

IN THE MATTER OF

A Complaint made under section 34(1)(a) and section 34(1A) of the Professional Accountants Ordinance (Cap. 50) (“PAO”) and referred to the Disciplinary Committee under section 33(3) of the PAO

BETWEEN

The Registrar of the Hong Kong
Institute of Certified Public
Accountants

COMPLAINANT

AND

The Respondent

RESPONDENT

Members:

REASONS FOR DECISION

1. This is a complaint made by the Registrar of the Hong Kong Institute of Certified Public Accountants (“the Institute”) as Complainant against the Respondent, who is a certified public accountant. Section 34(1)(a)(ii) of the PAO applied to the Respondent.
2. The particulars of the Complaint as set out in a letter dated 6 December 2012 (“the Complaint”) from the Registrar of the Institute to the Council of the Institute for consideration of the Complaint for referral to the Disciplinary Panels were as follows:-
 - a) On 18 May 2012, the Respondent was found guilty by the Eastern Magistrate Court two counts of fraud contrary to section 16A(1)(a) of the Theft Ordinance, Cap 210. On 8 June 2012, the Respondent was given a probation order for 12 months from 8 June 2012. He had duly behaved during the 12-month period.
 - b) The Respondent's conviction of fraud is a conviction of an offence involving dishonesty for the purpose of section 34(1)(a)(ii) of the Professional Accountants Ordinance.

- c) On 20 December 2011, at Toys 'R' Us, Cityplaza branch, the Respondent took two pieces of toys from the rack into his own bag and requested for refund at the cashier. The Respondent produced a sales receipt, a Toys 'R' Us Star Card (bearing the number '[xxxx-xxx-xxx-x]') and a credit card (bearing the name "[The Respondent]") to a staff at the shop. After checking all these documents, The Toy 'R' Us staff filled up a 'Merchandise Refund Request Form', generated a sales receipt and a credit card receipt to refund a total of HK\$941.8 to the Respondent's HSBC credit card account.
 - d) On 22 December 2011, at Toy 'R' Us, Central branch, the Respondent took two toys from the rack into his bag and requested for goods exchange at the cashier. The Respondent produced the two toys (value totalling HK\$989.9), a sales receipt and a Toys 'R' Us Star Card (bearing the number '[xxxx-xxx-xxx-x]') to exchange for another toy at the shop. After checking the above documents, The Toy 'R' Us staff arranged for refund and filled up one 'Merchandise Refund Request Form'. After deducting the membership discount, the Respondent added HK\$2.1 to take away the toy, which costed HK\$989.9.
3. The Respondent admitted the Complaint against him. He did not dispute the facts as set out in the Complaint. He agreed that the steps set out in paragraphs 17 to 30 of the Disciplinary Committee Proceedings Rules be dispensed with.
4. By a letter dated 21 August 2013 addressed to the Complainant and the Respondent, the Clerk to the Disciplinary Committee ("DC"), under the direction of the DC, informed the parties that they should make written submissions to the DC as to the sanctions and costs and that the DC would not hold a hearing on sanctions and costs unless otherwise requested by the parties.
5. In considering the proper order to be made in this case, the DC has had regard to all the aforesaid matters, including the particulars in support of the Complaint, the Respondent's personal circumstances, and the conduct of the Complainant and the Respondent throughout the proceedings. It should be noted that the Respondent had shown great remorse over the two offences and was given a probation order for 12 months instead of an immediate custodial sentence. He committed the offences out of momentary greed. He had also fully compensated Toy 'R' Us for their loss. However, the two offences also involved premeditated moves on the part of the Respondent. The DC (with one member dissenting) therefore considered that a removal order was inevitable in the circumstances. However, the DC took the view that this was not a most serious dishonesty case. This is reflected by the Magistrate Court's imposing only a probation order on the Respondent and the fact that the offences were committed when the Respondent was under great stress. The DC therefore agreed that the Respondent should be given a chance to continue

working for the firm of certified public accountants that employs him at present, so that he might still be able to support his family financially.

6. The DC (with one member dissenting) therefore orders that:-
- 1) the name of the Respondent be removed from the register of certified public accountants for six months effective from 42 days from the date hereof under section 35(1)(a) of the PAO;
 - 2) the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$20,200 under section 35(1)(iii) of the PAO; and
 - 3) the Council is requested to favorably consider the grant of its approval under Bylaw 28(b) of the Professional Accountants Bylaws so that the Respondent may continue to be employed by the firm of certified public accountants that employs him at present, notwithstanding the removal of the name of the Respondent from the register of CPAs.

Dated the 5th day of December 2013

IN THE MATTER OF

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BETWEEN

The Registrar of the Hong Kong
Institute of Certified Public
Accountants

COMPLAINANT

AND

The Respondent

RESPONDENT

Before a Disciplinary Committee of the Hong Kong Institute of Certified Public Accountants ("the Institute").

Members:

ORDER

Upon reading the complaint against [the Respondent], being a certified public accountant (practising), as set out in a letter from the Registrar of the Institute ("the Complainant") dated 6 December 2012, the written submissions of the Respondent dated 23 and 27 August 2013, the written submission of the Complainant dated 9 September 2013, and other relevant documents, the Disciplinary Committee is satisfied by the admission of the Respondent and the evidence adduced before it that the following complaint is proved:

Section 34(1)(a)(ii) of the Professional Accountants Ordinance applies to the Respondent in that on 8 June 2012 he was convicted in Hong Kong of an offence involving dishonesty.

IT IS ORDERED that:-

1. the name of the Respondent be removed from the register of certified public accountants for six months effective from 42 days from the date hereof under section 35(1)(a) of the PAO;

2. the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$20,200 under section 35(1)(iii) of the PAO; and
3. the Council is requested to favorably consider the grant of its approval under Bylaw 28(b) of the Professional Accountants Bylaws so that the Respondent may continue to be employed by the firm of certified public accountants that employs him at present, notwithstanding the removal of the name of the Respondent from the register of CPAs.

Dated the 5th day of December 2013