



2. The particulars of the Complaint (the "**Complaint**") are set out below.

### **Background**

3. The Respondent is a sole proprietor of Yu Ching Hoi & Company (firm no. 2092) (the "**Practice**"). He is responsible for the Practice's quality control system and the quality of its audit engagements.
4. The Practice had been selected for an initial practice review in July 2015 and deficiencies in relation to its quality control system and audit engagement were identified.
5. A follow up practice review visit was conducted in January 2017. The main purpose of this visit was to confirm whether the Practice had taken appropriate actions in response to findings identified in the initial practice review.
6. In the follow up visit, the practice reviewer ("**Reviewer**") reviewed the following two audit engagements:
  - (a) Client S, a private entity, for the year ended 31 December 2015. The relevant auditor's report was issued on 18 August 2016; and
  - (b) Client V (2013), a private entity, for the year ended 31 March 2013. The relevant auditor's report was issued on 5 April 2016.
7. In addition, the Reviewer performed a high level review on the following engagements:
  - (a) Client V (2014), a private entity, for the year ended 31 March 2014. The relevant auditor's report was issued on 3 May 2016;
  - (b) Client V (2015), a private entity, for the year ended 31 March 2015. The relevant auditor's report was issued on 4 May 2016;
  - (c) Client T, a private entity, for the year ended 31 March 2015. The relevant auditor's report was issued on 26 May 2016; and
  - (d) Client W, a private entity, for the period ended 31 March 2015. The relevant auditor's report was issued on 25 October 2016.
8. The Reviewer found a number of deficiencies in the Practice's quality control system and audit engagements during the follow up visit. Some of these deficiencies are the same or similar to those findings identified in the initial practice review, indicating that the Respondent failed to address the deficiencies previously identified.

9. In addition, the Respondent was found to have provided false and/or misleading answers in the 2016 practice review self-assessment questionnaire ("EQS") which was submitted to the Reviewer prior to the practice review.
10. The Practice Review Committee ("PRC") considered that the findings show serious lack of due care and regard to audit quality. Moreover, the false and/or misleading reporting in the EQS raised doubts about the Respondent's integrity. As such, the PRC decided to raise a complaint against the Respondent for his misconduct

### **The Complaints**

#### *First Complaint*

11. Section 34(1)(a)(vi) of the Professional Accountants Ordinance ("PAO") applies to the Respondent in that he had failed or neglected to observe, maintain or otherwise apply a professional standard in respect of the answers he provided in the 2016 EQS.

#### *Second Complaint*

12. Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he had failed or neglected to observe, maintain or otherwise apply professional standard(s) in respect of his audit of Client S for the year ended 31 December 2015.

#### *Third Complaint*

13. Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he had failed or neglected to observe, maintain or otherwise apply professional standard(s) in respect of his audit of Client V for the year ended 31 March 2013.

#### *Fourth Complaint*

14. Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he had failed or neglected to observe, maintain or otherwise apply a professional standard for his failure to maintain an adequate quality control system.

#### *Fifth Complaint*

15. Section 34(1)(a)(viii) of the PAO applies to the Respondent in that he has been guilty of professional misconduct.

### **Facts and circumstances in support of the First Complaint**

16. The fundamental principle of integrity under sections 100.5(a), 110.1 and 110.2 of the Code of Ethics for Professional Accountants ("COE") requires a professional accountant to be straightforward and not knowingly be associated with information which contains false or misleading statements; or information furnished recklessly.
17. Prior to the follow up visit, the Respondent submitted the 2016 EQS which reported that the Practice had:
  - implemented quality control policies and procedures and had retained documentation to provide evidence of the operation of each element of the system of quality control;
  - audit methodology and procedures which had been updated to take into account the latest requirements of HKSAs and other professional standards; and
  - obtained annual written independence confirmation from all relevant personnel.
18. However, as described in paragraphs 37 to 52 below, the Reviewer found that the above answers were untrue.
19. In fact, the Respondent was also found to have provided false and/or misleading answers in the 2014 EQS before the initial practice review was carried out.
20. Such repeated submissions of false and/or misleading information demonstrates that the Respondent did not act in accordance with the fundamental principle of integrity in that he had either knowingly or recklessly submitted the answers in the EQS, in breach of sections 100.5(a), 110.1 and 110.2 of the COE.
21. As COE is a professional standard referred to in the PAO, section 34(1)(a)(vi) applies to the Respondent in this respect.

