



Professional Conduct Committee – 7 July 2022

Compliance with APES 310 Trust Account Audit, Compliance with directions of CA ANZ – Member D

At a meeting of the Professional Conduct Committee (PCC) of Chartered Accountants Australia and New Zealand held in private on 6 July 2022 by videoconference in respect of Member D, the PCC decided that in relation to the issues referred to below the Disciplinary Tribunal would be likely to find that the Member's conduct did not comply with:

- By-Law 40(2.1)(h)
- By-Law 40(2.1)(i)

The PCC considered that these issues were sufficiently serious to warrant referral to the Disciplinary Tribunal. However, the PCC decided to propose that an agreement be made with the Member which shall be entered on the Member's record, on terms that:

1. the Member receive a severe reprimand;
2. the Member pay to CA ANZ the sum of \$4,636 by way of contribution towards the costs of investigating and dealing with the matters the subject of the complaint and the Case Conferences;
3. the Member must complete at his own expense the Public Practice Program (PPP). The Member is to provide to CA ANZ within the next 3 months evidence that he has booked into the workshop, with the e-learning and workshop components of the PPP to be completed by 25 December 2022. If the Member has any difficulty completing the workshop component of the PPP by 25 December 2022 he is to contact CA ANZ at membercomplaints@charteredaccountantsanz.com;
4. the Member and his Practice Entity be required to submit to a quality review pursuant to the CA ANZ Regulations, at the Member's cost, with the results of such review to be made available to the PCC. The quality review is to take place after 1 July 2023 with particular focus on compliance with APES 310;
5. the Member to provide a written undertaking to the PCC in accordance with By-Law 40(13.8) that:
 - i. the Member provide to CA ANZ as soon as it is available the trust account audit report for the year ended 31 March 2022;
 - ii. the Member provide to CA ANZ within the required time frame (namely by 30 June 2023) an unqualified trust account audit report for the year ended 31 March 2023.

The Member is to provide these trust account audit reports to CA ANZ at membercomplaints@charteredaccountantsanz.com. The PCC notes that CA ANZ will provide copies of the trust account audit reports to Professional Standards. If the Member has any difficulty in complying with the terms of the written undertaking he is to contact CA ANZ at membercomplaints@charteredaccountantsanz.com; and

6. the PCC will publish:
 - a) details of these sanctions on the website of CA ANZ; and
 - b) a notice in the digital and print magazine "Acuity", with a link to the published decision,
without disclosing the Member's name and locality.

The PCC considers that it is in the public interest for this sanction to be published, but that there are no special circumstances which warrant disclosing the name of the Member.

Background

On 11 June 2021 the Member was referred to the PCC for failure to provide a copy of the 2020 trust account audit report to CA ANZ as required. The failure to obtain an audit report was identified in a quality review of the Member's practice.

The Member also failed to respond to CA ANZ's correspondence in relation to this matter.

The Member failed to comply with the directions made by the PCC at the Case Conference. The Member was advised at this time and subsequently of the importance of communicating with CA ANZ. However, he failed to reply to correspondence from CA ANZ on numerous occasions.

On 10 June 2022 CA ANZ received signed audit reports from the Member for the periods 2016 to 2021. The audit reports are substantially qualified.

Reasons

Section 7.1 of APES 310 provides that a Member in Public Practice who Deals with Client Monies shall appoint another Member in Public Practice as Auditor of Client Monies and shall ensure that an annual Reasonable Assurance Engagement of the Member's compliance with the requirements of this Standard is performed within 3 months of the Applicable Year-End Date. This is an important requirement in the public interest in order to protect Members and clients and to support the integrity of the profession of accounting.

The Member did not comply with his obligations under APES 310. Importantly he had 6 years of outstanding trust account audit reports for the period 2016-2021 prior to the qualified trust account audit reports being completed in bulk this year. This is a breach of By-Law 40(2.1)(h), which provides (relevantly) that a Member is liable to disciplinary action under these By-Laws if that Member has committed any breach of any pronouncements issued by the Accounting Professional and Ethical Standards Board (which includes APES 310).

Further, the Member failed to comply with the directions of CA ANZ to provide a copy of the audit reports to CA ANZ and to respond to its correspondence on numerous occasions. This is a breach of By-Law 40(2.1)(i), which provides (relevantly) that a Member is liable to disciplinary action under these By-Laws if that Member has failed to comply with any reasonable and lawful direction of any officer or organ of CA ANZ acting within the powers conferred by CA ANZ's Supplemental Charter, these By-Laws or the Regulations and which relates to a matter concerning the good order and management of CA ANZ.

The PCC regards the Member's breaches of the By-Laws as sufficiently serious to warrant referral to the Disciplinary Tribunal. However, the PCC decided to propose that a Consent Agreement be made with the Member on the terms set out above.

Professional Conduct Committee Chartered Accountants Australia and New Zealand

7 July 2022