

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

Leung Kam Man, Victor (F06233)

**RESPONDENT**

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

Members:      Mr. Lim Kian Leng, Malcolm (Chairman)  
                    Mr. Mui, Arthur  
                    Mr. Su Yau On, Albert  
                    Mr. Lees, John Robert

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**ORDER AND REASONS FOR DECISION**

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1. This is a complaint made by the Practice Review Committee of the Hong Kong Institute of Certified Public Accountants (the "Institute"), as Complainant, against Leung Kam Man, Victor, a certified public accountant (the "Respondent").

**INTRODUCTION**

2. A complaint letter dated 15 July 2021 was submitted to the Council of the Institute in relation to the Respondent. The Council of the Institute resolved to refer the complaint to the Disciplinary Panel pursuant to section 34(1) of the Professional Accountants Ordinance (Cap. 50) ("PAO").

## **THE PROCEEDINGS**

3. The Carecraft procedure originates from *Re Carecraft Construction Co Ltd* [1994] 1 WLR 172. It essentially limits the facts, by way of a statement of agreed facts, on which the Disciplinary Committee may decide whether the complaint referred to it has been proved and, if so, determine the sanction that ought to be imposed.
4. The Disciplinary Committee understands the Carecraft procedure has previously been adopted in disciplinary proceedings under the PAO.
5. On 24 February 2023, the Complainant and the Respondent jointly submitted that in view of the fact that the parties had agreed on a Statement of Agreed Facts (the “Statement”) and a set of proposed sanctions, it was an appropriate case to adopt the Carecraft procedure notwithstanding that the matter was fixed for a substantive hearing.
6. On the same date, the Disciplinary Committee considered the representations and agreed to vacate the hearing date and to adopt the Carecraft procedure.
7. The Statement was submitted by the parties for the purpose of setting out the factual basis upon which the Disciplinary Committee was invited to make the orders.
8. For the purpose of resolving these proceedings summarily, and by reference to the facts as set out in the Statement which the Respondent admits and accepts, the Respondent admitted the 2 complaints against him viz:
  - a. Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he failed or neglected to observe, maintain or otherwise apply a professional standard to maintain an adequate quality control system in his sole proprietorship and corporate practice in relation to the areas of human resources, monitoring process, file assembly and engagement performance.
  - b. Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he failed or neglected to observe, maintain or otherwise apply a professional standard in respect of audits of Client W, Client O, Client J and Client A, in failing to carry out the audits with the expected level of professional competence and due care as required under the Code of Ethics for Professional Accountants, and also failing to obtain sufficient appropriate audit evidence on the relevant accounts and prepare adequate documentation.

## **THE COMPLAINTS, AND SUPPORTING FACTS AND CIRCUMSTANCES**

9. Upon the parties’ agreement (as stated in paragraph 6 of the Statement), the Statement is annexed to this order.
10. The complaints are set out in paragraph 4 of the Statement.
11. The admitted facts and circumstances in support of the complaints are set out from paragraphs 8 to 48 of the Statement.

## **DISCUSSION AND DECISION**

12. The complaints were all found proven on the basis of the admissions made by the Respondent.
13. The only outstanding matters are the sanctions and costs which ought to be imposed on the Respondent.
14. The parties' agreed mitigating factors and agreed proposed orders are set out in paragraphs 49 and 50 and paragraphs 51 and 52 of the Statement respectively.
15. In view of the Disciplinary Committee agreeing to adopt the Carecraft procedure on the basis of the agreed facts, mitigating factors and proposed orders, the Disciplinary Committee agrees to the making of the proposed orders as it is sufficient to recognize the gravity of the breaches and the fact that the Respondent has taken steps to improve the standard of his system of quality control and audit work.
16. In terms of costs, the Disciplinary Committee considers that the sums incurred by the Complainant and the Disciplinary Committee were reasonable and ought to be borne by the Respondents.

