

SAICA Disciplinary Report – Quarter 1 2020

1. Overview of the Disciplinary Process:

All member complaints received by SAICA are referred to the Designated Officer and allocated to the Legal and Discipline Unit staff for case management. All cases in which SAICA has jurisdiction are prepared for submission to the Professional Conduct Committee (PCC). The PCC is an independent committee, chaired by either an advocate or an attorney and also consisting of members of SAICA who volunteer their services to form part of the Disciplinary Panel. The PCC decide on how all complaints should be dealt with.

The SAICA Legal and Disciplinary staff prepare the complaint documentation for submission to the PCC. The bundle submitted to the PCC for consideration comprises a complaint affidavit; sufficient evidence to support the complaint; the written explanation from the accused person; any further responses required by the Complainant; an analysis of the complaint in light of the SAICA By-laws and Code of Conduct together with recommendations in terms of merits and sanctions.

The PCC has the authority to call on the accused person to appear before the committee to give any additional evidence and the PCC may decide not to proceed further with the complaint or to refer the matter as a formal complaint to the Disciplinary Committee for a public hearing. Alternatively, the PCC may find the accused person guilty of misconduct and impose a sanction of either a caution; a reprimand; a fine not exceeding R250 000 (two hundred and fifty thousand rand) per charge or a suspension from membership; associateship or traineeship not exceeding a period of 12 (twelve) months.

In the event that an accused person is unsatisfied with the outcome of their matter, they may elect to request that the matter be heard anew by the Disciplinary Committee.

The PCC also considers the ethical component of Fit and Proper Inquiries in order to decide whether persons meeting the academic and experience requirements are fit and proper for acceptance into membership and whether former or prospective Trainee Accountants should be allowed to register/re-register training contracts with SAICA.

Where a matter is referred to the Disciplinary Committee (DC) for a formal hearing, the accused person is allowed legal representation and may lead witnesses and introduce documentary evidence. In the event that the accused person is found guilty of improper conduct, the Disciplinary Committee may impose the following sanctions: a caution; a reprimand; a fine not exceeding R500 000 (five hundred thousand rand) per charge; suspension; exclusion or disqualification from membership; associateship or traineeship.

2. Report on Case Management

2.1 Professional Conduct Committee (PCC)

The PCC met 2 (two) times during this period and considered 29 (twenty-nine) cases.

22 (twenty-two) cases were finalised with 7 cases requiring further investigation.

Professional Conduct Committee January and February 2020- Trends/Nature of Complaints	
Fit and Proper Inquiries (Trainees)	4
Fit and Proper Inquiries (Members)	3
Integrity Breaches	7
Professional Competence Breaches	5
Objectivity Breaches	1
Professional Behaviour Breaches	2
Tax Practitioner Non-Compliance	1
Training Officer Irregular assessment of Trainee Competence	1
Breach of Examination Regulations	2
Trainee Misconduct	2
Failure to respond to communication	1
Total	29

Professional Conduct Committee- Sanctions Imposed	
Fit and Proper for new Traineeship	3
NOT Fit and Proper for new Traineeship	1
Fit and Proper for Membership	2
NOT Fit and Proper for Membership	1
Fines imposed	6
No Improper conduct found	7
Penalty period imposed to extend Training Contract	2
PCC ordered investigation in absence of formal complaint (on-going matters)	4
PCC requested further information (on-going matters)	3
Total	29

2.2 Disciplinary Committee (DC)

The Disciplinary Committee convened 6 (six) times during this period to finalise the evidence in the Anoj Singh case, which was a public hearing.

Evidence has now closed and the Disciplinary Committee will reconvene on 16 July 2020 to hear closing arguments in this matter.

3. Publishing of Rulings in Finalised Cases where PCC or DC have ordered Publication – Q1 of 2020

Only matters where the Professional Conduct Committee or Disciplinary Committee has ordered either general or specific publication or alternatively where the Disciplinary Committee has made a Ruling in terms of By-law 30.2

Matter One:

1. The member was found guilty of improper conduct in that they failed to ensure that the Annual Financial Statement of a Close Corporation was approved and signed by a member/s holding a member's interest of at least 51% cumulatively. This amounted to a breach of Section 58(3) of the Close Corporation Act 69 of 1984 as well as a breach of the Professional Behaviour requirement of the Code of Professional Conduct.
2. The Professional Conduct Committee imposed a fine of R100 000 (one hundred thousand rand) of which an amount of R80 000 (eighty thousand rand) is suspended for a period of 3 (three) years on condition that the member did not commit a similar offence during this period. The Committee ordered general publication of the matter.

Matter Two:

1. A Candidate was found guilty of improper conduct, by making use of their first name and surname in the submitted answer book/script for the Assessment of Professional Competence (“APC”) November 2019 Assessment. This amounted to a breach of SAICA By-Law 34.10 in that the Candidate performed an act of misconduct as set out in APC Exam Regulation 15.1.2 read with 15.4 and 15.5 which constituted improper conduct and a breach of Section 100.5 (e) read with Section 150.1 of the SAICA Code of Professional Conduct by failing to comply with the fundamental principle to maintain Professional Behaviour.
2. The Professional Conduct Committee imposed a fine R 2 000 (Two-Thousand-Rand) and ordered general publication of the PCC findings without the Candidate’s details being disclosed.

Matter Three:

1. The Professional Conduct Committee found the Trainee Accountant guilty of misconduct in breaching the professional behaviour requirement of the Code of Professional Conduct in that the Trainee Accountant breached the terms of the Training Office employment contract when the Trainee Accountant resigned with immediate effect instead of serving the required notice period.
2. The Committee reprimanded the Trainee Accountant for their conduct; added a penalty of 6 (six) months to the new training contract and also ordered the Trainee Accountant to attend an ethics course approved by SAICA.

The Project Director: Legal and Discipline

SAICA Legal and Governance

7 April 2020