

IN THE MATTER OF

A Complaint made under section 34(1A) of the Professional Accountants Ordinance (Cap. 50)

BETWEEN

The Registrar of the Hong Kong Institute  
of Certified Public Accountants

COMPLAINANT

AND

Mr. Jimmy Siu (A32710)

1<sup>st</sup> RESPONDENT

Mr. Yip Kai Yin (A23951)

2<sup>nd</sup> RESPONDENT

Elite Partners CPA Limited (M0269)

3<sup>rd</sup> RESPONDENT

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

Members: Mr. NG Wai Yan (Chairman)  
Mr. CHAN Fung Cheung, Wilson  
Mr. CHIU Man Leong, Alvin  
Ms. CHENG Pui Ngar  
Mr. RYAN John Joseph

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**ORDER AND REASONS FOR DECISION**

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1. This is a complaint made by the Registrar of the Hong Kong Institute of Certified Public Accountants (the “**Institute**”), as Complainant, against Mr. Jimmy Siu and Mr. Yip Kai Yin, both practicing certified public accountants, and Elite Partners CPA Limited (the “**Respondents**”). The Institute complains that the Respondents failed or neglected to observe, maintain or otherwise apply professional standards under section 34(1)(a) of the Professional Accountants Ordinance (Cap. 50)(“the PAO”).

2. The Registrar of the Institute brought the complaint against the Respondents by a letter to the Council of the Institute dated 2 March 2021.

## **THE PROCEEDINGS**

3. The Carecraft procedure originates from *Re Carecraft Construction Co Ltd* [1994] 1 WLR 172. It essentially limits the facts, by way of a statement of agreed facts, on which the Disciplinary Committee may decide whether the complaint referred to it has been proved and, if so, determine the sanction that ought to be imposed.
4. The Disciplinary Committee understands the Carecraft procedure has previously been invoked in disciplinary proceedings under the PAO.
5. On 25 January 2022, the parties made a joint application to the Disciplinary Committee to grant a stay of the proceedings because the parties were in course of engaging without prejudice discussion on the complaint.
6. On 7 April 2022, the parties submitted an agreed statement of facts (the “**Carecraft Statement**”), which also includes agreed proposed orders as to sanctions and costs.
7. The Disciplinary Committee agreed to the parties’ joint application to adopt the Carecraft procedure and to dispense with or vary any procedural requirements as and when appropriate under rule 11 of the *Disciplinary Committee Proceedings Rules*, and the principle of procedural fairness under paragraph 2 of the *Guidelines for the Chairman and the Committee on Administering the Disciplinary Committee Proceedings Rules*.

## **THE COMPLAINTS, AND SUPPORTING FACTS AND CIRCUMSTANCES**

8. Upon the parties’ agreement (as stated in paragraph 6 of the Carecraft Statement), the Carecraft Statement is annexed to this order.

9. There is one complaint against the 1<sup>st</sup> Respondent and the 3<sup>rd</sup> Respondent, and one against the 2<sup>nd</sup> Respondent. The complaints are set out in paragraph 4 of the Carecraft Statement.
10. The admitted facts and circumstances in support of the complaints are set out from paragraphs 8 to 42 of the Carecraft Statement.

## **DISCUSSION AND DECISION**

11. The complaints were all found proven on the basis of the admissions made by the Respondents.
12. The only outstanding matters are the sanctions and costs which ought to be imposed upon the Respondents.
13. The parties' agreed mitigating factors and agreed proposed orders are set out from paragraphs 43 to 48 of the Carecraft Statement respectively.
14. In considering the proper order to be made in this case, the Disciplinary Committee has had regard to all the circumstances and matters, including the particulars in support of the complaints, the Respondents' personal circumstances, the parties' submissions, and the conduct of the Complainant and the Respondents throughout the proceedings.
15. In terms of costs, the Disciplinary Committee considers that the sums incurred by the Complainant, the Disciplinary Committee and the Financial Reporting Council were reasonable and ought to be borne by the Respondents.

