



Dear Assignment / News / Business Section Editor

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

(HONG KONG, 5 December 2013) — A Disciplinary Committee of the Hong Kong Institute of Certified Public Accountants reprimanded Wong Chu Fung (membership number A05854) on 22 November 2013 and ordered him to pay to the Institute a penalty of HK\$30,000 for his failure or neglect to observe, maintain or otherwise apply professional standards issued by the Institute. In addition, Wong was ordered to pay the costs of the disciplinary proceedings of HK\$30,879.

Wong is the sole proprietor of Wong C. Fung & Co. The Institute received information from a regulatory body about Wong's failure to report to the Professional Insurance Brokers Association that an insurance broker company had failed to maintain adequate professional indemnity insurance cover in accordance with the minimum requirements for insurance brokers. In addition, Wong adopted an incorrect format for his report to the Association. After considering the information available, the Institute lodged a complaint against Wong under section 34(1)(a)(vi) of the Professional Accountants Ordinance.

Wong admitted the complaint against him. The Disciplinary Committee found that Wong failed or neglected to observe, maintain or otherwise apply professional standards issued by the Institute, namely section 100 *Introduction and Fundamental Principles* and section 130 *Professional Competence and Due Care* of the Code of Ethics for Professional Accountants.

Having taken into account Wong's admission and the circumstances of the case, the Disciplinary Committee made the above order against Wong under section 35(1) of the ordinance.

Under the ordinance, if Wong is aggrieved by the order, he 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 ordinance by a five-member Disciplinary Committee. The majority (three members) of each committee, including the chairman, are non-accountants chosen from a panel appointed by the Chief Executive of the HKSAR, and the other two members are CPAs.

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

The 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 practising certificate, a reprimand, a penalty of up to \$500,000, and payment of costs and expenses of the proceedings.

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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 36,000 members and more than 17,000 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懲處

(香港，二零一三年十二月五日) — 香港會計師公會轄下一紀律委員會於二零一三年十一月二十二日就黃著峯先生(會員編號：A05854)沒有或忽略遵守、維持或以其他方式應用公會頒布的專業準則，對黃先生作出譴責，並命令他須繳付罰款三萬港元予公會。此外，黃先生亦須支付紀律程序的費用三萬零八百七十九港元。

黃先生為黃著峯會計師事務所的獨資經營者。公會接獲一監管機構的資料關於黃先生沒有向香港專業保險經紀協會報告一間保險經紀公司未有根據保險經紀業的最低限度規定去維持足夠的專業彌償保險。此外，黃先生向該協會提交的報告採用了不正確的格式。公會經考慮所得資料，根據《專業會計師條例》第34(1)(a)(vi)條對黃先生作出投訴。

黃先生承認投訴中的指控屬實。紀律委員會裁定黃先生沒有或忽略遵守、維持或以其他方式應用公會下列的專業準則 – Code of Ethics for Professional Accountants 中的 section 100 *Introduction and Fundamental Principles* 及 section 130 *Professional Competence and Due Care*。

經考慮黃先生承認指控及有關情況後，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命令。

根據《專業會計師條例》，如黃先生不服紀律委員會對他作出的命令，可於命令文本送達後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部份查閱，網頁為 <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，由以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，是由香港特別行政區行政長官從業外人士組成的紀律小組中選派委任，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、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，會員人數超過三萬六千，註冊學生人數逾一萬七千。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**)以確保會計師的入職質素，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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IN THE MATTER OF

A Complaint made under section 34(1)(a) and section 34(1A) of the Professional Accountants Ordinance (Cap. 50) (“PAO”) and referred to the Disciplinary Committee under section 33(3) of the PAO

BETWEEN

The Registrar of the Hong Kong
Institute of Certified Public
Accountants

COMPLAINANT

AND

Wong Chu Fung (membership no.: A05854) RESPONDENT

Members: Mr. CHOW, Cheuk Yu, Alfred (Chairman)
 Ms. KWOK, Yuen Man, Marisa
 Prof. LAM, Kit Chun, Joanna
 Ms. CHAN, Sau Wai, Sylvia
 Mr. WOO, King Hang

