

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

Ms. Ying Tze Yeuk FIRST
Membership No. F01909 RESPONDENT

T. Y. Ying & Co. SECOND
Firm No.: 0685. RESPONDENT

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

Members: Ms. Margaret Choi (Chairman)
Mr. David Fenn
Ms. Koo Kar Chun Anna
Ms. Yeung Kit Kam Lesley
Mr. Jim Wardell

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 Ms. Ying Tze Yeuk, certified public accountant (practising) ("**Ying**"), and T. Y. Ying & Co., a CPA Firm (the "**TY Y**") (collectively "**Respondents**"). Section 34(1)(a)(vi) of the Professional Accountants Ordinance ("**PAO**") applied to the Respondents.
2. The Complaint as set out in a letter dated 1 February 2018 (the "**Complaint**") is as follows:-

BACKGROUND

- (1) Ying is the sole proprietor of TYY, which issued unmodified auditor's reports on the financial statements of Sunyards Engineering Limited (the "Company") for each of the six years ended 31 March 2010 to 2015 ("Financial Statements"). The Financial Statements were stated to have been prepared under the Small and Medium-sized Entity Financial Reporting Standards ("SME-FRSs").
- (2) A review of the audited Financial Statements and other documents attached for the six years revealed instances of non-compliance with accounting standards and numerous errors and inconsistencies. Together, those findings indicated that the Respondents failed to conduct their professional work in accordance with the Fundamental Principle of Professional Competence and Due Care, in breach of the Code of Ethics for Professional Accountants ("COE") issued by the Institute.

THE COMPLAINT

- (3) Section 34(1)(a)(vi) of the PAO applies to the Respondents in that they failed or neglected to observe, maintain or otherwise apply a professional standard namely, sections 100.5(c) and 130.1 Professional Competence and Due Care of the COE in the audits of the Financial Statements.

FACTS AND CIRCUMSTANCES IN SUPPORT OF THE COMPLAINT

- (4) Sections 100.5(c) and 130.1 of the COE requires a professional accountant to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional services based on current developments in practice, legislation and techniques and act diligently and in accordance with applicable technical and professional standards.
- (5) There were errors, inconsistencies and non-compliance with accounting standards in the audited Financial Statements and other documents attached as noted below.

No disclosure of accounting policy for depreciation and no recognition of depreciation

- (6) In the audited Financial Statements for all six years, the accounting policy note on property, plant and equipment stated the following:

"Property, plant and equipment are stated at cost less accumulated depreciation and accumulated impairment losses.

The depreciable amount of an item of property, plant and equipment is allocated on a systematic basis over its estimated useful life using the straight-line method. The principal annual rates used for depreciation are as follows:

Furniture, Fixtures and Equipment 20%"

- (7) The Company acquired its leasehold property in the year ended 31 December 2010. The leasehold property was material and represented at least 25% of the total assets for each of the six years. There was no disclosure in the above note or anywhere in the Financial Statements of the "estimated useful life" for the leasehold property for the purpose of determining the depreciable amount for each year. The non-disclosure

of this information was a breach of paragraph 3.20 of the SME-FRSs. In representations to the Institute, the Respondents acknowledged that this disclosure was omitted.

- (8) In addition, contrary to the above accounting policy the Company did not provide depreciation for the two years ended 31 December 2010 and 2011. This was a non-compliance with paragraph 3.11 of the SME-FRSs. The Respondents concurred with the Company's decision not to provide the depreciation but offered no justifiable grounds for their concurrence. Their 2010 and 2011 relevant working papers merely stated that "no depreciation charged for the year according to director" and "no depreciation on the leasehold property was made during the year as according to the director" , respectively.

