

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

Chan Hoi Shing (A14998)      RESPONDENT

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

Members: Mr. MAURELLET, Jose-Antonio, S.C. (Chairman)

Ms. CHAN, Ka Man

Mr. DOO, William Junior Guilherme

Mr. HO, Kam Wing, Richard

Mr. MAR, Selwyn

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**ORDER & REASONS FOR DECISION**

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1. This is a complaint by the Practice Review Committee of the Hong Kong Institute of Certified Public Accountants (“the **Institute**”) as the Complainant against the Respondent Mr. Chan Hoi Shing, a certified public accountant (practising).
2. The particulars of complaint are set out in a letter dated 30<sup>th</sup> March 2017 (“the **Letter**”) from the Practice Review Committee to the Registrar of the Institute for consideration of referral to the Disciplinary Panels.
3. We set out the same here:

**(1) Background**

- (1.1) The Respondent operates a practice under his own name on a full-time basis without audit staff or subcontractors. He is responsible for his practice's quality control system.

- (1.2) The Respondent was notified in January 2016 that his practice had been selected for practice review in March 2016. It was the first practice review conducted on his practice.
- (1.3) The practice review was conducted by a reviewer from the Institute's Quality Assurance Department ("**Reviewer**"). The results of the practice review had been reported to the Practice Review Committee ("**PRC**") which is responsible for exercising the powers under Part IVA of the Professional Accountants Ordinance ("**PAO**").
- (1.4) The Reviewer initially selected two completed engagements for assessment which are audits of two private entities, **Client S** and **Client D**, for the year ended 31 December 2014 and 31 March 2015 respectively. It was noted that the Respondent had issued qualified opinion in the auditor's reports of Client S and Client D dated 3 August 2015 and 24 October 2015, respectively.
- (1.5) Given the reports on the above two engagements were both qualified, the Reviewer further assessed the Respondent's approach to use qualified opinions. The Reviewer noted that similar qualified audit opinions to those expressed in the auditor's reports of Client S and Client D had been expressed for five other audit engagements selected for practice review. Upon enquiry, the Respondent confirmed that, of the 342 auditor's reports he had issued during the eighteen-month period ended two months before the practice review visit ("**Relevant Period**"), 340 were qualified auditor's reports. Some of the qualified auditor's reports contained repeated opinions issued for same existing clients and most, if not all, of those reports contained no explanation on the effects of the previous qualified opinion on the financial statements under audit.
- (1.6) The Reviewer's findings also indicate that the Respondent failed to:
- (a) establish an effective quality control system in respect of engagement performance and client acceptance and continuance procedures, in accordance with 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* ("**HKSQC 1**");
  - (b) perform appropriate procedures to ensure that audit opinions are issued in accordance with Hong Kong Standard on Auditing 705 *Modifications to the Opinion in the Independent Auditor's Report* ("**HKSA 705**") and Hong Kong Standard on Auditing 710 *Comparative Information – Corresponding Figures and Comparative Financial Statements* ("**HKSA 710**"); and
  - (c) maintain professional competence and due care in accordance with the Code of Ethics for Professional Accountants ("**COE**").

- (1.7) A copy of the Reviewer's Report outlining the practice review findings and the Respondent's response to dated draft report on 8 August 2016 was enclosed to the Letter. Copies of the working papers in relation to Client S and Client D were also enclosed to the Letter. The Respondent confirmed that they represented the complete audit documentation for the engagements.
- (1.8) Based on the Reviewer's Report and the Respondent's response, the PRC considered that the deficiencies identified show serious lack of due care and regard to audit quality and demonstrate professional misconduct by the Respondent. The PRC decided to raise a complaint against the Respondent and issued its decision letter on 3 October 2016.
- (1.9) In his further response dated 11 October 2016, the Respondent undertook to implement appropriate procedures to address the practice review findings.
- (1.10) The relevant facts and observations based on which a complaint was raised were provided to the Respondent on 6 March 2017. In his response dated 8 March 2017, the Respondent did not dispute those facts and observations.

