

Disciplinary Guidelines and Range of Penalties-March 2017

1. Council sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon practitioners guilty of violating the Institute's Code of Ethics and professional conduct or any other professional breaches considered by ICAM. The purpose of the disciplinary guidelines is to give notice to members of the range of penalties which will normally be imposed upon violations of particular provisions of code. The disciplinary guidelines are based upon a single count violation of each provision listed. All penalties at the upper range of the sanctions set forth in the guidelines, i.e., suspension, exclusion from membership, etc., include lesser penalties, i.e. fine, or reprimand which may be included in the final penalty at the committee's discretion.

2. The following disciplinary guidelines shall be followed by the Disciplinary Committee in imposing disciplinary penalties upon licensees for violation of the below mentioned statutes and rules:

BREACH	PENALTY RANGE	
	MINIMUM	MAXIMUM
2.1 Contravenes or fails to comply with any provision of the Act with which it is his duty to comply;	Severe reprimand	Suspension from membership
2.2 Contravenes or fails to comply with any provision of any other Act with which it is his duty to comply in his capacity as an accountant and auditor to an undertaking or in doing work of a type commonly performed by a registered accountant or auditor;	Severe reprimand	Suspension from membership
2.3 Commits any offence involving dishonesty and in	Suspension	Exclusion from membership

particular theft, fraud perjury, bribery or corruption.		
2.4 Without reasonable cause or excuse, and subject to the proviso to Section 20 (7) of the Act, fails to perform any work or duties commonly performed by a registered accountant and auditor with such degree of care and skill as in the opinion of the disciplinary committee may reasonably be expected;	Reprimand and a fine of K400,000	Severe reprimand with a fine of K1,000,000
2.5 With intent to evade or to assist any other person to evade any tax, duty, levy, or rate, whatsoever .	Reprimand and a fine of K400,000	Severe reprimand with a fine of K1,000,000
2.6 Knowingly or recklessly prepares or makes, or assists any other person to prepare or make any false statement (whether such statement be oral or in writing); or	Reprimand and a fine of K400,000	Severe reprimand with a fine of K1,000,000
2.7 Knowingly or recklessly prepares or maintains any false book of account or other records.	Reprimand and a fine of K400,000	Severe reprimand with a fine of K1,000,000
2.8 Divulging to any third party, any confidential information obtained in the course of professional relations with any client or employer.	Reprimand and a fine of K400,000	Severe reprimand with a fine of K1,000,000

2.9 Solicits by personal canvass, by correspondence, by circulars, by offering or paying a reward or any other means, professional work or any other work of a type commonly performed by a registered accountant and auditor;	Reprimand and a fine of K400,000	Severe reprimand with a fine of K1,000,000
2.10 Fails to reply to correspondence within a reasonable period of time without reasonable cause or excuse;	Reprimand	Severe reprimand with a fine of K200,000
2.11 Fails to pay membership fees of the Institute by due date without reasonable cause or excuse;	Reprimand	Exclusion from membership
2.12 Allows to be issued circulars or other documents in contravention to guidelines contained in the IFAC Code and its explanatory forewords;	Reprimand and a fine of K400,000	Severe reprimand with a fine of K1,000,000
2.13 Fails to comply with the requirements of Section 210 of the Code and its explanatory foreword on conditions for superseding another accountant;	Reprimand and a fine of K400,000	Severe reprimand with a fine of K1,000,000
2.14 Fails to discharge his financial obligations;	Reprimand and a fine of K400,000	Severe reprimand with a fine of K1,000,000
2.15 Conducts himself in a manner which is	Severe Reprimand with a fine of K600,000	Exclusion from membership

discreditable on the part of an accountant and auditor which tends to bring the profession of accounting into disrepute or which contravenes or is not in keeping with the intentions expressed in other statements of Professional Ethics adopted by the Institute;		
2.16 Member disciplined by another jurisdiction;	Same penalty as imposed in other jurisdiction or imposition of same range of penalties as those set forth in those rules for the same type of violation.	Exclusion from membership
2.17 Criminal conviction relating to accountancy or any other criminal conviction;	Suspension for two (2) years and K1,000,000 fine	Exclusion from membership
2.18 Knowingly making or filing a false report;	Reprimand one (1) year suspension and a K800,000 fine.	Exclusion from membership and a K800,000 fine.
2.19 Fraudulent, false, deceptive or misleading advertising;	Letter of guidance	Reprimand and a K400,000 fine.
2.20 Fraud, deceit or misleading conduct;	Reprimand, one (1) year suspension; and K800,000 fine	K1,000,000 fine and exclusion from membership
2.21 Negligence or misconduct	Letter of Guidance	Severe Reprimand and a K800,000 fine
2.22 Failure to adhere to technical standards and professional competence;	Reprimand with a fine of K400,000 and a letter of guidance.	Severe Reprimand with a fine of K1,000,000
2.23 Lack of independence;	Reprimand	Severe reprimand
2.24 Failure to adhere to the Institute's CPD policy requirements;	Reprimand	Severe reprimand

2.25 Practicing on suspended or revoked license;	Revoke licence if previously suspended; refer to State Attorney if previously revoked	
2.26 Failure to pay fines or administrative costs imposed by the Disciplinary Committee;	Reprimand and a fine of K400,000	Severe reprimand with a fine of K1,000,000
2.27 Give false or forged evidence to any authority or client;	Reprimand and a fine of K400,000	Severe reprimand with a fine of K1,000,000
2.28 Using misleading or deceptive name;	Reprimand and a fine of K400,000	Severe reprimand with a fine of K1,000,000
2.29 Employ unlicensed persons to practice public accounting; aiding or assisting unlicensed practice public accounting.	Reprimand and a fine of K400,000	Severe reprimand with a fine of K1,000,000

The Disciplinary Committee has the discretion to interpret this guideline or apply the same to any case not listed herein.

All monetary penalties shall be adjusted with at the rate of the annual increase of the Institute's subscription fees in the particular year.

The Disciplinary Committee shall be entitled to deviate from the above-mentioned guidelines upon a showing of aggravating or mitigating circumstances by clear and convincing evidence presented to the Committee prior to the imposition of a final penalty.

Aggravating circumstances; circumstances which may justify deviating from the above set forth disciplinary guidelines and cause the enhancement of a penalty beyond the maximum level of discipline in the guidelines shall include but not be limited to the following:

- i. History of previous violations of the practice act and the rules promulgated thereto.
- ii. In the case of negligence; of the magnitude and scope of the engagement and the damage inflicted upon the general public by the licensee's misfeasance.
- iii. Multiple convictions.

Mitigating circumstances; circumstances which may justify deviating from the above set forth disciplinary guidelines and cause the lessening of a penalty beyond the minimum level of

discipline in the guidelines shall include but not be limited to the following:

- i. In cases of negligence, the minor nature of the engagement in question and lack of danger to the public or client or the profession.
- ii. Lack of previous disciplinary history in this or any other jurisdiction wherein the licensee practices his profession.
- iii. Restitution of any damages suffered by the licensee's client.
- iv. Steps taken by the licensee or his firm to insure the non-occurrence of similar violations in the future.
- v. The degree of financial hardship incurred by a licensee as a result of the imposition of fines or the suspension of his practice.

Updated by Council
17 March 2017

Signed:



Henry Chowawa

President: For Council