

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: Charges against **PAUL KENNETH TURNER ROBINS, CA**, a member of the Institute, under **Rule 206.1** of the Rules of Professional Conduct, as amended.

TO: Mr. Paul Kenneth Turner Robins, CA
SourcePoint Business Group
301-11 Mill Street South
PO Box 410
Waterdown, ON L0R 2H0

AND TO: The Professional Conduct Committee, ICAO

REASONS
(Decision and Order made February 26, 2008)

1. This panel of the Discipline Committee of the Institute of Chartered Accountants of Ontario, convened on February 26, 2008, to hear charges of professional misconduct brought by the Professional Conduct Committee against Paul Kenneth Turner Robins, CA, a member of the Institute.

2. Alexandra Hersak appeared as counsel for the Professional Conduct Committee. She was accompanied by the investigator appointed by the Professional Conduct Committee, Raymond G. Harris, FCA.

3. Mr. Robins was present and was accompanied by his counsel, James R. Lane. The decision with respect to the charges and the terms of the order were announced at the hearing on February 26, 2008. The written Decision and Order dated March 4, 2008, was sent to the parties that day.

4. These reasons, given pursuant to Bylaw 574 include the charges, the decision, the order and the reasons for the decision and order.

The proceedings

5. When the hearing was called to order, the Chair marked the affidavit of service of the notice of the assignment hearing, the notice of the hearing, and the charges as Exhibits 1, 2 and 3, respectively.

6. The charges laid by the Professional Conduct Committee on November 15, 2007, were amended to correct Mr. Robins' name. The charges read as follows:

1. THAT the said Kenneth T. Robins, in or about the period July 31, 2006 through January 31, 2007, while engaged to perform a review of the financial statements of "SC Limited." for the year ended July 31, 2006, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule 206.1 of the Rules of Professional Conduct, in that:
 - (a) he failed to ensure adequate disclosure of the nature of related party transactions;
 - (b) he failed to ensure disclosure of the basis of valuation for the item "Work in progress - \$193,092";
 - (c) he failed to ensure adequate disclosure of cash flows;
 - (d) he failed to ensure adequate disclosure of the nature of significant accounting policies;
 - (e) he failed to ensure adequate disclosure of the nature of measurement uncertainties that are material;
 - (f) he failed to provide a written communication regarding independence to those having oversight responsibility for the financial reporting process;
 - (g) he failed to ensure that the management representation letter contained all of the representations required by the *CICA Handbook*; and
 - (h) he failed to document those matters required to support his review engagement report.
2. THAT the said Kenneth T. Robins, in or about the period March 31, 2007 through August 31, 2007, while engaged to perform a review of the financial statements of "CA Inc." for the year ended March 31, 2007, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule 206.1 of the Rules of Professional Conduct, in that:
 - (a) he failed to carry out sufficient and appropriate enquiry, analysis and discussion to satisfy himself as to the plausibility of work in progress in the amount of \$65,000;
 - (b) he failed to ensure adequate disclosure of the nature of related party transactions;
 - (c) he failed to ensure adequate disclosure of cash flows;

- (d) he failed to ensure that the schedule of fixed assets disclosed the gross amount of assets under capital lease in the amount of \$692,066 and the accumulated amortization in the amount of \$279,419;
 - (e) he failed to ensure disclosure of the Interest on long-term debt in the approximate amount of \$25,500;
 - (f) he failed to ensure disclosure of the Work in progress in the amount of \$65,000;
 - (g) he failed to ensure adequate disclosure of significant accounting policies;
 - (h) he failed to ensure adequate disclosure of the nature of measurement uncertainties that are material;
 - (i) he failed to provide a written communication regarding independence to those having responsibility for the financial reporting process;
 - (j) he failed to ensure that the management representation letter contained all of the representations required by the *CICA Handbook*; and
 - (k) he failed to document those matters required to support his review engagement report.
3. THAT the said Kenneth T. Robins, in or about the period November 30, 2006 through June 30, 2007, while engaged to perform a review of the financial statements of "W Group Inc." for the year ended November 30, 2006, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule 206.1 of the Rules of Professional Conduct, in that:
- (a) he failed to ensure disclosure of the significant terms and conditions, including interest rate and security provided, for the item "Bank loans payable - \$205,000";
 - (b) he failed to ensure disclosure of the amount and expiry dates of unused tax losses for which no future tax asset has been recognized;
 - (c) he failed to ensure adequate disclosure of cash flows;
 - (d) he failed to ensure adequate disclosure of significant accounting policies;
 - (e) he failed to ensure adequate disclosure of the nature of measurement uncertainties that are material;
 - (f) he failed to provide a written communication regarding independence to those having oversight responsibility for the financial reporting process;
 - (g) he failed to ensure that the management representation letter contained all of the representations required by the *CICA Handbook*; and

- (h) he failed to document those matters required to support his review engagement report.

