



廉政公署

INDEPENDENT COMMISSION AGAINST CORRUPTION

廉政專員  
Commissioner, ICAC

SC(4)(TI) Paper No.: ICAC8(C)

Our Ref: ICAC ADM CR 1-55/23 (C) Pt 1

~~CONFIDENTIAL~~

Your Ref: CB4/SC/12

By Hand

19 February 2014

Ms Anita SIT  
Clerk to Select Committee  
Legislative Council  
Legislative Council Complex  
1 Legislative Council Road  
Central  
Hong Kong

Dear Ms SIT,

**Select Committee to Inquire into Matters Relating to  
Mr Timothy TONG's Duty Visits, Entertainment, and  
Bestowing and Receipt of Gifts during his Tenure as  
Commissioner of the Independent Commission Against Corruption  
(the Select Committee)**

Thank you for your letters dated 30 January 2014 and 7 February 2014.

As requested, please find my written statement on the matters set out under the MAS in **Appendix A**. In relation to your request for the relevant records kept by ICAC on those matters, please be advised that the ICAC has taken utmost effort to provide all the relevant records for the Select Committee (SC) upon its requests for information. What prevent us from doing so are only those that would jeopardize the fairness and impartiality of the on-going criminal investigation against Mr Timothy TONG and the internal discussion and advice that would inhibit the frankness and candour of discussion within the Commission in pursuant to Clause 2.10.3 of the Code on Access to Information.



為下一代 共建廉潔將來  
A clean future for our next generation

香港北角渣華道303號  
303 Java Road, North Point, Hong Kong  
電話 Tel: (852) 2826 3110  
圖文傳真 Fax: (852) 2868 4579  
網址 Website: www.icac.org.hk

— As regards the requested information on the matters set out in Appendix IV of your letter of 7 February 2014, they are given in **Appendix B** for your necessary action.

Moreover, please report to the SC that I am considering of bringing along one or two of my officers when I attend the hearing scheduled for 1 March 2014. I will keep you posted of the details in due time.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'S. Y. L. PEH' in a stylized, cursive script.

(Simon Y L PEH)  
Commissioner

Independent Commission Against Corruption

**Annex 1**

**Item 1 : Please provide response and/or information on the following issues :**

**ICAC Staff Circular No. 23/96 “The Giving and Receiving of Gifts on Official Occasions” referred to in page 54 of the Public Accounts Committee Report No. 60A.**

- Please find enclosed ICAC Staff Circular 23/96 (English version only).



CANCELLED

Ref. : (91) in CAC/RS/166/4

4 October 1996

**ICAC Staff Circular No. 23/96****The Giving and Receiving of Gifts on Official Occasions****The Commission's Policy**

The policy of the Commission on this matter is to limit to the minimum the exchange of gifts on official occasions. Where an exchange of gifts is unavoidable on a particular occasion, the exchange should be made from organisation to organisation. Although it may be difficult formally to ask visitors not to offer any gift, it would be desirable to disclose the Commission's policy on this matter to other organisations wherever possible in advance. Within this policy, we also have to ensure that we are very careful in offering gifts from the ICAC to organisations or persons we meet officially within or outside Hong Kong. Gifts such as the stone lions and ICAC plaques should be used as organisation to organisation gifts or as a souvenir to a guest of honour. They are offered as a gesture of mutual recognition, friendship and co-operation.

**Acceptance of Gifts**

2. All gifts presented to an officer in his official capacity are to be regarded as gifts to the Commission, which the officer receives on behalf of the Commission. Where it can be done without causing offence or embarrassment, the gift should be returned to the donor with a carefully worded explanation that Commission policy restricts the acceptance of gifts and a polite word of gratitude for the thought behind the gifts. A gift should only be accepted in circumstances where it is considered that its acceptance cannot be declined.

**Report of Acceptance of Gifts**

-----  
3. As soon as possible after such gifts are presented and accepted, the officer should make a report to his Head of Department in the format as shown in Appendix A. However, in the course of liaison functions and private sector advisory work or during attendance at community involvement projects, it is common practice for mementoes, which are of no commercial or resale value, to be presented to ICAC officers. Examples

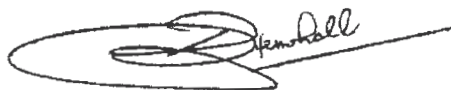
of this type of gift are plaques, banners and pennants, which are marked with inscriptions and names of organisations. Staff are not required to report the acceptance of this type of gift. Officers at the SCACO level or above, e.g. Regional Officers, Group Heads, etc. may decide how these gifts should be disposed of except they may not approve personal retention by an officer.

**Guidelines for the Disposal of Official Gifts**

----- 4. The Commission's guidelines for the disposal of official gifts are contained at Appendix B. Heads of Departments may designate a directorate officer to be the authorised officer to approve the method of disposal of such gifts except for those the disposal of which officers at the SCACO level or above may decide. Directorate officers who wish to retain gifts received on official occasions must seek permission from CAC.