## **SANCTIONS AND COSTS**

16. The Disciplinary Committee orders that:-

- (1) the Respondents be reprimanded under section 35(1)(b) of the PAO;

- (2) the Respondents do pay jointly and severally a penalty of HK\$500,000 under section 35(1)(c) of the PAO;
- (3) the Respondents do pay jointly and severally the total costs of HK\$258,871.65 made up as follows:
- (i) HK\$174,600 in relation to the costs and expenses of and incidental to the proceedings of the Complainant under section 35(1)(iii) of the PAO;
  - (ii) HK\$5,090.50 in relation to the costs and expenses of the Disciplinary Committee under section 35(1)(iii) of the PAO; and
  - (iii) HK\$79,181.15 in relation to the costs and expenses in relation to or incidental to the investigation incurred by the Financial Reporting Council under section 35(1)(d) of the PAO.

The above shall take effect on the 42<sup>nd</sup> day from the date of this Order.

Dated the 10th day of May 2022.

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Mr. NG Wai Yan Chairman  
Disciplinary Panel A

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Mr. CHAN, Fung Cheung, Wilson  
Member  
Disciplinary Panel A

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Ms. CHENG Pui Ngar  
Member  
Disciplinary Panel B

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Mr. CHIU Man Leong, Alvin  
Member  
Disciplinary Panel A

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Mr. RYAN John Joseph  
Member  
Disciplinary Panel B

IN THE MATTER OF

A Complaint made under section 34(1A) of the Professional Accountants Ordinance

BETWEEN

The Registrar of the Hong Kong Institute of Certified Public Accountants Complainant

AND

Mr. Jimmy Siu, CPA (practising) (membership no.: A32710) 1<sup>st</sup> Respondent  
Mr. Yip Kai Yin, CPA (membership no.: A23951) 2<sup>nd</sup> Respondent  
Elite Partners CPA Limited (corporate practice no.: M0269) 3<sup>rd</sup> Respondent

**STATEMENT OF AGREED FACTS FOR CARECRAFT PROCEDURE IN RESPECT OF THE  
1<sup>st</sup>, 2<sup>nd</sup> AND 3<sup>rd</sup> RESPONDENTS**

**PART 1- INTRODUCTION**

1. A complaint dated 2 March 2021 was submitted to the Council of the Hong Kong Institute of Certified Public Accountants (the "**Institute**") in relation to the 1<sup>st</sup> Respondent 2<sup>nd</sup> Respondent, and 3<sup>rd</sup> Respondent (collectively "**Respondents**"). The Council of the Institute resolved to refer the complaint to the Disciplinary Panels pursuant to section 34(1A) of the Professional Accountants Ordinance (Cap. 50) ("**PAO**").
2. Subject to the approval of the Disciplinary Committee, the Complainant and the Respondents agree to dispose of these proceedings by way of the Carecraft procedure (the "**Carecraft Procedure**") sanctioned by the High Court in England and Wales in the case of Re Carecraft Construction Co Ltd [1994] 1 WLR 172 and clarified by the English Court of Appeal in Secretary of State for Trade and Industry v Rogers [1996] 1 WLR 1569. The Carecraft Procedure was adopted in Hong Kong in a number of cases in respect of proceedings under section 214 of the Securities and Futures Ordinance (Cap. 571), section 168H of the former Companies Ordinance (Cap. 32), by the Competition Tribunal, and also by the Disciplinary Committee of the Institute.
3. This Statement of Agreed Facts ("**Statement**") is submitted by the parties for the purpose of setting out the factual basis upon which the Disciplinary Committee is invited to make the orders sought.
4. For the purpose of resolving these proceedings summarily and with a view to saving costs, and by reference to the facts as set out in Part 2 of this Statement which the Respondents admit and accept, the Respondents admit the complaints against them as follows:

