

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

Roman Ihor Kuzan, of Toronto, was found guilty of two charges of professional misconduct 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. He was fined \$1,000, and ordered to promptly respond to the Institute's letters.

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.

CHARGE(S) LAID re Roman Ihor Kuzan

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

1. THAT, the said Roman I. Kuzan, failed to promptly reply in writing to a letter dated October 21, 1992 from the Institute in respect of a matter of professional conduct, signed by the associate director of standards enforcement and personally served on him on November 2, 1992, in which a written reply was specifically required, contrary to Rule 104 of the Rules of Professional Conduct.

DATED at Toronto this 26th day of November 1992.

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

DISCIPLINE COMMITTEE re Roman Ihor Kuzan

DECISION AND ORDER IN THE MATTER OF: A charge 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 APRIL 1, 1993

DECISION

THAT, having seen and considered the evidence, and having determined to proceed with the hearing in the absence of Mr. Kuzan, 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 Roman Ihor Kuzan guilty of the charge.

ORDER

IT IS ORDERED in respect of the charge:

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 \$3,000, 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 be and he is hereby expelled from membership in the Institute.
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 Mr. Kuzan 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 6TH DAY OF APRIL, 1993
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: A charge against ROMAN IHOR RUZAN, CA, a member of the Institute, under Rule 104 of the Rules of Professional Conduct, as amended.

WRITTEN REASONS FOR THE DECISION AND ORDER MADE APRIL 1 1993

These proceedings before this panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on April 1, 1993.

Ms. Deborah McPhadden attended on behalf of the professional conduct committee. Mr. Kuzan was not present at the hearing.

The discipline committee reviewed the affidavits of service of the Notice of Assignment Hearing and the Notice of Hearing, which were filed as exhibits. The committee was satisfied that Mr. Kuzan had proper notice of the hearing and determined to proceed with the hearing in his absence pursuant to Institute Bylaw 87(2)(c). Prior to proceeding, the secretary to the discipline committee searched the common areas around the hearing room, but Mr. Kuzan was not present.

A plea of not guilty was then entered on behalf of Mr. Kuzan to the following charge laid against him by the professional conduct committee:

THAT, the said Roman 1. Kuzan, failed to promptly reply in writing to a letter dated October 21, 1992 from the Institute in respect of a matter of professional conduct, signed by the associate director of standards enforcement and personally served on him on November 2, 1992, in which a written reply was specifically required, contrary to Rule 104 of the Rules of Professional Conduct

Counsel for the professional conduct committee provided an affidavit from the Institute's associate director of standards enforcement and a document brief setting out the correspondence. Counsel indicated that Ms. Olafson, who swore the affidavit, was in the building and could be called to testify, and, in particular, answer any questions members of the panel might have.

The panel did not think it was necessary to ask Ms. Olafson questions. It was clear from the facts set out in the affidavit that Mr. Kuzan had not replied to the letter from the associate director of standards enforcement, and, accordingly, he was found guilty of the charge.

After hearing the professional conduct committee's submissions on sanction, the panel made the following order:

ORDER

IT IS ORDERED in respect of the charge:

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 \$3,000, 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 be and he is hereby expelled from membership in the Institute.
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 Mr. Kuzan 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.

A copy of the order has already been sent to Mr. Kuzan. These are the reasons for the sanction imposed. In considering the matter; the panel concluded that Mr. Kuzan was ungovernable. This was his second conviction for failing to respond as required by the bylaws. Accordingly, no sanction was imposed with the objective of rehabilitating Mr. Kuzan. As he appears to be ungovernable, it is not clear that a sanction imposed with the intention of being a specific deterrent to him would be effective, but sanctions designed to specifically deter him are nevertheless appropriate. The panel did keep in mind the importance of general deterrence to all members.

Reprimand

The panel believes that a reprimand in writing from the chair of the hearing stresses to Mr. Kuzan the unacceptability of his conduct as a chartered accountant. This panel did not make a determination as to whether or not the complaints to which Mr. Kuzan failed to respond were justified. However, on the face of those complaints, members of the public have been adversely affected by Mr. Kuzan's failure to respond to them in a timely way. It is clear that his lack of cooperation with his clients has been detrimental to them, and the reputation of the profession cannot help but have suffered.

Fine

The panel concurs with counsel for the professional conduct committee that a fine serves both as a general and as a specific deterrent. In setting the amount of the fine at \$3,000, the panel took into consideration the other amounts already owed by Mr. Kuzan to the Institute and the panel's decision to expel Mr. Kuzan from membership in the Institute.

Expulsion

The panel's decision that Mr. Kuzan should be expelled from membership is based on the facts that:

- he has shown himself to be ungovernable by his failure to cooperate with the Institute, which gave rise to a discipline hearing in July 1992, as well as to the present case; and

- he failed to cooperate not just with Institute staff but with former clients who, as members of the public, have been treated in a way in *which* no client of a chartered accountant should be treated.

Notice

Publication of the committee's decision and order, disclosing Mr. Kuzan's name, is, in the opinion of the panel, a general deterrent. It is not within the scope of this hearing for the panel to pass judgment on the actions that provoked the original complaint to the Institute. It is, however, this panel's responsibility to ensure that members of the profession and the general public are made aware that failure to respond to an Institute communication in respect of a complaint from a member of the public will result in the imposition of very serious sanctions.

Certificate of membership

Since the protection of the public interest is one of the basic pillars of the profession, the panel concluded that it is of utmost importance that Mr. Kuzan no longer appear to be a member of the chartered accountancy profession after his expulsion. Accordingly, he was ordered to surrender his certificate of membership.

DATED AT TORONTO, THIS 5th DAY OF MAY, 1993
BY ORDER OF THE DISCIPLINE COMMITTEE

F.A. DROZD, FCA - DEPUTY CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

C.J. BURKE, FCA
F.J. DUNN, CA
L.W. RICH, CA
W.L. WOOD, CA
V.G. STAFL (Public representative)