

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

Yu Kung Shing (F04854)

RESPONDENT

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

Members: Mr. Chin, Vincent (Chairman)
Ms. Cheung Chiu Nam, Cermain
Miss Tam Wing See
Mr. Lee Ka Leung, Daniel
Miss Tang Kwan Lai

ORDER AND REASONS FOR DECISION

1. These are complaints made by the Practice Review Committee of the Hong Kong Institute of Certified Public Accountants (the “**PRC**”) against Yu Kung Shing CPA (Practising) (the “**Respondent**”).
2. The particulars of the complaints are set out below.

BACKGROUND

3. The Respondent is a sole proprietor of K S Yu & Co. (firm no. 1668) (the “**Firm**”). He is responsible for the Firm’s quality control system and the quality of its audit engagements.

4. A practice review (“**Review**”) was conducted on the Firm and the practice reviewer (“**Reviewer**”) has reviewed two audit engagements, namely:
 - (1) Client A, a private entity, for the year ended 31 March 2016 (the relevant auditor’s report was issued on 16 October 2016); and
 - (2) Client C, a private entity, for the year ended 31 December 2016 (the relevant auditor’s report was issued on 24 May 2017).
5. In the course of the Review, the Reviewer has further selected three other engagements in spot checks in order to assess the Firm’s audit methodology. The Reviewer reviewed the following audit engagements in the spot checks:
 - (1) Client O, a private entity, for the period ended 31 December 2015 (the relevant auditor’s report was issued on 7 July 2016);
 - (2) Client M, a private entity, for the year ended 31 March 2015 (the relevant auditor’s report was issued on 6 September 2016); and
 - (3) Client P, a private entity, for the year ended 31 December 2015 (the relevant auditor's report was issued on 21 February 2017).
6. The Reviewer found a number of troubling issues in the Firm’s quality control system and audit engagements.
7. Also, the Reviewer found that the Respondent had provided false answers in the 2016 practice review self-assessment questionnaire (“**EQS**”) (submitted by the Respondent on 27 June 2016).
8. In addition, the Reviewer found that the Respondent had made false representations to the Reviewer and created documents *ex post facto* in response to the practice review in endeavouring to support such false representations.
9. The Respondent had not disputed the abovementioned findings of the Reviewer.
10. In the light of the reviewer’s findings, the PRC considered that the Respondent had committed serious professional misconducts. Accordingly, the PRC has decided to raise the following complaints against him.

THE COMPLAINTS

Complaint 1

11. Section 34(1)(a)(vi) of the Professional Accountants Ordinance (“**PAO**”) applies to the Respondent in that he had failed or neglected to observe, maintain or otherwise apply a professional standard for having made false or misleading statements in relation to the practice review conducted on his Firm.

Complaint 2

12. Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he had failed or neglected to observe, maintain or otherwise apply a professional standard in respect of his audit of Client A for the year ended 31 March 2016.

Complaint 3

13. Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he had failed or neglected to observe, maintain or otherwise apply a professional standard in respect of his audit of Client C for the year ended 31 December 2016.

Complaint 4

14. Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he had failed or neglected to observe, maintain or otherwise apply a professional standard for his failure to maintain an adequate quality control system.

Complaint 5

15. 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 failure to comply with multiple professional standards.

(Complaints 1-5 hereinabove are referred to as the “Complaints” herein.)

Submission of complaints pursuant to section 34(1)(a)(vi) and (viii) of the PAO

16. As explained below, the Complaints involved findings by the PRC of multiple breaches by the Respondent of professional standards set out in the Code of Ethics for Professional Accountants (“COE”), the HKSQC 1, and other professional standards promulgated by the HKICPA. The PRC has submitted the Complaints to the Registrar for disciplinary actions against the Respondent pursuant to section 34(1)(a)(vi) and (viii) of the PAO.

FACTS AND CIRCUMSTANCES IN SUPPORT OF COMPLAINT 1

17. The COE states as follows:

- (1) Section 100.5(a):

“A professional accountant shall comply with the following fundamental principles: (a) Integrity – to be straightforward and honest in all professional and business relationships...”

- (2) Section 110.1:

“The principle of integrity imposes an obligation on all professional accountants to be straightforward and honest in all

professional and business relationships. Integrity also implies fair dealing and truthfulness.”

(3) Section 110.2:

“A professional accountant shall not knowingly be associated with reports, returns, communications or other information where the professional accountant believes that the information:

- (a) Contains a materially false or misleading statement;*
- (b) Contains statements or information furnished recklessly; or*
- (c) Omits or obscures information required to be included where such omission or obscurity would be misleading.*

When a professional accountant becomes aware that the accountant has been associated with such information, the accountant shall take steps to be disassociated from that information.”

