

Proceedings No. D-16-1196C, D-17-1235C

IN THE MATTER OF

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

BETWEEN

The Registrar of HKICPA

Complainant

AND

Mr. CHAN YUI HANG (F05525)

Respondent

Disciplinary Committee:

Mr. WONG, Tim Wai (Chairman)

Ms. SO, Man Wah, Miranda

Mr. SHUM, Hon Wo

Mr. GUEN, Kin Shing

Mr. FUNG, Ying Wai, Wilson

Date of Hearing: 16th January 2019 and 20th May 2019

Date of Decision: 13th November 2019

DECISION

1. This is a complaint made by the Registrar of the Hong Kong Institute of Certified Public Accountants as the Complainant against Chan Yui Hang ("Mr. Chan") as the Respondent pursuant to Section 34(1A) of the Professional Accountants Ordinance Cap. 50 ("PAO") relating to alleged failure to comply with various legal and ethical requirements in carrying out liquidation work undertaken by the Respondent for a watch case manufacturing company, namely LECO Watch Case Manufactory Limited ("LECO"), since December 2012.

Background and Undisputed Facts

2. The Complainant investigated the work undertaken by Mr. Chan in respect of LECO's voluntary liquidation since December 2012.
3. Mr. Chan is a certified public accountant. Mr. Chan was engaged by LECO as the sole liquidator of LECO to conduct the liquidation work of LECO.
4. LECO was a private company incorporated in Hong Kong.

The Complaints

5. There are altogether 5 complaints against Mr. Chan.
6. The Committee considers that if any one charge is substantiated, the Respondent will be convicted together and vice versa. It is on this basis that each complaint will be considered and analysed. The Committee has considered each complaint separately and distinctly based on the evidence relevant to that complaint only.
7. The Committee adopts the civil standard of proof on a balance of probabilities with the burden of proving each complaint on the Complainant.
8. The term "the Respondent" shall be used to refer to Mr. Chan under the relevant complaints discussed below unless otherwise stated.
9. The 5 complaints are listed below:
 - (1) 1st Complaint: Section 34(1)(a)(vi) of the PAO applies to Mr. Chan in that he failed or neglected to observe, maintain or otherwise apply professional standards as provided in Section 500.5(e) of the Code of Ethics for Professional Accountants ("COE"), as a result of his failure to convene annual creditors' meetings and report his conduct and dealings of the liquidation of LECO for 4 years, or alternatively 3 years, from the date of liquidation of LECO, in breach of Section 247 of the Companies (Winding-Up and Miscellaneous Provisions) Ordinance Cap. 32 ("CO").

- (2) 2nd Complaint: Section 34(1)(a)(vi) of the PAO applies to Mr. Chan in that he failed or neglected to observe, maintain or otherwise apply professional standards as provided in Section 500.5(e) of the COE, as a result of his failure to file his liquidator's statements of account for LECO in time, in breach of Section 284 of the CO.
- (3) 3rd Complaint: Section 34(1)(a)(vi) of the PAO applies to Mr. Chan in that he failed or neglected to observe, maintain or otherwise apply professional standards as provided in Section 500.43 of the COE, as a result of his failure to retain overall control of the work delegated to a consulting firm ADGS Advisory Limited ("ADGS") during LECO's liquidation.
- (4) 4th Complaint: Section 34(1)(a)(vi) of the PAO applies to Mr. Chan in that he failed or neglected to observe, maintain or otherwise apply professional standards as provided in Sections 500.5(e) and/or 500.40 of the COE, as a result of his failure to obtain proper approval by LECO's creditors of his liquidator's fee, in breach of Section 244 of the CO, and hence also failed to report openly and transparently to those with an interest in the outcome of the liquidation.
- (5) 5th Complaint: Section 34(1)(a)(viii) of the PAO applies to Mr. Chan in that he has been guilty of professional misconduct, as a result of his repeated failures to comply with the legal and ethical requirements when he conducted the liquidation work of LECO for several years, as particularized above.

