

The Gifted Auditor

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Introduction

1. Chris Selley, *Team Trudeau has learned nothing from Aga Khan debacle*, National Post 4/20/23

<https://nationalpost.com/opinion/team-trudeau-aga-khan-debacle-lesson>

Under the Conflict of Interest Act, "friends" of Canadian politicians are allowed to give them gifts. Whereas former ethics commissioner Mary Dawson found the Trudeaus were not genuinely friends with the Aga Khan, and thus ineligible to receive his hospitality, Dawson's recently retired successor Mario Dion apparently felt the Trudeaus and Greens' relationship cleared the friendship bar.

But as Dion noted on Twitter, that doesn't make such vacation arrangements a good idea. "Gifts from a friend are acceptable from a legal ethical point of view," he wrote. "Public opinion sometimes uses a different test and that is healthy."

2. Abbie VanSickle, *Chief Justice Declines to Testify Before Congress Over Ethics Concerns*, NY Times 4/25/23

<https://www.nytimes.com/2023/04/25/us/politics/justice-roberts-supreme-court-ethics.html>

This month, ProPublica revealed that Justice Thomas had joined Mr. Crow on luxury trips for nearly 20 years, including flights on his private jet to an exclusive all-male retreat in Northern California, a vacation aboard his superyacht in Indonesia and stays at Mr. Crow's 105-acre lakeside resort in the Adirondack Mountains. None appeared on the financial disclosure forms Justice Thomas filed each year.

Justice Thomas also failed to report a real estate deal with Mr. Crow. In 2014, a real estate company linked to Mr. Crow bought the house where Justice Thomas's mother lives in Savannah, Georgia, along with two vacant lots along the same street. Mr. Crow paid \$133,363 to the justice and his family for the property, according to records filed at Chatham County courthouse dated Oct. 15, 2014. The justice's mother, Leola Williams, still lives in the home now owned by Mr. Crow.

3. CPA Code of Professional Conduct (Ontario), Preamble

Clients, employers and the public generally expect that members and firms will bring objectivity and sound professional judgment to their services. It thus becomes essential that a member or firm will not subordinate professional judgment to external influences or the will of others.

The principle of objectivity underlies the Rules related to potential conflicts of interest as well as the requirement for independence in relation to the performance of assurance engagements. With respect to both independence and conflicts of interest, the profession employs the criterion of whether a reasonable observer would conclude that a specified situation or circumstance posed an unacceptable threat to a member's or firm's objectivity and professional judgment. Only then can public confidence in the objectivity and integrity of the member or firm be sustained, and it is upon this public confidence that the reputation and usefulness of the profession rest. The reasonable observer should be regarded as a hypothetical individual who has knowledge of the facts which the member or firm knew or ought to have known, and applies judgment objectively with integrity and due care.

4. Talmud, Ketuvot 105b

היכי דמי שוחד דברים?

- כי הא דשמואל הוה עבר במברא, אתא ההוא גברא יהיב ליה ידיה, אמר ליה: מאי עבדת? אמר ליה: דינא אית לי, א"ל: פסילנא לך לדינא.
 - אמימר הוה יתיב וקא דאין דינא, פרח גדפא ארישיה, אתא ההוא גברא שקליה, א"ל: מאי עבדת? א"ל: דינא אית לי, אמר ליה: פסילנא לך לדינא.
 - מר עוקבא הוה שדי רוקא קמיה, אתא ההוא גברא כסייה, א"ל: מאי עבדת? א"ל: דינא אית לי, א"ל: פסילנא לך לדינא.
- ר' ישמעאל בר' יוסי הוה רגיל אריסיה דהוה מייתי ליה כל מעלי שבתא כנתא דפירי. יומא חד אייתי ליה בה' בשבתא. א"ל מאי שנא האידנא? א"ל דינא אית לי ואמינא אגב אורחי אייתי ליה למר. לא קביל מיניה, א"ל פסילנא לך לדינא. אותיב זוזא דרבנן וקדינין ליה. בהדי דקאזיל ואמר אי בעי טעין הכי ואי בעי טעין הכי, אמר תיפח נפשם של מקבלי שוחד, ומה אני שלא נטלתי ואם נטלתי שלי נטלתי, כך, מקבלי שוחד על אחת כמה וכמה!

