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THE INSTITUTE OF CHARTERED ACCOUNTANTS OF NIGERIA | Accuracy and Integrity

DISCIPLINARY PROCEDURE OF THE INSTITUTE

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INVESTIGATING PANEL

PROCEDURAL

RULES AND GUIDELINES

TABLE OF CONTENTS

PART ONE

DISCIPLINARY PROCEDURE OF THE INSTITUTE

- 1.0 Introduction
- 2.0 Processes Adopted at the Investigating Panel
- 3.0 Processes Adopted at the Disciplinary Tribunal

PART TWO

INVESTIGATING PANEL PROCEDURAL RULES AND GUIDELINES

- 1.0 MEETINGS
- 2.0 COMPLAINTS AGAINST A MEMBER OF THE INSTITUTE
- 3.0 LITIGATION
- 4.0 ALTERNATIVE DISPUTE RESOLUTION
- 5.0 CONFIDENTIALITY
- 6.0 DECISIONS OF THE PANEL
- 7.0 SERVICE OF DOCUMENTS
- 8.0 INTERVIEWS
- 9.0 PANEL REPORTS
- 10.0 MINUTES OF MEETINGS AND ATTENDANCE REGISTER
- 11.0 REPORT OF PANEL'S ACTIVITIES
- 12.0 WITHDRAWAL OF COMPLAINTS
- 13.0 AMENDMENTS

PART ONE

1.0 INTRODUCTION

- 1.01 The Institute was established by Act of Parliament No. 15 of 1965 (Cap 185 Laws of the Federation of Nigeria 1990).
- 1.02 This publication is to enlighten members on the processes adopted by the Institute when cases of professional misconduct are alleged against any member by the general public.
- 1.03 High ethical standards can be sustained if sanctions are imposed when behaviours and actions considered unbecoming and not measuring up to the standards of ethics set by the Institute are exhibited by members.

2.0 PROCESSES ADOPTED AT THE INVESTIGATING PANEL

- 2.01 Section 11(3) of the Institute of Chartered Accountants of Nigeria Act (hereinafter referred to as "The Act") creates the Accountants' Investigating Panel and it has the duty of:
 - a) Conducting a preliminary investigation into any case where it is alleged that a member has misbehaved in his/her capacity as an accountant, or should for any other reason be the subject of proceedings before the Tribunal; and
 - b) Deciding whether the case should be referred to the Tribunal or concluded.
- 2.02 The processes adopted by the Investigating Panel are as follows:
 - a. Where a complaint is received by the Institute alleging a case of professional misconduct against a member of the Institute, such complaint shall be referred to the Investigating Panel for necessary action.
 - b. Where there is a media report alleging professional misconduct on the part of a member, the Institute shall request for a formal complaint from the person or body making the allegation by way of a sworn affidavit.
 - c. The Panel at the conclusion of the case has the duty of referring the matter to the Tribunal if it finds the case referable or if need be adopt alternative dispute resolution, or concluding the case if it lacks merit.

3.0 PROCESSES ADOPTED AT THE DISCIPLINARY TRIBUNAL

- 3.01 The Accountants' Disciplinary Tribunal was created by Section 11(1) of the Act and it is charged with the duty of considering and determining any case referred to it by the Panel and any other case of which the Tribunal has cognizance of under the Act.
- 3.02 The activities of the Tribunal ensure strict compliance with the Professional Code of Conduct and Guide for members as issued by the Institute of Chartered Accountants of Nigeria and the International Federation of Accountants.
- 3.03 The Tribunal is independent of Council as it is recognized under section 316 of the 1999 Constitution of the Federal Republic of Nigeria as a domestic Tribunal known to Law.
- 3.04 The powers of the Accountants' Disciplinary Tribunal are equivalent to that of the High Court because appeals from the Tribunal go to the Court of Appeal. This in other words means that the Institute's Tribunal is a superior Court of Record.
- 3.05 An appeal against the decision of the Tribunal, properly brought, shall operate as a stay against the judgment of the Tribunal pending the outcome of the decision of the Court of Appeal and the Supreme Court on further appeal thereto.

PART TWO

ACCOUNTANTS' INVESTIGATING PANEL

PROCEDURAL RULES AND GUIDELINES MADE PURSUANT TO PARAGRAPH 6 OF THE 3RD SCHEDULE TO THE ICAN ACT, CAP 185 LFN 1990

1.0 MEETINGS

- 1.01 A notice of meeting accompanied with an agenda shall be delivered to all Panel members at least seven days before the date stipulated in the notice for the meeting.
- 1.02 Where a member is unable to attend a meeting and a subsequent date is fixed for the next meeting, the new date shall be communicated to that member immediately, either by telephone or an informal note before sending the official seven days notice to all members.
- 1.03 The quorum for the Investigating Panel meeting shall be three consisting of two Council members and one other member.
- 1.04 A Joint Investigating Panel meeting shall be convened quarterly and the quorum shall be five of whom at least one member shall be from each Panel.

