



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 Cheung Ka Keung, Andrew (membership number A06325) on 29 October 2013 and ordered him to pay to the Institute a penalty of HK\$40,000 for his failure or neglect to observe, maintain or otherwise apply professional standards issued by the Institute. In addition, Cheung was ordered to pay HK\$39,750 towards the costs of the proceedings.

Cheung is the sole proprietor of Andrew Cheung & Company. The Institute received information about alleged deficiencies in respect of the audits of the financial statements of the Incorporated Owners of a building for a number of financial years. Cheung was unable to comply with the Institute's request to provide relevant audit working papers for examination because his firm had failed to retain such audit documentations. After considering the information available, the Institute lodged a complaint against Cheung under section 34(1)(a)(vi) of the Professional Accountants Ordinance.

Cheung admitted the complaint against him. The Disciplinary Committee found that Cheung failed or neglected to observe, maintain or otherwise apply professional standards issued by the Institute, namely Hong Kong Standard on Auditing 230 *Audit Documentation* and Hong Kong Standard on Quality Control 1 *Quality Control for Firms That Perform Audits and Reviews of Historical Financial Information, and Other Assurance and Related Services Engagements*.

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

Under the ordinance, if Cheung 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月二十九日就張家強先生(會員編號：A06325)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，對張先生作出譴責，並命令他須繳付罰款四萬港元予公會。此外，張先生亦須支付紀律程序的費用三萬九千七百五十港元。

張先生為張家強會計師事務所的獨資經營者。公會早前接獲資料，指張先生在審核一個大廈的業主立案法團的多個年度的財務報表時，工作有不妥之處。張先生的會計師事務所沒有保留有關審計的工作底稿，因此他無法按公會的要求，提供有關年度的工作底稿作檢查。公會經考慮所得資料，根據《專業會計師條例》第34(1)(a)(vi)條對張先生作出投訴。

張先生承認投訴中的指控屬實。紀律委員會裁定張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 – *Hong Kong Standard on Auditing 230 Audit Documentation* 及 *Hong Kong Standard on Quality Control 1 Quality Control for Firms That Perform Audits and Reviews of Historical Financial Information, and Other Assurance and Related Services Engagements*。

經考慮張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)條向張先生作出上述的命令。

根據《專業會計師條例》，如張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。

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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

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

BETWEEN

Registrar of the Hong Kong Institute of COMPLAINANT
Certified Public Accountants

AND

Mr. Cheung Ka Keung Andrew RESPONDENT
(membership no. A06325)

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

Members: Mr. Ng Siu Wing Ludwig (Chairman)
 Mr. Pak Chi Hoi Dick
 Mr. Liu Che Ning
 Mr. Jason Chu
 Mr. Pong Po Lam Paul

REASONS FOR DECISION

Introduction

1. This is a complaint made by the Registrar of the Hong Kong Institute of Certified Public Accountants (the "**Complainant**") against Mr. Cheung Ka Keung Andrew, a certified public accountant (the "**Respondent**").
2. A complaint was lodged with the Institute on 20 October 2011 against Andrew Cheung & Company ("**ACC**"), of which the Respondent is and was the sole proprietor at all material times, in respect of its audit of the financial statements of the Incorporated Owners of Hay Wah Building ("IOs") for the years ended 31

August 2003 to 31 August 2009.

3. In relation to the complaint, on 30 January 2012, the Institute wrote to the Respondent, requesting a full set of the audit working papers for the years ended 31 August 2003 to 31 August 2009 to be retained pending investigation.
4. On 13 February and 7 March 2012, the Respondent replied that the papers for the IOs had not been kept and the audit working papers of the IOs for the years ended 30 August 2004 to 30 August 2009 were destroyed on 20 January 2012 with none of these documents being scanned or retained in electronic format.
5. The Respondent's failure to keep the audit papers hampered the Institute's investigation. The original complainant had not provided sufficient information. Thus, the Institute decided not to proceed with the original complaint.
6. In January 2013, the Complainant lodged complaints of the present case against the Respondent in relation to his destruction of the IOs' audit working papers in breach of the relevant professional standards.

The Complaints

7. The complaints raised by the Complainant against the Respondent are set out in the Complainant's letter dated 8 January 2013.

The First Complaint

8. Section 34(1)(a)(vi) of the Professional Accountants Ordinance (Cap. 50) (the "**PAO**") applies to the Respondent in that he had failed or neglected to observe, maintain or otherwise apply a professional standard namely Hong Kong Standard on Auditing 230 (the "**HKSA 230**") "Audit Documentation" in that audit documentation (hard or soft copies) for the IOs audits for the years ended 31 August 2007, 31 August 2008 and 31 August 2009 (the "**Relevant Working Papers**") were not retained.
9. HKSA 230 stipulated that:-

Paragraph 28

“After the assembly of the final audit file has been completed, the auditor should not delete or discard audit documentation before the end of its retention period.”

Paragraph 29

“HKSQC1 requires firms to establish policies and procedures for the retention of engagement documentation. As HKSQC1 indicates, the retention period for audit engagements ordinarily is no shorter than five years from the date of the auditor’s report ... “

The Second Complaint

10. 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 in that his firm’s retention policy of audit documentation, for audit reports issued on or after 15 June 2006, did not comply with Hong Kong Standard on Quality Control 1 (“**HKSQC1**”).
11. HKSQC1 stipulated that:-

Paragraph 73i

“The firm should establish policies and procedures for the retention of engagement documentation for a period sufficient to meet the needs of the firm or as required by law or regulation.”

