劉 汝 琛 律 師 行
Y. S. LAU & PARTNERS
SOLICITORS, AGENT FOR TRADEMARKS & PATENTS
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14/F, CMA Building, 64 Connaught Road Central, Hong Kong
Tel: 2110 1899 Fax: 2110 9081 DX009258 Central 1

附錄 1.13

Our Ref.: 08050/2010/SW/L Your Ref.: CB(3)/IC/09/5 Date: 7th June 2011

Investigation Committee,
Legislative Council,
Legislative Council Building,
8 Jackson Road,
Central,
Hong Kong.

By Hand

Dear Sirs,

Re : **Investigations Committee established Under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure the Honourable Kam Nai-wai**

We refer to the above matter and your letter dated 2nd June 2011 with enclosure. Please confirm how many chapters in total will be included in your draft report and also let us know what issues/subject matters are set out in the chapters other than Chapters 2, 3 & 4.

Incidentally, our client notes the followings :-

1. The findings in Chapters 3 & 4 in your draft report are surprisingly similar to those reported by Oriental Daily and Hong Kong Economic Journal on 11th May 2011 and 17th May 2011 respectively; and

2. The Committee completes the compilation of such a lengthy draft report within 12 days from the last hearing which took place on 21st May 2011.

In view of the above, it is therefore a logical and reasonable deduction that the Committee had already formed a conclusion of the Investigation before hearing our client's summing up submission!

Notwithstanding our client totally disagrees with your unfair and unjust findings/ comments in the draft report, our client requests for an oral reply/comments/clarifications on Chapters 2, 3 & 4 of your draft report before the Committee, kindly make the necessary arrangement.

Yours faithfully,

Y. S. Lau & Partners
SW/ec

中華人民共和國香港特別行政區
Hong Kong Special Administrative Region of the People's Republic of China

立法會
LEGISLATIVE COUNCIL

來函檔號 YOUR REF :
本函檔號 OUR REF : CB(3)/IC/09/5
電 話 TELEPHONE : 2869 9203
圖文傳真 FACSIMILE : 2810 1691

CONFIDENTIAL

By hand

10 June 2011

Y.S. Lau & Partners
14/F, CMA Building
No. 64 Connaught Road Central
Hong Kong

Dear Sirs,

Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai

I am directed by the Investigation Committee ("the IC") to respond to the requests made by your client, Hon KAM Nai-wai, at the hearing held on 21 May 2011 and the matters raised in your letter dated 7 June 2011.

Examination of evidence in the drafting of the Report

The IC attaches great importance to ensuring that its procedure is fair. It exercises great care in examining the evidence obtained during the investigation. The IC is just as mindful as Mr Kam of the need to complete its work as soon as possible. Nevertheless, that need should be balanced against the need to be fair, and seen to be fair, to all parties concerned. In light of that, the IC has taken all measures practicable to ensure that it should work without undue delay and that the rights and reputation of Mr Kam will not be prejudiced in any way during the course of the IC's investigation. Any suggestion that the IC had already formed a conclusion before hearing Mr Kam's summing up submission is unfounded. While Chapter 2 of the draft Report (which was sent to Mr KAM for comments on 2 June 2011) contains the evidence obtained by the IC in the course of its investigation, Chapters 3 and 4 of the draft Report set out its findings and views after examining all the evidence obtained and taking into account all submissions made by Mr KAM, including his summing up submission made on 21 May 2011. Upon receipt of the comments made by Mr KAM and/or witnesses on the relevant parts of the draft Report, the IC will

consider such comments before further deliberating its draft Report. It is still too early at this stage to say when the IC will form its conclusion on the investigation.

Mr KAM's request for giving oral comments on the draft Report

The IC's Practice and Procedure does not contain any provision which deals with Mr KAM's request for an opportunity to give an oral reply/comments/clarifications on the parts of the draft Report which have been sent to him, nor is the IC aware of any such practice adopted by previous select committees of the Legislative Council ("LegCo"). Nevertheless, the IC will seriously consider Mr KAM's request after considering the written comments on the draft Report to be submitted by him as required by my letter dated 2 June 2011. If the IC, having considered Mr KAM's written comments, decides to accede to his request, the IC expects Mr KAM to orally answer questions which members may have arising from his comments on the draft Report.

Mr KAM's request for exclusion *of certain evidence from the Report*

Paragraph 27 of the Practice and Procedure is relevant to Mr KAM's request that the written statements submitted by witnesses and their testimony at hearings, as well as the emails he provided to the IC, be excluded from the Report. That paragraph provides that the minutes of evidence, which form part of the Report, shall contain all evidence taken by the IC at hearings, and that the IC may, upon a request made by a witness, decide to exclude confidential information from the Report on grounds that such exclusion is necessary to protect privacy without jeopardizing the public interest in knowing the material facts on which the IC has based its views. The IC will consider Mr KAM's request in accordance with the said paragraph when finalizing the Report.

