



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

Dear Assignment / News / Business Section Editor

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

(HONG KONG, 12 July 2017) — A Disciplinary Committee of the Hong Kong Institute of Certified Public Accountants ordered on 7 June 2017 that the name of Wong Kong Yiu, Nigel (membership number F06365) be removed from the register of CPAs for five years with effect from 19 July 2017. In addition, Wong was ordered to pay costs of the disciplinary proceedings of HK\$94,050.

Wong was the sole practising director and shareholder of a corporate practice. He was in breach of the rules made by the Institute's Council in failing to renew Professional Indemnity Insurance cover of his practice for four consecutive years and to arrange Run-Off cover upon the de-registration of the practice. In addition, Wong falsely declared to the Institute that the practice had Professional Indemnity Insurance cover when he applied for renewal of the practice's registration for each of the four years.

In addition, Wong's other practice was selected for practice review. Wong failed to comply with a direction of the Practice Review Committee requiring him to cooperate with the practice reviewer to confirm a date for the site visit.

After considering the information available, the Institute lodged complaints against Wong under sub-paragraphs (v), (vi), (ix) and (x) of section 34(1)(a) of the Professional Accountants Ordinance, Cap 50 ("PAO").

The Disciplinary Committee found that Wong failed to comply with the Corporate Practices (Registration) Rules and Corporate Practices (Professional Indemnity) Rules. For his false declarations, the Committee found that he breached section 110.2 of the Code of Ethics for Professional Accountants and was guilty of dishonourable conduct. The Committee further found that Wong failed to comply with a direction of the Practice Review Committee without reasonable excuse.

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

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 he is 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 Professional Accountants Ordinance by a five-member Disciplinary Committee. Three members of each committee, including a chairman, are non-accountants chosen from a panel appointed by the Chief Executive of the HKSAR, and the other remaining two members are CPAs.

Disciplinary hearings are held in public unless the Disciplinary Committee directs otherwise in the interest 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.

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 practicing certificate with (where appropriate) an order that a practice certificate shall not be issued either permanently or temporarily, a reprimand, a penalty of up to \$500,000, and payment of costs and expenses of the proceedings.

– End –

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 40,000 members and 20,000 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執業會計師作出紀律處分

(香港，二零一七年七月十二日) — 香港會計師公會轄下一紀律委員會，於二零一七年六月七日命令把黃光耀先生(會員編號：F06365)的名字由二零一七年七月十九日起從專業會計師名冊中刪除，為期五年。此外，黃先生須繳付紀律程序費用港幣九萬四千零五十元。

黃先生是一間執業法團的唯一執業董事及股東。他違反了公會理事會訂立的規則，因為他連續四年沒有為其執業法團更新專業彌償保險的保障，以及在其執業法團取消注冊時沒有安排延長報告期保險(Run-Off cover)。另外，黃先生在上述四個年度更新其法團註冊時向公會作出虛假聲明，聲稱法團已具有專業彌償保險的保障。

此外，黃先生的另一個執業獲挑選進行執業審核。黃先生並沒有遵從執業審核委員會的指示，要求他與審核人員合作以確認進行現場視察的日期。

經考慮所得到的資料後，公會根據《專業會計師條例》(第 50 章) 第(34)(1)(a)條中的(v)、(vi)、(ix)及(x)節對黃先生作出投訴。

紀律委員會認為黃先生沒有遵從Corporate Practices (Registration) Rules及Corporate Practices (Professional Indemnity) Rules。就他的虛假聲明，委員會認為他違反了Code of Ethics for Professional Accountants內第110.2條以及犯下不名譽的行為。此外，委員會認為黃先生在無合理的辯解下，沒有遵從執業審核委員會的指示。

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)條向黃先生作出上述的裁決。

根據《專業會計師條例》，如答辯人不服紀律委員會對他作出的裁決，可於裁決文本送達後 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"部分查閱，網址為<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，是從業外人士組成的紀律小組中選派，該紀律小組的成員是由香港特別行政區行政長官委任的；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及(如適當)命令永久或有限期地不向其發出執業證書、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，會員人數超過四萬，註冊學生人數逾二萬。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**)以確保會計師的人職質素，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。

香港會計師公會聯絡資料

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REASONS FOR DECISION AND ORDERS

Date of Hearing: 1 November 2016 and 14 March 2017

Date of Reasons for Decisions: 7 June 2017

1. There are two Disciplinary Proceedings against the Respondent, namely Case No.D-15-1051H and Case No.D-15-1063P. These Proceedings were consolidated for hearing on 1 November 2016 and 14 March 2017.

