



**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 **Anthony Walpole Bowden**, Suspended Chartered Accountant, of Auckland

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**DETERMINATION OF THE DISCIPLINARY TRIBUNAL OF THE NEW ZEALAND  
INSTITUTE OF CHARTERED ACCOUNTANTS  
19 September 2012**

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**Hearing:** 19 September 2012

**Tribunal:** Mr RJO Hoare FCA (Chairman)  
Ms JA Dawson 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 in attendance and not represented by counsel, the Member pleaded guilty to the charge and admitted the particulars.

The charge and particulars as laid were as follows:

### **Charge**

**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:

- (1) Has been convicted of offences punishable by imprisonment and these convictions tend to bring the profession into disrepute.

### **Particulars**

#### **IN THAT**

- (a) On or about 17 April 2012 at the High Court in Auckland the Member was convicted and sentenced to concurrent terms of nine months home detention and 100 hours community work in respect of two charges of theft by person in special relationship (an offence pursuant to section 220 of the Crimes Act 1961); and
- (b) On or about 21 December 2010 at the District Court in Auckland the Member was convicted and sentenced to concurrent terms of nine months home detention and 300 hours community work in respect of 15 charges under section 58 of the Securities Act 1978 (Criminal liability for misstatement in advertisement or registered prospectus).

### **DECISION**

The Member was suspended from membership of the Institute in April 2010 following his prohibition by the Registrar of Companies from being a director for a period of five years. The present charge relates to the Member's involvement as a director of Five Star Consumer Finance Limited in approving related party loans totaling almost \$50 million which he knew to be in breach of the company's Trust Deed. There were also 15 Securities Act offences relating to misleading statements in advertisement or registered prospectus. Although the Member gained no material personal benefit from the offending, the information before the Tribunal is that investors in the company will lose much of their investment. The Member has acknowledged that his convictions bring the profession into disrepute and that in all probability his offending would result in his removal from membership of the Institute. The Tribunal notes the Member's apology and remorse, and that he has appeared at this hearing.

### **PENALTY**

Dishonesty of a member in a position of trust is not compatible with membership of the Institute. Accordingly pursuant to Rule 21.31 (a) of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal orders that the name of **Anthony Walpole Bowden** be removed from the Institute's register of members.

### **COSTS**

The Professional Conduct Committee seeks full costs of \$4,310.

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.

The Tribunal considered the submissions the Member made in relation to costs including the information he provided about his personal circumstances. There are no excessive or unnecessary expenses incurred by the Institute. The Tribunal was not persuaded that a departure from its standard approach was warranted in this case.

Pursuant to Rule 21.33 of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal orders that **Anthony Walpole Bowden** pay to the Institute the sum of \$4,310 in respect of the costs and expenses of the hearing before the Disciplinary Tribunal and the investigation by the Professional Conduct Committee. 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 the suppression of the evidence relating to the Member and his wife's current financial and personal circumstances.

### **PUBLICATION**

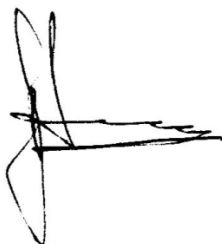
The Professional Conduct Committee sought publication of this decision in the *New Zealand Herald*. The Tribunal notes that there has been publication in respect of the Member's appearances at the District Court, the High Court and this Tribunal on the occasion of his suspension. For this reason the Tribunal believes that publication in the *New Zealand Herald* is not warranted.

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 and in the *Chartered Accountants' Journal* 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.

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**