Contents of the Report

The IC is yet to finalize its Report. According to its current plan, there should be five chapters as follows: Chapter 1 on the general background and procedural matters; Chapter 2 on the facts of the case; Chapter 3 on the establishment of the facts as particularised in the censure motion; Chapter 4 on IC's views on the allegations contained in the censure motion; and Chapter 5 on IC's views on the mechanism for dealing with complaints against misbehaviour of LegCo Members. Chapters 1 and 5 will not be forwarded to Mr KAM for comment as they are not related to the facts detailed in the censure motion

against him. Having regard to the practices of other committees of the LegCo such as the Public Accounts Committee and select committees, the IC has decided that the part on IC's conclusion, which may be included at the end of Chapter 4, would not be forwarded to Mr KAM for comment.

Yours faithfully,

(Ms Pauline NG)
Clerk to Investigation Committee

c.c. Hon KAM Nai-wai

劉 汝 琛 律 師 行
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Our Ref.: 08050/2010/SW/L Your Ref.: CB(3)/IC/09/5 Date: 14th June 2011

Investigation Committee,
Legislative Council,
Legislative Council Building,
8 Jackson Road,
Central,
Hong Kong.

By Hand

Dear Sirs,

Re : **Investigations Committee established Under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure the Honourable Kam Nai-wai**

We refer to your letter dated 10th June 2011 and our letters dated 18th May and 7th June 2011.

We had stated in our letter dated 7th June 2011 that the findings in your draft report are surprisingly similar to those reported in the Hong Kong Economic Journal on 17th May 2011. In addition, we noted from your letter above that even the number of chapters in your draft report is exactly the same as those reported in the Oriental Daily back on 11th May 2011. These details cannot be made by mere speculations but from some reliable source. We cannot understand how the media managed to disclose such details which are strikingly similar to those as shown in the draft report of the Committee.

In the premises, our client is very concerned that whether the existing mechanism, if any, of the Committee is adequate or sufficient to avoid any further leakage of confidential information to the public or media before the formal submission of the report to the Legislative Council. We sincerely ask the Committee to exercise the utmost care to ensure that there would be no further leakage of any information in any way.

With respect to the request of our client for making his comment before the Committee, we do not agree with the Committee's view that our client has to submit written comment before the Committee decides to accede to our client's request.

We wish to refer you to Paragraph 22 of the Practice and Procedure, the said Paragraph 22 is quoted below for your easy reference :

> "Those parts of the IC's report which set out the evidence, on the basis of which the IC has established the facts stated in the censure motion, will be forwarded to the Member under investigation and the witnesses concerned for comment. Such comments will be recorded in the IC's report and will be taken into account by the IC in finalizing its report." (emphasis applied)

劉 汝 琛 律 師 行
Y. S. LAU & PARTNERS
SOLICITORS, AGENT FOR TRADEMARKS & PATENTS

Our Ref.: 08050/2010/SW/L Your Ref.: CB(3)/IC/09/5 Date: 14th June 2011

It is crystal clear that there is no qualification in the said Paragraph 22 that our client has to submit written comment. We take the strong view that our client is entitled to make either oral or written comment of his choice. Further, it is not stated in the Practice and Procedure at all that our client is required to orally answer questions if the Committee allows our client to make oral comment.

And in view of the extensive findings as stated in the draft report our client so far had received, our client expects to have at least 4 more weeks from the date hereof to prepare his oral comments. Moreover, we consider that the decision of the Committee not to forward to our client "the part on IC's conclusion which may be included at the end Chapter 4" is unfair. This causes great concern of our client as the nature of this enquiry is not the same as those in the Public Accounts Committee and selected committees as these committees did not concern censure motion nor involve any serious consequence to disqualify any Member under investigation.

In the premises, we strongly request the Committee to provide our client with all the conclusion of Chapter 4 and to allow our client to make his oral comments before the Committee.

We look forward to your reply.

Yours faithfully,

Y. S. Lau & Partners
SW/ec

中華人民共和國香港特別行政區
Hong Kong Special Administrative Region of the People's Republic of China

立法會
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CONFIDENTIAL

By hand

22 June 2011

Y.S. Lau & Partners
14/F, CMA Building
No. 64 Connaught Road Central
Hong Kong

Dear Sirs,

Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai

I am directed by the Investigation Committee ("the IC") to respond to your letter dated 14 June 2011 which was considered by the IC at its meeting held on 15 June 2011.

