

FOLLOWING IS AN EXCERPT FROM THE MAY 1993 ISSUE OF CHECKMARK:

## —DISCIPLINARY NOTICES—

*The bylaws provide that all members must be given notice of orders of suspension or expulsion made by the discipline and appeal committees. These tribunals may also direct that notice be given of their decisions and orders with other consequences.*

*Disciplinary orders generally provide that members who fail to comply with their terms within specified times will either be expelled from membership or first be suspended and then expelled if the non-compliance continues for a specified time. Whether or not a period of suspension is to precede expulsion is at the discretion of the tribunals, which they exercise in accordance with the circumstances of each case.*

**Shelley Stephen Shifman**, of Don Mills, was found guilty of four charges of professional misconduct, under Rules 201, 202, 207 and 212, arising from his breach of trust, including his improper handling of trust funds and his failure to disclose his own personal interest. He was fined \$10,000 and suspended for three months.



## THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO

TO: SHELLEY STEPHEN SHIFMAN, CA

AND TO: The Discipline Committee of the Institute of Chartered Accountants of Ontario

The Professional Conduct Committee hereby makes the following charges against Shelley S. Shifman, CA, a member of the Institute:

1. THAT, the said Shelley S. Shifman, during the period February 1988 through to November 1989, while acting as a trustee for investors in a limited partnership known as The Laser Software Partnership, failed to handle the money or other property of the trust in accordance with the terms of the trust and/or the general law relating to trusts, contrary to Rule 212 of the Rules of Professional Conduct as it then was, in that:
  - a) he failed to pay funds in the amount of \$14,000, received by him in trust from his client Paulette Handelsman on account of a subscription for a unit in the capital of The Laser Software Partnership, to the law firm Gardiner, Roberts, in trust as provided in the offering memorandum provided by him to Paulette Handelsman;
  - b) he disbursed some or all of the proceeds from subscriptions for units in the capital of The Laser Software Partnership to John H. Gray, John Gray and Gray Technologies before subscriptions for at least five units and payment therefore had been received, in contravention of the terms of the offering memorandum describing the proposed issue of units of participation in The Laser Software Partnership circulated by him to subscribers which provided for the proceeds from subscriptions to be held in escrow until at least five units had been sold and paid for;
  - c) he disbursed some or all of the proceeds from subscriptions for units in the capital of The Laser Software Partnership to John H. Gray, John Gray, Gray Technologies, Laser Innovations Inc., Gowling & Henderson, Bodwell Systems Corp. and Shelley Shifman before the offering of units of participation in The Laser Software Partnership was completed, in contravention of the terms of the offering memorandum describing the proposed issue of units of participation circulated by him to subscribers which provided for the proceeds from subscriptions to be held in escrow until the offering was completed.
2. THAT, the said Shelley S. Shifman, in or about the period February 1988 through to January 1989, failed to inform his client Paulette Handelsman of a business connection or affiliation or interest of which she might reasonably expect to be informed, more particularly, that he had loaned monies to The Laser Software Partnership or to persons connected with it, contrary to Rule 207 of the Rules of Professional Conduct, as it then was.

3. THAT, the said Shelley S. Shifman, in or about the period February 1988 through to January 1989, failed to perform his professional services with due care in that he solicited and received from his client Paulette Handelsman \$14,000 for an investment in The Laser Software Partnership and failed to take reasonable steps to ensure that the interests of his client were protected, contrary to Rule 202 of the Rules of Professional Conduct.
4. THAT, the said Shelley S. Shifman, in or about the period February 1988 through to January 1989, failed to conduct himself in a manner that will maintain the good reputation of the profession and its ability to serve the public interest, in that he solicited and collected funds from his clients Leo Spellman, J. Tanzola and R. Zweig for investment in The Laser Software Partnership which funds were used by him exclusively to reduce the amounts owed to him on a loan to the Laser Software Partnership, contrary to Rule 201 of the Rules of Professional Conduct.

DATED at Toronto this *30th* day of *July* 1992.

*J.L.M. Badali*

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

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO  
*THE CHARTERED ACCOUNTANTS ACT, 1956*

**DISCIPLINE COMMITTEE**

**IN THE MATTER OF:** Charges against **SHELLEY STEPHEN SHIFMAN, CA**, a member of the Institute, under **Rules 201, 202, 207 and 212** of the Rules of Professional Conduct, as amended.

