

Wayne Colin Matheson: Summary, as Published in *CheckMark*

Wayne Colin Matheson, of Oakville, was found guilty by the discipline committee of two 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; and
- one charge, under Rule of Professional Conduct 205, of associating himself with representation which he knew was misleading.

The committee ordered that Mr. Matheson

- be reprimanded in writing by the chair of the hearing;
- be fined \$5,000, to be paid within a specified time;
- be suspended from membership in the Institute for a period of six months; and
- surrender his certificate of membership in the Institute to the registrar, for the period of suspension.

Mr. Matheson returned to MEMBERSHIP IN GOOD STADNING on September 18th, 1992.

CHARGE(S) LAID re Wayne Colin Matheson

The professional conduct committee hereby makes the following charge against Wayne C. Matheson, CA, a member of the Institute:

1. THAT, the said Wayne C. Matheson, on or about the 25th day of February 1990, while a partner with the firm Deloitte & Touche in charge of the preparation of Federal Sales Tax Claims on behalf of the firm client, General Motors of Canada Ltd., signed a letter dated December 1, 1989 with the intention that it be sent to Revenue Canada, Excise Appeals Directorate, knowing that the letter was misleading in that it appeared to have been signed on December 1, 1989 and that it appeared to evidence the fact that a Notice of Objection, referred to in the letter, had been prepared on or about December 1, 1989 when no such Notice had been prepared, all of which is contrary to Rule 205 of the rules of professional conduct.
2. THAT the said Wayne C. Matheson, in or about the period February 19, 1990 through December 5, 1990, conducted himself in a manner which would fail to maintain the good reputation of the profession and it's ability to serve the public interest contrary to Rule 201 of the rules of professional conduct, in that:
 - (a) he counselled another member under his supervision to misinform Revenue Canada, Excise Appeals Directorate as to the facts pertaining to the preparation of a Notice of Objection to a Notice of Determination #ER 90438 dated October 18, 1989 so that it would appear that the Notice of Objection was prepared within a 90 day filing deadline when it was not so prepared;
 - (b) ~~on or about February 15, 1990, he signed a letter dated December 1, 1989 addressed to Revenue Canada, Excise Appeals Directorate on the letterhead of Deloitte Haskins and Sells, knowing that it was intended to be provided as evidence to Revenue Canada, Excise Appeals Directorate that a Notice of Objection had been prepared within 90 days of the Notice of Determination #ER 90438 dated October 18, 1989, when no such Notice of Objection had been prepared and knowing that it was intended to be provided as evidence that the letter had been prepared on December 1, 1989 when it had not been; and~~ **(WITHDRAWN BY THE PCC BWS)**
3. ~~THAT, the said Wayne C. Matheson, in or about the period February 19, 1990 through December 5, 1990, while a partner with the firm Deloitte & Touche in charge of the preparation of Federal Sales Tax Claims on behalf of the firm client, General Motors of Canada Ltd., failed to perform his professional services with due care in that he did not adequately supervise Chester Lupinski, an employee member of the firm who reported to him on the preparation of the said federal sales tax claims, contrary to rule 202 of the rules of professional conduct.~~ **(WITHDRAWN BY THE PCC BWS)**

DATED at Toronto this 25th day of May 1991.

H.W. HOBBS, FCA – DEPUTY CHAIR
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Wayne Colin Matheson

DECISION AND ORDER IN THE MATTER OF: Charges against WAYNE COLIN MATHESON, CA, a member of the Institute, under Rules 201, 202 and 205 of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE NOVEMBER 6, 1991

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 and particular (a) of charge

No. 2, particular (b) of charge No. 2 and charge No. 3 having been withdrawn, THE DISCIPLINE COMMITTEE FINDS Wayne Cohn Matheson guilty of charges Nos. 1 and 2.

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Matheson be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Matheson 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.
3. THAT Mr. Matheson be suspended from the rights and privileges of membership in the Institute for a period of six (6) months from the date this Decision and Order becomes final under the bylaws.
4. THAT notice of this Decision and Order, disclosing Mr. Matheson's name, be given after this Decision and Order becomes final under the bylaws:
 - (a) by publication in *CheckMark*, where Mr. Matheson is also to be identified as a former partner of a national chartered accountancy firm;
 - (b) to the Public Accountants Council for the Province of Ontario; and
 - (c) to the Canadian Institute of Chartered Accountants.
5. THAT Mr. Matheson 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, to be held by the registrar during the period of suspension and thereafter returned to Mr. Matheson.
6. THAT in the event Mr. Matheson fails to comply with any of the requirements of this Order within the time periods specified, he shall thereupon be expelled from the rights and privileges of membership in the Institute, and notice of his expulsion, disclosing his name, shall be given in the manner specified in paragraph 4 hereof.

DATED AT TORONTO, THIS 13TH DAY OF NOVEMBER, 1991
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re Wayne Colin Matheson

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: Charges against WAYNE COLIN MATHESON, CA, a member of the Institute, under Rules 201, 202 and 205 of the Rules of Professional Conduct, as amended.

WRITTEN REASONS FOR THE DECISION AND ORDER MADE NOVEMBER 6, 1991

These proceedings before a panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on November 6, 1991.

