

Corporate Governance CPA Australia Style - A Case Study of 'Looters and Shirkers'¹?

1. Introduction - Part 1
2. Introduction - Part 2
3. What is corporate governance?
4. What happened at CPA Australia?
5. Three examples to illustrate

1. Introduction - Part 1

The Agency Problem - the people who 'own', and the people who 'control'.
- not a new problem but CPA certainly illustrates it well.

1. The problem of looting
2. The problem of shirking

The law is very aware of the problem

My personal view - We need a CPA case to champion this just as the HIH Royal Commission and the Centro case did.

2. Introduction - Part 2

Why is it so hard for members to exercise 'control'?

What it means practically? six suggestions

Our code of ethics obligations

Friedrich Nietzsche

"Anxious yet not disconsolate, we stand to one side for a moment, as contemplative bystanders to whom it has been granted to witness these great struggles and transitions. Oh! It is the magic of these struggles that whoever observes them must also enter the fray!"

Alexander Solzhenitsyn

".....but by rejecting the lie, and by refusing to participate personally in the lie. Everyone must decisively stop cooperating with the lie everywhere he sees it himself... In breaking with the lie, we are performing a moral act, not a political one and not one that can be punished by criminal law - but an act that would immediately have an effect on our way of life."

¹ p.240 Corporations and Associations. Cases and Materials 10th Edition Robert Baxt, Keith Fletcher, Saul Fridman Lexus Nexis Butterworths Australia 2009

3. What is corporate governance?

Company - artificial person

*"Companies have proved enormously powerful not just because they improve productivity, but also because they **possess most of the legal rights of a human being, without the attendant disadvantages of biology: they are not condemned to die of old age and they can create progeny pretty much at will.** This privilege of immortality, not to mention **the protection that the artificial corporate form has afforded various venal people down the ages, has often infuriated the rest of society...**"²*

The chief question _____?

So who does the looking after, the corporate governing?

Here are three problem

Possible title for this presentation

CPA Corporate Governance - The Myth and The Reality

The myth

CPA communications

2nd March email

Letter from Board 16th June 2017 - salesmanship at its worst

The reality

How was it exposed?

Need to remember what CPA Australia is

² p.xv. The Company. A Short History of a Revolutionary Idea. John Micklethwait and Adrain Wooldridge, Random House NY 2003

4. What happened at CPA Australia?

2007	Foundational Change
2008	Constitutional changes
	Strategic changes
	Practical changes
2016	
2017	The Fall
2018	The Future

*— voluntary Board Governance review
 Complete Board split:
 money 50% pay
 sold @ positive. Be
 but not.
 2009 New constitution*

Independent Review Panel Preliminary Report

Missed the obvious

That is Corporate Governance CPA style - board and senior management oversee the organisation for close to 10 years with major deficiencies and failings but none held to account. I call that a professional whitewash and bad corporate governance.

The Independent review Panel Report is a professional whitewash

Most members understanding of the process

Step 1: Preliminary Report = Draft Report

Step 2: Will amend and make adjustments and additions based on feedback

Step 3: Final Report

The IRP's approach to the process

Step 1: Preliminary Report = Final Report on Findings

Step 2: Only want feedback on recommendations, nothing else

Step 4: Final Report

For proof just refer to their quite specific memo to members for feedback

and also the feedback interview guide,

See my more detailed response which highlights some of the elephants in the room that the preliminary report ignored and now will forget forever.

It's a very clever but sneaky technique used by the IRP to just not deal with certain issues. I believe it's wrong.

5. Three examples to illustrate

The question hanging in the air - should the senior managers and directors of CPA Australia be held to account?

i.

ii. Remuneration of the board and management

Scandalous and over the top are good descriptors

CPA response - 2nd March 2017

CPA memo - 31st May 2017 (forced them to disclose)

Still can't come clean - s.202B statement. Still not right.

CEO's termination pay - still cannot come clean

Is this a club within a club or is this a public company?

What did the IRP find out and say

And what didn't the IRP say?

Oh well, perhaps we can wait for the final report?

ii. CPA Australia Advice

- a. **The business model.** I would suggest the IRP report was very very weak on this. The test is not whether it had a strategic rationale but whether it passes the reasonable person test.
- b. **The risk of losing Professional Indemnity Insurance for Public Practitioners.** Seems tis was a risk they were prepared to take without informing the members.
- c. **The remuneration of Key Management Personnel.** The IRP just avoided the issues here, and just stated the facts as findings. The elephant in the room was not just avoided it was blindsided.
- d. **The reporting** - the 'true and fair' view was consolidated out. The IRP did not comment win this.
- e. **The auditor said it was okay!** The IRP did not comment on this.

iii. Membership Numbers

Remember growth in membership numbers was the big selling point for this whole decade. I would suggest it was a bit of a furphy.

It was Sales Talk

It was Misleading

In some case it was plain Wrong

refer my attached analysis plus refer to the IRP Preliminary Report