

Peter Frederick Monsen: Summary, as Published in *CheckMark*

Peter Frederick Monsen, of Ennismore, 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; one charge under Rule 202 of failing to perform his professional services with due care and integrity; one charge under Rule 205 of signing or associating himself with reports, representations or statements which he knew or should have known were false or misleading; and one charge under Rule 218 of failing to retain for a reasonable period of time such working papers, records or other documentation which reasonably evidence the nature and extent of the work done. In making investments for clients through an investment company which he controlled, Mr. Monsen misappropriated approximately \$134,000, by taking as management fees a percentage of gains supposedly accrued on certain investments, knowing that the gains on which he calculated his fees did not exist. He overstated the security of the investments, and failed to disclose their speculative nature; prepared and distributed false or misleading quarterly account summaries; and failed to retain evidence of work done to calculate the accrued gains reported. Mr. Monsen was fined \$30,000 and expelled from the Institute.

CHARGE(S) LAID re Peter Frederick Monsen

The Professional Conduct Committee hereby makes the following charges against Peter F. Monsen, CA, a member of the Institute:

1. THAT, the said Peter F. Monsen, in or about the period December 31, 1993 to June 30, 1997 signed or associated himself with reports, representations or statements which he knew or ought to have known were false or misleading, in that he prepared quarterly Account Summaries and Gains Calculations for PFM Investments which showed "actual capital gains" and "capital gains realized" and distributed them to the investors in PFM Investments when he knew or should have known that there were no actual or realized capital gains in the stated amounts, contrary to Rule 205 of the rules of professional conduct.
2. THAT, the said Peter F. Monsen, in or about the period April 1, 1993 to June 30, 1997, failed to conduct himself in a manner which will maintain the good reputation of the profession and its ability to serve the public interest, in that he misappropriated approximately \$134,000 by taking as management fees a percentage of the gains accrued on the investments in PFM Investments when he knew that the gains on which he calculated his management fees did not exist, contrary to Rule 201.1 of the rules of professional conduct.
3. THAT, the said Peter F. Monsen, in or about the period May 1, 1993 to June 30, 1997, failed to perform his professional services with due care and integrity, in that having been entrusted by various individuals to invest money for them through PFM Investments, an investment group which he controlled;
 - (a) he invested the money without disclosing to the investors the speculative nature of the investments; and
 - (b) he overstated to the investors the security of the investments; contrary to Rule 202 of the rules of professional conduct.
4. THAT, the said Peter F. Monsen, in or about the period May 1, 1993 to June 30, 1997, failed to retain for a reasonable period of time such working papers, records or other documentation which reasonably evidence the nature and extent of the work done in calculating the accrued gains he reported on the quarterly statements he prepared for PFM Investments, contrary to Rule 218 of the rules of professional conduct.

Dated at Toronto this 11th day of May, 1999.

UWE MANSKI, FCA
DEPUTY CHAIR, PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Peter Frederick Monsen

DECISION AND ORDER IN THE MATTER OF: Charges against **PETER FREDERICK MONSEN, CA**, a member of the Institute, under **Rules 201.1, 202, 205 and 218** of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE NOVEMBER 9, 1999

DECISION

THAT, having seen and considered the evidence, including the agreed statements of facts, filed, and having heard the plea of guilty to charges Nos. 1, 2, 3 and 4, the Discipline Committee finds Peter Frederick Monsen guilty of charges Nos. 1, 2, 3 and 4.

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Monsen be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Monsen be and he is hereby fined the sum of \$30,000, 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. Monsen be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Monsen'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 *Peterborough Examiner* and *The Globe and Mail* newspapers.
5. THAT Mr. Monsen 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 12TH DAY OF NOVEMBER 1999
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re Peter Frederick Monsen

REASONS FOR DECISION AND ORDER IN THE MATTER OF: Charges against **PETER FREDERICK MONSEN, CA**, a member of the Institute, under **Rules 201.1, 202, 205 and 218** of the Rules of Professional Conduct, as amended.

