CA ETHICS FULL

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FIRST SCHEDULE

PART 1 FIRST SCHEDULE PROFESSIONAL MISCONDUCT IN RELATION TO CA IN PRACTICE

1	Allowing Non member and non partner to practice in his name
2	Sharing of professional fee with non member **[D S Sadri Vs BM Pithewala]**
3	Accepting share of professional fee from non member
4	Entering in to partnership with nonmember [**Harish kumar re]**
5	Securing work through nonmember **[Jethanand sharda vs Deepak Mehta]**
6	Solicitation of work **[B S N BHUSHAN]**
7	Advertising professional attainment **[YOGESH GUPTA]**
8	Non communication with previous auditor **[VK GUPTA VS AK JAIN]**
9	Accepting appointment without verifying validity of appointment**. [M Abdul Rahim vs LR Kammath]**
10	Accepting fee as a percentage based on result of auditing. **[R B Basu Vs P K Mukharji]**
11	Doing business or occupation other than CA without permission of institute. **[IQBAL HAMID VS ICAI]**
12	Allowing nonmember or non partner to sign on behalf of his firm on any b sheet, p&l and report on financial statement.

PART 2 OF FIRST SCHEDULE PROFESSIONAL MISCONDUCT IN RELATION TO MEMBERS IN SERVICE

1	Sharing of remuneration
2	Accepting share of professional fee from non member

PART 3 OF FIRST SCHEDULE : PROFESSIONAL MISCONDUCT IN RELATION TO THE MEMBERS OF THE INSTITUTE GENERALLY

1	Non fellow acts as fellow member
2	Not providing information to ICAI or its board **[P S RAO]**

3	While inviting professional work doing anything as solicitation of work or advertisement of professional attainment under clause 6 or 7 of part 1.

PART 4 OF FIRST SCHEDULE: OTHER MISCONDUCT IN RELATION TO THE MEMBERS OF THE INSTITUTE GENERALLY

1	Held guilty for criminal offence which is punishable with imprisonment for a term **NOT exceeding 6 months .** **If it exceeds 6 months punishable under clause 1 part 3 of schedule 2**
2	Bringing disreputation to institute.

SECOND SCHEDULE

PART 1 SECOND SCHEDULE PROFESSIONAL MISCONDUCT IN RELATION TO CA IN PRACTICE

1	Disclose information obtained during the work **[SBT VS MANI S ABRAHAM]**
2	Certification without examination of statement and accounts [JDI, MUMBAI VS B K KURHADE]
3	Permits using name in connection with forecasting
4	Expressing opinion on an entity in which he or firm have substantial interest
5	Fails to disclose material fact **[VC AGARWAL IN RE]**
6	Fails to report material misstatement **[ATTORNEY GENERAL OF KENYA VS VB JOSHY]**
7	Does not exercise due diligence or being negligent **[MC PODDAR]**
8	Fails to obtain sufficient information
9	Fails to invite attention abt deviation from gap **[PUNJAB STATE GOVT VS KN CHANDALA]**
10	Fails to keep money of his client **[DEEPAK PAHWA VS AK GUPTA]**

PART 2 OF SECOND SCHEDULE : PROFESSIONAL MISCONDUCT IN RELATION TO THE MEMBERS OF THE INSTITUTE GENERALLY

1	Contravention of any provisions of CA Act and guidelines of council
2	Employee CA disclosing information to third party
3	Submitting false statement to ICAI or its committees
4	Defalcates money received in professional capacity

PART 3 OF SECOND SCHEDULE : OTHER MISCONDUCT IN RELATION TO THE MEMBERS OF THE INSTITUTE GENERALLY

1	Held guilty for an offence for an offence punishable with imprisonment for a term **exceeding** 6 months. Maximum penalty is 5 lakh.

COUNCIL GENERAL GUIDELINES 2008

CH3	**Following persons shall not be appointed as Cost auditor of a company** Statutory auditor, officer or employee of the company, partner of employee or officer of the company, partner or employee of statutory auditor, indebtedness or guarantee of more than 1000 rs. Automatic vacation if subject to any of these disqualification occurs after appointment **[para 3 of guidlines]**
CH4	If any relative or relatives of a member with or without in conjunction with any member holds substantial interest in the business of a client, such member shall not express opinion. **[para4 of guidline]**
CH5	CA or a CA firm shall maintain its books of accounts i.e cash book and ledger [para5 of guidline]
CH6	Shall not exceed maximum specified tax audits excluding presumptive audits under 44ad, ae and af[45 nos]. Each years audit to be taken as separate. Audit of HO and branch are taken as 1 audit. Shall maintain a record of tax audits. [para 6]
CH7	If undisputed audit fee of another CA in respect of STATUTORY audit is not paid, and auditor should not accept appointment. [para7]
CH 8	Specified No of audit assignment Total 30 audits including audit of private companies out of which companies with paid up capital of 25 lakh or more shall not exceed 30. In case of a firm per partner limit X number of partners. [para
CH 9	In the caseof a PSU, Govt Co, Listed Co and any Public company having turnover of 50 crore or more, and a CA is doing any other work for them, then he shall not accept appointment as statutory auditor. [as per requirement of Chapter IX]
CH 10	If No limit fixed by any law CA shall not accept audit if he is indebted to any concern more than 10000 [para 10]
CH11	In the case of unjustified removal of auditor, incoming auditor shall follow direction of council.
CH12	**Minimum Audit Fee** CA firm having 5 or more partners with atleast one partner holding COP for 5 years or more

