

## **Steven Charles Bark: Summary, as Published in *CheckMark***

**Steven Charles Bark**, of Peterborough, was found guilty of one charge under Rule 204.1 of failing to hold himself free of an influence, interest or relationship which impaired his professional judgment or objectivity in respect of an engagement, and two charges under Rule 206 of failing to perform his professional services in accordance with generally accepted standards of practice of the profession. While engaged to perform audits of the financial statements of a client company for two successive year-ends, Mr. Bark failed to obtain sufficient appropriate audit evidence to support various balance sheet items, and, during the second audit, failed to ensure adequate disclosure in the financial statements of the sale of the company. In setting the sanctions, the committee took into account that the financial statements on which Mr. Bark expressed an opinion were not the basis for determining the price of the sale. Mr. Bark was fined \$5,000 and ordered to complete four professional development courses.

## CHARGE(S) LAID re Steven Charles Bark

The Professional Conduct Committee hereby makes the following charges against Steven C. Bark, CA, a member of the Institute:

1. THAT, the said Steven C. Bark, in or about the period July 1, 1997 through November 30, 1997 while engaged to perform an audit of the financial statements of Eldorado Cheese Limited for the year ended July 31, 1997, 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,
  - (a) he failed to obtain sufficient appropriate audit evidence to support the balance sheet item "Inventory – manufacturing – Note 1(a) and 2 \$1,284,016;
  - (b) he failed to obtain sufficient appropriate audit evidence to support the balance sheet item "Inventory – other – Note 1(a) and 2 \$61,262";
  - (c) he failed to obtain sufficient appropriate audit evidence to support the balance sheet item "Accounts payable and accrued liabilities \$311,251";
  - (d) he failed to obtain sufficient appropriate audit evidence to support the balance sheet item "Long term debt – Note 5 \$349,108".
2. THAT, the said Steven C. Bark, in or about the period July 1, 1998 through October 30, 1998 while engaged to perform an audit of the financial statements of Eldorado Cheese Limited for the year ended July 31, 1998, 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,
  - (a) he failed to obtain sufficient appropriate audit evidence to support the balance sheet item "Inventory – manufacturing – Note 1(a) and 2 \$197,766;
  - (b) he failed to obtain sufficient appropriate audit evidence to support the balance sheet item "Inventory – other – Note 1(a) and 2 \$37,636;
  - (c) he failed to obtain sufficient appropriate audit evidence to support the balance sheet item "Accounts payable and accrued liabilities \$202,357";
  - (d) he failed to obtain sufficient appropriate audit evidence to support the balance sheet item "Long term debt – Note 5 \$349,108";
  - (e) he failed to ensure adequate disclosure in the financial statements of the sale of the business as a subsequent event.

3. THAT, the said Steven C. Bark, in or about the period July 1, 1998 through October 30, 1998, while engaged to express an opinion on the financial statements of Eldorado Cheese Limited for the year ended July 31, 1998, failed to hold himself free of any influence, interest or relationship which, in respect of the engagement, impaired his professional judgement or objectivity or which, in the view of a reasonable observer, would impair his professional judgement or objectivity, contrary to Rule 204.1 of the rules of professional conduct in that;
- (a) he performed professional services on the sale of Eldorado Cheese Limited for a fee, in the amount of \$40,440.00, which was fixed as a percentage of the gross proceeds of sale.

Dated at Toronto, this                      day of December, 1999.

DOUGLAS BOUFFORD, CA — CHAIR  
PROFESSIONAL CONDUCT COMMITTEE

## **DISCIPLINE COMMITTEE re Steven Charles Bark**

**DECISION AND ORDER IN THE MATTER OF:** Charges against **STEVEN CHARLES BARK, CA**, a member of the Institute, under **Rules 204.1 and 206**, of the Rules of Professional Conduct, as amended.

### **DECISION AND ORDER MADE MARCH 23, 2000**

#### **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 and 3, the Discipline Committee finds Steven Charles Bark guilty of charges Nos. 1, 2 and 3.

