

IN THE MATTER OF

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

BETWEEN

The Practice Review Committee of the Hong Kong Institute of Certified Public Accountants **COMPLAINANT**

AND

Hu Chiu Lun Alan (A09019) **RESPONDENT**

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

Members: Mr. Jose-Antonio Maurellet SC (Chairman)
Mr. David Fenn
Ms. Ho Man Kay Angela
Mr. Cheung Yiu Leung Andy
Mr. Tsang Tin For

ORDER AND REASONS FOR DECISION

1. This is a complaint made by the Practice Review Committee of the Hong Kong Institute of Certified Public Accountants (the "PRC") against Hu Chiu Lun Alan, CPA (Practising) (the "Respondent").
2. The Respondent was practising in his own name and was thus responsible for his own practice's control systems and the quality of its audit engagements.

THE COMPLAINT

3. As is set out in the Complaint:

- (1) Upon a practice review first conducted in May 2016 it appeared that there were certain deficiencies in relation to the Respondent's quality control systems and of its audit of a particular client (Client A), a private entity for the year ended 31 December 2014.
 - (2) A follow up review was then undertaken and it appeared that there were also a number of deficiencies in the Respondent's quality control systems and similar deficiencies in Client A's audit engagement for the year ended 31 December 2015 for which an audit report was issued by the Respondent on 15 August 2016.
 - (3) It also emerged that some of the working papers of Client A were prepared after the auditor's report had been issued. This therefore raised questions as to how the Respondent could have properly prepared the auditor's report prior to issuing it.
 - (4) The Reviewer issued his report on 20 September 2018 outlining the practice review findings of the follow up visit.
 - (5) Based on the findings in the aforesaid Report, the PRC considered that those deficiencies suggested a serious lack of care and regard to audit quality such as to demonstrate professional misconduct on the part of the Respondent.
 - (6) In addition, the preparation of the working papers after issuance of the audited report for Client A raised a concern about the integrity of the Respondent.
4. As a result, four complaints have now been made.
 5. In gist, it is alleged that the Respondent
 - (1) Failed or neglected to observe, maintain or otherwise apply a professional standard for his failure to maintain an adequate quality control system
 - (2) Failed or neglected to observe, maintain or otherwise apply a professional standard in respect of the fundamental principle of integrity
 - (3) Failed or neglected to observe, maintain or otherwise apply a professional standard in respect of his audit of Client A for the year ended 31 December 2015
 - (4) Has been guilty of professional misconduct as a result of his failure to comply with multiple professional standards
 6. The Facts and Circumstances in support of the complaints as set out in the Complaint are as follows which we quote :

“3. Facts and circumstances in support of the First Complaint

3.1 HKSQC 1 requires all firms of professional accountants to establish and maintain an adequate system of quality control which meets the requirements under the standard.

3.2 Paragraph 16 of HKSQC 1 requires a practice to establish and maintain a system of quality control that includes policies and procedures that address, amongst other things, the elements of monitoring and engagement performance.

3.3 In addition, paragraphs 17 and 57 of HKSQC 1 require the practice to establish policies and procedures to ensure appropriate documentation is prepared to provide evidence of the operation of each element of its system of quality control.

Monitoring process

3.4 Paragraph 48 of HKSQC 1 requires a practice to establish an effective monitoring process which should include an ongoing consideration and evaluation of the practice's system of quality control including, on a cyclical basis, an inspection of at least one completed engagement for each engagement partner.

3.5 In the initial practice review, it was found that an annual monitoring review of the practice's quality control system was not performed. In his response, the Respondent agreed to carry out a quality control monitoring review annually.

3.6 However, during the follow up visit, the Respondent did not provide evidence that a monitoring review had been carried out on the practice, in breach of paragraph 48 of HKSQC 1.

Custody and retrievability of engagement documentation

3.7 Paragraph 46 of HKSQC 1 requires a practice to establish policies and procedures to maintain safe custody and retrievability of engagement documentation.

3.8 During the initial practice review, the Respondent advised that all original hardcopies of audit working papers located in a warehouse could not be retrieved.

3.9 In this follow up visit, except for Client A, the Respondent still did not provide five other audit engagement files as requested by the Reviewer.

3.10 The above recurring deficiencies demonstrate that the Respondent lacked the commitment to properly address quality control findings, and he failed to establish effective policies and procedures in the practice to ensure that the HKSQC 1 requirements are complied with.

4. Facts and circumstances in support of the Second Complaint

4.1 The fundamental principle of integrity under sections 100.5(a), 110.1 and 110.2 of the Code of Ethics for Professional Accountants ("COE") requires a professional accountant to be straightforward and not knowingly be associated with information which contains false or misleading statements; or information furnished recklessly.

