



Dear Assignment / News / Business Section Editor

Hong Kong Institute of Certified Public Accountants takes disciplinary action against a removed certified public accountant (practising) and a corporate practice

(HONG KONG, 7 February 2014) — A Disciplinary Committee of the Hong Kong Institute of Certified Public Accountants ordered on 8 January 2014 that (a) the name of Choi Kwok Man (membership number A03798) be removed from the register of certified public accountants for 30 months with effect from 17 February 2014, and the removal shall take effect concurrently to the removal order on Choi which took effect on 18 November 2013; and (b) K.M. Choi & Au Yeung Limited (corporate practice number M043) be reprimanded for their refusal or neglect to comply with the provisions of rule 7 of the Corporate Practices (Registration) Rules.

In addition, Choi and the corporate practice (collectively "respondents") were ordered to pay the costs of the disciplinary proceedings of HK\$81,893.

The corporate practice was selected for review by the Institute's Practice Review Committee. Choi was the director responsible for all audit engagements provided by the corporate practice. The practice review team found that the signatures on the audit reports on three financial statements selected for review were materially different and did not resemble Choi's specimen signatures. Choi explained that he had authorized three audit staff to sign off all the audit reports on his behalf but none of these audit staff were a director of the corporate practice and a practising member. After considering information available, the Institute lodged a complaint against Choi and the corporate practice under section 34(1)(a)(ix) of the Professional Accountants Ordinance.

The Disciplinary Committee found that the respondents refused or neglected to comply with rule 7 of the Rules made by the Council by allowing audit reports issued by the corporate practice to be signed by persons who were not directors of the corporate practice and practising members.

Having taken into account the circumstances of the case, the Disciplinary Committee made the above order against the respondents under section 35(1) of the ordinance.

Under the ordinance, if the respondents are aggrieved by the order, they may give notice of an appeal to the Court of Appeal within 30 days after they are served the order.

The order and findings of the Disciplinary Committee are available at the Institute's website under the "Compliance" section at www.hkicpa.org.hk.

Disciplinary proceedings of the Institute are conducted in accordance with Part V of the ordinance by a five-member Disciplinary Committee. The majority (three members) of each committee, including the chairman, are non-accountants chosen from a panel appointed by the Chief Executive of the HKSAR, and the other two members are CPAs.

Disciplinary hearings are held in public unless the Disciplinary Committee directs otherwise in the interests of justice. A hearing schedule is available at the Institute's website. A CPA who feels aggrieved by an order made by a Disciplinary Committee may appeal to the Court of Appeal, which may confirm, vary or reverse the order.

The Disciplinary Committees have the power to sanction members, member practices and registered students. Sanctions include temporary or permanent removal from membership or cancellation of a practising certificate, a reprimand, a penalty of up to \$500,000, and payment of costs and expenses of the proceedings.

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About the Hong Kong Institute of Certified Public Accountants

The Hong Kong Institute of CPAs is the only body authorized by law to register and grant practising certificates to certified public accountants in Hong Kong. The Institute has more than 36,000 members and more than 17,000 registered students. Members of the Institute are entitled to the description *certified public accountant* and to the designation CPA.

The Hong Kong Institute of CPAs evolved from the Hong Kong Society of Accountants, which was established on 1 January 1973.

The Institute operates under the Professional Accountants Ordinance and works in the public interest. The Institute has wide-ranging responsibilities, including assuring the quality of entry into the profession through its postgraduate qualification programme and promulgating financial reporting, auditing and ethical standards in Hong Kong. The Institute has responsibility for regulating and promoting efficient accounting practices in Hong Kong to safeguard its leadership as an international financial centre.

The Hong Kong Institute of CPAs is a member of the Global Accounting Alliance – an alliance of the world's leading professional accountancy bodies, which was formed in 2005. The GAA promotes quality services, collaborates on important international issues and works with national regulators, governments and stakeholders.

