Social and Ethical Responsibility: Conflicts of Interests in Professional Accounting

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Abstract

Persons who occupy positions of power or authority often find themselves in conflict of interest situations, where official duties and private interests overlap, but do not coincide. If private interests are pursued in such circumstances, this may be at the expense of the dereliction of official duties, and a failure to heed the interests of the constituency whom officials ostensibly serve.

In accountancy, conflicts of interest may be manifested in various ways. This paper focuses on conflicts of interest in relation to the accounting profession, considering problems in that arise in relation to conflicts of interest between three sets of interests: (i) various dimensions of the private interests of accounting firms and their partners and members; (ii) the private interests of the corporations for whom accountants work (and their various constituents, including managers); and (iii) a wider group of interests, including those of the society whom accountants and auditors, as professionals, profess to serve.

A fundamental clash that is brought to attention by the particular notion of conflict of interest is between narrow sectional or private interests and the wider social responsibilities of both accounting professionals and corporate players. This paper seeks to develop a clear understanding of the nature and dimensions of the problem of conflict of interest in relation to the professional practice of accountancy. The fundamental clash between wider social responsibilities and the private interests of key players in both realms, typified by conflicts of interest, is a key dimension of the current crises of ethics in business and accounting.

Introduction: the Problem of Conflict of Interest

The problem of conflict of interest is fundamental for the accounting profession because the discretionary element of accounting work means that there are many opportunities for accountants to neglect professional duties in the pursuit of a range of private interests. In relation to public ethics, the neglect of the public interest in the pursuit of private interests is the fundamental problematic of conflict of interest (Davids 2005). Partly in response to contemporary ethical scandals in accounting and a decline in public confidence in professional accounting, recent work has recognised the particular importance of the problem of conflict of interest. For example:

Any conflicts between the public interest and self-interest, loyalty to the entity and its governing body, may result in ethical dilemmas and possibly lapses. A choice has to be made. The choice may have very far-reaching consequences. (Dellaportas et al. 2005: 13)

Despite recognition of the significance of the problem of conflict of interest in a general sense, beyond the rhetorical level the problem remains largely unaddressed. The potential clash between a range of private interests and the public interest that accountancy ostensibly aspires to serve is rarely analysed.

The concept of conflict of interest is used in this paper to examine a range of issues associated with accounting ethics. A conflict of interest arises when any person is in a situation where official duties and their private interests do not coincide. The problem of conflict of interest gives rise to significant ethical problems for persons who occupy positions in public and professional life because such positions may be (mis)used for private or personal gain (including for the benefit of family, friends, or associates). The pursuit of private interests may involve dereliction of official duty and of the interests of the constituency whom an official ostensibly serves. Conflicts of interest therefore create particular problems for both private and public sector ethics. Public perceptions of the probity of persons in official positions also present matters for particular attention. Conflicts of interest may exist whether or not the person acts on their own interests at the expense of their duties, whether or not they are aware of the conflict, or whether they perceive there to be a conflict.

Conflicts of interest may emerge in a number of professional or occupational arenas. In the political domain that a number of prominent conflict of interest concerns have emerged over the last decade, relating to government ministers and ex-ministers in Australia (Davids 2005, 1998; Martin 2002; Integrity Commissioner 2002), the United Kingdom (Nolan et al. 1995; Nolan 1996), and North America (Stark 1996, 2000; Kernaghan and Langford 1990). In the United States of America, conflict of interest concerns in political life and the public sector generally have generated a burgeoning literature on public sector ethics (see Bowles and McCartney 1996). In the United Kingdom, the Committee on Standards in Public Life recognised that a series of well-publicised cases of misconduct by various public officials had led to conflict of interest becoming a major issue in damaging public perceptions of integrity in Britain and other Western countries. Conflicts of interest were found to contribute to an erosion of the "principles and values of public life", bringing public institutions into disrepute (Nolan 1996).

