

## **Stephen Estrien: Summary, as Published in *CheckMark***

**Stephen Estrien**, of Thornhill, was found guilty of two charges under Rule 205 of associating himself with financial statements which he knew or should have known were false or misleading, one charge under Rule 205 for associating himself with a statement or representation he knew or should have known was false or misleading, and two charges under Rule 206 of failing to perform his professional services in accordance with generally accepted standards of practice of the profession, including the Recommendations set out in the *CICA Handbook*. The charges relate to review and compilation engagements performed for a company incorporated by a client, and taxation work done by Mr. Estrien for the client. In the preparation of financial statements for the company, Mr. Estrien failed to obtain sufficient appropriate evidence to support balance sheet items, and improperly included in the statement of operations of the company, expenses of the client's dental practice recorded as paid by the company as the dentist's agent. Mr. Estrien also failed to include certain required income amounts on his client's personal tax return. Mr. Estrien was reprimanded and ordered to complete three prescribed professional development courses.

## **CHARGE(S) LAID re Stephen Estrien**

The Professional Conduct Committee hereby makes the following charges against Stephen Estrien, a member of the Institute:

1. THAT the said Stephen Estrien, in or about the period April 30, 2000 to October 30, 2000, while engaged to review the financial statements of B.R.P. Office Services Inc. for the year ended April 30, 2000, associated himself with financial statements which he knew or should have known were false or misleading, contrary to Rule 205 of the rules of professional conduct in that:
  - a) he accepted the inclusion on the balance sheet of an account receivable from Dr. Fred Wine which he knew or should have known was not collectible without taking steps to address the valuation of the receivable; and
  - b) he accepted the inclusion in the statement of operations expenses which he knew were those of Dr. Fred Wine's dental practice and were recorded as paid by B.R.P. Office Services Inc. as Dr. Wine's agent.
2. THAT the said Stephen Estrien, in or about the period April 30, 2000 to October 30, 2000, while engaged to review the financial statements of B.R.P. Office Services Inc. for the year ended April 30, 2000, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, including the Recommendations set out in the CICA Handbook, contrary to Rule 206 of the rules of professional conduct, in that he failed to perform sufficient and appropriate enquiry, discussion and analysis to satisfy himself as to the plausibility of the balance sheet item "Advances – Dr. Fred Wine \$625,000".
3. THAT the said Stephen Estrien, in or about the period April 30, 2001 to January 3, 2002, while engaged to compile the financial statements of B.R.P. Office Services Inc. for the year ended April 30, 2001, associated himself with financial statements which he knew or should have known were false and misleading, contrary to Rule 205 of the rules of professional conduct in that:
  - a) he accepted the inclusion on the balance sheet of an account receivable from Dr. Fred Wine which he knew or should have known was not collectible without either taking steps to address the valuation of the receivable, or otherwise providing an explanation of the valuation issue in the financial statements or the notes thereto, sufficient to ensure that the financial statements were no longer misleading; and
  - b) he accepted the inclusion in the statement of operations expenses which he knew were those of Dr. Fred Wine's dental practice and were recorded as paid by B.R.P. Office Services Inc. as Dr. Wine's agent.

4. THAT the said Stephen Estrien, in or about the period April 30, 2001 to January 3, 2002, while engaged to compile the financial statements of B.R.P. Office Services Inc. for the year ended April 30, 2001, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, including the Recommendations set out in the CICA Handbook, contrary to Rule 206 of the rules of professional conduct, in that he performed the compilation engagement when he had reason to believe that the financial statements were false or misleading.
5. THAT the said Stephen Estrien, in or about the period January 1, 2001 to June 14, 2001, while engaged as the accountant for Dr. Fred Wine and B.R.P. Office Services Inc., associated himself with a statement or representation which he knew or should have known was false or misleading, contrary to Rule 205 of the rules of professional conduct in that on Dr. Wine's 2000 Income tax return he failed to include in income amounts advanced to Dr. Wine by B.R.P. Office Services Inc. or deemed interest benefits as required by the Income Tax Act.

Dated at Toronto, Ontario this 13th day of January, 2004.

