



Disciplinary Tribunal of Chartered Accountants Australia and New Zealand (CA ANZ) Written decision dated 6 December 2019

- Case Number:** D-1213
- Member:** Maria Pambris CA of NSW
- Hearing Date:** 27 November and 5 December 2019
- Tribunal:** David Fairlie (Chair and lay member of the Tribunal)
Ross Haslam FCA
Bob Grice AO FCA
- Representation:** Adel Saleh for the Professional Conduct Committee (PCC)
The Member was not required to appear
- Decisions:**
1. Pursuant to By-Law 40(10.13) and with the written consent of the PCC and the Member, the Tribunal determined to dispense with the procedures in By-Law 40(10).
 2. The Tribunal determined that the Member suffered an insolvency event, in breach of By-Law 40(2.1)(j).
 3. The Tribunal imposed a suspension from membership of CA ANZ for the duration of the Member's bankruptcy, with the Member's name to be removed from the Registers on which it appears.
 4. The Tribunal imposed a cost sanction in the sum of \$500.
 5. The Tribunal made the following directions regarding the conduct of the hearing and the publication of its reasons for decision:
 - (a) its decision with reasons, mentioning the Member's name and locality, be published on the CA ANZ website (the **Published Decision**);
 - (b) a notice mentioning the Member's name and locality with a web address for the Published Decision be published in the CA ANZ digital and print magazine "Acuity";
 - (c) the Australian Securities and Investments Commission and Tax Practitioners Board be notified of this decision;
 - (d) except for the content of the Disciplinary Tribunal written decision with reasons, all written and oral evidence and submissions related to this determination are to remain confidential;

- (e) the decision regarding confidentiality takes effect immediately; ie 27 November 2019.

The date of effect of this decision is 28 December 2019.



1. Introduction

- (a) On 14 May 2019 the Member notified CA ANZ of a Disclosure Event. The Member advised that, on 28 March 2019, she was made bankrupt on her personal petition.
- (b) The PCC alleged that the Member had breached By-Law 40(2.1)(j) by suffering an insolvency event.
- (c) The PCC and the Member reached an Agreement as to Sanctions in the following terms:

The Member ... (previously known as Ms Maria Galanopoulos CA) and the Professional Conduct Committee of Chartered Accountants ANZ consent to the Disciplinary Tribunal of Chartered Accountants ANZ dispensing with the procedures in By-Law 40(10) of the By-Laws of Chartered Accountants ANZ in relation to complaint D-1213 made against the Member and proceeding directly to the imposition of sanctions on the following terms:

1. *The Professional Conduct Committee will appear at the scheduled hearing of the matter at 2:00 pm on 27 November 2019. The Member will not be required to attend the hearing.*
2. *The Professional Conduct Committee will present to the Disciplinary Tribunal a signed copy of this Agreement including the annexed Agreed Statement of Facts.*
3. *The Member admits to the allegations contained in the Notice of Disciplinary Action dated 17 October 2019.*
4. *The Disciplinary Tribunal may determine the matter without further submissions or evidence being required from either the Professional Conduct Committee or the Member and impose the following sanctions:*
 - (a) *The Member's membership will be suspended for the duration of her bankruptcy;*
 - (b) *The Member will pay a contribution to Chartered Accountants ANZ of \$500 towards the costs and expenses of the disciplinary action;*
 - (c) *The Disciplinary Tribunal will publish:*
 - *its decision with reasons, mentioning the Member's name and locality, on the Chartered Accountants ANZ website; and*
 - *a notice of the decision, mentioning the Member's name and locality with a web address for the published decision, in the Chartered Accountants ANZ digital and print magazine "Acuity"; and*
 - (d) *The Disciplinary Tribunal will notify its decision to any bodies with whom the Member holds a professional registration or membership including the Australian Securities and Investments Commission and Tax Practitioners Board.*
5. *If the Disciplinary Tribunal is not prepared to dispense with the procedures in By-Law 40(10) on the terms above then the Member and the Professional Conduct Committee jointly seek and will consent to the hearing of the complaint being adjourned for a period of not less than 14 days.*

