

Parliamentary Joint Committee on Corporations and Financial Services
Regulation of Auditing

Answers to questions on notice from 7 February 2020
Accounting Professional and Ethical Standards Board

4. QUESTION –Monitoring & Enforcement (From page 7 of the Hansard)

Senator O'NEILL: You argue that the code of ethics has the force of law—the APES 110—and it's a mandatory requirement by the three accounting body members. Has it ever been tested in an Australian court of law or by the professional bodies in a disciplinary manner? And do you have any evidence that the professional accounting bodies have applied the codes to the big four, especially covering audit firms of the ASX 200 entities in Australia?

Mr Wijesinghe: The professional bodies do report to us about quality-control matters, and we can ask them for some information on that. As Nancy said in opening, we don't do monitoring and enforcement. That's not part of our role. Our role is a narrow role of setting the standards.

Senator O'NEILL: The standards are only of value if there is monitoring and enforcement. My questions are to that end. Has monitoring and enforcement action been taken? Has it ever been tested in an Australian court of law or by the professional bodies in a disciplinary manner?

Senator WHISH-WILSON: I asked a similar question earlier.

CHAIR: Maybe they could take it on notice.

Mr Wijesinghe: I mean, I am aware of some of the professional standards being tested in courts, like the valuation services standard, which has been tested in the New South Wales courts. But I cannot recall specific instances off the top of my head.

Senator O'NEILL: So there has been no action in the courts on conduct and ethics standards to your knowledge, Mr Wijesinghe?

CHAIR: I think the witnesses have agreed to take that on notice, and I'm sure that, if there's any further information, you'll provide it to the committee.

ANSWER: As we noted in our submission (submission number 42) and evidence to the PJC, APESB's role is to set the professional and ethical standards for all professional accountants, including auditors.

APESB does not have a role in monitoring and enforcement. The three professional accounting bodies and regulatory authorities (i.e., ASIC, APRA & ATO) are responsible for monitoring and enforcing compliance of professional accountants, including conducting disciplinary actions for breaches of APESB standards.

We refer to the responses provided by ASIC to these questions on notice (in particular QoN 81 as listed on the PJC website as of 25 February 2020) on the number of breaches of the Independence requirements in APES 110, as it is ASIC who is responsible for enforcement of these provisions for registered company auditors.

We note that ASIC and APRA are empowered by section 1292 of the *Corporations Act 2001* (Cth) to apply for a registered auditor to be dealt with by the Companies Auditors Disciplinary Board (CADB). The matters that are referred to the CADB include circumstances where the conduct of an auditor contravenes accounting, auditing, and professional & ethical standards.

We also note that decisions of the CADB can be appealed to the Administrative Appeals Tribunal and, on matters of law, to the Federal Court of Australia.

In March 2019, the Financial Reporting Council released a report [Auditor Disciplinary Processes: Review](#), which describes the processes of each of the professional bodies and contains information on the matters on which ASIC and the professional bodies have undertaken court action or disciplinary matters for auditors.

In addition, we note that on PJC’s website QoN 13 (as of 25 Feb 2020) relates to responses provided by CA ANZ. In CA ANZ’s response to QoN 6, they address breaches of the Code of Ethics by their members. In respect of CPA Australia, we are aware that a similar QoN was put to them on the 7th of February 2020 and refer the Committee to their response as we do not have access to that information.

Professional Body Disciplinary Cases

Additionally, we refer the PJC to the following information available from each of the three accounting bodies in respect of their disciplinary cases/actions against members for non-compliance. These cases address a range of matters including non-compliance with the Code and Professional Standards:

Professional Body	Weblink to Member Disciplinary Outcomes	Comments
CA ANZ – Decisions Register	https://www.charteredaccountantsanz.com/about-us/complaints/decisions-register	Includes information on cases since 2006
CPA Australia – Outcome of Disciplinary Hearings	https://www.cpaaustralia.com.au/about-us/member-conduct-and-discipline/outcome-of-disciplinary-hearings	Includes information on cases since 2005
IPA – Tribunal Hearings/Decisions	https://www.publicaccountants.org.au/about/complaint-investigation/tribunal-hearings-decisions	Includes information on cases since 2008

Legal cases

We have performed searches on the website jade.io and identified various legal cases where APESB’s pronouncements are referred to and attach references to those cases in **Appendix B** for your information.

