

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. Pursuant to section 37CA of the Accounting and Financial Reporting Council Ordinance (Cap. 588) (**AFRCO**), the Accounting and Financial Reporting Council (**AFRC**) has imposed the following sanctions against Mr Lam Kin Choi (**Lam**):
 - 1.1. public reprimand;
 - 1.2. pecuniary penalty of **HK\$300,000**;
 - 1.3. suspension of Lam's registration with the Hong Kong Institute of Certified Public Accountants (**HKICPA**) for **two (2) years**;
 - 1.4. cancellation of Lam's practising certificate;
 - 1.5. order for non-issuance of practising certificate for **two (2) years**; and
 - 1.6. order that Lam pays the costs and expenses of, and incidental to, the AFRC's investigations, in the sum of **HK\$50,214**.
2. The disciplinary action was taken in relation to the professional irregularities committed by Lam under section 3B(1)(e) of the AFRCO in that Lam failed, without reasonable excuse, to comply with two requirements (**Requirements**) issued by the AFRC's Inspection Department (**Inspection Department**) pursuant to section 20ZZC(1) of the AFRCO.
3. By committing the professional irregularities set out in paragraph 2 above, Lam committed two counts of CPA misconduct under section 37AA(1)(a) of the AFRCO.

Summary of Facts

A. Background

4. Lam was a member of the HKICPA¹ and practising certificate holder.² He was first registered as a member of the HKICPA in 2003 and first issued with a practising certificate in 2006.
5. Lam was at the material times the sole director and sole shareholder of VenturePro CPA Limited (**VenturePro**).³
6. Lam was at the material times the sole practitioner of William Lam & Co. (**WLC**)⁴

¹ Membership number: F05649.

² Practising certificate number: P07227.

³ VenturePro was registered with the AFRC as a corporate practice with registration number S0773. The AFRC has revoked VenturePro's registration with effect from 31 July 2023 upon application by VenturePro.

⁴ WLC is a firm with registration number 2558.

(together with VenturePro, **Practice Units**).

7. Between 6 July 2021 and 29 April 2022, the Quality Assurance Department of the HKICPA conducted a practice review on the Practice Units (**Practice Review**).
8. On 29 July 2022, the HKICPA issued a letter to the Practice Units setting out the decision of the Practice Review Committee (**PRC**) of the HKICPA (**PRC Decision Letter**):
 - 8.1. The PRC expressed serious concerns over the nature and number of deficiencies identified from the Practice Review. A number of those deficiencies were recurring deficiencies based on the previous practice review.
 - 8.2. While there had been efforts to address the significant findings identified in the Practice Review, the PRC had concerns over the effectiveness of the proposed remedial actions.
 - 8.3. The PRC gave Lam specific directions on appropriate remedial actions to be taken in respect of the Practice Units, and indicated that a follow-up visit would be scheduled to assess the extent of improvement made as a result of the remedial actions taken.

B. The AFRC's Requirements for information and documents of the Practice Units

9. On 10 March 2023, the Inspection Department issued notification letters (**Notification Letters**) to each of VenturePro and WLC (both for Lam's attention). The Notification Letters:
 - 9.1. stated that an inspection would be conducted on VenturePro and WLC respectively from 24 April 2023 to 5 May 2023 to assess the extent of improvement in VenturePro's and WLC's compliance with professional standards as a result of the remedial actions taken subsequent to the Practice Review; and
 - 9.2. enclosed two Requirements pursuant to section 20ZZC(1) of the AFRCO, requiring certain information and documents in relation to VenturePro and WLC respectively to be provided to the AFRC by 31 March 2023 (**Required Documents**).
10. The Required Documents included the following documents and information of VenturePro and WLC respectively:
 - 10.1. Quality Control Manual and other documents that demonstrate the Practice Units' commitment to quality;
 - 10.2. Anti-Money Laundering Procedures Manual and other documents that demonstrate the Practice Units' compliance with the Guidelines on Anti-Money Laundering and Counter-Terrorist Financing for Professional Accountants and relevant laws and regulations;

