

Select Committee to Inquire into Matters Relating to
the Post-service Work of Mr Leung Chin-man

Witness Statement of Ms Marina WONG Yu-pok

I, Marina WONG Yu-pok, hereby make the following witness statement to the Select Committee to Inquire into Matters Relating to the Post-service Work of Mr Leung Chin-man:-

The vetting and consideration of applications for post-service work from directorate civil servants by the Advisory Committee on Post-service Employment of Civil Servants ("ACPE")

Q1. As a member of ACPE, please advise –

(a) your role and duties in the vetting and consideration of applications for post-service work from directorate civil servants:

A1 (a) The Terms of Reference of the Advisory Committee on Post-service Employment of Civil Servants (ACPE) are as follows:-

- (i) to advise the Government of the principles and the criteria to be adopted in formulating policy and arrangements to control post-service employment;
- (ii) to consider and advise on all applications to take up post-service employment from directorate officers; and
- (iii) to consider and advise on other applications which may be referred by the Secretary for the Civil Service.

As a member of ACPE, my role in the vetting and consideration of applications for post-service work from directorate civil servants is thus to advise the Administration, after due consideration, if such applications should be approved or rejected.

(b) The procedure for considering applications for post-service work from directorate civil servants by ACPE

A1 (b) The procedure for considering applications for post-service work from directorate civil servants by ACPE is as follows.

ACPE normally consider applications through circulation of papers. The Secretary to ACPE sends each application under a covering letter setting

out the following:-

- (i) background information on the applicant's service with the Government, previous applications for post-service outside work and work restrictions attached to them, if any;
- (ii) the present application with brief business scope of the prospective employer, position to be assumed and duties involved;
- (iii) views of relevant parties within the Government; and
- (iv) views of the Chairman of ACPE.

After considering the information provided, I will make recommendation on the application by completing and faxing back to the Secretary to ACPE the reply slip.

- (c) Your understanding of: (i) the circumstances under which a member of ACPE is required to declare interest in relation to an application for post-service work from a directorate civil servant; and (ii) the factors to be taken into consideration of an application for post-service work from a directorate civil servant.

A1 (c) Declaration of Interest

I understand the basic principle to be observed is that members' advice should be disinterested and impartial and it is the responsibility of each member to judge and decide if the situation warrants a declaration, and to seek a ruling from the Chairman in case of doubt. Potential conflict of interest situations are:-

- (i) Pecuniary interests in a matter under consideration by ACPE, held either by the member or by any close relative of his/hers;
- (ii) A directorship, partnership, advisory or client relationship, employment or other significant connection with a company, firm, club, association, union or other organization which is connected with, or the subject of, a matter under consideration by ACPE;
- (iii) Some friendships which might be so close as to warrant declaration in order to avoid situations where any objective observer might believe a member's advice to have been influenced by the closeness of the association;
- (iv) A member who, as a barrister, solicitor, accountant or other professional advisor, has personally or as a member of a company, advised or represented or had frequent dealings with any person or body connected with a matter under consideration by the ACPE;

- (v) Any interest likely to lead an objective observer to believe that the member's advice might have been motivated by personal interest rather than a duty to give impartial advice.

Factors to be taken into account in the consideration of an application for post-service work from a directorate civil servant :

The key factors to be taken into account are conflict of interest and possible negative public perception. The main assessment criteria are:-

- (a) whether the applicant is subject to the new arrangements governing post-service outside work as set out in Civil Service Bureau Circular No. 10/2005 or the old arrangements.
- (b) whether the applicant was involved in the formulation of any policy or decisions, the effects of which directly or specifically benefited or could directly or specifically benefit his/her own business or prospective employer;
- (c) whether the applicant or his/her prospective employer might gain unfair advantage over competitors because of the applicant's access to sensitive information while in government service;
- (d) whether the applicant, while in government service, had been involved in any contractual or legal dealings to which his/her prospective employer was a party;
- (e) whether the proposed work would have any connection with the assignments/projects and/or regulatory/enforcement duties in which the applicant had been involved while in government service;
- (f) whether the applicant's taking up of the proposed work would give rise to public suspicion of conflict of interest or other impropriety; and
- (g) whether any aspects of the proposed work would cause embarrassment to the Government or bring disgrace to the civil service.