Laws and Principles

10. The complaints were made under Sections 34(1)(vi) and 34(1)(viii) of the PAO alleging that the Respondent has failed or neglected to observe, maintain or otherwise apply the relevant and applicable professional standards and has been guilty of professional misconduct.
11. The complaints refer to various statutory requirements and applicable professional standards. The relevant laws and principles will be referred to in the course of the following reasons in relation to each complaint; but the major ones are set out at the outset hereinbelow.

Statutory Provisions

12. In relation to the 1st – 4th Complaints, Section 247 of the CO stipulates that “(1) In the event of the winding-up continuing for more than 1 year, the liquidator shall summon a general meeting of the company and a meeting of creditors at the end of the first year from the commencement of the winding-up, and of each succeeding year, or at the first convenient date within 3 months from the end of the year or such longer period as the Official Receiver may allow, and shall lay before the meetings an account of his acts and dealings and of conduct of the winding-up during the preceding year. (2) If the liquidator fails to comply with this section, he shall be liable to a fine.”
13. Section 284 of the CO provides that: “(1) If where a company is being wound up the winding-up is not concluded within 1 year after its commencement, the liquidator shall, at such intervals as may be prescribed, until the winding-up is concluded, send to the Registrar a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in and position of the liquidation...(3) If a liquidator fails to comply with this section, he shall be liable to a fine and, for continued default, a daily default fine...”
14. Section 244 of the CO states that: “(1) The committee of inspection, or if there is no such committee, the creditors, may fix the remuneration to be paid to the liquidator or liquidators”.

Professional Standards

15. One of the main professional standards is the COE. This applies to insolvency practitioners.
16. In particular, Section 500.5 of the COE requires that “An insolvency practitioner shall comply with the fundamental principles set out under paragraph 100.5 of this Code. The five fundamental principles are:...(e) Professional Behaviour – to comply with the relevant laws and regulations and avoid any action that discredits the profession.”
17. Other relevant sections include Section 500.40 of the COE which requires that “An insolvency practitioner in the role as office holder

has a professional duty to report openly to those with an interest in the outcome of the insolvency or liquidation. An insolvency practitioner shall report on his acts and dealings as fully as possible having regard to the circumstances of the case, in a way that is transparent and understandable. An insolvency practitioner shall bear in mind the expectations of others and what a reasonable and informed third party would consider appropriate.”

18. Section 500.43 of the COE states that “If any appointment necessitates the employment of agents, an insolvency practitioner shall exercise care to retain overall control of the conduct of the engagement. An insolvency practitioner shall not accept any insolvency or liquidation work as agent of another insolvency practitioner unless satisfied that he has been employed on this basis and the other insolvency practitioner has retained overall control of the conduct of the engagement.”

1st Complaint

19. The 1st Complaint concerns the requirements to convene annual meetings of creditors and report updates of the Respondent’s liquidation work of the preceding year during the meetings for 4 consecutive years from the date of liquidation of LECO as per Section 247 of the CO.
20. Under Section 500.40 of the COE, an accountant acting as a liquidator shall report his acts as fully as possible in an understandable way.
21. Section 247 of the CO requires liquidators to summon annual meetings of the company and creditors within 3 months after the anniversary date of the liquidator for each succeeding year if the liquidation continues for over 1 year. During the annual meetings, it is the duty of the liquidator to report his acts and progress of the liquidation from the previous year. Failure to do so constitutes a criminal offence under Section 247(2) of the CO.
22. Complaints are also laid for the lack of meeting notice for LECO being gazetted.
23. In considering whether the 1st Complaint is substantiated, the question is whether annual creditors’ meetings were held within 3

months of the anniversary dates of liquidation. The anniversary dates are 26th November 2013, 26th November 2014, 26th November 2015 and 26th November 2016. As such, the meetings should be held on or before 25th February 2014, 25th February 2015, 25th February 2016 and 26th February 2017.

