



## Public Accountants: Law Enforcement of Violations of Auditing Practices

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### ABSTRACT

The financial report is a product of management's responsibility to shareholders. As a report prepared by management, an independent party must conduct an examination and provide a fair opinion on the financial report. In Indonesia, based on Law No. 5 of 2011 concerning Public Accountants, the only party authorized by the state through the Ministry of Finance to audit financial statements is a public accountant under the auspices of a public accounting firm. The audit carried out by the Public Accountant did not fully exercise its authority, as can be seen from the many scandals over the audited financial statements. For this scandal, regulations and laws have determined what sanctions can be given, both in the form of administrative sanctions and legal sanctions, both civil and civil. as well as punishment for responsible parties, including Public Accountants who provide guarantees for the fairness of the Financial Statements. Apart from that, other problems also emerged; the auditees used many fake audit reports, either those made by the auditees themselves by falsifying the names and signatures of the Public Accountants or those carried out by persons who claimed to be from a Public Accounting Firm while not a party with a Public Accountant license.

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## **INTRODUCTION**

Financial statements are the main parameters used to describe company performance. For companies listed on the Indonesia Stock Exchange, delivery of financial reports is an obligation for those who do not submit them on time; they can be subject to sanctions. In 2022 there were 68 listed issuers listed on the Indonesia Stock Exchange had not released financial reports for the 2021 financial year. Financial reports are a reference for various parties in making decisions; sometimes, several unscrupulous companies take action to 'manipulate' the company's financial statements. This action is usually carried out to enhance performance so that it remains attractive in the eyes of shareholders and stakeholders, including investors, especially since it has the status of a public company whose Annual Financial Report (LKT) can be seen transparently by the public. One of the biggest scandals that many people around the world remember is the practice of accounting fraud committed by an energy company from the United States (US), Enron. Enron Corporation is a US energy company based in Houston, Texas. This company was founded in 1985 and ceased operations in 2007. Unethical practices by this company included displaying incorrect income data and modifying balance sheets to obtain a positive assessment of financial performance (Sandria, 2021b). As a result of the scandal, Enron was officially declared bankrupt after its share price, which had reached US\$ 90.56 due to this practice, plunged below US\$ 1 after the scandal was exposed. This scandal caused losses of up to US\$ 11 billion or the equivalent of Rp. 159.5 trillion (exchange rate of Rp. 14,500/US\$) suffered by shareholders and was the largest bankruptcy at that time. In addition, this scandal also led to the dissolution of the accounting firm in charge of Enron's financial statements. Arthur Anderson LLP, who was in the 'Big Five' of accounting firms with PwC, Deloitte, EY, and KPMG, pleaded guilty to criminal acts and voluntarily reinstated their license to practice.

The Annual Financial Report (LKT) scandal has also occurred in Indonesia. The issue of manipulation of issuer financial reports has returned to life after the Indonesia Stock Exchange (IDX) was shocked by allegations of LKT manipulation in 2019, which hit one of the issuers in the service and trading sector in the field of information technology, PT Envy Technologies Indonesia Tbk (ENVY). PT Envy Technologies Indonesia Tbk (ENVY) has finally opened its voice regarding allegations of manipulating the financial statements of its subsidiary, PT Ritel Global Solusi (RGS), in 2019. PT Envy was audited by KAP Kosasih, Nurdiyaman, Mulyadi, Tjahjo & Partners at that time (Sandria, 2021a). The same year, the polemic over PT Garuda Indonesia's financial statements began at the GMS on April 24, 2019. One of the agendas was to approve the 2018 annual financial statements. However, during the GMS, there was chaos because two commissioners said they did not want to sign the financial statements. In the 2018 financial report, PT Garuda Indonesia recorded a net profit, supported by the cooperation between PT Garuda Indonesia and PT Mahata Aero Technology. The value of the cooperation reached US\$ 239.94 million or around Rp. 3.48 trillion. The fund is still receivable with a contract valid for the next 15 years, but it has been recorded in the first year, recognized as income, and included in other

