



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.**

ANSWER ALL THE QUESTIONS^[LJ1]

QUESTION 1 (multiple-choice questions) [**10 marks in total**]^[LJ2]

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.**

(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 [U3]

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

(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

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.

(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.**

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^[L4].**
- (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.**

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] [L5]

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 that are associated with a fiduciary relationship are:

- 1. Undertaking to act on behalf of another;*
- 2. Having the discretion and power over what such other is interested in;*
- 3. That such other being in a position of vulnerability, qua the person who has undertaken to act.*

The meaning of a fiduciary relationship can be best highlighted in a situation when the power to take decisions qua one's interests are in the hand of another, and such persons are referred to as fiduciaries. Most common examples of fiduciaries, are doctors, lawyers, trustees etc. In the realm of insolvency practitioners, whether their role is fiduciary in nature or not is to be understood from the facts and circumstances of the matter and more over the nature of proceedings, which role can also differ from jurisdiction to jurisdiction. A fiduciary relationship is also be extinguished from a mere contractual relation^[L6]

Question 2.2 [maximum 4 marks]

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

Independence and impartiality are one of the strongest pillars of foundation. In common parlance, independence and impartiality means that one is not supposed to be influenced by others and in that influence, should not be biased and without any conflict. The Insolvency Practitioners ("IP"), almost in every jurisdiction are held to some degree or standard these dual pillars, which are central to their role. Independence and impartiality are essentially also dual faceted in their nature, as firstly they warrant that the IP must actually be impartial and independent and second that he should also be perceived as independent, impartial and conflict free by the stakeholders involved in the process. When relationship triumphs over merits in professional matters, there is no place for independence, integrity and impartiality. A professional must not only be impartial, but also appear to be impartial. Any conduct, whether explicitly prohibited in the law or not, is unfair if it impinges on independence, integrity and impartiality of an IP or inconsistent with the reputation of the profession^[L7].

Holding a fiduciary office of the nature as these distressed circumstances warrant, makes the IPs independence and impartiality, central to the whole scheme of things. Even if we were to imagine, the stakeholders that the IP is serving and is responsible for, the directors, statutory authorities, creditors, workmen, employees, etc. and needless to mention the life of a corporate entity, which can either have a turn around or can end in dissolution. If in the event, any of these parties start to view the IP as someone who is not independent and impartial and lacking these virtues to any degree, the same become a threat to the whole process in a lot ways, thereby putting many interest and may be a lot of money at stake, which is contrary to the intent of the insolvency advocates and the work that is happening across jurisdictions to make insolvency and bankruptcy as a whole a more advanced and nuanced field and experience for everyone, and the IP is at the center of it all. In almost all jurisdictions, if concerned are raised on the independence and impartiality of an IP, then enabling mechanisms exists in the statutes and otherwise to replace the IP all together. For

¹ Insolvency & Bankruptcy Board of India Disciplinary Committee Case No. IBBI/DC/16/2019 dated April 17, 2019

instance, no IP should accept engagements where they have had historical relationships with one or more stakeholders. They should also not let themselves be under undue influence of any directly or indirectly interested party.

Given the importance highlighted above, there is need for a regulatory regime that: requires appropriate qualifications and experience; prescribes codes of professional conduct and ethics covering integrity, impartiality, independence and objectivity². And as such all jurisdictions have prescribed strict rules and standards for the IPs to ensure that.

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.

Professional insurance or indemnity is a type of insurance that is supposed to insure the IPs from the risk of the stakeholders involved in the process from instituting suits against them, alleging negligence and lack of reasonable care.

While, fidelity insurance is the kind of insurance that protects the stakeholders against any harm caused by the IP or any person working for him, acting in a dishonest manner or defrauding the estate of the bankrupt/insolvent.

It is of particular importance that the IP, as a good tool of practice management, obtains these kinds of protections, as given the complex and many a times overlapping roles and activities that the IP has to carry out during his/her term, can take unexpected turns, considering the quantum of different degrees of interest and the money involved in these activities^[L8].

QUESTION 3 (essay-type questions) [15 marks in total] ^[L9]

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.