2. In Case No.D-15-1051H, the Respondent faces 3 complaints:
 - i. 1st Complaint:

Contrary to Section 34(1)(a)(vi) of the Professional Accountants Ordinance, (Cap 50)(“PAO”) in that the Respondent had, for the years 2011 to 2014, provided materially false declarations to the Institute regarding the renewal of Professional Indemnity Insurance (“PII”) for his corporate practice, Nigel Wong CPA Limited (“NK”).

 - ii. 2nd Complaint:

Contrary to Section 34(1)(a)(x) of the PAO in that the Respondent was guilty of dishonourable misconduct by virtue of his making to the Institute materially false declarations that his corporate practice NK had renewed its PII cover for the 4 consecutive years of 2011, 2012, 2013 and 2014.

 - iii. 3rd Complaint:

Contrary to Section 34(1)(a)(ix) of the PAO in that the Respondent refused or neglected to comply with the provisions of rules made by the Council, namely, the relevant provisions in the Corporate Practice (Professional Indemnity) Rules (“PII Rules”) and the Corporate Practice (Registration) Rules (“CPRR”) as a result of his failure to ensure that NK had the requisite PII cover for each of the years 2011, 2012, 2013 and 2014, and Run-Off Cover upon de-registration in 2015.

3. In the Complainant’s Case filed on 25 May 2016, the Complainant referred, in support of the 3rd Complaint, to Rule 27 of CPRR which was quoted as follows:

“27. Every certified public accountant who is a director of a corporate practice which ceases to be registered must obtain Run-Off cover in accordance with the PI Rules. Failure to do so will subject him/her to disciplinary action under section 34 of the PAO. No application for withdrawal will be accepted by the Council unless the corporate practice has arranged Run-Off covers in accordance with the PI Rules.”

4. The CPRR was amended in March 2014. Prior to such amendment, the paragraph number of the above rule was ‘27’. After the amendment the paragraph with the same contents was re-numbered ‘29’. The Complainant invited the Committee to treat the 3rd Complaint as under the new Rule 29. At the hearing on 1 November 2016, the Respondent did not object to such treatment. Thus for all intents and purposes, the 3rd Complaint is treated as being brought, inter alia, under Rule 29 of the current CPRR.
5. In Case No.D-15-1063P, there is only one complaint:

Contrary to section 34(1)(a)(v) of the PAO in that the Respondent, without reasonable excuse, failed or neglected to comply with a direction issued by the Practice Review Committee (“PRC”) under section 32F(2)(b) of the PAO.

Background

6. The Respondent is a certified public accountant. The Respondent was the sole practising director/shareholder of a corporate practice, NK (corporate practice no.:S393), which was first registered on 9 August 2010. NK did not renew its registration for 2015 and its name was removed from the register of corporate practice for non-renewal on 18 February 2015.
7. After the removal, the Institute reminded NK of the requirement to arrange Run-Off insurance coverage as required under the relevant rules. In the process it was discovered that NK did not in fact have any PII cover since December 2010.
8. In renewing the registration of NK for each of the years from 2011 to 2014, the Respondent made annual declarations to the Institute that, among other things, NK had renewed its PII cover in accordance with the relevant rules, despite the fact that there was no cover at all.

9. The Respondent is currently practising as a sole proprietor under a different firm, NK Wong & Co. (Firm no.1797) (“NKWC”).

D-15-1051H

Relevant Laws and Regulations

10. Section 28D(2)(b)(iii) of the PAO states:

“(iii) the company must at all times be covered by professional indemnity insurance provided by an approved insurer on terms which are either specified in rules under section 51, or if not so specified, have been approved of by the Council and that the scope of the indemnity which the insurance affords is, as regards any amount payable thereunder and in every other respect, at least as extensive as rules under section 51 required in that regard ...”

