

Ethical penalties: A study of possible situational and individual factors to explain less severe punishments to accountants



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ABSTRACT

The objective of this study was to verify whether the factors age and professional experience of

counselors who propose punishments explain the application of less severe ethical penalties to accountants. To this end, we analyzed 390 lawsuits filed against professional accountants with active records in the Regional Accounting Council of the State of Mato Grosso, which became final in the period from 2014 to 2018. The study had a probabilistic approach and thus, for the econometric examination, logistic regression was used. The results show that on average, reporting counselors are 58 years old and, on average, 27 years old, have professional experience. In this sense, the older the directors, the less likely they are to apply a warning for ethical infractions and that, more experienced advisors are more likely to punish the offending accountants with warning, that is, a less severe penalty. Descriptive statistics showed that reserved warning, which is considered less severe ethical punishment, represents 66.67% of the penalties applied to accountants.

Keywords: Ethics, Accounting, Counsellors, Penalties.

1 INTRODUCTION

Accounting professionals are encouraged to observe and practice a normative and legal framework, which aims to guide them in decision-making and disclosure of information that meets the public interest. (IESBA, 2018). The veracity of this information is of fundamental importance in the context between professionals and other interested parties, considering that they are necessary in social and economic relations. (SHEFRIN; STATMAN, 1993). However, non-compliance by professionals with this set of rules and laws may result in the opening of proceedings and punishments, resulting in possible damages for themselves and/or for the class with which they are associated. (LOEB, 1972; ADAMS; TASHCHIAN; Shore, 2001; FIRTH *et al.*, 2016).

Accounting practices have been increasingly recognized as a capable and exclusive tool to interpret in a homogeneous way the economic phenomena involved in business relations.



(MEIRELLES JUNIOR, 2009). In this sense, the councils of professional accountants, aligned with the standards established by the *International Federation of Accountants* (IFAC), establish guiding principles for the behavior of the professional in the exercise of the profession. Integrity, honesty, professional competence and due care, as well as confidentiality and professional behavior, are among the fundamental principles to be observed by accountants. (IFAC, 2018).

However, by deciding to act contrary to what these principles establish, professionals become susceptible to ethical and/or disciplinary punishments provided for in the normative and legal regulations, among which we can mention Decree-Law (DL) No. 9,295/1946 and the Brazilian Accounting Standard for Professionals in General (NBC PG) No. 01/2019, among others. The behavior of non-compliance with the established principles may occur from several situational and/or individual factors, which may be directly related to how these professionals behave in the face of these requirements. (FORD; Richardson, 1994). In the perspective of Alves (2005), the situational factors are those that are related to the environment where the professional is inserted while the individual ones are related to the individual himself.

The responsibility for registering, supervising, fining, prosecuting, judging and punishing such misconduct lies with the Regional Accounting Councils (CRCs), according to DL No. 9,295/46 (BRAZIL, 1946) and Resolution of the Federal Accounting Council (CFC) No. 1,370/2011. (CFC, 2011). The offender must be granted the right of ample defense and, only after the rapporteur (elected and effective counselor) analyzes and submits to the vote of the Regional Court of Ethics and Discipline (TRED), the ethical and/or disciplinary punishment or acquittal may be applied, according to Resolutions No. 1,523/17 and No. 1,603/20 of the Federal Accounting Council. (CFC, 2017; 2020).

Among the ethical punishments described by CFC Resolution 2019/NBCPG 01 of February 7, 2019, imposed on offending accountants prosecuted, tried and found guilty by the TRED, the reserved warning has been the most applied. (FROM LIMA *et al*, 2022). It is up to the reporting directors, according to CFC Resolutions 1,523/17 and 1,603/20, to propose to the TRED the punishments provided for in the regulations and law.

Given the above, the problem question that guided this study was the following: are the age and professional experience of the counselors explanatory factors for the application of less severe ethical penalties to accountants? Therefore, the objective of the study was to verify whether the age and professional experience of counselors are explanatory factors for the application of less severe ethical penalties to accountants.

Broadly, Parker (1994), Jiang, Zhu and Huang (2013) and Zhang (2018) discussed, among other topics, whether situational and/or individual factors such as age and professional experience can influence the decision-making of CEOs in different situations. However, in Brazil, studies with a similar approach are still incipient, specifically in the context of Mato Grosso.



