

IN THE MATTER OF

A Complaint made under by-law 34(2) of the Professional Accountants By-Laws (Cap. 50A) (the “**By-Laws**”)

BETWEEN

The Registrar of the Hong Kong Institute
of Certified Public Accountants

COMPLAINANT

AND

Mr. Hu Yi (registered student no. S045468)

RESPONDENT

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

Members: Mr. CHAN, Che Chung, Conrad (Chairman)
Ms. CHEUNG, Chiu Nam, Cerman
Mr. LEE, Hung Sang
Mr. POGSON, Timothy Keith
Mr. CHAN, Ting Bond, Michael

ORDER AND REASONS FOR DECISION

1. This is a complaint made by the Registrar (the “**Complainant**”) of the Hong Kong Institute of Certified Public Accountants (the “**Institute**”) against Mr. Hu Yi, whose name is on the register of registered students kept by the Registrar of the Institute (the “**Respondent**”).
2. Particulars of the Complaint as set out in a letter from the Registrar to the Council of the Institute dated 30 June 2021 (the “**Complaint**”) are as follows:

BACKGROUND

- (1) The Respondent is a registered student member of the Qualification Program (“**QP**”) of the Institute. At the relevant time in 2019 and 2020, he was an audit senior of a CPA firm (the “**Firm**”).

- (2) It was alleged that the Respondent had provided falsified Examination Status Reports to the Firm. On 23 March 2020, representatives of the Firm interviewed the Respondent. During the interview, the Respondent admitted that he had falsified the said Examination Status Reports by altering their contents. On the same day, the Firm dismissed the Respondent. Subsequently, the Firm reported the matter to the Institute.

THE COMPLAINT

- (3) Section 34(1)(d) of the Professional Accountants By-laws, Cap 50A, Laws of Hong Kong (“By-Laws”) applies to the Respondent as he was guilty of a conduct which renders him unfit to become a certified public accountant, by falsifying the Examination Status Reports as at 22 August 2019 and 25 February 2020 for the June and December 2019 Qualification Program examinations and submitted the same to the Firm.

FACTS AND CIRCUMSTANCES IN SUPPORT OF THE COMPLAINT

- (4) The Firm requested staff members who had participated in relevant professional examinations, including the Institute’s QP examinations, to upload their examination results to the Firm’s internal online platform. The Firm obtained the authorization of those staff members and requested the relevant examination results from the Institute, to perform spot checks on the results provided by those staff members.
- (5) The Respondent uploaded his examination results for the June and December 2019 QP examination sessions contained in 2 Examination Status Reports, as at 22 August 2019 and 25 February 2020 respectively, to the internal online platform on 23 August 2019 and 5 March 2020.
- (6) The Firm checked the results submitted by the Respondent and found that they were different from those provided by the Institute. The discrepancies are summarized below:

QP Examination Session	Results provided by the Respondent to the Firm	Results issued by the Institute
June 2019 (Examination Status Report as at 22 Aug 2019)	Module A – Financial Reporting (exam): Fail Module B – Corporate Financing (exam): Pass Module B – Corporate Financing (overall): Pass	Module A - Financial Reporting (exam): Absent Module B – Corporate Financing (exam): Fail Module B – Corporate Financing (overall): Fail
December 2019 (Examination Status Report as at 25 Feb 2020)	Module A– Financial Reporting (exam): Pass Module A– Financial Reporting (overall): Pass Module C – Business Assurance (exam): Pass Module C – Business Assurance (overall): Pass	Module A - Financial Reporting (exam): Absent Module A - Financial Reporting (overall): Fail Module C – Business Assurance (exam): Absent Module C – Business Assurance (overall): Fail

- (7) The alterations made in the 22 August 2019 Examination Status Report in relation to the results of Module B in the June 2019 session were also repeated in the 25 February 2020 Examination Status Report.

EVENTS PRIOR TO THE COMMENCEMENT OF THE PROCEEDINGS

3. In an email addressed to the Institute on 12 May 2020, the Respondent provided explanations of his conduct to the Institute and pleaded for leniency:
 - (1) He has a strict father. He wanted to make his father happy with the fake transcripts. He “never thought of submitting the faked transcript to [the Firm]” but “mistakenly submitted that fake transcript which [he] originally thought to pass to [his] family, [he] messed 2 transcript version...”. He regretted his actions and said he had “paid serious consequences for [his] actions”.
 - (2) He never deceived his client or employer at work. He had been hard working and had never received any complaints while he was working with the Firm. His performance score was at the top level at his grade.
 - (3) He did not obtain any economic benefits from the fake exam results because the Firm only grants QP rewards when one has passed all the examinations.
 - (4) He asked the Institute not to cancel his studentship.
4. By a letter dated 12 April 2021, the Respondent was invited to provide further explanations of his deliberate acts of falsifying the Examination Status Reports but no reply has been received.

THE PROCEEDINGS

5. The Notice of Commencement of Proceedings and procedural timetable was issued to the parties on 10 September 2021.
6. The Respondent made a formal admission of the Complaint on 6 December 2021 and the parties have on the same day made joint application to this Committee that on the basis of the Respondent’s admission of the Complaint, the procedures as set out in Rules 17 to 30 of the Disciplinary Committee Proceedings Rules are not necessary and should be dispensed with. This was approved by this Committee. At the same time, this Committee directed the parties to make written submissions as to sanctions and costs.
7. By a letter dated 14 January 2022, the Complainant has made its written submission to this Committee as to its proposed sanctions of penalty and costs. On the same day, the Respondent also made a submission purportedly on mitigation.

