



Dear Assignment / News / Business Section Editor

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

(HONG KONG, 15 December 2015) — A Disciplinary Committee of the Hong Kong Institute of Certified Public Accountants ordered on 4 December 2015 that the name of Poon Ming Pui (membership number A10636) be removed from the register of certified public accountants for one year with effect from 18 January 2016 as a result of Poon's breach of professional standards issued by the Institute. In addition, Poon was ordered to pay a penalty of HK\$10,000 and costs of the disciplinary proceedings of HK\$21,947.

Poon was a licensed person under the Securities and Futures Ordinance. From 2005 to 2011, he was employed in turn by two securities companies. During this period, Poon made several materially false or misleading declarations to his employers in which he failed to disclose securities trading activities he carried out through two of his friends' securities accounts. The Securities and Futures Commission subsequently took disciplinary action against Poon, banning him from re-entering the securities industry for 10 months from January 2014. Poon reported the Commission's disciplinary decision to the Institute during his annual membership renewal in December 2014. After considering the information available, the Institute lodged complaints against him under section 34(1)(a)(vi) of the Professional Accountants Ordinance (Cap.50).

Poon admitted the complaints against him. The Disciplinary Committee found that he conducted himself in a manner inconsistent with the good reputation of the profession contrary to Statement 1.200 which applied up to June 2006, and he was in breach of the Fundamental Principle of Integrity in sections 100 and 110 of the Code of Ethics for Professional Accountants which applied from July 2006.

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

Under the ordinance, if a respondent 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](http://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. Three members of each committee, including a chairman, are non-accountants chosen from a panel appointed by the Chief Executive of the HKSAR, and the other two are CPAs.

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

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 practicing 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 nearly 39,000 members and more than 18,000 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會計師出紀律處分

(香港，二零一五年十二月十五日) — 香港會計師公會轄下一紀律委員會於二零一五年十二月四日因潘明培先生(會員編號：A10636) 違反公會的專業準則而命令將他的名字由二零一六年一月十八日起從專業會計師註冊紀錄冊中除名，為期一年。此外，潘先生須繳付罰款港幣一萬元及紀律程序費用港幣二萬一千九百四十七元。

潘先生是《證券及期貨條例》下的持牌人。由2005年至2011年，他先後受聘於兩間證券公司。在這期間，潘先生向他的僱主數次作出嚴重虛假或誤導的聲明，沒有在該等聲明內披露他使用兩個朋友的證券戶口進行證券交易。證券及期貨事務監察委員會(「證監會」)及後對潘先生作出了紀律處分，命令由2014年1月起，禁止他從事證券業務10個月。潘先生在2014年12月的年度公會會籍續期時，向公會呈報證監會對他發出的紀律決定。公會經考慮所得的資料，根據《專業會計師條例》(第50章) 第34(1)(a)(vi)對潘先生作出投訴。

潘先生承認投訴中的指控屬實。紀律委員會裁定潘先生的行為不符合會計專業的良好聲譽，因而違犯了公會應用至2006年6月的Statement 1.200，亦違反了公會由2006年7月起應用的Code of Ethics for Professional Accountants第100條及第110條中的 "Fundamental Principle of Integrity"。

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)條向潘先生作出上述的命令。

根據《專業會計師條例》，如答辯人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 部分查閱，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，是從業外人士組成的紀律小組中選派，該紀律小組的成員是由香港特別行政區行政長官委任的；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。

## 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，會員人數超過三萬九千，註冊學生人數逾一萬八千。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 34(1A) 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. Poon Ming Pui  
Membership No. A10636 RESPONDENT

Before a Disciplinary Committee of the Hong Kong Institute of Certified Public Accountants

Members: Ms. Lee Wai Yan Susanna (Chairman)  
Mr. Hong Wing Kwong Wallace  
Mr. Lam Sze Cay Kevin  
Mr. Shen Ka Yip Timothy  
Ms. Yeung Kit Kam Lesley

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**ORDER & REASONS FOR DECISION**

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1. This is a complaint made by the Registrar of the Hong Kong Institute of Certified Public Accountants (the "Institute") against Mr. POON MING PUI, a certified public accountant (the "Respondent"). Section 34(1)(a)(vi) of the PAO applies to the Respondent.
2. The particulars of the Complaint as set out in a letter dated 30 March 2015 (the "**Complaint**") are as follows:-

**Background**

- (1) The Respondent was licensed under the Securities and Futures Ordinance to carry on Type 1 (dealing in securities), Type 4 (advising on securities) and Type 9 (asset management) regulated activities.
- (2) During the period from about 2005 to 2009, the Respondent was effectively employed by the China International Capital Corporation (Hong Kong) Limited ("CICCHK") group of companies, which included CICCHK, China International Capital Corporation Hong Kong Securities Limited ("CICCHK Securities"), and

China International Capital Corporation Hong Kong Asset Management Limited ("CICCHK AM"). After that, from about 2009 to 2011, he was employed by Yuanta Securities (Hong Kong) Company Limited ("Yuanta").

