



SUMMATIVE (FORMAL) ASSESSMENT: MODULE 9

ETHICS AND PROFESSIONAL PRACTICE

This is the summative (formal) assessment ***for*** Module 9 ***of this course and is compulsory for all candidates who*** selected this module as one of their elective modules.

The mark awarded for this assessment will determine your final mark for Module 9. ***In order to pass this module, you need to obtain a mark of 50% or more for this assessment.***

INSTRUCTIONS FOR COMPLETION AND SUBMISSION OF ASSESSMENT

Please read the following instructions very carefully before submitting / uploading your assessment on the Foundation Certificate web pages.

- 1. You must use this document for the answering of the assessment for this module. The answers to each question must be completed using this document with the answers populated under each question.**
- 2. All assessments must be submitted electronically in Microsoft Word format, using a standard A4 size page and an 11-point Arial font. This document has been set up with these parameters - please do not change the document settings in any way. DO NOT submit your assessment in PDF format as it will be returned to you unmarked.**
- 3. No limit has been set for the length of your answers to the questions. However, please be guided by the mark allocation for each question. More often than not, one fact / statement will earn one mark (unless it is obvious from the question that this is not the case).**
- 4. You must save this document using the following format: [studentID.assessment9]. An example would be something along the following lines: 202223-336.assessment9. Please also include the filename as a footer to each page of the assessment (this has been pre-populated for you, merely replace the words "studentnumber" with the student number allocated to you). Do not include your name or any other identifying words in your file name. Assessments that do not comply with this instruction will be returned to candidates unmarked.**
- 5. Before you will be allowed to upload / submit your assessment via the portal on the Foundation Certificate web pages, you will be required to confirm / certify that you are the person who completed the assessment and that the work submitted is your own, original work. Please see the part of the Course Handbook that deals with plagiarism and dishonesty in the submission of assessments. Please note that copying and pasting from the Guidance Text into your answer is prohibited and constitutes plagiarism. You must write the answers to the questions in your own words.**
- 6. The final submission date for this assessment is 31 July 2023. The assessment submission portal will close at 23:00 (11 pm) BST (GMT +1) on 31 July 2023. No submissions can be made after the portal has closed and no further uploading of documents will be allowed, no matter the circumstances.**
- 7. Prior to being populated with your answers, this assessment consists of 8 pages.**

Commented [LJ1]: You did not comply with this rule at all. In fact all of your answers to Q2 and 3 are directly copied from the Guidance Text without any attempt to paraphrase.

ANSWER ALL THE QUESTIONS

QUESTION 1 (multiple-choice questions) [10 marks in total]

Questions 1.1. - 1.10. are multiple-choice questions designed to assess your ability to think critically about the subject. Please read each question carefully before reading the answer options. Be aware that some questions may seem to have more than one right answer, but you are to look for the one that makes the most sense and is the most correct. When you have a clear idea of the question, find your answer and mark your selection on the answer sheet by highlighting the relevant paragraph in yellow. Select only ONE answer. Candidates who select more than one answer will receive no mark for that specific question.

Question 1.1

Please choose the most correct answer from the options below.

INSOL International's Ethical Principles for Insolvency Professionals -

- (a) are mandatory and apply to all its members.**
- (b) creates a set of rules which all jurisdictions have to incorporate into their insolvency frameworks.**
- (c) creates a set of rules by which stakeholders and the public in most jurisdictions would be able to determine whether insolvency practitioners are acting in accordance with ethical principles.**
- (d) creates a set of best practice principles to inform and educate insolvency practitioners and stakeholders by providing ethical and professional guidance on issues of importance.**

Question 1.2

The "Enlightened Creditor Value" approach to insolvency proposes the following with regard to the protection of competing interests in insolvency proceedings:

- (a) Creditors' interests are of paramount importance and as such only these interests should be protected in insolvency.**
- (b) The interests of stakeholders should be regarded in the same manner as those of creditors.**

Commented [LJ2]: Plagiarism

Commented [LJ3R2]: Total 19 out of 50.

You have not demonstrated that you understand and can apply the principles covered in this module.

Commented [LJ4]: 4/10

(c) Creditors' interests are of paramount importance, however, the interests of other stakeholders should also be considered where this would be in the creditors' interests.

(d) Only the shareholders of the company and the creditors of the company should be protected by the insolvency law (and in that order).

Question 1.3

Unethical behaviour by insolvency practitioners can undermine the entire insolvency framework of a country due to a lack of trust and confidence in the insolvency profession.