11. Rules 4 and 5 of Statement 1.103 of PII Rules states:

“4. Each corporate practice shall have a valid and binding contract of professional indemnity insurance under the HKICPA PII Master Policy and any additional binding contract of professional Indemnity insurance required to ensure compliance with the minimum requirements set out in Rule 5. The insurance may have cover greater than those requirements.”

“5. The requirements for the professional indemnity insurance in Rule 4 are as follows:

.....

(d) The Period of Insurance

The insurance shall be either:

- (i) for a period of not less than one year, or*
- (ii) in the case of insurance placed under the HKICPA PII Master Policy or other scheme which requires all insurances under it to expire on a common expiry date, for a period expiring on the next common expiry date under that scheme.*

....

(g) Run-Off

The corporate practice shall ensure that notwithstanding its subsequent

cessation of trading at any time the insurance will cover liability arising from any circumstances acts errors or omissions occurring in the last seven years prior to the date of cessation, and where the insurance cover is on a claims made basis, the Insurance is maintained through a period of not less than seven years after ceasing to have a current corporate practice registration certificate.”

12. The relevant rules of the Statement 1.102 CPRR states,

“4. A corporate applicant may be granted registration only if:

.....

(d) the corporate applicant complies with the Corporate Practices (Professional Indemnity) Rules (the PI Rules) issued by the Council...

6. Every corporate practice, its directors and shareholders shall be at all time observe the HKICPA’s By laws, professional standards and other rules and any of them as may be amended from time to time which apply to all certified public accountants (the HKICPA’s Rules). Certified public accountants who are shareholders and directors of a corporate practice shall be responsible for and accountable to the HKICPA for the conduct of the corporate practice, and shall be severally liable to disciplinary action for any failure by the corporate practice to comply with the HKICPA’s Rules...

14. An application for renewal of registration as a corporate practice shall submit such evidence as Council may require to demonstrate that the applicant satisfies the HKICPA’s Professional Indemnity and Registration Rules relating to corporate practices.

29. Every certified public accountant who is a director of a corporate practice which ceases to be registered must obtain Run-Off cover in accordance with the PI Rules. Failure to do so will subject him/her to disciplinary action under section 34 of the PAO. No application for withdrawal will be accepted by the Council unless the corporate practice has arranged Run-Off covers in accordance with the PI Rules.”

13. Section 110.2 of the Code of Ethics for Professional Accountants (“COE”) stated,

“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 material false or misleading statement; ...

(b) contains statements or information furnished recklessly;”

Relevant Facts

14. The following facts were not disputed:

- (a) For the renewal applications for registration of NK for the four years of (i) 1 December 2010 to 30 November 2011, (ii) 1 December 2011 to 30 November 2012, (iii) 1 December 2012 to 30 November 2013 and (iv) 1 December 2013 to 30 November 2014 (“**the said 4 years**”), NK submitted four sets of “Declaration in respect of Rule 14 of the Corporate Practices (Registration) Rules” dated 18 February 2011, 30 November 2011, 1 February 2013, and 21 February 2014 respectively (“**Declarations**”). Each of the Declarations appeared to bear the signature of the Respondent as Managing Director of NK signing for and on behalf of NK.
- (b) As a result, the renewal of NK’s registration for the said 4 years were allowed.
- (c) In the email of 29 April 2015 from AON Group (“**Aon’s Email**”) which was the Institute’s Master PII Insurance Policy provider to the Institute, it was stated, amongst others, as follows:

“As discussed with your colleague, Marianna regarding a corporate practice N K Co. CPA Limited, the following is the finding in our record.

- 1. the client has a PI cover on 2 August 2010 to 30 November 2010*
- 2. and the client did not renew the policy upon 30 November 2010, lapsed notice has been sent to him*
- 3. We report to HKICPA on 6 December 2010 with a list for non-renew corporate practice name*
- 4. After few months, the client sent us a proposal form on 25 February 2011, we gave him a quote as a new risk. We have received his*

confirmation on 31 March 2011 which requested a date back to 1 December 2010. However this was something we couldn't offer to him for such date back.

