

## **Private and confidential**

### **Amanda Young**

#### **Report of committee convened to make a disciplinary decision about Amanda Young, a registered liquidator**

#### **Members of committee**

Abigail Sheppard, a delegate of ASIC<sup>1</sup>  
Alan Hayes, a registered liquidator chosen by ARITA<sup>2</sup>  
Leon Zwier, an appointee of the Minister<sup>3</sup>

#### **Decision**

Under s40-55(1)(c)<sup>4</sup> the registration of Amanda Young as a liquidator should be cancelled; and  
Under s40-55(1)(h) ASIC should publish this report.

#### **Reasons for the decision**

#### **Introduction**

1. Amanda Young worked as a registered liquidator at the firm Jirsch Sutherland from 2013 until December 2018, when she resigned from that position.
2. Soon after her resignation, Ms Young's employment was suspended because Jirsch Sutherland had started an investigation into unauthorised payments Ms Young had made from the accounts of several liquidated companies. Jirsch Sutherland reported these matters to ASIC and Ms Young's registration as a liquidator was suspended.
3. Jirsch Sutherland's enquiries established that between December 2017 and December 2018, Ms Young had made or arranged payments from the accounts of four liquidations to her own bank and credit card accounts. The payments were drawn while Ms Young was appointed as sole liquidator to three of the companies, Admark Property Group Pty Limited ACN 153 600 170 ATF Admark Property Trust (**Admark**), Roller Poster Company Pty Limited ACN 074 495 766 (**Roller Poster**) and Mamak Pty Limited ACN 118 546 857 (**Mamak**), and while she was assisting another liquidator with the liquidation of another entity, St Gregory's Armenian School Inc (**St Gregory's**). It was concluded that Ms Young may have misappropriated a total of \$238,502.33 from these four liquidations and that she may also have falsified records.

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<sup>1</sup> Australian Securities and Investments Commission

<sup>2</sup> Australian Restructuring Insolvency and Turnaround Association ACN 002 472 362

<sup>3</sup> Minister for Revenue and Financial Services – section 19 *Acts Interpretation Act 1901*

<sup>4</sup> Unless otherwise specified, references to sections are references to sections of the *Insolvency Practice Schedule (Corporations)* in Schedule 2 of the *Corporations Act 2001* (section 600K *Corporations Act 2001*) and references to rules are to the rules in the *Insolvency Practice Rules (Corporations) 2016* (Cth)

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4. ASIC conducted its own enquiries and in September 2019, ASIC issued a notice to Ms Young, setting out its concerns about her conduct and inviting her to explain why her liquidator registration should continue.
5. ASIC did not receive any explanation from Ms Young in response to the notice. Accordingly, ASIC referred the matter to this committee to make a decision about Ms Young's registration as a liquidator.
6. The committee has invited Ms Young to interviews and to provide information. Ms Young did not attend the interviews or provide any information in support of whether her registration should continue. Ms Young has asked the committee, through her solicitor, to consider either adjourning any decision, pending further information about any criminal prosecution she may face, or not to cancel her registration on the basis that her registration remains suspended.

### **What are the issues?**

7. The substantive question for the committee is whether it is in the public interest that Ms Young's registration as a liquidator should be cancelled.
8. In determining this question, the committee must first be satisfied that preliminary procedural matters have been addressed and that Ms Young has been afforded natural justice. Secondly, the committee must consider if and to what extent ASIC's concerns as given in its notice to Ms Young to explain why her liquidator registration should continue are made out. Finally, the committee must decide what, if any, disciplinary action be taken in this matter.
9. In reaching its decision on these matters, the committee must determine the following issues:
  - 9.1 Did Ms Young improperly obtain \$28,140 from Jirsch Sutherland, which was reimbursed by funds from Admark in December 2017, while she was an officer of Admark?
  - 9.2 Did Ms Young falsify an expense declaration claiming payment for disbursements on the Admark liquidation, but which did not relate to Admark's liquidation, in connection with the above payment?
  - 9.3 Has Ms Young contravened subsections 182(1), 1307(1) and/or 1308(2)<sup>5</sup> in connection with the matters at paragraphs 9.1 and 9.2 above?
  - 9.4 Did Ms Young improperly obtain \$28,500 from Mamak in November 2018?
  - 9.5 Has Ms Young contravened s182(1) in connection with the matter at paragraph 9.4 above?