18. Sections 100.5(a), 110.1 and 110.2 of the COE set out the fundamental principle of integrity that a professional accountant is required to be straightforward, honest, and not knowingly or recklessly associated with statements containing false, or misleading information.

False statements on the Firm’s quality control procedures

19. At the opening meeting of the practice review visit, the Respondent told the Reviewer that the Firm had set up its quality control manual (“QCM”) in January 2016 and implemented the following procedures in its system of quality control:
- (1) Each audit staff member had been required to sign an independence declaration annually and a confidentiality agreement upon the commencement of employment;
 - (2) Audit teams had been required to complete client acceptance/continuance forms as part of the client acceptance and continuance procedures; and
 - (3) Audit teams had been required to complete audit programmes and a disclosure checklist before issuance of the audit report.
20. In addition, subsequent to the opening meeting, the Respondent represented that the Firm’s audit methodology had been updated in December 2015, requiring an audit team to perform a detailed preliminary analytical review for the audit.
21. However, upon the Reviewer’s spot check on three audit engagement files, it was discovered that there were no working papers for the audit programmes

(see paragraph 19(3) *infra*) and client acceptance/continuance forms (see paragraph 19(2) *infra*), which the Firm had purported to implement. Apparently, the Respondent had implemented the audit programmes and client acceptance/continuance forms only for the two engagements selected in advance by the Reviewer for practice review.

22. Subsequently, the Respondent admitted to the Reviewer that all his representations as stated in paragraphs 19 and 20 *infra* were false and the Respondent had created *ex post facto* the relevant documents appearing to support his false representations only in reaction to the practice review.
23. Therefore, the Respondent has knowingly made untrue statements to the Reviewer in breach of the fundamental principle of integrity.

False answers in EQS

24. Further, the Reviewer found that the Respondent has provided false answers in the EQS. Instances of such false answers included the followings:
 - (1) The Respondent stated that the Firm had updated its QCM in December 2015, whereas the Reviewer found that the Firm had drafted the QCM was only after after it had received the practice review notification in 2017;
 - (2) The Respondent stated that the Firm had completed a monitoring review in March 2016, whereas the Reviewer found that the Firm's first monitoring review had been carried out in August 2017;
 - (3) The Respondent stated that the Firm had obtained annual written independence confirmation from all relevant personnel during 1 April 2015 to 31 March 2016, but the Reviewer found that written confirmations had been signed only just before the practice review;
 - (4) The Respondent stated that the Firm had not provided tax compliance services to its audit clients, but the Reviewer found that the Firm had provided such services to all its audit clients;
 - (5) The Respondent stated that the Firm had maintained client acceptance procedures, but the Reviewer found that the Firm had only completed the client acceptance forms just before the commencement of the practice review in August 2017; and
 - (6) The Respondent stated that the Firm had adopted the Institute's audit practice manual, updated audit methodology, implemented file assembly policies and procedures and structured internal staff training, but the Reviewer found that none of these quality control procedures had actually been performed.
25. The above factual findings, which were not disputed by the Respondent, supported the conclusion that the Respondent had acted in breach of the

fundamental principle of integrity under sections 100.5(a), 110.1 and 110.2 of the COE.

26. The Disciplinary Committee leaves open the issue, in the light of the PRC's factual findings and the Respondents' admissions, of whether or not the Respondent's false representations made to the Reviewer and creation of documents *ex post facto* in endeavouring to support such false representations have any implications in criminal law, as these are matters beyond the purview of the PRC's referral and the jurisdiction of the Disciplinary Committee.

FACTS AND CIRCUMSTANCES IN SUPPORT OF COMPLAINT 2

27. The COE states as follows:

- (4) Section 100.5(c):

"A professional accountant shall comply with the following fundamental principles: (c) Professional Competence and Due Care – to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional services based on current developments in practice, legislation and techniques and act diligently and in accordance with applicable technical and professional standards..."

- (5) Section 130.1:

"The principle of professional competence and due care imposes the following obligations on all professional accountants:

- (a) *To maintain professional knowledge and skill at the level required to ensure that clients or employers receive competent professional service; and*
- (b) *To act diligently in accordance with applicable technical and professional standards when performing professional activities or providing professional services."*

28. The fundamental principle of Professional Competence and Due Care under sections 100.5(c) and 130.1 of the COE requires a professional accountant to maintain professional knowledge and skill at the level required to ensure that applicable technical and professional standards are complied with.
29. The Reviewer found a number of compliance failures in the Respondent's audit of Client A, a company engaged in trading of chemical products and adhesive paper and investment holding.
30. Paragraph 6 of Hong Kong Standard on Auditing ("HKSA") 500 "*Audit Evidence*" required an auditor to design and perform audit procedures that are

appropriate in the circumstances for the purpose of obtaining sufficient appropriate audit evidence.

