NAME: ____________________________

CONTACT NO.:______________________

HANDBOOK ON PROFESSIONAL ETHICS

FOR CA AND CA FINAL STUDENTS

EDITION - 2

CA NITESH KUMAR MORE

Published By:
SHIVAM PUBLICATIONS
11A, Radha Bazar Lane
Kolkata - 700001
shivampublications1@gmail.com
033-32562967

Email Your Queries and Suggestions on:
moreassociate@gmail.com
shivampublications1@gmail.com

This Book is dedicated to:

- ✓ MAA; who gave me darshan after SHAKTI PEETH PUJA at PANCHMUKHEE BALAJI DARBAR & PANCHMUKHEE BALAJI.
- ✓ My Gurus Sri Ramesh Chachan and Sri Sanjay Agarwal
- ✓ My Parents and All Family Members

Price: ₹ 75
Edition: Second
June, 2013 Edition

Published by:
Nidhi Kumari
Shivam Publications
11A, Radha Bazar Lane
Kolkata – 700001
shivampublications1@gmail.com
033-32562967

Computer Typeset:
Shivam Publications
11A, Radha Bazar Lane
Kolkata - 700001
shivampublications1@gmail.com
033-32562967

Preface to the FIRST Edition

Dear Friends,

The study material of the ICAI is like a bible. This book is not a substitute for study material. This book has been prepared to provide students a tool for systematic revision. The salient features of the book are:

- ✓ Case Studies – More than 60.
- ✓ Tabular Presentation.
- ✓ Point wise Presentation (For Quick Revision Before Exams)
- ✓ Important Words – Bold (For Quick Revision Before Exams)
- ✓ Past Exam Questions with Marks and Years.
- ✓ Questions and Answers from Latest Revision Test Papers (RTP).

My special thanks to Abhishek Bathwal (A CA Final Student), for providing valuable support for the publication.

I look forward for your valuable suggestions and criticism, if any.

Thanks and Warm Regards,

Dated: 29th July 2012 | Place: Kolkata

CA Nitesh Kumar More
moreassociate@gmail.com

About The Author:

CA NITESH KUMAR MORE

- ✓ Author of 4 Books: Handbook on Professional Ethics, Handbook on SA, Handbook on Bank Audit, Advanced Auditing And Professional Ethics.
- ✓ Is a Co-opted Member of Company Law Committee of ICAI (EIRC)
- ✓ Has been a Co-opted Member of Permanent Research Committee of ICAI (EIRC).
- ✓ Had been a Co-opted Member of Research Committee of ICAI (EIRC)
- ✓ Has been a Co-opted Member of Internal Audit Committee of ICAI (EIRC)
- ✓ Is a moderator of India's 1st Google Group with Expert Panels On Various Subjects (Member Strength of more than 20,000 Professionals)
- ✓ Is An Editor of Newsletter "Professional Updates"
- ✓ Is a Advisory Board Member of HiRise Business Solutions Private Limited
- ✓ Provided Live Updates of EIRC, ICAI Elections 2012, Railway Budget, Union Budget To Members Jointly with www.shivampublications.webs.com
- ✓ Has Contributed/Written more than 35 Write-ups/ Article in various magazines such as the Management Accountant, Suchitra Times, EIRC Newsletter, EIRC Members Ready Referencer, EIRC Conference, DTPA Conference etc.
- ✓ Executive Committee Member of Panchmukhi Balajee Darbar, Siliguri
- ✓ He is Providing Services to Many Corporate and Other Clients.
- ✓ Presented a Paper on Recent Changes in Direct Tax at CA Student Conference held at Kolkata.
- ✓ Stood 1st in Quiz Contest held at ICAI (Kolkata).
- ✓ Winner of 'Essay Writing Contest' organized by ICAI (EIRC).

LIST OF ABBREVATIONS USED IN THIS BOOK

AGM	Annual General Meeting	**JA**	Joint Auditors
AS	Accounting Standard	**JV**	Joint Ventures
BOD	Board Of Directors	**MD**	Managing Director
CAAT	Computer Assisted Audit Techniques	**MIS**	Management Information System
CAG	Comptroller & Auditor General Of India	**MRL**	Management Representation Letter
CG	Central Government	**NPA**	Non Performing Assets
CIS	Computer Information System	**NTE**	Nature Timing And Extent
CLB	Company Law Board	**PAC**	Public Account Committee
CR	Control Risk	**PFI**	Prospective Financial Information
DD	Due Diligence	**PRB**	Peer Review Board
DR	Detection Risk	**PSU**	Public Sector Unit
DSS	Decision Support System	**PU**	Practice Unit
DSS	Electronic Data Interchange	**QC**	Quality Control
EP	Engagement Partner	**RAP**	Risk Assessment Procedures
ESB	Ethical Standard Board	**SA**	Standard On Auditing
FRF	Financial Reporting Framework	**SG**	State Government
FS	Financial Statements	**SQC**	Standard On Quality Control
FY	Financial Year	**SR**	Special Resolution
GAAP	Generally Accepted Accounting Principles	**TCWG**	Those Charged With Governance
GIC	General Insurance Company	**W.E.F**	With Effect From
GM	General Meeting	**W.R.T**	With Regard To
IC	Internal Control	**WTD**	Whole Time Director

INDEX OF CHAPTERS IN BOOK

S. No.	Chapter Name	Page
1.	Professional Ethics	6-41
2.	Case Studies	32-40
3.	Questions	41

1. PROFESSIONAL ETHICS

1.1 The Chartered Accountants Act, 1949 There are **two classes** of members,
(i) Those who are in practice and **(ii)** those who are otherwise occupied.
i) Members Who Are Deemed To Be In Practice: Sec 2(2) - In Section 2(2) of the Act, the term "**to be in practice**" has been defined as follows: -
"A member of ICAI shall be deemed "to be in practice" when individually or in partnership with CAs in practice, he, in consideration of remuneration received or to be received-
a. Engages himself in the practice of **accountancy**; or
b. Offers to perform or performs service involving the **auditing or other related services** or holds himself out to the public as an accountant; or
c. Renders professional services or assistance in **accounting procedure**.
d. Renders **such other services** as, in the opinion of the **Council** may be rendered by CA in practice.

ii) Explanation - An associate or a fellow of the Institute who is a **salaried employee** of a CA in practice or a firm of such CAs shall be deemed to be in practice for the limited purpose of the **training of Articled Clerks**".

The Council has passed a **resolution** permitting a CA in practice to render entire range of **"Management Consultancy and other Services"** which shall include the following:
a. Financial management planning
b. Capital structure planning
c. Working capital management
d. Preparing project reports and feasibility studies.
e. Preparing cash budget, cash flow statements, profitability statements, statements of sources and application of funds etc.
f. Budgets (capital and revenue).
g. Inventory management, material handling and storage.
h. Market research and demand studies.
i. Price-fixation and other management decision making.
j. Management accounting systems, cost control and value analysis.
k. Control methods and management information and reporting.
l. Personnel recruitment and selection.
m. Setting up executive incentive plans, wage incentive plans etc.
n. Management and operational audits.
o. Valuation of shares & business and advice regarding amalgamation, merger & acquisition.
p. Business Policy, corporate planning, organization development, growth & diversification.
q. Organization structure & behavior, development of human resources including design & conduct of training programmes, job-description, job evaluation & evaluation of workloads.
r. Systems analysis and other professional services relating to EDP.
s. Acting as advisor or consultant to an issue (but not activities of broking, underwriting and portfolio management)
t. Investment counseling
u. Acting as registrar to an issue and for transfer of shares/other securities.
v. Quality Audit.
w. Environment Audit.
x. Energy Audit.
y. Acting as Recovery Consultant in the Banking Sector.
z. Insurance Financial Advisory Services including Insurance Brokerage.

<u>Above expression "Management Consultancy and other Services" excludes</u>:
• Statutory, periodical audit. Tax representation or advice on tax matters.
• Acting as liquidator, trustee, executor, administrator, arbitrator or receiver.
The act of setting up of an establishment offering to perform accounting services would tantamount to being in practice even though **no client has been served**.
A member of the Institute is deemed to be in practice during the period he renders 'service with armed forces'.

iii) A member of the Institute is also deemed to be in practice when he accepts any one of following in his **professional capacity:**
a. Liquidator, trustee, executor: administration, arbitrator, receiver, advisor or representation for costing, financial or taxation matters, or
b. Appointment by C.G. or S.G. or court or legal authority, or
c. Act as a Secretary
But if such appointment is on **salary cum full time basis** he is not deemed to be in practice.

<u>1.2 Significance Of The Certificate Of Practice</u> – A member who is not in practice is precluded from accepting engagement to render services of any of the types normally prescribed for a CA, even though for doing so, he does not require special qualifications. The Council of the institute is of view that:
i) Once the person concerned becomes a member of The Institute, he is bound by the provisions of the CAs Act and its Regulations.
ii) A member of the Institute can have no other capacity in which he can take up such practice, separable from his capacity to practice as a member of the Institute."

<u>1.3 Disabilities For Purpose Of Membership (Section 8)</u>
i) Age less than 21 years at time of application, or
ii) Unsound mind as per a competent court, or
iii) Undischarged insolvent, or
iv) Discharged insolvent but has not obtained a certificate from court stating that his insolvency was due to misfortune without any misconduct on his part, or
v) Convicted by competent court of offence involving moral turpitude, or offence not of technical nature, committed by him in his professional capacity. But this disqualification is not attracted if he has been granted a pardon or GC has removed his disability.
vi) Removed from membership by ICAI due to misconduct.
If he fails to disclose his disabilities to ICAI, it would constitute professional misconduct.

<u>1.4 "Professional Misconduct"</u> - For the purpose of this Act, the expression "professional or other misconduct" shall be deemed to include any act or omission provided in any of the Schedules, but nothing in this section shall be construed to limit or abridge in any way the power conferred or duty cast on the Director (Discipline) under subsection (1) of section 21 to inquire into the conduct of any member of the Institute under any other circumstances.

<u>Other Misconduct</u> - A member is liable to disciplinary action under Section 21 of the CAs Act, if he is found guilty of any professional or "Other Misconduct". Other misconduct has been defined in part IV of the First Schedule and part Ill of the Second Schedule. As per part IV of the First Schedule to the CAs Act, A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if he -
i) Is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term not exceeding six months;

ii) In the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work.
This provision empowers the Council to inquiry into any misconduct of a member even it does not arise out of his professional work. This is considered necessary because a CA is expected to maintain the highest standards of integrity even in his personal affairs arid any deviation from these standards, even in his non-professional work, would expose him to disciplinary action. For example, a member who is found to have forged the will of a relative would be liable to disciplinary action even though the forgery may not have been done in the curse of his professional duty.
Other misconduct would also relate to conviction by a competent court for an offence involving moral turpitude punishable with cause transportation or imprisonment to an offence not of a technical nature committed by the member in his professional capacity.

Some examples, where a member may be found guilty of "Other Misconduct", under the aforesaid provisions rendering, himself unfit to be member are:
i) Where a CA retains the books of account and documents of the client and fails to return these to the client on request without a reasonable cause.
ii) Where a CA makes a material misrepresentation.
iii) Where a CA uses the services of his articled or audit clerk for purposes other than professional practice.
iv) Misappropriation by office-bearer of a Regional Court of the Institute, of a large amount and utilization thereof for his personal use.
v) Non-replying within reasonable time & without good cause to letter of public authorities.
vi) Where certain assessment records of income tax department belonging to the client of CA were found in the almirah of the bed-room of the CA.
vii) Where CA had adopted coercive methods on a bank for having loan sanctioned to him.

