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The Standard Setting Department welcomes your comments and feedback on this paper, which should be sent to commentletters@hkicpa.org.hk.

Professional accountants' behaviour beyond their professional work

A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. Confidence in the accountancy profession is a reason why businesses, governments and other organizations involve professional accountants in a broad range of areas, including financial and corporate reporting, assurance and other activities.

The [Code of Ethics for Professional Accountants](#) (the Code) establishes five fundamental principles to be complied with by all members of the Hong Kong Institute of Certified Public Accountants (HKICPA or Institute) to a range of facts and circumstances that accountants might encounter, whether in business or in practice. They are integrity, objectivity, professional competence and due care, confidentiality, and professional behaviour.

Apparent failures to comply with the Code are liable to be enquired into by the appropriate committee established under the authority of the Institute, and disciplinary action may result.

To what extent does the Code apply to HKICPA members' behaviour outside the performance of professional activities? Consider the following scenarios:

Scenario 1

Tommy was a HKICPA member working at a private company. During his employment, he provided a medical certificate to his employer in support of a sick leave application.

The employer questioned the authenticity of the certificate and followed up with the clinic concerned. It was discovered that the certificate was not issued by the clinic. It was also noted that Tommy had not attended the corresponding medical consultation.

Although the employer did not report the incident to the police, Tommy was dismissed for his use of a fraudulent medical certificate for his absence from work and deriving economic benefit from the paid sick day.

Did Tommy breach the fundamental principles of the Code?

Yes.

Tommy was dishonest, knowingly associated himself with the materially false or misleading information contained in the purported medical certificate. This is contrary to the fundamental



principle of integrity in Chapter A of the Code, which requires an accountant to be straightforward and honest in **all professional and business relationships** (R111.1).

Tommy also breached paragraph R111.2 in Chapter A of the Code, that a professional accountant shall not knowingly be associated with reports, returns, communications or other information where the accountant believes that the information:

- (a) contains a materially false or misleading statement;
- (b) contains statements or information provided recklessly; or
- (c) omits or obscures required information where such omission or obscurity would be misleading.

If the matter is reported to the police, it is very likely that Tommy would face charges of forgery using a false instrument and/or fraud and other deception type of offences under the Theft Ordinance (Cap. 210). It is also an offence under S.9(3) of Prevention of Bribery Ordinance (Cap. 201) for any agent, with intent to deceive his principal, uses any false, erroneous or defective documents to deceive his principal. Hence, the use of fraudulent medical certificate by Tommy to deceive his employer might also breach the offence.

Scenario 2

Leo was a HKICPA member. He applied for the company secretary role at ABC Limited.

In December 2015, ABC Limited offered the position to Leo based on the merits of his professional qualification and working experience in his application:

- a fellow member of an international accountancy body since March 2015; and
- a senior manager of Alpha Limited from January 2012 to August 2015.

Subsequently, it was found that:

- Leo had been a member of the international accountancy body since January 2015. He was not a fellow member as of March 2015.
- Alpha Limited was incorporated in November 2012 and dissolved in February 2015. Accordingly, it was not possible that Leo was employed by Alpha Limited throughout the period from January 2012 to August 2015.
- During November 2011 to September 2012, Leo held another full-time employment with Beta Limited. The company dismissed Leo after he forged the signature of a director and drew a cheque in his own favour. In February 2015, Leo was convicted under the Theft Ordinance (Cap. 210).



- In the Institute's annual membership renewal procedure in December 2015, Leo did not declare to the Institute that he had received criminal convictions since the date of his last renewal application, which was a false statement because he was convicted by the Hong Kong court in February 2015.

Leo's purpose of asserting his employment with Alpha Limited commenced in January 2012 (rather than November 2012) was to conceal his employment with Beta Limited from which he was dismissed by reason of serious misconduct.

Did Leo breach the fundamental principles of the Code?

Yes.

Leo made the following misrepresentations regarding his qualifications or credentials:

- falsified his membership with the international accountancy body to ABC Limited;
- falsified his employment record with Alpha Limited to ABC Limited; and
- made a false statement to the Institute in the 2015 membership renewal by declaring that he had no criminal conviction

Leo was in breach of the integrity principle in Chapter A of the Code. He was not straightforward and honest in **all professional and business relationships** (R111.1).

He also breached paragraph R111.2 in Chapter A of the Code as he furnished materially false statements or information to ABC Limited and the Institute, knowing that they were false or being reckless as to the truth.

Scenario 3

A customer ordered food at a fast food restaurant. He left his mobile phone near the cashier counter, but could not locate it when he returned later. The CCTV at the restaurant recorded that a woman had taken the mobile phone with her.

Through identifying the personalized Octopus card used to pay for food, the police identified the woman as Janice, a HKICPA member. Subsequently, Janice was convicted of an offence of theft by the Hong Kong court of taking a mobile phone not belonging to her.

Did Janice breach the fundamental principles of the Code?

The scenario was not related to Janice's performance of professional activities at work. However, Janice was found guilty by the Hong Kong court and left with a criminal record.

Although Janice's misconduct did not necessary fall within the purview of the Code, the case was referred to the Institute's Disciplinary Committee who ordered sanctions and costs to Janice under section 34(1)(a)(ii) of the Professional Accountants Ordinance (Cap. 50), which



applies to HKICPA members convicted in Hong Kong (or elsewhere) of an offence involving dishonesty.

Janice's conviction constituted dishonourable conduct as it would bring or likely to bring discredit upon her and/or the accountancy profession.

Other cases

The above scenarios are adapted from real-life cases involving HKICPA members. Other disciplinary orders of the Institute involving misbehaviour not directly linked to the performance of members' professional activities at work include but not limited to:

- A registered Qualification Programme student fabricated a reference letter and used it to successfully apply for a job. The student was charged with obtaining pecuniary advantage by deception by the Hong Kong court as having falsely represented that the reference letter was genuine and dishonestly obtained the remuneration from the employer.
- A HKICPA member took money (around HK\$2,000) not belonging to them from an ATM left by another ATM user. The member was charged with theft by the Hong Kong court, left with a criminal record and lost their high-paying job.
- A HKICPA member claimed a reimbursement of around HK\$10,000 from a government agency by falsifying certain particulars on the supporting document using the Photoshop software. The member was convicted of a charge of fraud by the Hong Kong court.
- A partner of a CPA firm doubled the business expenses reimbursement by around HK\$450,000. The partner was found guilty by the Hong Kong court of theft.

While not necessarily within the purview of the Code, the student in the first instance was declared unfit to remain as a registered student. Whereas in the other instances, the members were convicted of offences involving dishonesty in Hong Kong under section 34(1)(a)(ii) of the PAO.

Conclusion

Compliance with the Code is not only an obligation to follow, but also an inevitable way to uphold the interest of professional accountants and protect oneself from disputes. While it is not practical to establish ethical requirements that apply to all situations and circumstances professional accountants may encounter, members should uphold the fundamental principles of the Code and avoid behaving in a way (both at or outside work) that discredits themselves and/or the accountancy profession.

Members should also consider the consequences of their behaviour both at and outside work. For example, the resulting negativity might lead to the loss of one's reputation and employment, penalties and/or sanctions by the Institute or relevant professional bodies, legal proceeding or criminal record.