### **Facts and circumstances in support of the Second Complaint**

22. The fundamental principle of Professional Competence and Due Care under sections 100.5(c) and 130.1 of the COE requires a professional accountant to maintain professional knowledge and skill at the level required to ensure that applicable technical and professional standards are complied with.
23. The Reviewer found a number of breaches of Hong Kong Standards on Auditing ("HKSA") in the Respondent's audit of Client S, which is a company engaged in the business of trading mobile phones, computers and accessories.

*Breach of HKSA 500 "Audit Evidence"*

24. Paragraph 6 of HKSA 500 requires an auditor to design and perform audit procedures that are appropriate in the circumstances for the purpose of obtaining sufficient appropriate audit evidence.
25. The audit working papers did not show that the auditor had carried out any audit procedures to assess the validity and accuracy of the transactions recorded in the accounts of turnover of HK\$38,361,566, cost of sales of HK\$38,271,324, and administrative and operating expenses of HK\$162,304. These accounts are material and comprised the entire profit and loss accounts of Client S for the year.
26. In response to the findings, the Respondent stated that he had prepared the accounts of Client S and therefore, he had reviewed all the transactions when performing the accountancy work.
27. The inadequate procedures performed by the Respondent and his response show that the Respondent lacked understanding of the difference between the role of an auditor and a bookkeeper. As a result, he failed to see the need to perform adequate audit procedures on Client S's significant accounts.
28. The above demonstrates that the Respondent did not maintain professional knowledge and skill at the level expected of a CPA to carry out audits in accordance with applicable professional standards, in breach of sections 100.5(c) and 130.1 of the COE.
29. As COE is a professional standard referred to in the PAO, section 34(1)(a)(vi) applies to the Respondent.

**Facts and circumstances in support of the Third Complaint**

30. The Reviewer also found a number of non-compliances in the Respondent's audit of Client V (2013) demonstrating that the Respondent failed to carry out the audit with the expected level of professional competence and due care. Client V (2013) is a company engaged in trading of building materials and supplies.

*Breach of HKSA 500*

31. The audit working papers of Client V (2013) did not show that adequate audit procedures had been carried out for the purpose of obtaining sufficient appropriate audit evidence in respect of the following accounts which are material to the financial statements:
  - (a) No audit work was performed on temporary payment account of HK\$603,148 to ascertain the existence and recoverability of the balance at the year-end date.

- (b) No audit work was performed to assess the recoverability of the trade deposit of HK\$771,336 paid at the year-end date.
- (c) No audit work was performed to assess the recoverability of the balance of the amounts due from related companies of HK\$118,610 at the year-end date.
- (d) No audit work was performed to assess whether the directors' personal expenses of approximately HK\$125,800 which was included in the overseas trip expenses were incurred in the course of ordinary activities of the entity and that it was properly recorded in the financial statements.

