

DISCIPLINE BULLETIN

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The Committee on Professional Conduct (CPC) deals with complaints concerning members. These complaints can come from other members, or members' clients or regulators, and can also be generated by the CPC based on news reports or investigations into other complaints. Complaints are processed by the CPC and can go through various levels of review. Decisions on complaints range from discarding the complaint after informal fact-gathering by the CPC to charges being filed against the member. Charges can be very serious and can lead to a public reprimand, a suspension of the member, or even expulsion from the CIA. In many of these serious situations members are required by the Disciplinary Tribunal (DT) to pay some or all of the legal costs incurred by the Institute, which can, in certain situations, exceed \$100,000.

Since the beginning of the public disciplinary process in the early 1990s, the CPC has handled over 170 cases concerning the conduct of members. Most cases are dismissed either after informal fact-gathering by the CPC or after a formal investigation by an Investigation Team.

Of the 169 cases that have been completed since the early 1990s (as at March 31, 2012), only 40 have resulted in charges being filed against the member. Of those 40 cases, 10 have resulted in private admonishments, eight have resulted in a reprimand through a plea-bargaining process referred to as "the fast-track" (where a DT hearing is avoided), and the remaining 22 charges have been referred to DTs where a variety of reprimands, suspensions, expulsions, fines, and costs have been imposed.

It is also interesting to note that of those 22 cases referred to DTs, the member has pleaded guilty (thereby shortening the hearing before the DT) in eight of those cases, and the member has been found guilty by the DT in 11 cases. Finally, in the remaining three cases referred to DTs, the member was found not guilty by the DT in two, and the courts resolved the issue in one.

How can members avoid complaints? Complaints result from breaking one of our Rules of Professional Conduct, so let's take a look at some of our rules and how common complaints occur and how members can avoid them. Below we'll state the rule. Our rules also contain annotations which members should review.

RULE 1 AND RULE 8

Rule 1

A member shall act honestly, with integrity and competence, and in a manner to fulfil the profession's responsibility to the public and to uphold the reputation of the actuarial profession.

Rule 8

A member shall perform professional services with courtesy and professional respect, shall avoid unjustifiable or improper criticism of other members, and shall cooperate with others in the client's or employer's interest.

We regularly see complaints resulting from violations of these rules and often they result from customer service-type problems. Actuaries are held to a higher standard by the public and it is important to provide good service to your clients. Issues with clients do arise but it is important to deal with them promptly and with integrity.

Examples:

Examples can be not responding to clients, not cooperating when asked to produce information, billing issues, and being rude to clients.

We have seen cases where significant errors in pension valuations have been discovered by the member and the errors were not disclosed to the client in a timely manner. Also in some cases the member was not cooperating with others (such as a successor actuary) in the client's interests.

Typically the CPC would view this as a violation of Rule 8, and a violation of Rule 1 since such behaviour would likely be seen as not acting competently and with integrity. These types of situations could result in disciplinary action against the member. The CPC would in some cases impose a private admonishment against the member. However, in one case where a significant error was not disclosed, the member was suspended for one month and fined \$10,000. In another case the member was reprimanded.

RULE 2 AND RULE 3

Rule 2

A member shall perform professional services only when the member is qualified to do so and meets applicable qualification standards.

Rule 3

A member shall ensure that professional services performed by or under the direction of the member meet applicable standards of practice.

We have seen cases where members have performed work that does not meet our standards. In some situations members were unaware of standards that had been in effect for a number of years. This can lead to serious consequences for clients.

Example:

A member does Appointed Actuary work for smaller companies without being aware of current standards, leading to very inaccurate valuations and consequences for the companies.

The CPC would take this type of complaint very seriously. An investigation could be launched, and ultimately the member could be suspended by a DT and may be required to pay large legal costs.

Of the cases that have been decided by DTs, virtually all involved members not applying standards properly. Most of these cases involved pension plan valuations. Penalties included expulsions, suspensions for various time periods,

reprimands, and fines (when imposed) varying from \$5,000 to \$30,000. In addition, members found guilty of the charges are typically ordered by the DT to pay all or part of the Institute's legal costs, such orders varying from \$10,000 to \$140,000.

It is important that any work we do meets appropriate standards of practice. It is important to keep up to date with standards of practice as they change.

RULE 5

A member shall not perform *professional services* involving an actual or potential conflict of interest unless:

- (a) the member's ability to act fairly is unimpaired,**
- (b) there has been full and timely disclosure of the conflict to all known present and prospective *direct users*, and**
- (c) all known present and prospective *direct users* have expressly agreed to the performance of the services of the member.**

We see complaints based on possible conflicts of interest.

Example:

A member has done work for an investment firm. The member receives a commission indirectly as a result of the work done for the client but does not disclose that to the client.

In a case involving conflicts of interest that went before a DT (and was appealed to an Appeal Tribunal), the result was a

one-year suspension against the actuary, as well as an order to pay a fine of \$10,000 and costs of \$140,000.

Possible conflicts do arise and it is important that members disclose and properly document them to avoid any problems.

