

Ralph Robert Patrick Rutherford: Summary, as Published in *CheckMark*

Ralph Robert Patrick Rutherford, of Port Hope, was found guilty of a charge under Rule 206 of failing to perform his professional services in accordance with generally accepted standards of practice of the profession. While engaged to perform an audit, Mr. Rutherford failed to perform sufficient audit work in respect of accounts receivable, inventory, accounts payable, financial statement assertions, and subsequent events, to enable him to express an opinion on the financial statements of the client company. Mr. Rutherford was fined \$3,000, ordered to complete four professional development courses, and required to practise under supervision with respect to audits until the successful completion of a reinvestigation of his practice by the professional conduct committee.

CHARGE(S) LAID re Ralph Robert Patrick Rutherford

The Professional Conduct Committee hereby makes the following charges against R.R. Patrick Rutherford, CA, a member of the Institute:

1. THAT, the said R.R. Patrick Rutherford, while engaged to perform an audit of the financial statements of Canada Case Company Limited for the four months ended August 31, 1995, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, including the Recommendations set out in the *CICA Handbook*, contrary to Rule 206 of the rules of professional conduct, in that,
 - (a) he failed to obtain sufficient appropriate audit evidence to support the item 'Accounts receivable, \$360,057'
 - (b) he failed to perform generally accepted auditing procedures in respect of inventories, including tests of inventory quantities with confirmatory evidence and tests of the pricing of the inventory items;
 - (c) he failed to obtain sufficient appropriate audit evidence to support the item 'Accounts payable, \$442,341';
 - (d) he failed to perform any substantive test of transactions;
 - (e) he failed to obtain sufficient appropriate audit evidence to support the note stating that there was a first mortgage payable of \$365,000; and
 - (f) he failed to perform appropriate procedures to determine whether events occurred in the period from August 31, 1995 to the date of his report or as close to that date as was reasonable and practicable, which may have required adjustment to or disclosure in the financial statements.
2. THAT, the said R.R. Patrick Rutherford, while engaged to perform an audit of the financial statements of Dalton Rd Supplies Ltd. for the year ended September 30, 1996, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, including the Recommendations set out in the *CICA Handbook*, contrary to Rule 206 of the rules of professional conduct, in that,
 - (a) he failed to perform any testing of transactions; and
 - (b) he failed to obtain sufficient appropriate audit evidence to support the note stating that there was a first mortgage payable of \$473,525.

Dated at Toronto, this 26th day of June, 1997

MARTHA DUNLOP, FCA - DEPUTY CHAIR
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Ralph Robert Patrick Rutherford

DECISION AND ORDER IN THE MATTER OF: Charges against **RALPH ROBERT PATRICK RUTHERFORD, CA**, a member of the Institute, under **Rule 206** of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE NOVEMBER 25, 1997

DECISION

THAT, having seen, heard and considered the evidence, the Discipline Committee finds Ralph Robert Patrick Rutherford not guilty of charge No. 2, as amended, and guilty of charge No. 1, as amended.

ORDER

IT IS ORDERED in respect of charge No. 1, as amended:

1. THAT Mr. Rutherford be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Rutherford be and he is hereby fined the sum of \$3,000, to be remitted to the Institute within thirty (30) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Rutherford be and he is hereby required to complete, by attending in their entirety, within twelve (12) months from the date this Decision and Order becomes final under the bylaws, the following professional development courses made available through the Institute:
 - Accounting & Auditing Update;
 - Auditing Refresher;
 - Developing an Audit Strategy; and
 - Practical Skills for Reviewing Audit Files;

or, in the event a course listed above becomes unavailable, the successor course which takes its place.
4. THAT Mr. Rutherford not sign audit reports until satisfactory completion of the four professional development courses required to be completed pursuant to paragraph 3.
5. THAT Mr. Rutherford's practice be supervised until the successful completion of the reinvestigation ordered pursuant to paragraph 6, in that he not issue audit reports without first having a member of the Institute licensed to practise public accounting in Ontario review his audit work and sign the working paper file as evidence of the review.