**TO:** Shelley Stephen Shifman  
41 Suncrest Drive  
Don Mills, Ontario  
M3C 2L1

**DECISION AND ORDER MADE JANUARY 5, 1993**

**DECISION**

THAT, having seen and considered the evidence, including the agreed statement of facts, filed, and having heard the plea of guilty to the charges, **THE DISCIPLINE COMMITTEE FINDS** Shelley Stephen Shifman guilty of charges Nos. 1, 2, 3 and 4.

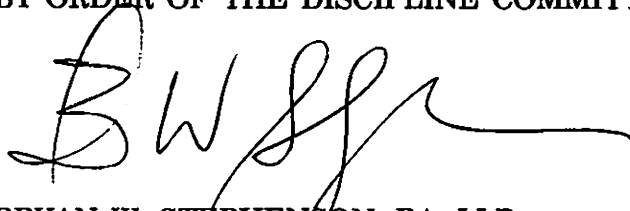
**ORDER**

**IT IS ORDERED** in respect of the charges:

1. THAT Mr. Shifman be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Shifman be and he is hereby fined the sum of \$10,000, 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. Shifman be suspended from the rights and privileges of membership in the Institute for a period of three (3) months from the date this Decision and Order becomes final under the bylaws.
4. THAT notice of this Decision and Order, disclosing Mr. Shifman'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. Shifman 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, to be held by the registrar during the period of suspension and thereafter returned to Mr. Shifman.
6. THAT in the event Mr. Shifman 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.

7. THAT in the event Mr. Shifman is suspended pursuant to paragraph 6 hereof, the suspension shall terminate upon compliance with the term of the Order in respect of which he was suspended, provided that he complies within six (6) months from the date of his suspension.
8. THAT in the event Mr. Shifman fails to terminate a suspension imposed pursuant to paragraph 7 hereof within the six (6) months therein specified, 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 15TH DAY OF JANUARY, 1993  
BY ORDER OF THE DISCIPLINE COMMITTEE

A handwritten signature in black ink, appearing to read 'B W Stephenson', with a long horizontal flourish extending to the right.

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

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO  
THE CHARTERED ACCOUNTANTS ACT, 1956

DISCIPLINE COMMITTEE

**IN THE MATTER OF:** Charges against SHELLEY STEPHEN SHIFMAN, CA, a member of the Institute, under Rules 201, 202, 207 and 212 of the Rules of Professional Conduct, as amended.

**TO:** Shelley Stephen Shifman  
41 Suncrest Drive  
Don Mills, Ontario M3C 2L1

**WRITTEN REASONS FOR THE DECISION AND ORDER MADE JANUARY 5, 1993**

These proceedings before this panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on January 5, 1993.

Mr. Paul Farley attended on behalf of the professional conduct committee. Mr. Shifman attended with, and was represented by, his counsel, Mr. Gordon Atlin.

The professional conduct committee had laid the following charges against Mr. Shifman:

1. *THAT, the said Shelley S. Shifman, during the period February 1988 through to November 1989, while acting as a trustee for investors in a limited partnership known as The Laser Software Partnership, failed to handle the money or other property of the trust in accordance with the terms of the trust and/or the general law relating to trusts, contrary to Rule 212 of the Rules of Professional Conduct as it then was, in that:*
  - a) *he failed to pay funds in the amount of \$14,000, received by him in trust from his client Paulette Handelsman on account of a subscription for a unit in the capital of The Laser Software Partnership, to the law firm Gardiner, Roberts, in trust as provided in the offering memorandum provided by him to Paulette Handelsman;*
  - b) *he disbursed some or all of the proceeds from subscriptions for units in the capital of The Laser Software Partnership to John H. Gray, John Gray and Gray Technologies before subscriptions for at least five units and payment therefore [sic] had been received, in contravention of the terms of the offering memorandum describing the proposed issue of units of participation in The Laser Software Partnership circulated by him to subscribers which provided for the proceeds from subscriptions to be held in escrow until at least five units had been sold and paid for;*
  - c) *he disbursed some or all of the proceeds from subscriptions for units in the capital of The Laser Software Partnership to John H. Gray, John Gray, Gray Technologies, Laser Innovations Inc., Gowling & Henderson, Bodwell Systems Corp. and Shelley Shifman before the offering of units of participation in The Laser Software Partnership was completed, in contravention of the terms of the offering memorandum describing the proposed issue of units of participation circulated by him to subscribers which provided for the proceeds from subscriptions to be held in escrow until the offering was completed.*

