

## **Shantilal Vithaladas Jiwan Hindocha: Summary, as Published in *CheckMark***

**Shantilal Vithaladas Jiwan Hindocha**, of North York, was found guilty of six charges of professional misconduct, contrary to Rules 201.1, 205, 206, 218 and 305. He failed to maintain the good reputation of the profession and its ability to serve the public interest, associated himself with false or misleading financial statements, carried out deficient audits on behalf of two separate clients, failed to retain working papers and other relevant documentation, and failed to notify a predecessor accountant prior to accepting an engagement. Taking into consideration, among other things, that this member had previously been found guilty of professional misconduct, the discipline committee ordered that Mr. Hindocha be fined \$7,500 and expelled from the Institute.

## CHARGE(S) LIAD re Shantilal V.J. Hindocha

The Professional Conduct Committee hereby makes the following charges against Shantilal V.J. Hindocha, CA, a member of the Institute:

1. THAT, the said Shantilal Hindocha, while acting as the accountant for 612705 Ontario Limited, operating as Thank Goodness Its Friday Restaurant, in or about the period August 1, 1986 to ~~December 31, 1987~~ the present, signed or associated himself with financial statements of 612705 Ontario Limited, operating as Thank Goodness Its Friday Restaurant, for the periods ended August 31, 1986, February 28, 1987 and August 31, 1987 when he knew or should have known that some or all of the financial statements were false or misleading, contrary to Rule 205 of the rules of professional conduct, in that: **(amended 4 Dec. 1996 BWS)**
  - (a) the August 31, 1986 and August 31, 1987 statements are irreconcilable with the February 28, 1987 statements in that the August statements show no declarations of dividends, while the February statements show a declaration of dividends;
  - (b) the August 31, 1986 and August 31, 1987 statements are irreconcilable with the February 28, 1987 statements in that the August statements show goodwill as \$159,516 while the February statements show goodwill as \$50,000;
  - (c) there are wide variances between the February 28, 1987 statements and the August 31, 1986 and August 31, 1987 statements in all major statement categories including, but not limited to, rent, sales, management salaries and shareholders advances and the August statements indicate that the restaurant is operating at a loss while the February statements indicate that the restaurant is operating at a profit.
2. THAT, the said Shantilal Hindocha, in or about the period August 1986 to present, having been engaged to prepare financial statements for 612705 Ontario Limited, operating as Thank Goodness It's Friday Restaurant for the periods ended August 1986, February 1987 and August 1987, failed to retain for a reasonable period of time his working papers and copies of the documentation which reasonably evidence the nature and extent of the work done in respect of the engagements, contrary to Rule 218 of the rules of professional conduct.
- ~~3. THAT, the said Shantilal Hindocha, in or about the period December, 1990 to September, 1995, having been engaged to prepare the income tax returns for Louis and Janice Angelidis for the 1990 taxation year, failed to retain for a reasonable period of time such working papers, records or other documentation which reasonably evidence the nature and extent of the work done in respect of the engagement, contrary to Rule 218 of the rules of professional conduct~~ **(withdrawn by PCC BWS)**
4. THAT, the said Shantilal Hindocha, in or about the period January 1, 1991 January through September 1994, failed to conduct himself in a manner that will maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1 of the rules of professional conduct, in that:

