

## **Stephen Frank Wilkinson: Summary, as Published in *CheckMark***

**Stephen Frank Wilkinson**, of Markham, was found guilty of a charge of professional misconduct, under Rule 201.1, arising from his conviction of nine offences under the Ontario Securities Act, relating to his unlawful conduct as an officer and director of Oselr Inc., and was expelled from membership in the Insititue.

## **CHARGE(S) LAID re Stephen Frank Wilkinson**

The Professional Conduct Committee hereby makes the following charge against Stephen F. Wilkinson, CA, a member of the Institute:

1. THAT, the said Stephen F. Wilkinson, 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, on or about the 29th day of June 1990, he was convicted of nine offences pursuant to section 118 (3) of the Securities Act, R.S.O. 1980, chapter 466, as amended, all of which alleged that he, along with Venard Joseph Gaudet, Patrick Anthony Chesnutt and Paul Marion Cohen, being officers or directors of Osler Inc., did authorize, permit or acquiesce in offences carried out by Osler Inc. which included unlawfully making misrepresentations to an auditor appointed pursuant to section 20(1) of the Securities Act, R.S.O., all of which is contrary to Rule 201.1 of the rules of professional conduct.

DATED at Toronto this       day of       1991.

J.L. BADALI, FCA - DEPUTY CHAIR  
PRO SSIONAL CONDUCT COMMITTEE

## **DISCIPLINE COMMITTEE re Stephen Frank Wilkinson**

**DECISION AND ORDER IN THE MATTER OF:** A charge against STEPHEN FRANK WILKINSON, CA, a member of the Institute, under Rule 201.1 of the Rules of Professional Conduct, as amended.

### **DECISION AND ORDER MADE FEBRUARY 4, 1992**

#### DECISION

THAT, having seen and considered the evidence, including the agreed statement of facts, filed, and having heard the plea of guilty to the charge, THE DISCIPLINE COMMITTEE FINDS Stephen Frank Wilkinson guilty of the charge.

#### ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Wilkinson be and he is hereby expelled from membership in the Institute.
2. THAT notice of this Decision and Order, disclosing Mr. Wilkinson'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.
3. THAT Mr. Wilkinson 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.

DATED AT TORONTO, THIS 6TH DAY OF FEBRUARY, 1992  
BY ORD OF THE DISCIPLINE COMMITTEE

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

## **DISCIPLINE COMMITTEE re Stephen Frank Wilkinson**

**REASONS FOR THE DECISION AND ORDER IN THE MATTER OF:** A charge against STEPHEN FRANK WILKINSON, CA, a member of the Institute, under Rule 201.1 of the Rules of Professional Conduct, as amended.

### **WRITTEN REASONS FOR THE DECISION AND ORDER MADE FEBRUARY 4, 1992**

These proceedings before this panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on February 4, 1992.

Mr. Paul Farley attended on behalf of the professional conduct committee. Mr. Wilkinson attended with his counsel, Mr. Robert J. Carter.

The professional conduct committee had laid one charge under Rule of Professional Conduct 201.1, to which Mr. Wilkinson pleaded guilty. The member confirmed that he understood that, upon a plea of guilty, and upon that basis alone, he could be found guilty by the discipline committee.

An agreed statement of facts, signed by Mr. Wilkinson and counsel for the professional conduct committee, was filed as an exhibit, as was an accompanying document brief. Based upon the evidence presented in these exhibits, and the member's plea of guilty, the discipline committee, upon deliberation, found Mr. Wilkinson guilty of the charge.

The reasons for the committee's finding of guilty are as set out below.

