

William Earl Sommerville: Summary, as Published in *CheckMark*

William Earl Sommerville, of Oakville, was found guilty of two charges of professional misconduct, under Rules 301.1 and 301.2. While associated with an international accounting franchise organization, he attempted to obtain clients through use of a telemarketing campaign, which tended to bring disrepute on the profession, and he solicited an entrusted engagement. He was fined \$1,500.

Mr. Sommerville returned to MEMBERSHIP IN GOOD STANDING on October 30th, 1995.

CHARGE(S) LAID re William Earl Sommerville

The Professional Conduct Committee hereby makes the following charges against William E. Somerville, CA, a member of the Institute:

1. THAT, the said William E. Somerville, in or about the period January 1992 through March 1992, directly or through a party acting on his behalf and with his knowledge solicited a professional engagement to act as accountant for Algonquin T.V. & Electronics which had been entrusted to another member engaged in the practice of public accounting, contrary to Rule 301.2 of the rules of professional conduct.
2. THAT, the said William E. Somerville, in or about the period January 1992 through May 1992, adopted a method of obtaining or attracting clients through use of a telephone solicitation campaign in a manner which would tend to bring disrepute on the profession, contrary to Rule 301.1 of the rules of professional conduct.
3. ~~THAT, the said William E. Somerville, in or about the period January 1992 through May 1992, failed to conduct himself in a manner which will maintain the good reputation of the profession in that he, directly or through a party acting on his behalf and with his knowledge, participated in a telephone campaign to solicit a professional engagement without taking any or sufficient steps to determine whether the professional engagement solicited was entrusted to another member engaged in the practice of public accounting, contrary to rule 201.1 of the rules of professional conduct.~~ **(WITHDRAWN BY THE P.C.C. BWS)**

DATED at Toronto this 30th day of March 1993.

J.L.M. BADALI, FCA - CHAIR
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re William Earl Sommerville

DECISION AND ORDER IN THE MATTER OF: Charges against WILLIAM EARL SOMERVILLE, CA, a member of the Institute, under Rules 201.1, 301.1 and 301.2 of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE JUNE 21, 1993

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 and 2, charge No. 3 having been withdrawn, THE DISCIPLINE COMMITTEE FINDS William Earl Somerville guilty of charges Nos. 1 and 2.

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Somerville be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Somerville be and he is hereby fined the sum of \$1,500, to be remitted to the Institute within ninety (90) days from the date this Decision and Order becomes final under the bylaws.
3. THAT notice of this Decision and Order, disclosing Mr. Somerville's name, be given after this Decision and Order becomes final under the bylaws:
 - (a) by publication in *CheckMark*, where he is also to be identified as having been formerly associated with an international accounting franchise organization;
 - (b) to the Public Accountants Council for the Province of Ontario; and
 - (c) to the Canadian Institute of Chartered Accountants.
4. THAT in the event Mr. Somerville fails to comply with the requirement of paragraph 2 of this Order within the time period specified, he shall thereupon be suspended from the rights and privileges of membership in the Institute, and notice of his suspension, disclosing his name, shall be given in the manner specified in paragraph 3 hereof.
5. THAT in the event Mr. Somerville is suspended pursuant to paragraph 4 hereof, the suspension shall terminate upon his compliance with paragraph 2 of this Order, provided that he complies within thirty (30) days from the date of his suspension.
6. THAT in the event Mr. Somerville fails to terminate a suspension imposed pursuant to paragraph 4 hereof within the thirty (30) day period specified in paragraph 5, 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 in paragraph 3 hereof.

DATED AT TORONTO, THIS 29TH DAY OF JUNE, 1993
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re William Earl Sommerville

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: Charges against WILLIAM EARL SOMERVILLE, CA, a member of the Institute, under Rules 201.1, 301.1 and 301.2 of the Rules of Professional Conduct, as amended.

WRITTEN REASONS FOR THE DECISION AND ORDER MADE JUNE 21, 1993

These proceedings before this panel of the discipline committee of the Institute of Chartered Accountants of Ontario were convened on June 21, 1993.

