Proceedings No. D-13-0859F

IN THE MATTER OF

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

BETWEEN

The Registrar of the Hong Kong Institute of Certified Public Accountants	COMPLAINANT

AND

Cheng Chi Pang (Membership No. A03028)	1st RESPONDENT
Leslie Cheng & Co. (Firm No. 1926)	2nd RESPONDENT

Before a Disciplinary Committee of the Hong Kong Institute of Certified Public Accountants

Members: Ms. Roxanne Ismail SC (Chairman)
Ms. Tsui Pui Man Winnie
Ms. Wong Tze Ling Jill
Mr. Chan Kin Man Eddie
Mr. Knight-Evans Carlyon

Date of Hearing: 27 November 2015
Date of Order & Decision: 18 December 2015

ORDER & 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 Mr Cheng Chi Pang ("**Cheng**"), a certified public accountant (practising) (membership no: A03028) as the 1st Respondent and Leslie Cheng & Co ("**LCC**"), a firm of certified public accountants (Firm no: 1926) as the 2nd Respondent, pursuant to section 34(1)(a)(vi) of the Professional Accountants Ordinance (Cap. 50) ("PAO").

2. The particulars of the Complaint in a letter from the Complainant to the Council of the Institute dated 27 June 2014 are set out below.

BACKGROUND

3. China Post E-Commerce (Holdings) Limited (now known as Luxey International (Holdings) Limited) ("**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: 8041).

4. The financial statements of the Company and its subsidiaries ("**Group**") for the year ended 31 December 2009 ("**2009 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.

5. LCC was appointed as auditor of the Company and issued an unmodified auditor's report on the 2009 Financial Statements on 19 March 2010. The auditor's report stated that the audit was conducted in accordance with the Hong Kong Standards on Auditing ("**HKSA**").

6. Cheng was the senior partner of LCC who acted as the engagement quality control reviewer ("**EQCR**") for this audit.[1]

7. During 2009, the Group acquired 53% in equity interest of iKanTV Limited ("**iKanTV**") and 20% in equity interest of Info-Source Media Limited ("**Info-Source**"). The acquisitions of iKanTV and Info-Source were partly settled by issuance of a total of 970 million shares and 395,820,895 shares of the Company respectively.

8. The Financial Reporting Council ("**FRC**") received a complaint of possible non-compliance and auditing irregularity in relation to the 2009 Financial Statements.

9. In carrying out its investigation, the FRC found non-compliances with accounting standards regarding (i) recognition of depreciation and disclosure of the carrying amount of the plant and machinery; (ii) fair value measurements of the shares issued as consideration for the acquisitions of iKanTV and Info-Source; and (iii) determination of weighted average number of ordinary shares for the purpose of calculating the loss per share in the 2009 Financial Statements. These non-compliances were subsequently corrected by retrospective restatements in the Group's financial statements for the year ended 31 December 2010.

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[1] The former partner of LCC who acted as the engagement partner for this audit is currently not a certified public accountant as his name was removed from the Institute's register under an order issued by a Disciplinary Committee in December 2013 arising from an unrelated matter.

10. In their representations to the FRC, LCC admitted that they have omitted to recognize the depreciation and disclose the carrying amount of the plant and machinery under the cost model. In addition, they agreed that they should have performed additional audit work to justify the Company's accounting treatment and document the work done in relation to the fair value measurements. LCC also admitted to have failed to ensure the accuracy of the calculation of the weighted average number of the Company's shares and the loss per share.

11. On 17 September 2013, the FRC referred to the Institute a report of the Audit Investigation Board ("**AIB**") dated 8 August 2013 to the Institute pursuant to section 9(f) of the FRC Ordinance, Cap.588.

THE COMPLAINANT'S CASE AS AT 20 MAY 2015

12. In the 2009 Financial Statements, the Company failed to:

    (a) Recognize depreciation and disclose the carrying amount of the plant and machinery measured under the cost model, in accordance with paragraphs 31 and 77 of the Hong Kong Accounting Standard ("**HKAS**") 16 *"Property, Plant and Equipment"*;

    (b) Use the published price of the Company's shares to measure the fair value of the shares issued as consideration for the acquisition of iKanTV, in accordance with paragraphs 24 and 27 of HKFRS 3 *"Business Combinations"*;

    (c) Use the published price of the Company's shares in the initial measurement of the fair value of the shares issued as consideration for the acquisition of Info-Source, in accordance with paragraphs 43, 48A and Application Guidance 64 of HKAS 39 *"Financial Instruments: Recognition and Measurement"*; and

    (d) Determine the weighted average number of the Company's ordinary shares for the purpose of calculating the loss per share, in accordance with paragraphs 19 and 20 of HKAS 33 *"Earnings per Share"*.

