

IN THE MATTER OF

A Complaint made under section 34(1) of the Professional Accountants Ordinance, Cap. 50

BETWEEN

The Practice Review Committee of the
Hong Kong Institute of
Certified Public Accountants

COMPLAINANT

AND

Li Sau Ying (Membership no. A05618)

RESPONDENT

Before a Disciplinary Committee of the Hong Kong Institute of Certified Public Accountants

Members: Mr. Kaung Wai Ming Alexander (Chairman)
Mr. Lam Wai Chin Raymond
Mr. Lam Sze Cay Kevin
Mr. Wong Yue Ting Thomas
Mr. Ng Chi Keung Victor

Date of substantive hearing: 14 January 2020

Date of Reasons for Decision: 5 March 2020

DECISION ON SANCTIONS AND COSTS

1. On 5 March 2020, the Disciplinary Committee found against the Respondent on three complaints that had been made against her under section 34(1) of the Professional Accountants Ordinance (Cap. 50) (“PAO”), relating to audit reports which the Respondent had issued which blatantly contravened applicable auditing standards, and significant deficiencies in the Respondent’s system of quality control and audit engagements.
2. The first complaint was concerned with audit reports the Respondent had issued which clearly did not comply with various applicable auditing standards. The Disciplinary Committee found the complaint established and that the Respondent had committed

professional misconduct. Amongst other things, the Disciplinary Committee observed that the Respondent had a blatant disregard for the requirements of professional standards, had failed to discharge her responsibility as a practising CPA and failed to uphold her statutory duty, had displayed a lack of sufficient understanding of professional standards and a lack of professional competence, and had displayed an inability to properly discharge her responsibilities as an auditor.

3. The second complaint was concerned with deficiencies in the audit procedures which the Respondent had adopted. The Disciplinary Committee found that the Respondent had deviated from or ignored applicable auditing standards without justification, that the complaint had been established, and that the Respondent had failed to maintain her professional knowledge and skill at a level required to ensure her clients received competent professional services. Again, the Disciplinary Committee observed that the Respondent lacked awareness of professional standards and lacked appreciation of what her professional responsibilities were, why those standards had been put in place and why they ought to be complied with.
4. The third complaint was concerned with deficiencies in the Respondent's quality control system. The Disciplinary Committee found the complaint established and that the Respondent had failed or neglected to observe, maintain or otherwise apply a professional standard.
5. The Disciplinary Committee has received and considered the written submissions on sanctions and costs of both the Complainant and the Respondent.
6. The Disciplinary Committee is mindful that the objects of the Institute are to (a) regulate the practice of the accountancy profession, (b) represent the views of the profession and to preserve and maintain its reputation, integrity and status, and (c) to discourage dishonourable conduct and practices by certified public accountants. Hence, even if the failures are not shown to have resulted in significant actual harm, the Disciplinary Committee considers that the sanction ought also to be sufficient to serve the purposes of (i) protecting the public interest, (ii) deterring non-compliance with professional standards, (iii) maintaining and promoting public confidence in the profession, and (iv) upholding proper standards of conduct and performance.
7. The Disciplinary Committee has already found that:-
 - (i) The Respondent's disregard for professional standards, which was deliberate or at the very least reckless, amounted to serious professional misconduct.
 - (ii) The Respondent failed to uphold the fundamental principle of professional competence and due care in carrying out her audits and to ensure that her practice had an effective quality control system.
8. The Complainant argues that given the Respondent's disregard for regulatory requirements and the lack of professional competence she displayed, which have a detrimental effect on confidence in the profession, the Respondent's failures should be considered very serious and the sanction to be imposed ought to be correspondingly severe.

