

Stephen Michael Lutvak: Summary, as Published in *CheckMark*

Stephen Michael Lutvak, of Windsor, was found guilty by the discipline committee of three charges of professional misconduct, laid by the professional conduct committee, namely

- one charge, under Rule of Professional Conduct 201, of failing to conduct himself in a manner which maintains the good reputation of the profession and its ability to serve the public interest;
- one charge, under Rule of Professional Conduct 202, of failing to perform his professional services with integrity; and
- one charge, under Rule of Professional Conduct 205, of associating himself with T4 supplementary slips for his own employment income and T4 summaries filed with Revenue Canada on behalf of his employer, which he knew or should have known were false or misleading.

The committee ordered that Mr. Lutvak

- be fined \$5,000 and assessed costs of \$1,500, all to be paid within a specified time; and
- be expelled from membership in the Institute.

Mr. Lutvak returned to MEMBERSHIP IN GOOD STANDING on January 12th, 1994.

CHARGE(S) LAID re Stephen Michael Lutvak

The Professional Conduct Committee hereby makes the following charge against Stephen M. Lutvak, a member of the Institute:

1. THAT, the said Stephen Lutvak, in or about the years 1984 through 1988, failed to conduct himself at all times in a manner which will maintain the good reputation of the profession and its ability to serve the public interest, contrary to Rule 201 of the rules of professional conduct adopted June 11, 1973, in that, while employed as vice-president finance of the Credit Valley Hospital, Mississauga, Ontario:
 - (a) he prepared or caused to be prepared and filed with Revenue Canada Taxation, T4 supplementary slips for his own employment income and deductions which falsely reported his employment income as less than actually earned and/or income tax deducted as more than actually deducted, for each of the taxation years;
 - i) 1984;
 - ii) 1985;
 - iii) 1986;
 - iv) 1987;
 - (b) he prepared or caused to be prepared the T4 summaries filed with Revenue Canada on behalf of the Credit Valley Hospital which falsely reported tax amounts withheld from his employment income that were not withheld for each of the years;
 - i) 1985;
 - ii) 1986;
 - iii) 1987;
 - (c) he caused the Credit Valley Hospital to remit on his behalf, to Revenue Canada Taxation, payments on account of income taxes owing by him which were not withheld from his employment income thereby receiving a benefit to which he was not entitled for the following years in the approximate amounts stated
 - i) 1985 - \$3,948;
 - ii) 1986 - \$5,873;
 - iii) 1987 - \$11,840;
 - (d) he knowingly paid less income tax to Revenue Canada than required as the amount of tax was calculated by him on reported employment income which was less than actually earned by him for the following years in the approximate amounts stated:
 - i) 1984 - \$6,950;
 - ii) 1985 - \$12,070;
 - iii) 1986 - \$13,567;
 - iv) 1987 - \$15,989;

2. THAT, the said Stephen M. Lutvak, in or about the years 1984 through 1988, did not perform his professional services with integrity, contrary to Rule 202 of the rules of professional conduct adopted June 11, 1973, in that, while employed as vice-president finance of the Credit Valley Hospital, Mississauga, Ontario:
- (a) he prepared or caused to be prepared and filed with Revenue Canada Taxation, T4 supplementary slips for his own employment income and deductions which falsely reported his employment income as less than actually earned and/or income tax deducted as more than actually deducted, for each of the taxation years;
 - i) 1984;
 - ii) 1985;
 - iii) 1986;
 - iv) 1987;
 - (b) he prepared or caused to be prepared the T4 summaries filed with Revenue Canada on behalf of the Credit Valley Hospital which falsely reported tax amounts withheld from his employment income that were not withheld for each of the years;
 - i) 1985;
 - ii) 1986;
 - iii) 1987;
 - (c) he caused the Credit Valley Hospital to remit on his behalf, to Revenue Canada Taxation, payments on account of income taxes owing by him which were not withheld from his employment income thereby receiving a benefit to which he was not entitled for the following years in the approximate amounts stated;
 - i) 1985 - \$3,948;
 - ii) 1986 - \$5,873;
 - iii) 1987 - \$11,840;
 - (d) he knowingly paid less income tax to Revenue Canada than required as the amount of tax was calculated by him on reported employment income which was less than actually earned by him for the following years in the approximate amounts stated:
 - i) 1984 - \$6,950;
 - ii) 1985 - \$12,070;
 - iii) 1986 - \$13,567;
 - iv) 1987 - \$15,989;
3. THAT, the said Stephen Lutvak, in or about the years 1984 through 1988, while employed as vice-president finance of the Credit Valley Hospital, Mississauga, Ontario, associated himself with T4 supplementary slips for his own employment income and T4 summaries filed with Revenue Canada on behalf of the Credit Valley Hospital, which he knew or should have known were false or misleading contrary to Rule 205 of the rules of professional conduct as amended June 15, 1981.

DATED at Toronto this 3rd day of March, 1989

H.H. SMITH, FCA - DEPUTY CHAIRMAN
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Stephen Michael Lutvar

DECISION AND ORDER IN THE MATTER OF: Charges against STEPHEN MICHAEL LUTVAR, CA, a member of the Institute, under Rules 201 and 202 of the Rules of Professional Conduct, adopted June 11, 1973, and under Rule 205 of the Rules of Professional Conduct, as amended June 15, 1981.

