

**NEW ZEALAND INSTITUTE OF CHARTERED ACCOUNTANTS
NOTICE OF DECISION AND ORDER OF THE PROFESSIONAL CONDUCT
COMMITTEE**

At a meeting of the Professional Conduct Committee of the New Zealand Institute of Chartered Accountants held in private on 8 December 2010, the Committee considered matters relating to the conduct of a Chartered Accountant (“the Member”). The Committee found that the following matters would otherwise warrant being referred to the Disciplinary Tribunal:

In his role as a Chartered Accountant in public practice, the Member:

1. As a director of Company A failed to co-operate with requests made by the liquidator of Company A, in accordance with s261 of the Companies Act 1993, in that he failed to:
 - i. respond within a reasonable and proper time to a letter from the liquidator which required you to deliver Company A’s accounting and company records to the liquidator’s offices; and/or
 - ii. attend the liquidators offices within a reasonable and proper time despite having been advised in a letter that you were required to do so;in breach of the Fundamental Principle of Professional Behaviour; and/or Rule 10 – *Timeliness*.
2. Was a director and/or shareholder of Company A, a company which offered accounting services to the public:
 - (a) without the consent of Council, in breach of Rule 19.2(c)(i) of the Institute’s Rules (being the rules in force prior to their amendment on 30 October 2008) and/or the Fundamental Principles of Integrity and/or Professional Behaviour of the Code of Ethics; and/or
 - (b) without the consent of Board, in breach of paragraph 2.2(c) of Appendix IX (being the Rules in force since 30 October 2008) and/or the Fundamental Principles of Integrity and/or Professional Behaviour of the Code of Ethics; and/or
3. Has conducted the affairs of Company A, a company through which he offered accounting services to the public, and of which at all material times he was a director and/or shareholder, in a manner that has brought discredit to the profession, in that Company A was put into liquidation, in breach of the Fundamental Principle of Professional Behaviour and/or Quality Performance of the Code of Ethics; and/or
4. Has failed to perform his professional duties as a director of Company A with due care and diligence, in that he failed to ensure:
 - a. the company’s GST returns for February 2009 and August 2009 were filed and/or filed in a timely manner; and/or
 - b. the company’s Income Tax returns for 2004 to 2009 were filed and/or filed in a timely manner; and/or
 - c. the company’s tax liabilities, were paid as they fell due; and/or
 - d. that proper accounting records were maintained, as required by s194 of the Companies Act 1993;

In breach of the Fundamental Principle of Quality Performance; and/or Rule 9 – *Due Care & Diligence* of the Code of Ethics

5. Failed to respond within a reasonable and proper time to Professional Conduct Committee correspondence dated 18 February 2010 and/or 9 June 2010, despite being required to do so, in breach of Rule 21.4(b) and/or Rule 10 – *Timeliness* of the Code of Ethics.

With the written consent of the Member, the Committee made the following orders, which shall be entered on the Member's record:

- 1) In accordance with Rule 21.6(d)(v), (vi) and (vii) that the Member be severely reprimanded, pay a sum to the Institute of \$2,500 (no GST) and pay costs to the Institute in the sum of \$1,950 (plus GST);
- 2) In accordance with Rule 21.6B that notice of the Committee's decision and orders be published in the Chartered Accountants Journal and on the Institute's website with suppression of the Member's name, locality and identifying details of any third parties including clients.

The Committee also sought and accepted the Member's written undertaking in accordance with Rule 21.54A(b) that he would file his 2009 income tax return by 31 January 2011 and contact the liquidator within seven days of accepting the consent order and arrange to meet the liquidator, with the meeting to take place no later than 30 January 2011.

The Committee considered it was in the public interest to direct publication of its decision and the orders made.

Details of the decision and the Professional Conduct Committee's orders are published in the February 2011 edition of the *Chartered Accountants Journal* and on the Institute's website www.nzica.com/dt.aspx

DJ Barker
Chairman
Professional Conduct Committee
New Zealand Institute of Chartered Accountants
19 January 2011