- 10.3. latest internal review or monitoring report(s), if any;
 - 10.4. latest external inspection reports issued by regulators other than the AFRC and HKICPA, if any;
 - 10.5. organisation chart or reporting and responsibility lines, if available; and
 - 10.6. list of all clients by name where an audit or a special audit report had been issued within a certain period prior to the date of the inspection.
11. Lam confirmed receipt of the Notification Letters by email on 20 March 2023.
 12. The AFRC did not receive the Required Documents by the deadline of 31 March 2023.
 13. Between 3 and 17 April 2023, an inspector from the Inspection Department (**Inspector**) made multiple attempts to contact Lam with respect to the Required Documents:
 - 13.1. The Inspector reached Lam by telephone on 3 April 2023, and indicated that Lam had not provided the Required Documents. Lam informed the Inspector that he was busy and therefore unable to provide the Required Documents by 31 March 2023. The Inspector reminded Lam to submit the Required Documents by 6 April 2023, or submit a written response to explain any difficulties he was encountering in providing the Required Documents.
 - 13.2. The Inspector also emailed Lam on 3 April 2023 reiterating that the AFRC had not received the Required Documents, and reminded Lam to provide the same by 6 April 2023.
 - 13.3. On 11, 12 and 13 April 2023, the Inspector contacted Lam multiple times on Lam's mobile phone or VenturePro's office number, but was unable to reach Lam. The Inspector left Lam multiple messages asking Lam to call him back. However, Lam failed to do so.
 - 13.4. On 17 April 2023, the Inspector reached Lam by telephone, and indicated that Lam had not provided the Required Documents by 6 April 2023. Lam informed the Inspector that he was busy and therefore unable to provide the Required Documents on time. The Inspector again reminded Lam to submit the Required Documents without further delay, or submit a written response to explain any difficulties he was encountering in providing the Required Documents.
 14. Despite multiple reminders from the Inspector as set out in paragraph 13 above, Lam failed to provide the Required Documents.
 15. On 24 April 2023, the Inspection Department issued final warning letters (**Final Warning Letters**) to each of VenturePro and WLC (both for Lam's attention)

stating that the Required Documents must be provided on or before 2 May 2023.

16. The AFRC did not receive the Required Documents from Lam by 2 May 2023. Instead, Lam emailed the Inspection Department on 2 May 2023 seeking an extension of time to provide the Required Documents and stated that:
 - 16.1. Lam had informed the Inspector of his difficulty in providing the Required Documents within a “*short period*” after the Practice Review.
 - 16.2. Lam was busy with pre-arranged meetings during that period.
 - 16.3. The work of WLC had been assigned to a subcontractor, a certified public accountant (practising) (**Subcontractor**).
 - 16.4. VenturePro had only one client and he had decided to cease its business during the year, due to the poor economic environment in Hong Kong.

C. The investigations

17. On 21 June 2023, the AFRC’s Investigation and Compliance Department required each of VenturePro, WLC and Lam to, among other things:
 - 17.1. confirm that the Requirements to provide the Required Documents by 31 March 2023 had not been complied with;
 - 17.2. confirm that the Final Warning Letters to provide the Required Documents by 2 May 2023 had not been complied with; and
 - 17.3. provide any comments or explanations on the failures to comply with the Requirements.
18. Lam gave various reasons for his failures to provide the Required Documents by the deadlines stated in the Requirements, including the following:
 - 18.1. he was busy and/or had pre-arranged meetings and medical appointments to attend and/or his staff and assistant were on leave;
 - 18.2. only a short period of time had lapsed since the completion of the Practice Review in 2022;
 - 18.3. VenturePro had no job, and he intended to cease its business; and
 - 18.4. most of WLC’s jobs were assigned to the Subcontractor, but the Subcontractor was “*unwilling to*” and had “*no time*” to provide the Required Documents.

Summary of Findings

19. The AFRC found that Lam failed, without reasonable excuse, to comply with the Requirements to provide the Required Documents by the deadline of 31 March 2023. As of the date of this Statement of Disciplinary Action, the Required Documents remain outstanding.
20. Lam gave the AFRC various reasons for his failures to comply with the Requirements, as summarised in paragraphs 16 and 18 above. However, as explained in paragraphs 21 to 24 below, the AFRC does not consider any of the reasons given by Lam to be reasonable excuses.
21. One reason Lam provided for his failures to comply with the Requirements is that he was busy and/or had pre-arranged meetings to attend and/or his staff and assistant were on leave (see paragraphs 13.1, 13.4, 16.2 and 18.1 above). This is not a reasonable excuse for not complying with the Requirements because:
 - 21.1. As a regulatee of the AFRC, Lam has an obligation to comply with any statutory requirement issued by the AFRC in discharge of its regulatory functions.
 - 21.2. The AFRC's inspection function plays a pivotal role in monitoring and upholding audit quality. Lam's failures to comply with the Requirements hamper the effective discharge of the inspection function and undermine the regulatory oversight of the AFRC. Having a busy schedule and/or shortage of manpower is not a reasonable excuse for non-compliances.
 - 21.3. The Required Documents set out in paragraph 10 above should have been in existence prior to the issuance of the Requirements and therefore readily available.
22. Lam also indicated that only a short period of time had lapsed following the completion of the Practice Review in 2022 (see paragraphs 16.1 and 18.2 above). This, again, is not a reasonable excuse for not providing the Required Documents for the following reasons:
 - 22.1. The PRC Decision Letter clearly stated that a follow-up visit would be scheduled to assess the extent of improvement made as a result of the remedial actions taken.
 - 22.2. Given that the Practice Review had identified a number of serious deficiencies, and the PRC Decision Letter had given Lam specific directions on appropriate remedial actions to be taken by VenturePro and WLC, it is vital that the Inspection Department conduct a follow-up inspection to assess whether VenturePro and WLC had completed the necessary remedial actions to address the deficiencies identified.
 - 22.3. Under sections 20ZZB(1), 20ZZE(1) and 20ZZE(2) of the AFRCO, the AFRC may direct a CPA inspector to carry out an inspection in relation to a practice unit for the purpose of determining whether the unit has

