



Dear Assignment/News/Business Section Editor

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

(HONG KONG, 31 August 2015) - A Disciplinary Committee of the Hong Kong Institute of Certified Public Accountants reprimanded Mak Wai Man (membership number A37354) on 19 August 2015 for her failure or neglect to observe, maintain or otherwise apply professional standards issued by the Institute, and ordered her to pay a penalty of HK\$25,000 to the Institute. In addition, Mak was ordered to pay costs of the disciplinary proceedings of HK\$22,436.

In promoting herself for freelance work, Mak made exaggerated claims about the services that she could offer. Mak's name card reflected that she was a member of the Institute of Chartered Secretaries and Administrators (ICSA) and held a master of corporate governance degree. However, she was only a student member of ICSA and had merely enrolled in a corporate governance course at the relevant time. Utilizing social media, Mak communicated that she was a member of the Market Misconduct Tribunal and a member of the advisory group of the Hong Kong Institute of Accredited Accounting Technicians (HKIAAT). In reality, she was only a prospective member of the Tribunal and was not an advisory group member of the HKIAAT. The complaint was made under section 34 (1AAA) of the Professional Accountants Ordinance.

Mak admitted the complaint against her. The Disciplinary Committee found that Mak had failed or neglected to observe, maintain or otherwise apply sections 100.5(a), 100.5(e), 110 and 150 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 Mak under section 35(1) of the ordinance.

Under the ordinance, if Mak is aggrieved by the order, she may give notice of an appeal to the Court of Appeal within 30 days after she 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. 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 more than 38,000 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作出紀律處分

(香港，二零一五年八月三十一日) — 香港會計師公會轄下一紀律委員會於二零一五年八月十九日就麥惠雯小姐(會員編號：A37354) 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，對麥小姐作出譴責，並命令她須繳付罰款二萬五千港元予公會。此外，麥小姐須支付紀律程序的費用二萬二千四百三十六港元。

麥小姐在推銷自己的自由職業工作時，誇大她所能提供的服務。她在自己的名片上，聲稱自己為 **Institute of Chartered Secretaries and Administrators (ICSA)** 的會員，並持有企業管治碩士學位；但事實上，在有關期間她只是ICSA的學生會員及該碩士課程的學生。麥小姐在社交媒體上聲稱自己是市場失當行為審裁處及香港財務會計協會(HKIAAT)顧問小組的會員。可是，在有關期間她只是審裁處的候選會員，也不是HKIAAT的顧問小組會員。本投訴乃根據《專業會計師條例》第34(1AAA)條而作出的。

麥小姐承認投訴中的指控屬實。紀律委員會裁定麥小姐沒有或忽略遵守、維持或以其他方式應用公會的專業準則 **Code of Ethics for Professional Accountants** 中第100.5(a)、100.5(e)、110及150條。

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)條向麥小姐作出上述的命令。

根據《專業會計師條例》，如麥小姐不服紀律委員會對她作出的命令，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。

— 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，會員人數超過三萬八千，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。

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IN THE MATTER OF

A Complaint made under section 34(1)(a) and
34(1AAA) of the Professional Accountants Ordinance
(Cap. 50)

BETWEEN

Mr. CHO Kui Keung, Gilbert COMPLAINANT

AND

Miss MAK Wai Man (A37354) RESPONDENT

Members: Ms. LAU, Queenie Fiona (Chairman)
Mr. HO, Wai Lap
Prof. LAW, Japhet Sebastain
Ms. CHUA, Suk Lin, Ivy
Mr. CHEUNG, Yat Ming

ORDER & REASONS FOR DECISION

Background

1. This is a complaint made by Mr. CHO Kui Keung, Gilbert (the “Complainant”), against Miss MAK Wai Man, a certified public accountant.

2. The Complainant first made his complaint about the Respondent to the Council of the Hong Kong Institute of Certified Public Accountants (the “**Institute**”) by a letter dated 4 April 2014.
3. On or about 10 October 2014, the Complainant filed his Case.
4. The Complainant complains that the Respondent has failed to observe, maintain or otherwise sections 100.5(a), 100.5(e), 110 and 150 of the Code of Ethics for Professional Accountants (the “**COE**”) and is in breach of section 34(1)(a)(vi) of the **Professional Accountants Ordinance (Cap. 50)** (the “**PAO**”).

Relevant professional standards and statutory provisions

5. The COE provides as follows:

"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.

...

(e) Professional Behavior – to comply with relevant laws and regulations and avoid any action that discredits the profession."

- 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.*
- 110.2 *A professional accountant shall not knowingly be associated with reports, returns, communications or other information where the professional accountant believes that the information:*
- (a) Contains a materially false or misleading statement;*
 - (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.*

When a professional accountant becomes aware that the accountant has been associated with such information, the accountant shall take steps to be disassociated from that information.

...

- 150.1 *The principle of professional behavior imposes an obligation on all professional accountants to comply with relevant laws and regulations and avoid any action that the professional accountant knows or should know may discredit the profession. This includes 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

150.2 *In marketing and promoting themselves and their work, professional accountants shall not bring the profession into disrepute. Professional accountants shall be honest and truthful and not:*

(a) Make exaggerated claims for the services they are able to offer, the qualifications they possess, or experience they have gained; or

(b) Make disparaging references or unsubstantiated comparisons to the work of others."

6. Further, section 34 of the PAO provides that:

"(1) A complaint that-

(a) a certified public accountant-

...