The Respondent's Case

24. The Respondent's case is that 3 meetings had been summoned to be held on 14th December 2012, 4th October 2013 and 10th June 2016.
25. The Respondent stated that a meeting was held on 14th December 2012. The gazette notice was stated as "Notice of First Meeting of Creditors". The Respondent said that the first creditors' meeting was chaired by the Respondent with solicitor Mr. Pang Yiu Kwong.
26. The Respondent submitted that there was a gazetted notice dated 27th September 2013 summoning a creditors' meeting. However, the Respondent's letter dated 31st August 2017 stated that the meeting was cancelled because "no body attend" (sic).
27. The Respondent submitted that he had conducted a meeting on 10th June 2016. There was a written notice of the meeting dated 2nd June 2016.

Discussion and Decision of the 1st Complaint

28. The Committee has examined all the documents and evidence provided by the parties.
29. The Committee notes that Rule 114(1) of the Companies (Winding-Up) Rules Cap. 32H ("WUR") provides that "The Official Receiver or liquidator shall summon all meetings of creditors and contributories by giving not less than 7 days' notice of the time and place thereof in the Gazette and in one or more local papers; and shall not less than 7 days before the day appointed for the meeting send by post to every person appearing by the company's books to be a creditor of the company notice of the meeting of creditors, and to every person appearing by the company's books or otherwise to be a contributory of the company notice of the meeting of contributories."

30. Rule 123(2) of the WUR provides that “If within half an hour from the time appointed for the meeting a quorum of creditors or contributories is not present or represented the meeting shall be adjourned to the same day in the following week at the same time and place or to such other day as the chairman may appoint not being less than 7 or more than 21 days, from the day from which the meeting was adjourned.”
31. Rule 130(1) of the WUR provides that “The chairman shall cause minutes of the proceedings at the meeting to be drawn up and fairly entered in a book kept for that purpose or in the file of proceedings and the minutes shall be signed by him or by the chairman of the next ensuing meeting.”
32. The Committee considers that the meeting conducted on 14th December 2012 is irrelevant for the present purposes. This is because the first annual creditors’ meetings should have been held within 3 months of the anniversary date of 26th November 2013 which means on or before 25th February 2014. The first meeting should have been held between 26th November 2013 and 25th February 2014 and therefore should not have been held on 14th December 2012, one year before the anniversary date.
33. Furthermore, it was stated in the gazette notice as “Notice of First Meeting of Creditors” instead of annual meetings of creditors.
34. The Committee is of the view that even if the Committee makes the assumption that the meeting actually took place but nobody attended, the meeting on 4th October 2013 is nonetheless invalid. This is because the meeting was not held within 3 months of the anniversary date of the winding-up. The Respondent had not produced any minutes from the meeting pursuant to Rule 130 of the WUR. Further, Rule 123(2) of the WUR would apply if the meeting was held and nobody was in attendance. Rule 123(2) of WUR provides for steps to be taken such as the meeting should be adjourned to a later date. There is no evidence from the Respondent that Rule 123(2) of the WUR was complied with.
35. The Committee is of the view that the meeting of 10th June 2016 is invalid because the meeting was not held within 3 months of the anniversary of the winding-up. Further, the meeting was not

gazetted pursuant to Rule 114(1) of WUR and no minutes were taken at the meeting pursuant to Rule 130 of the WUR.

36. Furthermore, even though it is the Respondent's case that 3 notices of the meetings were issued, the Committee holds that the Respondent is not credible given that there is no sufficient evidence to support his case.
37. By reason of the above, the Committee concludes that the 1st Complaint is established and the Respondent has failed or neglected to observe, maintain or otherwise apply the relevant and applicable professional standards by failing to convene all 4 of the creditors' meetings as set out above.

2nd Complaint

38. The 2nd Complaint concerns the Respondent's failure to file the Liquidator's Statement of Account in time.
39. If liquidation is not completed within 1 year, Section 284 of the CO and Rule 181 of the WUR dictate that a liquidator shall file his Liquidator's Statement of Account for the first year of liquidation and then half-yearly thereafter. These statements should be filed with the Companies Registry within 30 days from the end of the reporting period.
40. According to the Companies Registry, 6 out of 7 of the Respondent's statements were filed after the requisite deadlines as follows:-
 - (1) The statement of account reporting period between 26th November 2012 and 25th November 2013 was filed 19 days late.
 - (2) The statement of account reporting period between 26th November 2013 and 25th May 2014 was filed 36 days late.
 - (3) The statement of account reporting period between 26th May 2014 and 25th November 2014 was filed 48 days late.
 - (4) The statement of account reporting period between 26th November 2014 and 25th May 2015 was filed 169 days late.

