



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 **John Walsh**, Provisional Associate Chartered Accountant, of **Kaitaia**

**DETERMINATION OF THE DISCIPLINARY TRIBUNAL OF THE NEW ZEALAND
INSTITUTE OF CHARTERED ACCOUNTANTS
19 March 2013**

Hearing: 19 March 2013

Tribunal: Mr RJO Hoare FCA (Chairman)
Prof DJD Macdonald 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, and made no submissions.

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 has breached the Institute's Rules and/or Code of Ethics.

Particulars

IN THAT

In his role as Treasurer and/or President Elect of the XYZ Club ("the Club"), the Member:

- (1) Failed to bank cash collected for the Club in a timely manner, in breach of Rule 9: *Due Care and Diligence* and/or Rule 10: *Timeliness* of the Code of Ethics; and/or
- (2) Failed to maintain appropriate accounting records for cash takings collected for the Club, in breach of the Fundamental Principle of Quality Performance of the Code of Ethics.

DECISION

The Tribunal find the Member guilty of these charges which relate to a breach of professional standards and expectations as to timeliness and quality performance.

At the Professional Conduct Committee's final determination hearing, which the Member attended by teleconference, he accepted both particulars.

These charges arise following the Member's former employer advising the Institute that in his personal capacity as the Treasurer and President Elect of the Club, he did not act properly, in that he did not bank cash relating to Club activities in a timely manner, and did not keep adequate financial records. When confronted by other officials associated with the Club, the Member promptly paid the missing funds into the Club's bank account. The Member also resigned from the Club. There is no evidence of dishonesty.

At the Professional Conduct Committee's final determination hearing the Member was not able to adequately explain his behaviour. The Member advised that this lapse occurred when he was under a heavy workload, and that he did not cope well with the extra work he had at that time. The Member has since taken steps to lighten his workload, resigning from various honorary roles, including other Treasurer positions. The Member also lost his job with his former employer.

PENALTY

Pursuant to Rule 21.31 (k) of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal orders that **John Walsh** be censured.

COSTS

The Professional Conduct Committee seeks full costs of \$8,199.

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 are no 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 **John Walsh** pay to the Institute the sum of \$8,199 in respect of the costs and expenses of the hearing before the Disciplinary Tribunal, the investigation by the Professional Conduct Committee and the cost of publicity. No GST is payable.

SUPPRESSION ORDERS

Pursuant to Rule 21.52 (b) of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal orders that the name of the Club be suppressed.

PUBLICATION

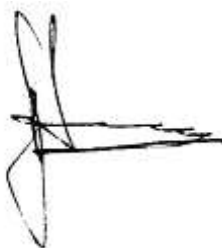
In accordance with Rule 21.35 of the Rules of the New Zealand Institute of Chartered Accountants the decision of the Disciplinary Tribunal shall be published on the Institute's website, in the *Chartered Accountants' Journal* and the *Northland Age* with mention of the Member's name and locality.

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.

While the Member remains entitled to appeal, the decision as to publicity shall not take effect.

The suppression order shall take effect immediately. No other decision shall take effect while the Member remains entitled to appeal, or while any such appeal by the Member awaits determination by the Appeals Council.



R J O Hoare
Chairman
Disciplinary Tribunal