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致：編採主任／新聞／財經版編輯

香港會計師公會對一名已除名的執業會計師及一執業法團作出紀律處分

(香港，二零一四年二月七日) — 香港會計師公會轄下一紀律委員會於二零一四年一月八日因蔡國文先生(會員編號：A03798)及蔡國文歐陽會計師事務所有限公司(執業法團編號：M043)拒絕遵從或忽略遵從Corporate Practices (Registration) Rules第七條，作出以下處分：**(a)**命令由二零一四年二月十七日起將蔡國文的名字從專業會計師註冊紀錄冊中除名，為期三十個月，而該除名命令應與蔡先生於二零一三年十一月十八日起生效的另一項除名命令同時執行；及**(b)**對該執業法團作出譴責。

此外，蔡先生及該執業法團須支付紀律程序的費用八萬一千八百九十三港元。

該執業法團被公會執業審核委員會挑選進行審核。蔡先生為該執業法團的董事，並負責該執業法團所有的審計項目。審核人員發現在三份被挑選進行審核的財務報表中，其核數師報告的簽名各有不同，亦與蔡先生的簽名樣本並不相似。蔡先生解釋他授權三位審計僱員代表其簽署所有核數師報告，但這三位審計僱員均並非該執業法團的董事或執業會計師。公會經考慮所得資料，根據《專業會計師條例》第34(1)(a)(ix)條對蔡先生及該執業法團作出投訴。

紀律委員會裁定蔡先生及該執業法團拒絕遵從或忽略遵從公會理事會訂立的條文 – Corporate Practices (Registration) Rules第七條，因為他們允許並非該執業法團的執業董事及非執業會計師的人士簽署核數師報告。

經考慮有關情況後，紀律委員會根據《專業會計師條例》第35(1)條向他們作出上述的命令。

根據《專業會計師條例》，如蔡先生及該執業法團不服紀律委員會對他們作出的命令，可於命令文本送達後30天內向上訴法庭提出上訴。

紀律委員會的書面判決可於公會網頁內Compliance部份查閱，網頁為<http://www.hkicpa.org.hk>。

公會的紀律程序是根據《專業會計師條例》第V部份，由五位成員組成的紀律委員會執行。每個紀律委員會的大多數成員，即包括主席在內的三名成員，是由香港特別行政區行政長官從業外人士組成的紀律小組中選派委任，另外兩名成員由專業會計師出任。

除非負責的紀律委員會因公平理由認為不恰當，否則紀律聆訊一般以公開形式進行。紀律聆訊的時間表可於公會網頁查閱。如當事人不服紀律委員會的裁判，可向上訴法庭提出上訴，上訴法庭可確定、修改或推翻紀律委員會的裁判。

紀律委員會有權向公會會員、執業會計師事務所會員及註冊學生作出處分。紀律處分範圍包括永久或有限期地將違規者從會計師註冊紀錄冊中除名或吊銷其執業證書、對其作出譴責、下令罰款不多於五十萬港元，以及支付紀律程序的費用。

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關於香港會計師公會

香港會計師公會是香港唯一獲法例授權負責專業會計師註冊兼頒授執業證書的組織，會員人數超過三萬六千，註冊學生人數逾一萬七千。公會會員可採用「會計師」稱銜（英文為 **certified public accountant**，簡稱 **CPA**）。

公會(**Hong Kong Institute of Certified Public Accountants**)於一九七三年一月一日成立，當時的英文名稱為 **Hong Kong Society of Accountants**。

公會根據《專業會計師條例》履行職責，以公眾利益為依歸。其職能廣泛，包括開辦專業資格課程(**Qualification Programme**)以確保會計師的入職質素，以及頒布香港的財務報告、審計及專業操守準則。此外，公會亦負責在香港監管和推動優良而有效的會計實務，以鞏固香港作為國際金融中心的領導地位。

香港會計師公會是全球會計聯盟 (**Global Accounting Alliance, GAA**) 的成員之一。全球會計聯盟於二零零五年成立，聯合了全球頂尖的專業會計團體，推動優質服務，並積極與各地監管機構、政府及關連人士就國際重要議題共同合作。

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practice. Section 34(1)(a)(ix) of the PAO applies to the First Respondent and to the Second Respondent by virtue of Section 34(1AA) of the PAO.

2. The particulars of the Complaint as set out in a letter dated 6 September 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:-

