UNETHICAL PRACTICES IN INVESTIGATION: THE NEED FOR REINFORCEMENT OF ETHICAL CODES AND VALUES

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Abstract

Investigation is one of the functions professional accountants perform for their clients. Society expects so much from the profession, as it plays a key role in ensuring public trust unbiased and accurate financial and investigation reporting, and accurate attestation on which basis economic decisions are taken. In carrying out this assignment, professional accountants are expected to adhere to the fundamental ethical principles of integrity, objectivity, commitment to professional competence and due care and confidentiality. Any action that is contrary to the ethical principles amounts to unethical behavior. The unethical practices perpetuated by some professional accountants in the course of carrying out investigation assignment are detriment to the image and prestige of the profession. This paper seeks to address unethical practices in investigation with a view to proffering practicable solutions. The paper recommends among others, that there is the need for ethical codes and values to be introduced in the educational and professional curricula. The paper concludes that the society has high expectations for the accounting profession and it is very imperative for professional accountants to uphold the ethical codes and value.

Introduction

The main objective of statutory audit is for the auditor to express his opinion if the financial statements presented by management of the enterprises represent the true and fair view of the underlying financial transactions during the period under review. The statutory audit does not require the auditor to detect fraud or any material errors. To this, the statutory auditor is not statutory bound to detect corrupt practices perpetuated in the enterprise as this is not his primary duty, but the duty of the management of the enterprise.

In order to other needs of clients beyond the scope of the statutory audit to be met, there is the need for a professional accountant whose main duty is the examination of the financial information of an entity for the purposes specified by the client other than to report on the truth and fairness of the view presented by those financial information to be engaged. The role of the accountant in this regard is called investigation. In the course of carrying out his investigative assignment, the professional accountant should perform his professional duties in accordance with the relevant technical skill and the terms of the engagement.

The professional accountant has a relationship of trust with his clients. The clients can trust the accountant to act in a proper way in accordance with the professional code of conduct. In return, the accountant expects the client not to withhold relevant information that would affect his judgment. Moreover, in carrying his duty of investigation the accountant must not act exclusively to satisfy the needs of his client but should act in the public interest. Therefore, when the demand or needs of a client appear to be contrary to the public interest, the accountant should consider the public interest.

In the course of carrying out his duty, the accountant may be faced with some ethical dilemma which may result in unethical practice. This is when the accountant takes decisions that are likely to compromise accuracy and quality of his work. Examples abound in Nigeria of unethical practices in investigation by professional accountants in the conduct of their work. A case in point was the Sadiq Petroleum Limited in the African Petroleum deal. Sadiq Petroleum Limited had emerged as the core investor in the privatization of the Federal Government investment in the African Petroleum Limited. On taking over African Petroleum after regulations and purchase. It was discovered that AP had over
N20 billion debt overhand which was creatively concealed and unreported by the investigating accountants who carried out the diligence on the company. In the light of the above, this paper seeks to x-ray the various forms of the unethical conduct, their cases and proffer solutions to combat unethical practices by professional accountants in the course of carrying investigation assignments.

**Theoretical Framework**

**Code of Conduct**

Every profession has a responsibility to the society. Therefore, it became necessary for all true professionals to promulgate code of ethics (rules) to guide the activities of their members. The underlying reasons for a code of ethics for any profession is the need for public confidence in the quality of the service delivery or rendered by such profession regardless of the individual who is providing it.

Ethics define a set of generally accepted code of conducts, norms and practices that control or regulate the behaviours, life patterns and interpersonal relationships among a group of people, society or nation (Adeniyi, 2004). Ethics can be general or social. General ethics studies the principles and criteria by which we may judge voluntary human acts as good or bad, while social ethics is the application of these principles to specific social problems (Eboh, 1998: 103). Ethics refers to principles of behavior that distinguish between good, bad, right and wrong (Henderson, 2000:39). The purpose of ethics or a code of ethics enables individuals to make choices among alternative behaviours. The importance of ethics increases in proportion to the consequences of the outcome of behaviours. The importance of ethics increases in proportion to the consequences of the outcome of behavior. As an individual’s actions become more consequential for others, ethics of that individual becomes more important. Professional members are expected not only to comply with such rules but are to be ethically sound and responsible both in their conduct and exercise of professional duties and even in non-professional assignments.

