



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 **Craig James Le Quesne**, Chartered Accountant, of Auckland

**DETERMINATION OF THE DISCIPLINARY TRIBUNAL OF THE NEW ZEALAND
INSTITUTE OF CHARTERED ACCOUNTANTS
17 December 2012**

Hearing: 17 December 2012

Tribunal: Mr RJO Hoare FCA (Chairman)
Mr DP Scott CA (retired)
Mr MJ Whale FCA
Ms B Gibson (Lay member)

Legal Assessor: Mr Bruce Corkill QC

Counsel: Mr Michael Reed QC for the prosecution
Mr Aaron Nicholls for Mr Le Quesne

At a hearing of the Disciplinary Tribunal held in public at which the Member was in attendance and represented by counsel, the Member admitted the particulars and pleaded guilty to the charges.

The charges and particulars as laid were as follows:

Charges

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

- (1) Conduct unbecoming an accountant; and/or
- (2) Breaching the Institute's Rules and/or Code of Ethics.

Particulars

IN THAT

In your role as a Chartered Accountant in public practice and in relation to a complaint, the Member:

- (1) Did not behave in a manner consistent with the good reputation of the profession, in that he:
 - (a) Failed to meet the taxation obligations of his practice entity, Huddleston & Rosser Limited, to the Inland Revenue Department, in breach of the Fundamental Principle of Professional Behaviour; and/or
 - (b) Conducted the affairs of Huddleston & Rosser Limited in such a manner that the company was placed into liquidation, in breach of the Fundamental Principle of Professional Behaviour.

DECISION

The Member has permitted his practice entity to accrue significant liabilities, mainly GST, to the Inland Revenue Department (IRD) going back to 2004, to the extent that those liabilities became unmanageable. The Member endeavoured to arrange a repayment plan with IRD without success. Ultimately the IRD obtained an order appointing a liquidator to that entity in May 2012.

The practice was sold by the liquidator to another accounting firm (purchasing practice), for whom the Member now works. The proceeds of the assets of the Member's practice will fall well short of satisfying creditor claims.

Although the Member currently holds a Certificate of Public Practice (CPP), he has assured the Tribunal that he is not a principal or partner of the purchasing practice.

We note that no clients have complained, and that many have provided character references referring to the Member's integrity, professionalism and their ongoing support. We also note that the Member took steps to ensure an ongoing service to his clients so that disruption to their affairs was minimised.

The Member sought suspension of his CPP, rather than cancellation of it as requested by the Professional Conduct Committee. It is the Tribunal's view that:

- (i) The nature and extent of his practice's financial difficulties; and

(ii) The potential for confusion arising in the minds of clients of the purchasing practice about his status, when he is not in fact a partner or principal of that firm preclude a temporary suspension.

PENALTY

Pursuant to Rule 21.31(d) of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal orders that **Craig James Le Quesne's** Certificate of Public Practice be cancelled.

Pursuant to Rule 21.31(k) of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal orders that **Craig James Le Quesne** be censured.

COSTS

The Professional Conduct Committee seeks full costs of \$6,703.

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.

There are no mitigating factors brought to the Disciplinary Tribunal's attention such as excessive or unnecessary expenses incurred or demonstrated evidence of hardship (inability to pay).

Pursuant to Rule 21.33 of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal orders that **Craig James Le Quesne** pay to the Institute the sum of \$6,703 in respect of the costs and expenses of the hearing before the Disciplinary Tribunal and the investigation by the Professional Conduct Committee. No GST is payable.

SUPPRESSION ORDERS

Pursuant to Rule 21.52 (b) of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal orders the suppression of the name of the purchasing practice.

PUBLICATION

In accordance with Rule 21.35 of the Rules of the New Zealand Institute of Chartered Accountants the decision of the Disciplinary Tribunal shall be published on the Institute's website and in the *Chartered Accountants' Journal* with mention of the Member's name and locality.

RIGHT OF APPEAL

Pursuant to Rule 21.41 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 Member may, not later than 14 days after the notification to the Member 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 order 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