

Rules of Professional Conduct and Interpretation

The CAIRP Rules of Professional Conduct and Interpretations were first enacted in 1981.

These Rules were approved by mail ballot and came into force on September 4, 1985.

The Foreword was approved on February 1, 1993.

The Interpretations were last amended November 27, 1997.

FOREWORD

In order to qualify as professionals in the eyes of the public and other professional and governmental bodies, Chartered Insolvency and Restructuring Professionals (CIRPs) must set for themselves high standards of conduct. The Rules of Professional Conduct (the Rules) which set these high standards are, first and foremost, to protect the public. Secondly, they are to ensure that we treat each other with due respect, courtesy and integrity. Thirdly, a profession must monitor its members and provide sanctions when necessary to preserve the integrity and relevance of the profession.

The Rules of the Canadian Association of Insolvency and Restructuring Professionals (CAIRP) have evolved from a number of important influences. These include the other professional bodies to which most CIRPs belong and federal and provincial legislation. Most importantly, they have evolved from the reliance of the public and private sectors on us to provide sound, fair and uncompromised advice and service on insolvency matters. There are a number of principles upon which the Rules are based.

These principles are:

1. A member's conduct shall all times maintain the good reputation of the profession.
2. A member shall perform his professional services with integrity and care.
3. A member shall sustain his professional competence by keeping informed of developments in professional standards and legislation.
4. A member, when engaged in an assignment, shall be free of any influence, interest or relationship which impairs professional judgement or objectivity or which, in the view of a reasonable and informed observer, has that effect.
5. A member has a duty of confidence to a client and shall not disclose, without proper cause, any information obtained in the course of an engagement. Nor shall such information be exploited directly or indirectly by a member.

6. A member shall accord to any other member the courtesy and consideration due between professional colleagues.

The Rules which flow from these principles cannot, by their nature, state the most that is expected of members. They can only state the least. Therefore, the Rules define a minimum level of acceptable conduct. It is a strength of our profession that our members strive for a higher level of ethical behaviour than the minimum and that we regularly review our Rules to ensure they meet the current standards and expectations of our profession and the public.

The Rules are to be read giving due consideration to this Foreword to the Rules. To assist in the understanding of the Rules, the CAIRP has developed Interpretations which are printed in conjunction with the Rules. The Interpretations are not to be taken as rules; they are examples of how the rules may be interpreted in some circumstances. If the Interpretations do not cover a particular circumstance, the member should consider the applicable rule in a broad sense and, if necessary, look at the situation from the viewpoint of a creditor or other interested third party. Assistance in the interpretation may also be obtained by contacting either the President, Chairman, or Vice-Chairman of the Professional Conduct Committee. Such assistance will not abrogate any subsequent breach of the Rules.

1. A member shall conduct himself at all times in a manner which will maintain the good reputation of the Association.
2. A member shall perform his professional engagements with integrity and due care.
3. A member shall maintain his professional competence by keeping himself informed of, and complying with, developments in professional standards, including the standards of professional practice from time to time adopted by the Association, in all functions in which he practises or is relied upon because of his calling.
4. A member shall with respect to any professional engagement hold himself free of any influence, interest or relationship which impairs his professional judgement or objectivity or which, in the view of a reasonable and informed observer, has that effect.
5. A member shall not sign or associate himself with any letter, report, statement, representation or financial statement which he knows, or should know, is false or misleading; a member may transmit information which he has not verified provided that such information is subject to a disclaimer of responsibility or an explanation of the source of the material.
6. A member shall not take any action (such as acquiring any interest, property or benefit) by which he makes improper use of confidential knowledge obtained in the course of a professional engagement.
7. A member who handles money or other property in trust shall do so in accordance with the terms of the trust and the applicable law relating to such money or trust property and shall maintain such records as are necessary to account properly for such money or other trust

property.

8. A member shall not directly or indirectly pay to any party a commission or other compensation to obtain a professional engagement nor shall he accept directly or indirectly from any party a commission or other compensation for having referred work relating to a professional engagement.

9. A member shall not advertise, directly or indirectly, in any manner:

a) which he knows, or should know, is false or misleading;

b) which contravenes professional good taste or fails to uphold normal professional courtesy;

c) which makes unfavourable reflections on the competence or the integrity of the Association or any member thereof; or

d) which refers to him as a specialist in a particular industry or area of insolvency.

10. A member shall not adopt any method of obtaining or attracting professional engagements which tends to bring disrepute on the Association or any of its members.

11. A member who is associated with non-members in professional practice shall be responsible to the Association for any failures of such associates to abide by these Rules of Professional Conduct.

12. A member shall not disclose any confidential information concerning any professional engagement unless required to do so by law.

13. A member shall observe at all times the bylaws, rulings, interpretations, standards and other pronouncements of the Association and, to the extent that they are applicable to the work of trustees, receivers, receiver-managers, agents, liquidators and others involved in the practice of insolvency administration, of:

a) The Canadian Institute of Chartered Accountants, and

b) the provincial institute/ordre of chartered accountants of the province in which the member normally resides and, if the member performs an engagement in a province where he does not normally reside, the provincial institute/ordre of chartered accountants of the province in which the engagement is performed.

14. In these Rules, words importing the singular number or the masculine gender only include more persons, parties or things of the same kind than one, and females as well as males and the converse.

15. For the purposes of these Rules:

a) a person shall be deemed to be related to another person if they are related to each other within the meaning of the Bankruptcy and Insolvency Act ; and

b) the word "person" shall have the same definition as it does in the Bankruptcy and Insolvency Act.