1.5 Penalty For Falsely Claiming To Be A Member (Section 24)
i) Any Person shall be penalized if he:

Not being a C.A	Being C.A. not having COP
Represents that he is CA	Represents that he is in Practice
Uses designation CA	Practices as a CA

ii) Penalty:

1st conviction	Subsequent Conviction
Fine up to 1000	Fine up to 5000 'or' Imprisonment up to 6 months 'or' Both

1.6 Section 27: Maintenance of Branch Offices by a Practicing Member - Office is a place where name board of firm is affixed, or which is described as place of business on professional stationery.
• **Is name board at home allowed?**
• **Name board of firm - No,** because otherwise it is deemed to be as office.
• **Name board of himself – Yes,** containing his name, degree and designation CA
• **How many branch offices he can open -** Any number provided each branch must have separate C.A. in charge Or Partner In whole time employment of C.A. concerned
• **Meaning of in charge -** Who either attends the said office or resides in the city where such office is situated, at least for 182 days in a year.

i) Temporary Office
a. For members practicing in hilly areas &
b. Temporary office may be opened in plains in winter season only for 3 months
c. Temporary office not to be mentioned as place of business on professional stationery, &

d. Correspondence may continue at permanent office, &
e. Before coming to plains & at close of such temporary office inform ICAI, &
f. Name board of firm to be displayed at temporary office only during these 3 months.

ii) Second Office - If it is situated:
a. In same premises in which first office is situated; or
b. In the same city; or
c. Within 50 kms from municipal limits of city in which first office is situated*

1.7 Misconduct

SCHEDULE	
First Schedule (refer to board of discipline)	**Second Schedule (refer to disciplinary committee)**
Part 1 - (12 clauses) - Proof. Misconduct - C.A. in practice	Part I - (10 clauses) Professional Misconduct - C.A. in practice
Part II - (2 clauses) Professional Misconduct - C.A. in service	Part II - (4 clauses) Professional Misconduct - C.A. generally
Part III - (3 clauses) Professional Misconduct - C.A. generally	Part III - Other Misconduct
Part IV - Other Misconduct	

Easy learning of CLAUSES of PROFESSIONAL ETHICS

PART 1 of SCHEDULE 1: KEY:
"Nana Patekar Asks Partner Shilpa Shetty About C.A. Prospectus Being in South"

Clause: 1 Nana - Name
Clause: 2 Patekar - Pays
Clause: 3 Asks - Accepts
Clause: 4 Partner - Partnership
Clause: 5 Shilpa - Secures
Clause: 6 Shetty - Solicits
Clause: 7 About - Advertises
Clause: 8 C. - Communicating
Clause: 9 A. - Ascertaining
Clause: 10 Prospectus - % of Profit
Clause: 11 Being in - Business or Profession
Clause: 12 South - Sign on his behalf

PART 1 of SCHEDULE 2: KEY:
"Don't Cheat Friends it May Make Good Intention Go Bad"

Clause: 1 Don't - Disclosure
Clause: 2 Cheat - Certifies
Clause: 3 Friends - Forecast
Clause: 4 Partner it - Partnership Substantial Interest
Clause: 5 May - Material Fact
Clause: 6 Make - Material Misstatement
Clause: 7 Good - Grossly Negligent
Clause: 8 Intention - Sufficient Information
Clause: 9 Go - Generally Accepted
Clause: 10 Bad - Separate Bank Account

PART – I of THE FIRST SCHEDULE (Refer to Board of Discipline)
"Professional misconduct in relation to CA in practice"

A CA in practice shall be deemed to be guilty of professional misconduct, if he -

Clause 1 - Allows any person to practice in his name as a CA
Exception: such person is a CA in practice & is a partner or an employee (both cumulative).
Example: A CA Firm, XYZ & Co. having 3 partners, X, Y and Z & its CA employee is Mr. P anybody other than X, Y, Z, and P can't practice as C.A. If Mr. X allows Mr. V who is a law graduate to practice in said firm as a C.A., Mr. X would be guilty.
Comment of Author: The objective of this clause is to prevent unqualified persons from acting as CAs.

Clause 2 - Pays or allows or agrees to pay or allow, directly or indirectly, any share, commission or brokerage in the fees or profits of his professional business, to any person
Exception: CA or a **partner** or a **retired partner** or the **legal representative** of a deceased partner, or a **member of any 'other professional body'*** or with **such other persons** having **'prescribed qualifications'**** for the purpose of rendering such professional services from time to time in or outside India.
Explanation: "partner" includes a person residing outside India with whom a CA in practice has entered into partnership which is not in contravention of item (4) of this Part;
Comment of Author: The objective of this clause is that he should get his professional work due to his own competent but not through services of agent or third parties.

***'Other professional bodies'** have been notified by the council are ICSI, ICWAI, Bar Council of India, The Indian Institute of Architects and The Institute of Actuaries of India.
****'prescribed qualifications in India'** are CS, CWA, Actuary, Bachelor in Engineering, Bachelor in Technology, and Bachelor in Architecture, Lawyer, and MBA.

Important Points:
i) In case of sole proprietorship firm, widow of deceased can sell goodwill of the firm to another eligible CA. However, there could not be any sharing of fees between legal representative of sole proprietorship firm and the purchaser of goodwill. Such payment can be made in installment also if agreement of sale of goodwill provides so. The firm name will be kept in abeyance by ICAI for 1 year so that widow can sell goodwill.
ii) In case of Partnership firm, A widow of deceased can receive share of firm only if partnership agreement provides for such provision otherwise not.
iii) CA in practice should **not extend his service** beyond the orbit of his professional practice when working in **association with other professionals** on a project**.**
iv) It is not the nomenclature to a transaction that is material but it is the **substance of the transaction**, which has to be looked into. Example, A CA gave 50% of the audit fees received to the complainant, who was not a CA, under the nomenclature of office allowance, it was held by the Council that in substance the CA had shared his profits and therefore was guilty of professional misconduct under the clause.

Clause 3 - Accepts or agrees to accept any, part of the profits of the professional work of a person who is not a member of the Institute:
Exception: A member of any 'other professional body'* or with such other persons having 'prescribed qualifications'** (For explanation refer Clause 2 above)
Comment of Author: The objective of this clause is to restrain a member from sharing the profits of the professional work with non member and/or other non prescribed person.

Clause 4 - Enters into partnership, in or outside India, with any person
<u>Exception:</u>
a) CA in practice or
b) 'Member of other professional body'* having prescribed qualifications.
c) A person resident without India who but for his residence abroad (i.e. A CA residing abroad) would be entitled to be registered as a member u/s 4 (i) (v) or
d) A person Whose qualifications are recognized by the CG or the **Council**** for the purpose of permitting such partnerships?

***'Member of other professional bodies'** are CS, CWA, Advocate, Engineer, Architect, Actuary, Professional bodies outside India whose qualification are recognized by council. The Council had not recognized membership of any bodies for the purpose of permitting partnerships by Indian Nationals abroad as are referred to in this clause:

<u>Important Points:</u>
i) The provisions of the CAs Act, 1949 are not applicable outside India. So, if an Indian CA **practicing outside India** enters into partnership with other person outside India then he is not guilty. However, if an Indian CA **practicing in India** enters into an agreement with other person outside India then he will be guilty.
ii) Where a CA had engaged himself as a **partner in two business firms** and Managing Director in two Companies and was also holding Certificate of Practice without obtaining permission of the Institute. Held that he was a guilty of professional misconduct inter alia under Clauses (4) and (11)

Clause 5 - Secures, either through the services of a person who is not an **employee** of such CA or who is not his **partner** or by **means** which are **not open to a CA**, any professional business:
<u>Exception</u>: any arrangement permitted in terms of clauses (2), (3) and (4) as above;
<u>Comment of Author</u>: The objective of this clause is that he can get professional work through partner or employee, but not services of agent or third parties.

Clause 6- Solicits clients or professional work either directly or indirectly by circular, advertisement, personal communication or interview or by any other means.
<u>Exception</u>:
(i) he can apply or request or secure professional work from another CA in practice; or
(ii) respond to tenders or enquiries issued by various users of professional services or organizations from time to time and securing professional work as a consequence;
<u>Comment of Author</u>: This clause elaborates clause 5

<u>Guidelines For Permitting To Post Their Particulars At Website</u>
<u>Permitted Features</u>
i) C.A. / CA firms are free to create website.
ii) It can be in **any format color** as per taste of CA.
iii) CA can mention website address on professional stationery.
iv) Website should be run on pull mode (i.e. should be accessible only to the person who specifically requests for access) not in push mode. **(May 2007)**

<u>Prohibited information</u> - They can't provide on website
i) Name of clients & fee charged
ii) Logo (other than that prescribed by ICAI)
iii) No photograph (**other than passport size** photo of member) **(May 2005)**
iv) No advertisement.
v) No reference of any other website (other than ICAI/ govt. related)

Permitted information within CA's website

i) Name of member/ firm
ii) Member's/ firms address/ telephone no. / fax/ e-mail Id
iii) Partners' name & their qualifications, year of qualification, home address, telephone no., e-mail Id. (**i.e. Bio-Data of partner)**, **(May 2005)**
iv) Employee's names and their qualifications
v) Job vacancies including article ship,
vi) Passport -size-photograph of members.
vii) Reference about ICAI/govt. related website.
viii) Articles etc. of professional interest such as budget highlights.
ix) Bulletin board.
x) Chat rooms between client & C.A. or among CA's. However confidentiality should be maintained.
xi) Date up to which website is updated.
xii) Common logo prescribed by ICAI.

Within website specific pull request for

i) Nature of services rendered
ii) Nature of assignment handled
iii) Area of expertise of partners
iv) Area of expertise of employees
v) No. of articled clerks
vi) Year of establishment.

Other issues relating to website

i) Address of website - Website address should be in the name of C.A. /C.A. firm.
• It may be different from firm? C.A. name but should be as near as possible to their name.
• Address should not be such as results in soliciting the client.
ii) Search Engine
• Listing of CA's website on search engine is allowed**.**
• But it should be on criteria such as CA, Indian CPA or any related field.
iii) Hyperlinks - In CA's website, link/reference of only ICAI related or govt. related website is allowed. **(May 2006)**
iv) Intimation ICAI - Presently, CA is required to inform website address to ICAI. While submitting annual membership fee and form (as per old provision, it was required to intimate ICAI within 30 days of setting up website. But now the same has been changed)
v) Services through other websites is allowed; provided contact address, firm name & professional achievement of CA is not given. Only CA's name with designation 'CA' is allowed.

Important Points:
i) Empanelment for allotment of audit professional work.
Permitted Features:
a. C.A's can write to concerned organization for having their name on **panel maintained** by such organizations (For e.g. - Empanelment by RBI for Bank Audits)
b. CA can quote fee only if enquired by such organization.
Prohibited items:
a. Roving enquiries cannot be made such as whether the organizations maintain penal or not and enquiring why work is not being allotted to him although his name is on the panel.
b. CA can't send Printed/Cyclostated copies of fee in reply.
c. Not allowed to respond to empanelment requiring registration fee.

ii) Publication in telephone/other directories

Permitted Features - They can have their name included in telephone/ trade directories if following are satisfied:

a. Entry in separate section of CA.
b. Entry in normal types of letters (Not Bolder).
c. It should appear in the local directory of the city in which concerned CA/firm practices.
d. Entries should be in logical (alphabetical) order.
e. Payment for entries should be reasonable.
f. Entries should be open to all CA's.

Prohibited items

a. No impression of publicity or advertisement.
b. No special request or additional payment by C.A. is allowed.

iii) Issuing hand bills

Permitted - He can distribute hand bills containing their name to his clients (For e.g. Budget highlights).

Prohibited – He cannot issue hand bills to any other person other than client.

iv) Publication of books or articles

Permitted

a. CA in practice can write books etc. & get them published.
b. Can mention his name & his personal/ academic details. **(May 2005)**

Prohibited - But no mention of firm name

v) Issue of greeting card/invitations

Permitted - CA can indicate designation, name of firm and address on Greeting cards or Invitation for **(a)** Marriage, **(b)** Religious ceremonies, **(c)** Inauguration of office, **(d)** Letters regarding change in office.

Condition - Provided (a) to (c) is sent only to clients, relatives & close friends.

vi) Scope of representation u/s 225 (3)

Representation when

a. The auditor who is being removed in GM, has right of representation.
b. He may indicate in his letter his willingness to continue as auditor if shareholders in AGM decide so, but this should not be in the nature of solicitation.

Prohibition

a. But there should not be any extra publicity therein.
b. No derogatory, unsubstantiated remarks against the management of Co. **(May 1997)**
c. it should highlight contribution made by CA to the company **(Nov 2001)**

vii) Acceptance of professional work emanating from a client introduced by another CA. - The Council has decided that a member should **not accept** the original professional work emanating from a client introduced to him by another member. If any professional work of such client comes to him directly, it should be his duty to ask the client that he should come through the other member dealing generally with his original work.

viii) Public Interview - Due care should be taken to ensure that such interviews or details about the members or their firms are not given in a manner highlighting their professional attainments. As per example, it should not detail the achievement of the concerned person/firm or its partner and his recognition in the particular field. **(Nov 2001)**

ix) Advertisement under box Number – Prohibited

x) As per guidelines for responding to tenders if a matter relates to any service other than audit, members can respond to any tender. Further in respect of non exclusive area, members are permitted to pay reasonable amount towards earnest money/security deposit **(May 2006)**

<u>Some Of The Decisions Of Supreme Court/ High Court/Council</u>
<u>Guilty:</u>
i) Where a CA wrote to the Ministry of Commerce and Industry to enroll the name of his firm in the **list of auditors** maintained by the Department (Case of K.C.J. Satyawadi)
ii) A member was found **guilty** for having issued **'circular letters'** regarding change of address of his firm to persons who were not in professional relationship with him and for having **written to shareholders thanking** them for appointing him as an auditor. (K. K. Mehta V. M. K. Kaul)
iii) An advertisement was published in a newspaper containing the member's photograph wherein he was **congratulated on the occasion of opening ceremony** of his office. (Case of G. P. Agarwal)
iv) Where a CA had sent a letter to another firm of CA in which he had introduced his **pioneer in liasoning** with CG ministries and its allied departments for getting various Government clearances for which he had claimed to have expertise and had given the list of his existing clients and details of his staff etc. (Case of Bijoy Kumar)
v) Where a CA sent a **printed card and circular letters** soliciting work. Held, he was guilty under the clause. (M.J. Gadre vs. W.G. Ambekar) **However,** if printed cards or circulars letters are sent by following the **advertisement guidelines 2008,** then he will not be guilty.
vi) A member had published an advertisement, in a newspaper inviting professional work for accounts writing, Income tax matters etc. It was held that the insertion of an advertisement of such a nature amounted to soliciting professional work by advertisement and the member was found guilty in terms of this Clause. (Vallabh C. Shah) **However,** if printed cards or circulars letters are sent by following the **advertisement guidelines 2008,** then he will **not be guilty**.