7. Mr. Robins entered a plea of guilty to each of the three charges and confirmed that he understood that on the basis of his plea, and on that basis alone, he could be found guilty of the charges.

The proceedings

8. Ms. Hersak gave an overview of the case for the Professional Conduct Committee. She advised the panel that the evidence in this case would consist of an Agreed Statement of Facts, a Document Brief and relevant excerpts from the CICA Handbook. The Agreed Statement of Facts, signed by Ms. Hersak on behalf of the Professional Conduct Committee and signed by Mr. Robins on his own behalf, was marked as Exhibit 4. The Document Brief, which was referred to in the Agreed Statement of Facts, included the financial statements for the entities referred to in the charges. The Document Brief was marked as Exhibit 5. The excerpts of the *CICA Handbook* were marked as Exhibit 6.

9. The parties proposed that the hearing adjourn while the panel reviewed the evidence. The parties also indicated that unless the panel had questions with respect to the agreed statement of facts they did not think it necessary for them to make further comments or submissions. The panel agreed to adjourn and, in the absence of questions, to proceed to deliberate with respect to whether or not Mr. Robins was guilty of the charges without reconvening to hear further submissions from the parties.

Decision on the charges

10. Upon reviewing the agreed statement of facts and the document brief the panel had no questions for the parties, and did proceed to deliberate. After deliberating, the hearing was reconvened and the Chair set out on the record the following decision of panel:

THAT, having seen and considered the evidence, including the agreed statement of facts, filed, and the charges having been amended at the hearing, and having heard the plea of guilty to charges Nos. 1, 2 and 3, as amended, the Discipline Committee finds Mr. Paul Kenneth Turner Robins guilty of charges Nos. 1, 2 and 3, as amended.

11. The panel found, on the basis of the Agreed Statement of Facts, and the Document Brief that the allegations set out in the three charges had been proven. The panel concluded that the departures from the required standard of the profession, which were succinctly set out in the particulars to the three charges, were so significant that they constituted professional misconduct. In summary, the member had failed to keep current with the required standards of the profession, particularly with respect to documentation, financial statement presentation and disclosure. As a result he was found guilty of the three charges.

SANCTION

12. Ms. Hersak did not call evidence with respect to sanction. She did outline the terms of the order which the Professional Conduct Committee sought which included: a reprimand; a fine of \$5,000; a requirement that Mr. Robins practice under supervision for a period of 18 months; that Mr. Robins be reinvestigated after the period of supervision; and that Mr. Robins pay 50% of the cost of the reinspection up to a maximum of \$2,000. The Professional Conduct Committee also requested that the Order include a requirement that Mr. Robins take three specified professional development courses; that he be required to pay costs in the amount of \$9,500 and that the usual notice of the Decision and Order be published in *CheckMark*, on the Institute website and that notice be given to the Public Accountants Council, the Canadian Institute of Chartered Accountants and to the other provincial institutes.

13. Ms. Hersak submitted that the three principles which are considered when sanction is imposed: general deterrence, specific deterrence and rehabilitation, are all applicable in this case. In addition, Ms. Hersak said that the overriding concern of the Professional Conduct Committee was the protection of the public. It was the protection of the public which required supervised practice and a reinspection after the period of supervised practice.

14. Ms. Hersak referred to a number of cases in which similar orders had been given, and in particular the cases of *Butler, Hughes, Malik, Miller and Smith*.

15. Mr. Robins testified in his own behalf. He received his designation in 1967 and had practised with Chagnon & MacGillivray before being employed in industry for over 25 years.

16. In 1993, Mr. Robins purchased a franchise bookkeeping service called SourcePoint. Sometime thereafter the franchisor went out of business; however, Mr. Robins continued to operate the bookkeeping service and began to practise public accounting as a sole practitioner. He had about 15 review engagements that generated approximately \$20,000 per annum in fees. He did not do any audits. Essentially he did reviews for clients of his bookkeeping service or of clients referred to him from other bookkeeping services which had originally been with SourcePoint.

17. Mr. Robins' practice had been inspected in 2002. It was inspected again, in the usual course, in 2005. As a result of that practice inspection in 2005, it was ordered that his practice be reinspected. It was as a result of the reinspection in February 2007, that a referral was made by the Practice Inspection Committee to the Professional Conduct Committee.

