



**CHARTERED ACCOUNTANTS™**  
AUSTRALIA + NEW ZEALAND

## **Professional Conduct Committee – 6 June 2017**

### **Close of Investigation - Darren Wayne Thompson CA**

At a meeting of the Professional Conduct Committee of Chartered Accountants Australia and New Zealand (CA ANZ) held in private on 6 June 2017 in Sydney, Australia in respect of Darren Wayne Thompson CA of New South Wales, the Committee decided to take no further action against Mr Thompson and to close its investigation into his conduct.

As no further action has been taken against Mr Thompson and the investigation has been closed, the interim suspension against Mr Thompson is no longer effective as at 6 June 2017.

### **Professional Conduct Committee Chartered Accountants Australia and New Zealand**

6 June 2017

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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.



# Determination of the Disciplinary Tribunal of Chartered Accountants Australia and New Zealand 6 December 2016

**Case Number:** D-1144

**Member:** Darren Wayne Thompson, CA

**Hearing Date:** 1 December 2016

**Tribunal:** David Fairlie (Chair)  
John Gibson  
Richard Rassi

**Legal Adviser:** Zoe Taylor and Sid Wang

**Counsel:** Michael Bradley for the Professional Conduct Committee (PCC)  
The Member represented himself

**Case description:** Member suspended on an interim basis

## 1. DECISIONS

### 1.1 DECISION ABOUT THE PCC'S APPLICATION WHICH IS SET OUT IN FULL IN SCHEDULE 1

At a hearing of the Disciplinary Tribunal the Tribunal determined that the Member be suspended on an interim basis under By-Law 40 paragraph 9.1 until the earlier of:

- three months after the full and final determination of the criminal charges brought against the Member under section 1043A(1)(d) of the *Corporations Act 2001* (Cth); or
- further investigation and determination of the disciplinary proceedings referred to in the Notice of Disciplinary Action dated 14 November 2016.

For the period of interim suspension:

- the Member's name will be removed from the Registers on which it appears;
- the Member loses the rights and privileges of membership;
- the Member must surrender his certificate of membership, any certificate of public practice and any other accreditation, specialisation or other certificate or award held by the Member;
- the Member will remain subject to disciplinary processes and sanctions as if still a member.

### 1.2 DECISION ABOUT COSTS SANCTION

Costs are reserved at the request of the PCC until the final determination of the disciplinary proceedings against the Member.

### 1.3 DECISION ABOUT PUBLICATION

This decision will not take effect while the Member remains entitled to appeal.

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 NOTIFICATION TO OTHER BODIES

The Member advised that he holds no registrations or memberships and, as a consequence, no bodies will be notified of this decision.

## 2. RIGHT OF APPEAL

The Member may, within 14 days after the notification of the written decision with reasons to the Member of this Tribunal's decision, appeal in writing to the Appeals Tribunal of Chartered Accountants ANZ against the decision (paragraphs 9.4 and 11.1 of By-Law 40).

While the Member remains entitled to appeal, or while any such appeal by the Member awaits determination by the Appeals Tribunal, this decision shall not take effect.

### 3. REASONS FOR DECISION

- The PCC relied on the Court Attendance Notice dated 6 September 2016 which set out the charges against the Member, and the Australian Securities and Investments Commission (**ASIC**) media release dated 20 September 2016 and submitted that:
  - an interim suspension is appropriate having regard to:
    - the urgency of the matter
    - the interests of the public
    - the reputation of Chartered Accountants ANZ
    - the integrity of the profession of accountancy
  - the allegations were of a serious nature and involved:
    - eleven counts in the nature of insider trading by procuring a friend to acquire shares in seven companies between May 2008 and June 2011 while possessing market sensitive information that was not generally available, contrary to the *Corporations Act 2001* (Cth)
    - that friend making a profit of approximately \$492,000 (realised and unrealised)
    - maximum penalties of either five years' imprisonment and/or a fine of \$220,000, or ten years' imprisonment and/or a fine of \$495,000, subject to the dates on which the offences are alleged to have occurred
  - the Member had a senior corporate role at the time when the offences were alleged to have occurred.
- The Member submitted that:
  - he had not been charged with insider trading, he had been charged with procuring
  - he has pleaded not guilty to all charges and will vigorously defend the charges in court
  - he was not aware that his friend had acquired shares in the relevant companies
  - he did not trade in the shares or receive any benefits
  - he does not and will not practice as a chartered accountant
  - the court is the proper forum to determine the charges and that it was premature for Chartered Accountants ANZ to consider his suspension at this time.
- The Tribunal accepted the Member's presumption of innocence and it is not the Tribunal's role to consider whether the allegations have been established.
- The Tribunal determined that the allegations are sufficiently serious and come within the category of cases requiring an interim suspension order to be made because:
  - the charges brought against the Member could result in significant penalties
  - the allegations suggest breaches of the fundamental obligations of integrity and confidentiality
  - resolution of the court proceedings is likely to take an extended period of time and may result in adverse publicity
  - the above matters put at risk the reputation of Chartered Accountants ANZ and the profession of accountancy.