4.2 The working papers of Client A for the year ended 31 December 2015 showed that the Respondent had completed a version of the audit programmes which was issued by the Institute in December 2016, after the date of the auditor's report on Client A (i.e. 15 August 2016) and also the file assembly date of 13 September 2016 (A43). These audit documents were backdated and signed by the Respondent showing that the working papers were prepared and the audit procedures were performed before the auditor's report on Client A was issued.

4.3 In the circumstance, the Respondent had knowingly submitted the false/misleading information to the Reviewer, in breach of sections 100.5(a), 110.1 and 110.2 of the COE.

5. Facts and circumstances in support of the Third Complaint

5.1 The fundamental principle of Professional Competence and Due Care under 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 clients receive competent professional services and act diligently in accordance with applicable technical and professional standards.

5.2 The Reviewer found a number of breaches of HKSAs in the Respondent's audit of Client A, which is a company engaged in the provision of advertising and consultancy services.

Breach of Hong Kong Standard on Auditing ("HKSA") 500 "Audit Evidence"

5.3 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.

5.4 In the audit of Client A's revenue of HK\$39,241,370 (A153), the audit documentation shows only a breakdown of revenue and costs for each advertising and consultancy project. There was no evidence to show that the practice had performed audit procedures to ascertain that the basis of revenue recognition and the amount of revenue recognised in 2015 were appropriate.

5.5 In addition, there was no evidence that the practice had performed audit procedures to ascertain the completeness and cut-off of revenue recognised in 2015.

Breach of HKSA 505 "External Confirmations"

5.6 Paragraph 8 of HKSA 505 states that if management refuses to allow the auditor to send a confirmation request, the auditor shall (a) inquire as to management's reasons for the refusal; (b) evaluate the implications of management's refusal on the auditor's assessment of the relevant risks of material misstatement, including the risk of fraud; and (c) perform alternative audit procedures designed to obtain relevant and reliable audit evidence.

5.7 The audit documentation shows that Client A does not want the practice to send confirmation requests to its customers for confirming the account receivable balances because its customers would not be happy to receive such requests (A122).

5.8 There was no evidence that the practice had evaluated the implications of the refusal and assessed whether there is a need to revise the assessment of the risks of material misstatement, in accordance with paragraph 8 of HKSA 505.

Breach of HKSA 700 "Forming an Opinion and Reporting on Financial Statements"

5.9 Paragraph 12 of HKSA 700 requires an auditor to evaluate whether the financial statements are prepared in accordance with the requirements of the applicable financial reporting framework.

5.10 The financial statements of Client A and its management representations letter, and the audit engagement letter were all stated that Client A's financial statements were prepared in accordance with the Hong Kong Small and Medium-sized Entity Financial Reporting Standard ("SME-FRS") issued by the Institute (A36, A44-A52, A53-A55).

5.11 However, the auditor's report issued by the Respondent for Client A stated that the financial statements of Client A were prepared in accordance with Hong Kong Financial Reporting Standards ("HKFRS") and the Respondent had expressed his opinion based on his assessment of the application of this financial reporting framework (A33).

5.12 Apparently, the Respondent had issued an inappropriate audit opinion on the SME-FRS financial statements prepared by Client A. He failed to evaluate whether the 2015 financial statements were prepared in accordance with SME-FRS, and thereby, he failed to comply with paragraph 12 of HKSA 700.

5.13 The above failures demonstrated that the Respondent had not maintained professional knowledge and skill at the level required to ensure that clients receive competent professional services; and/or acted diligently in

accordance with applicable professional standards when providing professional services, in breach of sections 100.5(c) and 130.1 of the COE.

6. Facts and circumstances in support of the Fourth Complaint

6.1 The Reviewer's findings above show that the Respondent failed and/or neglected to comply with various professional standards as expect of him as a CPA (Practising). The similar and repeated deficiencies found in the practice's quality control system and the deficiencies found in the audit of Client A pointed to the serious lack of professional competence and due care on the part of the Respondent.

6.2 In addition, the false/misleading information submitted by the Respondent to the Reviewer for practice review raised concerns over the professional conduct and integrity of the Respondent.

6.3 The Reviewer found that the follow-up practice review result was unsatisfactory. The Respondent was not cooperative throughout the follow-up visit. He was unresponsive to the Reviewer's requests for information and an exit meeting to discuss findings and follow-up actions. His conduct demonstrates that he was not willing to take any remedial actions on the deficiencies identified by the Reviewer and improve his audit quality.

6.4 Such blatant disregard by the Respondent to uphold audit quality and the fundamental principles of professional competence and integrity amount to professional misconduct.”

