

IN THE MATTER OF

The complaints made under section 34(1) of the Professional Accountants Ordinance (Cap.50) (“PAO”)

BETWEEN

The Practice Review Committee of the Hong Kong Institute of Certified Public Accountants      COMPLAINANT

AND

Mr. CHOW, Yee (practising)      RESPONDENT  
(Membership no.: A08251)

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

Members:

Ms. LAU, Wan Ching (Chairman)  
Mr. CHAN, Chak Ming  
Mr. HUI, Cheuk Kit, Frederick  
Mr. LEE, Kwo Hang, Felix  
Mr. SO Kwok Kay

Date of Hearing:      3 May 2024  
                                 27 August 2024

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**REASONS FOR DECISION**

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## INTRODUCTION

1. There are two complaints made by the Registrar of the Hong Kong Institute of Certified Public Accountants (the “**Institute**”) against Mr. Chow Yee, a practising certified public accountant (the “**Respondent**”). The particulars of the complaints were set out in the letter from the Complainant to the Council of the Institute dated 16 December 2021.

### **First Complaint**

2. First Complaint is that contrary to section 34(1)(a)(v) of the Professional Accountants Ordinance (Cap. 50) (“**PAO**”), the Respondent, without reasonable excuse, had failed or neglected to comply with the direction issued by the Practice Review Committee (“**PRC**”) on 30 July 2021 under section 32F(2)(b) of the PAO.

### **Second Complaint**

3. Second Complaint is that contrary to section 34(1)(a)(x) of the PAO, the Respondent was guilty of dishonourable conduct as his failure to comply with section 31 of the PAO would amount to a criminal offence.

## PROCEEDINGS

4. The Notice of Commencement of Proceedings was issued on 31 March 2022.
5. From the Complainant’s Case filed on 6 May 2022 and Complainant’s Checklist filed on 22 August 2022, the Complainant agreed that there was no material fact in dispute and it was not necessary to cross-examine the other party to the proceedings in the substantive hearing.
6. The Respondent did not comply with the procedural timetable and failed to file the Respondent’s Case on or before 23 June 2022. After the Committee extended the filing deadline to 29 June 2022, the Respondent filed his Case on 27 June 2022. On the face of the Respondent’s Case, the only issue for the First Complaint was whether the Respondent had reasonable excuse in not complying with the direction i.e. unable to afford the costs to engage another certified public accountant (“**CPA**”) to prepare two monitoring reports.

7. From the Respondent's Checklist filed on 17 August 2022, the Respondent agreed that there was no material fact in dispute and it was not necessary to cross-examine the other party to the proceedings in the substantive hearing. However, one of his answers in the Checklist ("**Respondent's Answer**") indicated that regarding the practice review in 2020, he had made corrections immediately to the mistakes as found by the practice reviewer of the Quality Assurance Department ("**QAD**") of the Institute. He had no intention to commit any misconduct or to violate professional standards. Therefore, the Respondent was requested to clarify the Respondent's Answer in his Checklist. The Respondent replied that the Respondent's Answer was for mitigation only.
  
8. The substantive hearing was scheduled on 3 May 2024 and the two Complaints were heard together before the Committee. However, the Respondent made oral submission and disputed the service of the letters issued by the Institute to him at the material time in relation to the information requested for the follow up practice review. In gist, the Respondent submitted that he never saw the Institute's letter dated 22 March 2021 ("**First Institute's Letter**") before and only knew the requested items listing out in Appendix 1 of the First Institute's Letter until in the substantive hearing. The Respondent even suggested that the Institute's letter might have been lost during the mailing. In addition, the Respondent on the one hand claimed he might have received the First Institute's Letter and the subsequent Institute's letter dated 1 June 2021 ("**Second Institute's Letter**") but elected not to open them; on the other hand, the Respondent claimed that he could not recall receiving the letters due to his poor memory. Also, the Respondent disputed with the content of communications between the practice reviewer and the Respondent at the material time ("**Disputed Issues**"). It was noted that all these Disputed Issues were raised for the first time by the Respondent in the proceedings.
  