**(2) Relevant Professional Standards**

- (2.1) Extract of the following relevant professional standards were enclosed to the Letter:
- (a) COE;
  - (b) HKSQC 1;
  - (c) HKSA 705;
  - (d) HKSA 710; and
  - (e) Practice Note 900.

**(3) The Complaints**

*First Complaint*

- (3.1) Section 34(1)(a)(vi) of the PAO applies to the Respondent for having failed or neglected to observe, maintain or otherwise apply a professional standard namely, HKSQC 1, in that he had not implemented adequate quality control policies and procedures in respect of engagement performance and client acceptance and continuance.

*Second Complaint*

- (3.2) 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 namely, paragraphs 11, 12 and 13 of HKSA 705 in that he had failed to perform procedures to address the audit limitations and to ensure that the audit opinions expressed for Client S and Client D were appropriate.

*Third Complaint*

- (3.3) 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 namely, paragraph 11 of HKSA 710 in that he had failed to modify the auditor's opinion on the current period's financial statements by referring to the unresolved matters which gave rise to previous year's modified opinion for Client S and Client D.

*Fourth Complaint*

- (3.4) 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 namely, sections 100.5(c) and 130 of the COE in that he did not maintain professional competence and due care to ensure that his practice complies with HKSQC 1 and/or diligently carry out audits in accordance with the relevant professional standards.

*Fifth Complaint*

- (3.5) 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 requirements of quality control under the HKSQC 1 and to make appropriate use of qualified opinions.

**(4) Facts and circumstances in support of the First Complaint**

- (4.1) 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.

*Engagement performance*

- (4.2) According to paragraph 32 of HKSQC 1, a practice shall establish policies and procedures designed to provide it with reasonable assurance that engagements are performed in accordance with professional standards.
- (4.3) The Respondent had admitted to have issued 340 qualified opinions out of the 342 auditor's reports that he had issued during the Relevant Period under similar circumstances in which he could have obtained further audit evidence or performed additional procedures.
- (4.4) The basis of the qualifications in the qualified reports on all engagements selected for practice review were similar and concerned the following limitations imposed by the client companies:
- (a) The client companies did not maintain proper controls over preparation of their accounting records and that the Respondent could not perform audit procedures to ascertain the completeness of the transactions;

- (b) Insufficient information was provided to the Respondent to perform audit procedures for ensuring that all the unrecorded liabilities were properly recorded;
  - (c) Bank confirmations were not received and there were no alternative procedures which could be performed by the Respondent to verify the (i) existence, accuracy and valuation of the bank balances; and (ii) completeness of charges over the assets and contingent liabilities; and
  - (d) Shipping documents for sales and purchases transactions were not available and no alternative procedures could be performed by the Respondent to verify the occurrence of the transactions and whether they had been appropriately recorded.
- (4.5) In addition to the above, the Reviewer found that the qualified auditor's reports issued for some engagements selected for practice review included also a qualification made as a result of the unavailability of the confirmations from debtors and creditors to ascertain that the corresponding balances were appropriately recorded in the relevant financial statements as at the year end date.
- (4.6) In the Respondent's letter dated 8 August 2016, he explained that the audit clients refused to arrange confirmations and to provide shipping documents for audit purpose because they did not want to spend extra costs and time to arrange the documents. The Respondent also stated that he will request his clients to provide the relevant documents in future audits and withdraw appointment if the clients refuse to do so.
- (4.7) The above findings, including the exceptionally large proportion of qualified audit reports issued, indicate that the Respondent had relied on issuing qualified opinions rather than carrying out appropriate audit work. This demonstrates that the Respondent failed to establish policies and procedures to ensure that a qualified opinion was issued only when there were no alternative procedures that could be performed or where such alternative procedures failed to satisfy the requirements of professional standards.

*Client acceptance and continuance*

- (4.8) According to paragraphs 26 to 28 of HKSQC 1, a practice is required to establish policies and procedures for client acceptance and continuance which enable the practice to obtain information necessary in the circumstances before accepting an engagement with a new client or when deciding whether to continue an engagement with an existing client. Such policies and procedures shall provide the practice with reasonable assurance that it has the capabilities, including time and resources, to do the engagement.