31. In breach of paragraph 6 of HKSA 500, the audit working papers of Client A did not show that adequate audit procedures had been carried out for the purpose of obtaining sufficient appropriate audit evidence in respect of the following accounts material to the financial statements:

- (1) Inventories of HK\$2,462,901:

- (a) The working papers of stock listing had documented the dates of the subsequent sales of the products without providing information about the selling prices. There had been no evidence to show how the auditor had carried out any assessment to ascertain that the inventories at the year-end date had been stated at the lower of cost and net realizable value in accordance with Hong Kong Accounting Standard (“HKAS”) 2 “Inventories”.
- (b) In addition, there had been no evidence that the auditor had performed procedures for ascertaining that Client A had appropriately applied the weighted average costing method in measuring the cost of inventories.

- (2) Loan receivables from a related company of HK\$16,018,229 and the amounts due from related companies of HK\$532,109:

There had been no evidence of any audit work performed to assess the recoverability of the balances of loan receivables and amounts due from related companies at the year-end date.

- (3) Commission income of HK\$1,575,704:

There had been no evidence of any audit work performed to ascertain the validity and accuracy of the commission income recorded in the financial statements.

32. The above failures demonstrate that the Respondent, in breach of sections 100.5(c) and 130.1 of the COE, had failed to maintain professional knowledge and skill at the level required to ensure that the audit had been carried out in accordance with applicable professional standards.

FACTS AND CIRCUMSTANCES IN SUPPORT OF COMPLAINT 3

33. The Reviewer found a number of compliance failures in the Respondent’s audit of Client C, a company engaged in trading and recycle processing of waste products.

34. In breach of paragraph 6 of HKSA 500, the audit working papers of Client C had not shown that adequate audit procedures had been carried out for the

purpose of obtaining sufficient appropriate audit evidence in respect of the following accounts material to the financial statements:

- (1) Inventories of HK\$9,098,404:
 - (a) The inventories at the year-end date included non-consignment inventories of HK\$3,238,753 and consignment inventories of HK\$5,859,651.
 - (b) The working papers of the non-consignment inventories had documented the dates of the subsequent sales of the products without providing information about the selling prices. There had been no evidence of how the auditor had carried out any assessment to ascertain that the inventories at the year-end date had been stated at the lower of cost and net realizable value in accordance with HKAS 2.
 - (c) For the consignment inventories, the working papers had shown that the auditor had circularized confirmation requests to three consignees, who had confirmed only the values but not the quantities of the inventories held by them. However, the confirmed values had been different from the values of the inventories recorded by Client C. There had been no evidence that the auditor had performed any follow up procedures on the differences or other procedures for ascertaining the existence of inventories held by the consignees.
 - (d) In addition, the working papers show that the auditor had accepted the management's verbal representations that no provision for inventories had been required as the consignment inventories could be sold at a price higher than their costs. Apart from the reliance on management's representations, there had been no evidence that the auditor had performed any other procedures, including procedures for verifying the condition of the consignment inventories or ascertaining that the valuation of the inventories at the year-end date had been appropriate.
 - (e) Further, there had been no evidence of any audit work performed for ascertaining the existence of inventories kept at the pier and in transit at the year-end date.
 - (f) Also, there had been no evidence of any procedures performed for ascertaining that Client C had appropriately applied the weighted average costing method in measuring the cost of the inventories.
- (2) Trade and other receivables of HK\$34,584,149:

There had been no evidence that the auditor had assessed the recoverability of individual trade receivables balances which had been overdue more than one year and with no subsequent settlements.

- (3) Amounts due from directors of HK\$2,862,336, due from related companies of HK\$18,020,949, and due from shareholder of HK\$21,315,790:

There had been no evidence of any alternative procedures performed for obtaining relevant and reliable audit evidence on the non-replied confirmations for the balances due by a director and related companies. Also, there had been no impairment assessment performed for ascertaining the valuation of the balances due from directors, related companies, and shareholder at the year-end date.

35. In breach of sections 100.5(c) and 130.1 of the COE, the abovementioned failures by the Respondent to perform adequate audit procedures for substantiating the multiple accounts material to the financial statements demonstrated that the Respondent had failed to carry out the audit of Client C with such level of professional competence and due care for ensuring that auditing standards had been complied with.