Mr KAM's request for giving oral comments on the draft Report

Please note that Paragraph 22 of the IC's Practice and Procedure ("P&P") referred to in your letter does not specify the manner in which comments on the draft Report should be given. It does not give a Member under investigation the right to make either oral or written comments of his choice. It is for the IC to determine, based on the principle of fairness, and with or without conditions, whether and how a Member under investigation should be given opportunity to make his or her comments.

As you may recall, the IC has acceded to the earlier request of Hon KAM Nai-wai, your client, for a hearing to make final submissions on the evidence even though neither the Rules of Procedure ("RoP") nor P&P has provided for such a procedure. In allowing Mr KAM to make final submissions orally, the Chairman of the IC indicated at the hearing on 13 January 2011 that she would allow Members to raise short questions to seek clarification from your client on matters arising from his oral submissions. In response, your client agreed that he had a duty to respond to such questions to

clarify matters arising from his oral submissions (see lines 57 to 67 of IC Paper No. V9(C)). This arrangement was reiterated in my letter to your client dated 14 April 2011. As it turned out, however, Mr KAM informed the IC of his unwillingness to answer such questions orally after he had finished making his oral submissions at the hearing on 21 May 2011. In this connection, the IC would like to remind Mr KAM of his pledge, made at the Council meeting on 9 December 2009 after the censure motion was moved and at the first hearing of the IC attended by him on 20 May 2010, that he would cooperate fully with the investigation. The IC encourages Mr KAM to continue adopting such an attitude.

The IC reiterates its position stated in my earlier letter dated 10 June 2011 to you that the IC will seriously consider Mr KAM's request for an opportunity to give oral comments on the draft Report after considering his written comments on the draft Report. The IC considers it necessary to have sight of Mr KAM's written comments to enable its members to understand accurately and comprehensively the points which Mr KAM wishes to make. If Mr KAM wishes to comment on the draft Report and would like to have more time to prepare his written comments, he may make a request to the IC for its consideration.

Mr KAM's request to have sight of the part of the Report on the IC's conclusions

The IC has yet to draw up its conclusions. The IC wishes to remind Mr KAM that according to Paragraph 22 of P&P, only those parts of the IC's report which set out the evidence, on the basis of which the IC has established the facts stated in the censure motion, will be forwarded to the Member under investigation and the witnesses concerned for comment. The IC does not consider it necessary or appropriate to forward its conclusions in draft to Mr KAM for his comment.

Yours faithfully,

(Ms Pauline NG)
Clerk to Investigation Committee

c.c. Hon KAM Nai-wai

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Tel: 2110 1899 Fax: 2110 9081 DX009258 Central 1

Our Ref.: 08050/2010/SW/L Your Ref.: CB(3)/IC/09/5 Date: 4th July 2011

Investigation Committee,
Legislative Council,
Legislative Council Building,
8 Jackson Road,
Central,
Hong Kong.

By Hand

Dear Sirs,

Re : **Investigations Committee established Under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure the Honourable Kam Nai-wai**

We refer to your letter dated 22nd June 2011. We are in the course of taking our client's instructions and Counsel's advice on your reply and would give you a reply the soonest possible.

While the Committee has repeatedly assured our client they have taken appropriate steps to avoid leaking of confidential information regarding the investigation, our client notes the information was again leaked in the enclosed newspaper reporting of Sing Tao Daily of 24th June 2011. This is not the first time that our client raised his concern, and the same has been raised in paragraphs 2 and 3 of our letter dated 14th June 2011 concerning previous reporting in the various popular newspapers. We have not heard any reply at all from the Committee. Such astonishing detail and continuous reports of the progress of the inquiry of the Committee not only cause the concern of our client about the confidentiality of the inquiry, there is also inevitably undue pressure accumulating onto our client by such incidents.

Obviously, whatever efforts which the Committee had taken in the past is insufficient and ineffective. In this regard, kindly enlighten us what positive steps the Committee had taken in the past to ensure no leakage of confidential information and to enable to have a fair hearing. And more importantly, please also state what further steps or measures the Committee will take to assure that the same will not possibly take place again.

Yours faithfully,

Y. S. Lau & Partners
Encl.
SW/ec

調查報告指有追求女助理

誠信遭質疑 甘乃威提抗辯

甘乃威事件調查委員會經過一年半的調查，已經撰寫好報告，原擬在下月發表。據悉，報告不會對應否譴責甘乃威表態，僅陳述調查所確立的事實，交由立法會大會決定譴責與否。報告認為，甘乃威言論前後不一的指控成立；報告又肯定他有追求女助理，但有關求愛不遂而解僱女助手的指控則因證據不足而不成立。甘乃威閱讀報告後，提出抗辯，要求加開會議，有委員估計報告要推遲到九月方可發表。

