

APPENDIX D

CPATA Directors' Code of Conduct

Introduction

This Code of Conduct has been approved by CPATA's Board of Directors and is intended to govern the conduct of the directors and committee members. The principles in this Code of Conduct are the individual and collective responsibility of all directors and committee members, and are both practical and aspirational.

When appointed/elected or reappointed/re-elected, each director is required to sign an undertaking regarding the Code of Conduct (Appendix D1), which undertaking will apply for their term of office.

In addition, each director is required to declare that they are not ineligible to act as a director (Appendix D2).

A. Code of Conduct Guidelines

1. Responsibilities of Individual Directors

Each director is expected to become an active participant in the Board, a body that functions as a whole. In addition to assisting in the exercise of the major duties of the Board, including any CPATA committees on which they serve, directors are responsible for exercising due diligence in the performance of their duties.

They are expected to:

- be informed about the *CPATA Act*, Regulations and By-laws, the College's Regulatory Objectives, Standards and Principles, this Code of Conduct and any Board Policies as they pertain to the duties of a director;
- keep generally informed about CPATA's activities, the public interest CPATA serves and general trends in the sector in which it operates;
- attend Board meetings regularly, serve on Board committees and contribute from personal, professional and life experience to the work of the Board;
- exercise the degree of care, diligence and skill expected of a director;
- exercise the degree of care, diligence and skill that a person of ordinary prudence would exercise in dealing with the property of another person;
- be independent and impartial;
- not be influenced by self-interest, outside pressure, political considerations or fear of criticism;

- not knowingly permit their personal interests to conflict with their duties and powers as a director;
- act with honesty and integrity and conduct themselves in a manner consistent with the nature and the responsibilities of a director and in such manner as will maintain public confidence in the conduct of the Board's business;
- offer their perspectives and opinions on issues that are the subject of Board discussion and decision;
- voice, clearly and explicitly at the time a decision is being taken, any opposition to a decision being considered by the Board;
- maintain solidarity with fellow directors in support of a decision that has been made in good faith in a legally constituted meeting, by directors in reasonably full possession of the facts;
- ask the directors to review a decision, if they have reasonable grounds to believe that the Board has acted without full information or in a manner inconsistent with the directors' fiduciary obligations;
- work with CPATA's staff on matters within the mandate of the Board or its committees;
- know and respect the distinction between the roles of directors and the roles of staff, and work with and treat staff in a manner that is consistent with that distinction and the principles underlying the Board's governance policies; and
- exercise vigilance in identifying and declare any real, potential or perceived conflict of interest in accordance with the Conflict of Interest Guidelines and By-laws.

2. Conduct of Directors

At all times directors will strive to conduct themselves in a manner that:

- supports the Regulatory Objectives of the College;
- serves the overall best interests of the public rather than any particular constituency;
- brings credibility and goodwill to the activities of the Board and of CPATA;
- respects principles of fair play and due process;
- demonstrates respect for individuals in all manifestations of their diversity and life circumstances;
- demonstrates professionalism and respect towards others and avoids any form of harassment;
- respects and gives fair consideration to diverse and opposing viewpoints;
- demonstrates due diligence and dedication in preparation for and attendance at meetings, special events and in all other activities on behalf of the Board;
- acts consistently with CPATA's Regulatory Standards and Principles and demonstrates good faith, prudent judgment, honesty, transparency and openness in their activities on behalf of CPATA;
- oversees the financial affairs of CPATA so that they are conducted in a responsible and transparent manner with due regard for a director's fiduciary responsibilities and public trusteeship;

- avoids real, potential or perceived conflicts of interest;
- conforms with the By-laws and Board Policies approved by the Board and in particular this Code of Conduct;
- conforms with any obligations or duties of directors under applicable legislation; and
- publicly demonstrates acceptance, respect and support for decisions legitimately taken in transacting the Board's business.

3. Performance Monitoring

The directors collectively, operating as the Board, recognize their joint responsibility to monitor CPATA's performance and to measure and account for its results. In addition to the annual performance evaluation of the CEO, CPATA's performance will be regularly assessed by the Board, through a series of steps that may include some or all of the following, depending on the circumstances:

- evaluation of the Board's effectiveness to identify strengths and weaknesses in governance structures and processes and to suggest priorities for further attention;
- directors' self-assessments to help individual directors and the Chair of the Board assess the "added value" that each director brings to CPATA, whether each director has met the expectations set by the Board, whether each director continues to be committed to serving on the Board and whether each director has complied with the requirements of this Code of Conduct;
- One-on-one meetings between each director and the Chair of the Board to assess individual director's perspectives on Board and corporate performance; and
- development of a system that demonstrates the impact or outcomes of CPATA's regulatory mandate, including the effectiveness of all regulatory processes, decision-making and the communication and implementation of regulatory decisions.

