



irba

INDEPENDENT REGULATORY BOARD FOR AUDITORS

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NEWS



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MESSAGE FROM THE

CEO

Challenges for 2008

The auditing profession has been through some tough times in recent years, and while 2008 will have its challenges, the opportunities are many. The IRBA intends focusing on how to assist its members and their firms to manage and address these challenges, and to help inspire them to find the opportunities.

There are 4300 registered auditors in SA, of whom 2900 are practicing. Approximately half of these are small practitioners. Their ability to compete with

medium sized and big auditing firms is in jeopardy because of the cost and time burden being created by the growth in regulation of the profession.

We have proposed to Government that the funding model of the profession be changed so that the IRBA no longer has to charge for practice reviews. The proposed model would comprise a three-tier sharing of costs; a third each paid by government, the profession through normal registration fees and a third funded by commerce and industry.

The proposed Companies Bill which is expected to be passed into law in 2010 is going to require small practitioners to alter the focus of their businesses. The bill does not require the appointment of either an auditor or an accounting officer to report on the financial statements of small companies. This position is consistent

with the international market.

As a consequence of the Bill, small practices will in all likelihood do away with the auditing arm of their practice and will need to shift to other work such as consulting and tax.

But it is not only the small practitioners who are finding the increased regulation of the profession a burden; the medium sized and large firms are feeling the same and we are looking at addressing these concerns.

All of this places greater pressure on one of the Board's main challenges for the future: ensuring that the profession remains sustainable to potential trainees and practitioners. We are committed to addressing this challenge and will be seeking creative and practical solutions in the year ahead.

All is not dark on the horizon however. As with the stock market, when times are tough and the market is down the best opportunities present themselves to those who are prepared to look. South African auditors have skills which our economy desperately needs. Auditors just need to know how, and where, to look.

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AUDIT TECHNICAL

IAASB MAKES FURTHER PROGRESS ON CLARIFICATION OF ITS AUDITING STANDARDS

To enhance the quality and consistency of audits, the International Auditing and Assurance Standards Board (IAASB), an independent standard-setting board under the auspices of the International Federation of Accountants (IFAC), is continuing to advance its project to clarify its auditing standards. At its meeting in December 2007, the IAASB approved for public comment the following exposure drafts of proposed International Standards on Auditing (ISA) and proposed International Standards on Assurance Engagements (ISAE):

ISA 265 - Communicating Deficiencies in Internal Control

The proposed ISA 265 deals with the auditor's responsibility to communicate appropriately to management and those charged with governance deficiencies in internal

control that the auditor has identified in an audit of financial statements. It distinguishes between significant and other deficiencies in order to establish requirements to communicate to the appropriate levels within the audited entity. It also requires the former to be communicated in writing to those charged with governance.

ISA 402 - Audit Considerations Relating to an Entity Using a Third Party Service Organisation

The Exposure Draft reflects the revision of extant ISA 402, *Audit Considerations Relating to Entities Using Service Organisations*, including the application of the IAASB's clarity drafting conventions. The proposed ISA 402 deals with the user auditor's responsibilities to obtain sufficient appropriate audit evidence when an entity uses one or more third party service organisations. This may include

obtaining reports prepared by the auditors of those organisations.

ISAE 3402 - Assurance Reports on Controls at a Third Party Service Organisation

The proposed ISAE 3402 is the first subject matter-specific standard developed under the IAASB's International Framework for Assurance Engagements and includes the application of the IAASB's clarity drafting conventions.

It deals with reasonable assurance engagements undertaken by a professional accountant to report on the controls at a third party organisation that provides a service to user entities when those controls are likely to be part of user entities' information systems relevant to financial reporting.

It complements proposed ISA 402 in that reports prepared in accordance with proposed ISAE 3402 will be capable of providing appropriate audit evidence under the proposed ISA. It will help to bring consistency in reporting on controls at service organisations, thereby assisting such organisations to meet the needs of clients ("user entities") and their auditors. In particular, it should ensure that reports issued in one country are likely to meet the requirements of the auditors of user entities in other countries.

The following standards are only exposed for comment in accordance with the IAASB's clarity drafting conventions designed to enhance the clarity of its pronouncements.

ISA 501 - Audit Evidence Regarding Specific Financial Statement Account Balances and Disclosures,

ISA 520 - Analytical Procedures,

ISA 210 - Agreeing the Terms of Audit Engagements and

ISA 710 - Comparative Information- Corresponding Figures and Comparative Financial Statements

How to comment

The Committee for Auditing Standards (CFAS) of the Independent Regulatory Board for Auditors (IRBA) invites comments on the proposed ISAs. The deadlines for comments to the CFAS on the proposed new ISAs and ISAE are as follows:

Exposure Draft of proposed ISA	Comment Due Date
ISA 501 (Redrafted), Audit Evidence Regarding Specific Financial Statement Account Balances and Disclosures	14 March 2008
ISA 520 (Redrafted), Analytical Procedures	14 March 2008
ISA 210 (Redrafted), Agreeing the Terms of Audit Engagements	1 April 2008
ISA 710 (Redrafted), Comparative Information-Corresponding Figures and Comparative Financial Statements	1 April 2008
ISA 265, Communicating Deficiencies in Internal Control	15 April 2008
ISA 402 (Revised and Redrafted), Audit Considerations Relating to an Entity Using a Third Party Service Organisation	15 April 2008
ISAE 3402, Assurance Reports on Controls at a Third Party Service Organisation	15 May 2008

The exposure drafts may be viewed on the IRBA website at www.irba.co.za

IAASB ISSUES INTERNATIONAL STANDARDS ON AUDITING IN TERMS OF THE CLARITY DRAFTING CONVENTIONS

The IAASB issued the following three final standards that reflect its new clarity drafting conventions in December 2007:

ISA 230 (Redrafted), Audit Documentation

ISA 230 incorporates several enhancements and additional guidance to clarify the auditor's documentation obligations. In particular, it explains in clearer terms what is expected of the auditor in fulfilling the requirement to document compliance with ISAs and provides clarifying guidance regarding the circumstances in which it is appropriate for the auditor to prepare audit documentation relating to the use of professional judgment.

The flow of the requirements in the redrafted ISA, particularly in relation to changes to audit documentation after the date of the auditor's report, has also been simplified and clarified.

ISA 260 (Revised and Redrafted), Communication with Those Charged with Governance

ISA 260 has been fully revised. It sets out an overarching framework for communication with those charged with governance and identifies specific matters to be communicated by the auditor, including a requirement to communicate in writing about auditor independence. It acknowledges

that law or regulation or an agreement with the entity, for example, may require that other matters be communicated. The ISA contains new requirements and guidance dealing with the

communication process, including a specific requirement for the auditor to evaluate the adequacy of the two-way communication between the auditor and those charged with governance.

ISA 720 (Redrafted), The Auditor's Responsibility in Relation to Other Information in Documents Containing Audited Financial Statements

ISA 720 deals with the auditor's responsibility in relation to other information in documents containing audited financial statements and the corresponding auditor's report. It requires the auditor to read this other information and to respond appropriately when such information could undermine the credibility of the financial statements.

ISA 540 (Revised and Redrafted), Auditing Accounting Estimates, Including Fair Value Accounting Estimates, and Related Disclosures

ISA 540 adopts a risk-based approach to the audit of accounting estimates including fair value accounting estimates. It addresses matters such as the auditor's evaluation of the effect of estimation uncertainty on risk assessments, management's methods for making estimates, the reasonableness of assumptions used by management, and the adequacy of disclosures. The ISA provides expanded guidance on auditing fair value accounting estimates, including audit considerations relating to the proper application of the requirements of the financial reporting framework relevant to such estimates and the use of models in valuations.

