



Hong Kong Institute of
Certified Public Accountants
香港會計師公會

Hong Kong Institute of Certified Public Accountants takes disciplinary action against a certified public accountant

(HONG KONG, 7 May 2019) A Disciplinary Committee of the Hong Kong Institute of Certified Public Accountants ordered on 1 April 2019 that the name of Mr. Ng Chi Ching, a certified public accountant (F04959), be removed from the register of CPAs for 12 months with effect from 13 May 2019. In addition, Ng was ordered to pay HK\$32,496 towards the costs of the disciplinary proceedings.

Ng was the financial controller, company secretary and compliance officer of Yorkey Optical International (Cayman) Limited ("Company"), a company listed in Hong Kong. In those positions, Ng had a statutory obligation to ensure that the Company complied with the relevant disclosure requirements under the Securities and Futures Ordinance (Cap. 571) ("SFO").

In August 2012, the Company announced its interim results and stated that it expected significant growth and increasing profitability in the second half of the year. However, the Company's full year results announcement in March 2013 revealed that performance had in fact deteriorated significantly. The Company had therefore breached the relevant disclosure requirements by not issuing any profit warning announcement in the intervening period. The Market Misconduct Tribunal started proceedings in 2016 in relation to the breach.

The Tribunal noted that Ng did not obtain the Company's monthly management accounts, and as a result he was not alerted to the deteriorating performance during the second half of the year. Ng only became aware of the poor results one month before the Company's annual results announcement, and even then he failed to ensure that the Company issue a profit warning announcement.

In 2017, the Tribunal found that Ng was reckless in failing to ensure the Company's timely disclosure, and that he failed to put in place a system to enable the timely identification and disclosure of price sensitive information. The Tribunal found Ng had breached sections 307G(2)(a) and 307G(2)(b) of the SFO and issued sanctions against him. They also recommended referring the findings to the Institute.

After considering the information available, the Institute lodged a complaint under section 34(1A) of the Professional Accountants Ordinance (Cap 50).

The Disciplinary Committee found Ng was in breach of the fundamental principle of Professional Behaviour in sections 100.5(e) and 150.1 of the Code of Ethics for Professional Accountants.

Having taken into account the circumstances of the case, the Disciplinary Committee made the above order under section 35(1) of the ordinance. The Committee noted that Ng's conduct was grossly insufficient and highly undesirable. He had wholly ignored and

disregarded his duties and responsibilities. The Committee further noted he was appointed in the positions of the Company because of his professional background as an accountant. His conduct amounted to a serious breach of statutory duties and the trust and confidence placed upon him by the public and shareholders.

About HKICPA Disciplinary Process

The Hong Kong Institute of Certified Public Accountants (HKICPA) enforces the highest professional and ethical standards in the accounting profession. Governed by the Professional Accountants Ordinance (Cap. 50) and the Disciplinary Committee Proceedings Rules, an independent Disciplinary Committee is convened to deal with a complaint referred by Council. If the charges against a member, member practice or registered student are proven, the Committee will make disciplinary orders setting out the sanctions it considers appropriate. Subject to any appeal by the respondent, the order and findings of the Disciplinary Committee will be published.

For more information, please see:

<http://www.hkicpa.org.hk/en/standards-and-regulations/compliance/disciplinary/>

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About HKICPA

The Hong Kong Institute of Certified Public Accountants (HKICPA) is the statutory body established by the Professional Accountants Ordinance responsible for the professional training, development and regulation of certified public accountants in Hong Kong. The Institute has more than 43,000 members and 19,000 registered students.

Our qualification programme assures the quality of entry into the profession, and we promulgate financial reporting, auditing and ethical standards that safeguard Hong Kong's leadership as an international financial centre.

The CPA designation is a top qualification recognised globally. The Institute is a member of and actively contributes to the work of the Global Accounting Alliance and International Federation of Accountants.

