

Larry Harry Weltman: Summary, as Published in *CheckMark*

Larry Harry Weltman, of Thornhill, 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 criminal conviction for fraud in the Supreme Court of the State of New York, County of New York.* Mr. Weltman was serving in a control management position as executive vice-president and a director of a public company which entered into a transaction to purchase a company in the highly regulated gaming industry. With full knowledge that the required gaming licence of the company to be purchased would be null and void upon the closing of the purchase transaction, Mr. Weltman's company proceeded nevertheless to close the transaction and to operate the company without a licence and without informing the gaming authority of the purchase. Upon discovery by the gaming authority that Mr. Weltman's company was operating without a licence, Mr. Weltman was charged and convicted of fraud. Mr. Weltman was fined \$3,000 and expelled from the Institute.

**On December 4, 2018, pursuant to Section 160.59 of the State of New York's Criminal Procedure Law, the Supreme Court of the State of New York sealed the conviction.*

CHARGE(S) LAID re Larry Harry Weltman

The Professional Conduct Committee hereby makes the following charge against Larry Weltman, CA, a member of the Institute:

1. THAT the said Larry Weltman failed to conduct himself in a manner that will maintain the good reputation of the profession and its ability to serve the public interest in that on or about the 27th day of September 2000 he was convicted by the Supreme Court of the State of New York, County of New York, of an offence of fraud, contrary to Rule 201.1 of the rules of professional conduct.

Dated at Toronto this 5th day of March, 2002.

RICHARD JOHNSTON, FCA
DEPUTY CHAIR, PROFESSIONAL CONDUCT COMMITTEE

DISCIPLINE COMMITTEE re Larry Harry Weltman

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

DECISION AND ORDER MADE AUGUST 15, 2002

DECISION

THAT, having seen and considered the evidence, the Discipline Committee finds Larry Harry Weltman guilty of the charge.

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Weltman be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Weltman be and he is hereby fined the sum of \$3,000, to be remitted to the Institute within three (3) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Weltman be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Weltman'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 The Institute of Chartered Accountants of South Africa;
 - (c) by publication in *CheckMark*; and
 - (d) by publication in *The Globe and Mail*, the *Thornhill Liberal* and *The Wall Street Journal*.
5. THAT Mr. Weltman 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 22ND DAY OF AUGUST, 2002
BY ORDER OF THE DISCIPLINE COMMITTEE

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

DISCIPLINE COMMITTEE re Larry Harry Weltman

REASONS FOR THE DECISION AND ORDER IN THE MATTER OF: A charge against **LARRY HARRY WELTMAN, 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 AUGUST 15, 2002

1. This panel of the discipline committee of the Institute of Chartered Accountants of Ontario convened on August 15, 2002 to hear evidence concerning the charge brought by the professional conduct committee against Mr. Larry Harry Weltman.
2. The professional conduct committee was represented by Ms. Barbara Glendinning. Mr. Weltman, who attended the hearing, was represented by his counsel, Mr. Richard Auger.
3. The decision and the order of the discipline committee was made known at the hearing on August 15, 2002, and the formal decision and order was dated and sent to Mr. Weltman on August 22, 2002. These reasons, given in writing pursuant to Bylaw 574, set out the charge and the decision and order, as well as the reasons of the committee.

DECISION ON THE CHARGE

4. The charge laid by the professional conduct committee against Mr. Weltman dated March 5, 2002 reads as follows:
 1. THAT the said Larry Weltman failed to conduct himself in a manner that will maintain the good reputation of the profession and its ability to serve the public interest in that on or about the 27th day of September 2000 he was convicted by the Supreme Court of the State of New York, County of New York, of an offence of fraud, contrary to Rule 201.1 of the rules of professional conduct.
5. Mr. Weltman entered a plea of not guilty to the charge.
6. Ms. Glendinning gave an overview of the professional conduct committee's case, and filed a document brief which contained the following:
 - a certified copy of the Certificate of Conviction of Mr. Weltman in the Supreme Court of the State of New York, County of New York, for violation of General Business Law Section 352–c (5), together with a letter from John W. Moscow, Assistant District Attorney for the County of New York, to Barry A. Bohrer, counsel for Mr. Weltman, which sets out the terms of an agreement between the District Attorney and Mr. Weltman;
 - a certified copy of the indictment against Mr. Weltman;
 - a copy of General Business Law Section 352–c (5); and

