

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 **CHRISTOPHER JOHN HUGHES**, Chartered
Accountant, of Hamilton

**DETERMINATION OF THE DISCIPLINARY TRIBUNAL OF THE NEW ZEALAND INSTITUTE OF
CHARTERED ACCOUNTANTS
12 October 2010**

Hearing: 12 October 2010

Tribunal: Mr RJO Hoare (Chairman), Mr P Scott, Mr M Whale and
Ms A Hauk-Willis (Lay Member)

Legal Assessor: Mr B Corkill QC

Counsel: Mr M Reed QC and Mr R Moon for the prosecution
Mr J Miles QC and Ms P Fee for Mr Hughes

The member pleaded guilty to the charges and admitted the particulars as amended by consent at the hearing.

The charges and particulars were as follows:

FIRST CHARGE

- (1) In signing an unqualified audit opinion on the financial statements of Nathans Finance NZ Limited for the year ended 30 June 2006 you failed to exercise due care and diligence in relation to your assessment of the adequacy of the disclosure of material Related Party transactions, in breach of Rule 9 of the Code of Ethics.

Particulars

The audit opinion asserted that the financial statements complied with generally accepted accounting practice and presented a true and fair view of the financial position, performance and cashflows when:

- (a) the terms of settlement of outstanding related parties' balances were not adequately disclosed in the financial statements as required by paragraph 5.1(d) of SSAP-22 – *Related Party Disclosures*; and/or
- (b) the funds advanced to VTL Group Ltd under a revolving credit facility, included in the \$79m intercompany advances at year end, were classified as a current asset, which was misleading to readers of the financial statements, without additional information about the nature and circumstances of the classification, as required by paragraph 5.2 of FRS -9 – *Information to be disclosed in financial statements*; and/or
- (c) the funds advanced to VTL Group Ltd under a revolving credit facility, included in the \$79m intercompany advances at year end, were classified as a current asset, when the economic effect was that this loan, as a revolving facility, was not expected to be repaid within 12 months of balance date and consequently did not achieve representational faithfulness, and therefore reliability, in the financial statements as required by paragraphs 4.9(a) and 4.10 of the SC - *Statement of Concepts for general purpose financial reporting*.

SECOND CHARGE

- (2) In performing the audit of the financial statements of Nathans Finance NZ Limited for the year ended 30 June 2006 you failed to comply with Auditing Standards which require the auditors to satisfy themselves that identified Related Party transactions have been properly disclosed, in breach of Rule 11 of the Code of Ethics.

Particulars

In breach of paragraph 18 of AS-510 – *Related Parties* you failed to satisfy yourself that the related party transactions had been properly disclosed when:

- (a) the terms of settlement of outstanding related parties' balances were not adequately disclosed in the financial statements as required by paragraph 5.1(d) of SSAP-22 – *Related Party Disclosures*; and/or
- (b) the funds advanced to VTL Group Ltd under a revolving credit facility, included in the \$79m intercompany advances at year end, were classified as a current asset, which was misleading to readers of the financial statements, without additional information about the nature and circumstances of the classification as required by paragraph 5.2 of FRS-9 – *Information to be disclosed in financial statements*; and/or

- (c) the funds advanced to VTL Group Ltd under a revolving credit facility, included in the \$79m intercompany advances at year end, were classified as a current asset, when the economic effect was that this loan, as a revolving facility, was not expected to be repaid within 12 months of balance date and consequently did not achieve representational faithfulness, and therefore reliability, in the financial statements as required by paragraphs 4.9(a) and 4.10 of the SC - *Statement of Concepts for general purpose financial reporting*.

THIRD CHARGE

- (3) In performing the audit of the financial statements of Nathans Finance NZ Limited for the year ended 30 June 2006 you failed to comply with Auditing Standards in relation to documenting evidence to support the audit opinion and evidence that the audit was carried out in accordance with Auditing Standards, in breach of Rule 11 of the Code of Ethics.

Particulars

In breach of paragraph 8 of AS-204 – *Documentation/Form and Content of Working Papers*, you failed to document on the audit file the basis upon which you accepted the classification of intercompany advances to VTL Group Ltd, included in the \$79m intercompany advances as a current asset, when the economic effect was that this loan, as a revolving facility, was not expected to be repaid within 12 months of balance date and consequently did not achieve representational faithfulness, and therefore reliability, in the financial statements as required by paragraphs 4.9(a) and 4.10 of the SC - *Statement of Concepts for general purpose financial reporting*

FOURTH CHARGE

- (4) In performing the audit of the financial statements of Nathans Finance NZ Limited for the year ended 30 June 2006 you failed to comply with Auditing Standards which require audits to be planned and performed with an attitude of professional scepticism, in breach of Rule 11 of the Code of Ethics.