THE PROCEEDINGS

7. By a letter dated 15 July 2019, the parties jointly informed the Committee that the Respondent had admitted the Complaint against him. They also suggested that it is no longer necessary for the parties to follow the steps set out in paragraphs 17 to 20 of the Disciplinary Committee Proceedings Rules.
8. The Notice of Commencement of Proceedings was issued on 23 September 2019. Having considered the parties aforementioned joint letter and the Respondents' admission of the Complaint, the Committee approved the parties' proposal and directed that they made submissions on sanctions within the next 28 days on 21 October 2019.
9. The Complainant made a submission on sanctions and costs on 21 October 2019.
10. On 23 October 2019, the Clerk followed up the matter and tried to contact the Respondent twice at his mobile phone, however, both calls were terminated while the Clerk was waiting for the Respondent to answer. A message requesting the Respondent to return call was also left with the staff at the Respondent's office telephone.

11. Having considered the above, the Chairman directed that if the Respondent would like to apply for an extension of time to make written submissions on sanctions, he should make such application in writing by 30 October 2019, and set out the reasons for the application and the expected date by which the written submissions would be ready. No reply has been received.
12. The Clerk telephoned the Respondent twice again on 12 November 2019 but could not reach him. Having considered the above, the Chairman directed that if the Respondent did not make any submissions on sanctions and costs by 11 December 2019, the Committee would deliberate the matter based on the available information. No reply has been received.

SUBMISSIONS ON SANCTIONS AND COSTS

13. The Committee considers it appropriate to have regard to the Guideline to Disciplinary Committee for Determining Disciplinary Order (“the Guideline”).
14. The sanction should be proportionate to the nature of the failure, bearing in mind the need to protect the public interest and to deter non compliance with professional standards as well as maintain and promote public confidence in the profession.
15. These are more particularly set out at paragraph 1.4 of the Guideline.
16. The Committee will consider :
 - (1) The seriousness of the offence
 - (2) The appropriate sanction based on severity of the case
 - (3) Go on to consider the impact of other factors on sanctions as well as any mitigating or aggravating factors

(See paragraph 4 of the Guideline)
17. Here the Complainant highlights the fact that notwithstanding the initial review, the Respondent did not take any appropriate remedial action.
18. It further points to multiple breaches of professional standards in so far as the audit of Client A is concerned. Perhaps more seriously, the Respondent admitted to having included audit programmes which were prepared after the auditor’s report date for the purpose of the practice review which could be said to be an attempt to mislead the reviewer and thus a breach of the principle of integrity.
19. The Complainant thus characterises the Respondent’s failings as “very serious”.
20. In terms of mitigating circumstances we would take into account of the following factors:

- (1) The Respondent's early admission of liability thus resulting in costs savings
 - (2) The Respondent's explanation that he had surrendered his practising certificate from beginning of 2019 because of his difficulty in keeping his practice compliant with professional standards
21. The Complainant refers to D-18-1338P where the respondent was found to have documented his audit work only after completion of the audit and for the purpose of the practice and monitoring review and thus misled the reviewer's assessment. In that case the respondent had his practising certificate cancelled and no certificate would be issued to him for 18 months, as well as to pay a penalty of HK\$50,000.
 22. The Complainant further suggests that on the facts of this case, a reprimand, a penalty of \$60,000 and an order that a practising certificate should not be issued to the Respondent for at least 24 months to be appropriate.

DECISION AND SANCTIONS

23. The Committee agrees that the failings of the Respondent set out in the Complaint can be described as serious and these raise serious questions over the Respondent's integrity in particular those which arise out of Complaint 2.
24. The Respondent's conduct could undermine the public's confidence in the professional standards of the profession and thus injure its reputation.
25. Notwithstanding the mitigating circumstances set out above, it seems to us that a cancellation of the Respondent's practising certificate coupled with an order that no further practising certificate be issued for an extended period is inevitable on the facts of this case.
26. Having had regard to all the relevant facts and submissions, the Committee also considers that the Respondent should be reprimanded, and pay a financial penalty of \$30,000.
27. The Respondent's practising certificate shall be cancelled (if he indeed holds one at this moment which he appears not to) and none should be issued to the Respondent for a period of 22 months.
28. As to costs, we consider that a total sum of \$30,000 to be reasonable and further order the Respondent to bear such costs to the Complainant.
29. The Disciplinary Committee orders that:-
 - (a) the Respondent be reprimanded under Section 35(1)(b) of the PAO;
 - (b) the Respondent pay a penalty of HK\$30,000 under Section 35(1)(c) of the PAO;

- (c) any practising certificate issued to the Respondent (if any) be cancelled under Section 35(1)(da) of the PAO ;
- (d) a practising certificate shall not be issued to the Respondent for 22 months under section 35(1)(db) of the PAO;

COSTS

- (e) the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$30,000 under Section 35(1)(iii) of the PAO.

The above shall take effect on the 40th day from the date of this Order.

Dated: 4 February 2020

Jose Antonio Maurellet SC
Chairman
Disciplinary Panel A

Mr. David Fenn
Member
Disciplinary Panel A

Mr. Cheung Yiu Leung
Andy
Member
Disciplinary Panel B

Ms. Ho Man Kay Angela
Member
Disciplinary Panel A

Mr. Tsang Tin For
Member
Disciplinary Panel B