

IN THE MATTER OF complaint made
under by-law 34(1)(c) of the Professional
Accountants By-Laws

BETWEEN

The Registrar of the Council of
the Hong Kong Institute of Certified
Public Accountants

Complainant

AND

Respondent

Reasons and Order

Background

1. On 15th October 2008, the Disciplinary Committee unanimously found the Respondent acted in breach of her duties as a registered student under by-law 34(1)(c) of the Professional Accountants by-laws. Please refer to the enclosed Statement of Findings.
2. In compliance with the directions, both the Complainant and the Respondent have filed their submissions respectively as to the order to be made by us.

Decision

3. The Disciplinary Committee convened on 10th November 2008 to carefully consider the points made by the Respondent in her letter of mitigation. Her apology and her point about having left the accounting field in shame are duly noted. The Disciplinary Committee has also noted that she is a major financial source to her family and that due to "the current financial tsunami", she may soon be unemployed.

4. The Disciplinary Committee considers her misconduct to be grave and serious. The Respondent had lied to the Hong Kong Institute of Certified Public Accountants ("the Institute") on 3 occasions. They are:
 - (1) She claimed that she was ill on the day when she failed to attend the Workshop;
 - (2) When questioned by the Institute, she produced a forged receipt from [A Medical Centre]; and
 - (3) When interviewed by the Institute in the process of further investigation, she could have come clean and confessed her wrongdoing but she insisted that she did visit [A Medical Centre] and claimed that it was on a Sunday.
5. The Disciplinary Committee feels that honesty and integrity are the very pillars essential to uphold the standard of the profession in the accountancy field. The Respondent demonstrated a serious misconduct by not only lying to the Complainant at the first instance, but forging a medical receipt and insisting on her story on the second occasion given to her when she was interviewed. Her deliberate intention to mislead is clear. Her lack of honesty and integrity is also clear.
6. The Disciplinary Committee takes into account 4 previous cases brought by the Institute against registered students and note that where falsified documents were involved, the penalty levied against them was removal of their names from the Registrar.
7. After much discussion, the Disciplinary Committee comes to a decision by majority (3:2) that the Respondent's name should be removed from the Registrar of registered students.
8. As to costs, the Disciplinary Committee accepts the figures set out in the statement of costs dated 29th October 2008 produced by the Complainant. The Disciplinary Committee also refers to the 2 letters sent by the Respondent dated 29th October and 23rd November 2008 respectively and bearing in mind the Respondent's financial situation, the Disciplinary Committee orders the Respondent to pay a contribution rather than bear the entirety of the costs of these proceedings.

Order

In the circumstances, the Disciplinary Committee orders as follows:

1. In accordance with by-laws 35(1), [the Respondent] be declared unfit to remain as a registered student and advise the Registrar to remove her name from the register of registered students; and
2. That the Respondent pays a sum of HK\$18,000 to the Complainant in contribution to the costs and expenses of these proceedings, and such payment can be paid, at the Respondent's election, either in one lump sum; or by 18 equal monthly installments of HK\$1,000 each by post-dated cheques on the first day of each calendar month beginning on 1st January 2009; or in such installments as to be agreed between the Complainant and the Respondent.

Dated the 28 day of November 2008.

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AND

Complainant

Respondent

STATEMENT OF FINDINGS

The Complaint

1. The Respondent is and was at all material times a registered student. She is accused of having acted in breach of her duties as a registered student under by-law 34(1)(c) of the Professional Accountants by-laws.

The Facts

2. The Respondent, according to the Hong Kong Institute of Certified Public Accountants ("The Institute"), was at all material times a registered student of the Institute.
3. In accordance with by-law 32(2), the Respondent has formally given an undertaking to the Institute in the prescribed form on 31 March 2006' ("the signed Undertaking") which states in Section 4 that:

"Disciplinary Provision - By-Laws 34-36 of the Professional Accountants Ordinance empower the Hong Kong Institute of

CPAs' Disciplinary Committee to investigate matters relating to misconduct by registered students. "

4. In Section 4 of the signed Undertaking, the Respondent has declared that:

"I confirm that I have read and fully understood the above statement and that: I am of good character and there is nothing that I should bring to the attention of the Hong Kong Institute of CPAs at this point in time.