Paragraph 73j

“The needs of the firm for retention of engagement documentation and the period of such retention, will vary with the nature of the engagement and the firm’s circumstances ... or whether there are generally accepted retention periods in the jurisdiction in the absence of specific legal or regulatory requirements. In the specific case of audit engagements, the retention period ordinarily is no shorter than five years from the date of the auditor’s report, or, if later, the date of the group auditor’s report.”

12. By destroying the Relevant Working Papers on 20 January 2012, the Respondent has not retained such audit working papers for “*no shorter than five*

years” as required by HKSA 230 and HKSQC1.

The course of the proceedings

13. On 22 February 2013, the Respondent admitted to the abovementioned complaints. Accordingly, the Complainant and the Respondent filed their submissions on sanctions and costs on 30 July and 3 August 2013 respectively for the hearing scheduled on 10 September 2013.
14. In the submissions on sanctions and costs, the Complainant suggested that the Respondent should at least be reprimanded and pay the costs incurred in the proceedings against him. The Complainant has not been able to find precedent case with similar breaches, the sanction would be very much left to this Committee’s discretion.
15. On the other hand, the Respondent would like this Committee to consider the small scale of ACC with informal or incorrect methods for the retention of audit working papers, taking into account the special situation of the present case that audit working papers for other clients had been scanned.
16. In the hearing, the Respondent reiterated his explanations of the special situation of the present case that: -
 - a) the Relevant Working Papers had been disposed of in accordance with ACC’s own prevailing Retention Policy (i.e. for the period 31/7/07 – 31/12/10, audit working papers for general audit engagement be kept for 2 years and for special audit engagement be kept for 5 years); as the IOs was considered to be a general client, as opposed to being member of a group of companies, the Relevant Working Papers were kept for 2 years only;
 - b) as another prosecution against ACC was made on 29 January 2010 in relation to the same audit client i.e. the IOs (the “**Previous Prosecution**”), ACC had assumed that the working papers for the IOs were no longer required; and
 - c) as ACC had been replaced as the IOs’ auditor in late 2010, it was reasonable to assume that the Relevant Working Papers are of no

continuing significance to future engagements.

17. The Complainant was of the view that the Respondent's explanations were not justified as HKSA 230 makes clear references to HKSQC1 which indicates the required retention period of five years. Hence the professional standards do not give room for misinterpretation by the Respondent.
18. The Respondent further explained that he misunderstood that the required standard of retention of work papers of five years only applied to special audit engagements, and that ACC's Retention Policy abided by the previous professional standards. However, this Committee was of the view that the HKSA 230 was of simple language, requiring the audit working papers to be retained for no shorter than five years, and that this standard was issued in 2006 and thus for a long period of time already. Therefore, such an explanation was not acceptable.
19. This Committee queried that from ACC's "*Register of Scanned/ Destroyed/ Deleted Working Papers Dead clients for auditor report dated after 15/6/2006*", it appears that only the audit working papers of the IOs, but not other clients, were not scanned upon destruction. The Respondent explained that the IOs was no longer current client of ACC's and as the Previous Prosecution ended, he decided not to keep any record for the IOs.
20. This Committee further questioned why the Respondent did not destroy the IOs' audit working papers immediately after the Previous Prosecution i.e. January 2010, but waited until January 2012. The Respondent replied that it was due to ACC's policy of keeping client's working papers for 2 years.
21. The Complainant did not go so far as to allege that the Respondent deliberately destroyed the papers to frustrate the Institute's investigation. Yet this Committee feels that destruction of the Relevant Working Papers in the circumstances of this case is entirely unjustifiable and will take into account such circumstances in considering the appropriate sanctions.

Sanctions

22. In its letter dated 8 January 2013 and in the hearing, the Complainant emphasized that public interest is best served when audit work papers can be reviewed and evaluated to ensure compliance with standards and lack of appropriate documentation is a serious deficiency and limits the protection of the public.
23. In addition, it is drawn to this Committee's attention that in the Previous Prosecution, ACC was prosecuted because of deficient audit work done. The Respondent was ordered to be reprimanded, pay a penalty of HK\$35,000 and pay the allowed costs and expenses incidental to the proceedings.
24. Taking all the above matters into account, the Committee is of the view that the appropriate sanctions for both the first and the second complaints are that:-
 - 1) The Respondent be reprimanded;
 - 2) The Respondent do pay a penalty in the amount of HK\$40,000; and
 - 3) The Respondent do pay costs to the Complainant as assessed below.
25. This Committee so orders accordingly, such orders to take effect on the 50th day of this order under section 35(1) of the PAO.

Costs

26. Pursuant to section 35(1)(iii) of the PAO, this Committee has a very wide discretion and "*may make such orders as [it] thinks fit with regards to the payment of costs and expenses of and incidental to the proceedings, whether of the Institute (including the costs and expenses of the Disciplinary Committee) or of any complainant or of the certified public accountant...*"
27. In the Complainant's Statement of Costs, the estimated further costs to completion of proceedings, i.e. costs assigned for time spent on the hearing scheduled on 11 September 2013, were calculated on a 2-hour basis. In order to reflect the actual length of the hearing, the Committee decided that such estimated further costs should be calculated on a 1-hour basis.

28. The Respondent disputed that the photocopying charges of \$1,300 as stated in the Complainant's Statement of Costs was excessive. This Committee agreed that that sum of charges was unnecessarily high and thus should be cut by half i.e. \$650.
29. Accordingly, the Committee orders that the Respondent do pay costs at the amount of HK\$39,750 to the Complainant.

Such costs are to be paid on or before the day the order in paragraph 25 takes effect.

Dated the 29th day of October 2013