Summary

The information provided above in respect of Professional Body Disciplinary Cases of each of the three accounting bodies and legal cases clearly demonstrates that APESB standards have been considered in various courts and tribunals.

Appendix B - Courts and Tribunals references to APESB Standards

Search results View - Jade extract Order by: Best match 20 results per page

You are on page 1 of 1 with 12 results for: **apes 110**: Collection: Courts. Order by: Best match. [Edit this search](#)

Searched for "**apes 110**". To find your terms in any order, search **apes AND 110**

Whittle and Australian Securities and Investments Commission
[2018] AATA 1861 (18 June 2018) (Mrs J C Kelly, Senior Member) Excerpt Summary Miniviewer

Professional and Ethical Standards Board Ltd, **APES 110** Code of Ethics for Professional Accountants, ... paragraphs 290.104 and 290.105 of the Compiled **APES 110** Code of Ethics for Professional Accountants ...

Samuel and Australian Securities and Investments Commlsston
[2016] AATA 696 (09 September 2016) Excerpt Summary Miniviewer

APES 110 (as at 1 July 2011) ... the APES Board. Of particular relevance, is the **APES 110** Code of Ethics for Professional Accountants ... Code of Ethics for Professional Accountants (**APES 110**) issued in December

Rlstevski and Tax Practitioners Board
[2019] AATA 5196 (03 December 2019) (Mr P W Taylor SC, Senior Member) Excerpt Summary Miniviewer

and Ethical Standards Board Limited (2010) **APES 110** Code of Ethics for Professional Accountants, ... and Ethical Standards Board Limited (2018) **APES 110** Code of Ethics for Professional Accountants ... Code of

BC39 Pty Ltd v Rambaldi, in the matter of Wharington (Bankrupt)
[2014] FCA 1076 (07 October 2014) (Tracey J) Excerpt Summary Miniviewer

b. conduct engagements in accordance with **APES 110** Code of Ethics for Professional Accountants ... **APES 110** – Code of Ethics for Professional Accountants ... 9. Section 220 of **APES 110**, entitled 'Conflicts of

The HMW Accounting & Financial Group v McPherson and Ors
[2020] QSC 3 (29 January 2020) (Ryan J) Excerpt Summary Miniviewer

team members will familiarise themselves with **APES 110** Code of Ethics for Professional Accountants ... members" are to familiarise themselves with **APES 110** Code of Ethics. It is not clear whether the ... and

Brlght Horlzons Australla Childcare Pty Ltd v Childcare Providers Pty Ltd
[2017] QSC 51 (07 April 2017) (Ann Lyons J) Excerpt Summary Miniviewer

with the relevant ethical requirements of **APES 110**: Code of Ethics for Professional Accountants to

Ritchie v Woodward (Executor of the Estate of the late Brlan Patrick Woodward); Rujo Pty Ltd v Woodward (Executor of the Estate of the late Brian Patrick Woodward); Barona Group Pty Ltd v Woodward (Executor of the...
[2016] NSWSC 1715 (12 December 2016) (Emmett AJA) Excerpt Summary Miniviewer

a Code of Ethics with effect from July 2006 (**APES 110**). APES 110 states that compliance with it is ... Ethics with effect from July 2006 (**APES 110**). **APES 110** states that compliance with it is mandatory for ... be had to

Carter v Commissioner of Taxation

[2013] AATA 141 (14 March 2013) (Senior Member C R Walsh)
92 ATR 701

Excerpt Summary Miniviewer

his / her professional body and in particular **APES 110**. If in breach the accountant would have to

[P] PTY LTD & LANDIS

[2010] FMCAfam 1303 (25 November 2010) (Cassidy FM)