18. Mr. Robins testified that he had not taken the recommendations of the Practice Inspection Committee and the Practice Inspector as seriously as he ought to have taken them. It was his evidence that only with Mr. Harris' investigation did he understand how far he had "drifted" from the required standards of the profession and appreciated how much rehabilitation he needed.

19. Mr. Robins acknowledged that his public accounting practice was a small part of his business but he also asserted that it was important to him, and he was determined to practice in accordance with the required standards. He described some of the steps he had taken subsequent to Mr. Harris' investigation. He had taken a number of courses, obtained an up to date *CICA Handbook*, had obtained appropriate tool kits and a practice engagement manual.

20. Mr. Robins also testified how he had been affected by the charges. He said he felt humbled and also annoyed with himself for failing to keep current and becoming so isolated from fellow chartered accountants. He apologized to the committee for failing to maintain the appropriate standards. Mr. Robins also answered questions that were put to him by members of the panel, particularly with respect to the dates of the practice inspections and his response to them.

21. In his submissions, Mr. Lane took issue only with the quantum of the fine and costs requested by the Professional Conduct Committee. He submitted that the appropriate fine would be in the range of \$3,000 to \$5,000 and that costs of \$5,000, according to other cases, seem to be appropriate in a case such as this.

22. Mr. Lane submitted that the need for specific deterrence had been tempered in that Mr. Robins had finally got the message and had already begun his rehabilitation.

23. After deliberating, the hearing reconvened and the Chair set out the terms of the order on the record. The formal written order, which was sent to the parties on March 4, 2008, reads as follows:

IT IS ORDERED in respect of the charges:

1. THAT Mr. Robins be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Robins 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. Robins 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. Robins be and he is hereby required to complete, by paying for and attending in their entirety, within twelve (12) months from the date this Decision and Order becomes final under the bylaws, or to prove he has taken since February 2007, the date of his last practice inspection, the following professional development courses made available through the Institute:
 - (a) *Financial Statement Presentation & Disclosure – A Practitioner's Workshop*;
 - (b) *Review Engagements*; and
 - (c) *Accounting Refresher*.or, in the event a course listed above becomes unavailable, the successor course which takes its place.
5. THAT Mr. Robins be and he is hereby required to have his practice supervised, at his own cost, for a period of eighteen (18) months, upon the following terms and conditions:

- (a) Mr. Robins shall, within thirty (30) days from the date this Decision and Order becomes final under the bylaws, file with the secretary of the discipline committee a supervised practice plan, which has been reviewed and approved by the director of standards enforcement, and which sets out the name and the detailed responsibilities of the supervisor, and which contains the agreement in writing of the supervisor to so act.
 - (b) The responsibilities of the supervisor shall include, at a minimum, the review and approval of Mr. Robins' working papers and financial statements prior to Mr. Robins' issuance of review reports.
 - (c) In the event the professional conduct committee finds Mr. Robins' choice of supervisor unacceptable, or there is any other issue relating to the supervised practice plan about which Mr. Robins and the professional conduct committee cannot agree, either may apply to the chair of the discipline committee at an assignment hearing for directions.
 - (d) The eighteen (18) month period of supervised practice shall commence on the day that Mr. Robins files the approved supervised practice plan in accordance with paragraph 5(a) above, or on the day the supervised practice plan is settled by the chair pursuant to paragraph 5(c) above, whichever of the days is the latest.
 - (e) The supervisor shall file a report in writing with the Institute confirming that he or she has supervised Mr. Robins for the stipulated period of time and confirming that there were no compliance issues with Mr. Robins' practice, this report to be provided to the Institute within thirty (30) days of the conclusion of the supervised practice.
- 6. THAT Mr. Robins be reinvestigated by the Professional Conduct Committee, or by a person retained by the Professional Conduct Committee, on one occasion, between six (6) months and one (1) year from the expiry of the period of supervised practice ordered in paragraph 5, fifty per cent of the cost of the reinvestigation, up to \$2,000, to be paid by Mr. Robins within thirty (30) days of receiving notification of the cost of the reinvestigation.
- 7. THAT notice of this Decision and Order, disclosing Mr. Robins' 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 all members of the Institute;
 - (b) to the Public Accountants Council for the Province of Ontario; and
 - (c) to all provincial institutes/Ordre,and shall be made available to the public.

