

Hearings



Council passed the resolution that, "Notwithstanding any orders of publication made pursuant to By-laws 981 and 982, in all cases where a chartered accountant, student or professional corporation has been found guilty of unprofessional conduct, an anonymous summary containing a brief general description of the circumstances, findings of unprofessional conduct and any penalty and/or order imposed shall be published in the Members' Handbook."

Council felt that publication of disciplinary decisions would educate members on the code of ethics of the profession and its disciplinary process and serve as a general deterrent.

REFERENCE: DECISION 01

DESCRIPTION: The complainant, a solicitor engaged by the trustee of a dependent adult's estate, had written four letters over 7 months to the CA requesting information relating to the estate. The CA's reasons for not replying to the letters and not providing the requested information were that he was "busy" and concerned that the dependent adult's children were attempting to gain control of the assets to the prejudice of the dependent adult and his spouse.

FINDINGS: The CA was found guilty of unprofessional conduct in having failed to respond promptly to letters and provide, in a timely manner, information requested by the trustee of the estate.

REASONS: The Hearing Committee felt that the delays were unreasonable and that both professional and common courtesy required the CA to acknowledge receipt of the requests, explain the reason for the delay in answering the requests and commit to some forward date for supplying the requested information. Although the Committee considered the CA's explanation that he was concerned for the protection of the assets of the estate, it concluded it was not a valid reason for failing to provide the requested information.

ORDERS: The CA was verbally reprimanded and ordered to:

- deliver to the complainant, all information in his possession pertaining to the estate, including books, records, documents, working papers, financial statements and related files,
- cooperate fully with the complainant, and
- pay the costs of the investigation and hearing.

[The hearing was completed in one day and costs totalled \$3,620]

PUBLICATION: To all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 02

DESCRIPTION: The CA was a director and secretary-treasurer of a public company that had been found guilty of failing to comply with a policy requirement of the Alberta Securities Commission. The Securities Commission viewed the case very seriously as it involved the failure to meet a financial requirement of the Commission and it appeared the company's directors were not aware of their responsibilities. The Commission ordered the CA to cease trading in all securities for six months.

FINDING: The CA was found guilty of unprofessional conduct in having failed to perform his professional services as director and secretary treasurer with due care.

REASONS: The Hearing Committee found the CA guilty for the following reasons:

- he could not exercise any control over the banking functions because he did not have signing authority;
- he should have resigned as secretary-treasurer because he did not have the required financial controls; and
- he did not establish proper financial controls to monitor the company's operations on a regular basis to ensure compliance with all regulatory bodies and requirements.

ORDERS: The CA was verbally reprimanded and ordered to provide a written undertaking to the Institute, to refrain from acting as a director or officer of a public company for 2 years, and pay the costs of the investigation and hearing.

[The hearing was completed in two days and costs totalled \$9,397]

PUBLICATION: To all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 03

DESCRIPTION: The complainant, another CA, had taken over an account from the CA and, after reviewing the file documentation, concluded the CA had, in preparing the financial statements, erred in accounting and income tax matters involving deferred income taxes, interdivisional sales and an investment in a joint venture.

FINDING: The CA was found guilty of unprofessional conduct in having failed to sustain his professional competence by keeping himself informed of, and in compliance with, developments in professional standards in all functions in which he practices or is relied upon because of his calling.

REASONS: In addition to considering the evidence and submissions placed before it, the Hearing Committee took into account the cumulative effect of a series of mistakes by the CA, the fact that there was no monetary loss to a client or a creditor, and the integrity and honesty of the CA.

The Committee concluded that the CA's knowledge of developments in professional standards was not the issue but rather, in complying with those standards, he did not exercise sound professional judgment and permitted his client to influence his decisions to the extent that his objectivity and/or independence may have been impaired.

ORDERS: The CA was verbally reprimanded and order to pay \$1,000 towards the costs of the investigation and hearing.

[The hearing was completed in one day and costs totalled \$4,392]

REASONS: During the last year and since issuing the financial statements in question, the CA had taken courses to raise his level of professional competence, particularly in the areas where deficiencies were identified by the Committee.

PUBLICATION: To a provincial institute with which the CA held a concurrent membership at the time of the hearing and to all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 04

DESCRIPTION: The CA was a director and an officer of a company that was the general partner of a limited partnership. He was also a director and the secretary-treasurer of an affiliated company that incurred capital expenditures on behalf of the limited partnership and then allocated costs, expenses and grants back to the limited partnership.

The CA left both companies in the fall of 1985 and returned to public practice. His professional corporation accepted the appointment as auditor of the limited partnership for its 1985 year end and issued an adverse opinion on the financial statements.

FINDINGS: The CA was found guilty of unprofessional conduct in having expressed an audit opinion on the financial statements of the limited partnership when, for the period reported in the financial statements,

- he was an officer and director of the general partner of the limited partnership, and
- as secretary-treasurer and/or chief financial officer of an affiliated company, he was in a position to influence the information contained in the limited partnership's financial statements.

REASONS: The Hearing Committee concluded that the CA was in a position to influence the information contained in the financial statements and impaired his appearance of independence.

The Committee felt that, in the view of a reasonable observer, the CA's independence and objectivity was further impaired because he was a co-defendant in an action against the limited partnership which was filed and registered before issuance of his audit report.

ORDERS: The registrations of the CA and the permit of his professional corporation were suspended for 6 months.

The CA and his professional corporation were prohibited from issuing audit opinions for one year.

Following the period of suspension, if the CA or his professional corporation engages in public practice, the practice will be inspected at least annually for 4 years by a person authorized by the Practice Review Committee.

The CA was ordered to pay costs of the investigation and hearing to a maximum to \$5,000.

[The hearing was completed in one day and costs totalled \$4,978]



REASONS: The Hearing Committee considered the findings of unprofessional conduct to be a serious matter and considered the fact that the CA had on two previous occasions been found guilty of conduct unbecoming a chartered accountant.

PUBLICATION: To all members of the Institute.

To all provincial institutes to which the CA applies for membership at any time in the future.

To the Institute of Chartered Accountants in England and Wales (of which the CA was also a member).

In the CA Monthly Statement on a named basis.

REFERENCE: DECISION 05

DESCRIPTION: The CA made a voluntary assignment into bankruptcy and applied for a discharge from bankruptcy about 11 months later. The Institute did not become aware of the CA's bankruptcy until a lawyer acting for a creditor wrote a letter to the Institute regarding the bankruptcy.

FINDING: The CA was found guilty of unprofessional conduct in having failed to immediately advise the Institute of his insolvency and assignment under the Bankruptcy Act.

REASONS: The CA admitted that he had failed to immediately advise the Institute of his bankruptcy but argued he had assumed that his trustee in bankruptcy, another CA, would inform the Institute. The Hearing Committee felt the responsibility of informing the Institute rested on the CA and he should have taken all the necessary steps to carry out his obligation of complying with the Rules of Professional Conduct.

APPEAL: The Professional Conduct Chairman appealed to the Appeals Committee the order made by the Hearing Committee.

ORDERS ON
APPEAL:

The Appeals Committee varied the Hearing Committee's order, ordered the CA to pay 50% of the costs of the investigation and hearing, and fined him \$2,500.

[The hearing before the Hearing Committee was completed in one day and costs totalled \$2,772]

REASONS: The Appeals Committee was of the opinion that the CA was the author of his own misfortune in having failed to immediately advise the Institute and should be responsible for a reasonable portion of the costs. Given the serious nature of the insolvency of a member and the need to ensure the protection of his clients and the public, it is imperative that the Institute be advised.

PUBLICATION: To all provincial institutes to which the CA applies for membership at any time in the future.

In the CA Monthly Statement on a no-name basis.

REFERENCE: DECISION 06

DESCRIPTION: The CA prepared the financial statements and corporate income tax returns for a client company. He also prepared the personal income tax returns for the two shareholders of the company. The CA recorded bonuses and dividends in completing his work for the company but neglected to report the amounts in the shareholders' personal income tax returns. He also recorded, as revenue, advances made by the shareholders to the company. Revenue Canada reassessed the corporate and personal returns.

With respect to the bonuses, there was no evidence that amounts expensed as salaries were traced for continuity to the personal income tax returns. The CA had relied on clients to tell him how much should be included in income.

With respect to the dividends, the CA prepared the T5 slips and forwarded them to the clients with a letter giving clear instructions that the dividends had to be included in the personal income tax returns. The clients did not however return the slips with their other personal tax information.

With respect to the advances which were recorded as revenue, they were properly identified in the company's journal and on the duplicate bank deposit slips, but were misclassified in the CA's office. The CA testified that the summarization and file were prepared by a clerk and reviewed by a student.

FINDING: The CA was found guilty of unprofessional conduct in having failed to perform his professional services with due care.

REASONS: Although the shareholders had contributed to the situation, the Hearing Committee felt the CA should have had cross-checks or control procedures in his office to ensure that salaries and dividends were included in the relevant personal income tax returns.

The Hearing Committee also felt that the CA is responsible for the accuracy of work performed under this supervision.

ORDERS: The CA was verbally reprimanded, fined \$1,000 and ordered to take counselling that is appropriate in the opinion of the Practice Review Committee with regard to the CA's methods of preparing corporate and personal income tax returns, his policies and procedures to ensure compliance with reporting requirements and the inclusion of items in returns.

[The hearing was completed in one day and costs totalled \$5,625]



REASONS: The Hearing Committee felt the clients had contributed to their own problems and there was no evidence of impropriety or dishonesty in the CA's conduct. The Committee did not question the CA's competence as it was of the opinion his working papers and other documentation were adequate and suitable.

The Committee felt the CA's failures were in the areas of taxation, more particularly in systems to ensure compliance with Revenue Canada's reporting requirements, and believed he needed an incentive to bring his practices in the tax area in line with acceptable standards for the profession. The Committee added the requirement that the CA receive assistance from the Practice Review Committee, for protection of the public and the reputation of the profession.

PUBLICATION: To all provincial institutes to which the CA applies for membership at any time in the future.

In the CA Monthly Statement on a no-names basis.

REFERENCE: DECISION 07

DESCRIPTION: The CA issued an unqualified Auditor's Report on the financial statements of a Canadian public company that was listed on Canadian stock exchanges. He subsequently issued a double dated Auditor's Report on amended financial statements that reflected material adjustments to assets, income taxes, shareholders' equity and net income. The amended financial statements properly reflected a required consolidation and accounted for a capital stock redemption in accordance with generally accepted accounting principles.

FINDINGS: The CA was found guilty of unprofessional conduct in having:

- failed to sustain his professional competence by keeping himself informed of, and in compliance with, developments in professional standards in all functions in which he practices or is relied upon because of his calling;
- associated himself with financial statements which he knew or should have known were false or misleading; and
- expressed an audit opinion without suitable reservation on financial statements although the financial statements were not prepared in accordance with the accounting standards of the profession and departed in material respects from generally accepted accounting principles.

REASONS: Detection of the misstatements was within the skill of a chartered accountant who was properly performing his duties as an auditor. The audit file revealed very limited documentation of audit procedures and lack of application of auditing standards.

The financial statements were issues to shareholders, Securities Commissions and prospective purchasers of the company, all of whom relied on the statements. The reputation of the profession was unduly harmed by the CA's failure to adequately perform the audit engagement.

ORDERS: The CA was reprimanded, in writing, and ordered to:

- provide an undertaking to the Institute to refrain from auditing until the Compliance Hearing Committee is satisfied as to his competence in the field of auditing;
- complete a minimum of 40 hours of professional development courses offered by the ICAA or the CICA prior to December 31, 1991, with evidence of compliance to be submitted to the Professional Conduct Committee, and
- pay \$2,500 towards the cost of the investigation and hearing.

[The hearing was completed in two days and costs totalled \$9,854]



REASONS: The Hearing Committee considered the following factors in making its orders:

- the CA volunteered to provide an undertaking to the Institute to refrain from performing audits;
- the CA's personal and financial situation;
- the positive attitude portrayed by the CA in cooperating with the investigation and hearing; and
- the lack of professional development courses taken by the CA since 1986.

PUBLICATION: To a provincial institute with which the CA held a concurrent membership at the time of the hearing and to all provincial institutes to which the CA applies for membership at any time in the future.

In the CA Monthly Statement on a no-names basis.

REFERENCE: DECISION 08

DESCRIPTION: The CA issued an unqualified Auditor's Report on the financial statements of a Canadian public company that was listed on a Canadian stock exchange. He also issued an unqualified Auditor's Report on the financial statements of a private company which was controlled by the president of the public company.

The private company filed a preliminary prospectus with the securities commissions of three provinces. In conjunction with the filings, the CA issued the standard comfort letter. He subsequently sent another letter to one of the securities commissions advising that, as auditor, he had no reason to believe that the financial statements included in the preliminary prospectus contained any misrepresentations.

As a result of concerns raised by one of the securities commissions, both companies engaged another CA firm as their auditors. The new auditors reviewed the financial statements and asked the CA to issue amended financial statements for the public company. The amended financial statements reported accounting errors relating to the settlement of bank indebtedness, application of ceiling tests to oil and gas properties, settlement of debt owing by a partnership and disclosure of related party transactions.

At the time of the hearing, the CA had sold his public accounting practice.

FINDINGS: The CA was found guilty of unprofessional conduct in having:

- issued unqualified Auditor's Reports on financial statements when:
- he knew or should have known the financial statements were false or misleading,
- the financial statements failed to comply with generally accepted accounting principles,
- he failed to comply in all material respects with the generally accepted auditing standards of the profession;
- issued a comfort letter to a provincial securities commission which failed to comply with the recommendations set out in the CICA Handbook relating the issuance of such letters;
- issued a double dated unqualified Auditor's Report on financial statements while failing to comply in all material respects with the generally accepted auditing standards of the profession;
- failed to fully document or retain documentation and working papers that reasonably evidenced the nature and extent of the work performed; and
- failed to sustain his professional competence by keeping himself informed of, and in compliance with, developments in professional standards in all functions in which he practices or is relied upon because of his calling.

- REASONS:** The Hearing Committee reviewed the CA's working paper files and found deficiencies in audit documentation. Specifically, the CA did not document his audit procedures with respect to a foreign exchange gain, partnership net income, calculation of earnings per share, petroleum and natural gas properties and fixed asset additions.
- The Hearing Committee determined that the CA did not follow generally accepted auditing standards with respect to auditing a bank loan, fixed asset additions, deferred charges, valuation of oil and gas properties, production revenue and the enquiry letter to the companies' lawyers.
- The Hearing Committee also determined that the companies' financial statements were not in accordance with generally accepted accounting principles in that there was a lack of disclosure of related party transactions, improper accounting for government grants, a failure to disclosure restrictions on cash received from flow through share subscriptions and improper accounting for commissions on the issuance of common shares.
- With respect to the second letter sent by the CA to one of the securities commissions, the Hearing Committee determined that the letter did not comply with the recommendations in the CICA Handbook for letters issued in conjunction with a preliminary prospectus.
- ORDERS:** The CA was ordered to provide an undertaking to the Institute to limit his practice to non-audit engagements for a period of three years and to update his accounting knowledge by taking the CICA Handbook refresher course within one year of recommencing public practice.
- If the CA recommences public practice, a practice review will be performed within one year.
- After three years, if the CA undertakes audit engagements, he is required to take current audit courses as recommended by the Director of Student Education of the Institute.
- The CA was also ordered to pay the costs of the investigation and hearing.
- [The hearing was completed in one morning and costs totalled \$1,066]
- REASONS:** Due to the CA selling his practice to another CA firm and his relative age, the Hearing Committee felt the above orders were sufficient to protect the public.
- PUBLICATION:** To all members of the Institute.

REFERENCE: DECISION 09

DESCRIPTION: The CA was registered by the Institute as a practicing office for 1988 but did not register his office or pay the practicing office fee for 1989 and 1990. He wrote a letter in 1989 advising the Institute that he was not required to register as a practicing office because he did not earn sufficient fee revenues as set out in the by-laws.

The CA issued Accountant's Comments on the financial statements of a client company in 1989. He subsequently issued Accountant's Comments on another set of financial statements for the same client company and the same fiscal year. The second of financial statements did not indicate any revisions had been made and was prepared to be presented to the company's bank. The first set accompanied the company's tax return.

At the time of the hearing, the CA advised the Hearing Committee that he was no longer in public practice.

FINDINGS: The CA was found guilty of unprofessional conduct in having:

- issued Accountant's Comments on two sets of financial statements knowing they would be used for different purposes and failing to recall the first set of financial statements;
- associated himself with unaudited financial statements when he knew or should have known the financial statements were false or misleading and failed to comply with generally accepted accounting principles; and
- made a statement in a letter which he knew or should have known was false or misleading by advising the Institute that he was not required to register as a practicing office.

REASONS: The CA issued two sets of financial statements at different dates and for different purposes. Neither set was correct and it appeared that there was an attempt to deceive the bank by issuing the second set.

From a review of the financial statements and working paper file and answers to questions, it appeared that the CA lacked an understanding of accounting principles and was not familiar with the CICA Handbook.

The CA admitted that the letter he wrote to the Institute was incorrect.

ORDERS: The CA was ordered to take a financial statement presentation course and a Handbook update course as soon as they become available and at least within a year.

The CA and his professional corporation were reprimanded, in writing, and ordered to pay a fine equal to the practicing office fees for 1987, 1989 and 1990 and costs of the hearing.

[The hearing was completed over parts of two days and costs totalled \$3,199. The fine totalled \$495.]

If the CA or his professional corporation re-enters public practice, the CA is required to take professional development courses as set out by the Practice Review Committee before he re-enters public practice and all working paper files and financial statements are to be reviewed by another CA until the Practice Review Committee is satisfied that the generally accepted standards of the profession are being met.

REASONS: The Hearing Committee found the CA displayed a lack of knowledge in the preparation of files and financial statements.

The fine was equal to the practicing office fees which were not paid during the periods when the CA was indicating to the public that he was practicing as a chartered accountant.

The CA was required to pay the costs of the hearing because he was found guilty and he misled the Institute.

The CA was required to take professional development courses to improve his technical competence.

The CA must demonstrate that he is technically competent before re-entering public practice. He was also required to take professional development courses before re-entering public practice to protect the public from incompetence.

PUBLICATION: To all provincial institutes to which the CA applies for membership at any time in the future.

To the Institute of Chartered Accountants in England and Wales (of which the CA was also a member).

In the CA Monthly Statement on a no-names basis.

REFERENCE: DECISION 10

DESCRIPTION: The CA issued an unqualified Auditor's Report on the financial statements of a credit union for which a major fraud by an employee was subsequently discovered. The credit union employee had stolen approximately \$2 million over a period of over nine years. The thefts were concealed by processing fraudulent entries through the general ledger RRSP account and altering the monthly trial balance to make the subledger appear to reconcile to the general ledger control account.

FINDINGS: The CA was found guilty of unprofessional conduct in having:

- associated himself with financial statements which he should have known were false or misleading;
- failed to comply in all material respects with the generally accepted auditing standards of the profession; and
- failed to sustain his professional competence by keeping himself informed of, and in compliance with, developments in professional standards in all functions in which he practices or is relied upon because of his calling.

REASONS: The financial statements of the credit union were materially incorrect. The Hearing Committee was of the opinion that detection of the misstatement was within the skill of a chartered accountant who was properly performing his duties as an auditor. The misstatement should have been detected had the member complied in all material respects with the generally accepted auditing standards of the profession including an assessment of internal controls and the confirmation of balances with third parties.

The review of internal controls was to be performed by the internal auditors. No contact was made with the internal auditors to review the extent of the review conducted nor were working papers reviewed to determine the extent of the review of the internal controls.

The balance of Registered Retirement Savings Plans were not confirmed with the third party carrier.

ORDERS: The CA and his professional corporation were reprimanded, in writing.

The registration of the CA and the permit of his professional corporation were suspended from auditing until he completes four professional courses specified by the Hearing Committee and the Practice Review Committee is satisfied as to his competence in the preparation of working paper files.

The CA was fined \$5,000.



[The hearing was completed in one day and costs totalled \$5,536.]

REASONS: The CA had not sustained his professional competence and the audit work performed was not sufficient for the CA to know whether or not the financial statements contained a misstatement.

The fine was to serve as a deterrent.

The Hearing Committee believed that the CA will suffer significantly from the restrictions from audit engagements and as to reputation due to the size of the community within which he practices.

The Hearing Committee acknowledged the forthright manner in which the CA addressed the hearing and the cooperation displayed.

PUBLICATION: To all members of the Institute.

To a provincial institute of which the CA was a member at the time of the hearing and to all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 11

DESCRIPTION: The CA was the volunteer treasurer of a minor league sports association. He presented a treasurer's report which included unaudited financial statements at the association's annual general meeting.

The association's auditors, a firm of chartered accountants, conducted the year-end audit and found an envelope containing stale-dated cheques which had not been deposited to the association's bank account. A comparison of all duplicate deposit slips to the bank statements and books of accounts revealed three deposits which had not been recorded as revenue or deposited to the bank.

When confronted by the auditors and the association's Executive Committee, the CA made full restitution of the monies diverted. He subsequently appeared before the Provincial Court and plead guilty, under the Criminal Code to an indictable offence, theft exceeding \$1,000. The judge gave him a three year suspended sentence.

FINDINGS: The CA was found guilty of unprofessional conduct in having failed to conduct his duties as treasurer of a sports association, with due care, by:

- diverting, to his personal use, monies belonging to the association;
- failing to deposit promptly, to the association's bank account, cheques payable to the association; and
- associating himself with the financial statements of the association which he knew or should have known were false or misleading.

REASONS: The CA confessed to taking the funds.

The Hearing Committee felt that the CA was aware of or should have been aware of the cheques and was negligent in not seeing that they were promptly deposited.

The Hearing Committee also felt that when the CA presented the financial statements at the association's annual general meeting, he knew that revenues were not fairly stated and that the financial statements were false and misleading as a result.

ORDERS: The CA's registration was cancelled and he was ordered to pay the costs of the investigation and hearing.

[The hearing was completed in one day and costs totalled \$4,519]

REASONS: The betrayal of trust by a CA towards his volunteer association is unacceptable.



By itself, the abuse of a trust condition may be punishable by suspension, but when it is coupled with the diversion of trust monies, cancellation must be considered.

The CA was the author of his wrong doings and should bear all the costs of the hearing.

The CA had disappointed a trust that was given to him in part due to his CA designation.

PUBLICATION: To all members of the Institute.

To all provincial institutes to which the CA applies for membership at any time in the future.

To the Society of Management Accountants of Alberta (of which the CA was also a member).

In a CA Monthly Statement on a named basis.

REFERENCE: DECISION 12

DESCRIPTION: The CA expressed an unqualified opinion on the financial statements of a public company. One of the notes to the financial statements reported that the company had acquired two other companies during the year and accounted for the acquisition using the purchase method. When the accounting treatment of the acquisitions was questioned, the CA discussed the transaction with another firm of CAs and concluded that the acquisition should have been accounted for as a reverse takeover. The CA issued amended financial statements which explained the amendments.

FINDINGS: The CA was found guilty of unprofessional conduct in having:

- associated himself with financial statements which he should have known were false or misleading,
- expressed an unqualified opinion on financial statements which were not prepared in accordance with the accounting standards of the profession and departed in material respects from generally accepted accounting principles, including those set out in the CICA Handbook as amended from time to time, and
- failed to perform his professional services with due care.

REASONS: The financial statements were clearly not prepared in accordance with the accounting standards of the profession and departed in material respects from generally accepted accounting principles.

Prior to the initial issuance of the financial statements, the CA conducted limited research and became aware of the complexity of the transaction. He should have pursued the matter with due care and diligence in an area where he acknowledged limited experience.

ORDERS: The CA was reprimanded in writing and ordered to pay the costs of the investigation and hearing.

[The hearing was completed in one day and costs totalled \$6,070]

The Practice Review Committee was ordered to conduct a practice review of the CA's practice, within three months of the hearing, with the costs of the practice review to be paid by the CA.

REASONS: The reputation of the profession was unduly harmed by the CA's failure to perform his professional services with due care on financial statements which were issued to a securities commission, shareholders of the company and other members of the public who relied on them.



Additional disciplinary penalties or specific professional development courses were deemed unnecessary because of the nature of the error and it was evident the CA would seek expert advice as required.

Although it was felt that this incident was an isolated occurrence, the practice review was ordered to assess the CA's general professional competence and standards.

PUBLICATION: To all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 13

DESCRIPTION: The CA issued an unqualified Auditor's Report on the financial statements of a financial institution which subsequently ceased operations. The financial statements failed to disclose certain related party transactions. As well, the materiality limit documented in the CA's files was unreasonably high and the summary of unadjusted differences did not reflect underestimated depreciation.

FINDINGS: The CA was found guilty of unprofessional conduct in having issued an unqualified audit report when:

- he failed to comply in all material respects with the generally accepted auditing standards of the profession,
- the financial statements failed to comply with generally accepted accounting principles, and
- he failed to fully document or retain documentation that reasonably evidenced the nature and extent of the work performed.

REASONS: The CA did not contest the above charges.

ORDERS: The CA was suspended for one month and ordered to pay fines totalling \$25,000 and the costs of the investigation and hearing.

[The hearing was completed over 3 days and costs totalled \$101,107]

REASONS: The penalty gave due consideration to the seriousness of the findings.

PUBLICATION: To all members of the Institute; in the CA Monthly Statement on a no-names basis; to a provincial institute with which the CA held a concurrent membership at the time of the hearing and to all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 14

DESCRIPTION: The CA was the president and managing director of a company ("A") and a partnership ("P") in which he had a minority interest. He also had an irrevocable power of attorney to govern the affairs of another company ("B") in which he had no financial interest. The CA did not provide financial statements or an accounting of the partnership to his partners, although the information was requested on numerous occasions. He improperly recorded a portion of the partnership's revenues as revenue of company A in which he had a greater ownership interest and transferred large sums of money from partnership P to company A which resulted in the partnership being unable to meet its financial obligations to creditors. He also transferred funds from company B, which he managed, to company A. Virtually all funds received by company A were paid to or for the benefit of the CA.

Throughout the Institute's hearing, the CA referred to the fact that he was not in public practice, his actions were not governed by the rules applicable to public practitioners and the matter arose as a result of a commercial dispute.

FINDING: The CA was found guilty of unprofessional conduct in having, with respect to his involvement and/or directorship with a number of business entities, failed to conduct himself in a manner appropriate for a CA in business,

- in that he failed to properly account to stakeholders, and
- used funds in a manner contrary to the interests of certain stakeholders.

REASONS Although the CA contended that he had the proper legal authority to do all the things he did, he had agreed to act in a fiduciary capacity in relation to the interests of the entities' investors and creditors and was compensated accordingly. It was his duty and obligation to ensure that appropriate, accurate accounting records were maintained and that financial statements were prepared on a timely basis and issued to the investors. It was also his duty and obligation to act in the best interest of the legal entities, their creditors and investors. The CA committed a fundamental breach of trust in failing to separate the interests of investors and creditors from his own personal interests.