Whilst it is in the political domain that conflict of interest has often received most attention, increasing attention is being paid to problems arising from conflicts of interest in business and the accounting profession. In accounting and the corporate world more generally, conflicts of interest have been prominent in recent scandals involving Enron, WorldCom, Parmalat, OneTel, HIH, and a range of other prominent companies in Australia, the United States of America, and Europe. The problems inherent in these recent scandals bear striking similarity to a range of seemingly perennial corporate scandals-indeed, such problems have been a part of the corporate world since the corporate form itself came into being (see Sykes 1998, 1996; Clarke et al. 2003; Main 2003; CCH Australia 2001). Corporate and accounting scandals have combined with heightened public awareness of the problem of conflict of interest in the political realm to mean that members of the public are likely to be more sensitised to problems of conflict of interest in accounting. Thus the problem of conflict of interest raises important questions of for the legitimacy of the profession insofar as integrity and public trust that flows from it are central to that legitimacy (Mintz 1995; Rezaee 2004; see also Citron 2003; Preston et al. 1995). Integrity and the trust may be regarded as the key values under threat from conflicts of interest across a wide array of settings (Werhane and Doering 1992; Siemensma 2000).

This paper analyses various dimensions of the problem of conflict of interest in relation to professional accounting. The major aims of the paper are reflected in the sections which follow. First, an examination of the literature on conflict of interest is undertaken in order to clearly define the problem, particularly in relation to the practice of professional accountancy. Whilst there is little specific literature relating to conflict of interest in professional accounting, the paper draws on literature from other public sector and professional domains, including medicine, the law, policing, business, and politics. An important aim is to move beyond broad general characterisations of conflict of interest in order to develop a deeper understanding of the problem as it relates to professional accounting. The key components of conflict of interest, namely conflicts and interests, are examined and their various dimensions are considered.

The second major aim of the paper is to develop an outline of the various types of conflict of interest that may be manifested in professional accounting. Several types of conflict of interest are outlined and applied to the domain of professional accounting. The paper's third main section considers the public interest in relation to the problem of conflict of interest in accountancy. It is argued that the public interest is a neglected dimension of much discussion of accounting ethics and that the concept of conflict of interest provides a useful analytical frame within which to consider the public role and functions of accountancy. It is also argued that the question of how accountancy does or may serve the public interest is often not directly addressed, on the basis of an implicit assumption that in serving a range of private interests, accountancy also serves the broader public interest. However, the public interest is sidelined and effectively trivialised in this process. The paper concludes with a discussion of the implications of the problem of conflict of interest in accountancy.

Defining the Problem of Conflict of Interest

A conflict of interest involves a clash between different domains of one's life. At its most basic, a conflict of interest involves two key elements, viz. (i) private interests versus (ii) official or public interest (which may translate as work or professional duty). However, at least three types of interests must be distinguished when discussing the problem: (1) the personal interests of an actor; (2) the interests of the actor's organisation; and (3) the interests of society or the public (Davids 2005; see Macklin 1983; Rodwin 1993: 253-255). Conflict of interest is particularly problematic in relation to occupational or professional performance within a realm of discretion, because it is the scope offered by professional (or occupational or official) discretion that provides space for decisions and actions that further private interests. A conflict of interest can emerge in relation to any part of the private interests of an employee or official and the potential of such interests to affect the discharge of work, official, or public duties and responsibilities. This includes the general duty to perform official or professional functions in a disinterested manner (Davids 2005).

Mere differences in interests between two parties are not sufficient to constitute a conflict of interest from a professional perspective. It is the capacity of a particular interest or particular kind of interest to conflict with the discharge of occupational or professional duty that gives rise to a conflict of interest (Carson 1994). A conflict of interest is crystallised when a professional, employee or official must make a decision between private or personal benefit or gain, or public, organisational, or collegial gain or benefit.

