

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

**DISCIPLINE COMMITTEE**

**IN THE MATTER OF:** Charges against **ROBERT GARY ADOLF MANN**, a member of the Institute, under **Rule 206.1** of the Rules of Professional Conduct, as amended.

**TO:** Mr. Robert G.A. Mann, CA  
59 Palmer Road  
GRIMSBY, ON L3M 5L4

**AND TO:** The Professional Conduct Committee, ICAO

**REASONS**

**(Decision and Order Made November 29, 2006)**

1. This panel of the Discipline Committee of the Institute of Chartered Accountants of Ontario met on November 29, 2006 to hear charges of professional misconduct brought by the Professional Conduct Committee against Robert Gary Adolf Mann, a member of the Institute.
2. Mr. Paul Farley appeared on behalf of the Professional Conduct Committee. Mr. Mann did not attend, nor was he represented by counsel or an agent.
3. On November 28, 2006, Mr. Mann faxed a letter to the Discipline Committee which indicated he would not be present and would like the matter to move forward in his absence. Accordingly, the panel decided, pursuant to Bylaw 560, that it would proceed in Mr. Mann's absence.
4. The decision of the panel was made known at the conclusion of the hearing and the written Decision and Order was sent to the parties on December 21, 2006. These Reasons, given pursuant to Bylaw 574, include the charges, the decision, the order and the reasons of the panel for its decision and order.

**CHARGES**

5. The following charges were laid against Mr. Mann by the Professional Conduct Committee on July 24, 2006:

1. THAT, the said Robert G. A. Mann, in or about the period August 1, 2004 through November 1, 2004, while engaged to perform an audit of the financial statements of W.N. Family Centre for the year ended March 31, 2004 failed to perform his professional services in accordance with generally accepted standards of practice of the profession, including the recommendations in the CICA Handbook, contrary to Rule 206.1 of the rules of professional conduct, in that;
  - (i) the Auditor's Report is not in accordance with requirements of the *CICA Handbook*;

- (ii) he failed to qualify his report when he was unable to audit the completeness of revenue from fundraising activities;
  - (iii) he failed to adequately assess materiality and the components of audit risk at the planning stage of the engagement;
  - (iv) he failed to disclose that certain of the fund balances shown on the financial statements were restricted;
  - (v) he failed to carry out sufficient appropriate audit procedures with respect to the balance sheet item "Accounts payable and accrued liabilities \$9,967";
  - (vi) he failed to carry out sufficient appropriate audit procedures with respect to grant revenue;
  - (vii) he failed to adequately communicate with those having oversight responsibility prior to completion of the audit;
  - (viii) he failed to adequately communicate with those having oversight responsibility matters relating to auditor's independence;
  - (ix) he failed to properly document matters that are important in providing evidence to support the conclusion expressed in his report.
2. THAT, the said Robert G. A. Mann, in or about the period December 1, 2004 through March 1, 2005, having prepared a report entitled "Auditor's Report" which referred to his having "...examined the books and records of "...T United Church..." for the year ended December 31, 2004, and having signed the report "Robert Mann Auditor" failed to perform his professional services in accordance with generally accepted standards of practice of the profession, including the recommendations in the CICA Handbook, contrary to Rule 206.1 of the Rules of Professional Conduct, in that;
- (i) the "Auditor's Report" is not in accordance with the requirements of the CICA Handbook;
  - (ii) he failed to carry out sufficient appropriate audit procedures with respect to the matters referred to in the "Auditor's Report".

## **PLEA**

6. It is the usual practice of the Discipline Committee, if a hearing proceeds in the absence of a member, to enter a plea of not guilty on the member's behalf. However, Mr. Mann's letter of November 28, 2006, reads as follows:

Dear Discipline Committee:

Please accept the attached plea of guilty to the charges 1 and 2 as presented in the Agreed Statement of Facts.

I currently have the flu and am feeling under the weather and will not be able to attend the proceedings on November 29, 2006 and I would like this to move forward in my absence.

Yours very truly,

Robert Mann

Robert Mann CA

The Agreed Statement of Facts referred to in the letter was signed by Mr. Mann and by counsel for the Professional Conduct Committee on November 9, 2006. The letter was marked as Exhibit 6. The Agreed Statement of Facts was marked as Exhibit 7.

7. After consideration, a plea of guilty was entered on behalf of Mr. Mann.

### **EVIDENCE**

8. The evidence in this matter was received by way of the Agreed Statement of Facts (Exhibit 7) and an accompanying Document Brief (Exhibit 8). No further evidence was called on behalf of either party.

9. The evidence establishes that Mr. Mann failed to perform two audits of not-for-profit entities in accordance with the generally accepted standards of the profession.

### **DECISION**

10. After deliberating, the panel found that the failure to meet the standards of the profession was sufficiently significant to constitute professional misconduct, and made the following decision:

THAT, having seen and considered the evidence, and the plea of guilty to charge Nos. 1 and 2, including the agreed statement of facts, both filed, and having determined to proceed with the hearing in the absence of Mr. Mann pursuant to Bylaw 560, being satisfied that he had proper notice of the hearing, and having accepted his plea of guilty to charge Nos. 1 and 2, the Discipline Committee finds Mr. Robert Gary Adolph Mann guilty of charge Nos. 1 and 2.