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香港會計師公會對一名會計師作出紀律處分

(香港，二零一九年五月七日) 香港會計師公會轄下一紀律委員會，於二零一九年四月一日命令將會計師吳子正先生(會員編號：F04959)由二零一九年五月十三日起從會計師名冊中除名，為期 12 個月。此外，吳先生須繳付紀律程序的部份費用 32,496 港元。

吳先生曾為精熙國際(開曼)有限公司(「該公司」，一間香港上市公司)的財務總監、公司秘書及合規主任。吳先生在該等職位上有法定責任，須確保該公司符合香港法例第 571 章《證券及期貨條例》的相關資料披露規定。

該公司於二零一二年八月發表中期業績，並預計下半年業績會錄得明顯增長及獲利攀升。然而，該公司於二零一三年三月發表的全年業績則顯示實際業績嚴重惡化，期間亦沒有發出任何盈利警告，因此違反了相關披露規定。市場失當行為審裁處於二零一六年就有關違規展開程序。

審裁處注意到吳先生沒有取得該公司的每月管理賬目，因而不察覺下半年業務表現惡化。吳先生直至公司全年業績公布前一個月，才知悉業績倒退，惟他仍沒有確保公司發出盈利警告。

於二零一七年，審裁處裁定吳先生罔顧後果、沒有確保該公司及時披露，且沒有建立系統作適時識別及披露股價敏感資料。審裁處裁定吳先生違反了《證券及期貨條例》第 307G(2)(a)及 307G(2)(b)條及對他作出裁決，並建議將調查所得轉介公會跟進。

公會考慮所得資料後，根據香港法例第 50 章《專業會計師條例》第 34(1A)條對吳先生作出投訴。

紀律委員會裁定吳先生違反了 Code of Ethics for Professional Accountants 第 100.5(e)及 150.1 條有關「Professional Behaviour」的基本原則。

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)條向吳先生作出上述命令。委員會認為吳先生的行為屬嚴重缺失及極不可取，他完全忽略和漠視其職務及責任。委員會亦認為吳先生因其會計師的專業背景而獲委任擔任該公司相關職位，他的行為嚴重違反其法定責任及違背公眾和股東對他的信賴。

香港會計師公會的紀律處分程序

香港會計師公會致力維持會計界的最高專業和道德標準。公會根據香港法例第 50 章《專業會計師條例》及紀律委員會訴訟程序規則，成立獨立的紀律委員會，處理理事會轉介的投訴個案。委員會一旦證明對公會會員、執業會計師事務所會員或註冊學生的檢控屬實，將會作出適當懲處。若答辯人未有提出上訴，紀律委員會的裁判將會向外公佈。

詳情請參閱：

<http://www.hkicpa.org.hk/en/standards-and-regulations/compliance/disciplinary/>

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關於香港會計師公會

香港會計師公會是根據《專業會計師條例》成立的法定機構，負責培訓、發展和監管本港的會計專業。公會會員超過 43,000 名，學生人數逾 19,000。

公會開辦專業資格課程，確保會計師的人職質素，同時頒佈財務報告、審計及專業操守的準則，以鞏固香港作為國際金融中心的領導地位。

CPA 會計師是一個獲國際認可的頂尖專業資格。公會是全球會計聯盟及國際會計師聯合會的成員之一，積極推動國際專業發展。

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PROCEEDINGS NO.: D-17-12510

IN THE MATTER OF

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

Between

THE REGISTRAR OF THE HONG KONG
INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS *Complainant*

and

MR. NG CHI CHING
(Membership No. F04959) *Respondent*

Before a Disciplinary Committee of the Hong Kong Institute of Certified Public
Accountants (“**the Institute**”).