DECISION AND ORDER MADE JUNE 20, 1989

DECISION

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

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Lutvak be and he is hereby fined the sum of \$5,000, to be remitted to the Institute within thirty (30) days from the date this Decision and Order becomes final under the bylaws.
2. THAT Mr. Lutvak be and he is hereby charged costs of \$1,500, to be remitted to the Institute within thirty (30) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Lutvak be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and order, disclosing Mr. Lutvak's name, be given after this Decision and order becomes final under the bylaws:
 - (a) by publication in CheckMark;
 - (b) to the Public Accountant's Council for the Province of Ontario; and
 - (c) to the Canadian Institute of Chartered Accountants.
5. THAT Mr. Lutvak be and he is hereby ordered to surrender the certificate of membership in the Institute bearing his name to the registrar of the Institute within ten (10) days from the date this Decision and Order becomes final under the bylaws.

DATED A TORONTO, THIS 27TH DAY OF JUNE, 1989
BY ORDER OF THE DISCIPLINE COMMITTEE

B.W. STEPHENSON - SECRETARY

THE DISCIPLINE COMMITTEE

DISCIPLINE COMMITTEE re Stephen Michael Lutvak

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: Charges against STEPHEN MICHAEL LUTVAK, CA, a member of the Institute, under Rules 201 and 202 of the Rules of Professional Conduct, adopted June 11, 1973, and under Rule 205 of the Rules of Professional Conduct, as amended June 15, 1981.

WRITTEN REASONS FOR THE DECISION AND ORDER MADE JUNE 20, 1989

These proceedings before the discipline committee of the Institute of Chartered Accountants of Ontario were convened on June 20, 1989.

Mr. Paul Farley attended on behalf of the professional conduct committee and Mr. Owen Wigderson, of the law firm of Heller Rubel, attended as agent on behalf of Stephen M. Lutvak.

Mr. Lutvak did not attend the hearing.

The professional conduct committee had laid three charges of professional misconduct against Mr. Lutvak. Mr. Wigderson entered a plea of guilty to each of the three charges on

Mr. Lutvak's behalf, and confirmed that he understood that on a plea of guilty, and on that basis alone, Mr. Lutvak could be found guilty by the committee.

An agreed statement of fact was filed as an exhibit in the hearing upon the agreement of both the professional conduct committee and the member's agent. Mr. Wigderson confirmed that his firm has represented Mr. Lutvak since May, 1988 and that he was authorized to sign the agreed statement of fact on behalf of the firm's client, Mr. Lutvak. Evidence was led relative to the agreed statement of fact.

After deliberation, having first seen, heard and considered the evidence, including the agreed statement of fact filed by agreement, and having heard the plea of guilty to each of the charges, the committee found Mr. Lutvak guilty of charges Nos. 1, 2 and 3. The evidence led by counsel for the professional conduct committee, and agreed to on behalf of Mr. Lutvak, established clearly that Mr. Lutvak had falsely reported his employment income as less than actually earned, and had reported income tax deducted as more than actually deducted, and that he had prepared or caused to be prepared, and filed with Revenue Canada-Taxation, T4 supplementary slips and T4 summaries which falsely reported tax amounts withheld and incomes earned.

Additionally, as a result of these false filings, the member caused his employer to remit payments on account of income taxes which were owing by the member and not by the employer. The result of these actions was that the member also knowingly paid less income tax to Revenue Canada than required. The member thus failed to conduct himself at all times in a manner which maintains the good reputation of the profession and its ability to serve the public interest and obviously did not perform his professional services with integrity and due care. The member also clearly associated himself with filings with Revenue Canada which he knew or should have known were false or misleading.

After reaching its findings on the charges, the committee then heard submissions as to sanction. Mr. Wigderson indicated he wished to make no submissions on behalf of Mr. Lutvak. Having seen the evidence, and having heard the submissions of counsel for the professional conduct committee, the committee then deliberated and made the following order:

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Lutvak be and he is hereby fined the sum of \$5,000, to be remitted to the Institute within thirty (30) days from the date this Decision and Order becomes final under the bylaws.
2. THAT Mr. Lutvak be and he is hereby charged costs of \$1,500, to be remitted to the Institute within thirty (30) days from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Lutvak be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Lutvak's name, be given after this Decision and Order becomes final under the bylaws:
 - (a) by publication in *CheckMark*;
 - (b) to the Public Accountant's Council for the Province of Ontario; and
 - (c) to the Canadian Institute of Chartered Accountants.
5. THAT Mr. Lutvak be and he is hereby ordered to surrender the certificate of membership in the Institute bearing his name to the registrar of the Institute within ten (10) days from the date this Decision and Order becomes final under the bylaws.

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

It is the committee's view that the actions of Mr. Lutvak in the period 1984 to 1987, which are the subject of these charges, were blatant and conscious acts of moral turpitude undertaken with the deliberate intent of defrauding both his employer and Revenue Canada-Taxation. The member held a senior position in a public institution and abused the trust placed in him, both in his position in this public organization and as a member of the profession. Conduct of this nature by a member strikes at the very heart of the integrity of the profession and is conduct that simply cannot be tolerated in a member of the Institute, as it breaches the faith placed in members of the profession by the public and undermines the profession's reputation and its ability to serve the public interest.

The deterrent aspect, as it relates to both the member charged and to other members of the profession, cannot be lightly overlooked. The committee agrees with the submission of counsel for the professional conduct committee that, in view of the gravity of the offence and its effect on the profession's reputation, the rehabilitative aspects of sanctioning are inappropriate. Fraudulent acts committed by this member were over a four year period and got both more elaborate and more significant as time progressed.

Recognizing the nature and seriousness of the fraudulent acts, the length of time involved, and the serious moral turpitude involved, it was considered appropriate that the member be expelled from membership in the Institute. Under the circumstances it was also considered appropriate that the member be given a significant fine, as a penalty and as a deterrent to both the

individual member and other members, that he be assessed costs occasioned by this hearing and that notice of the committee's findings, including the member's name, be ordered as a deterrent to other members of the profession.

C.F. FLEMING, FCA – CHAIRMAN
THE DISCIPLINE COMMITTEE