Particulars

In breach of paragraph 50 of AS100 – *Objective of and General Principles Governing an Audit*, you failed to assess the ability of VTL Group Ltd and its subsidiaries to repay \$79m, disclosed as intercompany advances, with an attitude of professional scepticism.

FIFTH CHARGE

- (5) In performing the audit of the financial statements of Nathans Finance NZ Limited for the year ended 30 June 2006 you failed to comply with Auditing Standards in relation to documenting matters which are important in providing evidence to support the audit opinion and evidence that the audit was carried out in accordance with Auditing Standards, in breach of Rule 11 of the Code of Ethics.

Particulars

In breach of paragraph 8 of AS-204 – *Documentation/Form and Content of Working Papers*, you failed to document your assessment of the appropriateness of Roger Cole-Baker's valuation as audit evidence to support the collectability of the \$13.6m loan due from Intelligent Vending LLC as at 30 June 2006, as required by paragraph 19 of AS-606 – *Assessing the Work of an Expert*

SIXTH CHARGE

- (6) (withdrawn)

SEVENTH CHARGE

- (7) In performing the audit of the financial statements of Nathans Finance NZ Limited for the year ended 30 June 2006 you failed to comply with Auditing Standards in relation to documenting matters which are important in providing evidence to support your audit opinion, in breach of Rule 11 of the Code of Ethics.

Particulars

In breach of paragraph 8 of AS-204 *Documentation/Form and Content of Working Papers* you failed to document sufficient appropriate audit evidence to support your opinion about the financial position of Advanced Vending Systems Pty Ltd, which owed Nathans Finance NZ Limited in excess of \$12.5m.

EIGHTH CHARGE

- (8) In performing the audit of the financial statements of Nathans Finance NZ Limited for the year ended 30 June 2006 you failed to comply with Auditing Standards which require you to obtain sufficient appropriate audit evidence to be able to draw reasonable conclusions on which to base an audit opinion, in breach of Rule 11 of the Code of Ethics.

Particulars

In breach of paragraph 8 of AS-500 – *Audit Evidence/ Sufficient Appropriate Audit Evidence* you failed to obtain sufficient appropriate audit evidence to enable you to draw reasonable conclusions about the financial position of Advanced Vending Systems Pty Ltd, which owed Nathans Finance NZ Limited in excess of \$12.5m.

NINTH CHARGE

- (9) (withdrawn)

DECISION

The Tribunal received submissions as to penalty, costs and publication from Mr Reed QC on behalf of the Professional Conduct Committee and Mr Miles QC for Mr Hughes. The Tribunal has taken these submissions into account when reaching its decision.

This disciplinary proceeding involves a public issuer of debt. It relates to issues of public accountability and involves the reputation and standing of the Institute.

The charges relate to the audit of Nathans Finance NZ Limited for the year ended 30 June 2006 by Staples Rodway, Mr Hughes being the engagement partner on this audit.

Nathans Finance NZ Limited was utilised primarily to fund commercial operations related to the VTL Group under a trust deed which had no covenants restricting concentration of credit risk or related party lending.

The Tribunal noted that the member in his audit planning identified key risk areas and made and documented enquiries in those areas. However, the level of investigation and the quality of the judgments based on those investigations were deficient in some instances.

Mr Hughes has pleaded guilty to charges relating to instances of the adequacy of the disclosure of related party arrangements, failure to obtain sufficient audit evidence, the adequacy of documentation of the audit, errors of judgment and insufficient professional scepticism.

The Tribunal has had regard to Mr Hughes' guilty plea and his long career of distinguished service to clients and the Waikato community.

PENALTY

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

Pursuant to Rule 21.31 (n) of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal ordered that **Christopher John Hughes** not undertake the audit of an issuer as defined in section 4 of the Financial Reporting Act 1993 for a period of five years from the date of this decision.

COSTS

Pursuant to Rule 21.33 of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal ordered that **Christopher John Hughes** pay to the Institute the sum of \$163,467 (including GST) 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.

PUBLICATION

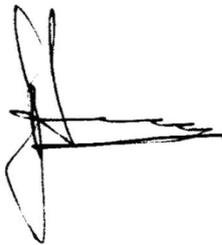
In accordance with Rule 21.35 of the Rules of the New Zealand Institute of Chartered Accountants the decision of the Disciplinary Tribunal shall be published on the Institute's website, in the Chartered Accountants Journal, the Waikato Times and the National Business Review with mention of the member's name and locality.

Pursuant to Rule 21.52 the Disciplinary Tribunal ordered that this decision be embargoed until 9am Thursday 14 October 2010.

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 of this Tribunal to the member of the 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.



R J O Hoare
Chairman
Disciplinary Tribunal