

IN THE MATTER OF

A Complaint made under Section 34(1) 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. Yeung Kin Kwan, Alvan

RESPONDENT

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

Date of written Decision with Reasons: 4<sup>th</sup> March, 2010

---

**DECISION**

---

1. A formal complaint was lodged by the Complainant against the Respondent to the Council of the Hong Kong Institute of Certified Public Accountants (“HKICPA”) by way of a letter dated 26<sup>th</sup> August, 2009. This Disciplinary Committee was then constituted under Section 33(3) of the PAO to deal with the complaint.

2. By way of background, the complaint stemmed from the finding by the Market Misconduct Tribunal against the Respondent that he was engaged in False Trading in the shares of Mobicon Group Limited (“Mobicon”) in the period between 1<sup>st</sup> April, 2003 and 25<sup>th</sup> May, 2005, in that the Respondent and another person intended that their trading in the said shares to have the effect of creating a false or misleading appearance of active trading in the said shares on the Stock Exchange of Hong Kong, contrary to Section 274(1)(a) of the Securities And Futures Ordinance, Cap.571, Laws of Hong Kong.
3. On 23<sup>rd</sup> March, 2009, the said Tribunal ordered, inter alia, that:
  - (1) for a period of 2 years, the Respondent shall not without the leave of the Court of First Instance of the High Court of Hong Kong, be a director of Mobicon or of any company that is now or becomes a subsidiary of Mobicon;
  - (2) the Respondent shall not again perpetrate any conduct which constitutes market misconduct;
  - (3) the HKICPA be recommended to take disciplinary action against the Respondent.
4. In this complaint, two charges were laid against the Respondent as follows:

#### First Charge

The First Charge is that the Respondent was guilty of dishonourable misconduct under Section 34(1)(a)(x) of the PAO;

#### Second Charge

The Second Charge which is alternative to the First Charge, is that the Respondent has failed or neglected to observe, maintain or otherwise apply the Fundamental Principles set out in Statement 1.200 “Professional Ethics – Explanatory Foreword” under Section 3(1)(a)(vi) of the PAO.

Statement 1.200 “Professional Ethics – Explanatory Foreword” (Revised April 1999 and September 2004 (name change)) provides:

*“The following are the Fundamental Principles on which the ethical guidance of the Hong Kong Institute of Certified Public Accountants is based: -*

*FUNDAMENTAL PRINCIPLES*

.....

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.”*
5. On 16<sup>th</sup> October, 2009, the Respondent indicated in writing that he admitted the complaint against him and the facts (“Agreed Facts”) as set out in the said letter from the Complainant to the Council of the HKICPA dated 26<sup>th</sup> August, 2009.
6. On the basis of the Agreed Facts, the Disciplinary Committee found a prima facie case of the complaint proved against the Respondent.
7. With the consent of the parties, the Disciplinary Committee decided to dispense with an oral hearing and invited the parties to make submissions in respect of the appropriate sanctions.
8. By way of letters dated respectively the 11<sup>th</sup> and 14<sup>th</sup> of December, 2009, both the Complainant and the Respondent made written submissions to the Disciplinary Committee.
9. The Complainant drew to the attention of the Disciplinary Committee the serious nature of the complaints which involves the public interest. The Respondent has also put forward various matters in mitigation which were duly considered by the Disciplinary Committee.
10. Bearing in mind the serious nature of the complaints and taking into account of the early plea of guilty and the matters submitted by the Respondent, and having considered all the circumstances of the complaint, on the basis of the Agreed Facts admitted by the Respondent, the Disciplinary Committee decided to make the following orders against him under Section 35(1) of the PAO:

- (1) the name of the Respondent be removed from the register of certified public accountants for 4 years with effect from 30 days from the date hereof under Section 35(1)(a) of the PAO; and
- (2) the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant and the Clerk to the Disciplinary Committee in the total sum of HK\$18,560.00 under Section 35(1)(iii) of the PAO.

Dated this 4th day of March , 2010.

IN THE MATTER OF

A Complaint made under Section 34(1) 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. Yeung Kin Kwan, Alvan

RESPONDENT

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

---

**ORDER**

---

**UPON** reading the complaint against Mr. Yeung Kin Kwan, Alvan, being a certified public accountant, as set out in a letter from the Registrar of the Institute (“the Complainant”) dated 26<sup>th</sup> August, 2009, the written submissions of the Complainant dated 11<sup>th</sup> December, 2009, the written submissions of the Respondent dated 14<sup>th</sup> December, 2009, and other relevant documents, the Disciplinary Committee is satisfied by the admission of the Respondent and the evidence adduced before it that the complaint is proved and on the basis of the facts admitted by the Respondent,

**IT IS ORDERED** that:-

1. the name of the Respondent be removed from the register of certified public accountants for 4 years with effect from 30 days from the date hereof under Section 35(1)(a) of the PAO; and
2. the Respondent do pay the costs and expenses of and incidental to the proceedings of the Complainant and the Clerk to the Disciplinary Committee in the total sum of HK\$18,560.00 under Section 35(1)(iii) of the PAO.

Dated the 4<sup>th</sup> day of March, 2010.