



Dear Assignment / News / Business Section Editor

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

(HONG KONG, 29 July 2014) — A Disciplinary Committee of the Hong Kong Institute of Certified Public Accountants reprimanded Kung Ping Cheung (membership number A18085) on 21 July 2014 for his failure or neglect to observe, maintain or otherwise apply a professional standard issued by the Institute, and ordered him to pay a penalty of HK\$30,000 to the Institute. In addition, Kung was ordered to pay costs of the disciplinary proceedings of HK\$25,834.

In April 2012, Kung was fined by the Magistrate's Court for unlawful short selling of shares of a listed company, contrary to the Securities and Futures Ordinance (Cap 571). Kung notified the Institute of the conviction in accordance with his membership obligations. After considering the information available, the Institute lodged a complaint against Kung under section 34(1)(a)(vi) of the Professional Accountants Ordinance.

Kung admitted the complaint against him. The Disciplinary Committee found that Kung failed or neglected to observe, maintain or otherwise apply the fundamental principle of "*Professional Behavior*" set out in section 100.4(e) of the Institute's Code of Ethics for Professional Accountants.

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

Under the ordinance, if Kung 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.

– 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 37,000 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@hki CPA.org.hk



致：編採主任／新聞／財經版編輯

香港會計師公會對一名會計師作出紀律處分

(香港，二零一四年七月二十九日) — 香港會計師公會轄下一紀律委員會於二零一四年七月二十一日就龔炳祥先生(會員編號：A18085)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，對龔先生作出譴責，並命令他須繳付罰款三萬港元予公會。此外，龔先生須支付紀律程序的費用共二萬五千八百三十四港元。

在2012年4月，龔先生因非法賣空一間香港上市公司的股票而干犯香港法例第571章《證券及期貨條例》，被裁判法院判他罰款。龔先生按照會員申報責任，向公會申報他的定罪。公會經考慮所得資料，根據《專業會計師條例》第34(1)(a)(vi)條對龔先生作出投訴。

龔先生承認投訴中的指控屬實。紀律委員會裁定龔先生沒有或忽略遵守、維持或以其他方式應用公會 Code of Ethics for Professional Accountants 中第 100.4(e) 段的 "Professional Behavior" 的基本原則。

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)條向龔先生作出上述的命令。

根據《專業會計師條例》，如龔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，會員人數超過三萬七千，註冊學生人數超過一萬七千。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@hkicpa.org.hk

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

Mr. Kung Ping Cheung RESPONDENT
(membership number A18085)

Members: Mr. LEE Ka Sze, Carmelo (Chairman)
 Miss WONG, Tak Lan, Mary Teresa
 Mr. DOO, William Junior Guilherme
 Mr. TSANG, Cheong Wai, Simon
 Mr. LAI, Yat Hin, Adrian

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. The particulars of the Complaint are set out in a letter dated 11 September 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.
3. The Respondent admitted the Complaint against him. He did not dispute the facts as set out in the Respondent's Admitted Facts attached with his admission. He agreed that the steps set out in paragraphs 17 to 30 of the Disciplinary Committee Proceedings Rules be dispensed with.