5. Then, we have sent him another quotation on 18 April 2011, and we have no reply from him

6. Therefore, N K Co. CPA Limited has no PI cover from 1 December 2010 until now”...

- (d) NK was de-registered on 15 February 2015.
- (e) The Respondent was a director of NK during the said 4 years and at the time of its de-registration.
- (f) There was no Run-Off PII cover for NK after its de-registration.

The Respondent's Defence

- 15. The Respondent did not submit any written submission for the Respondent's Case in accordance with the Procedural Timetable for both proceedings. However, at the beginning of the hearing for Proceedings D-15-1051H, the Respondent submitted that he would be contesting all the three complaints against him.
- 16. During the course of the hearing for Proceedings D-15-1051H, the Respondent stated the following for his defence:-
 - (a) The Respondent believed that he had arranged PII cover and NK had obtained PII cover for the said years.
 - (b) The Respondent was unable to remember whether he read the Declarations before he signed them. The Respondent said he went to the Institute and, with the assistance from the staff of the Institute, he signed the Declarations.
 - (c) The Respondent believed that the PII cover was automatically renewed. Furthermore, he asserted that his belief was strengthened because, had the PII cover not been renewed, the renewals of NK's registration for the said 4 years would not have been allowed. The Institute should inform the Respondent if the Institute was aware that the PII cover for each of the said

4 years were not renewed.

(d) In between 2014 to 2015, the Respondent was having some family issues and he rarely went back to office. The Respondent did not check incoming letters which would have included the enquiry correspondences issued by the Institute. As a result, the Respondent failed to arrange Run-Off Cover for NK upon de-registration in 2015.

17. The Respondent made these statements under oath. He was cross examined at length on the Declarations and the renewal of PII cover.

Findings of the Committee

18. At the hearing, the Respondent did not seem to dispute that he signed each of the Declarations. When asked under cross examination whether the signature on the Declaration Form of 21 February 2014 was his signature, he replied that it was “*very likely*”. In any event, considering all the evidence before us, we have no difficulty in finding that each of the Declarations was signed by the Respondent.

19. The Respondent also did not seem to dispute the fact that there was no PII cover for NK for the said 4 years. Indeed, the Respondent’s submissions were made on the basis that no such PII cover existed. On the evidence before us, the Committee finds that there was no PII cover for NK for the said years.

20. As a result, the Declarations signed by the Respondent were materially false.

21. The Respondent submitted he believed that he had arranged PII cover and NK had obtained PII cover for the said 4 years. He was cross examined at length on such belief.

22. Apart from his bare assertion, the Respondent had not submitted any other evidence to support his belief at paragraph 21 above.

23. When asked about the request to date back, as referred to in point 4 of Aon’s Email, the Respondent replied that he could not remember the information he had provided to the Insurance Company. We find, and given Aon’s Email, that the Respondent did make the request for date back. Such request makes sense if the Respondent was aware of the absence of PII cover at the relevant time.

24. The Respondent submitted that he signed the Declarations with the assistance from the staff of the Institute and the Institute should inform the Respondent if the Institute was aware that the PII cover for the four years were not renewed.
25. The Committee does not consider the question of any assistance from staff of the Institute or any notice from the Institute have any relevance in the present matter. It is clear from Section 28D(2)(b)(iii) of the PAO, Rules 4 and 5 of Statement 1.103 of PII Rules, and Rules 6 and 14 of Statement 1.102 CPRR that the Respondent has the obligation to ensure that NK must at all times be covered by PII. The Respondent's asserted reliance on the staff and the Institute is a lame excuse.
26. After the hearing on 1 November 2016, the Respondent by way of letter dated 27 February 2017 submitted copy of a letter from Aon (the PII cover provider) dated 15 March 2011 ("**Aon's Letter 03/2011**"). That letter was addressed to NK. The following are extracted parts of the letter:

"Thank you for your completed proposal form, we are pleased to provide you the attached insurance quotation. You are given two options for one year or two years cover.....

.....

To effect your cover, we need you:

- *To sign Quotation Slip (please chose an option and advise effective date),*
- *To sign Declaration Form.*

....."