9. In view of the Respondent's submission in the substantive hearing, the Complainant made application before parties' closing submission on the same day, asking for the Committee's permission to allow the Complainant to adduce additional documents after close of evidence, including:
  - (a) to call the then practice reviewer, Mr. KO Kwok Ho, also known as Jason Ko ("**Mr. Ko**") as factual witness and to testify in the substantive hearing; also, to adduce Mr. Ko's log of contact and result to prove the content of communications between Mr. Ko and the Respondent from 12 April 2021 to 24 August 2021 ("**Log**"); and

- (b) to adduce the additional documents i.e. the postal receipt and its track and trace record issued by the Hong Kong Post in relation to the Institute's letters to the Respondent dated 8 June 2021 ("**Third Institute's Letter**") and dated 22 June 2021 ("**Fourth Institute's Letter**") respectively.
10. The Complainant submitted the ground in support for the above application was that the Respondent did not state the Disputed Issues in the Respondent's Case nor the Checklist and only raised them for the first time when it reached the substantive hearing. The Complainant could not be aware of the Disputed Issues even with reasonable diligence.
  11. The Respondent opposed the Complainant's application on the ground that it was irrefutable evidence that the postal receipts for the Institute's letter(s) were not adduced in the hearing and if the Complainant's application was allowed, the Complainant would fabricate the evidence. Also, he claimed the calling of Mr. Ko as witness was the idea he suggested to the legal representative of the Complainant.
  12. The Committee noted that the Complainant had the burden of proof, however, the Respondent only raised the Disputed Issues until the substantive hearing commenced. The Respondent should set out in his respective case in writing as required under the Disciplinary Committee Proceedings Rules ("**DCP Rules**"). From the Notice of Commencement of Proceedings issued on 31 March 2022 to the time before the substantive hearing scheduled on 3 May 2024, there should be sufficient time for the Respondent to set out his case and the Disputed Issues. However, the Respondent failed to observe that.
  13. With consideration of parties' submissions, all circumstances of this case, the latest change of parties' dispute of the material facts, the relevancy of the additional documents to the parties' dispute and procedural fairness, as well as the entitlement of the Respondent to cross examine the Complainant's witness Mr. Ko, the Committee exercised the discretion and allowed the Complainant's application. The Committee also directed that the Complainant should serve the affirmation of Mr. Ko together with all additional documents by registered post to the Respondent; and any filing for further evidence or calling for witness should be made to the Committee or the Chairman by 4:30 p.m. on 24 May 2024 ("**Deadline**"). After this Deadline, no further evidence be filed, or witness be called by the parties unless with the leave of the Committee or the Chairman.

14. On 24 May 2024 and before the Deadline, the Complainant made another application in writing to seek for the Committee's permission to adduce the postal receipt issued by the Hong Kong Post and its track and trace record in relation to the Second Institute's Letter and its attachment (i.e. a copy of the First Institute's Letter with its appendices).
15. The Complainant relied on the same ground as submitted on 3 May 2024 and added that the Respondent, being a professional CPA and a member of the Institute, could not claim that he was ignorant about the relevant disciplinary framework of the disciplinary proceedings of the Institute. The Respondent was obviously aware of such requirements as he did file the Respondent's Case. Also, even the First and Second Institute's Letters were attached to the Complaint Letter dated 16 December 2021 and in the Hearing Bundle, the Respondent had never raised his dispute with the service of these two letters.
16. In addition, the Complainant relied on the Court of Appeal's judgment in *Registrar of the Hong Kong Institute of Certified Public Accountants v Chan Yui-hang* [2022] HKCA 805 dated 15 July 2022 (§51) and submitted that while the Complainant bears the burden of proof, the Respondent is required to state its case:

“51. Second, the actual directions given by the Committee cannot be faulted in the circumstances of this case. In this regard, it is important to bear in mind that the disciplinary process of the Institute is intended to be based primarily on written submissions presented before the oral hearing, and the parties are required to fully set out their respective cases in writing (see Hong Kong Institute of Certified Public Accountants v Ng Kwok Ching [2021] HKCA 1821, at §24). Rule 17 of the DCP Rules provides that the parties shall submit written Cases setting out their respective submissions on all material matters and annexing all documentary evidence on which they rely, while Rule 22 provides that, unless the Chairman or the Committee orders otherwise, the parties' Cases and Replies (including annexed documentary evidence) shall constitute submissions of the parties in the proceedings and evidence in the proceedings.”