REASONS FOR DECISION

1. This is a complaint made by the Registrar of the Hong Kong Institute of Certified Public Accountants (“the Institute”) as Complainant against the Respondent, who is a certified public accountant. Section 34(1)(a)(vi) of the PAO applied to the Respondent.
2. Section 34(1)(a)(vi) of the PAO provides that a complaint against a certified public accountant who failed or neglected to observe, maintain or otherwise apply a professional standard shall be made to the Registrar of the Institute who shall submit the complaint to the Council of the Institute which may refer the complaint to the Disciplinary Panels.
3. The particulars of the Complaint as set out in a letter dated 2 May 2013 (“the Complaint”) from the Registrar of the Institute to the Council of the Institute for consideration of the Complaint, for referral to the Disciplinary Panels, are as follows:-

- (1) On 3 August 2012, the Institute received a **complaint from the Office of the Commissioner of Insurance (“OCI”)** against Wong C. Fung & Co (“the Firm”) regarding an unqualified auditors’ compliance report (“Report”) the Firm had issued to **Mega Top Insurance Services Ltd (“MegaTop”)** for the period from 1 April 2010 to 31 March 2011.
- (2) MegaTop is a member of the Professional Insurance Brokers Association (“PIBA”), one of two approved bodies of insurance brokers in Hong Kong.
- (3) The OCI was concerned that the Report was unqualified when it appeared that MegaTop had failed to maintain adequate professional insurance indemnity cover (“PII”) in accordance with the Minimum Requirements for Insurance Brokers specified by the Insurance Authority (“Minimum Requirements”), as required under section 70(2) of the Insurance Companies Ordinance (Cap. 40) (“ICO”). In addition, the Firm had stated in the Report that they had carried out their audit procedures pursuant to section 73(1) of the ICO rather than the Membership Regulations of the PIBA.
- (4) As the sole proprietor of the Firm, the Respondent was at all material times a member of the Institute holding a practising certificate and had signed the Report.
- (5) Paragraph 100.5 of the Code of Ethics for Professional Accountants (Effective from 1 January 2011) (“the Code”) states:

“100.5 A professional accountant shall comply with the following fundamental principles:

...

(c) Professional Competence and Due Care – to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional services based on current developments in practice, legislation and techniques and act diligently and in accordance with applicable technical and professional standards.”

- (6) Paragraph 130 of the Code states:

“130.1 The principle of professional competence and due care imposes the following obligations on all professional accountants:

(a) To maintain professional knowledge and skill at the level required to ensure that clients or employers receive competent professional service; and

(b) To act diligently in accordance with applicable technical and professional standards when providing professional services.

...

130.4 Diligence encompasses the responsibility to act in accordance with the requirements of an assignment, carefully, thoroughly and on a timely basis.”

- (7) Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he had failed or neglected to observe, maintain or otherwise apply a professional standard namely paragraph 100.5 “*Introduction and Fundamental Principles*” of the Code as elaborated in the aforesaid paragraphs 130.1 and 130.4 of the Code in respect of the Report issued to MegaTop regarding its compliance with the Minimum Requirements for the year ended 31 March 2011.
- (8) Practice Note 810.1 (“PN810.1”) was issued by the Institute to provide guidance to auditors preparing a report on an insurance broker’s compliance with the Minimum Requirements.
- (9) When reporting on an insurance broker’s compliance with its PII Minimum Requirements, paragraph 14 of PN810.1 (reflecting section C of Part III of the Minimum Requirements) states:

Professional Indemnity Insurance

An insurance broker is required to maintain a professional indemnity insurance policy with a minimum limit of indemnity for any one claim and in any one insurance period of 12 months. The minimum limit of indemnity shall be-

- (i) *a sum equal to –*
 - *two times the aggregate insurance brokerage income relating to 12 months immediately preceding the date of commencement of the professional indemnity insurance cover (applicable to insurance broker who has been in business for more than one year);*
 - *two times the projected insurance brokerage income for 12 months for the period of the professional indemnity insurance cover (applicable to insurance broker who has been in business for less than one year); or*
- (ii) *a sum of HK\$3,000,000*

whichever sum shall be greater, up to a maximum of HK\$75,000,000. Cover in excess of this prescribed amount may, of course, be arranged

to meet the requirements of individual broker. If as a result of a claim(s), the indemnity available shall fall below the amount determined in (i) above, the broker shall effect a reinstatement of cover up to not less than such minimum determined amount. Where the limit of indemnity has been determined in accordance with (ii) above, the policy shall include provision for one automatic reinstatement to a limit of indemnity of not less than HK\$3,000,000.

