

PMRC 171

MANAGING YOUR CP CAREER



PMRC 171 – Managing Your CP Career

THE COMPETENT PERSONS PROFESSIONAL RESPONSIBILITIES AND LIABILITIES

James P. LLORCA
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TOPIC OUTLINE

- PMRC Denouement – The Foundation
- Why become a Competent Person (CP)
 - Minimum requirements
 - Am I qualified?
- Responsibilities – Principles based
 - Professional responsibilities
 - Duties and responsibilities to clients and the public
 - Maintaining Competent Person currency status
- Liabilities from being a Competent Person
 - Legal ramifications
 - Pointers on how to mitigate risks
 - The standards and ethics complaints process



LEARNING OUTCOMES



- Be familiar and understand what a Competent Person is under the PMRC and other RPOs, a brief refresher from PMRC 101
- Be familiar and understand the professional responsibilities of being a Competent Person and how to uphold the high expectations
- Be familiar and understand the liabilities from being a Competent Person with some pointers to mitigate the risks.

TOPIC OUTLINE

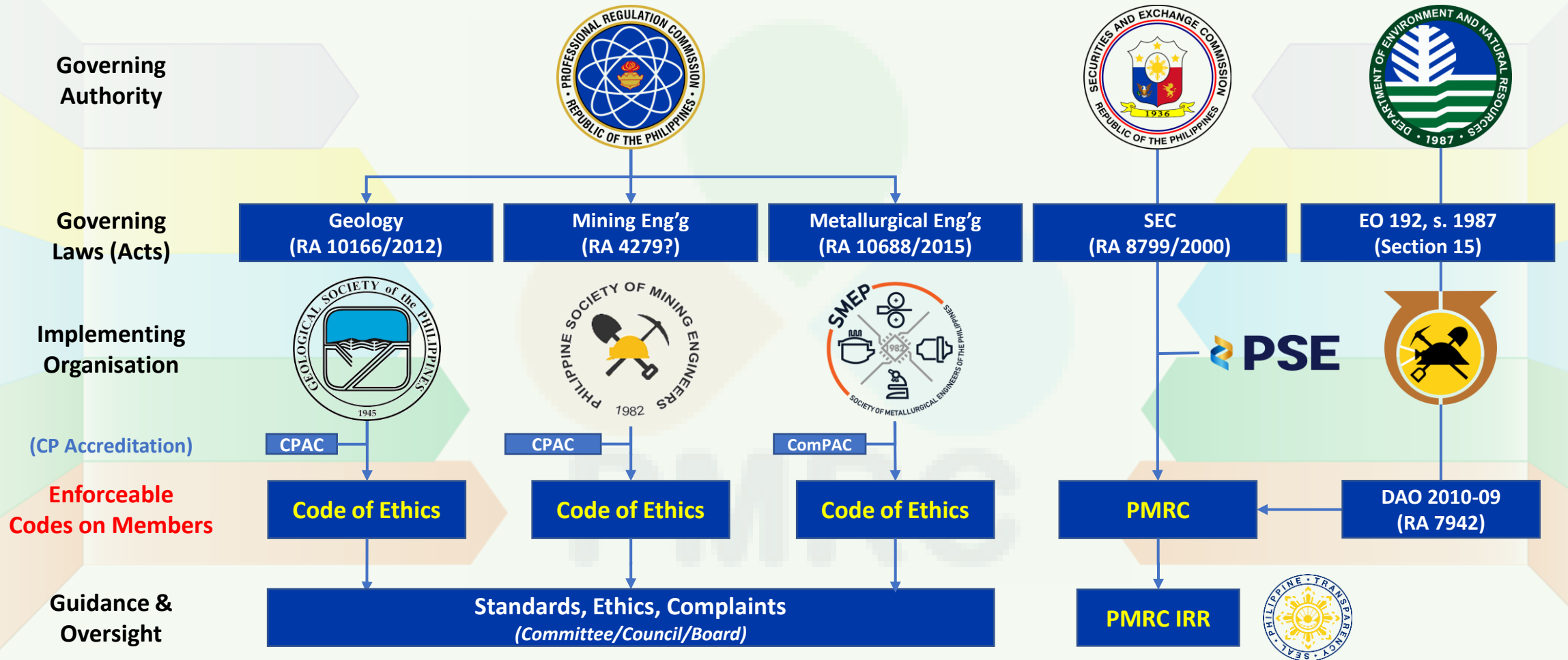


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THE FOUNDATION

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LAWS & CODES OF PROFESSIONAL PRACTICE



TOPIC OUTLINE



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WHY BECOME A COMPETENT PERSON

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COMPETENT PERSON (PMRC 2007)



A 'Competent Person' (CP) is a person who is a Member or Fellow of PSEM, GSP or SMEP, or of a 'Recognized Overseas Professional Organization (ROPO) included in a list promulgated as the need arises and duly accredited by the professional organization to which he/she belongs.

*A CP must have a minimum of **five (5) years experience** which is relevant to the style of mineralisation and type of deposit under consideration and to the activity which that person is undertaking.*

- If the CP is preparing a report on **Exploration Results**, the relevant experience must be in exploration.*
- If the CP is estimating, or supervising the **estimation of Mineral Resources**, the relevant experience must be in the estimation, assessment and evaluation of Mineral Resources.*
- If the CP is estimating, or supervising **the estimation of Ore Reserves**, the relevant experience must be in the estimation, assessment, evaluation and economic extraction of Ore Reserves.*

SOURCE: Angeles, CA, *The Philippine Mineral Reporting Code (PMRC) 2007*
vis-à-vis CRIRSCO & Other International Reporting Codes (PMRC 101)

WHY BECOME A COMPETENT PERSON?



