

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

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

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)(vi) of the PAO applied to the Respondent.
2. The particulars of the Complaint as set out in a letter dated 8 January 2013 (“**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 20 July 2011, the Institute received an email from Mr. [A] (“**[Mr. A]**”) lodging a complaint against the Respondent for non-delivery of the audited financial statements for the year ended 31 March 2010 of [Mr. A]’s company, [Company A] (“**[Company A]**”). The matter was reported to the police by [Mr. A]. In September 2011, upon [Mr. A]’s request, the

Respondent refunded the audit fee plus bank confirmation charges to him as the Inland Revenue Department requested [Mr. A] to re-perform an audit. In November 2011, the Respondent was charged with fraud but on 20 January 2012, the Respondent was acquitted.

- b) Section 34(1)(a)(vi) of the Professional Accountants Ordinance ("**PAO**") applies to the Respondent in that he failed or neglected to observe, maintain or otherwise apply a professional standard, namely, paragraph 100.4(c) "*Professional Competence and Due Care*" of the Code of Ethics for Professional Accountants ("**Code**") when providing audit arrangement service to [Mr. A] , as the Respondent failed to complete the assignment with due care and competence.
 - c) During the investigation by the Compliance Department, it was found that the website of [Company B] ("**[Company B]**"), at least between 9 August 2011 and 8 November 2011, advertised that it provided “ Audit and Assurance “ services among other professional services and the full name of [Company B] contained the word “Audit”. The advertisement on the website was highly misleading to the public in that [Company B] purported to provide audit services to ultimate clients when in fact it merely provided audit work sub-contracting services to practising CPA – in this case, [Firm C].
 - d) Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he failed or neglected to observe, maintain or otherwise apply a professional standard namely section 100.5(e) "*Professional Behavior*" of the Code, as the contents of the [Company B] website could render [Company B] being in breach of s.42(1)(ha)(i) of the PAO through its offering or holding itself out as providing any professional service which only a person who is a certified public accountant (practising) may lawfully provide.
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 22 July 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 and the conduct of the Complainant and the Respondent throughout the proceedings.
 6. The DC orders that:-

- 1) the Respondent be reprimanded under section 35(1)(b) of the PAO; and
- 2) the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$21,466 under section 35(1)(iii) of the PAO.

Dated the 19th day of November 2013

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BETWEEN

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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 8 January 2013, the written submission of the Complainant dated 30 July 2013, the written submission of the Respondent dated 10 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 complaints are proved:

1. Section 34(1)(a)(vi) of the Professional Accountants Ordinance ("**PAO**") applies to the Respondent in that he failed or neglected to observe, maintain or otherwise apply a professional standard, namely, paragraph 100.4(c) "*Professional Competence and Due Care*" of the Code of Ethics for Professional Accountants ("**Code**") when providing audit arrangement service to Mr. [A], as the Respondent failed to complete the assignment with due care and competence.
2. Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he failed or neglected to observe, maintain or otherwise apply a professional standard

namely section 100.5(e) "*Professional Behavior*" of the Code, as the contents of the [Company B] ("**[Company B]**") website could render [Company B] being in breach of s.42(1)(ha)(i) of the PAO through its offering or holding itself out as providing any professional service which only a person who is a certified public accountant (practising) may lawfully provide.

IT IS ORDERED that:-

1. the Respondent be reprimanded under section 35(1)(b) of the PAO; and
2. the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$21,466 under section 35(1)(iii) of the PAO.

Dated the 19th day of November 2013