*Breach of section 410.52 of COE*

- 32. Section 410.52 states that when deciding whether to accept an audit appointment or reappointment, auditor shall assess whether the matter which gave rise to the modification in prior year remains unresolved. If the unresolved matter would infringe on the auditor's duties, auditor would normally not accept the appointment.
- 33. For the 2013 audit of Client V, the Respondent issued a disclaimer of opinion in the auditor's report because he was unable to perform stock count procedures to ascertain the existence of inventory at the year-end date. During the follow up visit, the Respondent advised that he had also issued a disclaimer of opinion for Client V for the same reason in the previous year.
- 34. There was no evidence that the Respondent had performed work to evaluate the impact of the limitation that gave rise to the modified opinion in 2012 on the 2013 audit before accepting the reappointment in 2013, in breach of section 410.52 of COE.
- 35. The above failures found in the Respondent's audit of Client V demonstrate that he did not maintain professional knowledge and skill at the level required to ensure that the audit was carried out in accordance with applicable professional standards, in breach of sections 100.5(c) and 130.1 of the COE.
- 36. As COE is a professional standard referred to in the PAO, section 34(1)(a)(vi) applies to the Respondent in this respect.

**Facts and circumstances in support of the Fourth Complaint**

- 37. HKSQC 1<sup>1</sup> requires all firms of professional accountants to establish and maintain an adequate system of quality control which meets the requirements under the standard.

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<sup>1</sup> Hong Kong Standard on Quality Control 1 "Quality Control for Firms that Perform Audits and

*Monitoring process*

38. Paragraph 48 of HKSQC 1 requires a practice to establish an effective monitoring process which should include an ongoing consideration and evaluation of the practice's system of quality control including, on a cyclical basis, an inspection of at least one completed engagement for each engagement partner.
39. In the initial practice review, it was found that the monitoring review performed by an external monitor for the Practice in March 2015 was ineffective. As a result, the PRC directed the Practice to perform another monitoring review by the end of June 2016.
40. However, the Practice failed to perform a monitoring review as directed. During the follow up visit, the Practice did not provide evidence that another monitoring review had been carried out.

*Independence ethical requirements*

41. Paragraphs 21 and 24 of HKSQC 1 require a practice to establish policies and procedures designed to provide it with reasonable assurance that the firm and its personnel maintain independence where required by relevant ethical requirements.
42. According to section 290.165 of the COE, a self-review threat is created when a firm provides its audit clients with accounting and bookkeeping services, such as preparing accounting records or financial statements. Section 290.168 of COE further states that a firm shall evaluate the significance of the threat created and apply safeguards to eliminate the threat or reduce it to an acceptable level.
43. In the initial practice review, the Practice was found to have failed to perform any independent assessment procedures to ensure that it had proper safeguards in place to address the potential independence threats arising from its provision of accounting services to audit clients.
44. This finding continued to exist in this follow up visit. The Practice continued to provide accounting services to its audit clients without performing any procedures to assess its compliance with the independence requirements. Therefore, the Practice failed to comply with paragraphs 21 and 24 of HKSQC 1.

*Client acceptance and continuance*

45. According to paragraphs 26 to 28 of HKSQC 1, a practice is required to establish policies and procedures for client acceptance and continuance which enable the practice to obtain information necessary in the circumstances before accepting an engagement with a new client or when deciding whether to continue an engagement with an existing client.
46. During the initial practice review, it was found that the Practice did not perform client continuance procedures before the commencement of its audit engagements.
47. In this follow up visit, the Reviewer noted that the Practice still did not carry out adequate client acceptance and continuance procedures before accepting an engagement with a new or existing client, in breach of paragraphs 26 to 28 of HKSQC 1.

*Engagement performance*

48. Paragraph 32 of HKSQC 1 requires a practice to establish policies and procedures designed to provide it with reasonable assurance that engagements are performed in accordance with professional standards.
49. The Practice failed to comply with this requirement because for at least five of the engagements under review, it was found that the Practice failed to carry out the audit procedures in accordance with the following HKSA's. All these findings were also identified in the initial practice review.
  - (a) Identify the risks of material misstatement through understanding the entities' internal controls relevant to the audits and evaluating the design of those controls to determine whether they have been properly implemented, in accordance with HKSA 315 (Revised) *"Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and Its Environment"*.
  - (b) Perform audit procedures and consideration of fraud risk in revenue recognition and management override of controls, in accordance with HKSA 240 *"The Auditor's Responsibilities Relating to Fraud in an Audit of Financial Statements"*.
  - (c) Determine materiality, performance materiality and a clearly trivial amount as required by HKSA 320 *"Materiality in Planning and Performing an Audit"* and HKSA 450 *"Evaluation of Misstatements Identified during the Audit"*.