17. The Committee agreed with the Complainant's submission. With consideration of parties' submissions, all circumstance of this case, the latest change of parties' dispute of the material facts, the relevancy of the additional documents to the parties' dispute and procedural fairness, the Committee exercised the discretion and allowed the Complainant's application, also directed the Respondent be at liberty to file submission

and evidence addressing Complainant's application. Parties were also reminded no further evidence be filed or witness be called by the parties unless with the leave of the Committee or the Chairman. By 26 August 2024, no further application or submission was received either from the Complainant or the Respondent.

18. The part-heard substantive hearing was resumed on 27 August 2024.

### **BURDEN AND STANDARD OF PROOF**

19. The Complainants bear the initial burden of proof in respect of the complaints (Rule 13 of the DCP Rules. The civil standard of proof (on the balance of probabilities) applies as suitably adjusted so that the more serious an allegation, the more compelling must be the evidence (paragraphs 17 to 19 of the Guidelines 1.101A – *Guidelines for the Chairman and the Committee on Administering, the DCP Rules*).

### **FIRST COMPLAINT**

#### **Relevant Statutory Provisions**

20. Practice review is a statutory scheme under Part IVA of the PAO. Under section 32A of the PAO, PRC is a statutory committee responsible for exercising the statutory powers and duties in relation to practice reviews.
21. The review was performed by the staff of the QAD of the Institute i.e. the practice reviewers who assisted and reported to the PRC in carrying out those statutory powers and duties. In view of the findings of the review as reported, the PRC might take actions under section 32D of the PAO, including referring the matter to the Registrar to lay a complaint.

#### **Complainant's case**

22. The Complainant's case was that the Respondent was practising in his own name (the "Practice") at the material time and the Practice was selected for initial practice review in March 2020. During the initial practice review, deficiencies were identified including those in relation to the Practice's quality control system and its audit of a private entity. The PRC directed a follow up visit and it was scheduled to be conducted in June 2021. Despite several reminders by phone and letters, the Respondent refused to provide the requested documents for practice review. Finally, the review could not take place because

the Respondent refused to allow the practice reviewer to carry out the follow up site visit. The PRC gave the direction under section 32F(2)(b) of the PAO. By 20 August 2021, the Respondent did not comply with the direction and therefore, the PRC took actions under section 32D of the PAO and referred the matter to the Registrar to lay a complaint.

23. Regarding the First Complaint, the Complainant adduced evidence in support from Mr. Ko and six letters issued by the Institute to the Respondent from 22 March 2021 to 24 August 2021, which showed the repeated requests made by the practice reviewers and subsequently a direction issued by the PRC in that regard. The content of these six letters were summarised as follows:

First Institute's Letter (dated 22 March 2021)

24. The First Institute's Letter was the notification letter to the Respondent in which the Respondent was notified that a follow up visit to the Practice was scheduled on 15 June 2021, with an aim to assess the extent of improvement in the Practice's compliance with professional standards as a result of the remedial actions. The Respondent was also informed that any request for change of review date should be provided before 12 April 2021 with reasons. To facilitate the practice reviewers in preparation for the visit, the Respondent was requested to provide a list of materials (listed out in Appendix 1 to the First Institute's Letter) to the Institute by the time no later than 25 May 2021.

Second Institute's Letter (dated 1 June 2021)

25. Since the Respondent did not provide the required materials by 25 May 2021, the Institute issued the Second Institute's Letter to the Respondent reminding him that by the time no later than 7 June 2021, the Respondent should provide the materials for the practice review as scheduled on 15 June 2021. In the letter, the Institute also attached with a copy of the First Institute's Letter and its appendices as a final reminder to the Respondent.

