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Secretary for Constitutional Affairs
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BY FAX
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Dear Chris,

Chief Executive Election (Election Petition) Rules (L.N. 241 of 2001)

If an election petition is regarded as withdrawn under section 15 of the Rules, will the petitioner has channels, legal or otherwise, to address his grievances that the circumstances set out under section 32(1)(a)-(g) of the Chief Executive Election Ordinance (Cap. 569) have occurred?

It is appreciated that your reply, in both languages, could reach us by close of play today.

Yours sincerely,

(Stephen Lam)
Assistant Legal Adviser

c.c. Mr Jimmy Ma, LA
Mrs Percy Ma, CAS(2)3
Miss Kitty Cheng, ALA(Temp)

第 6 部

選舉呈請

32. 只可藉基於指明理由而提出的
選舉呈請質疑選舉

(1) 選舉只可藉提出選舉呈請而受質疑，而提出選舉呈請的理由，須是選舉主任根據第 28 條宣布當選的人因以下理由而並非妥為當選——

- (a) 該人根據第 13 條沒有資格獲提名為候選人；
- (b) 該人根據第 14 條喪失獲提名為候選人的資格；
- (c) 該人根據第 20(1) 條本應已喪失當選資格，但他並沒有被取消該資格；
- (d) 該人在有關的選舉中作出舞弊行為或非法行為；
- (e) 另一人在有關的選舉中就該人而作出與該人的參選有關的舞弊行為或非法行為；
- (f) 在有關的選舉中普遍存在着舞弊行為或非法行為；或
- (g) 有關乎——
 - (i) 有關的選舉；
 - (ii) 該選舉的投票；或
 - (iii) 就該選舉進行的點票，的具關鍵性的欠妥之處。

(2) 在本條中——

“非法行為”(illegal conduct) 指《選舉(舞弊及非法行為)條例》(第 554 章)第 3 部所指的非法行為；

“舞弊行為”(corrupt conduct) 指《選舉(舞弊及非法行為)條例》(第 554 章)第 2 部所指的舞弊行為；

“選舉”(election) 包括提名程序及選舉主任或任何助理選舉主任的決定。

PART 6

ELECTION PETITIONS

32. Election may be questioned only by election
petition made on specified grounds

(1) An election may be questioned only by an election petition on the ground that the person declared by the Returning Officer under section 28 as elected was not duly elected because—

- (a) he was not eligible to be nominated as a candidate under section 13;
- (b) he was disqualified under section 14 from being nominated as a candidate;
- (c) he should have been disqualified under section 20(1) from being elected but was not so disqualified;
- (d) he engaged in corrupt conduct or illegal conduct at the election;
- (e) another person engaged in corrupt conduct or illegal conduct in respect of him at the election in connection with his candidature;
- (f) corrupt conduct or illegal conduct was generally prevalent at the election; or
- (g) material irregularity occurred in relation to—
 - (i) the election;
 - (ii) the poll at the election; or
 - (iii) the counting of votes in respect of the election.

(2) In this section—

“corrupt conduct”(舞弊行為) means corrupt conduct within the meaning of Part 2 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554);

“election”(選舉) includes nomination proceedings and the decisions of the Returning Officer or any Assistant Returning Officer;

“illegal conduct”(非法行為) means illegal conduct within the meaning of Part 3 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).