



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 **Paul Winstone Forsyth**, Former Chartered Accountant, of Auckland

**DETERMINATION OF THE DISCIPLINARY TRIBUNAL OF THE NEW ZEALAND
INSTITUTE OF CHARTERED ACCOUNTANTS
10 December 2013**

Hearing: 10 December 2013

Tribunal: Mr RJO Hoare FCA (Chairman)
Mr P Herrod CA
Prof DJD Macdonald FCA
Mr MJ Whale FCA
Ms B Gibson (lay member)

Legal Assessor: Mr Bruce Corkill QC

Counsel: Mr Richard Moon for the prosecution

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

The charge and particulars as laid were as follows:

Charge

THAT in terms of the New Zealand Institute of Chartered Accountants Act 1996 and the Rules made thereunder, and in particular Rule 21.30(a):

1. The Former Member has been convicted of offences punishable by imprisonment and the conviction reflects on his fitness to practise accountancy and/or tends to bring the profession into disrepute.

Particulars

IN THAT

- (a) On 26 June 2013 the Former Member was convicted in the High Court at Auckland of: Seven counts of breaching the Securities Act 1978 while acting as a Director of Dominion Finance including:
 - (i) Four counts of distributing a prospectus containing an untrue statement (pursuant to section 58(3) Securities Act 1978); and
 - (ii) Three counts of distributing an investment statement containing an untrue statement (pursuant to section 58(1) Securities Act 1978).

DECISION

In relation to the Former Member's offending (to which he pleaded guilty) he accepted he was grossly negligent in carrying out his responsibilities as a director. However the Crown accepted that he acted honestly at all times.

The Former Member was sentenced to 11 months home detention and 200 hours community work, and ordered to pay \$50,000 in reparations, which he has paid.

The Tribunal finds that offending of this nature both reflects on his fitness to practise accountancy and tends to bring the profession into disrepute.

Accordingly the Tribunal finds the Former Member guilty of the charge.

FINDING

Gross negligence in dealing with financial matters, particularly when the public interest is involved, is inconsistent with membership of the Institute. The Tribunal notes that the Former Member tendered his resignation of the Institute and as a result of an oversight by the Institute that resignation was accepted before these proceedings took place.

Pursuant to Rule 21.60 (a) of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal finds that if the Former Member had still been a member his name would have been removed from the Institute's register of members for these offences.

COSTS

The Professional Conduct Committee seeks full costs of \$3,685.

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.

The Former Member is 65 years old and has submitted an affidavit of his financial position which discloses that after making the reparation payment he has minimal assets. He has submitted that any award of costs will principally punish his wife and family, and that he resigned from the Institute in order to minimise the costs incurred in striking him off.

In all the circumstances the Tribunal considers that an award of costs of \$2,500 is fair and reasonable.

Pursuant to Rule 21.33 of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal orders that **Paul Winstone Forsyth** pay to the Institute the sum of \$2,500 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.

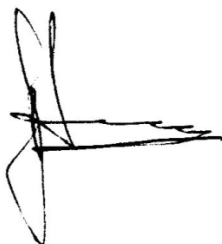
PUBLICATION

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 Former 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 Former Member may, not later than 14 days after the notification to the Former 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 Former Member remains entitled to appeal, or while any such appeal by him awaits determination by the Appeals Council.



R J O Hoare FCA
Chairman
Disciplinary Tribunal