

Young I. Hyun: Summary, as Published in *CheckMark*

Young I. Hyun, of Toronto, was found guilty of one charge under Rule 201.1 of failing to maintain the good reputation of the profession, and two charges under Rule 206 of failing 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*. While engaged to perform an audit of the financial statements of a credit union for two successive years, Mr. Hyun failed to pay sufficient attention to the detail required of an audit. The deficiencies reflected a failure to keep current with the required standards, particularly with respect to disclosure and documentation. During the investigation, Mr. Hyun attempted to mislead the professional conduct committee investigator as to the extent of the audit work actually done. Mr. Hyun was fined \$3,000, and ordered to complete two professional development courses and be reinvestigated by the professional conduct committee.

CHARGE(S) LAID re Young I. Hyun

The Professional Conduct Committee hereby makes the following charges against Young I. Hyun, CA, a member of the Institute:

1. THAT the said Young I. Hyun, in or about the period December 31, 1999 through May 10, 2000, while engaged to perform an audit of the financial statements of the Korean Catholic Church Credit Union Limited for the year ended December 31, 1999, 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 disclose information about the extent and nature of the financial instruments, including significant terms and conditions that may affect the amount, timing and certainty of future cash flow;
 - (b) he failed to disclose information about the credit union's exposure to interest rate risk;
 - (c) having issued an unqualified audit report dated March 22, 2000, and following the subsequent discovery of an understatement in the provision for income taxes, he restated the financial statements and issued a new audit report dated May 10, 2000 without double-dating the new report or stating that the original report had been withdrawn or providing an explanation of the revision;
 - (d) failed to disclose the fact that comparative financial statements were reported on by another auditor;
 - (e) he failed to properly document items important to support his report.
2. THAT the said Young I. Hyun, in or about the period December 31, 2000 through February 27, 2001, while engaged to perform an audit of the financial statements of the Korean Catholic Church Credit Union Limited for the year ended December 31, 2000, 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 disclose information about the extent and nature of the financial instruments, including significant terms and conditions that may affect the amount, timing and certainty of future cash flow;
 - (b) he failed to disclose information about the credit union's exposure to interest rate risk;
 - (c) he overstated accounts payable on balance sheet by \$25,000.00;

- (d) he failed to properly document items important to support his report.
3. THAT the said Young I. Hyun, in or about the period May 7, 2002 through September 10, 2002, failed to conduct himself in a manner which will maintain the good reputation of the profession, contrary to Rule 201.1 of the rules of professional conduct, in that:
- (a) he attempted to mislead the professional conduct committee by providing an investigator appointed on behalf of the professional conduct committee with files containing audit programs noting additional audit procedures as being completed and initialed when those audit programs had not been completed when the files had initially been reviewed by the investigator;
 - ~~(b)~~ *WITHDRAWN BY P.C.C.*
 - (c) he attempted to mislead the professional conduct committee by providing an investigator appointed on behalf of the professional conduct committee with a file after removing a memo that had been on the file when initially reviewed by the investigator.

Dated at Windsor, Ontario this 18th day of November, 2002.

D.D. MELOCHE, CA - DEPUTY CHAIR
PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Young I. Hyun

DECISION AND ORDER IN THE MATTER OF: Charges against **YOUNG I. HYUN, CA**, a member of the Institute, under **Rules 201.1 and 206** of the Rules of Professional Conduct, as amended.

DECISION AND ORDER MADE MAY 12, 2003

DECISION

THAT, having seen and considered the evidence, including the agreed statement of facts, filed; particular (b) of charge No. 3 having been withdrawn by the professional conduct committee, and particular (c) of charge No. 3 having been amended at the hearing; and having heard the plea of guilty to charges Nos. 1, 2 and 3, as amended; the Discipline Committee finds Young I. Hyun guilty of charges Nos. 1, 2 and 3, as amended.

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Hyun be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Hyun be and he is hereby fined the sum of \$3,000, to be remitted to the Institute within six (6) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Hyun be and he is hereby required to complete, by paying for and attending in their entirety, within twelve (12) months from the date this Decision and Order becomes final under the bylaws, the following professional development courses made available through the Institute:
 - (a) Financial Statement Presentation & Disclosure: A Small Practitioner's Workshop; and
 - (b) Accounting, Auditing & Professional Practice Update,or, in the event a course listed above becomes unavailable, the successor course which takes its place.
4. THAT Mr. Hyun be reinvestigated by the professional conduct committee, or by a person retained by the professional conduct committee, on one occasion between twelve (12) and eighteen (18) months from the date this Decision and Order becomes final under the bylaws, the cost of the reinvestigation, up to \$2,000, to be paid by Mr. Hyun within thirty (30) days of receiving notification of the cost of the reinvestigation.