5. If an officer has any doubt as regards the disposal of gifts he has received on an official occasion, he should consult his Head of Department.

6. ICAC Staff Circular No. 11/93 is now cancelled.



(B.G. Hemshall)  
for Commissioner  
Independent Commission Against Corruption

Encl.

**MEMO**

From : \_\_\_\_\_ To : \_\_\_\_\_

Ref. : \_\_\_\_\_ in \_\_\_\_\_

Tel. : \_\_\_\_\_

Date : \_\_\_\_\_

---

**Report on Acceptance of Gifts  
Presented to an Officer in His Official Capacity**

I wish to report the acceptance of the following gifts :-

**(a) Occasion**

(i) Name of donor organisation :

(ii) Function :

(iii) Date :

(iv) Gift(s) received by :

(v) Gift(s) :

(vi) Estimated value of gift(s) :

**(b) Method of Disposal Recommended**

(i) Share among the office :

(ii) Send to a charitable organisation :

(iii) Send to the Commission's Resource Information Centre :

(iv) Retention for display/as a souvenir in the office :

(v) Send to Treasury :

(vi) Donate as lucky draw prize :

(vii) Retention by the officer :

**Guidelines for the Disposal of Gifts  
Presented to an Officer in His Official Capacity**

1. If the gift is of perishable food or drink, it should be shared among the office or section where the recipient works.
2. If the gift is a useful item, it should be sent to a charitable organisation.
3. If the gift is of historical or other interest, it should be sent to the Commission's Resource Information Centre, a school, library or museum.
4. If the gift is suitable for display (e.g. a painting, vase, etc.) or suitable for retention as a souvenir in the office, it may be retained in the office of the officer to whom it was presented or elsewhere in the department, being placed on the inventory of the room.
5. If the gift is a small sum of cash given to all those attending a social function (e.g. laisee at Lunar New Year), it should be sent to the Treasury.
6. If the gift is of low value and none of the above methods of disposal is appropriate, it may be donated to the Commission's social function as lucky draw prize.
7. If the gift is of low value (below \$1,000) and is a personal item (e.g. a necktie or scarf) or is personally inscribed to a particular officer (e.g. a salver), the gift may be given back to the officer to whom it was presented for his personal retention.



**Annex 2**

**Item 2 : Please provide response and/or information on the following issues :**

**Date and other details on which the ICAC's policy on exchange of gifts was incorporated into ICAC's Commission Standing Orders ("CSO"), and whether there have been any changes to the relevant part of the CSO thereafter.**

- ICAC Staff Circular No.23/96 on "The Giving and Receiving of Gifts on Official Entertainment" was cancelled in August 2001 and the details on giving and receiving of gifts were incorporated in CSO (I) 09-03 on "Acceptance of Advantages". The policy on exchange of gifts was incorporated into the current version of CSO (I) 25-04 on "Entertainment Expenses and Offering/Exchange of Gifts" in October 2013. A copy of the relevant CSOs is attached (English version only).



**Commission Standing Order ( Part I )**

Chapter : 09

Title : Conduct and Discipline

Internal Reference : 09-03

Section : 03

Heading : Acceptance of Advantages

Version Date : 15.08.200

1

**Definition of "Advantage"**

1. "Advantage" is defined in Section 2 of the POBO to mean almost anything which is of value, except entertainment which will be covered under Section 9-04. Common examples include any gift (both of money and in kind), loan, fee, reward, commission, office, employment, contract, service, favour, etc.

2. It may constitute an offence under Section 3 of the POBO if an officer solicits or accepts any advantage not in accordance with the general or special permission given under the AAN.

**Restricted Advantages**

3. The AAN lists the advantages that a government officer may solicit or accept without committing an offence under Section 3 of the POBO. Under this Notice, the Chief Executive has given general permission to an officer to solicit or accept advantages without restrictions (including favours and loans of objects) except for four types specified as "restricted advantages" which may only be solicited or accepted under certain circumstances having regard to the relationship with the offeror, the occasion the advantage is offered and the value of the advantage. The "restricted advantages" under the AAN are -

- (i) gifts (both of money and in kind);

- (ii) discounts;
- (iii) loans of money; and
- (iv) air, sea and overland passages.

4. An officer should read **Annex 9-1** (*Circumstances for Accepting Restricted Advantages*) to familiarize himself with the limited circumstances under which general permission is given under the AAN for him to solicit or accept any "restricted advantage". In case of doubt, he should seek clarification from his supervising officer at the Senior Commission Against Corruption Officer level (SCACO) or above.

#### **Special Permission**

5. In circumstances not covered by the general permission under the AAN, an officer should apply to his Head of Department for special permission ( using the sample form at **Annex 9-2** (*Application for Special Permission to Accept Restricted Advantages*) ) prior to or as soon as reasonably possible after accepting any "restricted advantage" in accordance with paragraphs 8 and 9 of the AAN.

