

Roman Ihor Kuzan: Summary, as Published in *CheckMark*

Roman Ihor Kuzan, of Toronto, as reported in the December 1992 issue of *CheckMark*, was found guilty of two charges under Rule 104 of failing to promptly reply in writing to letters from the Institute, in respect of matters of professional conduct and practice inspection, respectively. Among other things, he was fined \$1,000. Mr. Kuzan's failure to pay the fine within the specified time resulted in his suspension from membership. His continued failure to pay the fine as required has resulted in his expulsion.

Roman Ihor Kuzan, of Toronto, was found guilty of two charges under Rule 104 of failing to promptly reply in writing to letters from the Institute, in respect of matters of professional conduct and practice inspection, respectively. Among other things, he was fined \$1,000, and ordered to promptly respond to the Institute's letters.

CHARGE(S) LAID re Roman Ihor Kuzan

The Professional Conduct Committee hereby makes the following charges against Roman I. Kuzan, a member of the Institute:

1. THAT, the said Roman I. Kuzan, failed to promptly reply in writing to a letter from the Institute, in respect of a matter of professional conduct, signed by an associate director of standards enforcement and dated and sent December 6, 1991, in which a reply was specifically requested, contrary to Rule 104 of the Rules of Professional Conduct.
2. THAT, the said Roman I. Kuzan, failed to promptly reply in writing to a letter from the Institute, in respect of a matter of practice inspection, signed by the director of practice inspection and dated and sent October 22, 1991, in which a reply was specifically requested, contrary to Rule 104 of the Rules of Professional Conduct.

DATED at Toronto this 20th day of February, 1992.

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

DISCIPLINE COMMITTEE re Roman Ihor Kuzan

DECISION AND ORDER IN THE MATTER OF: Charges against ROMAN IHOR KUZAN, CA, a member of the Institute, under Rule 104 of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE JULY 14, 1992

DECISION

THAT, having seen and considered the evidence, and having heard the plea of guilty to the charges, THE DISCIPLINE COMMITTEE FINDS Roman Ihor Kuzan guilty of charges Nos. 1 and 2.

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Kuzan be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Kuzan be and he is hereby fined the sum of \$1,000, 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. Kuzan provide an updated client listing to the Institute's director of practice inspection within ten (10) days from the date this Decision and Order becomes final under the bylaws.
4. THAT notice of this Decision and Order, disclosing Mr. Kuzan'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; and
 - (c) to the Canadian Institute of Chartered Accountants.
5. THAT in the event Mr. Kuzan fails to comply with any of the requirements of this Order within the time periods specified, he shall thereupon be suspended from the rights and privileges of membership in the Institute, and notice of his suspension, disclosing his name, shall be given in the manner specified in paragraph 4 hereof.
6. THAT in the event Mr. Kuzan is suspended pursuant to paragraph 5 hereof, the suspension shall terminate upon his compliance with the term of the Order in respect of which he was suspended, provided that he complies within thirty (30) days from the date of his suspension.
7. THAT in the event Mr. Kuzan fails to terminate suspension within thirty (30) days, 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 in paragraph 4 hereof.

DATED AT TORONTO, THIS 23RD DAY OF JULY, 1992
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re Roman Ihor Kuzan

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: Charges against ROMAN IHOR KUZAN, the Institute, under Rule 104 of the Rules of Professional Conduct, as amended.

WRITTEN REASONS FOR THE DECISION AND ORDER MADE JULY 14, 1992

These proceedings before a panel of the discipline committee of the Institute of Chartered Accountants of Ontario were commenced on May 15 and continued on July 14, 1992.

On May 15 Mr. Paul Farley attended on behalf of the professional conduct committee, and Mr. Kuzan appeared without counsel. The chair confirmed with Mr. Kuzan that he had been advised that he was entitled to legal counsel and that he understood that right.

The professional conduct committee had laid two charges under Rule of Professional Conduct 104. One charge alleged a failure on the part of Mr. Kuzan to promptly reply to a letter from the director of practice inspection, in respect of a matter of practice inspection. The other charge alleged a failure to promptly reply to a letter from the associate director of standards enforcement, in respect of a matter of professional conduct.

At the request of the member, the charges were read into the record by the chair.

Mr. Kuzan did not plead to the charges, so the chair entered a plea of not guilty on his behalf:

Shortly after counsel for the professional conduct committee commenced his case, it became clear to the committee that Mr. Kuzan was confused by the proceeding and was not adequately prepared to continue. The member requested an adjournment so that he might properly prepare and possibly consult counsel.

