

IN THE MATTER OF

A Complaint made under by-law 34(1) of the Professional Accountants By-laws (Cap. 50A)

BETWEEN

The Registrar of the Hong Kong Institute  
of Certified Public Accountants

COMPLAINANT

AND

TAN Ziwei (registered student no. S222001)	1 <sup>st</sup> RESPONDENT
WONG Ka Man (registered student no. S221532)	2 <sup>nd</sup> RESPONDENT
POON Chun Wa (registered student no. S221865)	3 <sup>rd</sup> RESPONDENT
CHOI Hiu Wa (registered student no. S219593)	4 <sup>th</sup> RESPONDENT
LEUNG Ho Lam (registered student no. S222028)	5 <sup>th</sup> RESPONDENT

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

Members: YIH Lai Tak, Dieter, JP (Chairman)  
TANG Hoi Lin, Helen  
CHOW Wai Shing, Daniel

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**ORDER AND REASONS FOR DECISION**

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1. This Student Disciplinary Committee (the “**Committee**”) of the Hong Kong Institute of Certified Public Accountants (the “**Institute**”) was constituted on 22 August 2023 by the Council of the Institute pursuant to By-law 33A of the Professional Accountants By-laws (Cap. 50A) (the “**By-laws**”) to consider and deal with a complaint (“**Complaint 1**”) made by the Complainant against the 1<sup>st</sup> Respondent TAN Ziwei, and a separate complaint (“**Complaint 2**”) against each of the 2<sup>nd</sup> Respondent WONG Ka Man, the 3<sup>rd</sup> Respondent POON Chun Wa, the 4<sup>th</sup> Respondent CHOI Hiu Wa and the 5<sup>th</sup> Respondent LEUNG Ho Lam. Complaint 1

and Complaint 2 are herein together referred to as the “**Complaints**”, and individually, where necessary, a “**Complaint**”. The five Respondents are together referred to herein as the “**Respondents**” and individually, where necessary, a “**Respondent**”.

2. Because Complaint 1 and Complaint 2 arose from the same facts and events, the Committee considers it expedient for both Complaints to be dealt with by this Committee together.

## **BACKGROUND**

3. The Respondents are students registered under the By-laws, and their names have been on the register of registered students kept by the Registrar of the Institute (the “**Student Register**”) since 2021.
4. The Complainant is the Registrar of the Institute. The Complaints against the Respondents are set out in paragraphs 8 and 9.

## **DISCIPLINARY PROVISIONS**

5. The By-laws set out the disciplinary provisions in relation to registered students whose names are registered in the Student Register. Under By-law 32(2), registered students (including in this case, the Respondents) are required to sign an undertaking to abide by the By-laws applicable to them, as students, as well as to observe and abide by the Code of Ethics for Professional Accountants (“**COE**”). Registered students are also informed that they are obliged to behave in good character and conduct. Failure to do so may result in their removal from the Student Register.
6. Under By-law 34(1), complaint(s) that a registered student:
  - (a) has been convicted of an offence under Part V (Perjury) of the Crimes Ordinance (Cap. 200);
  - (b) has been convicted in Hong Kong or elsewhere of any offence involving dishonesty;
  - (c) has been guilty of misconduct in carrying out his duties;
  - (d) has been guilty of conduct which renders him unfit to become a certified public accountant; or

- (e) has refused, or neglected without reasonable excuse, to comply with such of these by-laws as are applicable to him,

shall be made to the Registrar of the Institute who shall submit the complaint to the Council of the Institute which may, in its discretion, constitute a Student Disciplinary Committee to deal with the complaint.

7. As outlined above, this Committee is the Student Disciplinary Committee which has been constituted to consider and deal with the Complaints against the Respondents.

