



**NEW ZEALAND INSTITUTE OF CHARTERED ACCOUNTANTS
NOTICE OF DECISION AND ORDER OF THE PROFESSIONAL CONDUCT COMMITTEE**

At a meeting of the Professional Conduct Committee of the New Zealand Institute of Chartered Accountants ("NZICA") held in private on 5 December 2012, in respect of a Member, the Committee found that the following matters would otherwise warrant being referred to the Disciplinary Tribunal:

That in her role as a Provisional Chartered Accountant, the Member:

- (1) Offered accounting services to the public without holding a Certificate of Public Practice in breach of Rule 18.2 of the Institute's Rules and/or the Fundamental Principle of Professional Behaviour of the Code of Ethics; and/or
- (2) Without consent of the Institute's Board:
 - (a) Directly or indirectly obtained financial benefit from Company X other than by earnings as an employee not holding a position in the entity equivalent to that of a director in a corporate entity; and/or
 - (b) Directly obtained financial benefit from Company Y; in breach of paragraph 2.4(c) of Appendix IX to the Code of Ethics; and/or
- (3) Modified the company structure of Company X to circumvent the Rules regarding public practice, in breach of the Fundamental Principle(s) of Integrity and/or Professional Behaviour in the Code of Ethics.

With the consent of the Member the Committee made the following orders, which shall be entered on the Member's record:

- (a) In accordance with Rule 21.6(d)(v) the Member receive a severe reprimand; and
- (b) In accordance with Rule 21.6(d)(vii) the Member pay costs to NZICA of \$1,570.00.

The Committee noted that the Member had offered accounting services to the public without a Certificate of Public Practice in spite of the complete prohibition on provisional members doing so. Further the Member had offered her accounting services through Companies X and Y without approval. Initially she was a director and shareholder of Company X and received financial benefit from the company in those capacities. The Member was contacted by NZICA and advised of the Rules that she was not entitled to offer accounting services to the public or to obtain financial benefit from an entity offering accounting services to the public, other than by earnings as an employee. Following this advice the Member was removed as a director and shareholder of Company X, however the changes were cosmetic and the Member continued to receive financial benefit and operate the company as if she were a director and shareholder. The Member subsequently set up Company Y and in her capacity as director and shareholder of the company obtained direct financial benefit.

The Committee considered that there was sufficient evidence to find that the three particulars were established. It was further concerned by the Member's conduct, particularly given that the Member had recently completed NZICA's ethics workshops in November 2011.

While the Committee was of the view that the matters were serious enough to warrant referral to the Disciplinary Tribunal, it considered there were some mitigating factors. These factors included that the Member was the sole provider for her children, and that she had acknowledged her shortcomings. The Committee also noted that the Member expressed a willingness to resign from membership to regularise the position. Taking these factors into account, the Committee resolved to offer the Member a consent order in accordance with Rule 21.6(d).

The Committee also sought and accepted the Member's written undertaking in accordance with Rule 21.54A(b) that she resign from membership of NZICA within seven working days of signing the consent order.

The Committee considered that it was in the public interest to direct publication of its decision and the orders made. In accordance with Rule 21.6B, the Committee's orders will be published in the Chartered Accountants Journal, on NZICA's website, without mention of the member's name and locality.

David Barker
Chairman
Professional Conduct Committee

14 January 2013