(a) **True**

(b) **False**

Question 1.4

Being an officer of the court requires a person to act with integrity and to not mislead the court in acting on behalf of a client. An officer of the court recognises the importance of dishonesty in the justice system and as such would act in a manner which would further the administration of justice to the best of their ability.

(a) **True**

(b) **False**

Commented [LJ5]: b

Question 1.5

Select the correct answer:

Ho has been appointed as a liquidator of Company X. Company X has several major creditors, including ABC Bank. A year prior to the liquidation of the Company, Ho was acting in an advisory capacity for ABC Bank in litigation against Company X where he attempted to advance ABC's position as a creditor.

This situation is an example of a / an _____ threat.

(a) self-review

(b) **self-interest**

(c) advocacy

Commented [LJ6]: c

(d) intimidation

Question 1.6

John was appointed as the liquidator of DebtCO. One of DebtCO's suppliers and major unsecured creditors, S. Panesar, is very friendly towards John. Mr Panesar has heard in passing that John enjoys sport and managed to procure tickets to several events in the recent Tokyo 2020 Olympic Games, which John accepted. John realises that this will be deemed questionable behaviour and he fears that Mr Panesar will make the offer and acceptance of the gift public. This would certainly create a threat to his perceived objectivity.

This situation is an example of a / an _____ threat.

(a) familiarity

(b) self-review

(c) advocacy

(d) intimidation

Commented [LJ7]: d

Question 1.7

Select the correct answer:

Thembi is a well-known insolvency practitioner and is often sought out for her knowledge and expertise. She currently has ten ongoing insolvency matters (most of them quite complex) and has been feeling somewhat overwhelmed. Due to her impressive *curriculum vitae* she is contacted by a very large designer company in distress inquiring whether she would be able to take an appointment as an administrator. Thembi should:

(a) Accept the appointment as it will boost her career even further.

(b) Accept the appointment as she can get one of her junior associates to take over all her other cases.

(c) Accept the appointment because as a professional she will have the ability to give all of the cases she is involved in some attention, although some of them will now only be overseen by her.

Commented [LJ8]: c

(d) Refuse the appointment as she will not be able to give all of the cases she is involved in the requisite level of attention.

Question 1.8

Select the correct answer:

Rajesh has been appointed as a new associate at the firm where he is employed. In his new role he has to meet certain targets in relation to the fees he earns for taking appointments. Rajesh is currently appointed as a liquidator for a small company. He realises that he will not meet the firm's target for fees. The most ethical thing for Rajesh to do would be to:

- (a) Call a creditors' meeting requesting an adjustment to his agreed fees due to unforeseen circumstances.**
- (b) Ask his administrative assistant to invoice the estate for the use of the firm's conference venue for meetings held there at a 50% increased fee.**
- (c) Carry out his duties in a timely fashion and complete the appointment efficiently and without undue delay, only invoicing for work properly performed.**
- (d) Ask his administrative assistant to double check all the calculations in the case file and then bill the hours as part of his invoice.**

Commented [LJ9]: a

Question 1.9

Select the most correct answer from the options below.

An insolvency practitioner using a fixed fee calculation method for determining the amount of remuneration owed to him, will receive a fair amount of remuneration.

Please choose the most correct answer.

- (a) This statement is false since the practitioner might have carried out more work and invested more resources than is reflected in the fee.**
- (b) This statement is true since jurisdictions always allows for an adjustment of fees where it is necessary.**
- (c) This statement is false since the practitioner will always receive more remuneration than what is reflected in the work carried out.**
- (d) This statement is false since the only way to receive a fair amount of remuneration is to calculate the remuneration on an hourly rate.**

Commented [LJ10]: c

Question 1.10

Select the most correct answer from the options below.

Timothy has been appointed as the judicial manager of a large public company. As a result of his appointment, he has been privy to confidential information regarding the company and its stakeholders. Timothy is aware that there is a duty on him to maintain confidential information and is very careful when he speaks to the press and members of the public. However, he often discloses work related information including sensitive information to his brother-in-law when they see one another over weekends and Timothy believes the information will be kept confidential by him.

Please select the statement that best describes Timothy's situation.

