

**IN THE MATTER OF**

**A Complaint made under Section 34(1) of the Professional Accountants Ordinance (Chapter 50, Laws of Hong Kong)**

**BETWEEN**

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

**COMPLAINANT**

**AND**

**Mr. MOK, Ching Ho  
(Membership Number A34590)**

**RESPONDENT**

**BEFORE**

**A Disciplinary Committee of the Hong Kong Institute of Certified Public Accountants comprising the following Members:**

**Mr. KAM, Hugh Alexander Tsun Ting (Chairman)**

**Ms. LAU, Wan Ching**

**Mr. LEE, Tsung Wah Jonathan**

**Mr. LI, Pak Ki**

**Mr. PHENIX, Paul Anthony**

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**ORDER AND REASONS FOR DECISION**

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1. A Complaint was issued by the Complainant against the Respondent, a practising certified public accountant, on 2 July 2020.

2. By a letter dated 6 August 2020 (the “**6 August 2020 Letter**”), the Complainant and the Respondent (collectively, the “**Parties**”) jointly informed the Disciplinary Committee that the Respondent had admitted the aforesaid Complaint against him (the “**Complaint**”). The Parties also suggested that in light thereof, Paragraphs 17 to 30 of the Disciplinary Committee Proceedings Rules (the “**DCPR**”) could be dispensed with.
3. The Notice of Commencement of Proceedings was issued on 17 September 2020. Having considered the 6 August 2020 Letter, the Disciplinary Committee agreed to dispense with Paragraphs 17 to 25 of the DCPR and directed that written submissions as to sanctions and costs be filed.
4. The Complainant filed such submissions on 15 October 2020 and 11 December 2020. The Respondent did so on 14 October 2020 and 10 November 2020. In both sets of his written submissions, the Respondent confirmed that he was admitting the Complaint.
5. Thereafter, by Order dated 7 December 2020, the Disciplinary Committee directed that a hearing (the “**Hearing**”) take place.
6. The Hearing took place on 5 January 2021. For the avoidance of doubt, the Disciplinary Committee sought confirmation from the Respondent that he was indeed admitting the Complaint. The Respondent provided the same.
7. Further, at the Hearing, directions were given for further written submissions. These were provided by the Complainant on 6 January 2021 and the Respondent on 7 January 2021.

**A. The Complaint**

8. The Complaint relates to the Respondent’s conduct in the 18-month period before June 2018. During this period, the Respondent was practising in his own name and all audit work was handled by him himself.
9. The Complaint consists of 4 complaints.

A1. The First Complaint

10. The first complaint is based on Section 34(1)(a)(vi) of the Professional Accountants Ordinance (Chapter 50, Laws of Hong Kong) (the “PAO”) i.e. that the Respondent “*failed or neglected to observe, maintain or otherwise apply a professional standard*”.
11. The professional standards referred to are Sections 100.5(a), 110.1 and 110.2 of the Code of Ethics for Professional Accountants (the “COE”), which provide as follows.

*“100.5 A professional accountant shall comply with the following fundamental principles:*

*(a) Integrity – to be straightforward and honest in all professional and business relationships.”*

*“110.1 The principle of integrity imposes an obligation on all professional accountants to be straightforward and honest in all professional and business relationships. Integrity also implies fair dealing and truthfulness.”*

*“110.2 A professional accountant shall not knowingly be associated with reports, returns, communications or other information where the professional accountant believes that the information:*

*(a) Contains a materially false or misleading statement;*

*(b) Contains statements or information furnished recklessly; or*

*(c) Omits or obscures information required to be included where such omission or obscurity would be misleading.*

*When a professional accountant becomes aware that the accountant has been associated with such information, the accountant shall take steps to be disassociated from that information.”*

