

IN THE MATTER OF

A Complaint made under Section 34(1) of the Professional Accountants Ordinance (Cap. 50) (“the PAO”)

BETWEEN

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

COMPLAINANT

Ms. Chin Oi Lin, Irene
Membership No. A16369

RESPONDENT

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

Members: Mr. LEUNG, Ka Yau (Chairman)

Ms. WAN, Yuen Yung, Eleanor

Mr. YU, Tin Yau, Elvin

Ms. LAW, Elizabeth

Mr. CHAN, Wai Man, Raymond

Date of hearing: 22 June 2018

ORDER AND REASONS FOR DECISION

1. This is a complaint made by the Practice Review Committee (“PRC”) of the Hong Kong Institute of Certified Public Accountants (the “Institute”) against Ms. Chin Oi Lin, Irene, a practising certified public accountant (the “Respondent”).
2. The particulars of the Complaint as provided by the Complainant (the “Complaint”) are as follows:-

Background

- (1) Under Part IVA of the PAO, the Institute is empowered to carry out practice review on practice units.
- (2) The PRC is a statutory committee set up under section 32A of the PAO responsible for exercising the statutory powers and duties in relation to practice review under the PAO.
- (3) The practice reviewers, being staff members of the Quality Assurance Department ("QAD") of the Institute, assist and report to the PRC in carrying out those statutory powers and duties.
- (4) The Respondent, who ran a part-time practice, had been selected for a practice review due to non-submission of "Electronic Practice Review Self-Assessment Questionnaire" ("EQS").
- (5) The review could not take place because the Respondent refused or neglected to cooperate with the QAD by providing the information necessary for the QAD to conduct a practice review.
- (6) Prior to this complaint, a number of correspondence had been sent by QAD to the Respondent requesting for information during the period from January 2015 to December 2016 but the Respondent had ignored those requests.
- (7) The correspondence were sent to the Respondent at the three addresses according to the Respondent's membership records:
 - the residential address in Sham Shui Po which the Respondent had indicated to be used as her correspondence address ("**contact address**");
 - a registered office address in Mong Kok for the practice certificate holder ("**CPA address**"); and
 - email address.
- (8) No notification has ever been given by the Respondent of any changes to the above-mentioned addresses during the relevant period. In the annual membership renewal exercise, the Institute had successfully communicated with the Respondent via the above contact details and the Respondent renewed her membership in 2016 accordingly without reporting any change of contact details.
- (9) The PRC considered the Respondent's failure to respond to QAD's request for information a serious offence and decided to raise a complaint against her under section 32F(3) of the PAO.

- (10) On 29 January 2015, QAD sent out the "Practice Review Notification" ("Notification Letter") to the contact address advising the Respondent of the practice review scheduled for 21 April 2015.
- (11) The Respondent did not respond to the Notification Letter nor submit any information as requested in the Notification Letter.
- (12) Between 23 March 2015 and 20 April 2015 (the day before the supposedly site visit), QAD emailed to the Respondent three times to the email address according to her membership record attempting to obtain information requested for the site visit.
- (13) In a phone conversation in early May 2015, the Respondent was informed of QAD's attempts to obtain information from her for the purpose of the practice review. The Respondent informed the practice reviewer that she did not have any audit clients in the past 18 months.
- (14) Under the Institute's standard procedures, practices are not generally required to undergo a practice review if they make a declaration that they have not undertaken audit, assurance and related services engagements during the last twelve months and will not be undertaking such work in the next twelve months as from the date of declaration. Therefore, QAD requested the Respondent to submit a written declaration in order to be exempt from a practice review.
- (15) The Respondent did not submit the declaration despite multiple attempts by QAD to establish contact:
 - (a) Between 11 May 2015 and 3 August 2015, QAD emailed the Respondent four times reminding her to provide an explanation as to why practice review could not be conducted and submit the written declaration.
 - (b) QAD made the request again by a letter dated 8 October 2015. The letter sent to the contact address was returned. It was re-sent on 28 October 2015 by registered post to the CPA address and was also returned unclaimed.
- (16) On 25 April 2016, QAD sent to the Respondent's contact address by registered post a request for either: (i) a written confirmation that the Respondent did not provide any audit services during the past 18 months; or (ii) the information as requested in the Notification Letter for the practice review. The letter also stated the information

requested was due by 9 May 2016; if failure to do so, the case would be referred to the PRC as a dispute under section 32F of the PAO ("QAD Request Letter"). The letter was unclaimed and returned to the Institute on 18 May 2016.