- (5) The statement of account reporting period between 26th May 2015 and 25th November 2015 was filed on 26th November 2015.
 - (6) The statement of account reporting period between 26th November 2015 and 25th May 2016 was filed 122 days late.
 - (7) The statement of account reporting period between 26th May 2016 and 25th November 2016 was filed 22 days late.
41. Failure to file the Liquidator's Statement of Account is a criminal offence under Section 284(3) of the CO.

The Respondent's Case

42. The Respondent explained his failure to file the Liquidator's Statement of Account on time by way of two letters, namely in a letter dated 29th May 2017 and in a letter dated 31st August 2017.
43. In his first letter, the Respondent stated that the management of the liquidation was handled by the consulting firm, i.e. ADGS. It is the Respondent's case that the statement was filed late due to the misunderstanding of ADGS' staff on "receiving the notice of companies of their staff and [the Respondent's] instruction".
44. Significantly, the letter also stated that the Companies Registry had sued the Respondent in 2016, for his delay in filing the statement of account.
45. The Respondent stated in his letter dated 29th May 2017 that the late filing was due to unexpected legal action against the liquidation and "other undisclosed serious matters found or happened during 2013 to 2016".
46. The Respondent's letter dated 31st August 2017 revealed that he had been prosecuted by the Companies Registry for the late filing of the statement for the period ending on 25th May 2015. He filed the statement on 10th December 2015 and was 169 days late. He also suggested in note form that he was fined HK\$5,000 by the court.

Discussion and Decision of the 2nd Complaint

47. The Committee is of the view that Respondent's attempt to justify his failure to file the statements on time are blatant excuses and cannot absolve him from his duty.
48. The Committee considers that the Respondent's explanation suggesting that there was misunderstanding of ADGS does not amount to a valid defence. The Committee notes that this issue is relevant to the 3rd Complaint. Even though the Respondent engaged ADGS, the Respondent was nonetheless responsible for retaining control over the liquidation pursuant to Section 500.43 of the COE, and therefore was accountable for the delays in filing the statements despite the requisite delegation to ADGS.
49. The Committee considers that "unexpected legal actions" also cannot amount to a valid defence. The Respondent's filing of the statements is not dependent on the "unexpected legal actions". The "unexpected legal actions" do not interfere with the filing of the statements and the Respondent could have filed the statements on time regardless of the "unexpected legal actions" and the Respondent could file a subsequent updated statement after the legal action is concluded".
50. As such, the Committee concludes that the 2nd Complaint is established and the Respondent has acted in breach of Section 284 of the CO by failing to file the Liquidator's Statement of Account on time.

3rd Complaint

51. The 3rd Complaint relates to the Respondent's failure to retain overall control of the liquidation in breach of Section 500.43 of the COE.

The Respondent's Case

52. In a letter dated 29th May 2017, the Respondent explained that he had engaged a "large consulting [firm] named ADGS Advisory Limited" to handle some of the liquidation work.

53. In his letter dated 31st August 2017, the Respondent stated that “the control of the works (sic) is proper and up to the budgeted time schedule”. The Respondent enclosed time sheets prepared by ADGS.

Discussion and Decision of the 3rd Complaint

54. In relation to this complaint, Section 500.43 of the COE requires a liquidator to retain control over the liquidation. This means that the Respondent was accountable for the delays in filing the Statements of Account even if he delegated it to ADGS.
55. The Committee considers that the Respondent’s explanation for his failure to retain control over the liquidation, i.e. by filing the Statements of Account late, shows that he failed to retain overall control of the work delegated to ADGS. It is the Committee’s view that this breach is serious as such delays in filing would have deprived LECO’s creditors of the opportunity to review the process of the liquidation on a timely basis.
56. There is no evidence to show that the Respondent had taken steps to retain control. The Committee is of the view that it is difficult to see how the time sheets prepared by ADGS demonstrate that the Respondent had retained control. This is because time sheets merely show that billing records had been kept and do not show that the Respondent retained overall control of the liquidation.
57. The Committee concludes that there is a breach of Section 500.43 of the COE as the Respondent failed to retain overall control of the liquidation whilst delegating it to ADGS.