12. According to the Complaint, the following took place.

- 12.1. A practice review was conducted between July 2018 and March 2019 on the Respondent's practice (the "**Practice Review**"). Inconsistencies between dates in the audit reports of 3 clients (Clients G, J and T) and the dates in certain underlying working papers indicated that the audit work had not been performed before the reports had been issued.
- 12.2. When these observations were put to the Respondent in the first exit meeting on 28 February 2019 (the "**1<sup>st</sup> Exit Meeting**"), the Respondent admitted that except for bank confirmations, the working papers for these 3 clients had been created in response to the Practice Review. The Respondent further admitted that of the audit reports issued by him in the 18 months ended before June 2018 for a total of 258 clients, audit work had only been performed in advance of the issuances for 18 of those clients.
- 12.3. In light of this, the Respondent was asked to produce the audit files for one of the 18 audit clients (Client W) and 3 of the 240 remaining audit clients.
- 12.4. At the second exit meeting on 19 March 2019 (the "**2<sup>nd</sup> Exit Meeting**"), the Respondent admitted that all the audit documents for Client W, except for bank, related party and directors confirmations, had been produced in response to the practice reviewer's request for the audit file of Client W. The Respondent further admitted that no audit working papers had been produced for the 3 remaining clients prior to the dates of the audit reports for those clients.
13. In addition, the Respondent admitted, at the Hearing, that, in fact, no or little audit work had been done as regards the audit reports for all 258 clients before the issuance of those reports.
14. In light of these circumstances and the Respondent's admissions in relation thereto, we find the first complaint to be made out. Specifically, the Respondent made false and / or misleading statements in the following ways.
  - 14.1. Insofar as audit reports typically contain statements to the effect that (a) an audit has been conducted in accordance with the relevant auditing standards and (b) the auditor believes

that the audit evidence obtained is sufficient and appropriate to provide a basis for his opinion, each of the audit reports for the 258 clients contained false and / or misleading statements.

- 14.2. The audit working papers presented to the practice reviewer prior to the 1<sup>st</sup> Exit Meeting were false and / or misleading in that they sought to give the impression that the audits they related to had been properly conducted when this was not the case. Indeed, many of the audit working papers had been created only after the audit reports had been issued and only in reaction to the Practice Review.
- 14.3. Insofar as the Respondent stated at the 1<sup>st</sup> Exit Meeting that audit work had been performed in relation to the reports for 18 of the 258 clients, this was at the least misleading in that, as he subsequently confirmed at the 2<sup>nd</sup> Exit Meeting and the Hearing, no or little audit work had in fact been done as regards the reports of one / all of those 18 clients.

A2. The Second Complaint

15. The second complaint is based on Section 34(1)(a)(vi) of the PAO as well. The professional standards said to have been breached are firstly Sections 100.5(c) and 130.1 of the COE, which provide as follows.

*“100.5 A professional accountant shall comply with the following fundamental principles:*

*(c) Professional Competence and Due Care – to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional services based on current developments in practice, legislation and techniques and act diligently and in accordance with applicable technical and professional standards.”*

*“130.1 The principle of professional competence and due care imposes the following obligations on all professional accountants:*

*(a) To maintain professional knowledge and skill at the level required to ensure that clients or employers receive competent professional service; and*

*(b) To act diligently in accordance with applicable technical and professional standards when performing professional activities or providing professional services.”*

16. Further, the Hong Kong Standard on Auditing 500 “*Audit Evidence*” (“**HKSA 500**”) is also said to have been breached. Paragraphs 2 and 7 thereof, as follows, are of particular relevance.

*“2. The auditor should obtain sufficient appropriate audit evidence to be able to draw reasonable conclusions on which to base the audit opinion.”*

*“7. Sufficiency is the measure of the quantity of audit evidence. Appropriateness is the measure of the quality of audit evidence; that is, its relevance and its reliability in providing support for, or detecting misstatements in, the classes of transactions, account balances, and disclosures and related assertions. The quantity of audit evidence needed is affected by the risk of misstatement (the greater the risk, the more audit evidence is likely to be required) and also by the quality of such audit evidence (the higher the quality, the less may be required). Accordingly, the sufficiency and appropriateness of audit evidence are interrelated. However, merely obtaining more audit evidence may not compensate for its poor quality.”*

17. The ways in which the Respondent is said to have breached the provisions in paragraphs 15 and 16 above are set out in detail in the Complaint. In brief, the Complainant says that there is no evidence that the Respondent performed any audit and / or necessary work:

17.1. as regards Clients G, J and W:

17.1.1. to check documentary evidence of purchases by clients and / or sales to customers (e.g. goods received notes, goods delivery notes and shipping documents);