- (4.9) The Respondent had approximately 280 audit clients and issued 342 auditor's reports during the Relevant Period. He confirmed that he had no audit staff or subcontractors to assist him with the audits.
- (4.10) During the practice review, the Reviewer found no evidence of work done by the Respondent to assess whether he had adequate resources and relevant skills required before accepting these engagements. Therefore, the Respondent is considered to have failed to comply with paragraphs 26 to 28 of HKSQC 1.
- (4.11) As part of the client acceptance procedures, paragraph 410.52 of the COE further requires an auditor to consider whether limitations on the scope of his work are likely to be imposed by the client which may require the auditor to issue a qualified opinion or infringe his statutory duties as an auditor.
- (4.12) During the practice review, the Reviewer found no evidence that the requirements of paragraph 410.52 of the COE had been considered before the Respondent decided to accept audit appointments or reappointments. In particular, the preceding auditor of Client S had issued a qualified opinion arising from limitation of scope on bank balances and lack of proper control of accounting records. However, the Respondent did not perform any procedures to consider these matters before accepting the engagement of Client S, in accordance with paragraph 410.52 of the COE.
- (4.13) On the basis of the above, the Respondent is considered to have failed to implement adequate quality control policies and procedures in respect of engagement performance and client acceptance and continuance, in accordance with HKSQC 1.

**(5) Facts and circumstances in support of the Second Complaint**

- (5.1) HKSA 705 deals with the auditor's responsibility to form an appropriate audit opinion on the financial statements. Paragraph 11 of PN 900 (Clarified)<sup>1</sup> and paragraph 18 of PN 900 (Revised)<sup>2</sup> provide that an auditor is required to comply with the requirements of HKSA 705.
- (5.2) According to paragraphs 7 and 9 of HKSA 705, an auditor shall express a qualified opinion when, among other things, the auditor is unable to obtain sufficient appropriate audit evidence but concludes that the possible effects on the financial statements of undetected misstatements, if any, could be material but not pervasive. If the possible effects of undetected misstatements are material and pervasive, the auditor shall disclaim an opinion.

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<sup>1</sup> Practice Note 900 (Clarified) is applicable to accounting period beginning on or after 15 December 2009 (i.e. Client S)

<sup>2</sup> Practice Note 900 (Revised) is applicable to accounting period beginning on or after 3 March 2014 (i.e. Client D)

- (5.3) In addition, HKSA 705 provides the following:
- "11. If, after accepting the engagement, the auditor becomes aware that management has imposed a limitation on the scope of the audit that the auditor considers likely to result in the need to express a qualified opinion or to disclaim an opinion on the financial statements, the auditor shall request that management remove the limitation.
  12. If management refuses to remove the limitation referred to in paragraph 11, the auditor shall communicate the matter to those charged with governance ... and determine whether it is possible to perform alternative procedures to obtain sufficient appropriate audit evidence.
  13. If the auditor is unable to obtain sufficient appropriate audit evidence, the auditor shall determine the implications as follows:
    - (a) If the auditor concludes that the possible effects on the financial statements of undetected misstatements, if any, could be material but not pervasive, the auditor shall qualify the opinion; or
    - (b) If the auditor concludes that the possible effects on the financial statements of undetected misstatements, if any, could be both material and pervasive so that a qualification of the opinion would be inadequate to communicate the gravity of the situation, the auditor shall:
      - (i) Withdraw from the audit, where practicable and possible under applicable law or regulation; or (Ref: Para. A13-A14)
      - (ii) If withdrawal from the audit before issuing the auditor's report is not practicable or possible, disclaim an opinion on the financial statements."
- (5.4) As mentioned above, the Respondent issued a qualified opinion in the auditor's reports for Client S and Client D.
- (5.5) The auditor's reports of Client S and Client D issued by the Respondent for the years ended 31 December 2014 and 31 March 2015 stated that the Respondent had conducted the audits in accordance with Hong Kong Standards on Auditing and with reference to Practice Note 900 *Audit of Financial Statements Prepared in Accordance with the Small and Medium-sized Entity Financial Reporting Standard*.
- (5.6) Based on the review of the audit working papers for Client S and Client D, there was no evidence that the Respondent had undertaken the following procedures required under paragraphs 11 to 13 to support the qualified opinions issued:

- (a) Request Client S and Client D to remove the limitations such as asking the client companies to provide the relevant audit evidence such as (i) shipping documents to support sales and purchase transactions; and (ii) bank statements.
  - (b) Undertake any actions to address management's refusal to remove the limitations stated in the auditor's reports.
  - (c) Document the nature and extent of alternative procedures performed to address the limitations and/or rationale that no alternative procedures could be performed.
  - (d) Assess the materiality and pervasiveness of the possible effects of the undetected misstatements on the financial statements of Client S and Client D to support the qualified opinions issued after having performed the procedures as set out in items (a) to (c) above.
- (5.7) The findings show that the Respondent failed to carry out proper procedures to address the audit limitations imposed by Client S and Client D and to ensure that appropriate opinions were issued on the financial statements of Client S and Client D, in accordance with paragraphs 11, 12 and 13 of HKSA 705.

**(6) Facts and circumstances in support of the Third Complaint**

- (6.1) Paragraph 11 of HKSA 710 provides the following.

"11. If the auditor's report on the prior period, as previously issued, included a qualified opinion, a disclaimer of opinion, or an adverse opinion and the matter which gave rise to the modification is unresolved, the auditor shall modify the auditor's opinion on the current period's financial statements. In the Basis for Modification paragraph in the auditor's report, the auditor shall either:

- (a) Refer to both the current period's figures and the corresponding figures in the description of the matter giving rise to the modification when the effects or possible effects of the matter on the current period's figures are material; or
  - (b) In other cases, explain that the audit opinion has been modified because of the effects or possible effects of the unresolved matter on the comparability of the current period's figures and the corresponding figures."
- (6.2) The Reviewer noted that qualified opinions had been expressed on the audited financial statements of Client S and Client D in the year prior to the audits under review.



- (6.3) For Client S, the basis of qualification in the previous year's auditor's report issued by another auditor pertains to the following issues that have been qualified in the auditor's report for the current year:
- (a) Lack of proper controls over preparation of accounting records and that the auditor could not perform alternative procedures to ascertain the completeness of the transactions; and
  - (b) No bank confirmations received and no alternative procedures could be performed by the auditor to verify the (i) existence, accuracy and valuation of the bank balances; and (ii) completeness of charges over the assets and contingent liabilities.
- (6.4) For Client D, the basis of qualification in the previous year pertains to issues that are identical to those qualified in the auditor's report for the current year.
- (6.5) The above shows that the issues which gave rise to the qualified opinion in the previous year's auditor's reports had not been resolved. However, there was no evidence that the Respondent had (i) referred to the corresponding figures in the basis of qualified opinion paragraph in the current year's auditor's reports; or (ii) explained the possible effect on the comparability of the current and corresponding figures in the current year's auditor's report, in accordance with paragraph 11 of HKSA 710.

**(7) Facts and circumstances in support of the Fourth Complaint**

- (7.1) According to the fundamental principle of professional competence and due care under paragraph 100.5(c) of the COE, a professional accountant is required to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional services, act diligently and in accordance with applicable technical and professional standards (underline added).
- (7.2) In addition, section 130 of COE provides the following:

*"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.*

*"130.4 Diligence encompasses the responsibility to act in accordance with the requirements of an assignment, carefully, thoroughly and on a timely basis."*

- (7.3) In carrying out audits, auditors should use best endeavors to obtain sufficient, relevant and reliable audit evidence to enable them to express an appropriate opinion.
- (7.4) The practice review findings show that the Respondent issued qualified opinions where practicable audit procedures are available but have not been carried out. The Respondent's response further demonstrated that he had misused qualified opinions to circumvent necessary audit procedures due to the pressure exerted by the clients.
- (7.5) The practice review findings also show that the Respondent failed to establish and maintain an adequate system of quality control which meets the requirements under HKSQC 1.
- (7.6) In this regard, the Respondent is considered to have failed to comply with the fundamental principle of professional competence and due care under sections 100.5(c) and 130 of the COE to ensure that his practice complies with HKSQC 1 and/or diligently carry audits, in accordance with the relevant professional standards.