## **SANCTIONS AND COSTS**

17. In these circumstances the Disciplinary Committee makes the following Orders:
  - (1) The Respondent be reprimanded under section 35(1)(b) of the PAO;
  - (2) The practicing certificate issued to the Respondent be cancelled under section 35(1)(da) of the PAO effective on the 42<sup>nd</sup> day from the date of this order;
  - (3) A practicing certificate shall not be issued to the Respondent for 6 months commencing from the 42<sup>nd</sup> day after the date of this order under Section 35(1)(db) of the PAO;
  - (4) The Respondent do pay a penalty of HK\$75,000 under section 35(1)(c) of the PAO; and
  - (5) The Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant, including the costs of the Disciplinary Committee, in the sum of HK\$140,265, under section 35(1)(iii) of the PAO.

Dated: 9<sup>th</sup> day of May 2023

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Mr. Lim Kian Leng, Malcolm  
(Chairman)

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Mr. Mui, Arthur  
(Member)

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Mr. Su Yau On, Albert  
(Member)

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Mr. Lees, John Robert  
(Member)

Proceedings No.: D-20-1688P

IN THE MATTER OF

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

BETWEEN

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

AND

Leung Kam Man, Victor (F06233) Respondent

**Statement of Agreed Facts for the Joint Application for Carecraft Procedure**

**PART 1 – INTRODUCTION**

1. A complaint letter dated 15 July 2021 was submitted to the Council of the Hong Kong Institute of Certified Public Accountants (the "Institute") in relation to the Respondent. The Council of the Institute resolved to refer the complaint to the Disciplinary Panels pursuant to section 34(1) of the Professional Accountants Ordinance (Cap. 50) ("PAO").
2. The Complainant and the Respondent has agreed on the following facts and proposed sanctions for the purpose of a joint application for Carecraft procedure for the consideration of the Disciplinary Committee.
3. This Statement of Agreed Facts ("the Statement") is submitted by the parties for the purpose of setting out the factual basis upon which the Disciplinary Committee is invited to make the orders sought.
4. For the purpose of resolving these proceedings summarily, and by reference to the facts as set out in Part 2 of this Statement which the Respondent admit and accept, the Respondent admit the 2 complaints against him as follows:
  - a. Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he failed or neglected to observe, maintain or otherwise apply a professional standard to maintain an adequate quality control system in the Practices in relation to the areas of human resources, monitoring process, file assembly and engagement performance ("Complaint 1").

- b. Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he failed or neglected to observe, maintain or otherwise apply a professional standard in respect of audits of Client W, Client O, Client J and Client A, in failing to carry out the audits with the expected level of professional competence and due care as required under the Code of Ethics for Professional Accountants ("COE"), and also failing to obtain sufficient appropriate audit evidence on the relevant accounts and prepare adequate documentation ("**Complaint 2**").
5. The facts set out in this Statement are not disputed between the Complainant and the Respondent on the basis that these proceedings will be dealt with by the Disciplinary Committee by way of the Carecraft procedure. If the Disciplinary Committee for any reason is of the view that these proceedings shall not be dealt with by the Carecraft procedure or that a full hearing is appropriate, no admission or concession by either the Complainant or the Respondent and none of the proposed sanction referred to below shall be referred to or relied upon by any of the parties at any subsequent hearing without the prior written consent of the Complainant and the Respondent.
6. In the event that the Disciplinary Committee makes any order sought against the Respondents by reference to this Statement, the Complainant and the Respondents agree that this Statement be annexed to the Disciplinary Committee's decision and will jointly seek a direction to that effect.
7. Unless otherwise stated, the Complainant adopts the abbreviations as set out in the Complaint Letter.<sup>1</sup>