13. The associated financial effects of the above non-compliances were considered material to the 2009 Financial Statements.

14. LCC failed to express a modified auditor's opinion on the 2009 Financial Statements in respect of the above non-compliance with HKAS 16, HKFRS 3, HKAS 39 and HKAS 33, in accordance with paragraphs 11 and 13 of the HKSA 700 *"The Independent Auditor's Report on a Complete Set of General Purpose Financial Statements"*.

15. In addition, in carrying out the audit of the 2009 Financial Statements, LCC was found to have failed to comply with the following HKSAs:

(a) Paragraphs 2 and 9 of HKSA 230 *"Audit Documentation"*;

(b) Paragraphs 2 and 11 of HKSA 500 "Audit Evidence";

(c) Paragraphs 3 and 63 of HKSA 545 "Auditing Fair Value Measurements and Disclosures"; and

(d) Paragraphs 2, 8, 9, 11 and 12 of HKSA 620 *"Using the Work of an Expert"*.

16. It is alleged that as an engagement quality control reviewer:

(a) Cheng failed to carry out an adequate review of the audit of the 2009 Financial Statements, in accordance with paragraphs 38 and 39 of HKSA 220 *"Quality Control for Audits of Historical Financial Information"*.

(b) Also, Cheng failed to act diligently in accordance with the relevant professional standards in respect of the audit of the 2009 Financial Statements.

17. As such, the Respondents failed or neglected to observe, maintain or otherwise apply professional standards under section 34(1)(a)(vi) of the PAO.

18. The principal issues are explained in the AIB report, which should be referred to for details.

Complaint 1: Against Cheng

19. Section 34(1)(a)(vi) of the PAO applies to Cheng in that he failed or neglected to observe, maintain or otherwise apply professional standards namely (i) paragraphs 38 and 39 of HKSA 220; and/or (ii) paragraph 100.4(c) as elaborated in paragraph 130.1 of the then applicable Code of Ethics for Professional Accountants for failure to act diligently in accordance with professional standards, when carrying out the work as an engagement quality control reviewer in the audit of the 2009 Financial Statements.

Complaint 2: Against LCC

20. Section 34(1)(a)(vi) of the PAO applies to LCC in that, when carrying out the audit of the 2009 Financial Statements, the firm had failed or neglected to observe, maintain or otherwise apply any one or all of the following professional standards:

(i) Paragraphs 2 and 9 of HKSA 230;
(ii) Paragraphs 2 and 11 of HKSA 500;
(iii) Paragraphs 3 and 63 of HKSA 545;
(iv) Paragraphs 2, 8, 9, 11 and 12 of HKSA 620; and/or
(v) Paragraphs 11 and 13 of HKSA 700.

Admission letters in respect of iKan TV:

21. By a letter dated 21 June 2012, LCC apparently admitted an overstatement of goodwill in respect of the acquisition of iKanTV. At that time, LCC asserted that, in view of the small trading volume of shares, the partner in charge regarded the published share price for Luxey shares would not provide the best evidence of the share's fair value and agreed to the use of the price stated in the sale and purchase agreements as the fair value.

22. By a letter dated 28 June 2013 from LCC, signed by Cheng as senior partner:

(a) LCC stated that the engagement partner and engagement team considered the prices stated in the SPA were the fair value at arm's length" based on their experience in auditing similar transactions. Further, the engagement partner considered that "the share price in the HK GEM was fluctuate and easy to manipulate" and agreed with the company's treatment to use the prices in the SPA to recognize the investment and calculate the goodwill.

(b) LCC agreed that they should have performed additional audit work to justify the company's treatment and document the work done.

23. By letter dated 28 June 2013, the engagement partner Wong Wing Hong stated in respect of the fair value measurement of the shares issued as consideration for the acquisition of iKanTV ("**the iKanTV Consideration Shares**"):

(a) He considered that "the share price in the Hong Kong GEM was fluctuate and easy to manipulate" and therefore agreed with the company's treatment to use the prices in the SPA to recognize the investment and calculate the goodwill.

(b) He agreed that he should have performed additional audit work to justify the company's treatment and document the work done.

