

2. There are altogether 5 complaints against the Respondent. The 5 complaints are listed below:
- (1) 1st Complaint: Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he failed or neglected to observe, maintain or otherwise apply professional standards as provided in Section 500.5(e) of the Code of Ethics for Professional Accountants (“COE”), as a result of his failure to convene annual creditors’ meetings and report his conduct and dealings of the liquidation of LECO for 4 years, or alternatively 3 years, from the date of liquidation of LECO, in breach of Section 247 of the Companies (Winding-Up and Miscellaneous Provisions) Ordinance Cap. 32 (“CO”).
 - (2) 2nd Complaint: Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he failed or neglected to observe, maintain or otherwise apply professional standards as provided in Section 500.5(e) of the COE, as a result of his failure to file his liquidator’s statements of account for LECO in time, in breach of Section 284 of the CO.
 - (3) 3rd Complaint: Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he failed or neglected to observe, maintain or otherwise apply professional standards as provided in Section 500.43 of the COE, as a result of his failure to retain overall control of the work delegated to a consulting firm ADGS Advisory Limited (“ADGS”) during LECO’s liquidation.
 - (4) 4th Complaint: Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he failed or neglected to observe, maintain or otherwise apply professional standards as provided in Sections 500.5(e) and/or 500.40 of the COE, as a result of his failure to obtain proper approval by LECO’s creditors of his liquidator’s fee, in breach of Section 244 of the CO, and hence also failed to report openly and transparently to those with an interest in the outcome of the liquidation.
 - (5) 5th Complaint: Section 34(1)(a)(viii) of the PAO applies to the Respondent in that he has been guilty of professional misconduct as a result of his repeated failures to comply with the legal and ethical requirements when he conducted the

liquidation work of LECO for several years, as particularized above.

3. The Committee delivered its Decision as to liability on 13th November 2019. In the last part of the Decision after finding that all the 5 Complaints were proved against the Respondent, the parties were directed to file their written submissions on sanctions and costs.
4. The Complainant filed their written submissions and statement of costs on 28th November 2019 and the Respondent filed his written submission on 27th December 2019.
5. The following is the unanimous decision of the Committee on sanctions and costs.
6. The Committee has considered all the submissions made by the parties and does not propose to set out herein all the submissions made.
7. The Committee acknowledges that every case of professional misconduct is different based on facts and circumstances such that the previous decisions as to sanctions imposed are of reference value only. The Committee has a wide discretion in deciding on appropriate sanctions.
8. The Committee considers that the Respondent has breached 3 provisions in the CO, i.e. Sections 247, 284, and 244 of the CO with regard to his duty as the liquidator of LECO. More specifically, the Respondent has breached Sections 247, 284, and 244 of the CO. Significantly, the evidence shows that the breaches were conducted repeatedly; the Respondent failed to hold 4 creditors' annual meetings and filed the statements of account late on 6 occasions.
9. The Respondent committed a major breach by failing to obtain prior approval from LECO's creditors with regard to the Liquidator's Fees. This is a very serious breach of his obligations as the Liquidator's Fees in the amount of HK\$4.7 million represents about 48% of LECO's total assets.
10. Besides breaching the CO, the Respondent has also breached fundamental provisions in the COE, namely Sections 500.40 and 500.43.

11. As a result of the Respondent's misconduct, the creditors were left in the dark over the course of the liquidation period as no annual creditors' meeting was held for 4 years, the liquidator's statements of account were filed late, and no proper approval of the Liquidator's Fees has been obtained. Thus, the creditors have been oblivious to the progress and development of the liquidation of LECO.
12. In the premises, the Respondent's repeated failure to comply with the relevant legal requirements whilst carrying out his duties as the sole liquidator for LECO. The Committee finds that this demonstrates the Respondent's disregard for his duty as a liquidator to observe the relevant requirements and to protect the interests of LECO's creditors. The Respondent failed to safeguard LECO's creditors' funds and failed to adequately keep LECO's creditors informed of the progress.
13. It is significant that the Respondent has made repeated excuses for his breaches and failures of obligation in an attempt to shift the blame. For instance, the Respondent sought to blame ADGS, whom he himself appointed, for the late filing of the Liquidator's Statement of Account, and for failure to retain overall control over the liquidation process. The Committee is of the view that the Respondent has shown a blatant disregard for his obligations. Furthermore, the Respondent attempted to explain his failures in relation to other complaints without providing requisite evidence. His versions were wholly unsupported by valid evidence.
14. Therefore, the Committee is of the opinion that the Respondent has shown blatant disregard for the legal requirements during the 4-year period whilst he was the liquidator of LECO. Breaches of criminal law clearly bring disrepute to the profession, and furthermore, the Committee notes that the Respondent was actually prosecuted by the Companies Registry. The Committee is of the view that the Respondent has no doubt damaged the reputation of the accountancy profession.
15. On the other hand, the Committee considered the submission of the Respondent that the element of dishonesty was not involved in the 1st – 4th Complaints and the Respondent was born in 1957 and will turn 63 next year.
16. Although the Committee notes that the Respondent was recently ordered that his practising certificate to be cancelled for 24 months in

the disciplinary proceedings number D-17-1231P/1231C (which is currently under appeal by the Respondent), the sanction that he is to receive in these proceedings should properly reflect the seriousness of the complaints in these proceedings only.

17. Lastly, the Committee also takes into account the totality principle having regard to the individual charges established against the Respondent, the gravity of individual charges and cumulative effect of them and the ultimate sanction to be imposed on the Respondent.
18. Having considered and balanced all the above matters and the submissions of the parties, the Committee considers that the practising certificate of the Respondent should be cancelled for a period of 12 months.
19. The Committee finds that there is no reason not to impose an order for the Respondent to pay costs to the Complainant and for the investigation and the present disciplinary proceedings according to the usual rule of costs to follow the event.
20. The Complainant submitted a statement of costs which set out the respective hourly charging rates of the staff members of the Institute who worked on this matter and the respective amount of time spent by them. Based on the statements and submissions by the Complainant, and bearing in mind the volume of documents involved and the necessity for a hearing, the Complainant's costs shall be in the sum of HK\$169,622 and costs of the Clerk of the Committee shall be HK\$45,565. The total costs awarded against the Respondent shall be in the sum of HK\$215,187.
21. The Committee therefore orders that:-
 - (1) The Respondent be reprimanded under section 35(1)(b) of the PAO.
 - (2) The Respondent do pay a penalty of HK\$100,000 under section 35(1)(c) of the PAO.
 - (3) The practising certificate of the Respondent be cancelled under section 35(1)(da) of the PAO and it shall take effect on the 42nd day from the date of this Order.

- (4) A practising certificate shall not be issued to the Respondent for a period of 12 months under section 35(1)(db) of the PAO. In view of the fact that the practising certificate of the Respondent has been ordered to be cancelled for 24 months in the disciplinary proceedings number D-17-1231P/1231C (which is currently under appeal by the Respondent), the 12 months of non-issuance of a practising certificate is to be consecutive to the order of the said proceedings.
- (5) The Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant/Clerk of the Committee in the sum of HK\$215,187 under section 35(1)(iii) of the PAO.

Mr. WONG, Tim Wai
Chairman

Ms. SO, Man Wah, Miranda
Member

Mr. SHUM, Hon Wo
Member

Mr. GUEN, Kin Shing
Member

Mr. FUNG, Ying Wai, Wilson
Member

Mr. Kenneth Ng, Representative of the Complainant

Miss Karen K. Y. Chan, Counsel instructed by solicitors Messrs. Yu Hung & Co., for the Respondent