- a transcript of the proceedings in the Supreme Court of New York, County of New York, on September 27, 2000, before the Honourable Bernard J. Fried, Justice of the Supreme Court, wherein Mr. Weltman pleaded guilty to the criminal indictment, was found guilty, and was sentenced by the court.
7. Ms. Glendinning also filed a document which had been intended to be an agreed statement of facts. The hearing was not called to order at 10:00 a.m. as the parties were attempting to resolve some differences with respect to this statement. While Mr. Auger did not object to the filing of the document, he did object to certain of the terms used in the document. Accordingly, with the agreement of both parties, the title of the document, which is marked as Exhibit 5, was changed to *Statement of Allegations Asserted By The Professional Conduct Committee*.
 8. Ms. Glendinning concluded her case with the filing of the document brief and the statement of allegations referred to above.
 9. Mr. Auger did not call evidence. Aside from making it clear that Mr. Weltman was not making any admissions, he did not make submissions on Mr. Weltman's behalf with respect to the charge. While Mr. Auger did not acknowledge the documents set out in the document brief to be authoritative, he said he was not suggesting the documents were other than accurate copies of the originals.
 10. Mr. Weltman was the executive vice-president and a director of a public company originally named Laser Friendly Inc., then Gaming Lottery Corporation, and finally GalaxiWorld.com Limited (hereinafter collectively referred to as GalaxiWorld). The evidence set out in the document brief, particularly the letter of September 27, 2000 from Mr. Moscow to Mr. Bohrer, which letter was also signed by Mr. Weltman, and the transcript of the criminal proceedings against Mr. Weltman, showed that the essence of Mr. Weltman's misconduct was that:
 - he was in a control management position with GalaxiWorld;
 - GalaxiWorld entered into a transaction to purchase the Specialty Manufacturing division of Ace Novelty Company, which was in the highly regulated gaming industry and required a license in order to operate;
 - he and GalaxiWorld were warned that upon final closing of the purchase transaction the license issued by the State of Washington to Ace Novelty for Specialty Manufacturing would be null and void;
 - without being licensed GalaxiWorld nevertheless closed the transaction, and operated Specialty Manufacturing without informing the State of Washington of the final closing;
 - GalaxiWorld undertook the material risk that if its concealed conduct were discovered by the State of Washington and not approved, the company and its financial condition would be significantly adversely affected.

11. Following the discovery by the State of Washington that the company was operating without a license, charges were brought against Mr. Weltman in New York. He pleaded guilty to the charge referred to above, was convicted, and was placed on unsupervised probation for 5 years and ordered to pay a fine of \$100,000 and restitution of \$400,000 toward a civil judgment. Mr. Weltman paid the US\$500,000 as required.
12. A default judgment initially obtained against GalaxiWorld in a class action brought by the shareholders against the company and others, including Mr. Weltman, was apparently set aside and Mr. Weltman is now defending the ongoing action. For the purposes of this discipline proceeding it was not necessary that the losses suffered by the shareholders be quantified. It is clear from the conduct set out above that the deliberate decision to ignore the law, despite the risk, had significant adverse consequences for the company and its shareholders.
13. The committee concluded that the uncontradicted, clear and cogent evidence before it established that Mr. Weltman was guilty of failing to maintain the good reputation of the profession and its ability to serve the public interest.
14. No submissions were made on the issue of whether or not the offence of which Mr. Weltman was convicted was an offence under Rule 102.1 so as to trigger a rebuttable presumption of guilt pursuant to Rule 201.2. Nevertheless, the committee was of the view that the rebuttable presumption was applicable in this case and that it had not been rebutted.
15. The finding of professional misconduct did not rest on the rebuttable presumption alone, however. In our view, the conduct described above, culminating in and including the criminal conviction, constituted a failure to maintain the good reputation of the profession and its ability to serve the public interest with or without the presumption of guilt provided by Rule 201.2.
16. Accordingly, Mr. Weltman was found guilty of the charge.
17. When the committee had concluded its deliberations, the hearing resumed and the chair read into the record the following decision of the committee:

DECISION

THAT, having seen and considered the evidence, the Discipline Committee finds Larry Harry Weltman guilty of the charge.

ORDER AS TO SANCTION

18. Neither party called evidence with respect to sanction, but both counsel made submissions.
19. Ms. Glendinning asked that Mr. Weltman be reprimanded, fined \$3,000, and expelled from the Institute. She also requested that notice disclosing Mr. Weltman's name be given to the Public Accountants Council and the Canadian Institute of Chartered Accountants, to the profession through publication in

CheckMark, and to the public through publication in *The Globe and Mail* and the *Thornhill Liberal*, the local newspaper published in the community in which Mr. Weltman resides.