#### **ORDER**

IT IS ORDERED in respect of the charges:

1. THAT Mr. Bark be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Bark be and he is hereby fined the sum of \$5,000, to be remitted to the Institute within three (3) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Bark be and he is hereby required to complete, by paying for and attending in their entirety, on or before December 31, 2001, the following professional development courses made available through the Institute:
  - Accounting, Auditing and Professional Practice Update;
  - Auditing Refresher;
  - Audit of a Small Business; and
  - Practical Skills for Reviewing Audit Files,or, in the event a course listed above becomes unavailable, the successor course which takes its place.
4. THAT notice of this Decision and Order, disclosing Mr. Bark's name, be given after this Decision and Order becomes final under the bylaws:
  - to the Public Accountants Council for the Province of Ontario;
  - to the Canadian Institute of Chartered Accountants; and
  - by publication in *CheckMark*.
5. THAT in the event Mr. Bark 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 three (3) months from the date of his suspension, and in the event he does not comply within this three (3) 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. Bark's practice or employment.

DATED AT TORONTO THIS 27TH DAY OF MARCH 2000  
BY ORDER OF THE DISCIPLINE COMMITTEE

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

## **DISCIPLINE COMMITTEE re Steven Charles Bark**

**REASONS FOR DECISION AND ORDER IN THE MATTER OF:** Charges against **STEVEN CHARLES BARK, CA**, a member of the Institute, under **Rules 204.1 and 206**, of the Rules of Professional Conduct, as amended.

### **REASONS FOR THE DECISION AND ORDER MADE MARCH 23, 2000**

This panel of the discipline committee of the Institute of Chartered Accountants of Ontario met on March 23, 2000 to hear evidence concerning charges brought by the professional conduct committee against Steven Charles Bark, CA. The professional conduct committee was represented by Mr. Paul Farley. Mr. Bark was present at the hearing and was represented by Mr. Robert Seiler.

The hearing concluded on March 23, and the panel's decision and order was issued on March 27, 2000. These reasons, issued in writing pursuant to Bylaw 574, set out the charges laid by the professional conduct committee, and the panel's decision and order as well as its reasons.

### **DECISION ON THE CHARGES**

Mr. Bark pleaded guilty to each of the following charges laid against him by the professional conduct committee:

1. THAT, the said Steven C. Bark, in or about the period July 1, 1997 through November 30, 1997 while engaged to perform an audit of the financial statements of Eldorado Cheese Limited for the year ended July 31, 1997, 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,
  - (a) he failed to obtain sufficient appropriate audit evidence to support the balance sheet item "Inventory – manufacturing – Note 1(a) and 2 \$1,284,016;
  - (b) he failed to obtain sufficient appropriate audit evidence to support the balance sheet item "Inventory – other – Note 1(a) and 2 \$61,262";
  - (c) he failed to obtain sufficient appropriate audit evidence to support the balance sheet item "Accounts payable and accrued liabilities \$311,251";
  - (d) he failed to obtain sufficient appropriate audit evidence to support the balance sheet item "Long term debt – Note 5 \$349,108".
2. THAT, the said Steven C. Bark, in or about the period July 1, 1998 through October 30, 1998 while engaged to perform an audit of the financial statements of Eldorado Cheese Limited for the year ended July 31, 1998, 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,

- (a) he failed to obtain sufficient appropriate audit evidence to support the balance sheet item "Inventory – manufacturing – Note 1(a) and 2 \$197,766;
  - (b) he failed to obtain sufficient appropriate audit evidence to support the balance sheet item "Inventory – other – Note 1(a) and 2 \$37,636;
  - (c) he failed to obtain sufficient appropriate audit evidence to support the balance sheet item "Accounts payable and accrued liabilities \$202,357";
  - (d) he failed to obtain sufficient appropriate audit evidence to support the balance sheet item "Long term debt – Note 5 \$349,108";
  - (e) he failed to ensure adequate disclosure in the financial statements of the sale of the business as a subsequent event.
4. THAT, the said Steven C. Bark, in or about the period July 1, 1998 through October 30, 1998, while engaged to express an opinion on the financial statements of Eldorado Cheese Limited for the year ended July 31, 1998, failed to hold himself free of any influence, interest or relationship which, in respect of the engagement, impaired his professional judgement or objectivity or which, in the view of a reasonable observer, would impair his professional judgement or objectivity, contrary to Rule 204.1 of the rules of professional conduct in that;
- (a) he performed professional services on the sale of Eldorado Cheese Limited for a fee, in the amount of \$40,440.00, which was fixed as a percentage of the gross proceeds of sale.

