

Determination of the Disciplinary Tribunal of Chartered Accountants Australia and New Zealand 8 November 2018

Case Number:	D-1191
Member:	Christopher Phillip Szanto CA of New South Wales
Hearing Date:	8 November 2018
Tribunal:	David Fairlie (Chair) Bruce Glanville FCA Kathryn Brown CA
Representation:	Kate Dixon for the Professional Conduct Committee (PCC) The Member provided a Proposed Agreement by Written Undertaking and therefore did not appear
Case description:	Member bankrupt

1. **DECISION ABOUT THE PCC'S ALLEGATION WHICH IS SET OUT IN FULL IN SCHEDULE 1**

The Member did not attend the hearing of the Disciplinary Tribunal but provided a Proposed Agreement by Written Undertaking signed 9 October 2018 (the **Agreement**), which is set out in full in Schedule 3.

The Tribunal accepted the terms of the Agreement.

In the Agreement the Member admitted the allegation. The Tribunal noted the Member had, on 30 July 2018, also provided to the PCC a Notice of Disclosure Event.

The Tribunal had regard to the Notification of Bankruptcy dated 18 July 2018 and was satisfied that the Member suffered an insolvency event on 18 July 2018 which contravened By-Law 40(2.1)(j) and therefore the allegation was established.

2. **DECISION ABOUT SANCTIONS**

The Member acknowledged in the Agreement that his membership would be suspended for the duration of his bankruptcy.

The Tribunal considered that it was appropriate to suspend the Member's membership for the duration of his bankruptcy.

3. **DECISION ABOUT COSTS SANCTION**

The PCC sought a contribution towards the costs and expenses of the hearing (paragraph 10.12(l) of By-Law 40) of \$500 which was agreed to by the Member in the Agreement. No GST is payable.

The Tribunal considered this to be appropriate in the circumstances.

4. **DECISION ABOUT PUBLICATION**

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

In accordance with paragraphs 12.3 and 12.4 of By-Law 40, the Tribunal directed that:

- its decision with reasons, mentioning the Member's name and locality, be published on the website of Chartered Accountants ANZ (the **Published Decision**)
- a notice mentioning the Member's name and locality with a web address for the Published Decision be published in the Chartered Accountants ANZ digital and print magazine "Acuity".

5. **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.

6. RIGHT OF APPEAL

The Member may, within 21 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 (paragraph 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, the following decisions shall not take effect:

- Decision about the PCC's allegations
- Decision about sanctions
- Decision about costs sanction.

The PCC may, within 21 days after notification of the written decision with reasons to the PCC of this Tribunal's decision, appeal in writing to the Appeals Tribunal of Chartered Accountants ANZ against the decision (paragraph 11.2 of By-Law 40).


Chair
Disciplinary Tribunal

SCHEDULE 1 - 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(2.1)(j), in that on 18 July 2018 he became bankrupt.

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.

...

40(2) Disciplinary action

40(2.1) A Member is liable to disciplinary sanctions under these By-Laws if (whether before or after the date of adoption of this By-Law) that Member:

...

- (j) suffers an Insolvency Event;

...

40(10) Disciplinary Tribunal

...

40(10.13) Subject to paragraph 9.3(c), the Disciplinary Tribunal may, with the written consent of the relevant Member and the Professional Conduct Committee, dispense with any or all of the procedures in this paragraph 10 and impose any of the sanctions permitted in paragraph 10.12 or accept a written undertaking under paragraph 13.8.

...

40(13.8) Written undertakings

The Professional Conduct Committee, the Disciplinary Tribunal or the Appeals Tribunal may, if it considers that it is appropriate to do so in connection with the consideration or determination of any matter before it, accept a written undertaking from a Member on such terms as it thinks fit at any time.

SCHEDULE 3 - PROPOSED AGREEMENT BY WRITTEN UNDERTAKING


**PROPOSED AGREEMENT BY WRITTEN UNDERTAKING
Mr Christopher Szanto**

Paragraph 13.8 of By-Law 40 of the By-Laws of Chartered Accountants Australia and New Zealand (Chartered Accountants ANZ)

It shall be entered on my record, that:

- (a) The allegation contained in the Notice of Disciplinary Action dated 8 October 2018 has been established by my own admission.
- (b) I acknowledge that my membership will be suspended for the duration of the bankruptcy.
- (c) I am required to pay a contribution to Chartered Accountants ANZ of the sum of \$500 towards the costs and expenses of the Disciplinary action.
- (d) The Disciplinary Tribunal (Tribunal) will publish its decision, mentioning my name and the locality on the website and in the journal of Chartered Accountants ANZ.
- (e) The Tribunal's decision be notified to any other bodies with whom I hold a professional registration or professional membership.

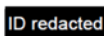
Signed  Signature redacted

Witnessed  Signature redacted

Date 9/10/2018

Name HELEN SZANTO

Member's name Mr Christopher Szanto

Member ID  ID redacted