And what is a verbal bribe?

- Like when Shemuel crossed on a ferry, and someone extended his hand to him. Shemuel asked, "Why are you here?" He replied, "I have litigation." Shemuel said, "I am disqualified to judge for you."
- Ameimar was judging, when a feather landed on his head. Someone removed it. Ameimar asked, "Why are you here?" He replied, "I have litigation." Ameimar said, "I am disqualified to judge for you."
- Mar Ukva spat before himself, and someone covered it. Mar Ukva asked, "Why are you here?" He replied, "I have litigation." Mar Ukva said, "I am disqualified to judge for you."

The sharecropper of Rabbi Yishmael son of Rabbi Yosi regularly brought him a basket of [the rabbi's] fruit on Fridays. Once he brought it to him on Thursday. He said: Why did you do it differently this time? He said, "I have litigation, and I said I would bring it to the master while I'm here." He didn't accept it from him, and he said, "I am disqualified to judge for you." He set up a pair of sages and they judged for him. While he was walking, he said, "If he wants he could argue thus, and if he wants he could argue thus." He said, "May the recipients of bribes perish! I did not accept it, and had I accepted, it would have been my own, but this happened – how much more so for recipients of bribes!"

5. Rabbi Mordechai Yaakov Breisch (20th c. Poland/Germany/Switzerland), Chelkat Yaakov Choshen Mishpat 1 ולפע"ד הדבר פשוט דאסור לדונו, אי משום חומרא וחסידות, וקרוב לומר דאף גמ עפ"י דינא, דפשיטא דזה לא עדיף מאריסי' דרבר"י... וכן הא דשמואל דקעבר... אף על גב דהאי גברא ודאי מצוה קעביד דזה בכלל הידור לת"ח... ואפה"כ א"ל פסילנא לדינא. ולשיטת הרמב"ם בפכ"ג מסנהדרין אף עפ"י ד פסול כמבואר בכ"מ שם ובב"י חו"מ סי' ט', ואף לשיטת התוספות שם ועוד פוסקים עכ"פ מצד חומרא וחסידות.

And in my humble opinion, it is simple that one may not judge him, if as stringency and special piety, and it's likely even by law. It is obvious that this is no more than the sharecropper... and Shemuel crossing... Even though that person was performing a mitzvah, for this is part of honouring a Torah sage... And yet he said, "I am disqualified to judge." And according to Rambam Hilchot Sanhedrin 23 he is even disqualified by law as per Kesef Mishneh. And even according to Tosafot there and other authorities, it is still a matter of stringency and piety.

6. Tosafot (12th-13th century Western Europe), Commentary to Ketuvot 105b לא

...אינו אלא חומרא בעלמא שהיו מחמירין על עצמן כדאשכחן בכמה דברים אבל פסולין לא הוו.

...It is only a stringency, for they were strict with themselves as we find in various areas, but they were not disqualified.

7. Rabbi Yosef Karo (16th century Israel), Kesef Mishneh Commentary to Rambam, Hilchot Sanhedrin 23:3

...וס"ל לרבינו דכל הני עובדי דהוו מימנעי מדינא לאו מדת חסידות בלחוד הואי אלא כך היא שורת הדין דכל כי הני פסילי לדינא ושלא כדעת התוספות שכתבו דחסידות בעלמא הוה:

And our master thought that in all of these cases they refrained from judging not only out of piety but because this was the letter of the law. And not like the view of Tosafot who wrote that this was just piety.

