Part iv First sch+Part iii Second sch P-167=”Other Misconduct”P-186=Permission of council P-204,205,206 N/N

FIRST SCHEDULE

To the Chartered Accountants Act, 1949

<table>
<tr><td>PART-I</td><td colspan="2">A Chartered Accountant in practice is deemed to be guilty of professional misconduct if he:</td></tr>
<tr><td>PART-I
“Professional mis-conduct in relation to Chartered Accountant in Practice”.</td><td>CLAUSE-1[1]</td><td><table><tr><td>NAME</td><td>Allow any person to practice
In his name as a C.A.

Unless
Such person is also a C.A. in practice & is in partnership with or employed by him.</td></tr></table></td></tr>
<tr><td>PART-I
“Professional mis-conduct in relation to Chartered Accountant in Practice”.</td><td>CLAUSE-2[1]

P</td><td><table><tr><td>PAY</td><td>Pays/allows or agrees to pay/allow,
Directly or indirectly,

Any share, commission or brokerage
In the fees or profit of his professional business,

To any person
- <u>other than</u>[2] a member of the institute 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 such qualifications as may be prescribed

For the purpose of rendering such professional services from time to time in or outside India.

[2]Enabled the members of the institute to form multi-disciplinary firms and offer multi-professional services in a competitive commercial manner.</td></tr></table></td></tr>
<tr><td>PART-I
“Professional mis-conduct in relation to Chartered Accountant in Practice”.</td><td>CLAUSE-3[1]</td><td><table><tr><td>ACCEPTS</td><td>Accepts/agrees to accept

Any part of the professional work of a Person who is not a member of the institute</td></tr></table>
<u>Exclusion</u>:-
Entering into profit sharing or other similar arrangements, including receiving any share, commission or brokerage in the fees, with a member of such other professional body or other person having such qualifications.</td></tr>
<tr><td colspan="3">[1]There is nothing in C.A. act and regulations which prohibiting a CA in practice from authorizing another CA in practice to carry out a professional assignment on his behalf. Clauses 1, 2 & 3 of Part-I of First Schedule imply that such authorization is permissible.</td></tr>
</table>

<table>
<tr>
<td>PART-I
“Professional mis-conduct in relation to Chartered Accountant in Practice”.</td>
<td>CLAUSE-4
P</td>
<td>
<table>
<tr>
<td>ENTER PARTNERSHIP (Whether agreement acted upon or not)</td>
<td>Enter in to partnership,
In or outside India, with any person

Other than a C.A. in practice or
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 sec. 4(1)(v) or
Whose qualifications are recognized by the CG or the council

For the purpose of permitting such partnerships.</td>
</tr>
</table>

<u>Explanation</u>:-
Members of such professional bodies are eligible for the membership of the Institute.

They share in the fees & profit of the business of the partnership both within and outside India.

A member of the ICAI practicising outside India is not governed by the provisions of the CA Act, 1949. Since the provisions of the said act are N.A. outside India. Hence Clause 4 is N.A.
</td>
</tr>
<tr>
<td>PART-I
“Professional mis-conduct in relation to Chartered Accountant in Practice”.</td>
<td>CLAUSE-5</td>
<td>
<table>
<tr>
<td>SECURES</td>
<td>Secures, either through

The services of a person who is not an employee of such C.A. or who is not his partner

Or by means which are not open to a C.A. any professional business.</td>
</tr>
</table>
</td>
</tr>
</table>

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PART-I
"Professional mis-conduct in relation to Chartered Accountant in Practice".

CLAUSE-6

P

SOLICITS	Solicits clients or professional work Either directly or indirectly By circular, Advertisement, Personal Communication or Interview or Any other means

<u>Exclusion</u>:-
Professional work from another CA & tender/enquiry.

<u>Explanation</u>:-
Maintain Independence of Judgments; To command respect in the society; Building confidence, Providing quality service.
Total Satisfaction to the client's not thru advertisement.

PART-I
"Professional mis-conduct in relation to Chartered Accountant in Practice".

