

Robert Bruce Johnstone: Summary, as Published in *CheckMark*

Robert Bruce Johnstone, of Burlington, was found guilty of a charge of professional misconduct, under Rule 203.2, arising from his failure to cooperate with the professional conduct committee in its investigation of seven separate complaints against him. Mr. Johnstone did not attend his discipline hearing. He was fined \$7,000, and expelled from the Institute. The discipline committee also ordered that Burlington area newspapers be given notice of its decision and order.

CHARGE(S) LAID re Robert Bruce Johnstone

The Professional Conduct Committee hereby makes the following charge against Robert Bruce Johnstone, a suspended member of the Institute:

1. THAT, the said Robert Bruce Johnstone, in or about the period March 12, 1992 through to March 31, 1992, failed to co-operate with officers, servants or agents of this Institute appointed to arrange or conduct an investigation on behalf of the professional conduct committee, contrary to Rule 203.2 of the Rules of Professional Conduct.

DATED at Toronto this 31st, day of March, 1992.

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

DISCIPLINE COMMITTEE re Robert Bruce Johnstone

DECISION AND ORDER IN THE MATTER OF: A charge against ROBERT BRUCE JOHNSTONE, a suspended member of the Institute, under Rule 203.2 of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE AUGUST 13, 1992

DECISION

THAT, having seen, heard and considered the evidence, and having determined to proceed with the hearing in the absence of Mr. Johnstone, 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 the charge, THE DISCIPLINE COMMITTEE FINDS Robert Bruce Johnstone guilty of the charge.

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Johnstone be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Johnstone be and he is hereby fined the sum of \$7,000, to be remitted to the Institute within ninety (90) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Johnstone be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Johnstone'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;
 - (c) to the Canadian Institute of Chartered Accountants; and
 - (d) to the local newspapers in the Burlington area.
5. THAT Mr. Johnstone 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.

DATED AT TORONTO, THIS 18TH DAY OF AUGUST, 1992
BY ORDER OF THE DISCIPLINE COMMITTEE i

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

DISCIPLINE COMMITTEE re Robert Bruce Johnstone

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: A charge against ROBERT BRUCE JOHNSTONE, a suspended member of the Institute, under Rule 203.2 of the Rules of Professional Conduct, as amended.

WRITTEN REASONS FOR THE DECISION AND ORDER MADE AUGUST 13, 1992

These proceedings before this panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on August 13, 1992.

Mr. Paul Farley attended on behalf of the professional conduct committee. Mr. Johnstone was not present. The committee secretary twice searched the common areas adjacent to the Council Chamber for Mr. Johnstone, and twice had him paged, but the member did not appear. The committee satisfied itself that the member had been properly served, and determined to proceed in the absence of Mr. Johnstone, pursuant to Institute Bylaw 87(2)(c).

The chair entered a plea of not guilty to the charge on behalf of Mr. Johnstone.

After hearing the evidence and submissions made by Mr. Farley, and after reviewing the exhibits filed, the discipline committee, after deliberation, found Mr. Johnstone guilty of the charge.

The reasons for the committee's finding of guilty are set out below.

The finding of guilty

The charge laid by the professional conduct committee against Mr. Johnstone was

THAT, the said Robert Bruce Johnstone, in or about the period March 12, 1992 through to March 31, 1992, failed to co-operate with officers, servants or agents of this Institute appointed to arrange or conduct an investigation on behalf of the professional conduct committee, contrary to Rule 203.2 of the Rules of Professional Conduct.

Affidavits filed on behalf of the professional conduct committee attested that

seven different letters of complaint against Mr. Johnstone had been received by the Institute's standards enforcement area;

the associate director of standards enforcement sent letters to Mr. Johnstone in respect of each complaint, asking him to respond;

- Mr. Johnstone responded to only two of the Institute's letters;
- as a result of his failures to respond, Mr. Johnstone was personally served with all relevant documentation, including a notice to attend a professional conduct committee meeting, by Mr. Brian Stanley, a process server who attended and gave evidence;

- Mr. Johnstone failed to attend the meeting;
- as a result of Mr. Johnstone's lack of cooperation, the professional conduct committee has been unable to proceed with its investigation into the complaints against him.

Mr. Stanley testified that, when he personally attended upon Mr. Johnstone to serve him with the relevant documentation, Mr. Johnstone indicated to him that he did not intend to respond to the complaints.

After making its finding of guilty on the charge, the discipline committee heard the submissions of the professional conduct committee with respect to sanction and, upon deliberation, made the following order:

ORDER

IT IS ORDERED with respect of the charge:

1. THAT Mr. Johnstone be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Johnstone be and he is hereby fined the sum of \$7,000, to be remitted to the Institute within ninety (90) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Johnstone be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Johnstone'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;
 - (c) to the Canadian Institute of Chartered Accountants; and
 - (d) to the local newspapers in the Burlington area.
5. THAT Mr. Johnstone 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.

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

There were seven separate complaints being investigated by the professional conduct committee. The complainants were individuals and small businesses who had entrusted Mr. Johnstone to complete their tax, bookkeeping, accounting or auditing needs. The complaints indicated a pattern by Mr. Johnstone of failing to meet tax filing deadlines, return telephone calls, complete assignments, and return books, records and tax returns. Such conduct does significant damage to the profession as a whole.

This committee could not, and did not attempt to, determine whether any or all of the complaints and allegations against Mr. Johnstone were true or not, nor was it necessary for it to do so. Mr. Johnstone had an obligation to respond expeditiously to the letters concerning the complaints made against him, and he failed to fulfil his obligation. He did not attend before the professional conduct committee, nor did he attend the assignment hearing or the hearing. The only

conclusion this committee can reach is that Mr. Johnstone is ungovernable and unwilling to abide by the Institute's bylaws and rules of professional conduct. Accordingly, it is the committee's view that the only appropriate sanction is the expulsion of Mr. Johnstone from the Institute.

The professional conduct committee submitted that, in addition to expulsion, a fine should be levied against Mr. Johnstone in the range of \$3,000. The committee agreed that a fine was appropriate in this case, both as a general deterrent to like-minded members, and as a demonstration to the public of the profession's intolerance of the type of behavior demonstrated by Mr. Johnstone. The quantum suggested by the professional conduct committee, however, was considered to be inadequate. Mr. Johnstone's failure to cooperate with the professional conduct committee's investigation is totally unprofessional conduct. In addition, and more importantly, his failure to respond to the needs of his clients, leaving them unable to fulfil financial reporting responsibilities and tax filing requirements, is completely intolerable behavior, which undermines the public's trust in the profession as a whole. The image of chartered accountants has undoubtedly suffered in the eyes of the complainants in this case, and as they recount to others their unhappy experiences with Bruce Johnstone, chartered accountant, the damage to the profession will continue. In light of these considerations, the committee determined the appropriate fine in this case to be \$7,000.

The committee ordered its normal publicity, including disclosure of Mr. Johnstone's name. In addition, the committee felt it important that Mr. Johnstone's expulsion be communicated to the community in which he lives and works. The public should be made aware that he is no longer associated with the chartered accountancy profession. For this reason, the committee ordered that local area newspapers be notified of its decision and order. For this reason also Mr. Johnstone was ordered to return his certificate of membership to the Institute.

DATED AT TORONTO, THIS 7th DAY OF October, 1992
BY ORDER OF THE DISCIPLINE COMMITTEE

R.C.H. ANDREWS, CA - CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

K.V. CHERNICK, FCA
L.R. FLEMMING, CA
H.R. KLEIN, CA
P. RAYSON, CA
B.W. BOWDEN, PhD (Public representative)