

## Professional Conduct Committee – 18 February 2021

### Professional competence, adverse or unfavourable finding, restriction on professional registration in Member's name, discredit – Member A

At a meeting of the Professional Conduct Committee (PCC) of Chartered Accountants Australia and New Zealand held in private on 18 February 2021 by videoconference in respect of Member A, the PCC decided that the Disciplinary Tribunal would be likely to find that the Member's conduct did not comply with:

- By-Law 40(2.1)(a);
- By-Law 40(2.1)(e);
- By-Law 40(2.1)(g); and
- By-Law 40(2.1)(k).

The PCC considered that this matter is sufficiently serious to warrant referral to the Disciplinary Tribunal.

However, the PCC decided to propose that an agreement be made with the Member which shall be entered on the Member's record, on terms that:

1. the Member receive a reprimand;
2. the Member pay to CA ANZ the sum of \$1,698 by way of contribution towards the costs of investigating and dealing with the matters the subject of the complaint and the Case Conference; and
3. the PCC will publish:
  - a) details of these sanctions on the website of CA ANZ; and
  - b) a notice in the digital and print magazine "Acuity",  
without disclosing the Member's name and locality, with a link to the published decision.

The PCC considers that it is in the public interest for this sanction to be published, but that there are no special circumstances which warrant disclosing the name of the Member.

#### Background

CA ANZ has become aware that the Member's tax agent registration was terminated by the Tax Practitioner's Board (TPB). The Member is unable to apply for re-registration for the maximum period of five years.

The TPB concluded that the Member's firm had engaged in systemic dishonest behaviour for the financial gain of its directors which undermines the integrity of the taxation system.

The Member was a director of the firm. The TPB found that the firm's directors were no longer fit and proper as they were all responsible for the conduct that breached the Code, among other things.

#### Reasons

The Member joined the firm when he migrated to Australia. He became an associate a few years later and then a partner. The Member became a director of the firm after that as it was a requirement that all tax agents be a director of the relevant entity.

The Member relied on the founding partners for the day to day management of the firm and the preparation of financials for the business and policy and procedures. The Member felt that his role was limited.

The Member said that he knew he had obligations as a director, but he had difficulties with the culture of the firm and, whenever he would raise any issue in a meeting, he would be told that the matter would be discussed at the next meeting. He did try to ask questions but it was always busy.

The Member was responsible for supervising his own team and implementing his own procedures, but he could not control what occurred throughout the firm.

The PCC considers that the decision of the TPB is an adverse or unfavourable finding (in accordance with By-Law 40(2.1)(e)) and that the Member has had imposed a condition or restriction on any professional membership, registration or licence in the Member's name (in accordance with By-Law 40(2.1)(g)).

The PCC is also of the view that, while the culture of the firm may have been problematic, the Member failed to understand the additional requirements that came with being a director and, in relation to this role, has failed to observe a proper standard of professional care, skill, competence or diligence in the course of carrying out his professional duties and obligations (in accordance with By-Law 40(2.1)(a)). The PCC notes that the Member tried to raise matters with the other directors, but the culture and attitude of delay on the part of the founding partners put the Member in an extremely difficult position, as he was really an employee of the firm in all but name and he was only a director because this was a requirement of his tax agent registration. Nevertheless, the Member did choose to continue in the firm, rather than to quit as a director.

Finally, the PCC considers that the Member has also breached By-Law 40(2.1)(k) in that the Member's actions, the TPB decision and the subsequent publicity has or is likely to have brought discredit on the Member, CA ANZ and the profession of accountancy.

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

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