In this perspective, the present study has its relevance and is justified, when they propose to discuss whether the factors age and professional experience of the counselors who analyze processes against accountants, explain the levels of the ethical penalty reserved warning (less severe punishment) applied to professional offenders.

2 THEORETICAL FRAMEWORK

2.1 CONCEPTIONS OF ETHICS AND MORALS

The infraction and, consequently, the respective punishment, as a legitimate instrument to show disapproval for the infractional act, are actions arising from the non-observance of morals and ethics. Understandings of the definition between ethics and morals are sometimes discussed from an equality perspective. Although the two bear many similarities in etymology, their meanings are in fact different.

For Foucault (1984, p. 26), morality is "a set of values and rules of action proposed to individuals and groups through various prescriptive devices, which come from both the family, educational institutions, churches, etc." Thus, it varies with time and place, considering the changes that have occurred in organizations, in the effective forms of work. (DIEHL; FRENCH; MACAGNAN, 2011). In the Kantian perspective, moral practice is not constituted only by the pure experience of the individual, although this is a characteristic inherent to his condition, but also from a set of prescribed rules. However, this set of legal rules imposed as a moral duty, according to Kant (2007), will only be accepted as mandatory, if they are instituted on the basis of an absolute necessity.

In this sense, the duty to comply with this set of legal rules established by man for himself, in the Kantian perspective, has as ethics, therefore, an imperative action. Thus, ethics starts from the fact of the existence of the history of morality, that is, it takes as a starting point the diversity of morals over time, with their respective values and knowledge. (CORTIN; Martinez, 1996; VÁZQUEZ, 2017).

Ethics verifies whether the options established according to this practical reason are consistent with the established moral standards. (SROUR, 2005). According to Aranha and Martins (1993), ethics is the part of philosophy that is concerned with reflection on the notions and principles that underlie the moral life. Ethics, then, is the science of human conduct. In this perspective, it is the science of the end to which man's conduct must be directed and of the means to achieve this end. (KESKE, 2017).

In this sense, morals and ethics differ in etymology as well as in approach. The first refers to a set of norms, values, principles of behavior and customs specific to a particular society or culture. It is the representation of the law in itself and is realized only in the rational being. (KANT, 1980). The second, in turn, deals with the theory of customs, of the freedom of individuals, having as object of analysis and investigation the nature of the principles that submit to these norms. (KANT, 1980; PEDRO, 2014).



Thus, moral and ethical are not static elements, and according to Kant (1980), ethics is related to the daily practices of individuals, therefore, it changes according to time. In this sense, Vásquez (2017) says that ethics is a science that studies human behavior in society, while Foucault (1984) understands that it is the way in which the individual must constitute such a part of himself as the main matter of his moral conduct, thus making it possible to take care of himself and the other.

Thus, when this individual fails in this care of himself and the other, the set of instituted rules imputes to him the corresponding punishment. The punishment is calculated according to the prescribed norms, considering the gravity of the crime committed. (FOUCAULT, 1987). The pain of the imputed punishment can be felt in the body, however, according to Foucault (1987), this body can also be directly immersed in a political field, in which power relations can have immediate reach on it.

2.1.1 Accounting Professional Ethics

According to Kelemen and Peltonen (2001), discussions related to the field of business ethics have grown in response to the apparent decline of ethical standards in business relationships. In this sense, the role of accounting in the production of reliable information for its users has been of fundamental importance. Thus, Sá (2002) defines accounting as the science that studies patrimonial phenomena, but that is also concerned with realities, evidence and behavior of individuals.

Thus, accounting contains a representation of a specific social and political context, and can put its objectives in contradiction. (COOPER; Sherer, 1984). Thus, accounting can be considered an instrument, an object in the process of globalization of information for the production of goods and services of the groups interested in their information. (HOPPER; LASSOU; SOOBAROYEN, 2017). That said, its users, through various factors including cultural and religious – articulate themselves in order to influence the decisions of their peers. (HOPPER *et al.*, 2009; ALAWATTAGE; WICKRAMASINGHE; UDDIN, 2016).