5. THAT notice of this Decision and Order, disclosing Mr. Hyun'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 the Public Accountants Council for the Province of Ontario;
 - (b) to the Canadian Institute of Chartered Accountants; and
 - (c) by publication in *CheckMark*.
6. THAT in the event Mr. Hyun fails to comply with any of 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 *The Globe and Mail*.

DATED AT TORONTO THIS 14TH DAY OF MAY, 2003
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re Young I. Hyun

REASONS FOR DECISION AND ORDER IN THE MATTER OF: Charges against **YOUNG I. HYUN, CA**, a member of the Institute, under **Rules 201.1 and 206** of the Rules of Professional Conduct, as amended.

REASONS FOR THE DECISION AND ORDER MADE MAY 12, 2003

1. This panel of the discipline committee of the Institute of the Chartered Accountants of Ontario met on May 12, 2003 to hear charges brought by the professional conduct committee against Mr. Young I. Hyun, a member of the Institute.
2. Ms. Barbara Glendinning represented the professional conduct committee. She was accompanied by Ms. Chenail-Trepanier, the investigator appointed by the professional conduct committee. Mr. Young Hyun, known as Peter Hyun, was present and represented by his counsel, Ms. Lily Harmer.
3. The decision on the charges and the order as to sanction were made known at the hearing on May 12. The formal decision and order was signed by the discipline committee secretary and sent to the parties on May 14, 2003. These reasons, given in writing pursuant to Bylaw 574, set out the charges, the decision, and the order as well as the reasons of the discipline committee.

DECISION ON THE CHARGES

4. The notice of the assignment hearing, the notice of the hearing, and the charges were marked as Exhibits 1, 2 and 3, respectively.
5. Before Mr. Hyun was asked to plead to the charges, Ms. Glendinning advised the panel that particular (b) of charge No. 3 was being withdrawn by the professional conduct committee, and asked the panel to amend particular (c) of charge No. 3 by inserting a word that had been inadvertently omitted. Ms. Harmer had no objection. The charges as amended read as follows:

1. THAT the said Young I. Hyun, in or about the period December 31, 1999 through May 10, 2000, while engaged to perform an audit of the financial statements of the Korean Catholic Church Credit Union Limited for the year ended December 31, 1999, 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 disclose information about the extent and nature of the financial instruments, including significant terms and conditions that may affect the amount, timing and certainty of future cash flow;

- (b) he failed to disclose information about the credit union's exposure to interest rate risk;
 - (c) having issued an unqualified audit report dated March 22, 2000, and following the subsequent discovery of an understatement in the provision for income taxes, he restated the financial statements and issued a new audit report dated May 10, 2000 without double-dating the new report or stating that the original report had been withdrawn or providing an explanation of the revision;
 - (d) failed to disclose the fact that comparative financial statements were reported on by another auditor;
 - (e) he failed to properly document items important to support his report.
2. THAT the said Young I. Hyun, in or about the period December 31, 2000 through February 27, 2001, while engaged to perform an audit of the financial statements of the Korean Catholic Church Credit Union Limited for the year ended December 31, 2000, 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 disclose information about the extent and nature of the financial instruments, including significant terms and conditions that may affect the amount, timing and certainty of future cash flow;
 - (b) he failed to disclose information about the credit union's exposure to interest rate risk;
 - (c) he overstated accounts payable on balance sheet by \$25,000.00;
 - (d) he failed to properly document items important to support his report.
3. THAT the said Young I. Hyun, in or about the period May 7, 2002 through September 10, 2002, failed to conduct himself in a manner which will maintain the good reputation of the profession, contrary to Rule 201.1 of the rules of professional conduct, in that:
- (a) he attempted to mislead the professional conduct committee by providing an investigator appointed on behalf of the professional conduct committee with files containing audit programs noting additional audit procedures as being completed and initialed when those audit programs had not been completed when the files had initially been reviewed by the investigator;
 - (c) he attempted to mislead the professional conduct committee by providing an investigator appointed on behalf of the professional conduct committee with a file after removing a memo that had been on the file when initially reviewed by the investigator.