- (17) On 16 May 2016, QAD emailed the Respondent referring to the "QAD Request Letter". No response was received from the Respondent.
- (18) On 22 April 2016, as a standard procedure for all member practices, QAD sent to the Respondent's contact address by post a request to complete the EQS for the period 1 April 2015 to 31 March 2016 ("2016 EQS") to be completed by 30 June 2016 ("2016 EQS Request Letter").
- (19) On 29 April 2016, QAD wrote to the Respondent again referring to the "2016 EQS Request Letter".
- (20) With the Respondent's failure to submit the 2016 EQS by the 30 June 2016 deadline, QAD wrote to the Respondent on 6 July 2016 extending the deadline to 17 July 2016.
- (21) On 19 July 2016, referring to the letter on 6 July 2016 citing the extended deadline, a final notice of request to complete the 2016 EQS was sent to the Respondent requesting the 2016 EQS be submitted by 31 July 2016.
- (22) On 5 August 2016, QAD emailed the Respondent noting that the 2016 EQS had not been submitted before the deadline, and requested the Respondent to submit the EQS or the written declaration to be exempt from practice review.
- (23) On 15 August 2016, the final notice was sent to the Respondent again by double registered post to her contact address with the submission deadline extended to 29 August 2016. The Respondent signed an advice acknowledging receipt of the letter on 22 August 2016 but no submission was received from her.
- (24) As the Respondent has failed to (i) submit a written declaration that no audit reports were issued in the past 18 months; or (ii) submit the 2016 EQS by the extended deadline of 29 August 2016. QAD informed the Respondent on 23 September 2016 that a dispute under section 32F(1) of the PAO resulted. The Respondent was requested to make written submissions or representations to the PRC by 11 October 2016. A letter setting out the request was delivered by registered post on 7 October 2016 to the Respondent's contact address. No response was received from the Respondent.

- (25) The PRC then issued a direction under section 32F(2)(b) of the PAO, in a letter dated 21 October 2016 ("**PRC Direction**"), which required the Respondent to:
- provide the information stated in Appendix 1 to the Notification Letter dated 29 January 2015 and complete the 2016 EQS by 11 November 2016, and cooperate with the QAD to conduct a practice review in the first quarter of 2017; or
 - file a declaration that the Respondent did not engage in the practice of public accounting as it pertains to audit assurance and related service engagements within the period from 1 April 2015 to 30 September 2016, and that the Respondent does not intend to do so for the period from 1 October 2016 to 30 September 2017 to QAD by 11 November 2016.
- (26) The PRC Direction dated 21 October 2016 was sent by registered post twice to the Respondent's contact address but was unclaimed in both cases. QAD also emailed the PRC Direction to the Respondent's email address with no evidence of non-receipt. It was delivered by courier on 9 December 2016 to the same contact address. No response was received from the Respondent.
- (27) Section 31(1) of the PAO stipulated that "every certified public accountant (practising) shall have a registered office in Hong Kong to which all communications and notices may be addressed."
- (28) Numerous posts, registered posts, emails and phone calls were directed to the Respondent based on contact information provided by the Respondent. The contact address was found to be valid as a few of the registered posts and a courier delivery managed to reach the Respondent. The contact address was also used in the Institute's annual membership renewal exercise in which the Respondent had successfully renewed her membership and practising certificate in 2016.
- (29) Those registered posts sent by QAD to the Respondent at the same contact address as provided were unclaimed. For those letters and emails that were shown to be delivered, the Respondent made no response. It is the Complainant's case that:
- (a) the Respondent's behavior demonstrated a willful disregard to the QAD's attempts to establish communication with her which violates the spirit of section 31(1) of the PAO;
 - (b) the telephone conversation clearly shows that the Respondent was aware of QAD's

requests for her cooperation for the purpose of a practice review;

- (c) as a practising certificate holder, the Respondent should know the statutory function of a practice review which is to uphold the quality of the profession. The lack of response from the Respondent over the period of almost 24 months had caused significant delays to the practice review process; and
- (d) the Respondent's continuous neglect to respond to QAD's requests demonstrated a blatant disregard to the direction and repeated requests for cooperation from the Institute and amounts to professional misconduct under section 34(1)(a)(viii) of the PAO.

