



irba

INDEPENDENT REGULATORY BOARD FOR AUDITORS

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NEWS



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MESSAGE FROM THE

CEO

The IRBA information sessions (road show) were held countrywide during July and August, and IRBA experienced an unexpectedly high turnout at all the venues. We were encouraged by the positive reception and enthusiastic attitude of many RAs, and will continue to take note of issues raised so that these can be addressed for the benefit of all RAs. A wide range of topics was addressed by myself and my directors, and I have summarised some of the key points below.

There is a real risk of one of the large audit networks failing due to a claim resulting from the current unlimited and uninsurable liability that auditors face.

The profession internationally, as well as in South Africa, proposes to limit RAs' liability in the future. One such proposal is that it be limited to a multiple of the audit fee. Another possibility is that auditors will become limited liability partnerships. Like a company, they will have partners' funds and their liability will be limited to that fund. In the past, a plaintiff could claim not just against the partner who wronged him but against all of the firm's partners as well and until now, like other professionals, auditors have been liable in their personal financial capacity as well, through their own personal assets. However, in the case of fraud, dishonesty or other criminal conduct, the RA concerned should be accountable for his actions and the consequences thereof.

Different standards for companies that are not public interest organisations could well open up

alternate assurance services to non CAs in the future. One of the primary objectives of the corporate reforms is to reduce the financial and administrative burden on smaller companies and companies without public accountability. One such alternative is to obtain a "review report" rather than a full "audit report", although at this stage there is doubt that the creditors of companies, eg. their bankers, would accept the level of assurance given by such a review report, and would nevertheless continue to require audited annual financial statements. The IRBA is confident that auditors are able, in terms of the current international standards, to express an audit or independent review opinion on annual financial statements. IRBA will give further detailed comments once the draft regulations are exposed for comment on 30 September.

The next meeting of the International Federation of Independent Audit Regulators (IFIAR) takes place in Singapore during September 2009, and feedback will be given in the next issue of IRBA News.

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CEO

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PUBLIC PRACTICE EXAMINATION 2009

GENERAL INFORMATION

It will soon be time for the annual Public Practice Examination again, so here is a reminder of the important dates and details. A regularly updated list of registered candidates is available on the Student page of the IRBA website at www.irba.co.za.

Important Dates

- Examination date: Wednesday, 18 November 2009
- Opening date for registration: Monday 03 August 2009
- Closing date for special concessions applications: Tuesday 15 September 2009
- Closing date for registration: Friday 02 October 2009
- Closing date for late registration: Monday 02 November 2009

Publication of results:
Friday 26 February 2010

Entrance Fees

- R1710-00 (Inclusive of VAT at 14%)
- An additional fee of R627-00 (Inclusive of VAT at 14%) is payable in respect of late registration after 02 October and before 02 November 2009.

London Examination Venue

An examination venue will be established in London; however, the IRBA reserves the right to cancel this venue if the number of candidates who register to write at this venue is not feasible.

Alternative Examination Arrangements

The IRBA may make alternative examination arrangements available to candidates that require these arrangements for medical, personal or other reasons. The policies and

procedures governing all applications for special concessions are available on our website www.irba.co.za. Granting of special concessions is entirely at the discretion of the IRBA.

Laine Katzin

Director: Education, Training & Professional Development

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FOURTH CYCLE INSPECTIONS / REVIEWS

Since practice reviews commenced in 1995 the re-review criteria for every review cycle have been a significant measurement of the level of compliance to auditing standards by registered auditors. The criteria have also been reconsidered for every review cycle to ensure continual improvement in compliance to auditing standards by registered auditors. Such re-review criteria are determined by the Inspections Committee at the beginning of every review cycle.

During the 2009 road shows, which were attended by a significant number of Registered Auditors, we addressed both the re-review criteria for the fourth review cycle and the classification of the firms' audit client base. We also indicated the significance of the classification of firms' audit client base (being categories A, B & C) in enabling the IRBA to identify the firms performing audits of financial statements of public interest. The Auditing Profession Act, No. 26 of 2005 (APA) at section 47(1)(b) states: *"Despite the generality of paragraph (a), the Regulatory Board, or any person authorised by it, must at least every three years inspect or review the practice of a registered auditor that audits a public interest company as defined by the Companies Act, 1973"*. An audit is defined by the APA and in short refers to an examination of financial statements in accordance with applicable auditing standards, while the definition of a Registered Auditor includes both the individual and the firm.