4. By a letter dated 22 April 2014 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.
5.
 - a) In this case, the Respondent, in contravention of sections 170(1) and 170(4) of the Securities and Futures Ordinance (Cap 571) ("SFO") unlawfully short sold shares in Imagi International Holdings Limited on three occasions and was convicted of a Level 6 crime, fined HK\$30,000 and ordered to pay costs of HK\$3,502 on 26 April 2012 in Eastern Magistrate's Court.
 - b) The offence committed by the Respondent clearly constitutes a behaviour which breaches section 100.4(e) of the Code of Ethics for Professional Accountants ("Code") which provides that a professional accountant is required to comply with the fundamental principle that he/she shall comply with relevant laws and regulations and avoid any action that discredits the profession. As a result, section 34(1)(a)(vi) applies to the Respondent.
 - c) Section 150.1 of the Code further elaborates the professional behaviour expected of a professional accountant, namely, actions that a reasonable and informed third party, weighing all the specific facts and circumstances available to the professional accountant at that time, would be likely to conclude adversely affects the good reputation of the profession.
 - d) It is clear that the Respondent has committed a criminal offence under the SFO in the instant case, and thus, he has failed to comply with relevant laws and regulations in breach of section 100.4(e) of the Code. It is submitted by the Respondent that the offence does not involve elements of dishonesty. This definitely would be a mitigating factor taken into account by the DC when considering sanctions but this would not exonerate the Respondent from liability. "Short selling" is definitely a behaviour not tolerated in Hong Kong, a reputable international finance centre. The Respondent in committing such an offence would inevitably bring disrepute to his profession as well as to Hong Kong as a whole.
6. In considering meting out the sanction of a reprimand (and not removal of his name from the register of CPAs) to the Respondent, the DC has taken into account the fact that the Respondent voluntarily reported his conviction to the Institute when he renewed his membership with the Institute for 2013, there is no apparent dishonesty element in the present complaint, and he has no previous disciplinary records. However, the DC does consider this a serious case and therefore fines similar to those imposed by the Eastern Magistrate's Court should be ordered.

7. The DC therefore orders that:-
- a) the Respondent be reprimanded under section 35(1)(b) of the PAO;
 - b) the Respondent pay a penalty of HK\$30,000 under section 35(1)(c) of the PAO; and
 - c) the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$25,834 under section 35(1)(iii) of the PAO.

Dated the 21 day of July 2014

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

Mr. Kung Ping Cheung RESPONDENT
(membership number A18085)

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

Members: Mr. LEE Ka Sze, Carmelo (Chairman)
 Miss WONG, Tak Lan, Mary Teresa
 Mr. DOO, William Junior Guilherme
 Mr. TSANG, Cheong Wai, Simon
 Mr. LAI, Yat Hin, Adrian

ORDER

Upon reading the complaint against Mr. Kung Ping Cheung, being a certified public accountant, as set out in a letter from the Registrar of the Institute ("the Complainant") dated 11 September 2013, the Respondent's Admitted Facts, the written representations of the Respondent dated 19 December 2013, the written submission of the Complainant dated 28 April 2014, the written submission of the Respondent dated 12 May 2014, and other relevant documents, the Disciplinary Committee is satisfied by the admission of the Respondent and the evidence adduced before it that the following complaints are proved:

1. Section 34(1)(a)(vi) of the Professional Accountants Ordinance applies to the Respondent in that he failed or neglected to observe, maintain or otherwise apply professional standards, as provided in section 100.4(e) of the Code, as a result of his unlawful short selling of 5,511,800 shares of the Company on 7 May 2010 that resulted in his subsequent conviction in a Magistrate's court on 26 April 2012.

2. Section 34(1)(a)(vi) of the Professional Accountants Ordinance applies to the Respondent in that he failed or neglected to observe, maintain or otherwise apply professional standards, as provided in section 100.4(e) of the Code, as a result of his unlawful short selling of 2,048,600 shares of the Company on 7 May 2010 that resulted in his subsequent conviction in a Magistrate's court on 26 April 2012.
3. Section 34(1)(a)(vi) of the Professional Accountants Ordinance applies to the Respondent in that he failed or neglected to observe, maintain or otherwise apply professional standards, as provided in section 100.4(e) of the Code, as a result of his unlawful short selling of 9,295,200 shares of the Company on 11 May 2010 that resulted in his subsequent conviction in a Magistrate's court on 26 April 2012.

IT IS ORDERED that:-

1. the Respondent be reprimanded under section 35(1)(b) of the PAO;
2. the Respondent pay 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\$25,834 under section 35(1)(iii) of the PAO.

Dated the 21 day of July 2014