Behman (1988) opines that an important component of professional status is the existence of an ethical base that defines professional conduct. This accords with the view of Ponemon (1988) that ethics is the cornerstone of public accounting practice. Owolabi (2002) corroborated this when he observed that ethics in accounting profession has been used to indicate generally accepted code of conduct balance designed to promote good professional practice, integrity, as well as strong commitment to high standards in dealing with clients.

Ethical requirements guiding accounting practitioners in Nigeria are stated both in principle and statement. The fundamental principles emphasize on maintaining integrity and objectivity is the state of mind which has regard to all considerations relevant to the task in hand but no other, while integrity implies not merely honesty but fair dealing and truthfulness. On the other hand, the statements on ethical standards cover conflicts of interest, confidentiality, and changes in professional appointment, consultancy, and association with non-members, fees, obtaining professional work as well as integrity, objectivity and independence (The Institute of Chartered Accountants of Nigeria, 2005). The main issue which the ethical standards emphasizes is to avoid conflicts of interest, ensure confidentiality of information obtained, communication with previous auditor before accepting appointment where there is an existing auditor, ensure that fees charged are those agreed with the client or based on the institute’s scale of professional fees and ensure that practice names project the dignity of the profession. Ethical standards if strictly adhered to, become internalized and reflect extensively in professional assignment.

**Ethical Philosophical and the Decision-Making Process**

Ethical philosophies are the foundations of ethical analysis that provide the decision-making guidance. Each philosophy emphasizes difference reasoning that can be used to judge each ethically correct decision. The individual choice of the appropriate ethical philosophy can be influenced by such factors as education experiences, beliefs, social norms, as well as environmental factors such as Enron scandal. Enron at one time was the seventh largest company in the United States before it went into liquidation following an accounting scandal. The scandal involved irregular accounting procedure of creating a bunch of off-balance sheet partnerships to hide the company’s debt towards improving its financial picture in order to pump up its stock price. This irregularity was achieved in conniver with the company’s external auditors Arthur Andersen.
Utilitarian philosophies focuses on the benefits and risks equally. The Justice philosophy prescribes actions that are fair to those can be problematic. There may also be conflicting rules. Following a chosen rule may not lead to the greatest societal benefit. Since rule utilitarianism takes into account the law, it may be safest alternative, and therefore most preferred. The preference for rule based decisions may be the result of risk aversion or a general belief that following the law would have prevented problems such as the Enron debacle and the penalties that followed. The movement away from act based to rule based decisions may have also resulted because act utilitarianism is solely concerned with maximizing good, and therefore an individual’s rights may be infringed upon to provide the greatest good. The collapse of Enron violated the individual rights of various stakeholders in untold hardship for those involved.

Rule utilitarianism takes into account the law, as well as fairness. The rule utilitarian approach seeks to benefit the most people through the fairest and most just means available. An added benefit of rule utilitarianism is that it values justice for the majority. In the post Enron business environment, managers may have a greater respect for laws or simply may be much more reluctant to violate laws. The decision maker following a rule utilitarian philosophy evaluates the rule under which their action falls. However, problems can occur when there are conflicting rules. Following a chosen rule may not lead to the greatest benefit in every situation, but over the long term the rule will result in decisions that lead to the greatest societal benefit. Since rule utilitarianism takes into account the law, it may be safest alternative, and therefore most preferred. The preference for rule based decisions may be the result of risk aversion or a general belief that following the law would have prevented problems such as the Enron debacle and the penalties that followed. The movement away from act based to rule based decisions may have also resulted because act utilitarianism is solely concerned with maximizing good, and therefore an individual’s rights may be infringed upon to provide the greatest good. The collapse of Enron violated the individual rights of various stakeholders in untold hardship for those involved.