- (a) having accepted the engagement to prepare and file income tax returns on behalf of his clients, Louis and Janice Angelidis, for the years 1990, 1992 and 1993 he failed to file the 1990 tax returns for Louis Angelidis and he failed to file the 1992 and 1993 tax returns for Louis and Janice Angelidis without advising his clients;
  - (b) when asked by his clients, Louis and Janice Angelidis, for the return of original records that they had provided to him, he did not return the records and instead threatened to destroy all records unless monies were paid to him on account of alleged past fees for professional services; and
  - (c) he told his clients, Louis and Janice Angelidis, that he would submit false returns to Revenue Canada so that it would appear that they owed more in taxes than they actually owed, if they did not pay past fees allegedly owing.
- 5. THAT, the said Shantilal Hindocha, in or about the period October, 1994 to January, 1995, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule 206 of the rules of professional conduct in that, being engaged to provide an audit opinion on the financial statements of Victoria Village Children's Services Ltd. for the year ended October 31, 1994, and having attached an unqualified audit report dated January 6, 1995 to those statements,
  - (a) he failed to ensure that the figures for income taxes and net income after taxes were included on the Statement of Operations rather than the Statement of Retained Earnings;
  - (b) he failed to ensure that the method used to depreciate the fixed assets was disclosed;
  - (c) he failed to ensure that the fixed asset "building" acquired during the fiscal period was depreciated;
  - (d) he failed to confirm directly with the bank the cash balance in the account;
  - (e) he failed to confirm the item "Shareholders' advances \$126,314";
  - (f) he failed to confirm the balance of the mortgage payable of \$289,928;
  - (g) he failed to obtain sufficient appropriate audit evidence to support the item "Stated capital, \$1,930";
  - (h) he failed to document the basis he used for selecting items for audit testing;
  - (i) he failed to obtain sufficient appropriate audit evidence to support the following operating expenses shown on the Statement of Operations: business taxes, automobile, telephone, repairs and maintenance, interest and bank charges, advertising, office and general;

- ~~(j) he failed to obtain written management representations relating to the financial statements; and~~
  - (k) he failed to ensure that the lease for the premises was classified as a contractual obligation as opposed to a contingent liability.
6. THAT, the said Shantilal Hindocha, in or about the period July to November, 1994, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule 206 of the rules of professional conduct in that, being engaged to provide an audit opinion on the financial statements of 605299 Ontario Limited, o/a Crescent Town Daycare Centre for the year ended July 31, 1994, and having attached an unqualified audit report dated November 25, 1994 to those statements,
- ~~(a) he failed to ensure that the method used to depreciate the fixed assets was disclosed; (**withdrawn by PCC BWS**)~~
  - (b) he failed to confirm directly with the bank details concerning bank account balances and outstanding loans and related security;
  - (c) he failed to obtain sufficient appropriate audit evidence to support the item "Capital stock, \$2,500";
  - (d) he failed to document the basis he used for selecting items for audit testing;
  - (e) he failed to obtain sufficient appropriate audit evidence to support the following operating expenses shown on the Statement of Income: food, program supplies, rent, repairs and maintenance, caretaker; and
  - (f) he failed to ensure that the lease for the premises was classified as a contractual obligation as opposed to a contingent liability.
7. THAT, the said Shantilal Hindocha, in or about the period June 1, 1993 to November 30, 1993, having been engaged by TKO Bumper & Body Parts Inc. to prepare financial statements for the fiscal year ended June 30, 1993, failed to notify Marvin N. Goldstein, CA of his engagement before commencing it when he knew or ought to have known that Marvin N. Goldstein, CA was the duly appointed accountant for TKO Bumper & Body Parts Inc., contrary to Rule 305 of the rules of professional conduct.

DATED at Toronto this 14<sup>th</sup> day of November 1996.

JENNIFER L. FISHER, CA – CHAIR  
PROFESSIONAL CONDUCT COMMITTEE

## **DISCIPLINE COMMITTEE re Shantilal V.J. Hindocha**

**DECISION AND ORDER IN THE MATTER OF:** Charges against SHANTILAL VITHALADAS JIWAN HINDOCHA, CA, a member of the Institute, under Rules 205, 206, 218 and 305 of the Rules of Professional Conduct, as amended.

### **DECISION MADE FEBRUARY 3,1997 AND ORDER MADE MARCH 17,1997**

#### DECISION

THAT, having seen, heard and considered the evidence, Charge No. 3, and particulars (j) of Charge No. 5 and (a) of Charge No. 6 having been withdrawn, the Discipline Committee finds Shantilal Vithaladas Jiwan Hindocha guilty of Charges Nos. 1 (as amended), 2, 4, 5, 6 and 7.

#### ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Hindocha be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Hindocha be and he is hereby fined the sum of \$7,500, to be remitted to the Institute within ninety (90) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Hindocha be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Hindocha's name, be given after this Decision and Order becomes final under the bylaws:
  - (a) to the Public Accountants Council for the Province of Ontario;
  - (b) to the Canadian Institute of Chartered Accountants;
  - (c) by publication in *CheckMark*; and
  - (d) by publication in *The Toronto Star* and *The Globe and Mail*.
5. THAT Mr. Hindocha surrender his certificate of membership in the Institute to the discipline committee secretary within ten (10) days from the date this Decision and Order becomes final under the bylaws.

