



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

Commented [LJ1]: TOTAL: 28 out of 50

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

Commented [LJ2]: 7/10

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

Commented [LJ3]: 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

(d) intimidation

Commented [LJ4]: c

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 [LJ5]: 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.
- (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.

- (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]

Commented [LJ6]: 7/10

Please Note: UNLESS OTHERWISE INDICATED, THE SOURCE I UTILIZED IN COMPLETING THIS EXAMINATION WAS: Module 9 Guidance Text – Ethics and Professional Practice 2022/2023

Question 2.1 [maximum 3 marks]

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

Although the specific fiduciary duties conferred upon an IP might vary from jurisdiction to jurisdiction, the following duties are generally and broadly applicable and include: (q) the duty to act in good faith which encompasses the duties to act honestly and deal fairly; (b) the duty to act in the best interests of the beneficiaries; (c) to act independently and impartially in fulfilling his or her duties; (d) the duty to avoid conflicts of interest; and (e) the duty to act with care, diligence and skill.

Although the duty of care is not considered a fiduciary duty per se, it is of extreme importance in the insolvency context as it is linked to the duty to act in the best interests of the beneficiaries. Should an IP act negligently, he or she has not fulfilled its duty to act in the best interests of the beneficiaries.

Question 2.2 [maximum 4 marks]

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

What is meant by two-prong nature is that an insolvency practitioner must be independent in fact and also perceived to be independent. As set forth in the "Ethical Principles for Insolvency Professionals" (referred to herein as the "Rules") generally, "[m]embers should exhibit the highest levels of objectivity, independence and impartiality in the exercise of their powers and duties."

Available at [Ethics%20Principles%20for%20Insolvency%20Practitioners%20-%20from%20INSOL_6412neSe44VEULhbTOXZ.pdf](https://www.ethics20principles20for20insolvency20practitioners20-20from20INSOL_6412neSe44VEULhbTOXZ.pdf) (website-editor.net)

In order to be free and independent in fact means that the IP must be actually free from all personal and professional influences and any direct or indirect interests that could interfere therewith. The independence of perception, on the other hand, refers to how third parties "from the outside" might perceive the IP's integrity. In order for third parties to perceive an IP as truly independent, the IP must avoid any circumstances that could lead such a third party to come to the conclusion that the IP's independence and impartiality might be compromised. Independence and impartiality are of extreme importance in insolvency proceedings as any negative perceptions and/or suspicions might undermine the entire restructuring/insolvency proceeding.

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.

While indemnity insurance protects the IP from actions stakeholders might pursue against the IP if they believe that any action of the IP was conducted negligently, fidelity insurance pertains to protections against allegations that either the IP or anyone working for the IP might have acted dishonestly and or in a manner that defrauded the debtor's estate. The insurances therefore cover different wrongdoings. Many jurisdictions require an IP to carry both types of insurances, but even if a certain jurisdiction does not, it is advisable for an IP to carry both types of insurance due to the complex nature of insolvency proceedings and the many duties an IP has to honestly fulfil for many stakeholders.

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.

Commented [LJ7]: Your answer pertains to the duties of a fiduciary not the elements of a fiduciary relationship, e.g. acting on behalf of another.
0/3

Commented [LJ8]: 4/4

Commented [LJ9]: 3/3

Commented [LJ10]: 4/15

The Rules specifically provide that “[i]n 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.” The Commentary additionally clarifies that “[i]ntegrity implies fair dealing, honesty and truthfulness.” Available at

[Ethics%20Principles%20for%20Insolvency%20Practitioners%20-%20from%20INSOL_64I2neSe44VEULhbTQXZ.pdf \(website-editor.net\)](#).

The terms “morals” and “ethics” are intertwined in that “morals” constitute subjective beliefs that are often influenced by a person’s personal history and upbringing, while the term “ethics” refers to a set of rules that generally apply to persons who perform similar functions – in a sense “ethics” provides the objective part of the interaction. Ethics rather set forth what would be considered acceptable behavior in a certain profession. That being said, there could be conflicts between a person’s “subjective morals” and the ethical rules the person has to adhere to. In such a circumstance, the ethical rule must prevail and guide such individual’s behavior as part of a member in a profession.