The rights philosophy provides a guide to insure respect for the rights of individuals. In the rights ethical philosophy, certain rights set forth by society are protected and given the highest priority. Basically, the rights established by society are protected and therefore considered ethically correct and valid because they are endorsed by society. The usefulness of the rights philosophy is enhanced when used in conjunction with another ethical philosophy that keys on the goals of society. For rights to be applied, society must decide what rights the individual will have after determining the nature of societal goals and ethical priorities, and this can be problematic. The rights to free consent, the right to privacy, the right to freedom of conscience, the right to free speech and the right to due process are the five rights which have been suggested by theories (Cavanagh et al, 1981).

The Justice philosophy results in decisions that are based on equity, fairness and impartiality (Raws, 1971). Justice is basically giving people exactly what they observe, no more and no less, but the resulting subjectivity involved in making that determination can be problematic. There may also be a problem determination if the rules of the justice that govern society as a whole are actually just. Under the justice philosophy, rules must be administered fairly and impartially enforced, distributing both the benefits and risks equally. The Justice philosophy prescribes actions that are fair to those involved, meaning that ethical decisions should be consistent unless extenuating circumstances exist.
Such extenuating circumstances must contain a significant and vital difference from similar cases to justify an inconsistent decision. An ethical decision based on the theory of justice has a consistent and logical basis that supports the decision. Also, individuals must not be held responsible for matters over which they have no control and injured individuals should be compensated by those responsible. Finally, individuals should receive differential treatment only when the basis of the treatment is related to the attainment of organizational goals and tasks.

Ethical philosophy can provide significant guidance during the decision making process. All ethical philosophy sets forth certain guidelines that may be applicable to ethical dilemmas, but all philosophy have limitations. Basically, there are no perfect ethical philosophies, as there are no perfect decisions, but decision making may well benefit when ethical philosophies are consulted. In fact at times, these ethical philosophies can even be used in combination to obtain a more ethically correct decision. Basically, decision makers improve their decision making process by consulting a combination of ethical philosophies when analyzing an ethical dilemma. Fortunately, the various ethical philosophies available provide an important framework that can help guide managers towards more ethically appropriate decisions.

**Role of Professional Bodies in Ensuring Ethical Practices**

At the apex of the professional bodies regulating accounting practices in the world is the international Federation of Accountants (FAC). The role of this professional body is that of providing guidance, encouraging continuity of efforts and promoting harmonization amongst member bodies. Towards this end, the body established an International Code for professional accountants. These codes essentially form the foundation of each member body is standards of conduct for professional accountants. The code of explicitly provides for the fundamental principles that have to be observed by professional accountants in order to achieve common objectives irrespective of the sector in which they function. These fundamental principles are integrity, objectivity and Independence, Professional competence and Due Care, confidentiality, professional behavior and technical standard.

Integrity is to maintain and broaden public confidence; an accountant should perform all professional responsibilities with the highest sense of fair dealing and truthfulness. An accountant should not be associated with reports or any other provision of information where he or she believes that the information contains a materially false or misleading statement and contains a statement that has been prepared and provided recklessly without proper care or consideration for its accuracy. Objectivity and Independence mean that an accountant must not allow his professional or business judgment to be affected by bias (personal prejudice), conflict of interest and undue influence form others. A member in public practice should be independent in fact and appearance when providing auditing and other attestation services. Professional competence and Due Care imply that an accountant has a duty to maintain his professional knowledge and skills at a level that enables him to provide a competent professional service to his client. This includes a requirement to keep up to date with the developments in areas of accounting that are relevant to the work that he does. Confidentially implies that an accountant must respect the confidentiality of information obtained in the course of his work. He should not disclose any such information to third parties without proper and specific authority unless there is a legal or professional right or duty to disclose. Confidential information should not be used for the personal advantage of the professional accountant or third parties. Professional behavior requires a professional accountant to observe laws and regulations and to avoid any actions that would discredit the accountancy profession. This requirement covers advertising by accountants which must be truthful and must not disparage the services provided by rival firms.