CLAUSE-7

P

ADVERTISE	Advertises his professional attainment or services, or Uses any designation or expressions Other than C.A. on - Professional documents, - Visiting Cards, - Letter heads, or Sign boards **Unless** it be a degree of a university or membership of the ICAI or university/institution recognized by CG/Council

<u>Explanation</u>:-
Clause 7 restrains a member from using any designation or expression other than that of a CA in documents through which the professional attainments of the member would come to the notice of the public.

The code of conduct states that the members may appear on TV and Films & agree to broadcast in the radio or give lectures at forums, may give their names, describe themselves as CA, special qualifications may also be given. But no reference should be made in the case of practicising member - the name and address or services of his firm.

There is no prohibition for printing names of all the three firms (e.g. Praveen & Co., Naveen & Co. and KRN & Co.) on the personal letter heads in which a member holding COP is a partner.

Chartered Accountant and Tax Consultant – Guilty of professional misconduct.	
Guilty of Prof. misconduct	***Not Guilty*** of Prof. misconduct
Tax Consultant	Chartered Accountant
Cost Consultant	Member of ICWAI
Company Secretary	Member of ICSI

<table>
<tr>
<td>PART-I
“Professional mis-conduct in relation to Chartered Accountant in Practice”.</td>
<td>CLAUSE-8</td>
<td>
<table>
<tr><td>APPOINTMENT IN PLACE OF RETIRING AUDITOR</td><td>If he accepts a position as auditor (Statutory, Internal, Tax, Concurrent)

Which was previously held by another C.A. or restricted State Auditor

Without first communicating with him in writing.</td></tr>
</table>
<u>Explanation</u>:-
A Communication is mandatory for all types of audit (like positive evidence, registered ack. due).

To know the reasons for the change to safeguard his own interest, the legitimate interest of public, independence of existing auditors.
</td>
</tr>
<tr>
<td>PART-I
“Professional mis-conduct in relation to Chartered Accountant in Practice”.</td>
<td>CLAUSE-9

P</td>
<td>
<table>
<tr><td>APPOINTMENT</td><td>Accepts an appointment as auditor of a Company

Without first ascertaining from it whether the requirement of Sec. 225 of the Co’s act

In respect of such appointment have been duly complied with.</td></tr>
</table>
<u>Explanation:-</u>
Council issued guidelines & detailed procedure to be complied by incoming auditor.
</td>
</tr>
<tr>
<td>PART-I
“Professional mis-conduct in relation to Chartered Accountant in Practice”.</td>
<td>CLAUSE-10</td>
<td>
<table>
<tr><td>FEES</td><td>Charges/Offers to charge,
Accepts/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.</td></tr>
</table>
</td>
</tr>
</table>

PART-I "Professional mis-conduct in relation to Chartered Accountant in Practice".	**CLAUSE-11** **P**	**PERMISSION FOR BUSINESS** — Engages in any business or occupation Other than the profession of C.A. **Unless** Permitted by the Council so to engage. **Provided that** nothing contained herein shall disentitle a C.A. from being a director of a company (not M.D. / W.T.D.) **Unless** he or any of his partners is interested in such company as an auditor. **<u>Explanation</u>:-** That is he can be a director of a co. where in he/any of his partner/relative is not interested in such co. as auditor after obtaining specific and prior approval of council. A Liquidator may charge fees as acting as a liquidator a %age of realization/disbursement of the asset. Auditor of a Co-op. society can receive fees based on paid-up capital or working capital or gross or net income or profits. A Valuer for DT and duties.
PART-I "Professional mis-conduct in relation to Chartered Accountant in Practice".	**CLAUSE-12**	**SIGNED BY NON-MEMBER** — 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 B.S., P.L., <u>Report</u>[3], Financial Statements. [3]Arising out of a professional assignment, Submitting by auditor to his client's or outsiders, Contain expression of a professional opinion, Whether financial or non-financial.

