

IN THE MATTER OF

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

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”) against the Respondent, 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 29 November 2013 (“the Complaint”) from the Registrar to the Council of the Institute for consideration of referring the Complaint to the Disciplinary Panels, are as follows:-

- (1) On 5 August 2013, the Institute received a letter dated 28 July 2013 from the Respondent reporting his conviction of the offences of loitering and theft, contrary to section 160(3) of the Crimes Ordinance, Cap.200 and section 9 of the Theft Ordinance, Cap.210 respectively, in the case of KCCC xxxx.
- (2) The Respondent had pleaded guilty to the charges and was sentenced to 80 hours of community service on 25 January 2013.
- (3) The Respondent was at all material times a certified public accountant. At the time of the offence, the Respondent was an audit manager of a CPA firm. Since October 2012, the Respondent was employed as an audit manager at Firm B.

The Relevant Professional Standards

- (4) The Code of Ethics for Professional Accountants ("Code") states,

"100.5 A professional accountant shall comply with the following fundamental principles:

(e) Professional Behavior- to comply with relevant laws and regulations and avoid any action that discredits the profession."

150.1 The principle of professional behaviour imposes an obligation on all professional accountants to comply with relevant laws and regulations and avoid any action that the professional accountant knows or should know may discredit the profession. This includes actions that a reasonable and informed third party, weighing all the specific facts and circumstances available to the professional accountant at that time, would be likely to conclude adversely affects the good reputation of the profession."

The Complaints

- (5) First Complaint

Section 34(1)(a)(x) of the PAO applies to the Respondent in that he was guilty of dishonourable conduct due to his conviction of the two criminal offences of loitering and theft, contrary to section 160(3) of the Crimes Ordinance, Cap.200 and section 9 of the Theft Ordinance, Cap.210 respectively.

- (6) Second Complaint (in the alternative to the First Complaint)

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 paragraphs 100.5 and 150.1 of the Code for his failure to comply with relevant laws and regulations and avoid any action that discredits the profession when he took and duplicated the apartment keys of a female

colleague and his subsequent unsuccessful attempt to gain entry into that female colleague's flat without her knowledge or permission.

Facts and Circumstances in support of the Complaint

- (7) In the criminal proceedings, the Respondent did not dispute the following facts :
 - (a) At the material time, the Respondent was living in a flat on xxxx, Mong Kok, Kowloon.
 - (b) the Respondent knew that a female colleague from the CPA firm resided in the same apartment building at a flat on an upper floor.
 - (c) Without her knowledge, the Respondent stole a set of keys which belonged to the female colleague from her office workstation at the CPA firm on a day unknown in September 2012 during lunch break.
 - (d) the Respondent then duplicated the keys with the intention of using the duplicate keys to gain entry into the female colleague's apartment without her permission.
 - (e) After learning from the female colleague's Facebook account that she would be away on vacation, the Respondent unsuccessfully attempted to gain entry into her apartment during the early hours of 28 September 2012.
 - (f) Unbeknownst to the Respondent, the colleague's mother was inside the apartment and was woken up by the Respondent's attempted entry.
 - (g) Fearful for her safety, the colleague's mother immediately reported the matter to the security guard. A review of the video clips taken from the building's CCTV revealed the Respondent's attempted entry and the matter was reported to the Police.
 - (8) In the circumstances, the Respondent's conviction brought discredit upon himself and also damaged the reputation of the Institute and accountancy profession. Therefore, section 34(1)(a)(x) and /or section 34(1)(a)(vi) of the PAO applies to The Respondent.
3. The Respondent admitted the Second Complaint against him when the Institute contacted him by telephone on 24 April 2014. He did not dispute the facts as set out in the Complaint. The parties agreed that the steps set out in paragraphs 17 to 30 of the Disciplinary Committee Proceedings Rules be dispensed with.

4. On 8 April 2014, 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. The Respondent showed his remorse by reporting his conviction to the Institute and by admitting to the Second Complaint before the DC.
6. 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.
7. The DC orders that:-
 - 1) the Respondent be reprimanded under Section 35(1)(b) of the PAO;
 - 2) the Respondent pay a penalty of HK\$20,000 under Section 35(1)(c) of the PAO;
 - 3) the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$14,681 under Section 35(1)(iii) of the PAO.

Dated the 15th day of August 2014

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BETWEEN

The Registrar of the Hong Kong Institute of Certified Public Accountants

COMPLAINANT

AND

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, a certified public accountant, as set out in a letter from the Registrar of the Hong Kong Institute of Certified Public Accountants ("the Complainant") dated 29 November 2013, the written submissions of the Complainant dated 25 April 2014 and the relevant documents, the Disciplinary Committee is satisfied by the documentary evidence adduced before it that the following Complaint is proved:

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 paragraphs 100.5 and 150.1 of the Code for his failure to comply with relevant laws and regulations and avoid any action that discredits the profession when he took and duplicated the apartment keys of a female colleague and his subsequent unsuccessful attempt to gain entry into that female colleague's flat without her knowledge or permission.

The Disciplinary Committee ORDERS that:-

1. the Respondent be reprimanded under Section 35(1)(b) of the PAO;

2. the Respondent pay a penalty of HK\$20,000 under Section 35(1)(c) of the PAO;
3. the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$14,681 under Section 35(1)(iii) of the PAO.

Dated the 15th day of August 2014