2. *THAT, the said Shelley S. Shifman, in or about the period February 1988 through to January 1989, failed to inform his client Paulette Handelsman of a business connection or affiliation or interest of which she might reasonably expect to be informed, more particularly, that he had loaned monies to The Laser Software Partnership or to persons connected with it, contrary to Rule 207 of the Rules of Professional Conduct, as it then was.*
3. *THAT, the said Shelley S. Shifman, in or about the period February 1988 through to January 1989, failed to perform his professional services with due care in that he solicited and received from his client Paulette Handelsman \$14,000 for an investment in The Laser Software Partnership and failed to take reasonable steps to ensure that the interests of his client were protected, contrary to Rule 202 of the Rules of Professional Conduct.*
4. *THAT, the said Shelley S. Shifman, in or about the period February 1988 through to January 1989, failed to conduct himself in a manner that will maintain the good reputation of the profession and its ability to serve the public interest, in that he solicited and collected funds from his clients Leo Spellman, J. Tanzola and R. Zweig for investment in The Laser Software Partnership which funds were used by him exclusively to reduce the amounts owed to him on a loan to the Laser Software Partnership, contrary to Rule 201 of the Rules of Professional Conduct.*

The member pleaded guilty to all four charges. The member and his counsel confirmed they understood that upon the pleas of guilty, and upon that basis alone, the member could be found guilty of the charges.

An agreed statement of facts, signed by Mr. Shifman and counsel for the professional conduct committee, together with an accompanying document brief, were filed as exhibits.

Based upon the evidence presented in these exhibits, and the member's pleas of guilty, the discipline committee, upon deliberation, found Mr. Shifman guilty of all four charges.

After making its findings on the charges, the committee heard submissions on sanction from counsel, and, after further deliberation, made the following order:

### **ORDER**

IT IS ORDERED in respect of the charges:

1. THAT Mr. Shifman be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Shifman be and he is hereby fined the sum of \$10,000, 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. Shifman be suspended from the rights and privileges of membership in the Institute for a period of three (3) months from the date this Decision and Order becomes final under the bylaws.
4. THAT notice of this Decision and Order, disclosing Mr. Shifman'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. Shifman 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, to be held by the registrar during the period of suspension and thereafter returned to Mr. Shifman.
6. THAT in the event Mr. Shifman 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.
7. THAT in the event Mr. Shifman is suspended pursuant to paragraph 6 hereof, the suspension shall terminate upon compliance with the term of the Order in respect of which he was suspended, provided that he complies within six (6) months from the date of his suspension.
8. THAT in the event Mr. Shifman fails to terminate a suspension imposed pursuant to paragraph 7 hereof within the six (6) months therein specified, 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.

The reasons for the committee's sanctions are as set out below.

The committee is of the view that a reprimand is necessary, as a deterrent to the member, to stress to him the unacceptability of his conduct as a chartered accountant.

The committee, in considering the imposition of a fine, discussed two precedents presented in the submissions as to sanction. In the Cadesky case, in which the fine was \$5,000, the discipline committee panel took into account the fact that Mr. Cadesky had reached a settlement with, and obtained releases from, those affected by his misconduct. In the Dagneau case, in which the fine was \$1,000, the panel took into account the significant financial burden that Mr. Dagneau faced as a result of criminal proceedings against him. In the case of Mr. Shifman, this panel was of the opinion that the mitigating factors in the above cases were not present.

The panel felt that Mr. Shifman's actions contributed to the eventual loss of investments by his clients. In particular, the panel was concerned about Mr. Shifman's continuing solicitation of funds from clients after the expiry of the subscription period, which funds were used primarily to repay him the money he had lent to the partnership. In considering the principles of specific and general deterrence and the seriousness of the charges, the committee felt that a significant fine in the amount of \$10,000 was appropriate.

The committee felt that a suspension was also appropriate, so as to demonstrate, for the benefit of this member, the general membership, and the public, that conduct of the kind engaged in here is considered by this committee and this Institute to be unacceptable for a chartered accountant. Mr. Shifman's previously unblemished record was taken into account in assessing the three-month suspension.

The committee ordered the usual notice of its decision and order, including disclosure of the member's name, as both a specific and general deterrent. Such publicity is also important to show the public that the profession is regulating itself, so as to retain its confidence, and that of the legislators, in the profession's ability to self-govern.



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. This makes it plain to all members that failure to comply with disciplinary orders of the Institute will not be tolerated.

DATED AT TORONTO, THIS 17<sup>th</sup> DAY OF FEBRUARY, 1993  
BY ORDER OF THE DISCIPLINE COMMITTEE



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

MEMBERS OF THE PANEL:

H.R. KLEIN, CA

J.J. LONG, CA

P. RAYSON, CA

D.P. SETTERINGTON, CA

V.G. STAFL (Public representative)