

**NEW ZEALAND INSTITUTE OF CHARTERED ACCOUNTANTS
NOTICE OF DECISION AND ORDER OF THE PROFESSIONAL CONDUCT COMMITTEE**

At a meeting of the Professional Conduct Committee of the New Zealand Institute of Chartered Accountants ("NZICA") held in private on 27 November 2017 in respect of a Chartered Accountant ("the Member"), the Committee found that the following matters would otherwise warrant being referred to the Disciplinary Tribunal:

In their role as a Chartered Accountant and in relation to a complaint they:

1. Failed to ensure that assurance engagements they and/or their practice performed in relation to X Limited and A Trust for the year ending 31 March 2016 were completed with professional competence and/or due care and/or in accordance with relevant technical and professional standards, in that they failed to:
 - a. establish and/or apply appropriate quality control policies and procedures as required by PES 3 (Amended); and/or
 - b. take responsibility for the direction, supervision, and performance of the audit engagement in compliance with the professional standards and applicable legal and statutory requirements as required by ISA (NZ) 220; and/or
 - c. adequately consider relevant group audit considerations as required by ISA (NZ) 600; and/or
 - d. specify in their audit opinion the applicable financial reporting framework as required by ISA (NZ) 700; and/or
 - e. appropriately document the audits as required by ISA (NZ) 230,in breach of the Fundamental Principle of Professional Competence and Due Care and/or paragraph 130.1 of the Code of Ethics (2014); and/or
2. Failed to ensure that the solvent liquidation they performed of Y Limited was completed with professional competence and/or due care and/or in accordance with all relevant technical and professional standards and/or all relevant laws and regulations, in that they failed to:
 - a. have in place and/or apply appropriate quality control policies and procedures as required by as required by PS-1 Quality Control; and/or
 - b. state on their liquidation notice the time of their appointment as required by s 255(2)(a)(ii) of the Companies Act 1993; and/or
 - c. issue a liquidator's first report within 5 working days of appointment as required by s 255(2)(c) of the Companies Act 1993; and/or
 - d. appropriately document on their engagement file:
 - i. evidence demonstrating their eligibility to accept the engagement; and/or



- ii. a copy of the signed shareholders resolution to liquidate Y Limited; and/or
 - iii. evidence demonstrating Y Limited had ceased trading and had no assets or liabilities; and/or
 - iv. evidence confirming their final report was sent to all shareholders,
- in breach of the Fundamental Principles of Professional Competence and Due Care and/or Professional Behaviour and/or paragraph 150.1 of the Code of Ethics (2014); and/or
3. Failed to comply with the requirements for dealing with client monies as set out in PS-2 *Client Monies*, in that:
- a. on 30 March 2015 and/or 1 February 2016 they allowed client monies totalling \$17,410.51, to be paid into their practice's bank account at a time when it was overdrawn in breach of paragraphs 11(c) and/or 30 of PS-2; and/or
 - b. failed to protect their client's interests in that at the time the deposits were made, as particularised in 3(a) above, and/or held in their practice bank account, their practice bank account was overdrawn by between \$14,000.00 and \$17,000.00, in breach of paragraph 10 of PS-2; and/or
 - c. they failed to obtain written confirmation from their bank that their practice's trust account was not subject to any set off and/or counterclaim in respect of any sum owed to the bank in breach of paragraph 33 of PS-2; and/or
 - d. their practice's trust account was overdrawn on four occasions and/or they failed to immediately notify the Director of Practice Review of NZICA that their practice's trust account was overdrawn on four occasions in breach of paragraph 54 of PS-2.

The Committee was concerned that it appeared as though the Member had not adequately prepared for entering into public practice, and was of the view that this had directly resulted in many of the transgressions identified in the Member's practice review.

Particular (1)

Regarding particular (1), the Committee was concerned by what appeared to be a number of departures from the relevant technical assurance standards and quality control requirements. It noted that the ethical obligation to act with competence and due care was an important professional requirement.

The Committee considered that in their role as lead engagement partner responsible for the audits of X Limited and A Trust for the year ending 31 March 2016, the Member had not made just one isolated mistake, but there were a number of instances where their conduct fell below the level of competence and due care expected of a qualified auditor in public practice.

It was of the view that there appeared to be a lack of attention to detail and rigour demonstrated by the Member in their assurance work, and that much of this appeared to stem from their inexperience. Some of the fundamental shortcomings in this regard included significant audit

evidence not being properly recorded on the audit file, and a lack of documentation of audit procedures undertaken.

