

IN THE MATTER OF

A Complaint made under section 34(1A) of the Professional Accountants Ordinance (Cap. 50) ("PAO") and referred to the Disciplinary Committee under section 33(3) of the PAO

BETWEEN

The Registrar of the Hong Kong  
Institute of Certified Public  
Accountants

COMPLAINANT

AND

CHAN Chun Hung (membership no.: F03421) RESPONDENT

Members: Ms. LEE, Fen, Brenda (Chairman)  
Miss CHAN, Yat Mei, Sophie  
Mr. DONOWHO, Simon Christopher  
Mr. LAU, To Koon, Kenneth  
Mr. YU, Kwok Kuen, Harry

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**REASONS FOR DECISION**

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1. This is a complaint made by the Registrar of the Hong Kong Institute of Certified Public Accountants ("the Institute") as Complainant against the Respondent, who is a certified public accountant (practising). Section 34(1)(a)(vi) of the PAO applied to the Respondent.
2. The particulars of the Complaint as set out in a letter dated 26 October 2012 ("the Complaint") from the Registrar of the Institute to the Council of the Institute for consideration of the Complaint for referral to the Disciplinary Panels were as follows:-
  - a) The Complaint was in respect of an accountant's report dated 30 September 2010 ("Accountant's Report") issued by the Respondent in accordance with the Accountant's Report Rules ("ARR") of [a firm of solicitors] (the "Solicitors Firm"), for the period from 1 April 2009 to 31 March 2010.
  - b) In paragraph 10 of the Accountant's Report, the Respondent certified that :

“In compliance with section 8 of the Legal Practitioners Ordinance and the Accountant’s Report Rules, I have examined the books, accounts and documents of the firm produced to me and I certify that from my examination and from the explanations and information given to me :

- (1) I am satisfied that during the accounting period the firm has complied with the provisions of the Solicitors’ Accounts Rules, except for trivial breaches due to clerical errors or mistakes in book-keeping, all of which were rectified on discovery and which I am satisfied did not result in any loss to any client.
  - (2) I am not aware of any matter which appears to affect adversely any client account or any trust money held by the firm to a material extent.”
- c) The Law Society was given to understand that 18 unknown cheque payments totalling HK\$525,858.80 which were made out of the client accounts of the Solicitors Firm in the period between 5 January 2010 and 29 March 2010 were discovered to be funds stolen from clients’ accounts by a former clerk of the Solicitors Firm.
  - d) In the course of preparing the Accountant’s Report, Chan was aware that there were 18 cheque payments, details of which were unknown.
  - e) On 15<sup>th</sup> February 2012, the Complainant sought the Respondent’s representations on the matter. The Respondent replied on 6 March 2012 providing his explanations and a complete set of working papers relating to the audit of the Solicitors Firm’s accounts for the period from 1 April 2009 to 31 March 2010.
  - f) However, according to the working papers provided, the Respondent had yet to obtain copies of the 18 cheques paid from the clients’ accounts. These had been requested from the Solicitors Firm by the Respondent but were not available at the date of signing the Accountant’s Report. Copies of these cheques only became available after the Respondent signed the Accountant’s Report and showed that monies had been systematically stolen from clients’ accounts, by staff of the Solicitors Firm.
  - g) Given that the Respondent had yet to receive and/or review the 18 unknown cheque payments he would not have been in any position to have determined or state that those unknown payments were “trivial breaches due to clerical errors or mistakes in book-keeping, all of which were rectified on discovery”.
  - h) In the circumstances, paragraph 10 of the Accountant’s Report was incorrect and, accordingly, the Respondent failed to comply with rule 4(2) of the ARR.

3. The Respondent admitted the Complaint against him. He did not dispute the facts as set out in the Complaint. He agreed that the steps set out in paragraphs 17 to 30 of the Disciplinary Committee Proceedings Rules be dispensed with.
4. By a letter dated 14 March 2013 addressed to the Complainant and the Respondent, the Clerk to the Disciplinary Committee ("DC"), under the direction of the DC, informed the parties that they should make written submissions to the DC as to the sanctions and costs and that the DC would not hold a hearing on sanctions and costs unless otherwise requested by the parties.
5. Written submissions to the DC as to the sanctions and costs were made by the Complainant and the Respondent on 3 April 2013 and 15 April 2013 respectively. Having considered the facts admitted by the Respondent as set out in the Complaint, the Respondent's early admission of the Complaint and the past disciplinary orders of similar nature, the DC is of the view that a reprimand and payment of penalty plus costs would be appropriate in the circumstances of this case.
6. In considering the proper order to be made in this case, the DC has had regard to all the aforesaid matters, including the particulars in support of the Complaint.
7. The DC orders that:-
  - 1) the Respondent be reprimanded under section 35(1)(b) of the PAO;
  - 2) the Respondent do pay a penalty of HK\$20,000 under section 35(1)(c) of the PAO;
  - 3) the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$23,914 under section 35(1)(iii) of the PAO; and
  - 4) the said penalty and the costs and expenses in the total sum of HK\$43,914 shall be paid by the Respondent within 28 days from the date of this Order.

Dated the 28<sup>th</sup> day of May 2013

IN THE MATTER OF

A Complaint made under section 34(1A) of the Professional Accountants Ordinance (Cap. 50) ("PAO") and referred to the Disciplinary Committee under section 33(3) of the PAO

BETWEEN

The Registrar of the Hong Kong  
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COMPLAINANT

AND

CHAN Chun Hung (membership no.: F03421) RESPONDENT

Before a Disciplinary Committee of the Hong Kong Institute of Certified Public Accountants ("the Institute").

Members: Ms. LEE, Fen, Brenda (Chairman)  
Miss CHAN, Yat Mei, Sophie  
Mr. DONOWHO, Simon Christopher  
Mr. LAU, To Koon, Kenneth  
Mr. YU, Kwok Kuen, Harry

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**ORDER**

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Upon reading the complaint against Chan Chun Hung, being a certified public accountant (practising), as set out in a letter from the Registrar of the Institute ("the Complainant") dated 26 October 2012, the written submission of the Complainant dated 3 April 2013, the written submission of the Respondent dated 15 April 2013, and other relevant documents, the Disciplinary Committee is satisfied by the admission of the Respondent and the evidence adduced before it that the following complaint is proved:

Section 34(1)(a)(vi) of the PAO applies to Chan in that he had failed or neglected to observe, maintain or otherwise apply a professional standard, namely paragraph 100.4(c) "Professional Competence and Due Care" of the Code and section 130 "Professional Competence and Due Care" of the Code by failing to comply with rule 4(2) of the ARR.

IT IS ORDERED that:-

1. the Respondent be reprimanded under section 35(1)(b) of the PAO;
2. the Respondent do pay a penalty of HK\$20,000 under section 35(1)(c) of the PAO;
3. the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$23,914 under section 35(1)(iii) of the PAO; and
4. the said penalty and the costs and expenses in the total sum of HK\$43,914 shall be paid by the Respondent within 28 days from the date of this Order.

Dated the 28<sup>th</sup> day of May 2013