FACTS AND CIRCUMSTANCES IN SUPPORT OF COMPLAINT 4

36. HKSQC 1 requires all firms of professional accountants to establish and maintain an adequate system of quality control which meets the requirements under the standard.

Monitoring process

37. Paragraph 48 of HKSQC 1 requires a practice to establish an effective monitoring process which should include an ongoing consideration and evaluation of the practice's system of quality control including, on a cyclical basis, an inspection of at least one completed engagement for each engagement partner.
38. During the practice review, it was found that the Firm had conducted its first monitoring review in August 2017. As the Firm was established in 2001, it indicated that the Firm failed to carry out monitoring reviews on an ongoing basis, contrary to paragraph 48 of HKSQC 1.

Engagement performance

39. Paragraph 32 of HKSQC 1 requires a practice to establish policies and procedures designed to provide it with reasonable assurance that engagements are performed in accordance with professional standards.

40. The Reviewer carried out spot checks on three engagements (i.e., Client O, Client M and Client P) and found that the Firm had failed to carry out appropriate audit procedures. The particulars were as follows:
- (1) Failure to identify the risks of material misstatement through understanding the entities' internal controls relevant to the audits and evaluating the design of those controls in determining whether they have been properly implemented, contrary to HKSA 315 (Revised) "*Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and Its Environment*";
 - (2) Failure to perform audit procedures in assessing the risk of fraud in revenue recognition and management override of controls, contrary to HKSA 240 "*The Auditor's Responsibilities Relating to Fraud in an Audit of Financial Statements*";
 - (3) Failure to determine materiality, performance materiality and a clearly trivial amount as required by HKSA 320 "*Materiality in Planning and Performing an Audit*" and HKSA 450 "*Evaluation of Misstatements Identified during the Audit*";
 - (4) Failure to design and perform analytical procedures to assess whether the financial statements are consistent with the auditor's understanding of the entity contrary to HKSA 520 "*Analytical Procedures*";
 - (5) Failure to perform subsequent event review procedures to obtain sufficient appropriate audit evidence that all events occurring between the date of the financial statements and the date of the auditor's report that require adjustment of, or disclosure in, the financial statements have been identified, contrary to HKSA 560 "*Subsequent Events*";
 - (6) Failure to perform audit procedures to assess the appropriateness of management's use of the going concern assumption in the preparation of the financial statements, contrary to HKSA 570 "*Going Concern*"; and
 - (7) Failure to perform audit procedures such as sales and purchase cut-off tests and the test for searching unrecorded liabilities to obtain sufficient evidence that the transactions were recorded in the appropriate period and the liabilities owed by the company had not been understated, contrary to HKSA 500.
41. In addition to the above, the Reviewer found that the audit working papers of Client M and Client P had contained the following deficiencies:

Audit of Client M

42. For each of the financial year ended since the Firm's appointment in 2007, it had expressed qualified opinion in the auditor's report on Client M because of his "inability" to attend inventory-taking at the year-end date. There had been

no evidence that the auditor had taken steps to remove the limitation. Nor had there been evidence of the Respondent evaluating the impact of the continuous limitation before deciding to accept reappointment, contrary to section 410.52 of COE.

43. There had been no evidence that the auditor had performed work to (1) ascertain that the carrying amount of inventories of HK\$550,593 (representing 30% of the total assets) had been stated at the lower of cost and net realizable value, and (2) assess the recoverability of the trade receivable balance of HK\$918,305 (representing 50% of the total assets) by checking the supporting documents of the subsequent settled amounts of the balance at the year-end date, contrary to HKSA 500.
44. Further, the audit documentation showed that the auditor had performed transaction test on sales by checking 11 selected items which represented 0.16% of total sales for the year. There had been no evidence to show how the auditor had determined such a sample size could provide a reasonable basis for drawing the audit conclusion on the revenue account, contrary to HKSA 530 "*Audit Sampling*".

Audit of Client P

45. The working papers show that the auditor had only recorded the dates of the subsequent settlement/payment for each balance of trade receivables and trade payables at the year-end date. There had been no evidence that the auditor had checked to the bank receipts or payment slips to ensure the amount had been received or paid after year-end date. There also had been no evidence of audit procedures performed for verifying that sums received or paid after the year end had actually been for settlements with debtors and creditors at the year end.
46. Moreover, there had been no evidence that the auditor had assessed the recoverability of the amounts due from related companies, a shareholder, a director, and a subsidiary totaling US\$4,046,563, representing 46% of the total assets at the year-end date.
47. There had also been no evidence of any work done performed on the inventories account of US\$493,708 (representing 6% of total assets) for ascertaining the accuracy of the balance at the year-end date.
48. The above deficiencies regarding the audit of Client P showed that the auditor had failed to comply with HKSA 500 in obtaining sufficient appropriate audit evidence to support audit conclusions on various accounts in the course of carrying out the audit of Client P.
49. The above findings indicated systemic compliance failures in the Firm's auditing practice. The Respondent had failed to ensure that the Firm had established effective policies and procedures for ensuring that the audit reports it had issued had been appropriate in the circumstances, contrary to HKSQC 1.