### **SUBMISSIONS**

11. On behalf of the Professional Conduct Committee, Mr. Farley submitted that a reprimand; a fine in the amount of \$2,500; professional development courses; and full publicity of the matter would be an appropriate sanction. He also sought \$5,000 in costs. He advised the panel that Mr. Mann was aware of the terms of the order the Professional Conduct Committee would seek.

12. Mr. Farley stated that it was the position of the Professional Conduct Committee that the three principles which guide the Discipline Committee when imposing sanction: rehabilitation, general deterrence and specific deterrence, were all applicable in this standards case which did not involve moral turpitude or dishonesty.

13. Mr. Farley acknowledged that Mr. Mann was no longer practising public accounting, and that if he sought to do so in the future he would need to obtain a licence and would have to satisfy the Institute that he was competent to practise public accounting. Nevertheless, he submitted that rehabilitation was important as Mr. Mann would have the designation Chartered Accountant and accordingly should have the requisite knowledge and skills.

14. Mr. Farley submitted that the principle of general deterrence was important as members should know there would be serious consequences if they accept engagements they are not competent to perform. In Mr. Mann's financial circumstances, Mr. Farley submitted that the fine was both a significant specific deterrent and combined with the notice, given pursuant to Bylaw 575, would be a significant general deterrent.

15. With respect to costs, Mr. Farley noted that the actual costs incurred exceeded \$17,000, and provided an outline of costs to the panel (Exhibit 11). He submitted that the amount requested took into account Mr. Mann's financial circumstances and his cooperation with the investigation.

## ORDER

16. The panel deliberated and made the following order:

IT IS ORDERED in respect of the charges:

1. THAT Mr. Mann be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Mann be and he is hereby fined the sum of \$2,500 to be remitted to the Institute within six (6) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Mann be and he is hereby charged costs fixed at \$5,000 to be remitted to the Institute within six (6) months from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Mann be and he is hereby required to pay for and complete, 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, or, in the event a course listed below becomes unavailable, the successor course which takes its place:
  - (a) *Not-for-Profit Organizations – Accounting Issues;*
  - (b) *Not-for-Profit Organizations – Auditing Issues;* and
  - (c) *Staying Out of Trouble.*
5. THAT notice of this Decision and Order, disclosing Mr. Mann's 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; and
  - (b) to all provincial Institutes/Order; and
 and shall be made available to the public.
6. THAT in the event Mr. Mann 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. Mann's employment and/or residence. All costs associated with the publication shall be borne by Mr. Mann and shall be in addition to any other costs ordered by the committee.

## **REASONS FOR THE ORDER**

### ***Reprimand***

17. Mr. Mann's conduct fell significantly short of the conduct required of members of the profession. He accepted engagements he could not perform. He failed to keep current with the standards of the profession. The reprimand is intended to ensure that he is aware of the serious nature of his misconduct and to express disapprobation for such conduct.

### ***Fine***

18. A fine is necessary both as a specific deterrent to Mr. Mann and as a general deterrent to other members of the profession. Members should not accept engagements they cannot perform competently. Members must keep current with the required standards of the profession. The deficiencies in this case were significant and members should know that such deficiencies will not be tolerated.

### ***Costs***

19. It is appropriate that the member charged, rather than the membership as a whole, bear part of the costs occasioned by his misconduct. In this case, the \$5,000 ordered will not even approach partial indemnity for the costs incurred by the Institute. However, given the totality of the sanction and Mr. Mann's circumstances, this is an appropriate amount.

### ***Professional Development***

20. This is a standards matter, and the member appears remorseful, as evidenced by his cooperation and his guilty plea. He is an excellent candidate for rehabilitation. The public interest will be served by his rehabilitation. The courses ordered will help Mr. Mann gain competence in the area of not-for-profit entities and are particularly apropos as Mr. Mann is now employed in that sector.

### ***Notice***

21. Publishing the name of the member found guilty of professional misconduct is regarded as the single most significant sanction that can be administered. It serves as a specific deterrent and as a general deterrent. It helps educate the membership at large and demonstrates to the public that the Institute takes its role seriously. Such publication is to be ordered except in exceptional circumstances. No such circumstances were urged on the panel in this matter, and notice in the usual course has been ordered.

***Failure to Comply***

22. An order which did not have consequences for failure to comply with its terms would be meaningless. Accordingly the order provides that if Mr. Mann does not comply with the terms of the order he will be suspended, and if he is still not in compliance after three months from the date of his suspension, he will be expelled.

DATED AT TORONTO THIS 15<sup>th</sup> DAY OF JUNE, 2007  
BY ORDER OF THE DISCIPLINE COMMITTEE

D.W. DAFOE, FCA – CHAIR  
DISCIPLINE COMMITTEE

**MEMBERS OF THE PANEL:**

L.G. BOURGON, CA  
A. HANSON, CA  
R.A. WORMALD, FCA  
S.F. DINELEY, FCA  
P. MCBURNEY (PUBLIC REPRESENTATIVE)