24. By letter dated 28 June 2013, Cheng as senior partner of LCC stated in respect of the fair value measurement of the iKanTV Consideration Shares:

(a) As Luxey's management and audit committee as well as the LCC engagement team considered the daily transaction value is thin especially beginning 2008 when the financial crisis started, they considered that the the company's treatment to use the prices in the SPA to recognize the investment and calculate the goodwill was acceptable when it is not a perfect market.

(b) They agreed that they should have performed additional audit work to justify the company's "investment" [cf. treatment] and document the work done; <u>and the market value should be adopted as fair value</u> (offering LCC's apologies).

25. However, LCC did not admit the Complaint at the outset (by seeking dispensation with paragraphs 17 to 30 of the Disciplinary Committee Proceedings Rules) and only admitted the Complaint when filing its Respondent's Case.

DEVELOPMENTS SINCE THE COMPLAINT

26. Complaint 2 against LCC is in respect of the 4 principal issues set out in the Complainant's Case (and at para. 12 above).

27. Complaint 1 is only in respect of the iKanTV Consideration Shares issue.

28. LCC has prior to the hearing admitted Complaint 2 in respect of the 4 principal issues set out in the Complainant's Case (see the Respondents' Case dated 22 June 2015).

29. Cheng however contests Complaint 1 (see the Respondents' Case dated 22 June 2015), notwithstanding he is a senior partner of LCC.

30. For the purposes of this hearing, there is an agreed statement of facts between the Complainant and Cheng as follows:

"**<u>AGREED STATEMENT OF FACTS</u>**

(re Case against 1st Respondent as EQCR)

1. The only outstanding complaint is Complaint 1, which concerns the 1st Respondent's ("**Cheng**") role as an EQCR in the audit of the 2009 Financial Statements in respect of the fair value measurement of the iKan TV Consideration Shares (the "**Shares**"). The 2nd Respondent ("**LCC**"), as auditor, has already admitted to Complaint 2 which encompasses 4 principal issues, including the issue concerning fair value measurement of the Shares.

2. For the Shares, LCC admitted that the firm had failed to obtain sufficient appropriate audit evidence that the Shares were measured in accordance with the applicable financial reporting standards, which

were §§24 and 27 of HKFRS 3 and §§48A and AG71 of HKAS 39. LCC also admitted that there was a failure to document the audit procedures performed in breach of §§2 and 9 of HKSA 230, and a modified audit opinion should have been expressed as required by §§11 and 13 of HKSA 700.

3. In the 2009 Financial Statements, the Shares were valued based on the prices stated in the relevant Sales and Purchase Agreements.

4. The Respondents had confirmed that the working papers at Annexes 2A to 2P of the AIB Report (A309 to A481) represented the complete working papers relating to the audit on the issues covered in the AIB Report.

5. The audit working papers titled "Interest in subsidiary" (A15) contains the following assertion: "Agreed to use agreement price to recognize the investment where part was settled by shares as it is considered the market value cannot reflect the fair value of the Company's share[s] and the counter party accepted the share price in agreement."

6. The reason was given in the letter from LCC to FRC dated 21 June 2012 (A1-2), which stated: "Owing [to] the small trading volume of shares, the partner in charge considered that the published price could not provide the best evidence of the share's fair value and accordingly accepted to use the price stated in the agreements as the fair value."

7. No documentary evidence or further audit work has been kept or done to ascertain small trading volume of Shares.

8. For Cheng as EQCR, the audit working papers stated that he was satisfied that there was adequate evidence of work (generally) and that the financial statements complied with HKFRSs in all material areas (A16-18).

9. There was trading of the Shares throughout the relevant period (A7-10)."

THE ISSUES: COMPLAINT 1

31. Cheng denies the complaint against him on the basis that the Complainant has failed to establish a prima facie case that "published price" should be used as fair value measurement of iKanTV Consideration Shares. He argues:

(a) Paras. 24 and 27 of HKFRS 3 and para 48A and AG71 of HKAS 39 refer to a "best evidence" approach, but that at common law it is doubtful the "best evidence" rule exists any more.

(b) The Complainant did not consider why there were no "rare circumstances".

(c) The Complainant has failed to adduce expert evidence to explain why the "historical costs" valuation is incorrect and the "published price" valuation should be adopted.

(d) Having wrongly presumed the "published price" must be used, the Complainant relies solely on the lack of audit evidence In the working papers to support the complaint.