Members: Mr. LAM Ken Chung, Simon (Chairman)
Mr. CHAN Fung Cheung
Mr. CHIN Vincent
Mr. WONG Yue Ting Thomas
Mr. FUNG Ying Wai Wilson

Date of Hearing: 22 November 2018

ORDER AND REASONS FOR DECISION

I. Introduction

This is a complaint (“**the Complaint**”) submitted by the Registrar (“**the Registrar**”) of the Institute to the Council of the Institute against the Respondent, pursuant to section 34(1A) of the Professional Accountants Ordinance Cap. 50 (“**the Ordinance**”). The Respondent is a certified public accountant.

2. Upon receipt of the Complaint from the Registrar, the Council referred the Complaint to the Disciplinary Panels, and the Disciplinary Committee Convenor duly appointed this Disciplinary Committee (“**the Committee**”) to handle the Complaint.

3. Despite the directions given by the Committee vide a Procedural Timetable attached to a letter sent by the Committee’s Clerk to the parties dated 27 July 2018, as well as repeated reminders, **the Respondent did not submit the Respondent’s Case to the Committee, nor did he attend the substantive hearing of the Complaint held on 22 November 2018 (“the Hearing”)**. In the Hearing, the Committee was satisfied that the Respondent had been properly notified about these disciplinary proceedings (including the Hearing), and had deliberately not to take any part in them. With the consent of the Complainant, the Committee proceeded to hear evidence and submissions on the Complaint in the Respondent’s absence. On the basis of the evidence that was adduced before it, comprising documents contained in the hearing bundle, and the Complainant’s oral submissions during the hearing, the Committee found that the Complaint had been proven to its satisfaction, and that the Respondent had failed or neglected to observe, maintain or otherwise apply a professional standard, contrary to section 100.5(e) (as elaborated in section 150.1) of the Code of Ethics for Professional Accountants (“**the Code**”).

4. The Committee then adjourned the imposition of sanction to give the Respondent a chance to make submissions thereon, and gave directions pertaining to submissions on sanction. **Subsequent to the Hearing, both parties made written submissions on sanction.** After considering the written submissions, the Committee considers itself able to determine sanction without hearing oral submissions from the parties.

5. This Order and Reasons for Decision contains the Committee’s reasons for finding the Complaint proved against the Respondent, and the sanction (with reasons) that the Committee has decided to impose upon him.

II. The facts of the Complaint

6. The Complaint herein arises from a report of the Market Misconduct Tribunal (“**the MMT**”) dated 27 February 2017 (“**the MMT Report**”), which was adduced by the Complainant as evidence before the Committee. The Respondent has

not contradicted or denied the factual findings contained in the MMT Report, which are therefore accepted by the Committee. These factual findings, in so far as they are material to the Complaint herein, are summarized below.

7. At all material times, the Respondent was the Financial Controller, Company Secretary, as well as Compliance Officer of a listed company called Yorkey Optical International (Cayman) Limited (stock code: 2788) (“**the Company**”).

8. In August 2012, the Company published its interim results for the period ended 30 June 2012 (“**the Interim Results**”), which showed that the Company’s revenue and net profit had decreased by 12% (from US\$54.4M to US\$47.8M) and 62% (from US\$3.3M to US\$1.25M) respectively when compared to the corresponding period in 2011. The Company, however, stated in the Interim Results that its results for the second half of 2012 were expected to have significant growth, with increasing profitability.

9. Contrary to what the Company stated in the Interim Results, instead of getting better, its financial performance for the second half of 2012 deteriorated significantly even when compared with the first half of 2012, and the Company sustained material losses during the period. According to the Company’s audited annual results for the year ended 31 December 2012 (“**the Final Results**”), which were announced on 25 March 2013:

- (a) The Company suffered from a loss before tax of US\$136,000 in 2012, compared to a profit before tax of US\$7.531M in 2011;
- (b) The Company had a net profit of US\$60,000 in 2012, after taking into account a tax credit; this represented a 99% decrease when compared to the net profit of US\$6.685M in 2011; and
- (c) The net profit for the whole year of 2012 (i.e., US\$60,000) was significantly less than that reported for the first six months of 2012 (i.e., US\$1,252,000); compared to the first half of 2012, the Company’s revenue decreased by a further 5.9%, and its gross profit margin dropped from approximately 21.2% to 18.2%.

