



NOTICE OF SUSPENSION FRANK ANDREW DEVCICH

Following findings of unprofessional conduct a Discipline Tribunal suspended Frank A. Devcich for 1 year commencing June 12, 2014.

FINDINGS

A Discipline Tribunal, in its written decision regarding merits, dated March 7, 2014, found Frank Andrew Devcich acting alone or as a representative of ABC Company guilty of unprofessional conduct, with respect to his involvement with the September 30, 2008 quarterly financial statements and a September, 2008 transaction whereby Mortgage Inc. provided a loan to Equity Inc. in order for Equity Inc. to purchase, from ABC Company, a 21.66 acre parcel of land intended to comprise 107 lots in, Alberta (the "Lands"), in that he:

1. failed to inform ABC Company's accounting staff and the external auditors that:
 - a. the source of the Equity Inc. funds to pay the \$4.5 million initial deposit to ABC Company was the Mortgage Inc. loan;
 - b. ABC Company provided a guarantee to Mortgage Inc., whereby ABC Company guaranteed repayment of the entire Mortgage Inc. loan;
 - c. ABC Company provided a General Security Agreement to Mortgage Inc. granting a security interest in all of ABC Company's present and after acquired property;
 - d. ABC Company granted Mortgage Inc. a mortgage over numerous properties owned by ABC Company; and
 - e. but for the security posted by ABC Company, Mortgage Inc. would not have provided the loan to Equity Inc. and Equity Inc. would not have been able to pay the \$4.5 million initial deposit to ABC Company;
2. falsely represented to the external auditors that he did not know the source of Equity Inc.'s funding to pay the \$4.5 million initial deposit to ABC Company;
3. associated himself with financial statements of ABC Company for the quarter ended September 30, 2008, which he knew or should have known were false or misleading in that the \$4.5 million initial deposit from Equity Inc. was recorded as revenue; and
4. falsely certified in the Form 52-109F2 – *Certification of Disclosure in Issuers Annual and Interim Filings* – certificate, filed with the Alberta Securities Commission, that the September 30, 2008 quarterly financial statements of ABC Company did not contain any untrue statement of a material fact or omit to state a material fact required to be stated or necessary to make a statement not misleading, and that the September 30, 2008 quarterly financial statements fairly presented in all material respects the financial condition, results of operations and cash flows of ABC Company for the period.

CONDUCT

This matter was very complex, but with one central issue that influenced the events. That issue is that the guarantee represented a material undisclosed contingent liability of ABC Company at September 30, 2008. There was a pattern of "not disclosing" during the autumn of 2008. There



were a number of points in time where Mr Devcich could have corrected his and others', understanding of the existence and contents of the security documents, but he did not do so. Time pressures did not remove Mr Devcich's responsibility to understand the implications of not disclosing and the duty to disclose the existence and contents of the security documents. Had the required disclosure occurred, management and auditors would have been able to reach an understanding of the appropriate accounting treatment for the transactions.

ORDERS

In accordance with Section 93 of RAPA, the Tribunal ordered that:

- a) Frank A. Devcich be reprimanded verbally by the Chair of the Discipline Tribunal; and
- b) the registration of Frank A. Devcich be suspended generally for one year, commencing on June 12, 2014.

In accordance with Section 94 of *RAPA*, the Tribunal ordered that Frank A. Devcich, pay:

- a) Costs
50% of the "reasonable costs" of the review, investigation, hearing and compliance with the orders.
- b) Fines
 - i) \$10,000 in respect of Finding 1;
 - ii) \$10,000 in respect of Finding 2; and
 - iii) \$10,000 in respect of Findings 3 and 4 combined;

PUBLICATION

1. A summary of the Tribunal's findings and orders be provided on a named basis to all provincial institutes, the Institute of Chartered Accountants of Bermuda, and any other professional organization Frank A Devcich belongs to and the Institute is aware of, as of the date of this order;
2. Notice of the suspension of registration, the nature of the conduct and orders made, and any conditions to be met prior to any application for re-instatement in connection therewith be provided to all chartered accountants;
3. Notice of the Tribunal's findings and orders be provided to any member of the public who directs a written enquiry to the Institute about the discipline history of Frank A Devcich;
4. A summary of the Tribunal's findings, the nature of the conduct, and any orders made as a result of the findings be published on the Institute website on a named basis;
5. The Tribunal's written decision, with the names of third parties replaced by pseudonyms:
 - (a) be published on a named basis on the Institute Website;
 - (b) be provided to Quicklaw;
 - (c) be provided to the National Discipline Database;



6. Notice of the suspension of registration, the fact that the suspension of registration is as a result of discipline proceedings, the nature of the conduct, orders made, and that more information can be obtained from the Institute, be published in the business section of the Calgary Herald.

Discipline Tribunal Secretary
August 18, 2014