

IN THE MATTER OF

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

BETWEEN

The Registrar of the Hong Kong Institute of
Certified Public Accountants

COMPLAINANT

AND

Mr. So Kin Po
Membership No. A40082

RESPONDENT

Order and Reasons for Decision

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

Members: Ms. Nancy Chan (Chairman)
Mr. Doo William Junior Guilherme
Mr. Ho Man Tat Edward
Mr. Wong Kwok Wai Albert
Mr. Stephen Chan

1. This is a Complaint made by the Registrar against Mr. So Kin Po, the Respondent under section 34(1A) of the Professional Accountants Ordinance (Cap. 50).

The proceedings

2. In August 2015, the Disciplinary Committee (“DC”) was provided with a copy of the complaint letter dated 25 June 2015 and its supporting documents. Based on the then available information, the DC noted that the criminal proceedings TWCC 1595/2015 was in progress. On 24 September 2016, it directed the parties to inform the DC of the outcome of the proceedings once it was available.

3. On 13 January 2016, the Complainant informed the DC that the Respondent was convicted. He was sentenced to 60 days imprisonment and was ordered to pay HK\$10,000 compensation through the court.
4. On 5 May 2016, the Complainant provided a memo from the police, stating that the Respondent had abandoned his appeal. So, the Notice of Commencement of Proceedings was issued to the parties on 8 June 2016.
5. On 8 June 2016, the Complainant applied to the DC to amend the complaint letter signed by the Registrar dated 25 June 2015.
6. There were no responses from the Respondent to any of the letters sent by the Complainant since his conviction. The DC directed the Clerk to telephone the Respondent on 15 June 2016. The Respondent confirmed that he had received the letters from HKICPA (the "**Institute**") but he had not read them. He also confirmed that his postal and email correspondence addresses that the DC used to contact him were correct.
7. Given the above, the DC approved the amended complaint from the Complainant dated 8 June 2016 ("**Amended Complaint**").

The Amended Complaint

8. The particulars of the Amended Complaint are as follows.
9. Mr. So Kin Po ("**Respondent**") was registered as a student of the Institute in August 2010.
10. On 10 September 2010, the Respondent enrolled in the Institute's Qualification Programme ("**QP**") which comprised of four modules. The first QP module, module A, commenced on 20 September 2010. The Respondent attended all 4 modules and took the relevant examinations, completing them by December 2012. The Respondent paid tuition fees totaling \$16,000 for the 4 modules.
11. On 25 March 2011, the Respondent filed with the Office of Continuing Education Fund ("**CEF**") of the Hong Kong Government an Application Form ("**Application Form**") for opening an account for the QP enrolled, which was a recognized CEF Course. On the first page of the form, the Respondent filled in "28 03 2011" as the purported "Commencement Date" of the QP. An Institute's stamp certifying the Respondent's enrollment and the correctness of the information on the form given by the Respondent regarding the course appeared on the second page of the form.
12. On 9 March 2013, the Respondent filed a CEF Reimbursement Claim Form ("**Reimbursement Form**") for module costs paid by him totaling \$16,000 (i.e. fees for all four modules he enrolled). An Institute's stamp certifying the correctness of the course commencement and completion dates, among other things, appeared on the same page of the form.

13. In support of his claim for reimbursement, the Respondent also submitted to the CEF Office documents issued by the Institute, including Module Enrolment Confirmation Slip dated 8 June 2011 ("Confirmation Slip"), and Examination Results and Status Report ("Exam Report"). Both documents showed, inter alia, that module A's commencement date was 28 March 2011.
14. Subsequently, the Respondent successfully claimed the reimbursement of \$10,000. The Respondent passed the final examination of the QP in June 2013 and became a certified public accountant on 1 January 2014.
15. In about February 2014, CEF Office became aware that the module A's commencement date and examination date set out on the Confirmation Slip and Exam Report were not the same as those on the copies provided by the Institute to it upon its routine verification procedures. CEF Office reported the matter to the police in June 2014. The Respondent was interviewed by Police on 26 January 2015. At the interview, the Respondent admitted, inter alia, that he had falsified certain particulars on the Confirmation Slip and the Exam Report.
16. The police laid criminal charges against Respondent in June 2015. The criminal proceedings, TWC 1595/2015, were held from September to December 2015, at the end of which the Respondent was convicted of a charge of fraud.

Relevant provision of the Professional Accountants' Ordinance (Cap. 50) ("PAO")

17. The Complainant informed the DC on 19 September 2016 that they would not pursue Complaint 2 in the Amended Complaint provided under cover of their letter dated 8 June 2016. This was approved by the DC on 30 September 2016. Therefore, the DC only needs to consider the following Section 34(1)(a)(ii) of the PAO :

(1) A complaint that-

(a) a certified public accountant-

...

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

...

shall be made to the Registrar who shall submit the complaint to the Council which may, in its discretion but subject to section 32D(7), refer the complaint to the Disciplinary Panels.

Complaint 1

18. Section 34(1)(a)(ii) of the PAO applies to the Respondent in that he had been convicted in TWC 1595/2015 of a charge of fraud, contrary to section 16A(1)(a) of the Theft Ordinance (Cap. 210), being a charge involving dishonesty.