27. At the hearing on 14 March 2017, the Committee granted leave to the Respondent to submit copy of the Aon's Letter 03/2011 as evidence. The Respondent stated that he was unable to find copy of his response to the said letter. He also did not give further evidence as to how NK responded to the same.
28. The Committee is unable to see how the Aon's Letter 03/2011 assists the Respondent's case. The letter merely presents the option for one or two years cover. It does not provide for automatic renewal. Even if the Respondent had relied on this letter to claim that there was automatic renewal for 2011 and 2012,

there was still no evidence to support his belief that there would be automatic renewal for the further 2 years after that.

29. Having considered all the evidence and the Respondent's submissions, the Committee does not accept the Respondent's claim that he believed there was PII cover for NK for the said 4 years.
30. Even if the Respondent did believe that there was PII cover at the relevant time, the Respondent was acting recklessly in holding such belief. In any event on the evidence before us, the Committee does not accept the Respondent's assertion that he held such belief.
31. Regarding the 3rd Complaint, it was not disputed and the Committee so find that NK did not have PII cover for the 4 years of 2011, 2012, 2013 and 2014 and the Run-Off PII upon de-registration in 2015.
32. As stated above, the Committee does not accept that the Respondent believed the PII cover had been renewed for the said 4 years.
33. As regards the absence of Run-Off PII cover, the Respondent's explanation was that he rarely went to the office, and he did not check incoming correspondence thus failed to arrange for Run-Off PII cover.
34. Under cross examination by the Complainant, the answers by the Respondent were mostly evasive. The Committee does not accept that he is a credible witness.

Conclusion on Case No.D-15-1051H

35. In view of the Committee's findings aforesaid, the Committee finds the 1st Complaint has been proved.
36. As the Declarations containing material false information were made over four consecutive years, the Committee also finds that such acts amounted to dishonourable conduct. The 2nd Complaint is also proved.
37. As regards the 3rd Complaint, the Respondent's claim that he seldom went to the office and accordingly was not aware of reminders is simply not a defence at all.

The Committee therefore finds that the Respondent did fail to arrange Run-Off PII cover for NK upon its de-registration. Accordingly, the 3rd Complaint is proved.

D-15-1063P

Relevant Laws and Regulations

38. Section 32F(2) of the PAO states:

“Where a dispute is referred under subsection (1), after considering any submissions or representations (which shall be in writing) made by the relevant practice unit or the relevant reviewer, the Practice Review Committee—

(a) shall determine the dispute and communicate such determination to each of the parties to the dispute; and

(b) may issue directions relating to the matter in dispute to such practice unit or the reviewer concerned and require such unit or reviewer to comply with them.”

39. Section 32F(3) of the PAO states:

“Where a practice unit or a reviewer is required to comply with a direction under subsection (2)(b) and fails to comply with the requirement, the Practice Review Committee may make a complaint to the Registrar regarding any corporate practice or any certified public accountant concerned, and in case such a complaint is made it shall, for the purposes of Part V, be deemed to have been made under section 34(1).”

Relevant Facts

40. The following facts were not disputed:

- (a) In July 2012, NK was selected for a practice review (“**Initial Practice Review**”).
- (b) As a result of NK’s failure to adequately address the findings identified in the Initial Practice Review and respond to PRC’s request for information, PRC directed the Quality Assurance Department (“**QAD**”) to conduct a

follow up visit on NK in the first half of 2015.