Third Institute's Letter (dated 8 June 2021)

26. Since the Respondent still failed to provide the materials by 7 June 2021, the Institute issued the Third Institute's Letter to the Respondent. In this letter, the Respondent was informed that he should make himself available to attend the review on 15 June 2021 and reminded the Respondent that, if the review could not be carried out as scheduled, this could be treated as a dispute and it would be referred to the PRC for determination, a complaint could be laid against the Respondent for his un-cooperation. In addition, the Respondent was reminded that his registered office was no longer occupied and he should

notify and update the Institute with the new registered address, failure of which would result in a breach of section 31 of the PAO.

Fourth Institute's Letter (dated 22 June 2021)

27. Since the Respondent did not turn up on 15 June 2021 for the follow up visit as scheduled, the Institute issued the Fourth Institute's Letter to the Respondent. The letter recorded two telephone conversations between the Respondent and the staff of the Institute in which the Respondent admitted that (a) he did receive the previous letters issued by the Institute, but he was mentally unstable and unwell to handle the practice review; and (b) he did not intend to provide any written explanation or supporting evidence to substantiate his health problems. In the letter, the Respondent was further reminded that in the absence of evidence to support a reasonable ground, the Respondent's refusal to allow the practice reviewer to carry out the follow up visit had given rise to a dispute under section 32F(1) of the PAO and would be referred to the PRC for consideration at its meeting on 29 July 2021. And the Respondent was entitled to make submissions or representations to the PRC on or before 9 July 2021.

Fifth Institute's letter (dated 30 July 2021)

28. The Institute issued a letter dated 30 July 2021 ("**Fifth Institute's Letter**") which was a direction letter. In the letter, the Respondent was notified that after consideration, the PRC issued a direction under section 32F(2)(b) of the PAO which required the Respondent to provide the QAD, by 20 August 2021, with either (1) the information requested by the Institute in the First Institute's Letter and a confirmation to cooperate with the QAD to enable the follow up visit be conducted in the third quarter of 2021; or (2) written explanation and supporting evidence to substantiate the health issue and other matters that preclude him from providing (1) ("**Direction**"). In addition, the Respondent was expressly informed that failure to comply with the Direction without any reasonable excuse might become the subject matter of a complaint.

Sixth Institute's letter (dated 24 August 2021)

29. The Institute issued the letter dated 24 August 2021 ("**Sixth Institute's Letter**") to the Respondent notifying him that the Respondent failed to comply with the PRC's direction by 20 August 2021, a complaint would be laid against him.



Postal receipt

30. Except for the First and the Sixth Institute’s Letters, the Complainant adduced the postal receipts issued by the Hong Kong Post and/or its track and trace records to prove the good service of these letters issued by the Institute to the Respondent.

Mr. Ko’s evidence

31. Mr. Ko was testified as the Complainant’s witness in the second day of the substantive hearing. He was the reviewer who handled the initial practice review on the Practice from April to August 2021. In gist, Mr. Ko adopted his statement as evidence in chief and added that:

- (a) he did explain to the Respondent several occasions that apart from the monitoring review reports, the Respondent also required to provide other information and documents. He added he had gone through Appendix 1 of the First Institute’s Letter with the Respondent by phone, although not explained one by one, he did highlight the crucial points like Quality Control Manual (item 1), latest internal review or monitoring report(s) (item 3), list of non-PIE clients (item 6) and client list to the Respondent. He agreed he had asked the Respondent to submit 6 to 7 items (of documents) before the follow-up review;
- (b) he had maintained the Log which he made the record within 1 to 2 days after he contacted the Respondent, when at that time, his memory to the event was still fresh and the records in the Log were true and accurate. In the Log, he used “CY” representing the Respondent while “JK” representing himself. The following entries in the Log were particularly noted by the Committee:

| Date                    | Time          |      | Result   |
|-------------------------|---------------|------|--|
| 31 May 2021<br>(Monday) | 15:45<br>p.m. | Call | <ul style="list-style-type: none"><li>“CY advised that he had received the follow-up practice review notification letter (“follow-up visit letter”) dated 22 March 2021. However, he did not open the letter. JK reminded CY to check with the required information as stated in the letter as he had already missed the submission deadline (i.e. 24 May 2021) for the documents as stated in</li></ul> |