<u>Not Guilty:</u>
i) It was held that writing letters to **current auditors** by CAs offering their services to audit the accounts was **not guilty** as it was an offer to a professional colleague and not to a prospective client. (Case of M. N. Agarwal)
ii) Where a CA firm issued a letter of authority in favour of two other CAs to accept and carry out audits of Co-operative Societies on its behalf and CAs issued circulars of which the firm was not aware - Held, that the firm was not guilty of professional misconduct. (V.B. Kirtane) But the person, in whose favour the letter of authority was given in the above case, was held guilty. (MR Walke)

Clause 7 - Advertises his professional attainments or services, or uses any designation or expressions other than CA on professional documents, visiting cards, and letter heads or sign boards.
<u>Exception</u>:
i) Degree of a University established by law in India, or recognized by the CG or a title indicating membership of the Institute of CAs of India or of any other institution that has been recognized by the CG or may be recognized by the Council:
ii) A member in practice may advertise through a write up, setting out the services provided by him or his firm and particulars of his firm subject to **such guidelines** as may be issued by the Council.

Guidelines For Advertisement For The Members In Practice
i) The write-up may include only the following information:
a. For Members: Name, Membership No., Age, Date of becoming ACA, Date of becoming FCA, Date from which COP held, Recognized qualifications, Languages known, Telephone/Mobile/Fax No., Professional Address, Web, E-mail, CA Logo, Passport size photograph, Services provided, Names and details of the employees and their particulars on the lines allowed for a member as stated below.
a. CAs, **b.** Other Professionals, **c.** Articles/Audit Assistants, **d.** Other Employees.
b. For Firms: Name of the Firm, Firm Registration No., Year of establishment, Professional Address, Working Hours, Tel. No(s)/Mobile No./Fax No, Web address, E-mail, No. of partners, CA Logo, Passport size photograph, Services provided, Name of the proprietor/partners and their particulars on the lines allowed for a member as stated above, Names and details of the employees and their particulars on the lines allowed for a member as stated **a.** CAs, **b.** Other Professionals, **c.** Articles/Audit Assistants, **d.** Other Employees.

ii) The write-up may have the Signature, Name of the Member/ Name of the Partner signing on behalf of the firm, Place and Date.

iii) Other Conditions: The write should not:
• contain **false or misleading information** and bring the profession into disrepute.
• claim **superiority** over any other Member(s)/Firm(s)
• be indecent, **sensational** or otherwise of such nature which may likely to bring the profession into disrepute.
• contain **testimonials** or endorsements concerning Member(s).
• contain any **other representation**(s) that may like to cause a person to misunderstand and/or to be deceived.
• **violate** the provisions of the 'Act', Rules made there under and 'The CAs Regulations, 1988.
• include the **names of the clients** (both past and present)
• be of **font size** exceeding 14.
• contain any information **other than stated in Para 3** hereinabove.
• contain any information about **achievements / award** or any other position held.

Important Points:
i) Advertisement in press – refer guidelines for advertisement for members in practice.

ii) Appearance on TV/films/radios/press/seminars-
a. They may appear
b. May describe themselves as CA
c. But no reference as to name/address/ services of firm
d. He should not say anything to promote him/his firm. Whatever he says, must be professional & objective.
e. It is the duty of CA concerned to ensure that even host should not refer to such thing.

iii) Photograph & brief particulars of CA in magazine - Allowed provided
a. no payments is made for such publication and
b. no mention of professional attainments

iv) Training courses and Seminars - A CA holding training courses, seminars etc. for his staff may also invite the staff of other professional accountants and clients to attend the same. However, undue prominence should not be given to the name of the CA in any booklet or document issued in connection herewith.

v) Publicity for appointment of position of local/ national importance - Permitted
a. They may mention membership of ICAI.
b. But no mention as to firm name.

vi) Prospectus of company in which CA is director
a. CA's name address in the capacity of director is allowed in prospectus.
b. But no firm name.
c. No expression like "Associates of……….."
d. No advertisement of professional achievement. **(May 2002)**

vii) Press note on success of a candidate in exams – Permitted - It may contain
a. His name & address his background **b.** His success details **c.** Name & firm of his principal
But there should not be any undesirable publicity of Article/Principal/Firm.

viii) Sign Board
a. Can't use glow sign board or large sized sign boards.
b. At residence, name board of himself is allowed but not that of firm

ix) Date of establishment of firm - Can't provide on letterheads etc.
Exception - Website

x) Designation
a. Only CA
b. Only on professional documents, visiting cards, letter heads, sign boards or where stated in clause 6 (e.g. - greeting cards)
c. Can't use words like income tax consultant, cost consultant or management consultant etc **(May 2000)**
d. However there is no provision for printing the names of three firms on the personal letterhead **(June 2009 New)**

xi) Listing in directory or list of members of particular body
a. Allowed
b. It may contain his/ his firm's name and address
c. Names of members in such directory should be in logical order.
d. He may provide directorships held, reasonable personal details & outside interest.
e. But can't provide names of clients & services offered by his firm.
For e.g. - In list of members of Income Tax Appellate Tribunal, When CA concerned is a member of ITAT.

xii) Logo - A common logo is prescribed by ICAI. C.A. cannot use any other logo.

xiii) If he is Member of Parliament or any elected authority - Can't use Member of Parliament or any other such designation in addition to CA.

xiv) If he is advocate as well - Can't use advocate in addition to CA' (for details refer to Section 7)

Guidelines for Members Holding Certificate of Practice on acceptance of directorships in companies: Such prospectus or public announcements or public communications do not advertise his professional attainments and also that such prospectus or public announcements or public communications do not directly or indirectly amount to solicitation of clients for professional work by the member. The member must ensure that descriptions about his expertise, specialization and knowledge in any particular field of other appellation or adjectives are not published with his name. Particulars about directorships held by the member in other companies can, however, are given, but the name of the Firm of CAs in which the member is a partner, should not be given.

Guidelines for use of expressions such as Associates of etc.: The use of expressions / words in Association with 'Associates of 'Correspondents of etc., on the stationery letter heads, visiting cards and professional documents etc. of firms of CAs is **not permissible** in view of the provisions of clause (7) of Part I of the First Schedule to the CAs Act, 1949 **irrespective** of whether the connection bearing name sought to be used was the name of an **Indian firm or a foreign firm**. The Council has **not barred entering into such association** and the restriction given under the above clause is to bar an advertisement appearing/derived from such associations.

Clause 8 - Accepts a position as auditor previously held by another CA or a certified auditor without **first communicating with him in writing;**

The Council Has Also Laid Down The Detailed Guidelines On The Subject As Under:
i) The requirement for communicating with the previous auditor being a CA in practice would apply to **all types of audit** viz., statutory audit, tax audit, internal audit, concurrent audit or Vat audit any other kind of audit of both government and non-government entities. **(May 2003, May 2008)**
ii) The term **"previous auditor"** means the **immediately preceding auditor** who held same or similar assignment comprising same/similar scope of work.
iii) A communication is mandatorily required for **all types of audit/report** if the previous Auditor is a CA. **For certification**, it would be healthy practice to communicate. In case of **assignments done by other professionals** not being CAs, it would also be a healthy practice to communicate.
iv) In case the **time schedule given for the assignment** is such that there is no time to wait for the reply from the outgoing auditor, the incoming auditor may give a **conditional acceptance** of the appointment and commence the work which needs to be attended to immediately after he has sent the communication to the previous auditor in accordance with this clause.

Important Points:
i) Professional reasons for not accepting audit
a. Non-compliance of provisions of Section 224 & 225 of Companies Act.
b. Non-payment of undisputed audit fee (**except sick units**)
c. Issuance of qualified report
d. Under cutting of fees

ii) Should he accept?
In first two i.e. (a) & (b) He **can't** accept
In (iii) he **may accept** if he thinks that attitude of retiring auditor wasn't proper & justified.

iii) Dispute between client & retiring auditor regarding fee - Incoming auditor should use his influence in favor of his predecessor to have dispute settled.

iv) How to communicate? - By R.P.A.D (Registered Post Acknowledgement Due) or by hand against an acknowledgement in writing and not under certificate of posting as he must have **positive evidence** that the latter has infect reached the previous auditor/his predecessor **(Nov 1996, Nov 2003, June 2009)**

v) Duty of outgoing auditor - He must reply as early as possible. However if he does not reply, he may act after waiting for **reasonable time.**

vi) Responsibility of incoming auditor when prospective client tells him about change of auditor

<table>
<tr><th colspan="3">Ask client whether previous auditor has been informed</th></tr>
<tr><th>If yes</th><th colspan="2">If no</th></tr>
<tr><td rowspan="3">Communicate with Previous auditor</td><td colspan="2">Ask client reason for change</td></tr>
<tr><td>Valid reason</td><td>No valid reasons</td></tr>
<tr><td>He may accept but after communication with predecessor</td><td>Healthy practice not to accept</td></tr>
</table>

Comment of Author - It is professional courtesy on part of incoming auditor to know the reason for change or any objections from the retiring auditor.

Clause 9 - Accepts an appointment as auditor of a company without first '**ascertaining'** from it whether the requirements of section 225 of the Companies Act, 1956 (1 of 1956) in respect of such appointment have been duly complied with. **(Nov 1999, Nov 2003)**
i) "**To ascertain**" means "to find out for certain" whether the company has complied with aforesaid provisions.
ii) It is **not sufficient** to accept compliance certificate from management but he has to verify the relevant records to ascertain whether the company has, in fact, complied with the provisions.
iii) He may **verify Board Resolution**, General Meeting Resolution, Special Resolution if provisions of section 224A is applied, CG approval, if auditor is to be removed before the expiry of his term of office. Records to see that notice have been sending within time specified. Copy of minutes of meeting where various resolutions are passed. If AGM is adjourned without appointment of auditors, then retiring auditors will continue till adjourned meeting and new auditors will assume office only after conclusion of adjourned meeting.
iv) A member had accepted appointment as auditor of a company **without ascertaining** from the company whether the requirements of section 224 and 225 of companies act had been complied with. However, he realized this defect **only after acceptance**.

Ethical Standard Board (ESB) –
i) In order to examine various ethical issues and safeguard the independence of the Auditors, the Council has set up an Ethical Standards Board (ESB).
ii) This Board examines various issues concerning professional ethics governing the members of the Institute which are either raised by the members or are taken up based on their importance.
iii) The recommendations of the Board are forwarded to the Council for its consideration.
iv) This Board is also charged with the responsibility of looking into the cases of removal and resignation of auditors and making an appropriate report to the Council.
v) The **following guidelines** have been issued for the Board for looking into the cases of Removal of Auditors:
a. Where an auditor **resigns** his appointment as an auditor of a Company or does not offer himself for reappointment as auditor of such Company, he shall send a **communication,** in writing, to the BOD of the Company giving **reasons** therefore, if he considers that there are professional reasons connected with his resignation or not offering himself for re-appointment which, in his opinion, should be brought to the notice of the BOD, and shall send a copy of such communication to the Institute. It shall be obligatory on **the incoming auditor**, before accepting appointment, to obtain a copy of such communication from the BOD and consider the same before accepting the appointment.
b. Where an auditor, though willing for re-appointment has not been reappointed, he shall **file with the Institute a copy of the statement** which he may have sent to the

management of the Company for circulation among the shareholders. It shall be obligatory on the **incoming auditor** before accepting the appointment, to obtain a copy of such a communication from the Company and consider it, before accepting the appointment.
c. The Ethical Standards Board, on a review of the communications referred to in Para (1) and (2), may call for **such further information** as it may require from the incoming auditor the outgoing auditor and the Company and **make a report** to the Council in cases where it considers necessary.
d. The above procedure is also followed in the case of removal of auditors by the **government and other statutory authorities.**

Clause 10 - Charges or offers to charge, accepts or offers to accept in respect of any professional employment, fees which are based on:
i) A **percentage** of profits or
ii) Which are **contingent** upon the findings, or results of such employment? **(Nov 1996, Nov 2001)**

<u>Exception - Regulation 192:</u>
i) A **receiver or a liquidator** can receive fees based on percentage of realization or disbursement of the assets.
ii) Auditor of co-operative society can receive fees based on paid up capital or working capital or gross or net income or profits.
iii) A **Valuer for direct taxes and duties** can charge fees based on percentage of the value of property valued. (**E.g.** – He can charge fees based on % of Value of Goodwill for determining value of gift under Gift Tax Act as gift tax is a direct tax)

Clause 11 - Engages in any business or occupation other than the profession of CA
<u>Exception:</u>
i) Unless **permitted by the Council** so to engage:
ii) director of a company (not being a MD or a WTD) unless he or any of his partners is interested in such company as an **auditor**.