6. THAT Mr. Rutherford 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, up to \$2,000, to be paid by Mr. Rutherford.
7. THAT notice of this Decision and Order, disclosing Mr. Rutherford'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; and
 - (c) by publication in *CheckMark*.
8. THAT in the event Mr. Rutherford fails to comply with the requirements of this Order within the time periods specified, 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 addition, by publication in a local Port Hope newspaper.

DATED AT TORONTO THIS 2ND DAY OF DECEMBER 1997
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re Ralph Robert Patrick Rutherford

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: Charges against **RALPH ROBERT PATRICK RUTHERFORD, CA**, a member of the Institute, under **Rule 206** of the Rules of Professional Conduct, as amended.

REASONS FOR THE DECISION AND ORDER MADE NOVEMBER 25, 1997

These proceedings before this panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on November 25, 1997.

The decision on the charges and the order as to sanction were made known at the hearing, and the parties were told that written reasons would follow. These are the reasons of the discipline committee.

At the hearing, the professional conduct committee was represented by Mr. Paul Farley, and Mr. Rutherford attended with his counsel, Mr. Frank Bowman.

Two charges, relating to two separate companies' audited financial statements, had been laid against Mr. Rutherford. The charges alleged that, while engaged to perform an audit, he failed to perform his professional services in accordance with generally accepted standards of practice of the profession, including the Recommendations set out in the *CICA Handbook*, contrary to Rule 206 of the rules of professional conduct. Prior to Mr. Rutherford entering a plea, the professional conduct committee withdrew particular (e) of charge No. 1, and particular (b) of charge No. 2. Mr. Rutherford then pleaded not guilty to both charges as amended.

DECISION ON THE CHARGES

Counsel for the professional conduct committee called Mr. Ray G. Harris, FCA, the investigator, as a witness. Mr. Harris led the panel through a document brief that had been entered as an exhibit, and related a number of the documents to the particulars of the charges. In dealing with charge No. 1, Mr. Harris stated that, in his opinion, Mr. Rutherford did not do sufficient audit work in respect of accounts receivable, inventory, accounts payable, financial statement assertions, or subsequent events, in order to express an opinion on the financial statements of the client company. Concerning charge No. 2, Mr. Harris stated that, in his opinion, Mr. Rutherford failed to perform sufficient substantive procedures with respect to financial statement assertions related to significant account balances or classes of transactions.

Mr. Bowman did not cross-examine Mr. Harris, though members of the panel had some questions for the witness. When those questions were answered, Mr. Farley stated that the case for the professional conduct committee was completed. Mr. Bowman did not call any evidence with respect to the issue of guilt or innocence. Mr. Farley then made submissions with respect to guilt or innocence, but Mr. Bowman declined to do so.

Upon deliberation, the panel concluded that all the particulars set out in charge No. 1 had been proven, and that the departure from the required standard of practice was significant and constituted professional misconduct. Accordingly, the panel found Mr. Rutherford guilty of charge No. 1.

The panel was not persuaded, however, that charge No. 2 had been proven, and, accordingly, found Mr. Rutherford not guilty of charge No.2.

ORDER AS TO SANCTION

Having found Mr. Rutherford guilty of charge No. 1, the panel then moved on to the determination of the appropriate sanction. Neither party called evidence with respect to sanction, but counsel for both parties made submissions. Mr. Bowman, on behalf of Mr. Rutherford, took issue only with the quantum of the fine suggested by counsel for the professional conduct committee.