The key aspect of conflict of interest that has received attention in accountancy is the (potential) clash between the private interests of accountancy practitioners (or their associates) and the interests of their clients or employers. In relation to the audit function, the failure of accountants to maintain sufficient independence from client companies (or the management of such companies) provides an additional dimension of conflict of interest insofar as this situation represents a conflict of interest between what may be deemed the coincident interests of auditors and clients (or client sections), on the one hand, and the public interest on the other hand, where the public interest requires auditor independence.

In relation to officials and professionals with an ostensible commitment to the public interest, the scope of professional duties and responsibilities encompasses both clearly enunciated and specific occupational or professional roles and other factors such as the public perception of, and the level of public trust in, the organisation or profession as a whole. It is arguable that professionals should be guided by a stricter standard and preparedness to question the way in which their own behaviour may appear to the public. Thus public officials and professionals may be subject to a higher ethical test than the question of whether an individual has violated a particular law, instruction or rule. Justification for this higher standard of behaviour rests with the notion of public interest, because appearances of conflict of interest may generate negative public perceptions and undermine public confidence in professional areas such as accounting and the law. The handling of conflicts of interest, requiring theapplication of higher standards than would otherwise prevail, is important if a professional group is to gain (or retain) public respect (Davis 1992: 189).

The Key Components: Conflicts and Interests

Siemensma (2000) describes conflicts of interest as "blind spots" that arise from clashes between different aspects of the lives of individuals. These problems can emerge in a range of situations. The "conflict" in conflict of interest occurs in the mind of the individual, because a conflict of interest means that capacity for judgement is impaired, and it is the impaired or undermined judgement that may flow from a conflict (rather than a role conflict per se) that is problematic (Davis 1982). "Interests" that may give rise to such conflicts can include a range of financial and non-financial interests, and may be directly personal or more indirect interests.

Conflicts

Conflicts arise when personal interests (broadly interpreted) do not coincide with an obligation to serve the interests of another (Boatright 2000; Werhane and Doering 1992). The element of obligation to another is important because it is the potential for breach of this obligation in the pursuit of personal interests that makes a conflict of interest problematic.

Whilst the conflict in conflict of interest can be thought of as occurring in the mind of the individual, it is no mere mental construct. A conflict "is a collision between competent judgement and something that might make that judgement unable to function as the ... role requires" (Davis 1982: 19). The conflict is relative to judgement required within a particular role such that the role requires the exercise of competent judgement, and where there is a discretionary element in the judgement to be made (Davis 1982: 22-25).

Although the conflict in conflict of interest takes place in the mind (affecting an official or professional's capacity for judgement), it is extremely difficult to peer into the mind in order to determine whether a person actually was affected by his or her own interests, or whether his or her judgement, decision-making, and actions remained impervious to those interests (Stark 2000). This means that the focus of attention is usually on external manifestations of possible conflicts (that is, circumstances where such situations may arise, notwithstanding the actual state of mind of the individual). A conflict is therefore regarded to be present when there is the capacity for a private interest to affect the performance of official or professional duties (see Owen 1997: 40-42; Stark 2000: 22).

Interests

Interests are encumbrances on an official in the performance of official duties (Stark 2000: 9). The term "interest" is shorthand for "any influence, loyalty, or other concern capable of compromising ..." the performance of a duty specific to a role (Davis 1982: 18). Whether or not the capacity of an interest to affect the performance of official or professional duties is actualised, the key element of conflict of interest that distinguishes it from other forms of official wrongdoing is in the capacity to have such effects (see Owen 1997: 41).