ISA 540 combines ISA 540 (Revised), *Auditing Accounting Estimates and Related Disclosures (Other Than Those Involving Fair Value Measurements and Disclosures)*, and ISA 545, *Auditing Fair Value Measurements and Disclosures*. The IAASB concluded that the similarities between estimates and fair value estimates could be emphasized, and redundancy eliminated, by combining these two standards.

The standards form part of the IAASB's ambitious 18-month program to redraft existing standards and to develop new and revised standards following the clarity drafting conventions.

The ISAs may be viewed on the IRBA website at www.irba.co.za.

COMMENT LETTERS SUBMITTED TO IAASB

From October 2007 to February 2008, the CFAS submitted comment letters to the IAASB in relation to the following proposed ISAs and ISQC:

- ISA 220 - Quality Control for an Audit of Financial Statements;
- ISA 505 - External Confirmations;
- ISA 620 - Using the Work of an Auditor's Expert;
- ISA 700 - The Independent Auditor's Report on General Purpose Financial Statements;
- ISA 705 - Modifications to the Opinion in the Independent Auditor's Report;
- ISA 706 - Emphasis of Matter Paragraphs and Other Matter(s) Paragraphs in the Independent Auditor's Report;
- ISA 800 - Special Considerations-Audits of Special Purpose Financial Statements and Specific Elements, Accounts or Items of a Financial Statement;
- ISA 805 - Engagements to Report on Summary Financial Statements; and
- ISQC 1 - Quality Control for Firms that Perform Audits and Reviews of Financial Statements, and Other Assurance and Related Services Engagements.

The comment letters can be viewed on the IRBA website at www.irba.co.za

PRONOUNCEMENTS RECOMMENDED FOR APPROVAL BY THE INDEPENDENT REGULATORY BOARD FOR AUDITORS

The CFAS recommended the following pronouncements to the Board to be approved.

SAAPS 3 (Revised), Independent Illustrative Auditor's Reports

SAAPS 3 was revised as a result of the revision of the International Standards on Auditing (ISA) 700, The Independent Auditors' Report on General Purpose Financial Statements. The revised SAAPS was exposed for three months and comments were considered and incorporated after a sub-committee meeting held on 16 November 2007. The CFAS recommended the SAAPS for approval at its meeting held on 26 November 2007.

Access to Audit Working Papers: A Guide for Registered Auditors

The CFAS thought it necessary to provide guidance to auditors due to the lack of guidance on access to audit working papers in international standards. The guide was exposed for three months and comments were considered and incorporated after a sub-committee meeting held on 23 November 2007. The CFAS recommended the guide for approval at its meeting held on 26 November 2007.

Circular 02/2008, Audit Considerations on SA GAAP for SMEs

The CFAS drafted audit guidance for the SAICA explanatory memorandum on SA GAAP for SMEs. The CFAS agreed to issue the audit considerations on SA GAAP for SMEs in a circular at its meeting held on 26 November 2007, subject to approval by the Board.

CODES OF GOOD PRACTICE ON BROAD-BASED BLACK ECONOMIC EMPOWERMENT

The IRBA drafted guidance with the assistance of the Department of Trade and Industry (DTI) to verify compliance with the Codes of Good Practice on Black Economic Empowerment, including example certificates. The DTI approved

the guide at a meeting held on 8 November 2007 subject to changes agreed to at the meeting. The guide was presented to the CFAS on 26 November 2007 for noting and will be launched by the DTI during March 2008.

PUBLIC SECTOR

ACCOUNTING STANDARDS BOARD ISSUES DOCUMENTS FOR COMMENT

The Accounting Standards Board (ASB) has issued the following exposure drafts and discussions papers for comment:

Exposure draft	Closing date for comment
ED 44 - Heritage Assets	30 April 2008
DP 4 - Transfer of Functions	30 April 2008
DP 3 - Financial Instruments	28 February 2008

The documents are available on the ASB website at www.asb.co.za.

FINANCIAL SERVICES BOARD ISSUES INFORMATION CIRCULARS FOR PENSION FUNDS

The Financial Services Board (FSB) issued the following Information Circulars:

Information Circular 11 of 2007 - Submission of Audited Financial Statements for Funds Terminating by 31 October 2008

This Circular is issued to address the practical implementation of the requirements for funds to submit audited financial statements in terms of Regulation 15 of the Regulations to the Pension Funds Act.

Information Circular 12 of 2007 - Submission of Financial Statements for Small Funds as Defined in Board Notice 43 of 30 May 2006

This Circular is issued to facilitate the submission of the annual financial statements for small funds as defined in Board Notice 43 of 30 May 2006.

Information Circular 13 of 2007 - General Extension for the Electronic Submission of the 2006 Annual Financial Statements In Terms Of Section 33 of the Pension Funds Act, 24 of 1956

This Circular grants extension for the submission of annual financial statements for the 2006 financial year-ends until 31 March 2008 in terms of Section 33(1) of the Pension Funds Act.

Circular PF No. 131 - Withdrawal of Pension Funds Circulars

This Circular withdraws a list of Pension Fund Circulars with immediate effect on 5 December 2007.

LEGAL OPINION FROM SENIOR COUNSEL REGARDING AUDITOR'S REPORTS ON ATTORNEYS' TRUST ACCOUNTS

We refer to the communication from the IRBA dated 24 August 2007, which advised Registered Auditors of the format of the auditor's report to be issued in respect of the audit of attorneys' trust accounts.

The provincial law societies rejected the reports submitted to them on the basis that it did not comply with the rules of the respective provincial law societies. Accordingly, it was agreed that a legal opinion would

be obtained from Senior Counsel regarding the legal status of the audit reports prescribed by the IRBA.

The request for legal opinion included the following questions to Senior Counsel:

- Whether a deviation from the prescribed wording of the audit report as proposed could have a negative effect on the reliance placed on those certificates by

the law societies, or any other negative consequences.

- Whether the proposed compromise suggested by the law societies (by including a footnote which refers to South African Auditing Standards) would resolve the problem.

The legal opinion received from Senior Counsel is reproduced in its entirety below:

Ex parte Independent Regulatory Board for Auditors (IRBA)
and
The Law Society of South Africa (LSSA)
("Consultants")

In re
Format of Auditors' Reports on Attorneys' Trust Accounts

OPINION

Introduction

1. My opinion is sought in respect of the two questions that I set out at the end of this introduction section. The questions are related to the form of the audit report which auditors are obliged to furnish on having audited attorneys' trust accounts. Before the questions are better circumscribed, it is necessary to set out the appropriate background.
2. Both the IRBA and the LSSA are my consultants. I will refer to them either by their acronyms or by the traditional "consultants", as appropriate.
3. The LSSA is a voluntary association. Its members are the members of the four provincial Law Societies that were constituted as juristic persons in respect of the previous four provinces of South Africa that existed before 1994. Those four provincial Law Societies continue to exist under Section 56 of the Attorneys Act, 53 of 1979.
4. Every attorney in South Africa is obliged to be a member of one of the Law Societies (Section 57(1) of the Attorneys Act). The objects of these societies include maintaining and enhancing the prestige, status and dignity of the attorneys' profession (Section 58(a) of the Act). A society's affairs are managed by a council (Section 60(1)) and a council may make binding rules as to all matters which it considers necessary or expedient to prescribe (Section 74(1) (f)).
5. These rules require the approval of the Chief Justice and, if in the opinion of the latter the interests of the public would be adversely affected by any rule, the approval of the State President (Section 74(2)).
6. The rules are published in the Gazette (Section 74(4)).
7. The Law Societies have made such rules. One of these, alike in the case of all four societies, provides as follows:
"Duties of Accountant
Every accountant who has accepted an appointment in terms of Rule 70(1) shall -
Within six months of the annual closing of the accounting records of the firm concerned, or at such other times as the council may require, furnish the council with a report which shall be in the form of the third schedule to these rules;"
8. The reference to the third schedule is a document, the heading of which reads as follows:
"Illustrative Report of the Independent Auditor to the Proprietor/Partners/Directors of (insert the name of firm), the Law Society of (insert province) and the Attorneys' Fidelity Fund."
9. In the body of the report the following paragraph appears:
"Scope
Our audit was conducted in accordance with the statement of South African auditing standards applicable to special purpose audit engagements and the guide issued by the South African Institute of Chartered Accountants, Guidance for Auditors: The Audit of Attorneys' Trust Accounts in terms of the Attorneys Act, No. 53 of 1979 and the Applicable Rules of the Provincial Law Societies. This guide sets out the minimum audit procedures to be performed in evaluating an attorney's trust account. An audit includes:
 - *examining, on a test basis, evidence supporting the amounts and disclosures in the trust accounts, and*
 - *assessing the auditing principles used by management.**We believe our audit provides a reasonable basis for our opinion.*
We have not performed any audit procedures on records or documents relating to accounting for deceased and insolvent estates and trusts.
Accordingly, we do not express any opinion in this regard."
10. The reference to "accountant" in the Law Societies' rule is to a person registered as such under the Auditing Profession Act, 26 of 2005. The IRBA is the