Cases

- 1> Accounting firm Bitachon LLP is retained to provide on-going assurance services for Food Inc., a chain of thirty grocery stores. One day, Food Inc. finalizes a deal to open ten more stores; to celebrate, they distribute bottles of fine wine to every employee in their main office. They offer wine to the on-site accountants of Bitachon LLP. May the accountants accept?
- 2> Food Inc. is impressed by the quality of the Bitachon LLP accountants, and expresses interest in retaining them for Risk Assessment services in evaluating new markets for the expanding company. May Bitachon LLP accept the added engagement?
- 3> As members of the same synagogue and with children in the same class at school, Sarah (CEO of Bitachon LLP) and Rivkah (CEO of Tikshoret) annually send each other *mishloach manot*, ritual gifts of food distributed for the holiday of Purim. One day, Rivkah contacts Sarah to ask about retaining Bitachon LLP to provide assurance services for Tikshoret. Do the *mishloach manot* gifts disqualify Bitachon LLP from providing these services?

Four Important notes

8. Rabbi Yom Tov Lipmann Heller (16th-17th century Prague/Poland), Pilpula Charifta to Rosh Sanhedrin 3:17 ש כתבתי זה להורות לנתנים על הצבור אף על פי שאין דיניהם דין תורה ולא נתקבלו לכך אפילו הכא יזהרו מלקבל מתנות על דיניהם:

I wrote this to teach that public officials, even though their decisions are not Torah judgments and they are not empowered for that, they still must be careful not to accept gifts for their rulings.

9. Rabbi Moshe Sofer (18th century Hungary), Chatam Sofer Choshen Mishpat 160

אנשי ק"ק פלונית התאספו יחד בני הקהלה לקבל עליהם רב ומורה והי' מסכימי' על ד' רבנים ליתנום אל תוך הקלפי ומי שיעלה מהם ראשון יחזרו וישאלו לאנשי הק"ק אם ירבו המתרצים בו על הממאני' הרי הוא הרב... והשלישי זכה עפ"י רוב הדיעות. אחר איזה ימים הי' קול המון סוער כי הרבה מאנשי הק"ק קבלו שוחד ממון מקרובי הרב ההוא כדי למנותו עליהם... פשוט כביעי בכוחא דהקבלה ההיא שע"י אותו המינוי בטלה מעיקרא שהרי הי' צריכי' לומר דיעותם לשם שמים כמ"ש רמ"א...

The people of a certain town gathered to hire a rabbi and teacher, and they agreed regarding four rabbis to place their names into a box, and then to vote on each name as it would be withdrawn... The third candidate won the majority of votes. After several days, the masses raised a stormy voice, for many of the people had accepted monetary bribes from the relatives of that rabbi, to appoint him upon them... It is as obvious as the kashrut of an egg in yogurt that this vote is void, for they were required to voice their opinions altruistically, as recorded by Rama...

10. Talmud, Ketuvot 105b

אמר רבא: מאי טעמא דשוחדא? כיון דקביל ליה שוחדא מיניה, איקרבא ליה דעתיה לגביה והוי כגופיה, ואין אדם רואה חובה לעצמו. מאי שוחד? שהוא חד.

Rava said: Why is a bribe forbidden? Once one accepts a bribe from someone, one's mind becomes close to him and he is like his person, and one cannot see guilt for himself. What is *shochad*? *Shehu chad* ["it is one" or "it is sharp"].

11. Rabbi Yosef Karo (16th century Israel), Shulchan Aruch, Choshen Mishpat 33:1

כל הפסולים לדון פסולים להעיד, חוץ מאוהב ושונא שכשרים להעיד, אף על פי שפסולין לדון.
All who are disqualified to judge are disqualified to testify, other than a friend or enemy, who may testify even though they may not judge.