DATED AT TORONTO THIS 25TH DAY OF MARCH, 1997  
BY ORDER OF THE DISCIPLINE COMMITTEE

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

## **DISCIPLINE COMMITTEE re Shantilal Vithaladas Jiwan Hindocha**

**REASONS FOR THE DECISION AND ORDER IN THE MATTER OF:** Charges against SHANTILAL VITHALADAS JIWAN HINDOCHA, CA, a member of the Institute, under Rules 205, 206, 218 and 305 of the Rules of Professional Conduct, as amended.

### **WRITTEN REASONS FOR THE DECISION MADE FEBRUARY 3, 1997 AND THE ORDER MADE MARCH 17, 1997**

This panel of the discipline committee of the Institute of Chartered Accountants of Ontario met on December 2, 3 and 4, 1996, and January 31, February 3 and March 17, 1997, to hear charges brought by the professional conduct committee against Mr. Shantilal V.J. Hindocha, CA. The charges dealt with:

- association with false or misleading financial statements, contrary to Rule 205 of the rules of professional conduct (Charge 1);
- failure to retain working papers and other relevant documentation, contrary to Rule 218 (Charges 2 and 3);
- failure to maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201.1 (Charge 4);
- deficiencies in the audit work carried out on behalf of two separate clients, contrary to Rule 206 (Charges 5 and 6); and
- failure to notify a predecessor accountant prior to accepting an engagement, contrary to Rule 305 (Charge 7).

Charge 3, one of the charges laid under Rule 218, was withdrawn at the start of the hearing by counsel for the professional conduct committee, as were particulars (j) of Charge 5 and (a) of Charge 6, both laid under Rule 206. Mr. Hindocha did not object to the withdrawals, and pleaded not guilty to all of the remaining charges.

The panel heard evidence with respect to the charges for four days, and submissions with respect to the question of guilt or innocence on the fifth day of the hearing. After finding Mr. Hindocha guilty of the charges, the panel, after deliberation, agreed to a request by Mr. Hindocha's counsel that the hearing be adjourned to enable him to prepare his submissions on the issue of appropriate sanction. On March 17, the hearing was reconvened to hear evidence and submissions on sanction.

During the course of the hearing, the professional conduct committee was represented by Mr. P.F. Farley. In addition to the investigator, John N. Douglas, CA, Mr. Farley called Peter S. Watson, CA, Iqbal Parpia, Nick Bathia, and Louis Angelidis as witnesses.

Mr. Hindocha was represented by Mr. B.J. Daley. Mr. Daley called as witnesses on behalf of Mr. Hindocha: Balwant Jajj, Ezmina Christian, Kenneth Huang, Gurnam Multani, Rayman

Bedessee, Diane Kruger, Mrs. Hindocha, Charles Sachdev, Dr. N. Patel, and Mr. Hindocha himself.

Mr. Hindocha's defence to Charge 1 and Charge 4 could only succeed if the panel accepted his evidence where it conflicted with that of the witnesses for the professional conduct committee, including Mr. Parpia, with respect to Charge 1, and with Mr. Angelidis, with respect to Charge 4. Both counsel submitted that a determination of credibility, specifically Mr. Hindocha's credibility, was essential to determine guilt or innocence with respect to these charges.

After listening to all of the witnesses and reviewing all of the evidence, the panel concluded that Mr. Hindocha's testimony was inconsistent and contradictory, in and of itself. Further, the panel found that Mr. Hindocha's oral testimony conflicted with some of the documents that had been made contemporaneously with the events, including one of Mr. Hindocha's own letters.

The determination and sanctions imposed were made known at the hearing. These are the written reasons for the decision and order that has already been sent to the parties.

## **DECISION ON THE CHARGES**

### **Charges 1 and 2**

The first two charges were in relation to Mr. Hindocha's association with a client referred to as "Thank Goodness It's Friday" (TGIF), a restaurant operating in the Yonge-Eglinton area of Toronto.