In Nigeria, the Institute of Chartered Accountants of Nigeria and the Association of National Accountants of Nigeria are the two bodies responsible for ensuring compliance of ethical practices by accountants in Nigeria. The Institute of Chartered Accountants of Nigeria (ICAN) is the foremost body in Nigeria and was established by Act of parliament Number 15 of 1965, it seeks to ensure that members apart from meeting technical standards are of high moral standards. The institute enforces ethical standards by its two standing committees of its council. They are the Investigation Panel and the Accountants Disciplinary Tribunal.

The Investigation Panel considers complaints against the conduct of members and is empowered to initiate disciplinary action. The panel has the responsibility of conducting a preliminary investigation into any case where it is alleged that a member has misbehaved in his capacity as an
accountant or should for any reason be the subject of proceedings before the tribunal and deciding
whether the case should be referred to the tribunal. The decision of the Disciplinary Tribunal is final
as far as the Institute is concerned and it is legally binding. An appeal against the tribunal’s ruling can
only be made to the Supreme Court, which is the highest Court of Law in Nigeria.

It should be noted that the Institute can only initiate a disciplinary action if an aggrieved
member of the public lays specific complaints about a member before it. Unfortunately, the number of
reported case has been few as the public has not been sufficiently forthcoming in reporting to the
institute cases of professional misconduct by its members.

**Nature of an Investigation**

An investigation should not be confused with audit. The object of an audit is to enable the
auditor to report upon the truth and fairness of the financial statement of the enterprise to the
proprietors therefore. On the other hand, an investigation is undertaken with a view to obtaining
information of a special nature usually on behalf of a particular person or group of persons, with the
objective of preparing a report to be presented to him. It does not constitute an opinion on financial
statements and is not necessarily prepared for the owners of an enterprise, as investigation can be
carried on for many different purposes on behalf of many different interested parties. The following
are the types and purpose of investigation in practice (Izedonmi, 2000: 338).

1. **Investigation on behalf of an incoming partner:** The purpose of this investigation is to provide
an incoming partner with appropriate information to enable him/her decide whether or not to
purchase a part of the business and how much consideration to pay for the part of the business.
The accountant should include in his/report to a prospective incoming partner, all information
which comes to his knowledge that may be of importance to his client in arriving at a decision as
whether he should continue negotiation.

2. **Investigation for fraud where it is known or suspected to have taken place:** These
investigations may be requested by an enterprise’s management or by the owner where fraud is
suspected or known to have occurred. The objectives are to determine the nature, amount scope
and how to forestall the recurrence of the fraud.

3. Investigation for Taxation purposes may be carried out on behalf of the revenue authorities
where it is suspected that a tax payer has under paid taxes. It may also be carried out on behalf of the tax
payer himself in order to determine his correct tax position. In either situation, the primary
purpose of the investigation is to determine correct tax liability of the taxpayer.

4. **Investigation on behalf of the purchaser of a business is another category of investigation.**
The purposes of this type of investigation are broadly twofold and include to provide the client
with appropriate information to enable him decide whether or not to purchase the business and to
provide the client with adequate information to enable him decide the amount of consideration to
offer for the business. On the other hand, the person selling the business would wish to obtain
maximum price for his business and there is the temptation to manipulate the records.

5. **Investigation for the purpose of reporting on profit forecast constitutes another type of
investigation.** Profit forecast is defined as an estimate of trading or operating results for a future
period or a partly expired accounting period or a fully expired accounting period where the related
financial statements have not been audited. The accountant’s responsibilities are to report on the
accuracy of the profit forecast and to report whether the profit forecast so far as the accounting
policies and calculation are concerned, have been prepared on the footing of the assumptions
made by management. Profit forecasts by their nature are based on subjective judgment. The
achievement of the forecast is characterized by uncertainties.