記者：鄧柏想

民主黨甘乃威在〇九年十月涉嫌求愛不遂解僱女助理，立法會引用《議事規則》第四十九（B）條動議譴責甘乃威，當中提出兩項指控，包括指甘的言論前後不一，誠信令人懷疑；以及甘對女助理王麗珠示好後，又將整體工作表現良好的王麗珠解僱，處事不公。調查委員會負責展開調查，就譴責議員的理據是否成立提出意見。

甘乃威事件調查委員會經過十次開門研訊及三十次內部會議後，已經擬好調查報告。據悉，由於女事主王麗珠一直未現身作供，證據有限，委員會只能確立部分事實。

解僱王麗珠指控不成立

其中一致認為甘的言論前後不一，誠信令人懷疑。報告肯定甘乃威有追求女助理，但因求愛不遂而解僱王麗珠的指控，則因證據不足而不成立。調查委員會報告對於否動議譴責甘乃威，不會有明確表態。只會陳述調查所確立的事實，再呈交立法會大會，投票決定應否譴責甘乃威。根據《基本法》及《議事規則》，須經全體三分二議員贊成，方可通過譴責動議，一旦通過動議，受譴責的議員立即喪失議員資格。

報告或延至九月發表

調查委員會原定在七月發表報告，結束長約一年半的調查工作，不過，委員會臨近「收工」生出枝節。據悉，調查委員會最近將報告交給甘乃威，讓他提出最後意見。甘乃威不同意報告部分內容及字眼，發信給委員會提出抗辯，但信件沒有提供新的證據。甘乃威要求委員會加開一次會議，有委員估計，報告無法如期在七月發表，會推遲到九月，即下個立法會會期。

本報昨日致電甘乃威，但至截稿前仍未有回覆。民主黨副主席劉慧卿表示，不知道報告內容，民主黨內亦未曾討論。被問及民主黨屆時會否為了避免利益衝突而不投票，劉慧卿說，民主黨從未表示過不投票，「甚麼也不排除」。

民建聯譚耀宗亦說，會根據報告內容決定是否提出譴責或批評。對於有指建制派不會放過甘乃威，譚耀宗強調，會以報告所提供的事實作決定。

中華人民共和國香港特別行政區
Hong Kong Special Administrative Region of the People's Republic of China

立法會
LEGISLATIVE COUNCIL

來函檔號 YOUR REF.
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CONFIDENTIAL

By hand

14 July 2011

Y.S. Lau & Partners
14/F, CMA Building
No. 64 Connaught Road Central
Hong Kong

Dear Sirs,

Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai

I am directed by the Investigation Committee ("the IC") to respond to your letter dated 4 July 2011 which was considered by the IC.

As I said in my previous letters dated 3 June 2010 and 19 November 2010, the IC considers it of utmost importance to ensure the confidentiality of its proceedings, which are crucial to enhancing the integrity and credibility of its investigation and for the protection of the interests and privacy of the parties concerned. Paragraphs 24 to 31 of the IC's Practice and Procedure set out the confidentiality requirements. The IC has also taken all practicable steps to ensure the confidentiality requirements are complied with by all parties who have access to the information of its proceedings and it takes a serious view on any possible leakage of information about its proceedings.

Whilst the IC does not generally comment on the accuracy of any newspaper articles, in view of the fact that information contained in the article that was referred to in your letter of 4 July 2011 bears certain similarities with parts of the draft report of the IC which was sent to Mr KAM on 2 June 2011, the IC considers it necessary to also draw Mr KAM's attention to his undertaking to keep confidential any matter relating to the proceedings of

meetings or hearings of the IC held in private pursuant to the confidentiality undertaking that Mr KAM had signed under paragraph 30 of the IC's Practice and Procedure.

Yours faithfully,

(Ms Pauline NG)
Clerk to Investigation Committee

c.c. Hon KAM Nai-wai

中華人民共和國香港特別行政區
Hong Kong Special Administrative Region of the People's Republic of China

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圖文傳真 FACSIMILE : 2810 1691

CONFIDENTIAL

By hand

11 August 2011

Y.S. Lau & Partners
14/F, CMA Building
No. 64 Connaught Road Central
Hong Kong

Dear Sirs,

Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai

I refer to your letter dated 4 July 2011, in which you indicated that you would reply to my letter dated 22 June 2011 the soonest possible as you were in the course of taking instructions from your client, Hon KAM Nai-wai, and Counsel's advice. In this connection, I should be grateful if you could advise me of the latest position.

