

IN THE MATTER OF

A Complaint made under section 34(1)(a) and 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

1st Respondent

FIRST

RESPONDENT

2nd Respondent

SECOND

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 Respondents, the 1st Respondent, a certified public accountant (practising) and the 2nd Respondent, a corporate practice. Section 34(1)(a)(vi) of the PAO applied to the Respondents.
2. The particulars of the Complaint as set out in a letter dated 8 October 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:-
 - (1) Company A (**the “Company”**) was incorporated in the Cayman Islands and its shares are listed on the Growth Enterprise Market of the Stock Exchange of Hong Kong (Stock Code xxxx).
 - (2) The financial statements for the Company and its subsidiaries (**the “Group”**) for the year ended 31 December 2008 (**the “2008 Financial Statements”**) were stated to have been prepared in accordance with the

Hong Kong Financial Reporting Standards ("**HKFRS**") issued by the Hong Kong Institute of Certified Public Accountants.

- (3) The Second Respondent (the Corporate Practice) audited the 2008 Financial Statements. The First Respondent was the director of the Corporate Practice responsible for the performance of the audit engagement.
- (4) The Corporate Practice's audit report on the 2008 Financial Statements (signed by the First Respondent in the name of the Corporate Practice and dated 24 March 2009) stated that the audit was conducted in accordance with the Hong Kong Standards on Auditing.
- (5) The consolidated loss and the consolidated net assets of the Group stated in the 2008 Financial Statements were HK\$24.2 million and HK\$114 million respectively. The Corporate Practice expressed an unmodified opinion on the 2008 Financial Statements.
- (6) The Financial Reporting Council (**the "FRC"**) received a complaint of possible noncompliance and auditing irregularity in respect of inter alia the 2008 Financial Statements. The complaint related to, among others, non-compliances with accounting standards when measuring revalued plant and machinery in the 2008 Financial Statements which were subsequently corrected by retrospective restatements in the Group's financial statements for the year ended 31 December 2010.
- (7) In carrying out its investigation of the complaint, the FRC noted that no depreciation had been charged on the revalued plant and machinery in the 2008 Financial Statements. This led to understatements of depreciation charges of approximately HK\$ 10.1 million.
- (8) The FRC further noted that there had been no disclosure of a reconciliation of the carrying amount at the beginning and end of the period showing depreciation, and the carrying amount of the revalued plant and machinery under the cost model in the 2008 Financial Statements. Therefore, the FRC concluded that there was non-compliance with paragraphs 31, 35, 52, 73 and 77 of Hong Kong Accounting Standard 16 Property, Plant and Equipment ("**HKAS 16**").
- (9) On 18 September 2012, the FRC referred an extract of its complaint assessment report (**the "Report"**) and annexures to the Institute, pursuant to s.9(f) of the FRC Ordinance. In making the referral, the FRC considered that the Corporate Practice had failed or neglected to observe, maintain or otherwise apply a professional standard pursuant to section 34(1)(a)(vi) of the Professional Accountants Ordinance, Cap 50 ("**PAO**").

SUMMARY OF PRINCIPAL ISSUES

- (10) The principal issues relate to the failures by the Group to comply with paragraphs 31, 35, 52, 73 and 77 of HKAS 16 in that:
- a. no depreciation had been charged on the revalued plant and machinery in the 2008 Financial Statements; and
 - b. there was no disclosure of a reconciliation of the carrying amount at the beginning and end of the period showing depreciation, and the carrying amount of the revalued plant and machinery under the cost model in the 2008 Financial Statements.
- (11) The associated reduction of profits arising from the undercharged depreciation on the overall consolidated loss for the year, of approximately 9%, was considered material to the financial statements.
- (12) In the circumstances, the Corporate Practice failed to express a modified auditor's opinion on the 2008 Financial Statements regarding the non-compliance with HKAS 16 and/or the Corporate Practice failed to comply with the requirements of professional standards.
- (13) The principal issues are explained in the Report, which should be referred to for details.

RELEVANT PROFESSIONAL STANDARDS

- (14) Hong Kong Standard on Auditing 700 "The Independent Auditor's Report on a Complete Set of General Purpose Financial Statements" ("**HKSA 700**")

"11. The auditor should evaluate the conclusions drawn from the audit evidence obtained as the basis for forming an opinion on the financial statements."

"13. Forming an opinion as to whether the financial statements give a true and fair view or are presented fairly, in all material respects, in accordance with the applicable financial reporting framework involves evaluating whether the financial statements have been prepared and presented in accordance with the specific requirements of the applicable financial reporting framework for particular classes of transactions, account balances and disclosures...."

- (15) Section 130 "Professional Competence and Due Care" of the Code of Ethics for Professional Accountants ("**Code**")

"130.1 The principle of professional competence and due care imposes the following obligations on professional accountants:

(b) To act diligently in accordance with applicable technical and professional standards when providing professional services.