BACKGROUND

1. On 26 January 1999, the Institute approved the registration of the Second Respondent as a corporate practice, pursuant to section 28E of the PAO.
2. In 2009, the Second Respondent was selected for review by the Practice Review Committee (the “Committee”). The practice review team visited the Second Respondent in August 2009 to carry out an initial practice review. Two follow up visits were carried out in July 2010 (the “1st Follow Up Visit”) and February 2012 (the “2nd Follow Up Visit”).
3. At the conclusion of the initial practice review and each follow up visit, the practice review team prepared a Reviewer’s Report which was submitted to the Committee together with such submissions or representations made by the Second Respondent.
4. The Reviewer’s Report on the first practice review was considered by the Committee in November 2009. The Committee expressed concern over the shortcomings identified in a listed company audit engagement in view of its public interest nature. According to the Reviewer’s Report, there were a number of areas where the Second Respondent needed to take additional steps to improve the level of compliance with Hong Kong Standard on Quality Control 1 “*Quality Control for firms that Perform Audits and Reviews of Historical Financial Information, and Other Assurance and Related Services Engagements* (“HKSQC 1”) and other professional standards. The Reviewer’s Report, also recorded that, in the course of their review of the Second Respondent, the First Respondent was unable to provide persuasive explanation in response to the practice review team’s questions relating to the engagements under review and there was limited evidence to indicate that he had carried out a review of the engagements, as required of the engagement practising director.

5. The Reviewer's Report on the 1st Follow Up Visit was considered by the Committee in December 2010. Despite noting that actions had been taken by the Second Respondent in response to the findings identified in the initial practice review, the Committee expressed serious concerns over the shortcomings identified during the 1st Follow Up Visit in the listed company audit engagement. The Reviewer's Report recorded that there were still a number of areas where the Second Respondent needed to take additional steps to improve the level of compliance with HKSQC 1 and other professional standards.

In this follow up visit, the practice review team noted that the First Respondent had signed off a number of checklists in the audit files to evidence his review and he also advised the practice review team that he had reviewed all work papers and understood the work of the audit team. However, the First Respondent again was unable to provide persuasive explanation in response to the practice review team's questions relating to all three engagements (including the listed company audit engagement) selected for review.

6. The Second Respondent resigned as the auditor of the above-mentioned listed company after the 1st Follow Up Visit and indicated that it would not accept new listed company engagements in the future.
7. In the course of the Second Respondent's 2nd Follow Up Visit, in addition to a number of issues concerning the Second Respondent's quality control system and audit engagements selected for review, the practice review team also noted and reported the fact that the Practice was not complying with Rule 7 of the Corporate Practice (Registration) Rules ("CP(R)R"), when signing its audit reports.
8. In view of the non-compliance of Rule 7 of the CP(R)R as identified by the practice review team, the Committee wrote to the Second Respondent and the First Respondent on 16 April 2012 informing them of its decision to refer the matter to the Registrar to raise a complaint, under section 34(1A) of the PAO. The Committee also directed the Second Respondent to implement certain remedial actions in the first half of 2012.
9. At the relevant time, there were two practising directors registered under the name of the Second Respondent:
 - the First Respondent; and
 - Mr. [X] ("Mr. [X]"), membership number A[xxxxx].

10. The First Respondent was the sole director responsible for all audit engagements provided by the Practice. He informed the practice review team that Mr. [X] was not involved in the Second Respondent's daily operations or in the provision of audit services, because he had another practice.

THE CORPORATE PRACTICE (REGISTRATION) RULES

11. The CP(R)R were made by Council pursuant to its powers contained under Sections 17, 18 and 51 of the PAO.

12. Rule 7 of the CP(R)R provides:

“Save and Except where a dispensation is granted under Rule 24, an audit report issued by a corporate practice from time to time shall be signed by a director of the corporate practice who is a practising member.”

13. Rule 24 of the CP(R)R provides:

“Subject to Rule 25, a dispensation of compliance with the requirements laid down in Rule 7 may be granted notwithstanding Rule 23 in the event of death or incapacity or disqualification or involuntary absence of the sole practising member in a sole practising member corporate practice whereby an authorised person may sign an audit report in the name of the corporate practice provided that approval of an application made by the non-practising member director or non-member director of the sole practising member corporate practice to the Council to dispense with the requirement of Rule 7 under Force Majeure is obtained within seven days after the occurrence of the event of death or incapacity or disqualification or involuntary absence as the case may be, which approval shall have retrospective effect as from the occurrence of such event and, for such period or periods and subject to such conditions as the Council considers necessary to enable remedial step or steps to be effected for the continuation of the accountancy business operated by the sole practising member corporate practice.”

THE COMPLAINT

14. Section 34(1)(a)(ix) of the PAO applies to the First Respondent and to the Second Respondent (by virtue of Section 34(1AA) PAO), in that they had refused or neglected to comply with the provisions of Rule 7 of the CP(R)R by allowing audit reports issued by the Second Respondent to be signed by a person(s) who was not a director of the Second Respondent.