10. The Company’s performance in the second half of 2012 was therefore materially worse than that in the first half of 2012. The Company, however, did not

issue any profit warning announcement during the period from August 2012, when the Interim Results were announced, to March 2013, when the Final Results were released. The public was therefore uninformed about the further deterioration in the Company's performance ("the Deterioration") until the publication of the Final Results in March 2013.

11. It is also undisputed that during the material period, the Company published consolidated management accounts on a monthly basis. The consolidated management accounts for a month would be available for review by the Chief Executive Officer ("CEO") of the Company by the middle of the following month. These consolidated management accounts showed that the Deterioration began in October 2012, and continued into November and December 2012. By mid-January 2013, the December 2012 consolidated monthly management accounts and the internal management accounts for the whole year of 2012 were available. No system was however in place in the Company to send the monthly management accounts to the Respondent. He only became aware of the poor performance of the Company in late February 2013, after the Company's auditor sent to him the draft consolidated financial statements for the year 2012. Even then, the Respondent had failed to take appropriate or adequate actions in relation thereto¹.

III. The complaint against the Respondent

12. The complaint against the Respondent, as set out in paragraph 2.1 of the letter of complaint dated 13 April 2018, is that:

"... he failed or neglected to observe, maintain or otherwise apply a professional standard, namely section 100.5(e) as elaborated in section 150.1 of the Code of Ethics for Professional Accountants ("Code"), when he was found to have breached sections 307G(1), 307G(2)(a) and 307G(2)(b) of the [Securities and Futures Ordinance], thereby failing to comply with relevant laws and regulations and avoid any action that discredits the profession."

13. Section 100.5 of the Code sets out the fundamental principles that a professional accountant must comply with, viz., integrity, objectivity, professional competence and due care, confidentiality and professional behavior. Section 100.5(e) stipulates as follows:

¹ See paragraphs 27 and 29 below for details.

“Professional Behavior – to comply with relevant laws and regulations and avoid any conduct that discredits the profession.”

14. Paragraph 150.1 of the Code² further elaborates the principle as follows:

“The principle of professional behavior imposes an obligation on all professional accountants to comply with relevant laws and regulations and avoid any action that the professional accountant knows or should know may discredit the profession. This includes actions that a reasonable and informed third party, weighing all the specific facts and circumstances available to the professional accountant at that time, would be likely to conclude adversely affects the good reputation of the profession.”

15. Section 307G of the Securities and Futures Ordinance Cap. 571 (“**the SFO**”) provides as follows:

- “(1) Every officer of a listed corporation must take all reasonable measures from time to time to ensure that proper safeguards exist to prevent a breach of a disclosure requirement in relation to the corporation.
- (2) If a listed corporation is in breach of a disclosure requirement, an officer of the corporation—
 - (a) whose intentional, reckless or negligent conduct has resulted in the breach; or
 - (b) who has not taken all reasonable measures from time to time to ensure that proper safeguards exist to prevent the breach, is also in breach of the disclosure requirement.”

IV. Why the Committee found the Complaint proved

16. Section 307B of the SFO lays down the disclosure requirement to be satisfied by a listed corporation, as follows:

- “(1) A listed corporation must, as soon as reasonably practicable after any inside information has come to its knowledge, disclose the information to the public.

² Version revised June 2010, effective on 1 January 2011, which was applicable at the material time.

- (2) For the purposes of subsection (1), inside information has come to the knowledge of a listed corporation if—
 - (a) information has, or ought reasonably to have, come to the knowledge of an officer of the corporation in the course of performing functions as an officer of the corporation; and
 - (b) a reasonable person, acting as an officer of the corporation, would consider that the information is inside information in relation to the corporation.”