Excerpt Summary Miniviewer

the definitions section at page 90 of "Compiled **APES 110** Code of Ethics for Professional Accountants

Re CONFIDENTIAL And COMMISSIONER OF TAXATION

[2011] AATA 403 (13 June 2011) (C Walsh, Senior Member)
84 ATR 282

Excerpt Summary Miniviewer

Professional and Ethical Standard (APES) **APES 110**, titled "Code of Ethics for Professional

Mark Hackelton T/as Hackeltons Accountants and Advisers v Manbead Pty Ltd & Another

[2019] NSWDC 147 (17 April 2019) (Hatzistergos DCJ)

Excerpt Summary Miniviewer

body. Specifically, he considers that **APES 110**, 220 and 305 represent "competent and prudent ... Mr Price's opinion is that **APES 110**, 220 and 305 are mandatory only to members of ... correct. In his report Mr Goodyer

Storai v Cordaro (Civil Claims)

[2014] VCAT 1496 (17 September 2014) (Deputy President I. Lulham)

Excerpt Summary Miniviewer

March 2013, the Code of Professional Conduct – **APES 110** Code of Ethics for Professional Accountants and

Appendix B - Courts and Tribunals references to APESB Standards

Search results View - Jade extract Order by: Best match 20 results per page

You are on page 1 of 1 with 1 results for: **APES 205**. Order by: Best match. [Edit this search](#)

Searched for "**APES 205**". To find your terms in any order, search **APES AND 205**

[**Hastie Group Ltd \(in liq\) v Bourne; Hastie Group Ltd \(in liq\) v Moore**](#)

[2017] NSWSC 709 (06 June 2017) (Ward CJ In Eq) Excerpt Summary Miniviewer

i. **APES 205**, in that they failed to take all reasonable ... Accounting Standards when performing the audit (**APES 205** paragraph 5.5); and ... i. **APES 205**, in that they failed to take all reasonable ... Accounting

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Search results View - Jade extract Order by: Best match 20 results per page

You are on page 1 of 1 with 2 results for: **APES 210**. Order by: Best match. [Edit this search](#)

Searched for "**APES 210**". To find your terms in any order, search **APES AND 210**

Hastie Group Ltd (in liq) v Bourne; Hastie Group Ltd (in liq) v Moore
[2017] NSWSC 709 (06 June 2017) (Ward CJ In Eq) Excerpt Summary Miniviewer

ii. **APES 210**, in that they failed to comply with auditing and ... comply with auditing and assurance standards (**APES 210** paragraph 4.1). ... ii. **APES 210**, in that they failed to comply with auditing and ... comply with

Russell Whitchurch and Australian Securities and Investments Commissslon
[2012] AATA 784 (12 November 2012) (Senior Member Dr K S Levy, Rfd) Excerpt Summary Miniviewer

For example, they have obligations under **APES 210**: Conformity with Auditing and Assurance

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Search results View - Jade extract Order by: Best match 20 results per page

You are on page 1 of 1 with 3 results for: **apes 215**. Order by: Best match. [Edit this search](#)

Searched for "**apes 215**". To find your terms in any order, search **apes AND 215**

Tawflk v Blll
[2010] NSWSC 1034 (14 September 2010) (Barrett J) Excerpt Summary Miniviewer

Professional and Ethical Standards Board, being **APES 215** and APES 225. The letter stated that the letter ... in Australia", including the attached **APES 215** and 225.

Carter v Commissioner of Taxation
[2013] AATA 141 (14 March 2013) (Senior Member C R Walsh) Excerpt Summary Miniviewer
92 ATR 701

with Auditing Assurance Standards and **APES 215** Forensic Accounting Services.