- (10) Appendix 5 of PN810.1 sets out a draft format of an unqualified auditors' compliance report for an incorporated insurance broker's compliance with the Minimum Requirements, where that insurance broker is a member of an approved body of insurance brokers.
- (11) In preparing the Report, the Respondent had adopted the procedures set out in PN810.1:
 - (a) the Report signed by the Respondent stated that *"We have completed procedures on the books of account and the professional indemnity policy of the company for the period from 1st April 2010 to 31st March 2011... [t]hese procedures were conducted in accordance with the Practice Note 810.1 issued by the Hong Kong Institute of Certified Public Accountants ..."*;
 - (b) the Respondent confirmed, in his representation to the Institute dated 28 September 2012 that *"[t]he audit report issued was based on the working as suggested by the Institute Note 810.1"*; and
 - (c) the Respondent confirmed that the procedures set out by PN810.1 were used to report on MegaTop's compliance with the Minimum Requirements.
- (12) The Report had incorrectly adopted the format as set out in Appendix 3 of PN810.1 as MegaTop was not an authorized incorporated insurance broker but a member of PIBA, an approved body of insurance brokers. The Firm should have used the format set out in Appendix 5 of PN810.1 when issuing a compliance report for MegaTop.
- (13) In his representation to the Institute dated 28 September 2012, the Respondent admitted that the format for the Report was not appropriate and explained that *"this might have been caused by adopting the wrong form for unincorporated broker. I have double checked and rectified the form and would make sure the similar matter would not happen again."*
- (14) As referred to in Paragraph 3(9) above, in assessing the adequacy of MegaTop's PII cover against the Minimum Requirements, an auditor was required to check that the level of insurance cover was no less than *"two times the aggregate insurance brokerage income relating to 12*

months immediately preceding the date of commencement of the professional indemnity cover”.

- (15) The limit of liability of the PII policy of MegaTop was HK\$4,500,000 for the year ended 31 March 2011.
 - (16) In calculating the minimum level of PII coverage, the Firm used the brokerage income related to the current year (HK\$2,909,886) rather than the preceding 12 months (HK\$2,537,290). The correct short fall of the limit of liability amounted to $\text{HK\$2,537,290} \times 2 - \text{HK\$4,500,000} = \text{HK\$574,580}$.
 - (17) However, as there had been a casting error in the calculations of the PII requirements the Firm and the Respondent failed to realise that there was a deficiency in the PII insurance cover obtained by MegaTop.
 - (18) In the circumstances, the Respondent was in breach of section 34(1)(a)(vi) of the PAO as he had failed to comply with the aforesaid paragraphs 100.5, 130.1 and 130.4 of the Code when he issued the Report to MegaTop.
4. By a signed Confirmation dated 20 June 2013, the Respondent admitted the Complaint against him. He did not dispute the facts as set out in the Complaint. He agreed that the steps set out in paragraphs 17 to 30 of the Disciplinary Committee Proceedings Rules be dispensed with.
 5. By a letter dated 5 September 2013 addressed to the Complainant and the Respondent, the Clerk to the Disciplinary Committee (“DC”), under the direction of the DC, informed the parties that they should make written submissions to the DC as to the sanctions and costs and that the DC would not hold a hearing on sanctions and costs unless otherwise requested by the parties.
 6. The Complainant made submissions to the DC on sanctions and costs by letter dated 11 September 2013 (“**Complainant’s submissions letter**”). The Respondent made submissions to the DC on sanctions and costs by letter dated 24 September 2013 (“**Respondent’s submissions letter**”). No request for a hearing on sanctions and costs has been made by the parties.
 7. In the Complainant’s submissions letter, copied to the Respondent, the Complainant referred the DC to four previous cases in which the certified public accountants committed similar failures. In those cases, the certified public accountants were reprimanded and ordered to pay a financial penalty ranging from HK\$5,000 to HK\$100,000.
 8. As the Complainant has pointed out, each case is fact sensitive and the DC is not bound by the decisions of previous committees.