- regulatory body concerned. In terms of powers granted to it under now repealed legislation, the IRBA's predecessor, the Public Accountants' and Auditors' Board (PAAB), published statements of generally accepted auditing standards (GAAS).
11. In time, GAAS became SAAS (South African Auditing Standards), and since 1994, statements of SAAS have been based on standards issued by the International Auditing and Assurance Standards Board (IAASB) of the International Federation of Accountants (IFAC), for use in South Africa.
 12. After consideration, the Auditing and Assurance Standards Board (AASB) of the PAAB decided to adopt the original text of IAASB standards for use by registered accountants and auditors in South Africa with effect from 1 January 2005. The effect was that the PAAB (and now the IRBA) adopted the entire suite of auditing pronouncements issued by IAASB, with effect from 1 January 2005. In future guidance issued locally over and above the guidance contained in the IAASB standards, will be issued as South African Auditing Practice Statements (SAAPS). In the result, with effect from 1 January 2005, there were no longer any statements of South African auditing standards. Whenever an audit opinion is to be expressed on financial statements, the auditing principles that are laid down by international standards on auditing (ISA), apply regardless of the nature of the entity.
 13. Accordingly, although it is the local regulatory board (the IRBA) that has the statutory power to issue appropriate auditing standards for application within this country, what has occurred is that the IRBA's predecessor has not simply incorporated international standards into South African standards, but has published the IAASB standards for application in South Africa. To the extent that there is scope for statements locally outside of these IAASB statements, this will be in the form of SAAPS.
 14. The IRBA has, in view of these developments, proposed a revised report for use by auditors after the prescribed audit of attorneys' trust accounts. Amendments to the Law Societies' rules are however cumbersome, and the LSSA has proposed a way of dealing with the prescribed form without having formally to amend it. The LSSA believes that the proposed report may not comply with the prescribed form (since it deviates from it), and has instead suggested the introduction of a footnote that would qualify the reference to SAAS in the prescribed form.
 15. Against this background, the two questions posed for my opinion are as follows:
 - 15.1 *"Whether a deviation from the prescribed wording of the audit report as proposed could have a negative effect on the reliance placed on those certificates by the law societies, or any other negative consequences. (See in this connection Hollis v Rex 1929 NPD 71 where it was held that where a notification was required to be 'in the form prescribed by regulation 34' and the notification omitted part of the form, that did not invalidate the notification. It was held that the omission did not involve any substantial variance from the prescribed form, and in any event that the regulation, in prescribing the form, was directory rather than imperative.)"*
 - 15.2 *"Whether in your view the proposed compromise suggested by the law societies, as set out in the paragraph above, would resolve the problem."*
The effect of the deviation from the prescribed wording of the audit report
 16. The proposed deviation is contained in Appendix 4 to my brief. The relevant proposed paragraph reads:

"Our audit was conducted in accordance with International Standards on Auditing, the guide issued by the South African Institute of Chartered Accountants, Guidance for Auditors: The Audit of Attorneys' Trust Accounts in terms of the Attorneys Act, No. 53 of 1979 and the Applicable Rules of the Provincial Law Societies. This guide sets out the minimum audit procedures to be performed in evaluating an attorney's trust accounts and includes:

 - examining, on a test basis, evidence supporting the amounts and disclosures in the trust accounts, and*
 - assessing the accounting principles used by management.*

We have not performed any audit procedures on records or documents relating to accounting for deceased and insolvent estates and trusts. Accordingly, we do not express any opinion in this regard. We believe our audit provides a reasonable basis for our opinion."
 17. The first difference, which is obvious, is the reference to ISAs instead of SAAS. There is a second difference from the prescribed form. In the prescribed form the ultimate paragraph reads as follows:

"Use of the report
This report is intended solely for the use of proprietor/partners/ directors of the attorney's firm, the (insert the relevant province) Law Society and the Attorneys' Fidelity Fund."
 18. In the new proposed report, the last paragraph reads as follows:

"Restriction on distribution and use of the report
The layout and wording of our report is in compliance with the relevant sections of the Attorneys Act and Rules of the <insert relevant province> Law Society and is intended solely for the use of proprietor/ partners/directors of the attorney's firm, the (insert the relevant province) Law Society and the Attorneys' Fidelity Fund."

19. Traditionally, the debate about whether legislation, subordinate or otherwise, was to be complied with to the letter, or merely substantially, raged within the context of whether non-compliance could be condoned. See Wiechers, Administrative Law, p 69 on Law Societies being government bodies, and p 92 on subordinate legislation.
20. In particular, the proposition was that where the provisions of a particular legislative provision were peremptory, they had to be complied with strictly, and a court could not condone non-compliance with them. Where they were not peremptory, substantial compliance would do. And in the end, whether a particular provision was peremptory or not, depended on an interpretation of the provision within its context.
21. This background is discussed in *Nkisimane & Others vs. Santam Insurance Company Ltd*, 1978 (2) SA 430 (A) by Trollip, JA (at 433 in fin) in these terms:

“Preliminarily I should say that statutory requirements are often categorised as ‘peremptory’ or ‘directory’. They are well known, concise and convenient labels to use for the purpose of differentiating between two categories. But the earlier clear-cut distinction between them (the former requiring exact compliance and the latter merely substantial compliance) now seems to have come somewhat blurred. Care must therefore be exercised not to infer merely from the use of such labels what degree of compliance is necessary and what the consequences are of non- or defective compliance. These must ultimately depend upon the proper construction of the statutory provision in question, or, in other words, upon the intention of the law giver as ascertained from the language, scope and purpose of the enactment as a whole and the statutory requirement in particular ... Thus, on the one hand, a statutory requirement construed as peremptory usually still needs exact compliance for it to have the stipulated legal consequence, and any purported compliance falling short of that is a nullity. ... On the other hand, compliance with a directory statutory requirement, although desirable, may sometimes not be necessary at all, and non- or defective compliance therewith may not have any legal consequences... . In between those two kinds of statutory requirement it seems there may now be another kind which, while it is regarded as peremptory, nevertheless only requires substantial compliance in order to be legally effective... It is unnecessary to say anything about the correctness or otherwise of this trend in such decisions. Then, of course, there is also the common kind of directory requirement which need only be substantially complied with to have full legal effect.”