<table>
<tr>
<td>PART-II
“Professional mis-conduct in relation to members of the institute in service”</td>
<td>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 Co., firm or person -
<table>
<tr><td>PAYS</td><td>Pays or allows or agrees to pay directly or indirectly to any person any share

In the emoluments of the employment undertaken by him.</td></tr>
<tr><td>ACCEPTS</td><td>Accepts or agrees to accept

Any part of fees, profit or gains
From a lawyer, a C.A. or broker

Engage by such company, firm or person or agent or customer of such company, firm or person by way of commission or gratification.</td></tr>
</table>
</td>
</tr>
<tr>
<td>PART-III
“Professional mis-conduct in relation of members of the institute, generally”</td>
<td>A member if the institute, whether in practice or not,
Shall be deemed to be guilty of professional misconduct, if he –
<table>
<tr><td colspan="2">Not being a FCA, Act as a FCA</td></tr>
<tr><td>Doesn’t supply the information called for or

Doesn’t comply with the requirements asked for</td><td>By the Institute,
Council or any of its committees,
Director(Discipline),
Board of Discipline,
Disciplinary Committee,
Quality Review Board of the Appellate Authority.</td></tr>
</table>
<table>
<tr><td>While inviting professional work from another C.A. or</td><td rowspan="3">Gives information knowing to be false</td></tr>
<tr><td>While responding to tenders or enquiries or</td></tr>
<tr><td>While advertising through a write up or anything as provided in Clause 6, 7 of Part-I of this Schedule.</td></tr>
</table>
</td>
</tr>
<tr>
<td>PART-IV[4]
“Other mis-conduct in relation to members of the institute generally”</td>
<td>A member if the institute, whether in practice or not,
Shall be deemed to be guilty of Other misconduct, if he –
<table>
<tr><td>Held guilty by any civil or criminal court
for an offence which is punishable with imprisonment
For a term not exceeding 6 months.</td><td>Part-III of Second Schedule covers exceeding 6 months.</td></tr>
<tr><td colspan="2">In the opinion of council, brings disrepute to the profession or the institute as a result of his action whether or not related to his professional work.</td></tr>
</table>
</td>
</tr>
</table>

[4]A Chartered Accountant is expected to maintain the highest standard 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 (e.g. refer to drawer).

A member is liable to disciplinary action U/s 21 of the CA Act, 1949, if he is found guilty of any professional or other misconduct.

(Apex Court Judgment) When a member is prima-facie found guilty of any conduct, the council of the institute is empowered to conduct an enquiry in the affairs of the conduct and can take action against such member even if no specific provisions are made under schedules of the CA Act.

A member has to maintain highest standards of professionalism, highest level of performance & meet public interest requirements.

SECOND SCHEDULE

PART-I	A Chartered Accountant in practice shall be deemed to be guilty of professional misconduct if he:	
PART-I "Professional mis-conduct in relations to C.A. in practice"	**CLAUSE-1** P	**DISCLOSE CLIENT's INFO.**: Discloses information **acquired** in the course of **his professional engagement** to any person **other than his client** so engages him, **Without the consent** of his client or otherwise than as **required by any law** for the time being in force. **Explanation**:- Duty Continues even after completion of assignment. Clause 1 discuss about the member capacity as an auditor. Clause 1 Part-I = Clause 2 Part-II Disclose Client's Info. = Disclose Confidential Info. AAS-1 = Confidentiality of Info. AAS-3 = Audit Working Papers **How to write:-** Clause 1 of Part-I of the Second Schedule to the Chartered Accountants Act, 1949.
PART-I "Professional misconduct in relations to C.A. in practice"	**CLAUSE-2**	**CERTIFY REPORT NOT MADE**: Certifies/Submits In **his name, or in the name of his firm**, A report of an examination of financial statement **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 C.A. in practice.
PART-I "Professional misconduct in relations to C.A. in practice"	**CLAUSE-3** **P-234** P	Refer Clause 10 of Part-I of First Schedule also. **USE OF NAME**: **Permits** his name or name of his firm To be **used in connection** With the estimate of earnings **contingent upon future transactions** in a manner Which may lead to the belief that he vouches for accuracy of the forecast? **Explanation**:- GN on "Accountants report on profit/financial forecasts", provides that

<table>
<tr><td></td><td></td><td>Profit forecasts can be prepared or reviewed by a CA provided he discloses in his report the Sources of info,
Basis of forecasts and
major assumptions involved
and so long as he does not vouch for the accuracy of the forecast.

