



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 ("NZICA") held in private in Wellington, New Zealand on 28 May 2014, in respect of Member B (name and locality withheld) the Committee found that the following matter would otherwise warrant being referred to the Disciplinary Tribunal:

In his role as a Chartered Accountant the Member:

- 1) Failed to complete approved continuing professional development ("CPD") for the ten years from 2003/04 to 2012/13 in accordance with the criteria and minimum number of hours specified by the Admissions and Membership Committee, in breach of Rule 3.1(2) of Appendix I of the Rules of NZICA and/or in breach of Rule 8: *Duty to Maintain Competence* of the Code of Ethics (2003);
- 2) Failed to submit annual Important Declarations for nine years (from 2003/04 to 2011/12) to declare the number of verifiable hours of CPD, that he had completed for each year in breach of Rule 22A.3 of the Rules of NZICA, and/or Rule 10: *Timeliness* of the Code of Ethics (2003) ('Code of Ethics');
- 3) Submitted an Important Declaration for the 2012/13 year in which he declared he was exempt from the CPD requirements for that year when he was not exempt in breach of Rule 22A.3 of the Rules of NZICA and/or in breach of Rule 2: *False or Misleading Statements* of the Code of Ethics (2003); and
- 4) Failed to respond to NZICA when notified of his selection for CPD log audits for three consecutive years (from 2009/10 to 2011/12) in breach of Rule 10: *Timeliness* and/or paragraph 99 of the Code of Ethics (2003).

The Member accepted all of the particulars.

The Committee considered that all of the particulars had been established. The Committee was disappointed by the Member's conduct and considered that he had failed to meet the standards expected of members namely the completion of applicable CPD requirements. It was concerned that he had not met his professional development obligations for a decade and had failed to submit important Annual Declarations for the same time period. Worse still, the Member had in 2012/2013 submitted a false declaration to the Institute stating he was exempt from the requirements when he was not, and had for a period of three years consistently failed to respond to NZICA regarding an audit of his CPD compliance. The Committee

considered the longstanding nature of the breach of the CPD requirements; his lack of honesty in responding to the declaration and his non-response to be aggravating features.

The Committee was of the view that members have an on-going responsibility to complete annual CPD to maintain currency of their knowledge. This ensures that their clients and employers are receiving competent and professional services expected of Chartered Accountants. The Committee considered that the Member had had the benefit of the brand for ten years without bearing any of the responsibilities that attach to membership.

The Committee did not accept that career pressures or the fact that the Member was not working in core accounting negated his responsibility to undertake training. The CPD policies are designed for members to determine what professional development is relevant to their career taking into account the diverse range of careers undertaken by members. The Committee noted the Member's advice that he wished to maintain his membership and that he would be able to complete some relevant CPD via his employers. The Committee also noted that the Member had admitted the particulars and acknowledged his shortcomings. In the circumstances the Committee was prepared to offer the Member some latitude to regularise his position.

Therefore, while the Committee did consider the complaint was serious enough to warrant referral to the Disciplinary Tribunal, it was of the view that the matter could be appropriately resolved with a consent order and an undertaking given by the Member on the following terms;

That the Member will:

- (1) present a plan to the Professional Conduct Committee within 14 days of the date of signing the undertaking, as to his completion of 45 hours of verifiable continuing professional development; and
- (2) complete 45 hours of verifiable continuing professional development by the year ended 30 June 2015; and
- (3) ensure that training will include completion of the NZICA ethics course; and
- (4) record his continuing professional development log on the Institute's online CPD log; and
- (5) report his progress on completion of the continuing professional development in accordance with the undertaking to the Professional Conduct Committee every three months.

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

- (1) He be severely reprimanded in accordance with Rule 21.6(d)(v);
- (2) He pay to the Institute a sum of \$5,000 in accordance with Rule 21.6(d)(vi)
- (3) He pay costs to the Institute of \$1,380 in accordance with Rule 21.6(d)(vii);

In setting the level of fine and costs, the Committee took into consideration the Member's comments about his limited financial circumstances. However, it was not satisfied that the costs should be reduced, noting that the rest of the membership would otherwise be forced to bear the costs of the Member's conduct. It also noted that the costs only pertain to the final determination and that the costs of the committee's preliminary investigation of the complaint were not sought.

The Committee considered that a significant fine was warranted in this case to serve as a denunciation of the Member's sustained failure to comply and his deceptive conduct. It also served as a deterrent to other members.

The Committee resolved that it was in the public interest for notice of its decision to be published in NZICA's official publication and website, without mention of the Member's name and locality. The Committee was of the view that publication of the facts of the complaint and the Committee's orders was of benefit to the profession however there was no wider public interest in naming the Member.

David Barker FCA
Chairman
Professional Conduct Committee