income. Influence on companies that previously made a loss and then made a profit. Two commissioners of PT Garuda Indonesia detected this irregularity, Chairal Tanjung and Dony Oskaria, who was reluctant to sign the 2018 financial statements. The chaos continued until the Ministry of Finance's Center for Financial Profession Development (PPPK) joined to audit the matter. The Indonesia Stock Exchange (IDX), the Financial Services Authority (OJK), and the BPK also conducted the audit. PPPK and OJK finally decided that there was something wrong with the presentation of PT Garuda Indonesia's 2018 financial statements. The company was asked to restate its financial statements, and the company was fined Rp. 100 million, along with the directors and commissioners who signed the financial statements. After adjustments were made to the recording of this national airline, it finally recorded a loss of US\$ 175 million or the equivalent of Rp. 2.53 trillion. There was a difference of US\$ 180 million from what was stated in the company's financial statements for the 2018 financial year. In 2018 the company reported a profit of US\$ 5 million or the equivalent of Rp. 72.5 billion (Hartomo, 2019). In addition to the above cases, in the past, there was also the case where PT Kereta Apin Indonesia was audited by the S. Mannan Public Accounting Firm, which occurred in 2006. The PT Kimia Farma case was audited by KAP Hans Tuanakotta & Mustofa (HTM) in the 2001 financial year. Of the many scandals that appear on audited financial reports, both official financial reports from public accounting firms but have problems or fake audit reports done by non-public accountants so far have not been too serious in law enforcement for these violations.

## LITERATURE REVIEW

### 1. Manipulation According to the Law

Criminal acts of fraud or fraudulent acts (*bedrog*) can be found in Article 378 of the Criminal Code ("KUHP") as follows: Whoever with the intent to unlawfully benefit himself or others by using a false name or dignity fake, utilizing deception, or a series of lies, inducing another person to hand over something to him or to give a loan or write off a debt, is threatened for fraud with a maximum imprisonment of four years (State Secretariat, 2021). Meanwhile, the Civil Code does not clearly define fraud in the context of Civil Law ("Civil Code"). Still, we can find the regulation in Article 1328 of the Civil Code, which is, according to Prof. R Subekti, S.H., and R. Tjitrosudibio, page 340, reads as follows: Fraud is a reason for canceling an agreement if the trick used by one of the parties is such that it is clear and obvious that the other party has not made the engagement if the ruse is not carried out. Fraud is not suspected but must be proven (Aries, 2017).

Prohibition of Market Manipulation Practices in the Capital Market is regulated in law no. 8 of 1995 regarding the Capital Market. UUPM Articles 91, 92, and 93 contain regulations related to the prohibition of market manipulation. In these three articles, it is explained that market manipulation is a prohibited action intended by several parties, both direct and indirect, which has an impact on prices on the stock exchange and is a form of legal asylum for investors caused by market manipulation practices, namely preventive legal protection and repressive legal protection. (Dewi et al., 2021).

## **2. Violation of Public Accountant Practices**

Referring to the PT Garuda Indonesia case, the Ministry of Finance announced sanctions imposed on the Public Accountant Kasner Sirumapea and the Public Accounting Firm (KAP) Tanubrata, Sutanto, Fahmi, Bambang & Partners for audit errors in the Financial Statements of PT Garuda Indonesia Tbk for the 2018 financial year. Annual Financial Report The Garuda was declared disabled after the fact was discovered that Garuda Indonesia recognized revenue related to the cooperation made with PT Mahata Aero Technology for the payment that Garuda would receive after signing the agreement, so this had an impact on Garuda's Profit and Loss Report. The examination found two important issues regarding audit standards and the KAP quality control system. The Ministry of Finance found that there had been a violation of the Auditing Standards (SA) - Public Accountant Professional Standards (SPAP) SA 315, SA 500, and SA 560, which Auditors carried out from KAP which affected the opinion of the Independent Auditor's Report (LAI). SA 315 is an auditing standard that identifies and assesses the risks of material misstatement through understanding the entity and its environment. SA 500 deals with audit evidence, and SA 560 deals with how the auditor considers subsequent events in the audit. The second issue is that the KAP has not implemented an optimal quality control system regarding consultations with external parties (Hidayati, 2019).

Financial Finance Profession Development, as a party authorized to issue public accountant licenses, imposes a 12-month license suspension sanction on the Public Accountant Kasner Sirumapea and a written warning accompanied by an obligation to improve the KAP quality control system at the Tanubrata Public Accountant Office, Sutanto, Fahmi, Bambang & Rekan (Member of BDO International). The Financial Services Authority also invited Public Accountant Kasner Sirumapea and imposed an administrative sanction to freeze the Certificate of Registration (STTD) for one year. The sanction was imposed for violating Article 69 of Law Number 8 of 1995 concerning Capital Markets, which stipulates that financial reports submitted to capital market authorities must be prepared based on generally accepted accounting standards (State Secretariat, 1995), OJK Regulation Number 13/POJK. 03/2017 concerning the Use of the Services of Public Accountants and Public Accounting Firms in Financial Service Activities (OJK, 2017), SA 315, SA 500, SA 560, and SA 700, which regulates the formulation of an opinion and reporting on financial statements. To PT Garuda Indonesia Tbk, OJK gave a written order to correct and restate the 2018 annual financial statements and impose administrative sanctions in the form of a fine of 100 million rupiahs. Fines of 100 million rupiahs each were imposed on all members of Garuda's board of directors and 100 million rupiahs jointly and severally on all members of the board of directors and board of commissioners who signed the Annual Report of PT Garuda Indonesia Tbk for the 2018 financial year.