<u>Important Points:</u>
i) CA in practice should **not accept** the directorship in any of its subsidiary or its holding company if he is the auditor of holding or its subsidiary company as it will affect his independence. **(May 2008)**

<u>Regulation 190A - General permission -</u> CA in practice may engage himself in following activities without obtaining any specific permission from council.
i) Employment under C.A. / C.A. firm.
ii) Private tutorship.
iii) Authorship of Books/Articles.
iv) Holding Life Insurance Agency license (only for limited purpose of getting Renewal Commission)
v) Attending class and appearing in any exams.
vi) Holding public elective office (M.P., M.L.A.)
vii) Honorary office of charitable - educational institute.
viii) Notary public, Justice of peace, Special Executive Magistrate and like.
ix) Part time tutorship under coaching organization of institute.
x) Valuation of paper, paper setter, head-examiner or moderator for any exam.
xi) Editorship of professional journal.
xii) Acting as Surveyor/Loss Assessor under Insurance Act.
xiii) Recovery consultant.
xiv) Insurance brokerage.

Regulation 190A - Specific permission - May engage himself in such activities only after obtaining prior & specific permission of council -

i) Full time/ Part time

a. Employment in **business** concerns provided he/his relative is not having substantial interest in such concerns. **(May 2003, May 2010)**

b. Employment in any **non-business** concern.

c. Lectureship for courses other than those relating to ICAI. **(May 2000)**

d. Tutorship under any educational institute other than coaching organization of ICAI.

ii) Interest in

a. Family business concern in which interest is due to relationships/inheritance provided no active part in its management is taken by CA concerned.

b. Educational institution

c. Agricultural/ allied activities carried on with help of hired labor.

iii) MD/ WTD of a company

Note - A person is deemed to be MD if he is entrusted with whole/ substantially the whole of management of affairs of the company. **(Nov 2000)**

iv) Editorship - of journal other than professional journals.

v) Any other business/profession - If executive committee considers that permission may be granted.

Regulation 191 - He may act as following provided his appointment is **not on salary-cum-full time basis.** Receiver, Liquidator, Executor, Trustee, Advisor, Administrator, Arbitrator, Representative for costing/taxation/financial matters, Appointment by CG/ SG/ Court/ Legal authority, Secretary

Some Of The Decisions Of Supreme Court/ High Court/Council

Guilty:

i) Where a CA while practicing as a CA had engaged himself in other occupation as an LIC agent in another name. Held that he was held guilty Clause (11) of schedule (C.I.T. (Admn.) vs. H.M. Giriya)

ii) Where a CA had offered to help the Complainant in disposing of odd lot share holding, sold them at much lower rate than he had sent of the Complainant notes etc and the said CA was personally involved in the share transfer and broker's business besides his profession activities.

Clause 12 - Allows a person not being a member of the Institute in practice, or a member not being his partner to sign on his behalf or on behalf of his firm, any balance-sheet, P&L A/C, report or financial statements.

Exception – Power to sign **routine documents (but not reports)** may be delegated to assistants where professional opinion is not required. However, the fact that the documents have not been signed by a CA is **not a defence** to him or to the firm in an enquiry relating to **professional misconduct. (May 1990, May 1991, May 2007)**

The **Council** has decided that where a CA while signing a report or, a financial statement or any other document is **statutorily** required to **disclose his name**, the member should disclose his name while appending his signature on the report or document. Where there is no such statutory requirement, the member may sign in the name of the firm.

PART – II of THE FIRST SCHEDULE
"Professional misconduct in relation to members of the Institute in service"

A member of the Institute (other than a member in practice) shall be deemed to be guilty of professional misconduct, if he being an employee of any company, firm or person -
Clause 1 - Pays or allows or agrees to pay directly or indirectly to any person any share in the emoluments of the employment undertaken by him;

Clause 2 - Accepts or agrees to accept any part of fees, profits or gains from a lawyer, a CA or broker engaged by such company, firm or person or agent or customer of such company, firm or person by way of commission or gratification. **(Nov 2000)**

PART – III of THE FIRST SCHEDULE
"Professional misconduct in Relation of members of the Institute, generally"

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he -

Clause 1 - Not being a fellow of the Institute, acts as a fellow of the Institute.

Clause 2 - Does not supply the information called for, or does not comply with the requirements asked for, by the Institute, Council or any of its Committees, Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority. **(May 2001, May 2010)**

Clause 3 - While inviting professional work from another CA or while responding to tenders or enquiries or while advertising through a write up or anything as provided for in items (6) and (7) of Part I of this Schedule, gives information knowing it to be false.

<u>Some Of The Decisions Of Supreme Court/ High Court/Council</u>
i) An **article clerk** while undergoing his articles was also in **whole time employment** elsewhere without the permission of Council. There was evidence that member under whom he was undergoing his articles was aware of this. The member was found guilty so far as:
a. He allowed the article to work elsewhere without permission of the Council; and
b. Failed to disclose this fact in Form No. 16. (Case of N. K. Gupta)
ii) Where a CA who was **suspended for six months** from practice by an order of the High Court, failed to return the COP, when directed to do so by the Institute. The Council treated it as information and proceeded against him under the clause. Held, that no misconduct has been established against the CA. (Case of A. C. Kher)
iii) Where a CA had **continued to train** an articled clerk, though his name was removed from membership of the Institute and he had **failed to send a reply** to the Institute asking him to send an explanation as to how he was training his articled clerk when he was not a member. Held he was guilty under the clause. (Case of S. M. Vohra)

PART – IV of THE FIRST SCHEDULE
"Other misconduct in relation to members of the Institute generally"

Clause 1 – CA is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term not **exceeding six months**;

Clause 2 - In the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work.

For example -
i) Use of article clerk for personal work.
ii) Misappropriation of ICAI's money by a member of council.
iii) Dishonor of cheque issued by CA.

PART - I of THE SECOND SCHEDULE
"Professional misconduct in relation to CA in practice"

Clause 1 - Discloses information acquired in the course of his professional engagement to any person other than his client so engaging him **(May 2000, May 2004)**
Exception –
i) Permitted by Client
ii) Required by any law

Duty in relation to unlawful acts by client - General Rules
i) There is no duty to **inform tax authorities** about tax frauds by his client.
ii) It is also not duty of C.A. to **shield him from consequences** of frauds.
iii) His responsibility is to advise client in a persuasive way not **to** involve in tax frauds by impressing upon him that:
a. Disclosure by client may entail only penalties but **non-disclosure** may result even in imprisonment.
b. If C.A. informs tax authorities about his **disassociation from matter**, authorities may start investigation.
c. In case of **genuine mistake** client will himself disclose.

Summons - If tax authorities summon C.A. for examining him on oath or for production of books of accounts, he should take **legal expert opinion**.

Fraud Relates To			
Past Year's Return/Accounts		**Current Year's Return/Accounts**	
Where client was represented by some other CA: • CA should advise client to disclose. • However he may continue to act for current year. **(May 1999)**	Where client was represented by him only: • CA should advise client to disclose. • If he refuses to disclose, CA should disassociate himself with client & then report tax authorities that accounts etc. previously reported by him are unreliable & thus he is disassociating himself with client. (But no disclosure of exact frauds done)	Which are being prepared: • CA should advise the client to disclose in A/c and returns. • If he refuses, disassociate himself with return and prepare audit report accordingly (qualified / adverse).	But CA's assignment is dispensed with before returns/audit report: • No further duty

Clause 2 – He certifies or submits in his/ his firm's name a report of an examination of financial statements unless examination is done by **(a)** him, **(b)** his partner, **(c)** his employee or **(d)** another CA in practice.

Thus he can render a report in his name only if work has been undertaken by him or under his supervision or by another CA i.e. Joint Auditor.

Clause 3 - He permits his/his firm's name to be used, in connection with an estimate of earnings contingent upon future transactions, in a manner which may lead to the belief that he vouches for the accuracy of forecast. **(May 2005, May 2008)**

<u>Important Points:</u>
i) As per SAE 3400 on prospective financial information, CA can participate in preparation of financial forecasts & their review. **(Nov 1998)**
ii) The Conditions for the above **(i)** are:
- CA should clearly indicate in his report:
  ~ Source of information
  ~ Basis of forecasts and
  ~ Major assumptions. **(Nov 2009 Old)**
- Not vouch for accuracy of forecasts as forecasts can't be ascertained with accuracy

Clause 4 – He express his **opinion** on financial statements of any business or enterprise in which he, his firm or a partner in his firm or his **relative*** has a **substantial interest. (June 2009 New)**
***** As per Guidelines No. 1-CA (7)/02/2008 dated 8th August, 2008 and **relative** has same meaning as per Section 6 of the Companies Act, 1956.
<u>Exception:</u> If the appointment is meant for internal information system of valuation of cost of various products. **(Nov 2001)**

<u>Important Points:</u>
i) This clause is meant for **reports as well as certificates** which are to be submitted to any outside authority, but not where statements are prepared by members in employment for information systems of their employers etc.
ii)

If CA is employee of concern	He cannot audit financial statements of employer.
CA is part-time lecturer in a College	He/ his firm not to accept auditor-ship of college.
CA is appointed as liquidator	He cannot audit statements of Accounts.
A partner of CA is trustee of trust	CA/ his firm cannot audit FS of trust.
Writing books of A/cs of enterprise	He can't audit the FS of same enterprise.
CA is internal auditor of a concern	He can't accept statutory audit of same concern.

iii)

In Relation To			
Business Enterprise in Which		**Business Enterprise in Which**	
CA himself is owner / partner	CA himself is director	Partner/ relative of CA is a director	Partner/relative of CA has substantial interest
Can't audit	Can't audit	Can't audit	Can't audit **(May 2004)**

iv) The council has clarified that the members are not permitted to write books of their auditee clients.

Clause 5 - He fails to disclose a **material** fact** known to him which is not disclosed in **Financial Statement*** but disclosure of which is necessary in making such financial statements where he is concerned with that financial statement in professional capacity. **(May 2004, Nov 1997)**
*****The word **Financial Statement** will cover both reports and certificates

<u>Important Points:</u>
i) Materiality should be judged in relation to both P/L & B/S. An item can be material from point of view of P/L A/c, may not be material from the point of view of B/S.

<u>Some Of The Decisions Of Supreme Court/ High Court/Council</u>
i) Where a CA failed to report to the shareholders of a company about the **non-creation of a sinking fund** in accordance with the Debenture Trust Deed (Davar & Sons Ltd. vs. M.S. Krishnaswamy)
ii) Where a CA failed to examine how debts become bad and were written off - Held he was guilty under Clause (5). (A. Doraiswamil Naidu-vs. P.M. Raghavendra Rao)
iii) Where a CA had **not disclosed** the fact that **loan have been given out of the funds of an Employees Provident Fund to the Employer Co**. in contravention of the Rules of the Provident Fund and had failed to report or the default in clearing the cheques received in re-payment of the loan. Supreme Court held guilty as it was his duty to have made a disclosure thereof to the beneficiaries of the Provident Fund in the statement of accounts signed by him. (Kishori Lal Dutta vs. - P.K. Mukherjee) **(June 2009)**
iv) If a CA is appointed to represent the company before the tax authority and certain information and explanations, which were later found to be **false and misleading,** is given to him **by management** to submit before tax authorities he is not guilty as he had only submitted them on the instruction of his client. **(Nov 2007)**

Clause 6 - He fails to **report a material misstatement** known to him to appear in a financial statement with which he is concerned a professional capacity. **(Nov 1995)**
E.g. - A C.A. didn't disclose an understatement of liability by company which results in suppression of current state of affairs.
A CA failed to disclose a misstatement or under statement by the company in the B/S of its liabilities, which amounted to a suppression of the correct state of affairs.

Clause 7 - He does not exercise **due diligence***, or is **grossly negligent**** in conduct of his professional duties. **(Nov 2003, May 1998)**
***Due Diligence** means careful and thorough work or effort. Mere non-performance or defective performance of a duty may be considered as failure to exercise "Due Diligence".
****Gross negligent** implies negligence of high degree, either arising out of recklessness or deliberate failure to act honestly and reasonably on a material matter.

