

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. Mak Wai Man RESPONDENT
(Membership no.: A37354)

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

Members: Ms. Chan Yi Ting Bonnie (Chairman)
 Mr. Chan Chak Ming
 Mr. Chiu Shun Ming
 Ms. Chua Suk Lin Ivy
 Mr. Shen Ka Yip Timothy

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 Mak Wai Man, CPA (the “**Respondent**”).
2. The Complaint as set out in a letter dated 29 June 2017 from the Registrar to the Council of the Institute (the “**Complaint**”) are as follows:-

First Complaint

- (1) Section 34(1)(a)(vi) of the PAO applies to the Respondent in that she failed or neglected to observe, maintain or otherwise apply professional standards as provided in section 100.5(a) as elaborated in section 110.2 of the Code of Ethics for Professional Accountants ("COE"), as a result of her furnishing materially false statements or information to Wodinghua Holdings Limited and the Institute as particularized in paragraphs 8 to 11 below, knowing that the same were false or being reckless as to the truth.

Second Complaint

- (2) Section 34(1)(a)(ii) of the PAO applies to the Respondent in that she has been convicted of an offence involving dishonesty on 26 June 2014 in case no. TW/1713/14, involving three charges under section 9 of the Theft Ordinance (Cap. 210).

Third Complaint

- (3) Section 34(1)(a)(vi) of the PAO applies to the Respondent in that she failed or neglected to observe, maintain or otherwise apply professional standards as provided in section 100.5(a) as elaborated in section 110.2 of the COE, as a result of her making a false statement when she declared that she had no criminal conviction in the Institute's annual membership renewal for 2015, despite her having been convicted in TW/1713/14 in June 2014, of which she knew the statement to be false or being reckless as to its truth.

Applicable statutory provision and professional standard

- (4) Section 34 of the PAO provides that:

"(1) A complaint that –

(a) a certified public accountant–

...

(ii) has been convicted in Hong Kong or elsewhere of any offence involving dishonesty;

...

(vi) failed or neglected to observe, maintain or otherwise apply a professional standard,"

- (5) The COE stated the fundamental principle of Integrity under section 100.5(a), as elaborated in 110, of the COE, as follows:

"100.5 A professional accountant shall comply with the following fundamental principles:

(a) Integrity – to be straightforward and honest in all professional and business relationships."

"110.2 A professional accountant shall not knowingly be associated with reports, returns, communications or other information where the professional accountant believes that the information:

- (a) Contains a materially false or misleading statement;*
- (b) Contains statements or information furnished recklessly"*

Facts and circumstances supporting the First Complaint

- (6) The Respondent was appointed as the company secretary of Wodinghua Holdings Limited ("WHL") on 23 October 2015.
- (7) In her job application, the Respondent submitted false information or statements on professional qualification and working experience to WHL. Based on the Respondent's false information, WHL submitted to the Hong Kong Stock Exchange an Application Proof for listing purposes.
- (8) The false information about the Respondent's professional qualification and working experience included in WHL's Application Proof are as follows:
 - (a) She became a fellow member of Association of Chartered Certified Accountants ("ACCA") (英國公認會計師公會) in March 2015; and
 - (b) She was the Finance Manager (財務經理) of Sound Technology Development Ltd (聲研科技發展有限公司) ("STDL") for the period from September 2012 to August 2015.
- (9) The above information was false because:
 - (a) The Respondent was admitted a member of ACCA on 29 January 2015. She was not a fellow member of ACCA in March 2015.
 - (b) The Respondent could not have been employed by STDL for the period from September 2012 to August 2015 because:
 - i. The Respondent said the post at STDL was a full-time position , and yet she held another full-time employment as Financial Manager of A&S (HK) Logistics Limited ("A&S") for the period from 3 September 2012 to 21 November 2013.
 - ii. STDL was incorporated on 13 December 2012 and was dissolved by deregistration on 5 June 2015. This period of about 2.5 years is about 5 months shorter than the employment period claimed by the Respondent.
- (10) Not only did the Respondent furnished the above false information regarding her employment period to WHL, she repeated these misrepresentations in correspondence with the Institute:-

- (a) The Institute first asked her about (inter alia) her claimed employment period with STDL of September 2012 to August 2015 in letter dated 27 July 2016. Her initial response (through her solicitors) was that the information was incorrect, but that was due to inadvertence and not intended to be fraudulent . She did not explain or elaborate how the information was "incorrect".
- (b) However, her solicitor then asserted in a subsequent letter dated 20 October 2016 that the Respondent's period of employment with STDL was indeed from September 2012 to August 2015, the same statement in WHL's Application Proof that she had earlier admitted to be "incorrect".
- (c) The Respondent was asked to explain and clarify, and in particular how could her period of employment with STDL be from September 2012 to August 2015, when the company was only in existence from December 2012 to June 2015 (see above). The Respondent then changed her story to say that STDL employed her during the period of 13 December 2012 to 5 June 2015, whereas another Chinese company running a similar business as STDL employed her during the period of September to 12 December 2012 and from 6 June to August 2015 .
- (d) When asked later to explain her period of employment with A&S, the Respondent confirmed that the period was from September 2012 to November 2013 . A&S has also confirmed that it was a full-time position .
- (11) As such, the Respondent had repeated the false statements that she was employed by STDL, or company associated with STDL, from September 2012 to August 2015, in the letters dated 20 October and 16 December 2016 from her solicitor to the Institute.
- (12) It is believed that the purpose of asserting her employment with STDL commenced in September 2012 was that the Respondent wanted to conceal her employment with A&S, as she was dismissed by A&S by reason of her serious misconduct as described below.

Facts and circumstances supporting the Second and Third Complaints

- (13) During her employment as Financial Manager with A&S, the Respondent forged signature(s) of company director and drew a cheque in her own favour. A&S reported the matter to the police and asked the Respondent to resign.
- (14) In June 2014, the Respondent was convicted of three counts of offences under section 9 of the Theft Ordinance in TW/1713/14. The Magistrate sentenced the Respondent to serve 480 hours of community service.
- (15) In the annual membership renewal procedure of the Institute, members are required to declare if they have been convicted of any criminal offence since the date of last renewal application. The Respondent declared "No" under the "Declaration of Convictions in Hong Kong or elsewhere" section when she applied to renew her membership for 2015. This was a false statement as she had been convicted in TW/1713/14 just about 5 months earlier.

Conclusion

- (16) Any assertion by the Respondent that any of the above false statements were made out of "inadvertence" has no credibility because, inter alia, she saw fit to repeat some of those false statements to the Institute as set out above, and further she had been disciplined previously for committing the same kind of dishonest acts. In D-13-0862C (order dated 19 August 2015), the Respondent admitted to having made at least 4 misrepresentations regarding her qualifications or credentials .
- (17) In the premises, the Respondent had furnished false information or statements to WHL and the Institute regarding ACCA membership and her employment period with STDL. The Respondent had also been convicted of an offence involving dishonesty, and she further made a false statement to the Institute by declaring that she had no criminal conviction in her 2015 membership renewal.
3. The Respondent admitted the complaints against her. She did not dispute the facts as set out in the Complaint. On 17 August 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 agreed to 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 complaints were all found proved on the basis of the admission by the Respondent.
 6. The Complainant and Respondent provided their submissions on sanctions and costs on 28 December 2017 and 11 January 2018 respectively.
 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 for five years under Section 35(1)(a) of the PAO;
 - (b) the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$72,446 under Section 35(1)(iii) of the PAO.

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

Dated 30 January 2018