Charge 1 dealt with a series of three financial statements of TGIF for the periods ending August 31, 1986; February 28, 1987; and August 31, 1987. These statements, which were apparently issued for different purposes, could not be reconciled as a sequence. Mr. Parpia, then in the employ of Mr. Hindocha, testified that he had prepared the August 1986 and 1987 statements. The Accountants Comments attached to each of these statements are not signed, but bear the imprint of a round stamp with the words Shanti Hindocha, Chartered Accountant on its perimeter. Mr. Hindocha said that he had prepared the February 1987 statements, the Accountants Comments for which bear his signature, but had no knowledge of either of the August statements.

Mr. Hindocha testified that Mr. Parpia worked essentially without supervision and consequently could have prepared and stamped the August financial statements without Mr. Hindocha's knowledge. Mr. Parpia testified that financial statements did not leave the office without Mr. Hindocha's consent. Mr. Hindocha agreed that this was the normal practice, but he maintained that the usual procedure must not have been followed in this instance, since he did not know about the August 1986 and 1987 TGIF financial statements.

Mr. Watson is a forensic accountant engaged by the lawyers for TGIF's insurance company, in their efforts to refute a claim made by the owners of TGIF for damages caused by a fire at the restaurant on May 1, 1988. Mr. Watson testified that he had been given the three sets of financial statements by the insurance company's lawyers, and that he had made contact with Mr. Hindocha and sought, among other things, to confirm the year end of TGIF. Mr. Hindocha initially told Mr. Watson that TGIF's year end was August. This is a fact that Mr. Hindocha, as the company's accountant, would have been aware of, and one which would have necessitated his preparation of financial statements as of that date. Mr. Hindocha subsequently stated that TGIF's year end was February, which was why the financials were prepared by him as at that date, although they were subsequently used to invite an offer to purchase the business.

Mr. Bathia, a sales tax auditor for the Province of Ontario, carried out a sales tax audit of TGIF in Mr. Hindocha's office, beginning in May 1988 and concluding in December 1988. While he was unable to detail for the panel how much time he had spent with Mr. Parpia, and how much with Mr. Hindocha, he testified that he had spent time with both of them. It was evident from his working papers that he had had access to the August financial statements of TGIF, the accountant's working papers and files, and some source documents.

Ms. Kruger, an expert in handwriting analysis, stated that, on the basis of her analysis of handwriting samples of Mr. Hindocha and Mr. Parpia, Mr. Hindocha probably did not sign the letter to Mr. Bathia regarding the sales tax audit of TGIF. She could not, however, say that Mr. Parpia signed the letter, which would have supported Mr. Hindocha's contention that he (Mr. Hindocha) had very little to do with the audit, and therefore could not reasonably have known about the existence of the August financial statements or the files and documents that supported them.

Charge 2 dealt with the fact that Mr. Hindocha's office failed to retain working papers or copies of documentation that would reasonably evidence the nature and extent of the work done in respect of the engagements to prepare any of the three financial statements. Mr. Douglas, the investigator retained by the professional conduct committee, testified that he requested the files relating to those three engagements, and was told by Mr. Hindocha that, since he had not prepared the August 1986 and 1987 statements, he had no files relating to them, and that, although he had prepared the February 1987 statements, he didn't have those files and wasn't really sure what had happened to them.

## **Conclusion**

The panel concluded that the first charge had been proven because:

The August 1986 and 1987 financial statements were prepared in Mr. Hindocha's office, on his letterhead, and by one of his employees, who accurately described what Mr. Hindocha had stated was the normal process followed for dealing with engagements of that sort in the office. Mr. Hindocha agreed that no one in his office released any documents without the document being reviewed by him.