|                           |               |      |  |
|---------------------------|---------------|------|--|
|                           |               |      | Appendix 1 of the notification letter. JK reminded CY to submit those documents by 4 June 2021. In respect of the monitoring review report, JK also reminded CY to submit on 4 June 2021.”   |
| 7 Jun 2021<br>(Monday)    | 16:30<br>p.m. | Call | <ul style="list-style-type: none"> <li>• “CY further advised that he did not open the letter which posted to him on 22 March 2021 despite of the reminder made by the practice reviewer. CY advised that he was in high pressure in dealing with the correspondences issued by the QAD. He was mentally unstable and had no intention to handle the practice review matters.”</li> </ul>   |
| 15 June 2021<br>(Tuesday) | 16:00<br>p.m. | Call | <ul style="list-style-type: none"> <li>• “CY called JK and advised that he had read through all notification and reminder letters issued by us (including the letters dated 22 March 2021, 1 June 2021 and 8 June 2021). However, CY decided not to accomplish any of our requests in view that he remained to be mentally unstable. CY also advised us that he is not intended to provide any written explanation nor supporting evidence to substantiate the health problem as declared by him.”</li> <li>• “CY advised that he will not attend our office to conduct the practice review.”</li> </ul> |

- (c) he disagreed the Respondent never received any letters issued by the Institute; and
- (d) he agreed the Respondent had expressed his concern of not having money to engage external monitor and the Respondent suggested to perform self-review. In response, he reminded the Respondent he still had to submit monitoring review report.

### **Respondent's case**

32. The Respondent elected to give evidence in the substantive hearing. The Respondent's case was that (1) he was not non-compliant with the PRC; also (2) he had reasonable excuse not to comply with the Direction; (3) he never heard of the PRC requiring him to submit so many documents; (4) the allegation from Mr. Ko was totally false. The summary of the Respondent's evidence was follows:
- (a) he claimed that he had submitted most of the requested items to PRC and was asked to submit two monitoring reports before the follow-up review only. He did not refuse or reject such request;
  - (b) he was never asked about the content of the First Institute's Letter, Mr. Ko only explained anti-money laundering matters to him;
  - (c) he contacted the PRC through Mr. Ko and the PRC knew his situation of having financial difficulties, and this amounted to a reasonable excuse to the Complaints;
  - (d) he did not mention the Disputed Issues in the Respondent's Case and Checklist because he concentrated on crucial points only;
  - (e) he had lots of letters, but he never saw the First Institute's Letter or its appendices;
  - (f) he could not recall the matter related to the Second Institute's Letter but then said he did not receive the Second Institute's Letter at all. He also added, even if he received it, he would not open it because he was told that a complaint would be laid against him;
  - (g) regarding the remaining four Institute's letters, he said he did not receive these letters and/or appendices, also he could not confirm their content because even if he received them, he would not open them; and
  - (h) he agreed all Institute's letters were addressed to his residential address in Fanling and his residential address in Fanling has not changed during the material time. Also this is the address he maintained with the Institute. However, he disagreed all the Institute's letters were sent to him by post.