- (3) Respondent was accredited to CICCHK Securities from 5 October 2005 to 3 June 2009, CICCHK AM from 6 June 2008 to 20 June 2009, and Yuanta from 6 August 2009 to 21 April 2011. As of 13 January 2014, the Respondent was not accredited to any licensed corporation.
- (4) In December 2014, the Respondent informed the Institute in his membership renewal that he had been disciplined by the Securities and Futures Commission ("SFC") for having breached the Code of Conduct for Persons Licensed by or Registered with the SFC ("SFC Code") by failing to disclose to his former employers CICCHK and Yuanta his securities trading activities through two of his friends' securities accounts. He was banned from re-entering the securities industry for 10 months from 9 January 2014 to 8 November 2014.
- (5) As such the Respondent had been in breach of the then applicable ethical standards including Statement 1.200 Professional Ethics ("Statement 1.200") and the Code of Ethics for Professional Accountants ("COE").

#### **Complaint 1**

- (6) Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he failed or neglected to observe, maintain or otherwise apply professional standards as provided in Statement 1.200 §4 (from July 2005 to June 2006) and COE §§100.4(a) and 110.2 (from July 2006 to 2009), when he made various declarations to CICCHK group of companies from July 2005 to April 2009 to the effect that he did not maintain outside brokerage accounts and did not hold any securities not already disclosed, which were materially false or misleading.

#### **Complaint 2**

- (7) Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he failed or neglected to observe, maintain or otherwise apply professional standards as provided in COE §§100.4(a) and 110.2, when he made a declaration dated 6 August 2009 to Yuanta which was materially false or misleading, in that he failed to declare his trading in securities through his friends' securities accounts.

#### **Complaint 3**

- (8) Section 34(1)(a)(vi) of the PAO applies to the Respondent in that he failed or neglected to observe, maintain or otherwise apply professional standards as provided in COE §§100.4(a)/100.5(a) and 110.1, when he failed to declare in 2010-2011 to Yuanta his trading in securities through his friends' securities accounts as required by Yuanta's policies and procedures, and such failure to disclose was dishonest and not being straightforward.

## Relevant Professional Standards

(9) Statement 1.200 (September 2004 version) provides, inter alia:-

*"4. A member should follow the ethical guidance of the HKICPA 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 HKICPA."*

(10) COE (issued December 2005, effective on 30 June 2006) provides, inter alia:-

*"100.4 A professional accountant is required to comply with the following fundamental principles:*

*(a) Integrity*

*A professional accountant should be straightforward and honest in all professional and business relationships."*

*"110.1 The principle of integrity imposes an obligation on all professional accountants to be straightforward and honest in professional and business relationships. Integrity also implies fair dealing and truthfulness.*

*"110.2 A professional accountant should not be associated with reports, returns, communications or other information which they believe that the information:*

*(a) Contains a materially false or misleading information;*

*(b) Contains statements or information furnished recklessly; or*

*(c) Omits or obscures information required to be included where such omission or obscurity would be misleading."*

(11) In the COE (issued December 2005; revised June 2010) which applied from June to December 2010, §§100.4(a) and 110.1 remained unchanged.

(12) The COE (revised June 2010, effective on 1 January 2011) provides, inter alia:-

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

*(a) Integrity – to be straightforward and honest in all professional and business relationships.*

.....

*110.1 The principle of integrity imposes an obligation on all professional accountants to be straightforward and honest in all professional and business relationships. Integrity also implies fair dealing and truthfulness."*

