

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

(Member guilty of misconduct in a professional capacity, conduct unbecoming an accountant and Breaching the Institute's Code of Ethics 1995)

At a hearing of the Disciplinary Tribunal of the Institute of Chartered Accountants of New Zealand held in public on 29 March 2007, at which the member was in attendance and represented by counsel, **MICHAEL TIMOTHY TOLICH** a Chartered Accountant of Manukau City admitted the following particulars (a), (b), (c) and (d) and pleaded guilty to the following charges (2) and (3) and was found guilty of the following charge (1).

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) Misconduct in a professional capacity; and/or
- (2) Conduct unbecoming an accountant; and/or
- (3) Breaching the Institute's Code of Ethics 1995

Particulars:

IN THAT

Being a Chartered Accountant, and in relation to a complaint the member:

- (a) Pleading guilty in the Auckland District Court to nine counts of forgery and six counts of using a document with intent to defraud in relation to invoices and/or cheques and/or withdrawal slips amounting to a sum of \$190,000; and/or
- (b) Breached EP13 and/or EP22 and/or EP29 of the Code of Ethics 1995, in that whilst performing his role as the Chief Financial Officer of the A Trust, he forged nine invoices with a total value of \$115,000, then used the invoices to requisition nine cheques; and/or
- (c) Breached EP13 and/or EP22 of the Code of Ethics 1995. in that whilst performing his role as the Chief Financial Officer of the A Trust and trustee of the B Trust, he used three A Trust cheques and two B Trust cheques for kickback payments totalling \$65,000, to a party or parties associated with the C Trust in return for approval of grant applications made by A Trust and B Trust; and/or
- (d) Breached EP13 and/or EP22 of the Code of Ethics 1995, in that whilst performing his role as trustee of the B Trust, he withdrew \$10,000 in cash from the B Trust and used this cash for a kickback payment to a party associated with the D Trust in return for approval of a grant application made by B Trust.

Reasons

Mr Tolich's actions have been immoral and illegal and he has admitted fraudulent acts. The Tribunal noted that he did not have any personal reward and the difficult environment in which he was operating. The Tribunal also noted that he was discharged without conviction and his illness. But these acts lie at the heart of the integrity of Chartered Accountants and the public's expectations of them involving as they do the management of other people's money.

The Tribunal found the member guilty of misconduct in a professional capacity; his actions are unacceptable for a member of the Institute and reflect badly on the Institute and its members.

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 **MICHAEL TIMOTHY TOLICH** 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 **MICHAEL TIMOTHY TOLICH** pay to the Institute the sum of \$9,204.00 (inclusive of GST) in respect of the costs and expenses of the hearing before the Disciplinary Tribunal and the investigation by the Professional Conduct Committee.
- (c) Pursuant to Rule 21.52 (b) of the Rules of the Institute of Chartered Accountants of New Zealand, the Disciplinary Tribunal prohibited the publication of any reference to the psychiatric evidence and Dr Goodwin's report other than what is in Judge Lane's decision.

In accordance with Rule 21.35 of the Rules of the Institute of Chartered Accountants of New Zealand, the Disciplinary Tribunal directed that the decision of the Disciplinary Tribunal be published in the Chartered Accountants Journal, the New Zealand Gazette and the New Zealand Herald and on the Institute's website with mention of the member's name and locality. The publicity in the Chartered Accountants Journal, the New Zealand Gazette and the website will be the full version of the notice of decision, the version in the New Zealand Herald will be the abbreviated version of the notice with reference to the full decision being on the Institute's website.

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

5 April 2007