Signed

[The Member]

15 November 2019

Signed

Chair of the Professional Conduct Committee

21 November 2019

Statement of Agreed Facts

<i>Date</i>	<i>Agreed Facts</i>
<i>1993.07.01</i>	<i>The Member becomes a member of the (sic) Chartered Accountants ANZ</i>
<i>2019.03.28</i>	<i>The Australian Financial Security Authority notes the Member became bankrupt</i>
<i>2019.11.11</i>	<i>The Member is in good financial standing and is not currently eligible for quality review</i>
<i>2019.11.11</i>	<i>The Member has no disciplinary history with the (sic) Chartered Accountants ANZ</i>

2. The issues for determination

- (a) Did the Member understand the consequences of the Agreement as to Sanctions?
- (b) Should the Tribunal dispense with the procedures in By-Law 40(10)?
- (c) Did the Member become bankrupt, in breach of By-Law 40(2.1)(j)? (the allegation)
- (d) If the answer to (c) is yes, what sanctions should be imposed on the Member?
- (e) Should the Member be required to pay costs and if so, in what amount?
- (f) Should other parties be notified of the Tribunal's decision?
- (g) Should any confidentiality orders be made?

3. Did the Member understand the consequences of the Agreement as to Sanctions?

- (a) The Agreement as to Sanctions did not make reference to the fact that the Member held a Certificate of Public Practice (**CPP**). The Tribunal was not satisfied that the Member was aware that:
 - (i) on suspension of membership, her CPP would be cancelled and cease to be current (By-Law 34(d));
 - (ii) by reason of the CPP being cancelled, the Member would no longer be entitled to offer services to the public for reward as a Chartered Accountant;

and requested that the PCC provide confirmation from the Member that she had understood the consequences of entering into the Agreement as to Sanctions.

- (b) After a short adjournment during which the PCC contacted the Member, the PCC advised the Tribunal that the Member *“requested that she has some time to consider those two points and seek advice. She stressed to let the Disciplinary Tribunal know that she is not in any way revoking her consent to the agreement, she simply just wishes to get some advice”*. The hearing was adjourned to a date to be set.
- (c) The Tribunal was subsequently provided with a copy of an email from the Member to the PCC sent on 4 December 2019 which stated:

“...I can confirm that I understand that I will no longer be able to practice as a Chartered Accountant (however, I will be able to continue practicing as an accountant, just not as a chartered accountant) and I will no longer be able to use my certificate of public practice for my firm to be known as a chartered accounting practice. I have already ceased using both.”

and on 5 December 2019 the Tribunal reconvened the adjourned hearing by teleconference in the absence of the parties.

4. Should the Tribunal dispense with the procedures in By-Law 40(10)?

Pursuant to By-Law 40(10.13) and with the written consent of the PCC and the Member, the Tribunal determined to dispense with the procedures in By-Law 40(10).

5. Did the Member become bankrupt, in breach of By-Law 40(2.1)(j)? (the allegation)

It was uncontested that the Member became bankrupt on her personal petition as evidenced in the Certificate of Appointment of Trustee and extract from the National Personal Insolvency Index. The Member admitted the PCC's allegation that, as a consequence of becoming bankrupt on 28 March 2019, she was liable to disciplinary action in accordance with By-Law 40(2.1)(j). The Tribunal was satisfied that the allegation had been established on the evidence and by the Member's own admission and determined that the Member had breached By-Law 40(2.1)(j).

6. What sanctions should be imposed on the Member?

(a) Regulation 8.11, *Guidelines for the imposition of sanctions (Guidelines)* sets out the matters that may be considered by the Tribunal in deciding what sanctions to impose. In this regard the Guidelines refer to:

- (a) ... (i) the seriousness of the conduct;
- (ii) whether the conduct has occurred before and, if so, the nature, extent and frequency of the conduct;
- (iii) the Member's responsibility and accountability for the conduct in the context of that Member's Practice Entity ...
- (iv) whether the Member has failed to comply with any undertaking or agreement to remedy the conduct;
- (v) any aggravating or mitigating factors raised which are relevant to the conduct in question;
- (vi) the personal circumstances of the Member to the extent they are raised and relevant to the conduct;
- (vii) any character and/or other references provided in writing in support of the good standing of the Member;
- (viii) the maintenance of public confidence in the profession;
- (ix) the maintenance of proper standards of professional conduct;
- (x) deterrence; and
- (xi) any other circumstances relevant to the practice of the Member and the profession.