### **Facts and Circumstances in support of Complaints 1 to 3**

- (13) From 2005-2009, Respondent signed and submitted 3 declarations dated 10 July 2005, 4 September 2008, and 3 April 2009 to the CICCHK group of companies. The said declarations included statements to the effect that the Respondent maintained no outside brokerage accounts, or he did not hold any securities in other companies that were not already disclosed.
- (14) From 2009 to 2011, Respondent signed and submitted to Yuanta a "PAD Declaration Form – New Employees" dated 6 August 2009 (the "PAD Form"), and 3 annual acknowledgement forms dated 6 August 2009, 6 January 2010, and an undated one in 2011. In the PAD Form, he declared his securities account in CICCHK Securities which was stated to consist of 2 stocks (stock codes 00604 and 01812). In the 3 annual acknowledgement forms, Respondent declared that he would adhere to the Personal Account Dealing Rules. There was no additional disclosure or declaration made by the Respondent in those 3 annual acknowledgement forms.
- (15) Both CICCHK and Yuanta had written policies and procedures which required their employees to declare their personal trading activities when they joined the firms, and annually thereafter. Moreover, in the declaration dated 4 September 2008 in which the Respondent declared that he maintained no outside brokerage accounts, it was stated that "outside brokerage accounts" included accounts which were opened under the name of the employee's associate or nominee, or wholly or partially, directly or indirectly owned or controlled by the employee.
- (16) Contrary to the aforesaid declarations made by the Respondent, he conducted trading activities through others' securities accounts from June 2005 to April 2011:-
  - (a) Between 2005 and 2007, Respondent requested 2 of his friends to lend him their securities accounts to purchase shares in Company X. By mid 2007, he held a total of 30 million shares in Company X. In July 2007, he instructed his friend to sell all these shares and used some of the sale proceeds to trade in a number of other securities through one of the friend's securities account.
  - (b) Between 2007 and 2009, Respondent had traded in 83 shares through his friends' securities accounts. These activities continued to about April 2011.
- (17) The Respondent had admitted to SFC that he had used his friends' securities accounts to trade in securities.
- (18) In the circumstances, the declarations made by the Respondent to CICCHK group of companies and in the PAD Form to Yuanta were materially false or misleading, in that the aforesaid trading through his friends' securities accounts were never disclosed or declared (Complaints 1 and 2). In the PAD Form of August 2009, he had only declared his own securities account in CICCHK Securities, which was different from his trading in his friends' securities accounts.



- (19) The Respondent also failed to declare or disclose to Yuanta, in 2010-2011, of his trading in his friends' securities accounts (Complaint 3). There was no disclosure made in the annual acknowledgement forms signed by the Respondent in January 2010 and 2011. The failure to disclose was dishonest and not being straightforward, as the Respondent was well aware of the requirement to report personal trading activities.
- (20) Respondent had further admitted to SFC that he knew that his employers required him to disclose his personal trading activities, and that he had not reported his trading activities conducted through his friends' securities accounts to his employers.
- (21) In the SFC disciplinary action, Respondent was found to have breached General Principle 1 of the SFC Code, which requires a licensed person to act honestly, fairly and in the best interests of its clients and the integrity of the market. His concealment of his personal trading activities was deliberate and dishonest. It also circumvented his employers' policies and prevented his employers from monitoring his trading activities.
- (22) SFC is of the view that the Respondent is not fit and proper to be licensed and he was prohibited from re-entering the industry for 10 months. In deciding the appropriate sanction, SFC has taken into account all relevant circumstances, including the fact that the misconduct lasted for more than 5 years, his admission and co-operation with the SFC's investigation, and his otherwise clean disciplinary record.
- (23) In the letter dated 16 January 2015 in response to inquiry from the Institute, the Respondent stated that the reason for him for not reporting his trades in his friends' securities accounts was "...just for convenience as there are many restrictions in the dealing of the shares once I reported to the company like 3 months lock up etc". He also said that "I must confess that I have done something wrong by not reporting the trades to my employers at that time. I am regret for my conduct [sic] and I admitted my trading activities to the SFC.....".

### **Conclusion**

- (24) In the premises, the Respondent was in breach of §§100.4(a)/100.5(a), 110.1 and 110.2 of the COE as he was not being honest or straightforward, made materially false or misleading declarations, and failed to make the necessary declarations. Further, the making of false or misleading declarations constituted conduct inconsistent with the good reputation of a professional accountant under Statement 1.200.
3. On 8 May 2015, the Respondent admitted the complaints against him. He did not dispute the facts as set out in the complaints. The parties agreed that the steps set out in paragraphs 17 to 30 of the Disciplinary Committee Proceedings Rules ("DCPR") be dispensed with.
4. The Complaints are found proved based on the admission by the Respondent.

5. On 10 August 2015, the Disciplinary Committee agreed to the parties' joint application to dispense with the steps set out in Rule 17 to 30 of the DCPR in light of the admission made by the Respondent and the Disciplinary Committee directed the parties to make written submissions on sanctions and costs.
6. The Complainant and the Respondent provided their submissions on sanctions respectively on 24 and 20 August 2015.
7. In considering the proper order to be made in this case, the Disciplinary Committee has had regard to all the aforesaid matters, including the particulars in support of the Complaints, the Respondent's personal circumstances, and the conduct of the Complainant and the Respondent throughout the proceedings.
8. The Disciplinary Committee orders that:-
  - (1) the name of the Respondent be removed from the register of certified public accountants for 1 year on the 45th day from the date of this order under Section 35(1)(a) of the PAO; or
  - (2) the Respondent pay a penalty of HK\$10,000 under Section 35(1)(c) of the PAO;
  - (3) the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant in the sum of HK\$21,947 under Section 35(1)(iii) of the PAO.

Dated the 4th day of December 2015

IN THE MATTER OF

A Complaint made under Section 34(1)(a) and 34(1A) 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. Poon Ming Pui  
Membership No. A10636

RESPONDENT

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**ORDER & REASONS FOR DECISION**

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Dated the 4<sup>th</sup> day of December 2015