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<sup>5</sup> Section 1308 has been repealed and substituted (by the Financial Sector Reform (Hayne Royal Commission Response – Stronger Regulators (2019 Measures)) Act 2020); the relevant provision is now s 1308(1).

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- 9.6 Did Ms Young improperly obtain \$16,500 from Roller Poster in November 2018?
- 9.7 Has Ms Young contravened s182(1) in connection with the matter at paragraph 9.6 above?
- 9.8 Did Ms Young improperly obtain three payments of \$64,840.69, \$10,150.77 and \$90,370.77 (a total amount of \$165,362.23) from the liquidation of St Gregory's in October 2018?
- 9.9 Does the conduct at paragraph 9.8 above demonstrate that Ms Young is not a fit and proper person?
- 9.10 Does Ms Young's conduct in connection with Admark, Mamak and Roller Poster demonstrate that she is not a fit and proper person?
- 9.12 What is the committee's decision under s40-55(1)? Should the committee delay its decision, until information about any criminal prosecution of Ms Young in connection with these matters is available? Should the committee suspend Ms Young's registration as a liquidator?
- 9.13 Should ASIC publish specified information in relation to the committee's decision and the reasons for that decision?

### **Preliminary matters**

- 10. On 2 September 2019, ASIC gave Ms Young a notice asking her to explain why her registration should continue (s40-40(1)). The notice stated that ASIC believed she had contravened a provision of the Act and was not a fit and proper person (s40-40(1)(f) and (m)) and invited Ms Young to give a written explanation within 20 days of the notice being given.
- 11. The notice was served on Ms Young on 10 September 2019.
- 12. ASIC did not receive an explanation from Ms Young within 20 business days after the notice was given, or at all.
- 13. Accordingly, ASIC referred the matter to this committee to make a decision, including whether to cancel Ms Young's registration as a liquidator (s40-45(1), s40-50 and s40-55(1)(c)). The members of this committee are Ms Sheppard (of ASIC), Mr Hayes (a registered liquidator) and Mr Zwier (a person appointed by the Minister) (s40-45(2)).
- 14. On 12 November 2019, the committee wrote to Ms Young's solicitor to inform Ms Young that the committee was proposing to decide to cancel her registration and inviting her to an interview on 25 November 2019 (rule 50-85(1) and s40-55(1)(c)).
- 15. On 22 November 2019, Ms Young's solicitor wrote to the committee and confirmed that Ms Young would not attend the interview on 25 November 2019. Ms Young's solicitor said that Ms Young wanted to give the committee further information, by way of, "*further*

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*medical reports and ... submissions*” and asked for six weeks to provide this material. The committee agreed to this request.

16. On 9 December 2019, the committee received further information from ASIC. A copy of this material was sent to Ms Young’s solicitor on 4 February 2020.
17. On 22 January 2020, Ms Young’s solicitor wrote to the committee enclosing a psychologist’s report from December 2018, stating that “*We do not propose to submit any further facts or evidence at this stage, in relation to the allegations made by ASIC in the Show Cause Notice*”, with some other limited representations.
18. On 4 February 2020, the committee again wrote to Ms Young’s solicitor. The committee offered Ms Young another interview on 11 March 2020 and invited her to give the committee any further information or submissions. The committee advised that if Ms Young did not attend the interview, the committee would use the interview appointment to meet and to consider what, if any, disciplinary action should be taken against Ms Young. The committee advised that it would consider all options, including whether to adjourn any determination of the matter for an indefinite or other period, and would consider any further information from Ms Young given by 21 February 2020.
19. Ms Young did not attend the interview on 11 March 2020. The committee has not received any further information from or on behalf of Ms Young since Ms Young’s solicitor’s correspondence on 22 January 2020.

### **Has Ms Young been afforded natural justice?**

20. The committee must observe natural justice (rule 50-55).
21. The committee has offered Ms Young two interviews and has invited her to provide any additional information, including submissions, medical reports, character references and to address it on the issue of penalties. Ms Young declined to attend the interviews and has provided limited representations and information through her solicitor.
22. The committee is satisfied that Ms Young has received all relevant information about ASIC’s concerns, she has been afforded the opportunity to respond to these concerns and to provide explanations about her conduct, as well as any other material she wishes the committee to consider, and she has chosen not to do so. Accordingly, the committee is satisfied that Ms Young has been afforded natural justice in this matter.