The Rules of Professional Conduct state that a member not engaged in public accounting must observe the Rules except where the wording of a rule relates specifically to public practice or a specific exception is made. As well, the term "professional services" in its application to a member not in public accounting means activities where the public or his associates are entitled to rely on his membership in the Institute as giving him particular competence.



- APPEAL:** The CA appealed, to Council, the Hearing Committee's findings and orders. By agreement, the appeal was discontinued and the CA resigned his membership after his suspension had been served, in good standing.
- ORDERS:** The CA was suspended for one year and ordered to pay a fine of \$10,000 and costs of the investigation and hearing.
- [The hearing was completed over 5 days and costs totalled \$16,078]
- REASONS:** The CA's actions were found to be seriously deficient.
- PUBLICATION:** To all members of the Institute, in the "Membership Activity Report", and to all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 15

DESCRIPTION: The CA was engaged by Mr. X to provide accounting services for his company ("A"). He also assisted Mr. X in preparing a proposal to another company ("B") regarding a computer installation. When the proposal was rejected, the CA assisted company B in acquiring a computer system. He did not, however, advise Mr. X and subsequently made a statement to him, regarding the hardware purchase, which was false or misleading.

FINDINGS: The CA was found guilty of unprofessional conduct in having:

- made, to a client, a statement which he knew or should have known was false or misleading, and
- failed to advise the client that he had been requested by another company to make a proposal for a computer installation using a hardware supplier other than the client's company.

REASONS: The CA made an oral representation which he knew was false and misleading. The reason for the representation was to mislead the client.

The CA should have recognized the potential conflict and disclosure should have been an obvious choice. The CA was not precluded from accepting the engagement with company B but should have addressed and resolved the potential conflict before accepting the engagement.

ORDERS: The CA was verbally reprimanded, fined \$1,000 and ordered to pay 75% of the costs of the investigation and hearing.

[The hearing was completed in one day and costs totalled \$7,040.]

REASONS: The Hearing Committee considered that the false statement was so serious that the verbal reprimand and costs were insufficient communication of concern. Therefore, three quarters of the costs were assessed and a \$1,000 fine levied to communicate the seriousness of the finding of guilt on the first charge.

PUBLICATION: To all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 16

DESCRIPTION: The CA was the official agent for a candidate in a provincial election. He prepared the Candidate's Campaign Period Financial Statement which failed to include a gift in kind, the donation of a trailer rental in the approximate amount of \$4,500. To balance the contributions reported on the financial statements to receipts provided by the candidate, the CA altered an official receipt in his own name from \$100 to \$700. He subsequently claimed a \$700 political donation deduction in preparing his personal income tax return, resulting in a provincial tax credit he was not entitled to.

During an investigation into the candidate's financial affairs, the CA advised the Crown Prosecutor and RCMP of the altered receipt and cooperated with the investigation. Prior to the Institute's hearing, the CA sent a letter to Revenue Canada requesting an adjustment to his personal income tax return and repaid the tax benefit originally claimed.

FINDINGS: The CA was found guilty of unprofessional conduct in having:

- associated himself with Candidate's Period Financial Statements which he knew or should have known were false or misleading.
- altered an official political donation receipt in his own name from \$100 to \$700, and
- claimed a tax credit on his personal income tax return based upon the \$700 political donation receipt.

REASONS: The CA admitted that he altered the receipt and claimed a tax credit to which he was not entitled. He also admitted that he knew the donation for a gift in kind had been omitted when he prepared the financial statement.

APPEAL: The Professional Conduct Chairman appealed, to Council, the orders made by the Hearing Committee.

ORDERS ON APPEAL: Council confirmed the orders made by the Hearing Committee that the CA be suspended for 30 days and pay the costs of the investigation and hearing in an amount not to exceed \$3,000.

[The hearing before the Hearing Committee was completed in one day and costs totalled \$2,711]

REASONS: Council determined that there were no significant differences between the orders made by the Hearing Committee and the relief sought by the Professional Conduct Chairman.

PUBLICATION: To all members of the Institute, the "Membership Activity Report", and to all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 17

DESCRIPTION: The CA provided services to clients which included the preparation and filing of personal and corporate income tax returns. Revenue Canada reassessed the returns for unreported income and disallowed, among other things, capital cost allowances, unvouchered expenses, business investment losses and management fees. The additional taxes, interest and penalties levied by Revenue Canada were significant. In one instance, a client received additional reassessments which, including interest and penalties, totalled over \$2 million.

FINDINGS: The CA was found guilty of unprofessional conduct in having:

- failed to perform his professional services with integrity by claiming on a client's personal income tax return:
 - for the purpose of claiming investment tax credits, various pieces of corporate owned equipment as personally owned by the client and allocating a portion of corporate revenue and expenses to the client personally,
 - in order to reduce tax on a reported bonus of \$1.8 million, an allowable business investment loss of \$1.7 million in respect of an uncollectible debt owing to the client from the client's company when he knew or should have known the debt was collectible, and
- failed to perform his professional services with due care in having neglected to properly account in a timely manner, management fees of \$1.2 million, which were accrued in clients' operating company.

REASONS: No documentation or other evidence explained why the CA had reported corporate assets as personal assets or supported the \$1.7 million allowable business investment loss. The CA should have known the debt was collectible as indicated by the company's financial position.

Documents submitted indicated that the management fees were reported inconsistently and not in a timely manner.

The nature of the tax and accounting issues and the magnitude of the dollars should have alerted the CA to exercise due diligence and seek advice from colleagues or other experts.

ORDERS: The CA's registration and the permit of his professional corporation were cancelled.

The CA and/or his professional corporation were ordered to pay \$2,000 towards the costs of the investigation and hearing.



[The hearing was completed in one day and out of pocket costs totalled \$9,190]

REASONS: The Hearing Committee took into account the nature of the work undertaken by professional accountants and their responsibility to execute it with integrity, due care and diligence.

In considering the costs, the Committee took into account the member's age, he had no motive of dishonesty, was under stress at work and at home, and had no assets.

PUBLICATION: To all members of the Institute, the "Membership Activity Report", the CA Monthly Statement on a named basis and two newspapers, and to all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 18

DESCRIPTION: The CA was the owner and sole director of a company. Over a period of 2 years, six employees filed complaints against the CA with the labour standards branch of a provincial government department for unpaid wages, overtime pay and vacation pay. The provincial government department complained to the Institute when the CA did not comply with orders directing the CA, as the employer, to pay the amounts claimed by the employees.

The Institute's preliminary investigator made repeated attempts to contact the CA to have payroll records provided to the Institute. After a letter was sent to the CA by the Institute requiring him to produce payroll records and other documents, the CA met with the preliminary investigator but did not produce the requested information. He also did not comply with a second letter from the Institute requiring the production of payroll records. The CA did not attend the hearing.

FINDINGS: The CA was found guilty of unprofessional conduct in having:

- failed to conduct himself in a manner which maintained the good reputation of the profession by failing to pay former employees,
- failed to cooperate in the Institute's investigation, and
- failed to promptly reply to two letters from the Institute in which a reply was specifically requested.

REASONS: The complaints against the CA by former employees were not an isolated instance and appeared to reflect a manner of conducting business. The CA was the sole director of the company and had responsibility for remuneration of the employees.

The CA exhibited a disregard for the investigative process of the Institute and showed contempt for the rights of employees as well as the legislative and judicial system. This was further shown by his failure to appear at the hearing.

ORDERS: The CA was reprimanded, in writing, and his registration, as a CA, was cancelled. He was also ordered to pay the cost of the investigation and hearing.

[The hearing was completed in one day and costs totalled \$5,603]

REASONS: The CA's failure to cooperate in an investigation and his persistence in a course of conduct that could damage the reputation of the profession were viewed to be extremely serious offences warranting the most severe penalties.



PUBLICATION: To all members of the Institute, the "Membership Activity Report", the CA Monthly Statement on a named basis and two newspapers, and to all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 19

DESCRIPTION: The CA was the engagement partner for a client that issued a prospectus which included a financial forecast for a wholly owned subsidiary. The subsidiary was audited by another firm of CAs and the financial forecast was a material component of the prospectus.

Although the CA's firm contacted the subsidiary's auditors regarding the financial forecast, the CA's review of the forecast was not documented and the CA released the final prospectus without first receiving a signed audit report or written clearance from the subsidiary's auditors.

The subsidiary's management subsequently determined that the forecast was too optimistic and the prospectus was amended.

FINDINGS: The CA was found guilty of unprofessional conduct in having consented to inclusion of an Auditor's Report on Financial Forecast in a final prospectus notwithstanding that he failed to obtain or document sufficient evidence to provide a reasonable basis for the report.

REASONS: The CA could have insisted on a signed audit report from the subsidiary's auditors, resulting in either the signed audit report or a delay in the filing of the final prospectus until adequate audit evidence was obtained or documented.

The CA argued that he had discharged his responsibilities by obtaining a comfort letter from the subsidiary's auditors supporting the company's draft financial forecast and obtaining verbal clearance from them. The Hearing Committee disagreed because the audit work was not updated after the date of the comfort letter. As well, the audit report covering the draft forecast was not signed and there were outstanding items to be finalized before the subsidiary's auditors would sign their report.

ORDERS: The CA was reprimanded verbally, fined \$4,000 and ordered to pay the costs of the investigation and hearing.

[The hearing was completed in 3 days and costs totalled \$46,964]

REASONS: The order to pay costs recognized the responsibility of the member, rather than the profession, to bear costs of the hearing when the member has been found guilty of unprofessional conduct. The fine was to serve as a deterrent.

PUBLICATION: To all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 20

DESCRIPTION: The CA was engaged by the owners of the company to perform an informal liquidation. The CA collected the company's receivables and sold its assets to one of his other clients. The CA did not provide a final summary of the company's liquidation to the owners. As well, he did not provide any billings to the owners but paid his own fees from the money collected on liquidation of the company. The CA argued, at the hearing, that the controlling shareholder should have been able to determine a final accounting from the cancelled cheques and deposit books provided to him by the CA. The Hearing Committee noted however that many of the deposits and payments had been processed through the CA's trust account to which copies of the statements were not available to the client.

FINDINGS: The CA was found guilty of unprofessional conduct, in having, with respect to an engagement for the liquidation of a client company:

- failed to provide the controlling shareholder with an accounting of assets realized and liabilities settled; and
- authorized the payment of professional fees from monies held on behalf of the client company without the knowledge or consent of the controlling shareholder.

REASONS: No evidence was presented to indicate the controlling shareholder was in receipt of invoices, whether they were discussed with him and/or consented by him at the time of payment.

Given the nature of the engagement, a full accounting in a form understandable to a businessman familiar with financial statements or, alternately, a simple cash receipts and disbursements statement was required as a minimum especially considering that the controlling shareholder did not have access to the transactions in the CA's trust account.

ORDERS: The CA was reprimanded, in writing, fined \$1,000 and ordered to pay \$1,000 towards the costs of the investigation and hearing.

[The hearing was completed in 2 days and out of pocket costs totalled \$8,010]

REASONS: The finding of unprofessional conduct was considered to be a serious matter, however, the CA is no longer in public practice, had subsequently moved to another province, and incurred additional legal and travel costs to attend the hearing.

PUBLICATION: In the CA Monthly Statement on a no-name basis.
To a provincial institute with which the CA held a concurrent membership at the time of the hearing and to all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 21

DESCRIPTION: The CA was a director and/or vice-president or officer of three financial institutions. These companies made false or misleading statements and representations in their marketing documents which were circulated to the public. The companies also used long term valuation methods that were inappropriate for real estate related investments for these companies. The CA structured a transaction that would conceal losses on certain foreclosed properties and another transaction to mortgage properties where the proceeds would be invested in violation to the provisions of the Canadian and British Insurance Companies Act.

FINDINGS: The CA was found guilty of unprofessional conduct, in having been associated with:

- statements or representations presented in marketing documents which the CA knew or should have known were false or misleading,
- misleading financial information through the structuring of transactions, and
- misleading real estate values in financial statements.

REASONS: The CA admitted guilt.

ORDERS: The CA's registration was cancelled and the CA was ordered to pay \$20,000 towards the costs of the investigation and hearing.

[The hearing was completed in 2 days and costs totalled \$28,759]

REASONS: The Committee was of the opinion that a member in a position of senior financial management of any commercial venture must maintain a high level of professionalism. The level of duty to the public had not been met and the consequences should be severe. The Committee felt that the public interest was best served by cancelling the member's registration. Cancellation of the member's registration also served to maintain the good reputation of the profession. The Committee further discharged its responsibility to the public and the profession by requiring payment of a significant portion of the costs.

The Hearing Committee also considered its responsibility to ensure that the member was treated fairly by taking into consideration the representations made by the member regarding the emotional and financial hardships caused by the investigation and hearing.

PUBLICATION: To all members of the Institute, in the "Membership Activity Report" and to all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 22

DESCRIPTION: A practice review found the CA's files lacked documentation, many key review procedures had not been performed, and financial statements issued by the CA contained significant departures from generally accepted accounting principles. A follow-up practice review found the same deficiencies. The Institute scheduled a second follow-up practice review, but the CA was not present when the practice reviewer arrived, nor was he present on another date scheduled by the Institute. The Institute then attempted on numerous occasions to reschedule the second follow-up practice review but the CA did not return calls or respond to letters.

On a separate complaint, an ex-client of the CA wrote a letter advising the CA that a new accountant had been engaged and requesting that the client's records and files be made available to the successor accountant. Despite numerous requests from the former client and the new accountant, over a period of 5 months, the CA did not provide the requested information.

The Institute wrote to the CA regarding the complaints received from the Practice Review Committee and the ex-client. The investigator sent two letters to the CA and made numerous telephone calls but did not receive a response from the CA. During the investigation, the investigator discovered the CA did not carry professional liability insurance.

FINDINGS: The CA was found guilty of unprofessional conduct in having failed:

- to cooperate in a follow-up practice review;
- to cooperate in a preliminary investigation of complaints received by the Institute;
- to sustain his professional competence by keeping himself informed of, and in compliance with, developments in professional accounting and auditing standards;
- to perform professional services with due care in respect of several clients;
- to comply with the CICA Handbook Recommendations for unaudited financial statements with respect to several review engagements;
- to carry professional liability insurance; and
- to supply, upon the written request of a client, reasonable information on a timely basis to the successor accountant.

REASONS: The CA failed to respond to numerous letters and telephone calls from the Institute. As well, the CA did not take suggested professional development courses to sustain his professional competence. He also did not carry professional liability insurance as required by the by-laws.

The Hearing Committee found the CA's review engagement files lacked documentation and the financial statements had a significant number of departures from generally accepted accounting principles

The CA admitted he did not act professionally with respect to the former client and did not act on a timely basis with respect to the information requested by the successor accountant.

APPEAL: The Professional Conduct Chairman appealed, to Council, the penalty ordered by the Hearing Committee on the basis the penalty was insufficient in the circumstances.

**ORDERS ON
APPEAL:** Council allowed the Professional Conduct Chairman's appeal and cancelled the CA's registration. Council also ordered the CA to pay the costs of the investigation and hearing totalling \$11,826.

REASONS: The CA's failure to maintain professional standards was a serious breach of the rules of professional conduct.

The CA's conduct showed a consistent pattern of failing to cooperate with the Institute.

The penalty ordered by the Hearing Committee was inappropriate given the seriousness of the findings of unprofessional conduct.

The Institute performed the second follow-up practice review prior to the appeal before Council. The practice reviewer found very little improvement in the CA's files.

PUBLICATION: To all members of the Institute, in the "Membership Activity Report", the CA Monthly Statement on a named basis and to all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 23

DESCRIPTION: For two related clients, the CA issued, on 3 financial statements, Accountant's Comments rather than Review Engagement Reports and prepared Statements of Changes in Financial Position using the working capital format. The financial statements did not properly disclose related party transactions, bank indebtedness, lease commitments, long-term debt, payable to shareholders, and accounting policies for construction in progress and land held for development. One of the financial statements was revised consolidated financial statements but there was no disclosure of the revisions made, nor was there an accounting policy note indicating the basis of consolidation.

The client accounts were transferred to another CA who made material prior period adjustments to the financial statements for the subsequent year end. The successor accountant wrote to the CA about the adjustments and made a complaint to the Institute.

The Hearing Committee found the CA's files did not contain checklists or management representation letters and there was virtually no documentation of review procedures. The wording used for the review engagement report was out of date and the Statement of Changes in Financial Position dealt with changes in working capital rather than cash.

FINDINGS: The CA was found guilty of unprofessional conduct in having:

- associated himself with financial statements which he knew or should have known were false or misleading;
- failed to comply with the generally accepted standards for review engagements; and
- failed to sustain his professional competence by keeping himself informed of, and in compliance with, developments in professional standards for financial statement disclosure and preparation of working paper files.

REASONS: The CA admitted guilt. The Hearing Committee reviewed the CA's files and confirmed the reporting and disclosure deficiencies. The Hearing Committee also considered the material prior period adjustments recorded by the successor accountant.

ORDERS: The CA was reprimanded, in writing, fined \$1,000 and ordered to pay the costs of the investigation and hearing, not to exceed \$10,000. The CA was also prohibited from engaging in public practice until the Compliance Hearing Committee was satisfied the CA was in satisfactory mental and physical health to be able to engage in public practice. As well, the CA was prohibited from practice as a sole practitioner until he has worked under the supervision of a registered practicing office for at least 2 years and has satisfied the Practice Review Committee as to his competence.

[The hearing was completed in 2 days and costs totalled \$10,590]

REASONS: The CA had been found guilty of similar offenses in a previous hearing for conduct during a similar time period.

The CA provided evidence that he experienced significant levels of anxiety and turmoil, during the period in question, which affected him mentally and physically.

A psychologist, appearing as a witness for the CA, expressed the opinion the CA would have continued difficulty in making decisions as a sole practitioner.

The orders regarding costs and the fine recognized the CA was unemployed.

APPEAL: The CA appealed to the Appeals Committee part of the Hearing Committee's order regarding publication.

**PUBLICATION
ON APPEAL:** The Appeals Committee varied the Hearing Committee's order and ordered publication:

- to all provincial institutes to which the CA applies for membership at any time in the future;
- to a foreign accounting body where the CA previously held a membership; and
- Notice of the practice restriction in the "Membership Activity Report" and to all persons contacting the Institute on member status.

REASONS: The CA originally qualified with the foreign accounting body and could be readmitted without the ICAA being contacted. That accounting body should be aware of discipline decisions made in other jurisdictions.

REFERENCE: DECISIONS 24 and 25

DESCRIPTION: X and Y, CAs, were the auditors of 3 junior capital pool companies (JCPs). Each JCP had, as its only substantive asset, a wholly owned subsidiary which had been acquired based on a valuation performed by CA Y. The valuation also expressed an opinion on the fairness of the proposed purchase price. Engagements letters were issued, stating that the JCPs had engaged the CAs to perform statutory audits.

CA Y, on behalf of X and Y, issued unqualified audit reports on the non-consolidated financial statements of 2 of the JCPs. CA X, on behalf of X and Y, issued an unqualified audit report on the non-consolidated financial statements of the remaining JCP. The audit reports did not disclose that the financial statements are non-consolidated and not in accordance with generally accepted accounting principles. Only one of the JCP's financial statements included a note which disclosed the non-consolidation and non-compliance with generally accepted accounting principles. The audited financial statements of the JCPs were filed with the Alberta Securities Commission. CA Y subsequently left public accounting and CA X continued practice. As a result of correspondence from the ASC, CA X reissued unqualified audit reports on the consolidated financial statements of the JCPs and withdrew the earlier reports. The revised financial statements explained, among other things, that the previous financial statements did not give proper effect to reverse takeover accounting.

Because of the interrelationships, the hearings for CAs X and Y were heard concurrently.

The Hearing Committee examined the working papers for long-term investments for each company and found that the documentation consisted of preprinted checklists, which had been initialled, and a working paper indicating that the investment was acquired per specific agreements. There was no documentation of specific audit procedures that assessed current value.

FINDINGS: CA X and CA Y were found guilty of unprofessional conduct in having:

- associated themselves with financial statements which they knew or should have known were false or misleading by expressing unqualified opinions on financial statements that failed to properly account for acquisitions as reverse takeovers, and
- failed to perform their professional services with due care.

CA Y was also found guilty of unprofessional conduct in having expressed audit opinions on financial statements when he also issued letters of opinion on the fair market value of shares which were a material asset on the financial statements.

REASONS: Generally accepted accounting principles required consolidated financial statements and reverse takeover accounting.

The CAs were aware that audited financial statements were required for the ASC and these had to be in accordance with generally accepted principles.

The audit work performed did not indicate that it was done with due care and consideration, as evidenced by that performed on investments.

A reasonable observer would conclude that CA Y was not objective as he was relying on the valuations he had prepared.

ORDERS: CA X was reprimanded, in writing, and ordered to pay \$1,500 towards the costs of the investigation and hearing. The Hearing Committee also ordered:

- a practice review of CA X's practice;
- that if, as a result of the practice review, the Practice Review Committee recommended professional development courses, that CA X take the courses at the next available offering, and
- that if CA X is engaged to audit any other public companies, his working paper file and the financial statements are to be reviewed by another CA before the financial statements are released.

CA Y was reprimanded, in writing, and ordered to pay \$2,500 towards the costs of the investigation and hearing. The Hearing Committee also ordered:

- a practice review of CA Y's part-time practice, and
- that if, as a result of the practice review, the Practice Review Committee recommended professional development courses, that CA Y take the courses at the next available offering.

[The hearing was completed in one day and costs totalled \$6,374]

PUBLICATION: To all provincial institutes to which either CA apply for membership at any time in the future.
To the Alberta Securities Commission.
In the CA Monthly Statement on a no-names basis.

REFERENCE: DECISION 26

DESCRIPTION: The CA was engaged by a company that was licensed as an Agent under the Real Estate Agent's Licensing Act (Alberta). The CA issued Accountant's Comments on the company's financial statements and audited its trust account as required by the Act. During the period covered by the audit, funds held in the company's trust account were often disbursed to the general account prior to the closing date of the real estate transactions. The CA did not disclose the disbursements in his report to the Superintendent of Real Estate and failed to follow-up audit queries. Two months after the audit, a receiver manager was appointed and the funds deposited to and disbursed from the general account were reviewed. It was determined that funds were disbursed from the trust account, prior to closing on over 250 individual transactions totalling over \$1,000,000 for a 10 month period.

FINDINGS: The CA was found guilty of unprofessional conduct in having issued an audit report stating that trust monies held for clients were not less than the amount of trust monies received in respect of which there were undischarged trust obligations when he should have known the statement was false.

REASONS: The CA issued an audit report when insufficient audit work was conducted, documentation of work performed was inadequate and the engagement was generally conducted without sufficient due care. The CA failed to follow-up on audit points raised by the in-charge accountant and the review of working papers was not documented.

ORDERS: The CA was reprimanded, in writing and ordered to pay the costs of the investigation and hearing totalling \$7,824 and a fine of \$5,000.

REASONS: The audit report was issued to the Superintendent of Real Estate who relied on it and the reputation of the profession was unduly harmed by the CA's lack of due care.

PUBLICATION: To all provincial institutes to which the CA applies for membership at any time in the future.
In the CA Monthly Statement on a no-names basis.

REFERENCE: DECISION 27

DESCRIPTION: A firm of professionals (not CAs), along with five other firms, provided a prospective client with proposals for a construction-related contract. After the firm was short-listed, the Selection Committee interviewed all six firms. Later that day, the CA met principals of the firm and proposed that the firm pay \$100,000 to the CA in trust, which would ultimately be paid to member(s) of the Selection Committee, and the firm would practically be guaranteed the contract. The CA indicated the firm could increase their fee by \$100,000 so it would not be out of pocket. The CA would not disclose to the principals who the CA represented or who would be paid the money if the firm was selected.

The firm reported this incident to the prospective client and the Attorney General. The selection process was reviewed and the Chair of the Board of the client made a complaint to the Institute. The CA contended to simply be acting for a lobbyist.

FINDING: The Hearing Committee found the CA guilty of unprofessional conduct in having suggested to the principals of the firm that \$100,000 be paid to the CA for disbursement to member(s) of the Selection Committee so the firm would be awarded the contract.

REASONS: The principals' testimony was credible and their subsequent actions supported their testimony. The CA's testimony was not credible. Failure to advise the principals of the name of the lobbyist who the CA represented, and the timing of the CA's approach, were inconsistent with the facts.

APPEAL: The CA appealed to Council, the Hearing Committee's findings and orders. By agreement, the appeal was discontinued and the finding of guilt was upheld.

ORDERS: The CA and the permit of the CA's professional corporation were suspended for two years. The CA was also ordered to pay the total costs of the investigation, hearing and appeal hearing.

[The hearing was completed over three days and costs totalled \$11,338. The costs of the appeal totalled \$14,776.]

REASONS: The CA's actions tarnished the reputation of the CA profession in the eyes of other professionals and the Selection Committee. The actions were unethical and unprofessional and penalties were imposed to stress the importance of CAs' duties to the public.

PUBLICATION: To all members of the Institute, in the "Membership Activity Report" while the suspension remains in force, in the CA Monthly Statement on a no-names basis, and to all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 28

DESCRIPTION: The CA audited financial statements of a public company, which reported the acquisition of world-wide rights to a licence from a company controlled by two people (who were also minority shareholders and directors of the public company). The licence cost was reflected in the financial statements at approximately \$2 million. During a practice review of the CA's office, the reviewers examined the CA's working paper file for the public company and reported that file documentation did not substantiate the valuation of the licence. The CA advised the practice reviewers that the CA had reviewed legal documentation with respect to acquisition of the licence, and subsequently provided the Practice Review Committee with documents related to the licence.

FINDINGS: The CA was found guilty of unprofessional conduct, in failing to:

- sustain professional competence by keeping informed of, and in compliance with, developments in accounting and auditing standards,
- perform professional services with due care, and
- obtain sufficient, appropriate audit evidence to support the valuation of a licence purchased from a non-arms length party.

REASONS: The working papers did not contain any support for the valuation of the licence. Although evidence of the transaction was subsequently produced, it did not provide support for the valuation. The audit program was signed off even though the working papers did not contain any audit verification.

ORDERS: The CA is prohibited from public practice unless inspected by the Practice Review Committee within six months of commencing operations. The CA must take courses specified by the Practice Review Committee when recommencing public practice. In addition, the CA was reprimanded verbally and ordered to pay \$200 towards the costs of the investigation and hearing.

[The hearing was completed in one day and costs totalled \$3,836].