RELEVANT STANDARDS

32. HKFRS 3 *Business Combinations*

- Paragraph 24 states that *"The acquirer shall measure the cost of a business combination as the aggregate of (a) the fair values, at the date of exchange, of assets given, liabilities incurred or assumed, and equity instruments issued by the acquirer, in exchange for control of the acquiree; plans (b) any costs directly attributable to the business combination. "*

- Paragraph 27 states that *"The published price at the date of exchange of a quoted equity instrument provides the best evidence of the instrument's fair value and shall be used, except in rare circumstances. Other evidence and valuation methods shall be considered only in the rare circumstances when the acquirer can demonstrate that the published price at the date of exchange is an unreliable indicator of fair value, and that the other evidence and valuation methods provide a more reliable measure of the equity instrument's fair value ... Further guidance on determining the fair value of equity instruments is set out in HKAS 39 Financial Instruments: Recognition and Measurement."*

33. HKAS 39 *Financial Instruments: Recognition and Measurement*

- Paragraph 43 states that *"When a financial asset or financial liability is recognised initially, an entity shall measure it at its fair value plus, in the case of a financial asset or financial liability not at fair value through profit or loss, transaction costs that are directly attributable to the acquisition or issue of the financial asset or financial liability. "*

- Paragraph 48A states that *"The best evidence of fair value is quoted prices in an active market. If the market for a financial instrument is not active, an entity establishes fair value by using a valuation technique ... "*

- Application Guidance ("AG") 64 of Appendix A states that *"The fair value of a financial instrument **on initial** recognition is normally the transaction price (ie the fair value of the consideration given or received ...) "*

- AG71 of Appendix A states that *"A financial instrument is regarded as quoted in an active market if quoted prices are readily and regularly available from an exchange, dealer, broker, industry group, pricing service or regulatory agency, and those prices represent actual and regularly occurring market transactions on an arm's length basis ... The existence of published price quotations in an active market is the best evidence of fair value and when they exist they are used to measure the financial asset or financial liability. "*

34. *HKSA 700 The Independent Auditor's Report on a Complete Set of General Purpose Financial Statements*

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

- *Paragraph 13 further states that "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. This evaluation includes considering whether, in the context of the applicable financial reporting framework: (a) The accounting policies selected and applied are consistent with the financial reporting framework and are appropriate in the circumstances; (b) The accounting estimates made by management are reasonable in the circumstances; (c) The information presented in the financial statements, including accounting policies, is relevant, reliable, comparable and understandable; and (d) The financial statements provide sufficient disclosures to enable users to understand the effect of material transactions and events on the information conveyed in the financial statements, for example, in the case of financial statements prepared in accordance with Hong Kong Financial Reporting Standards (HKFRSs), the entity's financial position, financial performance and cash flows. "*

35. <u>HKSA 230</u> *Audit Documentation*

- Paragraph 2 states that *"The auditor should prepare, on a timely basis, audit documentation that provides:*
  (a) A sufficient and appropriate record of the basis for the auditor's report; and
  (b) Evidence that the audit was performed in accordance with HKSAs and applicable legal and regulatory requirements. "

- Paragraph 9 states that *"The auditor should prepare the audit documentation so as to enable an experienced auditor, having no previous connection with the audit, to understand:*
  (a) The nature, timing, and extent of the audit procedures performed to comply with HKSAs and applicable legal and regulatory requirements;
  (b) The results of the audit procedures and the audit evidence obtained; and
  (c) Significant matters arising during the audit and the conclusions reached thereon.

36. <u>HKSA 220</u> *Quality Control for Audits of Historical Financial Information*

- Paragraph 38 states that *"An engagement quality control review should include an objective evaluation of.-*
  (a) The significant judgments made by the engagement team; and
  (b) The conclusions reached in formulating the auditor's report. "

- Paragraph 39 further states that *"An engagement quality control review ordinarily involves discussion with the engagement partner, a review of the financial information and the auditor's report, and, in particular, consideration of whether the auditor's report is appropriate. It also involves a review of selected audit documentation relating to the significant judgments the engagement team made and the conclusions they reached... "*

37. <u>Section 130 of the Code of Ethics for Professional Accountants</u>

Professional Competence and Due Care

- Section 130.1 states that *"The principle of professional competence and due care imposes the following obligations on professional accountants:*
  (a) To maintain professional knowledge and skill at the level required to ensure that clients or employers receive competent professional service; and
  (b) To act diligently in accordance with applicable technical and professional standards when providing professional services. "

ANALYSIS

38. We see no merit at all in Cheng's submissions.

39. As noted in the agreed facts, in the audit working paper entitled "Interest in subsidiary", there was simply a bare assertion that the market value of the Company's shares could not reflect their fair value. Also, it was alleged by LCC in the letter dated 21 June 2012 to the FRC that the published price of the shares could not provide the best evidence of their fair value because of the small trading volume of the shares.

