

NEW ZEALAND INSTITUTE OF CHARTERED ACCOUNTANTS ACT 1996

IN THE MATTER of the New Zealand Institute of Chartered Accountants Act 1996 and the Rules made thereunder

AND

IN THE MATTER of **Christopher George Wright**, Chartered Accountant (Suspended), of **Auckland**

**DETERMINATION OF THE DISCIPLINARY TRIBUNAL OF THE NEW ZEALAND
INSTITUTE OF CHARTERED ACCOUNTANTS
13 December 2016**

Hearing: 13 December 2016

Location: The offices of Chartered Accountants Australia and New Zealand, Level 7, Chartered Accountants House, 50-64 Customhouse Quay, Wellington, New Zealand

Tribunal: Mr MJ Whale FCA (Chairman)
Prof DJD Macdonald FCA
Mr RG Simpson CA
Ms A Kinzett (Lay member)

Legal Assessor: Mr Paul Radich QC

Counsel: Mr Richard Moon for the prosecution

Tribunal Secretariat: Janene Hick
Email: janene.hick.nzica@charteredaccountantsanz.com



At a hearing of the Disciplinary Tribunal held in public at which the Member was not in attendance and not represented by counsel, the Member pleaded guilty by correspondence from his counsel to the amended charges which the particulars supported.

The amended charges and particulars were as follows:

AMENDED CHARGES

THAT in terms of the New Zealand Institute of Chartered Accountants Act 1996 and the Rules made thereunder, and in particular Rule 13.39 the Member is guilty of:

- 1) Misconduct in a professional capacity; and/or
- 2) Negligence or incompetence in a professional capacity that is of such a degree or so frequent as to reflect on his fitness to practice as an accountant and/or tends to bring the profession into disrepute; and/or
- 3) Breaching the Rules and/or the Institute's Code of Ethics.

PARTICULARS

IN THAT

In the Member's role as a Chartered Accountant and in relation to a complaint from the Complainants, the Member:

- 1) Misappropriated client monies, in particular:
 - a) tax refunds belonging to the Complainants, totalling approximately \$16,068.00, which the Member received on their behalf between 2000 and 2013 from Inland Revenue; and/or
 - b) monies belonging to other clients, deposited into the Member's trust account, in that:
 - i. on or about 29 May 2014 the Member issued cheques from his trust account in favour of himself totalling approximately \$17,441.13; and/or
 - ii. on or about 10 June 2014 the Member issued cheques from his trust account in favour of himself totalling approximately \$13,159.00; and/or
 - iii. on about or between 1 July 2014 to 30 December 2015 the Member transferred at least \$74,540.00 from his trust account to his personal bank account and/or withdrew at least \$4,000.00 in cash from his trust account; and/or
 - iv. on about or between 1 January 2015 to 30 December 2015 the Member transferred at least \$155,441.00 from his trust account to his personal bank account and/or withdrew \$1,800.00 in cash from his trust account; and/or

- v. in an interview conducted on or about 20 April 2016 with the investigators, the Member acknowledged he had been taking client monies for approximately eight years;

in breach of the Fundamental Principles of Integrity and/or Professional Behaviour of the Code of Ethics 2003 and/or 2014¹ and/or paragraphs 110.1 and/or 150.1 of the Code of Ethics 2014; and/or

- 2) Failed to operate the Member's trust account in accordance with the requirements of PS-2 *Client Monies*, in that the Member:
 - a) failed to protect his clients' interests by ensuring that monies held in trust on their behalf was returned to his clients or otherwise dealt with in accordance with their authority, as required by paragraph 10; and/or
 - b) withdrew monies for purposes other than those permissible under paragraph 48;

in breach of PS-2 *Client Monies* and or the Fundamental Principle of Quality Performance and/or Rules 9 and/or 11 of the Code of Ethics 2003 and/or the Fundamental Principle of Professional Competence and Due Care of the Code of Ethics 2014.

DECISION

The Tribunal was provided with an Agreed Summary of Facts, copies of the complaint and the Member's response to it, and a copy of the investigator's report. The Member agreed that that report gave a fair and accurate description of his conduct including his misappropriation of client monies and failure to operate his trust account in accordance with the requirements of PS-2.

The Tribunal finds it disturbing that the only evidence that the Member paid back some of his clients (including the complainants) their Inland Revenue refunds related to the period after March 2016 – following the complaint made to the Institute in February 2016.

The Tribunal finds on the evidence before it that each of the particulars has been made out in full. The Tribunal finds that the Member's conduct – the misappropriation of at least \$280,000 over approximately 18 months and his admission that he had been taking client monies over approximately eight years - constitutes misconduct in a professional capacity. The Member's actions also amounted to negligence in a professional capacity that was of such a degree and so frequent as to reflect on the Member's fitness to practise as an accountant and tends to bring the profession into disrepute. Accordingly the Tribunal finds all charges, to which the Member pleaded guilty, made out.

PENALTY

The Professional Conduct Committee (*PCC*) sought an order removing the Member's name from the register of Members.

¹ The 2003 Code of Ethics is applicable to conduct that occurred from 1 July 2003 to 31 December 2013 and the 2014 Code of Ethics applies to conduct that has occurred from 1 January 2014.

In the Tribunal's view dishonesty of this type is incompatible with membership of the Institute. The public and the profession are entitled to expect that members conduct themselves with honesty and integrity.

Removal of the Member's name is the only penalty which in these circumstances appropriately protects the public, deters others, facilitates the Tribunal's role in maintaining professional standards and reflects the seriousness of the Member's misconduct.

Pursuant to Rule 13.40(a) of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal orders that the name of Christopher George Wright be removed from the Institute's register of members and that Chartered Accountants Australia and New Zealand be promptly advised of that removal.

COSTS

The Professional Conduct Committee seeks full costs of \$56,853.

The Tribunal's general approach is that the starting point is 100% of costs, noting that the Institute already bears the cost of abandoned investigations and costs up to the Professional Conduct Committee's decision to hold a Final Determination.

In this case the Tribunal sees no reason to depart from that approach.

There was no evidence of mitigating factors such as excessive or unnecessary expenses incurred or demonstrated evidence of hardship (inability to pay).

Pursuant to Rule 13.42 of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal orders that Christopher George Wright pay to the Institute the sum of \$56,853 in respect of the costs and expenses of the hearing before the Disciplinary Tribunal, the investigation by the Professional Conduct Committee and the cost of publicity. No GST is payable.

SUPPRESSION ORDERS

Pursuant to Rule 13.62(b) of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal makes an order suppressing all identifying details of the complainants and the Member's other clients.

PUBLICATION

In accordance with Rule 13.44 of the Rules of the New Zealand Institute of Chartered Accountants the decision of the Disciplinary Tribunal shall be published on Chartered Accountants Australia and New Zealand's website, in the official publication *Acuity* and in the *New Zealand Herald* with mention of the Member's name and locality.

RIGHT OF APPEAL

Pursuant to Rule 13.47 of the Rules of the New Zealand Institute of Chartered Accountants which were in force at the time of the original notice of complaint, the parties may, not later than

14 days after the notification to the parties of this Tribunal's 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 and the suppression orders shall take effect while the parties remain entitled to appeal, or while any such appeal by the parties awaits determination by the Appeals Council.

A handwritten signature in black ink, appearing to read 'MJ Whale', with a stylized flourish at the end.

MJ Whale FCA
Chairman
Disciplinary Tribunal