Public Interest

The Inspection Committee has agreed to define public interest entities to be those companies, funds, associations, or institutions, irrespective of the Act or Regulation under which these were established:

- where its majority equity or debt securities have been obtained from the general public or via grants from government or charitable organisations;

- the entity has to account for its operations to another regulator;
- the entity handles or manages amounts received from the general public for investing or other activities.

Re-review Criteria

No change has been made to the re-review criteria by the Inspection Committee in respect of audit documentation for the fourth cycle. However, disclosure now requires to be risk-rated and non-compliance with auditing standards and /or accounting framework, statutory and regulatory requirements that has the potential to effect the appropriateness of the audit opinion will become the subject for a possible re-review decision.

Classification A, B & C

The past review cycles consistently categorised audits of financial statements of public interest entities into categories A, B & C and these have been explained verbally, via previous road shows and on the PAAB and now the IRBA websites. Categories A & B form the public interest audit base and category C the non-public interest audit base.

Reviews

All firms that perform audits of financial statements of public interest entities are now subject to firm reviews. The aim of firm reviews is to ensure that standards with regard to quality control and other applicable auditing standards are complied with and non-compliance, including steps to take corrective action and disciplinary steps, must be addressed by the firm to the satisfaction of the IRBA.

Firm reviews include a sample of engagement reviews as well as re-performance of the firms' internal monitoring

reviews. All the partners of such a firm are subject to the same review process, whether they perform audits falling onto category A, B or C, once in a three year review cycle.

Those firms that do not perform audits of financial statements of public interest entities (category C) are subjected to engagement reviews only and the present cycle of 6 years still applies. The purpose of engagement reviews is to determine that through adequate documentation of audit procedures an appropriate audit opinion has been expressed.

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QUARTERLY REPORT FROM THE DIRECTOR: LEGAL FOR THE PERIOD 1 APRIL 2009 TO 30 JUNE 2009

INVESTIGATING COMMITTEE

The Investigating Committee met twice during this period and disposed of one matter in terms of the old dispensation. This was settled by way of a consent order and concerned eight people who were partners of a firm, at the time in question, and arose out of certain 'money market' services then offered by the firm. Various charges were levelled against the different partners and fines were issued, which differed from partner to partner. Fines totalling R522,500 were imposed, of which R248,750 was suspended on conditions. The firm contributed R130,000 towards the costs of the investigation.

In addition, complaints were withdrawn in four matters where the committee did not consider it necessary to pursue the complaint, and one matter was suspended until the outcome of concurrent litigation.

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

DISCIPLINARY ADVISORY COMMITTEE

The Disciplinary Advisory Committee met twice during this period and disposed of 20 matters, as follows.

Decision not to charge

- one matter in terms of Disciplinary Rule 3.5.1.1 (the respondent is not guilty of unprofessional conduct; this includes the situation where the conduct in question might be proved but even if so, it does not constitute unprofessional conduct);
- two matters in terms of Disciplinary Rule 3.5.1.2 (the respondent having given a reasonable explanation for the conduct);
- three 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);
- two matters in terms of Disciplinary Rule 3.5.1.5 (in all the circumstances it is not appropriate to charge the practitioner with unprofessional conduct).

Decision to charge and matter finalised by consent:

Two practitioners were cautioned.

- one matter related to holding office as director and auditor simultaneously
- one matter arose out of practice review.

Ten practitioners were fined.

- one matter related to financial advice and suretyships (R25,000)
- one matter was tax related (R5,000)
- one matter was attorneys trust account related (R50,000)
- seven matters arose out of practice review **

2nd cycle 2nd review:

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

2nd cycle 3rd review:

- one practitioner was fined R40,000 of which R20,000 was suspended on conditions, as well as a previously suspended fine of R15,000;
- one practitioner was fined R40,000 of which R20,000 was suspended on conditions;
- one practitioner was fined R30,000 of which R15,000 was suspended on conditions.

** In certain of these cases the imposition of sentence was postponed indefinitely on condition that the practitioner in question either withdrew from the Board's register, or became non-attest.

In addition the complaint was withdrawn in one matter and the committee did not consider it necessary to pursue the complaint.

DISCIPLINARY COMMITTEE

The Disciplinary Committee met once during this period, on 22 June 2009 to hear the case against Mr V. The matter related to the audit of financial statements of various property companies, which were public but unlisted.

The finding and sentence of the committee, from which the facts are apparent, were delivered by the chairman, Adv W HG van der Linde SC. They are reproduced in full.