FACTS AND CIRCUMSTANCES IN SUPPORT OF THE COMPLAINT

15. In the course of conducting its 2nd Follow Up Visit, the practice review team noted that the signatures on the audit reports of three audit clients (“the Audit Reports”) selected for review were materially different.
16. In fact, the signatures differed from those specimen signatures for the Second Respondent filed with the Institute.
17. According to the practice reviewer’s report on the follow up visit conducted between 6th and 9th of February, 2012, the First Respondent mentioned that he had not signed off any audit reports for the past five years. The First Respondent revealed that he had authorized three audit staff (Mr. [Y] (Membership No.A[xxxxx]), Mr. [A] and Mr. [B] (student no.S[xxxxxx]) to sign off all the audit reports on his behalf. None of these audit staff were a director of the Second Respondent and Mr. [Y] was the only staff member qualified with the Institute.
18. It should be noted that no dispensation of the requirement to comply with Rule 7 of the CP(R)R had been granted by the Council pursuant to Rule 24 of the CP(R)R.
19. By way of explanation, the First Respondent advised in his letter to the Committee dated 6 March 2012 that he had told the practice review team that he *“had read through the requirements of Rule 7 and Rule 24 many times and note that they did not mention signing personally. Every signature on my behalf is specifically authorized by me in written form.”*
20. The Reviewer’s Report on the 2nd Follow Up Visit recorded that the First Respondent had shown the practice review team a written form in which he allegedly recorded which manager was assigned to sign reports on his behalf, together with the relevant sign-off date of the audit report. However, no such written approval for the Audit Reports could be located.
21. The Complainant submitted that whether or not the First Respondent had authorised a staff member to sign an audit report was irrelevant. The CP(R)R clearly requires that any audit report issued by a corporate practice should be “signed by a director....who is a practising member” unless the Council has granted a dispensation pursuant to Rule 24 CP(R)R.

22. In the circumstances, the Complainant argued that both the First and Second Respondents had failed to comply with Rule 7 of the CP(R)R.
23. On 27 July 2012, the First and Second Respondents sent a reply to the Complaint stating that the First Respondent in fact signed all the relevant audit reports and apologized for having used “inconsistent signatures” which deviated from the specimen signatures kept on the Complainant’s record.
24. The explanations of the First and Second Respondents were not accepted by the Complainant. Disciplinary proceedings were initiated.

THE PROCEEDINGS

25. On 18 January 2013, the parties were informed of the formation of a Disciplinary Committee in respect of the Complaint enclosing a Notice of Commencement of Proceedings.
26. In accordance with the Procedural Timetable, the Complainant submitted a Complainant’s case with the Clerk of the Disciplinary Committee (“the Clerk”). The First and Second Respondents were required to submit their case on 1 March 2013. No Respondents’ Case was filed by the due date. The Clerk called the Respondents’ office several times between 4th and 6th of March 2013 making enquiries about the situation. The First Respondent refused to comment whether he would file the Respondent’s Case.
27. The First and Second Respondents did not submit any Reply nor Checklist according to the Procedural Timetable despite another telephone enquiry being made by the Clerk on 22 April 2013.
28. In view of the lack of response from the First and Second Respondents, there was no direction hearing. A hearing by this Disciplinary Committee was fixed at 9:30 a.m. on 31 May 2013.
29. On 6 May 2013, the Clerk again called the First Respondent asking if he would make any written submission to the Disciplinary Committee before the hearing and whether he would attend the hearing. The First Respondent refused to confirm his position. It should be noted that on none of these occasions did the First Respondent deny the fact that he was aware of these disciplinary proceedings.

30. On the day of the hearing, neither the First nor Second Respondents appeared. After making another unsuccessful attempt to contact them by telephone and having waited for over 30 minutes, the hearing commenced in their absence.