He can participate in preparation of profit or financial forecasts and can review them subject to above conditions.</td></tr>
<tr><td>PART-I
“Professional misconduct in relations to C.A. in practice”</td><td>CLAUSE-4</td><td><table><tr><td>EXPRESS OPINION</td><td>Expresses his opinion(whether disclosed in report or not) 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.</td></tr></table></td></tr>
<tr><td>PART-I
“Professional misconduct in relations to C.A. in practice”</td><td>CLAUSE-5
P-196</td><td><table><tr><td>MATERIAL DISCLOSURE</td><td>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.</td></tr></table>
<u>Explanation</u>:-
SC in Kishorilal Dutta Vs. P.K. Mukherjee, It was the duty of the CA to have disclosed the irregularities and contravention to the beneficiaries of the fund in the statement of accounts signed by him.
In making such fin. Stat. = to make the fin. Stat. not misleading</td></tr>
<tr><td>PART-I
“Professional misconduct in relations to C.A. in practice”</td><td>CLAUSE-6
P-197</td><td><table><tr><td>MATERIAL MISSTATEMENT</td><td>Fails to report a material misstatement known to him to appear in a financial statement

With he is concerned in a professional capacity.</td></tr></table></td></tr>
<tr><td>PART-I
“Professional misconduct in relations to C.A. in practice”</td><td>CLAUSE-7
P-225,197, Q60
P</td><td><table><tr><td>DUE DILIGENCE</td><td>Doesn’t exercise due diligence, or

Is grossly negligent in the conduct of his professional duties.</td></tr></table></td></tr>
</table>

<table>
<tr>
<td>PART-I
“Professional misconduct in relations to C.A. in practice”</td>
<td>CLAUSE-8</td>
<td>
<table>
<tr><td>SUFFICIENT INFORMATION</td><td>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.</td></tr>
</table>
</td>
</tr>
<tr>
<td>PART-I
“Professional misconduct in relations to C.A. in practice”</td>
<td>CLAUSE-9</td>
<td>
<table>
<tr><td>GAAP</td><td>Fails to invite attention to any material departure from

Generally Accepted Audit Procedures Applicable to the circumstances.</td></tr>
</table>

<u>Explanation</u>:-
Failure to perform the audit as per such procedures.
Failure to perform certain statutory functions and duties is not excused merely by giving a qualification or reservation in auditors report. On failure, he should clearly indicate reasons for failure to perform audit as per GAAP and standards.
</td>
</tr>
<tr>
<td>PART-I
“Professional misconduct in relations to C.A. in practice”</td>
<td>CLAUSE-10</td>
<td>
<table>
<tr><td rowspan="3">CLIENT MONEY</td><td>KEPT</td><td>Fails to keep moneys of his client other than fees or remuneration or money</td></tr>
<tr><td>DEPOSIT</td><td>meant to be expended in a separate banking account or</td></tr>
<tr><td>USE</td><td>To use such moneys for purposes for which they are intended within a reasonable time.</td></tr>
</table>
</td>
</tr>
<tr>
<td>PART-II
“Professional misconduct in relation to members of the institute generally”</td>
<td>CLAUSE-1
P</td>
<td>Contravenes any of the provisions of this act or the regulations made thereunder or any guidelines issued by the council.

<table>
<tr><td>Regulation 43</td><td>Engagement of Articled Clerk</td></tr>
<tr><td>Regulation 46</td><td>Registration of Articled Clerk</td></tr>
<tr><td>Regulation 47</td><td>Premium from Articled Clerk</td></tr>
<tr><td>Regulation 48</td><td>Stipend to Articled Clerk</td></tr>
<tr><td>Regulation 65</td><td>Articled Clerk not to engage in any other occupation</td></tr>
<tr><td>Regulation 67</td><td>Complaint against employer from Articled Clerk</td></tr>
<tr><td>Regulation 68 to 80</td><td>Audit Clerks</td></tr>
</table>
</td>
</tr>
</table>

PART-II "Professional misconduct in relation to members of the institute generally"	**CLAUSE-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.	
PART-II "Professional misconduct in relation to members of the institute generally"	**CLAUSE-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 of the Appellate Authority	Any particulars knowing them to be false.
PART-II "Professional misconduct in relation to members of the institute generally"	**CLAUSE-4**	Defalcates or embezzles moneys received in his professional capacity. AAS-4		
PART-III "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 – Held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term **exceeding 6 months**.		