4. Contracts with Former Directors

Nothing in this Code of Conduct prohibits CPATA from awarding a contract to a former member of the Board, provided that the procedure followed for awarding such contract is in accordance with CPATA's approved practices.

5. Gifts and Hospitality

Directors must not directly or indirectly offer or accept cash payments, gifts, gratuities, privileges or other personal rewards that are intended to influence CPATA's activities or affairs. In their capacity as Board Directors, directors may give or receive modest gifts or hospitality as a matter of general and accepted business practice, provided they do not include cash or other negotiable instruments and provided proper accounting is performed for any such expenses.

B. Fiduciary Obligation Guidelines

Directors owe a fiduciary obligation to CPATA.

A fiduciary obligation speaks to a director's responsibility to act loyally, honestly, in good faith and in the best interests of the public on behalf of CPATA. They must avoid conflicts of interest, abstain from using the position of director for their own benefit and keep CPATA's information confidential.

C. Confidentiality Guidelines

Professional regulators often hold a large amount of confidential information about the individuals and organizations that they regulate. Some examples of confidential information held by CPATA include:

- personal information: this may include names, addresses, SINs and other sensitive information about individuals who are registered with CPATA;
- financial information: this may include information about the financial status of an individual or organization, such as bank account numbers or income and tax information;
- investigation files: this may include confidential information related to the investigation of a complaint, including witness statements and internal reports; and
- licensing and credentials information: this may include information provided on applications as well as criminal record checks.

It is important for CPATA to maintain confidentiality of the above and other information and to only release it under limited circumstances, such as those instances when release is provided for under the *CPATA Act*. The following Guidelines apply to all Board directors, committee members, the CEO and staff:

1. All Board directors, committee members, the CEO staff and any external non-lawyer/non-agent consultants or service providers are required to sign a Confidentiality Agreement (see Appendix D1).
2. As a public interest regulator, CPATA operates in the public domain, conducts its Board meetings in public (except for in-camera sessions which may be held in certain limited circumstances – see Appendix F), discloses regulatory decisions and functions in an open and transparent manner. The obligations relating to confidential information relate to materials, information and matters that have not been disclosed in the fulfillment of CPATA's public interest mandate.
3. All communications between directors, committee members, or directors/committee members and the CEO and staff are confidential unless disclosure is authorized by the Chair of the Board or Board Policies or is required by law.

4. Directors, committee members, the CEO, staff and external providers must adopt reasonable precautions in dealing with confidential Information so as to prevent its unauthorized use or disclosure.
5. Except as directors or committee members may be compelled by applicable legal process, each must, while serving as and after ceasing to be a director or committee member, treat all information regarding the policies, internal operations, systems, business or affairs of CPATA that they obtain by reason of their status as a director or committee member and that would not otherwise be available to them, as confidential information.
6. Duplication and disclosure of confidential information (written or oral) other than for the purposes of carrying out director or committee duties, or as between directors or committee members, requires advance written consent of the Chair of the Board or Chair of the respective Committee, as the case may be.
7. It is the responsibility of each director and committee member to know what information is confidential and to obtain clarification when in doubt.
8. A director or committee member must not use information obtained because of involvement on the Board or a committee for their personal benefit. Each director and committee member must avoid activities that may create a perception they have benefited from acquiring confidential information during the course of being a director or committee member.
9. Directors and committee members must inform themselves of CPATA's general obligations respecting personal information and take appropriate steps so their own actions are consistent with CPATA's obligations to protect and handle such information in a secure manner and in accordance with applicable laws.

D. Conflict of Interest Guidelines

Directors and committee members are expected to comply with these Conflict of Interest guidelines in fulfilling their duties with CPATA.

