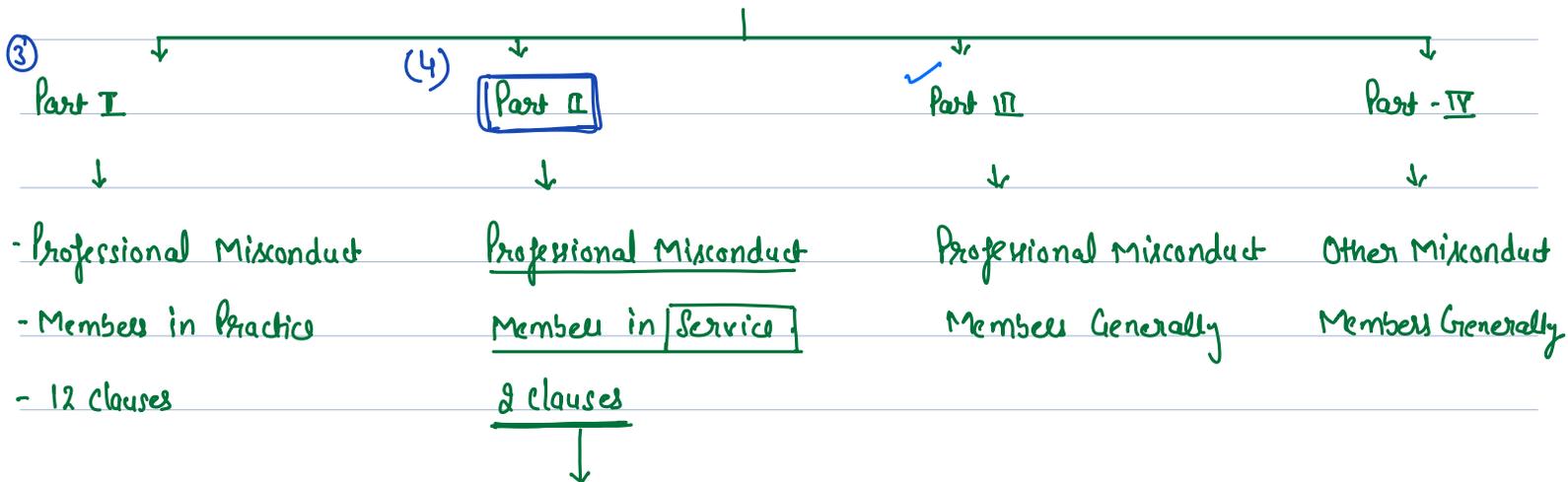


Lecture No. 5 of Professional Ethics

Schedule I



A member in service shall be deemed to be guilty of professional misconduct, if he:



Clause 1: pay or allow or agree to pay, directly or indirectly, to any person any share in emoluments of employment undertaken by him.

For Ex: Mr. X agree to pay 50% of his salary for first month to ABC consultants as consideration for arranging employment for him.

Clause 2: accept or agree to accept, any part of fees, profits or gains from a Lawyer, CA or broker engaged by Company, firm or other person (Employer) or agent or customer of such company firm or other person, by way of commission or gratification.

For Ex: CA Mr. X (Finance Manager) of ABC Ltd. ask for 25% share in fees of advocate, as a consideration for referring legal cases of ABC Ltd. to him.

✓ (5) Part III of First Schedule to CA Act, 1949: (Professional Misconduct - Generally)

A member of ICAI, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he:

Clause 1: not being a fellow member, but acting as a fellow member.

Clause 2: does not supply the information called for; or does not comply with the requirements asked for



by ICAI, its Council, Committees, Director Discipline, Board of Discipline, Disciplinary Committee, Appellate Authority or Q.R.B.

Note: Providing false information to ICAI, -----
will amount to professional misconduct under Clause 3
Part II of Second Schedule.

✓ Clause-3: while inviting professional work from another CA or responding to tenders or advertises his professional work as per permitted means under Clause 6 and 7 of Part I of First Schedule provides the information, knowing it to be false.

For Ex: M/s ABC and Associates (a CA firm) while responding to a tender specifies number of partners in the firm as 4, whereas actual no. of partners are 3.

(6) Other Misconduct

Part IX of First Schedule (2 clauses)

A member of ICAI, whether in practice or not shall be deemed to be guilty of Other Misconduct, if he



Clause 1: is held guilty of any offence by any Civil or Criminal Court, which is punishable with imprisonment for a term upto 6 months.

Clause 2: brings any disrepute to the profession of the Institute, as a result of his conduct, whether or not related with the professional work.

For Ex:

- (i) Using coercive method to obtain a loan.
- (ii) Non-repayment of loan.
- (iii) Dishonour of cheques due to insufficient funds.
- (iv) Misappropriation of funds of regional Council by elected member to the Council.
- (v) Retaining client's records without insufficient cause.

Part III of Second Schedule (1 clause)

A member of ICAI, whether in practice or not shall be deemed to be guilty of other misconduct, if he



Clause 1: is held guilty of any offence by any Civil or Criminal Court, which is punishable, with imprisonment exceeding 6 months.

① Second Schedule, Part I : (Professional misconduct - Members in Practice) :

Clause - 1: Disclosure of Client's information:

A member in practice shall be deemed to be guilty of professional misconduct, if he discloses the information acquired in the course of professional work to any person other than his client, without consent of the client or otherwise than as required by any law.

Imp:

Clause - 2 : Certification without Examination:

A CA in practice shall be deemed to be guilty of professional misconduct, if he certifies or submits in his name or firm's name

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a report of an examination of financial statements, unless examination of such statements and related records has been made by him, his partner, employee or another CA in practice.

Clause - 3: Permitting use of name in connection with Estimate of earnings:

A CA in practice shall be deemed to be guilty of professional misconduct, if he permits his name or firm's name, to be used in connection with an estimate of earnings, which is contingent upon future transactions,

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in a manner, which leads to belief that he vouches for the accuracy of the forecast.

Note: In this reference, practicing CA must ensure compliance of SAE-3400 "The Examination of Prospective Financial Information".

As per SAE-3400, prepⁿ of PFI is the responsibility of management and while preparing PFI, following disclosures should be made:

(a) Source of Information

(b) Basis of forecast

(c) Assumptions used.

A practicing CA, if engaged by management for prepⁿ of PFI, appropriate disclosures to be made in "Accountant's Report" and it should be stated that no vouching done for accuracy of the forecast.

Clause - 4: Expressing opinion on f.s. of an Entity in which member has substantial Interest:

A CA in practice shall be deemed to be guilty of professional misconduct, if he expresses an opinion on the financial statements of an Entity in which, he, his partner or firm is having substantial interest.

Points to be considered: (Council Recommendations / Suggestions)

- from book -