

IN THE MATTER OF

A Complaint made under sections 34(1)(a) and 34(1AAA) of the Professional Accountants Ordinance (Cap. 50)

BETWEEN

The Administrator of the HKICPA Trust Fund                      COMPLAINANT

AND

Yeung Chai On, Paul (F02869)                      RESPONDENT

Date of Hearing :                      6 March 2015

Date of Written Decision :    18 March 2015

Members:            Ms. CHAN Nancy (Chairman)  
                         Miss CHAN Yat Mei Sophie  
                         Mr. CHOW Tak Sing Peter  
                         Mr. KAN Siu Lun  
                         Mr. WONG Kwok Wai Albert

**DECISION**

***The Complaint***

1. Section 34(1)(a)(vi) of the Professional Accountants Ordinance applies to the Respondent in that he had failed or neglected to observe, maintain or otherwise apply a professional standard, namely sections 100.4(a)/100.5(a) and 110.1 of the Code of Ethics for Professional Accountants (the "**Code**"), when he was evasive in avoiding a debt owed to the Complainant and hence failed to be straightforward and honest ( including having fair dealings ) in all of his professional and business relationships.

***Background***

2. In 1998, the HKSA Trust Fund was established with the objects of, inter alia, relieving poverty of persons who are HKSA members (declaration of trust). It is a registered charity. HKSA has its name changed to HKICPA (the "**Institute**") in about 2004, and the said Trust Fund is now called HKICPA Trust Fund (the "**Trust**"), with the same objects of relieving poverty of HKICPA members. The Complainant is the administrator of the Trust.

3. In January 2002, the Respondent submitted an application for financial assistance from the Trust on the ground that he was unemployed and facing "severe financial problem". He stated: "I urgently need financial assistance from HKSA to help me survive this critical period". He requested for a loan of \$100,000.
4. An interest-free loan of \$40,000 was granted to the Respondent under a Loan Agreement dated 27 February 2002 (the "**Loan**"). The terms are for the Loan to be repaid in 48 monthly installments, commencing in June 2002. Hence the Loan should have been repaid in about June 2006.
5. In actual fact, the Respondent only made 3 repayments – 1<sup>st</sup> payment of \$830 on 2 December 2002, 2<sup>nd</sup> payment of \$1,000 on 21 October 2008, and 3<sup>rd</sup> payment of \$1,000 on 3<sup>rd</sup> February 2009. \$37,170 of the Loan remains outstanding.
6. After receiving the 3<sup>rd</sup> and last payment in February 2009, numerous letters and emails have been sent to the Respondent requesting updates on his financial status as well as requesting and demanding repayment. Telephone calls have also been made to the Respondent. A detailed description of these correspondence and telephone exchanges from February 2009 to March 2014 has been submitted to the Disciplinary Committee.
7. The Respondent's response, or the lack thereof, to the abovestated events is the subject matter of the present Complaint.

### ***The Professional Standards***

8. Section 100.4(a) of the Code (effective from 2009-2010) provides as follows:-

"A professional accountant is required to comply with the following fundamental principles:

  - (a) *Integrity*

A professional accountant should be straightforward and honest in all professional and business relationships."
9. Section 100.5 of the Code (effective from January 2011) provides as follows:-

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

  - (a) *Integrity* – to be straightforward and honest in all professional and business relationships."

10. Section 110.1 of the Code (effective from 2009-2010) further elaborates on the requirement of integrity as follows:-

"The principle of integrity imposes an obligation on all professional accountants to be straightforward and honest in professional and business relationships. Integrity also implies fair dealing and truthfulness."

11. Section 110.1 of the Code (effective as from January 2011) is virtually identical:-

"The principle of integrity imposes an obligation on all professional accountants to be straightforward and honest in all professional and business relationships. Integrity also implies fair dealing and truthfulness."

***Fact and Circumstances in support of the Complaint***

12. The Complainant relies on the correspondence and events submitted to the Disciplinary Committee to support the present Complaint. Those events show that, initially the Respondent has responded to the correspondence and phone calls:-

- (a) In his email of 21 October 2010, he explained that he was still in financial difficulty, but he acknowledged his liability to repay by saying "I will surely arrange to settle my outstanding loan balance by instalments once I have a financial turn-round";
- (b) Ms. Angel Wong ("**Wong**"), associate director of Finance, was able to speak to the Respondent on 21 October 2010, 27 May 2011 and 30 June 2011. On these occasions, he explained that he was still experiencing financial difficulties.