**(8) Facts and circumstances in support of the Fifth Complaint**

- (8.1) Paragraph 16 of HKSQC 1 requires a practice to establish and maintain a system of quality control that includes policies and procedures that address, amongst other things, the following elements:
- Engagement performance
  - Acceptance and continuance of client relationships and specific engagements
- (8.2) In the letter of April 2014, the Institute reminded all practices of the PRC's expectation that all practice units should have appropriate quality control policies and procedures to meet the requirements under HKSQC 1. Also, practice units should have appropriate procedures in place to ensure that the common deficiencies, including the misuse of qualified opinion, identified by the practice reviewers will not occur. The letter also stated that if a practice review identifies that a practice has made no or little attempt or effort to address the common areas of weakness, such behavior will be taken as amounting to serious professional misconduct.
- (8.3) Despite the Institute's letter of reminder issued two years ago, the Respondent still failed to comply with the basic requirements of HKSQC 1 in respect of engagement performance, client acceptance and continuance and to make appropriate use of qualified opinions.
- (8.4) In addition, majority of auditor's reports issued by the Respondent contained qualifications based on similar limitations imposed by management. Coupled with the Respondent's apparent lack of due care to explore all possible alternative procedures and assessment of resources, the findings demonstrated that the Respondent had misused qualified opinions to circumvent necessary

audit procedures and failed to act diligently in carrying out audits in order to properly discharge his duties as an auditor.

- (8.5) On the above basis, the Respondent's failures demonstrate a blatant disregard to the requirements under the professional standards and amount to professional misconduct.
4. On 5<sup>th</sup> May 2017, the Respondent signed a confirmation setting out his admission of the complaint. He further accepted that he did not dispute the facts as set out in the Letter.
  5. On 5<sup>th</sup> September, the Complainant filed its submissions on sanctions. It points to, in particular two complaints (D14-920P and D14-963P) which it suggests share "similar features to the current case".
  6. In both cases the respondents' practising certificates were cancelled and reissuance was not allowed in the following calendar year.
  7. While noting that the Respondent has admitted to the complaint thereby saving costs and time, the Complainant has rightly highlighted that of the 342 auditors reports, the Respondent had issued during an 18 months period, 340 were qualified reports.
  8. The Committee has had regard to those decisions while bearing mind that it has a wide discretion and that each case should be determined on its own facts.
  9. On 11<sup>th</sup> September 2017, the Respondent further stated that he had no dispute on the accusation.
  10. On 13<sup>th</sup> September 2017, the Respondent provided a 'brief explanation' regarding the 'reasons for [his] misuse of qualified opinion".
  11. We also considered amongst other evidence, the Respondent's letter dated 27<sup>th</sup> March 2017 when considering the overall appropriate sanction.
  12. There the Respondent stated:

**"Explanation on First, Second, Forth and Fifth Complaints  
Conducts made to cause complaints**

- i) I did maintain adequate system of quality control manual for my practice for which I had already provided to Reviewer during the course of my audit review. However, I was over focused on the Code of Ethics for Professional Accountants and independency was my priority concern. Limitation of audit scope imposed by clients had been under concerned.
- ii) All my clients were tiny size companies with almost no staff except the director owners. They did not prepare monthly management reports and only relied on outside accounting service firm to prepare yearly financial statements in

order to comply with Hong Kong tax authority's requirements. For the reason of reducing accounting and audit costs, my clients only provide sales and purchases invoices but no shipping documents were attached. They claimed that shipping documents were huge in volume and very costly to deliver all shipping documents from mainly China's office to Hong Kong. It was also very costly both in terms of time and money value for me to visit their China's office to look for the shipping documents. However, I did not aware that I can select the samples at the early stage of my audit work and ask the director owners to search for those samples' shipping documents for me. I admitted that I did not act my professional diligent in this issue. Despite of lack of shipping documents, I still carried out transaction tests on the sales and purchases in other aspects, such as invoices vouching, settlement of transactions. I did not agree that I had intention to reduce the audit procedures for my audit works, it was just my professional mistake.