#### **THE FINDING OF GUILTY**

The charge laid by the professional conduct committee against Mr. Wilkinson reads as follows:

*THAT, the said Stephen F. Wilkinson, 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, on or about the 29th day of June 1990, he was convicted of nine offences pursuant to section 118(3) of the Securities Act, R.S.O. 1980, chapter 466, as amended, all of which alleged that he, along with Venard Joseph Gaudet, Patrick Anthony Chesnutt and Paul Marion Cohen, being officers or directors of Osler Inc, did authorize, permit or acquiesce in offences carried out by Osler Inc. which included unlawfully making misrepresentations to an auditor appointed pursuant to section 20(1) of the Securities Act, R. S. O., all of which is contrary to Rule 201.1 of the rules of professional conduct.*

The agreed statement of facts outlined that

- Stephen Wilkinson is a chartered accountant, having been admitted to membership in the Institute in 1976;
- he was convicted on June 29, 1990 of the nine charges under the *Securities Act* described above;

- the representation letter dated May 6, 1987, signed by him and addressed to Coopers & Lybrand, reproduced in the document brief, is the letter upon which the *Securities Act* charges were based; and
- Mr. Wilkinson cooperated extensively with the staff of the Ontario Securities Commission in its investigation into the affairs of Osler Inc.

The document brief included

- a certified copy of the charges laid against Mr. Wilkinson and others;
- extracts of the transcript of the court proceeding of June 29, 1990;
- a Statement of Agreed Facts, signed by Mr. Wilkinson, and filed in the criminal proceeding; and
- the letter of representation, dated May 6, 1987, signed by Mr. Wilkinson.

The Statement of Agreed Facts filed in the court proceeding described the following facts:

1. Prior to July 25, 1986, Mr. Wilkinson was employed as treasurer of Osler. While in this capacity, Mr. Wilkinson had no knowledge of any improprieties at Osler.
2. In the summer of 1986, Osler's senior officers offered Mr. Wilkinson, and he accepted, the position of vice-president, finance and chief financial officer of Osler. The new position resulted in a substantial increase in salary and bonus potential.
3. After Mr. Wilkinson accepted the position, the senior officers told him that an employee of one of Osler's major clients had incurred a loss of approximately \$1.7 million. They indicated that this individual's job was in jeopardy if the loss was reported, and advised Mr. Wilkinson that they were assisting the client's employee in covering up the loss until such time as offsetting profits could be made. They requested Mr. Wilkinson's assistance and, while recognizing that what he was being asked to do was improper, he reluctantly agreed to participate in the cover-up of the loss.
4. In September 1986, Mr. Wilkinson was told by the senior officers that the client's employee had incurred a further loss of approximately \$1.2 million. By this time, Mr. Wilkinson was already participating in the cover-up of the previous loss. While he recognized that participation in a further cover-up was improper, he felt he had little choice and, consequently, reluctantly agreed to comply with the request of the senior officers.
5. In October or November 1986, Mr. Wilkinson discovered that the trading losses allegedly incurred by the client's employee were in fact Osler trading losses, and that „, the senior officers had known this all along. Though he felt the senior officers had deceived him, he nevertheless continued to participate in the cover-up of these and other losses incurred by Osler until his departure from Osler on May 29, 1987.
6. During 1987, Osler's trading losses continued to mount. At the end of May 1987, Mr. Wilkinson was told by one of the senior officers that losses then totalled more than \$15 million.

7. In April 1987, Mr. Wilkinson told the senior officers that they would have to provide Osler with collateral security, but they refused to do so. Soon thereafter the senior officers told Mr. Wilkinson that a committee of four had been established to deal with the losses, with assignments to run the firm, trade Osler out of its losses, arrange to cover up the losses, and over-borrow against securities.
8. Mr. Wilkinson participated with senior officers in the making of false entries in Osler's records to conceal substantial trading losses incurred by one of Osler's traders.
9. During 1987, Mr. Wilkinson directly or indirectly participated in a scheme to improperly transfer approximately \$1 million to an officer at Osler. In addition, he created and participated in a scheme to conceal the improper transfer.
10. Through his engaging in, or having knowledge of, various activities from August 1986 until the end of May 1987, Mr. Wilkinson participated in a cover-up of Osler losses to conceal the true financial condition of Osler from its auditors, clients, creditors, shareholders, and regulatory authorities.
11. Osler was required to file with the Toronto Stock Exchange a Joint Industry Monthly Financial Report (MFR) every month, and a Joint Regulatory Financial Questionnaire and Report (JRFQR) twice a year. As chief financial officer, Mr. Wilkinson was required to certify the information as true and correct. Mr. Wilkinson signed these statements knowing they were materially incorrect.
12. On May 6, 1987, Mr. Wilkinson signed a letter of representation addressed to Coopers and Lybrand, Osler's auditors, in connection with their examination of the financial statements and JRFQR of Osler for the financial year ended March 31, 1987. This letter contained numerous representations regarding the affairs of Osler which Mr. Wilkinson knew were false and misleading.
13. During the course of the year-end audit for the year ended March 31, 1987, Mr. Wilkinson became worried that the auditors might discover some of the improprieties in which the senior officers and he had been engaged. In an attempt to conceal these improprieties, Mr. Wilkinson began to destroy the 1987 inventory microfiche. He ceased when he realized that the auditors already had a complete copy.
14. Mr. Wilkinson resigned from Osler in May of 1987, as he could no longer continue his involvement in the company's improprieties.