4th Complaint

58. The 4th Complaint concerns the Respondent’s failure to obtain approval of creditors for his liquidator’s fees (“the Liquidator’s Fees”), in breach of Section 244 of the CO and Sections 500.5(e) and/or 500.40 of the CE.
59. In relation to this complaint, a sum of HK\$4,720,943.18 was paid out of the fund of LECO for the Liquidator’s Fees, as stated in the Respondent’s first Liquidator’s Statement of Account filed with the Companies Registry on 13th January 2014 (“Liquidator’s Statement of Account”).

60. Some creditors of LECO alleged that they had never approved the Liquidator's Fees. Creditors also alleged that no Committee of Inspection had been formed and that the agenda of LECO's first creditors' meeting did not include approving the Liquidator's Fees. It was stated in the Respondent's letter dated 31st August 2017 that over HK\$4 million was paid out as Liquidator's Fees.

The Respondent's Case

61. In a letter dated 27th March 2017, the Respondent explained that the Liquidator's Fees were approved by the majority creditors during the first creditors' meeting and was "recorded as a resolution of the meeting".
62. The Respondent provided a Minutes of the First Creditors' Meeting of LECO held on 14th December 2012 and it is stated, *inter alia* that, "It was resolved that the remuneration of Liquidator is 50% of the realised assets of the Company excluded the investigation cost of Liquidator. The audit for Financial Statement of the Company is not required. (sic)"
63. In his letter dated 31st August 2017, the Respondent stated that the Liquidator's Fees in the amount HK\$4,720,943.18 was paid in accordance with timesheets and billings. The Respondent attached a timesheet prepared by ADGS to his letter dated 31st August 2017 ("the Time Sheet").

Discussion and Decision of the 4th Complaint

64. The issue to be decided by the Committee is whether the Liquidator's Fees have been properly "fixed" by the creditors under Section 244 of the CO, i.e. approved, by the creditors. Thus, the question is whether the creditors have properly approved the hourly rate of the liquidator, whether the specific fees to be charged take into account the number of hours of work and whether the Respondent entitled to 50% of the realised assets of LECO.
65. The Creditor's Guide to Liquidators' Fees produced by the Institute of Chartered Accountants in England and Wales ("the Creditor's Guide") which is relied on by the Respondent helps shed some light on when remuneration approval should be sought. Section 6.1.3 of

the Creditor's Guide states that "where the liquidator seeks agreement to his fees during the course of liquidation, he should always provide an up to date receipts and payment amount. Where the proposed fee is based on time costs the liquidator should disclose to the committee or the creditors the time spent and the charge-out value in the particular case."

66. Section 6.1.4 of the Creditor's Guide states that "where the fee is charged on a percentage basis the liquidator should provide details of any work which has been or is intended to be sub-contracted out which would normally be undertaken directly by a liquidator or his staff".
67. Therefore, according to Section 6.1.3 of the Creditor's Guide, it is imperative for a liquidator to seek agreement for his fees during liquidation and in doing so, the liquidator should provide receipts, payment amount, time spent, and charge out value to enable the committee or the creditors to decide whether to agree to the remuneration. Furthermore, the liquidator should provide details of work which has been or intended to be sub-contracted out pursuant to Section 6.1.4 of the Creditor's Guide.
68. In relation to the Respondent's case that the Respondent was charged with time spent, the Respondent provided the Time Sheet for the period between 14th December 2012 and 26th November 2013 in his letter dated 31st August 2017. However, there is no evidence to show that the Time Sheet had been submitted for approval in any creditors' meeting or filed with the Companies Registry.
69. Further, it is shown from the Liquidator's Statement of Account that there were payments out for the Liquidator's Fees in the amount of HK\$1,000,000 on 3rd April 2013, in the amount of HK\$1,000,000 on 12th April 2013, in the amount of HK\$2,000,000 on 19th June 2013 and in the amount of HK\$720,943.18 on 24th June 2013.
70. As the relevant period of the Time Sheet is from 14th December 2012 to 26th November 2013, it would mean that the Time Sheet was compiled at or after 26th November 2013. Accordingly, the Respondent had already received the said 4 payments when the Time Sheet was issued. In the event that the Respondent merely sought approval from the creditors when or after the Time Sheet was issued,

it would suggest that the Respondent did not acquire prior approval from creditors when the said 4 payments were made.