13. However, despite repeated requests, the Respondent failed or refused to provide any update to his financial position.

14. After June 2011, there was no further response from the Respondent. All the correspondence sent after June 2011 has elicited no response. Moreover, after 30 June 2011 the Respondent could no longer be reached on telephone calls or simply refused to talk to Wong (eg on 18 July 2011).

15. The situation continued even after the matter has been passed to the Institute's Compliance Department for investigation. The department sent 3 letters to the Respondent from October 2012 to March 2014 to request the Respondent to explain his behavior. There is no response to those letters.

16. Therefore, the Complainant's case is that, from about February 2009 to 2014, the Respondent has been acting in an evasive manner to avoid his payment obligation. This was a breach of the integrity requirement under the Code – the Respondent was not being straightforward or honest, and his actions above were not "fair dealings" vis-à-vis the Trust.
17. Throughout the period from 2011 to 2014, the Respondent has renewed his membership and remained a member of the Institute. This fact is relevant to show that the Respondent remained contactable and could meet financial obligations in a selective manner.
18. The Clerk contacted the Respondent by telephone on 22 September and 17 October 2014. Although the Clerk's letter by post to the Respondent's address on record with the Institute was rejected, the Respondent continued to receive that letter and other letters from the Clerk dated 23 September, 20 October, 10 November and 9 December 2014 by email. However, it is a pity that no written response has been received from him and he did not attend the hearing.

### **Conclusions**

19. In considering the proper order to be made in this case, the Disciplinary Committee 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 parties throughout the proceedings. The Disciplinary Committee unanimously found that the Complaint has been proved against the Respondent.
20. In the circumstances, the Disciplinary Committee ordered as follows :
  - (a) the name of the Respondent be removed from the register of certified public accountants for 6 months from 1 May 2015 under Section 35(1)(a) of the PAO; and
  - (b) the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$31,829.70 under Section 35(1)(iii) of the PAO.

IN THE MATTER OF

A Complaint made under sections 34(1)(a) and 34(1AAA) of  
the Professional Accountants Ordinance (Cap. 50)

BETWEEN

The Administrator of the HKICPA      COMPLAINANT  
Trust Fund

AND

Yeung Chai On, Paul (F02869)      RESPONDENT

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**DECISION**

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Dated the      18th      day of March 2015

IN THE MATTER OF

A Complaint made under sections 34(1)(a) and 34(1AAA) of  
the Professional Accountants Ordinance (Cap. 50)

BETWEEN

The Administrator of the HKICPA Trust Fund                      COMPLAINANT

AND

Yeung Chai On, Paul (F02869)    RESPONDENT

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

Members:        Ms. CHAN Nancy (Chairman)  
                      Miss CHAN Yat Mei Sophie  
                      Mr. CHOW Tak Sing Peter  
                      Mr. KAN Siu Lun  
                      Mr. WONG Kwok Wai Albert

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**ORDER**

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Upon hearing the complaint against MR. YEUNG CHAI ON PAUL, a certified public accountant, the Committee finds that Section 34(1)(a)(vi) of the Professional Accountants Ordinance (Cap. 50) (“the PAO”) applied to the Respondent in that he had failed or neglected to observe, maintain or otherwise apply a professional standard, namely sections 100.4(a)/100.5(a) and 110.1 of the Code of Ethics for Professional Accountants, when he was evasive in avoiding a debt owed to the Complainant and hence failed to be straightforward and honest ( including having fair dealings ) in all of his professional and business relationships.

IT IS ORDERED that:-

1. the name of the Respondent be removed from the register of certified public accountants for 6 months from 1 May 2015 under Section 35(1)(a) 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\$31,829.70 under Section 35(1)(iii) of the PAO.

Dated the 6th day of March 2015

IN THE MATTER OF

A Complaint made under sections 34(1)(a) and 34(1AAA) of  
the Professional Accountants Ordinance (Cap. 50)

BETWEEN

The Administrator of the HKICPA Trust Fund      COMPLAINANT

AND

Yeung Chai On, Paul (F02869)      RESPONDENT

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**ORDER**

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Dated the      6th      day of March 2015