Given this, a system of regulation and supervision seems necessary in order to monitor the moral and ethical behavior of the professional in this process. According to Lisboa (1997), in a society, the particular interests of a person do not always converge to the interests of the other participants in this social context. Thus, there is a need for the rules to fix the boundaries of individual interests, considering the collective.

However, the rules, sometimes made explicit through the Codes of Ethics and Conduct, occur as a consequence of the reflection of the duty imposed on each of these individuals. This attribution of duty, compliance with the codes, norms and resolutions instituted by the professional categories refers to the term deontology, used by Bentham (2000). If compliance with the rule is mandatory, failure to comply makes the individual a potential debtor, therefore, should be charged.



Deontology, according to Souza (2002) is the list of objective determinations, operational instructions and technical nature, which the members of a professional group must follow in the exercise of their activities. According to DL No. 9,295/46, if the list of determinations is transgressed, ethical or disciplinary punishment(s) may be applied to the offender, considering the seriousness of the offense committed. (BRAZIL, 1946). Given this, the set of rules imposed by CFC Resolution No. 2019/NBCPG01 of February 7, 2019, constitutes a categorical, deontological imperative, due to its characteristic of mandatory compliance. (KANT, 2007).

2.2 ETHICAL AND DISCIPLINARY PENALTIES

The penalties in the context of the accounting profession are provided for according to DL 9.295/46 and NBC PG 01/19, for non-compliance with the list of determinations (duties) imposed by the Class Councils. (BRAZIL, 1946; CFC, 2019). For failing to comply with these determinations, violating the established rules, professionals may be penalized. By penalties, it is understood the result of the non-observance of the rules, of the morally pre-established norms, which can result in exclusion, going through various modalities of confinement to a system of fines or minor restrictions. (GOMES, 2004). The penalties are classified into ethical and disciplinary, being applied to the extent that the principles set forth in the Code of Ethics and other norms are infringed.

These penalties are organized into two categories, and in the first, there are ethical punishments, that is, imposed for non-compliance with the CEPC, while in the second, the punishments are disciplinary, related to the breach of the rules and legislation that regulate the professional exercise of the accountant. According to DL 9.295/46 and NBC PG 01/19, the ethical punishments are: Reserved Warning (AR), Reserved Censorship (CR) and Public Censorship (CP). (BRAZIL, 1946; CFC, 2019). According to Res. CFC No. 1,603/20, the punishments Warning and Reserved Censorship are of a reserved nature, that is, the punishment must be made official to the convict in a reserved way, and cannot be disclosed. (CFC, 2020b).

In the event that the offender is punished with a Reserved Warning, the communication must be executed by letter, alerting him of his crime and may be forwarded by any of the forms provided for in CFC Resolution No. 1,603/20. Remaining frustrated the communication of the sentence previously mentioned, will be drawn up certificate of what happened in the file, and the CRC must subpoena by means of notice of call published in the Official Gazette or newspaper of great circulation. If the offender does not answer the call in a timely manner, it will be certified in the records and will result in the automatic execution of the penalty, launching in the register of the convict the record of the punishment. In the application of the AR penalty, the rapporteur must consider as a basis whether the offender is primary, that is, has no background and is not a repeat offender.



If the punishment applied is Reserved Censure, the communication of the penalty will be delivered by hand by competent authority or collaborator of the CRC designated for such purpose. This communication may, exceptionally, be delivered by mail through Notice of Receipt – Own Hands (CFC, 2020). The said communication must be filed in the folder of the professional under the custody of the CRCs. In the case of the punishment Reserved Censorship, the antecedents and recidivisms are considered.

Among the ethical punishments, Public Censorship is considered the most serious. In this case, according to article 72 of Res. CFC No. 1,603/20, the convict must be summoned, included in the convict's register and the record of penalties. The punishment applied by the TRED shall be published by means of a notice in the Official Gazette or in a newspaper of wide circulation. The communication should include information related to the professional and the discrimination of the offense committed. (CFC, 2020).

With regard to disciplinary punishments, the legislation pertaining to professional practice (in the case of professional accountants, DL 9.295/46, and Res. CFC 1.592/2020, among others) will serve as a basis for the judges, in this case, the counselors, to issue their opinions in favor or against the professionals. These punishments are presented in Table 1, below, according to Decree-Law 9,295/46 and CFC Resolution No. 1,603/20.