Mr. Paul Farley attended on behalf of the professional conduct committee, and Mr. Somerville attended with and was represented by his counsel, Mr. John Ball.

Three charges had been laid against Mr. Somerville by the professional conduct committee. At the outset of the hearing, the professional conduct committee withdrew charge No. 3, laid under Rule of Professional Conduct 201.1.

Mr. Somerville then pleaded guilty to charges Nos. 1 and 2. The member confirmed that he understood that upon a plea of guilty, and upon that basis alone, he could be found guilty of the charges.

The charges to which the member pleaded guilty read as follows:

1. THAT, the said William E. Somerville, in or about the period January 1992 through March 1992, directly or through a party acting on his behalf and with his knowledge solicited a professional engagement to act as accountant for Algonquin T V & Electronics which had been entrusted to another member engaged in the practice of public accounting, contrary to Rule 301.2 of the rules of professional conduct.
2. THAT, the said William E. Somerville, in or about the period January 1992 through May 1992, adopted a method of obtaining or attracting clients through use of a telephone solicitation campaign in a manner which would tend to bring disrepute on the profession, contrary to Rule 301.1 of the rules of professional conduct.

After reviewing the agreed statement of facts and the document brief filed as exhibits, the committee found Mr. Somerville guilty of the charges.

After making its findings of guilty on the charges, the committee heard submissions on sanctions, and then made the following order:

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Somerville be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Somerville be and he is hereby fined the sum of \$1,500, to be remitted to the Institute within ninety (90) days from the date this Decision and Order becomes final under the bylaws.

3. THAT notice of this Decision and Order, disclosing Mr. Somerville's name, be given after this Decision and Order becomes final under the bylaws:
 - (a) by publication in *CheckMark*, where he is also to be identified as having been formerly associated with an international accounting franchise organization;
 - (b) to the Public Accountants Council for the Province of Ontario; and
 - (c) to the Canadian Institute of Chartered Accountants.
4. THAT in the event Mr. Somerville fails to comply with the requirement of paragraph 2 of this Order within the time period specified, he shall thereupon be suspended from the rights and privileges of membership in the Institute, and notice of his suspension, disclosing his name, shall be given in the manner specified in paragraph 3 hereof.
5. THAT in the event Mr. Somerville is suspended pursuant to paragraph 4 hereof, the suspension shall terminate upon his compliance with paragraph 2 of this Order, provided that he complies within thirty (30) days from the date of his suspension.
6. THAT in the event Mr. Somerville fails to terminate a suspension imposed pursuant to paragraph 4 hereof within the thirty (30) day period specified in paragraph 5, 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 in paragraph 3 hereof.

The reasons for the committee's sanctions are briefly set out below.

Reprimand

The committee is of the view that a reprimand is necessary as a specific deterrent to the member, to stress to him the unacceptability of his conduct as a chartered accountant.

Fine

During their submissions, both counsel agreed that a fine was appropriate, and counsel for the member did not take issue with the amount of \$1,500 proposed by the professional conduct committee. The discipline committee discussed the quantum of the fine in reference to specific and general deterrence. The committee was of the view that the fine should act as a general deterrent to the membership, so that chartered accountants are made aware that certain aggressive solicitation techniques are inappropriate and contrary to the rules of professional conduct. The committee agreed that a \$1,500 fine would be an appropriate specific deterrent to Mr. Somerville, given his admitted error and the fact that he was no longer associated with the international accounting franchise organization for which he used the improper solicitation methods.

Notice

Publication of a decision and order, disclosing a member's name, is one of the most effective general deterrents available. In this case the committee felt it was necessary to also identify Mr. Somerville as being formerly associated with an international accounting franchise organization.

Notifying all members and the public of the Institute's efforts in disciplining those in breach of its bylaws and rules of professional conduct is an important function of a self-governing profession.

DATED AT TORONTO, THIS 9TH DAY OF AUGUST, 1993

BY ORDER OF THE DISCIPLINE COMMITTEE

D.P. SETTERINGTON, CA - DEPUTY CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

L.R. FLEMMING, CA

H.R. KLEIN, CA

L.L. WORTHINGTON, FCA

R.W. WARKENTIN (Public representative)