22. In *Ex Parte Mothuloe (Law Society, Transvaal, Intervening)* 1996 (4) SA 1131 (T) Van Dijkhorst, J referred to this development but said, with reference to *Maharaj & Others vs. Rampersad*, 1964 (4) SA 638 (A) and the judgment of Van Winsen, AJA in that case, that the approach should be to move away from the strict legalistic to the substantive. The relevant dicta of Van Winsen, AJA are as follows:

“The enquiry, I suggest, is not so much whether there has been ‘exact’ ‘adequate’ or ‘substantial’ compliance with the injunction but rather whether there has been compliance therewith. This enquiry postulates an application of the injunction to the facts and a resultant comparison between what the position is and what, according to the requirements of the injunction, it ought to be. It is quite conceivable that a court might hold that, even though the position as it is, is not identical with what it ought to be, the injunction has nevertheless been complied with. In deciding whether there has been compliance with the injunction, the object sought to be achieved by the injunction and the question whether this object has been achieved are of importance.”

(My emphasis)

23. In *Weenen Transitional Local Council vs. Van Dyk*, 2002 (4) SA 653 (SCA) the Supreme Court of Appeal was concerned with the interpretation of Sections 105 and 106 of the Local Authorities Ordinance 25 of 1974 (KZN). These sections empowered a local council to assess and to levy certain rates upon immovable property, but only after it will have issued four notices in terms of those two sections. In the case the local council as appellant had published only one notice and a ratepayer failed to pay the rates, contending that the amounts were not due and payable because the appellant had not complied with the provisions of the Ordinance. A Magistrate’s Court as well as the High Court had upheld this defence.
24. In discussing the question whether strict as opposed to substantial compliance was required, Olivier, JA said the following (at para 13):

“It seems to me that the correct approach to the objection that the appellant had failed to comply with the requirements of Section 166 of the Ordinance is to follow a common-sense approach by asking the question whether the steps taken by the local authority were effective to bring about the exigibility of the claim measured against the intention of the legislature as ascertained from language, scope and purpose of the enactment as a whole and the statutory requirement in particular ... Legalistic debates as to whether the enactment is peremptory (imperative, absolute, mandatory, a categorical imperative) or merely directory; whether ‘shall’ should be read as ‘may’; whether strict as opposed to substantial compliance is required; whether delegated legislation dealing with formal requirements are of a legislative or administrative nature, etc may be interesting, but seldom essential to the outcome of the real case before the court. They tell us what the outcome of the court’s

interpretation of the particular enactment is; they cannot tell us how to interpret. These debates have a prosterior, not a priori significance. The approach described above, identified as 'a trend in interpretation away from the strict legalistic to the substantive' by Van Dijkhorst J in Ex Parte Mothuloe (Law Society, Transvaal, Intervening) ..., seems to be the correct one and does away with debates of secondary importance only."

25. The traditional approach is commented upon by Hoexter, Administrative Law in South Africa (Juta & Co. Ltd, Cape Town 2007) at 262:

"It would of course be delightfully simple if the failure to comply with mandatory provisions inevitably resulted in invalidity while ignoring directory provisions never had this consequence, but the reality is not clear-cut. From our case law one sees that some requirements classified as 'mandatory' need not, in fact, be strictly complied with but that 'substantial' or 'adequate' compliance may be sufficient."
26. The Constitutional Court has approved the approach articulated by Van Winsen, AJA in Rampersad, in Fuel Retailers Association of Southern Africa vs. Director-General: Environmental Management, Department of Agriculture, Conservation and Environment, Mpumalanga Province & Others, 2007 (6) SA 4 (CC) at p.43. See also African Christian Democratic Party vs. Electoral Commission & Others, 2006 (3) SA 305 (CC) at para 25.
27. It may therefore now be accepted that one is concerned with the object of the relevant rule (and with it the prescribed report) of the relevant Law Society, and with the question whether the proposed report achieves what the prescribed report seeks to achieve. Turning to a comparison then between the two reports, I draw attention to the following features.
28. First, the prescribed report is described as "illustrative". That already is an indication that the author of the prescribed report sought to stress the substance rather than the form of the report. Next, the substance of the prescribed report: it is to report on whether the attorneys' trust accounts were maintained in compliance with the relevant sections of the Attorneys' Act, 53 of 1979. The sections concerned are Sections 78(1), 78(2), 78(2A), 78(3) and 78(4). The proposed report refers precisely to the correct sections concerned in the first paragraph, thereby identifying accurately the measure against which the practitioners' trust accounts were being tested for compliance.
29. Third, the method to be employed by the auditor, according to the prescribed report, is South African Auditing Standards applicable to special purpose audit engagements; the guide issued by the South African Institute of Chartered Accountants, Guidance for Auditors: The Audit of Attorneys' Trust Accounts in terms of the Attorneys Act, No. 53 of 1979; and thirdly, the Applicable Rules of the provincial Law Societies. In the proposed report the second and third of these two standards are repeated in identical fashion; the difference lies with the first. It is that the proposed report does not refer to SAAS but to "... International Standards on Auditing".
30. In view of the change brought about by the adoption with effect from 1 January 2005 by the PAAB of the International Standards on Auditing, the proposed report, although not complying strictly with the prescribed report, more correctly achieves "the object sought to be achieved", in the words of Van Winsen, AJA in Rampersad.
31. Moreover, for an auditor to suggest in the report that he/she has conducted the audit in accordance with South African Auditing Standards would be incorrect, since there are no such standards. The standards that are applicable are the International Standards on Auditing, and they do not become South African Standards on Auditing simply because the PAAB has decided that those standards will apply here.
32. In the fourth place, the difference in the final paragraph of the report is, in my view, inconsequential. The first part of the sentence in the proposed report merely describes the origin of the layout and the wording of the report. The second part of the sentence is virtually identical to that contained in the prescribed report.
33. For these four reasons, in my view, the proposed report by the IRBA, Appendix 4 to my brief, complies with and is in fact more accurate than the prescribed report contained in Appendix 3 to my brief.
34. Does the proposed compromise suggested by the LSSA solve the problem?
35. The LSSA has suggested that the proposed report (Appendix 3 to my brief) be retained, but with an appropriate footnote where there is reference to "South African Auditing Standards", along the following lines:

"Since 1 January 2005 the auditing profession in South Africa has adopted International Standards on Auditing. In the circumstances the relevant and applicable South African standards at the date of this report are the International Standards on Auditing."
36. I respond to this question by making three points. The first is that, in my view, and for the reasons that I furnished in discussing the first question, there is no "problem" in reporting in accordance with the IRBA suggested report, Appendix 4 to my brief.
37. Secondly, the introduction of the footnote is as substantively an amendment to the prescribed report as if it were contained in the body of the report. Requirements of amendments to the rules will not avoided by capturing the proposed amendment in a footnote instead of in the body of the report; substance over form.

38. Thirdly, the contents of the proposed footnote are, in my view, not correct. The first sentence accurately describes the adoption with effect from 1 January 2005 of the International Standards on Auditing. But the second sentence is incorrect in that it equates the International Standards on Auditing with applicable South African standards. There are no South African standards with effect from 1 January 2005 (with the exception of SAAPSs); there are only International Standards on Auditing and those apply in South Africa. This is not a difference of form but of substance. The origin of the standards is different; the body that drafted and published them is different; and interpretations of those standards will be international and not only local.
39. It follows that in my view the proposed insertion of the footnote is not appropriate.

Conclusion

40. In my view the report proposed by the IRBA, Appendix 4 to my brief complies with the objective of the prescribed report and is more accurate than it. It follows that the answer to the first question is, No; and to the second question, There is no problem as posited.

