

## **Wallace Gordon Robson: Summary as Published in *CheckMark***

**Wallace Gordon Robson**, of LaSalle, was found guilty of a charge under Rule 201.1 of failing to maintain the good reputation of the profession and its ability to serve the public interest, arising out of his convictions under the Income Tax Act. Mr. Robson participated in a tax fraud by aiding and abetting a client to understate his taxable income, thereby enabling the client to evade income taxes for a number of years. Mr. Robson was fined \$3,000 and expelled from the Institute.

## **CHARGE(S) LAID re Wallace Gordon Robson**

The Professional Conduct Committee hereby makes the following charges against Wallace G. Robson, CA, a member of the Institute:

1. THAT, the said Wallace G. Robson, on or about the 13th day of January, 1995, failed to conduct himself in a manner that maintains the good reputation of the profession and its ability to serve the public interest in that he was convicted of those offences under the Income Tax Act, R.S.C. 1952, Chapter 148, as amended shown as counts 1-16 in the indictment attached as Schedule "A", contrary to Rule 201.1 of the rules of professional conduct.

Dated at                                      this                                      day of                                      1995.

JENNIFER L. FISHER, CA - CHAIR  
PROFESSIONAL CONDUCT COMMITTEE

## DISCIPLINE COMMITTEE re Wallace Gordon Robson

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

### DECISION AND ORDER MADE JULY 26, 1999

#### DECISION

THAT, having seen and considered the evidence, and having heard the plea of guilty to the charge, the Discipline Committee finds Wallace Gordon Robson guilty of the charge.

#### ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Robson be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Robson be and he is hereby fined the sum of \$3,000, to be remitted to the Institute within two (2) years from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Robson be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Robson's name, be given after this Decision and Order becomes final under the bylaws:
  - (a) to the Public Accountants Council for the Province of Ontario;
  - (b) to the Canadian Institute of Chartered Accountants;
  - (c) by publication in *CheckMark*; and
  - (d) by publication in *The Globe and Mail* and *The Windsor Star*.
5. THAT Mr. Robson 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.

DATED AT TORONTO THIS 29TH DAY OF JULY, 1999  
BY ORDER OF THE DISCIPLINE COMMITTEE

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

## DISCIPLINE COMMITTEE re Wallace Gordon Robson

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

### **REASONS FOR THE DECISION AND ORDER MADE JULY 26, 1999**

These proceedings before this panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on July 26, 1999.

Mr. Paul Farley attended on behalf of the professional conduct committee. Mr. Robson was present and represented by his counsel, Ms. Cynthia Amsterdam.

The charge under Rule 201.1 of the rules of professional conduct laid against Mr. Robson read as follows:

*THAT, the said Wallace G. Robson failed to conduct himself in a manner that maintains the good reputation of the profession and its ability to serve the public interest in that, on or about the 13th day of January, 1995, he was convicted of those offences under the Income Tax Act, R.S.C. 1952, Chapter 148, as amended shown as counts 1(a), (b), (c), (d), (e) and 2(a), (b), (c), (d), (e) in the indictment attached as Schedule "A", contrary to Rule 201.1 of the rules of professional conduct.*

The relevant parts of the indictment attached to the charge read as follows:

1. *That Wallace Robson and John Heffernan, between the 31st day of December, 1981 and the 8th day of December, 1987, at or near the City of Windsor, in the County of Essex, or elsewhere in the Province of Ontario, unlawfully did conspire together, the one with the other or with Raymond Quenneville or with another person or persons, wilfully to evade the payment of taxes imposed upon Raymond Quenneville, by the Income Tax Act, R.S.C. 1952, Chapter 148, as amended, thereby, committing an offence contrary to paragraph 239(1)(e) of the said Act, for the taxation years:
  - (a) 1982 in the amount of \$470.05;
  - (b) 1983 in the amount of \$70,087.32;
  - (c) 1984 in the amount of \$94,424.26;
  - (d) 1985 in the amount of \$126,948.06; and
  - (e) 1986 in the amount of \$126,580.84.*
2. *That Wallace Robson, between the 31st day of December, 1981 and the 1st day of May, 1987, at or near the City of Windsor, in the county of Essex, or elsewhere*

