



## **Professional Conduct Tribunal – 11 December 2013**

### **Member failed to observe a proper standard of professional care, skill or competence – Arthur John Forrest CA of New South Wales**

The Tribunal found a case established that Forrest was liable to disciplinary action in accordance with:

1. By-law 40(a), in that as a registered liquidator under the Corporations Act 2001 (Cth) (the Act) or corresponding previous legislation since 12 August 1983, Forrest failed to observe a proper standard of professional care, skill or competence in the course of carrying out his professional duties, in that:
  - a. as a result of its review of Forrest's external administrations (as part of the Australian Securities and Investments Commission's (ASIC) Liquidator Compliance Program) ASIC has formed the view in relation to his conduct of the external administrations that he failed to carry out or perform adequately and properly the duties of a liquidator and/or any of the duties or functions required by an Australian law to be carried out or performed by a registered liquidator by:
    - i. failing to comply with the requirement to lodge Forms 524 – Presentation of Accounts and Statement pursuant to sections 539 and 432 of the Act;
    - ii. failing to comply with the requirement to hold annual meetings of creditors and members or lodge a report with ASIC pursuant to section 508 of the Act;
    - iii. failing to have remuneration approved pursuant to section 499 of the Act; and
    - iv. unnecessary delays in the finalisation of external administrations;
  - b. ASIC notes that Forrest has attended to the finalisation of those external administrations that require the external administrator to be a registered liquidator under the Act;
  - c. Forrest acknowledged ASIC's views set out in subparagraph (a) above and paragraph 3.2 of the enforceable undertaking given by him on 1 November 2012 (EU) and that they are reasonably held;
  - d. as a consequence of the matters set out in subparagraphs (a) to (c) above and paragraphs 2.3 and 2.4 of the EU, on 1 November 2012 Forrest gave several enforceable undertakings, that:
    - i. he will within 7 days after acceptance by ASIC of the enforceable undertaking, submit pursuant to section 1290 of the Act a duly completed Form 905A accompanied by the prescribed fee of \$36, requesting ASIC to cancel his registration as a liquidator;
    - ii. he will not, after cancellation of his registration as a liquidator, ever perform any duty or function which requires the person performing such duty or function to be registered as a liquidator under the Act;
    - iii. he will provide all documents and information requested by ASIC from time to time for the purpose of assessing his compliance with the terms of the enforceable undertaking; and
2. By-law 40(ea), in that on 1 November 2012 Forrest gave or entered into an enforceable undertaking to ASIC (which undertaking was not an undertaking in respect of procedural matters in respect of or in the course of the conduct of proceedings or an investigation by ASIC); and
3. By-law 40(j), in that Forrest's acts, omissions and defaults as set out in paragraphs 1 and 2 above bring, or are likely to bring, discredit on him, the Institute and/or the profession of accountancy.

The decisions of the Tribunal were that the allegations contained in the Notice of Disciplinary Action have been established on Forrest's own admission. The Tribunal decided that Forrest be required to have a Quality Review of his practice as soon as possible and that he undertake an appropriate CPE course in practice management and quality

control. The Tribunal also decided that notification of the Tribunal's decisions be given to the Australian Securities and Investments Commission and that Forrest be required to pay a contribution of \$1,200 plus GST towards the costs of the disciplinary action.

**Professional Conduct Tribunal**  
**The Institute of Chartered Accountants Australia**

11 December 2013