"In this matter the respondent was charged with 13 counts of improper conduct. After documentation substantiating the charges were made available to him, he pleaded guilty to some but not others of those charges. At the commencement of the proceedings the pro forma prosecutor applied to amend the charge-sheet. The effect of the amendment was to reduce the charges and to re-categorise them. Counsel who appeared for the respondent did not object to the amendment and it was granted. The respondent then pleaded guilty to the charges as amended and he was found guilty on his plea.

Those charges and some of the facts on which they are based are **EXHIBIT 1**, pages 2.1 to 2.15. The respondent did not lead any evidence or make any submissions regarding sentence. The pro forma prosecutor handed in a report by [a forensic investigator] dated 20 April 2009 by consent. He relied on the report as the factual basis on which this committee should rely for the imposition of the sentence.

That report examined ten annual financial statements of public companies in which the respondent was the statutory auditor. In each instance the respondent issued unqualified audit reports. In each case the respondent prepared the directors' reports which in the event were not signed. However, the directors' reports reported that the accounts had been prepared on a going concern basis.

An example of the audit opinion expressed is taken from the accounts of [OP Ltd] for the period ending 28 February 1998 and reads as follows:

"In our opinion the financial statements fairly present in all material respects the financial position of the company at 28 February 1998 and the result of its operations for the period then ended in accordance with generally accepted accounting practice and in a manner required by the Companies Act."

An example of the going concern statement in the directors' report is lifted from the same accounts:

"The financial statements have been prepared on the going concern basis since the director have (sic) every reason to believe that the company has adequate resources in place to continue in operation for the foreseeable future."

Both these statements were wrong in nine instances, and in material respects. The same mis-statement appears in nine of the accounts concerned, namely that the accumulated loss that resulted from a devaluation of the property which was the only meaningful asset in each company was not properly accounted for.

In particular the accumulated loss was not reflected as a shareholders' deficit after taking account of the appropriate share capital concerned. Had that been done the balance sheet in each instance would have reflected an insolvent company. In the event five of the six companies concerned are no longer trading and have either been de-registered or liquidated.

It is common cause that investors have lost money.

Concerning sentence the pro forma prosecutor has not asked for a cancellation of registration nor for a suspension of the respondent's right to practice. He has also not asked that the respondent's name be published in IRBA News. He has asked however for the maximum fine being R100,000 and for a contribution of R300,000 to the cost of the prosecution. Counsel for the respondent said that the respondent accepted that proposal. This committee agrees that the proposed sanction is appropriate for the following reasons.

In mitigation we take into account that the respondent has practised for 21 years and has no previous convictions. We take into account that the charges did not involve dishonesty and that the offences were all committed within a narrow band of time. We take into account too that the respondent pleaded guilty.

In considering an appropriate sanction the following factors are important for our perspective.

First, the mis-statement of the balance sheet is a serious offence. The public who have invested in these companies would first of all look to see what it is that the balance sheet equation is supposed to effect, namely the shareholders' equity, and in each instance barring one, the investor would have seen a positive equity whereas it should have reflected a shareholders' deficit, meaning that the company concerned was insolvent.

The exception is the annual financial statement for 28 February 1998 of [OP 2 Ltd] reflected at **EXHIBIT 4.109**. Its balance sheet correctly accounted for the accumulated loss as part of capital employed, but the balance sheet was still incorrectly drawn albeit in less serious respects as more fully set out on page 3.19 of the forensic report.

The obfuscation of the shareholders' deficit however was exacerbated by the two reports to which I referred above, that is to say the report of the auditor and the report of the director. Even if the balance sheet was therefore only confusing, as opposed to positively misleading, the accounts read as a whole cemented the mis-representation. The accounts did not fairly present in all material respects the financial position of the companies but on the contrary mis-represented it.

The second factor we take into consideration is this. These companies were public companies; it implies that members of the public are invited to subscribe for units in the investments and since the companies are not listed the IRBA is the only regulatory authority to which the public and the taxpayer can look to police professional standards in this particular environment. The IRBA should accordingly be seen pro-actively to fulfil its statutory mandate.

We agree that the two charges should be taken together. We accordingly impose the following sentence:
One, the respondent is fined in the amount of R100,000.
Two, the respondent is directed to contribute R300,000 towards the cost of the prosecution."