S.R. LOWE, CA – DEPUTY CHAIR  
PROFESSIONAL CONDUCT COMMITTEE

## **DISCIPLINE COMMITTEE re Stephen Estrien**

**DECISION AND ORDER IN THE MATTER OF:** Charges against **STEPHEN ESTRIEN, CA**, a member of the Institute, under **Rules 205 and 206** of the Rules of Professional Conduct, as amended.

**DECISION AND ORDER MADE JUNE 28, 2004**

### **DECISION**

THAT, having seen and considered the evidence, including the agreed statement of facts, filed, and having heard the plea of guilty to charges Nos. 1, 2, 3, 4 and 5, the Discipline Committee finds Stephen Estrien guilty of charges Nos. 1, 2, 3, 4 and 5.

### **ORDER**

IT IS ORDERED in respect of the charges:

1. THAT Mr. Estrien be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Estrien be and he is hereby required to complete, by paying for and attending in their entirety, within one (1) year from the date this Decision and Order becomes final under the bylaws, the following professional development courses made available through the Institute, or, in the event a course listed below becomes unavailable, the successor course which takes its place:
  - (a) *Essentials of Review Engagements*; and
  - (b) *Staying Out of Trouble*; and
  - (c) *Income Tax Refresher – Corporate, or Income Tax Refresher – Personal*.
3. THAT notice of this Decision and Order, disclosing Mr. Estrien'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 the Public Accountants Council for the Province of Ontario;
  - (b) to the Canadian Institute of Chartered Accountants; and
  - (c) by publication in *CheckMark*.
4. THAT in the event Mr. Estrien fails to comply with the requirements of this Order, he shall thereupon be suspended from the rights and privileges of membership in the Institute until such time as he does comply, provided that he complies within twelve (12) months from the date of his suspension, and in the event he does not comply within this twelve (12) month period, 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 above, and in a newspaper distributed in the geographic area of Mr. Estrien's current or former practice, employment and/or residence.

DATED AT TORONTO THIS 7TH DAY OF JULY, 2004  
BY ORDER OF THE DISCIPLINE COMMITTEE

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

## **DISCIPLINE COMMITTEE re Stephen Estrien**

**REASONS FOR THE DECISION AND ORDER IN THE MATTER OF:** Charges against **STEPHEN ESTRIEN, CA**, a member of the Institute, under **Rules 205 and 206** of the Rules of Professional Conduct, as amended.

### **REASONS FOR THE DECISION AND ORDER MADE JUNE 28, 2004**

1. This panel of the discipline committee of the Institute of Chartered Accountants of Ontario met on June 28, 2004 to hear charges brought by the professional conduct committee against Stephen Estrien, a member of the Institute.
2. The professional conduct committee was represented by Ms. Barbara Glendinning. Mr. Estrien was present and was represented by his counsel, Mr. Christopher Hluchan of the law firm of Fraser Milner Casgrain.
3. The decision and the order of the discipline committee were made known at the hearing on June 28, 2004. The formal decision and order made on June 28, 2004 was signed by the secretary on July 7, 2004 and sent to the parties that day. These reasons, given pursuant to Bylaw 574, include the charges, the decision and order as well as the reasons of this panel of the discipline committee.

### **THE CHARGES AND THE PLEA**

4. The charges made by the professional conduct committee on January 13, 2004 read as follows:

1. THAT the said Stephen Estrien, in or about the period April 30, 2000 to October 30, 2000, while engaged to review the financial statements of B.R.P. Office Services Inc. for the year ended April 30, 2000, associated himself with financial statements which he knew or should have known were false or misleading, contrary to Rule 205 of the rules of professional conduct in that:
  - a) he accepted the inclusion on the balance sheet of an account receivable from Dr. Fred Wine which he knew or should have known was not collectible without taking steps to address the valuation of the receivable; and
  - b) he accepted the inclusion in the statement of operations expenses which he knew were those of Dr. Fred Wine's dental practice and were recorded as paid by B.R.P. Office Services Inc. as Dr. Wine's agent.
2. THAT the said Stephen Estrien, in or about the period April 30, 2000 to October 30, 2000, while engaged to review the financial statements of B.R.P. Office Services Inc. for the year ended April 30, 2000, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, including the Recommendations set out in the *CICA Handbook*, contrary to Rule 206 of the rules of professional conduct, in that he failed to perform sufficient and appropriate enquiry, discussion and analysis to satisfy himself as to the plausibility of the balance sheet item "Advances – Dr. Fred Wine \$625,000".

