

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

DISCIPLINE COMMITTEE

IN THE MATTER OF: Charges against **YOUNG I. HYUN**, a member of the Institute, under **Rules 202 and 206.1** of the Rules of Professional Conduct, as amended.

TO: Mr. Young I. Hyun, CA
182 Willowdale Avenue, Suite 200
North York, ON M2N 4Y8

AND TO: The Professional Conduct Committee, ICAO

REASONS
(Decision And Order Made June 22, 2006)

1. This panel of the Discipline Committee of the Institute of Chartered Accountants of Ontario met on June 22, 2006, to hear charges of professional misconduct against Young I. Hyun, a member of the Institute.
2. Ms. Barbara Glendinning appeared on behalf of the Professional Conduct Committee and was accompanied by Mr. Robert Rose, CA, the investigator appointed by the Professional Conduct Committee. Mr. Hyun attended and was unrepresented. He acknowledged he understood that he had the right to be represented by counsel, and that he did not wish to avail himself of that right.
3. The decision of the panel was made known to the parties at the conclusion of the hearing on June 22, 2006, and the written Decision and Order was sent to them on June 27, 2006. These reasons, given pursuant to Bylaw 574, include the charges, the decision, the order, and the reasons of the panel for its decision and order.

CHARGES

4. The following charges were laid against Mr. Hyun on February 7, 2006:
 1. THAT the said Young I. Hyun, in or about the period December 31, 2004 through March 28, 2005, while engaged to perform a review of the financial statements of 152#### Ontario Inc. operating as "L.A.T." ("the Company") for the year ended December 31, 2004, failed to perform his professional services in accordance with generally accepted standards of practice of the profession, contrary to Rule 206.1 of the rules of professional conduct, in that:
 - (a) he failed to perform sufficient and appropriate enquiry, discussion and analysis to satisfy himself as to the plausibility of the items "Cash on Hand and in bank", "Line of Credit" and "Due to Shareholders" on the Balance Sheet;

- (b) having made what he believed to be a correction of an error in the 2003 financial statements presented for comparative purposes, he failed to ensure disclosure of the required information concerning the correction;
 - (c) he failed to ensure appropriate disclosure of financial instruments in that he included assets that did not meet the definition of financial instruments;
 - (d) he failed to test for impairment the value of intangible assets that were not subject to amortization; and
 - (e) he failed to refer to "Canadian" generally accepted standards for review engagements and to "Canadian" generally accepted accounting principles in the scope and negative assurance paragraphs respectively of his Review Engagement Report.
2. THAT the said Young I. Hyun, in or about the period December 31, 2004 through March 28, 2005, while engaged to perform a review of the financial statements of 152#### Ontario Inc. operating as "L.A.T." ("the Company") for the year ended December 31, 2004, failed to perform his professional services with integrity and due care, contrary to rule 202 of the Rules of Professional Conduct, in that he failed to properly account for business transactions of the Company undertaken by the shareholders through their personal bank, loan and line of credit accounts.

PLEA

5. Mr. Hyun entered a plea of guilty to each of the charges. He acknowledged he understood that, based on the plea of guilty and that basis alone, he could be found guilty of the charges.

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. Members of the panel did have some questions about the Agreed Statement of Facts and in particular the work Mr. Hyun did for L.A.T. and whether or not he had actually signed the review engagement report. Mr. Hyun answered the questions of the panel.

8. There were also questions about charges which had been made by the Professional Conduct Committee but not prosecuted. In May 2003 Mr. Hyun was found guilty of professional misconduct. The order included requirements that Mr. Hyun take two professional development courses and be reinvestigated. The reinvestigation occurred before Mr. Hyun had completed the courses. As a result of the reinvestigation, the Professional Conduct Committee laid charges relating to L.A.T. for fiscal 2003. After the charges were laid Mr. Hyun, who had then completed the professional development courses, asked the Professional Conduct Committee not to proceed with those charges but to reinvestigate him again. The Professional Conduct Committee agreed. There was a second reinvestigation which resulted in the two charges set out above relating to L.A.T.'s financial statements for the fiscal period 2004. In light of the charges with respect to fiscal 2004, the charges with respect to fiscal 2003 were withdrawn.