In presenting the case for the professional conduct committee, Mr. Farley filed a document brief and an agreed statement of facts. The document brief contained a copy of the audited financial statements of Eldorado Cheese Limited ( ECL ) for each of the years ended July 31, 1997 and July 31, 1998, together with copies of various pages extracted from Mr. Bark's audit working paper files relating to these audits. The audit working papers clearly showed that Mr. Bark did not 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.

The document brief also contained a copy of an invoice dated August 28, 1998 from Mr. Bark to ECL relating to services provided in connection with the sale of ECL. Mr. Bark charged for these services as a percentage of the gross proceeds of the sale of ECL. At the time the invoice was issued, Mr. Bark had not issued his audit opinion on the July 31, 1998 financial statements of ECL. As a result, Mr. Bark failed to hold himself free of any influence, interest or relationship which would impair his professional judgment or objectivity with respect to the July 31, 1998 audited financial statements of ECL, contrary to Rule 204.1 of the rules of professional conduct.

Accordingly, Mr. Bark was found guilty of the charges. The decision read:

## **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 and 3, the Discipline Committee finds Steven Charles Bark guilty of charges Nos. 1, 2 and 3.



## ORDER AS TO SANCTION

Mr. Farley and Mr. Seiler both made submissions with respect to sanction.

In opening his submissions, Mr. Farley stated that, insofar as the professional conduct committee was concerned, this was not a case that involved moral turpitude, nor was there a continuing concern with Mr. Bark's competence. He pointed out in his submissions that the investigator reviewed a number of other files prepared by Mr. Bark, and had no concerns with those files. Accordingly, the sanction requested by the professional conduct committee did not emphasize specific deterrence.

Mr. Farley requested a sanction that included a written reprimand from the chair of the hearing, a fine of \$5,000, an order that Mr. Bark be required to take specified professional development courses, and notice of the decision and order to the Public Accountants Council, the Canadian Institute of Chartered Accountants, and by publication in *CheckMark*.

Mr. Farley submitted that the suggested fine of \$5,000 was an important general deterrent to remind like-minded members that the profession considers the maintenance of its professional standards of practice to be essential, and that a member should not impair his or her objectivity on an audit by taking a percentage fee on a matter related to an audit client. Mr. Farley also submitted that the amount of the fine requested in this case was appropriate, as it was similar to the fines imposed in the cases of *Kalba* (1993), *Hickman* (1993), *Lukas* (1993) and *Rutherford* (1997).

The sanction requested by the professional conduct committee in this case did not include a request for supervised practice, nor did it request a reinvestigation of Mr. Bark's practice. This was because the professional conduct committee was satisfied that Mr. Bark's conduct which resulted in these charges was an isolated event. Further, as the agreed statement of facts made clear, Mr. Bark recently merged his practice with BDO Dunwoody LLP. Mr. Seiler introduced into evidence a letter from BDO Dunwoody advising that BDO had reviewed a number of Mr. Bark's audit files prior to merging with Mr. Bark's practice. The letter from BDO stated that while Mr. Bark's audit approach was somewhat different than that of the firm, BDO found the files to be thoroughly prepared, with sufficient and appropriate audit evidence to support the opinions rendered. The BDO letter also stated that the firm was aware of the outstanding discipline charges against Mr. Bark.

Mr. Seiler in his submissions agreed with the sanctions proposed by the professional conduct committee, other than with respect to the amount of the fine. He submitted that the fine should be \$3,000, which was the amount of the fine imposed in the *McKechnie* case in 1998. Mr. Seiler also submitted that Mr. Bark's finances were stretched as a result of his recent merger with BDO, and some personal financial difficulties. Mr. Seiler stated that there was no danger Mr. Bark had taken or would take these proceedings lightly, and that the discipline experience itself had been a specific deterrent. He also advised the panel that BDO requires all partners to take forty hours of professional development courses yearly.