- Be recognized by peers as a professional that has knowledge, experience and authority to perform and report on specialist undertakings (e.g., resource estimation, reporting of exploration results, etc)
- Be known of good moral standing in the profession, industry and community at large.
- Be more marketable and able to earn more.

BECOME A PMRC COMPETENT PERSON (GSP)... 1/2

Self-Assessment

- Do I have the qualifications
 - Tertiary Education Degree (BS Geol, BSEM, BSMet, etc)
 - Good standing with a professional organisation
- Do I have the relevant years of experience
- Do I have peers who will vouch for my qualifications, experience and character



Application

- Fill in an application form with your respective professional organization (ie. GSP, PSEM, SMEP)
 - Show evidentiary documents of having the necessary requirements
 - Provide referees
- Attend a day course on PMRC
- Sit and pass an exam
- Attend and interview with the CPAC (NOTE: If you have acted as a CP, showing your authored reports is a favorable)



26/12/2020

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BECOME A PMRC COMPETENT PERSON (GSP)... 2/2

Acceptance & Registration

- Attend an Oath taking ceremony
 - Receive your Competent Person Registration Number
 - Competent Person Certificate
 - Receive your Competent Person dry seal
 - Congratulations.



Being a PMRC Competent Person

- Perform your duties and responsibilities as a Competent Person
- Being a Competent Person under the PMRC is not just a title, privilege or honour, **it is a continuing legal responsibility**
- **Remember that competence is demonstrated, not certified!**

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PROFESSIONAL RESPONSIBILITIES

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RESPONSIBILITIES: COMPANIES & COMPETENT PERSON

- A **Public Report** concerning a company's Exploration Results, Mineral Resources, or Mineral Reserves is the responsibility of the company acting through its **Board of Directors**.
- Any such report must be based on, and fairly reflect the information and supporting documentation prepared by or under the direction of and signed by an ACP or ACPs.
- A company issuing a Public Report shall disclose the name(s) of the ACP(s), state whether the ACP is a full-time employee of the company, and, if not, name the ACP's employer.
 - The report shall be issued with the prior written consent of the ACP as to the form and context in which it appears.
- **Any potential for a conflict of interest** by the ACP or a related party must be disclosed in accordance with the **Transparency** principle.
 - Any other relationship of the ACP with the company making the report must also be disclosed in the Public Report.