17.2. as regards Client G:

- 17.2.1. to ascertain that its inventories were current, as the Respondent concluded, when the inventory report did not provide a purchase date for most of the items stated therein, or to ascertain the valuation of those inventories;
- 17.2.2. to ensure that the amounts of obligation under a finance lease were properly recorded in the financial statements;
- 17.2.3. on the balance of deferred income or to assess the appropriateness of releasing an amount from deferred income to revenue; and

17.3. as regards Client W:

- 17.3.1. to ensure the Respondent understood the nature of the services performed by it;
- 17.3.2. to assess whether any portion of the service income and the costs incurred should have been recognised by reference to the stage of completion of the relevant contract in accordance with Section 8 of the Small and Medium-sized Entity Financial Reporting Framework and Financial Reporting Standard;
- 17.3.3. to assess the validity and accuracy of the transactions recorded in the accounts of purchases and subcontracting charges;
- 17.3.4. to ascertain that there were no material inventories when the client had purchased a significant amount of equipment and parts; and
- 17.3.5. to verify the validity of administrative and other operating expenses.

18. In light of these circumstances and the Respondent's admissions in relation thereto, we find the second complaint to be made out as well.

A3. The Third Complaint

19. The third complaint is also based on Section 34(1)(a)(vi) of the PAO. The professional standards said to have been breached are Paragraphs 29, 32 and 48 of the Hong Kong Standard on Quality Control 1 “*Quality Control for Firms that Perform Audits and Reviews of Financial Statements, and Other Assurance and Related Services Engagements*” (“HKSQC 1”), which provide as follows.

*“29. The firm shall establish policies and procedures designed to provide it with reasonable assurance that it has sufficient personnel with the competence, capabilities, and commitment to ethical principles necessary to:*

*(a) Perform engagements in accordance with professional standards and applicable legal and regulatory requirements; and*

*(b) Enable the firm or engagement partners to issue reports that are appropriate in the circumstances.”*

*“32. The firm shall establish policies and procedures designed to provide it with reasonable assurance that engagements are performed in accordance with professional standards and applicable legal and regulatory requirements, and that the firm or the engagement partner issue reports that are appropriate in the circumstances. Such policies and procedures shall include:*

*(a) Matters relevant to promoting consistency in the quality of engagement performance;*

*(b) Supervision responsibilities; and*

*(c) Review responsibilities.”*

*“48. The firm shall establish a monitoring process designed to provide it with reasonable assurance that the policies and procedures relating to the system of quality control are relevant, adequate, and operating effectively. This process shall:*



*(a) Include an ongoing consideration and evaluation of the firm's system of quality control including, on a cyclical basis, inspection of at least one completed engagement for each engagement partner;*

*(b) Require responsibility for the monitoring process to be assigned to a partner or partners or other persons with sufficient and appropriate experience and authority in the firm to assume that responsibility; and*

*(c) Require that those performing the engagement or the engagement quality control review are not involved in inspecting the engagement.”*

20. In the Complaint, it is alleged that, per the Respondent himself, he did not have sufficient time to complete the audit work for the reports issued by his practice for its 258 clients in the 18 months ended before June 2018. The Respondent confirmed the same at the Hearing.
21. This is said to have been in breach of Paragraph 29 of HKSQC 1 in that the Respondent failed to ensure that his practice had sufficient staff resources to perform engagements in accordance with professional standards and to issue reports that are appropriate in the circumstances.
22. In the Complaint, it is further alleged that Paragraph 32 of HKSQC 1 has been breached in that the Respondent failed to establish policies and procedures to ensure that engagements were performed in accordance with professional standards and reports issued were appropriate in the circumstances. Per the Complaint, this is reflected by the fact that audit reports were issued even though the following was not done.
  - 22.1. No audit procedures for obtaining sufficient appropriate audit evidence were designed and performed in accordance with HKSA 500 (i.e. the second complaint).
  - 22.2. The risks of material misstatement were not identified through an understanding of the entities' businesses and internal controls and an evaluation of the design of these controls in accordance with Hong Kong Standard on Auditing 315

(Revised) *“Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and its Environment”*.