#### **Conflict of Interest**

6. An officer may be liable to disciplinary action if he solicits or accepts any advantage (even one permitted under the AAN) if this has led, or could have led to a conflict between his private interests and his official duties or position. See also Section 9-05 on conflict of interest.

#### **Acceptance of Advantages Presented in One's Official Capacity**

7. An officer is discouraged from accepting advantages presented to

him in his official capacity. The policy of the Commission is to limit to the minimum the exchange of gifts on official occasions. Where an exchange of gifts is unavoidable on a particular occasion, the exchange should be made from organization to organization. Although it may be difficult formally to ask visitors not to offer any gift, it would be desirable to disclose the Commission's policy on this matter to other organisations wherever possible in advance.

### Acceptance of Gifts

8. All gifts presented to an officer in his official capacity, including prizes won through free lucky draws or free raffle tickets during official functions are to be regarded as gifts to the Commission, which the officer receives on behalf of the Commission. Where it can be done without causing offence or embarrassment, the gift should be returned to the donor with a carefully worded explanation that Commission policy restricts the acceptance of gifts and a polite word of gratitude for the thought behind the gifts. A gift should only be accepted in circumstances where it is considered that its acceptance cannot be declined.

### Report of Acceptance of Gifts

9. As soon as possible after gifts are presented and accepted, an officer should make a report to his Head of Department in the format shown in **Annex 9-3** (*Report on Acceptance of Gift Presented to an Officer in His Official Capacity*). Staff are not required to seek permission for accepting gifts of which are of no commercial or resale value, e.g. plaques, banners, pennants, printed calendars, laisee envelopes, which are marked with inscriptions and names of organisations. However, they are required to make reports to their supervisors at SCACO level or above who may decide how

these gifts should be disposed of. Where an officer wishes to retain the gift personally, he should seek prior approval from his Head of Department or the designated directorate officer.

### **Guidelines for Disposal of Official Gifts**

10. The Commission's guidelines for the disposal of official gifts are set out at **Annex 9-4** (*Guidelines for the Disposal of Gifts Presented to an Officer in his Official Capacity*). Directorate officers wishing to retain gifts received on official occasions must seek permission from the Commissioner.

11. If an officer has any doubt about the disposal of gifts he has received on an official occasion, he should consult his Head of Department.

### **Acceptance of Honorarium**

12. Notwithstanding CSR 550(j), ICAC officers are not allowed to receive honorarium for talks delivered on behalf of the Commission. Should it be considered offensive or difficult to reject a fee, the officer should make a report to the Assistant Director/Administration who shall arrange for the fee to be paid to the General Revenue via the Treasury.

### **Acceptance of Flight Awards**

#### **Flight Awards from Duty Travel**

13. Duty air passages are normally booked through the Supplies Office. Any mileage awards will be credited to the Commission's corporate accounts, if applicable.

14. Where the airline offers awards to personal accounts only, an

officer may claim and accept the flight awards (see also para 16). However, the first call on the use of such awards arising from duty travel, including passages provided for overseas postings and training, must be for subsequent duty travel. This may include upgrading of passages or providing a passage for a spouse to travel with the officer where there is justification but where normal rules or funding would not permit public funds to be used.

15. If an award is not expected to be used for subsequent duty travel before the expiry date of the award, approval for an officer at SCACO and below to use the award for private purposes has to be sought from Assistant Director/Administration. In respect of directorate officers who wish to use such awards for a private purpose, approval must be sought from the Commissioner.

16. The Commission does not oblige officers on duty travel to claim flight awards from airlines. However, if and when such awards are claimed and credited to an officer's personal mileage account, the officer should report the awards to his Head of Department and the Administration Branch to facilitate planning for the possible use of the awards for subsequent duty travel. The officer must report to his Head of Department should there be a conflict of interest between the acceptance of the travel award and the officer's official duties.

#### *Flight Awards from other Government Passages*

17. Officers may accept flight awards earned from other government passages, including leave and leave-cum-duty passages. General permission has already been given under paragraph 4 of the AAN for them to accept such awards. Approval is also given under CSB Circular No 17/92 for officers to accept flight awards earned from other government passages, subject to the



conditions stipulated in paragraphs 13 to 15 above for awards arising from duty travel.

18. An officer should report to his Head of Department if there is a conflict of interest between the acceptance of the travel award and his official duties.

#### *Courier Passages*

19. All officers are **NOT** allowed to undertake courier duties and to accept the free or discounted passages offered.

#### *Acceptance of Free Service*

20. Although free service is regarded as an "unrestricted advantage" under the AAN for the purpose of Section 3 of the POBO, an officer should ensure that he has no official dealings with the service providers before accepting the service so that he will not be obligated to arbitrarily favour the service providers in their official dealings with the Commission. In case of doubt, an officer should consult his supervisor.

21. If an official relationship between the officer and the service provider arises after acceptance of the service, the officer should report the acceptance to his Head of Department so as to avoid a perceived conflict of interest.