<u>Important Points:</u>
i) If a CA is appointed to carry out a B/S audit and later an internal auditor detected certain irregularities at a branch level which is not detected by the auditor, he is not guilty as he is not required to check the matters relating to branch in depth. **(Nov 1997)**

ii) <u>Few examples of gross negligence on the part of a member:</u>
a. Where CA **gave clean reports** where as the reports on the Special Audit conducted **subsequently revealed irregularities** which amounted to failure to examine pass book and to verify cash balance.
b. A CA adopted **arbitrary valuation of closing stock** & no verification was done by him.
c. Failure to point out contravention of requirements of **schedule VI** of the Companies Act.
d. Failure to detect **fraud committed by accountant** which could have been detected if he had properly checked cash book.
e. A CA **relied upon IC without satisfying himself** about the propriety and surrendered to the pressure of management and certified the accounts without examining.
f. Where CA in practice have **signed two B/S** on two different dates for the same financial year, the first one with a clean report and the second one with a qualified report. Because

he later on issued a clean report and did not refer the fact of having previously issued a qualified report, in lieu of which a clean report was being issued. **(May 1999)**
g. Included order still under negotiation as sales to reflect better financial position **(Nov 1999)**
h. Cashier absconded with proceeds of sales, the auditor failed to discover it and an investigation afterwards indicated that he did not exercise proper skill & care. **(Nov 2003)**

Clause 8 – He fails to obtain **sufficient information** to warrant the expression of opinion or his **exceptions are sufficient material** to negate the expression of an opinion. **(May 2004)**

<u>Important Points:</u>
i) A CA should express his opinion about truth or fairness of statements of accounts only after obtaining required data and information. He has to determine extent to which information is required.
ii) In case of inadequacy of information or data he should clearly, express his disclaimer in no uncertain terms. For e.g. where a CA relying on the work of internal auditor qualified his report that books and vouchers had been examined by internal auditor, the qualification amounted to exception sufficiently material to negate expression of an opinion.

<u>Some Of The Decisions Of Supreme Court/ High Court/Council</u>
i) A CA without examination of stock register and other relevant matters issued a wrong consumption certificate on the basis of which license of higher value, for which the unit was not entitled, was issued by Controller of Imports & Exports. (T.S. Vaidyanatha Iyer)
ii) A CA has issued a clean **certification of circulation**, however, there were interpolation of entries in the books and the absence of documents to support the receipts of monies from the agent. Held the CA was guilty of misconduct under Clause (8). (Audit Bureau of Circulations Ltd. vs. S. Narayanan)
iii) A statutory auditor would be guilty under this clause, if he performed his work so recklessly as to give his report-without looking into the books of account of a company, on the basis of work of internal auditor whose opinion turned out to be false. (J.C. Chandhok)

Clause 9 – If he fails to invite attention to any material departure from generally accepted audit procedures applicable to the circumstances.

<u>Important Points:</u>
i) If he **fails to perform the audit** as per such procedures, his report should draw attention to the material departure from such procedures.
ii) Failure to perform certain **statutory functions and duties** is not excused merely by giving a qualification or reservation in auditor's report. On failure he should clearly indicate reasons for failure to perform audit as per generally accepted procedures and standards.

Clause 10 - Fails to keep moneys of his client or money meant to be expended in a separate banking account or to use such moneys for purposes for which they are intended within a **"reasonable time"***.
<u>Exception:</u> Fees or Remuneration
***"reasonable time"**, would depend upon the circumstances of each case.

<u>Important Points:</u>
i) An **advance received** by a CA against services to be rendered does not fall under Clause (10) of Part I of the Second Schedule.
ii) Moneys received for expenses to be incurred, for example, payment of prescribed

statutory fees, purchase of stamp paper etc., which are intended to be spent within a reasonably short time need not be put in a separate bank account.
iii) Moneys received for expenses to be incurred which are not intended to be spent within reasonably short time as aforesaid should be put in a separate bank account immediately.
iv) Moneys received by a CA, in his capacity as trustee, executor liquidator, etc. must be put in a separate bank account immediately

Some Of The Decisions Of Supreme Court/ High Court/Council
i) A CA was found for having failed to account satisfactorily for the various amounts entrusted to him by "the client and for failure to keep them in a separate bank account. (N.S. Chenoy vs. K.V. Subba Rao)
ii) A CA was found guilty of not keeping the client's money, in a separate account and not using it for the purpose of which it was given. (Mr. R.S. Murgai Re: VS. (1) S.K. Gadh & V.K. Bajaj Decided case)

PART - II of THE SECOND SCHEDULE
"Professional misconduct in relation to members of the Institute generally"

Clause 1 - He Contravenes any of the provisions of this **act** or **regulations*** made there under, or any **guidelines** issued by the Council. **(May 1998, Nov 1998)**

***Few Regulations** which are generally contravened are as follows -

Regulation 43	Engagement of Articled Assistant
Regulation 46	Registration of Articled Assistant
Regulation 47	Premium from Articled Assistant
Regulation 48	Stipend to Articled Assistant
Regulation 56	Termination or assignment of Articles
Regulation 65	Articled Assistant not to engage in any other occupation
Regulation 67	Complaint against the employer (From Articled Assistant)
Regulation 68 to 80	Audit Assistant
Regulation 190	Register of offices and firms
Regulation 190A	CAs not to engage in any other Business or occupation
Regulation 191	Part time employments a CA may accept
Regulation 192	Restriction on fees

Some Important points regarding some C.A. regulations:
i) Monthly payment of **stipend** to every article. It must be confirmed beyond all doubts that payment has been made.
ii) It is duty of C.A. to forward **article deed** to ICAI.
iii) A C.A. **can't take loan** from any enterprise in which article is interested. However he may accept the same from any enterprise where in article's relative is interested. But it must not be taken as a consideration for admitting the article into firm.
iv) Now, no **premium** can be accepted by C.A from article.
v) Practice work should be performed only after obtaining **COP.**

Notifications
i) If he accepts more than **specific Tax audit assignment, which is 45.**
ii) If he accepts more than **specific Company audit assignment, which is 30.**
ii) A C.A. in practice has to **maintain proper Books** of Accounts including Cash Book / Ledger. **(Nov 1998)**
iii) A member who is an **employee** shall be deemed to be guilty if he is **willfully and grossly negligent** in conduct of his duty as employee. **(May 1998)**

iv) He **shouldn't be cost auditor** of company in which he is **(a)** auditor; **(b)** officer/employee; **(c)** partner, or in employment of officer/employee of company; **(d)** partner or in employment of company's auditor; **(e)** indebted/guarantor for an amount exceeding Rs. 1000.
v) He **can't become auditor** of company, while he's an employee of cost auditor of company.
vi) A CA in practice will be guilty of professional misconduct if he accepts auditor ship of a concern while he is **indebted** to the concern or has given any guarantee for limits fixed in the statute and in other cases exceeding Rs. 10,000.
vii) A CA in practice will be guilty of professional misconduct, if he **accepts statutory auditor ship of PSU/ listed** Co. / Govt. Co. or other Public Co. having turnover 50 crores or more in a year and accepts any other work or services with regard to same undertaking on a remuneration which in total exceeds the fees payable for carrying out the statutory audit of the same.
viii) A member in practice shall follow the **direction given, by the Council** or an appropriate Committee or on behalf of any of them, to him being the **incoming auditor**(s) **not to accept the appointment** as auditor(s), in the case of **unjustified removal** of the earlier auditor(s).
ix) A member of the Institute in practice shall not accept the appointment as auditor of an entity in case the **undisputed audit fee** of another CA for carrying out the **statutory audit** under the Companies Act, 1956 or various other statutes has not been paid except in case of **Sick Company.**
x) Minimum fees to be charged (p.a.) w.r.t. audit assignment:

	5-9 partner	>= **10 partner**
Large cities (population 3 million or above)	6000	12000
Small cities (population less than 3 million)	3500	8000

Exception:
a) Sales tax audit & VAT audit.
b) Certificate / Attestation / Report under the Income Tax Act.
c) Audit of newly concern (2 years from commencement of business).
d) Statutory audit of branches of banks including Regional rural banks (RRB).
e) Honorary appointments for charitable organizations or Club.

Some Of The Decisions Of Supreme Court/ High Court/Council
i) A CA contended that Regulation 48 did not prescribe the periodicity of payment but only the **rate** at which stipend should be paid. Contention was found to be in contravention of Regulation 48 as stipend should be paid on a **monthly basis**. (Case of B. B. Rohatgi)
ii) CA received Rs. 2000 by way of **security** from the complainant's father for taking him as an articled clerk. Held he was guilty under the provisions. (Virender Kumar vs. K. B. Madan)
iii) Where a C.A. had an agreement to **pay his articled clerk on annual basis**, it was held that there was violation of provisions of Regulation 48. (Case of Radhey Mohan)
iv) A CA certified that an **audit clerk was in service** with him, while he was also employed elsewhere form 11 A.M. to 5 P.M. and attended the C.A.'s office thereafter until 8 P.M. Held that, the CA. was guilty of making **misstatement** to the Institute. (Case of J. K. Ghosh)
v) A CA took **loan from a firm** in which the Articled Clerk and his father were both interested, against the provisions of CAs Regulations, 1988 which prohibit taking a loan or deposit etc. from a articled clerk. Held the CA was guilty of professional misconduct under this clause. (Case of M. K. Tripathi)

Clause 2 - He being an employee of a company / firm / person, discloses confidential information acquired in the course of his employment.

Exception:
i) As and when required by the Law or
ii) As permitted by the employer

Clause 3 - He includes in any information/statement/return/form to be submitted to ICAI, Council, any Committee, Disciplinary Directorate, Board of Discipline, Disciplinary Committee, Quality Review Board, Appellate Authority particulars knowing them to be false.
Example:
1. Article clerk was attending college & coaching class during training hours. But C.A. confirmed to council that article was regular in office knowing that he is delivering wrong statement. Thus guilty.
2. During hearing before disciplinary committee, a CA gave untrue statement knowingly.
3. While applying for renewal of cop, a C.A. supplied wrong statement that he is not engaged in other occupation while he was. Thus guilty.

Clause 4 - He -
i) Defalcates or embezzles money
ii) Received in his professional capacity

PART - III of THE SECOND SCHEDULE
"Other misconduct In relation to members of the Institute generally"

A member of the Institute, whether in practice or not shall be deemed to be guilty of other misconduct, If he is held guilty by any **civil or criminal Court for an offence** which is punishable with imprisonment for a term **exceeding 6 months**.

Statement On Continuing Professional Education (CPE) - All members of the Institute, except those who are exempted below, are required to meet the CPE credit requirement as would be recommended by the Council from time to time.
Exception:
i) A member who attains the age of 60 years during a particular calendar year;
ii) A member, for the year during which he gets his membership for the first time;
iii) A member or class of members to whom the CPE Committee grant Full/Partial exemption.
Penal action, as would be decided by the Council, will be taken on the members who have shown their **willful non-compliance**, with the requirements of this Statement.

1.8 Disciplinary Procedure - Amended provisions of the CA, Act, 1949 read with The CAs (Procedure of Investigations of Professional and Other Misconduct of Cases) Rules, 2007 regarding investigation of misconduct by members has been summarized as under:
i) Disciplinary Directorate,
ii) Board of Discipline,
iii) Disciplinary Committee,
iv) Appellate Authority and procedure in enquiries for disciplinary matters relating to misconduct of members of ICAI as per amendment No. 9 of 2006 assented by the President of India on 22nd March 2006 & published in Gazette of India on 23rd March 2006 are:

i) Section 21: Disciplinary Directorate -
a. The Council shall, by notification, establish a Disciplinary Directorate headed by an officer of the Institute designated as Director (Discipline) and such other employees for making investigations in respect of any information or complaint received by it.
b. On receipt of any information or complaint along with the prescribed fee, the Director (Discipline) shall arrive at a prima fade option on the occurrence of the alleged misconduct.

c. Where the Director (Discipline) is of the opinion that a member is guilty of any professional or other misconduct mentioned in the First Schedule, he shall place the matter before the Board of Discipline and where the Director (Discipline) is of the opinion that a member is guilty of any professional or other misconduct mentioned in the Second Schedule or in both the Schedules, he shall place the matter before the Disciplinary Committee.
d. In order to make investigations under the provisions of this Act, the Disciplinary Directorate shall follow such procedure as may be specified.
e. Where a complainant withdraws the complaint, the Director (Discipline) shall place such withdrawal before the Board of Discipline or, as the case may be, the Disciplinary Committee, and the said Board of Committee may, if it is of the view that the circumstances so warrant, permit the withdrawal at any stage.

ii) Section 21 A: Board of Discipline -
a. The Council shall constitute a Board of Discipline consisting of -
• A person with experience in law and having knowledge of disciplinary matters and the profession, to be its presiding officer,
• Two members one of whom shall be a member of the Council elected by Council & other member shall be nominated by CG from amongst the persons of eminence having experience in the field of law, economics, business, finance or accountancy;
• The Director (Discipline) shall function as the Secretary of the Board.
b. The Board of Discipline shall follow summary disposal procedure in dealing with all cases.
c. Where the Board of Discipline is of the opinion that a member is guilty of a professional or other misconduct mentioned in the First Schedule, it shall afford to the member an opportunity of being heard before making any order against him and may thereafter take any one or more of the following actions, namely:
• Reprimand the member;
• Remove the name of the member from the Register up to a period of three months;
• Impose such fine as it may think fit, which may extend to rupees one lakh.
d. The Director (Discipline) shall submit before the Board of Discipline all information and complaints where he is of the opinion that there is no prima facie case and the Board of Discipline may, if it agrees with opinion of the Director (Discipline), close the matter or in case of disagreement, may advise the Director (Discipline) to further investigate the matter.