17. “Inside information” is defined under section 307A of the SFO, as follows:

“inside information, in relation to a listed corporation, means specific information that—

- (a) is about—
 - (i) the corporation;
 - (ii) a shareholder or officer of the corporation; or
 - (iii) the listed securities of the corporation or their derivatives; and
- (b) is not generally known to the persons who are accustomed or would be likely to deal in the listed securities of the corporation but would if generally known to them be likely to materially affect the price of the listed securities”.

18. Section 307C(1) of the SFO further stipulates the manner of disclosure, as follows:

“A disclosure under section 307B must be made in a manner that can provide for equal, timely and effective access by the public to the inside information disclosed.”

19. The MMT found that information about the Deterioration, as shown by the financial figures contained in the consolidated monthly management accounts mentioned above, was inside information in relation to the Company, which ought to have been disclosed under section 307G of the SFO. The MMT’s finding in this respect was based on the followings:

- (a) The Deterioration was apparent from the relatively low turnover and the loss figures contained in the consolidated monthly management accounts for October, November and December 2012, and also from the draft consolidated financial statements provided by the auditor to the Respondent in late February 2013;
- (b) The financial information contained in the Company's internal accounts as aforesaid was information specific to the Company and not generally known to the investing public;
- (c) The financial information contained in the Company's internal accounts as aforesaid indicated that the Company was sustaining a loss in the second half of 2012. This would be a significant disappointment to those who were accustomed or would be accustomed or would be likely to deal in the shares of the Company. Had that information been made know to them, the impact on the share price of the Company was likely to be material;
- (d) The financial information contained in the consolidated management accounts from July to November 2012 would have been sufficient to give a clear indication to the investing public that the Company's performance in the second half of 2012 would be much worse than expected, and the impact of this information (had it been made public) on the share price was likely to be material.

20. The MMT found the Company to be in breach of disclosure requirement under section 307B of the SFO, for the following reasons:

- (a) A reasonable person acting as an officer of the Company would consider that information about the Deterioration as was apparent from the figures contained in the Company's internal accounts to be inside information. The information however was not disclosed to the public as soon as reasonably practicable – the public was not informed of the Deterioration until the publication of the Final Results on 25 March 2013; and

- (b) In the 13 weeks between mid-December 2012 and 25 March 2013, the investing public had been trading on a false premise that the Company had performed significantly better in the second half of 2012 as compared to the first half of 2012. The delay in the disclosure of the information about the Deterioration was in the circumstances unreasonable and unjustified.

21. The MMT found the Respondent in breach of section 307G(2)(a) of the SFO, for the following reasons:

- (a) The Respondent was well aware of the Deterioration well before the publication of the Final Results. He was aware of the risk that failure to make timely disclosure of the information about the Deterioration might result in the Company being found in breach of section 307B of the SFO. Yet, he did not take any appropriate or sufficient steps to ensure timely disclosure of information about the Deterioration to the investing public;
- (b) The failure of the Respondent to take any appropriate or sufficient steps to ensure timely disclosure of information about the Deterioration amounted to reckless conduct, in that he was unreasonably taking the risk that might result in the Company's breach of section 307B of the SFO.

22. The Respondent was further found by the MMT to be in breach of section 307G(2)(b) of the SFO, for the following reasons:

- (a) He was the Financial Controller and Company Secretary of the Company, and was responsible for ensuring the Company's compliance with its legal obligations;
- (b) He failed to set up a system to ensure that price sensitive information relating to the performance of the Company would be identified and then disclosed in a timely manner;
- (c) Despite being aware of the disclosure obligation under the "new" regulations, the Respondent did not put in place any system to ensure that price sensitive information would be disclosed in a timely manner;

- (d) He should have kept himself up-to-date with the Company's financial performance. There was no system in place whereby the consolidated monthly accounts were sent to him;
- (e) The Respondent accepted that he did not suggest to the Company's Board of Directors to issue a profit warning prior to the Final Results, nor check to see if anyone had done the same. He simply thought that there was nothing he could do in the circumstances and allowed himself to sit on the information without taking any appropriate or sufficient steps.

