

Professional Conduct Committee – 5 July 2022

Adverse Finding/Criminal Convictions – Member C

At a meeting of the Professional Conduct Committee (PCC) of Chartered Accountants Australia and New Zealand held in private on 5 July 2022 by video conference in respect of Member C, the PCC decided that the Disciplinary Tribunal would be likely to find that the Member's conduct did not comply with:

- By-Law (2.1)(b);
- By-Law (2.1)(g); and
- By-Law (2.1)(k).

The PCC decided that for the reasons set out below the matters the subject of the Case Conference are 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 undertakes to resign her membership with CA ANZ and not to re-apply for such membership;
3. the Member pay to CA ANZ the sum of \$1,830 by way of contribution towards the costs of investigating and dealing with the matters the subject of the complaint and the Case Conference; and
4. the PCC will publish:
 - i. details of these sanctions on the website of CA ANZ; and
 - ii. 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 there are no special circumstances which warrant disclosing the name of the Member.

Background

The Member, whose membership of CA ANZ had previously been suspended on an interim basis following the institution of criminal proceedings against her, pleaded guilty to one count of fraud and one count of dishonestly using her position on 19 January 2021. On 10 February 2022 the Member was sentenced to imprisonment by the District Court of New South Wales, to be served by Intensive Correction Order (rather than being imprisoned).

On 3 June 2020, following an investigation by the Australian Securities and Investments Commission, the Member's registration as a liquidator was cancelled and her membership of the Australian Restructuring Insolvency & Turnaround Association (ARITA) was automatically cancelled that same day.

Reasons

The Member's legal representative acknowledged that the Member's criminal conviction, cancellation of her registration as a liquidator and the termination of her ARITA membership are breaches of By-Laws 40(2.1)(b) and 40(2.1)(g) and that her actions bring discredit upon herself and CA ANZ, in breach of By-Law 40(2.1)(k).

The Member's legal representative said that the Member had not worked in the profession since December 2018 and did not intend to return to the profession, following her resignation as a liquidator and cancellation of her registration and that she is no longer a member of any professional accounting associations. He noted that the Member had sought to terminate her membership since 2019 and whilst the Board of CA ANZ did not have to accept a membership resignation during the existence of disciplinary action or professional conduct proceedings, there is provision under By-Law 21(c) for the Board to accept a resignation at that time.

The PCC notes that it is usual in such circumstances for the PCC to refer complaints of this nature to the Disciplinary Tribunal for hearing.

However, following consideration of the evidence provided by the Member, the PCC has decided that it is appropriate in these circumstances to offer the Member a Consent Agreement on the terms set out above.

Professional Conduct Committee Chartered Accountants Australia and New Zealand

5 July 2022