

Order No. DT08/2020

**The Hong Kong Institute of Chartered Secretaries (“HKICS”)
and
China Division of The Chartered Governance Institute (“CGI”)
formerly The Institute of Chartered Secretaries and Administrators**

**Decision of the Disciplinary Tribunal (“DT”) Concerning the Case
Against Ms Chan Wai Ling (the “Respondent”)**

Date of DT hearing and Decision: 14 July 2020

Date of Reasons for Decisions: 13 August 2020

Pursuant to CGI Byelaw 23.1 and HKICS Article 25.2, the Investigation Group (“IG”) of both CGI China Division and HKICS by its report dated 18 February 2020 recommended to the DT for consideration of the Respondent for professional misconduct in having been found contravened section 34(1)(a)(vi) of Professional Accountants Ordinance (Cap. 50) (“PAO”) of failing or neglecting to observe, maintain or otherwise apply a professional standard of a certified public accountant as set out in the order dated 25 July 2019 and the reasons for decision dated 18 January 2019 of the Disciplinary Committee of the Hong Kong Institute of Certified Public Accountants (“HKICPA”) (“HKICPA DC”) and reported in the press release dated 3 September 2019 (HKICPA proceedings no.: D-17-1278F) (the “HKICPA decision”).

The Respondent provided documents and explanations to IG.

After the notice to this DT hearing was issued to the Respondent on 29 May 2020, she did not reply to the DT. No written submission nor reply regarding her hearing attendance had been received from her by the reply deadline on 30 June 2020 and also as of the scheduled hearing on 14 July 2020.

The DT met on 21 April 2020 and 14 July 2020 to consider the present case.

Having reviewed the HKICPA decision and the explanations given by the Respondent to the IG, the DT has made the following finding of facts and decision on 14 July 2020:

Background

1. The Respondent has not appealed against the HKICPA decision which is binding.
2. The Respondent did not dispute the facts as set out in the complaint in the HKICPA decision and confirmed her admission of the complaint against her.
3. The Respondent was the engagement quality control reviewer of the audit (audit reviewer) of its client concerned which was a Hong Kong listed company. The Respondent was responsible for the quality of the audit engagement.
4. The Respondent was also a certified public accountant in addition to being a Chartered Secretary.
5. The Respondent was found by the HKICPA DC that :-

- (i) the Respondent failed or neglected to observe, maintain or otherwise apply professional standards of paragraph 20 of Hong Kong Standard on Auditing 220 on the quality control for an audit of financial statements; and
 - (ii) the Respondent failed or neglected to observe, maintain or otherwise apply professional standards of the fundamental principle of professional competence and due care in sections 100.5(c) and 130.1 of the code of ethics for professional accountants in conducting her duties as the audit reviewer, for her failure to act competently and diligently in accordance with professional standards when carrying out her work in the audit of the 2013 financial statements.
6. The Respondent was found by the HKICPA DC that she failed to carry out an adequate review in respect of the graphite ore transaction at the material time.
 7. The Respondent was sanctioned by the HKICPA DC for her performance being not up to the stipulated professional standard of a certified public accountant.
 8. The HKICPA DC also questioned the Respondent's independence as the audit reviewer of which she should have been very independent from the audit team.
 9. The HKICS Code of Professional Ethics and Conduct (the "Code") requires members to observe the highest standards of professional conduct and ethical behaviour in all their activities and to uphold the objectives of HKICS. In particular, members shall abide by the letter and spirit of the Articles of Association of HKICS and any codes or byelaws made pursuant thereto; to uphold the CGI's Charter and comply with its Byelaws; at all times be cognisant of their responsibilities as professional persons towards the wider community; to maintain good corporate governance, management and efficient administration in their professional capacity as a Chartered Secretary; and exercise probity, honesty and diligence in carrying out their duties and responsibilities.
 10. The core principle of high standard of service/professional competence of the Code requires that regardless of the capacity or position that a member holds, she is required to deliver the high standards of services or professional competence throughout her working life.
 11. The core principle of professional behaviour of the Code requires that members of the Institute should act in a way which conformed to the relevant laws of the respective jurisdiction, members should also pay regard to all regulations which may have a bearing on their actions.
 12. The DT considered that when audit work of listed companies was involved, public interests were at stake.
 13. The DT considered the fact that the Respondent failed to discharge her audit reviewer duties and was disciplined and publicly sanctioned by the HKICPA DC, thereby bringing the Institute and the profession into disrepute in breach of the core principle of integrity of the Code.
 14. The DT further considered the fact that the Respondent wholly ignored the DT's request for information and that was uncooperative.

The decision of the Disciplinary Tribunal

15. The DT had found that the case against the Respondent was proved, in particular, the Respondent's failure or neglect to apply the professional standard of a certified public accountant in her position as such and thereby disciplined by HKICPA,

thereby in breach of:

- (i) CGI Byelaw 23.8(c) that she has failed to uphold the code of professional conduct and ethics;
 - (ii) CGI Byelaw 23.8(d) that she has behaved, by doing something or not doing something, in a way considered by the DT to bring CGI or the profession into disrepute;
 - (iii) HKICS Article 25.1(c) that she has conducted herself whether by act or default in a manner that might or is likely to be discreditable to HKICS; and
 - (iv) HKICS Article 25.1(d) that she has acted in breach of the Articles of Association of HKICS or any rules, regulations, codes of practice or conduct, directions or instructions made or established by or under the authority of the Council.
16. Having taken into account of the circumstances of the case and the mitigating factors, pursuant to CGI Byelaw 24.1 and HKICS Article 27 the DT **ORDERED** that
- (a) the Respondent be publicly reprimanded, and this decision shall be published publicly via the Institute's website and/or other official channels, with such news be included in the Institute's journal; and
 - (b) the Respondent shall pay the Institute's costs of HK\$5,000.
17. Pursuant to CGI Byelaw 25 and HKICS Article 28, the Respondent shall be entitled to appeal against the decision or any part of it by submitting, in writing, a request that the matter should be considered by the Appeal Tribunal, specifying in the request the grounds to be relied on in support of the appeal. The notice of intention to appeal must be received by HKICS within 28 days of her having been advised of the decision of DT and may be given to the person by whom the notice of the decision was given or to the Secretary of HKICS or any person authorised to receive such notice. If the notice of intention to appeal is given by telephone or other electronic method, it must be confirmed in writing within 14 days.

Dated 13 August 2020

Chairman, Disciplinary Tribunal