Table 1 – Penalties of a disciplinary nature

Disciplinary Penalties	Description	Legal device
Fine	The fine will be charged in the records of the inspection process by means of a summons to the convict, accompanied by the respective guide.	DL 9.295/46; Res. CFC No. 1,603/20; Law No. 12,249/10.
Suspension of the exercise of the profession	Applied to the professional for a period of up to 2 (two) years, who, within the scope of his performance and with regard to the technical part, is responsible for any falsity of documents he signs and for the irregularities of bookkeeping practiced in the sense of defrauding public income; or even, for a period of 6 (six) months to 1 (one) year, to the professional with proven technical incapacity in the performance of his duties, at the discretion of the CRC to which he is subject, provided, however, to the interested party the broadest defense.	DL 9.295/46; Res. CFC No. 1,603/20; Law No. 12,249/10; Res. CFC No. 1,432/13
Cassation of professional practice	When proven technical incapacity of a serious nature, crime against the economic and tax order, production of false proof of any of the requirements for professional registration and misappropriation of values of clients entrusted to its custody, provided that approved by 2/3 (two thirds) of the Plenary of the Superior Court of Ethics and Discipline (TSED).	DL 9.295/46; Res. CFC No. 1,603/20; Law No. 12,249/10; Res. CFC No. 1,432/13

Source: Prepared by the authors (2023)



Given this context, punishments, ethical or disciplinary, should be moderate and proportional to the crimes committed. (FOUCAULT, 2014). The imposition of these punishments due to non-compliance with the rules has as its primary objective to enable the convict to improve his professional behavior. (PEYTCHEVA; Warren, 2013; FIRTH; MO; WONG, 2014).

2.3 REPORTING DIRECTORS AND ELECTION

Within the scope of the accounting profession in Brazil, CFC Resolution No. 1,523, of April 7, 2017, is the one that regulates the function and behavior of effective directors in office and with prerogatives to judge the processes in disfavor of the accountants. The aforementioned resolution established the code of conduct for the directors, collaborators and employees of the federal and regional accounting councils in Brazil. CFC Resolution No. 1,603 of October 22, 2020, which entered into force in 2021, in articles 24 to 26, emphasizes the jurisdiction of directors at the federal level and those who are elected to exercise the function in the Regional Accounting Councils (CRC).

According to DL No. 9,295/46, the Regional Accounting Councils have the purpose of Registering, Supervising and promoting the Continuing Education of accounting professionals in the states in which they are located. According to Ghislandi *et al* (2021), there are a total of twenty-seven CRCs, one for each Brazilian state and one in the Federal District. Also according to Ghislandi *et al* (2021), CRCs have their basic organization determined by the Federal Accounting Council, to which they are subordinate.

These Councils with regard to the administration of their services, management of their resources, work regime and employment relations are autonomous. In relation to their representatives in accordance with DL No. 1,040/69, of October 21, 1969, art. 1 and art. 2, and DL No. 11,160, of August 2, 2005, art. 1, Ghislandi *et al* (2021), CFC must be formed by a representative of each CRC plus a respective alternate, being elected for the four-year term, with renewal made every two years alternating in one-third and two-thirds. These will be elected by electoral college composed of one representative of each Regional Accounting Council.

Article 4 of the same DL, that is, 1,040/69, defines that the members of the Regional Accounting Councils and their respective alternates shall be elected by the system of direct election, through a secret and compulsory vote of the accountants under the jurisdiction of such council. Law No. 12,932, of December 26, 2013 says that the CRC's will be composed of accountants and, at least, a representative of the accounting technicians, who will be elected in the election for the renewal of 2/3 (two thirds) of the Plenary. It should be noted that according to Ghislandi *et al* (2021) the CFC number of directors is defined by Decree-Law No. 1,404/69, the CRCs by article 11 of resolution No. 1,370 must have at least 9 (nine) members, with up to an equal number of alternates and, at most, the number considered by the CFC indispensable to the proper fulfillment of their functions.



