

**INSTITUTE OF CHARTERED ACCOUNTANTS OF NEW ZEALAND
NOTICE OF DECISION OF THE DISCIPLINARY TRIBUNAL**

(Member guilty of misconduct in a professional capacity and breaching the Institute's Rules and/or Code of Ethics)

At a hearing of the Disciplinary Tribunal of the Institute of Chartered Accountants of New Zealand held in public on 13 December 2007 at which the member was in attendance and not represented by counsel **WARREN DEAN HAGGERTY** a suspended Chartered Accountant of **Invercargill** admitted particulars (a), (b), (c), particulars (d) and (e) were found proven and particular (f) was found not proven and pleaded guilty to charge (1) and was found guilty of amended charge (3). Charge (2) was withdrawn.

The charges and particulars were as follows:

Charges

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

- (1) Misconduct in a professional capacity; or
- (2) (withdrawn)
- (3) Breaching the Rules and/or the Institute's Code of Ethics, specifically the fundamental principle(s) of integrity and/or professional behaviour and/or Rule(s) 1 and/or 2 and/or 9 of the Code of Ethics

Particulars

IN THAT

In his role as a Chartered Accountant employed by a Chartered Accountancy practice in Invercargill and in relation to a complaint, the member:

- (a) Has misappropriated and has admitted misappropriating funds from the trust account of a Chartered Accountancy firm amounting to approximately \$302,365.82 on or about October 2001 to February 2007, in breach of the fundamental principle(s) of integrity and/or professional behaviour and/or Rule 1 of the Code of Ethics; and/or
- (b) Altered the tax returns of Company X Limited and/or Company Y Limited after the returns were signed by the directors of those companies for his own pecuniary advantage, resulting in underpaid tax debts for those companies totalling approximately \$115,000, in breach of the fundamental principle(s) of integrity and/or professional behaviour and/or Rule(s) 1 and/or 2 (paragraph 27) and/or 9 of the Code of Ethics; and/or
- (c) Failed to properly advise clients as to their true and correct tax position in that he failed to advise clients of refunds owed to them by the Inland Revenue Department ("the IRD") and/or failed to ensure refunds which he claimed from the IRD on his client's behalf were paid to those respective clients in breach of the fundamental principle(s) of integrity and/or professional behaviour and/or Rule(s) 1 and/or 2 of the Code of Ethics; and/or
- (d) Attempted to mislead the partners of a Chartered Accountancy firm on or about 19 April 2007 in that when asked to explain why the payments were not credited to the correct accounts, he initially stated that the funds were probably in the Trust account and/or some of the beneficiary accounts and/or in one of the other companies in the group or the individuals, in breach of the fundamental principle(s) of integrity and/or professional behaviour and/or Rule 2 of the Code of Ethics; and/or
- (e) Having admitted the misappropriation to the partners of a Chartered Accountancy firm on or about 19 April 2007, he attempted to resign from the Institute of Chartered Accountants of New Zealand on or about 27 April 2007 without first disclosing the circumstances of

his misappropriation, in breach of the fundamental principle(s) of integrity and/or professional behaviour and/or Rule 2 of the Code of Ethics; and/or
(f) (not proven)

Reasons

The member has admitted particulars (a), (b) and (c), and particulars (d) and (e) have been found proven.

As to particular (d) the member has admitted that he knew from whom he had stolen money. When he was presented with a requisition by the partners in the firm he knew that it related to those from whom he had stolen and the Tribunal believes that he was less than candid until it became clear that his misappropriation had been uncovered.

As to particular (e) his resignation with no reference to the misappropriation is in clear breach of the Code of Ethics.

The member has admitted charge (1) and been found guilty of amended charge (3).

The member has acknowledged that he should be removed from the Institute's register of members. Normally full costs are awarded however the Tribunal has taken into account the factors of this case and the member's circumstances in awarding costs.

There is a presumption as to openness at such hearings. The unusual feature in this case is that the thefts were in large part from his own family who have forgiven him and are actively supporting him and his family circumstances. The Tribunal is not persuaded despite lengthy consideration that this case justifies permanent name suppression.

ORDERS OF THE TRIBUNAL

- (a) Pursuant to Rule 21.31 (a) of the Rules of the Institute of Chartered Accountants of New Zealand, the Disciplinary Tribunal ordered that **WARREN DEAN HAGGERTY** be removed from the Institute's register of members
- (b) Pursuant to Rule 21.33 of the Rules of the Institute of Chartered Accountants of New Zealand, the Disciplinary Tribunal ordered that **WARREN DEAN HAGGERTY** pay to the Institute the sum of \$43,000.00 (inclusive of GST) in respect of the costs and expenses of the hearing before the Disciplinary Tribunal and the investigation by the Professional Conduct Committee and the cost of the publicity
- (c) Pursuant to Rule 21.52 (b) of the Rules of the Institute of Chartered Accountants of New Zealand, the Disciplinary Tribunal ordered the permanent name suppression of the names of specific family members and their businesses, the names of the firm's clients and the medical evidence relating to any person other than the member.

In accordance with Rule 21.35 of the Rules of the Institute of Chartered Accountants of New Zealand, the decision of the Disciplinary Tribunal will automatically be published in the Chartered Accountants Journal and on the Institute's website and the Tribunal directed that the decision be published in the New Zealand Gazette with mention of the member's name and locality.

RIGHT OF APPEAL

Pursuant to Rule 21.41 of the Rules of the Institute of Chartered Accountants of New Zealand which were in force at the time of the original notice of complaint, the member may, not later than 14 days after the notification of this Tribunal to the member of the 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 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

19 December 2007