REASONS: The CA is no longer in public practice. Unless re-entering public practice, it would be of little value for the CA to take courses to upgrade.

PUBLICATION: To all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISIONS 29 AND 30

DESCRIPTION: CA X had an opportunity to obtain the audit engagement for a client but felt this may be a conflict of interest. The client's majority owner was a company which was significantly influenced by CA X's relative. CA X also had a bank loan guaranteed by the relative. CA X arranged to have CA Y, who sublet space from CA X, appointed as the auditor. CA Y performed the 1989 audit and signed the auditor's report as a sole practitioner. Three months later, CAs X and Y commenced practice as partners. CA Y performed the 1990 audit and signed the auditors' report with the firm name. Two months later, the partnership dissolved. At the hearing, CA Y argued there was no partnership arrangement with CA X, as they had joined under a succession to practice arrangement. The Hearing Committee investigated the conduct of CAs X and Y concurrently.

FINDINGS: CA X was found guilty of unprofessional conduct, in that the firm expressed an auditors' report on the 1990 financial statements of an entity when CA X knew or should have known that a relative had a material financial interest in the entity. The relative also had the right to exercise significant influence over the financial or accounting policies of the entity. CA Y was found guilty of unprofessional conduct, in having issued an auditors' report on the 1990 financial statements of an entity when CA Y knew or should have known CA X's relative had the right to exercise significant influence over the financial policies and operations of the entity.

REASONS: The Hearing Committee felt CA X's relationship with the relative was a close one, because CA X had a bank loan guaranteed by the relative, and CA X was able to give the audit engagement to CA Y. The Hearing Committee acknowledged CA Y's evidence that this conduct was not in the nature of a partnership arrangement but felt that, as a result of CA X and CA Y's relationship, there was the appearance of a partnership. As well, the audit report was signed with the firm name, giving the appearance of a partnership.

ORDERS: CAs X and Y were both reprimanded verbally and were each ordered to pay 10 per cent of the costs of the investigation and hearing.
[The hearing was completed in one day and costs totalled \$5,672.]

REASONS: The circumstances were unique and unusual involving an internal squabble and no member of the public had suffered a monetary loss.

PUBLICATION: To a provincial institute with which CA X held concurrent membership at the time of the hearing and to all provincial institutes to which either applies for membership at any time in the future.



REFERENCE: DECISION 31

DESCRIPTION: Mr. and Mrs. X immigrated to Canada and invested in excess of \$150,000 into a numbered company in which the CA was also a shareholder. A complaint by Mr. and Mrs. X and subsequent investigation caused the Professional Conduct Committee to refer the matter to a Hearing Committee.

The CA, who lived out of the country, did not appear at the hearing and the Hearing Committee proceeded in the CA's absence. The Hearing Committee found the CA not guilty of the charges brought forward by the Institute, but found the CA guilty on two new charges.

APPEAL: The Hearing Committee's findings of guilt and orders were appealed to Council by both the CA and the chair of the Professional Conduct Committee because the Hearing Committee failed to advise the CA of the new charges and permit reasonable opportunity for the CA to prepare a response.

The CA's representative appeared before Council and presented evidence.

FINDING

ON APPEAL: Council found the CA guilty of unprofessional conduct for failing to respond to the serious charges made by the Institute on behalf of Mr. and Mrs. X.

REASONS: The evidence clearly showed that ongoing attempts to contact the CA were made by the Institute over a six-month period and ignored by the CA.

ORDERS

ON APPEAL: Council reprimanded the CA and ordered a partial payment of \$3,346 for the costs of the investigation and hearing.

[The hearing was completed in two days and costs totalled \$17,862]

REASON: Council found the Hearing Committee's order regarding payment of costs to be too severe in that the CA was only found guilty on one charge. The CA's personal situation were taken into consideration.

PUBLICATION: In the CA Monthly Statement on a no-names basis and to all provincial institutes and foreign accounting organizations to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 32

DESCRIPTION: The CA prepared financial statements and corporate income tax returns for a client company, and also prepared personal income tax returns for the two shareholders of the company. Over a three-year period, the CA reported management bonuses in the company but neglected to include these amounts as income on the shareholders' personal income tax returns.

The CA was not involved in the company's bookkeeping and did not prepare the T4s. But neither did the CA instruct the clients in writing about the need to report bonuses as income, nor did the CA put a note in their personal income tax files regarding the additional income.

Revenue Canada reassessed the corporate and personal income tax returns.

FINDING: The CA was found guilty of unprofessional conduct, in having failed to perform these professional services with due care.

REASONS: The CA set up the bonuses and prepared journal entries to clear the debit balance in the shareholders' loan accounts. The CA did not compare income reported by the shareholders on their T4s to the bonuses the CA recorded to ensure they were properly accounted for.

ORDERS: The CA was ordered to purchase the Institute's PD Passport and complete, as a minimum, courses on review engagements, practice management, personal income tax, and corporate income tax. The CA was also reprimanded verbally and ordered to pay costs of \$2,500.

[The hearing was completed in two days and costs totalled \$8,407.]

REASONS: The CA's client management procedures were either poor or almost non-existent.

The CA was found guilty of one of two charges. Consideration was given to the CA's financial condition.

The CA was not current in professional development.

PUBLICATION: To all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 33

DESCRIPTION: The CA, a partner of a firm practicing public accounting in another province, had no public company audit experience. The firm was engaged as auditor of a public company. The CA, and a partner who had prior public company audit experience, performed the field work. In performing the audit, the CA used programs and checklists that were over 10 years old which the partners had obtained when previously with national CA firms. These forms were used for guidance and reference but were not completed or placed in the audit files.

A review of the CA's working paper files indicated there was no documentation related to planning the audit, evaluation of adequacy of internal controls, or consideration of related parties. The financial statements did not disclose numerous transactions with related parties, that shares had been issued to extinguish debt, and the existence of the company's subsidiaries or whether the financial statements were consolidated.

FINDINGS: The CA was found guilty of unprofessional conduct by:

- failing to document or retain documentation to reasonably evidence the nature and extent of work performed, and
- expressing an unqualified auditor's report on financial statements which did not comply with generally accepted accounting principles.

REASONS: Numerous items and transactions should have been disclosed in the financial statements. The use of old national firm programs and checklists demonstrated a lack of proper planning. The failure to complete and retain the forms demonstrated poor documentation.

ORDERS: The CA was prohibited from auditing public companies until attending a professional development course on internal control. In addition, the CA was reprimanded in writing, and ordered to pay costs of the investigation and hearing to a maximum of \$8,000.

[The hearing was completed in two days and costs totalled \$11,854.]

REASONS: Standards of care and risk are high for an auditor of a public company. A practice review conducted by the CA's resident provincial institute indicated compliance with professional standards. The Hearing Committee judged the audit an isolated incident, not reflective of the member's practice.

PUBLICATION: In the "Membership Activity Report", to any person directing an enquiry to the Institute regarding the member's status during the time the CA's practice is restricted, to the provincial institute with which the CA held a concurrent membership, and to all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISIONS 34 and 35

DESCRIPTION: A CA manager was referred, by an acquaintance, to the treasurer of an organization that had been audited by another CA firm for over 30 years.

The manager, partner, and treasurer met and discussed the organization's financial operations and audit process. The treasurer provided the CAs with a copy of the organization's audited financial statements. The partner and manager discussed providing their firm's credentials to the treasurer, but there was no mention of an audit proposal, fees, or the incumbent auditors.

Approximately four months after the meeting, the partner sent the treasurer a written audit proposal prepared by the manager. The manager prepared the proposal without consulting the partner or the ICAA's Members' Handbook. The partner admitted to signing the proposal's covering letter without adequately reviewing and editing its contents.

The treasurer forwarded the proposal to the organization's incumbent auditors, resulting in a complaint to the Institute. The hearing for the partner and manager were held concurrently.

FINDINGS: Both CAs were found guilty of unprofessional conduct for soliciting an audit engagement that had been entrusted to another CA firm.

REASONS: The partner and manager had been CAs for 25 years and seven years, respectively, and knew or should have known the Rules of Professional Conduct. Their lack of knowledge of the Rules of Professional Conduct did not excuse them from their responsibilities as members of the Institute.

No audit proposal had been requested by the organization and the partner was aware the organization was satisfied with the current auditor. The treasurer only expected information about the firm and their credentials.

The partner had a duty to review documents before signing them. The covering letter was clearly worded and even a cursory review would have disclosed to a reader the nature of the letter and attached proposal.

ORDERS: Both CAs were reprimanded verbally and each was ordered to pay 50 per cent of the costs of the investigation and hearing.
[The hearing was completed in one day and costs totalled \$3,538.]

REASONS: Both CAs were equally culpable and should therefore share the costs equally.

PUBLICATION: In the CA Monthly Statement on a no-names basis, to the provincial institute in which the partner held concurrent membership, and all provincial institutes to which either CA applies for membership at any time in the future.

REFERENCE: DECISION 36

DESCRIPTION: A CA issued four unqualified auditor's reports on the financial statements of a client group. As a result of a practice review by the Institute, the CA's working paper files for the client group were examined. The report stated the files lacked sufficient documentation to support the opinions given. The Practice Review Committee received comments from the CA regarding the committee's concerns and made a complaint against the CA, after considering the audit documentation deficiencies. Also, poor audit documentation had been the reason for conducting two follow-up practice reviews in the prior practice review cycle.

FINDINGS: The CA was found guilty of unprofessional conduct by failing to comply with generally accepted auditing standards by not documenting auditing procedures and having no reasonable basis to support the audit opinions.

REASONS: The CA completed professional development courses in auditing prior to the hearing and, at the hearing, admitted that the documentation in the CA's audit files was inadequate.

ORDERS: The CA was ordered to prove competence in auditing to the Practice Review Committee by submitting all the audit files to a practice reviewer within one year from the last practice review. The CA was also reprimanded verbally and ordered to pay the costs of the investigation and hearing.

[The hearing was completed in two days and costs totalled \$3,458.]

REASONS: The CA should have sustained professional competence with respect to audit standards, particularly, documentation. The committee considered the CA's past history of non-comply practice review findings. The committee also considered the CA's positive attitude displayed by taking professional development courses prior to the hearing, and in cooperating with the investigation, hearing, and practice review process. It was appropriate that the member be responsible for the costs rather than the profession.

PUBLICATION: To all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 37

DESCRIPTION: The CA was hired as vice-president, finance of a multi-location retail operation in its start-up phase. The CA was expected to establish an internal control system to safeguard company assets, and an accounting system to provide management with timely, accurate financial information. When operations commenced:

- the operational point-of-sale system and financial accounting systems were not fully functional,
- the reporting package developed did not advise head office as to the money deposited by each location,
- information from the point-of-sale systems at each location did not interface properly with the head office accounting program,
- the first operating financial statements were not produced until 50 days after month-end, so management was unaware the gross margin was nil to -20 per cent of revenue, and
- at the time the financial statements were prepared, the bank account was not reconciled.

After the CA's departure from the company, it was determined:

- no GST filing had been made, although the GST refund exceeded \$120,000, and the company required the cash,
- bank reconciliations, fixed asset depreciation schedules, and capital lease schedules had not been completed,
- a number of slips from major credit cards had not been deposited or had been deposited and paid twice, and
- letters from Revenue Canada were found unopened in the CA's desk.

FINDINGS: The CA was found guilty of unprofessional conduct in having failed to perform professional duties with due care.

REASONS: The CA was aware shareholders required the financial statements by the 20th day following each month-end, and the importance of that information for managing a newly opened operation effectively. The CA should have implemented alternate systems to provide timely information to management after operations commenced, when the new accounting system failed to work properly. In addition, other requests for information from management were not responded to quickly.

The company had made significant capital expenditures and was extremely concerned about its cash flow. However, the CA failed to reconcile the bank account and file GST returns during the employment term, despite the fact that the GST credit was a source of substantial cash.

Mail from Revenue Canada was found unopened in the CA's desk. The CA presumed to know the contents of the letters but did not acknowledge the correspondence or provide explanations to Revenue Canada for failure to file returns on time.

The CA chose to stay with the company when it would have been reasonable and responsible to leave. Having chosen to stay, failure to exercise expected duties was unprofessional.

ORDER: The CA was reprimanded verbally and ordered to pay 70 per cent of the costs of the investigation and hearing to a maximum of \$6,000.

[The hearing was completed in two days and costs totalled \$13,297.]

REASONS: The CA was hired to do a job and although the CA made a sincere effort to fulfil obligations, the CA was unsuccessful in dealing with the circumstances and did not get the job done. The CA was not proactive and failed to anticipate problems.

The CA showed lack of judgment in setting priorities but there was no evidence of impropriety or dishonesty in the CA's conduct.

PUBLICATION: In the CA Monthly Statement on a no-names basis and to all provincial institutes to which the CA applies for membership at any time in the future.



REFERENCE: DECISION 38

DESCRIPTION: The CA's practice was reviewed by the Institute. Lack of documentation in the CA's audit and review files caused the Practice Review Committee to order a follow-up practice review. When the follow-up practice review indicated a lack of overall improvement, the Practice Review Committee made a complaint against the CA.

FINDINGS: The CA was found guilty of unprofessional conduct, in failing to obtain sufficient appropriate evidence to support the CA's auditor's reports, document review procedures to assess the plausibility of the financial statements for issued review engagement reports, and keep current with developments in accounting and auditing standards.

REASONS: The Hearing Committee examined the CA's working paper files and noted the lack of documentation for review and audit engagements.

ORDERS: The Hearing Committee prohibited the CA from practicing public accounting except under the supervision of an approved member until the completion of the next practice review. If the CA fails to comply with professional standards at that time, the CA's registration will be cancelled. Also, the Hearing Committee reprimanded the CA, ordered the CA to complete professional development courses as directed by the Director, Practice Review, and pay a fine of \$1,000 and costs of the investigation and hearing.

[The hearing was completed in one day and costs totalled \$3,105.]

REASONS: Since little progress was made between the two practice reviews, an approved monitor will ensure the public is protected and the CA complies with professional standards. The CA was provided with a final opportunity to achieve the required level of competence as a result of the CA's honesty, integrity and cooperation. Continued membership in the Institute would not be in the public's interest if the CA is unable to meet generally accepted practice standards by completion of the next practice review.

The verbal reprimand reminds the member that these actions not only tarnished the CA's reputation but tarnished all members generally.

The \$1,000 fine stressed the seriousness of the charge.

The hearing was a result of the member's actions, and costs were assessed because it would be unfair for the membership at large to pay them.

PUBLICATION: To all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 39

DESCRIPTION: The CA audited a public company which acquired rights to a product from two of its directors and shareholders, payable with a promissory note and redeemable preferred shares. The CA issued an unqualified auditor's opinion.

During a practice review, the CA provided the reviewer with an appraisal report the company obtained about two years before acquisition of the rights.

The Practice Review Committee disagreed with the value assigned to the rights. Documentation in the CA's files lacked evidence of reliance on a specialist and consideration as to whether there had been any change in the asset value between the old appraisal report and the auditor's report.

The CA argued that since the majority of minority shareholders approved the transaction inclusive of the value, and since it was accepted as a major transaction by the Alberta Stock Exchange, the value was fair. Enquiries and discussion were made regarding the specialist, as well as the change in value of the asset since the appraisal date, but were not documented in the file.

Concurrent with the practice review, the Alberta Securities Commission suggested an alternate value for the rights. Company directors feared the company's trading of shares would be delisted if they did not accept the suggested value. The change of value was disclosed and applied retroactively in the subsequent year's financial statements. The CA audited the subsequent year's financial statements and issued an auditor's report.

FINDING: The CA was found guilty of unprofessional conduct by failing to obtain sufficient, appropriate, audit evidence and document auditing procedures to support the CA's opinion.

REASONS: The CA's working paper files lacked documentation regarding reliance on an expert, and whether the rights' assigned carrying value complied with GAAP. Documentation of auditing procedures was below the standard expected of a CA performing audits. Through testimony, the CA displayed a lack of audit skills and knowledge of appropriate audit procedures.

ORDERS: The Hearing Committee ordered all the firm's working paper files of public companies, including financial institutions, be reviewed by a CA with current expertise in the areas. The committee also reprimanded the CA verbally and fined the CA \$1,000.

[The hearing was completed in one day and costs totalled \$8,661.]

REASON: The Hearing Committee ordered the review to ensure the CA's current standard of practice complies with that of the profession.

PUBLICATION: In the CA Monthly Statement on a no-names basis and to all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 40

DESCRIPTION: Three clients made complaints against a CA for not completing, in a timely manner, personal income tax returns, financial statements, corporate income tax returns, Worker's Compensation Board returns, T4 returns and T4 supplementaries, and GST quarterly returns. As well, the CA did not respond to numerous telephone calls in a timely manner and did not return records, as requested.

During the course of the Institute's investigation, it was determined that the CA issued review engagement reports, although the CA was not registered as a practicing office and did not carry professional liability insurance.

FINDINGS: The CA was found guilty of unprofessional conduct, by failing to:

- provide professional services with due care,
- carry professional liability insurance, and
- register as a practicing office.

REASONS: The CA admitted guilt and the evidence presented at the hearing substantiated the charges against the CA.

ORDERS: The Hearing Committee ordered a practice review be conducted of the CA's practice within six months of the date of the hearing and:

- suspended the CA from public accounting unless the CA works under the supervision of a member approved by the Practice Review Committee until such time as the Practice Review Committee is satisfied that supervision is no longer required,
- obtains professional liability insurance, and
- registers as a practicing office with the Institute.

The Hearing Committee also ordered the CA pay costs of the investigation and hearing in 18 equal monthly installments.

[The hearing was completed in one day and costs totalled \$5,683.]

REASONS: The CA demonstrated an inability to complete assignments with due care and fulfil professional obligations on a timely basis. The CA was practicing without registering as a practicing office and without liability insurance. The supervision will protect the public; the practice review will ensure any deficiencies are addressed.

The CA's conduct damaged the reputation of the profession. The CA should therefore pay the full costs of the hearing. Time for payment gives consideration to the CA's personal circumstances.

PUBLICATION: In the "Membership Activity Report", to any person who directs an enquiry to the Institute regarding the member's status, and to all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 41

DESCRIPTION: The CA, who was not registered as a practicing office and did not carry professional liability insurance, audited financial statements filed with the Alberta Securities Commission. The commission alleged that the CA issued an unqualified report on financial statements where:

- assets acquired in a reverse take-over were recorded inappropriately,
- assets which were seized by a creditor and indirectly repurchased through a shareholder were reflected at the original book value, not the repurchase price paid to the creditor,
- preferred shares issued for non-monetary consideration were reflected at an amount significantly greater than the trading value of the shares, and
- an intangible asset was valued at an amount that could not be substantiated.

The CA did not bring working paper files to the hearing. The CA explained the working papers were with the client and the CA was unable to retrieve them. The client did not appear at the hearing despite a notice to attend.

FINDINGS: The CA was found guilty of unprofessional conduct, in having:

- expressed an unqualified audit opinion on financial statements which failed to comply with generally accepted accounting principles,
- failed to register as a practicing office,
- failed to carry professional liability insurance, and
- failed to retain audit documentation.

REASONS: The financial statements did not reflect an acquisition as a reverse take-over and non-monetary transactions at fair value. No working papers or evidence to support the CA's opinion were produced. The CA breached by-laws related to practicing office registration and professional liability insurance.

ORDERS: The CA was restricted from auditing until completing the CICA Handbook Refresher course and a financial statement presentation and disclosure course. The CA was also reprimanded, in writing, fined \$1,000, and ordered to pay 50 per cent of the costs of the hearing to a maximum of \$2,000.
[The hearing was completed in one day and costs totalled \$7,675.]

REASONS: The Hearing Committee believed the profession's image was tainted in the eyes of the Alberta Securities Commission. Failure to obtain professional liability insurance and register the CA's office was a flagrant violation of the Institute's by-laws.

PUBLICATION: To all members, the Alberta Securities Commission, anyone enquiring about the CA's status, in the CA Monthly Statement on a no-names basis, and to all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 42

DESCRIPTION: CA X complained about the work performed by CA Y, a predecessor accountant, as a result of numerous deficiencies and errors noted in the financial statements of a contractor. CA Y did not provide reasons in response to a letter written by CA X questioning the treatment of various items.

There were several errors in the accounting records which had not been corrected and in total were material. In addition, revenues were understated as the percentage of completion had not been considered at the year end. Inventory was recorded at the amounts of cash paid; the portion financed by debt and the related debt were not recorded at all. The member issued Accountant's Comments, not a Review Engagement Report.

A letter to the client indicated CA Y was aware adjustments were required. The review working papers did not contain any evidence of review procedures performed.

FINDINGS: CA Y was found guilty of unprofessional conduct, in failing to:

- sustain professional competence by keeping informed of, and in compliance with, developments in accounting standards; and
- comply with the Recommendations for unaudited financial statements.

REASON: The member failed to perform the engagement with due care. More extensive review procedures should have been carried out, and errors and disclosure deficiencies should have been corrected.

ORDERS: The CA was reprimanded verbally, ordered to take professional development courses on the CICA Handbook and review and compilation engagements, and ordered to pay costs of the investigation and hearing.

[The hearing was completed in one day and costs totalled \$3,147.]

PUBLICATION: In the CA Monthly Statement on a no-names basis and to all provincial institutes to which the CA applies for membership at any time in the future.

REFERENCE: DECISION 43

DESCRIPTION: The CA's firm were the auditors of a client company. Although he did not work on the audit, the company engaged the CA to assist it in obtaining additional financing. Later the court appointed the CA monitor of the company under the provisions of the Companies' Creditors Arrangement Act. When the company went into receivership, the bank appointed a CA firm (Firm X) receiver and manager on the understanding that it use the CA's firm as an agent. Firm X withdrew as receiver because it felt the bank wanted the CA to be the defacto receiver. Another CA firm took over the receivership and enforced its rights as receiver and used the CA's firm only to perform specific procedures under supervision.

APPEAL: The CA appealed, to the Appeals Committee, the Hearing Committee's finding of unprofessional conduct and order regarding payment of costs.

FINDING

ON APPEAL: The Appeals Committee confirmed the Hearing Committee's finding that the CA was guilty of unprofessional conduct by accepting an engagement as agent for the receiver of a company for which his firm were the auditors.

REASONS: The Appeals Committee concluded the Hearing Committee did not err. The Hearing Committee felt the bank was practical in wanting the CA to be extensively involved during the receivership. The CA's responsibility under the code of ethics was to hold himself free of any influence, interest or relationship which impairs his professional judgment or objectivity or which, in the view of the reasonable observer, would impair his professional judgment or objectivity. Given the past relations of he and his firm with the bank, and as auditor, consultant and monitor of the client, the CA should have known that the bank might pressure his firm to carry out extensive work on the receivership and the CA should have declined the engagement.

ORDERS

ON APPEAL: The Appeals Committee confirmed the Hearing Committee's orders that the CA be reprimand verbally and pay \$22,000 of the costs of the hearing.
[The hearing was completed in 3 1/2 days and costs totalled \$31,991.05. The costs of the appeal totalled \$9,144.77.]

REASON: The Appeals Committee concluded that no error had been made by the Hearing Committee, in that. the \$22,000 represented a fair allocation of total costs given the nature of the charges and the Committee's findings.

PUBLICATION: To all provincial institutes with which the CA held concurrent membership at the time of the hearing, to any provincial institute to which the CA applies for membership in the future, and in the CA Monthly Statement on a no-names basis.

REFERENCE: DECISION 44

DESCRIPTION: A practice review found the CA's audit files lacked documentation of numerous audit procedures such as vouching of disbursements, cut-off procedures, review for contingencies, unrecorded liabilities, existence of significant legal matters, subsequent events, verification of accounts payable, and planning and insufficient audit work was performed on the largest expense item. The audit working paper disclosed a significant scope problem yet there was no documentation whether the problem was resolved or alternative procedures were performed. The member responded that the audit related to a non-profit organization and the deficiencies should not be classified as major audit deficiencies. After reviewing the response of the member, the Practice Review Committee made a complaint. After being advised the matter had been referred to a hearing, the member attended two audit courses, Internal Control, the New Standard and Materiality, Audit Risk, and Extent of Audit Testing. The CA advised that he now understood the concerns raised by the Practice Review Committee and asked the hearing be adjourned to enable the follow-up practice review results to be entered as evidence. The CA passed the follow-up review.

FINDING: The Hearing Committee found the CA guilty of unprofessional conduct in having issued auditor's reports while failing to document auditing procedures that afforded a reasonable basis to support the contents of the reports.

REASONS: The CA admitted that the files lacked adequate documentation. The lack of documentation made it extremely difficult to assess the quality of inquiry and examination.

ORDERS: The Hearing Committee ordered that the CA be reprimanded verbally, a practice review be performed within a year on a sample of the CA's audit files and the CA pay the costs of the investigation and hearing.

[The hearing was completed in 1 1/2 days and costs totalled \$3,459.]

REASONS: The Hearing Committee considered the facts that the CA should have sustained his competence in auditing, especially documentation and the CA's past history of non-comply practice review findings. In mitigation, the CA demonstrated a positive attitude in taking the PD courses and used them to improve his standards. The Committee believes costs should be borne by the member not the whole profession.

PUBLICATION: To any provincial Institute to which the CA applies for membership in the future.

REFERENCE: DECISION 45

DESCRIPTION: The CA was appointed volunteer treasurer of a charitable organization. He performed the bookkeeping and prepared financial statements which were frequently used to support applications for funding. Another member served as auditor of the organization.

At the 1992 annual meeting, the CA presented the Treasurer's Report which indicated a poor cash position and the need for emergency funding. Eight months later, the CA provided the auditor with draft financial statements and supporting working papers.

During the audit, the auditor discovered the CA had taken \$23,500 for his personal use and reflected these amounts as repairs. In addition, expense claims of the CA were not properly supported and the Board had no knowledge of services billed by his professional corporation. The auditor reported his findings to the organization president. The CA advised the president that as treasurer he had authorized a loan to his professional corporation at an interest rate equal bank prime. The monies were repaid to the organization with interest.

The Board removed the CA from the board and as treasurer. The auditor made a complaint to the Institute.

FINDINGS: The Hearing Committee found the CA guilty of unprofessional conduct in failing to conduct his duties as treasurer with integrity and due care by

- diverting \$23,500 to his personal use,
- issuing cheques for unsubstantiated and/or unapproved expense claims
- issuing unapproved cheques for the CA's professional fees, and
- preparing financial statements for the organization which the CA knew, or should have known, were false and misleading.

REASONS: Evidence clearly showed that \$23,500 was paid to the CA or his bank. Although the CA claimed these were loans at a higher rate than the organization would receive from its bank, it was unsupported by the manner in which the payments were made or reflected in the organization's records.

Expense payments were made to the CA for purchases inconsistent with the organizations normal requirements. The Board was not aware the CA had billed the organization professional fees and as treasurer had approved them for payment.