THE COMPLAINANT'S SUBMISSIONS

31. The Representative of the Complainant referred the Disciplinary Committee to various documents in support of the Complainant's case. In particular, the Disciplinary Committee was asked to take note of the following:
- (a) In order to comply with Rule 7 of the CP(R)R, an audit report issued by a corporate practice must be signed by a director of the corporate practice who is a practising member.
 - (b) Hence, the person who may sign an audit report must be both a director of the corporate practice as well as a practising member.
 - (c) The Complainant confirmed that a corporate body cannot hold a practising certificate. It is therefore not possible for a person to sign an audit report as an agent of a corporate practice.
 - (d) Of the three Audit Reports, the signatures on two of them both dated 22.2.11 looked very different. The reference numbers of the two reports prefixed with the initials "r n l" and "t m l" appear to coincide with the names of two of the Second Respondent's audit staff Mr. [A] and Mr. [B] respectively. The Complainant submitted that these two audit staff in fact signed the two audit reports. If the two reports were indeed signed by the First Respondent on the same day, the signatures would not be so different.
 - (e) The signature on the third report dated 22.8.11 carrying the initials of "r n l", looked very similar to that in the earlier report with the same initials. The Complainant submitted that this one was also signed by Mr. [A].
 - (f) The signatures on all three Audit Reports looked very different from the specimen signatures provided by the First and Second Respondents to the Institute.
 - (g) Neither Mr. [A] nor Mr. [B] was a director of the Second Respondent or a practising member of the Institute.
 - (h) As mentioned in paragraphs 17 and 23 above, the First Respondent having previously disclosed to the practice reviewer that he authorized a Mr. [Y], Mr. [A] and Mr. [B] to sign off all audit reports on his behalf, he subsequently changed his stance by stating that he in fact signed all the audit reports.

FINDINGS OF THE COMMITTEE

32. The Committee had considered, the following provisions of the Professional Accountants Ordinance:

Section 28A(6): “For the avoidance of doubt, it is hereby declared that a person other than the holder of a current practising certificate shall not be entitled to sign an audit report on behalf of a firm of certified public accountants (practising).”

Section 28D(11)(b)(iii): “A person other than the holder of a current practising certificate shall not be entitled to sign an audit report on behalf of a corporate practice.”

33. Based on these provisions coupled with the fact stated in paragraph 31(c) above, the Disciplinary Committee was satisfied that the First and Second Respondents were not allowed to authorize anyone who was not a director and a practising member to sign any audit report.
34. The Disciplinary Committee had reviewed the evidence; in particular, all signatures on the relevant documents and the inconsistent statements made by the First Respondent. It accepted the Complainant’s submissions that the Audit Reports were not signed by the First Respondent or by anyone who was a director of the Second Respondent and a practising member.
35. Having carefully considered all the facts and materials presented to the Disciplinary Committee by the Complainant, and in the absence of the First and Second Respondents at the hearing to rebut the Complainant’s case, the Disciplinary Committee found that the Complaint against the two Respondents was proved.

SANCTIONS

36. The complaint is of a very serious nature. It calls into question other audit reports previously issued by the two Respondents. It is compounded by the fact that the integrity of the First Respondent is in question as he has made inconsistent representations to the Institute.
37. Since there does not appear to be any precedent of this Complaint, the Disciplinary Committee directs the parties to make written submissions in respect of the appropriate sanctions to be imposed on the First and Second Respondents.
38. These submissions together with submissions on costs shall be made within 21 days from the date of this Decision.

39. Within 21 days after being served with the other party's written submission, each party may file and serve its written submission in reply.
40. Unless otherwise requested by the parties, the Disciplinary Committee does not propose to hold any hearing before producing its order.

Dated the 13th day of September 2013

Under Sections 34(1)(a)(ix) and 34(1AA) of the PAO by refusing or neglecting to comply with the provisions of rule 7 of the Corporate Practice (Registration) Rules by allowing audit reports issued by the 2nd Respondent to be signed by a person(s) who was not a practising member and a director of the 2nd Respondent.

After issuing the Reason for Decision on 13 September 2013, the Disciplinary Committee considered the written “Submissions On Sanctions” filed by the Complainant on 7 October 2013 and a letter by the 1st Respondent dated 11 October 2013.

The Disciplinary Committee also considered the Complainant's letter dated 11 October 2013 which included a disciplinary order issued on 10 October 2013 under disciplinary proceedings No. D-12-0711F, ordering the removal of the 1st Respondent for a period of 18 months with effect from the 40th day from the date of that order.

IT IS ORDERED that:-

- (1) the 1st Respondent be removed from the register of certified public accountants temporarily for a period of 30 months under Section 35(1)(a) of the PAO. The removal shall be effective from the 40th day of the date of this Order and shall take effect concurrently to the removal order dated 10 October 2013 under disciplinary proceedings No. D-12-0711F;
- (2) the 2nd Respondent be reprimanded under Section 35(1)(b) of the PAO;
- (3) the 1st and 2nd Respondents do pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$81,893.

Dated the 8th day of January 2014