71. Similarly, the Respondent had already received the said 4 payments when the Liquidator's Statement of Account was issued. In the event that the Respondent merely sought approval from the creditors when or after the Liquidator's Statement of Account was issued, it would suggest that the Respondent did not acquire prior approval from creditors when the said 4 payments were made.
72. On the other hand, there is no evidence to suggest that the Respondent sought the approval of the amounts of the said 4 payments from the creditors at or before the said 4 payments were made.
73. Moreover, in relation to the Respondent's case that "it was resolved that the remuneration of Liquidator is 50% of the realised assets of the Company excluded the investigation cost of Liquidator", the 1st and 2nd payments in the amount of HK\$1,000,000 each were made on 3rd April 2013 and 12th April 2013 respectively. However, based on the calculation of the Liquidator's Statement of Account, it can be shown that the value of the realised assets of LECO up to 12th April 2013 was only HK\$3,602,110.85. Accordingly, the total amount of remuneration of the Respondent when the Respondent made the 2nd payment on 12th April 2013, i.e. HK\$2,000,000 was in excess of 50% of the realised assets of LECO and the Respondent would not have any approval to do the same even relying on the said minutes.
74. Similarly, the 4th payment in the amount of HK\$720,943.18 was made on 24th June 2013. However, based on the calculation of the Liquidator's Statement of Account, it can be shown that the value of the realised assets of LECO up to 24th June 2013 was only HK\$7,452,178.17. Accordingly, the total amount of the remuneration of the Respondent when the Respondent made the 4th payment on 24th June 2013, i.e. HK\$4,720,973.18 was in excess of 50% of the realised assets of LECO and the Respondent would not have any approval to do the same even relying on the said minutes.
75. In any event, the Committee is of the view that it is most unlikely that the parties would have intended that the Liquidator's Fees payable were 50% of the realized assets regardless of the actual

amount of work done; this is because it is unworkable as not all the assets might have been realized.

76. In the premises, the lack of approval from the creditors is aggravated by the absence of any creditors' meeting (i.e. the subject matter of the 1st Complaint). This means that the creditors were completely oblivious as to the progress and developments of the liquidation and the actual fees charged by the Respondent.
77. Accordingly, the Committee held that the Respondent failed to obtain approval of creditors for the Liquidator's Fees. The breach of the law and the manner in which the Liquidator's Fees were obtained would bring discredit to the profession and therefore the Committee concludes that the Respondent has breached Sections 500.5(e) and/or 500.40 of the COE.

5th Complaint

78. The 5th Complaint relates to whether the Respondent has been guilty of professional misconduct under Section 34(1)(a)(viii) of the PAO in reference to the 1st – 4th Complaints.
79. It is unnecessary to repeat the details of the 1st – 4th Complaints here.

The Respondent's Case

80. The Respondent's case is that he denies the 5th Complaint and all claims of professional misconduct in relation to him.
81. The Respondent relied on his explanations for the 1st and 2nd Complaints, namely that the late filing regarding the 1st Complaint was due to unexpected legal action against the liquidation and "other undisclosed serious matter", and that 3 creditors' meetings had been conducted. It is unnecessary to repeat the details of the Respondent's case regarding the 1st and 2nd Complaints again.

Discussion and Decision of the 5th Complaint

82. The Committee considers that the Respondent has breached 3 provisions in the CO, i.e. Sections 247, 284, and 244 of the CO with regard to his duty as the liquidator of LECO. More specifically, the Respondent has breached Sections 247, 284, and 244 of the CO.

Significantly, the evidence shows that the breaches were conducted repeatedly; the Respondent failed to hold 4 creditors' annual meetings and filed the statements of account late 6 times.