12. Rabbi Yosef Karo (16th century Israel), Shulchan Aruch, Choshen Mishpat 7:7

אסור לאדם לדון למי שהוא אוהבו, אף על פי שאינו שושבינו ולא ריעו אשר כנפשו; ולא למי ששונאו, אף על פי שאינו אויב לו ולא מבקש רעתו, אלא צריך שיהיו השני בעלי דינים שוים בעיני הדיינים ובלבם

One may not judge a friend, even where he is not a *shushvin* or his closest friend, or one he hates, even where he is not an enemy and he does not seek to harm him. The litigants must be equal in the eyes and hearts of the judges.

13. Rabbi Yehoshua Falk (17th century Poland), Sefer Meirat Einayim, Choshen Mishpat 33:1

דבעדות, המעשה כאשר היה לפניו הוא מעיד, ולא חשדינן ליה שישנה בכיוון בשביל אהבתו או שנאתו. משא"כ בדין שתולה בסברא, והמחשבה משתנה מחמת אהבתו או שנאתו אפילו בלא כונת רשע

In testimony, he testifies about what he saw, and we do not suspect that he would intentionally alter it for love or hatred. This is not so in judgment, which depends on logic; one's mind changes due to love or hatred, even without evil intent.

14. Rabbi Moshe Sofer (18th century Hungary), Chatam Sofer Choshen Mishpat 160

אותם המקבלי' שוחד לא יבואו לתוך האסיפה כלל אפי' אחר שהחזירו השוחד ויקבלו עליהם באלה ושבועה שלא יקבלו תו שום שוחד עבור זה מ"מ לא יבואו אל המינוי הזה כלל ואפשר אפי' לעולם פסולים להתמנויות עד שישובו בתשובה אבל למינוי זה פסולי' לעולם דכיון שכבר נתקרב דעתם אצלו לא יחזרו בהם וה"ל נוגעי' בדבר לעולם

Those who accepted bribes may not enter this gathering at all, even after they return the bribe and accept with an oath that they will never accept a bribe for this again. Still, they may not be counted at all. Perhaps they are even permanently disqualified from voting until they repent – but for this vote they are disqualified forever. Once their minds have become close to [the bribery candidate], they will never retreat from that, and they are viewed as interested parties forever.

15. Eric Turner, *New agreed-upon procedures standard creates opportunities for practitioners*, CPA Canada

<https://www.cpacanada.ca/en/business-and-accounting-resources/audit-and-assurance/blog/2020/august/new-agreed-upon-procedures-standard>

In conducting an AUP engagement, the practitioner does not express an assurance conclusion, but instead performs the procedures that have been agreed with the engaging party as being appropriate for the purpose of the agreement. The

practitioner communicates the procedures performed and the findings in the AUP report. Users of the AUP report consider the findings based on the procedures performed and draw their own conclusions.

In contrast, an assurance engagement involves the evaluation or measurement of a subject matter (such as financial transaction and events) against a set of criteria (such as a financial reporting framework) to reach a reasonable assurance conclusion (such as an audit opinion) or a limited assurance conclusion (such as a review conclusion). The practitioner determines the procedures that need to be performed in order to obtain the evidence needed to reduce the risk of expressing an inappropriate conclusion to an acceptable level and draws their own conclusion from the evidence obtained.

16. Rabbi Moshe Isserles (16th century Poland), Shulchan Aruch, Choshen Mishpat 290:8

י"א כמו שהאפוטרופס יכול ליתנם לאחרים, כך יכול לקבל המעות לעצמו, ובלבד שיעשה בבית דין, משום לזות שפתים.

Some say that just as a guardian may invest with others, so he may accept the investment for his own ventures – so long as the rabbinical court oversees it, due to concern for gossip.

17. Talmud Yerushalmi, Shekalim 3:2

רבי שמואל בר נחמן בשם רבי יונתן: בתורה ובנביאים ובכתובים מצאנו שאדם צריך לצאת ידי הבריות כדרך שהוא צריך לצאת ידי המקום. בתורה מניין דכתיב [במדבר לב כב] "והייתם נקיים מד' ומישראל", בנביאים מניין דכתיב [יהושע כב כב] "קל אלקים ד' וגו' וישראל הוא ידע", בכתובים מניין דכתיב [משלי ג ד] "ומצא חן ושכל טוב בעיני אלקים ואדם."