WHG van der Linde, SC
Johannesburg
6 December 2007

ETHICS

PROGRESS ON GUIDANCE FOR NETWORK FIRMS

A sub-committee of the committee for Auditor Ethics (CFAE) on Network Firms will consider a proposal to advise Registered Auditors against involving themselves in non-audit practices which could potentially compromise their firms. The following references will also be borne in mind:

- IFAC's International Ethics Standards Board for Accountants (IESBA) developed guidance in 2006 which changed the definition of Network Firms; with an implementation date of 31 December 2007; and
- The IRBA's own guidance on Network Firms for Registered Auditors in South Africa. The CFAE has in the past year been requested to advise on complaints pertaining to alleged breaches of the IRBA's Code of Professional Conduct and will seek to address those issues which may be deemed to amount to unprofessional conduct within the guidance.

INTERNATIONAL MEETINGS

The CEO attended the International Ethics Standards Board (IESBA) meeting in Toronto in October 2007. The IESBA continues to make progress on updating the independence sections of the IFAC Code of Ethics for Professional Accountants. At its last meeting, the IESBA reviewed the approximately 75 comment letters it received in terms of the exposure draft: Proposed Revised Section 290 - of the Code of Ethics for Professional Accountants,

Independence - Audit and Review Engagements and Proposed Section 291, Independence, Other Assurance Engagements and also discussed the timetable for completion of the other independence projects.

The meeting also discussed the release of a further exposure draft after April 2008 which will request comments on the implications of the clarity drafting conventions. This exposure draft will contain the

final text from the output of the two independence projects. The IESBA plans to complete the revision of the IFAC Code by the end of 2008.

The meeting also reviewed comments to its proposed Strategic and Operational Plan, 2008 - 2009. The plan will be reviewed for due process considerations at the Public Interest Oversight Board meeting to be held in March 2008 and will be released after approval.

SMEs

A Guide was commissioned by the IFAC Small and Medium Practices (SMP) Committee to assist auditors on the audit of small- and medium-sized entities (SMEs) and to promote consistent application of the ISAs.

The Guide provides non-authoritative guidance on applying ISAs issued by the IAASB as at December 31, 2006. The Guide is to be used as a supplement intended to help practitioners understand and consistently implement these standards on SME audits.

The Guide provides a detailed analysis of the ISAs and their requirements in the context of an SME audit. It addresses the key concepts such as:

- Underlying risk assessment;
- Planning and performing risk assessment procedures;
- Understanding the client;
- Responding to risks;
- Evaluating audit evidence; and
- Reporting.

In addition, the Guide offers some useful practice aids and an in-depth illustrative case study based on a typical SME audit.

The Guide is intended to explain and illustrate so as to develop a deeper understanding of an audit conducted in compliance with ISAs. This Guide provides practitioners with the analysis and some of the tools needed to effectively and efficiently implement ISAs. It offers a

practical "how-to" audit approach that practitioners may use when undertaking a risk-based audit of an SME.

The guide may be viewed on the IRBA website www.irba.co.za

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CONTINUING PROFESSIONAL DEVELOPMENT

Introduction

These days most professions recognise the need for members to be continually updating their knowledge in order to keep up with a rapidly changing and expanding environment. The audit profession is no exception. Members of the profession face increased knowledge and skills expectations. Continued development of professional competence and lifelong learning are critical if Registered Auditors (RAs) are to meet these expectations. The expectation that RAs remain up to date and competent has been a cornerstone of the profession for decades.

What is CPD?

Continuing Professional Development (CPD) refers to learning activities that develop and maintain capabilities to enable RAs to perform competently within their professional environment.

CPD can be defined as the holistic commitment to structured skills enhancement and personal or professional competence and is the means by which members of professions maintain, improve and broaden their knowledge and skills and develop the personal qualities required in their professional lives. Not only do RAs need to keep up to date, they also need the ability to acquire new knowledge in response to the challenge of new business requirements. It is this ability to gain new knowledge which is being seen by professionals as the best possible means of gaining a competitive advantage over their peers.

There are different types and methods of professional development activities, including:

- **Distance / computer-based learning** – computer-based systems providing eLearning accessible over the internet.
- **Home based learning** – private study, structured reading on particular themes or topics.
- **Action based learning** – a systematic, structured approach to the solving of problems in the

workplace.

- **Preparation of material** – for courses, technical meetings or publication in the technical press.
- **Research** – supervised research.
- **Work based development** – background reading, research or preparation required to tackle a new area of work.
- **Activities provided by relevant bodies direct to members** – of a technical or professional nature.
- **Conferences** – conferences, seminars, workshops or other technical and professional events and meetings including in-house training.
- **Qualifications** – courses leading to a qualification.

A professional development activity must represent the personal and professional aspirations set out in a professional development plan. Professional development courses, seminars and training events should be linked to this plan. The activity needs to provide the RA with the tools, guidance, skills and competencies they need to ensure that they are progressing in their role, or working towards expanding their role.

The Importance of CPD

CPD is regarded as good professional practice in the current business environment. It is seen as a tool for attracting and retaining high quality, professional staff. With constant change and increased competition in the workplace, CPD is viewed as a way to ensure that a firm will keep their competitive edge.

CPD has become increasingly important in the current business environment due to various factors, including:

- **Law** – just as customers are requiring a high level of performance from professionals, so is the law.
- **Professional standards** – professional institutions have the role of maintaining the standards of competence within

their membership. These standards can be communicated efficiently to the membership through the application of formal CPD.

- **Change** – new skills constantly need to be acquired in order to allow for personal career development.
- **Quality Assurance** – adequately trained staff perform all significant roles within a firm and updated training is provided on a regular basis.
- **Customers** – they are increasingly demanding and are much better informed about their rights now than in the past.
- **Competition** – the requirements of current business means that professionals have to be just as proficient in the skills of customer care and communication as in their traditional, professional, ones.

CPD Requirements

IRBA requires all Registered Auditors (RAs) to engage in at least 90 hours of audit-relevant CPD over a three year period. Audit-relevant CPD comprises professional knowledge, professional skills and ethical values. Over a three-year period, an RA will be expected to have gained at least 45 hours in the area of professional knowledge. The remainder of the CPD hours should be devoted to the development of both professional skills and ethical values, with no less than 9 hours being devoted to each of these aspects.

Recording and Monitoring of CPD

CPD activities should be monitored on a regular basis. Professionals failing to comply with the requirements or monitoring process may be in breach of their code of professional conduct. Monitoring is mostly done based on RAs providing records of these activities according to a prescribed format and preset timescale for submission.

RAs need to ensure that training courses are relevant and appropriate. This implies that they should carefully plan their training activities in order to comply with CPD requirements.

The Professional Development Plan

The Professional Development Plan is a tool that can be used to plan CPD activities for individuals. This plan is easy to develop and will assist RAs to identify their skills, their ambitions, career development, CPD priorities and timelines.

In order to develop a Professional Development Plan practitioners should start off by writing down all the jobs that they are expected to perform, the areas they need to

be knowledgeable about, the skills needed and the changes that are likely to occur in the short term. Next, practitioners should consider their short and long term ambitions and the timescale to achieve them. Then they should consider and prioritise their development needs based on ambitions and timescales. The next step requires practitioners to list their CPD priorities for the next two years, which then constitutes their Professional Development Plan (PDP). It is important that the PDP should be regularly reviewed and updated, in line with changes in the practitioner's current workplace and future plans of the firm.

CPD and Practice Review

During the engagement review process an assessment will be made of the RA's compliance with the IRBA requirements for CPD. Consideration will be given to the nature and relevance of CPD activities and the extent to which the maintenance and further development of competence was sought by an RA.

During the firm review process various procedures are performed to inspect whether practitioners and

staff are attending adequate and appropriate CPD training courses, and that this is being sufficiently monitored by the firm.

Conclusion

CPD is not only important in the growth and development of staff. It is also important in the attraction and retention of highly qualified staff within the firm. CPD assists firms in maintaining their competitive advantage in a continually changing environment. It is vital for all firms to keep staff updated in order for them to deliver a high quality, professional service to customers.

