



NEW ZEALAND INSTITUTE OF CHARTERED ACCOUNTANTS ACT 1996

IN THE MATTER of the New Zealand Institute of Chartered Accountants Act 1996 and the Rules made thereunder

AND

IN THE MATTER of **Robert Philip Bell**, Suspended Chartered Accountant, of Tirau

**DETERMINATION OF THE DISCIPLINARY TRIBUNAL OF THE NEW ZEALAND
INSTITUTE OF CHARTERED ACCOUNTANTS
19 September 2012**

Hearing: 19 September 2012

Tribunal: Mr RJO Hoare FCA (Chairman)
Ms JA Dawson FCA
Mr MJ Whale FCA
Ms B Gibson (Lay member)

Legal Assessor: Mr Bruce Corkill QC

Counsel: Mr Terence Sissons for the prosecution

At a hearing of the Disciplinary Tribunal held in public at which the Member was not in attendance and not represented by counsel, the Member pleaded guilty to the charges and admitted the particulars.

The charges and particulars as amended with the Member's agreement were as follows:

Charges

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

- (1) Conduct unbecoming an accountant; and/or
- (2) Breaching the Rules and/or Code of Ethics of the Institute, in particular
 - (a) The Fundamental Principle of Professional Behaviour; and/or
 - (b) Rule 20.5 of the Institute's Rules; and/or
 - (c) Rule 21.4 (b) of the Institute's Rules; and/or
- (3) Failing to respond promptly to communications from the Institute.

Particulars

IN THAT:

In the Member's role as a Chartered Accountant in public practice he:

- (a) Did not behave in a manner consistent with the good reputation of the profession in that he:
 - (i) Failed to meet the taxation obligations of his practice entities to the Inland Revenue in breach of the Fundamental Principle of Professional Behaviour; and/or
 - (ii) Conducted the affairs of four companies that offered chartered accountancy services, namely B A Putaruru Limited and B A Tokoroa Limited (trading as Bell & Associates), Grayburn Ross & Partners (Putaruru) Limited and Grayburn Ross & Partners (Tokoroa) Limited, such that the four companies were placed into liquidation, in breach of the Fundamental Principle of Professional Behaviour; and/or
- (b) Failed to respond in a timely manner to requests for further information from Practice Review, in breach of Rule 20.5 and/or Rule 10 of the Code of Ethics; and/or
- (c) (withdrawn)

DECISION

The Member allowed his practice companies to get into arrears with their PAYE and GST and failed to adequately deal with the situation over a number of years. In May 2006 the Member pleaded guilty before this Tribunal to conduct unbecoming an accountant, and negligence and/or incompetence in a professional capacity, as a result of one of those practice companies being convicted of failing to file income tax returns for three years and failing to furnish GST returns for a number of periods. At the time the Tribunal found that it was unacceptable as a practicing member representing his tax expertise to the public to so mismanage his own taxation affairs, and he was censured. However it appears that the same type of mismanagement has been repeated. The Member acknowledged that conduct such as this brings discredit to the profession.

PENALTY

The Member has said that as a professional he has failed. The Member's misconduct has continued over a lengthy period despite previously being censured by the Tribunal for similar mismanagement. In these circumstances the Tribunal considers that to protect the public and to ensure maintenance of professional standards the only course available is to remove the Member's name from the register.

Pursuant to Rule 21.31 (a) of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal orders that the name of **Robert Philip Bell** be removed from the Institute's register of members.

COSTS

The Professional Conduct Committee seeks full costs of \$8,027.

The Tribunal's general approach is that the starting point is 100% of costs, noting that the Institute already bears the cost of abandoned investigations and costs up to the Professional Conduct Committee's decision to hold a Final Determination.

There are no mitigating factors such as excessive or unnecessary expenses incurred or demonstrated evidence of hardship (inability to pay).

Pursuant to Rule 21.33 of the Rules of the New Zealand Institute of Chartered Accountants the Disciplinary Tribunal orders that **Robert Philip Bell** pay to the Institute the sum of \$8,027 in respect of the costs and expenses of the hearing before the Disciplinary Tribunal and the investigation by the Professional Conduct Committee. No GST is payable.

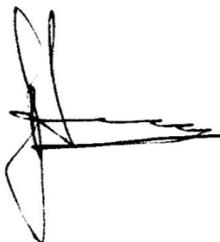
PUBLICATION

In accordance with Rule 21.35 of the Rules of the New Zealand Institute of Chartered Accountants the decision of the Disciplinary Tribunal shall be published on the Institute's website and in the *Chartered Accountants' Journal* with mention of the Member's name and locality.

RIGHT OF APPEAL

Pursuant to Rule 21.41 of the Rules of the New Zealand Institute of Chartered Accountants which were in force at the time of the original notice of complaint, the Member may, not later than 14 days after the notification to the Member of this Tribunal's 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