6. **Investigations for credit purposes may be required by either a lender such as a bank or a supplier.** It may be required by the borrower as well. The objectives of this investigation are to
determine the legality of the credit, to determine the adequacy of the security offered the
borrower, to verify the viability of the venture for which the credit is required and to determine
the capability of the borrower to pay interest and principal installments as and when due.
Basic Stages and Procedures of an Investigation

- **Obtain written terms of reference:** The accountant should discuss and agree on the terms of reference with the client. This should generally include the scope and objectives of the investigation. The degree of secrecy required, any financial or other constraints involved in the investigation, those to whom the accountant should address his report, the reporting deadline for the assignment and the accountant’s fees or the basics for its computations. These matters should be clearly set out in a letter of engagement similar to those of audit assignment.

- **Establish contact with auditors of the entity under investigation:** This is important not only because of professional courtesy but also to solicit the assistance of the auditor during the detailed investigation. The accountant should seek appropriate authorization from the client before establishing with the auditors.

- **Plan/organize the investigation:** This is necessary in order to clarify the objectives of the investigation and determine the combination of strategies required to achieve the objectives. The accountant should review the scope of the assignment and consider its adequacy in view of the work. He should consider his staffing requirement and the involvement of experts during the investigation.

- **Obtain background information about the entire operating environment:** This is important where the client intends to hold long-term interest in the entity under investigation. Matters to be considered will include the size of the industry to which the enterprise belongs, the numbers of competitors and the political, legal, social, economic and technological factors in the environment, which impact on the entity’s business.

- **Obtain preliminary information about the entity itself:** The accountant should obtain an understanding of the entity’s nature of business, organization structure, management structure, significant accounting policies, prior year’s financial performance, accounting system and internal control systems amongst others.

- **Analyze background/preliminary information and prepare a “report outline”:** The accountant should review the background and preliminary information obtained. He should determine those matters which in view of the client’s requirement require more detailed investigation. He should prepare a report outline setting out the framework of the report to be sent to the client. This will serve as a basis for the control and direction of the tasks to members of the investigation team.

- **Carry out detailed Investigation:** This will generally involve the use of techniques such as inspection, enquiry, observation, computations and analytical review. The purpose is to enable the Accountant obtain sufficient appropriate evidence to support his conclusions and recommendations to the client.

- **Prepare draft report:** Based on the initial report outline, the Accountant should prepare his draft report. The report among other things should set out the scope and objectives of the investigation, the Accountant’s approach and work done, the Accountant’s findings. Conclusions and recommendations. It should also state any reservations or qualifications required to be brought to the notice of the client.

- **Discuss draft report with client:** This is essential to enable the Accountant establish that the work done meets the requirements of the client. It will also enable him ensure that the format of the report satisfies the client’s needs. It will also provide the Accountant with an opportunity of ascertaining whether the scope of the assignment should be extended in view of the initial findings.
- **Carry out any further work that may be required.** In view of discussions with the client and the matters arising, the Accountant should carry out any further work that may be necessary.

- **Finalize and submit report:** The Accountant’s report should be finalized, printed and signed and delivered to the client.

### Types of Unethical Practices in Investigations

Unethical practices manifest in investigation depending on the types of investigation.

i. In an investigation on behalf of an individual or a firm proposing to buy a business, the accountant could collude with the vendor to manipulate records, inflate asset values, depress liabilities and inflate revenues in the years during which the proposed sale is contemplated. Also stock may be overstate by double counting of certain items, over valuation and inflation due to manipulation of cut-off procedures. A case in point in Nigeria was the Sadiq Petroleum Limited in the African Petroleum deal. Sadiq Petroleum limited had emerged as the core investor in the privatization of the Federal government investment in the African Petroleum Limited. On taking over African Petroleum after regulations and purchase. It was discovered that AP had over N20 billion debt over hand which was creatively concealed and unreported by the investigating accountants who carried out the diligence on the company.