### **The committee’s findings of fact about ASIC’s concerns**

23. In making its decision, the committee may have regard to, among other matters, any information provided to the committee by ASIC, any explanation given by the liquidator, any other information given by the liquidator to the committee; and any other matter that the committee considers relevant (s40-55(3)(a), (b), (c) and (e)). The committee is not bound by the rules of evidence (rule 50-55).
24. As Ms Young has chosen not to address the committee about the facts alleged against her, the committee’s findings about Ms Young’s conduct are based on the information from

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ASIC in the notice to explain why liquidator registration should continue, all documents attached to the notice, the further information provided by ASIC to the committee on 9 December 2019 and correspondence from Ms Young's solicitor to the committee dated 22 November 2019 and 22 January 2020, including a report of a psychologist dated 17 December 2018.

25. The material relied upon by ASIC includes Ms Young's accounts as given to Jirsch Sutherland, in the course of its enquiries, and in her record of interview by ASIC, as well as a spreadsheet prepared by Ms Young (or on her behalf) containing a schedule of payments Ms Young received by way of withdrawals of funds from all four liquidations.

**Did Ms Young improperly obtain \$28,140 from Jirsch Sutherland, which was reimbursed by funds from Admark in December 2017, while she was an officer of Admark?**

**Did Ms Young falsify an expense declaration claiming payments for the Admark disbursements which did not relate to Admark's liquidation, in connection with the above transaction?**

**Has Ms Young contravened subsections 182(1), 1307(1) and/or 1308(2) in connection with these matters?**

26. An officer of a company must not improperly use their position to (a) gain an advantage for themselves, or (b) cause detriment to the company (subsection 182(1)).
27. It is a breach of the Corporations Act for an officer of a company who engages in conduct that results in the concealment, destruction, mutilation or falsification of any books affecting or relating to affairs of the company (subsection 1307(1)).
28. It is also a breach of the Corporations Act for any person, who, in a document required by or for the purposes of the Act or lodged with or submitted to ASIC, makes or authorises the making of a statement that to the person's knowledge is false or misleading in a material particular, or omits or authorises the omission of any matter or thing without which the document is to the person's knowledge misleading in a material respect (subsection 1308(2)).
29. The committee is satisfied that Ms Young has contravened subsection 182(1) and has also contravened subsection 1307(1). The committee has declined to make a finding on the allegation that Ms Young also contravened subsection 1308(2).
30. Ms Young was appointed as the sole liquidator of Admark on 18 January 2016 and so was the sole officer (with any ability to exercise a function or power) of Admark in December 2017 (section 9).
31. The records show, and Ms Young has acknowledged that, on 15 December 2017, she created and submitted a form to Jirsch Sutherland containing a list of expense payments that she declared she had incurred between July and November 2017, including a total of \$28,140 connected with the Admark liquidation, and for which she claimed she was entitled to be reimbursed.

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32. Ms Young's expense claim was approved. Jirsch Sutherland duly made a payment to Ms Young's personal bank account that included the amount of \$28,140 Ms Young had claimed for expenses on the Admark liquidation. Ms Young later approved the reimbursement of these funds to Jirsch Sutherland from Admark's liquidation bank account.
33. Ms Young's accounts about these events are confusing and contradictory. She has said that she claimed these payments "*on account of the moneys owed*" to her by Jirsch Sutherland for leave, expenses and/or other things the details of which she refused to disclose and none of which were connected with Admark. She has also said that Jirsch Sutherland was owed disbursements in connection with the liquidation and that she had not acted improperly, but accepted she had failed to follow the proper procedures.
34. Ms Young's explanations are not credible and do not justify her conduct. Ms Young was not entitled to the payment of \$28,140 and she took it without any justification.
35. The information in Ms Young's list of expenses is false. One example is an amount for '*Payment to Property Developer in respect of tenancy maintenance - to be reimbursed from trust monies*'. As Ms Young paid the entire amount claimed from Jirsch Sutherland into her own bank account, this claim was not connected with any legitimate expense connected with Admark. Nor were any of the others.
36. Ms Young was the sole liquidator and so the sole officer of the company with the ability to exercise a function or power of that office. As such, she was in a position to arrange for payments to be made from the liquidation's trust funds. Her conduct demonstrates that she was familiar with the proper procedures by which she could be reimbursed for expenses. Ms Young's deliberate creation of a false record to obtain this payment indicates that she knew she was not entitled to it and that she intended to take the money for her own benefit.
37. The committee is satisfied that Ms Young improperly used her position as an officer of Admark to gain a financial advantage for herself by obtaining \$28,140 from Jirsch Sutherland, which was reimbursed by funds from Admark.
38. The committee is also satisfied that Ms Young engaged in conduct that resulted in the falsification of the expense claim form, which was a book that affected or related to the affairs of Admark.
39. The committee's view of this conduct is that it is not only extremely serious but also demonstrates conduct not befitting that of her profession as a chartered accountant and more specifically as a registered liquidator. Ms Young took advantage of her trusted role as Admark's liquidator to obtain a personal financial benefit and which caused detriment to Admark. Ms Young also deliberately created a false document in order to achieve this.
40. As the committee is satisfied that Ms Young's conduct has contravened subsections 182(1) and 1307(1) it considers that it is not necessary to make any separate finding about whether her conduct has also contravened subsection 1308(2).



