

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: A charge against **RONALD EDWARD BLUMAS, CA** a member of the Institute, under **Rules 203.2(a)** of the Rules of Professional Conduct, as amended.

TO: Mr. Ronald E. Blumas, CA

AND TO: The Professional Conduct Committee, ICAO

REASONS
(Decision and Order made March 23, 2011)

1. This panel of the Discipline Committee of the Institute of Chartered Accountants of Ontario met on March 23, 2011, to hear a charge of professional misconduct brought by the Professional Conduct Committee against Ronald Edward Blumas, CA, a member of the Institute.

2. Alexandra Hersak represented the Professional Conduct Committee. Mr. Blumas 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 hearing on March 23, 2011, and the written Decision and Order sent to the parties on March 29, 2011. These reasons, given pursuant to Bylaw 574, include the charge, the decision, the order, and the reasons of the panel for its decision and order.

CHARGE

4. The following charge was laid against Mr. Blumas by the Professional Conduct Committee on May 19, 2010:

THAT the said Ronald E. Blumas, in or about the period July 7, 2008 to February 26, 2010, failed to co-operate with officers, servants or agents of the Institute who have been appointed to arrange or conduct a practice inspection, contrary to Rule 203.2(a) of the Rules of Professional Conduct.

PLEA

5. Mr. Blumas entered a plea of not guilty to the charge.

EVIDENCE

6. The evidence for the Professional Conduct Committee was presented by way of a Document Brief (Exhibit 6) and the testimony of Mr. Grant Dickson, FCA., Director of Practice Inspection and Ms. Tatiana Rabinovitch, CA, Associate Director of Standards Enforcement. Mr. Dickson testified that his role is to ensure that inspections are carried out for all full and part-time public accounting practices in Ontario every three years, as required under the bylaws. He testified that the Institute had confirmed at the end of Mr. Blumas' routine inspection in 2004 that no steps were required until the next inspection cycle. Mr. Blumas was contacted by a full-time inspector in 2007 to arrange a practice inspection, but it was agreed that it would be deferred to 2008 because Mr. Blumas requested a part-time inspector and none were then available. Mr. Blumas was asked to complete and return the practice inspection program planning questionnaire by June 2008. Despite a reminder sent to Mr. Blumas, no forms were received and the matter was referred to Standards Enforcement.

7. In response to Mr. Blumas' cross-examination about previous practice inspections of his firm and whether Mr. Dickson was aware of the reasons why Mr. Blumas would not cooperate, Mr. Dickson responded that all firms are subject to practice inspection. Mr. Dickson told the hearing that Mr. Blumas' practice was last inspected in the 2003-2004 practice inspection cycle.

8. Mr. Blumas sought to ask Mr. Dickson questions relating to civil litigation Mr. Blumas had commenced against the Institute, the events leading to that litigation and Mr. Dickson's knowledge of the issues addressed in that litigation. Mr. Dickson's knowledge of these matters was ruled to be not relevant to this proceeding. However, to the extent that his knowledge of the events related to his own state of mind with regard to the charge against him, the Chair advised Mr. Blumas that his questions regarding past practice inspections could be raised during Mr. Blumas' own testimony. If it became necessary to explore Mr. Dickson's knowledge, it was agreed that he could be recalled.

9. The Professional Conduct Committee called further evidence by way of the testimony of Ms. Rabinovitch. Ms. Rabinovitch reviewed the correspondence in Exhibit 6 concerning Mr. Blumas' failure to cooperate in the practice inspection process. Mr. Blumas' reply noted he was involved as the plaintiff in a lawsuit against the Institute arising from his 1997 and 1999 practice inspections, and made allegations against Council members, officers, committee members and others. Mr. Blumas' reply expressly stated he did not intend to respond to Mr. Dickson's letters. He indicated that he believed he was justified in not replying due to the same allegations of bad faith conduct by representatives of the Institute that formed the basis for his civil claim. However, Mr. Blumas did not provide additional evidence to Ms. Rabinovitch concerning his allegations of bad faith, despite further requests to do so.

10. Ms. Hersak filed the decision of the Appeal Court in the case of *Blumas v ICAO* released on February 3, 2011, which dismissed the civil litigation regarding Mr. Blumas' allegations of breach of statutory authority and defamation.

11. Mr. Blumas, during his cross-examination of Ms. Rabinovitch, referred to documents that had been submitted to the Professional Conduct Committee with his July 31, 2008 letter (Exhibit 8). Although Mr. Blumas' questions regarding these documents were permitted, Mr. Blumas was not permitted to ask further questions regarding the deliberations of the Professional Conduct Committee, on the basis that they are confidential and could not be disclosed.

12. During his own evidence, Mr. Blumas testified that his practice had been inspected since 1983, but problems had arisen during the 1997 inspection. He believed that the findings of the Practice Inspection Committee varied from those of the inspector, which led to a reinspection in 1999.

13. Mr. Blumas stated that his three questions to Mr. Dickson concerning his 1997 practice inspection had never been satisfactorily answered (Exhibit 9). Mr. Blumas had requested explanations of certain findings in the practice inspection report and reasons for decision to reinspect his practice, which he said were not reasonable or fair. He felt that he was entitled to answers to these questions on the basis that the Institute should be able to explain its decisions. This led to the litigation.

14. Mr. Blumas noted that he was tied up with the court case from 2000 to 2009, which was ultimately dismissed. Mr. Blumas stated he did not respond to Mr. Dickson's letters as he was not satisfied that his previous questions had been satisfactorily answered, and he believed that he would win the lawsuit.

15. Mr. Blumas stated that he had filed the requested forms and had participated in the practice inspection process in the past. He understood that practice inspection and professional development are necessary to maintain a public accounting licence. He cooperated in practice inspections until 2004. After that practice inspection, in addition to the Institute's failure to answer his questions, he became aware of the existence of what he considered to be a defamatory email in the Institute's files. Thereafter, he was unwilling to cooperate with practice inspection.