The panel deliberated and made the following order:

### ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Bark be reprimanded in writing by the chair of the hearing.

2. THAT Mr. Bark be and he is hereby fined the sum of \$5,000, to be remitted to the Institute within three (3) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Bark be and he is hereby required to complete, by paying for and attending in their entirety, on or before December 31, 2001, the following professional development courses made available through the Institute:
  - Accounting, Auditing and Professional Practice Update;
  - Auditing Refresher;
  - Audit of a Small Business; and
  - Practical Skills for Reviewing Audit Files,or, in the event a course listed above becomes unavailable, the successor course which takes its place.
4. THAT notice of this Decision and Order, disclosing Mr. Bark's name, be given after this Decision and Order becomes final under the bylaws:
  - to the Public Accountants Council for the Province of Ontario;
  - to the Canadian Institute of Chartered Accountants; and
  - by publication in CheckMark.
5. THAT in the event Mr. Bark 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 three (3) months from the date of his suspension, and in the event he does not comply within this three (3) 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. Bark's practice or employment.

In considering the appropriate sanction, the panel considered the three general principles of sentencing, namely rehabilitation, general deterrence and specific deterrence, and concluded that the principles of rehabilitation and general deterrence were the most important principles to apply in this case. The panel agreed that Mr. Bark did not need to be further specifically deterred from similar conduct, and took into account the evidence that the only problems discovered in Mr. Bark's practice were related to this one file.

### **Reprimand**

The panel believes that a reprimand in writing from the chair of the hearing stresses to Mr. Bark the unacceptability of his conduct as a chartered accountant.

### **Fine**

The panel agreed that a fine was appropriate in this case, both as a general deterrent to like-minded members, and as a demonstration to the public of the profession's intolerance of the type of behaviour demonstrated by Mr. Bark. On the evidence heard, the misconduct set out in charges Nos. 1 and 2 related to the fact that Mr. Bark reviewed the work of another accountant not qualified to render an audit opinion, and signed the audit report without adequately reviewing what had been done, and without doing the proper audit work himself. The third charge, relating to the breach of objectivity, would have been even more serious than it was had the financial statements been the basis for determining the price of the assets sold. The panel agreed that the fine of \$5,000 requested by the professional conduct committee was appropriate in this case, since Mr. Bark had been found guilty of three charges under two different rules of

professional conduct, one of which was Rule 204.1 relating to a member's objectivity in carrying out an audit.

## **Professional Development Courses**

The professional conduct committee submitted that Mr. Bark should be required to take the following professional development courses:

- Accounting, Auditing and Professional Practice Update;
- Auditing Refresher;
- Audit of a Small Business; and
- Practical Skills for Reviewing Audit Files.

The panel agreed that the courses requested by the professional conduct committee were appropriate in this case, and would assist in the rehabilitation of Mr. Bark.

## **Notice**

The giving of notice of the discipline committee's decision and order, disclosing Mr. Bark's name, is, in the opinion of the panel, a general deterrent. It is the discipline committee's responsibility to ensure that members of the profession and the general public are made aware that failure on the part of members to comply with the rules of professional conduct will result in the imposition of serious sanctions.

## **Failure to Comply with Conditions of the Order**

In the event Mr. Bark fails to comply with the requirements of the panel's order within the time periods specified, he will be suspended from membership in the Institute. In the event Mr. Bark fails to comply for a further three month period, he will be expelled from membership in the Institute.

DATED AT TORONTO THIS 31st DAY OF MAY, 2000  
BY ORDER OF THE DISCIPLINE COMMITTEE

M. BRIDGE, CA – DEPUTY CHAIR  
THE DISCIPLINE COMMITTEE

## **MEMBERS OF THE PANEL:**

P.A. GOGGINS, CA  
B.L. HAYES, CA  
K. TSE, CA  
R.D. WHEELER, FCA  
J.T. ANDERS (Public representative)