Yours faithfully,

(Ms Pauline NG)
Clerk to Investigation Committee

c.c. Hon KAM Nai-wai

劉 汝 琛 律 師 行
Y. S. LAU & PARTNERS
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Tel: 2110 1899 Fax: 2110 9081 DX009258 Central 1

Our Ref.: 08050/2010/SW/L Your Ref.: CB(3)/IC/09/5 Date: 24th August 2011

Investigation Committee,
Legislative Council,
Legislative Council Building,
8 Jackson Road,
Central,
Hong Kong.

By Hand

Dear Sirs,

Re : **Investigations Committee established Under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure the Honourable Kam Nai-wai**

We refer to your letter dated 11th August 2011.

We are instructed that our client maintains his stance to make oral comments before the Investigation Committee ("IC") after considered the legal advice from his legal advisers. We understand from our client that there would be a number of comments he would like to voice out to the IC in his oral comments. We reiterate that the right of our client to make comment arise from paragraph 22 of the Practice and Procedure of the IC. Such comments of our client pursuant to paragraph 22 "will be recorded in the IC's report and ***will be taken into account by the IC in finalizing its report***" (emphasis applied). We have no doubt that such practice and procedure shall be strictly adhered to by the IC and we do not see any reason to depart from such practice and procedure as well.

In addition, we have consulted our counsel about the tentative date for our client to make his oral comments and we are given to understand that our council (who has all along been advising our client in this enquiry) will commence a long trial shortly which has been set down until mid-October 2011. To accommodate the diary of our counsel, we would propose to confirm the date of our client's oral comments in early October in that the progress of the trial of our counsel can be ascertained with certainty.

Thank you very much for your kind attention.

Yours faithfully,

Y. S. Lau & Partners
SW/ec

中華人民共和國香港特別行政區
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圖文傳真 FACSIMILE : 2810 1691

CONFIDENTIAL

By hand

31 August 2011

Y.S. Lau & Partners
14/F, CMA Building
No. 64 Connaught Road Central
Hong Kong

Dear Sirs,

Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai

I refer to your letter dated 24 August 2011 to the Investigation Committee ("IC"), in which you reiterated the request of your client, Hon KAM Nai-wai, for an opportunity to make oral comments on the parts of the draft Report of the IC, which had been sent to him on 2 June 2011. In order to facilitate the IC in considering Mr KAM's request further, I should be grateful if you could advise me, in the event that the IC accedes to the request:

(a) whether Mr KAM would be prepared to submit to the IC his written comments on the draft Report prior to the hearing at which he makes oral comments; and if so, how many days in advance of the hearing he proposes submitting his written comments;

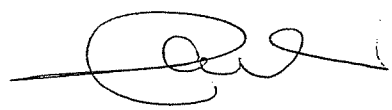
(b) how much time Mr KAM would need to make his oral comments;

(c) whether, after making his oral comments, Mr KAM would be willing to orally answer questions which members may have arising from or in connection with his comments at the same hearing; and

(d) whether Mr KAM would be agreeable to the hearing being conducted in one session if (b) and (c) are expected to take more than two hours; and if so, the longest duration of such session that Mr KAM would be prepared to attend.

I should be grateful for your reply by 14 September 2011.

Yours faithfully,



(Ms Pauline NG)
Clerk to Investigation Committee

c.c. Hon KAM Nai-wai

劉 汝 琛 律 師 行
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Our Ref.: 08050/2010/SW/L Your Ref.: CB(3)/IC/09/5 Date: 16th September 2011

Investigation Committee,
Legislative Council,
Legco Complex,
1 Legislative Council Road,
Central,
Hong Kong.

By Hand

Dear Sirs,

Re : **Investigations Committee established Under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure the Honourable Kam Nai-wai**

We refer to your letter dated 31st August 2011.

We write to re-iterate our position on our letter dated 24th August 2011.

We have made it abundantly clear that it is the right of our client to make comment pursuant to paragraph 22 of the Practice and Procedure of the IC. The IC is required not only to record in its report such comment, but also to take such comment into account in finalizing its report. We fail to appreciate it why there are pre-requisites as stated in your letter dated 31st August 2011 for the IC to consider before acceding to the request of our client.

Nevertheless, we would take further instructions with our client on the various matters which are raised in the captioned letter once we receive definite reply from the IC that there will be a date fixed for our client to make oral comments before the IC. We would appreciate it that the IC would consult with us in the fixing of date for our client's oral comment as our counsel has already commenced her trial since 29th August 2011. We are more than delighted to liaise with your colleagues in the arrangement of diary so that all the concerned parties would be able to attend the hearing accordingly.

Thank you very much for your kind attention.

