



**J.K. SHAH<sup>®</sup>**  
**TEST SERIES**  
Evaluate Learn Succeed

**SUGGESTED SOLUTION**

**CA FINAL NOV'19**

**SUBJECT- AUDIT**

**Test Code - FNJ 7204**

**BRANCH - () (Date :)**

**Head Office : Shraddha, 3<sup>rd</sup> Floor, Near Chinai College, Andheri (E), Mumbai – 69.**

**Tel : (022) 26836666**

## ANSWER-1

### ANSWER-A

**Not Exercising Due Diligence** : According to **Clause (7) of Part I of Second Schedule** of Chartered Accountants Act, 1949, a Chartered Accountant in practice is **deemed to be guilty of professional misconduct if he does not exercise due diligence or is grossly negligent in the conduct of his professional duties.**

It is a vital clause which unusually gets attracted whenever it is necessary to judge whether the accountant has **honestly and reasonably discharged his duties.** The expression negligence covers a wide field and extends from the frontiers of fraud to collateral minor negligence.

Where a Chartered Accountant had not completed his work relating to the audit of the accounts a company and had not submitted his audit report in due time to enable the company to comply with the statutory requirement in this regard. **He was guilty of professional misconduct under Clause (7).**

(3 MARKS)

**Since Mr. D has not completed his audit work in time and consequently could not submit audit report in due time** and consequently, company could not comply with the statutory requirements, therefore, the auditor is guilty of professional misconduct under Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

(1 MARK)

### ANSWER-B

**Sharing and Accepting of Part of Profits with an Advocate:** According to **Clause (2) of Part I of the First Schedule** to the Chartered Accountants Act, 1949, a Chartered Accountant in practice is **deemed to be guilty of professional misconduct if he 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 other than a member of the Institute, for the purpose of rendering such professional services from time to time in or outside India.

Furthermore, Clause (3) of Part I of the First Schedule to the said Act states that a Chartered Accountant in practice is deemed to be guilty of professional misconduct if he accepts any part of the profits of the professional work of a person who is not a member of the Institute.

However, a **practicing member** of the Institute **can share fees or profits arising out of his professional business with such members of other professional bodies** or with such other persons having such qualifications as prescribed by the Council under Regulation 53 – A of the Chartered Accountants Regulations, 1988. Under the said regulation, the member of “Bar Council of India” is included.

(5 MARKS)

Therefore, Mr. Preet, an advocate, a member of Bar Council, is allowed to share part of profits of his professional work with Ms. Preeti. Hence, Ms. Preeti, a practicing Chartered Accountant, will not be held guilty under any of the abovementioned clauses for paying and accepting part of profits from Mr. Preet.

(1 MARK)

## ANSWER-2

## ANSWER-A

**Soliciting Clients** : As per Clause (6) of Part I of First Schedule to the Chartered Accountants Act, 1949, a Chartered Accountant in practice is deemed to be guilty of professional misconduct if he solicits clients or professional work either directly or indirectly by circular, advertisement, personal communication or interview or by any other means except applying or requesting for or inviting or securing professional work from another chartered accountant in practice and responding to tenders.

Further, section 140(4)(iii) of the Companies Act, 2013, provides a right, to the retiring auditor, to make representation in writing to the company. The retiring auditor has the right for his representation to be circulated among the members of the company and to be read out at the meeting. However, the content of latter should be set out in a dignified manner how he has been acting independently and conscientiously through the term of his office and may, in addition, indicate, if he so chooses, his willingness to continue as auditor, if re-appointed by the shareholders.

Thus, the incorporation as an independent professional, made by CA. Smart, while submitting representation under section 140(4)(iii) of the Companies Act, 2013 and indication of willingness of continue as an auditor if reappointed by shareholders, does not leads to solicitation.

(5 MARKS)

**Therefore, CA. Smart will not be held guilty for professional misconduct under Clause (6) of Part I of First Schedule to the Chartered Accountants Act, 1949.**

(1 MARK)

## ANSWER-B

**Submitting Wrong Information to the Institute** : As per Clause (3) of Part II of the Second Schedule to the Chartered Accountants Act, 1949, a member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct if he 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.

In the instant case, Mr. P and Mr. Q, partners of M/s PQ & Co., included the name of Mr. R, another Chartered Accountant, as partner in their firm, without his knowledge, in their application for empanelment as auditor of branches of Public Sector Banks submitted to the Institute. However, such a member was not a partner of the said firm as on the date of application submitted. Here, Mr. P and Mr. Q have submitted wrong information to the Institute.

