

# Discipline Report

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This is the forty-second 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.

## Meetings

Since the last Discipline Bulletin of November 2015, the Committee on Professional Conduct (CPC) held one conference call and one meeting. The next meeting of the CPC is scheduled for October 14, 2016 in Toronto.

## Disciplinary Costs (\$000) to March 31, 2016

	FY 15–16		FY 14–15	
	Budget	Actual	Budget	Actual
Routine legal costs	103	71	85	67
Non-routine legal costs	0	173	85	30
Other costs	0	41	0	11
<b>Total costs</b>	<b>103</b>	<b>285</b>	<b>170</b>	<b>108</b>
	Actual		Actual	
Costs recovered	0		0	
No. of cases reviewed	12		12	

## Cases

### (a) Charges filed and cases completed

A Disciplinary Tribunal was convened to hear charges that had been filed against one Fellow of the Institute as a result of his failure to cooperate with the CPC. Pursuant to Bylaw 20.12(3), a Notice of Suspension was published following the Tribunal's decision on penalty rendered on April 12, 2016. The notice can be found on the Discipline section of the website.

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

There were no cases with charges filed since the last report.

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

### (c) Other complaints and information

The CPC discussed 19 cases against 21 Fellows, Associates, or Affiliates including the one mentioned above.

Twelve new complaints and/or information were received for the CPC's consideration, of which eight are related. In two of the new cases, the CPC decided subsequently to dismiss the matter and in the other 10 cases, the CPC is obtaining more information before deciding how to proceed.

In four earlier cases, the CPC is still obtaining further information before deciding how to proceed.

One earlier case has now been referred to an Investigation Team.

The CPC had previously referred one case to an Investigation Team which is still ongoing.

### (d) Summary by practice area

The 19 cases set out above may be summarized by practice area as follows:

	Cases	Individuals
Life	1	1 member
Pension	13	14 members
P&C	0	0 members
Workers' Compensation	0	0 members
Actuarial Evidence	2	3 members
Other	3	3 members

### (e) Summary of CPC cases since 1992

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

- Since 1992, the CPC has completed 191 cases.
- Of these 191 cases, 112 cases were dismissed, three cases resulted in a private admonishment without going to an Investigation Team, and 76 cases were referred to Investigation Teams.

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- Of the 76 cases that were referred to Investigation Teams, 35 cases resulted in no charges being filed and 41 cases resulted in charges being filed.
- Of the 41 cases that resulted in charges being filed, eight cases resulted in private admonishments, nine cases resulted in an admission of guilt and sanctions, and 24 resulted in public Disciplinary Tribunals.
- Of the 24 Disciplinary Tribunal hearings, 22 resulted in either a guilty plea by the Respondent or a finding of guilt by the Disciplinary Tribunal on some or all of the charges. In the other two cases, the respondents were found not guilty by the Disciplinary Tribunal.

Doug Brooks  
Chair, Committee on Professional Conduct

## Application of Rule 12

During the past year, the application of Rule 12 has been prominent in some cases before the Committee on Professional Conduct (CPC).

Rule 12 reads “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.”

A member may be charged and found guilty of professional misconduct for not complying with Rule 12. The CPC takes Rule 12 very seriously because cooperation with any investigation is necessary to allow the discipline process to work. An effective discipline system is necessary for the CIA to meet its obligations to the public and the international actuarial community.

The CPC has established procedures that require it to keep all materials provided to the CPC or its representatives confidential. A member being investigated, the complainants, if any, and any other attached individuals must sign a confidentiality agreement to proceed. This protects all involved in the process. Everything the CPC does in an investigation is kept confidential until a Disciplinary Tribunal is held. The Disciplinary Tribunal is in principle public under the bylaws.

From a practical standpoint Rule 12 seems very simple. If a member is being investigated, that member should provide the investigators with the information that they request and answer their questions. Most of the time it is that simple and an investigation proceeds normally.

In some instances, however, a member will opine that some material in the member’s possession must be kept confidential and cannot be provided to the CPC or its representatives.

The most common reason given is that the material must be kept confidential at the request of the member’s client or company.

As set out in Rule 7, a member is obligated to provide the requested information, including confidential information, to the CPC during an investigation. Rule 7 reads “A member shall not disclose to another party any confidential information obtained through a professional assignment performed for a client or employer unless expressly or implicitly authorized to do so by the client or employer, or required to do so under Rule 13, or required to do so by the Committee on Professional Conduct, an Investigation Team, a Disciplinary Tribunal or an Appeal Tribunal regarding any disciplinary matter arising under Section 20 of the Bylaws, or required to do so by law.”

Therefore, you should make it clear to any client or employer that you must provide all requested information, including their confidential information, to the CPC during an investigation. You should make it clear to your client or employer that the material must be kept in strict confidence by the CPC. Many actuaries have included a clause in their contracts indicating that client material will be made available to the CPC during an investigation and if you have not, you should consider including this clause too.

Occasionally a member will claim that information is not available because of a court order to seal the material. If material in your possession is subject to a court order, you should make sure you understand the application and the limits of the court order. You must be prepared to provide evidence to the investigators that the court order applies to the material requested by them. You must also provide all other material requested by the investigators including material related to the sealed material.

If you believe some material must be kept confidential from an investigation, you must still cooperate with the investigators. An alternative source of information may be available that will allow the investigation to continue without access to the material in question. If necessary, be prepared to provide evidence that material must be kept confidential.

Rule 12 requires your full cooperation. Do what you can now to make sure you will be able to cooperate in the unlikely event that you are subject to an investigation in the future.