20. Ms. Glendinning submitted that in this case the principle of sanction which should be given priority is general deterrence, and that a CA who acts in the manner set out above could not remain a chartered accountant.
21. Mr. Auger asked the committee to impose something less than expulsion, and left it to the committee to determine whether Mr. Weltman should be suspended or be allowed to resign. He submitted that Mr. Weltman's error in judgment was a one-time occurrence and out of character for his client.
22. Mr. Auger pointed out that the criminal conviction and the fact that Mr. Weltman could no longer travel to the United States or engage in business there had already had a very heavy impact on his reputation, his family and his income.
23. It was Mr. Auger's position that no useful sentencing principle would be addressed by imposing a fine on Mr. Weltman, who had already paid US\$500,000 in accordance with the sentence imposed by the New York court. Further, he submitted that as there had already been national press coverage there was no need for any further notice, which would have a particularly adverse affect on Mr. Weltman in his local community.
24. After hearing submissions from both parties, the committee deliberated, following which the chair read into the record the following order:

ORDER

IT IS ORDERED in respect of the charge:

1. THAT Mr. Weltman be reprimanded in writing by the chair of the hearing.
2. THAT Mr. Weltman be and he is hereby fined the sum of \$3,000, to be remitted to the Institute within three (3) months from the date this Decision and Order becomes final under the bylaws.
3. THAT Mr. Weltman be and he is hereby expelled from membership in the Institute.
4. THAT notice of this Decision and Order, disclosing Mr. Weltman'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 The Institute of Chartered Accountants of South Africa;
 - (c) by publication in *CheckMark*; and
 - (d) by publication in *The Globe and Mail*, the *Thornhill Liberal* and *The Wall Street Journal*.

5. THAT Mr. Weltman 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

25. The committee felt that a reprimand in writing would stress to the member the serious nature of his offence and the unacceptability of his conduct.

Fine

26. The committee was persuaded that a fine of \$3,000 was appropriate in this case.
27. We recognized that a higher fine, such as the \$10,000 fine levied in the *Rapier* case specifically referred to by Ms. Glendinning, would ordinarily be more appropriate. The committee, however, took into consideration the fact that Mr. Weltman had already paid US\$500,000 to the New York court, and levied a lesser fine on that account.
28. The committee intends the fine to be a general deterrent as well as a specific deterrent to Mr. Weltman.

Expulsion

29. We rejected Mr. Auger's submission that Mr. Weltman's participation in events which led to his conviction was merely a one-time error in judgment.
30. The letter of September 27, 2000 which Mr. Weltman signed is in effect an agreed statement in which he acknowledges his criminal activity. In that letter and testimony he acknowledged that he was warned in advance that the license issued to operate the Specialty Manufacturing division of Ace Novelty Company, which Mr. Weltman's company was purchasing, would be null and void upon the closing of the purchase transaction. Being in the highly regulated gaming industry, Mr. Weltman knew that his company's shareholders were at considerable financial risk as a result of the operation of the company without a license.
31. The committee concluded that Mr. Weltman's actions could not be dismissed as a momentary lapse of judgment, but represented a deliberate decision to flout the law. By so doing, Mr. Weltman betrayed the trust that had been placed in him by the shareholders.
32. The committee concluded there was no appropriate alternative sanction to expulsion.

Notice

33. Publication of discipline notices is an important and significant deterrent. Such notices must disclose members' names unless circumstances exist which are sufficiently rare and unusual to warrant withholding the name. In this case, the committee found that there were no rare and unusual circumstances which would

warrant withholding Mr. Weltman's name, and that notice should be given to the general business community through publication in *The Globe and Mail*, as well as to the community in which Mr. Weltman lives through publication in the *Thornhill Liberal*.

34. As Mr. Weltman's case was reported in the New York newspapers, the committee concluded that it was appropriate to complete the record in the U.S. by placing a notice in *The Wall Street Journal*.
35. Having been advised that Mr. Weltman initially received his CA designation in South Africa, the committee decided it was appropriate to notify the Institute of Chartered Accountants of South Africa of the results of this hearing so that it could take any action it saw fit.

DATED AT TORONTO THIS 22ND DAY OF OCTOBER, 2002
BY ORDER OF THE DISCIPLINE COMMITTEE

H.B. BERNSTEIN, CA – DEPUTY CHAIR
THE DISCIPLINE COMMITTEE

MEMBERS OF THE PANEL:

D.L. FLEWELLING, CA
A. HANSON, CA
G.R. PEALL, CA
D.O. STIER, CA
P.W. WONG (Public representative)