- (a) Timothy is not in breach of his duty to confidentiality. He maintains confidentiality when engaging with the press and public. His disclosure to his brother-in-law poses no risk as he trusts him to keep the information to himself.
- (b) Timothy is in breach of his duty to act in the best interests of the beneficiaries of his duties. Timothy's disclosure of confidential information to his brother-in-law will pose a conflict of interest and create bias in the exercise of his duties.
- (c) Timothy is in breach of his duty to confidentiality. As an IP he should maintain confidentiality even in a social environment and should be alert to the possibility of inadvertent disclosure to an immediate family member like his brother-in-law.
- (d) Timothy is not in breach of his duty to act with good faith. He maintains confidentiality when engaging with the press and public. His disclosure to his brother-in-law poses no risk as disclosures to immediate family members are not regarded as threats to compliance.

QUESTION 2 (direct questions) [10 marks]

Question 2.1 [maximum 3 marks]

What are the most common elements associated with the existence of a fiduciary relationship generally?

The most common elements are:

Trust: A fiduciary should be a person who undertakes to act on behalf of another

Power: A fiduciary should be a person who has a discretion and power over the interests of the other.

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Commented [LJ11]: 0/10

Your answers were copied from the guidance text

Vulnerability: A fiduciary should be a person who understands and keeps confidentiality.

Commented [LJ12]: 3/3

Question 2.2 [maximum 4 marks]

Briefly explain the two-pronged nature of the duty to act with independence and impartiality.

Independence is two-fold. Insolvency Practitioner (IP) must be independent in fact and be seen or perceived to be independent. Independence requires that the IP be factually free from any influences that could compromise his judgement. IP must, therefore, avoid all personal and professional relationships and direct or indirect interests that will adversely influence, impair or threaten their integrity and ability to make decisions. Independence in perception, on the other hand, includes the avoidance of circumstances that would lead a reasonably informed third party to conclude that the IP's integrity, independence, and impartiality have been compromised.

Independence should be considered both as a matter of fact and from the perspective of an informed observer. It should be considered with reference to jurisdictional guidance, whether legislative, professional, or code-based, but the key tenet underlying the principle of independence should be ensuring that an IP's conduct is, and is seen to be, not unfairly or improperly biased towards any party, including Members themselves or their associates. An IP should not accept an appointment in connection with the estate if his (or a related party's) relationship with the directors of the company or any of the stakeholders would give rise to a possible or perceived lack of independence.

Commented [LJ13]: 4/4
Please try to paraphrase your answers and not copy straight from the guidance text.

Question 2.3 [maximum 3 marks]

Explain the difference between professional and fidelity insurance and elaborate on why it is of particular importance for Insolvency Practitioners to obtain this type of insurance.

Indemnity or professional insurance covers against the risk of stakeholders instituting action against the IP for acting negligently (without the reasonable care). Fidelity insurance protects

stakeholders in the event of the IP (or someone working for him) acting dishonestly or defrauding the estate. Fraud in this sense does not necessarily refer to criminal fraud.

Given the extensive (and sometimes confusing) duties owed by IPs it would be sensible for IPs to obtain professional and fidelity insurance to protect themselves as well as the stakeholders in the estate.

Type your answer here]

Commented [LJ14]: Why is it important?
2/3

QUESTION 3 (essay-type questions) [15 marks in total]

Question 3.1 [maximum 6 marks]

The ethical principle that requires insolvency practitioners to act with integrity also states that he should adhere to high moral and ethical standards. Explain what is meant by this and provide examples to illustrate the difference between these concepts.

The principle requires the IP to adhere to high moral and ethical standards in all aspects of professional practice. Morality and ethics are closely related but are not the same thing. Morals usually refer to a person's personal beliefs regarding what is right or wrong and is therefore often influenced by upbringing, education, culture and even religious beliefs. Morals, therefore, tend to be subjective. However, morals also tend to provide the foundations for ethics. Ethics refer to the specific rules and actions that are regarded as correct behaviour and often relate to a specific group of people who function in similar circumstances - such as the IP profession. So, although morals form the basis of ethics, ethics does not concern a set of beliefs regarding what is right or wrong, but rather what would be acceptable standards of conduct. This is why the INSOL Principle requires both. The IP should have a personal set of beliefs to guide his actions but should also adhere to the ethical values of the group he belongs to. Where there is a conflict between his personal beliefs and that of the profession, the professional standards should trump his personal opinions. This is because of the fact that a moral action can also be unethical. An example might be where an IP, due to his personal beliefs and a moral desire to be open and honest with the stakeholders, divulges information which should be kept confidential in accordance with ethical guidance.

Commented [LJ15]: 5/15

Your answers were copied from the Guidance text. I have awarded discretionary marks.