**Commission  
Standing Orders  
( Part I )**

**Chapter : 25**  
**Section : 04**

**Title : Finance**  
**Heading : Entertainment Expenses  
and Offering / Exchange of  
Souvenirs**

**Internal Reference : 25-04**  
**Version Date : 04/10/2013**

### **Entertainment Expenses**

1. As a general principle, officers are reminded to exercise prudence when incurring official entertainment expenses and should adhere to strict economy in expenses to avoid giving any notion of unjustified expenses.
2. An officer may be reimbursed expenses incurred for provision of official entertainment which has been approved by C (for Commission-wide, Administration Branch and Corruption Prevention Department functions), H/Ops (for Operations Department functions) and DCR (for Community Relations Department functions). To allow sufficient internal control, all official entertainments hosted by Head of Department (HoD) (i.e. H/Ops, DCR and DCP) should be approved by C. For proper checks and balances, H/Ops will endorse official entertainments hosted by C; whereas AD/A will check compliance of those attended by both C and HoDs. Officers should seek approval **in advance** before the expenses are incurred and give justifications for the entertainment and choice of venue. The subject officer should complete a standard form (Form ICAC 569) specifying that the entertainment expenses are for official purpose and that the entertainment is essential and the prices paid are fair and reasonable. Officers hosting the entertainment should also observe the relevant guidelines on the rate of entertainment expenses as may be issued by the Administration from time to time.
3. Expenditure may be charged to the entertainment vote when it is –
  - (a) directly related to the discharge of an officer's duties or a necessary part of making or maintaining contacts in his official capacity; and
  - (b) in the public interest.
4. The expenditure per head, inclusive of food, beverages (both alcoholic and non-alcoholic) and tips, is currently subject to the following ceiling –

- (a) Operational liaison lunch : \$150
- (b) Lunch : \$350
- (c) Dinner : \$450

If the overall expenditure per head exceeds the ceiling rate, justifications have to be provided and C's approval must be sought.

5. All entertainment functions, irrespective of the vote chargeable and those arising from the publicity projects, are subject to the same approval authorities and ceiling rates as set out in paragraphs 2 and 4 above. When under the circumstances that entertainment expenditure is included in a package charge covering costs for meal, venue and tea session, etc that cannot be quoted as a separate item, the total expenditure should also be taken as entertainment expenditure in the same occasion. In case there are other expenditure items (e.g. wine, dessert, snacks, etc.) serving before, during or after the same function, such cost should also be included as part of the total entertainment expenditure and C's approval should be sought with justifications if the overall expenditure per head exceeds the ceiling rate. Splitting of bills or charging them to different votes is strictly prohibited.

6. Except for the following two occasions, official entertainment must be for non-government personnel -

- (a) entertaining representatives of staff associations; or
- (b) expressing appreciation to staff for exceptional achievements, significantly beyond the normal call of duty.

7. Expenditure arising from the presence of other Government officers and their spouses may be reimbursed when -

- (a) it is in the public interest that the principal guests (who are not civil servants) should meet such officers; or
- (b) it is necessary for such officers to assist in entertaining the principal guests.

8. Only guests directly related to the context of the official business should be considered for invitation for entertainment. Moreover, the number of Commission officers attending the event should be kept to the minimum and

confined to those who are directly related to the context of the official business concerned. Except under very special circumstances and with full justifications given, the number of Commission officers should not exceed the number of guests.

9. When official entertainment is combined with private entertainment, only that proportion of the expenditure that is attributable to the presence of the host and hostess and of their official guests may be charged to public funds.

10. Expenditure on official entertainment should be fully supported by receipts wherever possible. Claims for expenditure on home entertainment when receipts are not produced must be supported by full details and certified as reasonable by C personally.

11. Vouchers must include sufficient supporting information to enable the Audit Commission to ascertain whether the provisions of the relevant regulations are complied with. The list of guests for a particular function must be retained for at least 12 months and produced for the Audit Commission's examination if required.

12. Tipping should strictly follow the guidelines issued by the Secretary for Financial Services and the Treasury -

<u>Entertainment Expenses</u>	<u>Amount of Tips</u>
Up to \$2,000	5% of the bill amount
From \$2,000 to \$4,000	\$100 maximum
Over \$4,000	\$200 maximum

### **Serving of Alcoholic Beverages**

13. The use of hard liquor in official functions is banned while the purchase of wine for official purpose will be suspended if there is wine stock in the Commission. When table wine is required for official use, officers should draw from the existing wine stock kept under the custody of Supplies Officer/Administration Branch. Officer must include in his / her application for entertainment expenditure the number of bottles and the type of table wine he / she requests if the use of wine is deemed necessary. Bottles of wine drawn but remained unused after each official entertainment should be returned to Supplies Officer/Administration Branch for storage and record. On exhaustion of the office stock, officers may procure wine separately but the cost of wine consumed in official functions should be properly accounted for and included in the estimate / cost of the entertainment.