83. The Respondent committed a major breach by failing to obtain prior approval from LECO's creditors with regard to the Liquidator's Fees. This is a very serious breach of his obligations as the Liquidator's Fees in the amount of HK\$4.7 million represents about 48% of LECO's total assets.
84. Besides breaching the CO, the Respondent has also breached fundamental provisions in the COE, namely Sections 500.40 and 500.43.
85. As a result of the Respondent's misconduct, the creditors had been left in the dark over the course of the liquidation period as no annual creditors' meeting had been held for 4 years, the liquidator's statements of account had been filed late, and no proper approval of the Liquidator's Fees had been obtained. Thus, the creditors had been oblivious as to the progress and development of the liquidation of LECO.
86. The evidence shown under the 1st – 4th Complaints illustrates the Respondent's repeated failure to comply with the relevant legal requirements whilst carrying out his duties as the sole liquidator for LECO. The Committee finds that this demonstrates the Respondent's disregard for his duty as a liquidator to observe the relevant requirements and to protect the interests of LECO's creditors. The Respondent had failed to safeguard LECO's creditors' funds and had failed to adequately keep LECO's creditors informed of the progress.
87. It is significant that the Respondent had made repeated excuses for his breaches and failures of obligation in an attempt to shift the blame. For instance, the Respondent sought to blame ADGS, whom he himself appointed, for the late filing of the Liquidator's Statement of Account, and for failure to retain overall control over the liquidation process. The Committee is of the view that the Respondent showed a blatant disregard for his obligations. Furthermore, the Respondent attempted to explain his failures in relation to other complaints without providing requisite evidence. His versions were wholly unsupported by valid evidence.

88. Therefore, the Committee is of the opinion that the Respondent had shown blatant disregard for the legal requirements during the 4-year period whilst he was the liquidator of LECO. Breaches of criminal law clearly bring disrepute to the profession, and furthermore, the Committee notes that the Respondent was actually prosecuted by the Companies Registry. There were multiple breaches of professional standards and the relevant rules governing liquidation. The Committee concludes that the Respondent has been guilty of professional misconduct in breach of Section 34(1)(a)(viii) of the PAO.

Further Comments

89. In light of the written and oral submissions made by both parties both before and during the trial it is impossible for the Committee to exhaustively set out every point raised and all evidence referred to.
90. The essential arguments and submissions have been set out in this Decision which the Committee considers sufficient for the Complaints to be resolved. In the circumstances the Committee does not recite all the points of submissions made by the parties in the present Decision. However, the Committee wishes to make clear that it has considered all of the said submissions and all relevant evidence presented in the present case before making the Decision herein.
91. Furthermore, in the course of the trial, points were taken as to the scope of the Complaints. After due consideration the Committee finds that the allegations made by the Complainant and evidence presented in proof thereof fall within the ambit of the Complaints and there is nothing which would have taken the Respondent or their legal team by surprise. The Respondent was able to and had thoroughly dealt with the said allegations in defence. There is in any event no prejudice to the Respondent.

Conclusion

92. In light of the reasons above, the Committee concludes that all 5 complaints are established against the Respondent.

Orders and Directions

93. The Committee makes the following orders and directions:
- (1) all the 5 Complaints are proved against the Respondent;
 - (2) the Complainant shall file and serve a written submission on sanctions and application for costs together with a statement of costs, if any, within 14 days of the service of this Decision;
 - (3) the Respondent shall file and serve a written submission on the sanctions and why costs should not be ordered against the Respondent and on the Complainant's statement of costs within 14 days of service of the Complainant's said written submission under paragraph (2); and
 - (4) the parties are at liberty to apply for any further directions in writing to the Committee.

Mr. WONG, Tim Wai
Chairman

Ms. SO, Man Wah, Miranda
Member

Mr. SHUM, Hon Wo
Member

Mr. GUEN, Kin Shing
Member

Mr. FUNG, Ying Wai, Wilson
Member

Mr. Kenneth Ng, Representative of the Complainant

Miss Karen K. Y. Chan, Counsel instructed by solicitors Messrs. Yu Hung & Co., for the Respondent