



Dear Assignment / News / Business Section Editor

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

(HONG KONG, 11 April 2014) — A Disciplinary Committee of the Hong Kong Institute of Certified Public Accountants ordered on 24 March 2014 that the practising certificates issued to Fung Wing Yuen (membership number F03196) and Pang Ho Choi Robin (membership number F03836) ("Respondents") are to be cancelled with effect from 3 May 2014 and the same shall not be issued to them for 12 months for their failure or neglect to observe, maintain or otherwise apply professional standards issued by the Institute. The Committee also ordered each of the Respondents to pay the Institute a penalty of HK\$50,000. In addition, the Respondents were ordered to pay the costs of the disciplinary proceedings of HK\$23,441.

The Respondents are the practising directors of Fung & Pang C.P.A. Limited. The Institute received information from the Official Receiver's Office that they had committed serious misconduct as joint and several liquidators of a private company and that in May 2012 the Court of First Instance removed them as liquidators of the company. The Respondents failed to comply with a number of provisions in the Companies Ordinance and the Companies (Winding-up) Rules for eight years, and they did not respond to the Official Receiver's requests for information and action. After considering the information available, the Institute lodged a complaint against the Respondents under section 34(1A) of the Professional Accountants Ordinance.

The Respondents admitted the complaint against them. The Disciplinary Committee found that they failed or neglected to observe, maintain or otherwise apply professional standards issued by the Institute, namely the Fundamental Principles set out in section 100.5 and as elaborated in section 130 "*Professional Competence and Due Care*" and section 150 "*Professional Behavior*" of the Code of Ethics for Professional Accountants.

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

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 they are 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.

–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 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.

Hong Kong Institute of CPAs' contact information:

Stella To
Deputy Director, Communications
Phone: 2287 7209
Mobile: 9027 7323
Email: stella@hkicpa.org.hk



致：編採主任／新聞／財經版編輯

香港會計師公會對兩名執業會計師作出紀律處分

(香港，二零一四年四月十一日) — 香港會計師公會轄下一紀律委員會於二零一四年三月二十四日就馮永源先生(會員編號：F03196)及彭浩才先生(會員編號：F03836)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，命令於二零一四年五月三日起取消他們的執業證書，以及於十二個月內不向他們發出執業證書。委員會並命令他們每人繳付罰款五萬港元予公會。此外，他們亦須支付紀律程序的費用二萬三千四百四十一港元。

馮先生及彭先生為馮彭會計師有限公司的執業董事。公會接獲破產管理署的資料，指馮先生及彭先生作為一間私人公司的共同及各別清盤人，曾犯下嚴重的不當作為，而高等法院於2012年5月取消他們作為該公司清盤人的資格。馮先生及彭先生在清盤期間的八年內沒有遵守《公司條例》及《公司(清盤)規則》的多項條文，亦沒有回應破產管理署長的要求提供資料及作出行動。公會經考慮所得資料，根據《專業會計師條例》第34(1A)條對馮先生及彭先生作出投訴。

馮先生及彭先生承認投訴中的指控屬實。紀律委員會裁定馮先生及彭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 Fundamental Principles，即 section 100.5 中列出及在 section 130 及150 詳述的 Professional Competence and Due Care 及 Professional Behavior。

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)條向馮先生及彭先生作出上述的命令。

根據《專業會計師條例》，如馮先生及彭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。

— 完 —

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

杜幼儀

副傳訊總監

直線電話：2287 7209

手提電話：9027 7323

電子郵箱：stella@hkcipa.org.hk

- (1) The Institute received a letter dated 6 June 2012 from the Official Receiver ("OR"), lodging a complaint against the Respondents who are of Fung & Pang C.P.A. Limited ("CPA Firm"), alleging that they had committed serious misconduct as joint and several liquidators of a private company in liquidation ("Company").
- (2) The Court of First Instance, upon application by the OR, removed the Respondents as liquidators in May 2012, as they failed to comply with a number of provisions / rules set out in the Companies Ordinance ("Ordinance") and the Companies (Winding-up) Rules ("Rules").

Professional Standards

- (3) Statement 1.200 Professional Ethics - Explanatory Foreword (Revised April 1999 with effect from May 1999)

"...

2. A member should carry out his professional work with a proper regard for the technical and professional standards expected of him as a member and should not undertake or continue professional work which he is not himself competent to perform unless he obtains such advice and assistance as will enable him competently to carry out his task.

3. A member should conduct himself with courtesy and consideration towards all with whom he comes into contact in the course of his professional work.

4. A member should follow the ethical guidance of the Society and in circumstances not provided for by that guidance should conduct himself in a manner consistent with the good reputation of the profession and the Society."

- (4) The Fundamental Principles are set out in paragraphs 100.4(c) and 100.4(e) of the Code of Ethics for Professional Accountants (Effective on 30 June 2006) ("Code") and elaborated in sections 130 and 150 of the Code:

Paragraph 100.4(c) - "Professional Competence and Due Care

A professional accountant has a continuing duty to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional service based on current developments in practice, legislation and techniques... "

Paragraph 100.4(e) - "Professional Behaviour

A professional accountant should comply with relevant laws and regulations and should avoid any action that discredits the profession."