Facts and Circumstances in support of Complaint 1

19. Comparison between a copy of the original Confirmation Slip as issued by the Institute, and the version submitted by the Respondent to CEF reveals the following differences :-

Particulars	Original	Submitted to CEF
Date of Confirmation Slip	01 December 2010	08 June 2011
Module Commencement Date	20 September 2010	28 March 2011
Module Session	December 2010	June 2011
Workshop Group Code	CHK1A1708	CHK1A1710
"Venue" and "Address"	Room 518 Delia School of Canada Tai Fung Avenue Taikoo Shing Hong Kong	The workshop venue details will be posted on the QP Learning Support Centre on 8 April 2011, candidates please login to the QP Learning Support Centre for your workshop venue details on that day.
"Workshop Date Time From Time To"	1.10/10/2010 09:00 17:00 2.07/11/2010 09:00 17:00	1. 17/04/2011 09:30 17:30 2. 15/05/2011 09:30 17:30
The "Settlement Date" for the 4 instalments	01 September 2010 04 October 2010 01 November 2010 01 December 2010	08 March 2011 08 April 2011 08 May 2011 08 June 2011
Date of examination stated in note 2	28 December 2010	28 June 2011

20. Comparison between a copy of the original Exam Report as issued by the Institute, and the version submitted by the Respondent to CEF reveals the following differences:-

- (a) The workshop "Session/Year" for module A was changed from "Dec/2010" to "Jun/2011";
- (b) The examination "Session/Year" for module A was changed from "Dec/2010" to "Jun/2011".

21. The general requirement of the CEF reimbursement scheme is that applicants must submit their application forms to the CEF before the commencement of the courses they attend in order to qualify for reimbursement.

22. According to the notes of interview with an police officer on 26 January 2015 (the "Interview"), the Respondent admitted that:

- (a) At the time when he submitted the Application Form, he knew that module A's commencement date had passed. He therefore used module B's commencement date of 28 March 2011 as the QP commencement date in the Application Form, and admitted that the date on the Application Form was a misrepresentation.
 - (b) He could not apply for the CEF account prior to the module A's actual commencement because he was not able to obtain the module fee payment receipt from the Institute due to a credit card fee settlement problem.
 - (c) To support his reimbursement claim, he falsified certain particulars of the Confirmation Slip and Exam Report by using the Photoshop software in his computer at home:
 - (i) He falsified the Confirmation slip by converting it from another confirmation slip (module B) issued by the Institute, and then further falsified the "Module Enrolled"¹, the "Workshop Group Code", and the 2 "Workshop Date"; and
 - (ii) For the Exam Report, he falsified the "Session/Year" of the workshop and examination of module A.
 - (d) He filled out and signed the Reimbursement Form and attached the above falsified documents as supporting documentation.
 - (e) The Respondent was aware that if he had not stated the false course commencement date, he would not be eligible for the reimbursement as he did not apply for the CEF account before the first module commenced. The Institute also indicated to him that it would not endorse the reimbursement claim if he applied for reimbursement of only module B to module D.
 - (f) He said the reason for the above fraudulent acts was that he was unemployed at that time and therefore needed the money for his living expenses.
23. In the Respondent's letter to the Institute dated 31 January 2015, the Respondent admitted that he had altered (or falsified) the contents of the Confirmation Slip and the Exam Report. As for the reasons for his alteration (falsification), he simply referred to the contents of the Interview with the police.
24. Thus, in the Interview and in the letter of 31 January 2015, the Respondent had admitted to falsifying the altered particulars in the Confirmation Slip and the Exam Report.
25. The Respondent was charged in TWC 1595/2015 with the offence of fraud. The charge was that, with intent to defraud and by deceit, he falsely represented that the Confirmation Slip and the Exam Report were genuine, and thereby induced CEF to grant him \$10,000 in continuing education fund. He was found guilty by the court after

¹ This particular appears the same in the original and the altered document.

a trial which took place over 5 days from 11 September to 31 December 2015. He was sentenced to (i) imprisonment of 60 days; and (ii) repayment of the \$10,000 to CEF.

26. The criminal charge in TWC 1595/2015 was based on the Respondent's falsification of the Confirmation Slip and the Exam Report. The charge was one involving dishonesty. Therefore, section 34(1)(a)(ii) of PAO applies to the Respondent.

Parties' submissions

27. The Complainant provided his Case on 29 June 2016. The Respondent did not file any Case.
28. The DC considers that the Respondent had been given adequate notices but he chose not to comply with the disciplinary proceedings procedures, and did not respond to any of the letters issued by the Institute.
29. The Chairman then directed that the parties to file their checklists.
30. The Complainant's checklist was received on 11 August 2016. Having considered the Amended Complaint and the conduct of the parties throughout the proceedings and given the lack of responses from the Respondent, the DC directed that the remaining disciplinary proceedings be conducted by way of written submissions. There was no objection from the parties.
31. On 30 September 2016, the DC invited the parties to make submissions on sanctions.

Sanctions and costs

32. The Complainant provided his submission on sanctions and costs on 14 October 2016. There was no response from the Respondent.
33. In considering the proper order to be made in this case, the DC has had regard to all the aforesaid matters, including the particulars in support of the Amended Complaint, the seriousness of the complaint against the Respondent which involved dishonesty, the Respondent's personal circumstances, and the conduct of the parties throughout the proceedings. The DC unanimously found that Complaint 1 has been proved against the Respondent.
34. The Disciplinary Committee orders that :-
- (1) the name of the Respondent be removed from the register of certified public accountants for 5 years from 42 days from the date of this order under Section 35(1)(a) of the PAO; and

(2) the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$88,326.30 under Section 35(1)(iii) of the PAO.

Dated the 6th day of December 2016