8. THAT in the event Mr. Robins fails to comply with any of the requirements of this Order, he shall thereupon be suspended from the rights and privileges of membership in the Institute until such time as he does comply, provided that he complies within three (3) months from the date of his suspension, and in the event he does not comply within the three month period, 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. Robins' practice, employment and/or residence. All costs associated with the publication shall be borne by Mr. Robins and shall be in addition to any other costs ordered by the committee.
9. THAT in the event Mr. Robins fails to comply with any of the requirements of this Order, his public accounting licence shall thereupon be suspended until such time as he does comply, provided that he complies within three (3) months from the date of his suspension, and in the event he does not comply within the three month period, his licence shall thereupon be revoked. Notice of his licence suspension and revocation, disclosing his name, shall be given in the manner specified above, and in a newspaper distributed in the geographic area of Mr. Robins' practice, employment and/or residence. All costs associated with the publication shall be borne by Mr. Robins and shall be in addition to any other costs ordered by the committee.

Reprimand

24. The panel concluded that a reprimand was necessary as a specific deterrent and to reinforce the message that Mr. Robins seems to have finally understood, namely that he was required to practise in accordance with the requirements of the profession as they exist from time to time.

Fine

25. All members of the Institute, including those who after a period of time in industry open a public accounting practice must carry on practice in accordance with the then current requirements of the profession. It is important that they take appropriate steps to know and comply with the applicable standards.

26. Also, members should realize, as Mr. Robins apparently now realizes, that they should take the practice inspection program seriously. If Mr. Robins responded appropriately to the recommendations of the Practice Inspector and the order of the Practice Inspection Committee in February 2007, he could have avoided the pain and the cost of these discipline proceedings.

27. The panel concluded that a fine was required as both a specific deterrent to Mr. Robins and a general deterrent to other members. After reviewing other cases and considering the specific facts of this case, the panel concluded that a fine of \$5,000 was appropriate. The panel also concluded that Mr. Robins should be allowed 12 months in which to pay the fine.

Costs

28. The panel concluded that it was appropriate for Mr. Robins to reimburse the Institute for part of the costs of the investigation and prosecution. The panel was mindful of the fact that the order for costs is not intended to be a sanction; however, it does have a financial impact on the member. In fixing the amount of costs at \$5,000, the panel took into consideration the fact that the steps Mr. Robins had taken and would take pursuant to this order will also have a financial impact on him. As with the fine, Mr. Robins was given 12 months to pay the costs.

Supervised practice

29. The panel agreed with the Professional Conduct Committee that protection of the public required Mr. Robins to practise under supervision for a period of 18 months and to be reinvestigated by the Professional Conduct Committee after the period of supervised practice. Mr. Robins is to pay the costs of the investigation up to the amount of \$2,000.

30. The panel thought it was appropriate that the usual terms of an order of supervision apply in this case. Mr. Robins shall have 30 days to submit a supervised practice plan which must be approved by the Director of Standards Enforcements. The responsibilities of the supervisor shall include the review of Mr. Robins' working papers before he issues review reports. If there is a disagreement between Mr. Robins and the Director of Practice Inspection with respect to the supervisor or the practice plan, he may apply to the Chair of the Discipline Committee at an assignment hearing for directions. The supervisor shall report in writing to the Institute that he or she has supervised Mr. Robins' practice as required.

Professional development courses

31. The panel agreed that Mr. Robins should take professional development courses, unless he has already taken them subsequent to his last practice inspection.

Notice

32. The panel determined that general and specific deterrence required that notice disclosing Mr. Robins' name should be given to all members of the Institute, the Public Accountants Council for the Province of Ontario and to the other provincial institutes. In addition, notice shall be published in *CheckMark* and on the Institute's website.

Consequences for failure to comply with the order

33. An order of the Discipline Committee would be meaningless if there were not consequences for failure of a member to comply with the order. In the event Mr. Robins fails to comply with the order, he should be suspended, and notice similar to the notice provided for above, shall be given of his suspension. Further, if he remains suspended for three months because he has still not complied with the terms of the order, he shall be expelled; and notice of his expulsion, similar to the notice provided for above shall be given, and in addition, notice of his expulsion shall be published in a newspaper in the geographic area of Mr. Robins' practice or residence.

DATED AT TORONTO THIS 15th DAY OF AUGUST 2008
BY ORDER OF THE DISCIPLINE COMMITTEE

D.W. DAFOE, FCA – DEPUTY CHAIR
DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

D.J. ANDERSON (PUBLIC REPRESENTATIVE)
P.J. HOLT, CA
G. KROFCHICK, CA