

IN THE MATTER OF

Complaints made under Section 34(1)(a) of the Professional Accountants Ordinance (Cap.50) ("the 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

Lam Kin Choi (F05649) RESPONDENT

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

Members: Mr. CHEUNG Kwok Kwan (Chairman)
Mr. LIU Che Ning
Mr. LAM Sze Cay, Kevin
Ms. HO Yuk Wai, Joan
Mr. FUNG Ying Wai, Wilson

ORDER AND REASONS FOR DECISION

1. This is a complaint made by the Practice Review Committee of the Institute as Complainant against the Respondent, a certified public accountant (practising). Section 34(1)(a)(vi) of the PAO applied to the Respondent.
2. The particulars of the four complaints are set out in a letter dated 30th April 2015 ("the Complaints") from the Practice Review Committee of the Institute to the Council of the Institute:-

First Complaint

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

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 M for the year ended 31 December 2012.

Third Complaint

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 W for the year ended 31 December 2012.

Fourth Complaint

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 33 and/or 42 of HKSAE 3000, in that there had been a failure to obtain sufficient appropriate evidence and/or adequately document matters that were significant in providing evidence to support the auditor's report on Client M's compliance with the Minimum Requirements under section 70(2) of the Insurance Companies Ordinance for the year ended 31 December 2012.

3. A date of 20th April 2016 was fixed for the disciplinary hearing ("the Hearing") to be held. The Complainant was legally represented at the Hearing and the Respondent appeared in person.
4. The Respondent has not filed his Case to the Complaints in these Proceedings. He denies the Complaints in the Hearing.

Preliminary issue

5. The Respondent made an application for producing additional documents in the Hearing, which he had never disclosed to the Complainant before the

Hearing. The Respondent only produced a summary of ledgers which he intended to adduce in the Hearing but could not identify and produce other additional documents that he intended to adduce in the Hearing for the Committee's consideration.

6. Notwithstanding the Respondent's application for producing additional documents in the Hearing, he could not submit to the Committee about the relevance of the additional documents to the Complaints and the reasons for his late application.
7. In the absence of the additional documents and explanations from the Respondent to the Committee about the relevance of such documents and reason for his late application, the Committee refused the Respondent's application for producing additional documents in the Hearing including the summary of ledgers.

Findings of the Committee

8. The Respondent has failed to observe, maintain or otherwise apply professional standards, namely HKSQC 1, HKSA 500 and HKSAE 3000. In particular, there has been no evidence of any audit procedures designed and performed by the Respondent and there has been no evidence that the Respondent has documented the outcome of the audit work.
9. During the Hearing, the Respondent has put forward defence that his failure to meet the quality control standards was due to restraints on human resources and time at the material times. The Committee considers that such restraints are not good defence for the Complaints.
10. On a balance of probabilities, the Complaints are found to have been proved against the Respondent.

Sanctions

11. The Respondent has no previous record of misconduct. Taking into consideration the nature of the misconduct and the lack of response to the Complaints on the part of the Respondent until the Hearing, the Committee considers that this case is a case of extremely serious misconduct.
12. The Respondent has put forward his mitigation in the Hearing and the Committee has duly considered his mitigation factors.
13. In the premises, the Committee makes the following orders:-

- (1) The Respondent's practising certificate be cancelled under section 35(1)(da) of the PAO and no practising certificate be issued to him for a period of 12 months under section 35(1)(db) of the PAO; both effective from the 42nd day after the date hereof;
- (2) Penalty of HK\$20,000 to be paid by the Respondent to the Institute for the Complaints under section 35(1)(c) of the PAO; and
- (3) The Respondent shall pay costs and expenses of and incidental to the proceedings of the Complainant and that of the Clerk in the sum of HK\$46,827 under section 35(1)(iii) of the PAO.

Dated the 25th day of August 2017.

Mr. CHEUNG Kwok Kwan
(Chairman)

Mr. LIU Che Ning

Ms. HO Yuk Wai, Joan

Mr. LAM Sze Cay, Kevin

Mr. FUNG Ying Wai, Wilson