

IN THE MATTER OF

A Complaint made under Section 34(1) and 34(1A) of the Professional Accountants Ordinance (Cap.50) ("the PAO") and referred to the Disciplinary Committee under Section 33(3) of the PAO

BETWEEN

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

AND

Mr. Poon Wai Kit
Membership No. A31544 RESPONDENT

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

Members: Mr. Wai Siu Chung Dominic (Chairman)

Mr. Yuen Tat Tong
Ms. Yu Tin Yau Elvin
Mr. Wong Yue Ting Thomas
Mr. Woo King Hang

ORDER & REASONS FOR DECISION

1. This is a complaint made by the Registrar of the Hong Kong Institute of Certified Public Accountants (the "**Institute**") against Mr. Poon Wai Kit, certified public accountant (the "**Respondent**"). Sections 34(1)(a)(ii) and 34(1)(a)(iii)(A) of the Professional Accountants Ordinance ("**PAO**") applied to the Respondent.
2. The Complaint as set out in a letter dated 9 January 2017 (the "**Complaint**") are as follows:-

Background

- (1) On 7 July 2016, the Respondent was convicted in the District Court in cases DCCC 86/2016 and DCCC 435/2016 of three counts of theft, contrary to section 9 of the Theft Ordinance, Cap. 210 (the "**Criminal Charges**"). He was sentenced to imprisonment for a total term of 62 months on 8 July 2016. (Page 1, **Appendix 1**)

Complaints

Complaint 1

- (2) Section 34(1)(a)(ii) of the Professional Accountants Ordinance ("**PAO**") applies to the Respondent in that he has been convicted in DCCC 86/2016 and DCCC 435/2016 of the offence of theft, being an offence involving dishonesty.

Complaint 2

- (3) Section 34(1)(a)(iii)(A) of the PAO applies to the Respondent in that he falsified or caused to be falsified documents in committing the offence of theft referred to in Complaint 1.

Complaint 3 (alternative to Complaints 1 and 2)

- (4) Section 34(1)(a)(x) of the PAO applies to the Respondent in that he was guilty of dishonourable conduct by reason of his dishonest act of stealing money, for which he has been convicted of the offence of theft as referred to in Complaint 1, and by reason of his falsification of documents as referred in Complaint 2.

Facts and Circumstances in Support of the Complaints

DCCC 86/2016

- (5) The Respondent was employed by Zhong Jun Resources Co., Ltd. (In Liquidation) ("**Employer 1**") as its accountant between 20 November 2012 and 27 August 2013. During that period, the Respondent was the only person responsible for keeping Employer 1's cheque book and handling all accounting matters. The Respondent was dismissed on 27 August 2013 due to unsatisfactory work.
- (6) Mr. Xu, the managing director of Employer 1, was authorized by Employer 1 to issue cheques up to HK\$100,000. Mr. Xu had never authorized anyone to sign Employer 1's cheque on his behalf and the Respondent was not allowed to issue cheques on behalf of the company.
- (7) Ms. Ng took over the work of the Respondent after he left. She discovered a number of suspicious withdrawals from a cheque account of Employer 1. Ms. Ng reported the anomalies to Mr. Xu. Mr. Xu called the Respondent on 29 August 2013 to clarify the matter. In the telephone conversation, the Respondent confessed to Mr. Xu that he had misappropriated Employer 1's funds by forging Mr. Xu signature on the company's cheques and issuing them to himself on a number of occasions since January 2013.

- (8) When interviewed by the Police, the Respondent admitted that he had forged Mr. Xu's signature and issued 84 cheques to himself amounting to HK\$6,721,847 between 28 January 2013 and 29 August 2013.
- (9) On 7 July 2016, the Respondent pleaded guilty and was convicted in the District Court of Hong Kong of one count of theft, being that he stole a total sum of HK\$6,721,847 from Employer 1.