6. Mr. Hyun entered a plea of guilty to the three charges, and confirmed for the record that he understood that on the basis of his plea, and on that basis alone, he could be found guilty of the charges.

7. Ms. Glendinning gave a brief overview of the case for the professional conduct committee, and filed an agreed statement of facts and document brief as Exhibits 4 and 5, respectively. The parties were excused while the panel reviewed these documents.

8. Upon reconvening, Ms. Glendinning took the panel through the agreed statement of facts and document brief. She did not call further evidence.

9. The member's counsel did not call evidence or make extensive submissions, but pointed out that the difficulties within the Korean Catholic Church Credit Union Ltd. (KCCCU), the investigations and the charges had been and continued to be a significant source of stress to Mr. Hyun, and had had a substantial impact on his practice.

10. Upon reviewing the agreed statement of facts and document brief, the panel noted that Mr. Hyun's misconduct is succinctly set out in the charges themselves. The first two charges are standards-related, and reflect a failure on the member's part to pay sufficient attention to the detail and documentation required in an audit and to keep current with the required standards, particularly those relating to disclosure and documentation.

11. The third charge is a matter of conduct. Mr. Hyun reviewed the KCCCU files with the investigator, Ms. Chenail-Trepanier, while she was in his Toronto office for three days in May 2002. It became apparent that an audit working paper file for the 1999 audit was missing. Mr. Hyun indicated that the missing file was with his associate, Mr. Mak, and told Ms. Chenail-Trepanier that he would send the complete KCCCU files for 1999 and 2000 to her at her Ottawa office.

12. When he sent the files, Ms. Chenail-Trepanier noted that the audit programs for both 1999 and 2000, which Mr. Hyun had acknowledged were incomplete when they had met in Toronto, had now been completed. She noted as well that a memorandum from Mr. Mak to Mr. Hyun to the effect that he should "please review audit file and initial", which had previously been on file, had been removed.

13. Ms. Chenail-Trepanier asked Mr. Mak about the newly completed audit programs and he advised that he had completed the programs for both 1999 and 2000 upon his return to Mr. Hyun's office following her attendance there. When asked, Mr. Hyun readily acknowledged that the work had been completed subsequent to her attendance at his office.

14. Upon deliberation, and considering the agreed statement of facts, the document brief, the plea of guilty and the submissions of counsel, the panel concluded that the allegations set out in the charges had been proven and that Mr. Hyun was guilty of professional misconduct. Accordingly, when the hearing resumed, the chair read the following decision into the record:

DECISION

THAT, having seen and considered the evidence, including the agreed statement of facts, filed; particular (b) of charge No. 3 having been withdrawn by the professional conduct committee, and particular (c) of charge No. 3 having been amended at the hearing; and having heard the plea of guilty to charges Nos. 1, 2 and 3, as amended; the Discipline Committee finds Young I. Hyun guilty of charges Nos. 1, 2 and 3, as amended.

ORDER AS TO SANCTION

15. The submissions of the parties with respect to sanction were joint submissions except with respect to one point, being whether or not the notice of the decision and order to be published in *CheckMark* should disclose the member's name. The reasons hereinafter set out for the reprimand, the fine, the professional development courses, and the reinvestigation reflect the submissions made by Ms. Glendinning and Ms. Harmer. We do not think it is necessary to set out their submissions at length.

16. Both counsel addressed the issue of whether or not this was a rare and unusual case within the meaning of the appeal committee's decision in the *Finkelman* and *Solmon* cases. In February 1990, the appeal committee heard two cases together in which the sole issue was whether or not the members' names should be disclosed or withheld from the notice which would appear in *CheckMark*. At that time, as today, the bylaws provided that the name of a disciplined member would be disclosed in the notice "unless the discipline committee otherwise orders", or in the case of an appeal "unless the appeal committee otherwise orders".