- (d) Evaluate whether the audit clients comply with law and regulations that affect the financial statements in accordance with HKSA 250 "*Consideration of Laws and Regulations in an Audit of Financial Statements*". In particular, the financial statements of Client W covered a period of 3 years (from 5 April 2012 (date of incorporation) to 31 March 2015), which exceeded the 18-month requirements under the Companies Ordinance (Cap. 622). The Practice did not carry out any audit procedures to address such violation.
  - (e) Design and perform analytical procedures to assess whether the financial statements are consistent with the auditor's understanding of the entity in accordance with HKSA 520 "*Analytical Procedures*".
  - (f) Perform subsequent event review procedures to obtain sufficient appropriate audit evidence that all events occurring between the date of the financial statements and the date of the auditor's report that require adjustment of, or disclosure in, the financial statements have been identified, in accordance with HKSA 560 "*Subsequent Events*".
  - (g) Perform audit procedures to assess the appropriateness of management's use of the going concern assumption in the preparation of the financial statements, in accordance with HKSA 570 "*Going Concern*".
50. In addition, the Reviewer found that the audit working papers of Client V (2014), Client V (2015), and Client T contained limited information to support the auditor's opinion on the relevant financial statements. There was no evidence that the Practice had performed sufficient audit work on various accounts which are material to the financial statements.
51. The above deficiencies indicate that the Respondent failed to ensure that his Practice had established effective policies and procedures to ensure that its audit reports issued were appropriate in the circumstances, in breach of HKSQC 1.
52. As HKSQC 1 is a professional standard under the PAO, section 34(1)(a)(vi) applies to the Respondent.

#### **Facts and circumstances in support of the Fifth Complaint**

53. The Respondent was found to have acted contrary to the fundamental principle of integrity imposed on all professional accountants in that he had repeatedly submitted false and/or misleading information in the EQS to the Institute.

54. In addition, the multiple and repeated deficiencies identified in the Practice's quality control system and audit engagements indicate that the Respondent failed to uphold the fundamental principle of professional competence and due care to ensure that his professional work complies with professional standards. The Respondent's claim that he had performed testing of the transactions when he was providing the bookkeeping services to the audit client further demonstrates his lack of understanding of an auditor's role and responsibilities.
55. The Reviewer concluded that the results of the follow-up visit were unsatisfactory. Notwithstanding, the Respondent did not provide any comments and action plans to address the findings. The Respondent's conduct demonstrates that he was not willing to take any remedial actions for improvement.
56. Such blatant disregard by the Respondent to comply with professional standards amount to professional misconduct.

#### **The Respondent's Case**

57. The Respondent confirmed that he admitted all of the complaints against him, yet he continued to dispute a number of facts underlying the Second and Third Complaints.
58. The Respondent disputed the Second Complaint and the Respondent's Case mainly was that Client S was a small company and one director conducted the trading of mobile phone as a side business. The Respondent examined all the transactions though no proper working paper was done.
59. The Respondent disputed the Third Complaint and the Respondent's Case mainly was that:
  - (a) The trade deposit was subsequently turned into purchase in the following year;
  - (b) The amount due from related companies stayed intact in the following year, and one of the directors of the company was the director of the related company, therefore recoverability should not be a problem;
  - (c) It was true that no proper audit working paper was done on the private expenses and not related to the ordinary activities of the company, and the amount was added back in tax computation;

- (d) Client V did not keep any stock record, e.g. stock ledger or record of any stock movement. The Respondent did not attend stock count at the year-end 2012 and there was no other alternative to verify the existence of the inventory at the year-end date 2012, therefore a disclaimer of opinion was issued. In the year 2013, the inventory was allocated to the cost of goods sold.