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**Did Ms Young improperly obtain \$28,500 from Mamak in November 2018? If so, has Ms Young contravened subsection 182(1)?**

41. The committee is satisfied that Ms Young improperly obtained \$28,500 from Mamak in November 2018 while she was an officer of Mamak and that she has thereby contravened subsection 182(1).
42. Ms Young was appointed as the sole liquidator of Mamak on 14 June 2018 and so was the sole officer (with any ability to exercise a function or power) of Mamak in November 2018.
43. The records show, and Ms Young has acknowledged that, on 9 November 2018, she obtained \$28,500 from Mamak's liquidation bank account and paid this amount into her personal bank account.
44. In order to obtain the payment, Ms Young wrote a cheque on Mamak's liquidation bank account payable to 'CASH'. Ms Young later crossed out 'CASH' and changed it so that it was payable to 'Amanda Young'. Ms Young wrote her initials on the cheque to confirm that she had made this change.
45. Ms Young made efforts to conceal this payment. Ms Young instructed other employees at Jirsch Sutherland to record and reconcile the payment as a payment to a law firm, for legal fees, and claimed that she had appropriate records to support the payment. Ms Young later sought to claim that she had initially tried to cash cheques to pay the law firm, but could not do so, so she had made the payments from her personal account.
46. This improper payment was later discovered and was repaid to the Mamak liquidation bank account.
47. Ms Young admitted she received this payment from the Mamak account and contended that, although she had done so contrary to the appropriate procedures, she had done this because the payment was needed urgently. Ms Young also said that she had intended to repay it, but had forgotten to do so.
48. It was later established that Ms Young's explanation was not true, as Mamak was not obliged to pay the law firm urgently, or at all, at that time.
49. The committee is satisfied that Ms Young arranged to pay \$28,500 from Mamak's liquidation bank account into her own bank account, for her own benefit, without any proper justification. The committee is particularly concerned that Ms Young sought to involve her colleagues at Jirsch Sutherland in her attempts to conceal her actions and that she tried to mislead them when the improper payment was identified.

**Has Ms Young contravened s182(1) in that while she was an officer of Roller Poster, did she misappropriate \$16,500 from Roller Poster in November 2018?**

50. The committee is satisfied that Ms Young improperly obtained \$16,500 from Roller Poster in November 2018 while she was an officer of Roller Poster and that she has thereby contravened subsection 182(1).

