



NEW ZEALAND INSTITUTE OF CHARTERED ACCOUNTANTS ACT 1996

IN THE MATTER of the New Zealand Institute of Chartered Accountants Act 1996 and the Rules made thereunder

AND

IN THE MATTER of a **Member**

**DETERMINATION OF THE DISCIPLINARY TRIBUNAL OF THE NEW ZEALAND
INSTITUTE OF CHARTERED ACCOUNTANTS
7 August 2012**

Hearing: 7 August 2012

Tribunal: Mr RJO Hoare FCA (Chairman)
Mr DP Scott CA (Retired)
Mr MJ Whale FCA
Dr R Janes (Lay member)

Legal Assessor: Mr Bruce Corkill QC

Counsel: Mr Terence Sissons for the prosecution

At a hearing of the Disciplinary Tribunal held in public at which the Member was in attendance and not represented by counsel, the Member admitted the amended particulars and pleaded guilty to the amended charges.

The charges and particulars (as amended with the Member's consent) are as follows:

Charges

THAT in terms of the New Zealand Institute of Chartered Accountants Act 1996 and the Rules made thereunder, and in particular Rule 21.30 the Member is guilty of:

1. Breaching the Institute's Rules and/or Code of Ethics, in particular:
 - a. Rule 22A.3 of the Rules; and/or
 - b. Rule 10 – *Timeliness* of the Code of Ethics [particular 1].
2. Failing to respond promptly to communications from the Institute [particular 2].

Particulars

IN THAT

In his role as a Chartered Accountant in Public Practice and in relation to a complaint, the Member:

- 1) Failed to provide in a timely manner Continuing Professional Development declarations for the years ended 30 June 2008 and/or 2009 and/or 2010 and/or 2011; and/or
- 2) Failed to respond to correspondence from the Institute in a timely manner, specifically the Important Declarations contained in the June 2010 Annual Return posted to him between 14 and 18 June 2010, and subsequent reminders on or about 15 July and/or 13 August and/or 25 August and/or 10 September and/or 10 October and/or 12 November 2010 and/or 20 December 2010 and/or late March/early April 2011.

DECISION

It is important to the maintenance of the Institute's standards and public confidence in the profession that continuing professional development ("CPD") requirements be complied with.

It is common ground that the Member carried out the required CPD and that he eventually, following notification of a complaint lodged by the Institute, filed the appropriate CPD declarations.

But the Member failed to act in a timely manner – CPD declarations for the years 2008 and 2009 were not filed until March 2012, and in respect of the 2010 year he ignored numerous reminders over a period of almost 12 months to file declarations required by the Institute's Rules.

We note the Member's period of hospitalisation, his age, and the fact that he is no longer practicing.

PENALTY

Pursuant to Rule 21.31 (k) of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal ordered that the Member be censured.

COSTS

The Professional Conduct Committee seeks full costs of \$6,043.

The Tribunal's general approach is that the starting point is 100% of costs, noting that the Institute already bears the cost of abandoned investigations and costs up to the Professional Conduct Committee's decision to hold a Final Determination.

Having regard to the fact that the Member had provided CPD declarations to the Institute before the Final Determination hearing of the Professional Conduct Committee, the Tribunal awards costs only in respect of the Professional Conduct Committee investigation and the Final Determination hearing.

Pursuant to Rule 21.33 of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal orders that the Member pay to the Institute the sum of \$960. No GST is payable.

SUPPRESSION ORDERS

Pursuant to Rule 21.52 (b) of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal orders that the Member's name and location be suppressed.

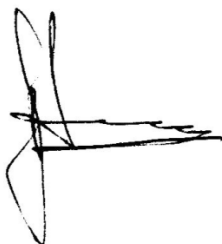
PUBLICATION

In accordance with Rule 21.35 of the Rules of the New Zealand Institute of Chartered Accountants the decision of the Disciplinary Tribunal shall be published on the Institute's website and in the *Chartered Accountants' Journal* without mention of the Member's name and locality.

RIGHT OF APPEAL

Pursuant to Rule 21.41 of the Rules of the New Zealand Institute of Chartered Accountants which were in force at the time of the original notice of complaint, the Member may, not later than 14 days after the notification to the Member of this Tribunal's exercise of its powers, appeal in writing to the Appeals Council of the Institute against the decision.

No decision other than the direction as to publicity and the suppression of the Member's name shall take effect while the Member remains entitled to appeal, or while any such appeal by the Member awaits determination by the Appeals Council.



R J O Hoare
Chairman
Disciplinary Tribunal