## **PART 2 – AGREED FACTS**

### **Background**

8. The Respondent is a sole proprietor of Chinaweal CPA & Co. ("**Chinaweal**") and CWB CPA Limited ("**CWB**") (collectively the "**Practices**"). He is responsible for the Practices' quality control system and the quality of the Practices' engagements.
9. A previous practice review on Chinaweal and the Respondent's own name practice was conducted concurrently in 2013/2014. The Practices were subject to the present practice review which was concluded in August 2020. Chinaweal revealed in this practice review that it had issued audit reports to about 390 clients in the eighteen months ended two months before the practice review ("**the Period**").
10. For CWB, it had issued audit reports for approximately 180 clients during the Period.
11. In the present practice review, the Reviewer reviewed the audit engagements of Client W, Client O, Client J, and Client A. The relevant auditor's reports stated that the audits were conducted in accordance with the then applicable professional standards under the HKSA.

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<sup>1</sup> Attachment 1

12. The Reviewer found a number of significant deficiencies in the Practices' quality control system and performance of the aforesaid four audit engagements, some of which were same or similar deficiencies as identified in the Previous Practice Review. As a result, two complaints were laid against the Respondent.

### **Complaint 1**

13. Complaint 1 concerns the Practices' failure to establish and maintain an adequate quality control system in compliance with the requirements under HKSQC 1<sup>2</sup> on the following elements: Human resources, Monitoring process, File assembly, and Engagement performance.

#### Human Resources

14. Paragraph 29 of HKSQC 1 requires a practice to establish policies and procedures designed to provide it with reasonable assurance that it has sufficient personnel with the necessary competence, and capabilities to perform engagements in accordance with professional standards.
15. During the Period, the Respondent reported he was responsible for the audit engagements of approximately 570 audit clients of the Practices.<sup>3</sup> Furthermore, the Respondent stated he had signed 135 reports of another corporate practice to which he was the engagement director.<sup>4</sup>
16. At the time of the practice review, Chinaweal had seven audit staff (including 1 qualified staff) whom handled all the audit work. CWB had no staff and all its clients were referred by Company C which is owned and managed by Party A. Party A and two staff of Company C handled all the engagements of CWB, to which one senior staff was responsible for all the audit field work.<sup>5</sup>
17. The Practices had insufficient staff to perform the numerous engagements with the necessary competence and capabilities. Based on the practice review findings, the audit quality as demonstrated by the deficiencies in Complaint 2 reflect the lack of sufficient and appropriate audit work had been carried out prior to the issuance of audit reports.
18. The Practices did not maintain sufficient personnel that could provide the required competence and capabilities to carry out the audits in accordance with professional standards, thereby in breach of paragraph 29 of HKSQC 1.

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<sup>2</sup> Hong Kong Standard on Quality Control 1 *Quality Control for Firms that Perform Audits and Reviews of Financial Statements, and Other Assurance and Related Services Engagements*.

<sup>3</sup> Chinaweal approximately 390 audit clients, CWB approximately 180 audit clients (Paragraph 1 of Attachment 2).

<sup>4</sup> Paragraph 3.1.1 of Respondent's response to Dated Draft Report received on 7 November 2020 (Attachment 3)

<sup>5</sup> Paragraph 1 of Attachment 2; paragraph 3.1.1 of Attachment 3

#### Monitoring process – Chinaweal only

19. Paragraph 48 of HKSQC 1 requires a practice to establish an effective monitoring process which shall include an ongoing consideration and evaluation of the practice's system of quality control. Paragraph 53 of HKSQC 1 states that a practice shall communicate at least annually the results of the monitoring of its system of quality control to the staff of the practice.
20. The last monitoring review of Chinaweal's quality control system was conducted in March 2017 and no further review has been carried out since then up to the date of the practice review site visit in July 2019. The Respondent admitted that Chinaweal had real difficulties to hire a CPA to be the monitoring reviewer, and that a 2018 monitor review had been postponed.<sup>6</sup>
21. Chinaweal therefore was in breach of the aforesaid requirements under paragraphs 48 and 53 of the HKSQC 1.