- a. Section 34(1)(a)(vi) of the PAO applies to 1<sup>st</sup> Respondent, and by section 34(1AA) of the PAO, applies to the 3<sup>rd</sup> Respondent in that they failed or neglected to observe, maintain or otherwise apply professional standards in the audit of the financial statements of L & A International Holdings Limited ("**Company**") and its subsidiaries (collectively "**Group**") for the year ended 31 March 2017 ("**2017 Financial Statements**") ("**First Complaint**").
  - b. Section 34(1)(a)(vi) of the PAO applies to the 2<sup>nd</sup> Respondent for having failed or neglected to observe, maintain or otherwise apply a professional standard when carrying out an engagement quality control review in the audit of the 2017 Financial Statements ("**Second Complaint**").
5. The facts set out in this Statement are not disputed between the Complainant and the Respondents on the basis that these proceedings will be dealt with by the Disciplinary Committee by way of the Carecraft Procedure and with a view to saving costs. If the Disciplinary Committee for any reason is of the view that these proceedings shall not be dealt with by the Carecraft Procedure or that a full hearing is appropriate, no admission or concession by either the Complainant or the Respondents and none of the proposed orders referred to below shall be referred to or relied upon by any of the parties at any subsequent hearing without the prior written consent of the Complainant and the Respondents.
6. In the event that the Disciplinary Committee makes any order sought against the Respondents by reference to this Statement, the Complainant and the Respondents agree that this Statement be annexed to the Disciplinary Committee's decision and will jointly seek a direction to that effect.
7. Furthermore, without prejudice to all of the Complainant's rights, the Complainant specifically reserves the right to (a) disclose this Statement to third parties where it appears proper to do so in the public interest; and (b) refer to this Statement for purposes ancillary to, connected with and/or arising out of these proceedings. Upon the matter having been resolved by way of Carecraft Procedure, the Complainant will not commence another proceeding against the Respondents based on the audit concerned herein and/or the agreed facts as set out in Part 2 below.

## **PART 2— AGREED FACTS**

### **A. Background**

8. The Company was incorporated in the Cayman Islands and its shares are listed on the GEM of the Stock Exchange of Hong Kong Limited (stock code: 8195). The Company was engaged in manufacturing, sales and retailing of garment products and provision of loan and other financial services.
9. Elite Partners CPA Limited ("**Elite**"/**3<sup>rd</sup> Respondent**) audited the 2017 Financial Statements of the Company and its subsidiaries.

10. Mr. Jimmy Siu (**1<sup>st</sup> Respondent**) was the engagement director and Mr. Yip Kai Yin (**2<sup>nd</sup> Respondent**) was the engagement quality control reviewer ("**EQCR**").
11. The 2017 Financial Statements were stated to have been prepared in accordance with Hong Kong Financial Reporting Standards. The auditor's report of the 2017 Financial Statements stated that the audit was conducted in accordance with Hong Kong Standards on Auditing ("**HKSA**").
12. The 3<sup>rd</sup> Respondent expressed an unmodified opinion in the auditor's report on the 2017 Financial Statements dated 28 June 2017.
13. On 6 February 2020, the Financial Reporting Council ("**FRC**") referred to the Institute a report of the Audit Investigation Board ("**AIB**") pursuant to section 9(f) of the FRC Ordinance, Cap.588. The AIB report concerns auditing irregularities in Elite's audit procedures performed on the Company's impairment assessment of its interest in an associate acquired on 20 June 2016.

#### **B. In respect of the First Complaint**

14. In June 2016, the Company acquired 47.63% equity interest in a private entity which was engaged in the development of innovative entertainment software and online games at a consideration of HK\$472.4 million. The acquired entity had developed one online shooter game called "Firefall".
15. The Company accounted for the investment as an investment in an associate in the 2017 Financial Statements. As at 31 March 2017, the carrying amount of interest in an associate was HK\$283.9 million<sup>1</sup>, representing 69.5% of the Group's consolidated net assets.

