) months from the date this Decision and Order becomes final under the bylaws, the costs of the reinvestigation, to a maximum of \$2,000, to be paid by Mr. Duchesne.
6. THAT notice of this Decision and Order, disclosing Mr. Duchesne'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.
7. THAT Mr. Duchesne surrender his certificate of membership in the Institute to the registrar of the Institute within ten (10) days from the date this Decision and Order

becomes final under the bylaws, to be held by the registrar during the period of suspension and thereafter returned to Mr. Duchesne.

8. THAT in the event Mr. Duchesne fails to comply with any of the requirements of this Order within the time periods specified, he shall thereupon be 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 in paragraph 6 hereof.
9. THAT in the event Mr. Duchesne is suspended pursuant to paragraph 8 hereof, the suspension shall terminate upon his compliance with the term of the Order in respect of which he was suspended, provided that he complies within six (6) months from the date of his suspension.
10. THAT in the event Mr. Duchesne fails to terminate a suspension imposed pursuant to paragraph 8 hereof within the six (6) month period specified in paragraph 9, 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 in paragraph 6 hereof.

The reasons for the committee's order as to sanction are set out below.

Reprimand

The committee is of the view that a reprimand is necessary as a specific deterrent to the member, to stress to him the unacceptability of his conduct as a chartered accountant.

Fine and Suspension

The committee felt that Mr. Duchesne's actions in accepting an engagement and issuing financial statements therefor, without performing any review procedures, was a serious breach of professional conduct. A suspension of three months and a fine of \$3,000 was ordered to illustrate to Mr. Duchesne and to other members of the profession that actions such as Mr. Duchesne's are not to be tolerated. In establishing the amount of the fine, the committee took into account the additional costs the member will incur for courses and the costs of reinvestigation.

Professional Development Courses and Reinvestigation

With a view to rehabilitation, the committee ordered that Mr. Duchesne complete three professional development courses in an effort to upgrade his skills to the standards expected of a chartered accountant. To provide a measure of assurance that the member does benefit from the courses, and has taken advantage of the opportunity to rehabilitate himself, his reinvestigation by the professional conduct committee was ordered.

Publicity

The committee ordered notice of its decision and order in the manner specified, including disclosure of the member's name, as a specific and general deterrent. The committee considered such notification also 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.

Failure to Comply

As is the normal practice of the committee, it ordered that failure to comply with any of the requirements of the order will result in suspension and, ultimately, expulsion of the member, so as to demonstrate to this member and all members the seriousness of failing to comply with orders of the discipline committee.

DATED AT TORONTO, THIS _____ DAY OF _____, 1994
BY ORDER OF THE DISCIPLINE COMMITTEE

P.A. CAMPOL, CA - DEPUTY CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

R.G. HARRISON, FCA

B.L. STEPHENS, CA

W.L. WOOD, CA

B.W. BOWDEN, PhD (Public representative)