- 22.3. There was no discussion with client management about the risk of fraud, and no journal entry testing to address the risk of fraud in management override of controls, in accordance with Hong Kong Standard on Auditing 240 *“The Auditor’s Responsibilities Relating to Fraud in an Audit of Financial Statements”*.
- 22.4. No analytical procedures to assess whether the financial statements were consistent with the auditor’s understanding of the entity were designed and performed in accordance with Hong Kong Standard on Auditing 520 *“Analytical Procedures”*.
- 22.5. Sampling tests with sample sizes and selections which could provide a reasonable basis for drawing audit conclusions were not designed and performed in accordance with Hong Kong Standard on Auditing 530 *“Audit Sampling”*.
- 22.6. Sufficient appropriate audit evidence to identify 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 was not obtained in accordance with Hong Kong Standard on Auditing 560 *“Subsequent Events”*.
- 22.7. There was no search for unrecorded liabilities and no impairment assessment on trade receivables aged over one year to obtain sufficient evidence that the liabilities owed by the client company had not been understated and the trade receivables not been overstated in accordance with HKSA 500.
- 22.8. The date of work performed and reviewed were not recorded in the working papers and audit confirmations in accordance with Hong Kong Standard on Auditing 230 *“Audit Documentation”*.
23. In the Complaint, it is also alleged that Paragraph 48 of HKSQC 1 has been breached in that the Respondent’s practice did not establish

a monitoring process that ensured that there was an ongoing evaluation of its system of quality control. Insofar as the Respondent had engaged an external monitor to review the working papers of Client T, the working papers themselves had only been created following the issuance of the corresponding audit report, i.e. in response to the Practice Review, and thus the external monitor had to have been engaged only in response to the Practice Review as well.

24. In light of these circumstances and the Respondent's admissions in relation thereto, we also find the third complaint to be made out.

**A4. The Fourth Complaint**

25. The fourth complaint is based on Section 34(1)(a)(viii) of the PAO i.e. that the Respondent "*has been guilty of professional misconduct*".
26. The Complainant's position is that the matters comprising the first 3 complaints show a lack of integrity and competence by the Respondent and therefore merits a finding of professional misconduct.
27. In light of our findings on the first 3 complaints and the Respondent's admission as to the fourth complaint, we agree with the Complainant.

**B. Sanctions**

**B1. Relevant Provisions**

28. Section 35(1) of the PAO provides a list of the sanctions that may be imposed by a Disciplinary Committee where a complaint made under Section 34 of the PAO is proved. These include as follows.

*“(a) an order that the name of the certified public accountant be removed from the register, either permanently or for such period as it may think fit;*

*(b) an order that the certified public accountant be reprimanded;*

*(c) an order that the certified public accountant pay a penalty not exceeding \$500,000 to the [Hong Kong] Institute [of Certified Public Accountants];*

[...]

*(da) an order that the practising certificate issued to the certified public accountant be cancelled;*

*(db) an order that a practising certificate shall not be issued to the certified public accountant either permanently or for such period as the Disciplinary Committee may think fit”.*

29. Also relevant is the Hong Kong Institute of Certified Public Accountants’ Guidelines to Disciplinary Committee for Determining Disciplinary Orders (the “**GDDO**”) and we have considered this in full carefully. In particular, we note for now Paragraph 1.4 thereof, which makes it clear that the aims of sanctions are as follows:

29.1. to sanction in a manner proportionate to the nature of the failure and the harm or potential harm caused;

29.2. to protect public interest;

29.3. to deter non-compliance with professional standards;

29.4. to maintain and promote public confidence in the profession;  
and

29.5. to declare and uphold proper standards of conduct and performance.

## B2. Seriousness of the Complaint

30. In Paragraph 6.1 of the GDDO, it is suggested that we consider whether the offence is “*moderately serious*”, “*serious*” or “*very serious*” and use this categorisation to determine the nature of the sanction to be imposed. In light of the below, we have no hesitation in finding that the offence is of the “*very serious*” category.