Chair  
Disciplinary Tribunal



## **SCHEDULE 1 - THE PCC'S APPLICATION**

The Professional Conduct Committee seeks a determination that the Member's membership of Chartered Accountants Australia and New Zealand (Chartered Accountants ANZ) be suspended on an interim basis pending further investigation and anticipated disciplinary proceedings arising from the criminal charges brought against him under section 1043A(1)(d) of the *Corporations Act 2001* (Cth).

## **SCHEDULE 2 - RELEVANT BY-LAWS**

40. Except as provided by By-Law 41, the By-Laws in this Section 5, including the following paragraphs of this By-Law 40, do not apply to Members who are also members of NZICA in respect of disciplinary matters over which NZICA has jurisdiction and which relate to the practice of the profession of accountancy by NZICA's members in New Zealand. Nothing in this By-Law 40 excludes from the operation of this Section 5, conduct of a Member:

- (a) who was, but is no longer, a member of NZICA; or
- (b) who has subsequently also become a member of NZICA.

Except as provided by By-Law 41, no Member shall be sanctioned under both this Section 5 and NZICA Rule 13 in respect of the same conduct.

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### **9 Interim suspension of Membership**

9.1 On application by the Professional Conduct Committee for the interim suspension of a Member, if the Disciplinary Tribunal is satisfied that it is necessary or desirable to do so, having regard to the urgency of the matter, the interests of the public, the reputation of CA ANZ, or the integrity of the profession of accounting, the Disciplinary Tribunal may suspend the Member from Membership of CA ANZ on an interim basis pending further investigation and determination of the complaint.

9.2 For the period of a Member's suspension on an interim basis:

- (a) that Member's name shall be removed from the Registers on which it appears; and
- (b) that Member:
  - (i) loses the rights and privileges of Membership;
  - (ii) must surrender that Member's certificate of Membership, certificate(s) of public practice and any other documents specified in paragraph 13.4 to CA ANZ; and
  - (iii) save as provided in paragraph 4.3(e), remains subject to the disciplinary processes and sanctions under these By-Laws (including this Section 5) as if still a Member.

9.3 The provisions of paragraph 10 apply to the procedures for a hearing on an application for interim suspension under this paragraph 9, except that:

- (a) the Notice of Disciplinary Action to be given in accordance with paragraph 10.1 must specify that the hearing is on an application by the Professional Conduct Committee for interim suspension;
- (b) the minimum 28 day time periods in paragraphs 10.1 and 10.3 are shortened to 14 days;
- (c) without prejudice to paragraph 13.8, paragraphs 10.12(a) to 10.12(k), and 10.13 (sanctions) do not apply; and
- (d) the maximum period within which the Disciplinary Tribunal is to notify its decision and give reasons in accordance with paragraph 10.15 is reduced to 7 days.

9.4 The provisions of paragraph 11 apply to the procedures for an appeal of a decision by the Disciplinary Tribunal in respect of the hearing of an application for interim suspension under this paragraph 9, except that:

- (a) the maximum 21 day time periods in paragraphs 11.1 and 11.2 (time for notifying appeal) are shortened to 14 days;
- (b) the minimum 21 day time period in paragraph 11.4 (notice of hearing) is reduced to 14 days; and

- (c) the maximum period within which the Appeals Tribunal is to notify its decision and give reasons in accordance with paragraph 11.13 is reduced to 7 days.

9.5 The provisions of paragraph 9 do not apply to Non-Member Practice Entities.

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#### **13.4 Termination and suspension**

If the name of a Member is removed from any Registers on termination or suspension (including suspension on an interim basis) in accordance with this Section 5, the Member's certificate of Membership, any certificate of public practice and any other accreditation, specialisation or other certificate or award then held by the Member is cancelled with immediate effect and must be delivered up by the former Member to CA ANZ.