However, the Guidelines are not an exhaustive list of the matters that may be considered when deciding what sanction to impose and the Tribunal may have regard to any other relevant matters that are before it.

- (b) The PCC and the Member agreed that the Member's membership should be suspended whilst she remained a bankrupt.
- (c) The Tribunal was satisfied that the appropriate sanction was to suspend the Member from membership of Chartered Accountants ANZ for the duration of her bankruptcy and to remove the Member's name from the Registers on which it appears, as agreed in the Agreement. The Tribunal was of the view that no other sanction was appropriate because the Member:
 - (i) should not be entitled to hold herself out as a member of Chartered Accountants ANZ during her bankruptcy; however
 - (ii) had self-reported the Disclosure Event shortly after it occurred; and
 - (iii) was cooperative with the PCC in relation to the matter thereafter.

7. Should the Member be required to pay costs and if so, in what amount?

- (a) Regulation 8.12, *Costs awards* states that when determining whether or not to require a Member to pay Costs, and the amount of such Costs, the Tribunal:

... must require the Member to pay all of the Costs claimed by CA ANZ unless it determines that, having regard to the following matters, it is appropriate that the Member be required to pay only part or none of the claimed Costs:

- (a) whether and to what extent the complaint against the Member is found to have merit and whether or not there is ultimately a finding in favour of the Member;
 - (b) the substance or seriousness of the complaint;
 - (c) the conduct of the Member in relation to the investigation and disciplinary process, including whether the Member was open, honest and timely in the Member's dealings with the Professional Conduct Committee, Disciplinary Tribunal or Appeals Tribunal in relation to the complaint and whether the Member complied with the provisions of Section 5 of the By-Laws and any applicable Regulations during the conduct of the disciplinary process;
 - (d) the extent to which the final sanctions determined differ from those that the Professional Conduct Committee or Disciplinary Tribunal gave the Member the opportunity to agree by consent;
 - (e) whether to do so is reasonable in the circumstances;
 - (f) the amount of the Costs incurred by CA ANZ in the conduct of the investigation and proceedings;
 - (g) whether and to what extent the Member has previously been required to pay Costs to CA ANZ in respect of the complaint, its investigation, hearing and determination; and
 - (h) whether the amount is reasonable in the circumstances.
- (b) The PCC and the Member agreed that the Member should pay \$500 towards the costs and expenses of the disciplinary action.
- (c) The Tribunal determined that, in circumstances where the Member:
- (i) was bankrupt;
 - (ii) had self-reported the bankruptcy within a short period of it occurring;
 - (iii) did not contest suspension from membership and had entered into an Agreement with the PCC prior to the hearing;

it was appropriate that the Member pay the full amount of \$500 claimed by the PCC towards the costs and expenses of the disciplinary action.

8. Should other parties be notified of the Tribunal decision?

- (a) By-Law 40(10.16) states:

The Disciplinary Tribunal may notify interested parties including other professional bodies, regulatory authorities, the Member's current and/or former employers, partners, clients of the Member or the Member's Practice Entity who are or may be affected by the Member's conduct to which the disciplinary action relates, of so much of a decision ..., the reasons for it and/or the sanctions imposed, as it thinks fit ...

- (b) The PCC and the Member agreed that the Australian Securities and Investments Commission and the Tax Practitioners Board would be notified by the Tribunal of its decision and the Tribunal was of the view that this was appropriate.