### **Correspondence with Parties**

- 60. By letter from the Clerk to the Parties dated 8 April 2020, the Clerk conveyed the Chairman's direction to invite Parties to make a joint application to dispense with or vary any of the requirements in the Disciplinary Committee Proceedings Rules. Should the Parties fail to reach an agreement in order to make a joint application, the Committee directs the Parties to make submissions as to the future conduct of the proceedings.
- 61. The Complainant submitted Complainant's Reply dated 14 April 2020 to the Respondent's Case to address those disputed matters.
- 62. By letter from the Clerk to the Parties dated 20 April 2020, the Clerk conveyed the Chairman's direction to the Respondent to submit a Respondent's Reply within four weeks from the date of such Direction. The Clerk also stated that as per her phone conversation with the Respondent's wife Mrs. Yu on 17 April 2020, the Committee's earlier direction for the Parties to file the joint application / submission was superseded by the above direction to the Respondent to submit his Reply to the Committee for its consideration as to the future conduct of the proceedings.
- 63. By letter from the Clerk to the Parties dated 22 June 2020, the Clerk referred to the following correspondence:
  - (a) Letter to the Parties dated 20 April 2020 in which the Disciplinary Committee directed the Respondent to submit the Respondent's Reply by 18 May 2020.
  - (b) Letter to the Respondent dated 20 May 2020 in which the Disciplinary Committee directed the Respondent to submit medical proof by 3 June 2020 in response to an email dated 18 May 2020 from the Respondent's wife requesting for a time extension to 18 August 2020 to file the Respondent's Reply.
  - (c) Letter to the Respondent dated 8 June 2020 in which the Disciplinary Committee directed the Respondent to file his Reply by 15 June 2020 as the Respondent had not filed any submission in response to the Clerk's letter dated 20 May 2020.

- (d) Letter to the Respondent dated 16 June 2020 referring to a phone conversation between the Clerk and the Respondent on even date. The Respondent was asked to submit a request for a time extension as soon as possible if he intended to file the Respondent's Reply.
- 63.1. The Clerk stated that she had not received any submission from the Respondent.
- 63.2. The Clerk further conveyed the Chairman's direction to the Parties to file their respective Checklist by 6 July 2020.
64. The Complainant filed the Complainant's Checklist on 2 July 2020.
65. The Respondent filed the Respondent's Checklist on 6 July 2020, by using the Complainant's Checklist in his submission of the Respondent's Checklist with changes he made to items #1, 5, 6 and 8 of the Checklist.
66. By letter from the Clerk to the Respondent dated 10 July 2020, the Clerk stated that the Respondent answered "No" to item #1 of the Respondent's Checklist indicating that there were no material matters of fact in dispute, which was in contradiction to the Respondent's Case in which certain facts of the Complaints were being disputed. The Clerk conveyed the Committee's direction to the Respondent, by 24 July 2020, to:
- (a) submit a written reply within two weeks from the date of this direction clarifying whether he was in fact disputing certain facts underlying the Second and Third Complaints as stated in item #1 of the Respondent's Checklist;
  - (b) confirm, if he was indeed not disputing any facts of the Complaints, whether he was withdrawing his comments with respect to the Second and Third Complaints in the Respondent's Case.
67. By letter from the Clerk to the Parties dated 31 July 2020, the Committee noted that the Respondent had not filed a reply to the Clerk's letter dated 10 July 2020 and therefore would proceed to one day of substantive hearing to be held on 5 October 2020. The Committee also directed that the (i) hearing bundle(s), (ii) Complainant's written skeleton, and (iii) Respondent's written skeleton, to be filed by (i) 14 September 2020, (ii) 25 September 2020, and (iii) 30 September 2020 respectively.

### **Substantive Hearing**

68. It was confirmed at the hearing that the Respondent admitted the First, Fourth and Fifth Complaints, and therefore the Committee would only discuss and decide on the Second and Third Complaints.

