

## Professional Conduct Committee – 1 October 2019

### Conflict of Interest and Confidentiality – MS CATRIONA ROGERS FCA

At a meeting of the Professional Conduct Committee (PCC) of Chartered Accountants Australia and New Zealand held in private on 1 October 2019 in Sydney Australia in respect of Ms Catriona Rogers FCA (the Member) of New South Wales, the PCC decided that Member's conduct did not comply with the fundamental principles of integrity (section 110), objectivity (section 120) and confidentiality (section 140), set out in APES 110, *Code of Ethics*, and that the Disciplinary Tribunal would therefore be likely to find that the Member breached by-Law 40(2.1)(h).

The Member had been engaged by the Complainant and her former husband to provide accounting and taxation services in relation to their family members, trust and corporate entities, for approximately 18 years. The complaint is set against the background of ongoing family law proceedings between the Complainant and her former husband.

Following a property settlement reached between the Complainant and her former husband, the Complainant asserted that in or around April 2016, her former husband informed the Member that as part of the settlement, the parties had agreed that a SMSF was to be established for the Complainant and the Complainant's super assets were to be rolled into a bank account for that fund. The PCC accepted the Complainant's evidence that the Member was aware of the separation and the conflict by at least this stage.

The PCC concluded that the evidence was that the Member had:

1. acted for both the Complainant and her former husband in circumstances where she was aware that the parties were involved in ongoing family court proceedings without advising the clients of the existence of a conflict; and
2. utilised confidential information acquired as a result of professional and business relationship with the former husband to recoup outstanding fees, which was to her personal advantage.

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

1. The Member receive a severe reprimand;
2. The Member provide the results of the pending quality review of her and her practice entity to the PCC immediately upon completion of the review;
3. The Member pay to CA ANZ the sum of \$4,549 towards the cost of investigating and dealing with the matters the subject of the complaint and the case conference; and
4. The decision be published on CA ANZ's website disclosing the Member's name and location, and a notice published in CA ANZ's digital and print magazine "Acuity", also disclosing the Member's name and location, with a link to the published decision.

The PCC considered that there were special circumstances to warrant publishing the Member's name as well as it being in the public interest to do so, given the:

- Member's lack of insight of the issues arising from the clear conflict of interest which in turn were intrinsically related to the issues surrounding confidentiality. In family arrangements and disputes, it is particularly important that Members are alive to these issues; and
- serious standards around the management of conflict of interest are at the core of an accounting practice, including the Member's failure to implement adequate safeguards to deal with that conflict.

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**Chartered Accountants Australia and New Zealand**