- (c) In a letter dated 30 December 2014, NK was notified that the follow up visit was scheduled to commence on 23 March 2015.
- (d) NK did not renew its registration and the corporate practice was deregistered on 18 February 2015. Therefore, on 5 March 2015, the Respondent was notified that the follow up visit scheduled for 23 March 2015 was to be performed on his firm, namely NKWC.
- (e) Both the letters dated 30 December 2014 and 5 March 2015 were sent to the Respondent at the address of his registered office. In the letter of 30 December 2014, it was stated that if the Respondent was unable to accommodate the reviewer on 23 March 2015, he should contact QAD by 14 January 2015. No response was received from the Respondent in relation to these two letters.
- (f) On 11 and 20 March 2015, the QAD sent emails to the Respondent reminding him that the reviewer would visit the office of NKWC for the purpose of the practice review. No response was received from the Respondent.
- (g) On 23 March 2015, the reviewer arrived at the Respondent's office but found that the Respondent was absent without providing any advance notice or reason for his unavailability. The Respondent also did not contact the reviewer to rearrange another date for the follow up visit.
- (h) On 11 May 2015, the PRC took account of the uncooperative response of the Respondent and issued a direction under section 32F(2)(b) of the PAO which required the Respondent to co-operate with the QAD to ensure that the practice review follow up visit could be carried out from 26 to 28 May 2015. The Respondent was also directed to confirm his availability or advise his reasons if he was not able to follow the direction by 18 May 2015.
- (i) During the period from 13 to 14 May 2015, a number of telephone calls were made to the Respondent at his office telephone number for the purpose of confirming his availability for the follow up visit. Voice messages were

left but no response was received from the Respondent. The reviewer also received no response from the Respondent to his email dated 18 May 2015 which was sent to the Respondent's registered email address.

- (j) Despite the aforesaid reminders by telephone and email, the Respondent failed to confirm his availability for the follow up visit or provide any reasonable excuse for not doing so.
41. In view of the Respondent's lack of response in confirming his availability for a practice review follow up visit on or before 18 May 2015, the PRC considered that the Respondent had failed to comply with its direction to cooperate with the QAD. As a result, the PRC raised a complaint against the Respondent under section 32F(3) of the PAO.

The Respondent's Defence

42. The Respondent did not submit any written submission for the Respondent's Case in accordance with the Procedural Timetable for the both proceedings. However, at the beginning of the hearing, the Respondent submitted that he would be contesting the complaint against him under Proceedings D-15-1063P.
43. During the course of the hearing for Case No.D-15-1063P, the Respondent stated the following for his defence:
- (a) The Respondent was suffering from severe injury on his rib cage in July 2012. Nonetheless, the Respondent still attended to the Initial Practice Review. The Respondent asserted that he would co-operate with the QAD unless there was special circumstances.
 - (b) In 2014, the Respondent was under investigation by the Police and the Police had seized all the documents and computer server belonging to NK. Therefore, it was not possible to arrange a follow up visit as there was no document available for the purpose of review.
 - (c) In between 2014 to 2015, the Respondent was having some family issues and he rarely went back to his office. The Respondent did not check incoming letters which would have included the enquiry correspondences issued by the Institute. As a result, the Respondent failed to co-operate

with the direction issued on 11 May 2015.

Findings of the Committee

44. The Respondent did not dispute that he failed to comply with the direction issued by the PRC under section 32F(2)(b) of the PAO to cooperate with the QAD to ensure that a follow up visit of a practice review is carried out.
45. The only question was whether the Respondent had any reasonable excuse for failing to comply with the Direction.
46. Apart from his bare assertion, the Respondent had not submitted any other evidence to support his defence.
47. Having considered all the evidence and the Respondent's submissions, the Committee does not accept that they provide any reasonable excuse for the Respondent's failure to comply with the direction by continuing to disregard the reviewer's request and failure to confirm a date for the follow up visit.

Conclusion on Case No.D-15-1063P

48. In view of the Committee's findings aforesaid, the Committee finds the Complaint has been proved.

Sanctions

49. With respect to sanctions, section 35 of the PAO provides:
"(1) If a Disciplinary Committee is satisfied that a complaint referred to it under section 34 is proved, the Disciplinary Committee may, in its discretion make any one or more of the following orders—
 - (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 Institute;*
 - (d) an order that the certified public accountant—*
 - (i) pay the costs and expenses of and incidental to an investigation against him under Part VA; and*

(ii) where the disciplinary proceedings were instituted as a result of an investigation under the Financial Reporting Council Ordinance (Cap. 588), pay to the FRC the sum the Disciplinary Committee considers appropriate for the costs and expenses in relation or incidental to the investigation reasonably incurred by the FRC;

(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,

and the Disciplinary Committee may in any case—

(i) provide for an order to take effect on such date as the Disciplinary Committee thinks fit;

(ii) provide for an order to take effect only upon the happening or non-happening of such event within such period as may be specified by the Disciplinary Committee;

(iii) make such order as the Disciplinary Committee thinks fit with regard to the payment of costs and expenses of and incidental to the proceedings, whether of the Institute (including the costs and expenses of the Disciplinary Committee) or of any complainant or of the certified public accountant, and any costs and expenses or penalty ordered to be paid may be recovered as a civil debt.