#### File Assembly – CWB only

22. Paragraph 45 of the HKSQC 1 requires a practice to establish policies and procedures for engagement teams to complete the assembly of final engagement files on a timely basis after the engagement reports have been finalized. Paragraph A54 of the HKSQC 1 states that a time limit within which to complete the assembly of the audit file would ordinarily not be more than 60 days after the date of the auditor's report.
23. The Reviewer noted that certain working papers of Clients O, J and A were not originally included in the audit files of CWB, but were provided to the Reviewer after the site visit.<sup>7</sup> The issue with CWB's file assembly was because some of the audit works were done by checking to the client's accounting records directly. Since the accounting records were usually kept in a separate file, the audit staffs sometimes omitted to include those accounting records together with the audit working papers.
24. Therefore, CWB did not complete the assembly of final engagement files within 60 days after the issuance of auditor's reports, in breach of paragraphs 45 and A54 of HKSQC 1. The Respondent explained that due to the shortage of labor force, such assembly of file was not properly done.

#### Engagement Performance – CWB only

25. A practice is required to establish policies and procedures designed to provide it with reasonable assurance that engagements are performed in accordance with professional standards under paragraph 32 of HKSQC 1. CWB did not comply with this requirement as there is no evidence in the engagements of Clients O, J and A that CWB had

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<sup>6</sup> Paragraph 3.1.2 of Attachment 3; paragraph 3.1.2 of Attachment 2; page 1 of Attachment 4

<sup>7</sup> Appendices 4C, 5C, and 6C to Complaint Letter



performed the following auditing requirements, which were recurring issues as identified in the Previous Practice Review<sup>8</sup>:

- (a) Obtain sufficient understanding and prepare adequate documentation of the entities businesses and internal controls relevant to the audits, evaluate the design of those controls to determine whether they have been properly implemented, and perform analytical procedures, in accordance with HKSA 315 (Revised) "Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and its Environment".
  - (b) Perform fraud risk assessment, in particular (i) treating revenue recognition and management override of controls as significant risks; (ii) evaluating fraud risk factors; (iii) conducting fraud inquiry of client management; (vi) journal entry testing to address the risk of fraud in management override of controls, in accordance with HKSA 240 "The Auditor's Responsibilities Relating to Fraud in an Audit of Financial Statements".
  - (c) Design and perform analytical procedures to assess whether the financial statements are consistent with the auditor's understanding of the entity in accordance with HKSA 520 "Analytical Procedures".
  - (d) Determine materiality, performance materiality and a clearly trivial amount as required by HKSA 320 "Material in Planning and Performing an Audit" and HKSA 450 "Evaluation of Misstatements Identified during the Audit".
  - (e) When performing sampling tests, design a sample size with the sample selected which could provide a reasonable basis for drawing the audit conclusion on the selected account, in accordance with HKSA 530 "Audit Sampling".
  - (f) Searching for unrecorded liabilities to obtain sufficient evidence that the liabilities owed by the company had not been understated, in accordance with HKSA 500 "Audit Evidence".
  - (g) Set out the engagement director responsible for the performance of the audit engagements in the engagement letters, in accordance with Corporate Practices (Registration) Rules and HKSA 210 "Agreeing the Terms of Audit Engagements".
26. In addition, CWB qualified its opinion for the auditor's reports of Clients O, J and A as a result of the unavailability of the confirmations from bank, debtors or for the deposits paid. The Respondent explained that the majority of these clients refused to arrange confirmation requests as they did not want to spend extra costs, or that the clients rejected the concept of bank confirmations.<sup>9</sup>

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<sup>8</sup> Paragraph 3.1.3 of Attachment 2

<sup>9</sup> Paragraph 3.1.3 (b) of Attachment 3

27. In qualifying the auditor's opinion in the above circumstances, the Respondent did not establish policies and procedures to seek removal of audit limitations imposed by clients (i.e. the audit clients refused to arrange confirmation requests), obtain the necessary audit evidence through appropriate alternative procedures, assess the possible effects of any undetected misstatements, and determine the appropriate opinions to be issued on client's financial statements.<sup>10</sup> The Respondent had therefore failed to comply with paragraph 7(a) of HKSA 705 (Revised) "Modifications to the Opinion in the Independent Auditor's Report", which provides that:

"The auditor shall express a qualified opinion when:

- (a) The auditor, having obtained sufficient appropriate audit evidence, concludes that misstatements, individually or in the aggregate, are material, but not pervasive, to the financial statements".