REASONS FOR THE DECISION AND ORDER MADE NOVEMBER 9, 1999

This panel of the discipline committee of the Institute of Chartered Accountants of Ontario met on November 9, 1999 to hear evidence concerning charges brought by the professional conduct committee against Peter Frederick Monsen.

The professional conduct committee was represented by Ms. Deborah McPhadden, who was accompanied by the professional conduct committee's investigator, Mr. John Douglas.

Mr. Peter F. Monsen appeared without the benefit of counsel, and confirmed that he understood he had the right to counsel, but wished to represent himself.

THE CHARGES

The charges, dated May 11, 1999, which were filed as Exhibit 3, read as follows:

1. THAT, the said Peter F. Monsen, in or about the period December 31, 1993 to June 30, 1997 signed or associated himself with reports, representations or statements which he knew or ought to have known were false or misleading, in that he prepared quarterly Account Summaries and Gains Calculations for PFM Investments which showed "actual capital gains" and "capital gains realized" and distributed them to the investors in PFM Investments when he knew or should have known that there were no actual or realized capital gains in the stated amounts, contrary to Rule 205 of the rules of professional conduct.
2. THAT, the said Peter F. Monsen, in or about the period April 1, 1993 to June 30, 1997, failed to conduct himself in a manner which will maintain the good reputation of the profession and its ability to serve the public interest, in that he misappropriated approximately \$134,000 by taking as management fees a percentage of the gains accrued on the investments in PFM Investments when he knew that the gains on which he calculated his management fees did not exist, contrary to Rule 201.1 of the rules of professional conduct.
3. THAT, the said Peter F. Monsen, in or about the period May 1, 1993 to June 30, 1997, failed to perform his professional services with due care and integrity, in that having been entrusted by various individuals to invest money for them through PFM Investments, an investment group which he controlled;
 - (a) he invested the money without disclosing to the investors the speculative nature of the investments; and
 - (b) he overstated to the investors the security of the investments;

(c) contrary to Rule 202 of the rules of professional conduct.

4. THAT, the said Peter F. Monsen, in or about the period May 1, 1993 to June 30, 1997, failed to retain for a reasonable period of time such working papers, records or other documentation which reasonably evidence the nature and extent of the work done in calculating the accrued gains he reported on the quarterly statements he prepared for PFM Investments, contrary to Rule 218 of the rules of professional conduct.

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

THE DECISION AND ORDER

After hearing the evidence, and upon deliberation, the panel found Mr. Monsen guilty of all four charges. We then heard submissions with respect to sanction, and, after further deliberation, made our Order expelling Mr. Monsen from the Institute, and fining him \$30,000. Our complete Decision and Order reads as follows:

DECISION

THAT, having seen and considered the evidence, including the agreed statements of facts, filed, and having heard the plea of guilty to charges Nos. 1, 2, 3 and 4, the Discipline Committee finds Peter Frederick Monsen guilty of charges Nos. 1, 2, 3 and 4.

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Monsen be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Monsen be and he is hereby fined the sum of \$30,000, 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. Monsen be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Monsen'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 *Peterborough Examiner* and *The Globe and Mail* newspapers.
5. THAT Mr. Monsen 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.

Set out below are the panel's reasons for the Decision and Order of November 9, 1999.

REASONS FOR THE DECISION ON THE CHARGES

Counsel for the professional conduct committee filed an agreed statement of facts, and a four volume document brief which included copies of the relevant documents.

Ms. McPhadden reviewed the agreed statement of facts for the panel, and in doing so made specific reference to the document brief. The facts upon which the panel's findings of guilty were made can be briefly stated.

Mr. Monsen carried on an investment business under the name PFM Investments. While he was not registered to sell securities or give investment advice, he attracted individuals to invest in PFM, and had PFM enter into trust agreements with them, under which they authorized PFM to invest specified amounts of money for them.