40. There is in any event no audit evidence in the audit working papers to support these assertions.

41. Para 27 of HKFRS 3 makes clear:

(a) The published price shall be used by the acquirer except in rare circumstances.

(b) Other valuation methods shall be considered only in the rare circumstances when the acquirer can demonstrate that the published price is an unreliable indicator of fair value and that other methods provide a more reliable measure of fair value.

42. Hence before using any valuation method other than "published price" the audited company had to demonstrate (i) the published price was not reliable and (ii) another method was more reliable. There is no evidence in the working papers that such matters were demonstrated before the preparation of the financial statements or before the issue of the audit opinion. The only evidence that such matters were even considered is the after-the-event correspondence with the FRC. Even at that time, and indeed ever since, there has been no evidence to substantiate such assertions. For instance, whilst it was asserted that trading was thin, there was no explanation as to what the volume of trading was and why it was considered thin. Nor has there been any explanation as to why the historical cost method used was more reliable than the published price. Even now, Cheng is not suggesting or arguing that this was properly demonstrated by the Company, but that LCC's rationale was simply not recorded. This is reinforced by the fact that the Company restated its position in relation to the valuation method in its 2010 financial statements and subsequently adopted the published price.

43. It is entirely wrong for Cheng to suggest that the Complainant should be demonstrating that rare circumstances did not exist. It was for the audited company to demonstrate that they did, and for the audit team to check that the company had complied with HKFRS 3 (including use of proper valuation methods), and for the EQCR to objectively evaluate the significant judgments of the audit team.

44. The Complainant is submitting that those roles were not properly performed. It is entitled to do so on the evidence that the published price was not used, when there is no reliable evidence of a contemporaneous demonstration that the historical costs valuation method was more appropriate.

45. We agree with the Complainant, and LCC has admitted that:

(a) There was non-compliance with §§24 and 27 of HKFRS 3 for not using the published prices of the Company's shares to measure the fair value of the iKanTV Consideration Shares.

(b) This had resulted in an overstatement of goodwill of approximately $53.6 million, which had to be restated in the 2010 Financial Statements (note 3(c)). That represented approximately 18% of the consolidated net assets of the Company's group as at 31 December 2009.

(c) Given the significant effect of the non-compliance with HKFRS 3, LCC should have expressed a modified auditor's opinion on the 2009 Financial Statements as required by §§11 and 13 of HKSA 700.

(d) There was no documentation of the audit procedures performed and the audit evidence obtained by LCC to support its conclusion and explanation, in particular over the claims that the market values of the shares could not reflect its fair value, or that this lack of reflection was due to small trading volume. LCC failed to prepare audit documentation that would be a sufficient and appropriate record in accordance with §§2 and 9 of HKSA 230 *Audit Documentation.*

46. In correspondence with the FRC, LCC and the Engagement Partner both agreed that additional audit work should have been performed to justify the Company's treatment and document the work done (letters dated 28 June 2013 from LCC and the Engagement Partner respectively).

47. When asked why the admissions by LCC concerning the iKanTV Consideration Shares did not establish at least a prima facie case that the 2009 Financial Statements should have adopted the published price as the fair value for the iKan TV Consideration Shares, Mr Leung, counsel for Cheng, had no answer.

48. Cheng has offered no explanation for the departure from his admission in the letter dated 28 June 2013 that the market value should be adopted as fair value.

49. It is clear that the authorities relied on by Mr Leung as to the common law concept of "best evidence" as an evidential rule are entirely irrelevant to the present circumstances, where the applicable accounting standard prescribes the use of "published price" unless certain conditions are satisfied. Those conditions are set out at para. 27 of HKFRS 3.

