

IN THE MATTER of an Application by the Australian Securities and Investments Commission to the Companies Auditors and Liquidators Disciplinary Board pursuant to section 1292 of the Corporations Act 2001

MATTER NO: 07/QLD07

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
Applicant

ROSS EDWARD HELLYER
Respondent

DECISION AND REASONS

18 March 2008

Panel:

Donald Magarey (Chairman)

David Barnett

Patrick Ponting

Companies Auditors and Liquidators Disciplinary Board
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DECISION AND REASONS

1. This is an application by the Australian Securities and Investments Commission ("ASIC") for the Companies Auditors and Liquidators Disciplinary Board ("Board") to cancel the registration of Ross Edward Hellyer ("Respondent") as an auditor under s1292 of the *Corporations Act 2001*.
2. In the early 1980s, Mr Hellyer worked in the audit division of Arthur Andersen in Melbourne which he left in 1986. He became a registered company auditor in 1986 and became a partner in a small firm in Dandenong for three years then a sole practitioner in Mornington until 2001. After a stint as a financial planner, Mr Hellyer moved to Queensland and became a partner in a small firm of accountants on the Sunshine Coast in July 2006. That partnership was dissolved in 2007 and Mr Hellyer now practises in his own firm as a business adviser and accountant in Noosaville. He is 48 years of age.
3. The last Annual Statement lodged with ASIC by Mr Hellyer was on 6 September 2006 covering the period 10 October 2001 to 9 October 2005. In compliance with the request in that form to provide details in relation to his highest fee paying audits, Mr Hellyer disclosed three audits each carrying a fee of \$500. None was a Corporations Act audit.
4. As to audit work since 9 October 2005 and the current position, Mr Hellyer told the Board that he did not consider himself proficient to do large audits and is only looking to do a mainstream accountancy practice. His small and infrequent audits are an adjunct to that practice. He does no large-scale audits and would refer any significant audit job to a large Brisbane firm with whom he has formed a relationship.
5. Mr Hellyer says he never has and he never will "employ 21st century audit techniques" - he employs what he learnt back in the 1980s. He has not kept up-to-date with modern auditing skills or professional standards including auditing standards. He thought he had been to one audit Professional Development day in the last five years.
6. As far as the failure to lodge annual returns since 10 October 2005 is concerned, Mr Hellyer admitted his default and proffered no excuse. However, he attended the hearing in person and gave the Board an explanation for his failure which can be summarised as professional and personal difficulties and his generally stressful and busy life in the last 18 months. Mr Hellyer is to be commended for attending the hearing and providing the Board with this explanation. We accept what he said and the difficulties that he has experienced. However, we do not accept his explanation as an adequate excuse for failure to file his annual return - an important statutory obligation for a registered company auditor.

7. In all the circumstances, we have determined that we are satisfied that ASIC has established its case that Mr Hellyer has, within the terms of s1292(1)(a)(i), "contravened section 1287A".
8. As to the order we should make as a consequence of our determination, Mr Hellyer has asked that we do not cancel his registration as an auditor. We accept that cancellation of Mr Hellyer's registration as an auditor is likely to result in some disadvantage for him professionally and, possibly, financially. Nevertheless, he has blatantly ignored a serious statutory obligation of which he was well aware, and we note that he told us that he has not lodged his 2007 return either. In addition to that, on his own admission, he is a small business specialist and he does not wish to hold himself out as an auditor. Continuing registration as an auditor under the Act is not an essential part of his practice, it is an adjunct which lends him more credibility. Finally, again on his own admission, Mr Hellyer does not apply current audit techniques and is not up-to-date with current requirements including current auditing standards.
9. Accordingly, we believe that we should order the cancellation of his registration.
10. As to publicity under s1296(1B), Mr Hellyer has submitted that there may well be some prejudice to his current practice if there were to be publicity for this decision in his local press. However, our principal purpose and obligation is the protection of the public interest. That is to be advanced by both the practising profession of auditors and the public at large being aware that registered auditors are expected to perform their duties and fulfil their obligations (including statutory obligations) and that failure to do so could lead to serious consequences.
11. Accordingly, we have decided that the Board will post a copy of our decision and these reasons on the Board's website and will issue a short press release containing the orders, a summary of the reasons and a reference to the website.

We order that:

1. The registration of Ross Edward Hellyer as an auditor be cancelled with effect 30 days after this order takes effect.
2. Ross Edward Hellyer must pay ASIC's costs in the sum of \$1000 within 30 days after this order takes effect.

Donald Magarey
Chairman of the Panel

18 March 2008