

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO
THE CHARTERED ACCOUNTANTS ACT, 2010

DISCIPLINE COMMITTEE

IN THE MATTER OF: Charges against **RONALD BAKER, CA**, a member of the Institute, under **Rule 206.1** of the Rules of Professional Conduct, as amended.

TO: Mr. Ronald Baker, CA

AND TO: The Professional Conduct Committee, ICAO

REASONS
(Decision and Order made February 23, 2011)

1. This panel of the Discipline Committee of the Institute of Chartered Accountants of Ontario met on February 23, 2011, to hear charges of professional misconduct brought by the Professional Conduct Committee against Ronald Baker, a member of the Institute.
2. Ms. Alexandra Hersak appeared on behalf of the Professional Conduct Committee. Mr. Baker attended and was not represented by counsel. He acknowledged that he understood that he had the right to be represented by counsel, and that he waived that right. Glenn Stuart attended the hearing as counsel to the Discipline Committee.
3. The decision of the panel was made known at the conclusion of the hearing on February 23, 2011, and the written Decision and Order sent to the parties on March 2, 2011. These reasons, given pursuant to Bylaw 574, contain the charge, the decision, the order, and the reasons of the panel for its decision and order.

CHARGE

4. The following charges were laid against Mr. Baker by the Professional Conduct Committee on November 6, 2010:
 1. THAT the said Ronald Baker, in or about the period May 31, 2007 through November 30, 2007, while engaged to perform an audit of the financial statements of "HDN Limited" for the year ended May 31, 2007, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule 206.1 of the Rules of Professional Conduct, in that:
 - (a) he failed to properly assess risks of material misstatement;
 - (b) he failed to obtain sufficient and appropriate audit evidence to support the balance sheet item "Bank 74,309";
 - (c) he failed to obtain sufficient and appropriate audit evidence to support the balance sheet item "Receivables 15,688";

- (d) he failed to perform any testing of appropriateness of journal entries;
 - (e) the Auditor's Report attached to the financial statements failed to comply with the requirements of the *CICA Handbook* in that it does not indicate that differential reporting options were applied;
 - (f) with respect to the Statement of Income and Retained Earnings item "Income taxes – " to which the differential reporting alternative method was applied, he failed to ensure that the income tax rate or expense related to the income was reconciled to the statutory income tax rate or the dollar amount that would result from its application, and disclosed along with the nature and amount of each significant reconciling item; and
 - (g) he failed to adequately document items important to support his report.
2. THAT the said Ronald Baker, in or about the period December 31, 2007 through May 31, 2008, while engaged to perform a review of the financial statements of "GF Limited" for the year ended December 31, 2007, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule 206.1 of the Rules of Professional Conduct, in that:
- a) He failed to ensure adequate disclosure of the nature of related party transactions and the measurement basis used to record them;
 - b) He failed to ensure adequate disclosure of the significant accounting policy with respect to revenue recognition;
 - c) He failed to ensure adequate disclosure of the company's credit facilities;
 - d) He failed to properly classify and ensure adequate disclosure of the balance sheet item "Property held for sale 216,074";
 - e) He failed to properly classify and ensure adequate disclosure of the balance sheet item "Payable to related company (Note 5) 46,630"; and
 - f) He failed to document those matters required to support his review engagement report.
3. THAT the said Ronald Baker, in or about the period October 31, 2007 through April 30, 2008, while engaged to perform a review of the financial statements of "TASM Inc." for the year ended October 31, 2007, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule 206.1 of the Rules of Professional Conduct, in that:
- a) He failed to ensure adequate disclosure of the nature of related party transactions and the measurement basis used to record them;
 - b) He failed to properly classify and ensure adequate disclosure of the balance sheet item "Lien Notes Payable (Note 6) 125,141";
 - c) He improperly described the loans receivable on the balance sheet as

“Mortgages receivable (Note 3) 918,090” and in Note 3 as “Mortgages Receivable”;

- d) He failed to disclose the particulars of significant contractual obligations;
- e) He failed to carry out sufficient and appropriate enquiry, analysis and discussion to satisfy himself as to the plausibility of the balance sheet item “Bank 187,251”; and
- f) He failed to document those matters required to support his review engagement report.

PLEA

- 5. Mr. Baker entered a plea of not guilty to the charges.

EVIDENCE

6. The Professional Conduct Committee called as a witness Paul Gibel, FCA, the investigator retained in this matter. The Professional Conduct Committee filed a Document Brief (Exhibit 1), a Case Brief (Exhibit 2) and a CICA Handbook Cross Reference to Authorities (Exhibit 3) to which Mr. Gibel referred in the course of his evidence. Mr. Baker testified on his own behalf.

7. This matter had been referred by the Practice Inspection Committee upon the reinspection of Mr. Baker’s practice. This was the second reinspection of review files and the first reinspection of audit files. The deficiencies included lack of analytical procedures, lack of internal controls, lack of documentation and insufficient planning, and the practice inspection report noted little if any corrective action had been taken since the previous inspection.

