

Notice of Readmission

Thomas Craig Harris, of London, was expelled from the Institute after being found guilty of a charge under Rule 201.1, and his expulsion was reported in the Autumn 2007 issue of *CheckMark*. Mr. Harris applied to the Discipline Committee and has been readmitted to the Institute after taking the CARE Preparation Course, passing the CA Reciprocity Examination, taking four professional development courses and paying costs of \$1,500.

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: A charge against **T. CRAIG HARRIS, CA**, a member of the Institute, under **Rule 201.1** of the Rules of Professional Conduct, as amended.

TO: Mr. T. Craig Harris, CA
Unit C Upper 75 Byron Avenue
LONDON, ON N6C 1C6

AND TO: The Professional Conduct Committee, ICAO

REASONS
(Decision and Order Made April 26, 2007)

1. This panel of the Discipline Committee of the Institute of Chartered Accountants of Ontario met on April 26, 2007, to hear a charge of professional misconduct brought by the Professional Conduct Committee against Thomas Craig Harris, a member of the Institute.

2. Mr. Paul Farley appeared on behalf of the Professional Conduct Committee, and was accompanied by Ms. Jodie Wolkoff, CA, the investigator appointed by the Professional Conduct Committee in this matter. Mr. Harris attended and was represented by counsel, Ms. Lara Jackson.

3. The decision of the panel was made known at the conclusion of the hearing and the written Decision and Order sent to the parties on May 1, 2007. These reasons, given pursuant to Bylaw 573, contain the charge, the decision, the order, and the reasons of the panel for its decision and order.

CHARGE

4. The following charge was laid against Mr. Harris by the Professional Conduct Committee on March 13, 2007:

1. THAT, the said T. Craig Harris, in or about the period September 1, 2005 through August 31, 2006, while employed as Chief Financial Officer for "H.T. Limited", failed to conduct himself in a manner which will maintain the good reputation of the profession and its ability to serve the public interest, in that he misappropriated from his employer, "H.T. Limited", money in the approximate amount of \$22,600; contrary to Rule 201.1 of the rules of professional conduct.

PLEA

5. Mr. Harris entered a plea of guilty to the charge, and acknowledged that he understood that, on the basis of the plea and that basis alone, he could be found guilty of the charge.

EVIDENCE

6. The evidence in this matter was presented by way of an Agreed Statement of Facts (Exhibit 2) and an accompanying Document Brief (Exhibit 3). Neither party called any further evidence.

7. The evidence establishes that Mr. Harris was hired as the Chief Financial Officer for "H.T. Limited" in July, 2005. Over the next year he misappropriated approximately \$22,600 from his employer. In August, 2006, the employer conducted an investigation and terminated Mr. Harris.

8. The misappropriation consisted of approximately 165 occurrences. On 130 occasions Mr. Harris charged gas for his vehicle to the company, despite receiving a fuel allowance. He also charged the deposit for a car lease to the company in error, but failed to rectify the error when he became aware of it. He used the company credit card 21 times for personal purchases, he received accrued vacation pay twice, by way of automatic deposit and cheque, and cashed the cheque knowing he had already received the pay, and he wrote 12 manual cheques on the company account to himself.

9. Neither party made substantive submissions on guilt.

DECISION

10. The evidence in this matter is clear, cogent, compelling and uncontradicted, and proves the professional misconduct as alleged in the charge. After deliberating, the panel made the following decision:

THAT, having seen and considered the evidence, including the agreed statement of facts, filed, and having heard the plea of guilty to charge No. 1, the Discipline Committee finds Mr. T. Craig Harris guilty of the charge.

SANCTION

11. Counsel for the Professional Conduct Committee has submitted that a sanction of: a written reprimand; a fine in the amount of \$3,500; expulsion from membership; and full publicity of this matter, including notice in the newspaper, is both appropriate and required in this case. He has also sought costs of the process in the amount of \$1,500.

12. Mr. Farley has submitted that this is a matter of dishonesty, of moral turpitude, and that the principle of rehabilitation must give way to the imperatives of general and specific deterrence. Mr. Harris held a position of great trust, and abused that position.

13. In aggravation, Mr. Farley has noted as well the significant amount of money taken, the time period over which the theft occurred, the number of occurrences, and the fact that Mr. Harris did not cease until he was caught.

14. In mitigation, he has set out the fact that Mr. Harris has no previous discipline record, he cooperated fully with the investigation and hearing processes, he made full restitution, and he has shown true remorse, evidenced in part by his plea of guilty at the earliest opportunity.