## **Gifts for Social Functions**

14. It is customary for officers to present gifts when invited to social functions (such as wedding or birthday parties) hosted by local leaders who have frequent official contact with the Commission. Subject to the following financial limits on the value of such gifts, the expenditure involved is chargeable to Component 149 General Departmental Expenses Item 566 Official Entertainment (Local) -

<u>Gift</u>	<u>Maximum Value</u> (\$)
(a) one gift to be purchased when only one officer is invited	400
(b) one joint gift to be purchased when two officers are invited	600
(c) one joint gift to be purchased when more than two officers are invited	800

15. Officers are advised that as far as possible, gifts rather than cash should be offered. There is no particular restriction on the type of gifts and the general guideline is that a gift suitable to the occasion should be presented. Common sense and social norm should prevail. The greeting card accompanying the gift should contain all the names of the officers invited to the function.

## **Offering and Exchange of Gifts / Souvenirs**

16. Offering of gifts / souvenirs to ICAC contacts are chargeable to Component 149 General Departmental Expenses Item 402 Office Stationery and Materials. As a general principle, officers should not offer gifts/souvenirs to official guests and should avoid as far as possible exchanging gifts/souvenirs with official guests. As appropriate, the organization concerned should be notified in advance of the arrangement and the Commission's economy drive. Where the exchange of gifts / souvenirs is unavoidable, officers should only present one standard souvenir inscribed with the ICAC logo (e.g. ICAC Building model, ICAC Annual Report or ICAC plaque, etc.) to the organisation concerned. No gift/souvenirs should be given on a personal

basis. If it is deemed appropriate to present non-standard gifts/souvenirs to an organisation, the approval of HoD should be sought and Admin Branch should be duly alerted. For proper record of accounting purpose, the nature of gift/souvenir, quantity, value and officials/organisations presented with the gift/souvenir should be provided to the Finance Office, as far as possible, for effecting payment.

17. To enhance checks and balances, the Admin Branch will report to the Advisory Committee on Corruption on a regular basis any departure from the normal practice in respect of entertainment functions and presenting gifts/souvenirs to external parties.



**Annex 3**

**Item 3 : Please provide response and/or information on the following issues :**

**Records of the applications made by Mr Timothy TONG to the Chief Executive (“CE”) from 2007-2008 to 2012-2013 for personal retention of gifts offered/presented to him (a) in his official capacity as the Commissioner of ICAC and (b) in his private capacity, and the CE’s replies.**

- According to the Commission’s records, Mr Timothy TONG, had made two applications to the Chief Executive (CE) from 2007-2008 to 2012-2013 for personal retention of gifts offered to him in his official capacity as the Commissioner of ICAC. Details of the gifts are as follows :-
  - (i) Invitation by the Supreme People’s Procuratorate of the PRC to the Opening Ceremony of the Beijing Olympic Games on 8.8.2008 for Mr TONG and a family member (his daughter) (including admission to the ceremony and accommodation in Beijing);
  - (ii) A total of four admission tickets to the Olympic Equestrian Events on 15.8.2008 and 21.8.2008 for Mr TONG and his daughter offered by the Hong Kong Jockey Club.

Although CE had approved application (i), Mr TONG did not attend the event subsequently. Mr TONG had also withdrawn application in (ii) above. Relevant applications are attached (English version only).





Loose Minute

CE,

Approval to attend the Beijing Olympic Games

Your approval is requested for me to accept an invitation to attend the Opening Ceremony of the Beijing Olympic Games on 8 August 2008. The invitation is extended to me and a family member (my daughter) by the Supreme People's Procuratorate of the PRC. It includes admission to the Opening Ceremony and hotel accommodation while in Beijing. The Supreme People's Procuratorate and the ICAC maintain a cordial working relationship, and Mr Jia Chun-wang, former Procurator-General, visited Hong Kong last December to attend the official opening of the ICAC Building.

2. If your approval is granted, I will take leave for two days on 7-8 August 2008 and pay for our own air passage to Beijing. The same invitation is also extended to [REDACTED] and his family. Subject to your agreement, I will approve his application for accepting the offer.

( Timothy Tong )  
Commissioner, ICAC  
5.6.2008

*downgraded.*  
~~CONFIDENTIAL~~ 21.78

Jock WY  
TAM/CEO/HKSARG@CE

O  
24/06/2008 10:38

To MS TSE/ADM/ICAC/HKSARG@ICAC

cc

bcc

Subject CONFIDENTIAL: Approval to attend 2008 Beijing  
Olympics

File Ref.:

☐ Urgent ☐ Return receipt ☒ Enigmator Sign ☒ Enigmator Encryp

History:

 This message has been replied to and forwarded.

Dear MS,

I refer to the LM from C, ICAC to CE on the above subject.

2. CE has given approval for C, ICAC to accept the invitation from the Supreme People's Procuratorate of the PRC to attend the Opening Ceremony of the Beijing Olympics Games.

