

IN THE MATTER OF

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

BETWEEN

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

COMPLAINANT

AND

Ms. CHIANG, Sin Mei, Cindy
(Membership no. F05766)

RESPONDENT

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

Members: Mr. Lim Kian Leng, Malcolm (Chairman)
Mr. Chiu Shun Ming
Mr. Leung Ka Yau
Ms. Cheng Pui Ngar
Mr. Kenneth Morrison

ORDER AND REASONS FOR DECISION

1. This is a complaint made by the Practice Review Committee of the Hong Kong Institute of Certified Public Accountants (the “**Institute**”) as Complainant against Ms. Chiang Sin Mei, Cindy, a practising certified public accountant (the “**Respondent**”).
2. The particulars of the Complaints are set out as follows.

BACKGROUND

3. Under Part IVA of the *Professional Accountants Ordinance* (Cap. 50) (“**PAO**”), the Institute is empowered to carry out practice review on practice units.
4. The Practice Review Committee (“**PRC**”) is a statutory committee set up under section 32A of the PAO responsible for exercising the statutory powers and duties in relation to practice reviews under the PAO.
5. The practice reviewers, being staff members of the Quality Assurance Department (“**QAD**”) of the Institute, assist and report to the PRC in carrying out those statutory powers and duties.

6. The Respondent reported to the Institute that she runs a full-time practice in her own name. She was selected for a practice review in September 2017. In the course of the following two years, the Respondent was continuously uncooperative, and disregarded correspondence sent from the Institute with respect to the practice review. As a result, the practice review could not take place.
7. The Respondent also failed to maintain a valid registered office address as required under section 31(1) of the PAO.
8. The PRC considered the Respondent's failures to be serious and decided to raise a complaint against her. The PRC issued a "**Decision Letter**" to her on 27 September 2019.

THE COMPLAINTS

9. Section 34(1)(a)(viii) of the PAO applies to the Respondent in that her disregard of communications sent to her by the Institute amounted to professional misconduct (First Complaint).
10. Section 34(1)(a)(x) of the PAO applies to the Respondent in that she was guilty of dishonourable conduct as her failure to comply with section 31 of the PAO would amount to a criminal offence (Second Complaint).

FACTS AND CIRCUMSTANCES IN SUPPORT OF THE FIRST COMPLAINT

11. On 7 September 2017, the QAD notified the Respondent that she had been selected for a practice review and requested that she is to submit certain information, which the Respondent provided on 13 October 2017. However, upon being advised by the QAD in November 2017 that a desktop practice review would be conducted, the Respondent failed to submit the requested documents required for the review despite repeated reminders and follow-up emails being sent by the QAD.
12. On 4 March 2019, following the Respondent's failure to provide the requested information / documents, the QAD sent a "**Notification Letter**" to the Respondent advising her that a full-scope practice review would take place on 27 May 2019; and requested the Respondent to submit the relevant information and documents.
13. The Respondent made no response and did not submit the requested information by the deadline of 18 March 2019. The QAD subsequently re-sent the Notification Letter to the Respondent multiple times via various means. A staff member of the QAD also tried calling the Respondent on 9 May 2019 but could not reach her, and therefore left a voice message at the Respondent's mobile phone number. The Respondent did not respond to any of the QAD's correspondence or communications.
14. Between 19 November 2018 and 14 March 2019, the QAD also wrote to the Respondent four times requesting that she is to complete and submit the "AML Monitoring Questionnaire", with the filing deadline extended twice from the original date of 13 January 2019 to 3 February 2019, and then to 15 March 2019. The AML Monitoring Questionnaire was required to be completed by all practice units (including the Respondent). The Respondent did not respond to the QAD.
15. On 10 May 2019, upon multiple failed attempts to reach the Respondent, the QAD sent a "**Final Reminder**" to the Respondent and requested her to contact the QAD, and submit the AML-related documents by 17 May 2019. Due to the persistent non-response from the Respondent,

the QAD issued a “**Dispute Letter**” to the Respondent on 28 May 2019 regarding the practice review.