- (5) The same Fundamental Principles are set out in paragraphs 100.5(c) and 100.5(e) of the revised Code (Effective on 1 January 2011) and elaborated in sections 130 and 150 of the Code.

The Complaints

- (6) **First Complaint**
Section 34(1)(a)(viii) of the PAO applies to the Respondents in that they were guilty of professional misconduct as evidenced by their failure to comply with the relevant provisions of the Ordinance and the Rules and to conduct the liquidation with due care and competence, resulting in their being removed by the Court as liquidators and ordered to pay the penalty interest under s202(2) of the Ordinance.
- (7) **Second Complaint (Alternative to the 1st Complaint)**
Section 34(1)(a)(vi) of the PAO applies to the Respondents in that they failed or neglected to observe, maintain or otherwise apply professional standards, namely, Statement 1.200 Professional Ethics - Explanatory Foreword (Revised April 1999 with effect from May 1999), paragraphs 100.4(c) and 100.4(e) of the Code of Ethics for Professional Accountants (Effective on 30 June 2006) and elaborated in sections 130 and 150 of the Code, and paragraphs 100.5(c) and 100.5(e) of the revised Code (Effective on 1 January 2011) and elaborated in sections 130 and 150 of the Code, as evidenced by their failure to comply with the relevant provisions of the Ordinance and the Rules and to conduct the liquidation with due care and competence, resulting in their being removed by the Court as liquidators and ordered to pay the penalty interest under s202(2) of the Ordinance.

Facts and Circumstances leading to the Complaints

- (8) The Respondents were appointed as the Company's provisional liquidators in April 2003 and joint and several liquidators in May 2004.
- (9) Upon examination of the Company's statement of accounts, the OR discovered that the Respondents were not carrying out the liquidation work properly in accordance with the Ordinance and Rules as they failed to:
- a) pay into the Company Liquidation Account ("CLA") various receipts collected in the total sum of \$88,790.95 during 1 April 2004 to 31 March 2006;
 - b) submit the liquidators' accounts since 1 April 2006; -
 - c) renew the security bond of \$250,000 after its expiry on 5 May 2008; and
 - d) take follow up actions and furnish documents, including audit certificates duly signed by the Committee of Inspection, requested by the OR since May 2010 (following an audit inspection for the statement of accounts for the periods from 1 April 2004 to 31 March 2006 conducted by the OR Office)

- (10) Despite the fact that the OR repeatedly requested and reminded the Respondents to comply with the above requests and rectify any breaches of the Ordinance or Rules, they repeatedly fail to respond. Below is a summary of dates that the OR first requested the Respondents to rectify the various breaches:
- a) 9 October 2006 - to furnish the outstanding liquidators' statement of accounts
 - b) 20 March 2007 - to remit the monies to the CLA and explain why it was not done so
 - c) 17 February 2009 - to renew the liquidators' bond
 - d) 28 May 2010 - to take follow up actions and furnish documents requested
- (11) Despite numerous reminders sent to the Respondents, a demand for substantive reply on 10 December 2009 and a final demand on 9 November 2011, the Respondents still did not reply to the OR except for two interim replies on 7 May 2008 and 20 July 2009 from Fung informing the OR that the information requested would be furnished.
- (12) In light of the above, the OR took out an application in December 2011 to remove the Respondents as liquidators. Fung then submitted to court details about the monies not being paid into the CLA and the outstanding liquidators' statements of accounts. The OR noted that the Respondents had not complied with the Ordinance as follows:
- a) the monies collected of \$88,790.95 were paid into a separate bank account with HSBC (in the name of the Company) between August 2004 and December 2005, instead of the CLA, for paying the Company's liquidation expenses such as storage, transportation and solicitors' fees;
 - b) total amount of solicitors' fees paid was \$43,000, but the appointment of solicitors was not sanctioned by court contrary to section 199(1)(c) of the Ordinance and the fees were not proved and taxed contrary to rule 179(2) of the Rules; and
 - c) certificate of audit of the cash book by the committee of inspection was not submitted to OR contrary to rule 62 of the Rules.
- (13) The OR also noted that the Respondents had realised certain assets of the Company, received certain proof of debts and paid a total of \$460,500.71 into the CLA. However no dividend was declared.
- (14) The Court of First Instance ordered the Respondents be removed as the Company's liquidators in May 2012 and to pay interest at 20% per annum as prescribed under the Companies Ordinance due to their failure to pay the money required to be paid into the CLA.
5. A Disciplinary Committee ("DC") was constituted to deal with the Complaints. The Notice of Commencement of Proceedings was issued to the parties on 4 November 2013.

