

IN THE MATTER OF

Complaints made under Section 34(1)(a) and Section 34(1A) of the Professional Accountants Ordinance (Cap.50) ("the PAO") and referred to the Disciplinary Committee under Section 33(3) of the PAO

BETWEEN

The Registrar of the Hong Kong
Institute of Certified Public
Accountants

COMPLAINANT

AND

Eric Ng CPA Limited and
(Corporate Practice No.: M185)
Ng Kwok Wai Eric
(Membership No.: F01059)

RESPONDENTS

REASONS FOR DECISION

1. This is a complaint made by the Registrar of the Hong Kong Institute of Certified Public Accountants ("the Institute") as the Complainant against ERIC NG CPA LIMITED, a corporate practice and NG KWOK WAI ERIC, a certified public accountant. Section 34(1)(a)(viii) of the PAO applied to each of the Respondents.
2. The particulars of the Complaints set out in a letter dated 4th March 2009 ("the Complaint") from the Registrar of the Institute to the Council of the Institute for consideration of the Complaints for referral to the Disciplinary Panels were as follows:-
 - (a) First Complaint

Section 34(1)(a)(viii) applies to the Respondents in that they and each of them had been guilty of professional misconduct, as they and each of them had not complied with various accounting and auditing standards in the audits of the financial statements of three companies [names omitted].

(b) Second Complaint (Alternative to the First Complaint)

Section 34(1)(a)(vi) applies to the Respondents in that they and each of them had failed or neglected to observe, maintain or otherwise apply a professional standard, namely Paragraph 100.4(c) of the Fundamental Principles, and the elaboration in section 130 of the Code of Ethics for Professional Accountants, as they and each of them had not acted diligently and in accordance with the applicable technical and professional standards in the audits of the financial statements of [the three companies] for the year ended 31st December 2005.

3. By a letter dated 7th May 2009, the Respondents admitted the complaints against them. They did not dispute the facts as set out in the complaints attached with their letter of admission dated 7th May 2009. The Parties agreed that the steps set out in paragraphs 17 to 30 of the Disciplinary Committee Proceedings Rules be dispensed with.
4. Although the two complaints were in the alternative, the Respondents had indicated that they were prepared to admit both of them. The Committee were satisfied that the documentary evidence adduced by the Complainant was sufficient to support gravamen of the 1st complaint.
5. The admitted facts indicated that in respect of the three companies in question, only a limited amount of audit work had been properly performed. Further, there was significant part of the work purportedly carried out that revealed deficiencies such as audit qualifications being made in respect of audit areas where audit confirmations had not been obtained, a failure to undertake physical examination of the stock and a failure to undertake alternative audit procedures when source documents were not available.
6. The Respondents claimed as their explanation that certain audit working papers had been "stolen". There was therefore no evidence to show sufficient audit work had been carried out in relation to certain balances of the companies in question.
7. Although the bulk of the audit work was carried out by the staff of the Respondents, Mr. Ng, being the sole practising certified public accountant of the corporate practice at the relevant time, had the responsibility of ensuring that sufficient audit evidence had been obtained to enable him to draw the necessary and reasonable conclusions on which to base his audit opinions as well as to ensure sufficient audit procedures had been carried out before issuing the audit reports in respect of the concerned companies.
8. The facts as admitted revealed multiple breaches of the following audit and accounting standards, namely:

- (a) Hong Kong Standard on Auditing 500 "Audit Evidence" or Statement of Auditing Standards 230 "Documentation";
 - (b) Hong Kong Accounting Standard 28 "Investments in Associates";
 - (c) Hong Kong Accounting Standard 7 "Cash Flow Statements" and Hong Kong Accounting Standard I "Presentation of Financial Statements"; and
 - (d) Statement of Auditing Standards 600 "Auditors Report on Financial Statements".
9. These multiple breaches revealed that the Respondents had (i) persistently and blatantly failed to undertake proper and sufficient review of the audit work carried out by their staff (ii) failed to ensure their engagement had been properly carried out and (iii) failed to ensure that quality control measures were put in place and were effective.
10. By reason of the foregoing the Committee is satisfied that the Respondents are guilty of professional misconduct within the meaning of section 34(1)(a)(viii) of the Professional Accountants Ordinance (cap 50) {PAO}.
11. By a letter dated 18th August 2009, the Committee invited the Parties to make their respective submissions on the question of the appropriate sanctions and on the issue of costs in respect of the 1st complaint. Neither of the parties requested for a hearing on sanctions and costs. Both parties provided a number of previous Disciplinary Committee decisions.
12. By a letter dated 24th August 2009, the Respondents invited the Committee to consider that the complaint had been hanging over their heads for over 18 months and that they had fully cooperated with the investigating authorities of the Complainant. They point out that the companies involved are private limited and not public listed companies, and that there has been no further adverse inquiries from the authorities that the concerned three companies had been exposed to. They asked for leniency to be extended to them.
13. In considering the proper order to be made in this case, the Committee has had regard to all the aforesaid matters advanced in mitigation as well as taken into account the previous decisions of the Disciplinary Committee that we had been referred to. We however note that there were multiple breaches of the Accounting and Auditing Standards involved here as well as the fact that the breaches involved more than one company. We take into account that the Respondents have sought to ameliorate their breaches by fully cooperating with the investigation.

14. The Committee has come to the view that the Respondents should be reprimanded for their breach of duties and standards. The Committee resolved that imposing a financial penalty would sufficiently reflect the gravity of the offence, this being the first such transgression by the Respondents.
15. IT IS ORDERED that:-
- (a) each of the Respondents be reprimanded under Section 35(l)(b) of the PAO;
 - (b) the Respondents pay a penalty of HK\$100,000 under Section 35(l)(c) of the PAO;
 - (c) the Respondents do pay the costs of and expenses incidental to the proceedings of the Complainant in the sum of HK\$15,000 under Section 35(1)(iii) of the PAO.

Dated the 19th day of January 2010

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Ng Kwok Wai Eric
(Membership No.: F01059)

RESPONDENTS

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

ORDER

Upon reading the complaints against ERIC NG CPA LIMITED, a corporate practice; and MR. NG KWOK WAI ERIC, a certified public accountant, as set out in a letter from the Registrar of the Hong Kong Institute of Certified Public Accountants ("the Complainant") dated 4 March 2009, the written submission of the Respondents dated 24 August 2009, the written submission of the Complainant dated 1 September 2009, the Disciplinary Committee is satisfied by the admission of the Respondents and the evidence adduced before it that the following complaint is proved:

That Section 34(1)(a)(viii) of the PAO applied to the Respondents in that they and each of them had been guilty of professional misconduct, as they and each of them had not complied with various accounting and auditing standards in the audits of the financial statements of three companies [names omitted] for the year ended 31 December 2005.

IT IS ORDERED that:-

1. each of the Respondents be reprimanded under Section 35(1)(b) of the PAO;
2. the Respondents pay a penalty of HK\$100,000 under Section 35 (1)(c) of the PAO;
3. the Respondents do pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$15, 000 under Section 35(I)(iii) of the PAO.

Dated the 19th day of January 2010