#### **Measurement basis**

16. The Company had performed an impairment assessment for the interest in an associate at the year-end date by comparing the carrying amount with the recoverable amount of the associate's cash-generating unit ("**CGU**") as at 31 March 2017. The 2017 Financial Statements and key audit matters in the auditor's report stated that the recoverable amount of the CGU was determined by Company's valuer based on value in use calculation ("**VIU**"). Under HKAS 36, calculation of VIU should be done by discounting the future cash flows expected to be derived from the associate to its present value.
17. However, a valuation report of the Company's valuer (included in the audit working papers) stated that the valuer was engaged to determine the "fair value" of the unlisted shares of associate held by the Company as at 31 March 2017. The report showed that the valuation took into account factors *specific* to the associate including its cash flow

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<sup>1</sup> The Group's audit materiality was HK\$1.66 million.

projection, the associate's enterprise value, and the liquidation price and redemption value of preferred shares issued by the associate.

18. Given the inconsistent measurement bases apparently underlying the stated amount of the investment in associate (i.e. "fair value" used by the Company's valuer and VIU used by the management), the auditor should have performed additional procedures to follow up. There was no evidence that the auditor had identified and discussed with the valuer and management about the inconsistency.
19. In its representations to the AIB, the 3<sup>rd</sup> Respondent asserted that reference to the VIU basis in the 2017 Financial Statements was a "typographical error", and that the measurement basis adopted was actually that used by the Company's valuer, i.e. the basis labelled as "fair value" as mentioned in paragraph 13 above, with which management and auditor concurred.
20. However, even if the 3<sup>rd</sup> Respondent's explanation was accepted, the measurement basis used by the Company's valuer does not reveal a fair value basis under HKAS 36. According to paragraph 53A of HKAS 36, fair value for determining the recoverable amount of an asset reflects the assumptions market participants would use when pricing the asset and does not reflect factors that may be specific to the entity and not applicable to entities in general. The measurement basis used by the Company's valuer (see paragraph 13 above) obviously took account of factors specific to the associate and to this extent, the measurement basis would not be a fair value basis per HKAS 36.
21. Moreover, the measurement basis used by the Company's valuer did not exactly reflect the value of "continual use" of the investment, as it incorporated factors in addition to expected cash flows from continual use. To this extent, it could not be regarded as a VIU basis per paragraph 31 of HKAS 36.
22. The above observations indicated that the auditor failed to:
  - (a) understand adequately the fair value and VIU measurement bases for determining recoverable amount under HKAS 36;
  - (b) carry out adequate audit procedures to support their conclusion that the recoverable amount of the investment in associate was determined in compliance with HKAS 36; and
  - (c) assess critically the appropriateness of adopting the valuation report as audit evidence for the impairment assessment of the associate.
23. Therefore, the 1<sup>st</sup> and 3<sup>rd</sup> Respondents failed to comply with paragraphs 6 and 8 of HKSA 500 and paragraph 13 of HKSA 540.

### **Cash Flow Projections**

24. The working papers show that the auditor relied on the cash flow forecast done by the Company's valuer, and on management's representations regarding the development plan of Firefall and the company's ability to get the distribution and license agreements,



to support its audit conclusion on impairment of the interest in associate. However, the auditor did not adequately evaluate the bases and assumptions used in the cash flow forecast or obtain sufficient evidence to corroborate management's representations on those bases and assumptions. In particular, there were inadequate audit procedures to address the following anomalies or "red flags" which arose during the audit of the 2017 Financial Statements:

*Development status of Firefall*

25. In 2015, there was a limited commercial release of Firefall in the PRC and it was expected that a large-scale commercial launch would be conducted in 2016. However, the marketing plan in PRC was delayed. There was no evidence of audit procedures carried out to (a) ascertain the reasons for the delay; (b) assess the effect of the delay on the timing and amount of estimated revenue; (c) obtain corroborate evidence to support management's representations regarding timing and estimated revenue that were incorporated in the cash flow projection; and (d) evaluate the results of the earlier limited commercial release and their implication (if any) on the future success of the product.
26. Further, during 2017, there was public information about the associate having financial problems and other operating issues (e.g. missing payroll, staff layoffs, departure of key personnel, and suspension of server). There was no evidence that the auditor had ascertain whether and how these negative issues had affected / would affect the development of Firefall and the related cash flow projections.
27. The above observations indicated that the auditor failed to maintain adequate professional scepticism in conducting its procedures on the investment.