For example, an IP could generally possess the subjective belief that a certain action is not immoral while it is prohibited by the rules of ethics. The reason for this that an action could be moral, but nevertheless unethical under the rules of conduct.

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.

Certain situations are particularly worrisome and might rise to the level as to been seen as not being independent and impartial. For example, as set forth in the commentary to the Rules, “[w]here a Member purchases or removes assets or cash from the estate (excluding appropriately approved remuneration and disbursements payments), it is likely that there will be a perception that independence, objectivity and / or impartiality has been breached, even if it has not in fact been breached. Such action may erode trust in the integrity of such Member and the process.” See commentary available at [Ethics%20Principles%20for%20Insolvency%20Practitioners%20-%20from%20INSOL_64I2neSe44VEULhbTQXZ.pdf \(website-editor.net\)](#). For example, in *The Royal Bank of Scotland NV* case, the Scheme Manager’s conduct was called into question where the same “was also surprisingly the nominee for the IVAs filed by Mr Sng and Ms Tong. The success of those IVAs in turn depended heavily on the success of the Scheme.” In the Court’s view, “this additional relationship with Mr Sng and Ms Tong, key personnel of the Respondent, was inappropriate because it put the proposed Scheme Manager in an unacceptable position of unavoidable conflict of interest.” As a result, the Court ordered the Scheme Manager either to continue in his role as the scheme manager or to act “only or as nominee for Mr Sng and Ms Tong in their proposed IVAs only.” Case available at [2012] SGCA 9 (elitigation.sg).

In order to avoid such situations, some jurisdictions require professionals to honestly disclose such relationships and submit declarations of independence. Such declarations are further expected to reveal, if applicable, that the applicant will still be in a position to independently and impartially fulfil his/her duties. However, it should be noted that such declarations have their flaws in that they cannot guarantee impartial and objective conduct.

Notably, many jurisdictions provide information regarding certain types of personal and professional relationships which might pose a problem with respect to the requirement of independence. For example, professional and personal relationships with the company, or a

Commented [LJ11]: Some elements are missing in this answer, like the connection between morals and ethics. You also did not provide an example.

3/6

shareholder or employee of the same, various creditors are all among the relationships that may pose a significant issue.

Commented [LJ12]: Unfortunately, this answer does not identify any elements of insolvency proceedings that could give rise to independence issues - the appointment.

1/9

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.

The fact pattern raises many severe concerns as to the integrity, impartiality and independence, among other things, in connection with Mr. Relation’s, the IP, behaviour. An IP acts in a fiduciary capacity. Although the specific rules of conduct may vary from jurisdiction to jurisdiction, the following rules are universally accepted with respect to the expectations of an IP. They include the duty to act in good faith which encompasses a duty to act honestly and with fair dealing; the duty to act in the best interest of the beneficiaries (creditors and other stakeholders depending upon which theory is being followed); to act, in the performance of his/her duties in an independent and impartial manner, including the avoidance of conflicts of interest, and the duty to act with care, skill and diligence. Here, Mr. Relation failed in nearly all of the above-mentioned categories.

Issue 1: Supervision and Record Keeping by employees working from home: While it is not expected that an IP must perform all of his/her duties by himself/herself, it is his or her duty to ensure that the obligations of confidentiality, risk management and proper record-keeping, among others, are ensured by the people who are working for him or her. For example, in the case at hand, the IP failed to implement proper risk management procedures. The employees here have sensitive documents on their personal computers which could easily be the target of cyber threats, thereby compromising the IP’s practice severely, but also the clients and their confidential information. The fact that the employees have work-related and sensitive documents on their personal computers also poses confidentiality concerns as other family members might have access to these devices and access to this sensitive information.

Issue 2: Independence and Impartiality Concerns: The fact pattern raises severe “Independence and impartiality” concerns as to the behaviour of Mr. Relation as the company’s administrator. Mr. Relation neglected his duty to be impartial, objective and independent in more than one way. The Rules provide that “[m]embers should exhibit the highest levels of objectivity, independence and impartiality in the exercise of their powers and duties.” See at [Ethics%20Principles%20for%20Insolvency%20Practitioners%20-%20from%20INSOL 64I2neSe44VEUlhbtQXZ.pdf \(website-editor.net\)](#). Recognizing that these terms are vague, the commentary to the Rules provide examples that are helpful here. For example, the following can be “[t]hreats to objectivity, independence and impartiality . . . : • Self-interest • Self-review • Advocacy • Familiarity • Intimidation.” *Id.* As discussed in a previous answer above, “independence” is a two-prong inquiry consisting of subjective and objective factors.