Based upon the evidence presented, as outlined above, and the member's plea of guilty, the discipline committee found Mr. Wilkinson guilty of the charge.

## **THE SANCTIONS**

The committee then heard submissions from both parties with respect to sanctions and, after deliberation, made the following Order:

### **ORDER,**

IT IS ORDERED in respect of the charge:

1. THAT Mr. Wilkinson be and he is hereby expelled from membership in the Institute.

2. THAT notice of this Decision and Order, disclosing Mr. Wilkinson'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 adian Institute of Chartered Accountants.

3. THAT Mr. Wilkinson 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.

The reasoning behind the committee's order as to sanctions is set out below.

### **Expulsion**

The primary consideration for the committee's order of expulsion is the principle of general deterrence. Defence counsel argued that the nine charges under the *Securities Act* of which Mr. Wilkinson was convicted, and which, in turn, resulted in his being found guilty by this panel of the charge laid under Rule 201, were all based upon the one representation letter of May 6, 1987 which Mr. Wilkinson signed.

The committee considers this to be too simplistic a view of this case, which involves much more than simply one misrepresentative letter.

Mr. Wilkinson participated in a scheme which involved

- the cover-up of numerous and substantial trading losses incurred by Osler over an extended period of time;
- the making of false entries in the books and records of Osler;
- the improper transfer of \$1 million to an officer of Osler;
- the preparation of fictitious trade tickets to cover up the true financial condition of Osler;
- the signing of Toronto Stock Exchange information returns as true and correct with knowledge that they were materially incorrect; and
- the destruction of documents in order to avoid detection.

Mr. Wilkinson's conduct embraced very serious breaches of the obligation that the chartered accountancy profession has to the business community and the public generally, to provide sound and fair financial reporting that can be relied upon. He knowingly misled auditors, creditors, clients, shareholders and regulatory authorities. By his actions, Mr.. Wilkinson significantly damaged the reputation of the profession and undermined the profession's ability to properly and effectively serve the public interest.

In these circumstances, the discipline committee is of the view that the only appropriate sanction is the expulsion of Mr. Wilkinson and the surrender of his certificate of membership to the Institute.

## **Publicity**

The committee followed its normal practice of ordering that notice be given of its Decision and Order in order to demonstrate to the public that the profession is regulating itself, so as to retain public confidence in the profession's ability to self-govern.

## **Fine**

A fine was not levied against Mr. Wilkinson because of the following mitigating circumstances:

- he received no direct financial gain from the various schemes;
- he cooperated fully in the various investigations, including that of the professional conduct committee;
- he has already suffered significant financial penalties as a result of his involvement with Osler;
- he was young and relatively inexperienced and was, consequently, unprepared to deal with Osler's senior officers, who were sophisticated and forceful in the perpetration of their dishonest schemes; and
- three testimonial letters filed on his behalf attested to his honesty, integrity and trustworthiness.

DATED AT TORONTO, THIS 1st DAY OF MAY, 1992  
BY ORDER OF THE DISCIPLINE COMMITTEE

R.C.H. ANDREWS, CA - DEPUTY CHAIR  
THE DISCIPLINE COMMITTEE

### **MEMBERS OF THE PANEL:**

P.J. FITZPATRICK, CA  
R.G. HARRISON, FCA  
P. RAYSON, CA  
D.P. SETTERINGTON, CA  
R.W. WARKENTIN (Public representative)