No recognition of current income tax

- (9) No provision for current year income tax was recorded in the audited Financial Statements for the years ended 31 December 2014 and 2015. This was despite the fact that the Respondents' audit working papers documented tax provision calculations which showed that amounts of tax estimated to be payable on the profits for 2014 and 2015 were HK\$ 80,000 and HK\$ 20,000, respectively .
- (10) For 2014, the Respondents' relevant working papers stated:
- "No provision of tax had been made as it is in the opinion of the director that there is great drop in profit for the coming year and the tax prepaid for the year should be more than enough that no provision need to be made."*
- (11) For 2015, the Respondents' relevant working papers stated:
- "The tax prepaid more than cover the tax payable for 2015/2016 and provisional 2016/2017.
Therefore no tax provision was made for the year."*
- (12) The omission of current year tax provision was a non-compliance with paragraph 14.3 of the SME-FRSs as the current tax liabilities as at 31 December 2014 and 2015 were not measured at the amount expected to be paid to the taxation authorities, using the tax rates enacted by the end of the reporting periods.
- (13) Further, the Respondents' reasons for concurring with not providing for tax payable in 2014 and 2015, as extracted above, shows a fundamental misunderstanding of the nature of provision for tax payable in a year (a charge made in the income statement) and that of prepayments of tax (an asset recognised in the balance sheet).

Other errors and inconsistencies

- (14) There were errors and inconsistencies identified throughout the six years as below.
- (15) In the audited Financial Statements,

- (a) There was no disclosure of the address of the registered office of the Company for each of the six years. This non-disclosure did not comply with paragraph 1.33 of the SME-FRSs and paragraph 1.36 of the SME-FRSs;
 - (b) Staff costs disclosed were incomplete as they did not include provident fund contributions for each of the six years;
 - (c) Certain heading / caption descriptions and presentation formats in the income statements were not in accordance with those used in the SME-FRSs. Also, certain line headings used in the income statements and balance sheets were incorrect as they did not correspond to the results of operations and state of affairs presented for each of the six years; and
 - (d) There were casting errors, incorrect or missing cross-references between the income statement / balance sheet and the notes to the financial statements, and instances where amounts or information in the income statement and balance sheet did not match corresponding amounts or information in the notes or in the prior-year audited financial statements.
- (16) The Respondents did not address in the auditor's report a material inconsistency between the audited Financial Statements and the director's report: the director's report stated that there was nil dividend distribution for the year ended 31 December 2015 but the financial statements disclosed a material dividend distribution of HK\$ 1 million.
- (17) In the auditor's reports,
- (a) The page number references to the financial statements for the years ended 31 December 2010, 2014 and 2015 were misstated;
 - (b) The auditor's report misstated the financial year end for the year ended 31 December 2011; and
 - (c) The position of the paragraph heading "Auditor's responsibility" in the report for the year ended 31 December 2010 was mis-placed after the first paragraph describing the auditor's responsibility.
- (18) In the detailed income statement (included for management's reference) for the year ended 31 December 2011, the comparative amounts did not match the corresponding comparative amounts in the audited income statement and the current amounts in the prior year's detailed income statement.
- (19) The above non-compliance with accounting standards and numerous errors and inconsistencies in the audited Financial Statements and other documents attached demonstrated that the Respondents failed to perform the audits over the six years with a level of skill and diligence expected of an auditor carrying out his reporting duty with professional competence and due care.

The Proceedings

3. The Notice of Commencement of Proceedings was issued to the parties on 5 June 2018. In light of the admission made by the Respondents, the complaints against them were found proven.

4. The Respondents and the Complainant made submission on sanctions and costs on 12 and 15 June 2018 respectively.
5. 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 nature of the breaches, the conduct and submissions of the Complainant, the previous conviction for similar audit deficiencies of the Respondents and the Respondents' conduct throughout the proceedings. The majority of the Disciplinary Committee considered that the Respondents should deserve a higher penalty.
6. The Disciplinary Committee ordered that:-
 - (a) the Respondents be reprimanded under Section 35(1)(b) of the PAO;
 - (b) the Respondents pay a penalty of HK\$70,000.00 under Section 35(1)(c) of the PAO;
 - (c) the Respondents do pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$49,746.00 under Section 35(1)(iii) of the PAO.

Dated 17 July 2018

Ms. Margaret Choi
Chairman

Mr. David Fenn
Disciplinary Panel A

Ms. Yeung Kit Kam Lesley
Disciplinary Panel B

Ms. Koo Kar Chun Anna
Disciplinary Panel A

Mr. Jim Wardell
Disciplinary Panel B