

Professional Conduct Committee – 3 February 2020

Failure to comply with the professional obligation of objectivity and professional behaviour- Member A

At a meeting of the Professional Conduct Committee of Chartered Accountants Australia and New Zealand (PCC) held in private on 3 February 2020 in Sydney Australia in respect of Member A of Western Australia the PCC decided that the Member breached the following By-Laws for the reasons set out in the Reasons section below:

- 40(2.1)(h)
- 40(2.1)(k).

As a result, the PCC considers that this matter is sufficiently serious to warrant referral to the Disciplinary Tribunal.

However, the PCC decided that Member A be offered a consent agreement under By-Law 40(7.3)(g) of the By-Laws, on the bases set out below.

Background

The Member was engaged as external accountant for a client for a number of years. On the evidence of both parties, the Member was intricately involved in the financial and corporate governance affairs of the client over the course of the engagement.

Terms of Engagement

The PCC considered that the terms of the engagement should have been reissued and/or amended to account for changes in the engagement and services provided. In failing to do this, the Member breached the professional obligation to document and communicate terms of engagement set out at section 3.1 and 5.1 of APES 305, which the PCC considers gives rise to disciplinary liability pursuant to By-Law 40(2.1)(h). The PCC noted that the Member's firm is reviewing its engagement letters for recurring engagements.

Discredit

The PCC also formed the view that various characteristics of the Member's conduct were capable of discrediting himself, CA ANZ and the profession of accountancy, including the use of expletives and derision in email correspondence and the repeated accusations of criminal behaviour made against the Complainant's Board members. Although the PCC accepts that the use of underlining, bolding, highlighting and varied font sizes in isolation was unlikely to be so serious as to warrant disciplinary investigation, when considered in conjunction with the language, tone, volume and persistent nature of the Member's correspondence, the PCC considered that this conduct was sufficient to meet the threshold of discredit.

The PCC also noted the Member's lack of insight in relation to the unprofessional nature of his conduct. In the circumstances, the PCC considered that the Member breached the obligation set out at section 100.5(e) of APES 110 and that he is therefore liable to disciplinary sanction pursuant to By-Law 40(2.1)(h) and By-Law 40(2.1)(k).

Objectivity

Further, the PCC considered that the Member allowed his professional judgment to be compromised, contrary to the obligation set out at section 100.5(b) of APES 110, *Code of Ethics for Professional Accountants*, giving rise to disciplinary liability pursuant to By-Law 40(2.1)(h). The PCC also noted that it is not a matter for the Member to advocate for his private clients and the (former) auditor “*to the point that the Member’s objectivity is compromised*”.

Determinations

With the written consent of the Member, the PCC made the following determinations:

1. the Member receive a reprimand;
2. the Member undertake to cease all engagement with his former client and its officers unless invited to do so by formal resolution of the former client’s Board;
3. the Member and his practice entity be required to submit to a quality review, at the Member’s cost, with particular emphasis on:
 - a) client acceptance and engagement procedures;
 - b) policies and procedures in relation to conflicts of interest,with the results of the quality review to be made available to the PCC;
4. the Member pay to Chartered Accountants ANZ the sum of \$6,900 by way of contribution towards the costs of investigating and dealing with the matters the subject of the complaint and the case conference; and
5. the PCC will publish:
 - a) details of these sanctions on the website of Chartered Accountants ANZ; and
 - b) a notice in the digital and print magazine “Acuity”,without disclosing the Member’s name but disclosing the Member’s State location, with a link to the published decision.

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

Professional Conduct Committee Chartered Accountants Australia and New Zealand

3 February 2020