

IN THE MATTER OF

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

BETWEEN

The Complainant

COMPLAINANT

AND

The Respondent

RESPONDENT

ORDER & REASONS FOR DECISION

Background

1. This is a complaint made by the Complainant , against the Respondent, a certified public accountant.
2. The Complainant first made his complaint about the Respondent to the Council of the Hong Kong Institute of Certified Public Accountants (the “**Institute**”) by a letter dated 4 April 2014.
3. On or about 10 October 2014, the Complainant filed his Case.

4. The Complainant complains that the Respondent has failed to observe, maintain or otherwise sections 100.5(a), 100.5(e), 110 and 150 of the Code of Ethics for Professional Accountants (the “COE”) and is in breach of section 34(1)(a)(vi) of the **Professional Accountants Ordinance (Cap. 50)** (the “PAO”).

Relevant professional standards and statutory provisions

5. The COE provides as follows:

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

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

...

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

110.1 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.

110.2 A professional accountant shall not knowingly be associated with reports, returns, communications or other information where the professional accountant believes that the information:

- (a) Contains a materially false or misleading statement;*
- (b) Contains statements or information furnished recklessly; or*
- (c) Omits or obscures information required to be included where such omission or obscurity would be misleading.*

When a professional accountant becomes aware that the accountant has been associated with such information, the accountant shall take steps to be disassociated from that information.

...

150.1 The principle of professional behavior 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

150.2 In marketing and promoting themselves and their work, professional accountants shall not bring the profession into disrepute. Professional accountants shall be honest and truthful and not:

(a) Make exaggerated claims for the services they are able to offer, the qualifications they possess, or experience they have gained; or

(b) Make disparaging references or unsubstantiated comparisons to the work of others."

6. Further, section 34 of the PAO provides that:

"(1) A complaint that-

(a) a certified public accountant-

...

(vi) failed or neglected to observe, maintain or otherwise apply a professional standard

...

shall be made to the Registrar who shall submit the complaint to the Council which may, in its discretion but subject to section 32D(7), refer the complaint to the Disciplinary Panels."

The complaint

7. As mentioned above, the Complainant complains that the Respondent has failed to observe, maintain or otherwise sections 100.5(a), 100.5(e), 110 and 150 of the COE and is in breach of section 34(1)(a)(vi) of the PAO.

8. In summary, the Complainant's main complaints are as follows:
 - 8.1 The Respondent stated on a name card that she was a member of the Institute of Chartered Secretaries and Administrators when she was only a student member at the relevant time.

 - 8.2 The Respondent stated on a name card that she holds a Master of Corporate Governance when she was only a student of that course at Open University at the relevant time.

 - 8.3 The Respondent made exaggerated claims for the services that she could offer when marketing and promoting herself on Facebook for freelance work.

 - 8.4 The Respondent stated on Facebook that she is a member of the Market Misconduct Tribunal when she was not a member, but was only a potential member, at the relevant time.

8.5 The Respondent stated on Facebook that she is a member of the Advisory Group of the Hong Kong Institute of Accredited Accounting Technicians (HKIAAT) when she was not listed as an advisor on the HKIAAT website at the relevant time.

The proceedings

9. After the Complainant filed his Case, the Respondent filed a Case dated 31 October 2014 in response to the Complaint.
10. On or about 18 November 2014, the Complainant filed a Reply to the Respondent's case.
11. By a letter dated 31 December 2014, the Respondent filed a Reply to the Complainant's Reply.
12. However, by a letter dated 9 March 2015 from Messrs. Yu Hung & Co., the Respondent's legal representatives, the Respondent informed the Clerk to the Disciplinary Committee that, *inter alia*, she admitted her wrongdoing and that would not dispute the facts raised by the Complainant.
13. By a letter dated 11 March 2015, the Disciplinary Committee requested that the Respondent clarify whether she, by admitting her wrongdoing and stating that she would not dispute the facts

raised by the Complainant, had withdrawn her defence as stated in her Case and Reply.

14. By a letter dated 16 March 2015, the Respondent through her legal representatives confirmed that she withdrew her defence as stated in her Case and Reply.
15. In the premises, the only matter which remains is the question of sanctions which ought to be imposed upon the Respondent.
16. By a letter dated 25 March 2015, the Disciplinary Committee agreed to the parties' application to dispense with the substantive hearing in light of the admission of wrongdoing by the Respondent and the withdrawal of her defence as stated in her Case and Reply, and invited the Complainant and Respondent to make written submissions as to sanctions and costs. A form for costs incurred in respect of the proceedings was also enclosed.

The sanctions

17. By a letter dated 27 March 2015, the Complainant made submissions as to sanctions and costs. The Complainant proposes the following sanctions:

- 17.1 Permanent removal of the Respondent from membership;
- 17.2 A reprimand;
- 17.3 A penalty of less than HK\$500,000.00; and

17.4 Payment of costs and expenses of proceedings.

18. The Respondent also made submissions as to sanctions and costs by a letter from her legal representatives dated 14 April 2015. In summary, the Respondent asks for leniency on the basis of the Respondent's positive and cooperative attitude, that the Complaint is based on isolated incidents and that the Respondent is extremely remorseful and regretful for what she has done. The Respondent suggests the following sanctions:

18.1 A reprimand;

18.2 A penalty not exceeding HK\$10,000; and

18.3 A costs order for the Respondent to pay an amount not exceeding HK\$30,000.00.

19. In the abovementioned letter dated 14 April 2015 from the Respondent's legal representatives, the Disciplinary Committee's attention was drawn to a recent case concerning a certified public accountant who falsely claimed on a number of occasions that he held a degree of Master of Professional Accounting awarded by the Hong Kong Polytechnic University when in fact he was only a student of that programme at the relevant time. The Respondent's legal representatives submitted that the present case is less serious than the abovementioned recent case.

20. In arriving at the proper sanctions to be imposed on the Respondent, the Disciplinary Committee has had regard to the

facts and matters specific to this case, in particular that the allegations made against the Respondent (which are summarised at paragraph 8 above), and which the Respondent has admitted, involve numerous different statements made by the Respondent.

21. 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, the parties' submissions, the previous case referred to us (although we bear in mind that each case must be decided upon its own particular facts) and the conduct of the Complainant and the Respondent throughout the proceedings.
22. As to the quantum of costs, the Complainant has not provided any Statement of Costs. On the other hand, the Institute has provided a Statement of Costs dated 15 April 2015 totalling HK\$22,436.00. The Disciplinary Committee considers that the aforesaid sum of HK\$22,436.00 was incurred reasonably and ought to be borne by the Respondent.
23. The Disciplinary Committee orders that:
 - 23.1 The Respondent be reprimanded under section 35(1)(b) of the PAO;

23.2 The Respondent do pay a penalty of HK\$25,000.00 pursuant to section 35(1)(c) of the PAO; and

23.3 The Respondent do pay the costs and expenses of and incidental to the proceedings of the Institute in the sum of HK\$22,436.00 under section 35(1)(iii) of the PAO.

Dated the 19th day of August 2015