

STARTING YOUR OWN FIRM

Reputation at risk if letter ignored

By DOUGLAS STEWART

The last thing any accounting professional wants to deal with is a letter from their Chartered Professional Accountants (CPA) regulator forwarding a complaint that triggers an investigation into professional standards or conduct.

The issue(s) raised may appear unjustified, lacking in factual basis or simply trivial. However, it would be a mistake to assume that the CPA regulator will treat it accordingly. The provincial investigation or conduct committee (PCC) is required to investigate all complaints and determine if there may have been an apparent breach of the Rules of Professional Conduct. The PCC takes its mandate seriously and will rigorously investigate matters, even those that might seem minor.

A member's response to this investigation should be equally rigorous. Consideration should be given to engage experienced counsel from the moment a letter is received, ensuring the investigation is appropriately managed to maximize the opportunity to have the complaint dismissed or negotiate a resolution with the PCC without a full hearing before the discipline committee. Once a matter is referred to the discipline committee, the process will become less manageable and more risky to the member's reputation, attract greater publicity and result in higher legal defence costs at a hearing before the discipline committee.

The complaints/investigation process typically progresses as follows.

An issue(s) is brought to the PCC's attention usually upon receipt of a complaint letter. PCC staff will review the complaint and consider whether any of the allegations could trigger potential breaches of the rules. It should be noted that the PCC is not mandated to address certain issues between complainants and members, such as fee disputes. At the conclusion of its preliminary review, the PCC may take no further action, provide guidance/admonishment or investigate.

To investigate, the PCC staff will forward the complaint to the member to obtain a response to the allegations. This is important as it allows the staff an opportunity to hear the member's version and obtain a more complete record of documents and information. Typically the member's response is then forwarded to the complainant to obtain any fur-



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ther details or supporting documents.

Once all information is received from the complainant and member, a subcommittee will review and determine whether anything further is required or if it is necessary for the member to attend a meeting of the subcommittee, or the full committee of the PCC, to answer any questions.

view with the member, possibly others at the member's firm, the complainant and/or other third parties. The investigator is granted wide latitude in their information-gathering powers, and a member who does not cooperate or provide full access to working-paper files, can be sanctioned.

The investigator will prepare a report to the PCC (which is not

clarify and provide additional detail. The complainant may be invited to attend this meeting as well, although separately from the member.

At the conclusion of the meeting and investigation, the PCC will make a decision on whether there has been an apparent breach of the rules. If it finds there has been no apparent breach, the matter is closed. It

mittee. The PCC may also enter into a settlement agreement with the member subject to the discipline committee's approval.

The timeframe under which this process may unfold is not standard. Typically, the CPA regulators will set deadlines for responses, which they expect to be followed. While extensions may be granted, the committee may require a reason. Counsel experienced in dealing with the PCC may be better able to secure a more reasonable extension to allow time to prepare an appropriate response to the complaint.

In any event, responding in a timely and comprehensive manner will indicate to the regulator the member is taking the process seriously. This can create better conditions for moving forward more constructively toward resolving all outstanding issues early on, if possible.

During the investigation process it is preferable to open a dialogue with the PCC (ideally with its counsel) who will be in a position to explain concerns and requirements to bring the matter to a resolution. Defence counsel with experience in dealing with the CPA regulators will have the necessary background to understand how to best navigate a dialogue with the committee at this stage.

The first and best opportunity to effectively deal with a complaint is when the initial letter is received from the CPA regulator. The member should conduct a rigorous internal investigation of the details surrounding the complaint, including a review of any and all documents and speaking to witnesses. An objective viewpoint should also be sought, if not from legal counsel, from a colleague or peer.

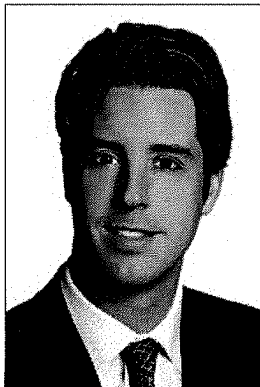
Although this may be time consuming and costly, engaging in the process at the outset may pay dividends in either nipping minor matters in the bud, or laying the groundwork for potential settlement of more serious matters. It is better to invest in the process at the early stages to maximize the chances of resolving the matter and avoiding charges, rather than contacting a lawyer after charges are laid.

At that point, it becomes more difficult to control the process, attracts greater publicity and can potentially result in greater costs, as the hearing before the discipline committee is similar to a trial.

It is also critical to be engaged through other stages of the investigation process, with the

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If necessary, an investigator may be appointed to obtain further information and documents to complete the investigation, which typically includes an inter-

disclosed to the member unless charges are laid) providing their conclusions. This forms a significant basis for how the committee wishes to proceed.

However, even if the PCC believes there may have been an apparent breach of the rules, the member will be given an opportunity to attend a meeting before the PCC to answer questions,

may find there may have been an apparent breach but it is in the public interest to not proceed with charges and instead admonish or provide guidance to the member.