Queries: **Jane O'Connor**
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REGISTRY

INDIVIDUALS ADMITTED TO THE REGISTER OF THE BOARD From 01 APRIL 2009 to 30 JUNE 2009

ADAMS Moegamat Salie
ARMIEN Gaarieth
BARTLETT Nicola Beth
BEKKER Petrus Johannes Jacobus
BERGSTEDT Coleman
BEZUIDENHOUT Jason Grant
CAMPBELL Carrie
CASSIM Mohamed Zaahid
COETZEE Riaan
COETZEE Eduard Carl
DE FARIA Maurico Gomes Quintal
DE JAGER Tanya Martie
DE KOK Johan Leonardu Formyn
DEKKER Jakob Jan
DWANYA Mthunzi Lulamile Luxolo K
ENGELBRECHT Bruwer Christo

ERASMUS Jean
FAKEY Zahid Hassan
FOURIE Wilme Susam
FOURIE Mynette
GABRU Zeyn
GERBER Eckhardt
HAMMAN Nicolaas
HAYMAN Larka Kay
HERMANUS Thabiso Mpilo
Hermans
HOOGWERF Pieter Mark
HUMPHREYS Brett Stephen
JOSHI Pankaj
KATZ Michael Theodore
KING Sebastian Guy David
KRUGER Lucas Wilhelm
LABUSCHAGNE Sandra
LAITHWAITE Peter Robert
LAPOORTA Althea
LAWSON Vernon James
LE ROUX Jaen

LEKAUKAU Moathlodi Kefentse
LEOLO Malose Edmund Ntltlwane
LOUTER Annalise Estelle
LUCAS Anna Sofia Magdalena
MAGGS Derwent James
MAHARAJ Adheesh Praveenlall
MDUTSHANE Khanyisa
MINNAAR Norman Willows
MSANI Sanele Walter
MUZA Jeremaya
MUZAREWETU-NYATANGA Nyarai
Gamuchirai Margaret
NAIDOO Daniel
NATSAS Constantinos
NEL Frans Emile
NGCOBO Linda Rose-Anne
NIEUWOUDT Hermanus Christoffel
OSMAN Muhammed Taahir
PETERS-NEWMAN Kandice
PITT Andrew Theunis
PRICE Wesley Dean

REGISTRY

CONTINUED

RIBA Lerato
SAAYMAN Marguerite Justine
SAMARJITH Vishall
SEBATHA Gladys
SINGH Rajeev
SINGH Utham
SPENCER Melanie Claire
STANLEY Shirley Louise
STOKES Coenraad Jacobus
STOLTZ Reinier
SWANA Lubabalo Onke
SWANEVELDER Johanna Cornelia
TAKU Sylvester Ayuk
TAYLOR Andrew Graham
TAYOB Mohamed Saber
TSOTETSI Tumelo
VAN DAMME Ronald
VAN DER HORST Ulrike
VAN DER WESTHUIZEN Francois Du Plessis
VAN SCHALKWYK Pieter Kleynhans
VAN ZYL Jacobus Johannes
VENTER Riaan Rupert
VILJOEN (BOTH) Jeanne Annete
VISSER Jacob Francois
VISSER Lawrence
WESSELS Jacobus Myburgh Brink
WILLIAMS John Gareth

INDIVIDUALS RE-ADMITTED TO THE REGISTER OF THE BOARD From 01 APRIL 2009 to 30 JUNE 2009

BHANA Reenesh
ENSLIN Maryke
GIRD Michael Wilfred Neville
GOLDSTEIN David Roger
GROBBELAAR Jacobus Johannes
KOTZE Philippus Johannes
MOLALA Mamadiga Salome
ROSS Robert Keith
SCOTT Trevor William
TAYLOR Gerdileen
VAN SCHALKWYK Christiaan Jacobus

INDIVIDUALS REMOVED FROM THE REGISTER OF THE BOARD From 01 APRIL 2009 to 30 JUNE 2009

ADDINALL Arthur John
ALBERT Michael John
ATKINSON Bruce Wayne
AUSTIN Phillip Seth Findlay
BAILEY Peter Graham
BARRY Sheldon Ross
BASSON Johanna Paulina Catharina