9. Ms. Glendinning, in summing up the case for the Professional Conduct Committee, said that while the problems were relatively minor, Mr. Hyun's failure to keep current was very clear and as a result the potential for material misstatement was real.

DECISION

10. Upon deliberation the panel concluded that following the previous decision of the Discipline Committee in May 2003 Mr. Hyun had improved his standard of practice, but that there was clear, cogent and convincing evidence that there were still significant departures from the required standard of practice. The panel was satisfied that charges had been proven and that the breach of the standards, which were significant, constituted professional misconduct. When the hearing resumed the Chair read 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 the charges, the Discipline Committee finds Young I. Hyun guilty of the charges.

SANCTION

11. Counsel for the Professional Conduct Committee submitted that a sanction of: a written reprimand; a fine in the range of \$1,000 – 2,000; specified courses of professional development; supervision of the member's assurance files for the remainder of his time in practice; and notice in the usual course would satisfy the principles of general and specific deterrence, as well as rehabilitation. Ms. Glendinning also sought an order for costs.

12. Ms. Glendinning noted that Mr. Hyun had been found guilty of professional misconduct for similar behavior in 2003. Some of those deficiencies have since been remedied by the member, and she submitted that further rehabilitation through professional development courses would be appropriate, along with supervision of Mr. Hyun's practice. She also submitted that, given Mr. Hyun is looking towards retirement, the quantum of the fine proposed by the Professional Conduct Committee is less than the circumstances of the charges would otherwise mandate. Further, the costs sought by the Professional Conduct Committee were \$2,500, also less than the usual amount, as the investigation costs were covered by the requirement in the original order for a reinvestigation at the expense of the member. In mitigation, Ms. Glendinning also pointed out that Mr. Hyun had indicated early in the process his intention to plead guilty to the charges.

13. Mr. Hyun confined his submissions to the issues of the monetary sanction and the supervised practice. With respect to the fine, he requested a lengthy period of time to pay, in consideration of his financial circumstances. He submitted that an indefinite period of supervision was not warranted, and suggested that a length of two to three years would be appropriate. He informed the panel that he was committed to bringing himself up to the standards of the profession, and did not wish to retire, as he is contemplating doing after three more years, with the stigma of doing so as a member needing to have his practice either supervised or restricted.

14. The panel expressed some concern at Mr. Hyun's access to colleagues with whom he could consult, and Mr. Hyun assured the panel he did speak with respected members of the profession on sensitive matters. The panel also wished to know whether the deficiencies noted with respect to the assurance file were also present in the other areas of Mr. Hyun's practice. Mr. Rose, the Professional Conduct Committee investigator, informed the panel that he had looked over some of Mr. Hyun's tax work and generally had no concerns with it.

ORDER

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

IT IS ORDERED in respect of the charge:

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 \$2,000, to be remitted to the Institute within eighteen (18) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Hyun be and he is hereby charged costs fixed at \$1,000, to be remitted to the Institute within eighteen (18) months from the date this Decision and Order becomes final under the bylaws.
4. THAT Mr. Hyun be and he is hereby required to pay for and complete, in their entirety, within twenty-four (24) months from the date this Decision and Order becomes final under the bylaws, the following professional development courses made available through the Institute, or, in the event a course listed below becomes unavailable, the successor course which takes its place:

- (a) *Quality Assurance Workshop,*
- (b) *Review and Compilation Engagements,* and
- (c) *Accounting Refresher.*

5. THAT Mr. Hyun be and he is hereby required to complete a period of supervised practice, at his own cost, upon the following terms and conditions:

Within thirty (30) days of the date this Decision and Order becomes final under the bylaws, Mr. Hyun shall submit a plan of supervision, including the name of the proposed supervisor, to the Director of Standards Enforcement for approval.

The approved supervisor shall review all Mr. Hyun's assurance files and shall report to the Director of Standards Enforcement on an annual basis as to Mr. Hyun's compliance with the required standards of practice of the profession. This supervision shall continue for a period of three (3) years from the date of the approval of the plan of supervision.

