

IN THE MATTER OF

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

BETWEEN

The Complainant

COMPLAINANT

AND

The Respondent

RESPONDENT

ORDER & REASONS FOR DECISION

A. Background

1. This is a complaint made by the Complainant of the Hong Kong Institute of Certified Public Accountants (the “**Institute**”) against the Respondent.
2. In summary, the complaint is that the Respondent is in breach of section 34(1)(a)(vi) of the **Professional Accountants Ordinance (Cap. 50)** (the “**PAO**”). When carrying out the audit of the financial statements of a private company, Crowning Engineering Limited (the “**Company**”), for the period from 1 January 2010 to 31 March 2011 (the “**2011 Financial Statements**”), the

Respondent failed or neglected to observe, maintain or otherwise apply a professional standard, namely paragraph 6 of the Hong Kong Standard on Auditing (“HKSA”) 500 *Audit Evidence*, by failing to obtain sufficient appropriate audit evidence in respect of the Cash and Cash Equivalents balance reported in the 2011 Financial Statements (the “Cash Balance”).

B. Relevant professional standards and statutory provisions

3. HKSA 500 *Audit Evidence*, paragraph 6 states:

“The auditor shall design and perform audit procedures that are appropriate in the circumstances for the purpose of obtaining sufficient appropriate audit evidence.”

4. 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.”

C. The Complaint

5. By a letter dated 1 September 2014, the Registrar of the Institute informed the Council of the Institute of a complaint received by the Institute concerning the audit of the 2011 Financial Statements of the Company by Company A, a certified public accounting firm. The Respondent is the sole proprietor of the firm.
6. In brief, the complaint is that the Cash Balance had been materially overstated by HK\$3,700,000.00.
7. Company A issued an unmodified auditor's report on the 2011 Financial Statements on 15 November 2011. The auditor's report stated that the audit was conducted in accordance with the HKSA.
8. According to the 2011 Financial Statements, the Cash Balance was reported at HK\$3,722,176.00 as of 31 March 2011, and mainly comprised an amount of HK\$3,767,398.00 held at Hang Seng Bank as of 31 March 2011.
9. A cheque of HK\$3,700,000.00 deposited into the Company's Hang Seng Bank account on 31 March 2011 was returned by the bank on 1 April 2011. However, there was no information showing that the amount of HK\$3,700,000.00 had been remitted back into the Company's bank account up to the date of auditor's report.

10. Paragraph 6 of HKSA 500 *Audit Evidence* requires the auditor to design and perform audit procedures that are appropriate in the circumstances for the purpose of obtaining sufficient appropriate audit evidence.
11. Yet the returned cheque of HK\$3,700,000.00 identified in the working papers, which represented 46% of the current assets and 74% of the net assets of the Company, had not been reflected or disclosed in the 2011 Financial Statements.
12. In the premises, the Respondent had failed to obtain sufficient appropriate evidence to support the amount of HK\$3,700,000.00 being included in the Cash Balance.

D. The proceedings

13. In response to the Institute's invitation for the Respondent to provide representations in respect of the aforementioned complaint against him, by paragraph A3 of a letter dated 13 February 2014, the Respondent admitted the mistake in relation to the Company's Cash Balance.
14. At the onset of the proceedings, by a letter dated 30 September 2014, the Respondent admitted the Complaint against him.
15. The only outstanding matter is the question of sanctions which ought to be imposed upon the Respondent.

E. The sanctions

16. In terms of sanctions and costs, the Institute and the Respondent have made submissions dated 29 May 2015 and 1 June 2015 respectively.

17. In particular, the Institute has drawn the Committee's attention to two previous cases, D-12-0685C and D-11-0528C, which it submits are similar to the present case. At the same time, the Institute's submission is that there is a higher public interest in the present case than those two previous cases:

17.1 The Company was listed as an Approved Contractor under the Public Works Department of the Hong Kong Government, and the 2011 Financial Statements audited by the Respondent were submitted to the Public Works Department for the purpose of the Company's application for retention on the list of Approved Contractors.

17.2 The application is generally assessed based on whether the applicant's working capital meets the requisite financial criteria, and the dishonoured cheque in the present case would have an effect of a misclassification of an amount receivable as cash in the financial statements. Such a misclassification may affect the level of working capital recognised for the purpose of the application, though there

is no conclusive evidence indicating that the Company could not meet the working capital requirement had the effect of the dishonoured cheque been appropriately adjusted.

- 17.3 Nevertheless, given that the Respondent was aware of the existence of the dishonoured cheque during the audit, he ought to have followed up on the matter by either making an appropriate adjustment or issuing a qualified audit opinion stating the financial effect.
18. The Institute proposes that the Respondent be reprimanded and pay a financial penalty, and bear the costs and expenses of the Institute. The Institute has provided a Statement of Costs dated 29 May 2015 totalling HK\$16,118.00.
19. In the Respondent's submissions, he expressed regret over the material events and states that he has learnt his lesson. He asks for leniency. He suggests a financial penalty of not more than HK\$20,000.00.
20. Of the two cases that the Institute has highlighted as being similar to the present case, the Committee has the following observations:
- 20.1 D-11-0528C is of limited assistance given that the Reasons for Decision did not set out the factual background in much detail, and one cannot see what exactly the Respondent did that was in breach of the various standards.

20.2 As to D-12-0658C, the present case is similar to the “Second Complaint” in that case, but it should also be noted there were two complaints within that “Second Complaint” (rather than one as in the present case), as well as a “First Complaint” (which does not have a parallel in the present case).

21. In arriving at the proper sanctions to be imposed on the Respondent, the Committee has had regard to the facts and matters specific to this case, including the public interest in light of the special features concerning the Company which the Institute has drawn the Committee’s attention to.
22. In considering the proper order to be made in this case, the 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 cases 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.
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\$20,000.00 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\$16,118.00 pursuant to section 35(1)(iii) of the PAO.

Dated the 26th day of August 2015