[Type your answer here]

Commented [LJ16]: 6/6

Question 3.2 [maximum 9 marks]

Which elements of insolvency proceedings are especially prone to create or give rise to threats to independence and impartiality? Please elaborate with reference to primary and secondary sources of law.

[The elements of insolvency proceedings which are especially prone to create or give rise to threats to independence and impartiality are

Nature of pre-commencement / appointment involvement

In practice, prior consultations often occur between the CIP and the company or stakeholders. These consultations may also create the impression of a lack of independence and impartiality on the part of the CIP. Yet the prior consultations need not result in the disqualification of that person as practitioner and may in fact constitute a crucial part of the insolvency process.

Therefore, not all forms of contact between the CIP and stakeholder parties prior to the practitioner's appointment would necessarily result in a lack of independence. Nevertheless, there should be limits to what would be deemed acceptable engagement during such consultations. Should the consultation involve material engagement by any of the stakeholder parties, the CIP would no longer be independent and should therefore not be appointed as practitioner. The advice provided by the practitioner in the prior consultation should be limited to the company's financial position, the company's solvency, the effects of potential insolvency and any alternatives to insolvency. It would also make sense for the CIP to set out the nature and extent of prior consultations in a disclosure statement. This would facilitate improved transparency and help prevent accusations of a lack of independence.

Appointment

In many jurisdictions the CIP can be appointed by either the board of directors or a stakeholder (usually a shareholder or creditor). This may lead the appointee to expect that the practitioner would prioritize their interests. In some instances, these persons, being the "principal", even believe that it is within their power to influence the CIP. Thus, it is vitally important for the CIP to be aware of his responsibilities in this regard. The practitioner should not make any promises to those who appointed him and should make it very clear that he is expected to act in the interests of all the beneficiaries. The duty of independence also obliges the CIP to scrutinize each given situation prior to accepting an appointment. Such scrutiny would include reasonable steps to determine any possible association or conflict of interest with any stakeholder.

Subsequent appointments

Subsequent appointments refer to a scenario where the same CP is allowed to act in different insolvency capacities in relation to the same debtor company. In some jurisdictions, such as England and Wales and Singapore, CIPs are allowed to be appointed in this manner.

Subsequent appointments pose problems in relation to independence and impartiality due to the self-review and self-interest threat it creates. The Insolvency Code of Ethics of the Institute

of Chartered Accountants of England and Wales (ICAEW) recognizes the potential conflict of interest in this regard and utilized the scenario "sequential insolvency appointments" as an example of circumstances that might lead to a self-review threat being created. " A self-review threat refers to a situation where a CIP, due to being involved in prior decision-making, will not be able to appropriately evaluate the results of previous judgements made or services rendered.

The self-interest threat relates to the issue of remuneration of the CIP. The reason subsequent appointments might pose an issue in relation to the remuneration of the CIP, is that the CIP will be remunerated twice for work done in relation to the same company. A self-interest threat refers to a situation where the interests (including financial interests) of the CIP might inappropriately influence his judgement or behaviour. An example of a way in which a subsequent appointment and the corresponding subsequent remuneration might influence the behaviour of the CIP, could be that a rescue or turnaround practitioner might not put his best effort into saving the debtor from liquidation since he knows he would subsequently be appointed as the liquidator and be paid again. CIPs who engage in subsequent appointments often hold the view that the previous appointment does hold some benefits and advantages in the subsequent appointment (such as institutional knowledge) and as professionals have the opinion that they are able to act with independence and impartiality. In jurisdictions where subsequent appointments are allowed, the opinion is held that the benefits outweigh the risks. In certain jurisdictions subsequent appointments in relation to the same debtor company are prohibited due to the threats expressed above. South Africa is a good example of this. The South African Companies Act of 2008 provides that a business rescue practitioner may not be appointed as the liquidator of the debtor in subsequent liquidation proceedings. As already mentioned, other jurisdictions such as England and Wales, " Singapore and New Zealand" permit subsequent appointments.

Secret monies and personal transactions with the company

The CIP should always act in the best interests of the beneficiaries of his duties and in all transactions. As a fiduciary, a CIP is not allowed to make a secret profit at the expense of the beneficiaries or place himself in a position where his personal interests (or that of parties related or connected to him) conflict with his duties. If his judgement was influenced by the fact that he stands to gain personally from a decision, it cannot be said that he was acting in the best interests of the beneficiaries of his duties. This is of particular importance in situations where the CIP (or family / friend of the CIP) would like to purchase assets from the company. This could in effect place the CIP at both ends of the contract, which may cause a strong suspicion that the practitioner, being a fiduciary, is serving his own interests instead of those of the beneficiaries. There are also several ways in which the CIP would be able to manipulate

such a transaction for his own benefit, for example fixing an advantageous price, as the CIP would have knowledge of the bare minimum the company would accept and drafting (or having input into the drafting of) a contract with favourable clauses. To this end it is important that a CIP follows the necessary procedural steps (disclosure) and obtains the necessary informed consent where a jurisdiction permits transactions between the CIP and the company.