#### Conclusion on Complaint 1

28. The Respondent had therefore failed to ensure that his practices had established effective policies and procedures to ensure that the audit reports issued were appropriate in the circumstances, in breach of paragraphs 29, 32, 45 and A54, 48 and 53 of HKSQC 1, which is a professional standard under the PAO.

#### Complaint 2

29. Complaint 2 is in relation to the Respondent's failure to obtain sufficient appropriate audit evidence and prepare adequate documentation in relation to the accounts in the financial statements of Clients W, O, J and A in accordance with professional standards. In respect of Clients J and A, there was further non-compliance with the requirement to record the date of completion of audit work, and the reviewer of the audit work and date and extent of such review.

#### Audit of Client W by Chinaweal

30. Client W was engaged in indent trading and earning commission in respect of trading of textile, garment and related accessories. In relation to sales and purchases of Client W, the Respondent did not document the evidence that the audit was planned and performed in accordance with HKSAs. In respect of amounts due from and due to related companies, insufficient appropriate audit evidence and inadequate documentation was found.
31. The auditor had conducted matching test and cut-off test on sales and purchases of Client W by checking to sales invoices (which were client generated documents), and bank receipts/payments of the selected sample transactions. However, there is no evidence that the auditor had checked the documentary evidence of the physical movement of goods (e.g. goods received notes, goods delivery notes, shipping documents etc.) to ascertain the occurrence of sale and purchase.

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<sup>10</sup> Paragraph 3.15 of Attachment 1; paragraphs 11 to 13 of HSKA 705 (Revised) of Attachment 5

32. The Respondent provided six sets of documentary proof in the Respondent's Case dated 22 May 2022.<sup>11</sup> These six sets of documents show that goods were shipped directly by Client W's supplier to Client W's buyers in Free On Board term. Client W earned commission in the transactions. These documents tend to show that the auditor could ascertain whether the risks and rewards of the ownership of the goods had transferred through checking the related shipping document, i.e. cargo receipts. However, such documents and the explanations in the Respondent's Case were not documented in Client W's working papers. This shows that the Respondent had breached paragraph 8 of HKAS 230 Audit Documentation, which requires that:

"The auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand:

- (a) The nature, timing, and extent of the audit procedures performed to comply with the HKSAs and applicable legal and regulatory requirements;
- (b) The results of the audit procedures performed, and the audit evidence obtained; and
- (c) significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions."

33. The Respondent also had applied a "low risk" factor when determining the sample size in the matching test, yet the working papers show that the auditor had identified sales recognition as a high risk audit area. This resulted in a fewer sample size being tested than required which may impact upon the accuracy of the test result.

34. In relation to the transactions between related parties, the working papers showed audit work performed to check the movements between the related parties and Client W by checking to invoices and/or bank statements for subsequent settlements. However, the results were marked individually (e.g. with a tick) on the printouts without record showing the coverage of the tested items over the total balance. Therefore, it was unclear from the working paper whether sufficient work had been carried out to ascertain the valuation of the balances at the year-end date. As such, the Respondent had failed to comply with paragraph 6 of HKSA 500 *Audit Evidence*, which provides that:

"The audit shall design and perform audit procedure that are appropriate in the circumstances for the purpose of obtaining sufficient appropriate audit evidence (Ref. Paragraph (A1-A25))."