	should not accept audit for a fee less than that given in table given below. But the restriction given below does not apply to 1.audit of charitable institution club PF etc 2. Statutory audit of branches of banks including regional rural banks. 3. Audit of new entity which does not have an age of 2 years. 4. Certification or audit under IT Act or other attestation functions carried out by statutory auditor. 5.Sales Tax and VAT Audit.

	Practicing Firm having 5 or more partners but less than 10 partners.	Practicing Firm having more than 10 partners.
In Cities with population above 3 million and above	6000 PA	12000 PA
In Cities with population above 3 million and above	3500 PA	8000 PA

<u>CASES IN WHICH CA IS GUILTY OF OTHER MISCONDUCT</u>

1. Retention of clients books and documents – **Jmandas Harakchand Vs P C Parekh**
2. Misappropriation of large amount of funds CIRC – **J C Tandon in Re**
3. Bogus bills for expenses submitted to clients – **St Bank of Patiala Vs Rishi K Gupta**
4. Authoring book as a guide to handle black money - **PC Parekh**
5. CA filing 2 separate return on income for himself – **CIT Vs Mohanlal Giriya**
6. Flase declaration given by CA to Bank – **PNB Vs NK Chopra**
7. For obtaining refund by fraud – **CIT Vs Mukesh R Shah**

<u>OFFENCES AND PENALTIES</u>

Sec	Offence	1st punishment	Subsequent offence punishment
24	Non member represents as member.	Fine up to Rs 1000	Imprisonment which may extend to 6 months or fine which may extend to 5000 or both.
24	Nonmember using designation as Chartered Accountant.	Fine up to Rs 1000	Imprisonment which may extend to 6 months or fine which may extend to 5000 or both.
24	CA not holding COP represents as CA in practice.	Fine up to Rs 1000	Imprisonment which may extend to 6 months or fine which may extend to 5000 or both.
25	Company incorporated India or else were practice as chartered accountants	Fine up to Rs 1000 by every officer who is knowingly a party to	Fine up to 5000

		the contravention.	
26	Non member signs on behalf of a CA in practice or firm of such CA in his or it's professional capacity.	Fine not less than 5000 but not exceeding 1 Lakh	Imprisonment which may extend to 1 year or fine not less than 10000 but not exceeding "2" Lakh or both.

MAINTANANCE OF BRANCH OFFICE

If a CA in practice or CA Firm has more than one office in India

1. Each office should be under separate charge of a member.
2. Such person in charge should be either partner or paid staff.
3. Such person should actively associated with the office. i.e he should reside in that place and attend office for not less than 182 days.
4. Name board with designation Chartered Accountant at the residence of member is permissible.

POSSIBILITY OF SECOND OFFICE WITHOUT A PERSON IN CHARGE : Possible if building situated

1. In same premises
2. In same city
3. Within 50 km from municipal limits of the city in which first office is located

He should declare out of the two which should be his main office

TEMPORARY OFFICE : Temporary office can be operated for 3 months without closing original office, and name boards should not be placed in months in which temp office is closed. Address of temp office should not be disclosed in visiting cards letter heads or websites.

1. Activities of broking, under writing and portfolio management are not permitted as management consultancy service.
2. Can continue LIC agency for limited purpose for receiving commission of previous policies sold by him.

SCHEDULES IN FULL

FIRST SCHEDULE

PART 1

Professional misconduct in relation to chartered accountants in practice

[CLAUSE 1] allows any person to practice in his name

- as a chartered accountant
- unless such person is also a chartered accountant in practice and
- is in partnership with or employed by him;

Only if both the following conditions are satisfied a CA in practice can allow a person to practice in his name.

1. The person so allowed should be a CA. and
2. He is in partnership with or employed with the first CA.

[CLAUSE 2]pays or allows or agrees to pay or allow,

- directly or indirectly,
- any

1. share,
2. commission or

3. brokerage in the fees or
4. profits of his professional business,

- to any person other than

1. a member of the Institute or a partner or a retired partner or the legal representative of a deceased partner, or
2. a member of any other professional body or with such other persons having such qualifications as may be prescribed, for the purpose of rendering such professional services from time to time in or outside India.

Explanation. - In this item, “partner” includes a person residing outside India with whom a chartered accountant in practice has entered into partnership which is not in contravention of item (4) of this Part;

with whom fee , commission etc can be shared

1. Partners 2. retired partners 3. Legal representatives of diseased partner(for a specified period if partnership agreement so provide), 4 members of other approved professional bodies.