9. Should any details be kept confidential?

- (a) By-Law 40(13.12) states:
 - (d) The Disciplinary Tribunal ... may require, including as a condition of admission to a hearing, any person present to undertake to keep all or any part of a hearing, the evidence adduced at it or other information disclosed (including the identity of any persons present at or otherwise connected with the hearing) confidential on such terms as it determines.
- (b) The Tribunal directed that, except for the content of the Disciplinary Tribunal written decision with reasons, all written and oral evidence and submissions related to this determination are to remain confidential.

10. Rights of appeal

The Member may, within 21 days after the notification of the written decision with reasons to the Member of this Tribunal's decision, appeal in writing to the CA ANZ Appeals Tribunal against the decision (By-Law 40(11.1)).

The PCC may, within 21 days after notification of the written decision with reasons to the PCC of this Tribunal's decision, appeal in writing to the CA ANZ Appeals Tribunal against the decision (By-Law 40(11.2)).

While the parties remain entitled to appeal or while any such appeal awaits determination by the Appeals Tribunal, the following decisions shall not take effect:

- (a) breach of the By-Laws
- (b) sanction
- (c) costs sanction
- (d) publication
- (e) notification.

The Tribunal's decision as to confidentiality took effect immediately.



Chair
Disciplinary Tribunal

SCHEDULE 1: THE PCC'S ALLEGATIONS

It is alleged that while a member of Chartered Accountants Australia and New Zealand (CA ANZ) the Member is liable to disciplinary action in accordance with By-Law 40(2.1)(j) in that on 28 March 2019 she became bankrupt.

SCHEDULE 2: RELEVANT BY-LAWS

Section 5 - Professional Conduct

...

40. Except as provided by By-Law 41, the By-Laws in this Section 5, including the following paragraphs of this By-Law 40, do not apply to Members who are also members of NZICA in respect of disciplinary matters over which NZICA has jurisdiction and which relate to the practice of the profession of accountancy by NZICA's members in New Zealand. Nothing in this By-Law 40 excludes from the operation of this Section 5, conduct of a Member:

- (a) who was, but is no longer, a member of NZICA; or
- (b) who has subsequently also become a member of NZICA.

Except as provided by By-Law 41, no Member shall be sanctioned under both this Section 5 and NZICA Rule 13 in respect of the same conduct.

...

40(2) Disciplinary action

40(2.1) A Member is liable to disciplinary sanctions under these By-Laws if (whether before or after the date of adoption of this By-Law) that Member:

...

- (j) suffers an Insolvency Event;

...

40(10) Disciplinary Tribunal

...

40(10.12) If the Disciplinary Tribunal determines that the complaint contained in the Notice of Disciplinary Action or any part thereof is established it may, subject to By-Law 40(9.3)(c), and having given the Member a reasonable opportunity of being heard on the question of sanctions, impose any one or more of the sanctions in the table below identified as applicable to that class of Member:

...

- (b) suspend the Member from membership of CA ANZ for a period not exceeding 5 years and remove the Member's name from the Registers on which it appears

...

- (k) require the Member to pay to CA ANZ all or any portion of the Costs incurred by or on behalf of CA ANZ (including by or on behalf of the Professional Conduct Committee) in investigating and dealing with the original complaint and the matters the subject of the Notice of Disciplinary Action as the Disciplinary Tribunal determines

...

40(10.13) Subject to By-Law 40(9.3)(c) the Disciplinary Tribunal may, with the written consent of the relevant Member and the Professional Conduct Committee, dispense with any or all of the procedures in this By-Law 40(10) and impose any of the sanctions permitted in By-Law 40(10.12) or accept a written undertaking under By-Law 40(13.8).

...

40(10.16) The Disciplinary Tribunal may notify interested parties including other professional bodies, regulatory authorities, the Member's current and/or former employers, partners, clients of the Member or the Member's Practice Entity who are or may be affected by the Member's conduct to which the disciplinary action relates, of so much of a decision (including a decision to suspend on an interim basis), the reasons for it and/or the sanctions imposed, as it thinks fit. The Disciplinary Tribunal will not do so until the day following the last date on which an appeal may be notified in accordance with paragraph 11.1. If an appeal is notified in accordance with paragraphs 11.1 or 11.2, the Disciplinary Tribunal will not make such a notification until that appeal is heard or otherwise determined.