The trust agreements provided that:

1. The agreement could be cancelled on ten days notice by either party.
2. Upon cancellation, all funds plus accrued gains would be paid within ten days of receipt of the cancellation notice.
3. Gains would be paid out quarterly on a calendar year basis, and could be reinvested if mutually agreed.
4. PFM would charge a management fee, equal to one half of the gains accrued on a quarterly basis in excess of 18%. If gains of 18% per year were not achieved, there was to be no fee charged.

Mr. Monsen made quarterly reports, which included both an "account summary" and a "realized gain calculation". He acknowledged in the agreed statement of facts that the investments had not realized the capital gains shown on these statements, and that the statements were false and misleading, in breach of Rule 205. Accordingly, Mr. Monsen was found guilty of charge No. 1.

Mr. Monsen took management fees of approximately \$134,000 in the period between April 1, 1993 and June 30, 1997, on a net amount invested of approximately \$274,000. In addition, he paid David and Toulia Henry, his first two investors, approximately \$30,000 for investor referrals. By the terms of his agreement with the Henrys, their fees were supposed to be paid out of Mr. Monsen's management fees, but instead Mr. Monsen paid their fees directly out of the investment pool. Mr. Monsen acknowledged that he was not entitled to any management fees, as he failed to achieve the qualifying gains under the trust agreements, and that, as a result, he misappropriated in excess of \$160,000 from his investors. Mr. Monsen was found guilty of charge No. 2, in breach of Rule 201.1.

Mr. Monsen did not tell the investors the speculative nature of the investments he was making on their behalves, and he overstated the security which the investors had. As a result, Mr. Monsen breached Rule 202, and, accordingly, was found guilty of charge No. 3.

Finally, Mr. Monsen admitted that he had not maintained working papers to show how he calculated the gains which PFM Investments reported. Accordingly, he was in breach of Rule 218, and was found guilty of charge No. 4.

On June 10, 1997, Mr. Monsen advised the investors, in a letter signed Peter F. Monsen, CA, that PFM Investments was discontinuing effective June 30, 1997, and that it would take approximately 60 to 90 days to liquidate all the investments, at which time the funds would be

distributed. It seems that there were few if any investments, little or no liquidation, and no distribution.

REASONS FOR THE ORDER AS TO SANCTION

Neither Ms. McPhadden nor Mr. Monsen called evidence with respect to sanction. Ms. McPhadden made submissions on sanction, but Mr. Monsen did not.

The professional conduct committee sought expulsion and a fine in the range of \$25,000 to \$30,000 as a general deterrent to other like-minded members. Ms. McPhadden made reference to the decisions of the discipline committee and the appeal committee in the case of Thomas Andrew Silverman. She submitted that, like the Silverman case, this is a case of moral turpitude, and that, as Mr. Monsen stole from many people, in contrast to Mr. Silverman who stole from only one, a fine should be imposed on Mr. Monsen in an amount greater than the \$25,000 fine which was imposed on Mr. Silverman.

Many people lost a significant amount of money as a result of trusting Mr. Monsen. Many of the investors were not wealthy people, and were counting on their investments to generate money for basic personal needs. Mr. Monsen knew he was dealing with people of modest means, and on the evidence we heard we can only conclude that he took the money for his own use, quite indifferent to the impact on his investors, and to the trust they had imposed in him.

The panel considered the three general principles which govern the imposition of sanction. Mr. Monsen provided no evidence that he was capable of rehabilitation, and made no submissions to suggest that any order would provide a sufficient specific deterrent to preclude future repetition of his misconduct. The panel concluded that the principle of general deterrence required that Mr. Monsen be expelled, and that he be fined a significant sum. He demonstrated a thorough disregard for the interests of those who entrusted him with their savings on the basis of his skill, knowledge and integrity as a chartered accountant. There is no place on the membership roll of the Institute for an individual who so recklessly and callously breaches such trust.

DATED AT TORONTO THIS DAY OF FEBRUARY, 2000
BY ORDER OF THE DISCIPLINE COMMITTEE

L.P. BOOKMAN, CA – DEPUTY CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

E.R. ARCHIBALD, CA
H.B. BERNSTEIN, CA
M.A. MANERA, CA
S.W. SALTER, CA
B. RAMSAY (Public representative)