17. In its reasons in *Finkelman* and *Solmon*, the appeal committee set out a general principle relating to disclosure of disciplined members' names which has guided the discipline and appeal committees since. Speaking about Bylaw 83(4), the predecessor to current Bylaw 575(4) for the discipline committee and current Bylaw 654(4) for the appeal committee, the appeal committee said in the concluding paragraph of its reasons in those cases:

The appeal committee wishes to make a general comment about Bylaw 83(4). We recognize that as long as the Bylaw provides that the discipline committee or the appeal committee may "otherwise order" some members being disciplined will argue that in the particular circumstances of their case such an order should be made and publication of their name withheld. In light of the principle of general deterrence and the importance of confidence in the openness of the Institute's disciplinary process, this committee is of the view that circumstances which could persuade an appeal committee or the discipline committee not to publish a disciplined member's name will be rare and unusual.

18. As a result of the *Finkelman* and *Solmon* appeal cases, when the issue of disclosure of a member's name is to be dealt with counsel for the professional conduct committee and counsel for the member address the issue on the basis of whether or not the case is "rare and unusual".

19. Ms. Glendinning took the position that this was not a rare and unusual case. She submitted that Mr. Hyun's name should be disclosed as a specific deterrent to him, as he had attempted to mislead the investigator and the professional conduct committee, and as a general deterrent to other members. She stressed that a notice disclosing a member's name was a far more effective general deterrent than a notice that an anonymous member had been disciplined.

20. Ms. Harmer stressed the difficulty in which Mr. Hyun found himself. The credit union was the creation of two church congregations between whom a feud had broken out. The ongoing dispute between the two congregations spilled over into the business of the credit union. As external auditor of the credit union, Mr. Hyun was caught in the middle of the dispute and it was not an easy file for him. Amongst allegations of wrongdoing and mismanagement made by each faction against the other, complaints were made to the RCMP, the Toronto Police and the Financial Services Commission, all of whom investigated and closed their files without laying any charges. A complaint was also made to the Institute about Mr. Hyun, which upon investigation was found to be groundless. During the course of the investigation, however, the professional conduct committee raised concerns about the quality of Mr. Hyun's audit work. It became apparent that his standard of practice had fallen below the required standard and accordingly he was charged.

21. Ms. Harmer advised that Mr. Hyun had been a prominent member of the Toronto Korean community. He had been the president of the Koreatown Business Improvement Association, and the vice-president of the Korean-Canadian Symphony Orchestra. According to Ms. Harmer, the dispute, the police investigations and the charges by the professional conduct committee had been a source of great stress and humiliation to Mr. Hyun. As a result, he had declined to become the president of the symphony, had ceased to take a leading role in charitable activities, and his practice had diminished to the point where he suffered a financial loss in the year 2002.

22. She submitted that her client's errors were the result of failure to keep current with the required standard, and failure to adequately disclose or document the work that he had done. Other than the third charge, which Ms. Harmer characterized as a momentary lapse of judgment, she stressed that this was a standards and not a conduct case.

23. Ms. Harmer submitted that an order including notice withholding Mr. Hyun's name would achieve the appropriate balance in serving the interests which the order should serve. The public interest would be served by the reprimand, fine, required courses and reinvestigation. The profession's interest would be served by ensuring that the standard was met. Mr. Hyun's personal interest would be served by preserving as much of his dignity and reputation as possible, which she argued was an appropriate objective given that her client was 59 years of age and looking forward to retirement in the not too distant future.

24. Ms. Harmer pointed out that it was common ground that Mr. Hyun had suffered financial setbacks as a result of the difficulties at the credit union, the investigation and the discipline process.

25. Ms. Harmer stressed that notice published in *CheckMark*, even without disclosing the member's name, would be an effective general deterrent.

26. After deliberations, the hearing was resumed and the chair set out for the record the essence of the order. The formal order was sent to the parties on May 14, and reads as follows:

ORDER

IT IS ORDERED in respect of the charges:

1. THAT Mr. Hyun be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Hyun be and he is hereby fined the sum of \$3,000, to be remitted to the Institute within six (6) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Hyun be and he is hereby required to complete, by paying for and attending in their entirety, within twelve (12) months from the date this Decision and Order becomes final under the bylaws, the following professional development courses made available through the Institute:
 - (a) Financial Statement Presentation & Disclosure: A Small Practitioner's Workshop; and
 - (b) Accounting, Auditing & Professional Practice Update,or, in the event a course listed above becomes unavailable, the successor course which takes its place.
4. THAT Mr. Hyun be reinvestigated by the professional conduct committee, or by a person retained by the professional conduct committee, on one occasion between twelve (12) and eighteen (18) months from the date this Decision and Order becomes final under the bylaws, the cost of the reinvestigation, up to \$2,000, to be paid by Mr. Hyun within thirty (30) days of receiving notification of the cost of the reinvestigation.
5. THAT notice of this Decision and Order, disclosing Mr. Hyun'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 the Public Accountants Council for the Province of Ontario;
 - (b) to the Canadian Institute of Chartered Accountants; and
 - (c) by publication in *CheckMark*.
6. THAT in the event Mr. Hyun fails to comply with any of 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 *The Globe and Mail*.