observed, maintained or applied the PAO professional standards. The AFRC may, having regard to an inspection report in relation to a practice unit, direct a CPA inspector to carry out a further inspection, but such inspection must not commence earlier than six months after the date of the direction concerned. A similar provision also existed in the then section 32D of the Professional Accountants Ordinance (Cap. 50).

- 22.4. In light of the six-month period mentioned in paragraph 22.3 above, the scheduling of a follow-up inspection on VenturePro and WLC in April 2023, i.e., nine months after the issuance of the PRC Decision Letter, is not unreasonable.
23. In relation to VenturePro, Lam explained that it had only one client and had no job, and that he intended to cease its business (see paragraphs 16.4 and 18.3 above). However, these are not reasonable excuses for failing to comply with the Requirement. As long as VenturePro was registered with the AFRC (which it was at the material times), the AFRC had the statutory power to conduct an inspection on VenturePro to assess its compliance with PAO professional standards, regardless of its number of clients.
24. In relation to WLC, Lam asserted that he assigned the work to the Subcontractor who was unwilling or had no time to provide the Required Documents (see paragraphs 16.3 and 18.4 above). However, this is not a reasonable excuse for failing to provide the Required Documents in relation to WLC because:
 - 24.1. As the sole practitioner of WLC, Lam was responsible for the performance of all engagements, despite the work being subcontracted to another party.
 - 24.2. The Required Documents, such as WLC's internal policies and client lists, were pre-existing documents which should have been in Lam's and WLC's possession regardless of whether an arrangement of subcontracting was in place.

Conclusion

25. Having considered all relevant circumstances, the AFRC is of the view that, by failing to comply with the Requirements, Lam has committed professional irregularities under section 3B(1)(e) of the AFRCO, and is therefore guilty of two counts of CPA misconduct pursuant to section 37AA(1)(a) of the AFRCO.
26. In deciding the sanctions set out in paragraph 1 above, the AFRC has had regard to its Sanctions Policy for Professional Persons and Guidelines for Exercising the Power to Impose a Pecuniary Penalty for Professional Persons, and has taken into account all relevant circumstances, including:
 - 26.1. the two counts of CPA misconduct involved failures to comply with two Requirements issued pursuant to the AFRCO. Such failures constitute very serious matters, as they prevent the Inspection Department from inspecting the Practice Units and heighten the risk that the deficiencies

identified in the Practice Review have not been remediated. They also undermine the AFRC's proper discharge of its regulatory functions of monitoring and upholding audit quality, which in turn adversely affect the credibility and effectiveness of the AFRC's regulation of the accounting profession;

- 26.2. Lam's blatant disregard of statutory requirements, and continued display of non-compliant attitude. Lam's persistent delay and refusal in providing the Required Documents tend to suggest that he intentionally or deliberately chose not to comply with the Requirements. After the deadline of 31 March 2023, the Inspection Department repeatedly reminded Lam, both by email and over the telephone, to provide the Required Documents. The Final Warning Letters even allowed Lam until 2 May 2023 to provide the same. Despite the extended time offered, Lam still failed to provide any Required Documents notwithstanding the fact that such documents should have been readily available;
- 26.3. Lam's prolonged failures to provide the Required Documents. More than 13 months have lapsed since the deadline set out in the Requirements, yet the Required Documents are still outstanding as of the date of this Statement of Disciplinary Action, which have prevented the Inspection Department from conducting a follow-up inspection at all;
- 26.4. the need to send a strong deterrent message to the market that failing to comply with a requirement issued by the AFRC is unacceptable; and
- 26.5. the aggravating factor of Lam's prior disciplinary record with the HKICPA.⁵

⁵ HKICPA reference D-14-0963P.