3. THAT the said Stephen Estrien, in or about the period April 30, 2001 to January 3, 2002, while engaged to compile the financial statements of B.R.P. Office Services Inc. for the year ended April 30, 2001, associated himself with financial statements which he knew or should have known were false and misleading, contrary to Rule 205 of the rules of professional conduct in that:
  - a) he accepted the inclusion on the balance sheet of an account receivable from Dr. Fred Wine which he knew or should have known was not collectible without either taking steps to address the valuation of the receivable, or otherwise providing an explanation of the valuation issue in the financial statements or the notes thereto, sufficient to ensure that the financial statements were no longer misleading; and
  - b) he accepted the inclusion in the statement of operations expenses which he knew were those of Dr. Fred Wine's dental practice and were recorded as paid by B.R.P. Office Services Inc. as Dr. Wine's agent.
4. THAT the said Stephen Estrien, in or about the period April 30, 2001 to January 3, 2002, while engaged to compile the financial statements of B.R.P. Office Services Inc. for the year ended April 30, 2001, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, including the Recommendations set out in the *CICA Handbook*, contrary to Rule 206 of the rules of professional conduct, in that he performed the compilation engagement when he had reason to believe that the financial statements were false or misleading.
5. THAT the said Stephen Estrien, in or about the period January 1, 2001 to June 14, 2001, while engaged as the accountant for Dr. Fred Wine and B.R.P. Office Services Inc., associated himself with a statement or representation which he knew or should have known was false or misleading, contrary to Rule 205 of the rules of professional conduct in that on Dr. Wine's 2000 Income tax return he failed to include in income amounts advanced to Dr. Wine by B.R.P. Office Services Inc. or deemed interest benefits as required by the *Income Tax Act*.

5. Mr. Estrien entered a plea of guilty to each of the five charges. He confirmed for the record that he understood that upon the basis of his plea of guilty, and on that basis alone, he could be found guilty of the charges.

#### **THE CASE FOR THE PROFESSIONAL CONDUCT COMMITTEE**

6. Ms. Glendinning filed an agreed statement of facts which was marked as Exhibit No. 4 and a document brief which was marked as Exhibit No. 5. Mr. Estrien, who was 58 years of age at the time of the hearing, had practiced public accounting as a sole practitioner since 1980. His practice consisted primarily of condominium audits. He also did a few review engagements and compilations and prepared approximately 150 personal tax returns annually.

7. One of Mr. Estrien's clients, from 1973 until 2002, was a dentist, Dr. Fred Wine. Mr. Estrien provided accounting and taxation advice and services to Dr. Wine and his family and two companies Dr. Wine incorporated, B.R.P. Office Services Inc. and M.M.S. Properties Ltd.

## **Charges Nos. 1 & 2**

8. Mr. Estrien prepared the financial statements and attached a review engagement report to the financial statements for B.R.P. until the year 2001. On the financial statements for the year ending October 30, 2000 one of the assets on the balance sheet was a receivable from Dr. Fred Wine in the amount of \$625,000.00. Included in the liabilities on the same balance sheet were advances to parties related to Dr. Wine which totaled \$515,838.00. These amounts had accumulated over the years because B.R.P. did not have the money to pay the management fees. Mr. Estrien knew that Dr. Wine was not in a position to pay the fees and that the financial statements were not plausible and thus the services he performed were not in accordance with the standards of the profession, contrary to Rule 206.

9. In 1996 or 1997, Dr. Wine switched banks. His new bank, ScotiaBank, did not want to be burdened with the administrative effort of transferring money from Dr. Wine to B.R.P. to cover the cheques for his practice. Nevertheless, the statement of operations showed the expenses paid from Dr. Wine's account and a mark-up of those expenses as management fees. Thus, the financial statements were false and misleading, contrary to Rule 205.