The CIP's duty to act with independence and impartiality therefore encapsulates the same values as the familiar "no-profit" and "no-conflict" rules in Corporate Law and underpins his duty of undivided loyalty to the beneficiaries.

The no-profit rule determines that a fiduciary may not profit from his position of trust (his position as CIP) and thereby be unjustly enriched, for example by receiving secret kick-backs or commissions.

The no-conflict rule determines that a fiduciary may not allow a conflict to arise between his duty and the interests of the beneficiaries, for example transacting with the debtor company in his personal capacity.

Commented [LJ17]: 9/9

type your answer here]

QUESTION 4 (fact-based application-type question) [15 marks in total]

WeBuild Ltd is a private company registered in Eurafriclia. The company specialises in construction and property development and is well known in the area where it conducts its business. Mr B Inlaw, Dr I Dontcare and Mrs I Relevant are the directors of the company. The company has ten shareholders, with Mr B Inlaw and Dr I Dontcare also holding shares in the company.

The company traded profitably for the last 10 years but recently started to experience financial difficulties. One of the main reasons for the financial decline is the fact that several of the company's employees have instituted a class action claim against WeBuild for workplace-related injuries due to faulty machinery. This also resulted in bad publicity that led to a decline in contracts. The directors of the company were made aware of the issues relating to the machinery, but chose not to take any action to remedy the situation. When the company's financial position started to decline the directors continued to trade as if nothing was amiss and even made several large payments to themselves by way of performance bonuses. When they received a letter of demand from the company's major secured creditor, ABC Bank, the directors decided to call a shareholders' meeting to discuss the company's options.

Present at this meeting were the shareholders, the directors and Mr Relation, a lawyer and licensed insolvency practitioner, to provide them with information and advice in

relation to their options. Some of the shareholders recognised Mr Relation as Mr B Inlaw's brother-in-law and godfather to his daughter. During the meeting, Mr Relation suggests that the company enter into a voluntary administration procedure. Mr B Inlaw suggests that the company appoint Mr Relation as administrator. He accepts the appointment, ensuring that he discloses his relationship with Mr B Inlaw and says that he will declare that he believes that he will still be able to act with the required independence and impartiality. An undertaking that he complies with by subsequently issuing a written declaration of independence.

After the meeting adjourns, Mr B Inlaw requests the other directors and Mr Relation to stay behind for a brief "planning" meeting. During this subsequent meeting the directors inform Mr Relation that they are concerned about their personal liability for breach of duty. Moreover, they are worried that they might land in hot water due to their decision to continue trading when the company was clearly in dire financial straits. Mr Relation assures them that his focus will not be on them but on trying to rescue the company.

In the weeks that follow, Mr Relation conducts a superficial investigation into the affairs of the company and the circumstances leading to the financial difficulties of the company. He relies on detailed reports drafted by Mr B Inlaw regarding the company's business and drafts a strategic plan for recovery based on his investigation and the reports he received.

At a meeting of creditors to consider the plan, Mr Relation states that he has found no evidence of any wrongdoing or maladministration by the company's directors. Mrs Keeneye, a lawyer attending the meeting on behalf of ABC Bank, the major secured creditor, recognises Mr Relation from a television interview where Mr Relation expressed the opinion that banks should be more accommodating in restructuring proceedings and that he thinks that the interests of lower ranking creditors should sometimes outweigh "big money" (referring to financial institutions). She immediately feels uncomfortable with his appointment as administrator.

Several months later the administration fails due to a "lack of funding" to finance the rescue. The administration is subsequently converted to liquidation proceedings and Mr Relation is appointed as the liquidator.

Mr Relation's firm has been implementing a work-from-home arrangement for employees, and his secretary and associate have several sensitive documents pertaining to WeBuild Ltd in their possession and on their personal computers at home.

INSTRUCTIONS

There are at least THREE major ethical issues in this factual scenario.

You are required to identify these ethical issues and explain in detail why they are in fact ethical issues. Your answer should include reference to the ethical principles and the commentary thereon. Where appropriate and suitable, you should also endeavour to elaborate on possible remedies or safeguarding mechanisms to minimise or remove the ethical threats.