Yours faithfully,

Y. S. Lau & Partners
SW/ec

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中華人民共和國香港特別行政區
Hong Kong Special Administrative Region of the People's Republic of China

立法會
LEGISLATIVE COUNCIL

來函檔號 YOUR REF
本函檔號 OUR REF CB(3)/IC/09/5
電 話 TELEPHONE 3919 3003
圖文傳真 FACSIMILE 2810 1691

CONFIDENTIAL

By hand

11 October 2011

Y.S. Lau & Partners
14/F, CMA Building
No. 64 Connaught Road Central
Hong Kong

Dear Sirs,

Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai

I refer to my letter dated 31 August 2011 to you and your letter dated 16 September 2011 to the Investigation Committee ("IC") concerning the request of your client, Hon KAM Nai-wai, for an opportunity to make comments orally at a hearing on the parts of the draft Report of the IC which have been sent to him.

Under Rule 73A(13) of the Rules of Procedure of the Legislative Council ("LegCo"), the IC may determine its own Practice and Procedure ("P&P"). The purpose of the P&P is to enable the Member under investigation and witnesses to understand how the IC operates and what their respective rights and obligations are. However, the P&P is not meant to be exhaustive. In line with the practices and procedures of other committees of LegCo, it is for the IC to determine, based on the principles of fairness, how it should deal with any particular issue which is not expressly provided for in the P&P.

As I have stated in my letter dated 22 June 2011, Paragraph 22 of the P&P does not give a Member under investigation the right to choose the form in which he or she should comment on the IC's draft Report. However, the IC is willing to consider Mr KAM's request seriously. In deciding whether to accede to Mr KAM's request for a hearing, the IC would like to ensure that there

would be effective communication between Mr KAM and members during any such hearing. In that connection, members are tentatively of the view that they would be able to have a better understanding of the points Mr KAM seeks to make at any such hearing if he submits to the IC his written comments on the draft Report prior to the hearing. Members also consider that it would facilitate their understanding of Mr KAM's comments if he is prepared to answer members' questions orally at the hearing after making his comments. Your replies to questions (b), (c) and (d) of my letter dated 31 August 2011 will enable the IC to estimate the total time required for the hearing and thus determine the number of sessions required for the hearing.

In order to facilitate the IC in considering Mr KAM's request further, I should be grateful if you could reply to the questions in my letter dated 31 August 2011 by 19 October 2011. If the IC accedes to the request, I shall then proceed to follow up with you the logistical arrangements for the hearing.

Yours faithfully,

(Ms Pauline NG)
Clerk to Investigation Committee

c.c. Hon KAM Nai-wai

劉 汝 琛 律 師 行
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SOLICITORS, AGENT FOR TRADEMARKS & PATENTS
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Our Ref.: 08050/2010/SW/L Your Ref.: CB(3)/IC/09/5 Date: 21st October 2011

Investigation Committee,
Legislative Council,
Legco Complex,
1 Legislative Council Road,
Central, Hong Kong.

By Hand

Dear Sirs,

Re : **Investigations Committee established Under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure the Honourable Kam Nai-wai**

We refer to your letter dated 11th October 2011.

While we maintain our client's position stated in our letters dated 24th August 2011 and 16th September 2011 to you, the views of the IC are noted but disagreed by our client.

We have no dispute that under Rule 73A of the Rules of Procedure that the IC would determine its Practice and Procedure. Nevertheless, such determination must be exercised **fairly and reasonably**. Under the present hearing and given the seriousness of the allegations and the possible seriousness of the consequence, the importance of the right to comment by our client to the IC pursuant to paragraph 22 of the Practice and Procedure of the IC goes without saying. We do not understand why the IC demands firstly a written comment and secondly to answer questions raised by the IC before acceding to the request of our client to have his comments made orally.

We further do not agree without a written comment on the draft report from our client will not achieve an "effective communication" between our client and members of the IC. Our client had no difficulty in "communicating" with the members of the IC, nor does our client notice that some members found it difficult in "communicating" with our client in the past hearings!

Nevertheless, our client, to show his gesture to co-operate with the IC as in the past, would agree to provide a written skeleton of his comments to the IC prior to the hearing. In this connection, our client anticipates one session of 2 hours will be sufficient to make his comments on the draft report. **Kindly note that our client does not prepare to answer any questions from members after making his oral comments.**

Yours faithfully,

Y. S. Lau & Partners
SW/ec

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By hand

31 October 2011

Y.S. Lau & Partners
14/F, CMA Building
No. 64 Connaught Road Central
Hong Kong

Dear Sirs,

Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai

I am directed by the Investigation Committee ("IC") to respond to your letter dated 21 October 2011, which was considered by the IC at its meeting held on 26 October 2011.

The IC maintains the view that paragraph 22 of the Practice and Procedure of the IC does not give your client, Hon KAM Nai-wai, the right to choose the form in which he makes his comments on the parts of the draft Report of the IC forwarded to him for comment under the same paragraph. In the IC's opinion, the principles of fairness and natural justice do not require the holding of a hearing for Mr KAM to make his comments orally. What is important is that Mr KAM be given an opportunity to make his comments.

