



Dear Assignment / News / Business Section Editor

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

(HONG KONG, 23 December 2013) — A Disciplinary Committee of the Hong Kong Institute of Certified Public Accountants ordered on 27 November 2013 that the name of Lam Sai Ho (membership number A33205) be removed from the register of certified public accountants for 12 months with effect from 6 January 2014. In addition, Lam was ordered to pay the costs of the disciplinary proceedings of HK\$19,976.

Lam is a non-practising member of the Institute. In August 2012, Lam was convicted in the Magistrate's Court of 20 charges of "Behaving in a Disorderly Manner in a Public Place." He had taken improper photos of unknown females in public locations. After considering the information available, the Institute lodged a complaint against him under section 34(1)(a)(x) of the Professional Accountants Ordinance for dishonourable conduct.

Lam admitted the complaint against him. The Disciplinary Committee found the complaint proved. Having taken into account Lam's early admission and the circumstances of the case, the Disciplinary Committee made the above order against him under section 35(1) of the Professional Accountants Ordinance.

Under the Professional Accountants Ordinance, if Lam 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會計師作出紀律懲處

(香港，二零一三年十二月二十三日) — 香港會計師公會轄下一紀律委員會於二零一三年十一月二十七日命令將林世浩先生(會員編號：A33205)的名字由二零一四年一月六日起從專業會計師註冊紀錄冊中除名，為期十二個月。此外，林先生亦須支付紀律程序的費用一萬九千九百七十六港元。

林先生為公會的非執業會員。在二零一二年八月，林先生被裁判法院裁定二十項《在公眾地方作出擾亂秩序的行爲》罪成立，他曾在公眾地方拍下多名不認識的女士的不當照片。公會經考慮所得資料，根據《專業會計師條例》第34(1)(a)(x)條就林先生犯下不名譽的行爲對他作出投訴。

林先生承認投訴中的指控屬實。紀律委員會裁定投訴成立。經考慮林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)條向林先生作出上述的命令。

根據《專業會計師條例》，如林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

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

Lam Sai Ho (membership no.: A33205)

RESPONDENT

Members: Mr. CHOW, Cheuk Yu, Alfred, BBS, JP (Chairman)
Miss TSUI, Pui Man, Winnie
Ms. WAN, Yuen Yung
Mr. COPLEY, Simon Charles
Ms. KWAN, Angelina

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)(x) of the PAO applied to the Respondent.
2. Section 34(1)(a)(x) of the PAO provides that a complaint against a certified public accountant being guilty of dishonourable conduct shall be made to the Registrar of the Institute who shall submit the complaint to the Council of the Institute which may refer the complaint to the Disciplinary Panels.
3. Section 34(2) of the PAO defines “dishonourable conduct” as follows:-

“ ... an act or omission of a certified public accountant, whether or not in the course of carrying out professional work or as a certified public accountant, which would reasonably be regarded as bringing or likely to bring discredit upon the certified public accountant himself, the Institute or the accountancy profession.”

4. The particulars of the Complaint as set out in a letter dated 8 April 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 include the following:-
 - (1) On 9 July 2012, the Respondent was arrested by the police inside an MTR station for taking underskirt photos of an unknown female using a mobile phone. Further examination of the Respondent’s mobile phone showed inappropriate photos of 35 females.
 - (2) The Respondent was charged with 20 charges of “Behaving in a Disorderly Manner in a Public Place” and was sentenced to an imprisonment term of 4 months. In sentencing, the Magistrate took into account the Respondent’s clear record and guilty plea, but also noted the multiplicity of the offences.
 - (3) As the Respondent’s convictions and the nature of the offences of which the Respondent was convicted brought discredit upon himself, he was guilty of dishonourable conduct under Section 34(1)(a)(x) of the PAO.
5. By a signed Confirmation dated 16 May 2013, the Respondent admitted the Complaint against him. He did not dispute the facts as set out in the Complaint. He agreed that the steps set out in paragraphs 17 to 30 of the Disciplinary Committee Proceedings Rules be dispensed with.
6. By a letter dated 27 August 2013 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.
7. The Complainant and the Respondent made submissions to the DC on sanctions and costs by letters dated 9 September 2013 and 16 September 2013 respectively. No request for a hearing on sanctions and costs has been made by the parties.
8. In the Complainant’s submissions on sanctions and costs, the Complainant referred the DC to the following comments made by the learned Magistrate when sentencing the Respondent:

“[Underskirt photos] are serious offences. Regrettably they are prevalent offences. ... in the 15 months I have sat in Eastern Magistracy, this is one of the most prevalent offences and this is one of the worst that has come before me during that period of time.” (words in square brackets added)

9. The Complainant also submitted that in arriving at this conclusion, the learned Magistrate had taken into account the fact that there was an element of premeditation on the part of the Respondent as he had downloaded a specific phone application that enabled him to take photographs without detection and that the Respondent was found to have taken 201 underskirt photos of 35 unidentified females over a period spanning over two weeks.
10. The Complainant invited the DC to consider making an order that the Respondent be temporarily removed from the register of certified public accountants for a period which the DC considers appropriate and the Respondent do pay the costs of the Complainant, and the costs of the DC.
11. In his submissions on sanctions and costs, the Respondent expressed his deep remorse to his dishonourable actions and agreed to be responsible for the costs incurred regarding these proceedings. The Respondent however invited the DC to consider his financial situation in making the orders on sanctions and costs.
12. The DC agrees with the submissions of the Complainant on sanctions that the appropriate sanction shall be removal of the Respondent from the register of certified public accountants for a period of time. In considering the length of time for such removal, the DC has regard to the fact that there was an element of premeditation in the Respondent offences. Further, the Respondent's offence was not a single isolated offence. The learned Magistrate in his Reasons for Sentence stated:-

“I find there are aggravating features in this case from the ordinary case ... First, the fact that this is a multiple offender, this is not a single isolated offence. According to the Admitted Facts, 35 different females had photographs taken of them; there was altogether on the phone 201 photographs resulting in the 20 charges which spanned a 2-week period.” (underlining added)

13. On the other hand, in considering the sanctions, the DC takes into account that the Respondent has admitted the Complaint at an early stage of the proceedings and he has expressed remorse for his conduct.
14. As regards costs, the Complainant has set out in the Statement of Costs that costs and expenses of and incidental to the proceedings are in the sum of HK\$19,976. The Respondent in his submission did not dispute such sum, but has invited the DC to consider partial exemption of the costs incurred or a deferred payment in the light of his financial situation. Having read the aforesaid Statement of Costs, the DC considers that the costs and expenses submitted by the Complainant are reasonable. The DC also agrees with the Complainant's submission that as the costs incurred by the Complainant and the DC in the proceedings are financed by membership subscription and registration fees, it will be unfair to the members if they have to fund the costs of these proceedings which arise as a result of the dishonourable conduct of the Respondent, and as such the DC allows such costs in full.

15. In considering the proper order to be made in this case, the DC has had regard to all the aforesaid matters, including the particulars in support of the Complaint and the conduct of the Complainant and the Respondent throughout the proceedings.
16. The DC orders that:-
 - (1) the name of the Respondent be removed from the register of certified public accountants for 12 months and such removal to take effect 40 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 in the sum of HK\$19,976 under section 35(1)(iii) of the PAO.

Dated the 27th day of November 2013

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

Lam Sai Ho (membership no.: A33205) RESPONDENT

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

Members: Mr. CHOW, Cheuk Yu, Alfred, BBS, JP (Chairman)
 Miss TSUI, Pui Man, Winnie
 Ms. WAN, Yuen Yung
 Mr. COPLEY, Simon Charles
 Ms. KWAN, Angelina

ORDER

Upon reading the complaint against Lam Sai Ho, being a certified public accountant, as set out in a letter from the Registrar of the Institute ("the Complainant") dated 8 April 2013, the confirmation of admission of the Complaint by the Respondent dated 16 May 2013, the written submission of the Complainant dated 9 September 2013 and the written submission of the Respondent dated 16 September 2013, the Disciplinary Committee is satisfied by the admission of the Respondent and the evidence adduced before it that the following complaints are proved:

Section 34(1)(a)(x) of the Professional Accountants Ordinance applies to the Respondent in that the Respondent was guilty of dishonourable conduct as a result of his conviction of 20 charges of behaving in a disorderly manner in a public place and he was sentenced to an imprisonment term of 4 months.

IT IS ORDERED that:-

1. the name of the Respondent be removed from the register of certified public accountants for 12 months and such removal to take effect 40 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 in the sum of HK\$19,976 under section 35(1)(iii) of the PAO.

Dated the 27th day of November 2013