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# Discipline Bulletin



# Report

This is the twenty-fifth periodic report to Members, Associates and Affiliates prepared in accordance with Bylaw 20.12(8). Its primary purpose is to educate and inform all Members, Associates and Affiliates about the disciplinary process and current disciplinary activities. Please send any comments on or suggestions for improvements in these reports to me at my *Online Directory* address. Information in this report regarding specific cases represents the status at September 30, 2007.

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Below are a few comments about the activities of the Committee on Professional Conduct (“CPC”) over the past year and how they relate to the CIA membership.

## *Is the number of cases dealt with by the CPC going up or down? What about the severity of the charges?*

The 12 cases that the CPC dealt with so far this fiscal year are roughly equivalent to the volume over the past several years. Generally, members of the CIA act professionally and follow the Institute’s Rules and Standards. Of the new cases reviewed by the CPC, unusually, none were considered serious enough to warrant an Investigation Team being set up.

## *How do cases come into the CPC?*

Anyone, including members of the public, outside organizations (including regulators) and members of the Institute, may file a complaint by writing to the CIA directly, usually to the attention of the Executive Director. If a member of the CIA wants to file a complaint, it is important that they follow all aspects of Rule 13, including the rectification provision, before contacting the CIA. Whoever receives the complaint, whether it is the CPC Chairperson or the Executive Director, it is immediately turned over to a dedicated Secretariat staff person who assists the CPC in getting the process started. Interestingly, some cases that the CPC reviews do not arise from formal complaints from anyone. The CPC can and will act on information it receives without a formal complaint. Almost certainly, for example, if there is a newspaper article or a known court case that is putting into question an actuary’s work or conduct, the CPC will look into the matter.

## *Why do cases take so long to get resolved?*

Last year, the CPC instituted a number of changes intended to speed up the investigative process. While it is still early, it appears that the changes are helping to resolve matters more quickly. However, some complaints will never be speedily resolved. If the matter is complex, and most certainly, if there is a concurrent court case involved, the disciplinary process often slows down. Frequently that slow down is due to the member trying to ensure the CPC does not reach a conclusion before the court case is resolved. The CPC does its best to move ahead with the complaint even though there is a parallel court case and does not stop its work because of the court case, but no doubt, slowdowns occur frequently in these instances. In one case this year, a member who had been charged by the CPC had taken the issue to court to try and have the disciplinary case thrown out because of delays in our process. The court hearing took place over four months ago and we are still awaiting a judicial ruling on the matter.

## *Are there patterns to the cases the CPC reviews?*

When the CPC starts to see several cases with a common pattern, we try to draw attention to the matter by informing the CIA Board or relevant practice committee about the issue, without making reference to the specifics of any particular case to ensure confidentiality. This does not happen often. Generally, each of our cases is unique, with unique circumstances, and patterns are hard to detect. One issue, however, has arisen on more than one occasion this year, the issue of conflict of interest. That issue is addressed in the next section below.

It is quite easy to avoid getting a complaint filed against you. Generally, you should:

- Ensure that you are up to date with the CIA Rules and with the Standards of Practice in your area of expertise.
- Not try to give an opinion in an area in which you are not an expert.
- Document your work completely.

## *What issue has given rise to more than one complaint this year?*

The CPC has seen a few cases this year where the issue of conflict of interest has been the central point. Rule 5 states that

a member shall not perform professional services involving an actual or potential conflict of interest unless there has been full and timely disclosure to all parties and they have expressly agreed to the performance of the services by the member.

Not infrequently, and often for very good reasons, an actuary can work for both sides of a dispute, marriage breakdown is one such example. It is critical that the actuary take precautions in such a situation. First, the actuary should do everything possible to determine if he or she is, in fact, representing both sides in a dispute. While that may sound trite, it has occurred on a number of occasions that the actuary has been working for both parties without knowing it. Second, the actuary should give written disclosure to both parties that he or she is acting for both sides and obtain agreement from both sides that they concur with the arrangement. The actuary should resolve the situation to the agreement of both parties. As always full disclosure in writing protects the actuary from getting into a situation that was never intended.

In closing, the Committee on Professional Conduct encourages all members to read the Institute's Rules of Professional Conduct.

## Meetings

Since March 31, 2007, the Committee on Professional Conduct (CPC) held a meeting on September 27, 2007. The committee also held seven telephone conference calls on April 13, May 9, May 25, July 10, July 18, November 6 and November 20, 2007. Future meetings of the CPC have been scheduled for December 13, 2007 (Toronto) and March 18, 2008 (Montréal).

## Disciplinary Costs (\$000) to September 30, 2007

	FY 07-08		FY 06-07	
	Actual	Budget	Actual	Budget
Legal Costs	125	---	144	---
Other Costs	3	---	67	---
Total Costs	128	245	211	186
	Actual		Actual	
Costs Recovered	0		51	
No. of cases reviewed	12		15	

The budget for the Fiscal Year 2007/2008 is \$245,000.

## Cases

### (a) Charges filed and cases completed

There are no cases with respect to which tribunals have been completed since the last periodic report in June 2007.

### (b) Private Admonishment

A private admonishment was issued against an individual. In accordance with Bylaw 20.04(1), private admonishments are treated as confidential. Therefore, no additional details will be provided regarding this case.

### (c) Cases outstanding where charges have been filed

Separate charges were previously filed against two Members of the Institute in connection with the valuation of a pension plan.

A notice of the filing of charges and referral of the charges to a Disciplinary Tribunal of the Canadian Institute of Actuaries was circulated April 12, 2006 to inform members of the Institute and the public about the case in accordance with Bylaw 20.04(3.1). The Notice can be found on the new discipline section on the CIA's public website.

A Disciplinary Tribunal has been appointed by the Chairperson of the Tribunal Panel, in accordance with Bylaw 20.06(1). Preliminary motions were filed before the courts preventing the Disciplinary Tribunal from proceeding. A hearing took place before a Judge in early June for which we are still awaiting a decision. Arrangements can be made to hear the Charges once a decision on the motions has been made.

Please note that pursuant to the Bylaws, the Executive Director will publish a Notice to the public and the membership approximately 15 days prior to any hearing before a Disciplinary Tribunal. This notice will include the date, time and place of the hearing.

Anyone who wishes to request more information about the disciplinary process may obtain that information from the Executive Director.

#### (d) Other complaints and information

Apart from the cases mentioned in (b) and (c), since March 31, 2007, the CPC has considered 10 complaints or other information that might lead to complaints, against 12 Members, Associates or Affiliates.

##### New Cases

Four new complaints and/or information were received for the CPC's consideration. In one of these, after obtaining further information, the CPC decided to dismiss the matter. In the other three, the CPC is obtaining further information before deciding on how to proceed.

##### Old Cases

The CPC had previously referred two cases to two Investigation Teams, whose investigations are continuing. The Committee expects these investigations to be completed and to make its decision to either (a) dismiss the complaints, or (b) to file charges pursuant to Bylaw 20.04, within the next six months.

In one earlier case, upon reviewing the Investigation Team's report and the response provided by the member, the CPC decided to dismiss the complaint.

Upon obtaining further information in three previous cases, the CPC decided to dismiss the matters.

#### (e) Summary by Practice Area

The 12 cases reviewed in the 2007-2008 fiscal year may be summarized by practice area as follows:

Life	1
Pension	7
P&C	0
Workers' Compensation	0
Actuarial Evidence	4
Other	0

**Robert M. Smithen**  
Chairperson, Committee on Professional Conduct