The IC notes from your letter dated 21 October 2011 that if a hearing is held, Mr KAM is not prepared to answer any questions from members after making his oral comments. The IC considers that if Mr KAM's request for a hearing to make oral comments is to be acceded to, it is essential as a matter of fairness to all parties concerned that members also have the opportunity to orally seek Mr KAM's clarification on matters arising from or in connection with his comments. In the circumstances, should Mr KAM insist that he only makes his comments orally and would not respond to any questions from members after his oral comments, the IC considers that it would be more appropriate that Mr KAM makes his comments in writing.

In light of the above, the IC would be prepared to hold a hearing for Mr KAM to make his comments orally if he is agreeable to the following arrangements:

(a) Mr KAM will orally answer questions from members for clarification on matters arising from or in connection with the comments he has made at the same hearing and the IC will allow a total of three hours for Mr KAM to make his comments and respond to members' questions at the same hearing; and

(b) Mr KAM will submit a written skeleton of his comments to the IC no later than three working days before the hearing.

Details of the hearing to be held are as follows:

Date: Tuesday, 15 November 2011
Time: 5:00 pm to 8:00 pm
Venue: Conference Room 4, Legislative Council Complex,
1 Legislative Council Road,
Central,
Hong Kong

If Mr KAM is not agreeable to the above arrangements, the IC would be prepared to extend the original deadline of 13 June 2011 for Mr KAM to submit his written comments to 25 November 2011. The IC will proceed to finalizing its Report after that date.

I should be grateful if you would let me have your reply by completing and returning the attached reply slip by 7 November 2011.

The IC notes that it has been almost five months since the parts of the draft Report were sent to Mr KAM for comment on 2 June 2011. The IC urges Mr KAM to cooperate with the IC in its work. To be fair to all relevant parties, the IC considers that it must proceed expeditiously to conclude its investigation with or without Mr KAM's cooperation.

Yours faithfully,

(Ms Pauline NG)
Clerk to Investigation Committee

c.c. Hon KAM Nai-wai

REPLY SLIP
(please return by 7 November 2011)

To: Ms Pauline NG
Clerk to Investigation Committee
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai

Regarding the parts of the draft Report of the Investigation Committee ("IC") which were forwarded to me for comment on 2 June 2011 under paragraph 22 of the Practice and Procedure of the IC:

☐ I have no comments.

☐ I will submit my written comments by 25 November 2011.

☐ I would like to attend a hearing scheduled for 5:00 pm to 8:00 pm on 15 November 2011 to give my comments. I agree to orally answer questions from members for clarification on matters arising from or in connection with the comments I have made at the same hearing. I will also submit a written skeleton of my comments by Thursday, 10 November 2011.

(please ✓ one of the boxes above)

Signature: _____

Name: Hon KAM Nai-wai

Date: _____

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Y. S. LAU & PARTNERS
SOLICITORS, AGENT FOR TRADEMARKS & PATENTS
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Tel: 2110 1899 Fax: 2110 9081 DX009258 Central 1

Our Ref.: 08050/2010/SW/L Your Ref.: CB(3)/IC/09/5 Date: 7th November 2011

Investigation Committee,
Legislative Council,
Legco Complex,
1 Legislative Council Road,
Central,
Hong Kong.

By Hand

Dear Sirs,

Re : **Investigations Committee established Under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure the Honourable Kam Nai-wai**

We refer to your letter dated 31st October 2011.

Apart from maintaining our views as stated clearly in our previous letter, with greatest respect, we are not in the position to accede to the views of the IC and we are greatly disappointed that a reply slip with 3 options are provided to our client.

We cannot stress any more than we have all along been stated about the importance of the right to comment by our client to the IC pursuant to paragraph 22 of the Practice and Procedure of the IC. We do not understand why there should be pre-requisites before our client expresses his comment to the IC. We further do not understand why the oral submissions would in any way affect the consideration of the IC. Again, we do not understand why there is a **MUST** for him to answer further questions in relations to his comments. Above all, we do not understand why our client should not be given a fair and reasonable opportunity to express his comments directly to the IC by way of oral submissions.

Our client finds it there are material facts which the IC seems to quote incorrectly in the draft report. Our client also has various comments to make regarding the views of the IC in the draft report. It is therefore essential and in fact in the interest of justice that our client should be free to express his comments in a way he finds most comfortable. And, we strongly believe such a way do not in any way affect the enquiry.