## **Charges Nos. 3 & 4**

10. For the year ended April 30, 2001, the member compiled the financial statements of B.R.P. and attached them to a Notice to Reader report. The member took no steps to write off a receivable of \$655,913.00. The member showed a list of purported expenses of B.R.P. on the statement of operations which were in fact expenses of Dr. Wine's dental practice and were actually paid from Dr. Wine's bank account. The management fees included not only the expenses paid by Dr. Wine, but a mark-up on those expenses. Mr. Estrien acknowledged that the financial statements were implausible and thus he had not performed his services in accordance with the standards of practice of the profession, contrary to Rule 206. He also acknowledged that by accepting the expenses in the statement of operations, the financial statements were false and misleading contrary to Rule 205.

## **Charge No. 5**

11. With respect to the fifth charge, Mr. Estrien acknowledged in the agreed statement of facts that he failed to include in Dr. Wine's income amounts required by Section 15(2) and Section 80.4 of the *Income Tax Act* and thus, under-reported Dr. Wine's income on the 2000 tax return. In doing so, Mr. Estrien acknowledged that he associated himself with a statement or representation that he should have known was false or misleading, contrary to Rule 205.

12. Upon deliberation, this panel of the discipline committee concluded that the charges had been proved and that Mr. Estrien was guilty of each of the five charges as alleged. When the hearing resumed, the Chair set out on the record the decision of the panel as follows:

## **Decision**

THAT, having seen and considered the evidence, including the agreed statement of facts, filed, and having heard the plea of guilty to charges Nos. 1, 2, 3, 4 and 5, the Discipline Committee finds Stephen Estrien guilty of charges Nos. 1, 2, 3, 4 and 5.

## **SANCTION**

13. Ms. Glendinning outlined the sanction which she was instructed to ask for by the professional conduct committee. The sanction included a reprimand; a fine in the range of \$3,000 to \$5,000; a requirement that Mr. Estrien take specified professional development courses; an order that Mr. Estrien pay costs and the usual provision that notice of the decision and order be given to the Public Accountants Council, the Canadian Institute of Chartered Accountants and that notice of the decision and order be published in *CheckMark* disclosing Mr. Estrien's name.

14. Ms. Glendinning submitted that the appropriate order in this case would be one primarily intended to rehabilitate Mr. Estrien. In her submissions, the reprimand and the fine, together with the publication of Mr. Estrien's name and the notice in *CheckMark*, would serve as both a specific deterrent to Mr. Estrien and a general deterrent to other members of the profession. Accordingly, while rehabilitation should be given priority, the other principles which guide a panel of the discipline committee when imposing a sanction, general and specific deterrence, would also be addressed.

15. Ms. Glendinning referred to a number of aggravating factors, including the fact that the misconduct took place over a number of years, involved not only Dr. Wine and his family, but Canada Revenue Agency. Ms. Glendinning also set out the mitigating factors, including the fact that there was no moral turpitude, that while Mr. Estrien ought to have known the standard required and performed his services accordingly, he did not know and his misconduct was not intentional. Mr. Estrien co-operated throughout the investigation and also co-operated at the hearing. Further, she advised the panel that the investigation carried out by the professional conduct committee did not uncover systemic problems with Mr. Estrien's practice.

16. Mr. Hluchan called Mr. Estrien who testified with respect to the services he performed and his relationship with Dr. Wine. Mr. Estrien also read a statement of apology to the discipline committee for his unintentional mistakes. He said that he had made arrangements with other firms to assist him with this work and expressed the view that he could not afford to pay a heavy fine or costs.

17. Mr. Hluchan submitted, on Mr. Estrien's behalf, that the fine in this case should be nominal as there was no moral turpitude, Dr. Wine was not misled, and that the statements did accurately reflect the financial facts of Dr. Wine's dental practice.

18. Mr. Hluchan took no issue with respect to the reprimand, the publication, or the requested courses but he submitted an appropriate fine would be in the range of \$1,000.00.