### **Finding by the Committee**

33. All practising CPAs, whether in full or part-time practice, must submit to practice review. It was not disputed that the Respondent was under a follow-up review. However, the content of communication between the reviewer Mr. Ko and the Respondent, also the service of all Institute's Letter, were in dispute.
34. Regarding to the service of the Institute's letters, the Complainant had adduced the postal receipts issued by Hong Kong Post and the relevant track and trace records to prove that four out of the six Institute's letters, including the Second Institute's Letter with its attachment (i.e. a copy of First Institute's Letter and its appendices) and the Direction letter i.e. the Fifth Institute's Letter, had been successfully served to the Respondent's residential address. Without the contrary evidence, the Committee was satisfied all these four letters from the Institute were in good service to the Respondent.
35. In the substantive hearing, the Respondent admitted that his residential address has not changed during the material time, and he had notified the same to the Institute. That fortified the Complainant's point of argument for good service of the Institute's letters, and also made the Respondent unexplainable for not receiving any of the letters from the Institute as his residential address did not change at all.
36. The Complainant submitted the Respondent was not credible as he kept changing his answers and also answered in a selective way. The Committee agreed with the Complainant. For instance, in the substantive hearing, when the Respondent was asked if he had received letters from the Institute during the material time, he kept changing his answers and in summary, his answers had three versions: (a) he could not recall; (b) he did not receive; (c) even if he received, he did not open it, therefore could not confirm the content. When the Respondent was further cross-examined for the reason of why he did not open the Second Institute's Letter, the Respondent said it was because he was informed that a complaint would be laid against him. The Respondent's answers demonstrated a misguided way of thinking and was not reasonable. Any deliberate act for not opening the letters did not amount to any reasonable excuse for non-compliance with the Direction.
37. Regarding the First Institute's Letter and its appendices, also the Sixth Institute's Letter, the Complainant relied on Mr. Ko's testimony and his Log, not only to support that the Respondent did receive and had gone through the First Institute's Letter but also Mr. Ko

had gone through the crucial point of the Appendix 1 in the First Institute's Letter with the Respondent by phone; also the Institute had sent the Sixth Institute's Letter to the Respondent by both regular and registered post.

38. In the substantive hearing, Mr. Ko's evidence was simple, direct and clear. He did not change his position during the cross-examination and did not exaggerate the evidence, he frankly admitted that he did not go through the items in Appendix 1 of the First Institute's Letter with the Respondent one by one but the crucial points only. And the Log made by Mr. Ko was the contemporary record reflecting the contact details between Mr. Ko and the Respondent during the practice review period and there was no evidence to show that Mr. Ko had fabricated any entries in his Log. It was also noted that the entries concerning the First Institute's Letter as recorded in the Log was not specifically cross-examined by the Respondent.
39. In this regard, the Committee did not agree with the Respondent's contention that he was informed to provide the Institute with two monitoring reports only or he never heard of the PRC requiring him to submit the requested documents.
40. For the avoidance of doubt, considering Mr. Ko's evidence and the postal receipts from Hong Kong Post, the Committee was satisfied with the good service of all six Institute's Letters to the Respondent and rejected the Respondent's contention that he did not receive any Institute's Letter at all. Therefore, the Respondent was fully aware and informed of the details of the Direction.
41. In short, none of the Respondent's submission or evidence in the substantive hearing could dispel the Complainant's case. Also there was no evidence to show the Respondent had ever complied with the Direction.
42. Regarding one of the requirements under the Direction, that is, to require the Respondent to provide information stated in the notification letter (i.e. First Institute's Letter). As noted from the evidence before the Committee, the Institute had provided the Respondent with sufficient time to cooperate before issuing the Direction. Such requirement to provide information in the Direction was reasonable and not onerous on the Respondent.

|  | Postal receipt | Date           | Required deadline to submit information |
|--|----------------|----------------|---|
| First Institute's Letter (notification letter) | No             | 22 March 2021  | 25 May 2021                             |
| Second Institute's Letter                      | Yes            | 1 June 2021    | 7 June 2021                             |
| Third Institute's Letter                       | Yes            | 8 June 2021    | 15 June 2021                            |
| Fourth Institute's Letter                      | Yes            | 22 June 2021   | 9 July 2021                             |
| Fifth Institute's Letter (Direction letter)    | Yes            | 30 July 2021   | 20 August 2021                          |
| Sixth Institute's Letter                       | No             | 24 August 2021 | -                                       |

43. Besides, there was no evidence to support that the Respondent had ever complied with the remaining requirement as directed under the Direction, i.e. to provide confirmation to cooperate with the QAD to enable the follow up visit; or to provide written explanation and supporting evidence to substantiate his health issue and other matters.
44. The Respondent submitted that he had reasonable excuse for not complying with the Direction. In the substantive hearing, there was no evidence before the Committee showing the financial or health condition of the Respondent. To make it clear that, the Committee could not find any reasonable excuse as to the failure or negligence of the Respondent, being a professional accountant, to comply with the Direction.