At all times directors are to act in the best interests of the public rather than in their own or any particular constituency's interests. When performing their director duties, directors put aside personal self-interest and transact the affairs of the College in such a manner that promotes the public confidence and trust in the integrity, objectivity and impartiality of the Board, CPATA's regulatory committees and all regulatory decision-making. Beyond the approved remuneration for directors, no director directly or indirectly receives any profit from their position, other than reasonable expenses incurred in the performance of their duties. The pecuniary interests of immediate family members or close personal or business associates of a director are also considered to be the pecuniary interests of the director.

1. Definition of Conflict of Interest

A conflict of interest refers to a situation in which personal, occupational or financial considerations affect or appear to affect the objectivity or fairness of the actions, decisions or deliberations of the Board, individual directors, a committee or individual committee members.

Directors and committee members are in a "conflict of interest" whenever they, or members of their family, business partners or close personal associates, may personally benefit directly or indirectly, financially or otherwise, from the director's position on the Board or a committee member's position on a committee.

A conflict of interest may be "real", "potential" or "perceived"; in each case, there exists the same duty to identify and disclose the conflict. Full disclosure does not eliminate a conflict of interest.

Pursuant to ss. 14 and 17 of the *CPATA Act*, a conflict of interest exists if a director is a member of an association whose primary purpose is to represent the interests of persons who provide advice on patents or trademarks.

2. Principles for Dealing with Conflict of Interest

- 2.1 Directors and committee members must openly disclose a potential, real or perceived conflict of interest as soon as the issue giving rise to the conflict arises and before the Board or a committee deals with the matter.
- 2.2 If a director or committee member is not certain whether there is a conflict of interest, the matter may be brought to the Chair of the Board, Chair of the Governance Committee or committee Chair for advice and guidance.
- 2.3 If there is a question about the existence of a conflict, the Board or committee, absent the director or committee member whose interest is involved, determines by majority vote if a conflict exists.
- 2.4 Directors or committee members who are aware of a real, potential or perceived conflict of interest on the part of a fellow director or committee member should raise the issue for clarification, first with the director or member in question and, if unresolved, with the Chair of the Board, Chair of the Governance Committee or committee Chair, as the case may be.
- 2.5 A director or committee member in a real, potential or perceived conflict of interest must abstain from participation in any discussion on the matter, not attempt to personally influence the outcome, refrain from voting on the matter and leave the meeting room for the duration of any such discussion or vote.
- 2.6 The disclosure and decision as to whether a conflict exists is to be recorded in the minutes of the meeting. The time the director or committee member left and returned to the meeting is also recorded.

2.7 The failure of a director or committee member to comply with the procedures outlined in these Conflict of Interest guidelines does not, of itself, invalidate any decision or action of the Board or committee. In each case, consideration will be had of the nature, circumstances and context of the decision.

3. Examples of Conflict of Interest on the Part of a Director or Committee Member:

The following is a non-exhaustive list to assist a director or committee member in determining whether a conflict of interest exists.

- 3.1 Any circumstance that may result in a personal or financial benefit to a director or committee member, or to a member of their family, a business associate or a close personal associate. This includes, but is not limited to, accepting any payment for services rendered to CPATA, including contracted work or honoraria, and accessing financial or other resources for personal use, such as transportation, training costs, supplies, equipment, etc.;
- 3.2 Personal interests that conflict with the interests of CPATA;
- 3.3 Seeking, accepting or receiving any personal benefit from a supplier, vendor, or any individual or organization doing or seeking to do business with CPATA;
- 3.4 Being a member of the Board, a committee or staff of another organization that has or might have material interests that conflict with the interests of CPATA and dealing with matters on one Board that might materially affect the other Board;
- 3.5 Any involvement in the hiring, supervision, grievance, evaluation, promotion, remuneration or firing of a family member, business associate or close personal associate of the director or committee member; or
- 3.6 Serving as directors on the same board with members of their family or others with whom they have a direct business or close personal relationship will be subject to an immediate perception of apparent conflict of interest.

Board and committee members are required to sign an Undertaking re Confidentiality and the Code of Conduct (see Appendix D1).

E. Complaints and Disputes Involving Directors and Committee Members

It is the responsibility of each Board director and committee member to hold themselves and each other accountable for complying with this Code, and for carrying out their duties and responsibilities in a way that instills public and licensee confidence. In the event that specific concerns arise in relation to the conduct of a Board or committee member in fulfilling their roles with CPATA, the Board has adopted a policy and procedure for addressing such concerns in Appendix E Complaints against Board Directors or Committee Members.