While acknowledging that all three general principles of sentencing, namely rehabilitation, general deterrence and specific deterrence, were relevant in this case, the panel concluded, upon deliberation, that rehabilitation and specific deterrence were the priorities, and that, in addition, there was a public interest protection issue which needed to be addressed. The panel made the following order:

ORDER

IT IS ORDERED in respect of charge No. 1, as amended:

1. THAT Mr. Rutherford be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Rutherford be and he is hereby fined the sum of \$3,000, to be remitted to the Institute within thirty (30) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Rutherford be and he is hereby required to complete, by attending in their entirety, within twelve (12) months from the date this Decision and Order becomes final under the bylaws, the following professional development courses made available through the Institute:

- Accounting & Auditing Update;
- Auditing Refresher;
- Developing an Audit Strategy; and
- Practical Skills for Reviewing Audit Files;

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

4. THAT Mr. Rutherford not sign audit reports until satisfactory completion of the four professional development courses required to be completed pursuant to paragraph 3.
5. THAT Mr. Rutherford's practice be supervised until the successful completion of the reinvestigation ordered pursuant to paragraph 6, in that he not issue audit

reports without first having a member of the Institute licensed to practise public accounting in Ontario review his audit work and sign the working paper file as evidence of the review.

6. THAT Mr. Rutherford 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, up to \$2,000, to be paid by Mr. Rutherford.
7. THAT notice of this Decision and Order, disclosing Mr. Rutherford'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; and
 - (c) by publication in *CheckMark*.
8. THAT in the event Mr. Rutherford fails to comply with the requirements of this Order within the time periods specified, 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 addition, by publication in a local Port Hope newspaper.

Reprimand

The panel was 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

The professional conduct committee requested a fine in the range of \$3,000 to \$5,000. The panel concurred with counsel for the professional conduct committee that a fine was important as both a general and a specific deterrent. Mr. Bowman addressed the issue of the quantum of the fine, and submitted that he thought it was on the high side. Taking into consideration the other costs resulting from its order, the panel felt that a fine in the amount of \$3,000 was appropriate in this case.

Professional Development Courses

The discipline committee believes that one of the purposes of the disciplinary process, in appropriate cases, is to encourage rehabilitation. This is of benefit both to the member and to the public which the member serves. The panel agreed that the courses recommended by the professional conduct committee would help Mr. Rutherford update his skills, and assist in his rehabilitation. Mr. Rutherford also agreed, Mr. Bowman stated, as demonstrated by the fact that, prior to the hearing, his client had enrolled in and paid for the recommended courses. As an added measure of protection for the public, the panel ordered that Mr. Rutherford not sign audit reports until after completing the courses prescribed.

Reinvestigation

The panel decided that, to assist the member's rehabilitation, deter him from similar conduct in future, and help protect the public, Mr. Rutherford's practice should be reinvestigated by the professional conduct committee, between 18 and 24 months from the date the decision and order becomes final. The costs of the reinvestigation, up to \$2,000, are to be borne by Mr. Rutherford.

Supervised Practice

As Mr. Rutherford's practice had fallen below the accepted standard of the profession, the panel was concerned about how the interests of the public could be protected prior to the reinvestigation by the professional conduct committee. It was decided that the public interest required Mr. Rutherford's practice to be supervised by another chartered accountant licensed to practice public accounting in Ontario, who would review Mr. Rutherford's audit work prior to the issuance of audit reports.

Notice

Publication of the decision and order, including Mr. Rutherford's name, is, in the opinion of the panel, a general deterrent. Communication of the fact that the profession views breaches of its bylaws and rules of professional conduct seriously is an important factor in the governance of the profession. The disciplinary process of a self-governing professional body must be viewed by its members and the public as an open process.

DATED AT TORONTO THIS 17TH DAY OF MARCH, 1998.
BY ORDER OF THE DISCIPLINE COMMITTEE

D.P. SETTERINGTON, CA - DEPUTY CHAIR
THE DISCIPLINE COMMITTEE
MEMBERS OF THE PANEL:
M. BRIDGE, CA
S.A. GOODMAN, CA
G.A. PORTER, CA
F. SAMMEROFF, FCA
B.A. YOUNG (Public representative)