15. It is his final submission that, while the mitigating circumstances may be taken into account in assessing the quantum of the fine and the amount of the costs, misappropriation requires the member be expelled from the Institute, and he has drawn the attention of the panel to a number of

precedents in support of that submission.

16. On behalf of Mr. Harris, Ms. Jackson does not dispute the sanction as proposed by the Professional Conduct Committee. She has provided some insight for the panel into Mr. Harris' motivations and, in particular, into the financial and personal stresses which contributed to his actions. Although those stresses still exist, Mr. Harris has sought and obtained assistance in dealing with them. He has also re-enlisted in the armed forces and expects to be deployed to a combat zone in the fall.

17. Mr. Harris himself addressed the panel. He stated that he understood when he became a chartered accountant the importance of the reputation of the profession, and that he knew he had breached that trust. He offered an apology to all members for the effect his actions have had on the profession.

ORDER

18. After deliberating, the panel made the following order:

IT IS ORDERED in respect of the charge:

1. THAT Mr. Harris be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Harris be and he is hereby fined the sum of \$3,500 to be remitted to the Institute within twelve (12) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Harris be and he is hereby charged costs fixed at \$1,500 to be remitted to the Institute within twelve (12) months from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Harris be and he is hereby expelled from membership in the Institute.
5. THAT notice of this Decision and Order, disclosing Mr. Harris'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 all members of the Institute; and
 - (b) to all provincial institutes/Ordre,and shall be made available to the public.
6. THAT notice of the expulsion disclosing Mr. Harris's name, be given by publication on the Institute's website and in *The Wingham Advance-Times*. All costs associated with the publication shall be borne by Mr. Harris and shall be in addition to any other costs ordered by the committee.
7. THAT Mr. Harris surrender his certificate of membership in the Institute to the discipline committee secretary within ten (10) days from the date this Decision and Order becomes final under the bylaws.

REASONS FOR THE ORDER

19. Mr. Harris is a young chartered accountant who has experienced considerable stresses, both personal and financial, in the past few years. He has taken responsibility – for his family, for his actions, for his future. The panel has sympathy for the position in which he found himself, and respect for the steps he has now taken. However, Mr. Harris is a thief. He stole from his employer, breaching the trust of that employer, and the public trust in the probity of chartered accountants. He has sullied the reputation and standing of every member of this profession. For that the panel can have no sympathy whatsoever.

Expulsion

20. Mr. Harris has proven, by his actions, that he cannot be trusted. Trust is the bedrock of chartered accountancy, and the profession cannot tolerate any assault on that foundation. The public has a right to expect absolute honesty from each and every chartered accountant, and to be protected from anyone who fails to maintain the utmost integrity in every aspect of every matter.

21. Misappropriation is theft. Mr. Harris stole from the very employer who had entrusted him with the company's financial affairs. Such an egregious breach of trust can only result in expulsion of membership. From the evidence and submissions in this matter, it appears Mr. Harris may be an excellent candidate for rehabilitation, but that rehabilitation will have to take place outside this profession.

Certificate of Membership

22. Mr. Harris is no longer to be a member of this Institute. It is not appropriate he continue to retain the certificate provided by the Institute evidencing that membership. The certificate is the property of the Institute, and is to be returned to it.

Reprimand

23. A written reprimand is essential to ensure Mr. Harris understands the gravity of his actions, and the disapprobation of the Institute.

Publicity

24. Mr. Harris' actions have harmed each and every member of this profession. The public needs to be assured that such behaviour is intolerable and will be treated as such by the Institute. Only then can public trust be restored and maintained. As well, other members of the profession need to be aware of the consequences of yielding to such a temptation, so that they are deterred from considering any similar action. The publication and notice as ordered will satisfy this requirement.

Fine

25. The panel is mindful of Mr. Harris' financial circumstances. However, a fine is required to serve as both a specific and general deterrent. Mr. Harris has paid back what he took, but that does not mitigate the fact of the misappropriation itself.

Costs

26. As it was Mr. Harris' actions which necessitated the investigation and hearing, it is appropriate that he, rather than the membership in general, pay a portion of the cost of that investigation and hearing. Having considered all the relevant factors, including his means, his cooperation and remorse, and the totality of the order, a modest amount has been fixed for the costs.

DATED AT TORONTO THIS 27th DAY OF JUNE, 2007
BY ORDER OF THE DISCIPLINE COMMITTEE

M.B. MARTENFELD, FCA – DEPUTY CHAIR
DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

S.M. DOUGLAS, FCA
D.M. FORTNUM, FCA
D.L. FLEWELLING, CA
B.M. SOLWAY (PUBLIC REPRESENTATIVE)