According to CFC Resolution No. 1,523, of April 7, 2017, in article 3, the following are principles and values that must be observed in the exercise of the function of advisor: legality, impersonality, morality, publicity and efficiency, transparency, honesty, respect and integrity, ethics, companionship, professional and social responsibility, commitment, trust and persevering work, objectivity, impartiality and professional secrecy, party-political, religious and ideological neutrality.

3 METHODOLOGY

The study was developed from the analysis of open processes, which became final in the period from 2014 to 2018 in disfavor of accountants with active records in the CRC-MT. According to statistical data from the CRC-MT Transparency Portal, in this period, 1,422 cases were judged (CRC-MT, 2019). In this sense, the first sample consisted of 423, that is, 29.75% of the final cases made available by the aforementioned Council.

Data collection took place from August 2019 to June 2020 in the premises of the CRC-MT, specifically, in the Chamber of Supervision, Ethics and Discipline (CFED) of the CRC-MT, registration department and board of directors of the said Council. Also due to the provisions of Law No. 12,527/11 and CFC Resolution No. 1,439/13, with regard to secrecy and access to information, the processes made available were analyzed on the premises of the aforementioned Council. In this sense, all information was collected under the guidance of the respective directors of the departments.

Considering that all cases could be analyzed as long as they had already become final, the sample was characterized as simple probabilistic, however, it was necessary to exclude 33 processes, because they did not present all the necessary information for the elaboration of the model. Thus, the final sample consisted of 390 processes, corresponding to 27.43% of the population. The selection took place, considering that the processes had already gone through all the stages provided for in CFC Resolution No. 1,603/20, considering that the processes comply with all the stages in the aforementioned resolution when the terminative decision is unappealable.

It is important to emphasize that the present study sought to verify whether the variables age and professional experience of counselors are significant to explain the level of less severe ethical penalty, that is, reserved warning, applied to offending accountants. Therefore, a model was elaborated, where the dependent variable is the ethical penalty reserved warning, however, it was not a reason for discussion of this study.

Given the characteristics of the variables in question, logistic regression was chosen to verify the probability that the independent variables, in this case, age and professional experience of the counselors explain the dependent variable, the following econometric model was elaborated.



$$\begin{aligned}
 \text{PEAR}_i = & \beta_0 + \beta_1 \text{CONTFPOLIT}_i + \beta_2 \text{CARGPOLIT}_i + \beta_3 \text{DOAÇOES}_i + \beta_4 \text{CONTREIN}_i + \beta_5 \text{CONTREVEL}_i \\
 & + \beta_6 \text{CONTFEM}_i + \beta_7 \text{CARGCRC}_i + \beta_8 \text{NECONT}_i + \beta_9 \text{MULTA}_i + \beta_{10} \text{ICONS}_i + \beta_{11} \text{TFCONS}_i + \\
 & \beta_{12} \text{EPCONS}_i + \varepsilon
 \end{aligned}
 \tag{1}$$

Where, PEAR refers to Reserved Warning ethical penalties applied to accountants and β_0 is the constant variable. The parameters of the equation were estimated by regression β_1 to β_{12} and i represented the process analyzed. The dependent variables are described in Chart 2 below.