The committee deliberated and decided to grant the member's request for an adjournment, as he was so obviously confused and distressed by the proceedings. The adjournment was granted upon the clear understanding that Mr. Kuzan would be prepared to proceed on the continuance date. On the consent of all parties, July 14, 1992 was scheduled for the continuation of the hearing.

The proceedings were reconvened on July 14, with Mr. Farley again attending on behalf of the professional conduct committee, and Mr. Kuzan attending with counsel, Mr. Stephen Werbowyj.

At the outset of the proceedings on July 14, Mr. Kuzan changed his plea to both charges from not guilty to guilty.

The member and his counsel confirmed that they understood that upon the plea of guilty, and upon that basis alone, the member could be found guilty of the charges.

Counsel for the professional conduct committee then continued the prosecution's case, which he had begun on May 15, after which the member's counsel, Mr. Werbowyj, entered into evidence a letter from Mr. Kuzan's doctor, which indicated that the member had been diagnosed

with alcoholism, for which he was undergoing treatment, and was also suffering from high blood pressure.

The committee reviewed the document brief and the exhibits filed, which all indicated that Mr. Kuzan had not replied to Institute correspondence on a timely basis. Based upon the evidence presented in these exhibits and the member's plea of guilty, the discipline committee, upon deliberation, found Mr. Kuzan guilty of both charges.

After hearing submissions as to sanction, and following its deliberations, the committee made the following Order:

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Kuzan be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Kuzan be and he is hereby fined the sum of \$1,000, 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. Kuzan provide an updated client listing to the Institute's director of practice inspection within ten (10) days from the date this Decision and Order becomes final under the bylaws.
4. THAT notice of this Decision and Order, disclosing Mr. Kuzan'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; and
 - (c) to the Canadian Institute of Chartered Accountants.
5. THAT in the event Mr. Kuzan fails to comply with any of the requirements of this Order within the time periods specified, he shall thereupon be suspended from the rights and privileges of membership in the Institute, and notice of his suspension, disclosing his name, shall be given in the manner specified in paragraph 4 hereof.
6. THAT in the event Mr. Kuzan is suspended pursuant to paragraph 5 hereof, the suspension shall terminate upon his compliance with the term of the Order in respect of which he was suspended, provided that he complies within thirty (30) days from the date of his suspension.
7. THAT in the event Mr. Kuzan fails to terminate suspension within thirty (30) days, 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 in paragraph 4 hereof.

Briefly, the reasons for the committee's order are set out below.

A reprimand is necessary to stress to the member the unacceptability of his conduct and its impact on the profession.

Counsel for the professional conduct committee did not recommend a fine in this situation, and instead recommended a six-month period of supervised practice, followed by subsequent investigations. Although counsel for the member agreed that the supervised practice was reasonable, the committee did not feel that the evidence indicated that this sanction was appropriate. The committee also considered the evidence that indicated that Mr. Kuzan had, on May 5, 1992, finally replied to the correspondence that had resulted in the charges. As a result of the information in the reply, the practice inspection committee had determined there was no need to inspect the practice. These facts reinforced the committee's view that supervision of the member's practice was not necessary or appropriate in the circumstances.

The fine, in the amount of \$1,000, was considered appropriate by the committee as both a specific deterrent to the member and a general deterrent to the membership at large.

Counsel for the professional conduct committee, in his submissions on sanction, had recommended that the member provide an updated client listing to the Institute's director of practice inspection, and counsel for the member agreed that this request was appropriate. The committee also agreed, feeling that this would enable the director of practice inspection to determine whether or not there had been a change in the member's client list significant enough to indicate the necessity for a practice inspection.

The committee ordered that notice of its Order, including publication disclosing the member's name, be given, as both a specific deterrent to Mr. Kuzan and as a general deterrent to all members. Although counsel for the member made submissions with respect to this issue, the committee did not find there to exist in this case those kinds of rare and unusual circumstances necessary to warrant withholding the member's name from the notice.

As is the normal practice of the committee, it ordered that failure to comply with any of the requirements of the Order will result in suspension and, ultimately, expulsion of the member, so as to demonstrate to this member and all members the seriousness of failing to comply with Orders of the discipline committee.

DATED AT TORONTO, THIS 1ST DAY OF SEPTEMBER, 1992
BY ORDER OF THE DISCIPLINE COMMITTEE

P.A. CAMPOL, CA - DEPUTY CHAIR,
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

C.J. BURKE, FCA
K.V. CHERNICK, FCA
F.J. DUNN, CA
S.F. ANDRUNYK (Public representative)