

Letterhead of RAYMOND CHEUNG & CHAN SOLICITORS

Date: 4th October 2001

Your Ref:

Please Reply To:

Our Ref:
CSY/office

Direct Line:

BY HAND

Clerk, Panel on the Administration of
Justice and Legal Service
Legislative Council
Jackson Road
Hong Kong

Dear Sirs

Re : Professional Indemnity Scheme of Solicitors

We refer to the abovementioned matter.

1. We understand that there has been voluminous papers discussing on this issue and we only intend to pray your goodselves to look at the real issue from bird's view. Of course, going back to our own interest, we are payers and we are angry that we have to pay unreasonably. How do we say this?
2. Firstly, if your goodselves is doing justice, we trust you will see that the mechanism is only to strike a balance between two conflicting interest, one, the public, the other, the solicitors. The public is paying a certain amount of fees to the solicitors to buy a service, plus, an insurance coverage. If the solicitors have to give 100% coverage to the public, this is unfair. Why? Because the fees paid by the public to the solicitors is decreasing because the scale charge is abolished, the solicitors are having competition by themselves and the business itself is decreasing. The solicitors are requested to buy insurance to cover all indemnity claim but the fees paid to solicitors are meagre.
3. This is only a market matter. If the public pay less to solicitors, why solicitors have to give them 100% coverage? They can sue the solicitors directly. See who is unlucky.
4. We now discover that the insurance company earns a lot of money as they charge according to the size of the pool of

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insurance premium. They will do everything to boost up the pool. This is a direct conflict of interest between solicitors and the insurance company.

5. If a particular firm of solicitors also like to protect itself, it can choose to buy top-up insurance. (In fact, mortgagee bank will force them to do it if the mortgage loan is big).
6. We do not see reason why the insurance coverage of \$10M today can not be reduced back to \$5M as in few years before. In fact, the value of landed property has reduced by 70% today from the top price before.
7. We understand the Law Society has the argument that if the solicitors do not pay more into the pool, the pool has no money to pay compensation. The answer is : why the solicitors should be forced to fill up this bottomless hole? Let the solicitors who are negligent to bankrupt! Let the solicitors who do not buy top-insurance go bankrupt! Say, if there are many claims against the pool, it is useless for the solicitors to increase the payment of premium by 250%, or by 500% or by 1000%. Still, the pool cannot meet all the claims.
8. If the aim of the mechanism is to give 100% coverage to the public, the result is to drive the small or medium sized firms out of the market, leaving the big firm who will monopolize the market and the legal costs of course will become unaffordable by the common people - Justice cannot be done then.
9. In the premises, you can see that 100% full coverage only benefit the insurance company and the big law firm. It harms the public and small practitioners.
10. If there is any worry about the sudden increase of claims because of quality of solicitors, the solution is : less law students. Now, the students of comparatively low standard can became solicitors. Then the relevant authorities spend time in increasing the standard of the profession, standard of graduates. Why don't they shut the gate at the start? This is a way to boost up the bureaucracy.

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11. We agree that much of what we have said are for self-interest. However, what matters is whether this solve the problem.

Yours faithfully

RAYMOND CHEUNG & CHAN
: cwh