Table 2 - Research Variables

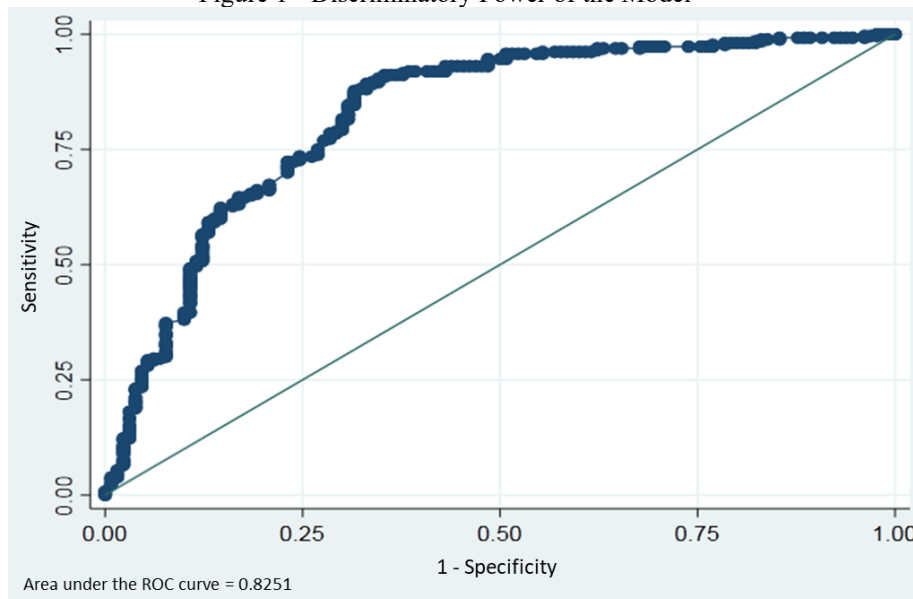
Types of Variables	Variables	Variable Characteristic	Variable Description
Dependent variable	PEAR	<i>dummy</i>	Ethical Penalties Reserved Warning.
Independent Variables	CONTFPOLIT	<i>dummy</i>	Accountants who were affiliated with a political party at the time they were fined and punished.
	CARGPOLIT	<i>dummy</i>	Accountant if he has held elective political office.
	DOAÇOES	<i>dummy</i>	Accountant who made donations in amounts to elected politicians
	CONTFEM	<i>dummy</i>	Gender of accountants.
	CARGCRC	<i>dummy</i>	The accountant took up positions in the Class Council.
	CONTREIN	<i>dummy</i>	Accountants recidivism.
	CONTREVEL	<i>dummy</i>	An accountant who did not present a defense was tried in absentia.
	NECONT	<i>dummy</i>	Level of education of the accountant.
	ICONS	Var. Quantitative	Age of counselors.
	TFCONS	Var. Quantitative	Time, in years, in the role of advisor
	EPCONS	Var. Quantitative	Professional experience of counselors in years of professional registration.
MULTA	<i>dummy</i>	If the fined professional was fined	

Source: prepared by the authors (2023)

Regarding the adjustment of the model, some tests were applied, among them, the Receiver Operating Characteristic (ROC) curve, which aims to show the power of the model to discriminate the categories of the dependent variable. (FAVERO *et al.*, 2014). According to Fávero *et al.* (2014), if the area under the curve is less than or equal to 0.5, the model cannot discriminate the categories; and above 0.80, the model has excellent discriminatory power. Thus, through Figure 1, that is, the graph of the ROC curve, it can be inferred that the proposed model has excellent discriminatory power, since its area is above 0.80.



Figure 1 - Discriminatory Power of the Model



Source: prepared by the authors (2023).

Considering the problem of the present study and its objective, it is noteworthy that the ICONS variable was characterized in the model as continuous. It represents the age of the counselors in numbers of years. The calculation was made by subtracting the year of birth of the counselor from the year in which the punishment was applied to the professional. To this end, data were collected through a telephone call to each counselor, since the personal information of these employees was not made available by the CRC-MT due to CFC Resolution No. 1,439/13. The contacts of the counselors were collected through the observation of the institutional WhatsApp groups of the CRC-MT, and others, from surveys to the Federal Accounting Council.

In relation to the variable EPCONS was characterized as continuous and constituted of the number of years as an accountant, having as reference the date of the first CRC registration and the initiation of the process by this analyzed professional. In this case, the data were collected from the files (reports) of the Registration Chamber, provided by the CRC-MT, and from the name of the reporting counselor identified in the process.

4 PRESENTATION AND ANALYSIS OF DATA

4.1 PROFILE OF REPORTING COUNSELORS AND DESCRIPTIVE ANALYSIS OF VARIABLES

The profiles of the reporting directors were observed during the analysis of the processes. It is worth mentioning, as previously mentioned, that some information, including marital status, religion, was not collected due to normative restrictions. (RES. CFC 1.469/2014). Table 1 below shows the profile of the reporting directors.