The financial statements overstated capital assets and repairs and maintenance and did not reflect the amounts receivable by the CA for unauthorized loans, expense claims and professional fees.

ORDERS: The Hearing Committee cancelled the CA's registration and ordered the CA to pay the total costs of the investigation and hearing.

REASONS: The CA's role was to safeguard the organization's assets by establishing and following financial controls. Evidence indicated the CA provided none of the required guidance and support, and used organization funds for personal reasons without the Board's knowledge or consent. The CA should have ensured the financial statements presented fairly the financial position of the organization. The CA's actions were inconsistent with what is expected of members of the Institute.

PUBLICATION: Notice of the cancellation to all CA's, to the CA's employer, in the "Membership Activity Report", to any provincial Institutes to which the CA applies for membership in the future and in the CA Monthly Statement on a no-names basis.

APPEAL: The CA appealed three of the Hearing Committee's findings and the orders to Council. Council upheld the Hearing Committee's findings and orders as they found no error had been made. Council also ordered the CA pay the direct costs of the appeal.

[The hearing was completed in 2 days and costs totalled \$7,890. The total costs of the appeal were \$7,684.]

REFERENCE: DECISION 46

DESCRIPTION: The CA was engaged in public practice and had two related function organizations. The related function organizations entered into an agreement which gave the consulting company the exclusive marketing rights to any systems applications developed by the programming company. The agreement acknowledged that the consulting company had no funding.

The following month, the CA wrote to a software company on the consulting company's letterhead and expressed interest in marketing Program X. The owner responded they would be interested in having the consulting company act as a reseller of Program X.

The programming company were engaged by a client to implement a computer system which incorporated Program X. The software company shipped a copy of Program X to the consulting company for the client and invoiced them \$7,800. The CA did not advise the software company that the programming company held the implementation contract nor of the terms of the agreement between the two companies. The programming company were paid by the client but no payment was made for Program X.

Over the next year the software company repeatedly attempted to collect payment for Program X and eventually obtained a judgment against the consulting company only to later discover the company had no assets.

FINDINGS: The CA was found guilty of unprofessional conduct in having ordered Program X on behalf of the consulting company without disclosing to the software company that

- the programming company was to implement the computer system
- the two companies had entered into an agreement which materially affected the consulting company's ability to pay the software company
- the consulting company had no funds to enable it to pay for Program X.

REASONS: The CA initiated a business proposal with the software company in a letter that identified him as a CA. The professional designations held by the individuals listed on the consulting company's letterhead influenced the software company's decision to accept the proposal.

When Program X was ordered, the CA knew the consulting company was insolvent. The CA knew the consulting company had no assets to satisfy the software company's claim and allowed it to obtain a default judgment.

ORDERS: The Hearing Committee reprimanded the CA and ordered him to pay a \$2,000 fine and costs of the investigation and hearing.

PUBLICATION: In the CA Monthly Statement on a named basis and to any provincial institute to which the CA applies for membership in the future.



REASONS: The reprimand and fine serve as a reminder that the CA's conduct tainted the reputation of the member and the profession generally. Publication on a named basis was made because the CA had been found guilty of unprofessional conduct on two previous occasions in the past eight years.

APPEAL: The Appeals Committee upheld the findings and orders of the Hearing Committee as it was of the view that no error had been made. The Appeals Committee ordered the CA pay costs of the appeal to a maximum of \$5,000 within 60 days.

[The hearing was completed in one day and costs totalled \$7,026. Costs of the appeal totalled \$7,224.]

REFERENCE: DECISION 47

DESCRIPTION: A CA was appointed to the board of directors of the Foundation. The Foundation's bylaws provided that any person could be appointed auditor notwithstanding that the auditor was a director, manager, officer, member or employee.

While serving on the Board, the CA issued an auditor's report on the financial statements of the Foundation. The format of the report was superseded in 1991 in the CICA Handbook. The financial statements did not include Statements of Members' Equity or Changes in Financial Position and did not disclose the combined assets and liabilities of all trust and general accounts, whether the trust funds were restricted and the nature of any restriction, and prior period adjustments. The financial statements were distributed only to the Board of Directors and were used solely for filing with regulatory authorities.

The CA's working paper file did not reflect any documentation regarding planning of the audit, materiality, knowledge of the client's business, assessment of risk, analytical review, or procedures for cut-off, subsequent events, commitments and contingencies or review of the minutes. The file did not include any confirmation of bank balances, accounts receivable or payable nor any representations of management. The member testified he had not intended to do an audit and did not treat the engagement as an audit although he personally typed the Auditor's Report and attached it to the financial statements.

The member operated a small practice with fees in excess of \$7,500 but had not registered his office with the Institute.

FINDING: The Hearing Committee found the CA guilty of unprofessional conduct in having issued an Auditor's Report on the financial statements of the Foundation although

- he failed to hold himself free of any influence, interest or relationship which, in the view of a reasonable observer, would impair the member's professional judgment or objectivity,
- the financial statements failed to comply with GAAP,
- he failed to comply with GAAS, and
- he failed to register his office with the Institute.

REASONS: The member admitted to all of the allegations. The Hearing Committee found that Rule 204.1 overruled the Foundation's bylaws. The member should have known he was required to register his practicing office.



- ORDERS:** The Hearing Committee ordered the CA's registration be suspended unless he registered his office within 15 days and suspended him from the practice of public accounting unless he practices under the supervision and complies with the recommendations of an experienced CA acceptable to the Practice Review Committee. Supervision will continue until the CA has a practice review, completes specified courses and the Practice Review Committee is satisfied supervision is no longer required. The Committee also ordered the CA pay costs of the investigation and hearing up to \$4,000.
- The hearing was completed in 1 day and costs totalled \$4,092]
- PUBLICATION:** In the "Membership Activity Report", in the CA Monthly Statement on a no-names basis and to any provincial institute to which the CA applies for membership in the future.
- REASONS:** The financial statements received only minimal distribution and no one was harmed. The penalties are intended to bring the CA to an acceptable level of competence to protect the public interest. The Committee allowed for the CA's financial position but determined the general membership should not bear the costs.

REFERENCE: DECISION 48

DESCRIPTION: Firm X issued an auditor's report on the 1993 financial statements of an oil and gas public company. In those financial statements, a subsequent events note disclosed that, subsequent to the year end, the Company had acquired oil and gas properties from the chief executive officer and indicated the proposed accounting treatment for the acquisition.

At the Company's next annual general meeting, Firm X was reappointed as auditors for 1994. After receiving the signed engagement letter from the client, Firm X commenced their audit.

Two months later, the company's CFO called the member to discuss the possible appointment of the member's firm as auditor. At a meeting of the CFO, the member, the previous chief executive officer and the newly appointed president of the company, the member was asked for a proposal for services and a fee estimate. The president raised a question concerning the accounting treatment for the acquisition of the oil and gas properties.

A few days later, the member provided the fee proposal and a written opinion on the accounting treatment. The member had not contacted Firm X. The company contacted Firm X and was advised they believed the transaction should be recorded, as described in the subsequent events note.

The member wrote to Firm X on November 28, 1994 and advised that he had been offered the audit appointment for 1994. On November 30th, the directors of the Company appointed the member's firm as auditors. The member's firm issued its auditors report dated December 2, 1994 on the Company's 1994 financial statements.

On December 6, 1994 the president of the company advised Firm X that the Company decided to change its auditors and asked for Firm X's resignation. A week later, Firm X was asked to provide a response letter to the Change of Auditor Notice. Firm X and the member's firm negotiated the wording of the Change of Auditor Notice until January 16. The next day, the President filed the Notice of Change of Auditor on the basis that there were no reportable events. The member's firm agreed with that position. Firm X reported its disagreement.

- FINDINGS:** The member was found guilty of unprofessional conduct in having:
- accepted an engagement to provide an opinion on the application of accounting principles on a transaction, and failed to notify the previous auditor prior to commencing the engagement,
 - issued an opinion on the accounting treatment of a transaction but failed to comply with section 7600.12 of the CICA Handbook, and
 - issued an opinion on the accounting treatment of a transaction that did not comply with the reporting standards set out in section 7600.24 of the CICA Handbook.
- REASONS:** The member admitted guilt to all charges. Section 7600 applies to this situation and the member failed to comply with the recommendations in paragraphs 7600.12 and 7600.24. Section 7600 is extremely clear on such matters and compliance by all members is required. In addition, the member knew he was communicating with a public company.
- ORDERS:** The Hearing Committee reprimanded the member in writing and ordered that he pay the costs of the investigation and hearing.
- [The hearing was completed in 1 day and costs totalled \$5,202]
- PUBLICATION:** In the CA Monthly Statement on a no-names basis and to any provincial institute to which the CA applies for membership in the future.
- REASONS:** Costs were awarded because the member was found guilty on all charges and he, not the general membership, should bear the costs.

REFERENCE: DECISION 49

DESCRIPTION: A CA appeared before a hearing committee as a result of complaints from a former client and the successor accountant. The client complained after he was reassessed \$130,000, including penalties and interest, and incurred accounting fees of \$50,000 for correcting his companies' records. The CA had issued auditors' reports on the 1992 financial statements of three of the client's related companies- Opco, Sisco, and Parentco.

The financial statements of Opco did not disclose adequate information about a receivable from its parent company and details of the sale of fixed assets to a sister company. Deferred taxes which related to holdbacks receivable were not reflected as current liabilities. Opco's income tax return included a deduction of \$365,000 for holdbacks receivable but \$95,500 of this amount was not included in Opco's income for the year. The CA had transferred expenses of \$176,000 from Parentco to Opco when there was no basis for Opco to substantiate these expenses.

Opco's working paper file consisted of financial statements, tax returns, journal entries, a trial balance, a bank confirmation, an adding machine tape marked "Bank Rec", and working papers for employee advances, prepaid insurance, and insurance expense.

The working papers for Sisco consisted of financial statements, tax returns, a trial balance, the income statement analyzed as a percentage of gross sales, and working papers for inventory, corporate information, accounts payable and receivable listings, a bank confirmation, and a bank reconciliation.

The financial statements of Parentco did not disclose the fixed assets purchased from its subsidiaries. Parentco's working papers consisted of financial statements, tax returns, trail balance, and journal entries.

The CA had also issued auditor's reports in 1991. In early 1992, the CA advised a practice reviewer that he did not perform audits.

FINDINGS: The CA was found guilty of unprofessional conduct in having:

- issued auditor's reports on financial statements of Parentco, Sisco, and Opco but had not complied with generally accepted auditing standards,

- issued auditor's reports on financial statements of Parentco and Opco when related party transactions were not disclosed adequately,
- issued an auditor's report on the financial statements of Opco when there were material errors,
- deducted, in Opco's tax returns, excessive holdback reserves, and
- advised the practice reviewer that he performed no audits.

REASONS: The member provided no defence. The evidence clearly showed that the audited financial statements of Opco and Parentco contained significant deficiencies and the financial statements of Opco contained material errors. Material errors in Opco's tax return resulted in substantial reassessments.

The audit files were completely inadequate to support his audit opinions.

By failing to advise the practice reviewer that he had issued auditor's reports, he avoided a practice review of his audit files.

ORDERS: The Hearing Committee ordered the CA's registration be cancelled and that he pay the costs of the investigation and hearing within 180 days.

[The hearing was completed in 1 day and costs totalled \$2,874]

PUBLICATION: In the CA Monthly Statement on a named basis, to any provincial institute to which the CA applies for membership in the future, notification of the cancellation be provided to all CAs in the general mailing, "Membership Activity Report" and the local newspaper.

REASONS: This was the third time he had been found guilty of unprofessional conduct. His files demonstrated his complete disregard for standards and resulted in unnecessary financial loss to his client. He deceived the practice reviewer.

The Committee concluded he would be an ongoing risk to the public and because his problems stem largely from his level of integrity, his rehabilitation was highly doubtful.

REFERENCE: DECISION 50

DESCRIPTION: The CA introduced a number of clients to an individual who offered limited partnership tax shelter investments. The CA did not offer investment advice but did explain tax consequences of the investments. The CA was also the auditor for several of the limited partnerships. A corporation owned by the CA and his wife received finder's fees after clients invested in the limited partnerships. The CA did not disclose these finder's fees to clients.

FINDINGS: The CA admitted and was found guilty of unprofessional conduct for:

- introducing clients to tax shelters in limited partnerships and thereafter, without disclosure to his clients, directing finders' fees to a corporation he and his wife owned; and
- expressing auditors' opinions on the financial statements of the limited partnerships although he had received \$62,300 for referring clients who purchased partnership interests in these or associated partnerships.

ORDERS: The Hearing Committee suspended the CA for 30 days and ordered that his practice be inspected. The Hearing Committee also ordered the CA to pay the total costs of the investigation and hearing and a \$9,000 fine.

[The hearing was completed in 1 day and costs totalled \$7,032]

PUBLICATION: In the CA Monthly Statement on a no-names basis, to all members and to any provincial institute to which the CA applies for membership in the future.

REASONS: The Committee considered the amount of commissions received by the CA; that this was not an isolated occurrence; his failure to appear objective in addressing his clients' needs, and that his clients lost material amounts of money and were unaware he received commissions.

The Committee concluded stern action was required to protect the public, punish the CA and serve as a general deterrent. Therefore both a suspension and significant fine were appropriate. A verbal reprimand reminded the member of the seriousness of his actions and how they reflect on all chartered accountants. As the CA is now a sole practitioner, the Committee felt that an early practice review would be appropriate to protect the public.

REFERENCE: DECISION 51

DESCRIPTION: The CA had been found guilty of unprofessional conduct and had been suspended from public accounting unless he worked under the supervision of an approved member. A supervisor was approved and the CA arranged for space in the approved member's office and the use of support staff.

A year later the supervisor resigned and reported to the Practice Review Committee that it appeared that the CA had not advised his clients of his new office as very few calls were received and the CA did not change the message on his answering machine at home to direct business calls to the office. Over the year, the CA spent 5 working days at the office and he did not advise the receptionist of his whereabouts. The supervisor was unable to determine whether the CA had met client deadlines and returned records as requested.

FINDING: The Compliance Hearing Committee found that the CA contravened part of a Hearing Committee's order that required that he practice under the supervision of a member approved by the Practice Review Committee.

REASONS: Evidence clearly showed there was no effective supervision of the CA.

ORDERS: The Compliance Hearing Committee suspended the CA from practicing public accounting until

- he obtains practical experience under the supervision of a member approved by the Practice Review Committee,
- the CA and supervisor submit a joint proposal regarding supervision for approval by the Director, Professional Standards and the Compliance Hearing Committee.
- the Professional Conduct Committee is satisfied as to his competence.

The Committee ordered that the Institute mail a letter from the CA to each of his clients advising of his suspension and the arrangements made to meet their requirements and needs.

[The hearing was completed in one day and costs totalled \$3,219]



PUBLICATION: To all members of the Institute, to his clients, in the “Membership Activity Report”, and to any provincial institute to which the CA applies for membership in the future.

REASONS: There had been no effective supervision over the CA therefore the Committee confirmed his suspension from public accounting. By setting down specific terms for the supervision, the Professional Conduct Committee can review his suspension.

REFERENCE: DECISION 52

DESCRIPTION: Two shareholders engaged the CA to prepare financial statements and tax returns for their corporation's 1994 year end. Although the client left numerous phone calls at the CA's home and office, he did not return them. Eventually, another firm was engaged to prepare the financial statements. The firm requested the client's records and the opportunity to review the working paper files on numerous occasions, but the CA never responded.

After the client complained to the Institute, the CA did not reply to messages or letters from Institute staff nor from the preliminary investigator.

FINDINGS: The Hearing Committee found the CA guilty of unprofessional conduct by failing to maintain the good reputation of the profession and its ability to serve the public interest, in that he failed to:

1. provide professional services with due care to a client, by not
 - completing the 1994 financial statements and income tax returns,
 - responding to telephone calls in a timely manner,
 - returning records when requested, and
 - cooperating with the successor chartered accountants; and
2. cooperate in a preliminary investigation.

REASONS: The CA admitted to not providing professional services with due care nor cooperating with the successor accountant and the preliminary investigator. The CA undertook to provide the requested information to his successor.

ORDERS: The Hearing Committee suspended the CA for two years effective June 9, 1995 and ordered that during his suspension he obtain practical experience under a supervisor (who was interviewed by the Committee). The Committee approved a proposal from the CA and the supervisor which dealt with, among other matters, monitoring deadlines and client communications, file review, and reporting by the supervisor to the Institute. The Hearing Committee ordered the CA attend stress management and time management courses within 12 months. Further, the Hearing Committee ordered that the Institute mail a letter from the CA to each of his clients advising of his suspension and the arrangements made to meet their requirements and needs. If the CA breaches any order, his registration will be cancelled.



The Committee also ordered the CA pay the costs of the hearing to a maximum of \$5,000 and a fine of \$2,000 within 24 months.

[The hearing was completed in 2 days and costs totalled \$5,518]

PUBLICATION: To all members of the Institute, to his clients, his part-time employer, the "Membership Activity Report", the CA Monthly Statement on a named basis and to any provincial institute to which the CA applies for membership in the future.

If the CA's registration is cancelled, notice in the local newspaper.

REASONS: The Committee heard testimony concerning the CA's personal difficulties and the recent steps he has taken to get his personal and professional life in order. His practice is very small and there were no allegations related to his competence or professional standards. The CA has taken numerous professional development courses recently.

The Committee met with the CA's supervisor and is confident that the CA and his supervisor will work well together to bring his professional services to the required standard.

The Committee believes these orders are severe and are extremely onerous on those charged with monitoring adherence. However, it affords the member one last opportunity to retain membership in the profession, and protects the public.

SUBSEQUENT ACTION: The member failed to comply with the Committee's orders in that he did not advise an audit client of his suspension and failed to meet with his supervisor or attend at their office as required. This resulted in the cancellation of the CA's registration and publication in the local newspaper.



REFERENCE: DECISION 53

DESCRIPTION: A client complained about two business transactions entered into with his CA. While the Hearing Committee found no merit to those complaints, it became evident that the CA had been practicing public accounting since 1981 and had not registered his practicing office. His file and tax preparation and documentation appeared lax.

FINDING: The CA was found guilty of unprofessional conduct for failing to register his practicing office from 1981 to 1995.

ORDERS: The Committee reprimanded the CA and ordered his practice be supervised by a chartered accountant until such time as he has completed a successful practice review and the supervisor recommends that supervision is no longer required. The CA was further ordered to register his practicing office and pay the total of all practicing office fees from 1981 to 1995. [Fees totalled \$2,180]

[The hearing was completed in 3 days and costs totalled \$16,550]

PUBLICATION: In the CA Monthly Statement on a no-names basis, in the "Membership Activity Report" and to any provincial institute to which the CA applies for membership in the future.

REASONS: The CA has practiced for a number of years without registering his practicing office and therefore has not had a practice review. It is therefore appropriate for him to register and pay the dues that should have been paid.

The Committee's concerns about his standards will be allayed by a practice review and the public will be protected by the supervision of his practice.

REFERENCE: DECISION 54

DESCRIPTION: The practicing member made an assignment in bankruptcy. Prior to making his assignment, he had never filed GST returns nor remitted monies owing to Revenue Canada. As well, employee source deductions were a year in arrears. He had not filed his personal income tax returns since 1982.

FINDINGS: The Hearing Committee found the member guilty of unprofessional conduct for failing to maintain at all times the good reputation of the profession and its ability to serve the public interest by failing:

- to immediately advise the Institute of his insolvency,
- to file GST returns and remit any tax owing since 1991, and
- to remit payroll source deductions since 1993.

REASONS: The member breached Rule 501.2 by failing to advise the Institute of his insolvency. He should have been aware of his insolvency when he continued to be unable to remit GST and payroll deductions.

FINDINGS

ON APPEAL: By consent, the Appeals Committee also found him guilty of unprofessional conduct in having failed to file his personal income tax returns since 1982.

ORDERS: The member was reprimanded and ordered to attend 2 financial accounting and 2 taxation courses annually for 2 years and pay the costs of the hearing. He was also suspended from public practice unless his financial affairs are reviewed quarterly for 2 years and the results reported to the Professional Conduct Committee.

[The hearing was completed in two days and costs totalled \$11,029.]

PUBLICATION: To all members of the Institute, in the "Membership Activity Report", in the CA Monthly Statement on a no-names basis, and to any provincial institute to which the CA applies for membership in the future. His clients will be informed by a letter from the member mailed by the Institute.

REASONS: Supervision will allow identification of any further acts which may tarnish the profession. The courses will keep the member aware of developments in professional standards. Publication will serve as a general deterrent and ensure his clients are aware of the circumstances and enable them to seek advice from another member should they so choose.

REFERENCE: DECISION 55

DESCRIPTION: The member resides and practices outside Alberta. The Practice Review Committee of another provincial institute referred the member to its discipline committee after 5 reviews resulted in overall assessments of major corrective action being required. The Council of that institute accepted his resignation and directed that readmission not be considered. The laws of that province prohibit the member from referring to himself as a chartered accountant.

After investigation, ICAA's Professional Conduct Committee accepted the member's undertaking to refrain from referring to himself as a CA to the public, and to allow the ICAA to perform a practice review on his files.

ICAA staff contacted the member to carry out the practice review. After numerous attempts over 16 months, the Director, Practice Review made a complaint alleging breach of the member's undertaking. In 1994 the other provincial institute became aware of two instances where the member had referred to himself as a CA.

FINDINGS: A Hearing Committee found him guilty of unprofessional conduct in having:

1. with respect to the financial statements of a client:
 - failed to sustain his professional competence by keeping himself informed of, and in compliance with, developments in professional accounting and auditing standards,
 - failed to comply in all material respects with the generally accepted auditing standards of the profession including those set out in the CICA Handbook as amended from time to time, and
 - issued an auditor's report in violation of an undertaking provided to another provincial institute to have his audit, review and non-review files reviewed prior to issuance.
2. breached his undertaking to the ICAA in that; on two occasions referred to himself as a CA, and failed to allow ICAA to perform a practice review of his files, and
3. failed to respond promptly in writing to a letter from the ICAA wherein a reply was specifically requested.

- REASONS:** The Committee determined the member had a long history of poor professional practice and many opportunities to correct the deficiencies but he had failed to improve his standards. He was repeatedly uncooperative with the Institute. The Committee determined the member's reasons did not justify his breach of the requirement to have audited financial statements reviewed before their release. In addition, the Committee did not accept his reasons for failing to provide his files for practice review by the ICAA.
- ORDERS:** The Hearing Committee cancelled the member's registration and ordered that he pay the total costs of the investigation.
- PUBLICATION:** To all members, in the "Membership Activity Report", to all provincial institutes to which he applies for membership in the future, in the CA Monthly Statement, and in the local newspaper.
- REASONS:** Although the Committee considered the member's age and poor health, the Committee determined the charges were very serious and the responsibility to protect the public was paramount. Costs were deemed appropriate because the member had ample opportunity to resolve the matters.
- APPEAL:** Council upheld the Hearing Committee's orders.
- [The hearing was completed in one day and costs totalled \$5,670. Costs of the appeal totalled \$2,190]
- REASONS:** The Council determined the member's failure to adhere to previous orders and undertakings was unacceptable for a CA and required a serious penalty. There is a serious risk to the public and cancellation of registration is necessary to protect the public and the reputation of the CA designation. Costs of the hearing are appropriate as a result of the CA's sustained indifference to the due processes of the Institute and his unprofessional actions. Publication, as ordered, is necessary to protect the public as the CA maintains a clientele and the press in his locale had previously reported that he is an Alberta chartered accountant.

REFERENCE: DECISION 56

DESCRIPTION: The Practice Review Committee made a complaint after the member's third follow-up review. The second follow-up review indicated major deficiencies in the area of documentation of audit procedures and related audit evidence and in the area of review, the frequency of inadequate documentation of procedures to support the plausibility assessment. The third follow-up review indicated that only minor corrective action was required with respect to non-audit engagements and financial statements and major corrective action was required with respect to audit documentation.

FINDING: The Hearing Committee found the CA guilty of unprofessional conduct in having:

1. failed to perform his professional services with due care by issuing four auditor's reports although he failed to obtain sufficient appropriate audit evidence to afford a reasonable basis to support the contents of the reports, or failed to document his auditing procedures to afford a reasonable basis to support the content of the report, and
2. failed to keep himself informed of and in compliance with developments in professional accounting and auditing standards.

REASONS: The evidence clearly showed the working paper files did not contain sufficient audit evidence to support the contents of the auditor's reports. Only minimal improvement in documentation had been achieved after three follow-up reviews in spite of the fact the CA had attended PD courses and appeared receptive to suggestions by the reviewers.

ORDERS: The Hearing Committee ordered that

- the CA be prohibited from performing audit engagements for five years,
- an approved mentor be engaged by the CA to review his working paper files and report quarterly to the Practice Review Committee until he meets the professional standards with respect to review engagements,
- a further practice review be completed by September 1996, and
- the CA pay \$1,500 towards the costs of the investigation and hearing.

[The hearing was completed in one day and costs totalled \$3,392]

PUBLICATION: To all chartered accountants, in the “Membership Activity Report” and to any provincial institute to which the member applies in the future.

REASONS: As the CA undertook to inform his current audit clients that he could no longer provide audit services, the Committee determined no notice to his clients was necessary. Since the CA still did not meet generally accepted standards after attending PD courses and the counselling obtained after three follow-up reviews, the prohibition from performing audits is required to protect the public. The Committee determined the mentor would assist the CA in keeping abreast of current developments in professional standards.

The majority of costs were awarded as the CA had every opportunity to prevent this matter from reaching a hearing.

REFERENCE: DECISION 57

DESCRIPTION: The CA resides and practices outside Alberta. The CA issued an auditors' report on the company's 1992 financial statements. After review by the Alberta Security Commission Agency, the financial statements were revised and included in a prospectus for an initial public offering. The initial 1992 financial statements reflected an investment in an affiliated company on the cost basis although the equity basis should have been used. In both the 1992 and 1993 financial statements, the value of the investment in the company represented approximately \$500,000 although the company's underlying assets had negligible value and the CA's files did not support the valuation.

The initial 1992 financial statements reflected deferred development costs at cost (- \$750,000). A note indicated no amortization was taken as the benefits of the development costs were not derived during the year. The company had commenced commercial production and earned income from the product. The working papers contained no evidence of the operating status and did not address requirements of CICA Handbook section 3450.

Although \$500,000 of the development costs were purchased for debt from the affiliated company, it was not disclosed in the 1992 financial statements. The 1993 financial statements did not disclose a royalty arrangement with a company owned by the chief executive officer. The relationship between the companies and the chief executive officer was not addressed in the files.

The 1992 financial statements did not disclose that the company's ability to realize on the deferred development costs depended on achieving profitable levels of operations from production of its product.