- Mr. Hindocha suggested that Mr. Parpia was acting out of spite. He said that Mr. Parpia was not being truthful about Mr. Hindocha's knowledge of the existence of the August financial statements, or about his (Mr. Parpia's) own involvement with TGIF. Mr. Hindocha also insisted that Mr. Angelidis was acting out of spite and not being truthful -- a coincidence that cannot meet the test of being probable.
- Both Mr. Angelidis and Mr. Parpia indicated that Mr. Hindocha had made financial reports that would be regarded favourably by lending institutions, thereby demonstrating that Mr. Hindocha was willing on occasion to prepare special purpose financial reports without labelling them as such. This evidence suggested the possibility that the February 1987 financial statements for TGIF, which Mr. Hindocha admitted preparing, may have been false and misleading in and of themselves.
- Although Mr. Hindocha initially told Mr. Watson that TGIF's year end was August, Mr. Hindocha subsequently stated that TGIF's year end was February. No independent evidence was presented to confirm either an August or a February year end date.
- During the course of testifying, Mr. Hindocha gave the panel varying accounts of the same matter. For example, at one time he said that all financial statements prepared by



his office were signed by him, but subsequently said that his wife was sometimes authorized to sign financial statements on his behalf. In a similar instance, he said at one point that all financial statements prepared by his office were dated before release, but subsequently, when presented with sets of financials that were not dated, agreed that they were not, but stated that it's possible that there was more than one copy signed at that particular time.

The panel therefore finds Mr. Hindocha guilty of the Charge 1.

With regard to Charge 2, Mr. Hindocha's statements to both Mr. Douglas and Mr. Watson are clear evidence that the working papers and other documentation were not available for review, at least as early as August or September 1994. The panel therefore finds Mr. Hindocha guilty of Charge 2.

#### **Charge 4**

Charge 4 relates to Mr. Hindocha's engagement to prepare and file income tax returns for Janice and Louis Angelidis.

Mr. Angelidis testified that he and his wife became clients of Mr. Hindocha in 1982, and that Mr. Hindocha prepared financial statements for Mr. Angelidis' business from source documents provided to him by Mr. Angelidis. The financial statements were then attached to the tax returns that Mr. Hindocha prepared and filed for him. Mr. Angelidis testified that Mr. Hindocha also prepared and filed tax returns for Mrs. Angelidis, and that neither he nor his wife signed the tax returns that Mr. Hindocha prepared for them.

This system worked, with some admitted problems, until 1991, when Mr. Hindocha did not file a tax return for Mr. Angelidis for 1990. In 1993, Mr. Angelidis received a notice from Revenue Canada that the 1992 tax returns had not been filed. Mr. Hindocha assured Mr. Angelidis that they had. In January 1994, Mr. Angelidis received another notice from Revenue Canada, still indicating that the 1992 tax returns had not been filed. In April 1994, Mr. Angelidis was told by Mrs. Hindocha that the 1992 and 1993 tax returns for he and his wife had been hand-delivered to the tax office. However, in May and June 1994, Revenue Canada told Mr. Angelidis that they had not received the 1992 and 1993 returns in question. In June 1994, Revenue Canada also told Mr. Angelidis that his 1990 tax return had not been filed. The returns in question have since been filed by Mr. Angelidis' new accountants.

Mr. Angelidis also testified that Mr. Hindocha had threatened to give false information to Revenue Canada about Mr. Angelidis, in order to coerce Mr. Angelidis into paying the amount that Mr. Hindocha maintained was due to him, but which Mr. Angelidis contested as being unreasonable.

Mr. Douglas, in the course of his investigation, asked Mr. Hindocha about the records, and was told by Mr. Hindocha that they had been returned to Mr. & Mrs. Angelidis around April 1994. Evidence was filed from a lawyer retained by Mr. Angelidis, stating that he had sent a letter dated September 21, 1994 to Mr. Hindocha seeking the return of the records, and that an individual, who identified himself as Mr. Hindocha, had left a message for the lawyer indicating that there was money owing by Mr. Angelidis and that the matter would be taken up with him, but not indicating that the records in question were not in the hands of Mr. Hindocha.

Mr. Hindocha testified that:

- his office does not generally file tax returns for clients, but gives them to the clients for filing;
- Mr. Angelidis was always behind in his payments to Mr. Hindocha, and was, in fact, angry at him for causing Mr. Angelidis' mortgage cheque to bounce in 1992;
- Mr. Angelidis' records and source documents were returned to him each year after his tax returns were prepared, and he (Mr. Hindocha) never kept any of the Angelidis' documents against their will.