Table 1 – Profile of the Reporting Counselors of the CRC-MT

ITEM		NUMBER OF COUNCILLORS	%
Sex	Male	11	78,57%
	Female	3	21,43%
Education Level	Accounting Technician	2	14,29%
	Bachelor of Accounting	12	85,71%
Acting Time	Up to 5 years	1	7,15%
	From 6 to 10 years	0	00,00%
	From 11 to 20 years	3	21,43%
	From 21 to 30 years	5	35,71%
	More than 31 years	5	35,71%
Geographic Location	Interior	1	7,14%
	Capital/Metropolitan	11	78,57%
	Other*	2	14,29%

Note: *Among the processes verified, it was observed that two were analyzed by CFC counselors, that is, the professional appealed to the second instance

Source: Prepared by the authors (2023)

Table 2 presented below shows descriptive statistics of the model variables. The dependent variable of the model and PEAR, however, the object of this study is to observe the independent variables ICONS and EPCONS.

Table 2 - Descriptive Statistics of Model Variables

Variables	N = 390	Average	Standard deviation	Min.	Max.
PEAR		.6666667	.4720101	0	1
CONTFPOLIT		.2512821	.4343075	0	1
CARGPOLIT		.0333333	.1797361	0	1
DOAÇOES		.0564103	.2310086	0	1
CONTREIN		.2717949	.4454562	0	1
CONTREVEL		.5102564	.5005369	0	1
CONFEM		.2358974	.4251038	0	1
CARGCRC		.0230769	.1503407	0	1
NECONT		.6435897	.4795536	0	1
FINE		.9307692	.2541722	0	1
ICONS		58.60513	10.85061	36	76
TFCONS		5.528205	5.528205	1	20
EPCONS		27.16923	11.72421	3	47

Source: Prepared by the authors (2023)

According to evidence from descriptive statistics, on average, the reporting counselors are 58 years old and, on average, 27 years old.

With a sample of 390 cases that were judged in the period under analysis, 260 (mode) correspond to the expected event, that is, professionals punished with less severity. On the other hand, there is a frequency of 130 cases judged with respective punishments, however, not being an event of



interest, that is, other penalties. In the following table, the frequencies for the dependent variable are presented, considering the two categories, event of interest and the opposite case.

Table 3 - Frequency Ethical Punishment Reserved Warning (less severe)

PEAR	Frequency	Percentage	Accumulated
0	130	33.33	33.33
1	260	66,67	100
Total	390	100	

Source: Prepared by the authors (2023).

According to the evidence in table 3, the number of least severe ethical penalties, called reserved warning, is the most applied to offending accountants, prosecuted, tried and punished. This result is consistent with Lima *et al* (2022), which showed that the ethical penalty is the most widely applied warning by the CRC/MT to offending accountants. From the study of Batista *et al* (2013) it is possible to infer, also that, in other areas, in this case, dentistry, that when it comes to ethically punishing their peers, the reserved warning has been the most applied.

4.2 ANALYSIS OF RESULTS

From the research data it was observed that the variable age of counselors (ICONS) was statistically significant for the model with $\alpha = 0.046$ and negative coefficient in $-.0429396$. The result suggests that if the age of the counselor increases by 1 year, the probability of the professional offender being punished with a warning decreases. According to descriptive statistics, the average age of counselors is 59 years (rounded number). It was found that 66% of the professionals were punished with warnings, 27.43% were censored and 5.9% of the cases were filed. It is noteworthy that, for all the scenarios presented, the ICONS variable was statistically significant < 0.05 and with a negative coefficient.

Therefore, it is possible to conclude that the older the directors, the less likely they are to issue a warning to accountants for ethical violations. This result is consistent with the evidence from Serfling's (2014) study that analyzed the age of CEOs (*Chief Executive Officer*) and corporatist policies. According to Serfling (2014) the risk behavior of CEOs tends to decrease as they age. Therefore, failing to apply more severe punishments may constitute risks if you consider the repeat offender behavior.

On the other hand, it is worth mentioning studies among which, Forte, Silva and De Abreu (2021) that showed the non-significance of the influence of the average age of the members of the board of directors on the disclosure of CSR, that is, Corporate Social Reports. For the sample of the study by Forte, Silva and De Abreu (2021) the variable age was not significant to explain the behavior of directors in relation to the disclosure of CSR, that is, Corporate Social Reports.



Regarding the professional experience of the counselors (EPCONS), the results showed the statistically significant variable within the limit of 10% with $\alpha = 0.092$ and $\text{coef} = .0321542$. Therefore, it can be inferred that more experienced advisors are more likely to punish offending accountants with warning, that is, less severe penalty.