Regards,

Jock Tam  
CEO(A)  
CE's Office  
Tel no. 2878 3366

**Application for Vacation Leave  
by Commissioner, Independent Commission Against Corruption**

PART 1 (to be completed by C, ICAC)

Name : Mr Timothy TONG Hin-ming

Period : 14.8.2008 (p.m.) to 21.8.2008 (a.m.) and 22.8.2008

Remarks : Originally I intended to go to Beijing to attend the Opening Ceremony  
of the Olympic Games. Owing to scheduling difficulties, I now wish  
to take leave in Hong Kong and watch some equestrian events.

\* I recommend Mr Daniel LI, to ~~set up~~ double up my post during my  
absence. Head of Operations

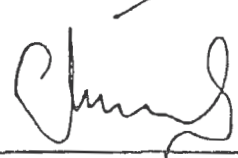
\* ~~There is no need for my duties to be covered by another officer during my~~  
~~absence.~~

Signature : 

Date : 5 August 2008

PART 2 (to be completed by CE)

Application ~~not~~ approved / not approved.

Signature : 

Date : 6 August 2008

CE

\* Please delete as appropriate

○

**MEMO**

*From* Commissioner, Independent  
Commission Against Corruption

*Ref.* (46) *In* ICAC 7/6/3 Pt.3

*Tel. No.* 2826 3121

*Fax. No.* 2537 0767

*Date* 1 August 2008

*To* Director of the Chief Executive's Office

*(Attn.: Mr. TAM Wai-yuen, Jock, CEO (Adm) )*

*Your Ref.* ..... *in* .....

*dated* ..... *Fax. No.* 2524 3099

*Total Pages* - 1

**Acceptance of Advantage**

**Mr. TONG Hin-ming, Timothy, Commissioner, ICAC**

I would be grateful if you would seek the Chief Executive's approval for Mr. Timothy TONG, Commissioner (C) to accept and handle a gift, details as follows:

(A) Occasion :-


- (i) Name of donor/organization : The Hong Kong Jockey Club
- (ii) Function : Olympic Equestrian Events (EQ 08) on 15.8.2008  
Olympic Equestrian Events (EQ 13) on 21.8.2008

(B) Gift :-

- (i) Gift to be received by : C
- (ii) Two tickets for EQ 08 and two tickets for EQ 13 for C and C's daughter, Miss Tania TONG. The tickets are complimentary but based on tickets on sale in the market are estimated to cost \$550/each. Similar complimentary tickets are also dished out as gifts to other heads of bureau/departments.

2. Chief Executive's approval is sought for Mr. TONG to accept the tickets as

- (a) it is the interest of the Commission to attend the events; and
- (b) there is no conflict of interest involved.

  
(Ms Judy LI)

for Commissioner,  
Independent Commission Against Corruption

Judy KC  
LI/ADM/ICAC/HKSAR  
G

12/08/2008 10:25

To Jock WY TAM/CEO/HKSARG  
cc MS TSE/ADM/ICAC/HKSARG  
bcc  
Subject Application for Acceptance of EQ tickets from HK Jockey  
Cub by C, ICAC

☐ Urgent ☒ Return receipt ☐ Sign ☐ Encrypt

Dear Jock,

I refer to our telecon this morning and confirm that due to other engagement, Mr Timothy TONG was unable to make it to the EQ 08 and EQ13 events on 15 and 21 August 2008. Please consider this mail as formal notice of withdrawal of application vide my memo ref (46) in ICAC7/6/3 Pt 3 dated 1 August 2008.

2. Thank you for your attention.

Ms Judy LI  
S/MA1  
ICAC



**Annex 4**

**Item 4 : Please provide response and/or information on the following issues :**

**Details of each of the following “Commission-wide” gifts and gifts procured by ICAC’s individual departments referred to in *Annexes 4 and 5 of the Report of the Independent Review Committee on ICAC’s Regulatory Systems and Procedures for handling Official Entertainment, Gifts and Duty Visits*, including (a) the recipient; (b) the occasion when the gift was bestowed; (c) the ICAC officer who presented the gift; and (d) the department/unit of ICAC responsible for procurement of the gift -.**

- i. Goat-shape ornament (\$2,380)**
- ii. Tiger-shape ornament (\$4,140)**
- iii. Eagle-shape ornament (\$4,730)**
- iv. Wine (\$1,960)**
- v. 5 Tankards (\$1,580 each)**
- vi. 5 pens (\$2,170 each)**
- vii. 8 digital photo frames (unit cost from \$590 to \$1,890)**

- Apart from items iii and vi, all other items were presented by Mr Timothy TONG, former Commissioner of the ICAC. Relevant information will not be provided as such information falls within the scope of an ongoing investigation in relation to Mr TONG.
- Item iii was presented to an official of the Malaysian Anti Corruption Commission (MACC) by former Head of Operations at the MACC’s Launching Ceremony on 24.2.2009.
- Item vi was procured for future use and they are still kept as souvenir stock.





