



CHARTERED ACCOUNTANTS™
AUSTRALIA • NEW ZEALAND

Determination of the Appeals Tribunal of Chartered Accountants Australia and New Zealand 7 September 2016

Case Number: A-172
Member: Gregory Thomas Wallace CA
Hearing Date: 7 September 2016
Tribunal: Jan West FCA (Chair)
Richard Bobb FCA
Harold Werksman
Legal Adviser: Zoe Taylor
Counsel: Michael Bradley for the Professional Conduct Committee (PCC)
Case description: Member bankrupt
Appeal: Sanctions

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Chartered Accountants Australia and New Zealand ABN 50 084 642 571 (CA ANZ). Formed in Australia.
Members of CA ANZ are not liable for the debts and liabilities of CA ANZ.





1. DECISIONS

1.1 NEW BY-LAWS

These proceedings were conducted under the new By-Laws of Chartered Accountants ANZ which came into force on 28 July 2016. By virtue of By-Law 42 the Appeals Tribunal (the **Tribunal**) is empowered to deal with the matter although commenced under the Former Professional Conduct By-Laws.

1.2 DECISION ABOUT THE APPEAL

At a hearing of the Appeals Tribunal the Tribunal determined to:

- affirm the decision of the Professional Conduct Tribunal that the PCC's allegation set out in Schedule 1B has been established on the member's own admission;
- reduce the sanction imposed by the Professional Conduct Tribunal in paragraph 2 of Schedule 1A to suspend the Member from membership for the remaining duration of his bankruptcy; and
- affirm the decision that the member be required to pay a contribution of \$500 plus GST towards the costs of the Professional Conduct Tribunal hearing.

This decision takes effect immediately.

1.3 DECISION ABOUT PUBLICATION

The Tribunal will publish its decision, mentioning the Member's name and locality, on the website and in the Journal of Chartered Accountants ANZ (paragraphs 12.3 and 12.4 of By-Law 40).

1.4 DECISION ABOUT COSTS SANCTION

The Tribunal determined that the Member not be required pay to Chartered Accountants ANZ any contribution towards the costs and expenses of the Appeal hearing. This is because the Tribunal determined to impose a lesser sanction than that determined by the Professional Conduct Tribunal.

2. REASONS FOR DECISIONS

- The Member's bankruptcy was established on the Member's own admission.
- It is usual in the case of bankruptcy for membership to be suspended for the period of the bankruptcy. The sanction that the Member be suspended from membership for the remaining duration of his bankruptcy is therefore reasonable in this case.
- The Tribunal considered the finding of the Professional Conduct Tribunal that Chartered Accountants ANZ was only made aware of the Member's bankruptcy two years after the event. However the Tribunal noted that there was no provision in the By-Laws at the time that required the Member to self-notify the fact of his bankruptcy. Accordingly there is no need for additional sanction in relation to the delay.

- In affirming the requirement to pay costs of \$500 plus GST imposed by the Professional Conduct Tribunal, the Tribunal considers that this concessional contribution towards costs is reasonable having regard to the bankruptcy of the Member.



Chair

Appeals Tribunal

SCHEDULE 1A - DECISION OF THE PROFESSIONAL CONDUCT TRIBUNAL

The decisions of the Tribunal were that:

1. the allegation contained in the Notice of Disciplinary Action has been established on the Member's own admission;
2. the Member's membership be cancelled for a period of two years;
3. the Member be required to pay a contribution of \$500 plus GST towards the costs of the disciplinary action.
4. In making its decision, the Tribunal took into account that Chartered Accountants Australia and New Zealand was only made aware of the Member's bankruptcy two years after the event.

SCHEDULE 1B - THE PCC'S ALLEGATIONS

It is alleged that while a member of Chartered Accountants Australia and New Zealand the Member is liable to disciplinary action in accordance with By-Law 40(h), in that on 28 January 2014 he became bankrupt.

SCHEDULE 2 - RELEVANT BY-LAWS

40. A Member, Non-Member Practice Entity or Provisional Member shall be liable to disciplinary action in any of the following events, whether occurring before or after the coming into operation of these By-laws:

...

- (h) if, in the case of a Member (other than a Practice Entity Member) or Provisional Member, he or she has become a bankrupt or has signed an authority authorising a registered trustee, a solicitor, the Official Trustee, or any other person able to be so authorized, to call a meeting of his or her creditors and/or to take over control of his or her property, or has given a written proposal for a debt agreement to the Official Receiver or any person authorised to receive such a proposal or has executed a personal insolvency agreement or has executed or otherwise entered into any agreement or arrangement, by whatever term called, with his or her creditors;