The working papers contained no evidence of planning for risk or materiality. The member testified his involvement in planning and supervising the audit was minimal and he relied primarily on his audit staff.

FINDING: The hearing committee found the CA guilty of unprofessional conduct in having:

1. issued an unqualified opinions on the 1992 and 1993 financial statements although:
 - the financial statements failed to comply with GAAP,

- he failed to comply with GAAS by not obtaining sufficient appropriate audit evidence regarding the carrying value of the investment in the affiliated company and deferred development costs, not planning adequately his audit and evaluating whether there were material misstatements in the financial statements, and not documenting adequately the nature and extent of audit procedures,
2. associated himself with the 1992 and 1993 financial statements when he knew or should have known they were false and misleading with respect to the carrying value of the investment in the affiliated company.

REASONS: The financial statements did not comply with GAAP. The working paper files indicated the CA did not address inappropriate accounting principles and transactions with related parties, and that he placed too much reliance on management representations and evidence of inappropriate quality. The public relied on the financial statements and the reputation of the profession was unduly harmed by the CA's carelessness and lack of due care.

ORDERS: The CA was reprimanded, prohibited from practicing in Alberta without permission of the Institute, required to complete the CICA Handbook refresher course, and ordered to pay costs of the investigation and hearing and a fine of \$2,500.

[The hearing was completed in two days and costs totalled \$10,100.]

PUBLICATION: In the "Membership Activity Report", in the CA Monthly Statement on a no-names basis, to anyone who asks about the CA's status, to the Alberta Securities Commission, to any provincial institute to which he belongs or applies for membership in the future.

REASONS: The CA requires a significant retraining program to correct a serious lack of current accounting knowledge and apparent unawareness and accountability for audit procedures and standards for audit evidence. When financial statements are included in a public document the public must be protected and the reputation of the profession safeguarded. Publication informs members of the sanctions that can be applied to members found guilty of unprofessional conduct.

REFERENCE: DECISION 58

DESCRIPTION: The CA's firm was appointed receiver/manager of a company by one of the company's creditors. The firm took inventory of the assets of the company and insured them under a subscription policy with a replacement cost endorsement. The company had 3 break-ins; two prior to receivership and one after where the majority of the insured assets were stolen.

The CA advised the insurance broker he would claim replacement cost on the stolen property. After the adjuster advised him receipts were required and replacement effected before he was entitled to replacement values, the CA instructed staff to obtain documentation for the purchase of equipment similar to the stolen property on the basis that the equipment would not be purchased or paid for. The CA sent the receipts/invoices to the adjuster.

Six months after the theft, the RCMP advised the manager on the engagement that some stolen property had been recovered. The manager advised the CA of the recovery. A staff member examined the property recovered by the RCMP 4 months later and identified some of the property. He advised the CA some of the insured property had been recovered.

Three weeks later, the claim was settled for 85% of the replacement cost. A year after the theft, the CA signed, under oath, the completed proof of loss form which included equipment recovered by the RCMP.

The next day, the staff member provided the CA with photographs of the recovered equipment. The CA advised him they had no obligation to advise the insurance company. Insurance proceeds of \$34,000 were received.

After the lender queried the amount of the fees charged for the engagement, the file was reviewed by another partner. That partner reimbursed the insurance company for the goods recovered.

The CA plead guilty and was convicted of defrauding the insurance company of an amount in excess of \$1,000 by failing to disclose to the insurance company that equipment that was the subject of a claim had been recovered. The CA was fined \$15,000 and placed on probation for 6 months.

FINDING: The CA was found guilty of unprofessional conduct in having:

- failed to perform his professional services with integrity and due care by arranging with suppliers to provide him with invoices/receipts describing replacement goods although it was never intended that he would take delivery of the goods, and
- associated himself with a statement he knew or should have known was false or misleading by signing under oath a proof of loss form which included goods which had been recovered by the RCMP.

REASONS: The CA admitted to the allegations.

ORDERS: The Hearing Committee reprimanded the CA, suspended his registration for three months, and ordered he pay the costs of the investigation and hearing and fines of \$20,000.

[The hearing was completed in one day and costs totalled \$22,529.]

PUBLICATION: To all members, to the member's employer, in the CA Monthly Statement on a no-names basis and to any provincial institute to which he belongs or applies for membership in the future.

REASONS: The CA's conduct was disgraceful. He exercised extreme poor judgment and his behaviour brought dishonour to the profession. In the absence of mitigating circumstances, cancellation of registration was appropriate. However, the Committee took into consideration evidence from a psychiatrist, former partners and his current employers. The CA was dealing in a work environment that was excessively negative which resulted in considerable stress. In addition he was also coping with numerous additional pressures in his personal life.

The Committee determined the conduct was an isolated incident that was out of character with an otherwise unblemished work history and reputation up to this point of character and integrity. In addition, the CA realized no personal gain through his actions. The Committee believes the CA is fully cognizant of the impropriety of his conduct and sincerely remorseful and there is little risk of his repeating this behavior.

REFERENCE: DECISION 59

DESCRIPTION: CA was a sole practitioner who operated a seasonal business out of province and suffered health problems. His doctor had advised him to remove stress from his lifestyle, so he advised Mr. A, another CA, that he did not think he could handle another tax season.

CA provided Mr. A with a list of his clients, excluding those which were family members, intimate friends and tax clients residing near his business. The list, which set out actual fees billed for the last year, was reviewed in detail by CA and Mr. A. An offer to purchase, which included CA informing his clients of the change in his practice, was signed by both parties.

Mr. A drafted several letters to advise the clients of the change, however, none were sent by CA. CA drafted a letter but it was unacceptable to Mr. A as it did not accurately state the facts.

Many of CA's client files were moved to Mr. A's premises. It was decided to use letterhead with both CAs' names during the transition. For about eight months, CA continued to deal with his clients and only informed them that he and Mr. A were working together.

During this time period, CA informed the Institute that he had merged his practice with Mr. A and the Institute closed his practicing office.

After CA and Mr. A severed their professional relationship, CA continued practicing on his own without registering as a practicing office and carried no professional liability insurance. Mr. A laid a complaint.

FINDINGS: CA was found guilty of unprofessional conduct in having:

- failed to abide by the terms of the agreement for the sale of his practice, which required him to inform his clients of the change in his practice.
- failed to register as a practicing office with the Institute of Chartered Accountants of Alberta as required by By-law 1200.
- failed to carry professional liability insurance as required by By-law 1000.

REASONS: CA agreed to advise his clients of the change in his practice which he did not do. He misrepresented his relationship with Mr. A to his clients and refused to agree to an appropriate letter being sent to his clients within a reasonable time period.

The Committee accepted evidence of the CA's failure to register as a practicing office and to carry professional liability insurance and the CA's admissions of these facts.

ORDERS: The CA was reprimanded in writing and ordered to take a professional development course on ethics. The Committee further ordered that CA pay practicing office fees for the past three years with simple interest at 10%, hearing costs to a maximum of \$5,000 and a fine of \$100.

[The hearing was completed in two days and costs totalled \$6,986.]

PUBLICATION: To the provincial institute in which the CA held concurrent membership at the time of the hearing and to all provincial institutes to which he applies for membership at any time in the future.

REASONS: The reprimand was ordered because of his unprofessional conduct. The payment of practicing office fees puts the Institute back to the same financial position as if he had paid the fees on time. The existence of the fine stresses the seriousness of his failure to follow the terms of his agreement. Costs were awarded because CA's conduct caused the investigation and hearing. The Committee did not believe publication was appropriate in the circumstances.

REFERENCE: DECISION 60

DESCRIPTION: CA was elected volunteer treasurer of a non-profit organization where he maintained bank accounts and accounting records for approximately two years until he resigned.

Although bank withdrawals required two signatures, it was common practice that one signatory presign cheques to facilitate the payment of accounts. CA utilized cheques to divert \$51,000 for personal use. After the bank returned the cheques, he altered the payee and recorded the amounts as transfers and/or cancelled. CA subsequently repaid \$14,600.

The new treasurer noticed the gaming account had an unauthorized withdrawal and contacted CA, as she was concerned that an unauthorized use of restricted funds could jeopardize the organization's main funding source. CA advised that he had put money into a savings account without informing the board and would handle the matter immediately.

Over the next week numerous attempts were made to obtain information regarding the savings account and the accounting records from CA. Finally the treasurer left a message that the CA's managing partner would be informed if the accounting information was not received that day. CA provided bank statements for the gaming and general accounts and advised he deposited \$35,000 to the gaming account. The treasurer determined the funds came from CA's personal account. The next day the bank removed the funds from the organization's account and froze CA's bank account. CA promised the organization's president he would straighten the matter out immediately.

When no action was taken by the CA, the treasurer involved the organization's solicitor. The solicitor obtained repayment of \$35,000 plus expenses. It was subsequently discovered that CA had not paid amounts he owed the organization for activities undertaken by his family; these funds were also recovered.

Mr. B, a chartered accountant and board member, informed CA's managing partner of the matter and as a result CA attempted to resign his membership and later made a voluntary disclosure to the Institute.

During the course of a preliminary investigation, the investigator contacted Ms. C, the chartered accountant whose Auditor's Report was attached to the organization's financial statements. Ms. C had not seen the financial statements, signed the Auditor's Report; nor heard of the organization. CA admitted he had signed Ms. C's name on the Auditor's Report.

At the hearing, CA also admitted to issuing a Notice to Reader for the organization's previous year end using his firm's letterhead, although it had not been engaged and had no knowledge of the engagement. The Notice to Reader did not disclose that CA was an officer and director of the organization.

- FINDINGS:** The CA was found guilty of unprofessional conduct in having:
- failed to conduct his duties as treasurer of a non-profit organization with integrity and due care by:
 - diverting to his personal use \$51,000
 - falsely representing the funds were in a savings account
 - preparing financial statements which he knew were false and misleading
 - failing to properly account for his family's expenses
 - failed to return on request, records, banking documents and other documentation after resigning as treasurer;
 - signed another CA's name on the Auditor's Report of the financial statements; and
 - issued a Notice to Reader on the organization's financial statements:
 - purporting to be issued by his firm when it was not, and
 - without disclosing that he was a director of the organization.

REASONS: CA admitted, and the evidence clearly showed he misappropriated funds under his care, misrepresented financial information, improperly accounted for personal expenses, was uncooperative and deceitful, and inappropriately issued an Auditor's Report and Notice to Reader on the organization's financial statements when he was a director and treasurer.

ORDERS: The Hearing Committee ordered that CA's registration be cancelled and that CA pay the costs of the investigation.

REASONS: Cancellation was the only appropriate penalty for this egregious conduct. Further financial penalties were not imposed due to CA's dire personal financial situation.

PUBLICATION: Notice of the cancellation to all CA's, to the non-profit organization's Board of Directors, to the CA's employer, in the "Membership Activity Report", to any provincial institutes to which the CA applies for membership in the future, in the major daily newspapers, and CA Monthly Statement on a named basis.

APPEAL: The Chairman of the Professional Conduct Committee appealed and asked for additional orders. The Appeals Committee ordered that notification be sent to the Institute of Chartered Accountants in England and Wales where the CA had previously been a member, and referred the matter to the Attorney General because perceived criminal offenses should be investigated by the appropriate authorities. No costs of the appeal were ordered because the appeal was made by the Professional Conduct Chair.

[The hearing was completed in 2 days and costs totalled \$13,850. The total costs of the appeal were \$6,468.]

REFERENCE: DECISION 61

DESCRIPTION: CA introduced two clients to each other. Client B purchased 50% of the development company client. CA also acted for an elderly third client and assisted her in finding suitable investments. The elderly client loaned \$500,000 to the development company and CA acted as bare trustee of the debenture which was security for the loan. As a result of the loan, a finder's fee of \$15,000 was paid to a company owned by CA's wife.

CA stated he had orally advised the elderly client of the finder's fee, however, she denied this. CA admitted he had not received the client's consent to accept the fee, but did not believe Rule 216 applied to the situation because, as a friend, he did not charge fees for the preparation of her income tax return.

Six months later a trust, which had CA and Client B as two of three trustees, loaned development company \$1,200,000. Client B and CA negotiated security for the loan.

Eight months later, CA's firm issued a Review Engagement Report on an associate of the development company, however, CA was not involved with this work. At about the same time, Company Z, owned 49% by Client B, loaned the development company \$2,100,000.

The development company defaulted on interest payments to the elderly client, the trust and Company Z. The development company was placed under receivership and the affiliates went into bankruptcy.

Eighteen months later CA reimbursed the elderly client for the finder's fees. Six months later CA and his firm negotiated a settlement with her to put her back into the same position on an after tax basis.

FINDINGS: The Hearing Committee found CA guilty of unprofessional conduct in having:

- directed payment of finder's fees of \$15,000 to a corporation owned by his wife after his client loaned \$500,000 to the developer.
- failed to advise his elderly client that the finder's fee was paid.

- failed to prevent his firm from expressing a Review Engagement Report on the financial statements of an affiliate of the development company, although he was a trustee of a trust that had loaned material amounts to the development company group.
- failed to stop acting for the elderly client and as trustee for the trust when there was increasing conflict between the interests of the elderly client and those of the trust and other creditors of the development company and its affiliates.

REASONS: CA allowed his wife's company to accept finder's fees without the elderly client's consent and understanding. Although CA contended that he had not earned the fee as a public accountant, the Committee concluded that all parties viewed him as a partner in a chartered accountancy firm and not as an independent financing broker.

CA was the engagement partner of the development company and the principals viewed him as the partner of the entire group. CA did not take adequate steps to advise his partners of all his activities, so they were not in a position to assess any impairment of objectivity. He acted as engagement partner for the development company, the general partner of the affiliated partnerships, Client B, the trust, Company Z and a company owned by his wife's company and the development company. The evidence clearly indicates an appearance of lack of objectivity with respect to the review engagement.

When the development company group was in financial difficulty, the interests of the elderly client, the trust and Company Z became increasingly divergent. CA should have recognized the conflict of interest and resigned from all but one of the engagements.

ORDERS: The Hearing Committee reprimanded CA in writing and suspended his registration for 30 days. It also ordered he pay a fine of \$1,000.

PUBLICATION: Notice of the suspension to all CAs, in the "Membership Activity Report", to any provincial Institutes to which CA applies for membership in the future and in the CA Monthly Statement on a no-names basis.

APPEAL: The Chairman of the Professional Conduct Committee appealed the Hearing Committee's fine and asked for costs of the investigation and hearing. Council upheld the Hearing Committee's findings and orders and in addition ordered CA to pay hearing costs of \$15,000. No costs of the appeal were awarded.

[The hearing was completed in 2 days and costs totalled \$22,134. The total costs of the appeal were \$4,436.]

REASONS: The reprimand ensures CA is clearly notified of the unprofessional nature of his conduct especially with respect to finder's fees.

The suspension demonstrated that his stature in the profession did not insulate CA from the repercussions of unprofessional conduct. Costs of the hearing were set at \$15,000 so the general membership was not responsible for CA's indiscretions yet take into account the fact that CA was not found guilty on all charges. The costs, \$1,000 fine, reprimand and suspension provide adequate specific and general deterrence. As CA was no longer in public practice, publication to outside parties was not considered necessary.

REFERENCE: DECISION 62

DESCRIPTION: A client advised a firm's managing partner that one of his partners had directed finder's fees be paid to his wife's company. This breached the firm's partnership agreement and the managing partner referred the matter to his head office. The client subsequently made a complaint against the managing partner for his failure to advise the Institute of his partner's conduct.

FINDINGS: The Hearing Committee found CA guilty of unprofessional conduct for failing to bring to the attention of the Executive Director certain matters brought to his attention which cast doubt on the reputation and integrity of his partner.

REASONS: The Committee concluded CA determined that there was sufficient evidence of doubt as to the integrity of his partner to warrant the referral of the matter to the Firm's head office. At the time when he determined that this integrity issue required investigation by the Firm, he had the additional obligation under Rule 211 to bring the matter to the attention of the Executive Director.

The Committee did not consider the matter trivial and considers the duty to report under Rule 211 to be a vital element in protecting the public interest and the integrity of the profession. All members are responsible for knowing the Rules and CA should have known there was a duty to report this matter to the Executive Director. As the partner-in-charge of the office he was responsible for the compliance of that office with the Rules.

The actions which were in contravention of the Firm's partnership agreement could have only led CA to doubt his partner's integrity. Having determined this integrity issue required investigation by the Firm, he should have known that the matter should have been brought to the attention of the Executive Director. Advising his head office of the event did not absolve him from his duty to advise the Institute on a timely basis.

ORDERS: The Hearing Committee reprimanded CA and ordered he pay the total costs of the investigation and hearing.

[The hearing was completed in 2 days and costs totalled \$12,080.]

PUBLICATION: In the CA Monthly Statement on a no-names basis, to the provincial institute in which he also retains membership, and to any provincial institute to which CA applies for membership in the future.



REASONS: The Committee considers the penalties are appropriate given the seriousness of the findings. The Committee is concerned CA appeared to place the importance of the firm's head office ahead of the Institute, the body established by statute to protect the public interest.

No names disclosure informs members without unnecessarily eroding CA's reputation.

REFERENCE: DECISION 63

DESCRIPTION: CA was engaged as the bookkeeper and quasi-controller of a group of companies. The owner, an inexperienced businessman, invested in three food franchise outlets operating in two other provinces. A holding company owned the capital assets and the shares of the operating entities.

Appropriate bookkeeping routines were set up for the day to day accounting for the operating companies and monthly financial statements were produced. However, the holding company was relatively inactive and required only annual financial statements. There was no system to deal with its start-up transactions and capital acquisitions.

Capital assets were acquired not only in the holding company but also through the operating companies. When the operating companies purchased fixed assets, journal entries were booked to transfer them to the holding company. CA in a remote location, was left to determine the assets of the holding company.

In addition to his bookkeeping role, CA also provided year-end compilations/reviews for the companies. CA did not keep a capital asset ledger or record such information in his working paper files. In addition, he did not maintain total segregation of the documentation involved in his two roles. As a result the client records did not stand alone without reference to the working papers nor did the working papers stand alone without reference to the client's records.

The client removed his records but did not copy the relevant data in the working papers. The successor accountant attempted unsuccessfully to determine fixed assets by location and did not review CA's files despite an invitation. After a complaint was filed by the client, CA provided his working paper files to the client.

FINDINGS: The Hearing Committee found CA guilty of failing to perform his duties with integrity and due care in that he failed to retain sufficient documentation and/or source documents to support his journal entries.

- REASONS:** CA did not ensure that the clients' records contained sufficient information that would allow an analysis of capital assets with a modest amount of reconstruction. Nor did he ensure that there was sufficient detail included in the journal entries to readily identify their cause and the related assets. The documentation did not meet professional standards to support the capital asset journal entries.
- ORDERS:** The Committee reprimanded CA in writing, accepted CA's undertaking to assist the complainant in reconciling the capital assets by providing five working days by himself and one of his staff at no cost to the complainant. The Committee ordered that CA pay one-half of the costs of the investigation and hearing up to \$4,500.
- [The hearing was completed in 2 days and costs totalled \$12,911.]
- PUBLICATION:** In the CA Monthly Statement on a no-names basis, to the provincial institute in which he also retains membership, and to any provincial institute to which CA applies for membership in the future.
- REASONS:** Costs approximate the portion of time spent on matters on which he was found guilty. The insertion in the CA Monthly Statement provides general deterrence.



REFERENCE: DECISION 64

DESCRIPTION: CA was engaged as the auditor of a non-profit organization. Audit materiality was set at \$500. After the treasurer's death, the Board determined there was a significant amount of money missing from the organization's accounts over the past five years.

In performing the audit, CA did not trace transactions from the expenditure journal to vouchers; he simply reviewed the neatly assembled vouchers.

He failed to provide the Board with concerns regarding internal control, advise the board about the numerous cheques payable to cash or the bank, review the budgets, and did not discuss the financial statements with the board members.

FINDINGS: The Hearing Committee found CA guilty of unprofessional conduct in having failed to perform his audit engagements with due care and having failed to obtain sufficient appropriate audit evidence to afford a reasonable basis to support the contents of his reports.

REASONS: CA admitted that he failed to obtain sufficient appropriate audit evidence to afford a reasonable basis to support the content of his reports. His working papers failed to provide any evidence of verification of expenses, analysis of expenditures nor evaluation of expenditures in the planning stage.

There was no evidence that the Board's minutes nor the annual budgets were examined. The direction of testing used by CA would not reveal overstatement of expenses.

ORDERS: The Hearing Committee reprimanded CA, prohibited him from auditing unless he is under the supervision of an approved chartered accountant until he complies with practice review standards and completes a specified professional development course, and ordered him to pay the total costs of the investigation and hearing.

[The hearing was completed in 1 day and costs totalled \$7,084.]

PUBLICATION: In the "Membership Activity Report", to any person who directs an enquiry to the Institute while the restriction is in place, and to all provincial institutes to which CA applies for membership at any time in the future.



REASONS: The reprimand reminds CA of the high level of conduct he is expected to maintain. Supervision and attendance at the course will protect the public and update his skills. The publication serves as a general deterrent.

REFERENCE: DECISION 65

DESCRIPTION: CA was president of a private school until the fall of 1994. He prepared the working paper file supporting the financial statements for the year ended August 31, 1994. At the Board meeting where he resigned, he offered to perform the school's audit. At that time a Board Member questioned whether there was a conflict of interest. CA issued an auditor's report on the financial statements for the year ended August 31, 1995. In the spring of 1996, he again became president of the school.

The financial statements did not include a Statement of Changes in Financial Position, depreciation nor disclosure of capital leases.

Insufficient verification was done on revenues and cutoff. There was no review of internal control, no internal control letter, no documentation of knowledge of client, no completed risk assessment, no bank confirmation, no working papers for commitments and contingencies, no audit checklist, no engagement letter and no letter of representation.

There was no evidence of receivable confirmation, no evidence of review of completeness of payables, no evidence of cut-off procedures and no evidence of testing revenues and expenses other than salaries and government grants.

FINDINGS: The Hearing Committee found CA guilty of unprofessional conduct in having

- issued an auditor's report on the financial statements for the August 1995 year end although he served on the Board up until the fall of 1994 and returned to the board in the spring of 1996, and
- failed to gather appropriate audit evidence to support the contents of his report and/or failed to properly document and retain documentation of audit procedures performed.

REASONS: In order to minimize costs for the school, CA lost his objectivity and overlooked his obligations as a member. He issued his auditor's report for a period in which he was an officer and director in breach of Rule 204.1. He did not wait for an appropriate period of time to pass before accepting the audit engagement.

The testimony of CA and the senior who performed the audit and a review of the working papers indicated significant breaches of Rules 202, 206 and 218.

ORDERS: The Hearing Committee reprimanded CA, accepted his undertaking to withdraw from public practice, and ordered that should he reenter public practice, CA complete the audit refresher course and be subject to practice review within six months of reentry. The Committee ordered CA pay the total costs of the investigation and hearing.

[The hearing was completed in 2 days and costs totalled \$18,805.]

PUBLICATION: To the provincial institute in which CA holds concurrent membership and to all provincial institutes to which CA applies for membership at any time in the future.

REASONS: The Committee considered the length of time CA has been in practice, the circumstances surrounding the matters, the testimony of witnesses as to his motivations and integrity and that CA is retiring from practice and operating under a succession arrangement leading to his withdrawal.

Accordingly the Committee determined a reprimand was more appropriate than a suspension or restriction. The decision to award costs became one of fairness to the general membership after taking into account the time spent on irrelevant issues raised by CA's counsel.

The Committee determined that fines were inappropriate and no optional publication was required.

REFERENCE: Decision 66

DESCRIPTION: CA practiced as a sole practitioner from 1990 to mid 1992. A Practice Review had ordered a follow-up review by late 1992. When the CA closed his practice and joined a firm in late 1992, the review was waived because of his new association.

CA re-opened a sole practice in early 1994. Following a Practice Review in late 1995, the Practice Review Committee ordered a follow-up review within 1 year and made a complaint because of concerns in both the audit procedural and financial statement presentation areas (both also a concern in 1991 Practice Review).

As a result of a Professional Conduct Committee offer, the CA provided the ICAA with an undertaking in mid 1996 to take two Professional Development courses, to have an independent review of all audit engagement clients by a CA acceptable to the Professional Conduct Committee Chairman, and to comply with the recommendations of the independent reviewer until the PRC was satisfied that the supervision was no longer required. The Professional Conduct Committee Chairman approved the supervising firm and advised it of the terms of the undertaking and of its expected role.

The CA attended two Professional Development courses in late 1996. During the follow-up Review, the Practice Reviewer asked the CA if audit engagement files had been reviewed by the supervisor. CA was uncertain whether one file had been reviewed by the supervisor. CA claimed that due to time constraints regarding release of financial statements, the supervisor had not reviewed the only other audit file.

The Practice Review Committee Chair made a complaint. Testimony indicated that the supervisor had not reviewed either audit file.

FINDINGS: The Hearing Committee found the CA guilty of unprofessional conduct in having:

1. breached an undertaking to ICAA by failing, prior to issuance of audited financial statements, to have an independent review of financial statements and working paper files of audit engagements; and
2. issued an auditor's report for two clients although the CA:
 - a) failed to obtain sufficient appropriate audit evidence to support his opinion, and
 - b) failed to comply with generally accepted auditing standards.

- REASONS:** Testimony of witnesses supported the charges of unprofessional conduct. The CA acknowledged that there was no misunderstanding of the undertaking to ICAA. The CA failed to provide adequate mitigating circumstances to explain his actions, and the Committee rejected time constraints as a justifiable reason. The CA made arrangements to comply with the undertaking to have independent reviews of all audit engagements, but deliberately delayed implementation. The Practice Review report set out numerous deficiencies of documentation of work performed, which led the Committee to conclude that there was insufficient appropriate audit evidence to support the opinions and that the CA failed to comply with generally accepted auditing standards. The CA admitted guilt on all charges.
- ORDERS:** The Hearing Committee ordered the registration of the CA be suspended until successful completion of the Certification Course Exam and the CA Reciprocity Exam. The Committee ordered the CA pay all costs of the investigation and hearing.
- [The hearing was completed in 2 days and costs totalled \$6,025.]
- PUBLICATION:** To all provincial institutes, and to those institutes to which the CA applies for membership at any time in the future, notice of suspension to all CAs, in local newspaper, and to all members of the public enquiring about discipline history.
- REASONS:** The Committee determined suspension was called for because the CA showed clear disregard for meeting professional obligations as given in his undertaking to ICAA, which was a responsibility both to the governing body and to the public. The ICAA has an obligation to the public to ensure members meet standards, which, in this case, the CA did not meet.
- The attest function is a major function of ICAA members and the CA failed to discharge his obligations to perform the audit with due professional care in that he failed to obtain sufficient evidence to support the opinions rendered.
- Costs of the investigation and hearing should be borne by the CA, not the general membership. Publication of CA's name as directed was necessary to advise the public of the member's standing.

