

IN THE MATTER OF

The Complaints made under Section 34(1) of the Professional Accountants Ordinance (Cap.50) ("the PAO")

BETWEEN

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

AND

Chan Yui Hang (F05525) RESPONDENT

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

Members: Ms. DOE Julianne Pearl (Chairman)
Ms. POON Suk Ying, Debora
Mr. TANG Shu Pui, Simon
Mr. LI Peter Po-ting
Mr. MAN Mo Leung

Date of Reasons for Decision: 28 February 2023

Date of Decision on Sanctions and Costs: 23 November 2023

DECISION ON SANCTIONS AND COSTS

Introduction

1. On 28 February 2023, the Disciplinary Committee handed down its Reasons for Decision, finding all the complaints made against the Respondent proven. Parties were directed to file their respective submissions on sanctions and costs.
2. The Complainant filed his submission on sanctions and costs on 14 March 2023.
3. On 27 March 2023, the Respondent wrote to the Disciplinary Committee requested for an extension of time of 1 month to file his submission on sanctions and costs due to his illness. His request was granted and the filing deadline was extended to 28 April 2023.
4. On 26 April 2023, the Respondent requested for a second extension of time of around 2 and a half months to file his submission on sanctions and costs due to his illness. His request was granted and the filing deadline was further extended to 16 June 2023.

5. On 16 June 2023, the Respondent requested for a further extension of time of 2 months to file his submission on sanctions and costs due to his illness. After consideration by the Disciplinary Committee, his request was not allowed.
6. The Respondent subsequently filed his submission on sanctions and costs on 19 June 2023.
7. The Disciplinary Committee has received and considered the written submissions on sanctions and costs of both the Complainant and the Respondent.

Sanctions

8. The Respondent was the managing partner of D.C. (CPA) & Associates, Certified Public Accountants (Practising) (the "Practice"). The Respondent was responsible for the Practice's quality control system and for the audits in which he acted as the engagement partner.
9. The complaints were raised based on the findings of a practice review carried out on the Practice and all of the complaints against the Respondent were proven. The Practice had previously been subjected to an initial practice review and the Respondent was aware of the deficiencies then identified. The Respondent not only had failed to address the deficiencies, but had tried to absolve his responsibility as the managing and engagement partner of the Third Respondent by placing the blame on a former audit manager, who was not even an employee of the Practice. The multiple breaches by the Respondent are serious, his lack of regard to take responsibility for the Practice's audit quality and lack of remorse show his disregard of his obligation to comply with professional standards of the audit profession, and are aggravating factors that warrant serious sanctions against him as set out below in paragraphs 13(2) and 13(3) below.
10. Although the Committee notes that the Respondent's practising certificate has been cancelled by the order of the disciplinary proceedings number D-16-1196C and D-17-1235C, the sanction that he is to receive in these proceedings should properly reflect the seriousness of the complaints in these proceedings only.

Costs

11. For the costs of this disciplinary proceedings in the amount of HK\$39,120, the Disciplinary Committee considers that, given that all the complaints were proven against the Respondent, the Respondent shall pay the costs and expenses of and incidental to the proceedings of the Institute (including the costs and expenses of the Disciplinary Committee).
12. As for the costs of the disciplinary proceedings which was deliberated by a different disciplinary committee in 2019 in the amount of HK\$62,207, the Complainant submitted that the Respondent should also bear the costs which was wasted because the Respondent did not properly communicate his situation to the then disciplinary committee and the then disciplinary committee could not locate the Respondent for enquiry. the Respondent argued that the documents he had provided regarding his unfitness to attend the 2019 hearing were not fully and correctly understood and the hearing was proceeded in his absence. Thus, the wasted costs were not incurred due to his fault.

13. The Disciplinary Committee is of the view that whether the Respondent is present or absent from the 2019 hearing did not affect the costs and expenses that had already been incurred in the course of the disciplinary proceedings and in the preparation of the hearing, therefore, the Respondent should pay and the Complainant should be allowed the full costs.

Disciplinary Order

14. The Disciplinary Committee accordingly ordered that:

- (1) The Respondent be reprimanded under section 35(1)(c) of the PAO;
- (2) A practising certificate shall not be issued to the Respondent for a period of 24 months under section 35(1)(db) of the PAO. In view of the fact that the practising certificate of the Respondent has been ordered to be cancelled for 12 months in the disciplinary proceedings number D-16-1196C and D-17-1235C, the 24 months of non-issuance of a practising certificate is to be concurrent with the order of the said proceedings;
- (3) The Respondent do pay the costs and expenses of and incidental to these disciplinary proceedings and the 2019 disciplinary proceedings of the Complainant (including the costs of the Clerk to both Disciplinary Committees) in the total sum of HK\$101,327 under section 35(1)(iii) of the PAO.

This order shall take effect on the 42nd day from the date of this Decision on Sanctions and Costs.

Ms. DOE Julianne Pearl
Chairman

Ms. POON Suk Ying, Debora
Member

Mr. LI Peter Po-ting
Member

Mr. TANG Shu Pui, Simon
Member

Mr. MAN Mo Leung
Member