Traditionally the types of interests included within the concept of conflict of interest were exclusively financial or pecuniary, but more recently a wider group of interests has come to be regarded as problematic insofar as they can arguably encumber an official's judgement every bit as much as financial interests (Owen 1997: 41-42; Stark 2000: Ch. 10; Preston et al. 2002). The concept of interests therefore includes "various associational and partisan attachments and diverse other influences, loyalties, concerns, emotions, predispositions, prejudgements, even moral beliefs and aesthetic judgements" (Stark 2000: 4-5). Under the expanded notion of interests, even the issue of pecuniary interests has come to be regarded as problematic under the broad rubric of ideological impairment or prejudice. That is, understanding of the problem of pecuniary interests has shifted such that they themselves are regarded as problematic because they may represent an underlying encumbrance on the performance of official duties in the same manner as a broader range of non-pecuniary interests. Concomitantly, the central concern with conflicts of interest has moved towards the broad issues of integrity, public confidence, and legitimacy (see Owen 1997).

Encumbrances on an official may be internal or external. Internal (or direct) encumbrances act from within the person, being based in personal predispositions, preferences, beliefs, prejudgements, pecuniary interests, and the like. A desire to enhance one's professional or personal reputation could also give rise to a conflict of interest if this desire became so significant that it influenced an individual to neglect official duty in pursuit of an action or outcome that might enhance personal reputation (see Werhane and Doering 1992). External (or indirect) encumbrances are imposed or initiated by others who act on the person. These include familial, friendship, business, professional, and associational relationships, where the interests of the other person may have the capacity to affect the performance of official duties (see Carson 1994; Macklin 1983; Boatright 2000: 144-145).

Conflicts of Interest and Breaches of Professional Duty

It is important to distinguish between problematic situations (or potentially problematic situations) and problematic actions (breaches or neglects of duty) in relation to conflict of interest. A conflict of interest breach is a neglect of professional duty that occurs when a person (in the furtherance of private interests) takes an action or decision (or fails to do so) at variance with professional duties (Davids 2005). It is important to make a distinction between conflicts of interest and associated breaches of professional duties because although the problem of conflict of interest is recognised to originate in anterior and subjective states of mind, prevention must tackle objective circumstances that may be perceived to give rise to conflicts. Conflict of interest breaches are recognised to represent ethical lapses, but dealing with the problem requires that conflicts of interest themselves be recognised as problematic, whether or not there are subsequent and associated breaches of professional duty. Continuing to act or to take decisions in a situation in which one has a conflict of interest must itself therefore be regarded as an ethical lapse, whether or not the conflict actually plays out in a determinate breach of professional duty (see Davids 2005: Ch. 3).

Conflicts of interest may be latent or actual (Davis 1982, drawing on the American Bar Association's Code of Professional Responsibility). An actual conflict of interest is one where present actions or decisions must be taken in a situation of conflicting interests. A latent conflict of interest is where there is no such present action or decision to be taken, but such actions or decisions are within the realm of present duties, thus the problematic private interest has not yet come into actual conflict in terms of a specific action to be taken or a decision to be made, although the particular official responsibilities of the individual are such that there is a "reasonable probability" that such a conflict will arise in the normal course of those present duties. The mere existence of a conflict of interest (latent or otherwise), with or without an attendant breach of duty, is problematic whether or not the conflict does actually produce culpable conduct.

Clarification of the distinction between conflicts of interest and wrongful conduct that flows from such conflicts is important because it is possible that dealing with conflict of interest presents a way to eliminate the potential for (and therefore the actuality of) many associated neglects of duty. This is the key justification for regulating conflicts of interest.

Recognised Conflicts of Interest in Accounting

Conflicts of interest are pervasive in accounting because practice is replete with areas in which there is potential for an accountant to serve private interests at the expense of another whose interests the accountant is ostensibly to serve. The "other" may be a client, employer, or the public in general. The private interests served may be those of the accountant, an associate of the accountant, organisation management, or, indeed, the private interests of the client. A review of the wider literature on conflict of interest reveals a number of different manifestations of the problem which are discussed in this section as they relate to the domain of accountancy.