REFERENCE: Decision 67

DESCRIPTION: CA's client had a banner financial year. On the CA's advice, the operating company (OPCO) recorded a management fee expense of \$336,000 to a sister company (SISCO) for 1992. The CA did not document the tax plan.

The CA did all of SISCO's bookkeeping, and reflected \$336,000 as revenue, a \$175,000 bonus payable, and a \$80,000 salary payable. The CA did not insist either verbally or in writing that the salary and bonus be declared as income within 180 days of SISCO's 1993 year end.

The shareholders purchased a home in 1993, withdrawing \$190,000 from OPCO. Although the salary expense was recorded in SISCO, the two shareholders each declared a \$40,000 taxable income based on T4s from OPCO.

The CA issued a review engagement on OPCO's 1993 financial statements, but admitted his work was that required for a compilation engagement.

The 1994 financial statements for SISCO showed \$60,000 revenue, representing a partial reversal of the \$225,000 shareholder remuneration expended in fiscal 1993. The CA reclassified \$115,000 of the "bonus payable" to "due to shareholders."

In 1994, the shareholders each declared \$40,000 personal taxable income based on a T4 from OPCO, although the expense was recorded in SISCO. The shareholders' loans from OPCO increased by \$80,000 in 1994.

SISCO's 1995 financial statements showed \$55,000 revenue, a reversal of part of the \$255,000 shareholders' remuneration expended in 1993. The shareholders declared \$65,000 each based on a T4 of \$35,000 and a T4A of \$30,000 issued by OPCO. In each year, the CA issued T4 slips from OPCO despite knowing that the remuneration covered was expensed in SISCO. The CA could not reconcile the original bonus to the amounts reflected in taxable income by SISCO or the shareholders. The shareholders withdrew an additional \$70,000 from OPCO in 1995, leaving a balance of \$340,000.

The CA failed to return phone calls from the shareholder or respond to questions from 1992 to 1996. The CA also failed to respond to a letter from a new accountant requesting information in 1996.

FINDINGS: The Committee found the CA guilty of unprofessional conduct for:

1. failing to advise his clients in a timely manner of the significant tax problems arising from their shareholders' loans;
2. failing to advise and perform appropriate tax planning for owner-managed businesses;
3. failing to pay out to his clients a bonus payable of \$175,000 as reflected in 1993 financial statements, and failing to include the bonus in his clients' personal incomes, or, alternatively, failing to advise his clients of the consequences of not paying the bonus;

4. issuing a review engagement report on financial statements despite failing to perform necessary enquiries, analytical procedures, and discussions necessary to enable the CA to determine the plausibility of the financial statements reported on; and
5. failing to sustain his professional competence by keeping informed of and in compliance with developments in professional standards in all functions in which he practiced.

REASONS:

The Committee concluded that the CA did not direct sufficient attention to the affairs of the shareholders and their companies; did not recognize tax problems in a timely manner; and did not advise clients adequately. When he did recognize the issues, his solution was outside established tax requirements. He also filed information inconsistent with the facts. The CA's medically diagnosed depression could have affected his ability to concentrate on the issues at hand. The CA's lack of due care and attention led to decisions over three years which could not be professionally defended; he failed to advise his clients in a timely manner of several significant issues. There was no evidence of services provided by SISCO, contracts for services, or other evidence of a bona fide arrangement. Funds were available to pay the tax on the income declared by SISCO to the shareholders within the prescribed time. The CA did not consider the attractiveness of the permitted shareholder loan to purchase a residence. The CA failed to provide appropriate tax planning or to offer adequate advice about tax planning opportunities. The CA's file contained little more than a working trial balance. The CA admitted that he had not completed any of the steps or documentation required to elevate the file from a compilation to a review engagement, and acknowledged that he should not have issued a review engagement report.

The CA failed to:

1. comply with professional standards for review engagements;
2. demonstrate knowledge regarding loans to shareholders for home purchase;
3. follow tax law concerning bonuses expended;
4. adequately account for transactions reported in financial statements and tax returns; and
5. document his tax plan, communications made to clients, and review procedures.

ORDERS:

The Committee reprimanded the CA in writing, prohibited him from practicing accounting generally except under supervision of a member approved by the Professional Conduct Committee, and ordered he pay all costs of the investigation and hearing plus a \$1,000 fine. [The hearing was completed in 1 day and costs totalled \$8,933.]



PUBLICATION: In the CA Monthly Statement, notification to all members and to provincial institutes, in “Membership Activity Report,” and to anyone enquiring at ICAA.

REASONS: The CA indicated he wanted to pursue teaching and business projects and appeared unwilling to dedicate enough care and attention to meet expected professional standards. The Committee felt that a complete prohibition from public practice would be extreme, and offered the possibility of public practice under supervision.

The CA’s practice had slipped such that clients would routinely experience inadequate professional services. As the CA was planning to phase out of public practice, public dissemination of the orders was considered unnecessary.

REFERENCE: Decision 68

DESCRIPTION: The CA was a partner in a small CA firm. His son formed a limited partnership in 1993 to operate restaurants. The son owned all of the shares of the general partner and was the initial limited partner. When a private offering memorandum was issued in late 1993, the CA approached parties as limited partnership investors, advising them of his son's role.

On the firm's letterhead, the CA issued an unqualified auditor's report on the limited partnership's financial statements for the year ended Dec. 31, 1993. He did not use the current format for the auditors' report.

Contrary to firm procedure, the CA did not disclose his involvement in the limited partnership to his CA partners, and did not report his audit work time or follow the firm requirement to have a second partner review audited financial statements before their release. The CA firm had no record of the financial statements, tax filings, or working paper files.

The CA resigned from the firm effective March 31, 1994 and opened a sole practitioner office in April. No working paper files existed supporting the audit of his client, as he testified that they had been destroyed in a fire at the restaurant's premises.

The financial statements reflected the investment in the restaurant on an earning of net profit basis, not a joint venture basis, as the CA admitted he should have done. Also, disclosure of capital contributions between cash and promissory notes was inadequate.

The CA issued T5013 forms to the partners that did not accurately reflect the partners' loss (he had not considered the effect of the outstanding promissory notes on the total loss).

FINDINGS: The CA was found guilty of unprofessional conduct in failing to perform professional services to the limited partnership with integrity and due care in that he:

1. issued an unqualified auditors' report on the limited partnership's financial statements although:
 - a. his son was the initial limited partner and owned all of the general partner shares;
 - b. he failed to gather sufficient appropriate evidence to support the content of his report, or failing to fully document and/or retain documentation and working papers to reasonably evidence the nature and extent of work performed and the auditors' report failed to comply with s.5400 or s.5500 of the CICA Handbook;
 - c. the financial statements failed to comply with generally accepted accounting principles;
2. issued an unqualified auditors' report on the firm's stationery although the firm had no record in the files or time records of performing the engagement; and

3. issued T5013 forms to the partners of the limited partnership which did not accurately reflect their loss.

REASONS: Disclosure did not negate the CA's requirement to maintain objectivity. Due to his relationship with his son, he did not meet the appearance of objectivity. The Committee felt that he should have taken reasonable precautions to ensure the safe custody of the working papers. His failure to try to reconstruct the files and document the overall audit procedures completed was a breach of Rule 218.

The Committee found that the incompleteness of the auditors' report and its lack of compliance with s.5400 recommendations seriously breached Rules 203 and 206.

The CA admitted that his accounting for the capital assets investment in the operating entities was inaccurate. The Committee determined that he breached Rules 202, 203, and 206.

His failure to advise his CA partners of his involvement as auditor of the limited partnership and his failure to record his time constitute a lack of good faith in dealing with his partners, and was also not conducive to maintaining the profession's good reputation or ability to serve the public interest.

The Committee determined that the T5013s were inaccurate because the capital assets had been expensed and the loss available did not reflect the outstanding notes payable. The CA demonstrated a lack of due care and competency in performing his auditing and tax services.

ORDERS: In addition to cancelling the registration of the CA and the permit of his professional corporation, the Hearing Committee ordered him to pay the costs of the investigation and hearing and a fine of \$20,000. [The hearing was completed in 2 days and costs totalled \$10,258.]

PUBLICATION: Notice of cancellation to all CAs, to his clients in the CA Monthly Statement on a named basis, to all provincial Institutes and in the newspaper. Clients have not been advised at time of this printing because CA failed to provide ICAA with a list.

REASONS: The CA's violation of the rules of professional conduct and lack of maintenance of professional standards was not an isolated incident; the CA had been found guilty of other violations in the past. The Committee determined that the CA was incapable of retraining and unlikely to adhere to the rules and standards of the profession. Cancellation of his registration was in the best interests of the public and the profession.

REFERENCE: Decision 69

DESCRIPTION: The complainant owned a corporation that was a client of the CA's firm from 1984 to 1991. In 1990 and 1991, the corporation filed quarterly reports with a government agency. These were not prepared or reviewed by the firm.

In 1991, the partner responsible for the client's work left the firm and opened his own practicing office. The corporation retained the departing CA as its accountant, acknowledged by the CA's firm in November 1991. The client continued to file its quarterly reports unassisted.

The government agency audited the quarterly reports, but before issuing a reassessment, it engaged the CA's firm to evaluate the facts, methodology, and proposed reassessment from November 1991 to January 1992. In 1993, the CA sent the agency an engagement letter. The agency sent a contractual agreement to the CA's firm outlining the firm's duties and the terms and conditions of the engagement. The CA signed this agreement of behalf of the firm.

During the next four weeks the firm carried out its engagement. The government agency supplied all information, including the client's reports and back-up documentation. The CA firm's review concentrated on the period 1990 to 1992 and included a review of the quarterly filings and back-up documentation. After receiving the firm's report, the government agency issued the reassessment. The former client complained to the ICAA.

FINDINGS: The Appeals Committee confirmed the Hearing Committee's finding that the CA was guilty of unprofessional conduct in having:

1. accepted a forensic accounting engagement for a government agency and reporting on a filing reassessment (November 1991 to January 1992) although his firm was the client's accountant of record until the week preceding the filing period; and
2. issued a report to the government agency in 1993 which failed to disclose that the corporation reported on was a review engagement client of the firm when that relationship would be seen by a reasonable observer to impair the member's professional judgement or objectivity.

REASONS: The Committee found that the firm's procedures included the review of documents relating to the corporation's affairs from 1990 to 1992. The firm issued a review engagement report on the financial statements of the corporation for the year ended Dec. 31, 1990.

The Committee determined that it was inappropriate for the CA to accept an engagement to conduct an investigation which included reviewing documents regarding the corporation's business affairs while the corporation was a client. The public must be assured of the CA's freedom from any conflict of interest or the appearance of any impairment of judgement or objectivity.

The Committee believed that a client must be confident that the CA's knowledge of its business affairs would not be used to the detriment of the client. Allowing otherwise would adversely impact the good reputation of the profession and its ability to serve the public interest. Although no breach of client confidentiality was found, the CA contributed to the perception of impaired objectivity by accepting and carrying out the engagement which included scanning documents related to the client's 1990 business affairs. This represented a conflict with the interests of the client.

The Committee noted that the CA failed to document the facts and circumstances leading to his decision to accept the forensic accounting engagement. Given the decision on the first charge, the CA was also found guilty of the second charge, since the forensic accounting report did not disclose that the corporation had been a review engagement client.

ORDERS: The CA received a written reprimand from the Committee. In recognition of the difficulty of exercising judgement in this case, 50% of the costs were assessed. The Committee noted that there was no evidence of dishonesty or deliberate impropriety.

[The hearing was completed in 2 days and costs totalled \$8,213.]

PUBLICATION: On a no-names basis in the CA Magazine, and notification of all Committee findings and orders to all provincial institutes.

APPEAL: The CA appealed the Hearing Committee's decision. The Appeals Committee confirmed the decision and orders as it heard no new evidence or arguments to cause it to believe that the Hearing Committee's findings were in error or to cause it to vary the penalties ordered by the Hearing Committee. No costs of the appeal were assessed.

REFERENCE: DECISION 70

DESCRIPTION: The CA and his wife signed a Minutes of settlement and Matrimonial Property Settlement agreement, stating that each party had made full and fair disclosure to the other of his or her present assets and liabilities. Additional information given to the ex-wife at a later date indicated that full disclosure was not made. A civil litigation suit was initiated and a Court of Queen's Bench judgment was issued in excess of \$300,000. Collection on the judgment was a lengthy process with two contempt orders being issued against the CA for actions taken in an attempt to thwart a court order. One of the actions taken by the CA involved signing a document in front of witnesses, then claiming that the signature was a forgery.

FINDINGS: The CA was found guilty of unprofessional conduct in having failed to maintain the good reputation of the profession and its ability to serve the public interest in having:

- a. made representations which he know or ought to have know were false or misleading when he misrepresented the nature and extent of matrimonial assets to his wife and/or her lawyer during the divorce settlement,
- b. been found in contempt of a Court order in attempting to avoid collection proceedings on a court awarded Judgment, and
- c. signed a letter, and then subsequently advised the recipient that the signature was a forgery.

REASONS: The charge that the CA misrepresented the nature and extent of marital assets was established, not only by the fact that the court awarded an additional judgment in the civil litigation action, but by information from the CA's own files. The CA was found guilty of contempt by two orders of the Court of Queen's Bench of Alberta, which orders were confirmed by the Alberta Court of Appeal. The fact that the CA finally responded to the court orders and was not incarcerated, did not extinguish the actual contempt convictions.

The CA signed documents in the presence of witnesses, yet made representations that his signature was a forgery in order to cause delay in transferring title, and allowing him time to remove the contents of the condo.

ORDERS: The CA's registration was cancelled. He was ordered to pay full costs of the investigation and hearing and a fine in the amount of \$10,000 within 60 days from the date of service of the statement of costs.

[The hearing was completed in four days and costs totalled \$32,464.11]



REASONS: The total conduct of the CA showed that he did not respect the ideals of professional conduct. There was no mitigation of these actions and little hope of redemption. The CA has damaged his own reputation and with it that of the profession. Of the orders available, expulsion was the only appropriate alternative.

There are three findings of guilt and a fine could be levied in each of them, however all of them related to the single event of marital settlement. The \$10,000 fine is regarded as the maximum in this case.

PUBLICATION: To all provincial Institutes, and to those Institutes to which the CA applies for membership at any time in the future, to all members of the public enquiring about the discipline history, and notice of the cancellation, the nature of the conduct and orders made to the general public by publication in the daily newspaper.

1998

REFERENCE: DECISION 71

DESCRIPTION: The CA was a sole practitioner subjected to a Practice Review. Due to major deficiencies, a follow up review was directed within twelve months. The follow up review directed a further follow up within twelve months. During this time and while under a doctor's care, the CA requested that the Institute be appointed custodian of his practice. A Court order was obtained and the Institute proceeded to wind up the practice. The CA filed an assignment in bankruptcy. Two representatives of the three practicing offices that assumed the CA's files, testified as to the lack of documentation, working papers, representation and engagement letters and incomplete year end checklists in audit and review engagement year-end files. There were also numerous adjustments required on T1 general returns prepared by the CA. The Institute received four requests from the CA's clients for restitution, which were referred to the liability insurers for the CA.

FINDING: The CA was found guilty of unprofessional conduct in having failed to maintain the good reputation of the profession in having:

- been unable to provide professional services in a prompt and timely manner, and
- in having made an assignment in bankruptcy.

REASONS: The CA chose not to contest the facts nor present additional facts by not attending the hearing. Testimony and evidence revealed that the CA failed to recognize his difficulties and resisted the reality of the situation.

ORDERS: The CA was:

- prohibited from engaging in the practice of accounting generally, except under an approved supervisor who would review all working paper files prior to release of any financial statements and tax returns,
- ordered to comply with the supervisor recommendations, and
- ordered to maintain a professional liability insurance discovery policy for a period of five years.

REASONS: By his own admission in correspondence, the CA suffered a mental breakdown and was under a doctor's care. He was not presently competent to practice. Consideration was given by the Committee to the CA's current financial circumstances, noting that an order of fines and costs could exasperate his situation.

PUBLICATION: To all provincial Institutes, and to those Institutes to which the CA applies for membership at any time in the future, to all members of the public enquiring about the discipline history or status, and notice of the limitation, the nature of the conduct and orders made to all members by inclusion once in the "Membership Activity Report."

REASONS: As the CA's clients had been dispersed under the custodianship and by his own admission the CA could not continue to practice, notification to the CA's clients or the general public was not necessary or warranted.

1998

REFERENCE: DECISION 72

DESCRIPTION: The CA was in a partnership with another CA. The CA opened a cash trading account with a securities firm, then requested that his investments be moved to another securities firm. During the transition, he instructed the old firm to sell certain shares and to provide him the sale funds on an expedited basis. He then instructed the new securities firm to liquidate some of his holdings. The old firm, in error, had transferred the shares that were sold, and immediately requested the new securities firm to return the shares. The new securities firm declined as they had already sold the shares and the funds had been paid out to the CA. The CA was requested to replace the shares by the old firm. The CA placed an order for replacement shares, however the share value had increased and he did not have the funds to settle the purchase. At this time the CA was selling his partnership interest, and purchasing a private business. He ceased his accounting practice to concentrate on the business. A settlement attempt with the old securities firm failed, and a Court judgment was awarded against the CA. The private business was sold, but no funds were available to pay off the judgment. The CA's former partnership was then assessed by Revenue Canada for outstanding GST, which resulted in garnishee proceedings. The CA made an assignment in bankruptcy.

FINDINGS: The CA was found guilty of unprofessional conduct in having failed to rectify the situation in a timely manner when he was advised that his investment account was short 15,000 shares.

REASONS: The CA admitted that he was aware that his account was short 15,000 shares but delayed in requesting that the investment company purchase replacement shares. He was then unable to pay the account.

ORDERS: The CA was given a written reprimand, and ordered to provide quarterly financial statements of his professional practice to the Professional Conduct Chair. Each year is to be independently reviewed at the CA's expense. The reports are to continue until Dec 31, 2000, or such time as the Professional Conduct Chair advises that they are no longer required. The CA was ordered to pay one third of the costs of the investigation and hearing, not to exceed \$1,200 and a \$1,000 fine by Sept. 9, 1999. [the hearing was completed in one day and costs totalled \$5,186.12]

PUBLICATION: To all provincial Institutes and to those Institutes to which the CA applies for membership at any time in the future.

REASONS: The written reprimand was given to impress the seriousness of not dealing with financial obligations in a timely and satisfactory manner. Costs were based on the fact that he was found guilty on one of the three charges. The fine was to make him aware of how seriously his conduct was viewed. The review of the CA's financial affairs was ordered, so that corrective action could be taken immediately if problems arise. It was felt no useful purpose would be served by further publication than what was ordered.

1998

REFERENCE: DECISION 73

DESCRIPTION: The CA had been found guilty of unprofessional conduct and had been ordered (in part) to pay 100% of the costs of the investigation and hearing within three years from the date of service of the statement of costs.

On appeal, the Appeal Committee accepted a consent order, that reaffirmed the payment of costs within the original three years.

When the three year deadline arose, less than 10% of the costs order had been paid.

FINDING: The Compliance Hearing Committee found that the CA contravened that part of the consent order that he pay 100% of the costs of the investigation and hearing within 3 years from the date of service of the statement of costs.

REASONS: Evidence showed that over 90% of the costs had not been paid. There was clearly a large balance outstanding.

ORDERS: The Compliance Hearing Committee ordered that the registration of the CA be suspended pending payment of a specific monthly amount in 48 post dated cheques payable to the Institute of Chartered Accountants with one substantial final payment.

PUBLICATION: To all provincial Institutes, and to those Institutes to which the CA applies for membership at any time in the future, to all members of the Institute in the next general mailing, to all members of the public enquiring about the discipline history, and notice of the suspension, the nature of the conduct and orders made to the general public by publication in the daily newspaper.

REASONS: All other matters in the original consent order had been successfully concluded. The Committee felt that these orders and publication will resolve the one outstanding matter and if not fulfilled will result in cancellation of the member.

1999

REFERENCE: DECISION 74

DESCRIPTION: The CA entered public practice as a sole practitioner, and then incorporated a professional corporation. He practiced in association with another Chartered Accountant, who was a one third shareholder in a sports equipment company. The CA performed a review engagement for the sports equipment company and issued a review engagement report on their financial statements for the 1997 year end. These financial statements were provided to the company's bank. The CA also issued a Notice to Reader on the financial statements of the company for the 1997 year end. These compilation financial statements were attached to the T2 corporate income tax return and were used in the computation of taxable income. The financial statements provided to the bank had an inventory and gross profit of almost \$200,000 more than the financial statements provided to the tax department. The working paper file indicated that changes were made to produce the financial statements for the tax department prior to the issuance of the financial statements to the bank. The ICAA conducted a practice review on this file and the reviewer recommended that the office was in compliance with generally accepted standards. The Practice Review Committee disagreed, and a complaint was filed.

FINDINGS: The CA was found guilty of unprofessional conduct in failing to perform his professional services with due care in that he:

1. issued a review engagement report and a notice to reader dated July 30, 1997 on financial statements for the 1997 year end, although the two sets of financial statements were materially different;
2. associated himself with financial statements which he knew or should have known were false and misleading; and
3. failed to hold himself free of any influence, interest or relationship which in the view of a reasonable observer would impair his objectivity when performing professional services for a company one third owned by his associate.

REASONS: The CA admitted that he had issued a review engagement report and a notice to reader, even though the two sets of financial statements were materially different. The Committee concluded that because of the differences between them, logically at least one of them had to be false and misleading. The Committee felt that the member was not free of possible influence by reason of his cost sharing association with the one third shareholder of the company. The Committee was of the opinion that the member deliberately issued both sets of financial statements at the same time, one set for general use including the bank and another set for the income tax returns.

ORDERS: The CA was reprimanded, in writing and the registration of the CA and the permit of his professional corporation was suspended generally for thirty days. The CA was ordered to pay the costs of the investigation and hearing and a \$3,000 fine to be paid within 120 days from service of the statement of costs.

[The hearing was completed in one day and costs totalled \$7,636.15]

- REASONS:** The severity of the orders reflect the very serious nature of the CA's professional misconduct. Suspension for a longer period than 30 days and publication in the CA Monthly Statement on a named basis would have been considered, had the member not possessed an otherwise unblemished record of appropriate professional conduct prior to this incident.
- PUBLICATION:** To all provincial Institutes, and to those Institutes to which the CA applies for membership at any time in the future, to all members of the public enquiring about the discipline history, and notice of the suspension, nature of the conduct and orders made to all members by general mailing and by way of insertions in the "Membership Activity Report" once when the suspension starts and once when expired. Notice of the Committee's findings, the nature of the conduct and orders made are to be published in the daily newspaper, and the CA Monthly Statement on a no-names basis.
- APPEALS:** On appeal before Council, the findings of the Hearing Committee and its reasons were confirmed. The Council confirmed the order of the Hearing Committee that the member receive a written reprimand, and pay the total costs of the investigation and hearing and a \$3000 fine. Council vacated the order of the Hearing Committee that the member be suspended for 30 days. Council confirmed the publication order of the Hearing Committee except it deleted publication twice in the "Membership Activity Report." Council ordered that the CA pay 75% of the costs of the appeal. [The appeal hearing was completed in one day and costs totalled \$8,642.95]
- REASONS:** Council was of the view that the 30 day suspension ordered by the hearing Committee would not serve as a meaningful deterrent to the member or other members nor was it sufficiently lengthy to be an effective penalty. Council concluded there was no meaningful basis for appealing the finding of guilt of the hearing committee raised during the appeal, and therefore the member should bear a significant portion of the appeal costs. However, the order had been varied, so it was appropriate that the member pay 75% of the appeal costs.
- COURT:** The Court of Appeal allowed the appeal with respect to the second count that the CA associated himself with financial statements which he knew or should have know were false and misleading. The guilty finding on that count was vacated by the Court as they felt the charge associating himself with financial statements which he knew or should have known were false and misleading was included in count one when he issued a review engagement and a notice to reader dated July 30, 1997 on financial statements for the 1997 year end, although the two sets of financial statements were materially different. The Court confirmed the findings of Council on the other two counts. The fine was reduced to \$2,000, and the amount of costs payable by the member on the investigation and hearing and the appeal were reduced by one third.

1999

REFERENCE: DECISION 75

DESCRIPTION: The CA prepared a T1 income tax return for a client, compiled the 1996 financial statements for the client's trucking enterprise which was incorporated in 1995, the 1996 T-2 corporate tax returns for the company as well as the T2057 election on transferring the assets of the proprietorship to the corporation. The individual then changed accounting firms. The new CA requested clarification about the T2057, the 1995 personal tax return and the 1996 T2. He was unable to get a response and requested assistance of the Institute. The CA then provided certain information to the new CA but did not respond to the initial letter.

FINDINGS: The CA was found guilty of unprofessional conduct in having failed to maintain the good reputation of the profession with respect to professional services provided to the individual and the company by:

- failing to perform his professional services with integrity and due care with respect to the preparation of a T2057 election form to transfer assets of the individual to the company and his preparation of a capital cost allowance schedule for the company, and
- failing to respond promptly to queries and provide information regard the work he performed to the individual and the successor accountant.

REASONS: There was an inconsistency between the T2057 amount and the T1 amount which represented an error, either an overstatement on the T2057 or an understatement on the T1. The Committee concluded that the amount in the T2057 was incorrect. The CA did not act with due care, he made errors on the T2057 form and when a concern about the form was raised, he did not act promptly to investigate that concern and then to mitigate the consequences. The capital cost allowance schedule attached to the company's T2 return showed the fair market value of the transferred assets and subsequent additions, instead of the agreed amount. There was a nine month period from the initial request of the new CA to the response. It is clear that the CA did not respond promptly and provide information requested by his successor.

ORDERS: The CA was verbally reprimanded and ordered to pay costs of the investigation and hearing within 60 days from the date of service of the statement of costs.
[The hearing was completed in one day and costs totalled \$5,238.47]

PUBLICATION: To all provincial Institutes, and to those Institutes to which the CA applies for membership at any time in the future, and to all members of the public enquiring about the discipline history.

REASONS: Had the CA supplied the requested information, the investigation and hearing would not have occurred. A reprimand was warranted as the CA's conduct was contrary to the good reputation of the profession and its ability to serve the public interest. The mandatory publication specified by the Institute was considered appropriate to impress on the CA the seriousness of his actions.

1999

REFERENCE: DECISION 76

DESCRIPTION: A CA refused to co-operate in a third follow up practice review. Attempts were made to coordinate the third follow up practice review with 5 dates being scheduled, then ignored by the member. A complaint was made by the Chair of the Practice Review Committee.