(3 MARKS)

**Therefore, Mr. P and Mr. Q, both, would be held guilty of professional misconduct under Clause (3) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.**

(1 MARK)

### ANSWER-3

### ANSWER-A

**Specific Permission to be Obtained** : As per **Clause (11) of Part I of First Schedule** to the Chartered Accountants Act, 1949, a **Chartered Accountant in practice will be deemed to be guilty of professional misconduct if he engages in any business or occupation other than the profession of Chartered Accountant unless permitted by the Council so to engage.**

In the instant case, CA. Aman took over as the executive chairman on 01.04.2016 and applied for permission later. Based on the given facts, he was engaged in other occupation, after 01.04.2016 and before the application for approval, without the permission of the Council. **Therefore, CA. Aman is guilty of professional misconduct in terms of Clause (11) of Part I of First Schedule to the Chartered Accountants Act, 1949.**

(4 MARKS)

### ANSWER-B

**Delegation of Authority to the Employee** : As per **Clause (12) of Part I of the First Schedule** of the Chartered Accountants Act, 1949, a Chartered Accountant in practice is deemed to be guilty of professional misconduct "If he 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".

In this case CA. 'A' proprietor of M/s A & Co., went to abroad and delegated the authority to another Chartered Accountant Mr. Y, his employee, for taking care of routine matters of his office who is a member of the Institute of Chartered Accountants but not his partner.

The Council has clarified that **the power to sign routine documents on which a professional opinion or authentication is not required to be expressed may be delegated and such delegation will not attract provisions of this clause 12** for example issue of audit queries during the course of audit, asking for information or issue of questionnaire, attending to routing matters in tax practice, subject to provisions of Section 288 of Income Tax Act etc.

- (i) In the given case, Mr. 'Y', a chartered accountant being employee of M/s A & Co. has issued audit queries which were raised during the course of audit. Here 'Y' is right in issuing the query, since the same falls under routine work which can be

delegated by the auditor. Therefore, **there is no misconduct in this case as per Clause (12) of Part I of First schedule to the Act.**

- (ii) In this instance, Mr. "Y", CA employee of the audit firm M/s A & Co. has attended the Income tax proceedings for a client as authorized representative before Income Tax Authorities. Since the council has allowed the delegation of such work, the chartered accountant employee attend to routine matter in tax practice as decided by the council, subject to provisions of Section 288 of the Income Tax Act. Therefore, **there is no misconduct in this case as per Clause (12) of Part I of First schedule to the Act.**

(6 MARKS)

**ANSWER-4**

**ANSWER-A**

**Tax Consultant: Section 7 of the Chartered Accountants Act, 1949 read with Clause (7) of Part I of the First Schedule to the said Act prohibits advertising of professional attainments or services of a member.** It also restrains a member from using any designation or expression other than that of a chartered accountant in documents through which the professional attainments of the member would come to the notice of the public. Under the clause, use of any designation or expression other than chartered accountant for a chartered accountant 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 recognised by the Central Government or the Council. Thus, it is improper to use designation "Tax Consultant" since neither it is a degree of a University established by law in India or recognised by the Central Government nor it is a recognised professional membership by the Central Government or the Council.

**Cost Accountant:** As stated in the preceding paragraph, this would also **constitute misconduct under section 7 of the Act read with Clause (7) of Part I of the First Schedule to the Chartered Accountants Act, 1949.** A chartered accountant in practice cannot use any other designation than that of a chartered accountant. Nevertheless, a member in practice may use any other letters or descriptions indicating membership of accountancy bodies which have been approved by the Council. Thus, it is improper for a chartered accountant to state in his documents that he is a "Cost Accountant". However as per the Chartered Accountants Act, 1949, the Council has resolved that the members are permitted to use letters indicating membership of the Institute of Cost and Works Accountants but not the designation "Cost Accountant".

(4 MARKS)

**ANSWER-B**

**Circulating Information Contained in Own Website :** As per **clause (6) of Part I of the First Schedule** to the Chartered Accountants Act, 1949, a **Chartered Accountant in practice is deemed to be guilty of professional misconduct if he solicits clients or professional work either directly or indirectly by circular, advertisement, personal communication or interview or by any other means.**

However, the guidelines approved by the council of the Institute of Chartered Accountants of India permit creation of own website by a chartered accountant in his or his firm name and no standard format or restriction on colors is there. The chartered accountant or firm, as per the guidelines, should ensure that 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.

Further, **members are not required to intimate the Website address to the Institute.** Members are only required to comply with the Website Guidelines issued by the Institute in this regard.

**(5 MARKS)**

In the given case, Mr. Brilliant has circulated the information contained in the website through E – mail to public at large. **Therefore, he is guilty of professional misconduct under clause (6) of Part I of the First Schedule to the said Act.** However, there is no such misconduct for not intimating website address to the Institute.

**(1 MARK)**

#### **ANSWER-5**

- 1.A**
- 2.C**
- 3.D**
- 4.C**
- 5.B**
- 6.C**
- 7.C**