



Hong Kong Institute of
Certified Public Accountants
香港會計師公會

Compliance Department
Annual Report 2009 (Year ended 31 December 2009)



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Regulating professional conduct

The Hong Kong Institute of Certified Public Accountants is the licensing and regulatory body for accountants in Hong Kong and is responsible for regulating the conduct of its members. As part of its regulatory function, the Institute is required to deal with complaints concerning the ethical and professional conduct of its members, member practices and registered students. Such complaints may arise from matters brought to the attention of the Institute by external parties, such as the

Financial Reporting Council, Market Misconduct Tribunal, Office of the Commissioner of Insurance, Official Receiver, and the Securities and Futures Commission. They may also come from members, clients of members, the public or be matters which originate within the Institute itself. The Institute also monitors news and published media for members who are involved in activities which may be subject to discipline under section 34 of the Professional Accountants Ordinance .

Dealing with complaints

On receipt of a complaint, the compliance department of the Institute conducts enquiries into the facts of the matter. This may involve obtaining further information from the complainant and requesting the members concerned to provide their comments and representations on the allegations against them, together with the relevant supporting documents. The compliance department then carries out an initial assessment of the adequacy of the supporting evidence to determine whether a member, member practice or registered student has failed to follow the Institute's professional standards or committed other improper acts.

On the conclusion of its enquiries, the compliance department will submit a report on its findings and conclusions to the professional conduct committee. The PCC comprises both certified public accountants and lay members and was established in early 2008 as the second phase of an overhaul of the Institute's complaints handling process since 2005. Its role is to review and consider reports submitted by the compliance department and assess the seriousness of the complaints and the appropriate action in relation thereto. It is empowered by the Council of the Institute to take the following actions:

- dismiss complaints where the matter is outside the Institute's jurisdiction or where there is inadequate evidence to show a prima facie case of an alleged offence;
- issue a letter of disapproval to adjudicate minor complaints;
- direct any other course of action in relation to dismissed or minor complaints as the committee may think fit; or
- recommend the Council to refer the matter to the Disciplinary Panels.

When deliberating cases, an individual complaint is considered in the light of the circumstances of the case and the expectation of the conduct of the member relative to the relevant professional standards (including the Code of Ethics for Professional Accountants) at the time the alleged offence was committed. In making such deliberations, the PCC is mindful of the Institute's commitment to uphold the quality of application of professional standards and good public perception of the profession in Hong Kong.

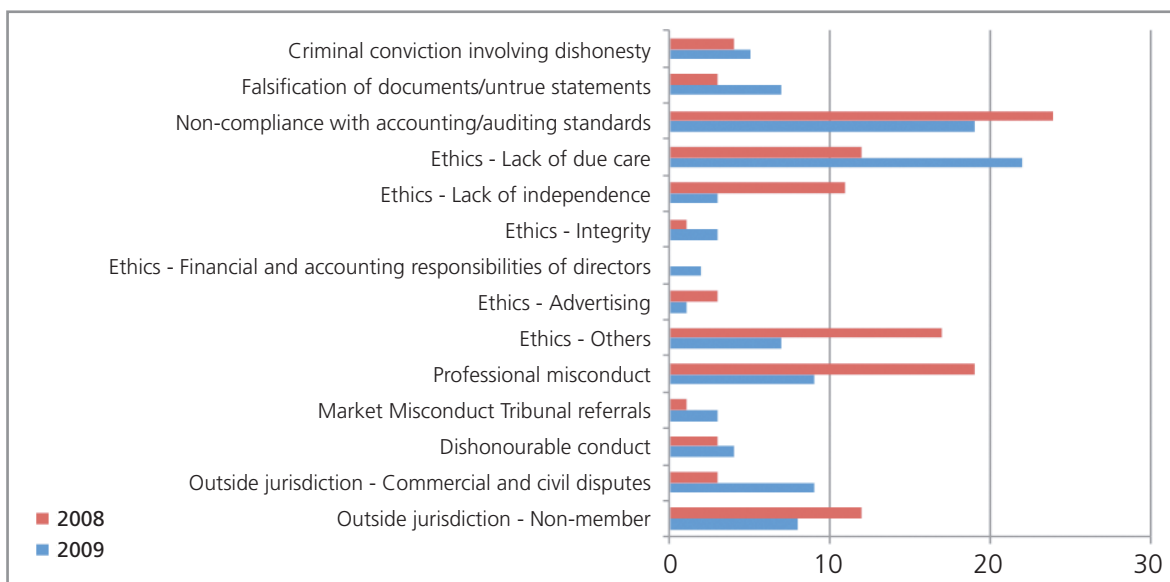
All complaints concerning preparation or audit of financial statements of Hong Kong listed companies are dealt with by the Financial Reporting Council, a separate regulatory entity.

