

IN THE MATTER OF

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

BETWEEN

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

AND

The Respondent    RESPONDENT

Members:

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**REASONS FOR DECISION**

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1. This is a complaint made by the Practice Review Committee of the Hong Kong Institute of Certified Public Accountants (“the Institute”) as the Complainant under Section 34(1)(a)(vi) of the PAO against the Respondent, who is a certified public accountant (practising).
2. The particulars of the Complaint were set out in a letter dated 7 January 2014 (“the Complaint”) from the Complainant to the Registrar of the Institute, for consideration of the Complaint by the Council of the Institute for referral to the Disciplinary Panels.
3. By a Confirmation dated 25 March 2014 signed by the Respondent, 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. The facts are as follows:-
  - a) The Respondent is the sole proprietor of a CPA firm (“the Practice”).
  - b) The Practice had been selected for practice review in August 2011 and was the subject of a follow up visit that took place in August 2012. The main purpose of the follow up practice review visit was to confirm whether the Practice had taken appropriate actions to address shortcomings which the Complainant identified during the first practice

review. Those shortcomings related to the Practice's quality control policies and procedures, audit methodology and conduct of audit work.

- c) A Quality Assurance Department Report to the Practice Review Committee ("the Report") had been compiled. The Report sets out the findings from the follow up practice review which were considered by the Complainant.
- d) In the August 2012 follow up visit, the reviewer identified deficiencies in the Practice's audits of two clients, Client F and Client G, for the year ended 31 December 2011. Client G was a securities broker and the reviewer also identified some deficiencies in the Practice's compliance reporting of that client.
- e) The follow up visit further found that, after the Respondent issued an unmodified auditor's report on the financial statements of Client G, omissions and errors were found in those financial statements which were then amended to rectify the omissions and errors. Subsequently, the Respondent issued an unmodified auditor's report on the amended financial statements but in doing so, he failed to comply with the relevant requirements of Hong Kong Standard of Auditing 560.
- f) On the basis of findings contained in the Report, the following complaints were laid against the Respondent :

***1<sup>st</sup> Complaint***

Section 34(1)(a)(vi) of the PAO applies to the Respondent in that, as identified in the Report, he failed to maintain professional knowledge and skill at the level required to ensure that the clients received competent professional services and to act in accordance with applicable technical and professional standards, and he was thereby in breach of sections 100.5 and 130 of the Code of Ethics of Professional Accountants.

***2<sup>nd</sup> Complaint***

Section 34(1)(a)(viii) of the PAO applies to the Respondent in that, given the extent of the breaches identified in the Report, he has been guilty of professional misconduct.

- 5. By a letter dated 3 July 2014 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.
- 6. The Complainant and the Respondent submitted their respective written submissions on sanctions and costs by letters dated 23 July 2014 and 28 July 2014 respectively. The Respondent has made further submissions by letter dated 10 October 2014. Whilst the aforesaid letter dated 10 October 2014 of the Respondent was received by the Clerk to the DC after the time for making

submissions as to sanctions set out in the Procedural Timetable had lapsed, the DC allows such letter to be included as part of the Respondent's submissions on sanctions and costs. No request for a hearing on sanctions and costs has been made by any of the parties.

7. In the written submissions of the Complainant in the aforesaid letter dated 23 July 2014, the Complainant pointed out that in the present Complaint the Respondent's deficiencies and shortcomings were multiple and wide-ranging. The Complainant expressed serious concerns over the Respondent's commitment and competency to reach the required level of compliance with professional standards and quality, in particular over his capability to perform audits on regulated entities and complicated engagements. For the compliance audits there is also a public interest element involved as the impact could be far-reaching when regulators placed reliance on such compliance reports.
8. In this regard, the Respondent submitted in his aforesaid letter dated 28 July 2014 that:-

*"... we made a mistake in issuing two different version[s] of an audited accounts. But, to some extent, we think the impact and consequence might be minor. The first version audited accounts was given to SFC [Securities and Futures Commission] only for filing before the deadline with only one copy signed. The second version audited accounts was the revised one. As the client company has revoked license immediately from SFC, we have not called back the first version. Furthermore, the client company has no client assets and no client money. Thus, the impact can be said as immaterial."*  
(words in square brackets added)

9. The DC agrees with the submissions of the Complainant that there is a public element involved, in that Client G was a securities broker registered under the Securities and Futures Ordinance (Cap. 571). In fairness to the Respondent, the DC noted the Complainant's submission that no client assets and no client money was involved in the audited accounts and no submission to the contrary was brought forward by the Complainant. However, given the extent of the Respondent's deficiencies and shortcomings, the DC considers that the present Complaint is a serious case and there is a need to safeguard the public interest.
10. The DC takes into account the admission by the Respondent of the Complaint at an early stage of the proceedings. Whilst the Respondent has invited the DC to consider, amongst others, his health condition and difficulties of the Practice, these are not compelling mitigating factors. The DC bears in mind the deterrence element in considering the sanctions.
11. With regard to the costs, the DC considers that the costs and expenses in the sum of HK\$25,376, as submitted by the Complainant in the Statement of Costs, are reasonable. The Respondent did not dispute the costs and expenses of the Complainant.

12. In considering the proper order to be made in this case, the DC has had regard to all the aforesaid matters, including the facts and particulars in support of the Complaint and the conduct of the Complainant and the Respondent throughout the proceedings.
13. The DC orders that:-
  - 1) the practising certificate issued or to be issued to the Respondent for the year 2015 be cancelled to take effect from 2 February 2015 under section 35(1)(da) of the PAO;
  - 2) a practising certificate shall not be issued to the Respondent for 10 months from 2 February 2015 under section 35(1)(db) of the PAO; and
  - 3) the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$25,376 under section 35(1)(iii) of the PAO.

Dated the 12<sup>th</sup> day of December 2014