**Annex 5**

**Item 5 : Please provide response and/or information on the following issues :**

**According to Annex 3 to the ICAC's reply dated 6 September 2013 to the Select Committee, "as soon as approval has been given on a duty trip outside Hong Kong, the officer concerned is required to submit to the Supplies Office of the Administration Branch his/her request for the booking of passage together with the written approval for the duty trip".**

**However, according to Annex 3 to the ICAC's reply dated 2 October 2013 to the Public Accounts Committee ("PAC"), "in accordance with the CSO, the Supplies Office of the Administration Branch will place procurement orders for air passages for officers who have been approved for undertaking duty visits outside Hong Kong. The CSO does not require the Commissioner of the ICAC to seek approval from the Chief Executive for the purpose of procuring air tickets."**

**ICAC further stated in Annex 6 to the ICAC's reply dated 23 October 2013 to PAC that "the CSO at the time did not require the Commissioner of the ICAC to seek approval before the procurement of air passages for duty visits outside Hong Kong."**

**In this regard, please (a) provide the relevant CSO and regulations, and (b) clarify whether the regulations governing the procurement of air passages are different between the Commissioner and ICAC officers, if so, (c) explain the reason for such a difference.**

- The regulations governing the procurement of air passage are set out in CSO(I) 26-04. According to the revised version of the said CSO promulgated in November 2013, all officers, including the Commissioner for the first time, should attach a copy of the approval for their overseas trip when they submit to the Supplies Office their request for the booking of passage. The relevant part of the CSO is enclosed (English version only).



## Commission Standing Orders ( Part I )

Chapter : 26

Section : 04

Title : Supplies

Heading : Booking of Duty and Training  
Passage

Internal Reference : 26-04

Version Date : 08/11/2013

1. Officers are provided with air passage when required by the Commission to travel outside Hong Kong for official duties or training. Officers are entitled to the following classes of duty passage –

Officer	Class of Duty Passage
C	Business Class
H/Ops	Business Class
All other officers	Economy Class

2. Upgrading from Economy Class to Business Class may be allowed under the following circumstances -

- (a) where the flying time exceeds nine hours (referring to the normal flying time, including transit time, according to the original route approved for the duty visit or on direct flight between Hong Kong and Sydney);
- (b) where the officer has to travel again within seven calendar days from his last return from duty or where the officer is subject to a tight flight schedule of no less than three flights within five days;
- (c) where the officer is required on duty to travel in the same class with another person or group of persons taking a higher class of passage than the officer's normal entitlement; or
- (d) where the appropriate class of travel is not available on the route concerned and choice of other flights is not appropriate for the purpose of the visit.

3. No upgrading will be allowed —

- (a) for the outward journey to the duty place, if an officer takes leave outside Hong Kong before duty is performed; or
- (b) for the return journey to Hong Kong, if after performance of duty or upon arrival in Hong Kong, an officer takes leave or is granted authorised absence under Civil Service Regulation 1111(4).

4. In applying for upgrading of passage, the officer concerned must declare that he will not take leave prior to commencement of duty overseas or after completion of such duty. Deliberate act to defer application for leave until approval of upgrading of passage is obtained may render the officer liable to disciplinary action.

5. Notwithstanding the provisions above, the upgrading of air passage is subject to availability of funds and the prevailing Commission policy.

6. The authority to approve upgrading of duty passages referred to in paragraph 2, subject to the considerations in paragraphs 3 to 5, above rests with CE, C, D/PS, D/GS, DCR and DCP. Apart from the circumstances mentioned in paragraph 2, subject to the considerations in paragraphs 3 to 5, C's personal approval must be sought for upgrading of duty passages to First Class or Business Class by using a standard form "Application for Exceptional Approval for Upgrading of Duty Passage" in the Form Library.

7. Applications to modify an officer's passage for private reasons are normally not allowed unless under exceptional circumstances justifying compassionate consideration. For C, prior approval must be obtained from CE and for other officers, the approving authority is C. The officer concerned must pay for all additional costs involved as a result of such modification.

8. Officers should submit to the Supplies Office and Finance Office their request for the booking of passage by using a standard form ICAC 556 via their HOD with a copy of the approval for the overseas trip as soon as possible. To increase the competitiveness of the quotation exercise, officers should not specify the airline and/or flight number, unless prior approval has been given by the approving authority stated in the following table with full justification.

<u>Category of Officers</u>	<u>Approving Authority</u>
(a) C	CE
(b) H/Ops, D/PS, D/GS, DCP, DCR, AD/A	C
(c) All other officers in -	
Operations Department	H/Ops
Corruption Prevention Department	DCP
Community Relations Department	DCR
Administration Branch	AD/A

9. The Supplies Office will confirm the reservation of air ticket after a completed ICAC 556 and proper approval for the overseas trip are received. The appointed travel agent will normally deliver the air ticket to the officer direct, who must obtain an invoice from the agent on receipt of the air ticket.

10. The officer should ask his supervisor not below the rank of CACO(U) to certify the invoice, confirming that the air ticket has been received, and forward the signed invoice to the Supplies Office for payment. Where the passage is for training purpose, the invoice should be sent to CI/Development (for Ops officers) or SSO/HRD (for non-Ops officers) who will similarly certify and pass it to the Supplies Office.