23. It should perhaps also be mentioned that the Respondent was not the only person investigated and sanctioned by the MMT for failure to observe the aforesaid disclosure requirement. The Company itself and its CEO were also investigated and sanctioned. The Respondent was however the only certified public accountant involved.

24. Within 3 days after the Final Results were announced on 25 March 2013, the Company's share price dropped a total of 21.25%. According to analysis conducted by an expert of the Securities and Futures Commission ("SFC"), the notional losses suffered by investors due to the delay in the Company's disclosure of the Deterioration amounted to an aggregate amount of HK\$1,528,695.

25. The Committee agrees with the MMT's findings and comments as summarized in paragraphs 19 to 22 inclusive hereinabove.

26. No explanation of his conduct has been proffered by the Respondent to the Committee. In an email to the Institute dated 5 November 2017, however, the Respondent said that:

"I informed, together with the Guidelines on Disclosure of Inside Information issued by the SFC in June 2012 ("the Guidelines"), the Board of the Company through the **Company's assistant, Mr. Darcy Lee, in Taiwan** about the new regulation on the price sensitive information regime that took effect from 1 January 2013. The relevant compliance system was set up and approved by the CEO of the Company on 31 March 2013 as attached."

27. Further down the same email, the Respondent stated:

“When I received the draft annual report in late February and found the deteriorating results, I immediately contacted the Company’s assistant, Mr. Darcy Lee and requested that the Board should take appropriate action according to the Guidelines including issuing the profit warning announcement. However, I learned that the Board had decided not to issue the announcement after taking the auditor’s advice. As such, I took no further action according to the Board’s decision.”

28. This is grossly insufficient, and highly undesirable. The Respondent, as the Financial Controller and Compliance Officer of the Company, ought to have *ensured*, and *insisted*, that a system was in place in the Company by which up-to-date information about the Company’s performance, including its monthly financial statements, was brought to his attention in a timely manner. Even the Company’s own financial process flowchart (精熙財務流程) shows that consolidated financial statements ought to be submitted monthly to the CEO and Financial Controller/Company Secretary *simultaneously*. It is alarming that the Respondent would have allowed the monthly financial statements to have totally bypassed him.

29. Furthermore, after eventually becoming aware of the serious deterioration of the performance of the Company in February 2013, the Respondent ought to have *ensured* and *insisted* that *immediate* disclosure be made in relation thereto. It is grossly insufficient for the Respondent to have merely “contacted the Company’s assistant”, and to have sat back and did nothing after he “learned” that the Board decided not to make any announcement. As the Company’s Compliance Officer, he owed a duty to the Company and to the public to take *immediate* and *appropriate* measures, such as seeking *direct* communication with the Board of Directors (instead of through the “Company’s assistant”), and making enquiries as to why the Board refused to make the disclosure required by law. If the result of the enquiry is unsatisfactory, he could have brought the matter to the attention of the audit committee of the Company. In the worst scenario, if everything else failed, he should consider seeking assistance from the relevant law enforcement authorities.

30. In the circumstance, the Committee was satisfied that the Respondent had breached sections 307G(1), 307G(2)(a) and 307G(2)(b) of the SFO, and that the manner in which the Respondent conducted himself as the Company’s Financial

Controller, Company Secretary and Compliance Officer had discredited the accounting profession. As the MMT rightly pointed out, certified public accountants play an important role under the listing regime. The investing public relies on the expertise and competence of professional accountants. The Respondent had simply let the public down. The Committee was also satisfied that the Respondent knew or should have known that his conduct would discredit the profession. The Committee therefore found the Complaint proved against the Respondent.

