

**IN THE ACCOUNTING AND FINANCIAL
REPORTING REVIEW TRIBUNAL**

IN THE MATTER OF the decision
made by the Accounting and
Financial Reporting Council dated 6
May 2024

and

IN THE MATTER OF a review
brought pursuant to section 37Q of
the Accounting and Financial
Reporting Council Ordinance (Cap
588)

BETWEEN

LAM KIN CHOI

Applicant

and

ACCOUNTING AND FINANCIAL
REPORTING COUNCIL

Respondent

Before: Mr Jonathan Chang SC, Chairman

Date of Hearing: 7 August 2024

Date of Determination: 7 August 2024

Date of Reasons for Determination: 1 August 2025

REASONS FOR DETERMINATION

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1. At the hearing on 7 August 2024, I refused to extend time for the Applicant to make his review application against the decision of the Respondent dated 6 May 2024 (“**Decision**”) and dismissed his review application (“**Review Application**”). I gave brief oral reasons at the hearing. I now give the detailed reasons.

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2. By the Decision, the Respondent imposed the following sanctions against the Applicant:

- H (1) public reprimand;
- I (2) pecuniary penalty of HK\$300,000;
- J (3) suspension of his registration with the Hong Kong Institute of Certified Public Accountants for 2 years;
- L (4) cancellation of his practising certificate;
- M (5) order that he not be issued with a practising certificate for 2 years; and
- N (6) order that he pay the costs and expenses of, and incidental to, the investigations, in the sum of HK\$50,214.
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3. The Review Application was brought under section 37Q of the Accounting and Financial Reporting Council Ordinance (Cap 588) (“**Ordinance**”). Under that section, the Applicant must bring the Review

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Application within the “specified period”, which was defined under section 37M as follows:

“specified period (指明限期), in relation to a specified decision, means the period of 21 days beginning on the day after the notice of the decision is issued by the decision authority to the person in relation to whom the decision is made.”

4. In the present case, the Decision was issued by the Respondent to the Applicant on 6 May 2024:

- (1) by email to his last known email address registered with the Respondent; and
- (2) by insertion through the letterbox of the Applicant’s last known residential address.

5. Under sections 60(1) and (2) of the Ordinance, the Decision is taken as issued to the Applicant on being sent to his last known email address. Specifically, sections 60(1) and (2) provide:

“60. Service of notice, etc.

- (1) This section applies to a notice or other document required or permitted to be given, sent or issued (however described) under this Ordinance.
- (2) Such a notice or document is taken to be given, sent or issued to a person if –
 - (a) in the case of an individual, it is –
 - (i) delivered to the individual by hand;

- (ii) left at, or sent by post to, the individual's last known business or residential address;
- (iii) sent by facsimile transmission to the individual's last known facsimile number; or
- (iv) sent by electronic mail transmission to the individual's last known electronic mail address."

6. The specified period in respect of the Decision therefore began to run from 7 May 2024 (the day after the Decision was issued to the Applicant), and any review application would have to be made within 21 days from that day, namely by 27 May 2024.

7. The Review Application was made by the Applicant's letter dated 7 June 2024 ("**7 June 2024 Letter**"), which the Tribunal received on 13 June 2024. Since the Review Application was made outside the specified period, an extension of time was required.

8. The 7 June 2024 Letter set out the Applicant's grounds for challenging the Decision. Whilst the letter did not set out any application for extension of time for the Review Application, the Applicant made a point in the letter that he did not receive the Decision until after 27 May 2024 when he returned to his office. I therefore indicated to the parties at the hearing that I was prepared to treat the 7 June 2024 Letter as an application in writing to extend time for the Review Application.

9. Section 37R of the Ordinance empowers the Tribunal to extend time for a review application, in the following terms:

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“37R. Extension of time for review application

- (1) The Tribunal may, on the written application within the specified period by a person aggrieved by a specified decision made in relation to the person, by order extend the time for making a review application in relation to the decision.
- (2) Before deciding whether to grant an extension of time, the Tribunal must give the person who made the application and the decision authority a reasonable opportunity of being heard.
- (3) The Tribunal may grant an extension of time if it is satisfied that there is a good cause for doing so.”

10. As I held in *Chiang Sham Lam Anthony & Anor v Accounting and Financial Reporting Council*, AFRRT-3-2024 (21 May 2025), the Tribunal may *only* grant an extension of time if the following 3 conditions are *all* satisfied:

- (1) a written application is made within the specified period;
- (2) the Tribunal has given both the applicant and the decision authority a reasonable opportunity of being heard; and
- (3) the Tribunal is satisfied that there is a good cause for granting the extension.

11. The 7 June 2024 Letter was not sent to the Tribunal within the specified period as defined in the Ordinance. There is nothing in the Ordinance that gives the Tribunal the power to extend time for an aggrieved person to put in the requisite written application for extension of time for a review application beyond the specified period. As a result,

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B I agreed with Mr Dentice for the Respondent that the Tribunal has no
C jurisdiction to entertain any extension of time for the Review Application.
D On this ground alone, the Review Application must be dismissed.

E 12. In any event, I also agreed with Mr Dentice that there was no
F good cause to extend time for the Review Application:

G (1) The Applicant claimed that he was away from Hong
H Kong from 22 April 2024 and only returned on either 11
I or 12 May 2024.

J (2) After he returned to Hong Kong, he stayed at home for a
K rest because the jetlag made him very exhausted, and he
L never went back to his office between when he returned
M to Hong Kong and the deadline.

N (3) He did not check his email at any time before 27 May
O 2024. He was with his daughter who was moving to a
P new place to live. He had no access to internet during
Q that period of time.

R (4) He did not check his letterbox very often. He claimed
S there were many letters accumulated there, and he may
T have missed some letters.

U (5) It was not until 27 May 2024 when the staff of his firm
V told him that his practising certificate was cancelled and
his registration was suspended that he found out about the

Decision, and that was the reason why he was late in making the Review Application.

- (6) It was the Applicant's own choice not to check his email and letterbox or return to his office before 27 May 2024. There is nothing to suggest he was inhibited from doing so. This does not constitute good cause to extend time.

13. The Applicant being the unsuccessful party in the Review Application should bear the costs of the Respondent. The Tribunal may by order award to a party to the review a sum it considers appropriate in respect of the costs reasonably incurred by the party in relation to the review: section 37Y(1) of the Ordinance.

14. Having considered the Respondent's statement of costs and the Applicant's objections, on a broad brush basis, I summarily assessed the costs payable by the Applicant to the Respondent to be HK\$60,000, to be paid within 14 days from the date of the hearing.

Jonathan Chang SC
(Chairman)

The Applicant, acting in person

Mr Nathan Dentice of MinterEllison LLP, for the Respondent