SOURCE: **PMRC 2020 – Exposure Draft.**

PERCEPTION: CONFLICT OF INTEREST

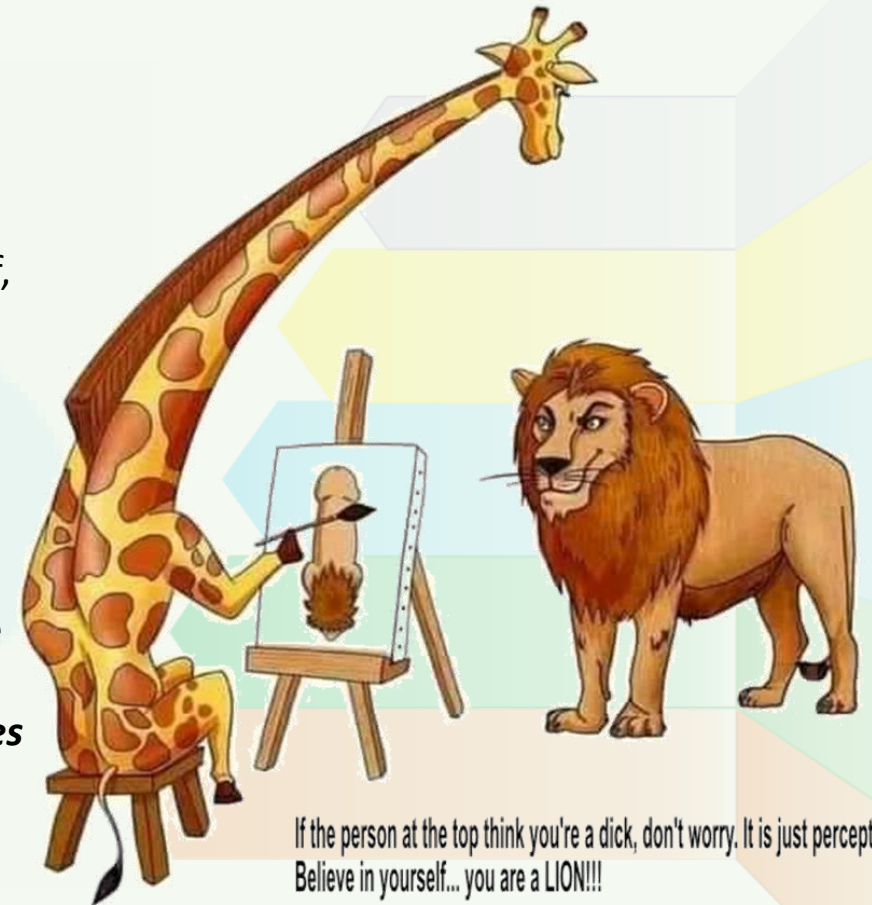
**Everything we hear,
is an opinion, not a fact.
Everything we see,
is a perspective, not the truth.**
– *Marcus Aurelius*



PROFESSIONAL DUTIES OF A COMPETENT PERSON

- Transparency and Materiality are guiding principles of the PMRC Code, and the Competent Person must provide explanatory commentary on the material assumptions underlying Exploration Results/Target, Mineral Resources or Ore Reserves
- Public reports under the PMRC Code must be prepared by or under the direction of, and signed by a Competent Person(s)
- Documents on which a Public Report a PMRC Code is based, must provide a fair representation of the matters being reported
- The Competent Person must not remain silent on any material aspect for which the presence or absence of comment could affect the **public perception** or value of the mineral occurrence
- Exploration Results/Targets, Mineral Resources and Ore Reserve estimates can be signed-off by a team of Competent Persons, each taking a specific responsibility. *If competent to do so, a geologist may accept Competent Person responsibility for Ore Reserves. [JORC 2012]*

