

**IN THE MATTER OF**

**A Complaint made under Section 34(1) 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**

**Mr. Ho Lap Wing, Anthony (A18070)**

**RESPONDENT**

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

Members:            Mr. Kumar Ramanathan SC (Chairman)  
                          Mr. Fulton, James Taylor  
                          Mr. Liu Swee Long, Michael  
                          Mr. Tsang, Cheong Wai Simon  
                          Mr. Tsui, Wai Hang

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**ORDER & REASONS FOR DECISION**

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1. This is a complaint by the Practice Review Committee of the Hong Kong Institute of Certified Public Accountants (“the Institute”) as the Complainant against the Respondent, Mr. Ho Lap Wing, Anthony, a certified public accountant (practising).

Section 34(1)(a)(vi) of the PAO applied to the Respondent.

2. The particulars of complaint were set out in a letter dated 1<sup>st</sup> June 2015 (“the Complaint”) from the Practice Review Committee to the Registrar of the Institute for consideration of the Complaint for referral to the Disciplinary Panels as follows:
  - (a) The Respondent is the sole proprietor of Anthony Ho & Company (firm no. 1830) (“the Practice”).
  - (b) The Practice was selected for practice review in May 2012 and consequently was subject to a follow-up visit in August 2013. The principal purpose of the follow-up practice review visit was to ascertain whether the Practice had taken appropriate actions to respond to the findings identified in the first practice review and the directions given by the Practice Review Committee (the “PRC”).
3. In the follow-up visit the reviewer identified that the Practice had still failed to implement adequate quality control procedures.
4. In addition, the reviewer identified deficiencies in the Practice’s audit work in respect of a private entity (“Client S”), an insurance broker (“Client P”) and a solicitor’s firm (“Client SV”) A number of significant deficiencies in the audit engagement involving Client S and Client P identified in the follow-up visit were similar to those identified in the first practice review thus demonstrating that the Practice had failed to implement appropriate actions to address the deficiencies

identified in the first practice review.

5. In the light of the practice review findings the Institute wrote to the Respondent on 11<sup>th</sup> December 2014 seeking his explanations.
6. By a letter dated 23<sup>rd</sup> December 2014, the Practice provided copies of the relevant working papers and asserting and confirming that they were true copies of the original working papers comprising the complete audit documentation in respect of the three above mentioned audits. It however transpires, as confirmed by the Practice by its letter of 2<sup>nd</sup> February 2015, that some of the working papers for Client S and Client SV might not have been part of the final audit engagement files as they were obtained only after the commencement of the practice review.

#### **RELEVANT PROFESSIONAL STANDARDS**

7. Hong Kong Standard on Quality Control 1 "Quality Control for Firms that Perform Audits and reviews of Financial Statements and Other Assurances and Related Services Engagements" ("**HKSQC**"):
  - (a) Paragraphs 16 and 17 of HKSQC 1 require the Practice to establish and maintain a system of quality control and to document its policies and procedures and communicate them to the Practice personnel;
  - (b) Paragraph 21 of HKSQC 1 requires the Practice to establish policies and procedures to ensure that independence requirements are met. Paragraph 24 of HKSQC 1 requires the Practice to obtain written confirmation of

compliance with its policies and procedures on independence from its personnel at least on an annual basis;

(c) Paragraph 45 of the HKSQC 1 requires the Practice to establish policies and procedures for assembly of final engagement files on a timely basis after the engagement reports have been finalized;

(d) Paragraphs 26 to 28 require the Practice to establish policies and procedures for the acceptance and continuance of client relationships and engagements. This includes consideration of the integrity of the client as well as the competence and capabilities of the Practice to perform the engagements in accordance with relevant requirements. Such policies and procedures should require the Practice to obtain information necessary in the circumstances before accepting an engagement with a new or existing client.