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LEGAL

QUARTERLY REPORT FROM THE DIRECTOR: LEGAL FOR THE PERIOD 1 JULY 2007 TO 30 SEPTEMBER 2007

INVESTIGATING COMMITTEE

The Investigating Committee met once during this period and disposed of 1 case where the complaint was withdrawn by the complainant. The remainder of the matters were forwarded to the Disciplinary Advisory Committee (DAC) with recommendations

DISCIPLINARY ADVISORY COMMITTEE

The DAC met twice during this period and disposed of 23 matters in terms of the new disciplinary rules, as follows:

Decision not to charge

3 cases in terms of Disciplinary Rule

3.5.1.1 (the respondent is not guilty of unprofessional conduct – 2 where the respondent was not guilty of the conduct, and 1 where the conduct in question – even if proved – did not constitute unprofessional conduct)

8 cases in terms of Disciplinary Rule

3.5.1.2 (the respondent having given a reasonable explanation for the conduct).*

1 case in terms of Disciplinary Rule 3.5.1.3 (the conduct of which the respondent might be guilty being of negligible nature or consequence).

2 cases in terms of Disciplinary Rule 3.5.1.4 (there being no reasonable prospect of proving the respondent guilty of the conduct in question). *

Decision to charge and matter finalised by consent:

Cautioned

One practitioner was cautioned. The matter related to a Generally Accepted Accounting Practice (GAAP) Monitoring Panel referral.

Fined

Eight practitioners were fined. The matters were as follows:

- Two related to negligence in the audit of non-profit type organisations (R40,000, of which R35,000 was suspended on conditions, and R40,000 of which R20,000 was suspended on conditions, respectively) *
- Six arose out of practice review. All were 2nd cycle reviews.

2nd reviews:

Three practitioners were fined R30,000 of which R15,000 was suspended on conditions;

3rd reviews:

Two practitioners were fined R30,000 of which R15,000 was suspended on conditions;

one practitioner was fined R30,000 which was suspended on conditions. *

* In one matter this was not the original recommendation of the Investigating Committee

DISCIPLINARY COMMITTEE

The Disciplinary Committee did not meet during this period.

INCORPORATED FIRMS

It has come to my attention that many practitioners appear to be unaware of the provisions of section 38(3) (much the same as section 21(2) of the old Act) that in an incorporated

firm of auditors the shareholders and directors must all be RAs and must be common. Please be aware that a contravention of this provision of the Act is an offence.

Likewise, in terms of section 38(1) (section 21(1) of the old Act), all individual partners in a partnership of auditors must be registered with the IRBA.

QUARTERLY REPORT FROM THE DIRECTOR: LEGAL FOR THE PERIOD 1 OCTOBER 2007 TO 31 DECEMBER 2007

INVESTIGATING COMMITTEE

The Investigating Committee met twice during this period and disposed of 11 matters as follows:

- 8 complaints were withdrawn by the complainant, usually because the matter had been resolved;
- 2 investigations were suspended until the outcome of litigations;
- 1 matter could not be pursued because the complainant had disappeared and his evidence was crucial to the prosecution of

the matter.

The remainder of the matters were forwarded to the Disciplinary Advisory Committee with recommendations.

DISCIPLINARY ADVISORY COMMITTEE

The DAC met once during this period and disposed of 15 matters, in terms of the new disciplinary rules, as follows:

Decision not to charge

4 cases in terms of Disciplinary Rule 3.5.1.1 (the respondent is not guilty of unprofessional conduct):

1 where the respondent was not guilty of the alleged conduct, and
3 where the conduct in question – even if proved – did not constitute unprofessional conduct.

2 cases in terms of Disciplinary Rule 3.5.1.2 (the respondent having given

a reasonable explanation for the conduct).

1 case in terms of Disciplinary Rule 3.5.1.3 (the conduct of which the respondent might be guilty being of negligible nature or consequence).

3 cases in terms of Disciplinary Rule 3.5.1.4 (there being no reasonable prospect of proving the respondent guilty of the conduct in question).

Decision to charge and matter finalised by consent

Fined

Four practitioners and one firm were

fined. The matters were as follows:

- One was a GMP referral (R37,500, of which R12,500 was suspended on conditions)
- One related to the failure to respond adequately to a client (R10,000), and
- Three arose out of practice review. All were 2nd cycle reviews.

2nd reviews:

Two practitioners were fined R40,000 of which R20,000 was suspended on conditions;

3rd reviews:

One practitioner was fined R40,000 of which R20,000 was suspended on conditions.

DISCIPLINARY COMMITTEE

The Disciplinary Committee met twice during this period – once to hear a matter, and once for the annual departmental indaba.

On 2 November 2007 the committee heard the case against Mr V. He was present and represented.

The facts appear from the sentence which was handed down by the chairman of the committee Adv van der Linde SC, as follows:

Finding:

“Hierdie is ‘n ondersoek kragtens Artikel 50 van die Auditing Profession Act, 26 of 2005. Die pro forma aanklaer is mnr [S] en die Respondent, mnr [V], word verteenwoordig deur adv [C]. Ons is dank verskuldig aan beide mnr [S] en mnr [C] vir die hulp wat hulle ons gegee het in vanoggend se ondersoek.

Mnr [V] is daarvan aangekla dat hy skuldig is aan onbehoorlike gedrag soos bedoel in Reël 2.1.21 van die Dissiplinêre Reëls. Die besonderhede van die aanklag verskyn op bladsy 36, paragrawe 4.1 tot 4.4 van die klagstaat. Dit kom daarop neer dat mnr [V] op 9 Februarie 2006 aan die Kaapse Wetsgenootskap ‘n verslag deur onafhanklike

rekenmeester onderteken het waarin hy voorgegee het dat hy ‘n oudit uitgevoer het op ‘n stadium toe hy nie geregtig was om die attesfunksie uit te voer nie.

Mnr [V] het skuldig gepleit in terme van ‘n skriftelike dokument wat ons ontvang het as **Bewysstuk A**. Hy het getuies ter versagting afgelê deur middel van ‘n eedsverklaring wat ons ontvang het as **Bewysstuk B**.

In ‘n neutdop is sy verduideliking vir die nalate om die praktyksoorsigdirekteur skriftelik in kennis te stel daarvan dat hy ‘n attesfunksie uitgevoer het, die volgende:

Hy sê dat hy in Desember 2005 voorgestel was deur ‘n kennis aan die betrokke prokureursfirma, [VNC] van [M]. Daarna gedurende Februarie 2006 het hy in die pos ‘n kovert ontvang waarin daar dokumentasie was, insluitend bankstate, wat nodig vir hom was om ‘n oudit uit te voer. Hy het die oudit uitgevoer en die verslag geteken wat aan die Wetsgenootskap gestuur was.

Sy verduideliking oor hoekom hy nie die Raad verwittig het soos vereis in sy eedsverklaring van 26 Mei 2005 nie, op bladsy 16 van die bundel,

is dat hy aanvanklik verstaan het dat as hy so ‘n verklaring maak, dit die implikasie gehad het dat hy nie die attesfunksie kon verrig nie tensy hy die praktyksoorsigdirekteur onmiddellik daarvan in kennis gestel het soos verskyn in **Bewysstuk B**, paragraaf 3.5.1. Daardie verduideliking moet gelees word in die konteks van paragraaf 3.14 op bladsy 9 van sy eedsverklaring, **Bewysstuk B**, waarin hy gesê het dat hy gedink het dat die werking van sy eedsverklaring was dat hy eers mettertyd die praktyksoorsigdirekteur in kennis moet stel van sy verrigting van die attesfunksie. Hy het inderdaad ook nie mettertyd dit gedoen nie.