2.0 COMPLAINTS AGAINST A MEMBER OF THE INSTITUTE

- 2.01 Complaints to the Institute shall come by way of sworn affidavit by the Complainant accompanied by all supporting documents. The Panel shall not investigate any complaint not brought by way of a sworn affidavit in as much as the Institute has duly notified the Complainant.
- 2.02 Where a complaint is received by the Institute alleging a case of misconduct against a member of the Institute, such complaint shall be referred to the Investigating Panel for necessary action.
- 2.03 When an allegation is brought to the attention of the Institute by the media, the Institute should request for a formal complaint from the person or body making the complaint in same manner by swearing to an affidavit accompanied by all supporting documents. The Panel shall thereafter investigate such a case and request for the response of the member. The Panel shall not investigate any complaint not brought through sworn affidavit.
- 2.04 Media allegations are mere suspicions. Panel shall endeavour to be neutral and unbiased to avoid falling prey to possible sensational matters by the media. Where the person or body making the allegation in the media does not respond to the Panel's enquiries after two reminders, the Panel will strike the matter out of its list for lack of diligent prosecution.

- 2.05 A member against whom a complaint has been made other than deriving from an ongoing investigation of a complaint with which he/she is concerned as a witness or complainant shall be requested by the Investigating Panel to present his/her defence or reaction to the complaint or allegation within fourteen (14) days of the receipt of the request to do so.
- 2.06 If the member fails to respond within the specified time, a reminder shall be sent to him/her requesting him/her to send his/her defence/reaction seven (7) days after the receipt of the reminder.
- 2.07 If no response is received after the two notices, a newspaper advert shall be inserted, advising him/her of the nature of the complaint and demanding his/her immediate attention, failing which the matter would be referred to the Tribunal for disrespect to the Institute.
- 2.08 Where a member cannot be reached through his/her last known address, such member's name may be advertised in the media requesting him/her to appear before the Investigating Panel.
- 2.09 The Panel may dispense with the period of notices specified above partly or wholly where in the course of an investigation, it becomes just and appropriate in its view to do so.
- 2.10 Where a non-member (person or body) fails to respond after the two notices have been sent to him/her, the Panel shall be entitled to rely on the facts and evidence available.
- 2.11 The Panel shall be at liberty to re-open any matter upon receipt of fresh evidence or information if in the opinion of the Panel it is just to do so.
- 2.12 All correspondences, documents and/or annexures to be sent to the Panel by a Complainant or Respondent shall be in seven sets or copies to facilitate an expeditious investigation of the complaint.
- 2.13 Where a member is known to be out of the country temporarily or permanently, the Panel would make reasonable efforts to communicate with him at his/her overseas address, or his/her last known address. If a member fails/neglects to notify the Institute of a temporary or permanent change in his/her address, the Panel shall deem the address on the records of the Institute as the current address for the purpose of service of correspondences and notices.
- 2.14 There shall be no public disclosure of names of members under investigation except as stated in Paragraphs 2.07 and 2.08 of this Procedural Rules.
- 2.15 Some facts may lead to criminal prosecution and at the same time constitute infamous conduct and/or professional misconduct. In such circumstances, the Panel shall deal with matters bordering only on infamous conduct and/or professional misconduct.
- 2.16 The provisions and/or procedures contained above shall apply to all other requirements or directives of the Panel to a member so that failure or neglect by the member to abide by the

requirements or directives shall be treated as disrespect to the Institute, and is sanctionable by the Disciplinary Tribunal.

- 2.17 The Panel members shall refrain from dealing with matters that are not covered by the Institute's Professional Code of Conduct and Guide for Members.

3.0 LITIGATION

- 3.01 If any party to a matter before the Investigating Panel institutes a legal action against the other party on the same facts and issues, the Panel as soon as it becomes aware of such step by an interlocutory application or restraining order from the Court, shall contest the interlocutory application or suspend further action on the matter pending the outcome of the legal proceedings or a successful contest or discharge of the Court order. However, where there is no such restraining order, the Panel shall carry on its duties as aforesaid.

4.0 ALTERNATIVE DISPUTE RESOLUTION (ADR)

- 4.01 The Panel may constitute an Ad Hoc Committee to mediate in cases before it with the consent of the parties in dispute.

5.0 CONFIDENTIALITY

- 5.01 All Panel members shall refrain from discussing cases pending before the Panel with non-members of the Panel or outside the Panel sessions.

- 5.02 Confidentiality does not necessarily preclude a member of the Panel or the Panel itself from seeking the opinion, advice or assistance of other members or other appropriate professionals, but this should be done sparingly and with discretion.

- 5.03 A Panel member having any interest whatsoever in a case before his/her Panel, or having any connection or relationship with any of the parties involved in a case, shall declare his/her interest or connection with regards to the case as soon as he/she becomes aware that such case is pending before his/her Panel. Such a member shall not participate in the investigation of the case.

