

Accountability

Issue VII

MAINTAINING INDEPENDENCE

It's rare for a firm not to encounter a situation that poses a potential conflict of interest at some time during its career. The accountant's obligation in any engagement is to the client. Those who try to serve the interests of the client, themselves and other third parties are placing themselves at risk for a conflict of interest situation.

How does a firm recognize a potential or actual conflict of interest?:

- Conflict of interest among the accountant's or firm's clients whom the firm serviced when these clients operated as one unit. This includes spouses who've become embroiled in marital disputes/divorces and those business partners in the process of dissolving their business relationship.
- Arranging or suggesting business deals and meetings for clients.
- Charging referral fees for "tipping" clients to business contacts or opportunities
- Giving specific investment advice to the client either directly by the accountant or through contacts to whom the client is referred by the accountant or the firm.
- Charging commissions on client earnings from investments either arranged or advised by an accountant.

The AICPA considers independence impaired if during the engagement any member of the firm:

- Had any joint or closely held business investment with the entity or with any officer, director or principal stockholder's thereof...
- Had or was committed to acquire any direct...or indirect interest in the entity.
- Had any loan to or from the entity or any officer, director or principal stockholder of the entity.

- Was a trustee to any pension or profit sharing trust of the entity
- Was a trustee of any trust or executor... of any estate if such trust or estate had or was committed to acquire any direct or ... financial interest in the entity.
- Was connected with the entity as a promoter, underwriter or voting trustee, director or officer or any capacity equivalent to that of a member of the management or of an employee.

To avoid any misunderstandings, the accountant should delineate in the engagement letter the scope and function of the services he provides. A separate engagement letter should be implemented when services such as legal or investment advice (typically excluded under professional liability insurance policies) are provided.

Prior to any new matter being accepted by the firm, a check for possible conflicts of interest should be made

A good place to start is to establish a simple index system. This will probably work well for the smaller firms by listing the names of persons or entities in alphabetical order for whom the firm has worked. Once an engagement is accepted, the client's name must be entered into the index. In order for the system to be effective and accomplish the purpose for which it was intended, *it must be kept current*. With the available PC technology, this process should be simple.

For the larger firm, the process can be approached differently. A memorandum may be circulated to all accountants within the firm concerning the acceptance of a prospective client, requesting input from any member who sees a potential or real conflict of interest by accepting such a client.

Administrative procedures, if used properly, can lessen the risk of a malpractice suit. **n**