*in the Province of Ontario, did wilfully evade or attempt to evade compliance with, or the payment of taxes imposed by the Income Tax Act, R.S.C. 1952, Chapter 148, as amended, to wit, by aiding and abetting Raymond Quenneville in understating his taxable income, thereby, enabling the said Raymond Quenneville to evade the payment of taxes imposed upon him by the Income Tax Act and committing an offence contrary to paragraph 239(1)(d) of the said Act, for the taxation years:*

- (a) 1982 in the amount of \$470.05, on income of \$1,568.00;
- (b) 1983 in the amount of \$70,087.32, on income of \$206,339.00;
- (c) 1984 in the amount of \$94,424.26, on income of \$277,131.00;
- (d) 1985 in the amount of \$126,948.06, on income of \$355,597.00; and
- (e) 1986 in the amount of \$126,580.84, on income of \$333,899.00.

Mr. Robson entered a plea of guilty to the charge. The chair of the discipline committee panel cautioned Mr. Robson and made sure that he understood that upon the basis of his guilty plea, and upon that basis alone, the discipline committee could find him guilty of the charge. Mr. Robson indicated to the chair that he understood the ramifications of his guilty plea.

#### **DECISION ON THE CHARGE**

On behalf of the professional conduct committee, Mr. Farley introduced a document brief that contained a certified copy of the criminal indictment against Mr. Robson, a copy of the transcript of the sentencing proceedings before The Honourable Mr. Justice J.H. Brokenshire on February 1, 1995, a copy of the endorsement of the Ontario Court of Appeal with respect to Mr. Robson's appeal of conviction and sentence, and copies of various newspaper articles that summarized the criminal trial and the sentencing.

In summary, Mr. Robson participated in a tax fraud against the Canadian government and people by aiding and abetting Mr. Raymond Quenneville in understating his taxable income, thereby enabling Mr. Quenneville to evade income taxes in each of the years 1982 to 1986. Mr. Robson received only normal accounting fees for his services to Mr. Quenneville. Mr. Robson was sentenced to three years in the penitentiary, which sentence was later reduced to two years by the Ontario Court of Appeal.

Ms. Amsterdam did not make any submissions, nor did she call any evidence, with regard to the charge.

Upon deliberation, the panel found Mr. Robson guilty of the charge.

#### **ORDER AS TO SANCTION**

The hearing then moved to a determination of the appropriate sanction.

Mr. Farley submitted that Mr. Robson's charge involved dishonesty and moral turpitude, and that, in determining the appropriate sanction, the principle of general deterrence was the most significant principle for the panel to consider, in order to discourage other like-minded members from following courses of action similar to that of Mr. Robson. Mr. Farley went on to state that the Institute had to send out a strong message to the membership when cases like this one

came to its attention. Mr. Robson's conduct took place over a number of years, involved increasingly larger amounts, and involved a complicated scam to evade over \$400,000 in income taxes. Mr. Farley reiterated the principle from the *Haar* decision that the evasion of income taxes is not a victimless crime. He then quoted from the Ontario Court of Appeal decision at page 5 where it states that:

The appellant received only normal accounting fees. The appellant was, however, crucial to the scheme. He had the expertise and the stature as an accountant needed to fashion and implement the scheme.

Mr. Farley outlined the sanction proposed by the professional conduct committee. It was clear to the panel from Mr. Farley's remarks (and later from the remarks made by Ms. Amsterdam) that counsel were in substantial agreement with the sanctions being sought by the professional conduct committee, other than in respect of the publication of Mr. Robson's proposed expulsion in *The Globe and Mail* and *The Windsor Star*. Mr. Farley's submissions with respect to newspaper publication may be summarized as follows:

- Full publicity is the most important general deterrent available to the discipline committee.
- Bylaw 575(3) requires that publication "shall (emphasis added) be given to the public by publication in a newspaper distributed in the geographic area of the member's current or former practice, employment and/or residence ... unless the committee determines that the circumstances of the case are of a nature that such notice is not necessary for the protection of the public and would be unfair to the member, in which case the committee shall provide written reasons for not ordering publication of the notice." Mr. Farley argued that it was the member's responsibility to demonstrate to the discipline committee that publication was not necessary for the protection of the public and that it was unfair to the member. He stated that the circumstances of this case were not so unique as to meet this two-pronged test.
- The issue of publicity has been considered in various cases including *Title*, *Hindocha*, *Bortolussi*, *Sennet* and *Otto*.