FINDINGS: The CA was found guilty of unprofessional conduct in failing to cooperate with a third follow up practice review.

REASONS: Letters were entered and evidence was given by three witnesses of all the attempts made to gain the cooperation of the member to conduct the follow up review.

ORDERS: The Hearing Committee verbally reprimanded the member and ordered that the CA's registration be cancelled. They further ordered the CA to pay costs not to exceed \$5,000 of the hearing and investigation and a \$1,500 fine by December 22, 1999.

[The hearing was completed in one day and costs totalled \$6,900.80]

PUBLICATION: To all provincial Institutes, and to those Institutes to which the CA applies for membership at any time in the future, to all members of the public enquiring about the discipline history, notice of cancellation, the nature of the conduct and orders made to all members in the next general mailing of the Institute, and to the general public by a public notice included in two daily newspapers.

1999

REFERENCE: DECISION 77

DESCRIPTION: A CA left public practice to take a position with a distributing/manufacturing company. He then became provincial manager for a company that was marketing the incorporation of international companies. This company came under review by the Alberta Securities Commission. In the review process the CA gave an undertaking to the Securities Commission that he would not accept funds on behalf of the three related companies, or effect any transfers of funds, until the concerns of the Securities Commission were resolved. During the on going investigation, the CA moved to the Bahamas to establish computer and office systems, and in an effort to protect investors, purchased all shares in the company and assumed the role of President and CEO. The CA made payments on the share purchase using monies from the company bank account. He also took company monies to pay for his living expenses. When the money was exhausted, he returned to Canada. Court action was started when payments for the share purchase were stopped. The Alberta Securities Commission investigation continued with a interim cease trade order until a hearing was concluded. The hearing was adjourned several times. A settlement agreement was signed by the CA and the Alberta Securities Commission. The Commission then ordered:

- all trading in the securities of the company cease until further order;
- the CA be denied the use of exemptions for seven years;
- the CA be prohibited from becoming or acting as a director or officer of any issuer for five years, except that he is permitted to act as officer or director of a private company in which the securities of that company are held only by himself or his immediate family and are non transferrable to other parties;
- the CA to make a payment on administrative and investigation costs of \$5000.

The CA admitted that he did not advise the Institute of Chartered Accountants of the Alberta Securities Commission settlement.

FINDINGS: The CA was found guilty of unprofessional conduct in having failed to maintain the good reputation of the profession at all times by:

- failing to advise the Institute of his Alberta Securities Act violations;
- recruiting investors and/or training account executives to recruit investors to trade in the securities of the company when he knew or ought to have known:
 - that the information provided to investors was false and misleading in that the return promised was unrealistic,
 - that the trading, authorizing, permitting or acquiescing to the trading in the securities of the company constituted trading in securities in Alberta and neither he nor the company were registered pursuant to the Alberta Securities Act, and
 - that the trading, authorizing, permitting or acquiescing to the trading in the securities of the company constituted trading in securities in Alberta although no prospectus or preliminary prospectus had been filed with the Securities Commission and no exemptions were available under the *Alberta Securities Act*.

- REASONS:** The CA admitted to all charges both at the hearing and in the settlement agreement with the Alberta Securities Commission. The Hearing Committee was not convinced when the CA, said that he was endeavouring to realize sufficient funds to repay investors.
- ORDERS:** The Hearing Committee ordered that the registration of the CA be cancelled and that the CA pay 100% of the costs of the investigation and hearing within 90 days from the service of the statement of costs. [The hearing was completed in three days and costs totalled \$14,909.14]
- PUBLICATION:** To all provincial Institutes, and to those Institutes to which the CA applies for membership at any time in the future, to all members of the public enquiring about the discipline history, notice of the cancellation, the nature of the conduct and orders made to all members by inclusion in the next general mailing, and to the general public by publication on a named basis in the CA Monthly Statement, the daily newspaper, and the Bahamas Institute of Chartered Accountants.
- REASONS:** The Committee felt that the CA's conduct was lacking in business judgement and business acumen that is essential to a CA for example:
- when obtaining and relying on a legal opinion, not getting it in writing;
 - not recognizing that claims in the company manual were unrealistic;
 - giving an undertaking, and then not realizing he was breaching it by paying monies out of a company account;
 - paying no attention, or not realizing that there is a priority of preference when making payments out of the company's bank account;
 - entering into the purchase of shares without conducting a due diligence in advance of closing and without legal counsel;
 - not understanding that using company funds to personally purchase company shares was conversion of members/investors funds to personal use;
 - an inability to communicate particulars on company income, how monies were repaid, where monies were in vested, how they could generate sufficient funds to repay investors; and
 - not understanding that the entire scheme was not the type of endeavour with which a CA should be involved.

The Committee was conscious of the need to inform the public in addition to protecting them. They were aware of the deterrent effect of publication and ordered broad publication in those geographic areas where the CA had been active.

1999

REFERENCE: DECISION 78

DESCRIPTION: The CA practiced public accounting as a partner, however had downsized his practice as a result of involvement with a private business. The CA was engaged to perform a review engagement on the financial statements of a company as well as a review engagement on its three related companies. He also agreed to perform a compilation engagement on its shareholders, two holding companies. At different times, the partnership of the CA provided bound copies of three financial statements to the parent company, although the three sets of financial statements were different in that they showed net income at three different amounts. All three of the financial statements reflected an appraisal increase of over \$300,000 based on an appraised value as at December 14 over two months after the company year end. Note 2(b) to two sets of financial statements state "Advances from shareholder of \$200,000 are unsecured, non-interest bearing and without specific terms of repayment." while note 2(f) to the same statements give the same declaration except the money amount is \$180,000. On the third set of financial statements note 2(b) gives the same statement showing the money amount of \$215,000 while note 2(f) on the same financial statement shows the money amount as \$180,000. The third set of financial statements were filed with the corporate income tax returns, they also showed a management fee payable to one of the shareholder companies. The compiled financial statement for the shareholder, prepared by the CA does not reflect the management fees.

FINDINGS: The CA was found guilty of unprofessional conduct by failing to perform his professional services with due care in that:

- he issued three unqualified review engagement reports, although the three sets of financial statements were different,
- he failed to take any steps to recall his first and second review engagement reports, or failed to advise users of the financial statements that the financial statements had been amended;
- he issued unqualified review engagement reports although the financial statements were false and misleading in that the net income and retained earnings were materially overstated and that the financial statements contained material departures from generally accepted accounting principles by including a gain in equipment appraisal in net income and retained earnings,
- he failed to properly supervise his staff in the performance of the engagement, and
- he issued a Notice to Reader on the shareholder company although he knew or should have known that the financial statements failed to reflect management fees.

REASONS: The CA admitted in a written statement that he was guilty of unprofessional conduct in failing to perform professional services with due care for the parent company and the shareholder company. The CA admitted that he was at his own practice on a very limited basis and that he left the running of the office to a long time employee. He said his files were disorganized and contained no review engagement programs nor were the files ever reviewed by him. The Committee concluded that the CA was very careless in the way he operated his own accounting practice during this period of time.

ORDERS: The CA was reprimanded in writing and ordered to:

- have a supervisor review all working paper files and financial statements of all audits and review engagement of clients prior to issuance of the financial statements, and comply with all recommendations until the Professional Conduct Committee is satisfied that supervision is no longer required, and
- attend the CICA Handbook Accounting Refresher course, and the CICA Handbook Auditing Refresher course.

He was also ordered to pay the total costs of the investigation and hearing and a fine of \$5,000 within twelve months from the date of service of the statement of costs.

[The hearing was completed in two days and costs totalled \$15,832.38]

PUBLICATION: To all provincial Institutes, and to those Institutes to which the CA applies for membership at any time in the future, to all members of the public enquiring about the discipline history, notice of the findings, the nature of the conduct and orders made be published in the CA Monthly Statement on a named basis.

REASONS: The CA admitted his guilt. The Committee took into consideration that he was under a great deal of stress at the time. They felt that since he will now be required to have his work supervised, take courses and pay the costs and fine, that it will now ensure that he acts in a professional manner in the future.

1999

REFERENCE: DECISION 79

DESCRIPTION: The CA was employed by a Management company that provided office space, equipment and staff to a law firm. During this time the CA completed financial statements, corporate and personal income tax returns and one cash flow projection for the law firm clients. He met directly with the client and prepared financial information on an ongoing basis. His work was supervised by two other CAs. When the investigator did a random search of the law firm files which the CA had worked on, he found on several files there was no communication attached to the financial statements and they were marked as unaudited - prepared by management. There was a file checklist placed on the file which contained questions and procedures to be responded to concerning the completeness and accuracy of the client's financial and tax information for use in preparing the working papers, financial statements and tax returns included in the file. The CA had completed and initialled the checklist on at least one file, which was reviewed by the supervisor. Other files had the checklist complete or partially complete, but were not initialled. During this time, no engagement letters were prepared by the CA setting out the services provided, by himself or acting as a representative of the management company. The Management company was affiliated directly with the law firm, with no clients that were not also clients of the law firm. The law firm directed all instructions for file requirements to the management company. The CA carried no professional liability insurance.

FINDINGS: The CA was found guilty of unprofessional conduct in having:

- performed non-review engagements for the law firm clients, although he failed to comply with generally accepted standards for such engagements by failing:
 - a) to attach communication to the financial statements setting out his involvement as required,
 - b) to obtain an engagement letter which clearly sets out the terms of engagement as required, and
 - c) to document in his working paper files, the work he performed to support the financial statements or use checklists to document such work;
- practiced public accounting while failing to ensure he carried professional liability insurance as required;
- associated himself with a corporation engaged in the practice of public accounting through his employment with the management company.

REASONS: The CA admitted he carried no professional liability insurance, and acknowledged that the work performed for the law firm clients were completed for tax filing purposes and involved the completion of checklists, working papers, adjusting entries and response to queries from CA supervisors concerning the preparation of financial statements and tax returns. The Committee felt that the CA involvement in the preparation, delivery and issuance of financial statements and related information to

clients for payment of fees, constituted “practicing public accounting”. A review of the files prepared by the CA did not contain any communication setting out the member’s involvement, nor were any engagement letters included as required.

ORDERS: The CA was reprimanded in writing and ordered to satisfy the Professional Conduct Committee as to his professional competence in understanding the rules and guidelines respecting Professional Conduct and Ethics.

He was also ordered to pay the costs of the investigation and hearing up to a maximum of \$5,645 plus one third of the legal costs relating to obtaining documentation from the law firm within six months from the date of service of the statement of costs.

[The hearing was completed in one day and costs totalled \$6,584.63. Costs totalled \$5,957.76 relating to law firm documentation]

REASONS: The written reprimand was given to impress upon the CA the seriousness of his breach of the Rules of Professional Conduct and to caution him about relying upon the actions and advice of other members (his supervisors). The Committee felt that self-study of the Rules of Professional Conduct and possibly an appropriate course, if available, would be appropriate, and that the professional Conduct Committee could determine how the CA could demonstrate and satisfy the Institute of his understanding of these Rules. A fine was not imposed as the Committee did not feel it reasonable when the CA had not acted with intent. He appeared to have placed undue reliance on the actions and guidance of other members. The costs represented the ordinary costs of the hearing and one-third of the extraordinary legal costs incurred by the Institute to recover files from the law firm to conduct the investigation. The assessment of one third was based on the fact that this CA was one of three members who were employed by the management company while the practice of public accounting was incurring.

PUBLICATION: To all provincial Institutes, and to those Institutes to which the CA applies for membership at any time in the future, to all members of the public enquiring about the discipline history, and notice of the finding and orders made be published in the CA Monthly Statement on a no-name basis.

REASONS: The Committee felt that publication in the CA Monthly Statement beyond the mandatory notifications was considered significant to draw the importance to all members of their responsibility in understanding the Rules of Professional Conduct and Bylaws.

2000

REFERENCE: DECISION 80

DESCRIPTION: The CA was under contract as vice president in private industry, where his duties included strategic planning, operations, marketing, administration and general management. He ordered computer equipment of behalf of the company. Some of the equipment was delivered to the employer, the remaining equipment ordered was given to the CA at the store. He did not advise the company that he had possession of the equipment, and he did not return the equipment to the company when he left their employ. When asked, he said the equipment order was down sized and the difference was used to extend the equipment service contract. The CA then offered to pay the computer store directly for the items received and requested that they advise his former employer that an "invoicing error" had occurred. He did pay the store for the items, which amount was then forwarded by the store to his former employer.

FINDINGS: The CA was found guilty of unprofessional conduct in having:

- misappropriated computer equipment belonging to his employer by failing to advise his employer that he had the equipment and then failing to return the equipment when his contract was terminated,
- mislead staff when asked about the discrepancy between the invoice and the goods received under that invoice,
- ordered the additional computer equipment on behalf of his employer when not authorized to do so, and
- requesting the computer store advise his former employer that the situation was a result of an "invoicing error".

REASONS: The CA admitted he was guilty of unprofessional conduct.

ORDERS: The CA was verbally reprimanded and ordered to pay \$5,000 towards the costs of the investigation and hearing and a fine of \$2,500 within 60 days from the date of service of the statement of costs.
[The hearing was completed in one day and costs totalled \$10,652.66]

REASONS: The Committee felt that the CA's conduct was a serious breach and that his age and experience were such that he should have been well aware of his responsibilities. They took into account that this is the first complaint received against this CA, that restitution had been made, and that he accepted responsibility by admitting to the charges.

PUBLICATION: To all provincial Institutes, and to those Institutes to which the CA applies for membership at any time in the future, to his current employer, to all members of the public enquiring about the discipline history, and notice of the findings, the nature of the conduct and orders made to be published in the CA Monthly Statement on a no names basis.

REASONS: Since the misconduct was quite serious, it was felt that notice of the findings and orders should be provided to any member of the public (such as a future employer) who enquiries.

2000



REFERENCE: DECISION 81

DESCRIPTION: The CA is a partner of a large regional CA firm and managing partner in a rural Alberta office. The principle partners of the CA firm are shareholders in an extra provincial corporation, who employ a number of sales representatives to call on potential clients. If a new client was signed up, the fees were paid in advance to the salesman, which were then credited to the local CA firm office accounts receivable. The extra provincial company paid the sales commissions directly and these were charged back to the local CA firm office as a charge. One sales representative, continued to ask a company to obtain a quote for services, after being told the company already had a CA. Another sales representative left a brochure, his business card, and additional information at a place of business, then telephoned back to solicit business. Two complaints were received.

FINDINGS: The CA, acting alone or as a representative of the CA firm was found guilty of unprofessional conduct in having, through the sales consultants of the extra provincial company:

- solicited two professional engagements although the engagements were entrusted to other firms, and
- utilized a method of obtaining or attracting clients which tended to bring disrepute on the profession.

REASONS: In the first complaint, the complainant was adamant that when the salesman was told that they had a CA, he still continued to solicit their business. In the second complaint the Hearing Committee relied upon the phone call as being "solicitation". The Committee determined that the program set up by the regional CA firm, breached the rules and guidelines of the Code of Ethics. The CA agreed to use the program to acquire new clients for the local office of which he was the managing partner. The Hearing Committee determined that the CA had indirect authority over the "salesmen" and as a member was responsible for their actions.

ORDERS: The CA was verbally reprimanded and ordered to pay the costs of the investigation and hearing and a \$6,000 fine within 60 days from the date of service of the statement of costs. He was ordered to cease and desist in engaging or using any third party for the purpose of obtaining or attracting clients.
[The hearing was completed in two days and costs totalled \$19,608.16]

PUBLICATION: To all provincial Institutes, and to those Institutes to which the CA applies for membership at any time in the future, and to all members of the public enquiring about the discipline history.

REASONS: The reprimand was to impress upon the CA the seriousness of his responsibilities with regard to the local CA office. The company would pay the order for costs and the fine, however the order could only be made against the member. The offense did not relate to the CA's professional practice and did not affect his competence as a CA, so no further publication beyond the mandatory requirements was needed.

2000

REFERENCE: DECISION 82

DESCRIPTION: At the time of this hearing, the CA had been suspended for non payment of membership dues and practicing office fees. He had not returned his membership certificate and continued to use stationery that indicated that he was continuing to practice as a Chartered Accountant. He was in the process of getting a divorce and the individuals who filed complaints were related to his former spouse, except for the complaint filed by the Institute. One complainant stated that he had provided all information to the CA required to file his personal income tax, but his refund was not received until three months later. Another complainant stated that all the information was provided to the CA to file his and his wife's income tax, and was told that the tax return was filed when it was not. A corporate tax return of another complainant was not filed. The CA did not reply to a letter from the Secretary, Professional Conduct Committee of the Institute of Chartered Accountants.

FINDINGS: The CA was found guilty of unprofessional conduct in having failed to maintain the reputation of the profession:

- in having failed to complete the corporate income tax return on a timely basis, and
- by failing to reply in writing to a letter from the Institute of Chartered Accountants.

REASON: The CA admitted to not filing the corporate income tax returns when he was so entrusted and his failure to reply to the letter from the Professional Conduct Committee. On the other complaints, the Committee found no clear evidence of wrongdoing by the CA.

ORDERS: The CA was verbally reprimanded and ordered to:

- return his membership certificate to the Institute of Chartered Accountants of Alberta;
- provide an undertaking to limit his practice to income tax and notice to reader engagements until he becomes a member in good standing;
- pay monthly payments on his outstanding membership and professional office fees starting Aug 1, 2000 and continuing until all dues are current; and
- pay one third of the costs of the hearing and investigation to a maximum of \$2,000 by monthly payments starting Apr. 1, 2001 until paid in full and a \$500 fine to be paid by Aug. 4, 2000.

[The hearing was completed in one day and costs totalled \$9,046.55]

REASONS: The reprimand was necessary to reinforce the concept of governance by the Institute and to provide guidance for future professional conduct. The CA admitted he had completed a review engagement while suspended, therefore necessitating the undertaking to limit his practice. The order to return his membership certificate was made to ensure compliance as the CA had ignored the previous request. The fine and costs assessed took into consideration limited professional revenue and personal financial constraints of the CA.



PUBLICATION: To all provincial Institutes, and to those Institutes to which the CA applies for membership at any time in the future.

REASONS: It was evident that the CA's violation of the rules of professional conduct were related to a marital breakdown and to the Institute rather than the general public. The Committee felt that if the CA complied with the orders a sanction of publication was not deemed to be warranted.

2000

REFERENCE: DECISION 83

DESCRIPTION: The CA practices as a partner in a Chartered Accountant firm. A hotel engaged the firm as its accountants, with the CA as the engagement partner. A Notice to Reader, unsigned, was prepared for the year ended March 31, 1997 financial statements and filed with the corporate income tax returns. The CA then issued a Notice to Reader on a second set of March 31, 1997 financial statements that was different from the original version. The second set of March 31, 1997 financial statements included a \$100,000 increase in the inventory, a \$100,000 decrease in cost of sales, a \$100,000 increase in management salaries and a \$100,000 increase in bonus payable. This second set was given to the shareholder to obtain bank financing. The working papers did not support the increased value of inventory and management salaries included in preparing the second set of financial statements. A review engagement report was then issued on the August 31, 1997 interim financial statements. These statements included the same value for inventory and accounts receivable as the first set of March 31, 1997 financial statements. The CA did not qualify the review engagement report although management estimated inventory. The comparative numbers on the August 31, 1997 financial statements were the same as the March 31, 1997 financial statements which were filed with the corporate tax returns. The Bank questioned the March 31, 1997 comparative figures included in this August 31, 1997 review financial statement. A review engagement report was also issued on the company's November 30, 1997 interim financial statements with the comparative March 31, 1997 numbers that were used to file corporate tax returns. The working papers indicated that no plausibility review of the profit and loss statement was carried out. The November 30, 1997 report was not qualified as a result of management's estimation of inventory. These November 30, 1997 review financial statements were provided to the bank, which refused to provide financing due to a lack of comparability in the March 31, 1997 comparative figures. A review engagement report was completed for the company at year ended March 31, 1998. The March 31, 1998 working papers contained no explanation for the change in gross margin from 43% to 55% between March 31, 1997 and March 31, 1998. During this time, the CA also prepared the 1996 personal income tax return for the company shareholder, but did not include capital gain on shares sold by the shareholder. A tax audit resulted in a reassessment on the shareholder's 1996 personal income tax return in excess of \$100,000.

FINDINGS: The CA was found guilty of unprofessional conduct with respect to professional services provided to the shareholder and/or the company in having:

1. issued review engagement reports on the financial statements for the periods ended August 31, 1997, the period ended November 30, 1997 and the year ended March 31, 1998 that reflected comparative numbers that were materially different from those in the March 31,

1997 financial statements prepared to obtain bank financing on which he had issued a Notice to Reader. The March 31, 1997 financial statements prepared to obtain bank financing were not recalled, and the subsequent financial statements did not state that prior period numbers were restated;

2. associated himself with a second set of financial statements for the year ended March 31, 1997 of the company although the financial statements were false and misleading and his working papers did not support the balances for inventory and bonus payable which were \$100,000 higher than numbers in the first set of financial statements prepared for the year ended March 31, 1997 which were filed with the corporate income tax returns.
3. performed review engagements on the financial statements of the company for the periods ended August 31, 1997, November 30, 1997, and the year ended March 31, 1998, although he failed to perform sufficient work to support the plausibility of the financial statements and the review engagement reports, and
4. failed to report the disposition of shares in the 1996 personal income tax return of the shareholder, although he had been provided with a file relating to the sale of those shares.

REASONS: The CA admitted guilt to charges #1 and #2. The Committee found that the inventory numbers at August 31, 1997 was the same amount as those included on the March 31, 1997 financial statements. Review engagement reports for subsequent periods should have been qualified for the fact that the CA was unable to complete the review procedures on inventory because no physical count was taken. No amount was included in the 1996 personal income tax return for the capital gain on the sale of shares by the shareholder, even though all information on the share sale had been given to the CA.

ORDERS: The CA was verbally reprimanded and ordered to:

- have an approved supervisor, review all working paper files and financial statements of all audit and review engagements prior to issuance of the financial statements and comply with the supervisor recommendations until the Practice Review Committee is satisfied that the supervision is no longer required, and
- attend the following professional development courses within one year from September, 2000:
 - Income Tax Refresher: Corporate
 - Income Tax Refresher: Personal
 - Financial Statement Presentation and Disclosure
 - CICA Handbook Refresher
- pay 100% of the costs of the investigation and hearing and a \$2,000 fine. The costs and fine are to be paid within 6 months from September, 2000.

[The hearing was completed in 2 days and costs totalled \$17,368.54]



- REASONS:** The verbal reprimand, the order for costs and a fine were given to impress upon the CA the seriousness of the charges that he was found guilty of. Supervision will correct any deficiencies in files about to be issued and give guidance to the CA until courses can be taken which will remedy the educational deficiencies. Publication to members serves a general deterrent.
- PUBLICATION:** To all provincial Institutes, and to those Institutes to which the CA applies for membership at any time in the future, to all members of the public enquiring about the discipline history, to all members by inclusion in the Membership Activity Report, and in the CA Monthly Statement on a named basis.
- APPEAL:** The Professional Conduct Chairman appealed to the Appeals Committee the penalty imposed. On Appeal, the decision of the Hearing Committee was confirmed.

2000

REFERENCE: DECISION 84

DESCRIPTION: The CA sold shares in an off the shelf, inactive, investment company to a client, a recent immigrant from Germany. The CA had the shares issued to a mutual acquaintance to hold in trust for her. After a police investigation concerning the client's past accountant commenced, the CA prepared and filed documents to remove the client as director of the investment company and replace her with himself and the mutual acquaintance. In 1996, after the arrest of her former accountant, the client delivered \$110,000 US to the acquaintance. The CA was aware that she did not want the funds traceable to her and wanted to protect her assets from outstanding legal claims. The acquaintance had a sales agent of the company owned by himself and the CA to transport the cash to the US and wire transfer the funds back to their company bank account in Canada. The CA was fully aware of and accepted this method of dealing with the cash.

The money was then transferred to a Trust Company bank account in the US in the name of the CA. In the summer of 1997, the client advised the CA that she was negotiating to purchase property and if she was unable to obtain financing, she would need the funds returned. The CA assured her the funds would be available and helped her prepare financial statements for the investment company for submission to the lender. He also acted as accountant for another company owned by the client and her husband. A week later, the CA transferred the funds to an investment account. The husband of the client demanded the CA and the mutual acquaintance provide evidence of the obligation to repay the \$110,000 US. The CA prepared a promissary note and personal guarantees stating the note was interest free. A lawyer for the couple advised the notes were legally defective. The CA agreed to remedy the deficiency but did not. The couple commenced Court action to obtain the return of the money. In February 1999, the CA paid the monies to legal counsel who then paid out in settlement in 1999.

FINDINGS: The CA, acting alone or as a representative of the holding company was found guilty of unprofessional conduct in having failed to maintain the good reputation of the profession and its ability to serve the public interest by:

- failing to disassociate himself from the clients and/or the acquaintance and/or the sales agent and the financial transactions in which they were involved when he knew or ought to have known they had engaged in improper activity; and
- failing to recognize and carry out his fiduciary responsibility to the client in the handling of funds entrusted to the holding company by the client.

REASONS: The committee relied on undisputed evidence and admissions made by the CA. The CA assisted the client with a means to hide assets from police and others who had a right to inquire about them. The parties associated with the client had questionable backgrounds. The CA was aware of this and failed to distance himself from probable illegal activity. Once the monies were received, a fiduciary relationship was established, and the

evidence of the CA was that very little due diligence work was performed by him with respect to the investments that he arranged. The nature of the investment was not consistent with the wishes of the client that she may want the money returned to complete a land purchase.

ORDERS: The CA received a written reprimand and ordered to:

- take counselling that is appropriate in the opinion of the Professional Conduct Committee.
- pay the costs of the investigation and hearing to a maximum of \$9,000 and a \$3,000 fine within 12 months from service of the statement of costs.

[The hearing was completed in three days and costs totalled \$31,800.71]

REASONS: The actions of the CA were considered a serious breach of the Institute's Code of Ethics. The CA should have known that he was becoming involved in transactions where legality was very questionable and he should have distanced himself from the parties carrying on these transactions. Course attendance and publication was directed to educate this CA and others, of their responsibilities as chartered accountants.

PUBLICATION: To all provincial Institutes, and to those Institutes to which the CA applies for membership at any time in the future, to all members of the public enquiring about the discipline history, and notice of the findings, the nature of the conduct and orders made to all members by publication in the CA Monthly Statement on a no-names basis.

APPEAL: The Professional Conduct Chair appealed the penalty and the Appeals Committee confirmed the orders of the hearing committee with one variation. The order to take appropriate counselling was varied to take a professional development course on ethics as offered by the ICAA, or such substitute course as approved by the Professional Conduct Committee.