Morals are in a lot of ways the fundamentals of a person. These are the ideas and beliefs that shapes a person's life and the choices one makes. They are a culmination of years of experience, background, ethnic beliefs, educations etc. Its basis these fundamental morals that a person decides between wrong and right. Having a high morale, is a requirement that is often seen as a pre-requisite character identification for many individual roles which are in a fiduciary capacity, need-less-to-say because

² OECD- Insolvency Laws in South Asia: Recent Trends and Developments, <<https://www.oecd.org/daf/ca/corporategovernanceprinciples/38184124.pdf>>>, accessed on 29.07.2023

the fiduciaries are entrusted with a high degree of power and influence over the interests and needs of others. Hence between, IPs, doctors, lawyers etc. this virtue is a given requirement. The word, 'morality' seems to be used in two distinct senses. Descriptively to refer to certain codes of conduct put forward by a society or a group (such as a religion), or accepted by an individual for her own behaviour and normatively to refer to a code of conduct that, given specified conditions, would be put forward by all rational people³. What is required in the context of IPs is a 'high' degree thereof, given the nature of the act and responsibility, the expectation, is higher than what is normally expected from a rationale person.

On the other hand, adherence to ethical standards, is a less subjective a lot more defined, one could say. The same is applied differently for every person, depending on the circumstances one is describing. Ethical standard lay benchmarks in their intended topic and field, of what is acceptable and what degree of deviation from theses benchmarks are tolerable and what is the consequence of these deviations. For instance, the ethical standards of living in a particular society are set, that for the doctors, lawyers, IPs etc are set. They are mostly the dicta of an authority, or traditions. Every jurisdiction has a code of ethics that the IPs has to adhere which are qua this field.

The way one perceives ethics, the way one treads about the prescribed ethical standards, and the degree to adherence thereto are mostly all dependant on the morals of a person. Give that anyways, a higher of degree of moral is warranted for the nature of the job, the same ensures less variance and deviation from the ethical standards and thus in all, maintaining the sanctity of the process and the profession. Hence high morals and ethics really go hand in hand. As Epicurus said "A consciousness of wring-doing is the first step towards salvation".

At times, one may have to compromise on their fundamentals and morals in order to achieve the warranted ethical standards one has to meet. For instance, as a seasoned banking professional in the financial services sector, one is appointed as an IP for a company debtor and whilst dealing with the creditors. they are faced with demands from a very huge financial institution, to extend the timelines for claim submission, as they are facing internal delays due to their lengthy protocol. As a banker, the IP can surely understand that the demands of extension of deadlines are not unfounded, but the IP must meet the strict timelines provided in the procedural statute and also the ethical guidelines that come with it, and not succumb to any pressure, even when one believes them to be in good faith.

Another example, can be of an IP who holds a strong virtue and moral of being empathetic, is faced with grievances and hardships of a class of homebuyers who have suffered tremendously, due to the non-delivery of homes from a now insolvent residential developer company. Even though the IP may want to lean towards the

³ Stanford Encyclopedia of Philosophy, <<https://plato.stanford.edu/entries/morality-definition/>>>, accessed on 29.07.2023

interests of the homebuyers, he should keep aligned with the ethical standards and remain impartial^[L10].

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 following elements and situations which could arise in an insolvency proceeding, are the ones which give rise to threats to independence and impartiality of an IP:

- 1. Pre-commencement consultation: It is quite common in the modern operability of insolvencies and specially, the ones of large groups and companies for the board etc. to pre-appoint an IP to oversee the operations of the company, and to suggest best measures to the company for either keeping the company afloat, and in the eventuality of an event of insolvency, to be able to suggest a comprehensive and well thought out restructuring plan. This pre-engagement, though on the face of it seem counter-productive to the standards of impartiality and independence that IPs have to maintain, is also the need of the hour specially in more complex insolvency proceedings and hence not always bad. However, the line in such circumstances is thinner than ever. The IP here has to be extra cautious and make sure that the conversions and the divulsions that he/she is exposed to have strict and pre-defined boundaries. Mindful efforts should be made by the IP and their team to maintain their objectivity, impartiality and independence, before and after. All the advice, decisions taken, should be in the professional capacity, governed contractually and within the contours of the IPs role at that stage. An Australian court has also laid down certain safeguards qua this situation such as that the potential IP should make it clear to the board and the other executives that they are the person who become the official IP if the efforts to save the company fail and that one should fully bear in mind its consequences⁴.*
- 2. Appointment: The actual appointment of the IP in most jurisdictions is done, in the case of a voluntary petition, by the company debtor themselves, or in a creditors petition, by that creditor. It is very rare, that the authorities appoint trustee/IP from the rolls thereof, and only in matters where the petitioning party did not recommend one themselves. This can raise serious doubts in the mind of the other stakeholders involved, about the objectivity, impartiality and independence of the appointed IP. This is because in recommending appointment or appointing, the petitioning party can get the impression that they would be in a position to influence the IP towards their interests and peddle their own agendas, which given human nature, is a natural assumption.*