Davidson and Registrar of Personal Property Securities
[2015] AATA 549 (29 July 2015) (Deputy President S A Forgie) Excerpt Summary Miniviewer

Accountants in Australia and in accordance with **APES 215** Forensic Accounting Services of the Accounting

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Appendix B - Courts and Tribunals references to APESB Standards

Search results View - Jade extract Order by: Best match 20 results per page

You are on page 1 of 1 with 10 results for: **apes 225**. Order by: Best match. [Edit this search](#)

Searched for "**apes 225**". To find your terms in any order, search **apes AND 225**

[In The Matter Of Contact 121 Pty Limited \(ACN\) 093 596 537\) In The Matter Of Contact 121 \(Qld\) Pty Limited \(ACN\) 118 907 047\)](#)

[2011] NSWSC 519 (24 May 2011) (Hammerschlag J)

Excerpt Summary Miniviewer

in Australia, including professional standard **APES 225** which is entitled "Valuation Services" ("the

[BYRD & BYRD AND ORS](#)

[2012] FamCAFC 170 (30 October 2012) (Coleman, Thackray and Austin JJ)

48 Fam LR 117

Excerpt Summary Miniviewer

APES215 Forensic Accounting Services and **APES 225** Valuation Services issued by the Accounting

[Tawflk v BIII](#)

[2010] NSWSC 1034 (14 September 2010) (Barrett J)

Excerpt Summary Miniviewer

and Ethical Standards Board, being APES 215 and **APES 225**. The letter stated that the letter itself and

[Hookey and Commissioner of Taxation \(Taxation\)](#)

[2018] AATA 1509 (08 June 2018) (Deputy President B W Rayment)

108 ATR 186

Excerpt Summary Miniviewer

or market place, and stated that under **APES 225**, if a complete valuation had been performed, it

[In the matter of Boart Longyear Limited \(No 2\)](#)

[2017] NSWSC 1105 (22 August 2017) (Black J)

122 ACSR 437; 323 FLR 241

Excerpt Summary Miniviewer

with the requirements of Accounting Standard **APES 225**, but on the basis that the report is a limited ... was non-compliant with the requirements of **APES 225**. Mr Kershaw was also cross-examined as to this ... as a

[IW & CA Price Constructions Pty Ltd v Australian Building Insurance Services Pty Ltd](#)

[2017] QSC 39 (21 March 2017) (A Lyons J)

Excerpt Summary Miniviewer

undertaken a Limited Scope Valuation Engagement **APES 225** Valuation Services.

[Ijack Pty Ltd v Cobb, in the matter of Vealls Limited](#)

[2018] FCA 1321 (29 August 2018) (Moshinsky J)

131 ACSR 418

Excerpt Summary Miniviewer

(c) accounting standard **APES 225** (entitled "Valuation Services") applies; and

Appendix B - Courts and Tribunals references to APESB Standards

LAM & JUNG

[2019] FCCA 388 (22 February 2019) (Judge Bender)

Excerpt

Summary

Miniviewer

demand for businesses. (Professional Standard **APES 225** para 5.2(l) requires the valuer to describe the

Caffey v Leatt-Hayter [No 3]

[2013] WASC 348 (20 September 2013) (Beech J)

Excerpt

Summary

Miniviewer

an assumption he had made as required by **APES 225**, notwithstanding that his report stated that it

In the matter of Cheal Industries Pty Ltd - Fitzpatrick v Cheal

[2012] NSWSC 261 (21 March 2012) (Ward J)

264 FLR 313

Excerpt

Summary

Miniviewer

to the provision of valuation services (**APES 225**) in certain respects (T 19-20.) None of those

Search results

View - Jade extract

Order by: Best match

20 results per page



You are on page 1 of 1 with 1 results for: **APES 310**. Order by: Best match. [Edit this search](#)

Searched for "**APES 310**". To find your terms in any order, search **APES AND 310**

LOW -v- HOPKINS

[2018] WASC 173 (13 June 2018) (Chaney J)

Excerpt

Summary

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BYBAPL's compliance with the requirements of **APES 310** for the years ended 31 March 2013 and 2014 and ... during the year as required by section 7.6 of **APES 310**, but the reconciliation was otherwise properly ... of

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You are on page 1 of 1 with 1 results for: **APES 315**; Collection: Courts. Order by: Best match. [Edit this search](#)

Searched for "**APES 315**". To find your terms in any order, search **APES AND 315**