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51. Ms Young was appointed as the sole liquidator of Roller Poster on 17 June 2016 and was the sole officer (with any ability to exercise a function or power) of Roller Poster in November 2018.
52. The records show, and Ms Young has acknowledged that, on 14 November 2018, she obtained \$16,500 from Roller Poster's liquidation bank account and paid this amount into her personal bank account.
53. In order to obtain the payment, Ms Young again wrote and signed a cheque on the company's liquidation bank account for \$16,500, dated 9 November 2018, payable to 'CASH'. Ms Young later crossed out 'CASH' and changed the payee details so the cheque was payable to herself.
54. As with the improper payment from Mamak, Ms Young attempted to conceal this payment and instructed other employees at Jirsch Sutherland to record and reconcile the payment as a payment to another law firm, for legal fees.
55. This improper payment was also later discovered and so was repaid to the Roller Poster liquidation bank account.
56. Ms Young has admitted she received this payment from the Roller Poster account, and again contended that although she had done so contrary to the appropriate procedures, the payment was needed urgently and that she had intended to repay it, but had forgotten to do so.
57. Ms Young's explanation was later found not to be true, as Roller Poster was not obliged to pay the law firm urgently, or at all, at that time.
58. As with the payment from Mamak's liquidation bank account, the committee is satisfied that Ms Young arranged to pay \$16,500 from Roller Poster's liquidation bank account into her own bank account, for her own benefit, without any justification. The committee is again particularly concerned that Ms Young sought to involve her colleagues at Jirsch Sutherland in her attempts to conceal her actions and that she tried to mislead them when the improper payment was identified.

**Did Ms Young improperly obtain three payments of \$64,840.69, \$10,150.77 and \$90,370.77 (a total amount of \$165,362.23) from the liquidation of St Gregory's in October 2018?**

**If so, does this conduct demonstrate that Ms Young is not a fit and proper person?**

59. In considering whether a person is fit and proper in the context of being a liquidator, the committee can consider whether the person can act honestly, whether they have the appropriate knowledge of their role and the requirements of being a liquidator. The role of a liquidator involves a high degree of responsibility, trust, integrity and ethical insight.<sup>6</sup>

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<sup>6</sup> *Hughes and Vale Pty Ltd v the State of New South Wales (No 2)* (1955) 93 CLR 127; *ASIC v Fernandez* CALDB 02/VIC 13 at 321 - 323



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60. ASIC's regulatory guide number 258 *Registered liquidators: Registration, disciplinary actions and insurance requirements* states at paragraph 152 that when considering whether a person is a fit and proper person to be registered as a liquidator, ASIC "*interprets the expression 'fit and proper' as referring to the attributes of good character, diligence, honesty, integrity and judgement*".
61. The committee is satisfied that Ms Young improperly obtained three payments of \$64,840.69, \$10,150.77 and \$90,370.77 (a total amount of \$165,362.23) from the liquidation of St Gregory's in October 2018.
62. The committee is also satisfied that Ms Young made considerable efforts to deceive a bank and her colleagues at Jirsch Sutherland, including her brother, Sule Arnautovic, in order to obtain these payments and about the purpose for which the payments were to be made, and to conceal what she had done.
63. These matters demonstrate that Ms Young is not a fit and proper person for the purposes of s40-40(1)(m).
64. Mr Arnautovic of Jirsch Sutherland was appointed as liquidator to St Gregory's, an incorporated association, in 2016. Although not appointed as a liquidator, Ms Young was managing the liquidation of St Gregory's for Jirsch Sutherland in 2018.
65. The records show, and Ms Young has acknowledged that, on about 23 October 2018, she obtained a total amount of \$165,362.23 from St Gregory's bank account by way of three payments, of \$64,840.69, \$10,150.77 and \$90,370.77. She paid the amount of \$64,840.69 into her personal credit card account, the amount of \$10,150.77 into another personal credit card account and the amount of \$90,370.77 into a third personal credit card account.
66. On 23 October 2018, Ms Young sent an email enclosing a letter to Commonwealth Bank instructing it to urgently process the three payments on St Gregory's liquidation bank account. The letter contained Mr Arnautovic's electronic signature. The letter described the payments as "*distributions*" and instructed the bank to make the payments to three different credit card accounts, each of which was a personal credit card account controlled by Ms Young, and in her name, as in paragraph 65 above.
67. It was later established that Mr Arnautovic had not signed or seen the letter to Commonwealth Bank and had not authorised the payments, to Ms Young's credit card accounts or otherwise.
68. Commonwealth Bank later informed Ms Young that it could not make the payments and that Jirsch Sutherland would need to arrange the payments by 'Commbiz'.
69. Ms Young then drew up cheques on St Gregory's liquidation bank account for the three amounts and arranged for Mr Arnautovic to sign them. Ms Young presented the cheques to Mr Arnautovic with some other cheques, and either asserted that they were for dividend payments to creditors, or led Mr Arnautovic to believe that they were for such dividend payments.