## **Conclusion**

The panel finds Mr. Hindocha guilty of Charge 4, on the grounds that the evidence presented by counsel for the professional conduct committee and by Mr. Angelidis was more believable than that given by Mr. Hindocha. For example:

- Mr. Hindocha attributed to Mr. Angelidis a motive to lie under oath to the discipline committee as a result of events that took place in or about 1992, despite Mr. and Mrs. Angelidis continuing as Mr. Hindocha's clients until 1994.
- Mr. Hindocha assured Mr. Angelidis, on more than one occasion, that his 1990 tax return had been filed. However, in testimony, Mr. Hindocha recalled that the return in question was put in a pending file because the records were not complete.
- Mr. Hindocha testified that he never kept clients' records. However, he indicated in a letter to the Institute that he was willing to return all records belonging to Mr. Angelidis but not to provide records compiled by me. Under questioning, he indicated that he had meant photocopies of any records that were in his possession, although why Mr. Angelidis would be seeking photocopies if the originals were in his possession was not clarified.

## **Charges 5 and 6**

Charges 5 and 6 dealt with the failure of Mr. Hindocha to perform his professional services in accordance with generally accepted standards of practice of the profession. Charge 5 related to Victoria Village Children's Services Ltd. (VVCSL) for the year ended October 31, 1994, and Charge 6 related to 605299 Ontario Limited, operating as Crescent Town Daycare Centre (CTDC) for the year ended July 31, 1994.

Mr. Douglas prepared a cross reference of the audit file charges to the *CICA Handbook*, and indicated that Mr. Hindocha generally agreed that the required procedures in question had not been carried out, or that the presentation given to certain items on the financial statements was incorrect. The agreed deficiencies included failures to:

- report the tax provision and net income after taxes on the statement of operations rather than on the statement of retained earnings for VVCSL;
- disclose the method used to depreciate fixed assets for VVCSL;
- ensure that the fixed asset building was depreciated, on the grounds that the owner of the business did not want it depreciated for VVCSL;
- confirm bank balances for VVCSL and CTDC, and shareholders' advance balances and mortgage payable for VVCSL;
- obtain sufficient audit evidence to support stated capital and certain operating expenses for VVCSL and CTDC;

- document the basis used for selecting items for audit testing for VVCSL and CTDC;
- correctly classify premises leases for VVCSL and CTDC.

**Conclusion**

Since Mr. Hindocha agreed with Mr. Douglas that the identified items were, in fact, deficiencies in his audit procedures or statement presentations, and offered no acceptable rationale for his departure from the requirements set out in the CICA Handbook, the panel finds Mr. Hindocha guilty of charges 5 and 6.

## **Charge 7**

This charge dealt with Mr. Hindocha's acceptance of an engagement to prepare a set of financial statements for TKO Bumper & Body Parts Inc., a client of another chartered accountant, Mr. M. Goldstein, without notifying Mr. Goldstein that he was doing work for his client.

Mr. Goldstein's affidavit about the incident was filed as evidence, and Mr. Hindocha agreed that he had not contacted Mr. Goldstein. Mr. Hindocha's rationale for his failure to adhere to Rule 305 of the rules of professional conduct was that the client had requested that he not do so. However, there was no documentary evidence that this was so, nor did the client appear before the discipline committee panel to give evidence.

## **Conclusion**

As the *ICAO Member's handbook* requires that departure from the notification provision of Rule 305 be evidenced by the client's unsolicited written request that such notification not be given, and as Mr. Hindocha provided no such evidence, the panel finds Mr. Hindocha guilty of Charge 7.

## **SANCTIONS ORDER**

In reaching its conclusions as to sanction, the panel considered the principles of general deterrence, specific deterrence and rehabilitation.

Since the evidence and submissions relevant to sanction did not satisfy the panel that Mr. Hindocha could be rehabilitated, a sanction intended to facilitate and ensure rehabilitation was not considered appropriate. Instead, the panel determined that the governing principles that should guide it in this case are specific and general deterrence. The sanctions are intended to implement those principles.

Counsel for the professional conduct committee filed copies of the decision and order and the written reasons relating to Mr. Hindocha's previous appearance before the discipline committee on October 31, 1989. Mr. Hindocha and a number of character witnesses testified, and evidence of Mr. Hindocha's standing in the community was filed.