50. We do not consider that expert evidence was required in this case in order to show that the "historical costs" valuation method was not correct. As stated, the HKFRS requires the audited company to demonstrate the existence of certain conditions before a valuation method other than "published" price " can be used. On the facts, this was simply not done. Indeed, Cheng had applied to adduce expert evidence earlier in the proceedings as to whether the "historical costs" valuation should have been adopted instead of the "published price" valuation for the fair value measurement of the iKanTV Consideration Shares, which application we dismissed. We are hardly likely to consider now that the Complainant should have adduced expert evidence on the exact same issue. Attempts by Cheng to rely on extracts of the HKICPA Member's Handbook in respect of HKAS 39, in seeking to show that there were divisions within the profession as to appropriate methods to use, were unhelpful and irrelevant, as his counsel referred to extracts relating to "impairment and uncollectability of assets" rather than the relevant section on "fair value measurement considerations".

51. We do not consider that the Complainant is relying solely on the absence of entries in the audit work papers to prove its case. It relies on LCC's admission, and the audit working paper as the only evidence of relevant considerations, and no evidence at all of a proper demonstration of rare circumstances. The absence of mention of relevant audit work in the audit workpapers is strong evidence that such audit work was not done at all, where there is no other evidence to the contrary.

52. The EQCR worksheet apparently dated 6 March 2010 signed by Cheng showed the following:

Engagement Performance				
	Yes	**No**	**N/A**	**Comments**
3. Is there evidence of adequate work and documentation for: a. Significant financial statement areas? b. Significant management estimates?	✓			
5. Were difficult and contentious matters: a. Adequately documented? b. Subject to consultation with others?	✓ ✓			

c. Appropriately resolved?	✓			
Financial Statements and Engagement Report				
16. Are you satisfied that the financial statements and disclosures comply with HKFRSs requirements in all material areas?	✓			

53. Although LCC admits, and we find, inadequate work and documentation for the significant matter of the valuation of the iKanTV Consideration Shares (leading to an overstatement of goodwill by approx. $53.6 million), Cheng as EQCR approved the incorrect judgments by LCC. There is, even at this stage of the disciplinary hearing, absolutely no further evidence to show that Cheng did anything to satisfy himself that such judgments by LCC were appropriate, whether by consultation with the engagement partner or otherwise, or that these significant judgements had been discussed with or disclosed to the audited company's audit committee . As Mr Ng for the Complainant submitted, there was no basis for Cheng to be satisfied with the audit work on the valuation issue.

54. We are satisfied that Complaint 1 against Cheng is established.

SANCTIONS

55. The Disciplinary Committee received written submissions by Counsel for the Complainant and LCC respectively prior to the hearing. At the hearing, Counsel for the Respondents informed the Disciplinary Committee that Cheng had no further submissions to make on sanction but would adopt the arguments made on behalf of LCC.

56. The Disciplinary Committee has considered all the matters in this case. In particular, the following matters were considered:

(a) The complaints concerned a public listed company and therefore an element of public interest is involved, albeit it is not alleged that anybody suffered any actual loss as a result of the incompetent work of the Respondents.

(b) There were multiple breaches by LCC of auditing and accounting standards across a number of different issues. The material overstatements and errors which LCC failed to note (one of which Cheng failed to note) in their auditing work and review are significant. These amount to professional misconduct and a lack of professional competence on the part of the Respondents. We are of the view these are serious breaches.

(c) There was no allegation of fraud or dishonesty made against either of the Respondents.

(d) LCC admitted Complaint 2 in its Case, avoiding the need for a full hearing to deal with Complaint 2. However, Cheng, by the same counsel as LCC, disputed Complaint 1 on grounds which effectively disputed the basis for Complaint 2, which he as senior partner of LCC had caused LCC to admit. A full hearing was necessitated because of this contradictory and unacceptable approach taken by Cheng.

(e) Neither LCC nor Cheng have been subjected to any disciplinary sanctions imposed by the HKICPA in the past.

(f) Cheng is facing only one complaint.

57. Having considered all the matters, the Committee makes the following orders:

(a) The 1st Respondent be reprimanded under section 35(1)(b) of the PAO and pay a penalty of HK$100,000 under section 35(1)(c) of the PAO.

(b) The 2nd Respondent be reprimanded under section 35(1)(b) of the PAO and pay a penalty of HK$200,000 under section 35(1)(c) of the PAO.

(c) Under section 35(1)(iii) of the PAO:

i. The costs of the hearing totalling HK$10,250 be paid by the 1st Respondent.

ii. The Respondents jointly and severally pay the remaining costs and expenses of and incidental to the complaint proceedings in a sum of HK$280,788.70 to include the costs of the FRC.