DCCC 435/2016

- (10) The Respondent joined E-Service Group Ltd ("**Employer 2**") in October 2014 as deputy financial manager.
- (11) Employer 2 was a company selling electronic gadgets. Before March 2015, the company had a policy of giving cash or issuing cheques (each time HK\$30,000 at most) via the accounting department (in practice by the Respondent) to an assistant merchandiser for her to purchase certain products from retailers directly, in order to meet clients' demand for those products which the company could not find from their warehouse or from suppliers. The policy ceased from March 2015 as it was not cost-effective.
- (12) Due to communication problems, the signatories of Employer 2 were not aware of the change of merchandising policy in March 2015 and they issued cheques upon request of the Respondent even after the policy change.
- (13) Between 3 March 2015 and 1 February 2016, the Respondent misappropriated a total of HK\$5,430,000 in cash or by cheques purportedly for merchandising purpose but in fact no goods were purchased with the said money. Details are as follows:
- (i) The Respondent obtained cash of HK\$1,080,000 belonging to a subsidiary of Employer 2 on 36 occasions during the period. The sum was released to the Respondent by one of his subordinates, as the Respondent claimed that he was collecting money for transferring it to the merchandising department.
 - (ii) The Respondent obtained 147 cheques amounting to HK\$4,350,000 of the subsidiary's HSBC account during the period. The Respondent cashed 136 cheques in person and the remaining cheques were cashed by his subordinate on 11 occasions. The subordinate gave all the money to the Respondent after cashing in the cheques. He did not know how the Respondent disposed of the money afterwards.
- (14) The merchandising department of Employer 2 or its subsidiary did not receive any of the stolen HK\$5,430,000 for merchandising purpose. In order to balance the account of the subsidiary and cover up the embezzlement of funds, the Respondent input 236 forged "Supplier Invoices" into the company's computer system purportedly stating that goods in the value of HK\$4,848,439.89 and US\$10,640 were purchased during the

period between 16 March 2015 and 31 December 2015. 219 of the above "Supplier Invoices" were stamped with the subsidiary's company chop purportedly showing they were received by the warehouse but in fact, no purchase order was made by the merchandising department for the above goods and none of the purported goods were received by the warehouse.

- (15) On 7 July 2016, the Respondent pleaded guilty and was convicted in the District Court of Hong Kong of two counts of theft, being that:
- he stole a sum of HK\$4,350,000 from a subsidiary of Employer 2; and
 - he stole a sum of HK\$1,080,000 which belonged to a subsidiary of Employer 2.
- (16) The Respondent's conviction of theft is a conviction of an offence involving dishonesty for the purposes of section 34(1)(a)(ii) of the PAO. In addition, his falsification of documents in committing the theft renders him within the scope of section 34(1)(a)(iii)(A) of the PAO
- (17) The above conviction and falsification of documents also constitute dishonourable conduct as they would bring or likely to bring discredit upon the Respondent and/or the accountancy profession.
3. The Respondent admitted the Complaints against him. He did not dispute the facts as set out in the Complaints. On 15 March 2017, the parties agreed that the steps set out in paragraphs 17 to 30 of the Disciplinary Committee Proceedings Rules ("DCPR") be dispensed with.
 4. The Disciplinary Committee approved the parties' joint application to dispense with the steps set out in Rule 17 to 30 of the DCPR in light of the admission made by the Respondent and directed the parties to make written submissions on sanctions and costs.
 5. The Complainant and Respondent provided their submissions on sanctions and costs on 12 June 2017 and 29 June 2017 respectively.
 6. Complaints 1 and 2 were found proven on the basis of the admission by the Respondent.
 7. 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 Complaints, the Respondent's personal circumstances, and the conduct of the Respondent throughout the proceedings.

8. The Disciplinary Committee orders that:-

- (a) the name of the Respondent be removed from the register of certified public accountants permanently on the 40th day from the date of this order 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\$17,130 under Section 35(1)(iii) of the PAO.

Dated the 14th day of August 2017