By vonnisoplegging is hierdie komitee se magte ingevolge Artikel 51 van die Wet, een of meer van die volgende: eerstens, ‘n waarskuwing, tweedens, ‘n boete, derdens, ‘n opskorting van die reg om te praktiseer, vierdens, kansellasië van registrasie. Bowendien is daar ‘n bevoegdheid om ‘n koste bevel uit te reik en daar is ook ‘n bevoegdheid om publikasie te gelas van die aanklag, skuldigbevinding en vonnis, met of sonder die vermelding van die Respondent se naam.

By die vasstelling van ‘n gepaste vonnis word die belange van die

gemeenskap gewoonlik teenoor die belange van die Respondent opgeweeg. In daardie proses is die aard en erns van die aanklag dikwels egter van deurslaggewende belang. Die onderhawige aanklag is wat ons aanbetref, baie ernstig. Die wese van die attesfunksie is die vertrouwe wat buitestaanders daaraan heg. Daarenteen is dit so, soos mnr [C] aangevoer het, dat mnr [V] skuldig gepleit het, en dit op sigself is prysenswaardig. Dit is ook so dat hy 'n eerste oortreder is, en mens neem dit in ag.

Daarenteen egter was mnr [V] nie bereid om homself aan kruisverhoor te onderwerp nie, en het bloot 'n eedsverklaring ingedien. Wanneer 'n mens na die eedsverklaring kyk, is daar vier kwessies wat by ons kommer wek.

Die eerste is die verduideliking wat hy in die eedsverklaring gee dat hy die oudit gedoen het op 9 Februarie 2006, maar as 'n mens lees wat in die verslag staan aan die Kaapse Wetsgenootskap, dan is dit nie versoenbaar met daardie verduideliking nie. Kragtens die verslag aan die Kaapse Wetsgenootskap het hy die boeke nagegaan op 22 Desember 2005. Mnr [C] het verduidelik, nadat hy instruksie geneem het, dat die vermelding van die datum 22 Desember 2005 op bladsy 19 in die verslag deur die onafhanklike rekenmeester aan die Kaapse Wetsgenootskap, is dus 'n fout en dit moes gelees het 9 Februarie 2006. Ek weet nie wat die implikasies daarvan is nie, en ek weet ook nie of dit aanvaarbaar sou gewees het vir die Kaapse Wetsgenootskap indien hy vertel was dat die datum van die inspeksie 9 Februarie 2006 was, terwyl die boeke al opgeskryf was op 15 Desember 2005 nie. Dit was nie verder geneem nie. Die probleem wat ons egter ervaar is die feit dat hierdie kwessie nie opgeneem is in die eedsverklaring van mnr [V] nie.

Tweedens, het hy in sy eedsverklaring aanvanklik op bladsy 6, paragraaf 3.5, gesê dat toe hy die nie-atteseedsverklaring onderteken het, hy gemeen het dat dit inderdaad

beteken dat hy onmiddellik die praktyksoorsigdirekteur in kennis moet stel indien hy die attesfunksie verrig. Dit is dan ook inderdaad wat die eedsverklaring in soveel woorde sê. Sy eedsverklaring op bladsy 9, paragraaf 3.14 is egter nie daarmee versoenbaar nie, want daarin staan dit dat hy gedink het dit beteken hy hoef dit eers mettertyd te doen.

Mnr [C] het opdrag geneem en ons is meegedeel dat mens bladsy 6, paragraaf 3.5, moet verstaan om te lees dat hy daarby bedoel dat hy nou verstaan dat die atteseedsverklaring beteken dat hy die praktyksoorsigdirekteur onmiddellik in kennis moet stel.

Derdens, in **Bewysstuk B**, sy eedsverklaring op bladsy 8, paragraaf 3.12, het hy gesê, ek haal aan :

“Ek het geweet dat die verslag nie betyds sou wees indien ek die aangeleentheid sou terug verwys na [S] om te onderteken nie. [S] het op daardie stadium die attesfunksies van die vennootskap verrig.”

Hierdie paragraaf skep die indruk dat die Respondent sou gemeen het dat dit in orde was vir hom om die werk te doen en dit deur te stuur aan mnr [S] “... om te onderteken...” Dit is nie 'n behoorlike waardering van die verantwoordelikhede wat saam met die attesfunksie gaan nie.

Laastens, het dit tydens vrae aan mnr [C] geblyk dat die werkpapiere wat ons ontvang het as **Bewysstuk C**, aandui dat die oudit inderdaad uitgevoer is reeds in Desember en wel deur 'n mnr [B].

Die eedsverklaring van die Respondent, **Bewysstuk B**, paragraaf 3.9, vermeld niks daarvan nie en vermeld bloot dat mnr [V] die oudit afgehandel het. Dit vertel dus nie die hele verhaal nie.

Om hierdie redes is dit ons gevolgtrekking dat mnr [V] nie destyds omgee het oor sy eedsverklaring op bladsy 16 ten opsigte van die vervul van attesfunksies nie, en nie omgee

het oor sy verantwoordelikheid om die praktyksoorsigdirekteur onmiddellik skriftelik in kennis te stel indien hy wel 'n attesfunksie verrig nie. Ons is ook nie gelukkig dat die verduidelikings wat hy hier vir ons gegee het, bevredigend is nie.

Dit gesê is die aanklag teen die Respondent uiteindelik maar net dat hy 'n verslag deur 'n onafhanklike rekenmeester aan die Kaapse Wetsgenootskap onderteken het sonder dat hy die praktyksoorsigdirekteur onmiddellik skriftelik in kennis gestel het dat hy dit of sou doen, of gedoen het. Die feit dat ons nie sy verduideliking aanvaar nie, beteken nie dat die klag per se ernstiger word nie.

Alles in aggenome is na ons mening die volgende 'n korrekte vonnis en dit is dus die besluit van die komitee dat die volgende vonnis opgelê word:

- Eerstens, 'n boete van R50 000.
- Tweedens, 'n bydrae tot die koste van hierdie verrigtinge ten bedrae van R24 000.
- Derdens, publikasie van die besonderhede van die aanklag en van die vonnis, sonder vermelding van die Respondent se naam moet IRBA NEWS geskied.

Dankie. Die verrigtinge is verdaag.”

POACHING OF TRAINEE ACCOUNTANTS

This is an issue of enormous concern to the Board and a source of anger and frustration among RAs.

I append the body of a memorandum addressed by me to my colleague the Standards Director, so that practitioners who are guilty of this practice – as well as practitioners who are victims of it – can see that the Board has taken the concern to heart.

“One of the issues which has been taxing the mind of the Investigating Committee is that of “poaching” trainees from other firms. Particularly in the current economic climate where there are not enough quality trainees to go around, smaller firms who take matriculants are seriously disadvantaged by these clerks being poached by other firms once the smaller firms have trained them to a certain standard. One way of addressing this issue would be an amendment to the current provisions

of the disciplinary rules which prohibit the recovery of monies spent on the clerks, except in certain very limited circumstances, by the principals.

I have been requested by the Investigating Committee to draw the attention of the Ethics Department, and Code of Conduct drafters, specifically to this problem, and to ask you to address it specifically in the redrafting of the Code.”

IN MEMORIAM

The Legal Department and committees learned with sadness of the death of Stuart Burt on 24 December 2007. Stuart served as the KwaZulu-Natal representative on the Investigating Committee from 1995 – 1997, when he retired

from the Committee and his place was taken by Kishore Kooverjee, currently its chairman. Stuart brought a sharp mind, a quick wit and a gentle compassion to his role on the Committee and we remember him with affection.