Approved professional Bodies

- ICSI
- ICWA
- Bar Council
- Indian Institute of Architect
- Indian Institute of Actuaries. See Notes on treatment of good will

(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:

Provided that

- nothing herein contained shall be construed as
- prohibiting a member from entering into profit sharing or other similar arrangements,
- including receiving any share commission or brokerage in the fees, with a member of such professional body or other person having qualifications,
- as is referred to in item (2) of this Part;

(4) enters into partnership,

- in or outside India,
- with any person other than

1. a chartered accountant in practice or
2. such other person

- who is a member of any other professional body
- having such qualifications as may be prescribed,
- including a resident who but for his residence abroad
- would be entitled to be registered as a member under clause (v) of sub-section (1) of section 4 or

- whose qualifications are recognised by the Central Government or the Council for the purpose of permitting such partnerships;

(5) secures, any professional business

- either through the services of a person
- who is not an employee of such chartered accountant or who is not his partner or
- by means which are not open to a chartered accountant,:

Provided that nothing herein contained shall be construed as prohibiting any arrangement permitted in terms of items (2), (3) and (4) of this Part;

(6) Solicits clients or professional work

- either directly or indirectly
- by circular, advertisement, personal communication or interview or by any other means:

Provided that nothing herein contained shall be construed as

preventing or prohibiting --

(i) any chartered accountant from applying or requesting for or inviting or securing professional work from another chartered accountant in practice ; or

(ii) a member from responding to tenders or enquiries issued by various users of professional services or organisations from time to time and securing professional work as a consequence;

(7) advertises his professional attainments or services, or
uses any designation or expressions other than chartered accountant

- on professional documents, visiting cards, letter heads or sign boards,
- unless it be a degree of a University established by law in India or recognised by the Central Government or a title indicating membership of the Institute of Chartered Accountants of India or of any other institution
- that has been recognised by the Central Government or may be recognised by the Council:

Provided that 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;

(8) accepts a position as auditor previously held by

- another chartered accountant or a certified auditor who has been issued certificate under the Restricted Certificate Rules, 1932
- without first communicating with him in writing;

(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
- in respect of such appointment have been duly complied with;

(10) charges or offers to charge, accepts or offers to accept

- in respect of any professional employment,
- fees which are based on a percentage of profits or which are contingent upon the findings, or results of such employment,
- except as permitted under any regulation made under this Act;

(11) engages in any business or occupation

- other than the profession of chartered accountant
- unless permitted by the Council so to engage:

Provided that nothing contained herein shall disentitle

- a chartered accountant from being a director of a company
- (not being a managing director or a whole time director)
- unless he or any of his partners is interested in such company as an auditor;

(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, profit and loss account, report or financial statements.

PART II

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-

(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;

(2) accepts or agrees to accept
  - any part of fees, profits or gains
  - from a lawyer, a chartered accountant 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.

PART III

Professional 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 professional misconduct, if he-

(1) not being a fellow of the Institute, acts as a fellow of the Institute;
(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;
(3) while inviting professional work
    - from another chartered accountant 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.

PART IV

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-

(1) is held guilty by any civil or criminal court
    - for an offence which is punishable with imprisonment for a term
    - NOT exceeding six months;
(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.

SECOND SCHEDULE

PART I

Professional misconduct in relation to chartered accountants in practice

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

(1) discloses information acquired

- in the course of his professional engagement
- to any person other than his client so engaging him,
- without the consent of his client or
- otherwise than as required by any law for the time being in force;

(2) certifies or submits in his name, or

- in the name of his firm,
- a report of an examination of financial statements
- unless the examination of such statements and the related records has been
- made by him or by a partner or an employee in his firm or by another chartered accountant in practice;

(3) permits his name or the name of his firm

- 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 the forecast;

(4) expresses his opinion on financial statements of

- any business or enterprise in which
- he, his firm, or a partner in his firm
- has a substantial interest;

(5) fails to disclose a material fact

- known to him
- which is not disclosed in a financial statement,
- but disclosure of which is necessary in making such financial statement
- where he is concerned with that financial statement
- in a professional capacity;

(6) fails to report a material misstatement

- known to him to appear in a financial statement
- with which he is concerned in a professional capacity;

(7) does not exercise due diligence,

- or is grossly negligent
- in the conduct of his professional duties;

(8) fails to obtain sufficient information

- which is necessary for expression of an opinion or
- its exceptions are sufficiently material
- to negate the expression of an opinion;

(9) fails to invite attention

- to any material departure from the generally accepted procedure of audit
- applicable to the circumstances;

(10) fails to keep moneys of his client

- other than fees or remuneration 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.

PART II

Professional 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 professional misconduct, if he-

(1) contravenes any of the provisions of this Act
  - or the regulations made thereunder or
  - any guidelines issued by the Council;

(2) being an employee of any company, firm or person,
  - discloses confidential information
  - acquired in the course of his employment
  - except as and when required by any law for the time being in force or
  - except as permitted by the employer;

(3) includes in any information, statement, return or form
  - to be submitted to the Institute, Council or any of its Committees, Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority
  - any particulars knowing them to be false;

(4) defalcates or embezzles moneys received in his professional capacity.

PART III

Other misconduct in relation to members of the Institute generally

1. 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 six months.'.