ii. In the investigation on behalf of a bank for the purpose of credit, the bank requires more detailed information and an accountant is called to carry out investigations for this purpose. Bankers are interested in knowing the reason for the required loan as they are careful to see that in such cases, the money is usually employed. Furthermore, they wish to know the extent to which the customer is liquid. The accountant’s investigation will therefore centre, on the verification of assets and liabilities, ascertaining the financial strength of the business, if the client who is seeking the loan does not prepare a regular budget, the investigating accountant will be well advised to offer assistance to the client in preparing a cash forecast showing how the loan is expected to be repaid. In the course of carrying out his duties, the investigating accountant engages to unethical practices by window dressing the financial statements of the client to be presented to the banker. For example, the cash flow statements of the client to be presented to the banker. For example, the cash flow statement can be window-dressed in order for the client to appear financially healthy before the banker.

iii. When the information obtained in the course of the investigating assignment is used for personal gain by the professional accountants or the privileged information is disclosed to third parties without proper and specific authority.

iv. Presenting a report that contains information that is materially false or misleading and prepared without proper care or consideration for its accuracy.

v. When the professional accountant fails to write and agree with the content of the engagement letter with the client before commencing the assignment.

vi. Where the professional fees is based on the value of the discovery in the course of the investigating assignment.

vii. When the professional accountant accepts gift, goods and services from the management of the client or one of the client’s staff is a close relative of the professional accountant.

### Causes of Unethical Practices in Investigation

The various forms of unethical practices that the investigating accountant perpetuates amount to corruption. Corruption can be defined as all those improper actions or transaction aimed at changing the normal causes of events, a judgment and position of trust. Izedonmi (2008), sees corruption as any act undertaken with the deliberate intent of deriving or extracting monetary or other benefits by encouraging or conniving at illegal benefits. Various reasons have been adduced for corrupt practices which invariably can be linked to why professional accountants engage in unethical practices. They include the following among other as stated by Izedonmi (2009: 58).

i. **Greed:** People get involved in corruption because they are just never satisfied with what they have. The rich want to get richer.
ii. **Poverty:** Another reason people get involved in corruption is poverty. Nigeria which is a developing economy is faced with the problem of poverty. No one wants to be poor and so everyone struggles to get out of poverty either by hook or crook, even if it means getting involved in corruption.

iii. **Most people especially the youth today lack patience:** they want to get rich as quickly as possible. Most youth also lack hard work, always depending on their father’s wealth. People want to make ends meet, but are not willing to do it the right way. This leads them to get involved in corruption such as stealing, accepting of bribes, falsification of records, documents and so on.

iv. **Weak law enforcement system:** The weak law enforcement system has encouraged a lot of people including the accountants to involve themselves in corruption, hoping to get the law on their side by paying for it or working for people who can buy the law and rescue them.

v. Lack of standards to control investigation quality

vi. Failure to offer education relating to ethics in the accounting curricula

**The Way Forward**

i. Ethics and profession code of conduct should receive more emphasis in the business and accounting curricula both at educational and professional levels. The curricula should integrate the development of ethical values with the acquisition of knowledge and skills.

ii. The professional bodies in Nigeria should ensure that the basic ethical rules and principles of auditing are strictly to in audit practice so as to build the confidence of the users of accounting information.

iii. The teaching of ethics and values should be incorporated in the Mandatory Continuous Professional Education programme by the accountancy bodies in Nigeria.

iv. The professional bodies should enlighten the general public on the need for them to report cases of professional misconduct to the appropriate authorities.

v. Erring members of the profession that are indicted should be severely punished under the law no matter their status in the profession.

vi. The professional bodies should also endeavour to publish cases of professional misconduct decided by their investigative and disciplinary tribunal.

**Conclusion**

Accounting profession has the responsibility of serving the public. The professional accountant should strive to meet the objectives of the client while maintaining integrity and objectivity. The importance of ethics in business and specifically in the accounting profession is to inspire and ensure public and investor confidence in entities. The starting point of inculcating ethics into the professional accountants should start from schools. For if students lack ethics at the tertiary institutions then one should not be surprised if they lack ethics in their careers. Without adherence to codes of ethics by the professional accountants, the integrity and the prestige of the profession is at stake. Therefore, the implementation of the above recommendations will greatly assist in reducing, if not total eradicate the unethical practices in investigations.

**References**


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