FACTS AND CIRCUMSTANCES IN SUPPORT OF COMPLAINT 5

50. Section 100.5 of the COE states the fundamental principles of professional ethics of a professional accountant as follows:

“100.5 A professional accountant shall comply with the following fundamental principles:

- (a) Integrity – to be straightforward and honest in all professional and business relationships.*
 - (b) ...*
 - (c) Professional Competence and Due Care – to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional services based on current developments in practice, legislation and techniques and act diligently and in accordance with applicable technical and professional standards.*
 - (d) ...*
 - (e) Professional Behavior – to comply with relevant laws and regulations and avoid any conduct that discredits the profession.”*
51. The Respondent’s acts of making false representations during the Review and creating working papers to mislead the Reviewer were not only unprofessional but also have casted serious doubt on the Respondent’s integrity, contrary to section 100.5(a) of the COE.
52. The numerous deficiencies found in the Firm’s quality control system and audit engagements indicated that the Respondent had failed to uphold the fundamental principle of professional competence and due care in ensuring that his professional work had complied with professional standards, contrary to sections 100.5(c) and (e) of the COE.
53. The Respondent has been guilty of professional misconduct under section 34(1)(a)(viii) of the PAO as a result of his failures as expounded in Complaints 1 to 4 *infra* had demonstrated blatant disregards of the professional standards and the fundamental principles under the COE.

THE PROCEEDINGS

54. By letters signed by the parties dated 6 May 2020, the Respondent has admitted the Complaints and the parties have requested that the steps set out in paragraphs 17 to 30 of the Disciplinary Committee Proceedings Rules (“DCPR”) be dispensed with.

55. The Disciplinary Committee has agreed with the parties' request to dispense with the steps set out in Rules 17 to 30 of the DCPR in light of the admission made by the Respondent and directed the parties to make written submissions on sanctions and costs.
56. The Respondent and the Complainant made submissions on sanctions and costs by letters dated 25 July 2020 and 4 August 2020 respectively.
57. In considering the proper order to be made in this case, the Disciplinary Committee has had regard to all the aforesaid matters, including the particulars in support of the Complaint, the Respondent's personal circumstances, and the conduct of the Complainant and the Respondent throughout the proceedings.

CONSIDERATIONS

58. In the light of the aforementioned facts, we consider that the breaches by the Respondents of the relevant professional standards would fall within the "very serious" category in considering the penalties to be imposed. For breaches that fall within the "very serious" category, the usual penalties would involve a reprimand, cancellation of the practising certificate for a substantial period, and removal of membership of HKICPA in order to reflect the seriousness of the breaches and to restore the public's confidence in the profession.
59. We have taken into account the Respondents' early admissions of the Complaints, which have resulted in savings in time and costs in not having to hold a full evidential hearing.
60. We have taken into account the Respondents' pleas of mitigation.
61. We have also taken into account that these proceedings are concurrent with a related set of disciplinary proceedings (i.e. D-18-1447C), in which the Respondents herein is also the first respondent and the Firm is the second respondent in those proceedings.
62. Having considered the abovementioned factors, the Disciplinary Committee is minded to reprimand the Respondent and cancel his practising certificate but to dispense with the further penalty of removal of his membership.

SANCTIONS AND COSTS

63. The Disciplinary Committee ORDERS that:-

- (1) the Respondent be reprimanded under section 35(1)(b) of the PAO;
- (2) the practising certificate issued to the Respondent be cancelled with effect from 42 days from the date hereof under section 35(1)(da) of the PAO;
- (3) A practising certificate shall not be issued to the Respondent for 24 months with effect from 42 days from the date hereof under section 35(1)(db) of the PAO; and
- (4) 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\$55,331.50 under section 35(1)(iii) of the PAO.

Dated: 31st March 2021

Mr. Chin, Vincent
Chairman
Disciplinary Panel A

Ms. Cheung Chiu Nam,
Cerman
Member
Disciplinary Panel A

Mr. Lee Ka Leung,
Daniel Member
Disciplinary Panel B

Miss Tam Wing See
Member
Disciplinary Panel A

Miss Tang Kwan Lai
Member
Disciplinary Panel B