Rabbi Shemuel bar Nachman cited Rabbi Yonatan: We find in Torah, Prophets and Writings that one must satisfy others as one must satisfy Gd. Bamidbar 32:22 says, "And you shall be innocent from Gd and from Israel." Yehoshua 22:22 says, "Kel Elokim Hashem... and Israel will know." Mishlei 3:4 says, "And find favour and [a reputation for] good insight in the eyes of Gd and Man."

18. Talmud, Bava Batra 8b

ורשאיני בני העיר להתנות על המדות ועל השערים, ועל שכר פועלים, ולהסיע על קיצתן...

Townpeople may make rules for measures and prices and wages, and may fine those who violate the norms...

19. CPA of Ontario, CPA Code of Professional Conduct 217.1 Guidance 1

It is in the public interest and in the interest of all members and firms of CPA Ontario that members and firms be allowed to advertise or otherwise promote services available and the basis of fees charged.

20. Talmud, Bava Metzia 60a-b

משנה: רבי יהודה אומר לא יחלק החנוני קליות ואגוזין לתינוקות מפני שהוא מרגילן לבא אצלו וחכמים מתירין. ולא יפחות את השער וחכמים אומרים זכור לטוב....

גמרא: ולא יפחות את השער וחכמים אומרים זכור לטוב וכו' מאי טעמא דרבנן? משום דקא מרווח לתרעא.

Mishnah: Rabbi Yehudah said: A store owner may not distribute parched grain and nuts to children, for this would accustom them to come to him. But the Sages permit.

[Rabbi Yehudah said:] And he should not reduce the rate. But the Sages say: He is remembered for the good.

Gemara: What is the logic of the Sages? This will cause the rate to broaden.

21. Rambam (12th century Egypt), Mishneh Torah, Hilchot Shekalim 4:7

דיינין שדינין את הגזלנין בירושלם נוטלין שכרן מתרומת הלשכה. וכמה היו נוטלים? תשעים [ותשע] מנה בכל שנה. ואם לא הספיקו להן מוסיפין להן, אף על פי שלא רצו מוסיפין להן כדי צרכן והם ונשיהם ובניהם ובני ביתן.

The judges who judge thieves in Jerusalem are paid from the Lishkah collection. How much were they paid? Ninety [-nine] *maneh* per year. And if that was not enough for them, they would add. Even if [the judges] didn't want, they would add according to what they needed – for themselves, their wives, their sons and their household.

22. Rabbi Yosef Karo (16th century Israel), Shulchan Aruch Choshen Mishpat 9:3, 9:5

נהגו לעשות לבית דין קופה, שפוסקין ממון לפרנסת ב"ד, ומגבין אותה בתחלת השנה או בסופה, ואין בו משום תורת שוחד ותורת אגרא, כי חובה על ישראל לפרנס דייניהם וחכמיהם...

הנוטל שכר לדון, כל דיניו שדן, בטלים, אלא א"כ ידוע שלא נטל בהם שכר. ואם אינו נוטל אלא שכר בטילתו, מותר, והוא שיהיה ניכר לכל שאינו נוטל אלא שכר בטלתו... והוא שיקבל משניהם בשוה...

The practice is to make a collection for the court, setting a tax to support the court, collecting it at the start or end of the year. There is no issue of bribes or payment, for all Israel is obligated to support their judges and sages...

One who takes payment to judge, all of his rulings are void unless it is known that he did not take payment for those rulings. But if he only takes payment for refraining from other work, that is permitted, if it is known to all that this is only payment for refraining from other work... And he must accept from both parties equally...