## **THE COMPLAINTS**

8. The Complaint against the 1<sup>st</sup> Respondent (“**Complaint 1**”) was essentially that he had been guilty of misconduct under By-law 34(1)(c) as he failed or neglected to observe, maintain or otherwise apply the fundamental principle of integrity under section 110.1 A1(a) of the COE by sharing the answer of his Assignment (as defined further below) with the 4<sup>th</sup> Respondent, knowing that or being negligent as to whether the 4<sup>th</sup> Respondent may copy his Assignment.
9. The Complaint against each of the 2<sup>nd</sup> Respondent, the 3<sup>rd</sup> Respondent, the 4<sup>th</sup> Respondent and the 5<sup>th</sup> Respondent (“**Complaint 2**”) was essentially that each of them had separately been guilty of misconduct under By-law 34(1)(c) in that they each failed or neglected to observe, maintain or otherwise apply the fundamental principle of integrity under section 110.1 A1(a) of the COE by plagiarizing the answer to an assignment of other person and falsely represented to the Firm (as defined further below) as the organiser of the Conversion Programme (as defined further below) by submitting the answers as their own.

## **FACTS AND MATTERS RELATING TO THE COMPLAINTS**

10. On 2 March 2023, the Institute received a referral from the Qualification and Examinations Board (“**QEB**”) in relation to the conduct of the Respondents who, allegedly, had each submitted substantially the same answers to their assignment (the “**Assignment**”) in relation to the Law Module of the accredited conversion programme (the “**Conversion Programme**”) organized by their former employer, an audit firm (the “**Firm**”), with an external service provider in August 2022.
11. After considering a report of internal investigations conducted by the Firm, QEB decided to file a complaint against the Respondents on the grounds that the Respondents may have breached the fundamental principal of integrity as registered students are bound by COE. The matter was then referred to the Institute.

12. After comparing the Respondents' answers to the Assignment, the Institute was of the view that the Respondents' answers were substantially the same containing the same grammatical errors and errors in analysis or lack of analysis. Each of the Respondents had admitted to this.
13. It is established that the Firm conducted its own internal investigation and interviewed the Respondents separately on 24 August 2022. The 1<sup>st</sup> Respondent, the 3<sup>rd</sup> Respondent and the 4<sup>th</sup> Respondent were further separately interviewed on 1 September 2022. After these interviews, the Firm prepared notes of these interviews (the "**Interview Notes**"), which were signed by each of the Respondents to indicate their agreements and confirmations of the contents of the Interview Notes applicable to each of them.
14. Further evidence including screen captures of the Respondents' dialogues using WhatsApp and Instagram messaging platforms were provided.

## **THE PROCEEDINGS**

15. The Complaints were laid by the Complainant against the Respondents on 18 April 2023. The Notice of Commencement of Proceedings and procedural timetable was issued to the parties on 30 August 2023.
16. The Respondents made formal admissions of the Complaints individually between July and August 2023. The parties have on 18 August 2023 made a joint application to this Committee that on the basis of the admission of Complaint 1 by the 1<sup>st</sup> Respondent and admission of Complaint 2 by each of the 2<sup>nd</sup> Respondent, the 3<sup>rd</sup> Respondent, the 4<sup>th</sup> Respondent and the 5<sup>th</sup> Respondent, the procedures as set out in Rules 17 to 26 of the Student Disciplinary Committee Proceedings Rules (the "**Proceedings Rules**") are not necessary and could be dispensed with. Such application was approved by this Committee and accordingly, this Committee directed the parties to make written submissions as to sanctions and costs.
17. On 13 September 2023, the Complainant sought a seven-day extension to file its submission as to sanctions and costs, which was approved by the Chairman of this Committee pursuant to Rule 10 of the Proceedings Rules.
18. By a letter dated 20 September 2023, the Complainant made its written submission to this Committee as to its proposed sanctions and costs to be applied to the Respondents.

19. By way of emails, the Respondents provided their respective replies or written submissions as to sanctions and costs as follows:

<b>Respondent</b>	<b>First submission</b>	<b>Second submission</b>
1 <sup>st</sup> Respondent	27 September 2023	28 September 2023
2 <sup>nd</sup> Respondent	27 September 2023	3 October 2023
3 <sup>rd</sup> Respondent	28 September 2023	2 October 2023
4 <sup>th</sup> Respondent	2 October 2023	-
5 <sup>th</sup> Respondent	27 September 2023	-