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70. Having obtained the signed cheques, Ms Young deposited them into her respective credit card accounts. Ms Young later instructed another member of staff to record the three payments as dividends.
71. Ms Young's explanation for these transactions is that, *"it was money I believe Jirsch Sutherland owed me and it was not intended for creditors"*.
72. The above matters demonstrate that Ms Young has engaged in dishonest activity for personal financial gain and that she sought to deceive other persons in order to do this, while she was working in a position of trust and responsibility as a manager of a liquidation.
73. Ms Young is well-educated and trained. She was at the relevant time familiar with the legal and ethical requirements of her role as a registered liquidator and her firm's procedures. Ms Young knew how to deal properly with funds and expenses in a liquidation. Ms Young was also receiving a reasonable salary.
74. It is contended on Ms Young's behalf by her solicitor that she has ongoing health problems and that she was experiencing domestic, financial and professional stress at the time of her misconduct. These problems are not identified or particularised and, on the information available to the committee, would not tend to justify or explain Ms Young's behaviour.
75. The committee is satisfied that her conduct demonstrates that Ms Young is not a fit and proper person for the purposes of the requirements of her profession as a liquidator.

### **Does Ms Young's conduct in connection with Admark, Mamak and Roller Poster demonstrate that she is not a fit and proper person?**

76. Ms Young misappropriated a considerable amount of money from these three liquidations on a repeated basis over a period of time. She took deliberate steps to conceal her actions, including falsifying official documents and misleading and deceiving her colleagues.
77. The committee is concerned that, in her accounts to Jirsch Sutherland and to ASIC in the course of their enquiries, Ms Young sought to minimise the extent and gravity of her conduct and did not demonstrate contrition.
78. As Ms Young has not given the committee information about the events in question or about her present circumstances, the committee is not aware of the reasons for Ms Young's conduct, or whether she fully acknowledges her responsibility for it, or whether she regrets it.
79. For these reasons, in addition to those given above in connection with Ms Young's misappropriation of the funds from the liquidation of St Gregory's, the committee is satisfied that Ms Young's conduct in connection with Admark, Mamak and Roller Poster demonstrate that she is not a fit and proper person for the purposes of s40-40(1)(m).

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**What is the committee's decision under s40-55(1)? Should the committee delay its decision, until information about any criminal prosecution of Ms Young in connection with these matters is available?**

**Should the committee suspend Ms Young's registration as a liquidator?**

80. If a registered liquidator is referred to a committee under s40-50, the committee must decide one or more of the options listed in s40-55(1).
81. The committee's decision is that Ms Young's registration as a liquidator should be cancelled (s40-55(1)(c)) and that ASIC should publish specified information in relation to the committee's decision and the reasons for that decision (s40-55(1)(h)).
82. The committee has considered whether Ms Young's registration should be suspended for a period, or until the occurrence of any specified event, instead of cancelled (s40-55(1)(b)).
83. In his correspondence with the committee, Ms Young's solicitor contended that the committee could suspend Ms Young's registration "*for a significant period of time*", or adjourn its decision indefinitely, until more information is available about whether Ms Young is to face any criminal charges in connection with her misconduct the subject of this decision. The reasons for this proposal are that, while any criminal investigation or prosecution is on foot, Ms Young is concerned that she may incriminate herself if she gives information to the committee about the matters the subject of ASIC's concerns.
84. It was further contended that any decision by the committee, and the publication thereof, may have an adverse effect on Ms Young's mental health.
85. The objectives of this disciplinary committee include ensuring that any person registered as a liquidator behaves ethically, improving overall confidence in the professionalism and competence of insolvency practitioners, helping to ensure that members of the insolvency profession are skilled, honest and accountable and promoting a high level of professionalism and competence.<sup>7</sup>
86. The committee reiterates that Ms Young has had the time and the opportunity to give the committee new information and has not done so.
87. The committee also considers that it is in the public interest that it should deal with this matter as expeditiously as possible.
88. In relation to Ms Young's mental health, Ms Young has had the opportunity to provide up to date medical evidence. The committee has not received any medical or other evidence to support the assertion that the committee's decision, or the cancellation of her registration, would have any direct or serious effect on Ms Young's mental health, over and above that which may already have been caused by ASIC's notice to explain, ASIC's referral to the

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<sup>7</sup> S1-1 Object of the Insolvency Practice Schedule (b); Explanatory Memorandum to the *Insolvency Law Reform Bill 2015* at page 3; page 24

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committee, any criminal investigation, or the enquiries by Jirsch Sutherland and ASIC that have occurred to date.