16. Any other word or phrase in these Rules shall have the meaning or scope given it from time to time by resolution of Council.

INTERPRETATIONS TO THE RULES

RULES 1 and 2

1. In order to ensure that a member maintains not only his own good professional reputation, but also that of the Association, the member shall always perform his engagement in a conscientious, diligent, and efficient manner and shall provide a quality of professional service which the public can generally and reasonably expect from any member in a like situation.

2. A member is obligated to do his reasonable best in providing prompt professional service on an engagement.

RULE 4

1. A member should be satisfied that his or his associates' relationship with the debtor, any creditor or any other clients having an interest in the professional engagement is not such as to impair his professional judgement or objectivity.

2. A member, his partners, his associates, his staff and their respective household shall not acquire directly or indirectly in any manner whatsoever any assets under the administration of the member, provided that any of the foregoing may acquire assets from a retail operation under administration of the member where those assets are available to the general public for sale and that no special treatment or preference over and above that granted to the public is offered to or accepted by the member, his partners, his associates, his staff and their respective households.

3. A member shall not permit himself to be placed in a position of conflict of interest; in keeping with this principle, a member shall not accept any appointment;

a) which is prohibited by law, or

b) as a receiver, a receiver-manager, agent for a secured creditor, liquidator or any appointment under the Bankruptcy and Insolvency Act , except as an inspector, in respect of any insolvent person or corporation where the member is, or at any time during the immediately preceding two years was:

i) related to such person or corporation; or

ii) the auditor or accountant of such person or corporation.

[b) amended September 15, 1987; November 27, 1997]

4. The term "accountant" means anyone who has prepared unaudited financial statements in accordance with S.8200 of the CICA Handbook.

[amended February 14, 1994]

5. The two year time period commences at the date of the last audit report or the last review engagement report. The two-year time period must expire on or before the date of bankruptcy, which in the case of a petition, shall be the date of filing of a petition for a receiving order.

6. A member shall not permit himself to be placed or remain in a position where a conflict of interest may exist, or may appear to exist, without making full disclosure to, and obtaining the written consent of all interested parties; in keeping with this principle, a member shall not accept any appointment:

a) as trustee under the Bankruptcy and Insolvency Act where the member has already accepted an appointment as receiver, receiver manager, agent for a secured creditor, liquidator, trustee under a trust indenture issued by the bankrupt corporation or by any corporation related to the bankrupt corporation, or on behalf of any person related to the bankrupt without having first made disclosure of such prior appointment to the Bankruptcy Court or the Official Receiver, as the case may be; following the acceptance of such appointment as trustee under the Bankruptcy and Insolvency Act , the member shall inform the creditors of the bankrupt of his prior appointment as soon as reasonably possible thereafter;

b) as receiver, receiver-manager, agent for a secured creditor or on behalf of any person related to the bankrupt where the member has already accepted an appointment as trustee under the Bankruptcy and Insolvency Act without first obtaining the permission of the inspectors of the bankrupt estate; where inspectors have not been appointed at the time that the second appointment is to be taken, the member shall obtain the approval of the creditors of the bankrupt of having taken the second appointment as soon as reasonably possible thereafter; and if the second appointment is taken before obtaining the approval of the creditors, it should be taken subject to their approval.

c) as receiver, receiver-manager, agent for a secured creditor or trustee under the Bankruptcy and Insolvency Act in respect of any corporation where the member is, or at any time during the immediately preceding two years was, the trustee (or related to such trustee) under a trust indenture issued by such corporation or by any corporation related to such corporation without first obtaining the permission of the creditors secured under such trust indenture; upon the acceptance of an appointment as trustee under the Bankruptcy and Insolvency Act , the member shall inform the creditors of the bankrupt corporation of his prior appointment as (or relationship to) the trustee under a trust indenture or by any corporation related to the bankrupt corporation as soon as reasonably possible thereafter.

d) as receiver, receiver-manager, agent for a secured creditor, liquidator of an insolvent company under the Winding Up Act, or trustee under the Bankruptcy and Insolvency Act , in respect of any corporation where the member is related to an officer or director of such corporation.

e) as receiver, receiver-manager, agent for a secured creditor, or trustee under the Bankruptcy and Insolvency Act in respect of any person or corporation where the member is a creditor, or an officer or director of any corporation that is a creditor, of such person or corporation unless the relationship is sufficiently remote that the member can act with complete objectivity;

f) in any court-appointed capacity under the Companies' Creditors Arrangements Act without disclosing to the Court any professional involvement with the debtor during the immediately preceding two years.

[added February 14, 1994]

RULE 6

1. A member, his partners, his associates, his staff and their respective households shall not acquire directly or indirectly in any manner whatsoever any assets under the administration of the member, provided that any of the foregoing may acquire assets from a retail operation under administration of the member where those assets are available to the general public for sale and that no special treatment or preference over and above that granted to the public is offered to or accepted by the member, his partners, his associates, his staff and their respective households.

RULE 9

1. A member should not use the terms "Bankruptcy Sale" or "Receivership Sale" where he is not the Trustee in Bankruptcy or Receiver respectively, unless he has the approval of the actual respective Trustee in Bankruptcy or Receiver.

2. A member should avoid the use of the term "Trustee(s)" in his advertising or on his professional card or stationery. The term "Trustee(s)" is not deemed appropriate since it is generally perceived by the public to embrace a number of services which are not within the scope of a Trustee in Bankruptcy. The term "trustee in bankruptcy" may be used.