## **THE PROCEEDINGS AND ANALYSIS**

20. By-law 35 sets out the sanctioning powers of this Committee which can be exercised in regards to registered students under the By-laws.
21. In his submission on sanctions and costs, the Complainant identified that there was only one previous disciplinary decision in the past five years against a registered student. This was Proceeding No. *D-20-1629H (Hu Yi)* <sup>Note 1</sup>. In *D-20-1629H*, the respondent was at the relevant time a registered student of the Qualification Programme of the Institute and an audit senior of a CPA firm. He was found to have falsified his examination status reports on two occasions to his employer by altering their contents. By-laws 34(1)(d) applied to the respondent and the complainant in that case submitted that such conduct rendered the respondent unfit to become a certified public accountant.
22. The disciplinary committee in *D-20-1629H* considered, amongst many factors, two other disciplinary cases against registered student of the Institute. The first one was *D-15-1053C (Chan Wone Yee)*, and the second one was *D-07-0287H (Law Chui Ting)*:
- a) In *D-15-1053C*, the respondent was a registered student of the Institute. She had falsified a reference letter purportedly issued by her former employer and used the letter to successfully apply for a job as an accounts clerk. The respondent was convicted in the Magistrates Court for “obtaining pecuniary advantage by deception” under the Theft Ordinance. The disciplinary committee ordered that

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<sup>1</sup> For full disclosure, the chairman of the disciplinary committee in proceeding *D-20-1629H* is a business partner of the Chairman of this Committee.

the respondent be declared unfit to remain as a registered student and that the Registrar remove her name from the register of registered students pursuant to By-law 35(1)(i).

- b) In *D-07-0287H*, the respondent was a registered student of the Institute. She failed to attend workshops as part of her Qualification Programme module and claimed that she was unwell on that day, and further submitted a forged receipt from a medical centre to the Institute in support. The disciplinary committee ordered that the respondent be declared unfit to remain as a registered student and that the Registrar remove her name from the register of registered students pursuant to By-law 35(1)(i).
23. Although both of these two additional cases (*D-15-1053C* and *D-07-0287H*) were dated more than five years ago, the Committee considers the principles and circumstances therein, as well as the principles and circumstances in *D-20-1629H*, to be relevant to these disciplinary proceedings.
24. The Complainant also made submissions relating to the UK Court of Appeal case *Bolton v Law Society* even though that case was on solicitors, on the basis that it is relevant to registered students. This case was also considered in *D-20-1629H* where the disciplinary committee agreed the same principles as highlighted in Bolton applies to accountants as they do to solicitors. In Bolton, the UK Court of Appeal held that:
- “Any solicitor who is shown to have discharged his professional duties with anything less than complete integrity, probity and trustworthiness must expect severe sanctions to be imposed upon him by the Solicitors Disciplinary Tribunal ... The most serious involves proven dishonesty, whether or not leading to criminal proceedings and criminal penalties. In such cases, the tribunal has almost invariably, no matter how strong the mitigation advanced for the solicitor, ordered that he had struck off the Roll of Solicitors”*
25. The Complainant also submitted that he accepts while the Respondents in this case involve dishonesty and integrity issues, the level involved in the three previous disciplinary cases, namely *D-20-1629H*, *D-15-1053C* and *D-07-0287H*, may be much more serious than the present case.
26. This Committee does not agree that dishonesty involving plagiarism is any “less serious”; at best it is a different kind of action involving dishonesty and integrity concerns. Honesty and integrity are indeed the very pillars essential to upholding the standards of the accounting profession, and the very nature of an accountant’s work must be arrived at independently.

## **DECISION ON THE COMPLAINTS**

27. In considering the proper Order to be made in this matter, the Committee reviewed and considered all evidence and arguments arising from these evidence and submissions, including the Interview Notes. The Committee made such procedural directions as it considered expedient, and gave reasonable opportunities to the Complainant and the Respondents to address the Committee on the Complaints and to make further submissions as necessary, including submissions as to possible sanctions and costs. The Committee took into account the fact that none of the Respondents had prior disciplinary records, and that they have been fully cooperative since the discovery of their conducts as well as in the course of the Institute's disciplinary proceedings. The Committee then attached weight to these evidence, submissions, facts and conducts as it considers appropriate.
28. Given the evidence and taking into consideration the admissions of each of the Respondents in the Interview Notes, the Committee determines that Complaint 1 against the 1<sup>st</sup> Respondent, and Complaint 2 against each of the 2<sup>nd</sup> Respondent, 3<sup>rd</sup> Respondent, 4<sup>th</sup> Respondent and 5<sup>th</sup> Respondent, proven.