27. The panel concluded that each of the three general principles which apply when a sanction is imposed were important in this case. General deterrence is important because all members must realize that they are to keep current with the required standard. It is not sufficient to simply do the work, it is also important to properly document the work done and to adequately disclose what is required in the financial statements. General deterrence is also important because Mr. Hyun attempted, albeit superficially and in an unsophisticated manner, to mislead the professional conduct committee's investigator.

28. Specific deterrence is important because Mr. Hyun must understand as he approaches retirement that he will still have to maintain the standard of the profession in all the engagements he accepts, especially those where there are management problems. Further, he must understand that it is not acceptable to provide a misleading file or files to an investigator.

29. Rehabilitation is important because Mr. Hyun wishes to practise for a few more years before retiring. The professional conduct committee considered rehabilitation an appropriate sanctions objective in this case, and, as said above, the absence of noted deficiencies in the other files investigated strongly suggests that Mr. Hyun is quite capable of rehabilitation.

30. The panel recognized that his involvement in the discipline process had already had a rehabilitative effect on Mr. Hyun, and was also likely to serve as a specific deterrent ensuring that he does not in future slip into making the same mistakes he did in this case.

Reprimand

31. The panel was of the view that a reprimand is necessary as a specific deterrent to the member, to stress to him the importance of maintaining the standards of the profession, and the unacceptability of his conduct as a chartered accountant.

Fine

32. Ms. Glendinning submitted that normally the appropriate fine for the type of misconduct exhibited in this case would be in the \$5,000 to \$7,000 range, rather than the \$3,000 to \$5,000 range requested by the professional conduct committee. The reduced level of fine sought, she indicated, was in light of the costs that Mr. Hyun would incur for the courses and the reinvestigation being recommended, and with a view to assisting Mr. Hyun to rehabilitate himself. The panel agreed and accordingly ordered a fine of \$3,000.

Professional Development Courses

33. The panel ordered Mr. Hyun to take two professional development courses with a view to assisting his rehabilitation. Mr. Hyun will benefit by having his skills refreshed, which in turn will benefit his clients.

Reinvestigation

34. The panel thought it was important that Mr. Hyun demonstrate the required standard of practice, and accordingly ordered that a reinvestigation take place between 12 and 18 months after the decision and order becomes final, which will be after he has completed the professional development courses ordered. It is the panel's expectation that Mr. Hyun will demonstrate the appropriate standard upon his reinvestigation.

Notice

35. Notwithstanding Ms. Harmer's submissions, the panel was not persuaded that there existed such rare and unusual circumstances in this case as to warrant the withholding of the member's name from publication. This panel is convinced that notice disclosing a member's name is a far more effective general deterrent than notice that withholds the name. As noted above, there was an effort to mislead the investigator, and it is important as a matter of general deterrence that members understand that such efforts will lead to a conviction for professional misconduct which will be disclosed in *CheckMark*. Further, it is important that members understand that if they let their standards slip, notice of that fact will be given to the profession.

Failure To Comply With The Order

36. Any order of the discipline committee which did not provide consequences for failure to comply would be largely meaningless. The order made in this case contained the minimum sanctions we thought were required in order to both rehabilitate Mr. Hyun and protect the public. If he fails to comply with the order, he should not and will not be entitled to continue as a member of the Institute.

DATED AT TORONTO THIS 19TH DAY OF AUGUST, 2003
BY ORDER OF THE DISCIPLINE COMMITTEE

B.A. TANNENBAUM, FCA – DEPUTY CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

J.A. CULLEMORE, CA
D.W. DAFOE, FCA
J.M. MULHALL, CA
S.W. SALTER, CA
P.W. WONG (Public representative)