

**THE CERTIFIED GENERAL ACCOUNTANTS
ASSOCIATION OF ONTARIO**

PROFESSIONAL CONDUCT TRIBUNAL

IN THE MATTER OF the *Certified General Accountants
Association of Ontario Act, 1983;*

AND IN THE MATTER OF a complaint concerning STEVEN GEORGE
BRODIE, a member of the Certified General Accountants Association of
Ontario;

BETWEEN:

**THE DISCIPLINE COMMITTEE OF THE CERTIFIED GENERAL
ACCOUNTANTS ASSOCIATION OF ONTARIO**

- and -

STEVEN GEORGE BRODIE

MEMBERS OF THE TRIBUNAL:

Donn Martinson, CGA, Chair
Janice Charko, CGA, CFP
Alexis Perera, CGA

COUNSEL:

Karen Jolley, for the Discipline Committee

DECISION

This case involves a complaint against STEVEN GEORGE BRODIE which the
Discipline Committee of the Certified General Accountants Association has referred to a
Professional Conduct Tribunal.

Mr. Brodie was duly served with a notice of hearing dated September 8, 2000. An affidavit of service for the notice in this regard was filed at the hearing. The notice of hearing sets out that Mr. Brodie is charged with violating the following provisions of the *Code of Ethics and Rules of Professional Conduct* and the *Code of Ethical Principles and Rules of Conduct*.

1995-1996 and 1996-1997 Code of Ethics and Rules of Professional Conduct

Rule 201 – Conduct

A member shall be mindful of his/her duties and responsibilities as a member of the accounting profession, and shall carry on his/her work with fidelity to clients; or employers, fairness to employees, and loyalty to the Association, in a manner worthy of a professional accountant.

Rule 215 – Unlawful Activity

A member shall not lend his/her name, himself/herself or his/her services to any activity which he/she knows, or which a reasonably prudent person would believe to be, unlawful, or contrary to this Code of Ethics and Rules of Professional Conduct.

Rule 216 - Discredit

A member shall not lend his/her name, himself/herself or his/her services knowingly to any practice, pronouncement or act which would discredit the profession.

1997-1998 and 1998-1999 Code of Ethical Principles and Rules of Conduct

Rule 101 – Discredit

A member shall not permit the member's firm name or the member's name to be used with, participate in, or knowingly provide services to any practice, pronouncement, or act which would be of a nature to discredit the profession.

Rule 102 – Unlawful Activity

A member shall not permit the member's firm name or the member's name to be used with, participate in, or provide services to, any activity which the member knows, or which a reasonably prudent person would believe, to be unlawful.

Rule 607 – Evidence of Professional Misconduct

A member who has been found guilty or granted an absolute or conditional discharge of any criminal or similar offence which may cast doubt as to that member's honesty, integrity, or professional competency, shall promptly inform the Association of the conviction, finding of guilt or discharge, as the case may be, when the right of appeal has been exhausted or expired. In such cases, the member may be charged with professional misconduct by the member's Provincial Ethics Committee. A certificate of conviction by any competent court shall be sufficient evidence of the conviction and the perpetration of the offence.

Rule 607.1 – Criminal and Similar Offences

Criminal or similar offences include, but are not limited to, the following offences:

- (a) fraud, theft, forgery or income tax evasion;
- (b) violation of the provisions of any securities legislation; or
- (c) any criminal or similar offence for conduct in, or related to, the member's professional capacity, or for conduct in circumstances where there was reliance on their membership in, or association with, the Association.

In the notice of hearing, Mr. Brodie was made aware of his right to counsel in these proceedings, but chose not to attend the hearing, nor to be represented by counsel.

TRIBUNAL DECISION

The tribunal's unanimous decision is that Mr. Brodie is guilty of violating Rules 201, 215, and 216 of the 1995-1996 and 1996-1997 *Code of Ethics and Rules of Professional Conduct* and Rules 101, 102 and 607 of the 1997-1998 and 1998-1999 *Code of Ethical Principles and Rules of Conduct*.

We direct that:

1. Mr. Brodie be expelled from CGAAO membership.
2. His expulsion be published in CGAAO Statements and in a local London newspaper.
3. He pay costs of these proceedings in the amount of \$1500.
4. He pay a fine of \$1000.

FACTS

The Tribunal heard the evidence of Mr. Sarosh Contractor, and Ms. Jolley made a submission at the hearing on behalf of the Discipline Committee. As noted previously, Mr. Brodie did not attend or arrange for representation.

On May 18, 2000, Mr. Brodie pleaded guilty to the charge that he did, by deceit, falsehood or other fraudulent means, defraud Drennan Refrigeration Inc., of money of a value exceeding \$5000, contrary to Section 380, subsection (1), clause (a) of the Criminal Code of Canada.

During a period of over two years when Drennan Refrigeration Inc. was a client of Mr. Brodie, there is no dispute that Mr. Brodie misappropriated \$47,953.83 from his client.

Subsequent to the discovery of the fraud and prior to conviction, Mr. Brodie made full restitution to his former client, Drennan Refrigeration Inc.

In reaching our decision, the Tribunal has carefully reviewed the evidence and submissions, including the certified transcript of the court proceedings of Mr. Brodie's guilty plea.


RATIONALE

Although Mr. Brodie had no previous criminal record, has made full restitution to Drennan Refrigeration Inc., and has apologized for his behaviour to the court, he committed a very significant breach of client trust over a 34 month period. The breach of trust involved the preparation by Mr. Brodie of a series of forged client cheques for his own benefit. Also, the client entrusted Mr. Brodie with access to its financial records/systems and off-hours access to the company's premises by providing him with a key and the alarm password. Impacted by this breach of trust are the client, the business community and the Certified General Accountant's Association.

A professional accountant must always act professionally. When a member engages in improper conduct, as was the case with Mr. Brodie, his honesty and integrity will be in question. Also, his professional designation, the Certified General Accountant's Association, and the profession are tarnished.

To conclude, the Certified General Accountants Association must exercise its self-regulation and self-discipline obligation in a serious, fair and responsible manner, and must be seen by the membership and the public to do so as well. Because of the severity of Mr. Brodie's inappropriate professional behaviour and breach of trust, his behaviour cannot be condoned by the Certified General Accountants Association of Ontario, and he should not remain a member of the Association or the profession.

DATED at Toronto, this 20 day of November, 2000


Donn Martinson, CGA, Chair
On Behalf of the Tribunal

APPEAL NOTICE

The decision of a Professional Conduct Tribunal may be appealed to an Appeal Tribunal within sixty days of the date of the written decision of the Professional Conduct Tribunal. The notice of appeal must be in writing, addressed to the Executive Director, Certified General Accountants Association of Ontario, 240 Eglinton Avenue East, Toronto, Ontario, M4P 1K8. The notice must contain the grounds for the Appeal.