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The Principle of Confidentiality and illegal acts in the Accountancy Profession

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Abstract

Accountants should uphold the principle of confidentiality in the conduct of their duties as part of the code of ethics as there are possibilities of them having access to their client's sensitive information. On the other hand the regulatory framework in the accountancy profession does emphasis that on certain instances accountants can disregard the principle confidentiality and this the essence of this paper. Therefore the title of this document is "The Principle of Confidentiality and illegal acts in the Accountancy Professional".

The details in this article are entirely collected through secondary research due to the specialized nature of the paper. Information is specifically obtained from scholarly articles in finance and management, various text books in finance and management and journals from professional bodies.

Keywords: The Code of Ethics, Illegal Acts, Professional Accountants, Confidentiality, Money laundering, Financing terrorism, Fraud.

Introduction

This article details the discussion onthe principle of confidentiality and illegal acts in the accountancy professional. Initially the article details brief description of the terms code of ethic and confidentiality and discusses the illegal acts with particular emphasis the three illegal acts namely money laundering, financing terrorism and fraud. Finally the article concludes by stating instances when professional accountants may disregard the principle of confidentiality.

The Code of Ethics

Accountants like any professionals such as Engineers, Lawyers, Doctors and etc. required to uphold codes of ethics because of the positions of trust they hold in society, and that people rely on them. The work of accountants is relied upon by various stakeholders and the general public at large, since accountants are perceived to be experts in the accounting field. For this reason the profession has come up with ethical guidelines is because of public interest. The Code of Ethics for Professional Accountants details the fundamental principles which must be observed by all professional accountants. The public interest is considered to be the collective well–being of the community of people and institutions the professional accountant serves, including clients, lenders, governments, employers, employees, investors, the business community and others who rely on the work of professional accountants “BPP Learning Media, Page 26, 2007”.

According to the Zambia Institute of Chartered Accountant publication, The Zambia Institute of Chartered Accountants (ZICA) is a member of the International Federation of Accountants (IFAC) and as such it follows the fundamental principles laid down by IFAC in its Code of Ethics.

The fundamental principles in the Code of Ethics issued by IFAC covers the following areas:

- Independence, objectivity and integrity
- Competence and proficiency
- Changes in professional appointment
- Confidentiality

“BPP Learning Media, Page 26, 2007”

Confidentiality

Accountants must not abuse the statutory right to receive information and explanations from the client. Data that is confidential about the client’s activities and business must only be divulged to third party with the consent of the client unless there is statutory regulation that states otherwise.

Confidential information obtained regarding one client during the conduct of various accounting services including another client must not be disclosed or misused. As can be observed above confidentiality is one the essential code of ethics hence there need to discuss the code of ethics so that we gain insight on where confidentiality on the codes of ethics.

Illegal Acts

The paper places emphasis mainly on three illegal act committed by individuals, especially officers holding influential positions in private and public institutions namely money laundering, financing terrorism and fraud and they are briefly discussed below.

Money laundering

Literature in accounting and finance defines money laundering as a process by which criminals conceal the true source and ownership of proceeds of crime and try to cover the crime and legitimize the funds. In Zambia for instance a firm commits an offence by not by not reporting any person abetting or conspiring to commit money laundering to the appropriate authorities such as the Drug Enforcement Agency under the Prohibition and Prevention of Money Laundering Act 2001.

Financing terrorism

Literature in accounting and finance describes terrorism financing as the process of collecting, transmitting, and distributing funds to finance terrorism activities, without catching the attention of law.

According to the United Nation's publication on Terrorism financing under the Office of drugs and crime Terrorist financing encompasses the means and methods used by terrorist organizations to finance their activities. The source of funding to finance terrorist activities come from both legitimate sources such as profits from business organizations and charitable organizations and illegitimate activities such as kidnapping for ransom, trafficking in weapons and trafficking in drugs or people.

Research indicates that Money laundering and terrorism financing are often linked due to the fact that when the law is enforced to detect and prevent money laundering activities, this may also be the vehicle through which funds are prevented from being used to fund terrorism.

Fraud

According to literature in accounting and finance fraud comprises both the intentional misrepresentation by employees, management or third parties and use of deception to obtain an illegal or unjust financial advantage.

Fraud may be manifested in the following ways:

- Falsification or alteration of accounting records or other documents
- Misappropriation of assets or theft
- Suppression or omission of the effects of transactions from records of documents
- Recording of transactions without substance
- International misapplication of accounting policies, or
- Wilful misrepresentations of transactions or the entity's state of affairs

"BPP Learning Media, Page 42"

Conclusion

The principle of confidentiality requires that the accountants as professional should not disclose information that comes to their attention by virtue of carrying out there assignments or in conduct of their duties to the third parties without the permission of the client. However on certain instances or situations accountants may disclose information to third parties without seeking the authority of the client. For instance in situations where the accountant in the conduct of his or her duties comes across information that the client is involved in illegitimate acts such the ones stated above he or she may disclose information to third parties without seeking the authority of the client. In this case the third party is an appropriate authority such as the Drug enforcement commission. The accountant may make disclosure if it is in the public interest to make such a disclosure under the voluntary disclosure. As much as the principle of confidentiality should be observed in entities, illegal acts or dealing by a client could fall under the exception to non-disclosure of client information without the authority of the client. Thus accountants will not be in breach of the fundamental principle professional ethics of confidentiality if they report an illegal dealing to the appropriate authorities. Further guidance does require accountants to seek legal advice if not sure about whether or not to report the illegal appropriate authorities.

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