11. If a passage is subsequently cancelled, the officer must immediately return the air ticket together with an explanation via his supervisor not below the rank of CACO(U) to the Supplies Officer and Executive Officer / Finance. The Supplies Office will deal with the cancellation of the ticket and the Finance Office will handle the related accounting issues. Preferably, the officer should notify both offices in advance either by e-mail or telephone.

12. Officers should not obtain quotations direct from travel agents and then ask the Supplies Office to place order with their selected agents. Instead, the Supplies Office will obtain quotations by rotation from the list of service providers. Whilst it is acceptable for an officer to propose a travel agent to the Supplies Office for inclusion in the shortlist of providers invited to quote for a particular trip, the officer must not enter into any commitment with any company. The responsibility of selecting a travel agent rests with the Supplies Office.



**Annex 6**

**Item 6: Please provide response and/or information on the following issues :**

**Relevant internal correspondence among the ICAC officers involved and relevant extracts of the notes or minutes of the ICAC's Commissioner's Weekly Meetings regarding the discussions of the information required in answering the Legislative Council Finance Committee's initial and supplementary questions raised by Hon Dennis KWOK on the details about the gifts presented by Mr Timothy TONG to government officials of different places paid out of public funds during his tenure.**

- The requested information falls within the scope of ICAC's investigation into whether Mr Timothy TONG has committed the alleged criminal offences under the Prevention of Bribery Ordinance and the common law offence of Misconduct in Public Office. Therefore, the information so requested cannot be provided.





**Annex 7**

**Item 7 : Please provide response and/or information on the following issues :**

**With reference to Annex 3 to the ICAC's reply dated 14 June 2013 to the Public Accounts Committee, please provide the details of each of the six lunches/dinners hosted by Mr Timothy TONG and the one lunch/dinner you hosted for the Consuls General from 2007-08 to 2012-13 including -**

- (a) the date of the lunch/dinner;**
- (b) purpose of the lunch/dinner;**
- (c) type of meal (e.g. lunch or dinner);**
- (d) venue;**
- (e) department/unit of ICAC responsible for arranging the lunch/dinner;**
- (f) whether any outside party was engaged in providing unremunerated services; and if so, the relevant details;**
- (g) number of guests entertained;**
- (h) number of attending ICAC officers;**
- (i) expenditure breakdown and the vote(s) to which the expenditure was charged;**
- (j) expenditure per head (including food, beverages and tips);**
- (k) gift(s) bestowed, the value and the recipient(s)**
- (l) whether cocktail reception was held prior to the lunch/dinner; if so, whether the cost of the cocktail reception was included as part of the expenditure for the lunch/dinner;**
- (m) in respect of (l) above, if the cost of cocktail reception was not included as part of the expenditure for the lunch/dinner, please provide the expenditure breakdown, the vote(s) to which the expenditure was charged and the expenditure per head for the cocktail reception; and**
- (n) records on the application and approval for the expenditure involved.**

- The ICAC cannot provide the information required in respect of Mr Timothy TONG, the ex-Commissioner, as such information falls within the scope of an on-going investigation. The information related to the lunch hosted by the incumbent Commissioner, Mr Simon PEH, for the Consuls General on 25.10.2012 is as follows :

- (a) the date of the lunch/dinner: **25.10.2012**
- (b) purpose of the lunch/dinner: ***Liaison lunch with Consuls-General, Honorary Consuls and Heads of Major Chambers of Commerce in Hong Kong***
- (c) type of meal (e.g. lunch or dinner): ***Lunch***
- (d) venue: ***ICAC Staff Mess***
- (e) department/unit of ICAC responsible for arranging the lunch/dinner: ***Community Relations Department***
- (f) whether any outside party was engaged in providing unremunerated services; and if so, the relevant details: ***No***
- (g) number of guests entertained: **85**
- (h) number of attending ICAC officers: **17**
- (i) expenditure breakdown and the vote(s) to which the expenditure was charged: ***Lunch buffet \$35,500 (Entertainment Vote)***
- (j) expenditure per head (including food, beverages and tips): **\$348**
- (k) gift(s) bestowed, the value and the recipient(s): ***Yes, a mug with ICAC logo; \$9,226 for 70 recipients***
- (l) whether cocktail reception was held prior to the lunch/dinner; if so, whether the cost of the cocktail reception was included as part of the expenditure for the lunch/dinner: ***No***
- (m) in respect of (l) above, if the cost of cocktail reception was not included as part of the expenditure for the lunch/dinner, please provide the expenditure breakdown, the vote(s) to which the expenditure was charged and the expenditure per head for the cocktail reception: ***N.A.***
- (n) records on the application and approval for the expenditure involved: ***Approval was obtained from the Commissioner on 17.10.2012 to host the lunch for 102 participants (85 guests and 17 ICAC officers) at a cost of \$350 per head.***