#### Audit of Client O by CWB

35. Client O was engaged in indent trading. Insufficient appropriate audit evidence (i.e. paragraph 6 of HKSA 500 *Audit Evidence*) and inadequate documentation (i.e. paragraph 5 of HKSA 230 *Audit Documentation*) was found in respect of sales and purchase accounts.
36. The working papers show that in respect of the substantive test on sales, the auditor had checked 3 monthly sales amounts against the sales summary report and bank-in slips. However, the sales summary report was an internal document issued by the client and

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<sup>11</sup> Paragraphs 5 to 10 of the Respondent's Case and Annex 2 thereof.

there was no evidence in the working papers that audit procedures had been conducted to check the accuracy and completeness of the information in the client's sales summary report.

37. Three additional sheets of working papers were provided by CWB after the site visit which indicated the auditor had vouched all the sales and purchase transactions for the year. Yet, there was no supporting evidence in the working papers to show how the auditor had performed the work and what supporting documents had been checked, nor any evidence of audit work performed to check the goods delivery documents to ensure the occurrence of sales/purchases.
38. Similarly, in the cut-off test on sales and purchases performed, only sales invoice and purchase orders were checked, but no evidence of checking the goods delivery documents were done to ensure that the transactions were recorded during the relevant period.
39. In relation to a recorded expense of car rental of HK\$252,000, there was no evidence of any audit work performed to verify the validity of such an expense for the year.

#### Audit of Client J by CWB

40. Client J was engaged in trading of hardware. Insufficient appropriate audit evidence (i.e. paragraph 6 of HKSA 500 *Audit Evidence*) and inadequate documentation (i.e. paragraph 5 of HKSA 230 *Audit Documentation*) was found in respect of accounts of sales and purchases, and trades receivables.
41. In relation to sales income, the working papers indicate the auditor had checked items to sales invoices, but there was no evidence of checking with third party evidence such as goods delivery documents to ensure the occurrence of sales. Also, although "cut-off checked" was written on the working papers<sup>12</sup>, there were no details of how such a test was performed to ascertain that the transactions close to the year-end date were recorded in the appropriate period.
42. As regards to purchases, there was no evidence in the working papers that the auditor had performed a transaction test to assess the validity of the purchase transaction and a cut-off test to ascertain the transactions were recorded in the appropriate period.
43. As to the trade receivables account, in the subsequent working papers provided by CWB after the site visit, it showed that the auditor had written "checked...100%" the 7 debtor accounts as stated, yet there was no documentation of what supporting documents had indeed been checked. There was also a journal entry of HK\$1.27 million, yet no evidence of audit work performed on such entry.<sup>13</sup> Furthermore, the balances of this accounts receivable account could not be reconciled to another trade receivable schedule in the working papers previously provided, which showed only 2 out of the 7 debtor accounts<sup>14</sup>. There is no evidence from the working papers that this discrepancy was addressed.

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<sup>12</sup> Page 74 of Appendix 5B to Complaint Letter

<sup>13</sup> Page 16 of Appendix 5C to Complaint Letter

<sup>14</sup> Page 60 of Appendix 5B vs. pages 15-16 of Appendix 5C to Complaint Letter

44. In addition, besides from putting his initials on an undated box next to "ensure financial statements confirmed by client" in a partner's clearance sheet<sup>15</sup>, the remainder of the clearance sheet has been left blank. There is no evidence of the Respondent's involvement in the audit planning, supervision and review of the engagement. There is inadequate documentation about the extent and timing of the reviews, nor do the working papers contain information of when the audit work was completed. As such, the Respondent had failed to comply paragraph 9 of HKSA 230 *Audit Documentation*, which provides that:

"In documenting the nature, timing and extent of audit procedures performed, the auditor shall record:

- (a) The identifying characteristics of the specific items or matters tested;
- (b) Who performed the audit work and the date such work was completed; and
- (c) Who reviewed the audit work performed and the date and extent of such review."