3. In order to assist the Disciplinary Committee, the Complainant provided the following Chronology of Events at the hearing on 22 June 2018.

Chronology of Events

#	Date	Hearing bundle #	Original page #	Means of contact	Address used	Status of delivery	Remarks
<i>Disciplinary proceedings</i>							
20	29 September 2017	--	--	Registered post	Contact address	Successfully delivered on 14 October 2017	The Respondent was notified that Council had referred the complaint to the Disciplinary Panels and enquiring whether she would admit the complaint. No response received from her.
					CPA address	Returned unclaimed	
21	2 January 2018	88	--	Letter by post and email	Contact address	Delivered	Letter from DC Clerk enclosing Notice of Proceedings and Procedural Timetable.
					CPA address	Returned marked "no such person"	
					Email	Delivered	
22	30 January 2018	--	--	Letter by post and email	Contact address	Delivered	Letter from DC Clerk to Respondent enclosing Complainant's Case and requested Respondent to file her Case by 27 February 2018.
					CPA address	Returned marked "no such person"	
					Email	Delivered	

#	Date	Hearing bundle #	Original page #	Means of contact	Address used	Status of delivery	Remarks
23	7 March 2018	120 – 121	--	Letter by post and email	Contact address	Delivered	Letter stating that DC Clerk and the Respondent had a telephone conversation in which the Respondent admitted to have overlooked documents from the Institute and will file the Respondent's Case. She was granted time extension to file her Case by 21 March 2018.
					CPA address	Returned marked "no such person"	
					Email	Delivered	
24	27 March 2018	119	--	Letter by post and email	Contact address	Delivered	Letter from DC Clerk stating that the Respondent failed to file her Case by the extended deadline set on 21 March 2018. Parties were requested to file their Checklists by 10 April 2018.
					CPA address	Returned marked "no such person"	
					Email	Delivered	
25	10 April 2018	--	--	Letter by post and email	Contact address	Delivered	Complainant's Checklist was copied to the Respondent.
					CPA address	Returned marked "no such person"	
					Email	Delivered	
26	18 April 2018	122 – 123	--	Letter by post and email	Contact address	Delivered	Letter from DC Clerk stating that the Respondent failed to file her Checklist which was due on 10 April 2018.
					CPA address	Returned marked "no such person"	
					Email	Delivered	
27	24 May 2018	--	--	Letter by post and email	Contact address	Delivered	Complainant sent a draft hearing bundle index to Respondent and requested to make any comments, if any by 31 May 2018. No response was received.
					CPA address	No record of delivery	
					Email	Delivered	

#	Date	Hearing bundle #	Original page #	Means of contact	Address used	Status of delivery	Remarks
28	1 June 2018	--	--	Letter by post	Contact address	Returned and resent on 15 June by post and email.	Hearing bundles were distributed to DC and parties to the proceedings, including the Respondent.
29	1 June 2018	--	--	Letter by post and email	Contact address	Returned and resent on 15 June.	Letter from DC Clerk to parties providing instructions for hearing.
					Email	Delivered	

4. The Respondent did not show up at the hearing on 22 June 2018. The Disciplinary Committee having considered all the documents available, the submission made by the representative of the Complainant and the circumstances as a whole, ordered that:-

- (a) the Respondent be reprimanded under section 35(1)(b) of the PAO;
- (b) the Respondent do pay a penalty of HK\$30,000 to the Institute under section 35(1)(c) of the PAO;
- (c) the name of the Respondent be removed from the register of certified public accountants for three (3) years under section 35(1)(a) of the PAO and it shall take effect on the 42nd day from the date of this order;
- (d) the practising certificate issued to the Respondent in 2018 be cancelled under section 35(1)(da) of the PAO and it shall take effect on the 42nd day from the date of this order; and
- (e) the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$50,941 and that of the Clerk in the sum of HK\$10,002 under section 35(1)(iii) of PAO.

5. The decision was made by the majority of the Disciplinary Committee's members. Three members of the Disciplinary Committee agree with the majority decision while two members dissenting.

Dated 19 September 2018



Mr. LEUNG, Ka Yau
Chairman

Ms. WAN, Yuen Yung, Eleanor
Member

Ms. LAW, Elizabeth
Member

Mr. YU, Tin Yau, Elvin
Member

Mr. CHAN, Wai Man, Raymond
Member