...

40(10.18) A determination of the Disciplinary Tribunal shall take effect from the day immediately after the expiry of the period during which an appeal may be notified, if no appeal has been notified within that period.

40(11) Appeals Tribunal

40(11.1) Any Member in respect of whom any determination has been made by the Disciplinary Tribunal or upon whom any sanction has been imposed by the Disciplinary Tribunal may, subject to By-Law 40(9.4), within 21 days after notice of the written reasons for such determination or sanction is given to that Member, give notice of appeal in the form prescribed by the Regulations to the Appeals Tribunal against any such determination or sanction or both. At the discretion of the Appeals Tribunal later notice may be accepted.

40(11.2) The Professional Conduct Committee, may, subject to By-Law 40(9.4), within 21 days after notice of the written reasons for the determination or sanction imposed by the Disciplinary Tribunal against a Member is given to it, give notice of appeal in the form prescribed by the Regulations to the Appeals Tribunal against any such determination or sanction or both. At the discretion of the Appeals Tribunal later notice may be accepted.

40(12) Publication of investigations and decisions

...

40(12.3) Where the Disciplinary Tribunal or Appeals Tribunal determines that a complaint is established, imposes a sanction adverse to the Member (including one with the consent of a Member or a written undertaking under By-Law 40(13.8)) or decides to suspend a Member on an interim basis, it must direct that a notice be published by CA ANZ of its decision and the sanctions imposed (if any). Any such publication must disclose the name and location of the relevant Member unless the Disciplinary Tribunal or Appeals Tribunal (as applicable) considers that there are exceptional circumstances for not doing so.

40(12.4) Publication under By-Laws 40(12.1) or 40(12.3) may be in such form and publication as the Professional Conduct Committee, Disciplinary Tribunal or Appeals Tribunal (as applicable) considers appropriate, including in CA ANZ's official publication, on CA ANZ's website or in any other manner that it may in its discretion direct.

...

SCHEDULE 3: REGULATION CR8 - DISCIPLINARY PROCEDURES

Issued 8 October 2019

8.1 Purpose

This Regulation supplements the professional conduct and disciplinary process provisions of Section 5 of the By-Laws.

8.2 Definitions

Unless expressly defined in this Regulation, capitalised terms used in this Regulation are defined in By-Law 2 and Section 5 of the By-Laws. The definitions in By-Law 39 shall prevail to the extent of any inconsistency between this Regulation and the By-Laws or between By-Law 2 and By-Law 39.

8.3 By-Laws

Refer to Section 5 of the By-Laws for provisions relating to Professional Conduct.

8.4 Charter

- (a) For the implementation of the procedures referred to in Section 5 of the By-Laws the Board has approved Charters for:
 - (i) the Professional Conduct Oversight Committee;
 - (ii) the Professional Conduct Committee;
 - (iii) the Disciplinary Tribunal; and
 - (iv) the Appeals Tribunal.
- (b) The Charter for each may be found [here](#).

8.5 Disclosure Events (By-Laws 40(3.1) and 40(3.2))

- (a) It is a Member's responsibility to give notice to the Professional Conduct Committee within 7 days of the occurrence of a Disclosure Event.
- (b) When required, such notice should be in writing in the [form prescribed](#).
- (c) Within 21 days of a Disclosure Event, a Member is also required to send a statement to the Professional Conduct Committee setting out the reasons why that Member considers that the Member's membership should not be affected, including suspended (whether or not on an interim basis) or terminated and that Member's name removed from the Registers. The time period is longer for the statement than the notice to allow a Member to gather evidence, including from referees, to explain any mitigating or extenuating circumstances.

8.6 Notification Event (By-Laws 40(3.3) and 40(3.4))

- (a) It is a Member's responsibility to give notice to the Professional Conduct Committee within 7 days of the occurrence of a Notification Event.
- (b) When required, such notice should be in writing in the [form prescribed](#).