31. Firstly, at the heart of the Complaint is the fact that the Respondent has lied. The importance for an accountant to act with integrity and honesty in his practice cannot be understated. As the COE makes clear, doing so is a fundamental principle. After all, the profession has little value to society if the acts and statements of its members cannot be trusted.
32. Secondly, the nature of the Respondent's lies was severe. This can be seen in multiple ways.
  - 32.1. To begin with, in the relevant 18-month period, the Respondent issued false and / or misleading audit reports for 258 clients. The Complainant says that the Respondent was creating documents that simply could not be relied upon on "*a massive scale*" or on "*a factory scale*". We agree. What the Respondent has done can only be described as disturbing. In this regard, it is also important to bear in mind that in issuing such reports without completing the requisite audit work, the Respondent was not only lying to his 258 clients but also to all members of the public that relied on those reports. That audited reports are much depended upon by the business and broader communities is self evident.
  - 32.2. Moreover, to cover up his earlier lies, the Respondent then lied repeatedly to the Hong Kong Institute of Certified Public Accountants (the "**Institute**") during the course of the Practice Review. He presented working papers to the practice reviewer that gave the impression that the audit reports relating thereto had been properly issued. In fact, the working papers had been created after the audit reports had been issued and the underlying audit work for the reports had not been done before their issuance. When this was pointed out to him, the Respondent stated that with regard to 18 of his 258 clients, audit work had been performed prior to the issuance of reports. This then turned out to be misleading in that no or little audit work had in fact been done as regards the reports of one / all of those 18 clients.
33. Thirdly, the Respondent has profited handsomely from his lies. By his written submission dated 7 January 2021, he admitted that the total audit fee for his 258 clients (298 engagements in total) was HK\$1,431,949. Indeed, at the Hearing, the Respondent admitted that

his motive for issuing all his false and / or misleading reports was to make more money. This is plainly unacceptable.

34. Fourthly, ethical considerations aside, the Respondent has also demonstrated a serious lack of competence. He has failed to act in accordance with at least 7 Hong Kong Standards on Auditing (“HKSAAs”) and failed to properly complete what would seem to be rather basic and / or ordinary procedures such as determining a suitable sample size, discussing with client management about the risk of fraud, checking sufficient underlying documents and understanding the nature of the services provided by his clients. There were no explanations for why he had so failed.

B3. Proposed Sanctions

35. The Complainant submits that the egregious nature of the Respondent’s breaches and the need to send a clear message to the profession and the public justify a lengthy period of removal from the register of certified public accountants of not less than 5 years.
36. On the other hand, the Respondent submits that he should be subject to a reprimand, a cancellation of his practising certificate, a non-issuance of a practising certificate to him for a period of 18 months and a penalty of HK\$50,000.

B4. Authorities from the Complainant

37. In support of its proposed sanctions, the Complainant referred firstly to the following seminal passage by the Court of Appeal of England and Wales in **Bolton v. Law Society** [1994] 1 WLR 512 at 518 (per Sir Thomas Bingham MR) as follows.

*“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. Lapses from the required high standard may, of course, take different forms and be of varying degrees. 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. Only infrequently, particularly in recent years, has it been willing to order the restoration to the Roll of a solicitor against whom serious dishonesty had been established, even after a passage of years, and even where the solicitor had made every effort to re-establish himself and redeem his reputation. If a solicitor is not shown to have acted dishonestly, but is shown to have fallen below the required standards of integrity, probity and trustworthiness, his lapse is less serious but it remains very serious indeed in a member of a profession whose reputation depends upon trust. A striking off order will not necessarily follow in such a case, but it may well. [...] Only in a very unusual and venial case of this kind would the tribunal be likely to regard as appropriate any order less severe than one of suspension.”*  
[Emphasis added.]

38. This passage was held to apply to accountants locally by the Court of Appeal in **Chan Cheuk Chi v. The Registrar of the Hong Kong Institute of Certified Public Accountants** (CACV 38/2012, 30 January 2013) at paragraphs 35, 36 and 38 (per Fok JA).
39. Next, in terms of previous Proceedings of the Institute’s Disciplinary Committees (the “**Disciplinary Committees**”), the Complainant referred to the following.
40. **RE Mr. MO, Kong Fung** (Proceedings No. D-18-1339P, 13 June 2019) involved a sole proprietor who had firstly created new working papers in response to a practice review to replace original ones made before the issuance of the audit reports for 2 clients. He had also provided misleading information to the practice reviewer in a meeting and in a self-assessment questionnaire.
41. Secondly, the practice review found auditing deficiencies in the working papers for those 2 clients and 10 other engagement files such as failing to ascertain the accuracy and / or completeness of sales, purchases, inventories, trade receivables and trade payables and failing to complete client acceptance and continuance procedures before the practice accepted (re)appointments. It was found that 3 HKSAs had been breached.