In the *Title* case, the discipline committee was not convinced that publicity would be crushing to the member, or that the stigma of publicity was sufficient for it to order that publicity was not necessary.

In the *Hindocha* case, the committee struggled with the proper newspaper in which to publish the notice, and not with whether the notice should be publicized. The assumption made by the committee was that newspaper publicity should be made.

In the *Bortolussi* case, the committee stated that publication is the most effective general deterrent.

In the *Sennet* case, it was argued unsuccessfully that publicity would be hard on Mr. Sennet's two high school children. In that case, the committee was of the view that publicity was important so that the public knew that the profession was regulating itself.

Finally, in the *Otto* case, the member's counsel argued that the extreme remorse demonstrated by Mr. Otto, the fact that he was not in public practice, and the fact that he had suicidal tendencies, should be enough for the committee to dispense with publication in a newspaper. The committee in that case concluded, however, that newspaper publicity was

more important as a general deterrent than an individual member's concerns about the effect of the publicity.

- Lastly, Mr. Farley argued that there had been a significant amount of press coverage in *The Windsor Star* already regarding this matter, and that it was important to have the Institute's proceedings on record in the newspaper to clearly demonstrate that the Institute is regulating itself.

Ms. Amsterdam introduced a document brief that contained 45 documents, including medical reports, letters of reference, documents relating to the temporary absence program that Mr. Robson was participating in, documents relating to rehabilitation, and documents relating to the income tax status and financial status of Mr. Robson and his wife.

Ms. Amsterdam opened her submissions by stating that Mr. Robson was accepting of all of the terms of the sanction proposed by the professional conduct committee other than that of newspaper publication. Mr. Robson was prepared to accept notification of his proposed expulsion to the Public Accountants Council for the Province of Ontario, to the Canadian Institute of Chartered Accountants, and by way of publication in *CheckMark*, but he took exception to the proposed publication of his expulsion in *The Globe and Mail* and *The Windsor Star*. Ms. Amsterdam's arguments with respect to newspaper publication may be summarized as follows:

- Mr. Robson was accepted into, and is still participating in, a temporary absence program under which he is completing his period of incarceration at home rather than in prison. The panel was advised by Mr. Robson later that this program was due to be completed by the end of September, 1999. The program requires that Mr. Robson be employed and that he be electronically monitored. Ms. Amsterdam expressed concern that Mr. Robson could lose his employment as a result of the newspaper publication, which would then require his return to the penitentiary.
- Mr. Robson does not hold himself out to be a chartered accountant or a public accountant.
- Mr. Robson is attempting to rebuild his shattered life, is attempting to rehabilitate himself, and has demonstrated that he is remorseful. He is depressed and at times suicidal, according to his psychiatrist, has lost the respect of his community, and is socially isolated. Any publication at this point in time would be a serious setback.
- Mr. Robson obtained no personal gain from the tax fraud in which he participated.
- Mr. Robson has served most of his sentence, and has faced the criminal consequences of his actions. Ms. Amsterdam stated that, in considering its sanction, the committee should consider what Mr. Robson has already been through, including the severity of his criminal sanctions. In her view, the sentence imposed by the court is a compelling specific deterrent.
- Ms. Amsterdam also argued that the committee had the ability under Bylaw 575(3) to provide notice of expulsion in such other manner as the discipline committee may determine to be appropriate, and urged the committee to take the position that notice under the bylaw had already substantially been made by the extensive press coverage of this matter to date. She further argued that the public was already protected, since Mr. Robson was incarcerated, albeit now as part of the temporary absence program, and that it was not necessary to protect the public further.

