

IN THE MATTER OF

A Complaint 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

Cheung Ka Keung Andrew
Membership No. A06325

RESPONDENT

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

ORDER

MR. CHEUNG KA KEUNG ANDREW, a certified public accountant is faced with the following complaints:

The First Complaint

Pursuant to Section 34(1)(a)(vi) of the Professional Accountants Ordinance, Cap. 50, Laws of Hong Kong, the Respondent in the period from 2005 to 2006, had failed or neglected to observe, apply or otherwise maintain the relevant professional standards in that he had failed to obtain sufficient and appropriate audit evidence to be able to draw reasonable conclusions on which to base his audit opinions and was in breach of paragraph 2 of Statement of Auditing Standards 400 "Audit Evidence" (as then in force), of Members' Handbook of the Hong Kong Institute of Certified Public Accountants.

The Second Complaint (Alternative to the First Complaint)

Pursuant to Section 34(1)(a)(vi) of the Professional Accountants Ordinance, Cap. 50, Laws of Hong Kong, the Respondent had failed or neglected to observe, apply or otherwise maintain the relevant professional standards in that he had failed to document matters that are important in providing evidence to support his audit opinions and was in breach of paragraph 2 of Statement of Auditing Standards 230 "Documentation" (as then in force), of Members' Handbook of the Hong Kong Institute of Certified Public Accountants.

Upon reading the complaint against the Respondent, 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 Respondent dated 5 and 6 November 2009, the written submission of the Complainant dated 4 November 2009, and the relevant documents, the Disciplinary Committee is satisfied by the admission of the Respondent and evidence adduced before it that the first complaint is proved.

IT IS ORDERED that:-

1. The Respondent be reprimanded under Section 35(1)(b) of the Professional Accountants Ordinance.
2. The Respondent shall pay a penalty of HK\$35,000 under Section 35(1)(c) of the Professional Accountants Ordinance by three monthly instalments respectively, HK\$15,000 on or before 1st April 2010, HK\$15,000 on or before 1st May 2010 and HK\$5,000 on or before 1st June 2010.
3. The Respondent do pay the allowed costs and expenses of and incidental to the proceedings in the sum of HK\$68,361 under Section 35(1)(iii) of the Professional Accountants Ordinance by three monthly instalments respectively, HK\$23,000 on or before 1st April 2010, HK\$23,000 on or before 1st May 2010 and HK\$22,361 on or before 1st June 2010.

Dated the 29th day of January 2010

IN THE MATTER OF

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BETWEEN

The Registrar of the Hong Kong
Institute of Certified Public
Accountants

COMPLAINANT

AND

Cheung Ka Keung Andrew
Membership No. A06325

RESPONDENT

REASONS FOR DECISION ON SANCTIONS AND COSTS

- 1 This is a complaint made by the Registrar of the Hong Kong Institute of Certified Public Accountants ("the Institute") as Complainant against the Respondent, a certified public accountant under Section 34(1)(a)(vi) of the Professional Accountants Ordinance, Cap. 50, Laws of Hong Kong.
2. The particulars of the Complaint as set out in a letter dated 4 March 2009 ("the Letter") from the Registrar of the Institute to the Council of the Institute for consideration of the Complaint for referral to the Disciplinary Panels were as follows:-

The First Complaint

Pursuant to Section 34(1)(a)(vi) of the Professional Accountants Ordinance, Cap. 50, Laws of Hong Kong, the Respondent in the period from 2005 to 2006, had failed or neglected to observe, apply or otherwise maintain the relevant professional standards in that he had failed to obtain sufficient and appropriate audit evidence to be able to draw reasonable conclusions on which to base his audit opinions and was in breach of paragraph 2 of Statement of Auditing Standards 400 "Audit Evidence" (as then in force), of Members' Handbook of the Hong Kong Institute of Certified Public Accountants.

The Second Complaint (Alternative to the First Complaint)

Pursuant to Section 34(1)(a)(vi) of the Professional Accountants Ordinance, Cap. 50, Laws of Hong Kong, the Respondent had failed or neglected to observe, apply or otherwise maintain the relevant professional standards in that he had failed to document matters that are important in providing evidence to support his audit opinions and was in breach of paragraph 2 of Statement of Auditing Standards 230 "Documentation" (as then in force), of Members' Handbook of the Hong Kong Institute of Certified Public Accountants.

3. The Respondent admitted the Complaints against him. He did not dispute the facts as set out in the Complaint Letter of 4 March 2009. He agreed that the steps set out in paragraphs 17 to 30 of the Disciplinary Committee Proceedings Rules ("the Rules") be dispensed with.
4. Under the direction of the Disciplinary Committee, the parties were directed to make written submissions to the Disciplinary Committee as to the sanctions and costs which should be imposed by the Disciplinary Committee pursuant to Rule 31 of the Rules, and that a hearing on sanctions and costs, unless otherwise requested by the parties, may be dispensed with. Both parties have since submitted written submissions. Neither party requests for a hearing.
5. The Disciplinary Committee have carefully considered the Respondent's submission that he had difficulty in obtaining information and documents, but hold the view that this does not amount to a mitigating factor for the first complaint. Indeed, it is the duty of the Respondent to obtain the relevant and necessary information and to be satisfied that there are no material misstatements before formulating his professional audit opinion, otherwise, to qualify his opinion to reflect the inadequacy. The Disciplinary Committee gives weight to the fact that the Respondent has from the facts of this case compromised his professional integrity and objectivity.
6. The Disciplinary Committee has nevertheless taken into account the fact that there is no evidence of previous misconduct against the Respondent and that a formal hearing was dispensed with upon the Respondent's admission to the complaints which saved time and costs.
7. In considering the proper order to make, the Disciplinary Committee has had regard to the fact that the complaints were made in the alternative and shall make an order on the basis of the first complaint.
8. The Disciplinary Committee regards that the appropriate disciplinary order is for the Respondent to be reprimanded with a financial penalty at HK\$35,000.
9. On the question of cost, the Disciplinary Committee shall allow 10 hours as opposed 11 hours and 30 minutes for the professional work of the complainant's legal advisor including preparation of the draft complaint letter and giving advice at HK\$55,000.

10. The Institute's staff cost at HK\$1,040 and clerk to the Disciplinary Committee at HK\$4,800 and photocopying charges at HK\$7,521 are allowed.
11. Total costs amounts to HK\$68,361.
12. The Respondent's request to make payment of penalty and costs by way of instalment is granted.
13. The Disciplinary Committee orders that :-
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 2. The Respondent shall pay a penalty of HK\$35,000 under Section 35(1)(c) of the Professional Accountants Ordinance by three monthly instalments respectively, HK\$15,000 on or before 1st April 2010, HK\$15,000 on or before 1st May 2010 and HK\$5,000 on or before 1st June 2010.
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Dated the 29th day of January 2010