*License and royalty arrangement of Firefall*

28. The working papers show that the forecast revenue from PRC market was based on the management's claim that the associate could enter into distribution agreements with PRC distributors on similar terms as those in a terminated distribution agreement with another distributor. The auditor accepted this claim by management.
29. Moreover, the working papers show that the forecast revenue from other markets (e.g. Taiwan and Southeast Asia) was based on the management's claim that a new version of Firefall could be launched in 2019 and the right to operate Firefall could be licensed to distributors.
30. Apart from accepting the management's representations above, there was no evidence that the auditor had performed audit procedures to:
  - (a) ascertain the progress in engaging distributors in each of the markets and the expected outcome and status of negotiation of the terms of agreements;

- (b) understand the proposed terms of agreements with distributors; and
- (c) obtain evidence to corroborate management's representations on the development, marketing and distribution plan of Firefall and the status and probability in obtaining government's approvals, licenses and operation permits for Firefall in the relevant markets.

*Release of mobile version and new web-based version of Firefall*

31. The working papers show that the auditor accepted management's representations that a mobile version of Firefall would be launched and would generate revenue in late 2018. The auditor also accepted management's forecast revenue from the mobile game which was estimated based on the revenue generated by other successful mobile games in China.
32. In addition, the working papers show that the auditor accepted management's representations that a new web-based version of Firefall would be launched in United States, Europe, Russia, Brazil and Korea. The auditor relied on an internal report prepared by the associate (which included the expected number of paying game users and the average revenue per paying user) to verify the reasonableness of the forecasted revenue.
33. There was no evidence that the auditor had obtained sufficient evidence to corroborate management's representations on the prospect of success of the new versions of Firefall, assumptions and data used in projecting the revenue, nor was there evidence of the auditor critically assessing the bases and assumptions of using other developed mobile games as a benchmark for estimating the revenue of the yet-to-be-developed mobile version of Firefall and using the associate's internal report as audit evidence.

**Terminal value**

34. The working papers show that the recoverable amount of the CGU of associate was determined based on a 5-year cash flow projections and a terminal value which was calculated based on a constant growth rate of 3% per year.
35. As the associate operated only one online game, Firefall, the recoverable amount of the associate depended entirely on the future cash flow contributed by Firefall. The cash flow would be affected by changes in players' preferences, technological innovation, and the number of competitors in the market. Firefall could not be sustained in this fast changing gaming market if Firefall has no new features.
36. In the above circumstances, there was no evidence of the auditor challenging management and valuer on the reasonableness of assuming a continuous growth rate of 3% in determining the terminal value of the associate.

37. The above observations indicated that the auditor failed to adequately challenge management and the valuer on the estimations and assumptions applied in the cash flow projection, and obtain sufficient and reliable audit evidence of the recoverable amount of the interest in associate to support its audit conclusion on the impairment of the interest in associate at the year-end date.
38. Based on the above, the 1<sup>st</sup> and 3<sup>rd</sup> Respondents failed to comply with paragraph 15 of HKSA 200, paragraphs 15, 17 and 18 of HKSA 540 and paragraphs 7 and 9 of HKSA 500.

### **C. In respect of the Second Complaint**

39. The impairment assessment of an associate was identified by the engagement team as a high risk audit area and a key audit matter in the 2017 audit. This audit area involved significant judgement and estimation. The above analysis show that the engagement team did not perform sufficient procedures to support the audit conclusion on the impairment of interest in an associate.
40. The working papers show that the 2<sup>nd</sup> Respondent, as the EQCR, reviewed the audit work performed by engagement team on the impairment assessment of the interest in an associate and he was satisfied with the audit work performed and considered that there was no significant engagement deficiency in the audit.
41. Notwithstanding, the 2<sup>nd</sup> Respondent failed to identify the audit deficiencies committed by the engagement team. The working papers did not show how the 2<sup>nd</sup> Respondent had evaluated the significant matters and judgments made by the engagement team to conclude that the audit procedures performed by the engagement team were sufficient and appropriate.
42. On the above basis, it is evident that the 2<sup>nd</sup> Respondent failed to perform an adequate engagement quality control review in accordance in accordance with paragraph 20 of HKSA 220.