Mr. Robson testified on his own behalf, and provided the panel with a description of the various community services he had provided during the past several years. He also testified that he was a convicted tax felon whose *mens rea* was wilful blindness. After deliberation, the committee made the following order:

## **ORDER**

IT IS ORDERED in respect of the charge:

1. THAT Mr. Robson be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Robson be and he is hereby fined the sum of \$3,000, to be remitted to the Institute within two (2) years from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Robson be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Robson's name, be given after this Decision and Order becomes final under the bylaws:
  - (a) to the Public Accountants Council for the Province of Ontario;
  - (b) to the Canadian Institute of Chartered Accountants;
  - (e) by publication in *CheckMark*; and
  - (f) by publication in *The Globe and Mail* and *The Windsor Star*.
5. THAT Mr. Robson 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.

### **Reprimand**

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

### **Fine**

The professional conduct committee submitted that a fine in the range of \$3,000 to \$5,000 should be levied against Mr. Robson, both as a general deterrent to like-minded members, and as a demonstration to the public of the profession's intolerance for the type of conduct engaged in by Mr. Robson. Ms. Amsterdam requested that the fine be at the bottom of that range, and that Mr. Robson be allowed a period of two years in which to pay the fine. Mr. Farley had no objection to the proposed two year payment period. The panel concurred with these submissions, and levied a fine of \$3,000, payable within two years.

### **Expulsion**

Expulsion from the Institute is usually ordered in cases involving moral turpitude, and the panel determined that, due to the serious nature of this case, it had no alternative but to expel Mr. Robson, both as a specific and a general deterrent. The panel noted that counsel for both parties agreed that expulsion was in order.

### **Publication**

As is set out in the *Sennet* decision, the principle of general deterrence is greatly served by notification, including publication, of disciplinary decisions and orders. It is considered important to inform members that there are severe consequences to actions such as those of Mr. Robson. It is also considered important to let the public know that the profession is regulating itself in the public's interest.

The panel's attention was drawn to the fact that, in cases of expulsion, Bylaw 575(3) requires publication "in a newspaper distributed in the geographic area of the member's current or former practice, employment and/or residence, or in such other manner as the discipline committee may consider to be appropriate". The panel was not convinced that it should exercise its discretion to publicize this case in a manner other than by way of newspaper publication, and was not convinced that previous publication of the matter in the press was an acceptable substitute for the usual newspaper notice of expulsion.

The panel's attention was drawn to the language at the end of Bylaw 575(3), which provides that the discipline committee may decide that "the circumstances of the case are of a nature that such notice is not necessary for the protection of the public and would be unfair to the member". The panel was not convinced that the circumstances of this case warranted not publishing on this basis, and ultimately concluded that there was not compelling enough reason to cause it to exercise its discretion not to publish.

As had been done in the *Sennet* case, the panel was referred to the *Kwiatkoski* decision, in which the discipline committee exercised its discretion under Bylaw 575(3) to dispense with newspaper publication, and concluded that the compelling reasons described in that case were not evident in this case. Accordingly, the panel ordered publication of Mr. Robson's expulsion in *The Globe and Mail* and *The Windsor Star*.

With respect to the *Kwiatkoski* decision referred above, it cannot be emphasized enough that but for the fact the member reported himself, his misconduct would not have been discovered.

### **Certificate**

As in all cases of expulsion, it is important that Mr. Robson surrender his certificate of membership in the Institute, to which he is no longer entitled. It was noted by the chair that, pursuant to an earlier interim order made in this matter, Mr. Robson had already filed an undated declaration that his membership certificate had been destroyed, or that its location was unknown to him. Accordingly, the chair verbally ordered that Mr. Robson submit to the discipline committee secretary within ten days a dated and sworn affidavit to this effect.

DATED AT TORONTO THIS            DAY OF OCTOBER, 1999  
BY ORDER OF THE DISCIPLINE COMMITTEE.

M. BRIDGE, CA - DEPUTY CHAIR  
THE DISCIPLINE COMMITTEE

### MEMBERS OF THE PANEL:

H.B. BERNSTEIN, CA  
G.R. PEALL, CA  
G.A. PORTER, CA  
R.D. WHEELER, FCA  
J.T. ANDERS (Public representative)