16. For the following weeks, the QAD continued various attempts to establish contact with the Respondent by email and by phone but failed to reach the Respondent.
17. On 26 July 2019, due to the dispute arising from the Respondent’s failure to cooperate, the **PRC** issued to the Respondent a direction to provide to the QAD by 26 August 2019 the following:
 - (a) information as set out in the Notification Letter of 4 March 2019;
 - (b) information about AML compliance as set out in the Final Reminder of 10 May 2019; and
 - (c) an undertaking that the Respondent would cooperate and make herself available to enable a practice review visit to be carried out from 16 to 18 September 2019.
18. The “**PRC Direction**” was sent to all addresses registered by the Respondent with the Institute at the relevant time. It was also emailed to the Respondent no fewer than nine times between the period from 26 July 2019 to 13 September 2019. Yet, the Respondent still did not respond to the Institute.
19. It is evident that despite knowing that a practice review was to be conducted on her practice, the Respondent was non-responsive to communications from the QAD.
20. Yet, when the matter concerned the 2019 renewal of her practising certificate (“**PC**”), the Respondent was responsive as she successfully renewed her PC in February 2019 upon receiving the correspondence sent to her email address and Contact Address by the Institute’s Admission Department.
21. The above clearly demonstrated that the Respondent was deliberately avoiding communications from the PRC and/or the QAD. Her uncooperativeness and lack of action, which led to the QAD’s inability to carry out its statutory duty of conducting a practice review on her practice, amounted to professional misconduct.

FACTS AND CIRCUMSTANCES IN SUPPORT OF THE SECOND COMPLAINT

22. Section 31(1) of the PAO stipulates that “every certified public accountant (practising) shall have a registered office in Hong Kong to which all communications and notices may be addressed.” Section 22 of the PAO requires the Registrar of the Institute to keep a register containing members’ particulars which includes the registered office under section 31 of the PAO.
23. In its attempt to establish contact with the Respondent in order to facilitate the practice review, the QAD had sent correspondences to all known addresses which the Respondent had registered with the Institute at the relevant times, including the registered office address. The Respondent did not change or update this address in her 2019 or 2020 annual membership renewals.
24. However, correspondence sent to this address by registered post was returned to the Institute. During the period from April to September 2019, the QAD sent the Notification Letter, Final Reminder, Dispute Letter, PRC Direction, and the Decision Letter to this address. All of these letters had been returned unclaimed by the Respondent indicating that the Respondent had moved.

25. Based on the above, the registered office address provided by the Respondent was effectively invalid, as the Institute could not successfully deliver any of its communications to that address. This is a violation of section 31(1) of the PAO and rendered inaccurate the information that the Registrar of the Institute was required to maintain under section 22 of the PAO.
26. The Respondent's failure to comply with section 31(1) of the PAO would amount to a criminal offence. As such, the Respondent is guilty of dishonourable conduct.

THE PROCEEDINGS

27. A Disciplinary Committee was constituted under section 33(3) of the PAO and a Notice of Commencement of Proceedings ("Notice") was issued on 29 July 2020. The Respondent did not submit her case by 23 September 2020 in accordance with the procedural timetable enclosed with the Notice.
28. The Disciplinary Committee directed on 5 November 2020 that the substantive hearing be dispensed with unless the Respondent filed a written objection. No objection or reply was received from the Respondent. The Clerk to the Disciplinary Committee wrote to the parties on 26 November 2020 advising that the substantive hearing had been dispensed with, and the parties were directed by the Chairman of the Disciplinary Committee to file their submissions on sanctions and costs by 17 December 2020.
29. The Complainant filed its submission on sanctions and costs on 16 December 2020. The Respondent did not file any submission on sanctions and costs by 17 December 2020.
30. The Disciplinary Committee proceeded to determine that the Complaint was established based on submissions filed without a hearing.
31. To assist the Committee in exercising its discretion the Complainant has referred to a number of past decisions with similar facts to the current case. However, these are not binding on the Committee and act as a guide.
32. In considering the proper order to be made in this case, the Disciplinary Committee has had regard to all the aforesaid matters, including the particulars in support of the Complaint, and the Respondent's refusal to participate in the proceedings notwithstanding the fact that the Respondent used her current address to renew her PC but chose to ignore all correspondence from the Institute and in these proceedings.

SANCTIONS AND COSTS

33. The Disciplinary Committee having considered all the documents available, the submission made by the representative of the Complainant and the circumstances as a whole in particular the blatant disregard by the Respondent of these proceedings, orders that:-

- (a) the Respondent be reprimanded under section 35(1)(b) of the PAO;
- (b) the name of the Respondent be removed from the register of certified public accountants for three (3) years under section 35(1)(a) of the PAO and it shall take effect on the 42nd day from the date of this order;
- (c) the practising certificate issued to the Respondent be cancelled under section 35(1)(da) of the PAO and it shall take effect on the 42nd day from the date of this order; and
- (d) the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant, including the costs of the Disciplinary Committee, in the sum of HK\$66,051.50 under section 35(1)(iii) of the PAO.

Dated the 16th day of March 2021.

Mr. Lim Kian Leng, Malcolm
Chairman

Mr. Chiu Shun Ming
Member

Ms. Cheng Pui Ngar
Member

Mr. Leung Ka Yau
Member

Mr. Kenneth Morrison
Member