Outside/Secondary Employment (or Moonlighting) and Post Employment

It goes without saying that there are a range of possible problems in relation to the performance of secondary employment in addition to the professional's principal accountancy work (whether with another employer or in private business) which may clash with the performance of professional duties. This may happen in several ways, particularly if the secondary employer (or business) is in competition with primary clients or the principal employer. Other problems arise if one's work performance is This section draws principally on the analyses of Davids (2005), Stark (2000) and Kernaghan and Langford (1990). The discussion here is not designed to encompass all possible conflicts of interest in relation to accountancy, but rather to present a selection of affected, if client or employer resources (including time and confidential information) are used in the furtherance of outside employment, or if the professional uses his or her official position to solicit private business (see Kernaghan and

Langford 1990: 147).

Post employment involves a person, upon ceasing official employment, taking up employment with a private party with whom official dealings had been held, or whose private interests the official had the capacity to influence whilst employed in the prior position. Post-employment has been shown to be problematic in accounting when senior partners of auditing firms take corporate board positions following their retirement from audit. The key conflict of interest in such circumstances relates to the possibility that the professional has used his or her professional position to cultivate these future board membership prospects and that in so doing the professional may have favoured the interests of the client company. The essential problem here is one of independence, in that the prospect of a future seat on a company board impairs an auditor's ability to discharge his or her duty in an independent manner. This is a quintessential conflict of interest situation. Conflicts of interest may continue if a former auditor takes improper advantage of his or her previous position, such as through the use of confidential information or seeking or gaining preferential treatment from former colleagues (Kernaghan and Langford 1990: 149-151).

The proliferation of management consulting and management advisory services, as large accountancy practices attempt to exploit all available economic opportunities provides a case in point (see Perera et al. 2003; Hendrickson 1998; Citron 2003; Solomon and Solomon 2004: 139-143). The key problematic that emerges is that such activity is extraneous to principal professional activities in auditing, in particular, and may thus be regarded as a form of secondary employment. The private (economic) interests that are entailed in such activity are likely to seriously compromise the independence-in both fact and appearance-of the auditor.

Just as conflicts in conflict of interest occur in the mind, independence, too, is a state of mind. It is not possibly analytically to assess such states objectively, and thus problems of independence are often left to the individual to decide (in relation to their own state of mind). This presents two sets of associated problems. Firstly, problems associated with perspective-an individual is likely to find it difficult to perceive a problem of independence from their own perspective, since individuals are unable or unlikely to step outside themselves to make such judgements. This links to s second set of problems of perceptions. Even if an individual was able to make objective judgements as to their own independence, this would not necessarily translate to the perceptions of others who implicitly or explicitly rely on the independence of the professional. By focusing on conflict of interest in the manner outlined in the previous section, in the case of secondary employment and post employment, the direct financial interests entailed give rise to clear issues of conflict insofar as they represent encumbrances on the state of mind of the auditor (evident notwithstanding the issue of appearances). The conflict is present whether or not an individual's actual independence-as a state of mind-in relation to the conduct of official duties is affected. Therefore, the conflicts of interest entailed in such relationships are problematic in and of themselves.

Political and Associational Involvement

Political involvement may have a negative impact on the impartiality, or appearance of impartiality, of a professional in the performance of official duties. This can give rise to a conflict of interest because a person may use the implicit power of their professional position to further or advance participation in political activities or political interests. This problem may particularly relate to professional accountants in situations in which active political involvement, either individually or on the part of professional bodies, is common.

In relation to individual practitioners and at the level of the profession as a whole this problem is likely to become more evident as the political visibility of the accounting profession grows and professional bodies become more active politically. Professional accounting bodies are a key player with vested interests in many political issues, including areas of legal regulation and taxation. Professional intervention in the political sphere in relation to such issues may bring its own attendant problems of conflict of interest insofar as the profession's political involvement is designed to further its own interests rather than other interests that the profession ostensibly serves. As the accounting profession seeks to further its own interests and those of its clients via political lobbying and political donations, it also furthers particular political agendas (Dwyer and Roberts 2004; Arnold 2005). The role of accounting is thus a partisan one, which may be used to support particular private interests, meaning that the problem of conflict of interest in relation to the public interest commitments of the profession is likely to become more significant as such political involvements grow.