2000



REFERENCE: DECISION 85

DESCRIPTION: The CA had been found guilty of unprofessional conduct and had been ordered (in part) to provide an undertaking to limit his practice, to pay his outstanding dues and office fees by providing post dated cheques, and to pay a fine of \$500.

FINDINGS: The Compliance Hearing Committee found that the CA failed to comply with the order that he:

- provide an undertaking to the Institute to limit his practice to income tax and notice to reader engagements until such time as he becomes a member in good standing;
- pay forthwith his outstanding membership and professional office fees by providing post-dated cheques, with a minimum monthly payment of \$250 a month commencing August 1, 2000 and continuing until all dues are current;
- pay a fine in the amount of \$500 within 30 days from July 4, 2000.

REASONS: Evidence introduced and admissions made by the member, clearly show that the member had failed to comply with the hearing committee orders given August 30, 2000.

ORDERS: The Compliance Hearing Committee order that the registration of the member continue to be suspended until he:

- provides an undertaking within seven days to the Institute that he will not carry on the practice of public accounting as a sole practitioner beyond December 31, 2000, and
- has paid or otherwise discharged the outstanding fees and fines and accrued interest owed to the Institute, which shall be done prior to December 31, 2005 or his registration is to be cancelled.

PUBLICATION: To all provincial Institutes, and to those Institutes to which the CA applies for membership at any time in the future, to all members of the public enquiring about the discipline history, and notice of the suspension, the nature of the conduct and orders made to all members by inclusion in the next general mailing. Notice of the suspension, the nature of the conduct and orders made be provided to the member's clients by letter published by the Institute. The CA is to provide a list of his clients within 7 days.

REASONS: The Committee felt that the public interest would be served by the member undertaking not to carry on the practice of public accounting as a sole practitioner, and that if payment of the outstanding amount owed was achieved over a longer period of time, then the member's current suspension would be lifted.

2000

REFERENCE: DECISION 86

DESCRIPTION: The CA, an employee since 1985, was appointed CFO and a director of Petro Co. in 1991. Petro Co. was one of the subsidiaries of Hold Co. As a result of previous financial difficulties of subsidiaries of Hold Co. the Bank was a major stakeholder of Petro Co. Hold Co. instructed the CA to devise a method, subject to its and the Bank's approval to create value in Petro Co. by using accumulated tax losses and resource pools, so it could be sold or restructured. The CA was directed, as part of this process to insert a wholly owned subsidiary, Numbered Co., between Hold Co. and Petro Co. He initially set up Numbered Co. so he was its sole director and President, however Hold Co. ordered him to change this so that the Board of Directors of Numbered Co. mirrored that of Petro Co.

Merchant bankers interested in acquiring Petro Co. approached the CA and sent a draft concept to Hold Co.'s Board in February. The Board directed the CA to obtain a specific proposal for review by Hold Co.'s Board, and if appropriate, the Bank. The Board clearly advised the CA it was not prepared to give the merchant bankers any period of exclusivity, or a right of first refusal. The CA was advised to contact two other parties, one an oil and gas company, which were interested in Petro Co.

While keeping the merchant bankers fully informed, the CA entered into discussions with Oil and Gas Co. who had already made a tentative offer for the Bank's interest in Petro Co., conditional on being able to acquire Petro Co.'s shares from Hold Co.

In March, Oil and Gas Co. made several offers to Hold Co. to purchase Petro Co.'s shares. Aware of the receipt of Oil and Gas Co.'s offers the CA, purporting to act on behalf of Petro Co., signed a March 3rd letter agreement with the merchant bankers without the knowledge of Hold Co. The letter agreement provided for a granting of exclusivity and a right of first refusal to the merchant bankers to purchase Petro Co.'s shares. The letter agreement was not the creation of either the Hold Co. Board or the Petro Co. Board. It was not revealed to Hold Co. until June 29th.

When their second offer was not immediately accepted, Oil and Gas Co. reached an agreement to purchase the Bank's interest and have the Bank encourage Hold Co. to sell its shares. A third offer was then made by Oil and Gas Co. to Hold Co. Hold Co. however, preferred a deal with the merchant bankers. They encouraged the merchant bankers to quickly finalize a proposal to present to Hold Co.'s Board, and the Bank.

Subsequent to the March 3rd letter agreement the merchant bankers arranged for the CA to sign additional agreements and resolutions that furthered the merchant banker's cause. He signed them on behalf of Petro Co. and Numbered Co. The documents signed on

behalf of Numbered Co. consisted of three identical resolutions, one dated May 10, another July 24, and the other undated, and three unanimous shareholders' agreements, one dated May 10, another July 24, and the other undated. The CA signed all these documents as its "sole director". The CA did not consult with Hold Co., the Bank, or other directors of Petro Co. before signing, nor did he disclose the documents to them or Oil and Gas Co. The CA signed these documents contrary to independent legal advice he had received.

The Bank formally accepted Oil and Gas Co.'s offer on April 27th and the transaction was to close on August 3rd. The Bank advised the CA and Hold Co. that it had accepted an offer from Oil and Gas Co. for the Bank's interest in Petro Co. The CA was aware that Oil and Gas Co. intended to make a public share offering to finance the purchase of the Bank's interest. The merchant bankers had still not placed a proposal before the Bank. They had been trying to broker a merger of Petro Co. with another company which was interested in the tax losses and resource pools, on such a basis that the other company would put up the required funds, so the merchant bankers required no cash investment for a substantial equity position in the merged company.

At the end of June the Bank officials advised Hold Co. that they would not consider any offer from the merchant bankers, as they were committed to the offer of Oil and Gas Co. Officers of Hold Co. were ready to recommend to its Board that the interest in Petro Co. be sold to Oil and Gas Co. When the CA advised the merchant bankers of this, rather than sending a formal offer to the Bank for consideration, they decided to rely on their right of first refusal, contained in the documents the CA signed.

Hold Co., the Bank and Oil and Gas Co. closed their deal on August 3rd. On August 6th, the merchant bankers issued a press release and commenced a lawsuit against Oil and Gas Co., in an attempt to force it to deal with them.

Oil and Gas Co. refused and the civil actions resulted in a 95 day trial and a nine day appeal hearing in the Court of Appeal. In the trial decision, the Justice stated that he was satisfied the intent of the merchant banker's press release was to frustrate Oil and Gas Co.'s ability to raise funds to finance the deal from the market. The Justice found the CA's conduct dishonest and fraudulent. On appeal, this finding was confirmed.

FINDINGS: The Hearing Committee found the CA guilty of unprofessional conduct in having failed to conduct himself at all times with respect to the sale of Petro Co. to Oil and Gas Co. in a manner which maintained the good reputation of the profession and its ability to serve the public interest in having:

1. failed in his duty to act honestly and in good faith, by working secretly to frustrate the expressed wishes of the sole shareholder and the stakeholders, all of whom consented to the sale of Petro Co. to Oil and Gas Co.;
2. signed a letter purporting to confer a right of first refusal on Hold Co.'s shares in Petro Co. to the merchant bankers when he had no right or power to bind Hold Co. and knew this was contrary to Hold Co.'s instructions;
3. signed, without the knowledge or consent of Hold Co., a document that granted a first right of refusal to the merchant bankers;
4. signed documents which he knew or should have known were false and misleading:
 - (a) three identical resolutions of Numbered Co. bearing different dates, authorizing "any director" to execute a unanimous shareholders agreement,
 - (b) three identical unanimous shareholders' agreements between Numbered Co. and the merchant bankers bearing different dates, that prohibited Petro Co. from furthering any proposal concerning the sale of Hold Co.'s shares in Petro Co. without the consent of the merchant bankers and prohibited disclosure of the unanimous shareholders' agreement "to any person, including directors, shareholders of Petro Co., or their professional advisors and legal counsel",
5. abused his position as sole director and president of Numbered Co. by signing documents in an attempt to force Oil and Gas Co. to have to deal with the merchant bankers with respect to the sale of Petro Co., when he knew or should have known that Numbered Company was only a trustee of the shares in Petro Co. for Hold Co.;
6. failed in his duty to act honestly and fairly in his dealings with the other directors of Petro Co. in not providing full, complete and timely information to them concerning resolutions and agreements of Numbered Co.

REASONS: The Committee accepted the finding of the Courts that the actions of the CA were dishonest and deceitful, and also found that his actions were unprofessional. They stated that he acted unilaterally, secretly and for improper motives. He did not comply with the Alberta Business Corporations Act which required him to reveal to his

corporation any information which was relevant to it. He did not fulfil his duty to make full disclosure to the other directors of Petro Co. and Numbered Co. The CA clearly attempted to do indirectly in Numbered Co. that which he could not do directly through the Board of Directors of Petro Co. because he knew that the other directors of Petro Co. would not acquiesce. The Committee considered these actions to be deceitful.

The Committee found that the CA was only a director and officer of Petro Co. and Numbered Co. and had no right or power to sign documents on behalf of Hold Co. The Committee found that the signing of three copies of the same document, having different dates or undated, with the intention that the one with the most convenient date would be used, was wrong and deceitful.

ORDERS: The Hearing Committee cancelled the registration of the CA, and ordered he pay the costs of the investigation and hearing.

[The hearing was completed in seven days and costs totalled \$102,880]

PUBLICATION: Notice of the cancellation to all provincial institutes, and to those to which the member applies for membership at any time in the future, to all chartered accountants in the next general mailing and by way of an insertion in the Membership Activity Report, to the CA's current employer, and to the general public by way of publication in two daily newspapers.

APPEAL: The CA appealed the orders of the Hearing Committee. Council confirmed the orders of the Hearing Committee except it limited the amount of costs payable by the CA to \$50,000, payable over four years.

REASONS: Council relied upon the judgments of the trial Justice, the Alberta Court of Appeal and the Hearing Committee. Council found that the actions of the CA were significant in their impact on the public markets. He was found to have breached several fiduciary duties over an extended period of time. In addition to the damage the CA caused to Oil and Gas Co., Hold Co. and Petro Co., his actions damaged the reputation of the profession. Council was satisfied that cancellation of registration was the appropriate sanction. Council reaffirmed the amount of the costs incurred were reasonable, and felt it was appropriate that the CA bear the costs of the Hearing. However Council believed the total costs were too high an amount to impose on this member in these circumstances, and reduced the costs order to \$50,000 payable over four years.

2001

REFERENCE: DECISION 87

DESCRIPTION: The CA had been found guilty of unprofessional conduct and had been ordered (in part) to maintain a professional liability insurance discovery policy.

FINDINGS: The Compliance Hearing Committee found that the CA failed to comply with the order that he maintain a professional liability insurance discovery policy in accordance with Bylaw 1005 for a period of five years commencing June 12, 1997.

REASONS: There was undisputed evidence that a professional liability insurance discovery policy was not in force as required by Bylaw 1005 and as ordered by the hearing committee in its decision dated November 12, 1998.

ORDERS: The Compliance Hearing Committee ordered that the registration of the member be cancelled.

[The hearing was completed in two days and costs totalled \$7,654.22]

PUBLICATION: To all provincial Institutes, and to those to which the member applies for membership at any time in the future, to all members of the public enquiring about the discipline history, to all chartered accountants by inclusion in the monthly mailing, an insertion in the Membership Activity Report and publication in the CA Monthly on a named basis, and to the general public by publication in one daily newspaper and one weekly newspaper.

REASONS: The Committee felt that publication would serve to educate the public and membership of the requirements of Bylaw 1005.

2001

REFERENCE: DECISION 88

DESCRIPTION: The CA, having been suspended from membership by a Hearing Committee for unprofessional conduct, continued to practice as a sole practitioner in central Alberta, however did not perform any review or audit engagements. The Institute was notified by clients demanding information on their financial, accounting and income tax affairs, that the CA was not in attendance at his office. A court order was obtained appointing the ICAA custodian of the CA's practice. The CA was in apparent financial difficulty and left his practice owing significant sums to creditors including Canada Customs and Revenue Agency for unpaid payroll remittances and GST. ICAA had no contact with the CA who did not attend the hearing.

FINDINGS: The Hearing Committee found the CA guilty of unprofessional conduct in having abandoned his practice since February, 2001.

REASONS: The CA walked away from his practice without making arrangements to have his client's current affairs attended to, nor did he make any arrangements for their future needs. He did not make any arrangements for the salaries of his staff or the ongoing operations of his office.

ORDERS: The Hearing Committee ordered that the registration of the CA be cancelled and that the CA pay costs of the investigation and hearing and a fine in the amount of \$5,000.

[The hearing was completed in two days and costs totaled \$3,291.12]

PUBLICATION: To all provincial institutes, and to those to which the member applies for membership at any time in the future, to all members of the public enquiring about the discipline history, to all chartered accountants by inclusion in the monthly mailing, an insertion in the Membership Activity Report and publication on the ICAA website, and to the general public by publication in the daily newspaper.

REASONS: The Committee felt that publication in a daily newspaper in the city where the offences took place will serve to advise people who are familiar with these circumstances of the final consequences.

2002

REFERENCE: DECISION 89

DESCRIPTION: The CA had agreed to provide accounting and tax services to a client including preparation of Law Society Form T and a personal income tax return. There were other business relationships between the member and client however these relationships began to deteriorate. The completed Form T was filed with the Law Society 10 weeks late. In addition CCRA issued the client a Notice of Assessment which included an amount payable for arrears interest. The CA did not respond to the first two requests from the Institute.

FINDINGS: The CA was found guilty of unprofessional conduct in having

- failed to respond in writing to the Institute when requested to do so and
- failed to perform professional services with integrity and due care by:
 - (a) failing to file a Form T Report by the due date,
 - (b) filing the T1 tax return without the client's review and consent,
 - (c) failing to provide a copy of the filed return to the client in a timely manner; and
 - (d) failing to return in a timely manner the clients records upon request.

REASONS: The CA failed to respond to the Institute's request for a written response to the complaint, despite clear direction about the process and consequences of not responding. Numerous requests by the client to have his tax return and Form T completed within the timeframe allowed were totally ignored by the CA. The CA made no attempt to contact the client regarding the delays in completing the work. The CA did not display any concern or remorse that the rules of professional conduct had been broken.

ORDERS: The CA was reprimanded in writing and ordered to pay 75% of the costs of the investigation and hearing and a fine in the amount of \$1,000 within one year.

[The hearing was completed in two days and costs totalled \$10,785.74]

PUBLICATION: To all provincial Institutes, and to those to which the member applies for membership at any time in the future, and to all members of the public enquiring about the discipline history.

REASONS: The Committee felt that the publication was necessary given the CA's lack of respect for an Institute employee, his disregard for his client, and his lack of concern or remorse throughout the hearing process.

2002

REFERENCE: DECISION 90

DESCRIPTION: The CA had a history of unprofessional conduct and was under suspension for non payment of dues. He had previously undertaken to the Institute to limit his practice to income tax and compilation engagements and during the suspension not to carry on the practice of public accounting as a sole practitioner. The CA and the Institute were notified that the CA's professional liability insurance had been cancelled because of non payment. Letters from the Institute to the CA went unanswered, and a complaint was made under Bylaw 1005 that the CA did not have sufficient professional liability insurance. An Investigator was appointed who made numerous unsuccessful attempts to contact the CA. During this time another complaint concerning this CA was received by the Institute. All attempts to contact the CA to investigate these complaints were unsuccessful.

FINDINGS: The CA was found guilty of unprofessional conduct in having

- failed to promptly reply to the Institute when requested to do so;
- failed to cooperate in an investigation under Part 7 of the Act; and
- failed to maintain professional liability insurance coverage.

REASONS: At the hearing, the CA admitted guilt on all charges, however cited emotional and financial difficulties as reasons.

ORDERS: The CA was reprimanded in writing and his registration continued to be suspended until such time as he satisfied all orders outstanding that arose from previous hearings. He was ordered to pay one third of the costs of the investigation and hearing to a maximum of \$2,000 by December 31, 2005.

[The hearing was completed in one day and costs totalled \$6,992.17]

REASONS: The Tribunal found the CA's behavior inexcusable; however saw recent changes as positive steps. Time was needed to monitor and ensure that the positive changes continued. The written reprimand showed that the lack of communication and co-operation with the Institute was very serious. The costs were limited to avoid future financial difficulties for the CA.

PUBLICATION: To all provincial institutes, and to those to which the member applies for membership at any time in the future, and to all members of the public enquiring about the discipline history; notice to all chartered accountants by inclusion in the next general mailing and notice to the general public by publication in the weekly newspaper.

REASONS: The behavior was a continuation of the pattern that was already published. No further publication was necessary.

2002

REFERENCE: DECISION 91

DESCRIPTION: The CA, a sole practitioner, was the recipient of two complaints that dealt with separate issues. The CA arranged a share purchase between two clients: a printing company (Company A) and a company that had printing requirements (Company B). It was later disclosed that the CA was a shareholder and director in Company B. Rather than offset shares for services the CA convinced Company A to put cash in and later be paid for the services. The share purchase agreement was signed and Company A fulfilled the printing requirements of Company B. The CA did not disclose substantial liabilities and misled Company A as to Company B's sales. The invoice issued by Company A to Company B for printing services remains unpaid.

The second issue dealt with the failure of the CA to utilize an election under subsection 164(6) of the Income Tax Act, which would minimize tax payable by an estate and the beneficiaries.

FINDINGS: The CA was found guilty of unprofessional conduct in having failed to act at all times in a manner which maintained the good reputation of the profession and its ability to serve the public interest with respect to his involvement with Company A and Company B by:

- failing to advise Company A to seek independent advice in connection with the purchase of an interest in Company B
- associating himself with false and misleading verbal statements to Company A concerning:
 - the likely profit and cash flows to result from the investment in Company B and the granting of trade credit to Company B when such estimates were unrealistic and not in compliance with the appropriate professional standards for projections,
 - the unpaid creditors of Company B,
 - the payment of printing expenses to Company A within 30 days, and
- using confidential information for the benefit of a company in which he had a financial interest by approaching Company A to invest in Company B knowing their financial capacity and that Company A had the ability to provide printing services and finance the printing assignment.

On the second matter, the CA was found guilty of unprofessional conduct in having failed to perform his professional services to the estate with integrity and due care and having failed to sustain his professional competence in all areas in which he practiced by failing to utilize an election under the Income Tax Act to minimize tax owing by the estate.



REASONS: The CA admitted guilt in that he provided verbal information on the profitability of Company B which he knew or ought to have known was false and misleading. He admitted that he provided verbal future orientated financial information when he knew, or ought to have known, the information had not been prepared in compliance with the requirements of Section 4250 of the CICA Handbook. He admitted that he breached the Rules of Professional Conduct with respect to conflict of interest by failing to ensure a clear understanding of the proposed transactions to Company A before permitting the Company to enter into the transaction.

In the second issue the CA admitted that he failed to utilize an election under subsection 164(6) of the Income Tax Act to minimize the tax owing by the estate and the beneficiaries.

ORDERS: The CA was reprimanded in writing, required to complete two Professional Development courses, one on ethics and the other taxation, and ordered to pay costs of the investigation and hearing and fines of \$4,500.

[The hearing was completed in two days and costs totalled \$18,491.43]

REASONS: The written reprimand was to impress upon the CA the seriousness of the finding of unprofessional conduct. The courses were ordered to remedy the admitted education deficiencies, in order to achieve professional competence. The costs and fines were ordered due to the very serious nature of the charges.

PUBLICATION: To all provincial institutes, and to those to which the member applies for membership at any time in the future, and publication on a no-name basis on the ICAA website.

REASONS: The findings, nature of the conduct and orders made were published on the ICAA Web site to ensure that the findings and orders were made available to all members of the ICAA as a general deterrent.

2002

REFERENCE: DECISION 92 and 93

DESCRIPTION: The CAs were CEO and CFO of a public corporation trading on the Toronto Stock Exchange. Both had risen through the financial ranks of the corporation, starting as controller. The corporation had an Audit Committee which included two other CAs. The corporation was under funded and experienced rapid expansion during 1997, 1998, and 1999. The CEO spent time dealing with unpaid suppliers, attempting to raise additional funding and dealing with financial institutions. The CFO, with inadequate staff, was unable to produce necessary financial information on a timely basis. The corporation's 1998 financial statements were prepared by the CFO, with little involvement by the CEO. Both signed the representation letter to the national firm conducting the audit. These financial statements were approved by the Board of Directors on the recommendation of the corporation's Audit Committee.

The national firm issued an unqualified auditors' report on these financial statements. The audited financial statements showed net earnings of \$3 million and retained earnings at year end of \$4 million.

The CFO was replaced by another CA as Chief Financial Officer. Shortly after his departure, CCRA conducted a payroll audit and found that an error in the recording of payroll expenses caused earnings before income taxes to be overstated by approximately 1.75 million dollars. The national firm confirmed the CCRA audit findings, withdrew its auditors' report on the December 31, 1998 financial statements, and undertook an in-depth audit to determine whether the statements contained other errors. The corporation's agreement for further financing was withdrawn by the Bank, and the corporation obtained court protection under the Company Creditors Arrangement Act.

The CEO was dismissed. The national firm proceeded with the audit of 1999 financial statements and the audit of restatement of the December 31, 1998 financial statements. The restated financial statements showed a net loss of \$14 million and a deficit at year end of \$16 million, the result of numerous adjustments.

FINDINGS: Both CAs were found guilty of unprofessional conduct by failing to act at all times in a manner that maintained the good reputation of the profession and its ability to serve the public interest in having associated themselves with the financial statements of a corporation for the year ended December 31, 1998, although the financial statements were false and misleading.

REASONS: The CEO and CFO associated themselves with the original financial statements of the corporation with the CFO being involved in their preparation and the CEO being ultimately responsible. The original financial statements were false and misleading in that they

- Understated payroll expenses by \$1.4 million as a result of an incorrect adjusting journal entry made by the CFO
- Understated interest on long term debt by \$347,000 as a result of an incorrect journal entry related to a foreign currency receivable.
- Failed to record as assets inventory acquired, in substance, under purchase and finance contracts, and failed to record as debt the balance payable under the contracts.
- Improperly recorded conditional sales contracts as sales when the contracts contained potential buy back obligations.

ORDERS: The CEO was reprimanded in writing by the Chair of the Discipline Tribunal. He was ordered to pay \$16,000 towards the costs of the investigation and hearing within 6 months from the expiration of the time allowed for appeal.

The CFO was reprimanded in writing by the Chair of the Discipline Tribunal. He was ordered to pay \$28,000 towards the costs of the investigation and hearing within 6 months from the expiration of the time allowed for appeal.

[The hearing was completed in seven days and costs totalled \$177,696.19]

REASONS: Mitigating circumstances taken into account when determining penalty were:

- No evidence or suggestion of dishonesty or personal gain and no record of prior unprofessional conduct by either CA.
- The restated financial statements included additional prior period adjustments which the Tribunal did not accept as errors.
- The responsibility of the “audit failure” must be shared by the national firm and the Audit Committee.
- Costs were incurred for an expert witness who was not necessary or particularly helpful.

PUBLICATION: To all provincial Institutes, and to those to which the member applies for membership at any time in the future, to the present employers of the CEO and CFO and publication on a no name basis on the ICAA website.

2003

REFERENCE: DECISION 94

DESCRIPTION: The CA was engaged to provide services to facilitate the immigration of two families under Canada's Business Entrepreneurial Program. The CA advised the families to purchase 17% of the shares of a manufacturing Co. which was operating under the supervision of a court appointed monitor for \$400,000. The shares were purchased from the CA's partner on the recommendation of the CA's partner who prepared a corporate valuation of the company. The purchase agreement provided that the families would receive \$2,000 per month as a return on investment, but the CA suggested this monthly payment be characterized as wages in an attempt to meet the requirements of the Government program. As well the agreement provided that the CA's partner would repurchase the shares for a stated value at the request of the clients.

The CA was paid a 10% fee to:

- analyze the company's financial statements and provide an investment recommendation;
- determine if the investment met the criteria of the investment conditions in Canada's Business Entrepreneurial Program;
- provide translation and interpretation services;
- obtain professional legal advice for the clients regarding the investment; and
- act as a financial "watchdog" on a continuing basis on behalf of the clients concerning this investment.

After the families invested in the company, Immigration Canada advised that the investment did not meet the criteria of the entrepreneurial program. The families lost their investment when the company failed and the CA's partner did not repurchase the shares as provided in the agreement.

FINDINGS: The CA was found guilty of unprofessional conduct by failing to perform his professional services to two clients with due care in having:

- failed to sustain his professional competence by recommending clients acquire an interest in a company although he failed to perform a due diligence review on the company and he knew or ought to have known that the investment failed to meet the requirements of the entrepreneurial program for immigrants,
- associated himself with a valuation report of a company and other financial information although he failed to comply with generally accepted standards for such engagements.

REASONS: The CA's review of the preliminary corporate valuation of the company did not result in any changes or modifications to the report prepared by his partner, however the report was deficient in numerous respects. The CA had no documentation of any assumptions or estimates used or actual review procedures conducted. There was

- no conclusion as to how the final estimate of value was arrived at,
- no recognition that in the event of liquidation, insufficient funds were available for any return of share capital,
- no indication as to whether the valuation methodology used was appropriate, and
- no adjustment or explanation why share value was not reduced to reflect a minority share discount.

The CA did not ensure that the clients received independent legal advice prior to executing the agreement. The CA did not advise the clients of the implications of having a corporate guarantee to repurchase their share investment versus an individual's guarantee.

ORDERS: The CA's registration was cancelled. He was ordered to pay full costs of the investigation and hearing.

[The hearing was completed in three days and costs totalled \$19,009]

REASONS: The CA's evidence at the hearing reflected a severe lack of general business knowledge and business acumen. He wrote a letter to his clients stating that even in the event of a bankruptcy they would get their money back. He showed a total lack of understanding of significant aspects of professionalism including conflict of interest, objectivity and professional competence.

PUBLICATION: To all provincial institutes, and to those to which the CA applies for membership at any time in the future, to chartered accountants by inclusion in the general mailing, an insertion in the "Membership Activity Report", and on the ICAA Website on a named basis, to any member of the public enquiring about the discipline history and to the general public by publication in one daily newspaper and one weekly ethnic newspaper.

REASONS: The primary objective of publication was protection of the public.

APPEALS On appeal before Council, the findings and orders of the Discipline Tribunal were confirmed. Council varied the publication by the Discipline Tribunal to include notice of cancellation of registration, the nature of the conduct and orders made be provided to the general public by publication in one daily newspaper and the *Korean Weekly News* in English and Korean.



REASONS: Council believes it was very important that publication be included in the local ethnic newspaper. The CA's clients consist of people of ethnic descent. Many do not speak English and therefore will not read English language newspapers. Council noted that the CA advertised his services as a Chartered Accountant in the local ethnic newspaper.

COURT: The Court of Appeal of Alberta confirmed the findings and orders of Council.

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ISSUED – April 2003