5. In order for a registered student to be qualified as a certified public accountant, she is required to take the Institute's Qualification Program ("QP") and complete a number of QP modules.
6. Presented in front of me is the Respondent's Module Enrolment Form dated 27 April 2007, in which she enrolled Module A - Financial Reporting and Module C - Auditing and Information Management. In this case, we are concerned with the Respondent's enrolment in Module C for the May 2007 session.
7. I now refer to her signed Module Enrolment Form, under Part V Declaration, the Respondent declared that:

"I confirm that I have acquired sufficient knowledge of Hong Kong law and tax before enrolling in the Module(s) through: (she put a tick to indicate) attending relevant subject(s) of an accredited Conversion Programme

I agree that if I am subsequently found to perform poorly during the module workshops due to insufficient knowledge in Hong Kong tax and law, I may be asked to leave the module. "

8. Attached to her signed Module Enrolment Form are the "Important Notes" for Module Enrolment provided by the Institute.

Point 3 of the Important Notes specifically stated that "once enrolled in the Module, you are required to attend a series of four workshops for that Module". Point 6 of the Important Notes specified that "once assigned to a specific Workshop Group, you are not allowed to make any changes. You are required to

attend all four workshops for that Module. Non-attendance will result in no marks being awarded for the Workshop that you have not attended."

Point 6 of the Important Notes specified that "once assigned to a specific Workshop Group, you are not allowed to make any changes. You are required to attend all four workshops for that Module. Non-attendance will result in no marks being awarded for the Workshop that you have not attended."

9. The Respondent therefore knew at all material times that she was required to attend four workshops on the specific dates.
10. The Respondent was absent from the first workshop which was held on 17 June 2007.
11. In accordance with Point 6 of the Important Notes referred above, she should receive no marks for the first workshop for failure to attend the session.
12. However, on 29 June 2007, the Respondent wrote to the Institute and requested the Institute to specially consider her case and allow her to use the average marks of the three workshops to calculate her overall performance. She said to the Institute that she was sick and that being a Sunday, she did not obtain a medical receipt for support.
13. In response to the Institute's request, the Respondent furnished a copy of receipt from [A Medical Centre] as purported evidence of her being sick on the first day of the workshop.
14. According to the particulars furnished by the Institute, the handling administrative officer noted that the date of the medical receipt appeared to have been altered. The administrative officer called [A Medical Centre] and was informed that the receipt was issued on 27 January 2007, instead of 17 June 2007.
15. In light of the findings, the Director and administrative officer of the Students' Education and Training met with the Respondent on 14 November 2007.
16. In the meeting, the Respondent admitted that she did alter the receipt in order to substantiate her application.

17. However, the Respondent maintained her stance and claimed that she was sick and did attend [A Medical Centre] on the first day of the workshop. Her written statement dated 14 November 2007 was considered.
18. In the statement, she claimed that as she had lost the medical receipt for that occasion, she took an old one and made the mistake to amend the date and submitted to the Institute.
19. Upon further enquiry by the Institute, [A Medical Centre] confirmed that it did not open on Sundays and public holidays. The first day of the workshop was on a Sunday, 17 June 2007.
20. The parties have submitted to the Disciplinary Committee the Respondent's formal admission that she did not in fact visit [A Medical Centre] on the date of the first workshop.

The Issue

21. The issue here is did the Respondent act in breach of her duties as a registered student under by-law 34(1)(c)?
22. We need to consider the following:
 - a. Is the Respondent required to attend all four workshops of Module C?
 - b. Would her failure to take one jeopardize her marks for the module? If so, was she aware of the consequence she needs to face?
 - c. Did the Respondent act in bad faith to deliberately mislead the Institute by giving a false excuse to claim that she was ill and forged a medical receipt?
23. Did she further misconduct herself by telling the Institute that she was sick and did visit [A Medical Centre] on the first day of the workshop?

Conclusion

24. It is the Respondent's duty to attend all workshops in Module C. She was fully aware of the Institute's requirement in order to be qualified as a certified public accountant.
25. Failing to attend one workshop, she should know the consequence that no marks

would be awarded to her for that module: Point 6 of Important Notes for Module Enrolment.

26. If she should perform poorly during the workshops, she would be asked to leave the module and this would jeopardize her opportunity to be qualified as a certified public accountant: Declaration under Part V of the Respondent's signed Module Enrolment Form.
27. By lying to the Institute that she visited [A Medical Centre] for her illness on the date of the first workshop , the Respondent acted in bad faith to request the Institute to give her special consideration to use the average marks of her three lessons. She deliberately lied to the Institute to claim that she was sick.
28. She produced a false medical receipt to support her claim. It was a deliberate act to mislead the Institute.
29. She was given a second chance when she was interviewed by the Director, but she lied again.
30. We are satisfied that all of the above suggests that the Respondent acted in bad faith and has been guilty of misconduct in carrying out her duties as a Registered Student.

Dated the 16th day of October 2008.

Proceedings No: D-05-0144C

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