

**INSTITUTE OF CHARTERED ACCOUNTANTS OF NEW ZEALAND
NOTICE OF DECISION OF THE DISCIPLINARY TRIBUNAL**

(Member guilty of conduct unbecoming an accountant and breaching the Institute's Code of Ethics)

At a hearing of the Disciplinary Tribunal of the Institute of Chartered Accountants of New Zealand held in public on 15 December 2009, at which the member was not in attendance and not represented by counsel, **LEONARD JOHN WATSON** a Chartered Accountant of **Rotorua** by correspondence admitted particulars (a), (a)(i), (a)(iii), (a)(iv) and amended particular (b) denied particular (a)(ii) in relation to misleading and pleaded guilty to charges (1) and (2). Particular (a)(ii) was found proved.

The charges and particulars were as follows:

Charges

THAT in terms of the Institute of Chartered Accountants of New Zealand Act 1996 and the Rules made thereunder, and in particular Rule 21.30 the member is guilty of:

- (1) conduct unbecoming of an accountant; and/or
- (2) breaching the Institute's Code of Ethics.

Particulars

IN THAT

In his role as a Chartered Accountant in public practice and in relation to a complaint by the Practice Review Board the member:

- (a) Breached paragraph 29 of SES-2 *Compilation of Financial Information* and/or the Fundamental Principle of Integrity and/or Rules 2 and/or 11 of the Code of Ethics in that he compiled and/or was responsible for the compilation of the financial statements of Company A for the year ended 31 March 2007 which:
 - (i) inappropriately and/or incorrectly accounted for a management fee of \$550,000 to a related party Company B as a charge to various wages and interest expense accounts; and/or
 - (ii) were false and/or misleading in that the true operating profitability of Company A was intentionally under-reported by \$550,000; and/or
 - (iii) asserted compliance with the Financial Reporting Act 1993 ("FRA") when these financial statements did not comply with generally accepted accounting practice ("GAAP") as required by s11(1) of the FRA in that these financial statements did not disclose, as is required by paragraph 5.1(a) and (b) of SSAP-22 *Related Party Disclosures*, the identity of Company B which was a related party to Company A and/or the type of transaction; and/or
 - (iv) asserted compliance with the FRA when these financial statements did not comply with GAAP as required by s11(1) of the FRA in that these financial statements did not separately disclose a material transaction of \$550,000 as required by paragraph 6.11 of FRS-9 *Information to be disclosed in financial statements* to explain the performance of the entity.
- (b) Breached Rule 9 of the Code of Ethics in that he failed to exercise due care and diligence by not advising his client, Company B, in a timely manner, to register for GST when it exceeded the registration threshold.

Reasons

The Tribunal considered the member's assertion that in terms of particular (a)(ii) the accounts were false but not misleading. As to this issue the member's own brief says "my client did not wish to have to justify why its business was performing very well profit-wise relative to other similar-size franchises". The member's actions were specifically designed for the franchisor to behave differently in response and therefore the Tribunal found they were also misleading.

The member's client provided regular reports to their franchisor. The member produced annual accounts which, not being consistent with those reports, were adjusted by the creation of a fictitious management fee to more closely match the franchisor reports.

The fee was disguised to be not capable of detection by an intended reader of the financial statements. This was clearly a deliberate attempt to mislead the franchisor.

While the member initially asserted that the franchise agreements were not based on reported profits, he admitted to the Professional Conduct Committee at his final determination that he had not until then read the franchise agreement.

The Tribunal found the financial reporting and GST particulars of lesser significance. The Tribunal noted that this is the member's first offence in 35 years. The Tribunal noted his co-operation with the investigation and his guilty plea. However, deliberately falsifying accounts known to be of interest to his client's franchisor is in clear breach of the fundamental principle of integrity upon which the public are entitled to rely.

ORDERS OF THE TRIBUNAL

- (a) Pursuant to Rule 21.31 (a) of the Rules of the Institute of Chartered Accountants of New Zealand, the Disciplinary Tribunal ordered that the name of **LEONARD JOHN WATSON** be removed from the Institute's register of members.
- (b) Pursuant to Rule 21.33 of the Rules of the Institute of Chartered Accountants of New Zealand, the Disciplinary Tribunal ordered that **LEONARD JOHN WATSON** pay to the Institute the sum of \$11,171 (inclusive of 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.
- (c) Pursuant to Rule 21.52 (b) of the Rules of the Institute of Chartered Accountants of New Zealand, the Disciplinary Tribunal ordered the name suppression of the client, the companies involved and any of the individuals who may lead to the identification of the companies.

In accordance with Rule 21.35 of the Rules of the Institute of Chartered Accountants of New Zealand, the decision of the Disciplinary Tribunal will be published in the Chartered Accountants Journal, the Daily Post and on the Institute's website with mention of the member's name and locality.

RIGHT OF APPEAL

Pursuant to Rule 21.41 of the Rules of the Institute of Chartered Accountants of New Zealand 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
Institute of Chartered Accountants of New Zealand

21 December 2009