[Chow v Chow](#)

[2016] NSWSC 908 (01 July 2016) (Robb J) Excerpt Summary Miniviewer

were prepared by KPMG in accordance with "**APES 315**: Compilation of Financial Information". Mr ... Mr Mitchell's reliance on "**APES 315**: Compilation of Financial Information AASB 139",

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You are on page 1 of 1 with 3 results for: **APES 320**. Order by: Best match. [Edit this search](#)

Searched for "**APES 320**". To find your terms in any order, search **APES AND 320**

The HMW Accounting & Financial Group v McPherson and Ors
[2020] QSC 3 (29 January 2020) (Ryan J) Excerpt Summary Miniviewer

"All members of the team" are to adhere to **APES 320**: but "All professional team members" are to ... professionals, to adhere to the provisions of **APES 320** and to familiarise themselves with, and conduct

BC39 Pty Ltd v Rambaldi, in the matter of Wharington (Bankrupt)
[2014] FCA 1076 (07 October 2014) (Tracey J) Excerpt Summary Miniviewer

c. apply **APES 320** Quality and Control for Firms.

In the matter of Joe & Joe Developments Pty Ltd (subject to a Deed of Company Arrangement)
[2014] NSWSC 1444 (22 October 2014) (Black J) Excerpt Summary Miniviewer

quality control manual, as contemplated by **APES 320**. Mr Young conceded in cross-examination that

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You are on page 1 of 1 with 6 results for: **apes 330**. Order by: Best match. [✎ Edit this search](#)

Searched for "**apes 330**". To find your terms in any order, search **apes AND 330**

[In the matter of Joe & Joe Developments Pty Ltd \(subject to a Deed of Company Arrangement\)](#)

[2014] NSWSC 1444 (22 October 2014) (Black J)

[Excerpt](#)[Summary](#)[Miniviewer](#)

Accounting Professional and Ethical Standard ("APES") 330 applicable to professional accountants in public ... The Plaintiffs also point to cl 3.8 of APES 330 which provides that, when engaging a suitably ... Mr Young

[SLEIMAN and AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION](#)

[2011] AATA 395 (07 June 2011) (Ms G Ettinger, Senior Member)

[Excerpt](#)[Summary](#)[Miniviewer](#)

Professional & Ethical Standards Board, APES 330, Insolvency Services, issued September 2009 and ... he did not know of changes (e.g. to the APESB APES 330 Insolvency Services, and amendments to

[ASIC v McDermott](#)

[2016] FCA 1186 (04 October 2016) (Moshinsky J)

11 BFRA 645

[Excerpt](#)[Summary](#)[Miniviewer](#)

practitioners: see Professional Standard APES 330 Insolvency Services by the Accounting ... & Ethical Standards Board of the ICAA (APES 330); the Code of Professional Practice of the IPA, ... Paragraph 8.14 of

[BC39 Pty Ltd v Rambaldi, in the matter of Wharington \(Bankrupt\)](#)

[2014] FCA 1076 (07 October 2014) (Tracey J)

[Excerpt](#)[Summary](#)[Miniviewer](#)

d. apply APES 330 Insolvency Services.

[Australian Securities and Investments Commission v Dunner](#)

[2013] FCA 872 (30 August 2013) (Middleton J)

303 ALR 98; 95 ACSR 76

[Excerpt](#)[Summary](#)[Miniviewer](#)

1. Professional standard 'APES 330 Insolvency Services' issued by the Accounting ... and Ethical Standards Board of the ICAA ('APES 330'); ... Paragraph 8.13 of APES 330 states that: ... Act, the 2008 IPA Code, the

[Lock, in the matter of Cedenco JV Australia Pty Ltd \(In Ilq\) \(No 2\)](#)

[2019] FCA 93 (11 February 2019) (Besanko J)

[Excerpt](#)[Summary](#)[Miniviewer](#)

standards to which Mr Gothard referred are the APES 330 issued by the Accounting Professional and ... or direct connection, with the administration (APES 330; IPAA COPP). As to Mr Gothard's conclusions