



Professional Conduct Committee – 15 August 2018

Breach of Fundamental Principles of Confidentiality and Professional Behaviour (Sections 140 and 150 of APES 110, *Code of Ethics for Professional Accountants*) – Ms Mary Jones CA

At a meeting of the Professional Conduct Committee (PCC) of Chartered Accountants Australia and New Zealand (Chartered Accountants ANZ) held in private on 15 August 2018 in Melbourne Australia in respect of Ms Mary Jones CA of Victoria, the PCC decided that the Member breached By-Law 40(2.1)(h), in that the Member committed a breach of Sections 140 and 150 of APES 110, *Code of Ethics for Professional Accountants*.

The evidence was that the Member sent correspondence to six former clients of the Member, on receipt of ethical letters from the clients' new accountant (the Complainant). This correspondence made reference to the qualifications of the Complainant, revealed details of a commercial dispute between the Member and the Complainant and was provided without giving the Complainant the opportunity to provide any response or context to the remarks.

The PCC considered that the fact and content of this correspondence were intentionally disparaging. While the Member stated that she sent this correspondence to protect her clients, the PCC did not accept that the Member's conduct in sending such correspondence was appropriate, given that the individuals to whom the correspondence was sent were at that point former clients and where the Member had not sought to communicate with the Complainant about the issues which she thought were of concern. The Member claimed that the remarks in her correspondence were truthful. However, the PCC points out that the Member's correspondence omitted the full context.

The PCC considered that the Member's correspondence to her former clients was in breach of section 150.1(b) of APES 110 in that it made disparaging references to the work of the Complainant, by implying that the Complainant was not qualified to carry out the work for which he had been engaged.

In addition, the PCC considered that the Member's correspondence breached the Complainant's confidentiality in that it disclosed to former clients of the firm information that was confidential (regarding the commercial dispute) and to the Member's personal advantage (in that it appeared to be designed to persuade clients not to transfer their business to the Complainant). This was information which the Member had obtained in the context of her professional and business relationship with the Complainant. The Complainant had not provided any authority for the disclosure of this information. The PCC considered that in doing so the Member had breached section 140.1(b) of APES 110.

The PCC regards these actions as a serious breach of the professional and ethical standards in circumstances where the Member should have raised any issues of concern privately with the Complainant, and not have involved the Complainant's clients.

As a result the PCC considered that this matter is sufficient 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 Committee made the following determinations:

1. that the Member receive a severe reprimand;
2. that the Member pay to Chartered Accountants ANZ a fine in the amount of \$3,000;
3. that the Member pay costs incurred by and on behalf of Chartered Accountants ANZ in investigating and dealing with the matters the subject of the complaint and the case conference in the amount of \$3,250;

4. that the PCC will publish:

- a) details of these sanctions on the website of Chartered Accountants ANZ; and
- b) a notice in the digital and print magazine “Acuity”, disclosing the Member’s name and location, with a link to the published decision.

The PCC considers that it is in the public interest for this sanction to be published in the terms set out in the proposed Consent Agreement and that there are special circumstances for disclosing the Member’s name.

Professional Conduct Committee
Chartered Accountants Australia and New Zealand

15 August 2018