#### Audit of Client A by CWB

45. Client J was engaged in trading of skincare products. Insufficient appropriate audit evidence (i.e. paragraph 6 of HKSA 500 *Audit Evidence*) and inadequate documentation (i.e. paragraph 5 of HKSA 230 *Audit Documentation*) was found in respect of accounts of sales and purchases.
46. In the working papers provided by CWB included two sets of working papers on sales and purchases. Despite both sets of sales lists covering the same list of transactions, yet they show different items were selected for checking: one set stating that the auditor had vouched 100% of the transactions, whilst the other set shows the auditor had checked only some of the transactions.<sup>16</sup> Further, there was no supporting evidence to show how the auditor had performed the work and what supporting documents had been checked. It is therefore doubtful whether adequate audit procedures were performed to obtain sufficient evidence to support the audit conclusions on sales and purchases.
47. Furthermore, the working papers do not contain any information as to the Respondent's involvement as the engagement director in reviewing the audit work performed. There is no information about the dates of preparation and review of the audit work, thereby in breach of paragraph 9 of HKSA 230 *Audit Documentation*.

#### Conclusion on Complaint 2

48. The breaches of paragraph 6 of HKSA 500, paragraph 5 of HKSA 230, and paragraph 9 of HKSA 230 as highlighted above, demonstrate that the Respondent did not carry out the audits with the level of professional competence and due care to ensure that HKSAs are complied with, in breach of sections 100.5(c) and 130.1 of the COE.

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<sup>15</sup> Page 7 of Appendix 5B to Complaint Letter

<sup>16</sup> Pages 3-7 vs. pages 35-44 of Appendix 6C to Complaint Letter

### **PART 3 - Mitigating Factors**

49. The Complainant and the Respondent agree to the following mitigating factors:
- (a) The Respondent was cooperative in the Practice Review. He was forthcoming in admitting the deficiency in the system of quality control;
  - (b) The Respondent did not gain any benefits from the breaches mentioned above;
  - (c) The Respondent have adopted a reasonable course of action to conclude these proceedings by way of the Carecraft procedure, which saves the time and costs of the Complainant and the Disciplinary Committee.
50. The Complainant does not object to the Respondent putting forward the following mitigating factors:
- (a) Various measures have been adopted to improve the quality of the Respondent's system of quality control and the quality of the audit works (e.g. reducing the number of audit clients, conducting yearly monitoring reviews, and preparing documentation on standardized working papers). In light of the measures adopted, the breaches are unlikely to be repeated;
  - (b) There have not been any civil claims against the Respondent in respect of the audit of Clients W, O, J and A, or any suggestion that any person has suffered loss as a result of the non-compliance.

### **PART 4 – Agreed Proposed Orders**

51. On the basis of the agreed facts set out in Part 2 above, the Complainant and the Respondent agree that the Disciplinary Committee should find the complainants against the Respondents (as set out in paragraph 4(a)-(b) above) proved.
52. On the basis of the agreed facts set out in Part 2 above and taking into account the agreed mitigating factors in Part 3 above, the Complainant and the Respondents further agree that it would be appropriate for the Disciplinary Committee to make the following sanctions:
- a. The Respondent be reprimanded under section 35(1)(b) of the PAO;
  - b. The practicing certificate issued to the Respondent be cancelled under section 35(1)(da) of the PAO effective on the 42<sup>nd</sup> day from the date of this order;
  - c. A practicing certificate shall not be issued to the Respondent for 6 months commencing from the 42<sup>nd</sup> day after the date of this order under Section 35(1)(db) of the PAO;
  - d. The Respondent do pay a penalty of HK\$75,000 under section 35(1)(c) of the PAO; and

- e. The Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant, including the costs of the Disciplinary Committee, in the sum of HK\$140,265, under section 35(1)(iii) of the PAO.

Dated the 24<sup>th</sup> day of February 2023.

Kelvin Lee  
Representative of the Complainant

Kwok, Ng & Chan, Solicitors and Notaries  
Solicitors for the Respondent

For the purpose of the ruling, Attachment 1 to the  
Statement is not included