iii) Section 21 B: Disciplinary Committee -
a. The Council shall constitute a Disciplinary Committee consisting of the President or the Vice- President of the Council as the Presiding Officer and two members to be elected from amongst the members of the Council and two members to be nominated by the CG from amongst the persons of eminence having experience in the field of law, economics, business, finance or accountancy. Provided that the Council may constitute more Disciplinary Committees as and when it considers necessary.
b. The allowances payable to members nominated by CG shall be such as may be specified.
c. Where the Disciplinary Committee is of the opinion that a member is guilty of a professional or other misconduct mentioned in the Second Schedule or both the First Schedule and the Second Schedule, it shall afford to the member an opportunity of being heard before making any order against him and may take any one or more of the following actions, namely:
• reprimand the member;
• remove name of member from Register permanently or for such period, as it thinks fit;
• Impose such fine as it may think fit, which may extend to Rs. **five lakh**.
d. The allowances payable to members nominated by CG shall be such as may be specified.

iv) Section 21 C - Authority, Disciplinary Committee, Board of Discipline and Director (Discipline) to have powers of civil court - For the purposes of an inquiry under the provisions of this Act, the Authority, the Disciplinary committee, Board of Discipline and the Director (Discipline) shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:
a. Summoning and enforcing the attendance of any person and examining him on oath;
b. The discovery and production of any document; and
c. Receiving evidence on affidavit.
Explanation: for the purposes of section 21, 21A, 21B, 21C and 22, "member of the Institute" includes a person who was a member of ICAI on the date of the alleged misconduct although he has ceased to be a member of ICAI at the time of the inquiry.

v) Section 22 A: Constitution of Appellate Authority -
a. The CG shall, by notification, constitute an Appellate Authority consisting of -
• a person who is or has been a judge of a High Court, to be its Chairperson;
• two members to be appointed from amongst the persons who have been members of the Council for at least one full term and who is not a sitting member of the Council;
• two members to be nominated by the CG from amongst persons having knowledge and practical experience in the field of law, economics, business, finance or accountancy.
b. The Chairperson and other members shall be part-time members.

vi) Section 22 B: Term of office of Chairperson and members of Authority -
a. Person appointed Chairperson shall hold office for a term of three yrs from the date on which he enters his office or until he attains the age of sixty-five years, whichever is earlier.
b. Person appointed as member shall hold office for a term of three yrs from the date on which he enters his office or until he attains the age of sixty-two years, whichever is earlier.

vii) Section 22 C: Allowances and conditions of service of Chairperson and members of Authority – The allowances payable to, and other terms and conditions of service of, the Chairperson and members are the manner of meeting expenditure of the Authority by the Council and such other authorities shall be such as may be specified.

viii) Section 22 D: Procedure to be regulated by Authority -
a. The office of the Authority shall be at Delhi.
b. The Authority shall regulate its own procedure.
c. All orders and decisions of the Authority shall be authenticated by an officer duly authorized by the Chairperson in this behalf.

ix) Section 22 E: Officers and other staff of Authority -
a. The Council shall make available to the Authority such officers and other staff members as may be necessary for the efficient performance of the functions of the Authority.
b. The salaries and allowances and conditions of service of the officers and other staff members of the Authority shall be such as may be prescribed.

x) Section 22 F: Resignation and removal of Chairperson and members -
a. The Chairperson or a member may, by notice in writing under his hand addressed to the CG, resign his office. Provide that the Chairperson or a member shall, unless he is permitted by the CG to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of term of office, whichever is earlier.
b. The Chairperson or a member shall not be removed from his office except by an order of the CG on the ground of proved misbehavior or incapacity after an inquiry made by such

person as the CG may appoint for this purpose in which the Chairperson or a member concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of such charges.

xi) Section 22 G: Appeal to Authority -

a. Any member of ICAI aggrieved by any order of The Board of Discipline or the Disciplinary Committee imposing on him any of the penalties referred to in sub-section (3) of section 21 A and sub-section (3) of section 21 B, may within ninety days of the date on which the order is communicated to him, prefer an appeal to the Authority. Provided that the Director (Discipline) may also appeal against the decision of Board of Discipline or the Disciplinary Committee to the Authority, if so authorized by the Council, within ninety days; Provided further that Authority may entertain any such appeal after expiry of said period of ninety days, if it is satisfied that there was sufficient cause for not filling the appeal in time.

b. The Authority may, after calling for the records of any case, revise any order made by the Board of Discipline or the Disciplinary committee under sub-section (3) of section 21 A and sub-section (3) of section 21 B and may -

- Confirm, modify or set aside the order;
- Impose any penalty or set aside, reduce, or enhance the penalty imposed by the order;
- Remit the case to the Board of Discipline or Disciplinary Committee for such further enquiry as the Authority considers proper in the circumstances of the case; or
- Pass such other order as the Authority thinks fit:

Provided that the Authority shall give an opportunity of being heard to the parties concerned before passing any order."

FLOW CHART OF DISCIPLINE PROCEDURE MECHANISM

Complaint against member of ICAI of alleges misconduct along with prescribed fee.

Disciplinary Directorate

The Director (Discipline) shall arrive at a prima facie opinion on the occurrence of alleged misconduct and decide whether he is guilty of professional or other misconduct falling in

First Schedule
Place the matter before

Board of Discipline

If found guilty, it can
- reprimand the member
- Remove the name of member up to a period of 3 months
- impose fine up to Rs. 1, 00,000

Second schedule or Both Schedules
Place the matter before

Disciplinary Committee

If found guilty, it can
- reprimand the member
- Remove the name of member permanently or for any period
- impose fine up to Rs. 5, 00,000

Any member aggrieved by order of Board of Disciplinary Committee can prefer an appeal within 90 days before **Appellate Authority**

It Can
• Confirm, modify or set aside the order,
• Impose, Set aside, Reduce or enhance penalty
• Remit the case to the Board of Discipline or Disciplinary Committee for reconsideration
• Pass such order as the Authority thinks fit.

CASE STUDIES

Q1. Mr. A, a practicing CA agreed to select and recruit personnel, conduct training programmes for and on behalf of a client. (Nov. 98 & Nov. 2007)
Hint Ans: Not guilty as the expression "Management Consultancy and other Services" includes Personnel recruitment and selection.

Q2. P, a CA in practice provides management consultancy and other services to his clients. During 2005, looking to the growing needs of his clients to invest in the stock markets, he also advised them on Portfolio Management Services whereby he managed portfolios of some of his clients. (May 2006)
Hint Ans: It is specifically stated by the council of ICAI that CAs in practice are not permitted to undertake the activities of broking, underwriting and portfolio management Services. Thus, a CA in practice is not permitted to manage portfolios of his clients.

Q3. G & Co., a firm of CAs, was appointed as the internal auditor of Easy Ltd., replacing H & Co., another firm of CAs, which had expressed their inability to continue as internal auditor to the management through a resignation letter. G & Co. proceeded to conduct the internal audit without communicating with H & Co.
Hint Ans: Guilty; As he accepts a position as an auditor previously held by another CA or a certified auditor without first communicating with him in writing.

Q4. Mr. I, a CA, had an account with a bank. The normal balance in this account remained at a level below Rs. 25,000. The bank inadvertently credited this account with a cheque of Rs. 2, 50,000 belonging to another account holder. When Mr. I came to know about this he withdrew the amount of Rs. 2, 75,000 and closed the bank account. After 1 year the bank noticed the mistake and claimed Rs. 2, 75,000 with interest. Mr. I contested this claim. Can the bank approach the ICAI for disciplinary action against Mr. I?
Hint Ans: Guilty; as he brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work.

Q5. A CA firm pays share in profits to widow of its deceased partner. (June 2009)
Hint Ans: If such a clause is present in partnership deed, sharing is permissible, otherwise not. If no such clause exists, and if the firm still pays share in the profits to a widow of the deceased partner, the firm shall be considered as guilty of professional misconduct.

Q6. Mr. Sethi a CA in practice, who is proposed to be removed as auditor of a co, makes unsubstantiated and derogatory remarks against the management of the company in his representation u/s 225 of the Companies Act, 1956. (May 1997)
Hint Ans: Guilty as Unsubstantiated and derogatory remarks against the management of the company by Mr. Sethi, a CA in practice, on his proposed removal as an auditor of a company is not the behavior of a professional CA.

Q7. Ashok Mittal is the auditor of partnership firm consisting of Ram and Shyam as partners. In his audit report to the firm, he did not refer certain materially irregular transactions found in the books of the firm for the reason that Ram, the senior partner approved all such transactions.

Hint Ans: In case of partnership firm partners are jointly and individually liable hence Ram and Shyam both are Guilty as he fails to disclose a material fact known to him which is not disclosed in the FS or fails to report on a material misstatement known to him to appear in a FS with which he is concerned in a professional capacity.

Q8. Mr. Z, practicing CA has written to a Director of Technical Education requesting him for allotment of audit of certain schools (MAY 91)
Hint Ans: Guilty as a member in practice is not allowed soliciting clients for professional work either directly or indirectly by any other means. However, if he follows advertisement guidelines, he will not be guilty.

Q9. Mr. S, a CA published a book and gave his personal details as the author. These details also mentioned his professional experience and his present association as partner with M/s. RST, a firm. (Nov. 2005)
Hint Ans: Guilty as a member is not permitted to indicate in a book or an article, published by him, the association with ay firm of CAs. Mr. S being a CA in practice has committed misconduct by mentioning that he is a partner in M/s. RST, a CA firm. However, if he follows advertisement guidelines, he will not be guilty.

Q10. M/S. LMN, a firm of CA responded to a tender from a SG for computerization of land revenue records. For this purpose, the firm also paid Rs. 50,000 as earnest deposit as part of the terms of the tender. (May 2006)
Hint Ans: Not guilty because as per the guidelines if a matter relates to any services other than audit, members can respond to any tender.

Q11. A partner of a firm of CA during a T.V. interview handed over a Bio-data of his firm to the Chairperson. Such bio-data detailed the standing of the international firm with which the firm was associated; it also detailed the achievements of the concerned partner and his recognition as an expert in the field of taxation in the country. The chairperson read out the bio-data during the interview. What is your opinion on the given case? (Nov. 2001)
Hint Ans: Guilty because such an act would definitely lead to the promotion of the firm's name and publicity thereof as well as of the partner and as such the handing over of bio-data cannot be approved. However, if he follows advertisement guidelines, he will not be guilty.

Q12. CA Vijay who conducted ABC audit of a Marathi daily 'New Era' certified the circulation figures based on M.I.S Report without examining the books of Account.
Hint Ans: Guilty; as he did not exercise due diligence & is grossly negligent in the conduct of his professional duties since he certified circulation figures without examining books of A/cs.
Q13. M/s. XYZ, a firm in practice, develops a website "XYZ.com". The color chosen for the website was a very bright green and the web-site was to run on a "push" technology where the names of the partners of the firm and the major clients were to be displayed on the web-site. Discuss the case with reference to the CA Act, 1949.
Hint Ans:
Not Guilty - Colour, Names of Partner;
Guilty - Website on Push Mode, Names of Clients.

Q14. M/s XYZ, a firm of CA created a website www.xyzindia.com. The website besides containing details of the firm and bio-data of the partners also contains the photographs of all the partners of the firms. (MAY 2005)
Hint Ans: Not Guilty as the guidelines of the ICAI allow a firm to put up the details of the firm, bio-data of partners and display of a passport size photograph.

Q15. XYZ & Associates, a CA firm developed a website www.xyzassociates.com. The website also contained a link to "All India CAs Association", a voluntary association where X, a partner of the firm is currently the Vice-president. (May 2006)
Hint Ans: Guilty because it is permitted that website may provide a link to the website of ICAI, its Regional Councils, Branches and Government Departments and other professional Bodies like AICPA, ICAEW, CICA. In this case, M/s. XYZ Associates provided a link to "AICAA" which is not permitted.

Q16. A CA in practice created his own website in attractive format and colors and circulated the information contained in the website through E-mail. (May 2007)
Hint Ans: Guilty as none of the information contained in the website be circulated on their own or through E-mail or by any other mode except on a specific "Pull" request.

Q17. A practicing CA uses a visiting card in which he designates himself besides as CA, as
a. Tax Consultant
b. Cost Accountant (Nov. 2000)
Hint Ans:
a. Tax Consultant: Guilty because use of any designation or expression other than CA for a CA in practice, on professional documents, visiting cards, etc. amounts to a misconduct unless it be a degree of a university or a title indicating membership of any other professional body recognized by the CG.
b. Cost Accountant: Guilty as a CA in practice cannot use any other designation than that of a CA. Nevertheless, a member in practice may use any other letters or descriptions indicating membership of accountancy bodies approved by the Council.