RULE 12

A member shall respond promptly, truthfully and fully to any request for information by, and shall cooperate fully with, the Committee on Professional Conduct, an Investigation Team, a Disciplinary Tribunal, an Appeal Tribunal, or any member of such bodies regarding any disciplinary matter arising under Section 20 of the Bylaws.

If you do have a complaint filed against you it is very important that you cooperate fully and truthfully with the CPC and an Investigation Team that may be appointed. Not doing so will typically not help your case and you could be charged with non-cooperation under Rule 12.

Example:

There have been a number of cases where the member does not cooperate with the Investigation Team or the CPC. This action can hurt their case, can result in additional charges being filed against them for non-cooperation, and may result in larger legal costs or fines.

Again, if you do have a complaint laid against you and you are contacted by the CPC, it is important that you cooperate with the discipline process.

This is the thirty-fourth periodic report to Fellows, Associates and Affiliates prepared in accordance with Bylaw 20.12(8). Its primary purpose is to educate and inform all Fellows, Associates, and Affiliates about the disciplinary process and current disciplinary activities. Please send any comments 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 March 31, 2012.

MEETINGS

Since the last Discipline Bulletin of November 2011, the Committee on Professional Conduct (CPC) held two meetings: on November 9, 2011 (in Toronto), and March 22, 2012 (in Montréal). A future meeting of the CPC has been scheduled for September 27, 2012 (in Toronto).

DISCIPLINARY COSTS (\$000) TO MARCH 31, 2012

	FY 11-12		FY 10-11	
	<i>Actual</i>	<i>Budget</i>	<i>Actual</i>	<i>Budget</i>
Legal costs	298	-	303	-
Other costs	79	-	21	-
Total costs	377	290	324	262
	<i>Actual</i>		<i>Actual</i>	
Costs recovered	0		25	
Cases reviewed	15		28	

CASES

(a) Charges filed and cases completed

As noted in the November 2011 Discipline Bulletin, a Disciplinary Tribunal was convened to hear two separate charges that had been filed against one Fellow of the Institute, in connection with work performed with respect to two pension plans. Pursuant to Bylaw 20.12(3), a Notice of Suspension was published following the Tribunal's decision on penalty rendered on December 16, 2011. The Notice can be found in the Discipline section of the website.

(b) Private admonishment issued

A new complaint was recently received for the CPC's consideration. The CPC decided to file a charge and issue a Private Admonishment against an individual without proceeding with an investigation in accordance with Bylaw 20.02 (7.1). In accordance with Bylaw 20.04.1, private admonishments are treated as confidential. Therefore, no additional details may be provided regarding this case

(c) Cases outstanding where charges have been filed

As noted in the November 2011 Discipline Bulletin, a charge was filed against a Fellow of the Institute, in

connection with work performed with respect to a pension plan. The CPC has referred this charge to a Disciplinary Tribunal. A Notice of the filing of the charge and referral of the charge to a Disciplinary Tribunal was circulated on February 17, 2012 to inform members of the Institute and the public about the case in accordance with Bylaw 20.04(3.1). This Notice can be found in the Discipline section of the website. 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.

The CPC was recently made aware pursuant to the Cross-Border Discipline Agreement, that a Fellow of the CIA was sanctioned in the U.S. by the American Academy of Actuaries (AAA). The CPC has taken action and filed a charge against this individual. Notice of the charge will be published in accordance with the Bylaws and arrangements will be made for a Disciplinary Tribunal to hear this case.

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 (a), (b) and (c), in the period since the November 2011 report, the CPC has considered eight complaints or other information that might lead to complaints against nine Fellows, Associates, or Affiliates.

Two new complaints and/or information were received for the CPC's consideration. In both of these cases, the CPC decided to refer the complaints to Investigation Teams.

In two earlier cases, the CPC is still obtaining further information before deciding how to proceed. In another earlier case, upon obtaining further information, the CPC decided to dismiss the matter.

The CPC had previously referred three cases to three Investigation Teams. In one of these cases, after reviewing the report of the Investigation Team, the CPC decided to dismiss the matter. The other two investigations are still ongoing.

(e) Summary by practice area

The 13 cases set out above may be summarized by practice area as follows:

	Cases	Individuals
Life	3	4 members
Pension	8	4 members
P&C	0	-
Workers' Compensation	0	-
Actuarial Evidence	1	1 member
Other	1	1 member

(f) **Summary of CPC cases since 1992**

In response to an interest that was expressed to the CPC, this Discipline Bulletin includes additional statistics on past CPC cases.

- Since 1992, the CPC has completed 169 cases.
- Of these 169 cases, 97 cases were dismissed, three

cases resulted in a private admonishment without going to an Investigation Team, and 69 cases were referred to Investigation Teams.

- Of the 69 cases that were referred to Investigation Teams, 32 cases resulted in no charges being filed, and 37 cases resulted in charges being filed.
- Of the 37 cases that resulted in charges being filed, seven cases resulted in private admonishments, eight cases resulted in an admission of guilt and sanctions, and 22 resulted in public Disciplinary Tribunals.

WAYNE BERNEY
CHAIR, COMMITTEE ON
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