#### **Conclusion (First Complaint)**

45. On this premise, the Committee found the First Complaint proved to its satisfaction.

#### **SECOND COMPLAINT**

46. The Second Complaint was related to the fact that during the initial practice review, the registered office of the Respondent in Room 1715, Beverley Commercial Centre, 87-105, Chatham Road South, Tsim Sha Tsui ("**Tsim Sha Tsui Address**") was no longer used and the Respondent had not updated and still maintained the Tsim Sha Tsui Address to be registered with the Institute, despite the reminder issued by QAD.

#### **Relevant statutory provisions**

47. The PAO provides that:
- (a) Section 22: the Registrar is required to keep a register for certain particulars of a

- CPA, including the registered office maintained under section 31 of the PAO if he holds a practising certificate.
- (b) Section 31(1): every CPA (practising) shall have a registered office in Hong Kong to which all communications and notices may be addressed.
  - (c) Section 31(3): any change in the address of a registered office shall be notified to the Registrar within 14 days thereof and shall be entered in the register by the Registrar.
  - (d) Section 31(4): CPA (practising) who practises in contravention of this section shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000.
  - (e) Section 31(5): a CPA (practising) as referred to in that section includes a corporate practice i.e. the Practice.
  - (f) Section 32: The Registrar is required to publish in the Gazette a list of CPA (practising) and corporate practices with the address of their registered offices as well.
  - (g) Section 34(2) of PAO: “dishonourable conduct” means an act or omission of a certified public accountant, whether or not in the course of carrying out professional work or as a certified public accountant, which would reasonably be regarded as bringing or likely to bring discredit upon the certified public accountant himself, the Institute or the accountancy profession.”

#### **Complainant’s case**

48. It was the Complainant’s case that the QAD found out in the initial practice review that the registered office of the Practice in Tsim Sha Tsui Address was no longer used. By the Third Institute’s Letter, the Respondent was reminded that he should notify and update the Institute with the new registered address, failure of which would result in a breach of section 31 of the PAO. Despite the reminder from QAD, the Respondent has not updated the registered office address of the Practice and was still maintaining the Tsim Sha Tsui Address as registered with the Institute.

#### **Respondent’s case**

49. In the substantive hearing, the Respondent admitted that the registered office of the Practice was not in Tsim Sha Tsui Address since 2001.

#### **Finding by the Committee**

50. It was substantiated by the facts not disputed by the parties that at the material time, the registered office of the Practice was not in Tsim Sha Tsui Address. Despite the request by the Institute, the Respondent did not make change to the registered office address with the

Institute. The only conclusion was that the Respondent failed to notify the Registrar of the change of address of its registered office in contrary to section 31(3) of the PAO. This would amount to a criminal offence and has impacted upon the Registrar's discharging of statutory duties.

51. Also, the conduct of the Respondent which would have been found guilty in a court of law, was a dishonourable conduct as defined under the PAO, namely, an act or omission of a certified public accountant, whether or not in the course of carrying out professional work or as a certified public accountant, which would reasonably be regarded as bringing or likely to bring discredit upon the certified public accountant himself, the Institute or the accountancy profession.

#### **Conclusion (Second Complaint)**

52. On this premise, the Committee found the Second Complaint proved to its satisfaction.

#### **DECISION AND FURTHER DIRECTION**

53. It is therefore the Committee's unanimous decision that both First and Second Complaints have been proved to its satisfaction.
54. The Committee makes the following directions:
- (1) The Complainant shall submit its written submissions (copied to the Respondent) on the questions of sanctions, costs, fees, and other consequential matters (if any) within 28 days from the date of this Decision.
  - (2) The Respondent shall submit his written submissions (copied to the Complainant) on the questions of sanctions, costs, fees, and other consequential matters (if any) within 28 days thereafter; and
  - (3) Parties are at liberty to apply in writing to the Committee for further directions.

Date: 19 November 2024



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Ms. LAU, Wan Ching

Chairman

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Mr. CHAN, Chak Ming

Member

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Mr. LEE, Kwo Hang, Felix

Member

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Mr. HUI, Cheuk Kit, Frederick

Member

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Mr. SO, Kwok Kay

Member