The same case also happened to PT Hanson International Tbk (MYRX) for the 2016 financial year with Sherly Jokom as a Public Accountant (AP) from the Public Accounting Firm (KAP) Purwantono, Sungkoro and Surja who are

members of Ernst and Young Global Limited (EY) (Sandria, 2021b). The OJK fined PT Hanson International Tbk and was asked to restate the 2016 financial statements. The Public Accounting Firm was sanctioned by freezing the Registration Certificate (STTD) at the OJK for one year. UUPM No. 8 of 1995 concerning the Capital Market determines the penalty for anyone who violates the existing provisions. Administrative sanctions contain written warnings, fines or obligations to pay a certain amount of money, restrictions on business activities, freezing of business activities, revocation of business licenses, cancellation of approvals, and cancellation of approvals (Dewi et al., 2021). Criminal sanctions are specified in article 104, which contains a warning for violators of the provisions referred to in articles 90 to 98 can be sued with a maximum imprisonment of ten years and a maximum fine of 15 billion. Whereas for Civil Sanctions, the explanation of the sanctions is contained in UUPM Article 111, which explains that all parties who experience losses from the misappropriation of laws can seek compensation either individually or collectively with the same demands to the party who committed the wrongdoing (State Secretariat, 1995). However, these sanctions are still focused on companies listed on the stock exchange, not on their public accountants. Seeing from the background above, there are several questions that we must answer in this research: 1) Have administrative sanctions for KAPs who violated them had a deterrent effect?; 2) Are the audit cases that have occurred so far purely due to procedural failures, or are there elements of a criminal act?; 3) What are the responsibilities of foreign Public Accounting Firms affiliated when a local KAP experiences a case?; and 4) Has Law No. 5 of 2011 properly accommodated criminal sanctions or fake audit reports?

## **METHODOLOGY**

The research method used in this article is qualitative. Qualitative methods produce some descriptive data from written or spoken words from observable people or behavior. In this case, several victim interviews were conducted from the Palsu Public Accountant Audit Report. In addition, a study was also conducted on related laws and regulations. The qualitative method is also understood as using in-depth data containing meaning (Purwati, 2020). This means that qualitative methods seek to understand meanings contained in inductive and contextual events.

Meanwhile, the approach used in this article is a hermeneutic approach and library research (Muhaimin, 2020). In this study, a hermeneutic and bibliographical approach was used to find various sources of accurate information and then used these sources of information as important primary data in writing this article. The information in question is written data obtained from various references such as books, encyclopedias, the internet, dissertations, journals, and other written sources. This data source is then processed and used to assist the process of hermeneutic analysis in achieving the ultimate goal of writing in this research article.

## **DISCUSSION AND RESULT**

Regarding legal sanctions on public accountants, according to article 55 of Law no. 5 of 2011, Public Accountants who manipulate, help manipulate, and falsify data relating to services provided intentionally manipulate, falsify, and omit data or notes on working papers or do not make working papers related to services rendered so that they cannot be used as they should in the context of examination by the competent authority shall be subject to imprisonment for a maximum of 5 (five) years and a maximum fine of Rp. 300,000,000 (three hundred million rupiahs). Article 56 states that an Associated Party who commits an act as referred to in Article 55 shall be subject to imprisonment for a maximum of 5 (five) years and a maximum fine of Rp. 300,000,000 (three hundred million rupiahs). In Article 57, Any person who gives an untrue statement or provides false or falsified documents to obtain or extend a Public Accountant license and to obtain a KAP business license or KAP branch establishment permit shall be subject to imprisonment for a maximum of 5 (five) years and a maximum fine. Rp. 300,000,000 (three hundred million rupiahs). Everyone who is not a Public Accountant but carries out the profession of a Public Accountant and acts as if he is a Public Accountant shall be subject to imprisonment for a maximum of 6 (six) years and a maximum fine of Rp. 500,000,000 (five hundred million rupiahs). If a corporation commits a crime, the sentence imposed on the corporation is in the form of a fine of at least IDR 1,000,000,000 (one billion rupiahs) and a maximum of IDR 3,000,000,000 (three billion rupiahs). If the corporation cannot pay the fine, the responsible party shall be punished with imprisonment for a minimum of 2 (two) years and a maximum of 6 (six) years.