Private Gain from an Official Position

A conflict of interest is likely to be involved in situations where a professional draws on the prestige of his or her position to reap private gain (which may, for example, be in the form of board membership, fee-for-service transactions, or expenses-paid trips). Even though the professional may not become beholden to the external party, and may not be in a position to advance the specific interests of the external party, the conflict of interest centres on the use of an official or professional position to gain a private benefit (Stark 2000). The private use of the prestige of a professional position presents a conflict of interest as it may be inconsistent with the interests that the professional ostensibly serves. There may also be a subsequent influence on performance of official duty, particularly insofar as that duty involves interaction with interests relative to the original source of the private gain.

Acceptance of Benefits and Gratuities

A professional may be offered, and accept, any of a wide range of benefits from a private party, whether or not in "return" for specific acts in the performance or the professional role. The value of benefits may be nominal or significant; and benefits can range from meals, entertainment, and minor gifts, through to honorariums, paid vacations, free travel, and money. At the extreme, the acceptance of benefits may constitute bribery. In general, however, the acceptance of benefits is a less active form of conflict of interest than private gain from an official position. The benefits or rewards obtained may be relatively minor, but the key concern is that the professional may in some way become beholden to the giver (whether or not the professional is in an immediate position to advance the specific interests of the giver).

Self-dealing

Where a professional has a straightforward capacity to use their official position to affect a personal interest, self-dealing is involved. This particularly involves taking action in a professional capacity which "involves dealing with oneself in a private capacity and which confers a benefit on oneself" (Kernaghan and Langford 1990: 142). There are many possibilities for self-dealing in accounting, for example in various aspects of the production and sale processes. If this influence is exercised in a manner that results in a private benefit-say, if goods are acquired from a vendor in which the accountant has an interest-a conflict of interest has been manifested in a breach of duty (in general, a duty to both adopt a position of neutrality with regard to such matters and, more specifically, to seek out the best or most reasonable terms that may be obtained). Self-dealing may also be regarded as having occurred if a professional seeks to acquire property that is disposed of in receivership or bankruptcy (that is, other than in the normal course of business, and under the control of the accountant). The attempt to gain such ownership may lead to the disposal of goods in a manner that is not open and transparent, and which is not in the interests of the substantive owner/s of the property.

Undue Influence, Preferential Treatment, and Influence Peddling

Undue influence involves an associate of a professional exercising influence (or seeking to do so) over the performance of professional duties. This problem may particularly relate to accounting and auditing work where the practitioner has a personal relationship with the client. Post-employment (discussed above) may represent a specific type of undue influence. The discretionary elements within much accountancy work mean that there are potentially many instances where such influence could be applied.

Preferential treatment involves a professional acting in a way that is partial to certain individuals (or appears to be so), especially those who have a familial or other personal relationship with the professional. In contrast to undue influence, preferential treatment does not necessarily involve the associate of the professional soliciting the advantage.

Influence peddling involves the active solicitation of benefit in exchange for the exercise of influence. This takes preferential treatment a step further insofar as a professional actively seeks a private benefit in return for a professional favour.
In both undue influence and preferential treatment, the conflict of interest arises in relation to the general obligation of a professional to be fair and unbiased in the performance of duty. In relation to influence peddling, the problem is further compounded by the active solicitation of a private benefit.

Abuse of Office

Abuse of office involves professionals using their position to coerce others to provide private advantage; this coercion may be effected by advancing the interests of the other party. This type of conflict of interest is similar to influence peddling, except that a professional involved in this form of conflict of interest would seek to further the private interests of others.

Use of Official Property

The use of official property of any kind (such as stationery, computers, or office space) for unofficial activities may give rise to a conflict of interest if it impacts on the performance of professional duty. This may occur if, for example, if the use of such resources diverts them from professional purposes and they are subsequently unavailable for professional purposes, or if the desire to use professional resources for private benefit influences the way professional duties such as work allocation are performed.