⁴ *Re Korda, Ten Network Holdings Ltd (Admn Apptd) (Recs and Mgrs Apptd) [2017] FCA 914 [Australia]*

It is dependent on the IP in such cases to set the expectations of such parties straight and align themselves completely to the standards of ethics and code of conduct that is expected from them. Also, in almost all jurisdictions, the IPs that are appointed are required to submit a declaration qua their independence and absence of conflict to the adjudicating authorities, which document if lied under, can lead to in extreme cases, criminality of perjury.

- 3. Subsequent Appointment:** *In almost all insolvencies, the rescue procedure is followed by a liquidation/winding-up. The debtor companies who can fetch a good restructuring plan or resolution plan and be rescued as a going concern, don't have to go through the fate of liquidation, which will entail in asset stripping to pay off the debts, and then ultimately death or dissolution of the company. In such matters, more often than not, the IP at the stage of rescue is also appointed as the liquidator of the company. The same is done from a practical standpoint, as the IP has already long associated itself with the company, and shall be the best person to oversee the liquidation of the company, rather than a completely new person coming in, who will take substantial times to familiarize itself with the debtor company. However, this also leads to certain dilemmas from the stand point of the IP, especially their fees. It has been reported in some matters that given the natural outcome of liquidation, the IP don't put the required conviction at the rescue stage as they already know that their fees, will be taken care of as they will be appointed as liquidators. Its also highly difficult to justify the fees of a liquidator that has been the IP, given that majority of the work that has been relied upon has been done in the earlier capacity. In some jurisdictions like South Africa, subsequent appointments are prohibited altogether, but in majority they are allowed.*
- 4. Secret monies and personal benefits:** *An IP is in the highest fiduciary capacity during an insolvency proceeding. Being at the center of the quantum of information the IP is privy to in its positions and the power they hold, to dictate the terms and influence outcomes, circumstances may arise when the IP may want to secretly, make a profit out of the insolvent estate, take cut-backs from the stakeholders, benefit or cause benefit to the people of his/her liking, assume strong affections towards one agenda or outcome over the other. The IP is the trustee of the bank accounts, the mother documents, the assets and the liabilities of the debtor company, which is a lot of monetary potential to be responsible for. Over and above, the information that they are privy to, can as insider information, cause a related party to make profit when required. In such cases, the bid amounts, auctions, appointments of professional can all be manipulated to cause a monetary gain for the IP. In all jurisdictions, there are strict codes of conduct to avoid this and disciplinary penalties such as fines and revocations of license, if IPs are found guilty of such acts^[U11].*

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

WeBuild Ltd is a private company registered in Eurafriolia. 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.

The following were the three major ethical breaches:

- 1. Mere declaration of independence: Mr Relation did disclose his independence and impartiality during his appointment as the administrator, however, this relationship is not inconsequential, as he is the brother-in-law and the godfather of the director’s daughter. From the fact set, it is established to quite an extent that the director did not show the adequate duty of care and loyalty to the company and its employees and hence the chances of the director excreting undue pressure on Mr Relation cannot be ruled out. These circumstances can make the other stakeholder perceive the administrator to not be objective, impartial and independent. As held in *Re Korda (supra)*⁵, “directors contemplating potential insolvency should be encouraged to engage with appropriately qualified professional”. In this case the appointment and selected was itself flawed.***
- 2. Conducting superficial investigations: Mr Relation, even after declaring a statement of independence (which can have its own disciplinary***

⁵ Pt no. 4

consequences), and stating to the directors that his focus will be the company and not their rescue, still conducted a superficial and bogus investigation and then later gave a clean chit to the directors who are clearly in the wrong, is a breach of independence, impartiality and the objectivity [U12] and all standards of ethics and an abuse of the fiduciary power.

- 3. Media interview:** *In this interview, Mr. Relation, has divulged its morals and thoughts on small creditors interest vis a vis that of a larger one. This has also made some stakeholders uncomfortable, and hence Mr Relation has given the impression of being non-independent and partial, even though he may not have acted in accordance to his personal beliefs. But even a perception thereof, is enough to derail the entire proceedings and a grave breach of ethical standards [U13].*

*** End of Assessment ***