8. Mr. Gibel, who was accepted by this Panel as an expert witness in competency matters, had interviewed Mr. Baker and reviewed the files in question after receiving confirmation from Mr. Baker as to their completeness. Mr. Gibel’s findings confirm the inadequacies outlined in the practice inspection report.

9. The audit file showed a lack of evidence and inadequate documentation to support balance sheet items, inadequate testing of journal entries and inadequate determination of internal controls. There was no indication of what steps were taken and who had performed the audit work. Mr. Gibel noted that Mr. Baker had used an out of date audit engagement completion checklist and the old form did not contain the appropriate sections to document the work performed.

10. Mr. Gibel referred to various inadequacies in the GF review engagement. Mr. Baker failed to adequately describe the nature of the relationship with related parties and disclose how revenue was recognized as required to alert readers and predict cash flows.

11. There were a number of disclosure deficiencies in the TASM review engagement including “Mortgages Receivable” that should have been classified as loans, inadequate disclosure of balance sheet items, and no documentation to support the plausibility of the bank balance.

12. Mr. Gibel stated that, although there were a lot of documents in the files, the material was difficult to review and work through, and there was a lack of analysis of what work had been done. He clarified that he could not say whether journal entries had been properly or improperly done but it was clear they had not been properly documented.

13. Mr. Baker filed documents pertaining to the three files under review. In respect of the audit of HDN, Mr. Baker stated that the reconciliation summary (Exhibit 7) was in his file. The summary of fees (Exhibit 9) was prepared by the company's bookkeeper and was used by Mr. Baker for receivables. Mr. Baker stated that he should have noted if the opening receivable agreed to the general account. This is the only audit Mr. Baker has done since 2002 and when performing the audit in 2006, he did not realize that there had been updates issued by CICA for audit procedures.

14. Mr. Baker stated that he is now performing the audit work properly, including a review of the journal entries, and has taken the course *Audit of Small Entities*. He indicated that deficiencies in the audit were an oversight since he was not using the correct checklists at the time.

15. In reference to the review file GF, a family business, Mr. Baker agreed that he did not make adequate disclosure of the nature of related party transactions, revenue recognition, credit facilities, and balance sheet items. However, Mr. Baker felt that the final results of his review were basically correct.

16. Mr. Baker submitted that he had provided detailed information on the related party transactions in his notes to the financial statements and that the bank had never raised any questions. He felt he had done the work required on the lien notes payable but failed to document it.

17. Mr. Baker noted that at the time he was dealing with a family illness which took up a great deal of his time and distracted him from his work. He felt that some of his work was inadequate, but he did not agree that he was guilty on all points in the charges.

SUBMISSIONS ON FINDING

18. Ms. Hersak submitted that the testimony provided by Mr. Gibel and the information provided in the document brief provide clear evidence of deficiencies in the files. Some of Mr. Baker's testimony indicates a lack of understanding of certain procedures required under the generally accepted standards of practice.

19. Mr. Baker stated that he did not feel he was guilty on all the points contained in the charges. It was explained to Mr. Baker that charges are considered in their entirety. Mr. Baker attempted to refute some points raised concerning deficiencies, submitting that he did do the work but had failed to properly document it.

DECISION

20. After deliberating, the panel made the following decision:

THAT, having seen, heard and considered the evidence, the Discipline Committee finds Ronald Baker guilty of charge Nos. 1, 2 and 3.

REASONS FOR FINDING

21. The panel was satisfied that the allegations set out in the charges of working paper file deficiencies for the one audit and two reviews had been proven. Although certain of the specific deficiencies were disputed by Mr. Baker, the refuting of such points was not supported by file documentation. In his evidence, Mr. Baker also conceded that there were some deficiencies in his work. Overall, the extent of the deficiencies supported the charges and the finding of guilt.

SANCTION

22. Neither party called evidence on sanction.

23. Ms. Hersak, on behalf of the Professional Conduct Committee, submitted that an appropriate sanction in this matter would be: a written reprimand; a fine in the amount of \$5,000; supervised practice for 24 months followed by a reinvestigation, four professional development courses; and the usual order with respect to publicity. The Committee also sought 50% of the costs of the investigation and hearing in the amount of \$12,000, and filed a Costs Outline (Exhibit 10). Ms. Hersak distributed a case brief containing similar competence cases: *Miller, Butler, Robins* and *Lange*.

24. Ms. Hersak submitted there is a public perception that members can be relied on to perform their work in a competent manner. Mr. Baker failed to adhere to the required standards and failed to keep up to date with standards applicable to the work he undertook. The sanctions requested would ensure that public trust in the profession was not misplaced and would assist Mr. Baker in his rehabilitation. The extent of the deficiencies must be considered, as must whether Mr. Baker fully understands his misconduct.

25. Mr. Baker stated he did not agree with a two-year supervision of his practice, noting that he does not really have any assurance engagements. Mr. Baker acknowledged that he made mistakes. With respect to costs, Mr. Baker indicated that he is in a difficult financial position and requested that the costs suggested by the Professional Conduct Committee be reduced.