Here, Mr. Relation's conduct failed both prongs. Another helpful guidance contained in the Rules is that "[m]embers should avoid circumstances likely to result in a conflict of interest."

Id.

Mr. Relation's behavior failed in all respects. First, Mr. Relation is a family member of a director and shareholder of the company, Mr. B Inlaw, and the godfather of Mr. B Inlaw's child. Despite this conflict, he accepted the appointment as IP for the company despite threats to his independence and impartiality due to "familiarity," among other things.

Mr. Relation's conduct in connection with the television interview further shows that he does not abide by the rules of maintaining his independence in having made the statements that he made during the interview, which led to Mrs. Keeneye, the bank's attorney, to conclude that his integrity, independence and impartiality might have been compromised. In order for third parties to perceive an IP as truly independent, the IP must avoid any circumstances that could lead such a third party to come to the conclusion that the IP's independence and impartiality might be compromised.

Issue 3: Duty to Act with Integrity:

The Rules specifically state that "[i]n 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." *Id.* "Integrity implies fair dealing, honesty and truthfulness." *Id.* Mr. Relation's behaviour fails also with respect to these requirements.

First, Mr. Relation, despite having gained knowledge of the fact that the directors improperly continued trading when the company was under financial distress, ignored such knowledge. His statements that he will focus on the rescue of the company cannot negate such wrongdoing. Similarly, his assurance (I interpret for purposes of this fact pattern his silence on the matter during the "planning meeting" as assurance) that he will disclose his relationships and submit a declaration that he will nevertheless be able to fulfil his duties in accordance with the professional conduct rules, does not negate this wrongdoing under the facts. Indeed, such a declaration must contain honest disclosures, which Mr. Relation did not intend to make. In fact, he planned on concealing his knowledge regarding the insider trading. Mr. Relation also acted dishonestly in his communications with the creditors' committee as he did not reveal his knowledge regarding the wrongful trading. To the contrary, he affirmatively stated that "he found no evidence of any wrongdoing or maladministration by the company's directors."

Issue 4: Unprofessional Behavior:

The commentary to the rules specifically provide, that "[i]t 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). Here, as already discussed, Mr. Relation did the contrary; he lied to the creditors' committee regarding his investigation into the financial affairs of the company.

Issue 5: Behavior during pre-commencement period:

Further, the pre-commencement consultation during the "planning meeting" raises additional concerns as pre-commencement advice should be limited to general topics such as the financial situation of the company and its path forward in connection with a possible insolvency proceeding, among other things. Here, it included revelations regarding the wrongful trading and, as mentioned, Mr. Relation's assurance that he will not disclose it.

Issue 6: An IP's duty to conduct his/her duties with care, skill and diligence:

In relying on a superficial report prepared by Mr. B Inlaw, an insider, who was also part of the wrongful trading activities, does constitute wrongful behaviour. In fact, it constitutes more than negligent behaviour. If challenged, and to the extent Mr. Relation carries indemnity insurance,

such insurance should not pay in connection with these possible claims. Mr. Relation's behaviour was deliberate and intentional. Furthermore, instead of rejecting such report from a not independent source, Mr. Relation relied upon it and drafted a strategic rescue plan. He therefore acted without diligence, care and required skill.

Possible Solutions

To overcome the appearance of not being independent and impartial, a candidate may submit a honest declaration to, among other things, disclose personal and professional relationships in connection with an engagement and other applicable conflicts and state that despite these issues, that he or she is still able to fully perform his or her duties in compliance with the rules of conduct. However, as mentioned in the Rules, a "[l]ack 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." *Id.*

Here, the facts are so outrageous that Mr. Relation's shortcomings cannot be cured by such measures.

* End of Assessment *

Commented [LJ13]: A good overall discussion. Limited discussion of the principles and their importance as well as limited engagement with the remedies/safeguards.

10/15