SOURCE: **PMRC 2007/20 – Various clauses**



PERSONAL DUTIES OF A COMPETENT PERSON

- Read the code, understand the code, practice the code.
- Always keep and maintain a high professional ethical conduct
- Uphold the standards of your profession
- Remain in good standing with your professional organisation
- Update expertise through continuous professional development – logbook.
- Accept only assignments you are qualified to perform
- Guard confidential information
- Complete assignments on a timely manner
- Produce high-quality work
- Obey the law
- Admit mistakes, and work to correct them
- Promise only the outcomes that you can reasonably achieve

CONSULTING SPECIFIC

- Recommend only the services or products that are needed
- Keep clients informed of your activities
- Establish fair and equitable fees



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LIABILITIES OF BEING A COMPETENT PERSON

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LIABILITIES OF A COMPETENT PERSON

Where a Competent Person fails to comply with appropriate care and diligence in the preparation of documentation that is consequently used as the basis for a public report or disclosure by a public company, the responsible Competent Person may be subject to liability.

- Thought Board is responsible for public disclosures, the Competent person may also be liable for the material content used to produce the public report.
 - Administrative sanctions by professional organisations
 - Statutory liability
 - Civil and criminal liability
 - Fair trading practices liability
 - Negligent mis-statement – Tort cases
- Any non-compliance of the PMRC Code is a potential liability for the Competent Person.
 - *Read the Code*
 - *Understand the Code*
 - *Practice the Code*



How To MITIGATE RISKS ... 1

- **Read the Code, Understand the Code, Practice the Code**
- Accept assignments you are experienced and qualified to complete
- Act and behave ethically beyond reproach.
- Use Disclaimers in reports and presentations
- Ask for a peer reviewer. A separate set of eyes and ideas will only make you look good.
- Cover yourself with the appropriate Professional Indemnity and Public Liability Insurance.



How To MITIGATE RISKS ... 2

- Watch out for the following areas of ethical questions
 - Confidentiality
 - Conflict of interest
 - Qualifications
 - Insider Information
 - Performance
 - Remuneration
 - Personal Relationships
 - Objectivity
 - Loyalty
 - Promotional methods



HOW TO MITIGATE RISKS: USE OF DISCLAIMERS

Disclaimers have an important and unique purpose in presentations and reports, particularly in professional or conference presentations as they keep both the presenter and the event host from legal liabilities arising from the content of the presentation.

There are several types of disclaimers, among them are:

- **For Presentations & Reports**
 - *Copyright Disclaimers – use of intellectual property*
 - *Fair Use Disclaimers – when quoting copyrighted material*
 - *Risk Disclaimers - when providing advice or information*
 - *Confidentiality Disclaimers – what is said in the room, stays in the room (e.g. board meetings)*
- **For Digital Media**
 - *Email Disclaimers – in case of the “copy all” and “oops” syndrome*
 - *All applicable as above.*



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<https://www.termsfeed.com/blog/disclaimer-examples/>

DISCLAIMER - EXAMPLE

Disclaimer

The opinions expressed in this report have been based on the information supplied to [REDACTED] by [REDACTED]. The opinions in this report are provided in response to a specific request from [REDACTED] to do so. [REDACTED] has exercised all due care in reviewing the supplied information. Whilst [REDACTED] has compared key supplied data with expected values, the accuracy of the results and conclusions from the review are entirely reliant on the accuracy and completeness of the supplied data. [REDACTED] does not accept responsibility for any errors or omissions in the supplied information and does not accept any consequential liability arising from commercial decisions or actions resulting from them.

PROFESSIONAL INDEMNITY & PUBLIC LIABILITY INSURANCE

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PROFESSIONAL INDEMNITY INSURANCE

Something good to own, but not use.