6. 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 twenty-four (24) months from the date of the end of the period of supervised practice, 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.
7. 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*.

8. 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 the three (3) month period, he shall thereupon be expelled from the membership in the Institute, and notice of his expulsion, disclosing his name, shall be given in the manner specified above, and in a newspaper distributed in the geographic area of Mr. Hyun's practice.

REASONS FOR THE ORDER

Reprimand

16. The panel orders Mr. Hyun be reprimanded to stress to him the unacceptable nature of his conduct in the eyes of the public and the profession.

Fine

17. The fine is both a specific and general deterrent, and must be significant enough to satisfy those purposes. The panel has balanced Mr. Hyun's financial circumstances, with which it is sympathetic, and the other mitigating factors, against the nature of the conduct itself, and the fact that Mr. Hyun had previously been before the Discipline Committee, in assessing the appropriate quantum.

Costs

18. It is appropriate for the member charged rather than the membership as a whole to bear a portion of the costs of the hearing occasioned by his misconduct. The costs ordered in this instance do not come close to even partially indemnifying the Professional Conduct Committee for those incurred in this matter, and are far less than generally ordered by panels of the Discipline Committee. This indulgence is in recognition of the mitigating factors brought to the panel's attention, and, most particularly, Mr. Hyun's financial circumstances.

Professional Development

19. As we have said above, Mr. Hyun's standard of practice did improve after his previous hearing in May 2003, and the panel concluded that he is capable of rehabilitation. The panel also accepts that he wishes to bring himself up to the standards of practice of the profession, and the courses ordered will facilitate that process. There were two courses specifically recommended by the Professional Conduct Committee. We have ordered a third, the *Accounting Refresher*, after looking over the financial statements prepared by Mr. Hyun and noting their presentation.

Supervised Practice

20. The panel accepted the submission of counsel for the Professional Conduct Committee that it was essential that the order protect the public interest. The panel considered whether this required an order precluding Mr. Hyun from accepting assurance engagements. We concluded that three years of supervised practice, with the requirement that the supervisor report annually to the

Director of Standards Enforcement as to whether or not Mr. Hyun's assurance work complies with the required standards of practice of the profession, and a reinvestigation after this period of supervised practice, would adequately protect the public interest.

21. The investigator for the Professional Conduct Committee did not have concerns about Mr. Hyun's standard of practice other than with respect to assurance engagements. In addition to the professional development courses, Mr. Hyun will have the benefit of the supervisor's annual report as to whether or not his assurance work complies with the standards required by the profession. He will be in a position to determine whether or not he will be able to properly provide assurance services to the public.

Reinvestigation

22. Rather than require Mr. Hyun's assurance work to be supervised until he retires, the panel ordered that Mr. Hyun's practice be reinvestigated again after the period of supervision. The period of supervision will end at about the time Mr. Hyun says he is contemplating retirement. Accordingly, as he contemplates retirement he will know the supervisor's view of his standards and that he will be reinvestigated should he continue to provide assurance services.

Notice

23. Publishing the names of members found guilty of professional misconduct is often the single most significant sanction that may be administered for general deterrence, education of the membership at large, and protection of the public. It is only in the most exceptional circumstances that such important principles will be over-balanced by privacy considerations. No such circumstances were urged on the panel in this matter, and so there is no reason that publication should not be made.

Failure to Comply

24. To encourage compliance with discipline orders in cases in which members are not expelled outright, orders of a panel generally specify suspension, followed by, should the member still fail to comply, expulsion with newspaper notification to the public as an ultimate consequence for non-compliance. The panel so orders in this proceeding.

DATED AT TORONTO THIS 24th DAY OF AUGUST, 2006.
BY ORDER OF THE DISCIPLINE COMMITTEE

H.B. BERNSTEIN, CA – CHAIR
DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

R.J. ADAMKOWSKI, CA
S.R. LOWE, CA
H.G. TARADAY, CA
R.A. VICKERS, FCA
D.J. ANDERSON (PUBLIC REPRESENTATIVE)