16. Ms. Hersak summarized that this is a straightforward charge where there is clear evidence of non-cooperation. Numerous letters were sent to and received by Mr. Blumas, who understood the consequences of his failure to provide the requested documentation. Despite the dismissal of his court case, he has still failed to cooperate with the practice inspection process. Ms. Hersak stated that the evidence is clear, cogent and convincing, and Mr. Blumas must be found guilty.

17. Mr. Blumas, in summarizing why he had not cooperated with practice inspection, stated that he had expected to be treated with more respect in the process of his 1997 inspection. He felt the explanations he received concerning the difference between the draft and final inspection report were not satisfactory.

FINDING

18. The Rules of Professional Conduct and, in particular, Rule 203.2(b), require all members to cooperate. Mr. Blumas continued failure to provide the documents necessary for that inspection is clear, convincing and cogent evidence of professional misconduct.

DECISION

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

THAT having seen, heard and considered the evidence, the Discipline Committee finds Ronald Edward Blumas guilty of the charge.

SANCTION

20. No evidence on sanction was called by the Professional Conduct Committee. The Professional Conduct Committee sought a sanction of: a reprimand in writing; a fine of \$5,000; an order that Mr. Blumas cooperate with Practice Inspection within 10 days or his membership and public accounting licence be revoked; and the usual order with respect to publication. It also sought costs of the investigation and hearing on a partial indemnity basis and filed a Costs Outline (Exhibit 10) to support its request.

21. Ms. Hersak submitted that Mr. Blumas had refused to cooperate with practice inspection over a long period of time. Submitting the requested forms is not an onerous task, but Mr. Blumas had indicated he had no intention of providing the forms, despite knowing it was required. Mr. Blumas' opinion of the practice inspection program does not relieve him of his obligation to cooperate.

22. Mr. Blumas has no prior discipline history, but his deliberate refusal to cooperate over a two and a half year period and his lack of remorse raise the question of his governability. A reprimand shows the seriousness of the matter and the consequences of his actions. Ms. Hersak stated that the fine requested is at the high end of the range of cases contained in the Brief of Authorities distributed but is appropriate in this case due to Mr. Blumas' willful and deliberate refusal to cooperate.

23. Mr. Blumas indicated that he had been a CA since 1976 without any client complaints in that time. He maintained that if the Practice Inspection program is to protect the public, it should be able to answer questions concerning its decisions. He also stated that he is in a precarious financial position because of the court costs owed to the Institute and asked that he be given a reasonable period of time to pay any fines or costs ordered.

ORDER

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

1. THAT Mr. Blumas be and he is hereby fined the sum of \$4,000 to be remitted to the Institute within twelve (12) months from the date this Decision and Order becomes final under the bylaws.
2. THAT Mr. Blumas cooperate with Practice Inspection by providing the requested Practice Inspection Planning Program Questionnaire within ten (10) days of the date this Decision and Order becomes final under the bylaws.
3. THAT notice of this Decision and Order, disclosing Mr. Blumas' 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.
4. THAT in the event Mr. Blumas 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 licence 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 thirty (30) day period, his membership in the Institute and his public accounting licence shall be revoked, and notice of his membership revocation and licence suspension and revocation, disclosing his name, shall be given in the manner specified above, and in a newspaper distributed in the geographic area of Mr. Blumas' practice, employment and/or residence. All costs associated with the publication shall be borne by Mr. Blumas and shall be in addition to any other costs ordered by the committee.

IT IS FURTHER ORDERED:

5. THAT Mr. Blumas be and he is hereby charged costs fixed at \$3,500 to be remitted to the Institute within twelve (12) months from the date this Decision and Order becomes final under the bylaws.

REASONS

25. The Practice Inspection program is an essential component of the Institute's process to ensure that all members practising public accounting do so in accordance with the standards of the profession. The public would be placed at risk if the program did not operate in a consistent and effective manner. Mr. Blumas' actions and reasons for not cooperating are not acceptable or valid excuses for non-cooperation and must not be allowed to thwart the effective operations of the program. The Institute is a self-governing profession, and if members refuse to cooperate with the Institute in the performance of its regulatory duties, the profession itself, as well as the public, is put at risk.

26. The member's position that the same arguments that were the basis for his civil action, namely, that the Institute had acted in some way inappropriately, provided a justification for his non-cooperation is not well-founded. A member's obligation to cooperate exists independently of collateral concerns of this nature, so these arguments were not relevant to the issues before the Discipline Committee in this case. In any event, these arguments were addressed and wholly rejected in the civil action.

27. The issues in this case are very clear, and the member has admitted that he had no intention of cooperating. He does not appear to understand that this admission is an admission of guilt. His actions in refusing to provide the necessary information were deliberate and extended over several years.

28. Mr. Blumas had not, at the time of the hearing, provided the necessary documents, showing, in the panel's opinion, that he does not understand the seriousness of the charge and the importance of the Institute's Practice Inspection program.

29. The quantum of the monetary sanctions sought by the Professional Conduct Committee was reduced and the member was given twelve months to pay as the member had requested consideration of his precarious financial position, and the panel agreed. However, because of the deliberate nature of Mr. Blumas' actions, there was no extension of the usual time given to provide the documents required.

DATED AT TORONTO THIS *5TH* DAY OF JULY, 2011.
BY ORDER OF THE DISCIPLINE COMMITTEE

A handwritten signature in cursive script, appearing to read "J.A. Cullemore".

J.A. CULLEMORE, FCA – CHAIR
DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

S.J. HOLTOM, CA
P. McBURNEY (PUBLIC REPRESENTATIVE)