BAYANT Aysha
BEZUIDENHOUT Gerald William Lee
BLACK Alan John
BLAIR John Hay
BORCHARDT Frederick Francois
BOTH A Linda Collen
BRINK Johannes Mattheus
BROOKS Stanley Robert Dent
BROWNE VCB
CHILLIBA Stoffel Delekile
CLARKE Joelene Dawn
COMBRINK Gert Cornelius Ignatius
COTTRELL Richard Gray
CROMHOUT Peter Martin
DAVIDS Brendon Arn
DE SWART Louise Stephanus
DE WIT Stephanus Gabriel
DELL Benjamin Errol White
DONALLY Caroline Sandra Erica
DOWLING Kevin Marc
DU PLESSIS Simon Jurgens Petrus
DU PREEZ Francois
ELLIOT Graham John
ESAU Tamara Carol
FAIR A
FOURIE Christoffel Jacobus
FOURIE Johannes Jacobus
GOLD Darren Jonathan Gary
GROTA Sheenagh Janet
HALDSTOCK Dalton Clive
HARTMANN David Andrew
HARTMANN Noreen Adele
HEMPSON Philippa Rhoda
HENERY Craig Duncan
HENRY Richard Dominic Wilmot
HERMAN Geoffrey Selwyn
HEYMAN Brian Derrick
HILLIER Lara
HOEK Louise
KAIDOS-MARTINS Helena Sevasti
KEMP Sarah Liezel
KOTZE Lizette
LANG Richard John
LAZARUS Bernard Asher
LETSCHERT Peter
LINNET Colin Michael
LOTTER Berendina
LYDALL Kenneth Robin
MAASDORP Martinus Schutte
MAHOMED Habib Rishard
MARGOLIS Maria
MCCLOUGHLIN Barry Kenneth
METCALF Anthony Douglas
MEYER Hendrik Tjaart
MEYER Suzanne
MHLONTLO Zwelifikile
MODIPANE Tebogo Collen
MOOLLA Yunus
MOZ Andrea
NARDONE Andrew Peter Henderson

NEVIN George Rindley
NOBLE Shereen
OOSTHUIZEN Walker Petrus Venter
PARKER Mohamed Alie
PARSONS Trevor John
PENNING Gerrit
PINSHAW Hymie
PRINGLE Bruce McDonald
QUINTAL Nita Paula
RAMUEDZISI Vhonani Denga
RONAN Gerard Hayes
ROSEN Stanley
ROSS Timothy Dacre Aird
SAAYMAN Reuben George
SCHREIBER Lindsay Jane
SCOTT Ian Somerville
SEXTON Gareth John
SMIT Jacobus Petrus
SNEEDON Colleen Rae
STEPHENS David Heathcote
STRYDOM Martyn
SUSAN Clarence Jan
TAITZ David
THOMPSON Alan Glyd
VALJEE Ashok Jainthalal
VAN DER MERWE Jonahan Jacobus
VAN DER WALT Charl Lourens
VAN DER WESTHUIZEN Phil Arundel Theron
WALKER Andrew Dudley
WALKER Misska
WESSELS Anel
WHITLEY Jeremy William
WHITLEY Rodney James Horner

Francois Opperman
Registrar

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GENERAL NEWS

ANNOUNCEMENT REGARDING IRBA'S VALUE-ADDED TAX STATUS

IRBA is a juristic person in terms of Section 3 of the Auditing Act and is listed as a National Public Entity in Part A of Schedule 3 to the Public Finance Management Act, 1999 (Act No. 1 of 1999) (the PFMA).

As a result of this status, South African Revenue Services (SARS) has deregistered IRBA as a vendor for VAT purposes with effect from 31 August 2009.

Please note this information for future financial transactions with the IRBA.

For more information contact IRBA's Operations Department at 087 940 8825 or e-mail operations@irba.co.za

IRBA 2009 FIRM ANNUAL FEES

The invoice for 2009 firm annual fees will be posted to firms during November 2009.

The firm annual renewal fee is based on R1,210 per partner per firm. Fees are due by 30 November 2009 and payable by 31 January 2010. Please note that as of 31 August 2009 the IRBA is no longer registered for VAT and payment should therefore be made on the amount invoiced, which excludes VAT.

Please note that if a practitioner who is a partner, director or sole proprietor of a firm is over 65 this will not affect the amount of the firm annual fees, as this is the fee due and payable by the firm, not the individual.

To ensure the invoice will reach the correct person at your firm, please verify the firm's details on the IRBA website www.irba.co.za. The details can be found under the RA

Search option in the Main Menu. If your firm's details have changed please complete the document "Confirmation of Audit Firm Details" at www.irba.co.za/index.php?option=com_content&task=view&id=406&Itemid=44 and e-mail it to registry@irba.co.za or fax to 087 940 8873, as soon as possible.

ON A DIFFERENT NOTE.

Jane O'Connor recently received the following email from a colleague, which should remind us that the auditing profession – and the chartered accountancy profession to which it is closely allied – is one to be proud of:

Dear Jane

I have just returned from a tour of the North African battlefields in Egypt and Libya. Very moving and fascinating.

In Tobruk I came upon the grave of Lt Gunn, a very brave man who won the Military Cross and a posthumous Victoria Cross. I attach a photograph of the grave.

I found it poignant that his parents also felt the need to inscribe on his gravestone that he was a chartered accountant.

Clearly a CA ranks right up there with a VC.

*Best regards
Johann*

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