42. The Disciplinary Committee ordered that the sole proprietor be reprimanded, that he pay a penalty of HK\$80,000, that a practising certificate not be issued to him for 2 years and that he be removed from the register for 1 year.
43. **RE Mr. SETO, Man Fai** (Proceedings No. D-14-1033F/1065F/1081F, 31 January 2018) involved 11 complaints relating to the audits of 3 listed companies.
44. It was found firstly that the respondent therein had given numerous inconsistent and incredible statements (such as over his ability to gain access to audit documentation or over such documentation having been lost) to the Audit Investigation Board of the Financial Reporting Council during its investigation.
45. Secondly, the individual had been unable to provide any working papers for the audits, any engagement documentation and the practice's quality control policies relating to the audits of listed companies.
46. Thirdly, deficiencies had also been found in the audits performed. For example, the individual had failed to properly evaluate whether financial statements were presented in accordance with the applicable financial reporting framework or whether management's use of the going concern assumption was appropriate and failed to appoint an Engagement Quality Control Reviewer for one of the audits. In this regard, the Disciplinary Committee held that 4 HKSAs had been breached.
47. After taking into account the individual's mitigating factors, the Disciplinary Committee ordered that he be removed from the register for 5 years. No financial penalty was ordered in part due to the substantial sum of the costs of the Complainant and the Clerk of the Committee the individual had to bear i.e. HK\$523,697.20.
48. **RE Mr. YAN, Kwok Ting, Sunny** (Proceedings No. D-11-0612C, 2 May 2018) involved an employee of a company who gave a false or misleading information in a declaration to the Securities and Futures Commission. The Commission was investigating 3 sets of submissions from the company that gave the Stock Exchange of Hong Kong an unjustified impression that sufficient due diligence work had been conducted. The employee's superior, who had signed the submissions, presented new evidence that shifted the blame on



to another individual (a director) and also presented a declaration from the employee that supported the superior's story e.g. that the director had recommended the superior sign the 3 sets of submissions.

49. The Securities and Futures Appeal Tribunal concluded that the “*overwhelming inference*” was that the new evidence had been concocted “*deliberately and unscrupulously*” by the superior to blame “*a completely innocent person*” for his own shortcomings. The employee's declaration had been false as well, he knowing of the falsity of the new evidence. It was an act tending to pervert the course of justice.
50. In separate disciplinary proceedings commenced under the PAO, the Disciplinary Committee found the employee guilty of dishonourable conduct and removed him from the register for 5 years.
51. **RE Mr. WONG, Kong Yiu, Nigel** (Proceedings No. D-15-1051H/1063P, 7 June 2017) involved a sole practitioner who was found firstly to have failed to renew his practice's professional indemnity insurance for 4 years, and run off insurance cover upon the practice's deregistration, as required.
52. He was found secondly to have made materially false declarations in having declared in each of those 4 years that he had renewed its insurance, on which basis the Institute had allowed the renewal of the practice's registration.
53. He was found thirdly to have failed without reasonable excuse to comply with a direction of the Institute's Practice Review Committee to cooperate with the Institute's Quality Assurance Department to arrange a site visit. Specifically, the Department had originally scheduled a visit but this had not happened due to the individual's absence without advance notice or reason. This had led to the direction to cooperate after which repeated attempts to arrange a visit were met with no response.
54. The Disciplinary Committee ordered that the individual be removed from the register for 5 years for the false declarations, 3 years for the failure to arrange insurance cover and 1 year for the non-compliance with the direction to cooperate, all periods to run concurrently.

**B5. Authorities from the Respondent**

55. The Respondent referred to 7 previous Proceedings of the Disciplinary Committees in his written submissions dated 14 October 2020. It is noted that of these, 6 all involved no more than a sanction of a reprimand, a cancellation of practising certificates for no more than 24 months and a penalty of no more than HK\$70,000. The seventh is **RE Mr. MO, Kong Fung (2019)** as set out in paragraphs 40-42 above.
56. At the Hearing, the Respondent placed emphasis on this last named authority, urging us to follow the sanction set out therein.

