

Determination of the Disciplinary Tribunal of Chartered Accountants Australia and New Zealand 31 July 2019

Case Number: D-1203

Member: Anthony Geoffrey Pickham FCA of New South Wales

Hearing Date: 31 July 2019

Tribunal: Ross Gavin FCA (Chair)
David Gibbs FCA
Jenni Millbank, lay member of the Tribunal

Tribunal Legal Adviser: Jamesina McLeod

Representation: Adel Saleh for the Professional Conduct Committee (PCC)
The Member provided a Proposed Agreement by Written Undertaking
and therefore did not appear

Case description: Member bankrupt

1. DECISION ABOUT THE PCC'S ALLEGATION WHICH IS SET OUT IN FULL IN SCHEDULE 1

The Member did not attend the hearing of the Disciplinary Tribunal but provided a Proposed Agreement by Written Undertaking signed 3 July 2019 (the **Agreement**), which is set out in full in Schedule 3.

The Tribunal accepted the terms of the Agreement.

In the Agreement the Member admitted the allegation. The Tribunal had regard to the extract from the National Personal Insolvency Index dated 8 March 2019 and was satisfied that the Member suffered an insolvency event on 11 September 2018 which contravened By-Law 40(2.1)(j) and therefore the allegation was established.

On enquiry of the Tribunal the PCC confirmed:

- there was no evidence that the cause of the insolvency event related to a breach of professional standards
- the Member had been subject of a Chartered Accountants ANZ quality review in 2014 and no adverse findings from that review had been advised to the PCC.

2. DECISION ABOUT SANCTIONS

The Member acknowledged in the Agreement that his membership would be suspended for the duration of his bankruptcy.

The Tribunal considered that it was appropriate to suspend the Member's membership for the duration of his bankruptcy.

3. DECISION ABOUT COSTS SANCTION

The PCC sought a contribution towards the costs and expenses of the hearing (By-Law 40(10.12)(l)) of \$500 which was agreed to by the Member in the Agreement. No GST is payable.

The Tribunal considered this to be appropriate in the circumstances.

3.1 DECISION ABOUT PUBLICATION

This decision will not take effect while the Member remains entitled to appeal.

In accordance with By-Laws 40(12.3) and 40(12.4), the Tribunal directed that:

- its decision with reasons, mentioning the Member's name and locality, be published on the website of Chartered Accountants ANZ (the **Published Decision**)
- a notice mentioning the Member's name and locality with a web address for the Published Decision be published in the Chartered Accountants ANZ digital and print magazine "Acuity".

3.2 NOTIFICATION TO OTHER BODIES

The Tribunal was informed that the Member is a member of / holds statutory registrations administered by the following bodies, and as a consequence they will be notified of this decision:

- Tax Practitioners Board
- the Tax Institute
- National Tax Agents Association.


4. RIGHT OF APPEAL

The Member may, within 21 days after the notification of the written decision with reasons to the Member of this Tribunal's decision, appeal in writing to the Appeals Tribunal of Chartered Accountants ANZ against the decision (By-Law 40(11.1)).

While the Member remains entitled to appeal, or while any such appeal by the Member awaits determination by the Appeals Tribunal, the following decisions shall not take effect:

- Decision about the PCC's allegations
- Decision about sanctions
- Decision about costs sanction.

The PCC may, within 21 days after notification of the written decision with reasons to the PCC of this Tribunal's decision, appeal in writing to the Appeals Tribunal of Chartered Accountants ANZ against the decision (By-Law 40(11.2)).



**Chair
Disciplinary Tribunal**

SCHEDULE 1 - THE PCC'S ALLEGATIONS

It is alleged that while a member of Chartered Accountants Australia and New Zealand the Member is liable to disciplinary action in accordance with By-Law 40(2.1)(j), in that on 11 September 2018, he became bankrupt.

SCHEDULE 2 - RELEVANT BY-LAWS

40. Except as provided by By-Law 41, the By-Laws in this Section 5, including the following paragraphs of this By-Law 40, do not apply to Members who are also members of NZICA in respect of disciplinary matters over which NZICA has jurisdiction and which relate to the practice of the profession of accountancy by NZICA's members in New Zealand. Nothing in this By-Law 40 excludes from the operation of this Section 5, conduct of a Member:

- (a) who was, but is no longer, a member of NZICA; or
- (b) who has subsequently also become a member of NZICA.

Except as provided by By-Law 41, no Member shall be sanctioned under both this Section 5 and NZICA Rule 13 in respect of the same conduct.

...

40(2) Disciplinary action

40(2.1) A Member is liable to disciplinary sanctions under these By-Laws if (whether before or after the date of adoption of this By-Law) that Member:

...

- (j) suffers an Insolvency Event;

...

40(10) Disciplinary Tribunal

...

40(10.13) Subject to paragraph 9.3(c), the Disciplinary Tribunal may, with the written consent of the relevant Member and the Professional Conduct Committee, dispense with any or all of the procedures in this paragraph 10 and impose any of the sanctions permitted in paragraph 10.12 or accept a written undertaking under paragraph 13.8.

...

40(13.8) Written undertakings

The Professional Conduct Committee, the Disciplinary Tribunal or the Appeals Tribunal may, if it considers that it is appropriate to do so in connection with the consideration or determination of any matter before it, accept a written undertaking from a Member on such terms as it thinks fit at any time.

SCHEDULE 3 - PROPOSED AGREEMENT BY WRITTEN UNDERTAKING

PROPOSED AGREEMENT BY WRITTEN UNDERTAKING

Mr Anthony Geoffrey Pickham

**Paragraph 13.8 of By-Law 40 of the By-Laws of
Chartered Accountants Australia and New Zealand (Chartered Accountants ANZ)**

It shall be entered on my record that:

- (a) The allegation in the Notice of Disciplinary Action dated 27 June 2019 is been established by my own admission.
- (b) I acknowledge that my membership will be suspended for the duration of my bankruptcy.
- (c) I am required to pay a contribution to Chartered Accountants Australian and New Zealand of the sum of \$500.00 towards the costs and expenses of the disciplinary action.
- (d) The Disciplinary Tribunal will publish its decision, mentioning my name and locality on the website and in the journal of Chartered Accountants Australian and New Zealand.
- (e) The Tribunal's decision be notified to any other bodies with whom I hold a professional registration or professional membership.

Signed:

Signature redacted

Dated: 03/07/19

Anthony Geoffrey Pickham

Witnessed:

Signature redacted

Dated: 03/07/19

Suzie Oukes

Member's Name:

Anthony Geoffrey Pickham

Member ID:

ID redacted