23. CPA Code of Professional Conduct (Ontario), Guidance to Rules 204.1 to 204.3 #30

Independence is potentially affected by self-interest, self-review, advocacy, familiarity and intimidation threats. The mere existence of such threats does not per se mean that the performance of a prospective engagement is precluded. The undertaking or continuation of an engagement is only precluded where safeguards are not available to eliminate or reduce the threats to an acceptable level or where Rule 204.4 provides a specific prohibition.

Case #1: Small gifts

24. CPA Code of Professional Conduct (Ontario), Rule 204.4 (39)

A member or student who participates on an engagement team for an assurance client and the member's or student's firm shall not accept a gift or hospitality, including a product or service discount, from the client or a related entity, unless the gift or hospitality is clearly insignificant to the member, student or firm, as the case may be.

25. Facebook Code of Conduct (Sept 2020)

https://s21.q4cdn.com/399680738/files/doc_downloads/governance_documents/2020/10/Code-of-Conduct-Oct-2020.pdf

Giving or receiving gifts or entertainment to or from a current or future client or business partner can potentially create a conflict of interest, especially if the value of the item is significant. Accepting or providing gifts (such as company-branded swag or simple gift baskets) is generally fine if the market value of the item is less than USD\$200, and the gift is reasonable and customary, and does not inappropriately bias future decision-making about working with the client or partner or create an appearance of impropriety. Additionally, accepting or providing certain business entertainment (such as an invitation to attend a local cultural or sporting event, or a celebratory meal with a business partner) can be appropriate, provided that the entertainment or meal is reasonable and customary and in the furtherance of a business relationship; the cost is not excessive; and it won't inappropriately bias future decision-making about working with the partner or create an appearance of impropriety. Providing ad credits or running ads for others using ad credits may also be a form of gift and is appropriate if given in a manner consistent with our Policy for Coupons and House Ads and our Employee Ad Credit Policy. You should never give or receive cash, cash equivalents (such as gift cards), loans, or any item that obligates you to provide something in return, and you should not actively solicit gifts or entertainment from a current or potential client or business partner.

26. Business Insider Conflict of Interest Policy

<https://www.insider-inc.com/conflict-of-interest-policy>

It is unacceptable for anyone at Business Insider to accept cash or anything else of value in exchange for promotion/links, etc. in a story, especially if the relationship isn't disclosed. There are certain instances in which we are given travel expenses or swag or other benefits for covering a story. And, importantly, when we are given these things, we should always disclose it clearly. There are also certain instances in which our company might be paid to link to sponsors' sites, but those relationships will also be disclosed clearly.

27. Members' Integrity Act, 1994, SO 1994, c 38 <https://canlii.ca/t/5563c>

6 (1) A member of the Assembly shall not accept a fee, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office. 1994, c. 38, s. 6 (1).

(2) Subsection (1) does not apply to,

(a) compensation authorized by law;

(b) a gift or personal benefit that is received as an incident of the protocol, customs or social obligations that normally accompany the responsibilities of office;

Case #2: Other services

28. CPA Code of Professional Conduct (Ontario), Rule 204.1-3 Guidance 46-47

Firms have traditionally provided to their clients a range of non-assurance services that are consistent with their skills and expertise. The provision of such a non-assurance service is not subject to the requirements of Rule 204.1 and, accordingly, does not require independence on the part of a member or firm. However, the provision of such a non-assurance service may create a self-interest, self-review or advocacy threat that impacts the independence of the member or firm with respect to the provision of an assurance or specified auditing procedures service for which independence is required by Rule 204.1. Consequently, before a firm accepts an engagement to provide a non-assurance service, it should evaluate the significance of any threat to independence, in relation to an existing assurance service, that may be created by providing the non-assurance service...