You may also make use of case law and secondary sources to substantiate your answer.

[T The Ethical Issues being addressed are:

1. Integrity

Members should endeavour to demonstrate the higher level of integrity by being straightforward, honest and truthful; and by adhering to high moral and ethical principles in all respect of their professional trade. This implies fair dealing, honesty and truthfulness.

In addition to complying with applicable law, Members should endeavour to demonstrate the highest levels of integrity by being straightforward, honest, and truthful; and by adhering to high moral and ethical principles in all aspects of their professional practice.

Commentary

Integrity implies fair dealing, honesty, and truthfulness

Mr Relation refuses to be honest and truthful by not declaring the personal liability for breaches of duty committed by directors He actually assured them that his focus would not be on the directors but on trying to rescue the company

He stated that he did not find any evidence of any wrongdoing or maladministration by the company directors despite the directors confessing to him.

Mr Relation misled the creditor and shareholder of the company.

Mr Relation lacked morals and he also was not ethical in his dealings.

He did not treat all stakeholders fairly. He favoured certain Directors, Mr B in law, His brother-in-law and godfather to his daughter.

2. Objectivity, Independence and Impartiality

Members should exhibit the highest levels of objectivity, independence, and impartiality in the exercise of their powers and duties.

Members should avoid circumstances likely to result in a conflict of interest.

Commentary

Independence should be considered both as a matter of fact and from the perspective of an informed observer. It should be considered with reference to jurisdictional guidance, whether legislative, professional or code-based, but the key tenet underlying the principle of independence should be ensuring that a Member's conduct is, and is seen to be, not unfairly or improperly biased towards any party, including Members themselves or their associates. A Member should not accept an appointment in connection with the estate if his (or a related party's) relationship with the directors of the company or any of the stakeholders would give rise to a possible or perceived lack of independence.

Threats to objectivity, independence and impartiality may include any of the following, singly or in combination:

- Self - interest
- Self - review;
- Advocacy;
- Familiarity; and
- Intimidation.

Lack of independence cannot necessarily be cured by disclosure or by appointment of an independent joint practitioner or officeholder, although both options may be considered and may be appropriate in certain circumstances.

In this case the objectivity and impartiality of Mr Relation was in doubt due to his closeness to the directors of the company. The disclosure he made was flawed because it was seen that he was not transparent. He did not have in the interest of all the beneficiaries. The duty of independence also obliges him to scrutinize each given situation prior to accepting appreciation. This in relation to conflict-of-interest threat.

He was also subsequently appointed as a liquidator. He expected to have undertaken a self-review and self-interest threat before the appointment was created. The self-review threat, due to being involved in prior decision making in his administration will not be able to appropriately evaluate the result of precision of judgement made or service rendered. His financial interest might influence his behaviour since he likely knows that he would be appointed as liquidator.

Mr Relation was aware that the directors engaged in both wrongful and fraudulent trading, which he expected to have taken legal action.

Professional Behaviour

Communication with stakeholders should be used to inform and educate them on the progress of a case.

Members should strive to be accurate, honest, clear, succinct and timely.

It is in the best interests of all parties for Members to co-operate and communicate in a professional manner with other Members and adjudicating bodies. Nonetheless, a Member's duty is to the estate.

When promoting themselves, or their firm, or when competing for work, Members should act with integrity and should avoid bringing the profession into disrepute.

Commentary

It is important to provide information about the progress of, and potential recoveries in, the proceedings to those parties with any tangible interest in such proceedings (including but not limited to creditors and shareholders).

This does not mean that Members can or should be expected to respond to every query raised.

Disseminating information should be balanced with maintaining commercial and other confidentiality obligations, and Members should consider the cost of preparing the response against the benefit of such response.

In a high-profile case, many persons without a tangible interest in the case might demand information. Members should weigh the advantages of providing the information against the associated cost and disruption to the company or estate. Decisions should be made in the best interests of the estate and its stakeholders.

His professional behaviour is questionable based on his reliance in detailed reports drafts by Mr B in-law regarding the company's business and strategic plan for recovery based on his investigation and the reports he received.

His practice management procedure is in doubt. His firm has been implementing a work-from-home arrangement for employees and his secretary and associate without regard for confidentiality.

type your answer here]

*** End of Assessment ***

Commented [LJ18]: A good overall discussion. I would have liked to see more on the remedies or safeguards available.
10/15