89. Accordingly, the committee rejects Ms Young's solicitor's proposal that the committee's decision be adjourned, or that Ms Young's registration continue to be suspended, pending further information about any criminal prosecution.
90. The committee is also satisfied that a suspension would be inappropriate and contrary to the public interest, due to the gravity of Ms Young's repeated misconduct, her failure to express contrition or remorse and because of the importance of protecting the public, and specifically and generally deterring others, from similar conduct.
91. The committee has considered the other relevant options in this matter in s40-55(1), including whether ASIC should direct Ms Young not to accept any further appointments as liquidator in a specified period (d), whether Ms Young should be publicly admonished or reprimanded (e) and whether a specified condition should be imposed on Ms Young (f).
92. The committee is satisfied that none of the other options in s40-55(1) are appropriate, given the gravity of Ms Young's conduct and her failure to offer any explanation, or as they are unnecessary, as the committee has decided to cancel Ms Young's registration.
93. The committee considers that its decision to cancel Ms Young's registration is consistent with the objectives of the Insolvency Practice Schedule.

**Should ASIC publish specified information in relation to the committee's decision and the reasons for that decision?**

94. The committee has decided that it is in the public interest that ASIC publish information about the committee's decision and the reasons for the decision (s40-55(1)(h)).

Signed: Abigail Sheppard Date signed: 3 June 2020

Abigail Sheppard, a delegate of ASIC

Signed: \_\_\_\_\_ Date signed: \_\_\_\_\_

Alan Hayes, a registered liquidator chosen by ARITA

Signed: Leon Zwier Date signed: 3 June 2020

Leon Zwier, an appointee of the Minister

This decision of the committee is taken to be made on date the last member of the committee signs the Report of the decision.



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committee, any criminal investigation, or the enquiries by Jirsch Sutherland and ASIC that have occurred to date.

89. Accordingly, the committee rejects Ms Young's solicitor's proposal that the committee's decision be adjourned, or that Ms Young's registration continue to be suspended, pending further information about any criminal prosecution.
90. The committee is also satisfied that a suspension would be inappropriate and contrary to the public interest, due to the gravity of Ms Young's repeated misconduct, her failure to express contrition or remorse and because of the importance of protecting the public, and specifically and generally deterring others, from similar conduct.
91. The committee has considered the other relevant options in this matter in s40-55(1), including whether ASIC should direct Ms Young not to accept any further appointments as liquidator in a specified period (d), whether Ms Young should be publicly admonished or reprimanded (e) and whether a specified condition should be imposed on Ms Young (f).
92. The committee is satisfied that none of the other options in s40-55(1) are appropriate, given the gravity of Ms Young's conduct and her failure to offer any explanation, or as they are unnecessary, as the committee has decided to cancel Ms Young's registration.
93. The committee considers that its decision to cancel Ms Young's registration is consistent with the objectives of the Insolvency Practice Schedule.

**Should ASIC publish specified information in relation to the committee's decision and the reasons for that decision?**

94. The committee has decided that it is in the public interest that ASIC publish information about the committee's decision and the reasons for the decision (s40-55(1)(h)).

Signed: \_\_\_\_\_ Date signed: \_\_\_\_\_

Abigail Sheppard, a delegate of ASIC

Signed:  \_\_\_\_\_ Date signed: 03/06/2020

Alan Hayes, a registered liquidator chosen by ARITA

Signed: \_\_\_\_\_ Date signed: \_\_\_\_\_

Leon Zwier, an appointee of the Minister

This decision of the committee is taken to be made on date the last member of the committee signs the Report of the decision.



**ASIC**  
Australian Securities &  
Investments Commission

## ASIC decisions: Your rights

ASIC makes many decisions about corporations, securities and financial products and services that might affect you. If we have made a decision that directly affects you, you may have rights connected with the decision. This information sheet sets out an overview of your rights and how to exercise them. You may have other rights in addition to those discussed here.