9. The Respondent's breaches were systematic in nature and reflective of the approach which the Respondent adopted with respect to her entire practice. The Respondent's explanations showed that she deliberately adopted such an approach as she considered that all of her audit clients were small, privately held companies and hence she could avoid having to perform all the audit procedures required by the relevant accounting standards, and she also rationalised her approach by saying that it was in her clients' interests.
10. Throughout these proceedings, the Respondent has not denied that she departed from auditing standards, but has consistently argued that what she did was not serious and that the auditing standards served no useful purpose and/or ought not to apply to the audits that she conducted. The Disciplinary Committee agrees with the Complainant that the Respondent's attitude throughout has not only demonstrated a fundamental misconception of the role of an auditor, but also a driven determination on her part to disregard them. As the Complainant has put it, even in light of the Disciplinary Committee's findings against her, the Respondent has demonstrated "a lack of self-reflection and unwillingness to accept responsibility". That being the case, it is no surprise that despite being given the opportunity to do so, the Respondent did not advance much, if any, in the way of submissions in mitigation.
11. In her submissions on sanctions and costs, the Respondent continued to exhibit the same regrettable attitude towards her breaches as she had displayed throughout these disciplinary proceedings. Simply put, the Respondent said that she did not accept that she ought to be judged based on whether she had complied with the procedures set out in the applicable auditing standards, and that she ought only to be judged based on whether any adverse consequences could be shown to have resulted from her decisions not to follow the applicable auditing standards. The Respondent further sought to assert that auditing standards existed to cater for complicated audits where there was a high risk of misstatement of financial figures, and ought not to apply to the audits which she conducted. Although the Respondent was given the opportunity to make submissions in mitigation, she chose instead to focus her submissions on why she thought that the Disciplinary Committee ought not to have found against her on the three complaints. In one of the Respondent's submissions, she even asserted that it was the Complainant which did not understand the relevant auditing standards, which had caused her to waste a lot of time and effort in these disciplinary proceedings.
12. The Disciplinary Committee has no hesitation in arriving at the conclusion that a lengthy period of suspension of the Respondent's practising certificate ("PC") is warranted in the circumstances of the present case.
13. For the sake of completeness, the Disciplinary Committee wishes to address the submission which has been made by the Respondent that somehow the fact that the audit clients concerned were small, privately held companies and that no significant actual harm can be shown to have resulted means that the Respondent's breaches were not significant, and ought not to be viewed as raising doubt as to the Respondent's professional competence, or as having a detrimental effect on confidence in the profession.
14. As the Complainant has reminded the Disciplinary Committee, whilst a failure to observe professional standards may be made more egregious when a public company is

involved, it cannot be a reason for letting professional standards slip that an accountant's firm was a small one or his clients were small companies, which proposition was clearly recognised and confirmed by the Court of Appeal in its decision in **HKICPA v Cheung Yiu Hung** [2018] HKCA 463. The Court of Appeal went on to explain the rationale in the following succinct terms:-

"An accountant is accorded the privilege of practice by virtue of membership of his professional body. For that privilege, he has to comply with its standards, whether or not he considers them to be too demanding for him, and whether his firm is big or small, and irrespective of the status of his clients."

15. It is simply not for the Respondent to say that the public interest is not engaged because of the small number and size of the audit clients affected.
16. The Disciplinary Committee has taken into account the fact that any period of cancellation of the Respondent's PC will have a serious impact on the Respondent's livelihood. The Respondent has said that she is 55 years of age, and any sanctions will likely have the result of ending her career.
17. Nevertheless, in view of the seriousness of the breaches, and to ensure that the sanction serves the purposes of (i) protecting the public interest, (ii) deterring non-compliance with professional standards, (iii) maintaining and promoting public confidence in the profession, and (iv) upholding proper standards of conduct and performance, a cancellation of the Respondent's PC is clearly warranted. The Complainant has submitted that the appropriate period of cancellation is a period of at least 30 months. The Complainant has also pointed out that even if the Respondent's PC is cancelled, she would continue to be a member of the Institute and would still be able to carry out work as a professional accountant other than those only a practising member can perform i.e. statutory audits. The Disciplinary Committee considers that an appropriate period of suspension is 36 months and accordingly orders such a suspension of the Respondent's PC. In view of the suspension of the Respondent's PC, the Disciplinary Committee does not consider it necessary to additionally reprimand the Respondent or to additionally impose a financial penalty.
18. The Complainant has submitted a statement of costs in the total amount of HK\$166,644, which includes the costs of the Clerk to the Disciplinary Committee. As previously noted, the Respondent had initially admitted the complaints against her in these disciplinary proceedings, but thereafter withdrew her admission of her own accord, thereby in essence depriving herself of the benefit of the savings in costs which would have resulted from the admission.
19. Adopting a broad brush approach, the Disciplinary Committee orders that the Respondent pay costs in the total sum of HK\$150,000.
20. The Disciplinary Committee accordingly makes the following orders:-
 - (i) That the practising certificate issued to the Respondent be cancelled under Section 35(1)(da) of the PAO, which shall take effect on the 35th day from the date of this Order;

(ii) That no practising certificate be issued to the Respondent for a period of 36 months under Section 35(1)(db) of the PAO, which shall take effect on the 35th day following the date of this Order;

(iii) That the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant (including the costs of the Clerk to the Committee) in the total sum of HK\$150,000 under Section 35(1)(iii) of the PAO, which shall take effect on the 35th day from the date of this Order.

Dated: 6 May 2020

Mr. Kaung Wai Ming
Alexander
Chairman
Disciplinary Panel A

Mr. Lam Wai Chin Raymond
Member
Disciplinary Panel A

Mr. Wong Yue Ting Thomas
Member
Disciplinary Panel B

Mr. Lam Sze Cay Kevin
Member
Disciplinary Panel A

Mr. Ng Chi Keung Victor
Member
Disciplinary Panel B