ORDER

26. After deliberating, the panel made the following order:

IT IS ORDERED in respect of the charges:

1. THAT Mr. Baker be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Baker be and he is hereby fined the sum of \$5,000 to be remitted to the Institute within twenty four (24) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Baker be and he is hereby required to complete, by paying for and attending in their entirety, within twenty four (24) months from the date this Decision and Order becomes final under the bylaws, the following professional development courses made available through the Institute,
 - (a) *Auditing in the New CAS Environment*;
 - (b) *Review Engagements*;
 - (c) *Accounting Refresher - Canadian*; and
 - (d) *Accounting, Auditing and Professional Practice Update*,
 or, in the event a course listed above becomes unavailable, the successor course which takes its place.
4. THAT, Mr. Baker be and he is hereby required to complete a twenty four (24) month period of supervised practice, at his own cost, under the terms and conditions set out below:

- (a) Mr. Baker shall, within thirty (30) days from the date this Decision and Order becomes final under the bylaws, file with the secretary of the discipline committee a supervised practice plan, which has been reviewed and approved by the director of standards enforcement, and which sets out the name of the supervisor who must be a member of the Institute who is licensed to practice public accounting, and which contains the agreement in writing of the supervisor to so act.
 - (b) The responsibilities of the supervisor shall include, at a minimum, the review and approval of Mr. Baker's working papers and financial statements for assurance engagements prior to Mr. Baker's issuance of any reports.
 - (c) In the event the professional conduct committee finds Mr. Baker's choice of supervisor unacceptable, or there is any other issue relating to the supervised practice plan about which Mr. Baker and the professional conduct committee cannot agree, either may apply to the chair of the discipline committee at an assignment hearing for directions.
 - (d) The twenty four (24) month period of supervised practice shall commence on the day that Mr. Baker files the approved supervised practice plan in accordance with paragraph 4(a) above, or on the day the supervised practice plan is settled by the chair pursuant to paragraph 4(c) above, whichever of the days is the latest.
 - (e) The supervisor shall file a report in writing with the Institute confirming that he or she has supervised Mr. Baker for the stipulated period of time and confirming that there were no compliance issues with Mr. Baker's practice, this report to be provided to the Institute within thirty (30) days of the conclusion of the supervised practice.
5. THAT Mr. Baker be reinvestigated by the professional conduct committee, or by a person retained by the professional conduct committee, on one occasion between six (6) and twelve (12) months from the termination of the supervised practice, the cost of the reinvestigation, up to \$2,000, to be paid by Mr. Baker within thirty (30) days of receiving notification of the cost of the reinvestigation.
 6. THAT notice of this Decision and Order, disclosing Mr. Baker'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;
 - (b) to the Public Accountants Council for the Province of Ontario; and
 - (c) to all provincial institutes/Ordre,
 and shall be made available to the public.
 7. THAT in the event Mr. Baker fails to comply with any of the requirements of this Order, he shall be suspended from the rights and privileges of membership in the Institute and his public accounting license shall be suspended until such time as he does comply, provided that he complies within thirty (30) days from the date of his suspension, and in the event he does not comply within the 30-day period, his membership in the Institute and his public accounting license shall be revoked, and notice of his membership and license revocation, disclosing his name, shall be given in the manner specified above, and in a newspaper distributed in the geographic

area of Mr. Baker's practice and/or residence. All costs associated with the publication shall be borne by Mr. Baker and shall be in addition to any other costs ordered by the committee.

AND IT IS FURTHER ORDERED:

8. THAT Mr. Baker be and he is hereby charged costs fixed at \$7,500 to be remitted to the Institute within twenty four (24) months from the date this Decision and Order becomes final under the bylaws.

REASONS FOR SANCTION

27. The panel concluded that a reprimand and a fine was necessary as a specific deterrent and to reinforce the message that Mr. Baker is required to practice in accordance with the requirements of the profession. It is important that members of the profession take appropriate steps to know and comply with the applicable current standards.

28. The panel noted that the charges were the result of a third inspection which was caused by the findings of a second inspection where it was noted that previous deficiencies from the first inspection had not been remedied. Members must realize that they should take the practice inspection program seriously. If Mr. Baker had responded appropriately to the comments from the first inspection, he could have avoided these charges.

29. The panel agreed with the Professional Conduct Committee that protection of the public required Mr. Baker to practice under supervision for a period of twenty four (24) months. Given the limited number of assurance engagements Mr. Baker stated he currently performs, it was felt twenty four (24) months was required to ensure Mr. Baker's compliance.

30. Members have a responsibility to perform their work with competence. The taking of the professional development courses will assist Mr. Baker in obtaining that competence and his rehabilitation as a competent member of the profession.

31. It is appropriate that a member charged, as opposed to the membership as a whole, bear in part the costs of the investigation and prosecution occasioned by his misconduct. The panel concluded that such costs be set at \$7,500.

DATED AT TORONTO THIS 26th DAY OF APRIL, 2011
BY ORDER OF THE DISCIPLINE COMMITTEE

S.F. DINELEY, FCA – DEPUTY CHAIR
DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:
R.H. CARRINGTON (PUBLIC REPRESENTATIVE)
J.H. FRIDAY, FCA
A.B. MINTZ, CA