The vetting of Mr LEUNG's application for post-service work with New World China Land Limited (NWCL)

2. The factors you had taken into account in considering Mr LEUNG's application

A2 I took into consideration the factors and assessment criteria as stated in A1(c) stated above when vetting Mr Leung's application.

3. In light of the “public perception issue” raised by the Works Branch of the Development Bureau and the comment of the Planning and Lands Branch of the Development Bureau that subsidiary companies of New World Development Company Limited, the parent company of NWCL, had made building plans submissions for development projects under the Buildings Ordinance, the reason for recommending approval of Mr LEUNG’s application subject to the imposition of the standard and four additional work restrictions proposed by the Civil Service Bureau

A3 The Works Branch of the Development Bureau raised the “public perception issue” in respect of Mr Leung’s application. This was based on the fact that Mr Leung was Director of Buildings from October 1999 to June 2002. Since Mr Leung has left that post for six years and even the control period under the New Arrangements applicable to Mr Leung is only three years, I did not take note of their comment.

The Planning and Lands Bureau of the Development Bureau commented that subsidiary companies of New World Development Company Limited, the parent company of NWCL, had made building plans submissions for development projects under the Buildings Ordinance. However, the proposed appointment of Mr Leung was as Executive Director of NWCL, a company that has no operations in Hong Kong. Thus, based on the assessment criteria, the prospective employer, NWCL, in my view, would not be able to benefit whatsoever from Mr Leung’s experience, knowledge and connections gained previously during his services with the Hong Kong Government. Approval of Mr Leung’s application was recommended also based on the fact that additional restrictions have been imposed, one of which was “for avoidance of doubt, he should confine his proposed appointment to New World China Land Limited”.

4. In the light of the senior positions held by Mr LEUNG in the Government namely, Director of Buildings from August 1999 to June 2002, and Permanent Secretary for Housing, Planning and Lands (Housing)/Director of Housing from July 2002 to January 2006, and given that the nature of the principal business of NWCL and its parent company is related to the real estate industry, your view on whether Mr LEUNG’s taking up of the appointment with NWCL would constitute or give rise to problems of conflict of interest

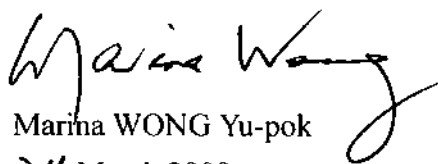
A4 As the prospective employer of Mr Leung was NWCL, a company that operates in mainland China, and with the four additional work restrictions to be imposed as proposed by the Civil Service Bureau which were that :-

- (a) he should not involve himself in any business of NWCL that is connected with Hong Kong;
- (b) he should not use or disclose any classified or sensitive information required while he was in government service in the course of his employment with NWCL;
- (c) he should not represent NWCL in any discussion with the Government; and
- (d) for avoidance of doubt, he should confine his proposed appointment to NWCL.

My view is that the proposed appointment should not give rise to problems of conflict of interest.

5. The personal relationship between you and Mr LEUNG, and whether you have made any declaration of interest on Mr LEUNG's application

A5 I have never met Mr Leung and do not have any personal relationship with him. I was a partner of PricewaterhouseCoopers which I understand provide services to the New World Group. But I had never personally serviced this Group and my retirement from PricewaterhouseCoopers was since July 2004. The New World Group holds a 25% interest in Tricor Services Limited, of which I was a director from September 2004 to February 2006. During the said period, I have not come across any executive/director of the New World Group in relation to the business of Tricor Services Limited. Based on the above, I considered it unnecessary to make any declaration of interest on Mr Leung's application.


Marina WONG Yu-pok
24 March 2009