However, all of the cases above have an expiration date as stipulated in Article 58; a Public Accountant who commits an act as referred to in Article 55 is acquitted of criminal charges if the act committed has passed 5 (five) years from the date of the report on the results of services. Public Accountants are exempt from lawsuits related to gifts if the actions taken have passed 5 (five) years from the date of the report on the results of services provided (State Secretariat, 2011). This means that after that period has passed, any findings cannot be held accountable from either the company or the Public Accountant's side; this is also in line with the expiration date of the Tax Report, which is closely related to the Financial Statements compiled by corporate taxpayers and audited by Public Accountants. Article 57 also regulates criminal sanctions related to fake public accountants, namely people who do not have a license for a public accountant claiming to be a public accountant, however, related to falsification of audit reports by profiteering the name and license of a public accountant are not regulated in this law. So for this case, the perpetrator can be charged with the Criminal Code (KUHP).

Documents are written or printed letters that can be used as evidence for information (such as birth certificates, marriage certificates, and agreement letters) (Pramesti, 2014). The crime of forging a letter is contained in Article 263 of the Indonesian Criminal Code ("KUHP"), which reads: (1) Any person who makes a forged letter or falsifies a letter that can give rise to a right, an agreement or discharge of debt, or which is intended as evidence of something to use or

order other people to use the letter as if the contents were true and not forged, shall be punished if such use can cause harm, due to forgery of documents, with a maximum imprisonment of six years. (2) By the same punishment shall be punished any person who with deliberate intent uses a forged document or one which has been falsified to pretend to be genuine if the use of said document can cause harm. Furthermore, Article 264 of the Criminal Code it is emphasized that: (1) Forgery of letters is punishable by a maximum imprisonment of eight years if committed against authentic deeds; Letters of debt or certificates of debt from a country or part thereof or a public institution; Shareholders or bonds or certificates of shares or debt from an association, foundation, company or airline: Talon, proof of dividends or interest from one of the letters described in 2 and 3, or proof issued instead of said letters; Letter of credit or trade letter intended for circulation. (2) A person who intentionally uses said letter in the first paragraph will be punished with the same penalty, the contents of which are not genuine or those which have been falsified as if they were true and not forged if the falsification of the said letter can cause harm.

According to (R. Soesilo, 2013), the forms of forgery of a letter are made by making a fake letter: making the contents inappropriate (incorrect); Forging letters: altering letters in such a way that their contents are different from the original contents. There are various ways not always the letter is replaced with another; it can also be done by subtracting, adding, or changing something from the letter; Forging a signature also includes the notion of forging a letter and attaching another person's photo of the rightful holder (e.g., a photo on a school certificate). In the case of a fake audit report by a public accounting firm, there is also a signature forgery, in addition to using the name of the public accountant and the logo of the public accounting firm, as well as the seal of the public accounting firm. In several cases that have occurred, they have been reported to legal channels, such as the case in West Sumatra, the party reporting is the Im Eradication of Fake Accountants (TPAP) formed by IAPI (Selvia, 2020). Two Public Accountants, accompanied by the Indonesian Institute of Public Accountants (IAPI) Korwil East Java and Kalimantan, visited the East Java Regional Police to report two companies suspected of using fake independent auditor reports. Two Public Accountants were victims of report falsification, respectively Anang Saifudin Junaidi from Jalan Sidoserma and Sugi Kuswardijah from Jalan Wisma Permai Tengah (Supriyadi, 2020).

## **CONCLUSIONS AND RECOMMENDATIONS**

Enforcement of witnesses against violations has been carried out against the Public Accountants involved. The sanctions given have only focused on administrative sanctions in the form of fines, freezing, and revocation of Public Accountant licenses. Occur. It is necessary to consider conducting an in-depth study of each case so that it is necessary to see whether there are non-criminal elements that have occurred. Suppose the legal sanctions for criminal acts contained in Law No. 5 of 2011 concerning Public Accountants have not been properly accommodated. In that case, the legal sanctions can be referred to in the Criminal Code as the basis for more general criminal law. In imposing

administrative sanctions on the Public Accountant Firm, it is not simultaneously subject to sanctions on the Foreign Public Accountant Office, which is a direct affiliate that must also comply with the rules and regulations in force in Indonesia, so this is a little far from the principle of moderate control. At the same time, the Foreign Public Accountant Office obtains economic benefits from each of its affiliated clients in Indonesia, so joint responsibility in bearing witnesses can be enforced. Apart from being charged with Fake Audit Reports under Law No. 5 of 2011 on Public Accountants, you can also be charged with the Criminal Code for falsifying documents, stamps, and signatures of Public Accountants.

#### **ADVANCED RESEARCH**

The limitations in this study, for the case of public accountants in Indonesia, which have continued to be justice so far, we have not been able to examine what legal sanctions have been imposed by the court related to violations committed. The continuing legal case is related to fake public accountants, for the case of public accountants themselves the settlement is always at the level of administrative sanctions such as revocation of permits for serious violations.

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