Q18. H, a CA in practice is a partner in 3 firms. 'On the personal Letter Heads of H, names & address of all the 3 firms are mentioned. (June 09 New)
Hint Ans: Not Guilty as there is no prohibition for printing names of all 3 firms on the personal letter heads in which a member holding certificate of practice is a partner.

Q19. 'While taking Mr. Q as his articled clerk, Mr. R, a practicing CA proposed that the stipend as per regulations will be paid once a year calculated on the monthly rates prescribed by ICAI to which Mr. Q also agreed.
Hint Ans: Guilty because of nonpayment of stipend on monthly basis even though his article clerk also agreed to his proposal. Is this amounts to contravention of the provisions of the CA (Amendment) Act 2006 or the regulation; made there under or any guidelines issued by the Council.

Q20. W, a CA has sent letters under, certificate of posting to the previous auditor informing him his appointment as an auditor before the commencement of audit by him. (Nov 2003)
Hint Ans: Guilty because mere posting of a letter "under certificate of posting" is not sufficient to prove communication with the retiring auditor. There should be some evidence to show that the letter has in fact reached the person communicated with.

Q21. BC & Co, a firm of CAs, accepted an assignment for audit under State level VAT Act, without any prior communication with the previous auditor. (May 2008)
Hint Ans: Guilty as he accepted a position as auditor previously held by another CA without first communicating with him in writing.

Q22. P, a CA had accepted appointment as an auditor of QRS Company Ltd without ascertaining from the Company whether the requirement of Sections 224 and 225 of the Companies Act had been complied with. However, he realized this defect only after

acceptance. (Nov 2003)
Hint Ans: Guilty as a CA, before acceptance of his appointment as an auditor has failed to ascertain whether the provisions of Sections 224 and 225 have been complied with by Co.

Q23. Mr. Jaydev has charged a fee for representing his client in an Income Tax appeal based on expected relief to his client as a result of the appeal. Is there any professional misconduct In this case? (Nov1996)
Hint Ans: Guilty; A CA in practice who charges or accepts in respect of any professional employment fees which are based on a % of profits except in cases which are permitted under any regulation made under the C.A. Act

Q24. The chairman of an Audit Committee of a Blue Chip Company, who is a CA, asked the firm in which he was previously a partner to quote their fee on success fee basis so as to ensure that a professional work is assigned to such firm. Do you approve the chairman's contention? (Nov. 2001)
Hint Ans: Guilty as the remuneration based on a percentage of the profits or on the happening of a particular contingency is prohibited.

Q25. Mr. J started his practice as CA in 1996, he got an offer for the post of Chief Accountant of a Software Development Co, as a fulltime employee, for a salary of Rs. 60,000 per month. On accepting this offer, Mr. J converted his practice into a partnership firm by taking a fresh CA as his partner. Neither Mr. J neither intimated the Institute nor obtained permission from the institute about his employment. Will Mr. J be held guilty under the CA Act? (May 2003)
Hint Ans: Guilty since he has accepted the full time salaried employment in addition to the practice of Chartered Accountancy without obtaining permission of the Institute.

Q26. A CA holding certificate of practice and having four articled clerks registered under him accepts appointment as full-time lecturer in a college. Also he becomes a partner with his brother in a business. Examine his conduct in the light of CA Act, 1949 and the regulations there under. (MAY. 2000)
Hint Ans: A member can accept full-time lectureship in a college only after obtaining the specific and prior approval of the Council. As also becoming a partner in a business with his brother would require specific permission of the Council. He is Guilty as he failed to obtain specific and prior approval of the Council in each case.

Q27. A CA in practice has been suspended from practice for a period of 6 months and he had surrendered his COP for the said period. During the said period of suspension, though the member did not undertake any audit assignments, he undertook representation assignments for income tax whereby he would appear before the tax authorities in his capacity as a CA. (Nov. 2002)
Hint Ans: A CA would not be allowed to represent before the income tax authorities for the period he remains suspended.

Q28. M, a CA in practice, is the Statutory Auditor of S Ltd. for the year ended 31^{st} March 2008. In January 2008, he was appointed as a Director in H Ltd., which is the holding Company of S Ltd. (May 2008)
Hint Ans: An auditor of a subsidiary cannot be a director of a holding company as it will affect his independence.

Q29. Mr. R, a CA in practice has been elected as the treasurer of a Regional Council of the Institute. The Regional Council had organized an international tour through a tour operator during the year for its members. During the audit for the Regional Council, It was found that

Mr. R had received a personal benefit of Rs. 50,000/- from the tour (Nov. 2002)
Hint Ans: Guilty because a CA is expected to maintain highest standards of integrity even in his personal affairs and any deviation from these standards even in his non professional work would expose him to disciplinary action. Mr. R would be liable for disciplinary action.

Q30. At the AGM in a Public Ltd Co. held on April 1, 1966, M/s Bat & Ball a CA firm was appointed to audit accounts of the Co. for the calendar year 1996. However, the next AGM of the Company did not take place until January 1999. M/s Bat and Ball insist that they alone are entitled to audit the accounts not only for the year, 1996 but also for the years 1997 and 1998 respectively. (MAY 99)
Hint Ans: The tenure of an auditor is from the conclusion of one AGM to the conclusion of the next AGM. The CLB held that the auditor's appointment is not related to the accounts of a particular FY. The auditor appointed for the year 1996 could audit the accounts for the year 1997 and 1998 during which no AGM was held.

Q31. A is the auditor of Z Ltd., which has a turnover of Rs. 200 crore. The audit fee for the year is fixed at Rs. 50 lakhs. During the year, the company offers an assignment of management consultancy within the meaning of Section 2(2)(iv) of the CA Act, 1949 for a remuneration of Rs. 1 crore. A seeks your advice on accepting the assignment. (May 2007)
Hint Ans: He will be deemed to be Guilty if he accepts the appointment as a statutory auditor on a remuneration which in total exceeds the fee payable for carrying out the statutory audit of the same undertaking.

Q32. S, a practicing CA gives power of attorney to an employee CA to sign reports and FS, on his behalf. (May 2007)
Hint Ans: Guilty because he allowed any person not being his partner to sign on his behalf any B/S, P&L A/C and report on FS.

Q33. A CA in practice, in spite of requests from the secretary of the Institute, fails to submit form No.18. Is he liable for the misconduct? (May 2001)
Hint Ans: Guilty as a member is required to supply the information called for by the Council. Thus, failure to submit form 18 constitutes professional misconduct.

Q34. XY & Co., a firm of CA having 2 partners X & Y, one in charge of Head Office and another in charge of Branch at a distance of 80 kms, puts up a name board of the firm in both premises and also in their respective residences. (Nov. 2007)
Hint Ans: Guilty **–** As there is restriction on putting up of name of CA firm on a name plate at residence.

Q35. As auditor of a Chemical Industry, Abhaya becomes aware of the secret production process of the company developed at an enormous cost. She describes the same in detail to her brother little aware that he will take advantage of this information to start a similar industry on his own.
Hint Ans: Guilty as she disclosed information acquired in the course of his professional engagement to any person other than his client, without the consent of his client or otherwise.

Q36. XYZ Co. Ltd has applied to a bank for loan facilities; the bank on studying the FS of the Co. notice that you are the auditor and request you to call at the bank for a discussion. In the course of discussions, bank asks for your opinion regarding the company and also asks for detailed information regarding few items in the FS. The information is available in your working paper file. What should be your response and why? (May 2000)
Hint Ans: The auditor cannot disclose the information in his possession without specific

permission of the client. Thus, there is no requirement compelling the auditor to divulge information obtained in the course of audit and included in the working papers to any outside agency except as and when required by any law.

Q37. X, a CA availed a loan against his shares held as investments from a nationalized bank. He issued 2 cheques towards repayment of the said loan. Both the cheques were returned back by the bank with the remarks "Refer to Drawer". (May 2008)
Hint Ans: Guilty as the cheque was dishonored with the remark "refer to drawer" due to insufficiency of funds. A member is liable to disciplinary action if he is found guilty of any professional or "Other Misconduct".

Q38. A CA in practice was engaged by a businessman to represent him before the tax authorities on current matters and In the course of such employment he came across certain documents pointing to commission of tax frauds in the preceding years for which the client was not represented by him. (May 99)
Hint Ans: The member may continue to act for the client in respect of current matters, but is under no obligation so to continue. It is assumed that the past fraud does not affect in any way the current tax matters and the member should be extra careful to ensure that the past behavior is not reflected in current matters.

Q39. Z a CA certifies a financial forecast of his client which was forwarded to the client's bank based on which the bank sanctioned a loan to the client. (May 2005)
Hint Ans: Guilty as it appears that he has certified the financial forecast without taking adequate safe guards.

Q40. D, who conducts the tax audit u/s 44AB of the Income Tax Act, 1961 of M/s ABC, a partnership firm, has received the entire audit fees of Rs. 25,000 in April, 2009 in respect of the tax audit for the year ended 31.03.2009. The audit report was, however, signed on 25.05.2009. (June 09 New)
Hint Ans: Not Guilty as the provision of indebtness for more than Rs. 1,000/- applies to auditor appointed under companies act. No such similar provisions in the Income Tax Act.

Q41. A CA firm was appointed by a company to evaluate the costs of the various products manufactured by it for their Information system. One of the partners of CA firm was a non-executive director of the company. (Nov. 2001)
Hint Ans: The Council has stated that in case where a member is a Director of a company, the firm in which the said member is a partner, should not express any opinion on its FS. Since the firm has been appointed to evaluate costs of the various products manufactured by it for their information system, it cannot be construed to be misconduct. It is a verification of facts and no opinion is expressed.

Q42. Mr. Shah, a CA certified the FS of a company in which his wife is a Director holding substantial interest.
Hint Ans: Guilty as Mr. Shah has certified the FS of a company in which his wife is a director with Substantial Interest.

Q43. M/s LMN, a CA firm having 5 partners accepts an audit assignment of a newly formed private limited company for audit fees of Rs. 5,000. (June 09 New)
Hint Ans: M/s LMN can conduct the audit without violation because as per the provisions laid down in council guidelines the restriction does not apply for audit of newly formed concerns for 2 accounting years.

Q44. Mr. Joe, a CA during the course of audit of M/s. XYZ Ltd. came to know that the company has taken a loan of Rs. 10 Lakhs from Employees Provident Fund. The said loan was not reflected in the books of account. However, the auditor ignored this information in this report.
Hint Ans: Guilty as he failed to disclose a material fact known to him, which is not disclosed in the FS but disclosure of which is necessary to make the FS not misleading.

Q45. Miss Lata, a practicing CA, accepts her appointment as a Valuer of goodwill of a business for the purpose of determining the value of gift under the Gift Tax Act on the condition that she would be paid 5% of the value of the goodwill so determined as her fees.
Hint Ans: Not guilty. Gift tax is a direct tax. Thus she can charge a % of goodwill while acting in capacity of Valuer.

Q46. A practicing CA was appointed to represent a company before the tax authorities. He submitted on behalf of his clients certain Information and explanations to the authorities, which were found to be false and misleading. (Nov. 2007)
Hint Ans: Not Guilty as these statements are based on the data provided by management of the company. Although the statements prepared were based on incorrect facts and misleading, the CA had only submitted them acting on the instructions of his client as his authorized representative.

Q47. Mr. X partner of X & Co., CAs, has compiled and signed the B/S of false Ltd., for submission to the bankers of the said company. Mr. X has also complied and signed at the request of the company another B/S inflating the value of assets by 20% for submission to a term lending institution. Both the B/S was not in conformity with the books of account maintained by co. as they were not up-to-date. Comment on Mr. X's liability. (Nov 1999)
Hint Ans: Guilty as Mr. X had compiled two different B/Ss for the same period without reference to the actual books of accounts but on instructions of the client. Also he has failed to disclose material fact known to him.

Q48. CA Zeni who is a leading IT Practitioner and consultant in Mumbai is also trading in derivatives.
Hint Ans: Guilty; as he is engaged in any business or occupation other than the profession of CA without specific permission by the Council to engage.

Q49. The Cashier of a company committed a fraud and absconded with proceeds thereof. This happened during the course of the accounting year. The Chief Accountant of the company also did not know about fraud. In the course of the audit, at the end of the year, the auditor failed to discover the fraud. After the audit was completed, however, the fraud was discovered by the Chief Accountant. Investigation made at that time indicates that the auditor did not exercise proper skill and care and performed his work in a desultory and haphazard manner. With this background, the Directors of the company intend to file disciplinary proceedings against the auditor. (Nov 2003)
Hint Ans: It is the duty of an auditor to bring to bear in the work he has to perform that skill, care and caution as per the circumstances in an honest and reasonable manner. The auditor has been grossly negligent in performing his duties which constitutes misconduct.