The Committee noted the findings of the practice reviewer that the Member did not have in place an adequate system of quality control. It considered that this may have contributed to some of the shortcomings identified in the Member's practice review. The underlying reason for the establishment and application of effective quality control procedures is to promote public confidence and ensure good quality work that is completed on a timely basis.

The Committee was pleased to see the Member had taken on board Practice Review's recommendations regarding their assurance work, including by appointing an experienced mentor to undertake peer reviews of their files and report back quarterly to NZICA on their progress, and recently, completing the Online ISA Learning and Assessment Programme.

Particular (2)

In relation to particular (2), the Committee accepted the Member's comments in their response to the complaint that they had a signed shareholders' resolution in their client folder showing a save date prior to their practice review, and that this may have been missed by the Practice Reviewer.

The Committee considered that some of the errors and omissions made by the Member in their performance of the solvent liquidation of Y Limited were basic statutory requirements of those undertaking such engagements. It was of the view that the Member's failures in this regard, when considered cumulatively, demonstrated a significant lack of technical expertise necessary to undertake such insolvency engagements. It noted that for the Member to continue to undertake such engagements, further professional training in this area would be required.

The Committee was pleased to note the Member's advice to the Committee in their response that they did not intend to perform any more liquidations going forward.

Particular (3)

Regarding particular (3) the Committee noted that under the Code of Ethics, PS-2 establishes strict standards and provides guidance regarding a member or firm's professional responsibilities when holding, receiving, or otherwise dealing with money on behalf of clients. Protection of a client's interests is an overriding objective for members managing client monies.

While the Committee observed that in this instance there was no question as to the Member's integrity, and that following their realisation that their client had paid monies into their practice's office account they had promptly paid this money to the Inland Revenue, it was disappointed to note that following the first incident, the Member had not immediately put in place procedures and processes to ensure that such a situation could not reoccur.

The Committee was of the view that it was evident from the Member's response that they had the right intentions in setting up their trust account, and was encouraged by the fact that the Member had made inquiries regarding how to do so with both the bank and their former partner.

The Committee was satisfied that the Member's failure to obtain a no set-off letter or written confirmation from their bank noting that their trust account was not subject to any set-off or counterclaim, was not due to any deliberate omission on the part of the Member.

While the Committee considered that when the Member noticed their trust account had become overdrawn, on each occasion they should have notified the Director of Practice Review in accordance with paragraph 54 of PS-2, it noted that in mitigation, the drawings were a result of bank fees deducted due to the incorrect set up of the trust account by the bank, and that at the time of the deductions no client monies were present in the account. The Committee also noted that the Member had been upfront with Practice Review when questioned about the matter and had made no attempt to hide it.

The Committee was comforted that the Member appeared to appreciate the seriousness the Code of Ethics placed on any dealings involving client monies. It noted the Member's comments in their response that they no longer intended to hold client monies or operate a trust account for their practice going forward.

The Committee wished to note the Member's candour and openness exhibited when dealing with Practice Review, and throughout the entirety of the complaints process.

PENALTY

The Committee considered that the complaint met the threshold to warrant referral to the Disciplinary Tribunal, however, determined it would be acceptable to deal with the complaint by way of consent order with terms that the Member be reprimanded and that they pay costs to NZICA in the sum of \$2,050.00 in respect of the final determination.

In determining to offer the consent order the Committee had regard to the Member's full acceptance of the particulars; their candour, openness, and complete cooperation demonstrated throughout the practice review and the complaints process; significant insight they had shown regarding their shortcomings; and intensive steps they had taken towards rehabilitation prior to, and following, receiving the complaint.

PUBLICITY

The Committee also determined to publish a notice of its decision and orders made in CA ANZ's *Acuity* magazine and on its website without mention of the Member's name and location. The Committee considered it would be of benefit to the public and wider membership to understand the types of shortcomings identified in the complaint, particularly in regard to members looking to enter or acquire a practice.

In determining not to publish the Member's name and locality, the Committee had regard to the fact that there had not been any personal gain on the part of the Member, the failures identified were at the lower end on the spectrum of seriousness and were not systemic across their practice, the Member did not pose a risk to their clients and/or the public going forward, they had appointed an experienced mentor, publication may have a negative effect on the Member's rehabilitation, and there was no public interest in publishing their identifying details.

The terms of the proposed order were explained to the Member by the Committee's legal advisor and they were given 15 days in which to consider the order and take independent legal advice before agreeing to them. The Member declined the offer to take advice and signed the consent order on the day.

Rob Pascoe FCA

Chairman

Professional Conduct Committee