

## Discipline Report

This is the twenty-third periodic report to Members, Affiliates and Associates prepared in accordance with Bylaw 20.12(8). Its primary purpose is to educate and inform all Members, Affiliates and Associates 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, 2006.

### 1. Meetings

Since the last Discipline Bulletin of May 2006, the Committee on Professional Conduct (CPC) held meetings on May 26, 2006 and September 15, 2006. Future meetings of the CPC have been scheduled for March 1, 2007 (Toronto) and June 14, 2007 (Toronto).

### 2. Disciplinary Costs (\$000) to August 31, 2006

	FY 06-07		FY 05-06	
	Actual	Budget	Actual	Budget
Legal costs	54	–	170	–
Incremental costs	12	–	27	–
	<b>66</b>	<b>186</b>	<b>197</b>	<b>225</b>
	Actual		Actual	
Costs recovered	46		7	
No. of cases reviewed	10		22	

### 3. Cases

#### (a) Charges Filed and Cases Completed

Charges were previously filed against a member in connection with various pension plan valuations. The CPC reviewed the case, and in light of the circumstances, decided not to proceed and to close its file.

#### (b) Private Admonishment Issued

Private admonishments were issued against two individuals in separate cases. In accordance with Bylaw 20.04(1), private admonishments are treated as confidential. Therefore, no additional details will be provided regarding these cases.

#### (c) Charges 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 public website.

A Disciplinary Tribunal has been appointed by the Chairperson of the Tribunal Panel, in accordance with Bylaw 20.06(1), and arrangements are being made to hear these charges.

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) Complaints and Information

Apart from the cases mentioned in (a), (b) and (c) in the period since the May 2006 report, the CPC has considered six complaints or other information that might lead to complaints, against nine Members, Affiliates or Associates.

#### New Cases

- A complaint and information were received for the CPC's consideration. In one of these, the CPC decided to dismiss the matter. In the other, the CPC decided to refer the complaint to an Investigation Team.

#### Old Cases

- In an earlier case, the CPC decided to dismiss the case.
- The CPC had previously referred three cases to three Investigation Teams, whose investigations are continuing.

#### (d) Summary by Practice Area

The 10 cases reviewed in the 2006-2007 fiscal year may be summarized by practice area as follows:

Life	1
Pension	6
P&C	0
Workers' Compensation	0
Actuarial Evidence	1
Other	2

#### 4. Rule 13: Rectification – Does it Avoid a Disciplinary Penalty?

In light of its continuing obligation to educate members regarding disciplinary matters, the Committee on Professional Conduct (CPC) feels that it is important to bring to the attention of all members of the Institute their obligations under Rule 13.

##### Obligations

Rule 13 requires a member (the “potential complainant or informant”) who becomes aware of an apparent material noncompliance by another member (the “alleged offender”) with the Rules of Professional Conduct or with Standards of Practice to comply with the procedures set out in Annotation 13-1, unless one of the exemptions set out in paragraph 4 of the Annotation applies to the situation.

As set out in the Annotation, the potential complainant or informant is required to discuss the situation with the alleged offender promptly and, if necessary, to reach agreement on actions to be taken by the alleged offender to ensure that the noncompliance is rectified. Provided that the potential complainant or informant is satisfied that the alleged offender has agreed that there has been a noncompliance and is unlikely to repeat the violation, and that rectification begins immediately and includes immediate notification to all users of the actuarial work, and that the rectification is carried out by the alleged offender (or an acceptable delegate, if the alleged offender is unable to do the work), then the potential complainant or informant is not required to report the noncompliance to the Committee on Professional Conduct (CPC).

On the other hand, if the potential complainant or informant has knowledge that the foregoing conditions have not been met, or is unable to ascertain that the conditions have been met, then the potential complainant or informant is required to bring the apparent material noncompliance to the attention of the CPC. Also, where rectification is not possible (as may happen when material events have taken place after the work in question was done, but prior to the discovery of the noncompliance), or where the noncompliance involves issues such as professional integrity, honesty, conflict of interest or professional courtesy (where the actions are not easily rectified), it may not be practical for the potential complainant or informant to consider pursuing rectification.

There are several reasons for the requirement that a member seek rectification of a noncompliance before reporting the matter to the CPC. First, this will often ensure that the public is protected and that the quality of actuarial services provided to the public remains high, and that shortcomings in actuarial work are repaired as soon as possible. Second, Rule 13 recognizes that there may be many factors concerning an issue that are not apparent to the potential complainant or informant and which, when explained by the alleged offender, may justify the actions taken or the results obtained by the alleged offender. Third, the requirement avoids the CPC having to get involved in many minor disputes between actuaries, or complaints that are intended for the primary purpose of gaining a competitive advantage or to create a nuisance for a competitor.

##### Exemptions

All members are required to follow the procedures set out in Annotation 13-1, in the event he or she becomes aware of an apparent material noncompliance by another member with the Rules of Professional Conduct or the Standards of Practice.

However, there are situations in which members are exempted from following some or all of such procedures. These are set out in Section 4 of Annotation 13-1. Such situations include when the member is prohibited by law, while the member is acting in an adversarial environment, or when the member, in certain capacities listed in Section 4(iii) of Annotation 13-1, is requested to provide confidential advice or opinion, or is required by the Standards of Practice to receive disclosure.

Furthermore, Sections 4(iii) and 4(iv) of Annotation 13-1 allow the Board to designate other individuals or entities who would be exempted from following all or parts of the procedures set out in Annotation 13-1. The Board and former Council have designated members of the Committee on the Application of Rules and Standards (formerly the Committee on Compliance) as being exempted from following Section 3; and, employees of, or consultants to Assuris (formerly CompCorp), the Office of the Superintendent of Financial Institutions (OSFI) and l’Autorité des marchés financiers (formerly the Inspector General of Financial Institutions (IGIF) as being exempted from following Sections 2 and 3 of Annotation 13-1.

Therefore, unless exempted under Section 4 of Annotation 13-1, if a member becomes aware of another member who is in apparent noncompliance, he or she would be well advised to review one’s Rule 13 obligations and to seek rectification prior to raising the issue with the CPC. Any member having questions concerning the application of rectification principles to a particular general situation may discuss them with the Chairperson of the Committee on Rules of Professional Conduct or the Chairperson of the Committee on Professional Conduct.

**Robert J. McKay**  
**Chairperson, Committee on Professional Conduct**