Because they have more professional experience, counselors may present some strategic characteristics in the trial process, such as more willingness to understand and less behavior of criticism of the offender. If the professional has experience in accounting practices, as well as in the role of advisor, there is, therefore, the probability that the opinions issued will be of better quality. They may also present characteristics of more engagement and counseling, and may present better results in favor of the class and professionals. (ADAMS, 2009; JIANG; ZHU; Huang, 2013; SONZA; KLOECKNER, 2014).

Professional experience can be one of the main pillars for the quality of work, with the purpose of a more appropriate decision making. (BETHKE; KINDWELL; Stevens, 1987; CHE; LANGLI; SVANSTRÖM, 2018). But what would be the most appropriate decision? In this case, the reflection takes place from the perspective of the studies of Krom (2016) and Armitage and Moriarity (2016), when they infer that, under public scrutiny, CRCs tend to punish more severely, that is, what would be more correct seems to be to signal to the other agencies that accountants are under control, dominance. (FOUCAULT, 2007).

On the other hand, if the gravity of the infraction has its mitigating factors, or even its relationship is directly linked to the private interests of the class, not exposing the offender, and, consequently, the class, seems to be the most appropriate, within this context. (Parker, 1994). In the perspective of Parker (1994), the exposure of the accountant for ethical infraction may signal to society possible technical and moral deficiencies, which could cause distrust on the part of those interested in accounting information, in the capacity of monitoring and discipline of the Councils on their associates.

Thus, punishing with warning may suggest compliance with the rules because it is punishing the offender, but also protecting the private interest. The norms established by the Class Councils, in the specific case, the Code of Ethics of the Professional Accountant (CEPEC), tend to show and justify to the public the legitimacy of the exclusivity of punishing the offending accountant, and thus, evidence their concern with the zeal and efficiency of the accounting profession.

Thus, the greater the experience of the reporting counselor, the greater the possibility that this professional exercises power to judge and prepare more appropriate reports from the perspective of the CRCs, that is, to punish, but protecting, in principle, the public interest and, especially, the interest of the accountants themselves. (Parker, 1994).



5 FINAL CONSIDERATIONS

As initially exposed, the problem that guided the present one questions whether the age and professional experience of the directors are explanatory factors for the application of less severe ethical penalties to accountants. To answer this question, the objective was to verify whether the age and professional experience of the counselors are explanatory factors for the application of less severe ethical penalties to accountants.

The results showed that older reporting counselors tend to punish severely. Thus, it allows us to conclude that, if TRED is formed by older counselors, the ethical punishments classified as censorship should be the most applied. However, it is worth noting that, according to Lima (2021), the percentage of censorship applied to accountants for ethical infractions in a period of five (5) years, namely, 2014 to 2018, corresponded to 27.43% of the penalties applied and that public censorship was only 1.1%. The Lima study (2021) also showed that the age of counselors, on average, was 59 years.

It can be said, therefore, that the results of the present research are consistent with Parker (1994), in showing that, of the 595 cases concluded against accountants in the United States in the period from 1970 to 1974, only 35% were censored. Thus, according to the research data, it is concluded that there may be a tendency of the class councils to protect their peers from society's distrust of behavior inappropriate to professional ethics. This argument is supported by the studies of Parker, (1994), Li *et al.* (2008), Harrison, (2011) and Amara and Khlif, (2020).

In relation to professional experience, experienced counselors are more likely to punish less severely. From this context and observing the results on the age of the counselors, it is concluded that the experience can be used, on the part of the counselors, to protect their peers. Therefore, it is concluded that experienced reporting counselors tend to present opinions with ethical punishment reserved warning.

The work built sought to bring a view on the penalties suffered by accounting professionals in the period of 2014 and 2018, as already mentioned in the methodology, the research observed the sample in cases of a 1st penalty / assessment and not in case of recidivism, therefore, future research could observe in the same period or in different periods and even with different CRCs as is the view and judgment of the counselors for cases of recidivism. Another gap to be explored is to analyze periods of Supervision and judgments, this is mandates, because the positions of directors are elective, as is the judgment by mandates.



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