

**The Certified General Accountants Association of Ontario
Professional Conduct Tribunal**

IN THE MATTER OF the Certified General Accountants Association of Ontario Act

AND IN THE MATTER OF a complaint concerning Ms Karen Whitfield, a Student of the Certified General Accountants Association of Ontario.

BETWEEN:

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

-and-

MS KAREN WHITFIELD

Members of the Tribunal:- John M Parker, FCGA, Chair
 Doug White, CGA
 Irwin Pinsky, CGA

Counsel: Karen E Jolly, Lawyer for the Discipline Committee
 Mr. Morton Adelson, Lawyer for the Defendant..
 Cynthia Petersen, Lawyer for the Tribunal.

Complainant: The Certified General Accountants Association of Ontario

Defendant: Ms Karen Whitfield

Court Reporter: Networking Court Reporting Ltd.

Witness: Ralph Palumbo, Director, Government Relations and Legislative
 Affairs, CGAAO

Pursuant to a notice of hearing dated April 18, 2001, Ms Karen Whitfield was charged with the following violations of the 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 that 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 knowingly provide services to, any activity that the member knows, or which is 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 offense, 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 offense.

Rule - 607.1 - Criminal and Similar Offenses - Criminal or similar offenses include, but are not limited to the following offenses:

- (a) fraud, theft, forgery or income tax evasion;
- (b) violation of the provisions of any securities legislation ; or
- (c) any criminal or similar offense 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.

Particulars:

On September 27, 2000, at the City of Newmarket, Ms Whitfield was convicted of the following criminal offense:

Between February 15 1995 and June 1998 at the Town of Markham in the Regional Municipality of York and elsewhere in the Province of Ontario, did by deceit, falsehood or other fraudulent means, defraud Enderby Developments Ltd of money of a value exceeding five thousand dollars contrary to Section 380(1) of the criminal Code.

Hearing:- May 31, 2001 @ 10.00am at the Network Court Reporting Office, Toronto.

Ms Jolly, in her presentation, referred to the transcript of the Proceedings before the Honorable Mr justice T. G. O'Hara on September 27th, 2000 at which Ms Whitfield pleaded guilty to fraud over five thousand dollars and was given a conditional sentence of nine months. More specifically Ms Whitfield had over a period of more than three years defrauded her employer, Enderby Developments Limited, of \$55,234.77, using a variety of methods to hide the theft. While it was acknowledged that Ms Whitfield had made full restitution, it in no way diminished the seriousness of the crime. Ms Whitfield had been in a position of trust, a trust that she betrayed.

Ms Whitfield did not deny the factual allegations against her. However, she testified that she had been sexually harassed by Mr Leonard Bender, the President of Enderby Developments throughout her employment. She gave some details of the harassment and explained that her conduct, in defrauding the company of money, was a means of retribution against Mr. Bender.

Speaking on behalf of Ms Whitfield, her lawyer Mr Morton Adelson stated that while he in no

) way condoned the actions of his client, never-the-less there were extenuating circumstances and he introduced into evidence a medical letter written by Dr. Lynn M. Wilson, a psychiatrist who treated Ms. Whitfield. The letter revealed that Ms. Whitfield had reported to her doctor a history of sexual abuse as a child and that she had also reported more recent sexual harassment by Mr. Bender, which lasted the length of her employment with Enderby. Mr. Adelson also submitted into evidence a Statement of Claim, demonstrating that Ms. Whitfield has commenced civil proceedings against Mr Bender for the alleged harassment. Ms. Jolly did not object to the admissibility of these documents based on the understanding that they were proof only that certain allegations had been made by Ms. Whitfield, and not proof of the truth of those allegations.

Findings

The tribunal accepts the evidence of Ms Whitfield that she was subjected to sexual harassment by her employer. She was a credible witness and her testimony was not challenged by cross-examination, nor was it contradicted by other witnesses. Mr. Bender, the individual who had initiated the complaint against Ms. Whitfield to the CGAAO, was given notice of the disciplinary proceedings and he elected not to attend.

) While the Tribunal has empathy for Ms Whitfield regarding her problem with sexual harassment during her employ with Enderby, the Tribunal notes that the fraudulent acts were committed over an extended period of time, involved a variety of different methods and a considerable sum of money. Further, that Ms Whitfield had been convicted of and found guilty of a criminal offense.

The Tribunal finds Ms Whitfield's conduct to be totally unacceptable as she violated the trust that the public attaches to a person who is either a student or a certified member of the Association.

The Tribunal unanimously finds that Ms Whitfield violated Rules 101, 102, 607 and 607-1, of the Code of Ethical Principals and Rules of Conduct.

Sentence

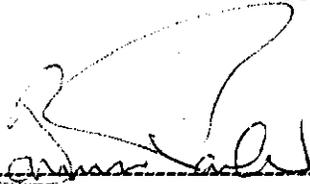
In presenting the Sentencing Brief, Ms Jolly reviewed a number of similar cases where members of the Association and members of other professional bodies had been found guilty of fraud and were expelled from their professional organizations, as well as incurring additional penalties.

Ms. Jolly, on behalf of the Discipline Committee asked that Ms. Whitfield be expelled from the Association; pay costs of \$1,500.00; that her expulsion be published in CGAAO Statements and in a newspaper in the area in which she resides.

) In considering an appropriate sentence for Mr Whitfield, the Tribunal takes cognisance of the fact that Ms Whitfield has already served her sentence for the criminal conviction and has repaid the amount she had taken. Additionally, while in no way diminishing the seriousness of the offense, the Tribunal notes that she is a student and not a certified member.

The Tribunal directs that,-

1. Because of the seriousness of the offense, Ms Whitfield be expelled from the Association.
2. That the findings of this tribunal and the resulting disciplinary action be published in *CGAAO Statements*, as a deterrent to other members of the Association
3. That the findings not be published in the local newspaper as no additional purpose would be served by such action.
4. That the suggested costs of \$1,500.00 be waived.



John M Parker, FCGA
Chairman, Professional Conduct Tribunal
On Behalf of the Tribunal

Dated:  25. 2001

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.