V. Sanction

A. The parties' submissions on sanction

31. In the written submissions of 7 December 2018, the Complainant's representative referred the Committee to the sanctions imposed by the MMT, and submitted that the Respondent's breach of professional standard is serious, as his conduct had put the profession's reputation at stake. The Complainant's representative further submitted that only a removal order, for such period as the Committee thinks fit, would suitably reflect the seriousness of the breach, and so as to maintain the profession's solid reputation and standing.

32. The Respondent did not make any representations on sanction to the Committee. In his email to the Institute of 21 December 2018 (which was forwarded by the Institute to the Committee), he merely made representations on costs, which will be dealt with in a later part of this Order and Reasons for Decision. **The Committee notes that in fact, vide an email to the Institute of 6 March 2018, the Respondent had asked for cancellation of his membership with the Institute with immediate effect. The request was however declined because of the current ongoing disciplinary proceedings.**

B. The Committee's consideration of and decision on sanction

33. The Committee agrees that the breach by the Respondent is serious. In essence, he had wholly ignored and disregarded the duties and responsibilities associated with his position as the Company's Financial Controller and Compliance Officer. He was appointed in these positions no doubt because of his professional background as an accountant. His conduct amounted to a serious breach of the trust and confidence entrusted upon him by the public and shareholders of the Company, and of the duties imposed by statute.

34. The Committee further agrees that a removal order under section 35(1)(a) of the Ordinance is appropriate. After taking into account the degree of seriousness of the breach, the Committee considers a removal period of 12 months to be fair and reasonable. The Committee therefore orders that the name of the Respondent be removed from the register for a period of 12 months.

VI. Costs

35. The Complainant asks for the costs and expenses of and incidental to the proceedings of the Institute, in the sum of HK\$44,756.00, as well as the costs and expenses of the Committee, in the sum of HK\$4,140.00 (total HK\$48,896.00).

36. In his aforesaid email of 21 December 2018, the Respondent requested the Institute to grant him a waiver of costs, for the reason that he was in a worsening financial status caused by long term unemployment since 1 March 2017. In the Complainant's representative's letter of reply dated 24 December 2018, the Respondent's said request was in effect turned down. The Complainant submitted that all costs of the Institute's disciplinary proceedings are funded solely by its members, and that the Institute receives no financial assistance from the Government therefor. If the costs were considered to be reasonable, there is no justification for the Committee to waive those costs, so the Complainant's representative said. The Complainant's representative further suggested that the Respondent provides his financial information to the Institute's Finance Department, which would assess the appropriate repayment terms when seeking recovery of costs in due course.

37. In response to the Complainant's representative's letter of 24 December 2018, the Respondent, by an email of 21 January 2019, requested that the costs be settled by 12 monthly instalments.

38. The Committee considers that, in the absence of consent by the Institute, there is no reason why the Respondent should not be ordered to pay costs. The costs incurred for the preparation of complaint documents and correspondence, corresponding to a total of 50 chargeable hours by various personnel of the Institute (item B1 of the Statement of Costs) however seems excessive. Adopting a broad-brush approach, costs under this item is reduced from HK\$36,400 to HK\$20,000. The

Committee therefore orders the Respondent to pay the Institute costs pursuant to section 35(1)(iii) of the Ordinance, in the total sum of **HK\$32,496.00**.

39. The Ordinance does not seem to empower the Committee to order the payment of costs by instalments. The Committee therefore does not make any order in that respect. The Respondent is advised to approach the Institute's Finance Department to discuss mutually acceptable arrangements. It is hoped that the Institute could be sympathetic to the Respondent's personal situation.

40. This order shall take effect on the 42nd day from the date of this order.

Dated 1st April 2019

Lam Ken Chung Simon
Chairman
Disciplinary Panel A

Chan Fung Cheung
Member
Disciplinary Panel A

Wong Yue Ting Thomas
Member
Disciplinary Panel B

Vincent Chin
Member
Disciplinary Panel A

Fung Ying Wai Wilson
Member
Disciplinary Panel B