

Professional Conduct Committee – 22 October 2018

Failure to observe a proper standard of professional care, skill and competence / Adverse finding – Mr John Francis McGoldrick FCA of New South Wales

At a meeting of the Professional Conduct Committee (PCC) of Chartered Accountants Australia and New Zealand (Chartered Accountants ANZ) held in private on 22 October 2018 in Sydney Australia in respect of Mr John Francis McGoldrick FCA of New South Wales, the PCC decided that the Member breached By-Law 40(2.1)(e), in that the New South Wales Supreme Court and Court of Appeal made a number of adverse findings against him in *Cam & Bear Pty Ltd v McGoldrick* [2016] NSWSC and *Cam & Bear Pty Ltd v McGoldrick* [2018] NSWCA 110. As a result, the PCC considers that this matter is sufficiently serious to warrant referral to the Disciplinary Tribunal.

The PCC noted the decision of the Court of Appeal that:

- the Member was “*clearly negligent in failing to make proper enquiries as to the recoverability of the amounts held ... and failing to report the results of those enquiries to the appellant trustee*” (paragraph 88); and
- the Member’s “*departure from the standards of a reasonable person in his position, that is, of an experienced accountant and auditor, was significant ... he defaulted in performance of a central aspect of the duty he undertook to perform*” (paragraph 89).

In addition, the PCC took account of the Member’s admissions:

- that he had been “*careless in the audit of this SMSF by not applying the full scope of audit tests*”; and
- that he “*did not audit this SMSF in the manner prescribed by the regulations has been established in the decision*”.

The PCC also noted that SMSF audits should not be treated lightly in relation to the required level of professional knowledge to undertake those engagements. Finally, the PCC was also concerned that the Member did not hold a certificate of public practice or professional indemnity insurance while carrying out this work.

However, the PCC decided to propose that a consent agreement be made with the Member. Accordingly, with the written consent of the Member, the Committee made the following determinations:

- he receive a severe reprimand;
- he pay to Chartered Accountants ANZ the sum of \$2,500 by way of contribution towards the costs of investigating and dealing with the matters the subject of the complaint and the case conference;
- the PCC will publish:
 - details of these sanctions on the website of Chartered Accountants ANZ; and
 - a notice in the digital and print magazine “*Acuity*”, disclosing the Member’s name and location, with a link to the published decision.
- the Member undertake to resubmit the resignation of his membership of Chartered Accountants ANZ within 14 days of provision of the written reasons of the PCC’s decision.

The PCC considers that it is in the public interest for this sanction to be published in the terms set out in the proposed Consent Agreement and that there are special circumstances for disclosing the Member's name.

Professional Conduct Committee
Chartered Accountants Australia and New Zealand
22 October 2018