- iii) Since no monthly management reports were available, no unrecorded liability was ascertained by me, I considered that this was out of my control, I did to aware that this is an issue of negligence of duty of care and I also did not agree that I had intention to reduce the audit procedures for my audit works.
- iv) As a tiny size company, the director owners would like to minimize the audit costs, they did not willing to spend extra costs on sending bank confirmation although I had warned them a qualified opinion was formed on audit report without bank confirmation was issued. Although no bank confirmation was received, I still verify the bank balances with bank statements. However, no other measurement could be carried out to verify the indebtedness of my clients with banking institutions. I did not aware that this is an issue of negligence of duty of care and I also did not agree that I had intention to reduce the audit procedures or my audit works, it was just my careless professional mistake.
- v) Qualified opinions also formed regarding no debtor or creditor confirmation was received. As reply to debtor or creditor confirmation was solely a personal preference, I considered that this was totally out of my control. However, I did not aware that I could have asked clients to remind their customers or suppliers to reply to my debtor or creditor confirmation no mater it works or not. I admitted that I did not act my professional diligent in this issue. Despite of no direct confirmation was received, I still tried to perform the settlement of debtors or creditors balances. I did not agree that I had intention to reduce the audit procedures for my audit works, it was just my careless professional mistake.

#### **Remedial actions made in response to complaints**

- i) Before accepting an engagement, I will ask clients to sign an agreement with me that no limitation of scope is imposed on me for all of my audit works.
- ii) In case shipping documents were huge in volume, I will select samples in the early stage of my audit work and ask the director owners to provide me the selected samples' shipping documents. If they refuse to do so, I will resign

from the engagement based on the agreement signed before.

- iii) All clients must be requested to send bank confirmations before accepting an engagement, in case they refuse to do so, I will not accept the engagement.
- iv) All non-replied debtors and creditors confirmation will be negotiate with owner directors and request them to remind their customers and suppliers no matter the reminder is working or not.
- v) All clients are required to prepare monthly reports in order for me to perform post balance date transactions vouching to search for any before year end unrecorded liabilities, if no post balance date monthly reports were available, I will refuse the engagement.

#### **Result of remedial actions**

Please refer to the latest monitor's assessment as noted on Page E19 of Appendix 5 in CD Rom you provided, the remedial actions were carried out effectively.

#### **Explanation on Third Complaint Conducts made to cause complaint**

Due to my careless professional mistake, I did not consider the comparative figure of qualified opinion in previous auditors' report. I admitted that I did not act my professional diligent in this issue.

#### **Remedial actions made in response to complaints**

All comparative figure of qualified opinion in previous auditors' report will be reflected in my auditor's report in order to comply with HKSA 710.

#### **Result of remedial actions**

Please refer to the latest monitor's assessment as noted on Page E19 of Appendix 5 in CD Rom you provided, the remedial actions were carried out effectively.

I would like to take this opportunity to plead for your deep consideration on the remedial actions that I have done to rectify my previous misconduct in relation to my professional practice."

13. He further asked that in mitigation, consideration should be given to the fact that he had since implemented some 'remedial action'.

#### *Discussion*

14. The Committee shares the Complainant's concerns about potential abuse arising out of the giving of qualified opinions where practical audit procedures were available but were not carried out.