6.0 DECISIONS OF THE PANEL

- 6.01 The decision of majority of members present either physically or through a virtual platform at any meeting shall be the official decision of the Panel in respect of the issue(s) decided upon for all purposes, and all documents or correspondences emanating from the Panel except the Panel's Concluding Report on a case, shall be signed by the Secretary of the Panel.

7.0 SERVICE OF DOCUMENTS

- 7.01 The Secretary to the Panel shall keep proper record of all documents and correspondences received from or sent to parties by the Panel as well as proofs of service of such documents or correspondences. The mode of service of such documents or correspondences shall be by registered post or recorded delivery unless the Panel directs otherwise. The Panel may also use E-mail, text messages or telephone as modes of service.
- 7.02 Where a party refuses to acknowledge the receipt of any correspondence from the Investigating Panel or refuses to receive same, the dispatch clerk or whoever undertook the service of such correspondence shall depose to an affidavit indicating such fact.

8.0 INTERVIEWS

- 8.01 In appropriate cases, the Panel may invite the parties for interview or interviews and the parties shall attend.
- 8.02 Where a non-member fails to honour the Panel's invitation, the Panel shall proceed with the facts and evidence available.
- 8.03 Where a member fails to honour the Panel's invitation or request, the member shall be referred to the Disciplinary Tribunal for disrespect to the Institute.
- 8.04 Where a member of the Institute attempts to or actually wilfully misleads the Panel or wilfully makes a false statement or assertion, with the intention that the Panel should act thereupon, such a member shall be referred to the Tribunal for misconduct.
- 8.05 Where parties are invited for interview, the Panel shall provide audio or other recording facilities to cover such proceedings.
- 8.06 Parties before the Panel may obtain transcripts or copies of such proceedings on such terms and conditions as the Panel may decide. The Panel's record of such proceedings shall be final.
- 8.07 Interviews may be conducted in a physical location or online through virtual platforms. Interviews may also be conducted in a physical location and online at the same time.

9.0 PANEL REPORTS

- 9.01 At the conclusion of its investigation into any case of alleged professional misconduct, the Panel shall write a report of its findings, which shall be signed by the Chairman.
- 9.02 Where a case is referred to the Disciplinary Tribunal, the Panel's report shall so specify, and in addition shall also specify the basis for such reference to the Tribunal.

- 9.03 Where a case is referred to the Tribunal, the Panel's report which shall include all relevant correspondences and replies thereto shall be forwarded by the Panel's Secretary to the Registrar/Chief Executive immediately after the Report is signed by the Chairman with a covering letter, acknowledged copy of which letter shall be endorsed to the Tribunal members and the Panel Chairman for their information.
- 9.04 Where a case is not referable to the Tribunal, the report shall so specify, and in addition shall also specify the basis for non-reference to the Tribunal
- 9.05 In all cases, a copy of the Panel's conclusions to refer or not to refer a case to the Tribunal shall be embodied in the report, which shall be signed by the Chairman. It shall also be sent by the Secretary of the Panel within 3 working days from the date the report is signed, to the Complainant and the Respondent, and to any other relevant party as may be deemed necessary by the Panel.

10.0 MINUTES OF MEETINGS AND ATTENDANCE REGISTER

- 10.01 The Panel shall keep minutes of all its meetings.
- 10.02 The Chairman and Secretary of the Panel shall sign all minutes of meetings after adoption.
- 10.03 The Panel shall keep an attendance register and every member shall sign his/her name on the register at every meeting.

11.0 REPORT OF PANEL'S ACTIVITIES

- 11.01 The Secretary to the Panel shall prepare a quarterly report of the activities of the Panel for the Panel members only, and if the Panel so decides, for any other persons or organs and in the formats as the Panel may decide from time to time.
- 11.02 No report of the Panel shall go to any persons or organs without the approval of the Panel.
- 11.03 With regards to cases pending before the Investigating Panel, administrative matters that do not affect the determination of the real issues under investigation shall be promptly treated by the Secretary to the Panel, who shall report such actions to the Chairman and the Panel for information.

12.0 WITHDRAWAL OF COMPLAINTS

- 12.01 A Complainant who is a member of the Institute may not be at liberty to withdraw a complaint, once it has been lodged with the Panel.

12.02 A Complainant who is a member of the Institute and who seeks to withdraw a complaint may be investigated by the Panel for possible breach of the Professional Code of Conduct and Guide for Members by so doing.

13.0 **AMENDMENTS**

13.01 This Procedural Rules and Guidelines may be reviewed from time to time by all the members of the Panel and such amendments which shall be published in the next edition of the Institute's Journals and posted on the website, shall take effect from the date approved by the Panel.

APPROVED THIS 22ND DAY OF JULY, 2020