Use of Confidential Information

Use of confidential information is of particular significance for accountants, who may come into the possession of great amounts of such information that may be of potential benefit to the accountant or other associates. Unofficial and unauthorised use or disclosure of such information can present obvious problems if accountants' use of such information serves the interests of a party other than one to whom the accountant owes a professional duty. This conflict of interest may be manifested in the financial world as insider trading.

The Neglected Public Interest

In accepting the obligations attached to an occupation or profession, and the attendant powers, benefits, and prestige attached to that occupation or profession, there is a correlative reduction in one's right to consider personal and outside interests not related to the official or professional role (Wueste 1994, citing Nagel 1978). Given explicit professional commitments (or claims) to serve society and to prioritise the public interest, a range of private interests should be regarded as secondary.

The various conflicts of interest discussed in the previous section illustrate the range of problems that may arise when practitioners of accountancy utilise the substantial discretionary element within accounting practice to serve their own interests at the cost of a neglect of the interests of others whom accountants have a duty to serve. However, the key element neglected in much of the discussion thus far is that of the public interest. It may nevertheless be regarded that the neglect of the public in the pursuit of private interest represents the key problematic for conflict of interest in accountancy, as the notion that accounting serves the public interest provides both a key element of legitimacy underlying accountancy and a central element of the claim to professionalism (see Preston et al. 1995, for example).

Where a conflict of interest is avoidable, private interests must be subsumed. These include the interests of the individual practitioner, any relevant professional body, clients, and constituent elements of clients including owners and managers. Ostensible public interest commitments of professionals are paramount from an ethical perspective. The present social and economic dominance of corporations and the range of private interests that are attached to corporate interests makes the social role of accountants in fulfilling this professional commitment to the public all the more important. This means that there is a need to look beyond what may be regarded as a common affinity of accountancy with private profitability in order to seriously consider what public accountability means.

(Not) Prioritising the Public Interest

In their broad examination of ethics in accounting Dellaportas et al. (2005) include a chapter on conflict of interest. It will be argued in this section of the paper that their approach exemplifies a narrow conception and understanding of the nature and ramifications of the problem. A particular concern is that the public interest element is not clearly prioritised in their framework. It is often not clear whether or how the problem of conflict of interest relates to the following situations:

1. An accountant pursuing his or her personal interests at the expense of a client or employer;
2. An accountant pursuing his or her personal interests at the expense of the public;
3. An accountant pursuing the interests of a client or employer at the expense of the public.

Of these three important dimensions of conflict of interest, only the first is clearly recognised in the types of conflict of interest outlined earlier in this paper, and in typical professional pronouncements. A conceptual confusion arises because the professional duties of accountants are elaborated in such a way that they must serve two masters, clients/employers and the public, and it is never clear in this elaboration which master has priority (e.g. Dellaportas et al. 2005). For example if an accountant is engaged to assist clients to arrange their financial affairs in such a way as to legally avoid tax, but which nevertheless allows "taxpayers to avoid their taxation responsibilities" (although such responsibilities are not defined), the duties of the accountant are summarised by Dellaportas et al. as follows:

> ... a professional responsibility to ensure that client taxpayers do not pay more tax than is necessary, even though accountants have a competing ethical obligation to society to ensure that a taxpayer does not pay less than is fair (2005: 289).

The conflict of interest between the private interests of a client and the public interest is thus recognised, but it is dealt with by the accountant ensuring that it is the client that makes the decision to enter into such taxation schemes or arrangements, and that the accountant fully informs the client of possible current and future ramifications. Professional regulatory guidelines are cited in support of these points. The public interest obligation in every taxpayer paying a fair amount of tax is recognised, as is that fact that such tax minimisation arrangements may be regarded as unethical, but conflict of interest between these public interest elements and the private interests of the client is effectively downplayed. The discussion treats conflict of interest as a problem only if it involves an accountant actively assisting a client to breach the law and/or if the accountant breaches explicit professional regulatory guidelines in the process.