Mr. Paul Farley attended on behalf of the professional conduct committee, accompanied by Mr. John Douglas, an investigator for the professional conduct committee. Mr. Wayne Matheson attended with, and was represented by, his counsel, Mr. Michael Royce.

The professional conduct committee had laid one charge under each of Rules of Professional Conduct 201, 202 and 205. At the outset of the hearing, counsel for the professional conduct committee withdrew charge No. 3, under Rule 202, and particular (b) of charge No. 2, under Rule 201. Mr. Matheson then pleaded guilty to charge No. 1, under Rule 205, and charge No. 2, as amended, under Rule 201.

The member and his counsel confirmed that they understood that upon the pleas of guilty, and upon that basis alone, the member could be found guilty of the charges.

An agreed statement of facts, signed by Mr. Matheson and counsel for the professional conduct committee, together with an accompanying document brief, were filed as exhibits. Based upon the evidence presented in these exhibits, and the member's pleas of guilty, the discipline committee, upon deliberation, found Mr. Matheson guilty of charges Nos. 1 and 2, as amended.

Upon the issue of sanction, the member's counsel, Mr. Royce, called two witnesses to testify as to the member's character. Mr. Matheson was then sworn as a witness and testified. The member did not contest the facts relating to these serious charges, and admitted his responsibility for his actions and responsibility for counselling his employee, Mr. Lupinski, to engage in the conduct leading to the charges. He indicated that he was asked to resign from his firm in January 1991, and is now operating as a sole practitioner.

The committee then heard submissions as to sanction from both parties.

In determining the appropriate sanctions in this case, the committee took into account the otherwise distinguished and unblemished career of Mr. Matheson, and the arguments by his counsel that he had already suffered significant financial loss, and loss of prestige, by virtue of his having been asked to resign his partnership. However, the evidence presented revealed a carefully planned course of conduct, designed to deceive both Revenue Canada and the client, which included the preparation and backdating of documents and letters. As correspondence was backdated to a time prior to a change of firm name, old firm letterhead was retrieved and used. The committee considered these actions even more serious when it learned that Mr. Matheson had an alternative, legitimate option that he could have pursued in solving his problem.

The discipline committee made the following order:

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Matheson be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Matheson 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.
3. THAT Mr. Matheson be suspended from the rights and privileges of membership in the Institute for a period of six (6) months from the date this Decision and Order becomes final under the bylaws.
4. THAT notice of this Decision and Order, disclosing Mr. Matheson's name, be given after this Decision and Order becomes final under the bylaws:
 - (a) by publication in *CheckMark*, where Mr. Matheson is also to be identified as a former partner of a national chartered accountancy firm;
 - (b) to the Public Accountants Council for the Province of Ontario; and
 - (c) to the Canadian Institute of Chartered Accountants.
5. THAT Mr. Matheson 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, to be held by the registrar during the period of suspension and thereafter returned to Mr. Matheson.
6. THAT in the event Mr. Matheson fails to comply with any of the requirements of this Order within the time periods specified, he shall thereupon be expelled from the rights and privileges of membership in the Institute, and notice of his expulsion, disclosing his name, shall be given in the manner specified in paragraph 4 hereof.

Briefly, the reasons for the committee's order are set out below.

The committee considers a reprimand to be necessary to stress to the member the unacceptability of his conduct and its negative impact on the profession.

A fine of \$5,000 was determined to be appropriate, considering the seriousness of the charges, and with reference to the sanctions imposed in the previous discipline cases raised by counsel during submissions.

In particular, the committee had regard to the fine of \$2,500 recently imposed by a discipline committee panel upon Min Matheson's associate, Mr. Lupinski. The feeling was that, as Mr. Matheson was the more senior and experienced of the two men, and the one with the supervisory responsibility, the principles of both specific and general deterrence demanded that a higher fine be imposed upon this member than had been levied against his more junior colleague. Mr. Farley submitted that a higher fine should be assessed against Mr. Matheson, and Mr. Royce did not refute this submission. Accordingly, the committee settled upon the quantum of \$5,000 as appropriate in the circumstances.

Counsel for the professional conduct committee asked for a suspension of from three to six months, but no longer than six months. Mr. Matheson's counsel argued that a suspension would destroy the member's ability to practise. The committee felt that a suspension was necessary in the circumstances of this case, and that it should be no less than the suspension of six months given to Mr. Lupinski in his recent discipline hearing. It was felt that both the fine and the suspension, when publicized, were important to establishing the principles of specific and general deterrence.

The committee ordered that notice of its Order, including publication disclosing the member's name, be given, as both a specific deterrent to Mr. Matheson and as a general deterrent to all members. Although counsel for the member made submissions with respect to this issue, the committee did not find there to exist in this case those kinds of rare and unusual circumstances necessary to warrant the withholding of the member's name from the notice. The committee requested that the publication in *CheckMark* also identify Mr. Matheson as a former partner in a national accountancy firm. The committee felt that, by revealing through this reference the member's loss of partnership and employment, the message would have a greater general deterrent impact upon the membership of the Institute.

DATED AT TORONTO, THIS 5th DAY OF FEBRUARY, 1992
BY ORDER OF THE DISCIPLINE COMMITTEE

PA CAMPOL, CA - DEPUTY CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

H.R. KLEIN, CA
L. W. RICH, CA
J.B. SCOTT, CA
D.P. SETTERINGTON, CA
A. CRANSTON (Public representative)