Subject to the specific prohibitions set out in Rules 204.4(22) to (34), a firm or a member of a firm may provide a non-assurance service to an assurance client or related entity, provided that any threats to independence have been reduced to an acceptable level by safeguards, such as:

- policies and procedures to prohibit members of the firm from making management decisions for the client, or assuming responsibility for such decisions;
- discussing independence issues related to the provision of non-assurance services with the audit committee;
- policies within the assurance client regarding the oversight responsibility for provision of non-assurance services by the firm;
- involving another member of the firm who is not on the engagement team to advise on any impact of the non-assurance service on the independence of the persons on the engagement team and the firm;
- involving a professional accountant from outside of the firm to provide assurance on a discrete aspect of the assurance engagement;
- obtaining the client's acknowledgement of responsibility for the results of the non-assurance service performed by the firm;
- disclosing to the audit committee the nature of the non-assurance service and extent of fees charged; or
- arranging that the members of the firm providing the non-assurance service do not participate on the assurance engagement team.

29. Talmud Yerushalmi, Yevamot 12:6

בני סימוניא אתון לגבי ר', אמרין ליה בעא תתן לן חד בר נש דריש דיין וחזן ספר מתניין ועבד לן כל צורכינן. ויהב לון לוי בר סיסא...

The people of Simonia came to Rebbe, and said: We want you to give us one person who will teach, judge, officiate, act as a scribe, teach children and do all that we need. He gave them Levi bar Sisi...

30. Kovetz HaPoskim to Choshen Mishpat 9:4

ובספר שבט בנימין (פונטרומילי) סי' ר"א מסתפק ג"כ אם רב העיר יוכל להיות ספרא דמתא, יען כל המשפטים אליו יקראו אם יש בזה חשש חושד מפני שהעשיר ירבה לו שכרו... מטעמא דזמנין בא אותו אשר נכתב מידו לדין לפנינו עם שכנגדו וכיון שהוא הסופר מקרבא דעתיה להעמיד השטר על עמדו... And in Shevet Binyamin (Fontromili) #201 he also wasn't sure if the community rabbi could act as the town scribe, because all of the cases would come to him, and there may be concern for suspicion that a wealthy person would pay him more... [And] because sometimes his own handiwork would come before him for judgment against the other, and since he was the scribe, he would be more inclined to validate the document...

Case #3: Prior relationship

31. CPA Code of Professional Conduct (Ontario), Rule 204.4 (33)-(36)

32. CPA Code of Professional Conduct (Ontario), Rule 204.1-3 Guidance 34

A familiarity threat occurs when, by virtue of a close relationship with an assurance client, its directors, officers or employees, a firm or a person on the engagement team becomes too sympathetic to the client's interests. Examples of circumstances that may create a familiarity threat include, but are not limited to...

- the long association of a senior person on the engagement team with the assurance client

33. Rabbi Yosef Karo (16th century Israel), Shulchan Aruch Choshen Mishpat 9:2

אם קדם התובע ושלח מנחה לדיין קודם שיזמין לנתבע לדין, אין הנתבע יכול לפוסלו, אלא אם כן הדיין רוצה לחשוך עצמו מאותו דין ממדת חסידותו (כגון שיודע שנתקרב דעתו לזה), (טור).

If the plaintiff sent a gift to the judge before summoning the defendant to court, the defendant cannot disqualify the judge – unless the judge wishes to recuse himself from that case out of piety (since he knows that his mind has become close to this person).

34. Kovetz HaPoskim to Choshen Mishpat 9:2

השבילי דוד כתב דוקא אם שלח לו באקראי בעלמא, אבל אם רגיל לשלוח לו מתנות פסול מדינא דלא גרע ממי שרגיל לשאול דפסול לדון מדינא... ובספר מאזניים למשפט דוקא מתנה מועטת אשר ניכר לעין שגם מזולת הדין דרכו לשלוח דורן כזה...

The Shvilei Dovid wrote that this is specifically where he sent the gift as a random event. But if he regularly sends him gifts, the judge is disqualified by law; this is no less than one who regularly borrows from someone, who is legally disqualified from judging his case...

And in Moznayim l'Mishpat [he specifies] that this is only for a small gift, where it is evident to the eye that he would have sent such a gift even without the case...