9. The Complainant invited the DC to consider making an order that the Respondent be reprimanded and pay a penalty and the costs of these proceedings.

10. In the Respondent's submissions letter, the Respondent urged the DC to impose a lenient sentence and to take into consideration the Respondent's letter dated 30 April 2013 to the Institute, in which the Respondent stated:

" I would like to inform the Committee the followings:-

1. *I am a sole petitioner since 1995. There was total 4 staff in my firm at the material time (June to July 2011). I personally handle the staffing, marketing and technical matters of my firm.*
2. *At the material time the tax deadline for many clients was approaching.*

...

5. *I have never been complained by any client about my work.*
6. *The report was intended for filing with the Professional Insurance Brokers Association and that did not raise any further queries after our written explanation.*

In light of the hardships I suffered at the material time and my previous good record, I would like to implore the Committee to impose a minimum penalty."

11. The DC has considered the Respondent's submissions letter. The DC takes into account the admission by the Respondent of the Complaint at an early stage of the proceedings and that the Respondent's breach concerned only one auditors' report.

12. Turning to costs, the DC considers that the costs and expenses in the sum of HK\$30,879 submitted by the Complainant in the Statement of Costs (as attached to the Complainant's submissions letter and copied to the Respondent) are reasonable. In the Respondent's submission letter, the Respondent stated that he agrees to bear the reasonable costs incurred for the investigation of this case.

13. In considering the proper order to be made in this case, the DC has had regard to all the aforesaid matters, including the particulars in support of the Complaint and the conduct of the Complainant and the Respondent throughout the proceedings.

14. The DC orders that:-

- (1) the Respondent be reprimanded under section 35(1)(b) of the PAO;
- (2) the Respondent pays a penalty of HK\$30,000 under section 35(1)(c) of the PAO; and

- (3) the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$30,879 under section 35(1)(iii) of the PAO.

Dated the 22nd day of November 2013

IN THE MATTER OF

A Complaint made under section 34(1)(a) and section 34(1A) of the Professional Accountants Ordinance (Cap. 50) (“PAO”) and referred to the Disciplinary Committee under section 33(3) of the PAO

BETWEEN

The Registrar of the Hong Kong
Institute of Certified Public
Accountants

COMPLAINANT

AND

Wong Chu Fung (membership no.: A05854) RESPONDENT

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

Members: Mr. CHOW, Cheuk Yu, Alfred (Chairman)
Ms. KWOK, Yuen Man, Marisa
Prof. LAM, Kit Chun, Joanna
Ms. CHAN, Sau Wai, Sylvia
Mr. WOO, King Hang

ORDER

Upon reading the complaint against Mr. Wong Chu Fung, being a certified public accountant (practising), as set out in a letter from the Registrar of the Institute ("the Complainant") dated 2 May 2013, the written submission of the Complainant dated 11 September 2013, the written submission of the Respondent dated 24 September 2013, and other relevant documents, the Disciplinary Committee is satisfied by the admission of the Respondent and the evidence adduced before it that the following complaint is proved:

Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he had failed or neglected to observe, maintain or otherwise apply a professional standard namely paragraph 100.5 “*Introduction and Fundamental Principles*” of the Code as elaborated in the aforesaid paragraphs 130.1 and 130.4 of the Code in respect of an unqualified auditors' compliance report issued to MegaTop regarding its compliance with the Minimum Requirements for the year ended 31 March 2011.

IT IS ORDERED that:-

1. the Respondent be reprimanded under section 35(1)(b) of the PAO;
2. the Respondent pays a penalty of HK\$30,000 under section 35(1)(c) of the PAO; and
3. the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$30,879 under section 35(1)(iii) of the PAO.

Dated the 22nd day of November 2013