



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 **Gary Kenneth Urwin**, Chartered Accountant, of Pymble, New South Wales, Australia

**DETERMINATION OF THE DISCIPLINARY TRIBUNAL OF THE NEW ZEALAND
INSTITUTE OF CHARTERED ACCOUNTANTS
17 December 2012**

Hearing: 17 December

Tribunal: Mr RJO Hoare FCA (Chairman)
Mr DP Scott CA (retired)
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 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 the Member has been convicted of offences punishable by imprisonment and these convictions reflect on his fitness to practise accountancy and/or tend to bring the profession into disrepute.

Particulars

IN THAT

- (a) On or about 17 April 2012 at the High Court in Auckland the Member was sentenced to a term of two years imprisonment after having pleaded guilty to:
 - (i) Six counts of distributing a prospectus containing an untrue statement (an offence pursuant to section 58(3) of the Securities Act 1978); and
 - (ii) Four counts of distributing an investment statement containing an untrue statement (an offence pursuant to section 58(1) of the Securities Act 1978).

DECISION

The Tribunal finds the Particulars proven. The Charge is also proven - offending of this type both reflects the Member's fitness to practise accountancy and tends to bring the profession into disrepute.

The Tribunal has had the benefit of the sentencing notes of Justice Andrews at the Member's High Court trial and has had regard to the mitigating and aggravating factors referred to in those notes.

The Tribunal considers that in order to protect the public interest and maintain professional standards it is necessary to remove the Member's name from the Institute's register of members. Financial related offending of such seriousness as to warrant two years imprisonment is incompatible with membership of the Institute.

PENALTY

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 **Gary Kenneth Urwin** be removed from the Institute's register of members.

COSTS

The Professional Conduct Committee seeks full costs of \$7,550.

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.

In this case the Institute withdrew one of the two charges originally laid.

There are no other mitigating factors such as excessive or unnecessary expenses incurred or demonstrated evidence of hardship (inability to pay).

Pursuant to Rule 21.33 of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal orders that **Gary Kenneth Urwin** pay to the Institute the sum of \$7,000 in respect of the costs and expenses of the hearings before the Disciplinary Tribunal, the investigation by the Professional Conduct Committee and the cost of publicity. 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, in the *Chartered Accountants' Journal* and the *New Zealand Herald* 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