

Professional Conduct Committee – 21 November 2019

Adverse Finding – Mr Hang Song Tan CA

At a meeting of the Professional Conduct Committee (PCC) of Chartered Accountants Australia and New Zealand held in private on 21 November 2019 in Sydney Australia in respect of Mr Hang-Song Tan (the Member) of Singapore, the PCC decided that the Member:

1. failed to observe a proper standard of professional care, skill, competence in the course of carrying out his professional duties as a nominee director of 9 companies between 2011 to 2017 (in breach of By-Law 40(2.1)(a));
2. was the subject of adverse findings by the District Court of Singapore, in relation to his professional or business conduct, competence (in breach of By-Law 40(2.1)(e));
3. was convicted of statutory offences (in breach of By-Law 40(2.1)(d));

and that these matters bring discredit upon him, CA ANZ and/or the professional of accountancy (in breach of By-Law 40(2.1)(k)).

Background

The Member was the General Manager of Asian Corporate Services (SEA) Pte. Ltd (ACS). His role included providing nominee directorship services to clients of ACS.

The Member was charged, in his capacity of an officer of these companies, with 54 counts of knowingly and wilfully permitting the companies to default in their statutory obligations. The Member was convicted of all the charges and fined \$2,100 for each charge.

Adverse Findings

The Singapore Companies Act provides that every company must have at least one director who ordinarily resides in Singapore. One of the services provided by ACS to its foreign clientele was to act as a nominee director utilising the employee's personal name (the Member's personal name in this particular instance).

The Member was sentenced by the State Court in Singapore to a fine of \$2,100 per charge on 54 charges pursuant to Sections 175 and 197 of the Companies Act (Singapore). These charges related to failures by 9 companies, of which the Member was a nominee director, to hold their Annual General Meetings and file their Annual Returns by the statutory periods.

The Member noted that these defaults occurred as the shareholders of the companies had either disappeared or were unable or refused to provide the requisite information necessary to meet the statutory requirements. The charges were therefore brought against the Member in his capacity as the sole local director.

Over a period, a total of 9 companies became non-contactable or uncooperative with ACS. The companies did not provide ACS with accounts and as a result, the Member could not discharge his responsibilities as director with regards to holding of AGMs and filing of annual returns.

Because the clients were non-contactable, the Member states that he was not able to prepare accounts without knowledge of the facts and could not take steps to close the companies.

The Corporate Registry of Singapore (ACRA) decided to initiate proceedings against the Member, being the only contactable local director noting his services being provided on a nominee basis. The charges laid against the Member included:

1. Failure of the companies in which the Member was a local director, to hold their annual general meetings; and
2. Failure to lodge their annual returns over a number of years between 2011 to 2017 as required under the Companies Act (Singapore).

The Member only appealed against the order of conviction having paid the total fine of \$113,400.00 in full. The Member ultimately withdrew from the appeal.

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

1. The Member receive a severe reprimand;
2. The Member pay to CA ANZ the sum of \$3,000 towards the cost of investigating and dealing with the matters the subject of the complaint and the case conference; and
3. the decision be published on CA ANZ's website disclosing the Member's name and location, and a notice published in CA ANZ's digital and print magazine "Acuity", also disclosing the Member's name and location, with a link to the published decision.

The PCC considered that it there were special circumstances to warrant publishing the Member's name as well as it being in the public interest to do so, for the following reasons:

- The Member indicated that he may return to Australia to seek employment.
- The adverse findings against the Member in Public Prosecutor v Tan Hang Song [2019] SGDC 52 are serious findings which related to conduct that could also be considered problematic in the Australian jurisdiction.
- A deterrence against conduct of this nature by directors generally.

The Professional Conduct Committee considers that there are special circumstances that warrant disclosing the name of the Member.

Professional Conduct Committee
Chartered Accountants Australia and New Zealand

4 May 2020