8.7 Form of complaints (By-Law 40(4.1(a)))

- (a) Complaints made about a Member to CA ANZ pursuant to By-Law 40(4.1)(a) should be made using, and in the manner prescribed by, the [Complaint Form](#).

- (b) Anonymous complaints, or those made without adequately disclosing the identity of the person(s) making the complaint, will not be processed by CA ANZ.

8.8 Applications to the Professional Conduct Committee for legal representation (By-Laws 40(5.4) and 40(7.2))

Applications for the consent of the Professional Conduct Committee for legal representation should be made using, and in the manner prescribed by, the [Consent Form](#).

8.9 Application to the Reviewer (By-Law 40(8))

- (a) An application made to CA ANZ to request the review of a Final Decision in accordance with By-Law 40(8.2) can be made by the original complainant or the relevant Member and must be made:
 - (i) within 21 days of notification of the Final Decision;
 - (ii) using and in the manner prescribed by the [Final Decision Review Form](#); and
 - (iii) accompanied by:
 - A. payment of the Application Fee (which is AUS\$500) in a manner prescribed by the Final Decision Review Form; and
 - B. the [Costs Agreement](#) duly executed by the applicant.
- (b) Every Reviewer appointed will be an independent Australian legal practitioner.
- (c) When lodged, the Final Decision Review Form must include all matters the complainant wishes to be considered by the Reviewer.
- (d) The Application Fee is non-refundable, but the Reviewer may recommend that CA ANZ refund the Application Fee to the applicant, where the Reviewer considers this to be appropriate.

8.10 Appeals Tribunal (By-Law 40(11))

- (a) An appeal of a determination of the Disciplinary Tribunal may be made by the Member the subject of the determination or the Professional Conduct Committee in accordance with By-Law 40(11.1).
- (b) Notice of appeal should be given using, and in the manner prescribed by, the [Appeal Form](#) and must detail all grounds of appeal.
- (c) Pursuant to By-Law 40(11.4) the Appeals Tribunal has a discretion to require the Member to pay to CA ANZ such amount as it determines as security against the anticipated Costs which CA ANZ may incur in the conduct and hearing of the appeal.

8.11 Guidelines for the imposition of sanctions (By-Law 40(13.6))

- (a) When the Professional Conduct Committee, Disciplinary Tribunal or Appeals Tribunal determines that it is appropriate to sanction a Member, in deciding what sanction(s) to impose and without limiting the matters it may consider, it may consider the following matters:
 - (i) the seriousness of the conduct;
 - (ii) whether the conduct has occurred before and, if so, the nature, extent and frequency of the conduct;

- (iii) the Member's responsibility and accountability for the conduct in the context of that Member's Practice Entity, including without limitation:
 - A. whether the conduct was systemic;
 - B. whether the Practice Entity's leadership were aware of or complicit in the conduct;
 - C. whether it forms part of a pattern of conduct; and
 - D. the Member's role, position and seniority in the Practice Entity;
 - (iv) whether the Member has failed to comply with any undertaking or agreement to remedy the conduct;
 - (v) any aggravating or mitigating factors raised which are relevant to the conduct in question;
 - (vi) the personal circumstances of the Member to the extent they are raised and relevant to the conduct;
 - (vii) any character and/or other references provided in writing in support of the good standing of the Member;
 - (viii) the maintenance of public confidence in the profession;
 - (ix) the maintenance of proper standards of professional conduct;
 - (x) deterrence; and
 - (xi) any other circumstances relevant to the practice of the Member and the profession.
- (b) The Professional Conduct Committee, the Disciplinary Tribunal and the Appeals Tribunal must balance the interests of the Member against the public interest, the reputation of CA ANZ, and the need to support the integrity of the profession of accounting and those of CA ANZ in determining what are appropriate and sufficient sanctions.