DECISION

8. In considering the proper Order to be made in this case, the Disciplinary Committee (“**this Committee**”) has had regard to all the aforesaid matters, including the particulars in support of the Complaint, the Respondent’s personal circumstances, the conduct of the Complainant and the Respondent throughout the proceedings, and the email dated 12 May 2020 from the Respondent in relation to his plea of mitigation.
9. By-law 35 sets out the sanctioning powers of this Committee which can be exercised in regards to a registered student.
10. The Complainant has submitted that this case involves a serious breach of integrity and honesty, which is one of the fundamental requirements of the profession.
11. The Complainant has drawn the attention of this Committee to the following:
 - (1) The Respondent submitted two different false Examination Status Reports to his former employer (on 23 August 2019 and 5 March 2020 respectively).
 - (2) On the second occasion when the Respondent submitted the false examination results, he had repeated the alteration of the false examination results from the previous submission (ie. in relation to Module B in the June 2019 QP Examination Session). This was presumably to ensure consistency between the two false Examination Status Reports submitted.
 - (3) Therefore, the Respondent knowingly and chose to continue to submit the false examination results for a second time.
 - (4) Had it not been for the spot check conducted by the Respondent's former employer, it may not have been known by the former employer that the Respondent had in fact failed/was absent in various examination sessions.
12. The Complainant has also identified the following previous disciplinary decisions for this Committee’s reference:
 - (1) **D-15-1053C (Chan Wone Yee (“Chan”))**: In this case, Chan was a registered student of the Institute. She had falsified a reference letter purportedly issued by her former employer and used the letter to successfully apply for a job as an accounts clerk. Her new employer found out about the false letter. Chan was subsequently convicted at the Magistrates Court of "obtaining pecuniary advantage by deception" under the Theft Ordinance. The Disciplinary Committee found proven that i) Chan had been convicted of an offence in Hong Kong involving dishonesty, and ii) she had been guilty of conduct which rendered her unfit to become a CPA.

- (a) It is worthy to note at paragraph 18 of this decision, the Disciplinary Committee cited the leading case of *Bolton v. Law Society* [1994] 1 WLR 512, which stated that (*per* Sir Thomas Bingham MR):

"Any solicitor who is shown to have discharged his professional duties with anything less than complete integrity, probity and trustworthiness must expect severe sanctions to be imposed upon him by the Solicitors Disciplinary Tribunal The most serious involves proven dishonesty, whether or not leading to criminal proceedings and criminal penalties. In such cases the tribunal has almost invariably, no matter how strong the mitigation advanced for the solicitor, ordered that he be struck off the Roll of Solicitors."

- (b) The Disciplinary Committee considered that the same principles as highlighted in *Bolton* above applies to accountants as they do to solicitors.
- (c) The Disciplinary Committee ordered that Chan be declared unfit to remain as a registered student and that the Registrar remove her name from the register of registered students pursuant to By-law 35(1)(i).
- (2) **D-07-0287H (Law Chui Ting ("Law"))**: Law was a registered student of the Institute. She was required to attend workshops as part of the QP module. However, Law failed to attend a workshop, and claimed that she was unwell on that day and further submitted a forged receipt from a medical centre to the Institute in support. The Disciplinary Committee ordered that Law be declared unfit to remain as a registered student and that the Registrar remove her name from the register of registered students pursuant to By-law 35(1)(i).

13. It is submitted by the Complainant that the present case is similar to the cases of Chan and Law above, as they all involve a breach of integrity and honesty by student members of the Institute, by committing acts involving the falsification of documents.

14. This Committee has also considered the purported plea of mitigation by the Respondent by his email dated 14 January 2022 that, in short:

- (1) He did not obtain any pecuniary advantage by deception nor was he looking for any financial reward nor could he gain any financial benefit by passing on false results. He also did not cause any financial loss to the Firm.

- (2) He was dismissed by the Firm and had been without financial resources for some time. He was asking this Committee to take into account his actual financial situation.
15. This Committee considered that honesty and integrity are the very pillars essential to uphold the standard of the accounting profession. The falsification of examination results on two occasions by the Respondent demonstrated serious misconduct. It is clear from the facts that the Respondent lacked honesty and integrity, and clearly had the intention to mislead.
16. After due and careful deliberations, this Committee has come to a unanimous decision that the Respondent's name should be removed from the register of registered students.
17. As to costs, this Committee has considered the purported mitigating factors as raised by the Respondent in his email dated 14 January 2022. However, given the grave nature and seriousness of this case, this Committee accepted the figures set out in the Statement of Costs dated 14 January 2022 as submitted by the Complainant and ordered the Respondent to pay the entirety of the costs of these proceedings.

SANCTIONS AND COSTS

18. In the circumstances, this Committee orders as follows:
 - (1) **THAT** in accordance with By-law 35(1) of the By-Laws, the Respondent, Mr. Hu Yi, be declared unfit to remain as a registered student and advise the Registrar to remove his name from the register of registered students; and
 - (2) **THAT** the Respondent pays the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$55,465 under By-law 35(1) of the By-Laws.

The above shall take effect on the 40th day from the date of this Order.

Dated the 18th day of February 2022

Mr. CHAN, Che Chung, Conrad
(Chairman)

Mr. CHAN, Ting Bond, Michael
(Member)

Ms. CHEUNG, Chiu Nam, Cermain
(Member)

Mr. LEE, Hung Sang
(Member)

Mr. POGSON, Timothy Keith
(Member)