



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 **Cornelius Robert Roest**, Suspended Chartered Accountant, of Auckland

**DETERMINATION OF THE DISCIPLINARY TRIBUNAL OF THE NEW ZEALAND INSTITUTE OF CHARTERED ACCOUNTANTS
19 September 2012**

Hearing: 19 September 2012

Tribunal: Mr RJO Hoare FCA (Chairman)
Ms JA Dawson FCA
Mr MJ Whale FCA
Ms B Gibson (Lay member)

Legal Assessor: Mr Bruce Corkill QC

Counsel: Mr Terence Sissons for the prosecution

At a hearing of the Disciplinary Tribunal held in public at which the Member was not in attendance and not represented by counsel, the Member entered no plea.

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:

- (1) Has been convicted of offences punishable by imprisonment and these convictions reflect on his fitness to practise accountancy and/or tends to bring the profession into disrepute; and/or
- (2) (withdrawn)

Particulars

IN THAT

- (a) On or about 5 April 2012 at the High Court in Auckland the Member was convicted of:
 - a. Six counts of making a false statement (an offence pursuant to section 242 of the Crimes Act 1961); and
 - b. Two counts of making a false statement in a Director's Certificate (an offence pursuant to section 377(2) of the Companies Act 1993); and
 - c. Six counts of distributing a prospectus containing an untrue statement (an offence pursuant to section 58(3) of the Securities Act 1978); and
 - d. Four counts of distributing an investment statement containing an untrue statement (an offence pursuant to section 58(1) of the Securities Act 1978); and/or
- (b) (withdrawn)

DECISION

The Tribunal had the benefit of the sentencing notes of Venning J from the Member's High Court trial. As to the gravity of the Member's misconduct it is sufficient to note that the Court sentenced him to 6 ½ years imprisonment.

PENALTY

Acting dishonestly with intent to deceive the investing public, as the Court found, is incompatible with membership of the Institute.

Pursuant to Rule 21.31 (a) of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal orders that the name of **Cornelius Robert Roest** be removed from the Institute's register of members.

COSTS

The Professional Conduct Committee seeks full costs of \$4,100.

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 was no evidence before the Tribunal of any mitigating factors such as excessive or unnecessary expenses incurred or demonstrated evidence of hardship (inability to pay), although the Tribunal notes that the Member is bankrupt.

Pursuant to Rule 21.33 of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal orders that **Cornelius Robert Roest** pay to the Institute the sum of \$4,100 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.

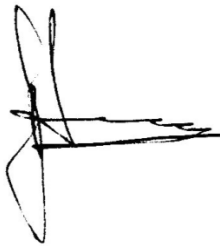
PUBLICATION

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 shall take effect while the Member remains entitled to appeal, or while any such appeal by the Member awaits determination by the Appeals Council.

A handwritten signature in black ink, appearing to read 'R J O Hoare', with a stylized flourish extending to the right.

R J O Hoare
Chairman
Disciplinary Tribunal