- Covers against claims for liabilities to a third party (ie. Client) for the loss suffered by the third party arising out of providing 'professional services'
- Covers claims for financial loss, or error/omission in the performance of professional service (e.g. wrong advice)

SCHEDULE

Reference number :	[REDACTED]
Insurance Type :	Professional Indemnity
Policy wording reference :	Aus ConInd1 - 2010
The INSURED :	James P. Llorca
Principal Address of the INSURED :	[REDACTED]
BUSINESS :	Consulting mining engineer & Geologist
POLICY PERIOD :	4pm 30/04/2013 to 4pm 30/04/2014 Both days inclusive Local Standard Time
INDEMNITY LIMIT :	\$1,000,000 DEFENCE COSTS inclusive
EXCESS :	\$5,000 DEFENCE COSTS inclusive
Optional Extensions :	Reinstatement of the INDEMNITY LIMIT – Covered
Endorsements :	Investment and Valuation Mining Endorsement 2 – 2013
Retroactive Date :	30/04/2013
Premium :	Base Premium: \$2,250.00 GST: \$225.00 Stamp Duty: \$247.50

PUBLIC LIABILITY INSURANCE

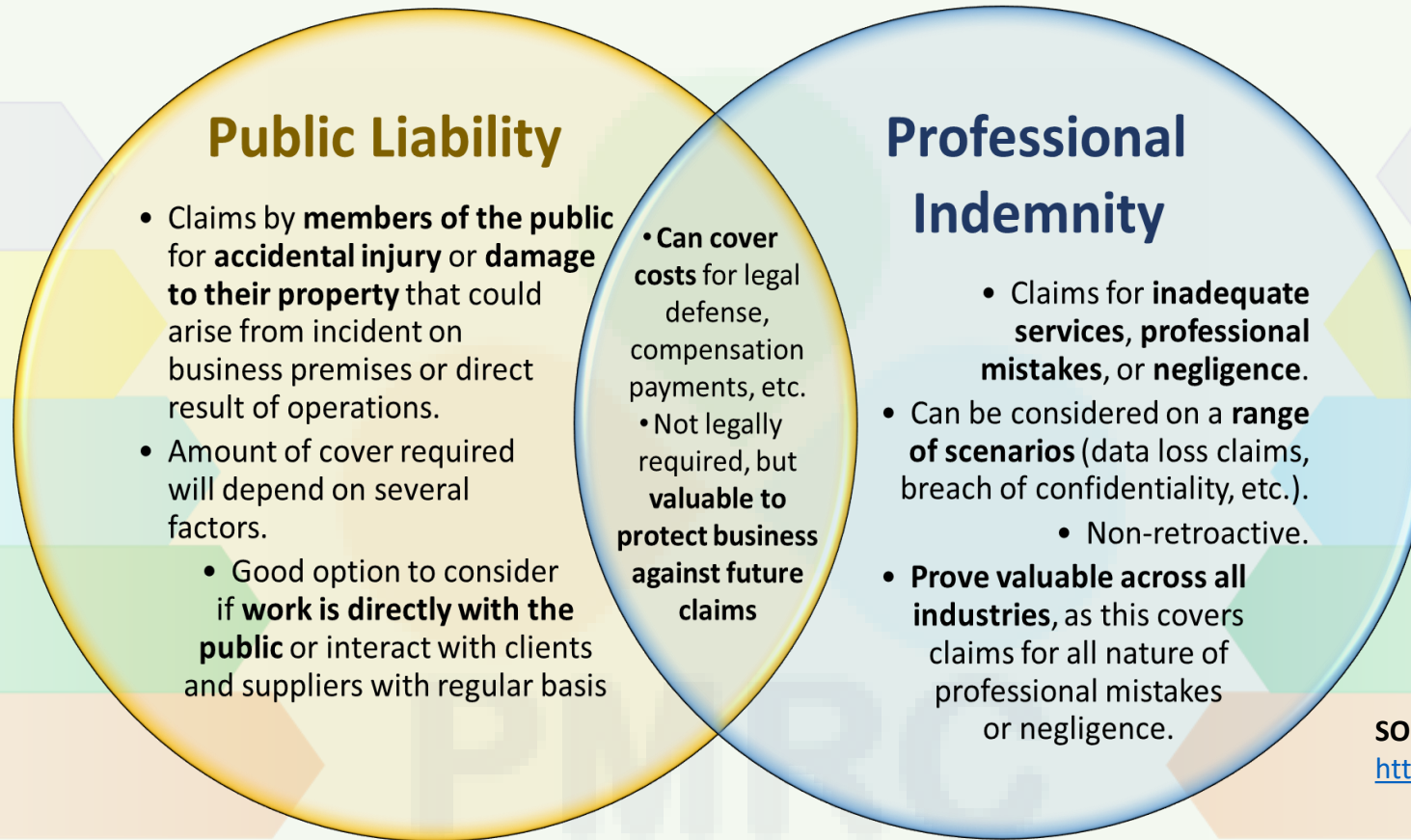
Something good to own, but not use.