15. Many third parties rely on audited accounts, and it can never be the case that simply because a company is not prepared to pay a fair price for the appropriate steps to be taken, that a 'qualified opinion' is produced so as to artificially reduce the scope of work required thereby achieving the 'savings' necessary, so that an accountant can match the sort of fee which a company is prepared to pay.
16. To put it simply a company and auditor cannot agree to contract out of the mandated standards simply for convenience or to achieve costs savings. This is impermissible and will result in the auditors being disciplined.
17. What the Respondent has done here is to misuse qualified opinions in order to circumvent necessary audit procedures simply because of self-imposed limitations supposedly imposed by his clients.
18. There are benefits and burdens in setting up a company and part of the burden is to properly prepare audited accounts. The standards are objectively set, and cannot be compromised because of client pressure.
19. The Committee finds all the five Complaints against the Respondent to have been proved and agrees with the Complainant that:
  - (1) The Respondent's conduct amounted to a serious breach of professional standards, competence and due care and therefore failed to uphold the statutory duty as an auditor.
  - (2) The Respondent has failed to implement adequate quality control policies and procedures in respect of client's acceptance and continuance.
  - (3) All in all, the Respondent has demonstrated serious professional misconduct.
20. The Committee therefore regrettably takes the view that in all the circumstances, a cancellation of the Respondent's practising certificate for a period of time is inevitable.

*Sanction and Costs*

21. The sanction must be proportionate, reasonable and also reflect the seriousness of the breaches. It is of paramount importance that the public's confidence in the competence of the profession be maintained and that others be deterred from committing similar breaches.
22. The Complainant has indicated that a cancellation of the practising certificate for a period 'not less than 6 months' would reflect the overall justice of the case.
23. Having said that, we also consider the following features to be relevant to the sanction:
  - (1) The Respondent's early admission thereby resulting in the considerable saving of time and costs;

- (2) The Respondent has taken some remedial action, which is explained in some detail in his letter dated 27<sup>th</sup> March 2017;
  - (3) The Respondent's scale of operations, i.e. practicing under his own name and without audit staff or sub-contractors to assist him; and
  - (4) It was suggested that a large percentage of the Respondent's clients were 'tiny size companies'.
24. None of these factors alone or taken together are exculpatory but these are relevant to mitigation.
  25. Looking at the matter in the round and having considered all of the relevant considerations urged upon us by both the Complainant and the Respondent, the Committee on this occasion takes what might be described as a relatively lenient approach and believes a cancellation of the Respondent's practising certificate for a period of 6 months to be appropriate and sufficient.
  26. Given the background of the Respondent and the scale of his activities it is unlikely that he will commit those breaches hence-forth.
  27. This Committee would like to make it clear that the sanction imposed on the Respondent in the present case simply reflects what was considered appropriate having regard to the special mitigating factors which existed in the present case and in no way it should be considered to be a 'standard' let alone a 'benchmark' for future cases where similar breaches are found.
  28. As to costs, we see no reason why in principle the Respondent should not be paying costs of and incidental to the proceedings. Although we appreciate that the existence of the proceedings must have had an impact on the Respondent's finances it would not as a matter of fairness or principle, be right that these costs to be borne by any others but the Respondent.
  29. Having regard to the Statement of Costs and taking a broad brush view, we order that the Respondent be liable to pay the costs in the total sum of HK\$25,000.
  30. Although the sum is not a significant one, we bear in mind the effect which the cancellation of a period of 6 months would have on the financial circumstances of the Respondent.
  31. We would emphasise that this is not meant to be used a precedent, for other cases where the starting point should be that costs be paid forthwith.

Orders

32. Having regard to all the matters we would make the following ORDERS:

- (1) The practising certificate issued to the Respondent be cancelled under section 35(1)(da) of the PAO and it shall take effect on the 35<sup>th</sup> day from the date of this Order;
- (2) No practising certificate be issued to the Respondent for a period of 6 months, which shall take effect on the 35<sup>th</sup> day following the date of this Order under section 35(1) (db) of the PAO; and
- (3) The Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant in the total sum of \$25,000 which includes the costs of the Clerk to the Committee under section 35(1)(iii); the same being payable within 6 months from the date of this Order.

Dated the 4th day of January 2018