劉 汝 琛 律 師 行
Y. S. LAU & PARTNERS
SOLICITORS, AGENT FOR TRADEMARKS & PATENTS

Our Ref.: 08050/2010/SW/L Your Ref.: CB(3)/IC/09/5 Date: 7th November 2011

We would humbly invite the IC to consider our client's request for an oral submissions be made by him, as we had indicated in our previous correspondence, our client is prepared to submit a written skeleton on or before the 11th November 2011 if the IC is minded to have the oral hearing on 15th November 2011. We still maintain our stance that our client is not answering to any questions from the IC in this oral submission.

We trust your earliest reply in the matter such that our client would prepare the hearing.

Yours faithfully,

Y. S. Lau & Partners
SW/ec

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By hand

11 November 2011

Y.S. Lau & Partners
14/F, CMA Building
No. 64 Connaught Road Central
Hong Kong

Dear Sirs,

Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai

I am directed by the Investigation Committee ("IC") to respond to your letter dated 7 November 2011, which was considered by the IC at its meeting held on 9 November 2011.

The IC notes that it has been over five months since the relevant parts of the draft Report were forwarded to your client, Hon KAM Nai-wai, for comments on 2 June 2011.

The IC notes that Mr KAM insists that he will not respond to any questions from members for clarification of matters arising from or in connection with his oral comments. As such, and having considered the matter again, the IC is of the view that it would be more appropriate for Mr KAM to provide to it his comments, if any, in writing. Accordingly, it is not necessary to hold the hearing on 15 November 2011 as last proposed. Further, the IC would be prepared to extend the deadline for Mr KAM to submit his written comments to 25 November 2011.

In addition, as regards the indication in your letter of 7 November 2011 that Mr KAM had found certain material facts which the IC seemed to have quoted incorrectly in the draft Report, I have been directed by the IC to inform you that if Mr KAM wishes to draw the IC's attention to such matters or has any other comments on the draft Report, he should submit his written

comments to the IC on or before 25 November 2011, and that it is the IC's plan to proceed to finalizing its Report after that date, irrespective of whether Mr KAM's written comments have been received.

Yours faithfully,

(Ms Pauline NG)
Clerk to Investigation Committee

c.c. Hon KAM Nai-wai

劉 汝 琛 律 師 行
Y. S. LAU & PARTNERS
SOLICITORS, AGENT FOR TRADEMARKS & PATENTS
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14/F, CMA Building, 64 Connaught Road Central, Hong Kong
Tel: 2110 1899 Fax: 2110 9081 DX009258 Central 1

Our Ref.: 08050/2010/SW/L Your Ref.: CB(3)/IC/09/5 Date: 25th November 2011

Investigation Committee,
Legislative Council,
Legco Complex,
1 Legislative Council Road,
Central,
Hong Kong.

Confidential
By Hand

Dear Sirs,

Re : **Investigations Committee established Under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure the Honourable Kam Nai-wai**

We refer to your letter dated 11th November 2011.

Our client is deeply disappointed by the unreasonable stance taken by the IC despite repeated appeals made by our client.

In order to prepare a throughout written reply/comments to your draft report, our client requests the IC to further extend the deadline for our client to submit his written comments to 2nd December 2011.

We look forward to receiving your early reply.

Yours faithfully,

Y. S. Lau & Partners
SW/ec

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By hand

29 November 2011

Y.S. Lau & Partners
14/F, CMA Building
No. 64 Connaught Road Central
Hong Kong

Dear Sirs,

Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai

With reference to your letter dated 25 November 2011 to the Investigation Committee ("IC"), I am directed by the IC to inform you that the deadline for your client, Hon KAM Nai-wai, to submit his written comments on the relevant parts of the draft Report forwarded to him has been extended to 6:00 pm on Friday, 2 December 2011.

Yours faithfully,

(Ms Pauline NG)
Clerk to Investigation Committee

c.c. Hon KAM Nai-wai

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Tel: 2110 1899 Fax: 2110 9081 DX009258 Central 1

Our Ref.: 08050/2010/SW/L Your Ref.: CB(3)/IC/09/5 Date: 2nd December 2011

Investigation Committee,
Legislative Council,
Legco Complex,
1 Legislative Council Road,
Central,
Hong Kong.

Confidential
By Hand

Dear Sirs,

Re : **Investigations Committee established Under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure the Honourable Kam Nai-wai**

We refer to the above matter.

Please be informed that our client will submit his written comments of your draft report to the IC before 6 p.m. 5th December 2011.

Thank you for your kind attention.

Yours faithfully,

Y. S. Lau & Partners
SW/ec

PRINCIPALS
Lung Man On LL.B (Hons) 龍文安律師
Yau Man Fai LL.B (Hons) 游文輝律師

CONSULTANTS
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Chan Suk Kam Ida CPA ACIS 陳淑琴律師
Sum Kwan Ming Patrick LL.B (Hons) 岑君銘律師