Case statistics

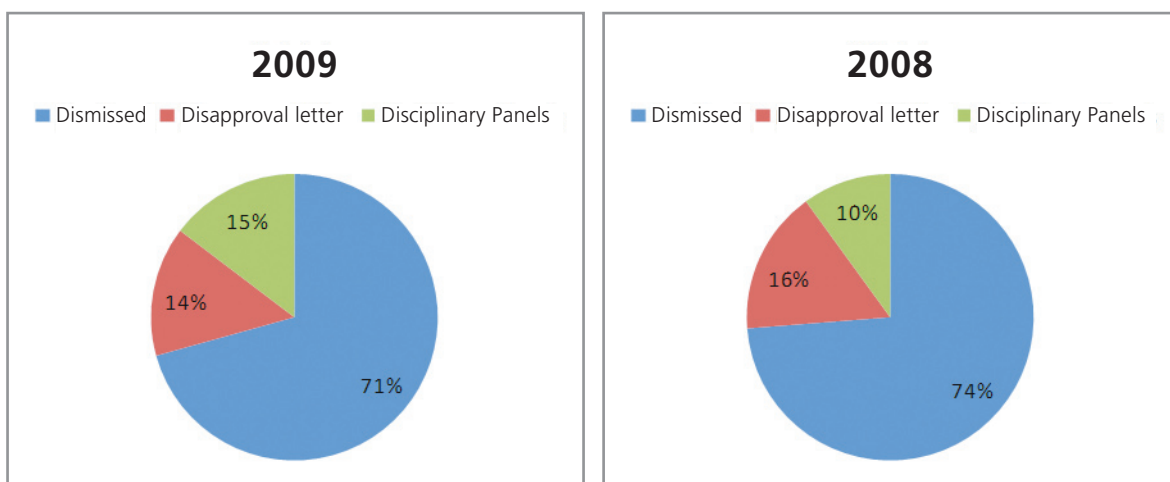
The Institute received 69 complaints in 2009 compared with 71 in 2008. After taking into account unresolved matters from prior years, the caseload of the compliance department in 2009 was 102 compared with 113 for 2008. The decrease in caseload reflects the clearance of the

backlog of unresolved complaints from prior years. For similar reasons, the PCC adjudicated 75 cases in 2009 compared with 80 in 2008. To promote transparency, case statistics are published and updated periodically on the Institute's website.

Analysis of caseload by nature of allegations:



Outcome of cases reviewed by the PCC:



This pattern is consistent with information published by other professional bodies.

Disciplinary function

Where the Council concludes that a complaint is sufficiently serious to warrant the referral of the matter to the Disciplinary Panels, a Disciplinary Committee will be constituted to deal with the complaint.

The Disciplinary Committee comprises five independent persons selected from two panels, one of certified public accountants and one of lay members. The panel of lay members is appointed by the government of HKSAR. The chairman and a majority of members of each Disciplinary Committee come from the panel of

lay members. A Disciplinary Committee deals with formal complaints concerning allegations of misconduct by our members, member practices or registered students pursuant to section 34 of the Professional Accountants Ordinance and by-law 34 of the Professional Accountants By-laws. Disciplinary Committee hearings are held in public. If a Disciplinary Committee finds the charges against the member, member practice or registered student proven, it will make disciplinary orders setting out the sanctions it considers appropriate to the circumstances. Sanctions may include the following:

For members/member practices

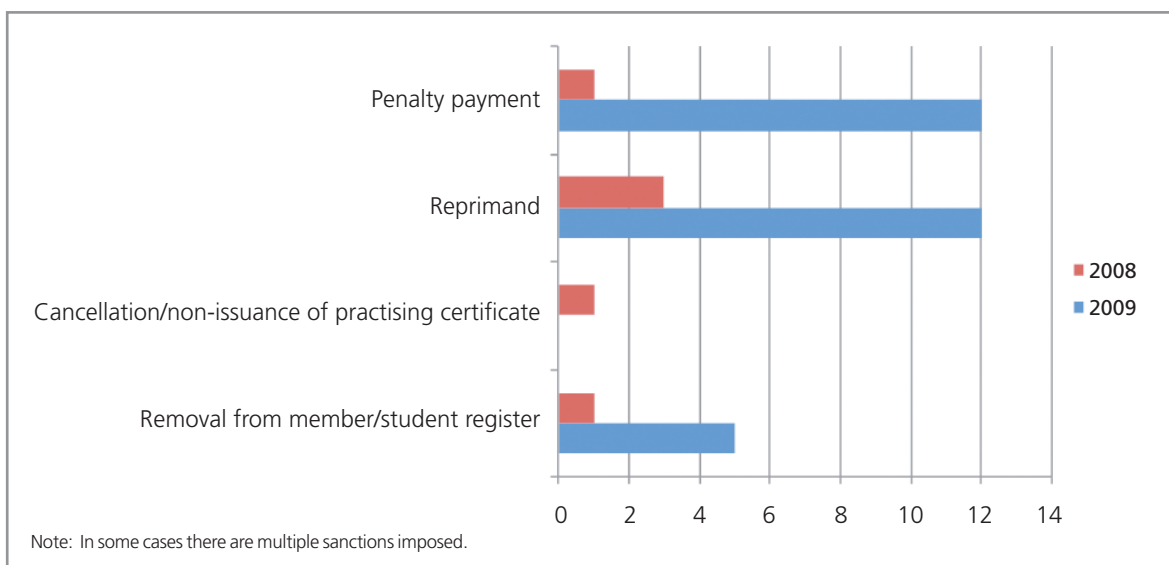
- Temporary or permanent removal from membership
- Temporary or permanent cancellation of a practising certificate issued to a CPA
- Reprimand
- Penalty up to HK\$500,000
- Payment of costs and expenses of proceedings

For registered students

- Removal from student register
- Suspension of eligibility to sit examinations
- Reprimand
- Admonish
- Payment of costs and expenses of proceedings

On 1 January 2009, there were 32 cases undergoing disciplinary proceedings. During 2009, 16 cases were finalized by the Disciplinary Committees compared with five in 2008.

Sanctions, in addition to payment of costs and expenses, imposed by the Disciplinary Committees on cases finalized in 2009 are as follows:



Promoting professional behaviour

All members are expected to comply with the Institute’s professional standards. The complaint and the disciplinary processes are key mechanisms by which the Institute regulates the conduct of its members and when necessary, imposes sanctions for serious breaches of professional standards.

Where the Disciplinary Committee finds a case established against a member, its orders are published in the Institute’s website and its

monthly journal and in the press. Publication includes the member’s name and a summary of the misconduct and the sanctions. Publication ensures transparency of the disciplinary function and acts as a reminder to members of the importance of complying with the Institute’s professional standards.