The key shortcoming here it that there is no overriding sense of the public interest being paramount, and certainly no sense that the public interest should prevail over the private interests of the client. Indeed, the opposite is the case-it is clearly the interests of the client that are paramount, within the restraints of the law: "... accountants can and should advise their clients on the benefits of such matters [legal tax avoidance arrangements]".

On this account, the problem of professional ethics does not extend into the discretionary realm of client decisions. Indeed, accountants are specifically absolved of ethical responsibility in such matters, because it is said to be parliament's responsibility to deal with legal loopholes that allow for tax avoidance schemes. Here, professional accounting ethics implicitly extend no further than the requirements of the law or professional regulation, and the presentation of the problem within the framework of conflict of interest adds little to an otherwise legalistic analysis. Why this is even discussed as a conflict of interest by Dellaportas et al. is unclear, since any conflict between the private interests of clients and the public interest is removed from the analysis. The discussion of conflict of interest in this context may unwittingly be a further stage in the accounting profession's complex strategy of doing "nothing" in relation to ethical concerns and responses to public crises of confidence in accounting (Fogarty et al. 1991; Lee 1995).

Implications and Conclusions

Despite an overarching professional claim to serve the public interest, accountancy in practice seems to exist to serve a range of private interests, whether of corporations and other clients, or of the accounting profession itself. There is little evidence that the practitioners of accountancy actually do subordinate the range of private interests that are directly served by accounting. It may be concluded that the idea of serving the public interest acts as a powerful legitimating rhetoric behind which the accounting profession principally seeks to serve its own economic interests (Preston et al. 1995).

Many of the conflict of interest problems that are identified in accounting-including many types of conflict of interest outlined in this paper-revolve around clashes between various forms of private interest. For example, the interests of clients versus those of accountancy practitioners, or the interests of shareholders versus those of management, may be central to identified problems of conflict of interest. Unless and until the accounting profession develops a concept of public interest that extends beyond a nefarious notion that the public interest is only vicariously served via a range of private interests, the "far-reaching consequences" (Dellaportas et al. 2005: 13) of conflicts of interest are unlikely to be assuaged. These consequences must be seen-by accountants-as extending beyond risks for the firm or for capital markets, which dominate conventional treatments of this problem (c.f. Dellaportas et al. 2005: 16).

The post-Enron focus on corporate governance and the promulgation of various legal reforms such as the Sarbanes-Oxley Act in the United States of America and the Corporate Law Economic Reform Program (CLERP) in Australia is essentially reactive in nature, and may be just another step in longer-term historical processes of legitimation in which the profession has engaged. Broader concerns with ethics remain subdued (see Gaa and Thorne 2004) and accounting continues to serve a range of private interests, including those of corporations and their shareholders. Dealing effectively with the problem of conflict of interest in accounting requires a transcendence of the typical ethical identity within accounting that prioritises economic over other values and equates the "good" with the maximisation of corporate profits (McPhail 1999: 836). It is unlikely that any change to this state of affairs can come from within corporations themselves (see Bakan 2004; Korten 2001, 1998), but it is also difficult to imagine change from within a profession that has largely been captured both by the economic interests of clients and its own economic interest (Hendrickson 1998).

The problem of conflict of interest at this more fundamental level must be recognised both in the broader public interest and in light of the social responsibility that attaches to any official role in a public institution (Wueste 1994: 2 et seq.). By accepting roles in professions and public institutions, individuals who occupy such roles are obliged to serve the public interest. Service to the public is a cornerstone of professionalism, and self-regulation afforded to the profession is the flip-side of public trust and legitimacy, but these are matters that seem to have slipped from the attention of the accounting professional bodies. It is difficult to see how public confidence in the accounting profession can be (re)built unless such obligations are taken seriously.

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