## **SANCTIONS AND COSTS**

29. The Committee also notes that it has a discretion in passing sanctions, and is not bound by any precedent nor any submission from the Complainant or the Respondents.
30. It is also clear to this Committee that the 1<sup>st</sup> Respondent was at the very least negligent and failed to observe the required level of integrity, and the other Respondents lacked honesty and integrity as they falsely represented another person's work as their own.
31. Given the seriousness of the Respondents' actions, the Committee considered whether the Respondents should be removed from the register of registered student pursuant to By-law 35(1)(i), and the need to send a deterrent message to other students. The Committee also took into account the unique situation and circumstances of this case as applicable to the Respondents.
32. The Committee considers that so far as the 1<sup>st</sup> Respondent is concerned, the negligence does not amount to a level where removal from the register of registered students is the proper sanction. So far as the other Respondents are concerned, the Committee considers that each of them had actively participated in a dishonest act, and in the ordinary course, a removal from the register of registered students may be justified.

33. Having considered the Complainant's submissions and the mitigations from the Respondents, the Committee considers that there may be reasons for not ordering removal from the register of registered students.
34. In relation to costs, the Committee considered the submissions on costs made by the Complainant and the Respondents, and the statement as to costs of the clerk to this Committee (the "**Clerk**") filed with the chairman of this Committee dated 20 September 2023.
35. In his submission on costs, the Complainant submitted that the Complainant should be awarded costs against the Respondents on a joint and several liability basis. The Committee considers that whilst this case is based on the same facts, not all the Respondents were necessarily acting together, and there is no evidence to suggest that one is aware of actions of others.

#### **DECISION ON SANCTIONS AND COSTS**

36. Accordingly, the Committee orders (the "**Order**") that:
  - a) each of the Respondents be reprimanded under by-law 35(1)(iii) of the By-laws;
  - b) each of the Respondents be declared not eligible to sit for any examination of the Institute for a period of two (2) years under by-law 35(1)(ii) of the By-laws effective on the 28<sup>th</sup> date of this Order; and
  - c) the Respondents pay the costs and expenses of and incidental to the proceedings of the Complainant in the total sum of HK\$15,375, and the costs and expenses of the Clerk in the sum of HK\$5,490 (being a total of HK\$20,865) severally, but not jointly and severally (that is to say an amount of HK\$4,173 for each of the Respondents individually) under by-law 35(1) of the By-laws.

Dated: 16<sup>th</sup> day of November 2023



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Mr. YIH Lai Tak, Dieter, JP  
(Chairman)

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Ms. TANG Hoi Lin, Helen  
(Member)

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Mr. CHOW Wai Shing, Daniel  
(Member)

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1<sup>st</sup> RESPONDENT

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4<sup>th</sup> RESPONDENT

LEUNG Ho Lam (registered student no. S222028)

5<sup>th</sup> RESPONDENT

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### CORRIGENDUM

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The following is a corrigendum to the Order and Reasons for Decision dated 16 November 2023:

On page 8, paragraph 36,

“c) the Respondents pay the costs and expenses of and incidental to the proceedings of the Complainant in the total sum of HK\$15,375, and the costs and expenses of the Clerk in the sum of HK\$5,490 (being a total of HK\$20,865) severally, but not jointly and severally (that is to say an amount of HK\$4,173 for each of the Respondents individually) under by-law 35(1) of the By-laws.”

is amended to

“c) the Respondents pay the costs and expenses of and incidental to the proceedings of the Complainant in the total sum of HK\$9,885, and the costs and expenses of the Clerk in the sum of HK\$5,490 (being a total of HK\$15,375) severally, but not jointly and severally (that is to say an amount of HK\$3,075 for each of the Respondents individually) under by-law 35(1) of the By-laws.”

Dated: 16 November 2023

Clerk to the Student Disciplinary Committee