Neither counsel suggested that the panel, having found Mr. Hindocha guilty of the amended charges, was not justified in ordering a written reprimand and a fine. Counsel for Mr. Hindocha, however, requested that the panel consider Mr. Hindocha's ability to pay a fine, although no evidence was presented to suggest that he would be unable to pay any amount that the panel found to be appropriate. The panel, with the principles of general and specific deterrence in mind, therefore ordered that Mr. Hindocha receive a written reprimand from its chair, as a specific reminder that his behaviour is unacceptable, and a \$7,500 fine, as a message to both Mr. Hindocha and other chartered accountants.

The point on which counsel disagreed was the issue of expulsion, requested by the professional conduct committee, versus a lengthy suspension, requested by Mr. Hindocha's counsel. Mr. Hindocha's counsel suggested that expulsion would be a retributive punishment.

In ordering that Mr. Hindocha be expelled from the profession, the panel took into consideration that:

- The charges against Mr. Hindocha were not confined to any single area, but covered a wide gamut of unacceptable behaviour, i.e. association with false or misleading financial statements, failure to adhere to practice standards, deficiencies in audit procedures, and failure to communicate with other chartered accountants.
- A previous attempt at the rehabilitation of Mr. Hindocha, through the October 1989 order of the discipline committee, does not appear to have benefited Mr. Hindocha. In the 1989 case, Mr. Hindocha had been found guilty of fundamental deficiencies in meeting the generally accepted auditing standards and ordered to take specified courses to upgrade his audit skills, and to submit to two reinspections of his practice within eighteen months of February 7, 1990. The written reasons indicated that Mr. Hindocha undertook to engage a member of the Institute to work in association with him in his practice within a reasonable amount of time. Mr. Hindocha's testimony in the case currently before the panel was that he had engaged another chartered accountant to act as a quality control consultant from sometime in 1989, 1990 or 1991 to sometime in 1994. Mr. Hindocha gave a variety of dates, which puzzled the panel in view of the importance of the undertaking he had given, and his request for another opportunity to rehabilitate himself.
- Mr. Hindocha was given, by means of the October 1989 decision, an opportunity to change his ways, and has not, apparently, done so.
- Mr. Hindocha's actions were incongruent with the picture given of him and his apparent involvement and standing in his community by his character witnesses and filed evidence. This suggests that the behaviour and moral character of this individual can vary widely, depending on the circumstances, the situation, and the individuals with whom he is dealing.

Imposition of a suspension, as requested by Mr. Hindocha's counsel, would imply that, during the period of suspension, Mr. Hindocha could be rehabilitated. However, nothing in the evidence and submissions relevant to sanction indicated to the panel that there was any action that could be taken to ensure that, in circumstances similar to those upon which these charges were based, Mr. Hindocha would not act in the future in the same way that he did in the situations on which these charges were based.

The principle of general deterrence also played a significant role in the panel's decision to expel Mr. Hindocha. The breadth of Mr. Hindocha's unacceptable conduct does not serve the public interest, and undermines the valuable reputation of the CA profession. The panel concluded that expulsion was required to carry an appropriate message to other CAs. The panel also concluded that expulsion was necessary to fulfill the Institute's mandate of protection of the public, rather than being retributive.

General deterrence and protection of the public were also considerations in the panel's order for publication. Although publication in a general newspaper is now standard in the event of the expulsion of a member from the profession, the panel wrestled with the question of which newspaper would be most appropriate. Counsel for the professional conduct committee requested publication in *The Globe and Mail*. The panel considered whether Mr. Hindocha's clients were a homogeneous group, in which case publication of the order of the discipline committee in a newspaper directed to a specific ethno-cultural community would best serve the mandate of protection of the public. After a review of Mr. Hindocha's client base, as represented by the charges, the panel concluded that the client base was not likely homogeneous, and that publication in the *Toronto Star*, as well as *The Globe and Mail*, would reach not only the financial community but the community from which Mr. Hindocha's clients are drawn.

DATED AT TORONTO, THIS                      DAY OF JUNE, 1997

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

MEMBERS OF THE PANEL

M. BRIDGE, CA  
C.J. BURKE, FCA  
P.B.A. CLARKSON, CA  
R.D. WHEELER, FCA  
J.T. ANDERS (Public Representative)