(1A) Where any rules made under section 51 provide for a re-hearing by a Disciplinary Committee of a complaint referred to it under section 34, any order or decision made under subsection (1) shall, if a Disciplinary Committee re-hears the complaint, cease to have effect and subsection (1) shall apply to such re-hearing as if it were the original hearing.

(2) Nothing in this section shall be deemed to require a Disciplinary Committee to inquire into the question whether a professional accountant was properly convicted but the Committee may consider the record of a case in which such conviction was recorded and such other evidence as may show the nature and gravity of the offence.

(3) A Disciplinary Committee shall cause a copy of any order made under subsection (1)(a) or, if the order is varied on appeal, the order as so varied to be published in the Gazette together with a summary of the nature of the complaint to which the order relates. Provided that no order shall be so published before the expiry of 30 days after the date of service of the order on the professional accountant under section 38(1) or, in the case of an appeal made to the Court of Appeal against the order under section 41, before the appeal is finally

determined.”

50. When considering the imposition of sanction, the Committee bears in mind the need to strike a fair balance between the general interests of the public and the impact upon the Respondent’s personal and business situation. Aside from the element of public interest, it is important to consider the Respondent’s personal circumstances, the circumstances under which the said breaches occurred and the seriousness of such non-compliance.
51. In considering the proper order to be made in this case, the Disciplinary Committee has had regard to all the aforesaid matters, including the findings we made in support of the complaints, the Respondent’s personal circumstances, the previous cases referred to us (although we bear in mind that each case has to be considered and decided upon its own particular facts) and the submissions made by both parties.
52. PII cover is an important protection for the public. Making the Declarations to the effect that there was PII cover when none existed is a serious matter. Similarly, failure to arrange Run-Off cover upon NK’s de-registration also puts the public interests at risk.
53. The Respondent’s false Declarations made over a period of four years were dishonourable.
54. The failure to comply with direction relating to the practice review undermines the work of the PRC which is essential to ensure that professional standards are maintained.
55. Having considered all the foregoing, the Committee is of the view that the following sanctions are appropriate and the Committee so decides.

Order

56. For Case No.D-15-1051H, the Committee orders that:-
 - (a) For the first Complaint, the name of the Respondent be removed from the Register for five (5) years with effect from the 42nd day from the date hereof;

(b) For the 2nd Complaint, the name of the Respondent be removed from the Register for five (5) years with effect from the 42nd day from the date hereof;

(c) For the 3rd Complaint, the name of the Respondent be removed from the Register for three (3) years with effect from the 42nd day from the date hereof.

all to run concurrently.

57. For Case No.D-15-1063P, the Committee orders that:-

(a) For this Complaint, the name of the Respondent be removed from the Register for one (1) year with effect from the 42nd day from the date hereof, to run concurrently with the sanctions in Case No.D-15-1051H.

58. The time spent by the Clerk in both cases is reasonable. The costs and disbursements in the sums of HK\$18,225.00 under Case No.D-15-1051H and HK\$12,825 for Case No.D-15-1063P is allowed.

59. The costs of the Complainant as represented by Mr. Donald Leo, General Counsel, in both case should be recovered from the Respondent. The time spent by Mr. Leo and other officers of the Complainant in both cases are reasonable except that the overlapping of the work on preparation of complaint documents by the officers of the Complainant for both cases should be deducted. The costs and disbursements submitted for D-15-1051H and D-15-1063P were HK\$38,824 and HK\$40,143 respectively, and the Committee has decided to curtail that to HK\$35,000 and HK\$28,000 respectively.

60. To sum up, the Committee orders that:-

(a) The Respondent's name be removed from the Register for five years with effect from the 42nd day from the date hereof in respect of both cases to run concurrently;

(b) The Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant for both cases in the sum of HK\$63,000 and that of the Clerk in the sum of HK\$31,050.