

Professional Conduct Committee – 12 October 2020

Breach of independence requirements – Member A, NSW

At a meeting of the Professional Conduct Committee (PCC) of Chartered Accountants Australia and New Zealand held in private on 12 October 2020 by videoconference in respect of Member A of New South Wales, the PCC decided that:

1. as a result of his disqualification by the Australian Securities and Investments Commission (ASIC) from holding a registration as an SMSF auditor, the Member is in breach of By-Law 40(2.1)(e);
2. the Member has failed to observe a proper standard of professional care, skill and competence in the course of carrying out his professional duties in breach of By-Law 40(2.1)(a) in circumstances where ASIC concluded that the Member breached the auditor independence requirements of APES 110 by auditing a self-managed superannuation fund (SMSF) in which his spouse was the member and trustee, in which he was the director of the fund's corporate trustee and a trustee and for which an employee prepared the accounts and financial statements. The PCC notes the Member's evidence that this employee was engaged by a different entity to the Member's accounting firm, but that it was owned by the Member and he was a director of the entity; and
3. the adverse finding brings discredit on at least the Member and the profession of accountancy, in breach of By-Law 40(2.1)(k).

As a result, the PCC considers that this matter is sufficiently serious to warrant referral to the Disciplinary Tribunal.

However, the PCC decided to propose that a consent agreement be made with the Member. Accordingly, with the written consent of the Member, the PCC made the following determinations:

1. the Member receive a reprimand;
2. the Member pay to CA ANZ the sum of \$1,845 towards the cost of investigating and dealing with the matters the subject of the complaint and the case conference; and
3. the PCC will publish, without disclosing the Member's name, but with disclosure of the Member's locality:
 - a. details of these sanctions on the website of Chartered Accountants ANZ; and
 - b. a notice in the digital and print magazine "Acuity", with a link to the published decision.

The PCC considers that:

1. it is in the public interest to publish its imposition of such a sanction given breach of the independence requirements contained in APES 110 is a serious issue and members are required to be fully aware of and compliant with those requirements and ASIC's action in disqualifying the Member from holding registration as an SMSF auditor is a serious regulatory action; but that

2. given the Member no longer holds a registration as an SMSF auditor, the PCC did not consider that there was any benefit in disclosing his name. As a result, the PCC decided that there are no special circumstances for disclosing the name of the Member.

**Professional Conduct Committee
Chartered Accountants Australia and New Zealand**

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