#### *Discussion and Decision of the Second Complaint*

69. The Respondent opined that he had reviewed all of the client's transactions when performing bookkeeping services.
70. The Complainant reiterated that the overall objectives of an auditor are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement; and to express an opinion on whether the financial statements are prepared, in all material respects, in accordance with an applicable financial accounting framework.
71. The Respondent further disclosed for the first time that it was his wife who performed the bookkeeping work, and he would check on his wife's work. In response to the Committee's query, the Respondent confirmed that there was no employment contract or service agreement with his wife.
72. In the Disciplinary Committee's view, the Respondent had a misconception of the role of an auditor and the performance of independent audit procedures for the purpose of obtaining sufficient appropriate evidence to ascertain occurrence/existence, the completeness, the accuracy/validity of the transactions, with a clear cutoff of the correct accounting period.
73. The Committee concludes that the Second Complaint has been substantiated as against the Respondent.

#### *Discussion and Decision of the Third Complaint*

74. The Respondent admitted that insufficient audit work was performed on temporary payment account to ascertain the existence and recoverability of the balance at the year-end date.
75. Regarding the recoverability of the trade deposit, which the Respondent defended that it was subsequently turn into purchase in the following year, the Committee disagreed with the Respondent's argument, as this was observed retrospectively in the following year, and such argument also did not prove that proper audit work was performed to assess the recoverability of this trade deposit.

76. Regarding the recoverability of the balance of the amount due from related companies, the Respondent explained that one director of the subject company Client V is also a director of the related companies, which the Respondent was also the auditor. Knowing that the related companies were financially sound, the Respondent therefore opined that the recoverability of the amount would not be a problem. The Committee disagreed with the Respondent's argument, as the "ability to repay" and "willingness to repay" are two different observations.
77. Regarding the lack of audit work to assess whether the directors' personal expenses were incurred in the course of ordinary activities of the entity and that it was properly recorded in the financial statements, the Respondent disagreed with the allegation. The Respondent admitted that no proper audit working paper was done but he reckoned that these were private expenses and not related to the ordinary activities of the company, and he added back this amount in tax computation. While the Committee acknowledged that adding back this amount in tax computation was appropriate, it was the misclassification of the expense that was erroneous. In addition, some of these expenses were included in overseas trip expenses but actually incurred locally in Hong Kong, which evidenced that the Respondent did not perform audit work properly. The Committee also questioned that, many of the expenses spent in luxurious brands, with receipts issued to an individual person were obviously unrelated to the ordinary activities of the company, but the Respondent would still find no issue with his client recording these transactions in the financial statements. The Respondent argued that the director of the company could declare these as gift and entertainment expense spent on business partners, therefore he could not reject how his client recorded those expenses. While the Committee acknowledged that such gift and entertainment expense could exist in business relationship, the lack of audit work remains.
78. Regarding the issue of repeated disclaimer of opinion in the auditor's report concerning inventory, the Respondent's Case provided no evidence or explanation about any client acceptance and continuance procedures having been carried out in accordance with section 410.52 of the COE.
79. In view of the above, the Committee finds the Third Compliant proved against the Respondent.

### **Directions**

80. The Committee finds all five Complaints proved against the Respondent.
81. The Complainant shall file a written submission on the appropriate sanctions and costs within 21 days of service of this Direction.

82. The Respondent shall file a written submission in response to the Complainant's submission on sanctions and costs within 21 days of service of the Complainant's submission.
83. The Parties are at liberty to apply for any further directions in writing to the Disciplinary Committee within 7 days of service of the Respondent's submission.

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Mr. Yu Tin Yau, Elvin  
Chairman

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Ms. Lam Ding Wing, Catrina  
Member

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Ms. Li Yin Fan  
Member

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Mr. Lin, James C  
Member

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Mr. Lee Kwo Hang, Felix  
Member