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REGISTRY

INDIVIDUALS ADMITTED TO THE REGISTER OF THE BOARD From 01 AUGUST 2007 to 31 DECEMBER 2007

Africa Brendan Clive
Appel Andre Martinus
Bannon Janine Claire
Bezuidenhout Francois
Bhana Reenesh
Bird Steven George
Boettger Carryn Anne
Bosch Ronelle
Botha Abraham Johannes Joubert
Botha Adriaan Moolman
Botha Carmen
Botha David Petrus
Botha Johannes Petrus
Breytenbach Suzel
Brits Adel
Carshagen Allister Jon
Carswell Heather
Clark Larissa
Coetzee Jacques
Compion Anna Susanna
Dada Mava
Davel Adriaan Jacobus
De Villiers Johanna Cornelia
Dhorat Ebrahim
Ducler Des Rauches Gareth Philippe
Du Plessis Simon Jurgens Petrus
Edwards Kim
Erlank Jan Carel
Essa Muhammed Abdul Kader
Fay Paul Antony
Ferreira Merwyn Edward
Field Alan Brett
Frey Ben
Fryer Marilie
Gerber Johan Andre
Harding Lauri-anne
Harvey Julie Carolyn
Henderson Rosanne
Heymans Harriet Anne
Hollins Sally Fiona
Howard-browne Camilla
Jacobs Reyaaz
John Nicholas Calvin
Jordaan Alida Louise
Jordaan Johannes Petrus Lodewickus
Kader Nasser
Karreem Farouk Ayoob
Kempen Craig Anthony
Khimjee Anil
Klingenberg Marlene Margrit
Kotze Dirk Hendrik
Kotze Philippus Johannes
Krige Tanya
Loonat Safeera Mahomed
Lovell Bronwyn Elizabeth
Maboa Mashukudu James
Mackenzie Thomas Duncan
Malan Johannes Gerhardus

Malaza Fundisiwe Simangele
Precious
Malevu Isaac Nkululeko
Maritz Susanna Elizabeth
Mitchell Simone Elana
Morris Neil Gregory
Mothudi Petersen Mmotsa
Movundlela Mahlatsi Wilfred
Naidoo Sudasha
Narsai Ritesh Jamnadas
Ndzimande Vincent
Nothnagel Albert Jacobus
Oosterveld Mettinus Margarethus
Owen Janine
Olivia Jane Anne
Pangwa Velile
Pappas Marlene
Pather Thinglemony
Pienaar Lindie
Predieri Mauro
Pretorius Francisca
Pretorius Hermanus Phillippus
Pretorius Ronel
Pretorius Willem Sterrenberg
Rakoma Sibabalwe Nangamso
Rattigan Maureen
Rudnicki Michael
Samson Richard John David
Schluter Paul
Scholtz Anita
Serfontein Jan Lodewyk
Sherratt Elizabeth
Singh Kumeshnee
Sithebe Sifiso
Sithole Alfred Mphikwa
Sittig Melinda
Sleigh Colleen Anne
Sondlo Nolubabalo
Steyn Arno Johannes
Strydom Stefan
Suliman Bibi Khatija
Terblanche Frederik Ebert
Thomas James Crawford
Tucker Andrew David
Van Der Colff Ashlene Isle
Van Der Merwe Herman Benjamin
Van Der Westhuizen Moira Marcella
Van Huyssteen Martin
Van Rooyen Marie Gien
Van Staden Andries Jacobus
Van Staaden Burton Harlen
Van Wyk Andre
Van Zyl Chantal
Venter Janine
Viljoen Corina
Walker Jason John
Walker Misska
Ward Stephen Etienne Ethelbert
Wedderburn Stuart Guy

INDIVIDUALS RE-ADMITTED TO THE REGISTER OF THE BOARD From 01 AUGUST 2007 to 31 DECEMBER 2007

Apperley Charles Reginald
Berkman Avron Joel
Bezuidenhout Willie
Booi Mveleli
Bukhosini Bhukumuzi Andreas
Bulkin Richard George Harris
Butlin Peter Giles Redin
Chen Su-lan
Coetzee Leilani
Coetzee Marnus Nico
Daleski Cyril Barry
Du Plessis Willem Adriaan
Eksteen Karin
Goodman Max
Greyling Gerrit Willem
Harris Carl Andrew
Josselowitz Brett Alan
Kara Imtiaz Ahmed Ismail
Leibovitz Norman Allen
Lindeque Susanna Wilhelmina
Mantel Michael Anthony
Massyn Johannes
Mazhindu Charles
Mellet Carl
Minnaar Johannes Martinus
Moolman Wynand Theunis Jacobus
Mpungose Hopewell Gladstone
Sifiso
Msomi Sibisiso Desmond
Musiker Lawrence Colin
Nel Paul
Ntisana Pumeza
Odendaal Samuel Jacobus
Oosthuizen Tobias Johannes
Phaka Alphabet Malusi
Phillips Grant Stuart
Raath Jan Louis
Rajoo Anil Ramdass
Ramongalo Sellonyana Israel
Resnekov Timothy David
Rheeder Christian Georg
Rhoda Richard Patrick
Ross Robert Keith
Roux Christian Anton
Schoombie Sonja
Scott De Buys
Smit Jacobus Francois
Stone Ivan Alexander
Strauss Johann Egbertus
Van Collier Hermanus Stephanus
Van Den Bosch Wessel Nicolai
Marius
Van Zyl Hermias Cornelis
Volschenk Kobus
Vorster Johannes Paulus George
Wynn Rosary
Yssel Hester Magdalena

REGISTRY

CONTINUED

INDIVIDUALS REMOVED FROM THE REGISTER OF THE BOARD From 01 AUGUST 2007 to 31 DECEMBER 2007

Abrahams Zuhdi (Resigned)
Albertyn Hendrik (Resigned)
Bakkes Paul Helgard (Deceased)
Bryant Robin Micheal (Deceased)
Cairncross John Michael (Resigned)
Cowie Neil Andrew (Resigned)
Cromhout Johannes Hermanus
(Resigned)
Cuss Trevor John (Resigned)
D'arcy-herrman Peter Dawson
(Resigned)
Edwards John Rodney (Resigned)
Eleftheriou Tereza (Resigned)
Erasmus Michelle Barbara Elinor
(Resigned)
Evans John Stanley (Resigned)
Farrugia Jean Claude (Deceased)
Ferreira Johanna Maria (Resigned)
Fine George Raymond (Resigned)

Fontanot Paul Don (Emigrated)
Gericke Godfrey Giles (Resigned)
Gordon Jack Woolf (Deceased)
Hatzkilson Leonard (Deceased)
Haumann Charles Tielman
(Resigned)
Heggie Lisa Joy (Resigned)
Hendricks Neven Gradon (Resigned)
Isaacs George Harris (Resigned)
Jager Charl Marais (Resigned)
Khan Mohamed Iqbal (Resigned)
Lapedus Robert Eric (Resigned)
Lotter Odette (Resigned)
Luther Ninette (Resigned)
Maehler Jonathan Grant (Resigned)
Maharaj Junai Arunkumar (Resigned)
Maistry Egashnee (Resigned)
Mans Koert Nicolaas (Resigned)
Masson Carel Johannes (Resigned)
Nel Angeline (Resigned)
Pennells Jacques (Resigned)
Posthumus Mariska (Resigned)
Rosenberg Jonathan Burrel
(Resigned)

Ryan Shirley Alison (Resigned)
Salter Frank Lewis Sullivan
(Deceased)
Scheepers Marna (Resigned)
Schiff Harry (Resigned)
Serebro David Martin (Resigned)
Thompson Jan Pieter (Resigned)
Van Der Nest Jurie Johannes
(Resigned)
Van Der Walt Mario (Resigned)
Van Niekerk Francois Phillippus
(Resigned)
Wilson Ian Wallace (Deceased)

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