6. On 28 November 2013, the DC received a letter from the parties jointly applied to the DC to dispense the steps set out in paragraphs 17 to 30 of the Disciplinary Committee Proceedings Rules. Both Respondents admitted the Second Complaint against them. The parties also proposed that the first complaint (which is not admitted) will remain on the Institute's record and is not to be proceeded without an order from either the Court of First Instance or the Court of Appeal.
7. The DC agreed with the proposals made by the Parties and directed the parties to make submissions on sanctions and costs and that the DC would not hold a hearing on sanctions and costs unless otherwise requested by the parties.
8. Although the DC agreed to find the Respondents guilty of a less serious complaint, i.e. failing or neglecting to observe, maintain or otherwise apply professional standards, the DC is of the view that the present case is the worst type under this category. On the basis of the factual findings as set out in paragraphs 2(8)-(14) above, the Respondents have failed in observing the Ordinance and the Rules since 2004 and despite the repeated requests of the OR, kept breaching the same for 8 years until their being removed by the Court of First Instance as the Company's liquidators in 2012. Such continuous breaches have adversely affected the legitimate interests of the creditors and the shareholders of the Company, brought discredit upon the Respondents and the Institute, and undermined the public confidence on the entire accountancy profession. Therefore, the sanction to be made in this case must reflect the seriousness of the case and bear deterrent effect on other accountancy professionals.
9. In considering the proper order to be made in this case, the DC has had regard all the aforesaid matters, including the evidence in support of the Complaints, the Respondents' personal circumstances, and the submissions made by the Complainant and the Respondents. Normally if the evidence adduced at the proceedings does not reveal any dishonest conduct on the part of the Respondents, financial penalty may be the appropriate sanction. However, considering the continuance of the Respondents' breaches and their neglect of the OR's requests, the DC is of the view that financial penalty is insufficient to address the seriousness of the present case. S.35(1)(db) of the PAO provides that the Disciplinary Committee may, in its discretion, make disciplinary order not to issue to the Respondents practising certificates for such period as the Disciplinary Committee may think fit. The DC came to the conclusion that such discretion should be exercised.

10. The DC orders that:-

- 1) the practising certificates shall not be issued to the First and Second Respondents for a period of 12 months under section 35(1)(db) of the PAO. It shall take effect on the 40th day from the date of this order;
- 2) the First and Second Respondent each pay a financial penalty of HK\$50,000 under section 35(1)(c) of the PAO; and
- 3) the First and Second Respondents pay the costs and expenses of and incidental to the proceedings of HK\$23,441 under section 35(1). The said costs and expenses shall be borne equally between the Respondents.

All payments should be settled by the Respondents on or before the 40th day from the date of this order.

Dated the 24th day of March 2014

IN THE MATTER OF

Complaints made under Section 34(1)(a) of the Professional Accountants Ordinance (Cap.50) (“the 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

Mr. Fung Wing Yuen FIRST
Membership No. F03196 RESPONDENT

Mr. Pang Ho Choi Robin SECOND
Membership No. F03836 RESPONDENT

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

Members: Mr. Chan Yiu Chong Christopher (Chairman)
Ms. Chan Yat Mei Sophie
Mr. Lau To Koon Kenneth
Mr. Li Ka Fai David
Ms. Angelina Kwan

ORDER

Upon reading the complaint against MR. FUNG WING YUEN and MR. PANG HO CHOI ROBIN, both certified public accountants (practising), as set out in a letter from the Registrar of the Hong Kong Institute of Certified Public Accountants (“the Complainant”) dated 2 May 2013 and the relevant documents, the Disciplinary Committee is satisfied by the admission of the Respondents and evidence adduced before it that the following complaint is proved:

Section 34(1)(a)(vi) of the PAO applies to the Respondents in that they failed or neglected to observe, maintain or otherwise apply professional standards, namely, Statement 1.200 Professional Ethics - Explanatory Foreword (Revised April 1999 with effect from May 1999), paragraphs 100.4(c) and 100.4(e) of the Code of Ethics for Professional Accountants (Effective on 30 June 2006) and elaborated in sections 130 and 150 of the Code, and paragraphs 100.5(c) and

100.5(e) of the revised Code (Effective on 1 January 2011) and elaborated in sections 130 and 150 of the Code, as evidenced by their failure to comply with the relevant provisions of the Ordinance and the Rules and to conduct the liquidation with due care and competence, resulting in their being removed by the Court as liquidators and ordered to pay the penalty interest under s202(2) of the Ordinance.

The Disciplinary Committee ORDERS that:-

- 1) the practising certificates shall not be issued to the First and Second Respondents for a period of 12 months under section 35(1)(db) of the PAO. It shall take effect on the 40th day from the date of this order;
- 2) the First and Second Respondent each pay a financial penalty of HK\$50,000 under section 35(1)(c) of the PAO; and
- 3) the First and Second Respondents pay the costs and expenses of and incidental to the proceedings of HK\$23,441 under section 35(1). The said costs and expenses shall be borne equally between the Respondents.

All payments should be settled by the Respondents on or before the 40th day from the date of this order.

Dated the 24th day of March 2014