**B6. Mitigating Circumstances**

57. In his written submissions dated 14 October 2020 and 10 November 2020 and in his oral submissions at the Hearing, the Respondent relied on the following mitigating circumstances.
- 57.1. He had admitted the Complaint very shortly after it had been issued.
- 57.2. He has expressed remorse for his actions.
- 57.3. He has formulated a plan for avoiding his past errors if he were allowed to continue to practice, such as limiting the number of audit engagements to fewer than for 10 small and medium enterprise clients per year. He has also formulated a plan for improving himself in the interim, such as reading up on materials on auditing standards and attending courses.
- 57.4. He has a clear criminal and disciplinary record.
- 57.5. He has been an active and outstanding volunteer in the community. In this regard, he has produced certificates showing a contribution of 200 hours of volunteer service from 2016 to 2018 as well as 3 commendations from the Civil Aid Service and the Hong Kong Road Safety Patrol from 2017 to 2019.
- 57.6. He has certain financial needs, having welcomed a baby into the family in May 2021 and having to make monthly payments to clear off a mortgage in the sum of approximately

HK\$5,000,000. In this regard, he also said that he runs no other business and would have to rely on his personal savings.

58. There was no dispute by the Complainant that the matters set out in paragraph 57 above are factually true or are relevant for the purpose of considering the level of sanction to be imposed on the Respondent.

B7. Analysis

59. In our view, it is necessary that the Respondent be removed from the register of accountants for a period. In reaching this position, we have considered in particular (1) the “*very serious*” nature of the complaints as proven (2) the aims of sanctions as per the GDDO (3) the dicta of the Court of Appeal of England and Wales and of here as set out in paragraphs 37-38 and (4) the general tenor of the previous decisions of the Disciplinary Committees as set out in paragraphs 40-54 above.
60. Specifically, the aforesaid dicta make it clear that where a professional has been found guilty of dishonesty, it is almost invariable that he be struck off regardless of how strong the mitigating circumstances. The imperative to strike off is made all the clearer by the fact that striking off may well be the correct sanction even where a professional has not acted dishonestly, but has ‘merely’ been shown to have fallen below the required standards of integrity, probity and trustworthiness.
61. We add that, in such circumstances, insofar as the Respondent originally suggested, on the basis of 6 authorities in his written submissions dated 14 October 2020, that his sanction simply be a reprimand, a financial penalty and a cancellation of his practising certificate, this is simply not appropriate. In particular, there was no explanation by the Respondent in any of his written submissions or at the Hearing as to why these 6 authorities are applicable in these present circumstances or why they should be applied in spite of the strong indication that a removal should be imposed. In fact, we note that, at the Hearing, the Respondent urged us to follow his seventh authority of **RE Mr. MO, Kong Fung (2019)**, which actually involved a removal from the register, in determining his sanctions.
62. As to the period of removal, we started at one of 5 years.

63. Firstly, we consider the period of 1 year in **RE Mr. MO, Kong Fung (2019)** would be too low at present. In that case, there was the creation of working papers post issuance of audit report in respect of only 2 clients (as opposed to issuing false audit reports for 258 clients at present). The scale of the problem is clearly much more serious at present. Further, in terms of auditing deficiencies, as one point of reference, the Respondent has failed to act in accordance with 7 of these, as opposed to only 3 HKSA's being breached in **RE Mr. MO, Kong Fung (2019)**.
64. Secondly, in **RE Mr. WONG, Kong Yiu, Nigel (2017)**, the individual was sanctioned with a 5-year removal for having made 4 false declarations as to having renewed the insurance for his practice. Similarly, in **RE Mr. Yan, Kwok Ting, Sunny (2018)**, the individual was sanctioned with a 5 year removal for having made a false declaration to the Securities and Futures Commission as to his superior's role with regard to submissions to the Commission made by his superior. We do not find the dishonesty of the Respondent at present to be any less serious than in these 2 situations. Indeed, it may arguably be said to be more serious.
65. Thirdly, we note also that a 5-year removal was ordered in **RE Mr. SETO, Man Fai (2018)**. Although the Respondent did not so submit, it might be said that that case was more serious. There were more complaints there, the audits related to listed as opposed to private companies and other than false statements and audit deficiencies, there was also a charge of failing to provide documents and information.
66. We note, however, that the number of parties involved in the present case was far higher (258 as opposed to 3) and the number of HKSA's not followed was also higher (7 as opposed to 4). We also note that the 5-year period was arrived at after the individual's mitigating circumstances were considered. As is apparent below, once we take into account the Respondent's such circumstances, the period is less than 5 years.
67. Thus, as indicated above, we start with a removal period of 5 years. We have then taken into account the Respondent's mitigating circumstances subject to the following 2 caveats.