- Covers costs from legal action if found liable for death or injury, loss or damage of property, or economic loss resulting from negligence.


SCHEDULE

Policy No:	[REDACTED]
Insurance Type:	Public & Products Liability
Policy wording:	Aus GL 1 - 2010
Insured:	James P. Llorca
Address:	[REDACTED]
Business:	Consulting mining engineer & Geologist
Period of Insurance:	From: 4pm 30/04/2013 to 4pm 30/04/2014 Both days inclusive Local Standard Time
Limit of Indemnity:	
Section 1 – Public Liability	\$10,000,000 any one Occurrence or series of Occurrences arising out of any one cause
Section 2 – Products Liability	\$10,000,000 any one Occurrence or series of Occurrences arising out of any one cause and in all during the Period of Insurance
Excess:	\$500 Each and every Occurrence (costs inclusive)
Territorial Limits:	As per wording
Endorsements & Conditions:	Investment and Valuation Endorsement 2 -2013
Premium:	\$650.00
GST:	\$65.00
Stamp Duty:	\$71.50
Total Premium:	\$786.50

PUBLIC LIABILITY VS. PROFESSIONAL INDEMNITY



SOURCE: HISCOX
<https://www.hiscox.co.uk/>

NOTE: If your business has customers visiting your premises and you also provide advice or recommendations to those customers, then Public Liability and Professional Indemnity Insurance may both be beneficial to you. [SOURCE:  Part of the Suncorp Network <https://www.gio.com.au/>]

CODE BREACHES & LEGAL RAMIFICATIONS

CODE BREAKERS

ILLEGAL

- In Australia the AusIMM receives several complaints against Competent Persons breaching the JORC 2012 or Valmin 2015 codes.
- The AIG, just recently adjudicated on a case filed against a member who allegedly misrepresented his work.
- All these cases were brought to the Ethics and Standards Committee of each respective organisations and were handed down decisions.

CODE BREAKERS.. DECISION



Here are some link on Competent Persons who were brought to the Ethics and Standards committee.

- Ex-CEO of Southwestern Resources admits to fraud, insider trading

Source: <https://www.cbc.ca/news/business/ex-ceo-of-southwestern-resources-admits-to-fraud-insider-trading-1.825887>

Source: <https://www.investmentexecutive.com/news/from-the-regulators/ex-ceo-of-southwestern-resources-handed-lifetime-ban/>

- Life Ban for Canadian – based, former AusIMM member

Source: https://old.ausimm.com.au/content/wir/life_ban_former_AusIMM_member.pdf

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SCENARIO



You are gainfully employed by Company A. You are also the Competent Person under the PMRC. You have just completed a resource estimation of the orebody and the figures are to be published in a forthcoming IPO. However, Company A is asking you to write a report and sign-off on a statement that is not compliant to the PMRC principles.