130.4 Diligence encompasses the responsibility to act in accordance with the requirements of an assignment, carefully, thoroughly and on a timely basis."

(16) HKAS 16:

"31. After recognition as an asset, an item of property, plant and equipment whose fair value can be measured reliably shall be carried at a revalued amount, being its fair value at the date of the revaluation less any subsequent accumulated depreciation and subsequent accumulated impairment losses.... "

"35. When an item of property, plant and equipment is revalued, any accumulated depreciation at the date of the revaluation is treated in one of the following ways:

... (b) eliminated against the gross carrying amount of the asset and the net amount restated to the revalued amount of the asset. This method is often used for buildings."

"52. Depreciation is recognized even if the fair value of the asset exceeds its carrying amount...."

"73. The financial statements shall disclose, for each class of property, plant and equipment:

... (e) a reconciliation of the carrying amount at the beginning and end of the period showing:... (vii) depreciation'

77. If items of property, plant and equipment are stated at revalued amounts, the following shall be disclosed:

... (e) for each revalued class of property, plant and equipment, the carrying amount that would have been recognized had the assets been carried under the cost model"

THE COMPLAINTS

The First Complaint

(17) Section 34(1)(a)(vi) of the PAO applies to the Respondents in that they have failed or neglected to observe, maintain or otherwise apply a professional standard namely paragraphs 11 and 13 of HKSA 700 for

failure to express a modified auditor's opinion in respect of the Group's non-compliance with HKAS 16 in the 2008 Financial Statements.

The Second Complaint (in the alternative to the First Complaint)

- (18) Section 34(1)(a)(vi) of the PAO applies to the Respondents in that they have failed or neglected to observe, maintain or otherwise apply a professional standard namely section 130 of the Code for failure to act diligently in accordance with HKAS 16 in the audit of the 2008 Financial Statements.
3. The Respondents admitted the Second Complaint against them. They did not dispute the facts as set out in the Complaint. On 11 November 2013, the parties made a joint application to the Disciplinary Committee and they agreed that the steps set out in rules 17 to 30 of the Disciplinary Committee Proceedings Rules be dispensed with.
 4. On 29 April 2014, the Disciplinary Committee issued a Notice of Commencement of Proceedings, enclosing a procedural timetable and a full set of the complaint documents to the parties. The parties were requested to make written submissions to the Disciplinary Committee on sanctions and costs and that the Disciplinary Committee would not hold a hearing on sanctions and costs unless otherwise requested by the parties.
 5. Undoubtedly, the breach committed by the Respondents is very serious. In considering the proper order to be made in this case, the Disciplinary Committee has had regard to all the aforesaid matters, including the Respondents' admission to the Complaint, the particulars in support of the Complaint, the breach concerned one auditors' report, the parties' submissions on sanctions and costs and their conduct throughout the proceedings.
 6. In relation to costs, the Disciplinary Committee considers that the costs and expenses totalling HK\$23,273.40 as assessed in the Complainant's Statement of Costs dated 20 May 2014 are reasonable and therefore should be allowed.

7. The Disciplinary Committee ORDERS that:-
- (a) the Respondents be reprimanded under section 35(1)(b) of the PAO;
 - (b) the Respondents pay a penalty of HK\$50,000 under section 35(1)(c) of the PAO;
 - (c) the Respondents are jointly and severally liable to pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$23,273.40 under section 35(1)(iii) of the PAO.

Dated the 11th day of September 2014

IN THE MATTER OF

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

BETWEEN

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COMPLAINANT

AND

1st Respondent

FIRST
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2nd Respondent

SECOND
RESPONDENT

Members:

ORDER

Upon reading the complaint against the 1st Respondent, a certified public accountant (practising) and the 2nd Respondent, a corporate practice, as set out in a letter from the Registrar of the Institute ("the Complainant") dated 8 October 2013, the written submissions of the Complainant dated 20 May 2014 and the Respondents dated 19 May 2014, and other relevant documents, the Disciplinary Committee is satisfied by the admission of the Respondents and the evidence adduced before it that the following complaint is proved:

Section 34(1)(a)(vi) of the PAO applies to the Respondents in that they have failed or neglected to observe, maintain or otherwise apply a professional standard namely section 130 of the Code of Ethics for Professional Accountants for failure to act diligently in accordance with Hong Kong Accounting Standard 16 in the audit of the 2008 Financial Statements.

The Disciplinary Committee ORDERS that:-

- 1) the Respondents be reprimanded under section 35(1)(b) of the PAO;
- 2) the Respondents pay a penalty of HK\$50,000 under section 35(1)(c) of the PAO; and

- 3) the Respondents are jointly and severally liable to pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$23,273.40 under section 35(1)(iii) of the PAO.

Dated the 11th day of September 2014