### **PART 3- PAST DISCIPLINARY RECORDS AND AGREED MITIGATING FACTORS**

43. The 1<sup>st</sup> Respondent has 1 case resolved by Resolution by Agreement dated 30 December 2019, whereby he was reprimanded, ordered to pay financial penalty of \$20,000 and costs. The 1<sup>st</sup> Respondent also has one settlement case dated 21 June 2021 whereby he was reprimanded and ordered to pay financial penalty of \$300,000 (jointly with the 2<sup>nd</sup> Respondent) and costs.
44. The 2<sup>nd</sup> Respondent has 2 disciplinary orders of the Disciplinary Committee, the most recent decision dating 9 December 2019 whereby he was reprimanded, his practising

certificate was cancelled for 9 months, ordered to pay financial penalty of \$50,000, and ordered to pay costs. The 2<sup>nd</sup> Respondent has 2 cases resolved by Resolution by Agreement, the most recent case dating 12 May 2021 whereby he was reprimanded, ordered to pay financial penalty of \$50,000 and costs. The 2<sup>nd</sup> Respondent also has one settlement case dated 21 June 2021 whereby he was reprimanded and ordered to pay financial penalty of \$300,000 (jointly with the 1<sup>st</sup> Respondent) and costs. Three disapproval letters were also issued to the 2<sup>nd</sup> Respondent in the past, the last being dated 4 December 2020.

45. The 3<sup>rd</sup> Respondent has 2 disciplinary orders of the Disciplinary Committee, the most recent decision dating 9 December 2019 whereby it was reprimanded, ordered to pay financial penalty of \$100,000 and costs. The 3<sup>rd</sup> Respondent has 3 cases resolved by Resolution by Agreement, the most recent case dating 12 May 2021 whereby it was reprimanded, ordered to pay financial penalty of \$50,000 and costs. The 3<sup>rd</sup> Respondent also has one settlement case dated 3 February 2021 whereby it was reprimanded and ordered to pay financial penalty of \$250,000 (jointly with 2 other Respondents) and costs. Two disapproval letters were also issued to the 3<sup>rd</sup> Respondent in the past, the last being dated 4 December 2020.

46. The Complainant and the Respondents agree to the following mitigating factors:

- a. There is no evidence that the Respondents gained any benefits from the breaches mentioned above;
- b. There have not been any civil claims against the Practice in respect of the audit of the 2017 Financial Statements;
- c. The Respondents have adopted a reasonable course of action to conclude these proceedings by way of the Carecraft Procedure, which saves the time and costs of the Complainant and the Disciplinary Committee.

#### **PART 4- AGREED PROPOSED ORDERS**

47. On the basis of the agreed facts set out in Part 2 above, the Complainant and the Respondents agree that the Disciplinary Committee should find the complaints against the Respondents (as set out in paragraphs 4(a) and (b) above) proved.

48. On the basis of the agreed facts set out in Part 2 above and taking into account the agreed mitigating factors in Part 3 above, the Complainant and the Respondents further agree that it would be appropriate for the Disciplinary Committee to make the following sanctions:

- a. The 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Respondents be reprimanded under section 35(1)(b) of the PAO;
- b. The 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Respondents do pay jointly and severally a penalty of \$500,000 under section 35(1)(c) of the PAO;
- c. The 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Respondents do pay jointly and severally (i) the costs and

expenses of \$79,181.15 in relation to or incidental to the investigation incurred by the FRC, (ii) the costs and expenses of and incidental to the proceedings of the Complainant in the sum of \$174,600, and (iii) the costs and expenses of the Disciplinary Committee in the sum of \$5,090.50.

Dated the 7<sup>th</sup> day of April 2022.