- 67.1. In light of the seriousness of the Respondent's conduct, these circumstances can, in our view, only have limited applicability.
- 67.2. We note also that we are not necessarily able to accept at least one of these circumstances entirely. Specifically, insofar as the Respondent says he has certain financial needs and asks therefore for leniency, the reality is that, by his own admission, he made a profit of HK\$1,431,949 from the 298 engagements for 258 clients he did not complete properly in the 18 months ended before June 2018. This profit is at the very least not fully warranted. If no action is taken for the recovery of those sums, he will be able to make use of the excess profit for those needs.
68. In light of the mitigating circumstances as considered, we come to a view that the appropriate sentence should be removal from the register for 4 years and a financial penalty of HK\$80,000.
69. We note for completeness that a combination of removal and financial penalty was an approach adopted in **RE Mr. MO, Kong Fung** (2019).

**C. Costs**

**C1. Relevant Provisions**

70. Section 35(1)(iii) of the PAO empowers a Disciplinary Committee to make such order as it thinks fit as regards the costs of and incidental to the proceedings, whether of any party or of the Disciplinary Committee itself.

**C2. Analysis**

71. We consider that, in light of the outcome of the present proceedings, the Respondent should pay the costs of the Complainant and the Clerk of the Disciplinary Committee as regards these proceedings.
72. At the Hearing, the Complainant tendered a statement of costs for the whole of these proceedings in the sum of HK\$75,295. The statement included estimated costs for the Hearing on the basis that the Hearing would last for 2 hours. It lasted for less than this so we

make a reduction accordingly and the sum payable by the Respondent for the Complainant's costs is HK\$70,000.

73. The Clerk of the Disciplinary Committee has tendered a statement of costs for the whole of these proceedings in the sum of HK\$3,630. We grant this.

**D. Dissent**

74. One Member of the Disciplinary Committee dissents with regard to the length of the period of removal from the register of certified public accountants, such Member taking the view that, after considering all the circumstances of the present case, mitigation factors, and the Parties' submissions and authorities, a period of 5 years should be ordered. The Member does not disagree with any other part of the Order below.

**E. Conclusion**

75. In light of all of the above, we order as follows:
- 75.1. the name of the Respondent be removed from the register of certified public accountants for a period of 4 years pursuant to Section 35(1)(a) of the PAO;
  - 75.2. the Respondent pay a penalty of HK\$80,000 to the Institute pursuant to Section 35(1)(c) of the PAO;
  - 75.3. the Respondent pay the costs and expenses of and incidental to these proceedings of the Complainant in the sum of HK\$70,000 to the Complainant pursuant to Section 35(1)(iii) of the PAO;
  - 75.4. the Respondent pay the costs and expenses of and incidental to these proceedings of the Clerk to the Disciplinary Committee in the sum of HK\$3,630 to the Institute pursuant to Section 35(1)(iii) of the PAO; and
  - 75.5. this Order take effect from 42 days from the date hereof.

Dated 6 September 2021

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**Mr. KAM, Hugh Alexander Tsun Ting**  
**Chairman**

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**Ms. LAU, Wan Ching**  
**Member**

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**Mr. LEE, Tsung Wah Jonathan**  
**Member**

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**Mr. LI, Pak Ki**  
**Member**

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**Mr. PHENIX, Paul Anthony**  
**Member**

Mr. NG, Kenneth appeared for the Complainant.

The Respondent appeared in person.