**Note:** Under certain circumstances ASIC can waive late lodgement fees. If your inquiry is about withdrawing a late lodgement fee, you can find more details in the information sheet, [Fee waivers](#) (INFO 87).

### What can you find out from us?

<p><b>Talk to us about the decision</b></p>	<p><b>ASIC decision maker</b>—If you need to clarify anything relating to the decision, you may find it helpful to discuss it with the ASIC staff member who made the decision.</p> <p><b>Administrative Law Team</b>—You can also contact the Senior Manager - Administrative Law Team by email to <a href="mailto:senior.manager.alt@asic.gov.au">senior.manager.alt@asic.gov.au</a> or by mail to:</p> <p style="padding-left: 40px;">Senior Manager, Administrative Law Team Australian Securities and Investments Commission GPO Box 9827 Brisbane QLD 4001</p> <p>The Senior Manager - Administrative Law Team can explain how to exercise the rights set out in this information sheet. It would be best to do this promptly because there is a 28-day time limit on some applications.</p>
<p><b>Get our reasons in writing</b></p>	<p>If we have not told you why we made the decision when we notified you about it, you may be entitled to ask for a written statement of reasons.</p> <p><b>How to apply</b> You must write to the person who made the decision within 28 days of being told about the decision.</p>



<b>Ask for access to other documents</b>	<p>You may seek access to documents about the decision under the <i>Freedom of Information Act 1982</i>.</p> <p><b>How to apply</b>          You must apply to ASIC in writing stating clearly which documents you want to obtain. You may send your application by email to <a href="mailto:FOIrequest@asic.gov.au">FOIrequest@asic.gov.au</a> or by mail to:</p> <p style="padding-left: 40px;">Senior Manager, FOI Team          Australian Securities and Investments Commission          GPO Box 9827 Brisbane QLD 4001</p> <p>Charges may be imposed for the time spent in searching for and retrieving relevant documents, decision-making time, photocopying and postage.</p> <p>For more information contact the FOI Team at <a href="mailto:FOIrequest@asic.gov.au">FOIrequest@asic.gov.au</a>.</p>
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## Can you get an independent review?

You may have a right to seek review of the decision by the Administrative Appeals Tribunal (AAT). The AAT is an independent body which can review some of ASIC's decisions. The AAT can, among other things:

- confirm our decision;
- vary our decision; or
- set our decision aside and replace it with its own decision.

## How to apply to the AAT

<b>In writing</b>	You must apply to the AAT for review in writing. This can be done via letter or email. Alternatively, the AAT has an application form which you may choose to use. The AAT website contains further details on how to apply to the AAT for review of a decision.
<b>In time</b>	You must apply for the review within 28 days of being told why the decision was made.
<b>Pay the fee</b>	<p>You must enclose the \$932 application fee with your application.</p> <p>If you want to apply for the application fee to be reduced or waived you can obtain the application form from the AAT.</p>

We have also published Regulatory Guide 57 *Notification of rights of review* ([RG 57](#)) which gives more detail about your rights of review. You can also contact the Administrative Law Team to obtain a copy.

If you have any questions about the AAT's procedures and requirements, see [www.aat.gov.au](http://www.aat.gov.au), call the AAT on 1300 366 700 or write to the AAT at GPO Box 9955 in your capital city.

## If you are unhappy with how we handled your matter

<b>Talk to us</b>	If you have a complaint about the way we have handled a matter, you may wish to bring your concerns to the attention of a more senior ASIC staff member than the officer with whom you have been dealing.
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<b>Take it further</b>	You may also have the right to complain to the Commonwealth Ombudsman. However, the Ombudsman usually prefers that you discuss your complaint with ASIC first. There is an office of the Commonwealth Ombudsman in each capital city: see your local <i>White Pages</i> . For further information call 1300 362 072 or visit <a href="http://www.ombudsman.gov.au">www.ombudsman.gov.au</a> .
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## Where can I get more information?

- ASIC on 1300 300 630
- Administrative Appeals Tribunal website at [www.aat.gov.au](http://www.aat.gov.au)
- Commonwealth Ombudsman website at [www.ombudsman.gov.au](http://www.ombudsman.gov.au)
- Office of the Australian Information Commissioner website at [www.oaic.gov.au](http://www.oaic.gov.au)

This is **Information Sheet 9 (INFO 9)** reissued July 2018. Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

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