In the event an apparent breach is found, counsel to the committee will be instructed to prepare charges and refer the matter to the discipline com-

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Firms have to make sure fit is right

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Facebook pages became the trusted go-to resources within their respective specialties. Meanwhile gaining influencer status became harder to achieve, as the numbers on social media sites skyrocketed.

Beyond the benefits we would expect video to deliver simply by mimicking recent events, video also has specific advantages over other online platforms. Some examples include:

- **Engagement.** The most successful accounting and other professional sites achieved their position by being strategic about connecting with their target market. But because video is the closest online simulation of a human experience, it gives the static written word a run for its money when it comes to being personal. Video takes engagement up a few notches.

- **Innovative applications.** Video is simply another medium. But this one medium is capable of being repurposed in a multitude of creative formats. The possibilities are quite limitless and many fit especially well within the professional context, since they are all about people. Video biographies. Video blogs. Seasonal video cards. Staff recruiting videos. And so on.

- **Renew existing web presence.** Video can add a layer of interest to any existing web platform. If developed in a cohesive manner, it can make all a firm's online efforts more effective. Market research has shown that senior executives will choose video over text, when both are available on the same topic. As well, click through rate has been demonstrated to increase significantly when video is included in the subject line of an e-mail.



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But is video for everyone? As we've seen, there are certainly advantages to using video. However, there are also built-in challenges. For some, video might be a fun and easy way to add a continuous stream of fresh content to their online efforts. For others speaking in front of a camera may be cause for performance anxiety. So, how can accountants decide when and where video is a fit?

Effective speakers is essential. The world is divided between extroverts and introverts. Though not all of them are clear and effective communicators, extroverts tend to think aloud. They have a natural inclination to express their thoughts verbally, in real time.

Introverts on the other hand, prefer to keep their thoughts to themselves until they sort them out. They tend to have a preference to express themselves in writing. There are, of course, lots of other variables to throw into the mix, including skills and talents, experience and interest.

Regardless, the first clue if

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video is a fit for any accountant is how much of a stretch getting in front of a camera would feel from his or her natural communication style.

Get a marketing team. The decision about video doesn't rest alone with the natural communication tendencies of the firm principals. That's just the first step. If speaking in front of a camera feels unnatural for the key players at the firm, there are other options. Planning and coaching can take a willing but shaky participant from nervous and forced to comfortable and likeable. The process involves

firm principals aren't necessarily the default stars for an accounting video. Consider the possibility of leveraging any natural talent in the firm, at whatever level. If the whole team is involved in the marketing plan, personal marketing plans can be developed at the individual level and they can include video for those inclined. The key to successfully including the wider team in the implementation of the firm's plan is to ensure that all participants maintain a consistent professional identity.

So, back to the question that got us started. Should accountants

It is a mistake to think there is a one-size-fits-all approach to marketing for every accounting firm. The decision about video, as with all marketing vehicles, should ultimately be based on fit. Fit with the firm's goals, the firm's resources and the firm's identity.

Furthermore, it is far more effective to pick a select few marketing vehicles that the firm is deeply committed to and do them extraordinarily well, than to add on new vehicles as they emerge, hoping to have found the magic bullet simply by being inclusive.

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writing out the scripts and lots of practice, in front of a camera and with a coach. There's also always the option of producing video that doesn't feature the people at the firm, should this issue continue to be a roadblock.

Personal marketing plans. The

market their practices with video?

After considering the many advantages early adopters of other web opportunities enjoyed and the many additional advantages video has over static content, the answer should be a resounding yes. It is, for many. Not for all.

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Always respond as quickly as possible

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assistance of counsel. For instance, if an investigator is appointed, counsel can be present and assist in ensuring that there is a clear and complete record. Counsel may also accompany the member to the meeting before the PCC and make submissions on the member's behalf, though it is preferable that members speak for themselves at the meeting.

Typically, counsel's main role is to ensure that the record is complete, points are properly

clarified and most importantly, to ensure that the member is properly prepared.

In summary, do not ignore a complaint letter. Respond as quickly as possible with the benefit of a detailed internal investigation. Stay engaged

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throughout the process. Seek objective advice, either through counsel or at a least a colleague or peer. The risk to professional reputation justifies the time and costs involved in effectively engaging in the investigation process, especially if the matter

can be resolved at an early stage before it is referred to the discipline committee.

If the matter is concluded before the PCC, it will remain confidential, saving the member from harmful and embarrassing publicity that may arise if

referred to the discipline committee.

This article was co-written by Norm Emblem, Frank Bowman and Cynthia Amsterdam.

Douglas Stewart, Norm Emblem, Frank Bowman and Cynthia Amsterdam are partners in Dentons' Professional Liability group (www.dentons.com), specializing in dispute resolution, litigation, professional misconduct, insurance and class actions. Together, they offer the depth of knowledge that clients need.