(vi) failed or neglected to observe, maintain or otherwise apply a professional standard

...

shall be made to the Registrar who shall submit the complaint to the Council which may, in its discretion but subject to section 32D(7), refer the complaint to the Disciplinary Panels.”

The complaint

7. As mentioned above, the Complainant complains that the Respondent has failed to observe, maintain or otherwise sections 100.5(a), 100.5(e), 110 and 150 of the COE and is in breach of section 34(1)(a)(vi) of the PAO.
8. In summary, the Complainant’s main complaints are as follows:
 - 8.1 The Respondent stated on a name card that she was a member of the Institute of Chartered Secretaries and Administrators when she was only a student member at the relevant time.
 - 8.2 The Respondent stated on a name card that she holds a Master of Corporate Governance when she was only a student of that course at Open University at the relevant time.
 - 8.3 The Respondent made exaggerated claims for the services that she could offer when marketing and promoting herself on Facebook for freelance work.

8.4 The Respondent stated on Facebook that she is a member of the Market Misconduct Tribunal when she was not a member, but was only a potential member, at the relevant time.

8.5 The Respondent stated on Facebook that she is a member of the Advisory Group of the Hong Kong Institute of Accredited Accounting Technicians (HKIAAT) when she was not listed as an advisor on the HKIAAT website at the relevant time.

The proceedings

9. After the Complainant filed his Case, the Respondent filed a Case dated 31 October 2014 in response to the Complaint.
10. On or about 18 November 2014, the Complainant filed a Reply to the Respondent's case.
11. By a letter dated 31 December 2014, the Respondent filed a Reply to the Complainant's Reply.
12. However, by a letter dated 9 March 2015 from Messrs. Yu Hung & Co., the Respondent's legal representatives, the Respondent informed the Clerk to the Disciplinary Committee that, *inter alia*, she admitted her wrongdoing and that would not dispute the facts raised by the Complainant.

13. By a letter dated 11 March 2015, the Disciplinary Committee requested that the Respondent clarify whether she, by admitting her wrongdoing and stating that she would not dispute the facts raised by the Complainant, had withdrawn her defence as stated in her Case and Reply.
14. By a letter dated 16 March 2015, the Respondent through her legal representatives confirmed that she withdrew her defence as stated in her Case and Reply.
15. In the premises, the only matter which remains is the question of sanctions which ought to be imposed upon the Respondent.
16. By a letter dated 25 March 2015, the Disciplinary Committee agreed to the parties' application to dispense with the substantive hearing in light of the admission of wrongdoing by the Respondent and the withdrawal of her defence as stated in her Case and Reply, and invited the Complainant and Respondent to make written submissions as to sanctions and costs. A form for costs incurred in respect of the proceedings was also enclosed.

The sanctions

17. By a letter dated 27 March 2015, the Complainant made submissions as to sanctions and costs. The Complainant proposes the following sanctions:

- 17.1 Permanent removal of the Respondent from membership;
 - 17.2 A reprimand;
 - 17.3 A penalty of less than HK\$500,000.00; and
 - 17.4 Payment of costs and expenses of proceedings.
18. The Respondent also made submissions as to sanctions and costs by a letter from her legal representatives dated 14 April 2015. In summary, the Respondent asks for leniency on the basis of the Respondent's positive and cooperative attitude, that the Complaint is based on isolated incidents and that the Respondent is extremely remorseful and regretful for what she has done. The Respondent suggests the following sanctions:
- 18.1 A reprimand;
 - 18.2 A penalty not exceeding HK\$10,000; and
 - 18.3 A costs order for the Respondent to pay an amount not exceeding HK\$30,000.00.
19. In the abovementioned letter dated 14 April 2015 from the Respondent's legal representatives, the Disciplinary Committee's attention was drawn to a recent case concerning a certified public accountant who falsely claimed on a number of occasions that he held a degree of Master of Professional Accounting awarded by the Hong Kong Polytechnic University when in fact he was only a student of that programme at the relevant time. The

Respondent's legal representatives submitted that the present case is less serious than the abovementioned recent case.

20. In arriving at the proper sanctions to be imposed on the Respondent, the Disciplinary Committee has had regard to the facts and matters specific to this case, in particular that the allegations made against the Respondent (which are summarised at paragraph 8 above), and which the Respondent has admitted, involve numerous different statements made by the Respondent.
21. 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 Complaint, the Respondent's personal circumstances, the parties' submissions, the previous case referred to us (although we bear in mind that each case must be decided upon its own particular facts) and the conduct of the Complainant and the Respondent throughout the proceedings.
22. As to the quantum of costs, the Complainant has not provided any Statement of Costs. On the other hand, the Institute has provided a Statement of Costs dated 15 April 2015 totalling HK\$22,436.00. The Disciplinary Committee considers that the aforesaid sum of HK\$22,436.00 was incurred reasonably and ought to be borne by the Respondent.
23. The Disciplinary Committee orders that:

23.1 The Respondent be reprimanded under section 35(1)(b) of the PAO;

23.2 The Respondent do pay a penalty of HK\$25,000.00 pursuant to section 35(1)(c) of the PAO; and

23.3 The Respondent do pay the costs and expenses of and incidental to the proceedings of the Institute in the sum of HK\$22,436.00 under section 35(1)(iii) of the PAO.

Dated the 19th day of August 2015