8. Hong Kong Standard on Auditing 500 “Audit Evidence” (“**HKSA 500**”)

(a) Paragraph 6 of HKSA 500 requires an auditor to design and perform audit procedures that are appropriate in the circumstances for the purpose of obtaining sufficient appropriate audit evidence

9. Code of Ethics for Professional Accountants (“**COE**”)

(a) Paragraph 100.5 (c) and 130 require a professional accountant to maintain professional knowledge and skill at the level required to ensure that clients

receive competent professional services and act diligently in accordance with applicable technical and professional standards;

- (b) Paragraph 100.5 (c) and 130.1(b) require a professional accountant to act diligently in accordance with applicable technical and professional standards when providing professional services.

### **SUMMARY OF PRINCIPAL ISSUES**

- 10. The principal issues relate to the failures by the Respondent to:
  - (i) Establish policies and procedures to ensure that the requirements of HKSQC 1 regarding independence, client acceptance and continuance and engagement file assembly are complied with;
  - (ii) Design and perform audit procedures that are appropriate in the circumstances for the purpose of obtaining sufficient appropriate audit evidence in relation to the audit of financial statements of Client S and Client P for the year ended 31<sup>st</sup> March 2012;
  - (iii) Maintain professional competence and skill at the level required to carry out the audits of the financial statements of Client S and Client P for the year ended 31<sup>st</sup> March 2012;
  - (iv) Diligently carry out the audits of Client SV for the year ended 31<sup>st</sup> March 2012 in accordance with the relevant technical and professional standards.

## **THE COMPLAINTS**

### *First Complaint*

11. Section 34(1)(a)(vi) of the Professional Accountants Ordinance (“PAO”) applies to the Respondent in that he had failed or neglected to observe, maintain or otherwise apply a professional standard namely, HKSQC 1 as his Practice had not implemented adequate quality control policies and procedures.

### *Second Complaint*

12. Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he had failed or neglected to observe, maintain or otherwise apply a professional standard namely, paragraph 6 of HKSA 500 in that he had failed to design and/or perform audit procedures that are appropriate for the purpose of obtaining sufficient appropriate audit evidence in relation to the audit of the financial statements of Client P for the year ended 31 March 2012.

### *Third Complaint*

13. Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he had failed or neglected to observe, maintain or otherwise apply a professional standard namely, paragraph 6 of HKSA 500 in that he had failed to design and/or perform audit procedures that are appropriate for the purpose of obtaining sufficient appropriate audit evidence in relation to the audit of the financial statements of Client S for the year ended 31 March 2012.

*Fourth Complaint*

14. Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he had failed or neglected to observe, maintain or otherwise apply a professional standard namely, paragraph 100.5(c) and 130.1 of the COE in that he had failed to maintain professional and skill and the level required to ensure that clients receive competent professional services; and/or diligently carry out the audits of the financial statements of Client P and Client S for the year ended 31 March 2012, in accordance with the relevant technical and professional standards.

*Fifth Complaint*

15. Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he had failed or neglected to observe, maintain or otherwise apply a professional standard namely, paragraphs 100.5(c) and 130.1 of the COE in that he had failed to diligently carry out the reporting on client SV's compliance with the Solicitors' Accounts Rules and the Accountant's Report Rules in accordance with the relevant technical and professional standards for the year ended 31 March 2012.
16. On 24<sup>th</sup> August 2015, the Clerk to the Disciplinary Committee issued a Notice of Commencement of Proceedings enclosing a procedural timetable and a full set of the complaint documents to the parties. The parties were requested to make written submissions.
17. By a Confirmation letter dated 21<sup>st</sup> August 2015 the Respondent admitted all the Complaints laid against him and did not dispute the facts as set out in the

Complaint. By a letter dated 27<sup>th</sup> August 2015 the parties jointly applied to dispense with the steps set out in rules 17 to 30 of the Disciplinary Committee Proceedings Rules.

