



Professional Conduct Committee – 15 April 2019

Failure to observe a proper standard of professional care, skill or competence – Member A

At a meeting of the Professional Conduct Committee of Chartered Accountants Australia and New Zealand held in private on 15 April 2019 in Sydney Australia in respect of Member A the Committee decided that the Member has failed to observe a proper standard of professional care, skill or competence in relation to a number of matters (in breach of By-Law 40(2.1)(a)) and has failed to provide the client with terms of engagement (in breach of By-Law 40(2.1)(h)), as set out below:

1. the Member was aware of the accumulation of unrecorded present entitlements (UPEs) of a company in his client's Group. The Committee considers that the Member failed to advise his client of the risks arising from that build up and should have advised his client to have loan agreements drawn up in accordance with guidelines issued by the ATO;
2. the Committee considers that the Member was engaged, and failed, to prepare and lodge income tax returns on behalf of the SMSF for the years 2010 to 2016. The Member was involved in the preparation of the SMSF income taxation return for 2009 and, although he denied receiving any request from the Complainant or related parties to complete financial statements, refer the file to an auditor, or prepare and lodge income tax returns for the SMSF since 2010, this work was among that transferred to him at his new firm;
3. the Member advised that no letter of engagement was entered into when the Complainant changed accounting services providers (in breach of the requirements of APES 305).

The Committee notes that the Member offered to pay any fines and penalties associated with the late payment of the income tax for the fund.

With the written consent of the Member, the Committee made the following determinations:

1. that the Member receive a reprimand; and
2. that the Member and his practice entity be required to submit, at his cost, to a quality review, with particular emphasis on the existence of terms of engagement and the handling of Division 7A matters, and with the results of the quality review to be provided to the Committee; and
3. that the Member pay costs incurred by and on behalf of CA ANZ in investigating and dealing with the matters the subject of the complaint and the case conference in the amount of \$2,380.

The Committee considered that it was in the public interest for this decision to be published, because this matter illustrates the need for high levels of due diligence and vigilance by members when clients change their accounting providers, including in relation to terms of engagement and the transfer of the scope of services to be provided.

The Member has offered remediation to and entered into a settlement with the Complainant, has updated his practices in relation to terms of engagement, has assured the Committee that he has entered into all necessary remediation activities required and has advised that he no longer has any clients with complicated corporate group structures. Accordingly, the Committee decided that there are no special circumstances for disclosing the Member's name and location.

Professional Conduct Committee
Chartered Accountants Australia and New Zealand

15 April 2019