QUESTION: Should you sign-off? If you don't, you will be fired.

YES ☐ NO ☐

CONCLUSION

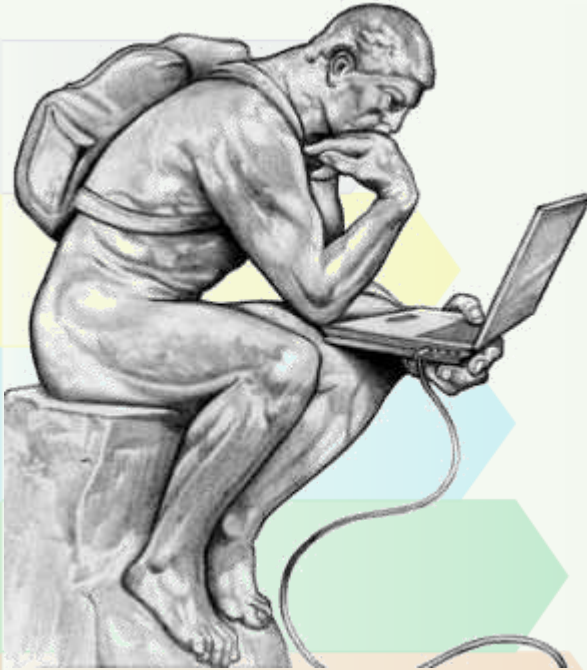


- Learn the PMRC terms (*Resource, Reserve, Modifying Factors, Competent Person*)
- Use the word Ore only when a Reserve is declared (Pre PMRC 2020)
- Read the Code and the Guidelines
- Check your protection (insurance) from Litigation
- Recognise the risk to your professional standing
- Ask colleagues if they believe you should act as a CP
- Does your experience qualify you for this job?
- Do not agree to sign off on anything you don't personally own as a conclusion
- Develop empathy with the “Educated and Uneducated” Investors
- Say no to being a CP until you are ready to say yes

(Adapted from David Dean)

Individual accountability, regardless of professional affiliation, is still an important aspect of professionalism and should be emphasised.

FINAL WORDS



**Clear thinking,
Starts with reading.**

Image source: <https://www.freelancer.com/u/tzikin>

- **R**ead the Code
- **U**nderstand the Code
- **P**actice the Code

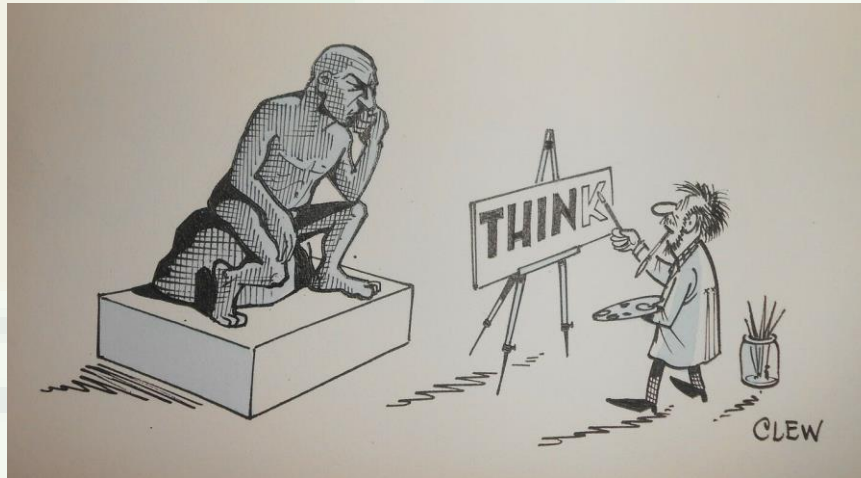


Image by Clifford C. Lewis

REFERENCES & SUGGESTED READINGS



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Creyke, R., et. al. (2017), ***Laying Down the Law***, 10th Ed., Lexisnexis Butterworths Australia, pp 631

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thank
you