18. On 21<sup>st</sup> September 2015, the Clerk to the Disciplinary Committee, under the direction of the Committee, informed the parties that they should make written submissions on sanctions and costs.
19. The Complainant and the Respondent filed their submissions on sanctions and costs 12<sup>th</sup> October and 20<sup>th</sup> October 2015 respectively.
20. The Complainant acknowledges that each case was fact sensitive and that we, as the Disciplinary Committee, were not bound by previous decisions of Disciplinary Committees. It highlighted that despite the fact that the Practice was made aware of the deficiencies in the quality control at the initial practice review in May 2012 it nevertheless failed to address these by the time of the scheduled follow-up visit in August 2013.
21. It is further contended that this failure demonstrated that the Respondent simply did not heed the practice reviewer's advice and attend to the deficiencies. It pointed out that this was of particular concern as regards the compliance audit involving Client SV as there was a public interest element involved since the compliance report would be and was relied upon by another regulator.
22. In the circumstances the Complainant argued that the Respondent's failures were serious and that the level of sanction should properly reflect the gravity of his



breaches in respect of inadequate quality control and procedural failures. It is submitted that a clear message should be conveyed to the Respondent in particular and the profession in general that such failures will be viewed seriously by the Disciplinary Committee. Accordingly this was a case that would justify cancellation of the Respondent's practising certificate for such period as the Committee considered appropriate.

23. In mitigation the Respondent urged the Committee not to cancel his practising certificate claiming that he as the sole breadwinner of his family, and that the Practice was the sole source of his family's income. He has two young children. He claims that the main cause of his present complaints was the fact that due to expansion of the Practice a few years ago he began to use outside contractors to help the Practice undertake its work and due to variable quality of these third parties the deficiencies identified was the result.
24. It was contended that despite asking the outside contractors to conduct their work to a higher standard it also required the cooperation of the clients as well. It is claimed that Respondent wanted to resign his engagement with the three clients in question but he continued as they expressed concern that they may not be able to find another Certified Public Accountant to undertake the audit work in time.
25. It was urged upon us that the Respondent had attempted to reduce number of clients and thereby the need or reliance on outside parties to carry out the relevant work. It was asserted that in 2014/15 the Practice only handled about 120 clients, although no figures were given as to what was client base from which this claimed

reduction had been effected, save that is said that the Practice had terminated engagements with no fewer than 100 clients over the preceding three years. It is urged upon such that such a contraction of the business inevitably affected the income and that the last three years have been significantly difficult financially.

26. In considering the appropriate sanction to be imposed in this case we take into account all the matters urged upon us by the parties and take into account particularly the following:
- (a) the fact that the Respondent admitted the complaints at an early stage and thereby has saved considerable time and costs;
  - (b) while we note with sympathy the personal circumstances of the Respondent urged upon us we do not consider either they and/or the difficulties he claims he was encountering in the Practice to be compelling mitigation factors;
  - (c) these were serious and multiple failures by the Respondent which were aggravated by the fact that no real attempts had been undertaken to rectify and eliminate the deficiencies by the time of the follow-up visit almost 15 months later in August 2013;
  - (d) in considering whether the Respondent's practising certificate should be cancelled we have taken into account the serious and multiple nature of the failures identified initially and which were not adequately or at all rectified in the follow-up visit. In our view such conduct and attitude of the

respondent demands a deterrent sanction so as to provide a salutary reminder to the Respondent in particular and the accountancy profession in general that such failures will not be tolerated by the Institute. This is in order to protect the public interest as well as the standing and reputation of the Institute as a self-regulating professional body;

- (e) taking all matters into consideration we are satisfied that this is an appropriate case for cancellation of the practising certificate of the Respondent to reflect the serious and multiple nature of the failures by him. In considering whether to cancel the respondent's practising certificate we have taken into account the decisions in Proceedings No: **D-12-0669P** and **D- 13-0837P**;
- (f) in considering when this order should take effect we believe that the Respondent should be given time to wind down his practice. We allow him 35 days to do so;

27. Having regard to all the matters we would make the following ORDERS:

- (a) The practising certificate issued to the Respondent in 2015 be cancelled under section 35(1)(da) of the PAO and it shall take effect on the 35 days from the date of this order;
- (b) a practising certificate shall not be issued to the Respondent for the year 2016 under section 35(1)(db) of the PAO;

- (c) the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant in the total sum of \$22,226, which includes the costs of the Clerk to the Committee under section 35(1)(iii).

Dated the 29<sup>th</sup> day of December 2015