Q50. A CA in practice was alleged to have signed two B/Ss on two different dates for the same FY, the first one with a clean report and the second one with a qualified report. In a criminal proceeding he made a statement before the magistrate that he had signed only the second B/S. (MAY 99)
Hint Ans: Guilty as he signed two B/Ss on the two different dates for the same FY and

makes a false statement before the magistrate regarding the first issue. He failed to discharge his duties in an honest and reasonable manner.

Q51. Mr. B, a practicing CA, expressed his opinion on FS of M/s ABC Ltd. for the year ended on 31st March, 2009. It was later found that the closing stock was valued arbitrarily by Management which was accepted by him without verification and large amount of revenue expenditure was capitalized. (June 2009)
Hint Ans: Guilty as he is grossly negligent in the conduct of his professional duties. Mr. B. adopted arbitrary valuation of closing stock and accepted the valuation as done by the management without verification. He also failed to point out large amount of revenue expenditure, capitalized, thereby affecting the profitability of the company.

Q52. Mr. G. a CA in practice as a sole proprietor has an office in Kolkata near Dumdum. Due to increase in professional work, he opens another office in a suburb of Kolkata which is approximately 80 kilometers away from his existing office. For running the new office he employs three retired I.T.O. [May, 2000]
Hint Ans: The distance of 2nd office from municipal limits of Kolkata is missing. Assuming it is more than 50 kms. Mr. G is a guilty because for such office, separate CA would be needed (Not retired I.T.O)

Q53. A charitable institution entrusted Rs. 10 lakhs with its auditors M/s. Ram & Co., a CA firm, to invest in a profitable portfolio. The auditors pending investment of money deposited it in their Savings bank account and no investment was made in the next 3 months.
Hint Ans: Guilty as he failed to keep money of his clients in a separate bank account or failed to use such money for purposes for which they were intended.

Q54. CA Dev, a CA prepared a project report for one of his clients to obtain bank finance (long-term) of Rs. 50 lakhs from a Commercial Bank. Consequent to the sanction of the loan by the bank CA Dev raised a bill for his services @ 2% of the loan sanctioned.
Hint Ans: Guilty; as the act prohibits a CA in practice to charge, to offer, to accept or accept fees which are based on a %age of profits or which are contingent upon the findings or results of such work done by him.

Q55. CA Ravi was appointed as the Auditor of XYZ Ltd. for 2010-11. Since he declined to accept the appointment, the BOD appointed CA Shree as the auditor in the place of CA Ravi, which was also accepted by CA Shree.
Hint Ans: Guilty; since the appointment of auditor can be made only by the CG and the Board appointment is defective in law. He accepted the appointment without first ascertaining whether the requirements of section 225 of the Companies Act, 1956 have been fully complied with".

Q56. Mr. Brilliant, a practicing CA, received a major professional assignment. To complete the said assignment he was required to buy four computers. Due to his Inability to provide funds for acquiring the same he borrowed money from a firm, where one of the Articled Clerk's and his father were interested. What will be the CAs liability? (Nov. 1997)
Hint Ans: Accepting a loan from an articled clerk in case of an engagement of an article clerk is prohibited under the Regulations. Thus, Mr. Brilliant will be held guilty. As it appears from the facts of the case, the articled clerk is already been engaged and serving his article and thus, normally, Mr. Brilliant will not held Guilty.

Q57. A, CA In practice, who was entitled to take not more than five articled clerks had already taken five such clerks, represented to X that he had still a vacancy and induced him to enter into articles with him. A formal deed was executed. A subsequently cancelled the

articles of fifth articled clerk for irregular attendance without reference to the institute. Explain whether A can be deemed guilty of professional misconduct. (May 90)
Hint Ans: Guilty because the CA had misrepresented to a person, that he had a vacancy and induced him to enter into articles. Further, he cancelled the articles for irregular attendance without reference to the Institute.

Q58. AB & Co, a CA firm included the name of 'P' as a partner while filing an application for empanelment as auditor for Public Sector bank branches. It was subsequently noticed that on the date of application, P was not a partner with AB & Co. (Nov. 2007)
Hint Ans: Guilty as AB & Co., included another CA's name as partner in his firm, in his application for empanelment as Auditor of branches of Public Sector Banks submitted to the Institute & In fact such a member was not a partner of the said firm on the date of application.

Q59. Mr. K a CA not in practice was employed by Do-well Ltd. on Salaried basis as Chief Internal Auditor to be in charge of IC and internal audit department of the Company. Mr. K largely relied on the work of other unqualified employees of the Company. The Statutory Auditor subsequently found that the IC was weak, that there were omissions to record Cash Sales and collections from Debtors and the statements attested by the Chief Internal Auditor were all either untrue or false. The company seeks your advice whether any action could be taken against Mr. K under provisions of CAs Act. (May 1998)
Hint Ans: Guilty as it appears that the internal auditor had merely relied on the work of his unqualified assistants and failed to exercise reasonable care and skill and thus was grossly negligent in the performance of his duties.

Q60. Mr. Careless is a partner in a CA firm which did not maintain books of account in respect of professional Income & expenditure. Is there any misconduct?
Hint Ans: Guilty because he or his CA firm in which he is partner failed to maintain in respect of his professional practice, proper books of accounts including cash book and ledger at the place where the profession is carried out.

Q61. Q, a CA, failed to report to the shareholders of the Z Ltd, about the non-creation of a sinking fund in accordance with the Debenture Trust Deed and did not make clear that the amount shown as Sinking Funds, were borrowed from the Managing Agents of the Z Ltd.
Hint Ans: Guilty; he fails to disclose a material fact known to him which is not disclosed in the FS, but disclosure of which is necessary in making such FS in a professional capacity.

Q62. M/s Suraj & Company are the Cost Auditors of Beauty Cosmetics Ltd. duly appointed u/s 233 B of the Companies Act, 1956. Mr. Kiran, a CA, holding a certificate of practice who is a part time employee of M/s Suraj & Company accepts his appointment as a statutory auditor u/s 224 of the Companies Act, 1956, of Beauty Cosmetics Ltd. (Nov. '93)
Hint Ans: Guilty as the ICAI has specified that a member in practice shall be deemed to be guilty if he accepts the appointment as auditor of a company while he is an employee of the cost auditor of the Company.

Q63. Mr. Fair, a practicing CA, was appointed to carry a B/S Audit of a NPO. The Internal Auditors detected certain irregularities at one of the branches of the organization, which Mr. Fair had failed to detect. Is there professional misconduct committed? (Nov 97)
Hint Ans: An auditor while discharging his responsibilities is expected to perform his duties by exercising reasonable care and skill. It may not be possible for an auditor doing B/S Audit to go deeply into these matters when some of them pertain to branches. He may not be held of guilty even if irregularities have been detected by internal auditors later.

QUESTIONS

Q1. Comment with reference to the CA Act, 1949 and Schedules thereto:

(a) Mrs. Fair is a Director of XYZ Private Limited, having 15% share-holdings in the company. During 2003, the company appointed C.A. Mr. Lovely, Mrs. Fair's spouse, as its statutory auditor. On Mr. Lovely's advice, the company issued fresh equity shares in 2003-04, in the ratio of one share for every two shares held by the shareholders of the company. Mr. Lovely used to deliver audit report for subsequent years without any comments or disclosures, thereupon. (4 Marks) **(Nov 2009)**

(b) Mr. A, a CA was the auditor of 'A Limited'. During the financial year 2007-08, the investment appeared in the B/S of the company of Rs. 10 lakhs and was the same amount as in the last year. Later on, it was found that the company's investments were only Rs. 25,000, but the value of investments was inflated for the purpose of obtaining higher amount of Bank loan. (4 Marks) **(Nov 2009)**

(c) Mr. B is a practicing CA holding a valid certificate of practice. He accepted appointment as Director of the Green World Co. Ltd. Mr. C, a partner of Mr. B is statutory auditor of the said company. (4 Marks) **(Nov 2010)**

(d) YKS & Co., a proprietary firm of CAs was appointed as concurrent auditor of a bank. YKS used his influence for getting some cheques purchased and thereafter failed to repay the loan/overdraft. (4 Marks) **(Nov 2010)**

(e) Mr. Mohan is a practicing CA. He issued a certificate of consumption which did not reflect the correct factual position of the consumption of raw material by the concerned entity. It is found that the certificate is given on the basis of data appearing in the minutes of meeting of the BOD. (4 Marks) **(Nov 2010)**

(f) CA Smart, a practicing CA was on Europe tour between 15-9-10 and 25-9-10. On 18-9-10 a message was received from one of his clients requesting for a stock certificate to be produced to the bank on or before 20-9-10. Due to urgency, CA Smart directed his assistant, who is also a CA, to sign and issue the stock certificate after due verification, on his behalf. (4 Marks) **(May 2011)**

(g) Mr. Kishore, a practicing CA was appointed by CG to carry out a special audit u/s 233A of the Companies Act, 1956. He accepted the appointment and proceeded with the work without communicating to the statutory auditor of the company. (4 Marks) **(May 2011)**

(h) Z, a practicing CA issued a certificate of circulation of a periodical without going into the most elementary details of how the circulation of a periodical was being maintained i.e. by not looking into the financial records, bank statements/pass books, by not examining evidence of actual payment of printers bills and by not caring to ascertain how many copies were sold and paid for. (4 Marks) **(Nov 2011)**

(i) X, a practicing CA in an application for permission to study submitted by his Articled Assistant to the council had confirmed that the normal working hours of his office were from 11 A.M. to 6 P.M. and the hours during which the Articled Assistant was required to attend classes were 7.00 A.M. to 9.30 A.M. According to the information from College, Articled Assistant attended College from 10 A.M. to 1.55 P.M. on all week days. About the Articled Assistant attending the classes even during office hours, X pleaded ignorance. (4 Marks) **(Nov 2011)**

(j) K, a practicing CA gave 50% of the audit fees received by him to L, who was not a CA, under the nomenclature of office allowance and such an arrangement continued for a number of years. (4 Marks) **(Nov 2011)**

(k) M, a practicing CA sent a letter to another firm of CAs, claiming himself to be a pioneer in liasoning with Central Government Ministries and its allied Departments for getting various Government clearances for which he had claimed to have expertise and had given a list of his existing clients and details of his staff etc. (4 Marks) **(Nov 2011)**

(l) A Chartered Accountant in practice has been suspended from practice for a period of 6 months. During the said period, though he did not undertake the audit assignment since he had surrendered certificate of practice, he had appeared before Income Tax authorities in his capacity as a Chartered Accountant. (4 Marks) **(May 2012)**

(m) Mr. J, a CA has identified that ABC Ltd. has taken a loan of Rs. 15 lakhs from Provident Fund Account, during the course of audit. The said loan was not reflected in the books of accounts and statements were prepared ignoring the same. (4 Marks) **(May 2012)**

(n) Mr. K, a Chartered Accountant certified the circulation of a weekly magazine without examining the records and relevant documents. (4 Marks) **(May 2012)**

(o) Mr. R, a Chartered Accountant in practice approached Manager of a Nationalised Bank for a loan of Rs. 25 lakhs. He has also informed the Manager that if the loan is sanctioned, the Income Tax return of the Manager and staff will be filed without charging any fees, as quid Pro quo for the loan sanctioned. (4 Marks) **(May 2012)**

(p) A Chartered Accountant who was in practice since last 20 years died in a road accident. His widow sold the practice to another Chartered Accountant in practice for ₹ 30 lakhs. The price also included the right to use the firm name (4 Marks) **(Nov 2012)**

(q) K, Chartered Accountant in practice as a sole proprietor in Chennai has an office in the suburbs of Chennai. Due to increase in the income tax assessment work, he opens another office near the income tax office. For running the new office, he has employed a retired Income Tax Commissioner. (4 Marks) **(Nov 2012)**

(r) Mr. A has been appointed statutory auditor of a private limited company where his spouses' sister husband is having 75% ownership. (4 Marks) **(Nov 2012)**

(s) Mr. E, proprietor of M/s E & Co. is the statutory auditor of a Company which owns a store dealing in computer equipments. During the year 2011-12, E purchased a computer from the store costing ₹ 25,000 for his son. He did not make any payment for the same, but asked the company to adjust the same against the audit fees payable of ₹ 50,000. (4 Marks) **(Nov 2012)**

(t) Mr. A, a practicing Chartered Accountant, failed to return the books of account and other documents of a client despite many reminders from the client. The client has settled his entire fees dues also. (4 Marks) **(May 2013)**

(u) Mr. B, a practicing Chartered Accountant as well as a qualified lawyer, was permitted by the bar council to practice as a lawyer also. He printed his visiting card where he mentioned his designation as Chartered Accountant and Advocate. (4 Marks) **(May 2013)**

(v) Mr. C, a practicing Chartered Accountant, in the course of the audit of a listed company discovered serious violations of the provisions of the companies Act 1956, informed the Registrar of Companies out of public interest. (4 Marks) **(May 2013)**

(w) Mr. D, a practicing Chartered Accountant, did not complete his work relating to the audit of the accounts of a company and had not submitted his audit report in due time to enable the company with the statutory requirements. (4 Marks) **(May 2013)**