19. After deliberation, the hearing resumed and the Chair summarized for the record the terms of the order. The written order, sent to the parties on July 7, 2004, provided as follows:

### **Order**

IT IS ORDERED in respect of the charges:

1. THAT Mr. Estrien be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Estrien be and he is hereby required to complete, by paying for and attending in their entirety, within one (1) year from the date this Decision and Order becomes final under the bylaws, the following professional development courses made available through the Institute, or, in the event a course listed below becomes unavailable, the successor course which takes its place:
  - (a) *Essentials of Review Engagements*; and
  - (b) *Staying Out of Trouble*; and
  - (c) *Income Tax Refresher – Corporate, or Income Tax Refresher – Personal*.
3. THAT notice of this Decision and Order, disclosing Mr. Estrien'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 the Public Accountants Council for the Province of Ontario;
  - (b) to the Canadian Institute of Chartered Accountants; and
  - (c) by publication in *CheckMark*.
4. THAT in the event Mr. Estrien fails to comply with the requirements of this Order, he shall thereupon be suspended from the rights and privileges of membership in the Institute until such time as he does comply, provided that he complies within twelve (12) months from the date of his suspension, and in the event he does not comply within this twelve (12) month period, 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 above, and in a newspaper distributed in the geographic area of Mr. Estrien's current or former practice, employment and/or residence.

### **REPRIMAND**

20. The panel was of the view that a reprimand was appropriate as a specific deterrent to the member, to stress to him the importance of maintaining the standards of the profession, and the unacceptability of his conduct as a chartered accountant.

### **PROFESSIONAL DEVELOPMENT COURSES**

21. The discipline committee agreed with counsel for the professional conduct committee that one of the purposes of the disciplinary process, in appropriate cases, is to encourage rehabilitation. This is of benefit to both the member and the public which the member serves. The panel determined that completion of these professional development courses would help Mr. Estrien to update his skills and assist in his rehabilitation. Although

the professional conduct committee recommended two (2) courses, the discipline committee, having reviewed the Professional Development Catalogue ("PD Catalogue"), concluded that the following three (3) courses would be of benefit to Mr. Estrien:

- Essentials of Review Engagements (Page 13 of the PD Catalogue);
- Staying Out of Trouble (Page 17 of the PD Catalogue); and
- one of:
  - Income Tax Refresher: Corporate (Page 40 of the PD Catalogue)
  - Income Tax Refresher: Personal (Page 41 of the PD Catalogue)

Such courses should be completed within one (1) year from the date of the decision and order becoming final under the bylaws.

## **FINE**

22. The panel concluded that in this particular case a fine was not appropriate. There was no element of moral turpitude, the member was completely co-operative with the investigation and acknowledged his mistakes. The investigation carried out identified mistakes only with respect to Dr. Wine's affairs and there were no problems with the other files reviewed by the investigator. Further, while there was a breach of the rules, it was a technical breach. There was no intent to mislead Dr. Wine who knew his financial position and was aware of the financial statement presentation and the implications. A fine would be a substantial burden on Mr. Estrien and hinder his ability to rehabilitate himself.

## **NOTICE**

23. There were no rare and unusual circumstances which would justify withholding Mr. Estrien's name from the notice to be published in *CheckMark*. As a result of the discipline proceeding, the member's name will be published as one found guilty of professional misconduct. We concluded that this was a sufficient specific deterrent to Mr. Estrien and should be a sufficient general deterrent to other members. It can only be a general deterrent if other members know about it and thus, the requirement that a notice be published in *CheckMark*.

## **COSTS**

24. Again, the intention of the panel in making this order is to facilitate Mr. Estrien's rehabilitation. As an order for costs would be a burden on Mr. Estrien and make his rehabilitation more difficult, we decided not to make such an order.

## **A Failure to Comply and the Return of the Certificate**

25. An order that does not provide for consequences for failure to comply with the terms of the order would be meaningless. In the event Mr. Estrien fails to comply with the provisions of the order, he should be suspended, for a period of twelve (12) months, and if at the end of that time, if he has still not complied with the provisions of the order, he should be expelled. In the event Mr. Estrien is suspended or expelled, he should return the certificate of membership to the Institute.

DATED AT TORONTO THIS 23RD DAY OF MARCH, 2005  
BY ORDER OF THE DISCIPLINE COMMITTEE

B.A. TANNENBAUM – DEPUTY CHAIR  
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

L.G. BOURGON, CA  
D.L. FLEWELLING, CA  
J.G. SEDGWICK, CA  
B. RAMSAY (Public representative)