8.12 Costs awards (By-Law 40(13.7))

When the Professional Conduct Committee, Disciplinary Tribunal or Appeals Tribunal determines whether or not to require a Member to pay Costs under Section 5 of the By-Laws, and the amount of such Costs a Member is required to pay, it must require the Member to pay all of the Costs claimed by CA ANZ unless it determines that, having regard to the following matters, it is appropriate that the Member be required to pay only part or none of the claimed Costs:

- (a) whether and to what extent the complaint against the Member is found to have merit and whether or not there is ultimately a finding in favour of the Member;
- (b) the substance or seriousness of the complaint;
- (c) the conduct of the Member in relation to the investigation and disciplinary process, including whether the Member was open, honest and timely in the Member's dealings with the Professional Conduct Committee, Disciplinary Tribunal or Appeals Tribunal in relation to the complaint and whether the Member complied with the provisions of Section 5 of the By-Laws and any applicable Regulations during the conduct of the disciplinary process;
- (d) the extent to which the final sanctions determined differ from those that the Professional Conduct Committee or Disciplinary Tribunal gave the Member the opportunity to agree by consent;
- (e) whether to do so is reasonable in the circumstances;

- (f) the amount of the Costs incurred by CA ANZ in the conduct of the investigation and proceedings;
- (g) whether and to what extent the Member has previously been required to pay Costs to CA ANZ in respect of the complaint, its investigation, hearing and determination; and
- (h) whether the amount is reasonable in the circumstances.

8.13 Former Professional Conduct By-Laws (By-Law 42)

- (a) A copy of the By-Laws as at 28 July 2016 may be found [here](#).
- (b) A copy of the By-Laws as at 26 November 2014 may be found [here](#).

8.14 Confidentiality Obligations

- (a) Members must comply with the requirements set out in subparagraphs (b) – (d) below to ensure that any complaints made, investigations, reviews and disciplinary hearings carried out pursuant to Section 5 of the By-Laws are confidential;
- (b) Subject to subparagraph (c) below:
 - (i) all information, correspondence and other documentation sent and/or received by CA ANZ or disclosed or made available to you in connection with a complaint, its investigation and outcome, any review of that outcome (including the Reviewer's report, recommendation and/or any directions) and any disciplinary hearing (including disciplinary decisions) is confidential (Confidential Information);
 - (ii) Members must:
 - A. keep the Confidential Information confidential;
 - B. securely store and not disclose or permit disclosure of the Confidential Information;
 - C. comply with CA ANZ's directions regarding the Confidential Information;
 - D. do all other things prudent or desirable to safeguard the confidentiality of the Confidential Information; and
 - E. not publish or make a public announcement or statement in relation to the Confidential Information;
 - (iii) this clause does not apply to:
 - A. information that is already in the public domain (unless it is in the public domain because of a breach of this Regulation); or
 - B. details of complaints, investigations and/or decisions that CA ANZ has published or made available to the public in accordance with the By-Laws and Regulations;
- (c) The obligations contained in subparagraph (b) above do not prevent the disclosure of Confidential Information:
 - (i) that is required to be disclosed to comply with applicable law;
 - (ii) to the Member's advisers and/or representatives (including business partners and staff of those advisers and/or representatives) for the provision of advice in relation to the complaint, its investigation, any review and any disciplinary hearings;

- (iii) to the Member's current employer and business partners, including staff of the Member and/or that employer, to assist with responding to the complaint and any disciplinary hearings and/or to comply with any disclosure obligations;
 - (iv) to the Member's insurer or the insurer of the Member's current and/or former employer, to comply with any disclosure obligations; or
 - (v) if required, and with the consent of CA ANZ, for the purpose of the complaint, investigation and any disciplinary hearings pursuant to Section 5 of the By-Laws.
- (d) Any disclosure of Confidential Information pursuant to subparagraphs (c)(ii) – (v) above can only be made by Members if the person to whom disclosure is made is subject to the same confidentiality obligations as Members set out in this paragraph 8.14.

Commentary

The obligations set out above are in addition to the obligations of confidentiality contained in APES 110, Code of Ethics for Professional Accountants. More details about managing your confidentiality obligations are available as part of the complaint process and on request.