

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

Witness statement of Mr. Simon IP Sik-on

I, Simon IP Sik-on, [REDACTED]
[REDACTED] have been asked to appear before the Select Committee to Inquire into Matters Relating to the Post-service Work of Mr LEUNG Chin-man and to provide a written response to the questions raised by the Select Committee as attached at Appendix IV in the letter from the Legislative Council to me dated 27th February 2009. In compliance with the request, I now set out my answers to the questions as appearing below.

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")

1. **As a member of ACPE, please advise –**
- (a) **your role and duties in vetting and approval of applications for post-service work from directorate civil servants;**

My role and duties as a Member of ACPE are to consider all applications coming before the Committee in accordance with the Terms of Reference of the Committee; the prevailing Government Policy objectives for the vetting of such applications; the relevant Approving Criteria and other factors in order to decide whether an application should be approved or rejected after balancing the rights of the Government as a former employer against the freedom of retired directorate civil servants to seek post service work.

- (b) **the procedure for considering applications for post-service work from directorate civil servants by ACPE; and**

Applications are usually dealt with by the circulation of papers but there have been a few meetings since my appointment to the ACPE in June 2005.

- (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 account in the consideration of an application for post-service work from a directorate civil servant.**
- (i) The circumstances under which a member of ACPE is required to declare an interest are set out in a document entitled “Note on Declaration of Interest” supplied to me by the Government.
- (ii) The factors to be taken into account are comprehensively set out in Civil Service Bureau Circular No.10/2005. In my view, the most relevant factors are those set out under the headings “Policy objective” in paragraph 2, “Approving criteria” in paragraphs 7(a) – (f) and “Standard restrictions on scope of work” in paragraphs 9(a) – (c) although the Circular should be read as a whole.

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

Against the background of CSB Circular No.10/2005, the specific factors I took into account were those set out in the ACPE paper dated 2nd July 2008. In particular, they were:-

- (a) Mr. Leung’s relevant service history
- (b) previous applications made by him and approved by the ACPE
- (c) the nature of the proposed employment, identity of the prospective employer and the important fact that the business was to be carried out exclusively in Mainland China

- (d) the assessments carried out by the Permanent Secretary for Transport & Housing (Housing) (“PS(H)”), the Permanent Secretary for Development (Works) (“PS(W)”), the Permanent Secretary for Development (Planning and Lands) (“PS(PL)”), the Civil Service Bureau and the AO Grade Management on the application.
- (e) the imposition of four stringent work restrictions in addition to the standard work restrictions.

3. In the 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

The reasons for my agreeing with the recommendation of the CSB were as follows:-

- (a) Although PS (W) drew attention to the possibility of a “public perception issue”, he did not object to the application, nor did he elaborate on exactly what he meant by that phrase. In my view, if negative public perception is to be a factor for denying a retired directorate civil servant of post service employment, it should be based on reasonable and rational grounds. So, as a member of the Committee, it was my duty to examine carefully the facts as presented in the paper and analyse whether such reasonable and rational grounds existed, as opposed to taking a purely intuitive and broadbrushed approach to the issue. In the event, I considered that the standard work restrictions plus the imposition of the four additional restrictions (if clearly communicated and their effect properly understood) ought to be sufficient to address the public perception issue.
- (b) The paper stated that PS (PL) had no objection to Mr. Leung taking up the proposed appointment while at the same time mentioning the existence of building plans submissions for development projects made by subsidiaries

of New World Development Co. Ltd. I understood from this that the existence of those building plans submissions was of no relevance and had no bearing on the application. Otherwise, I would have expected PS(PL) to raise an objection or to register a concern.

- (c) The five Government Departments/officials consulted either supported or raised no objection to Mr. Leung's proposed employment

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

On the basis of the information supplied to me in the ACPE paper of 2nd July 2008, and having considered the views expressed therein by the five Government Departments/officials concerned, I concluded that:-

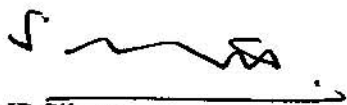
- (i) there would be no actual conflict of interest between Mr. Leung's duties while he was a civil servant with his duties for his prospective employer,
- (ii) potential conflict of interest, if any, that may arise could be removed through the imposition of the standard work restrictions and the four rather more stringent additional restrictions.

This is principally because Mr. Leung's work would have been entirely based in Mainland China whereas his work while he was Director of Buildings and PS for Housing, Planning & Lands (Housing)/Director of Housing was exclusively Hong Kong based. The work restrictions would effectively have insulated him from anything connected with Hong Kong or with any other company in the New World group of companies. He would also have been bound by one of the additional work restrictions not to disclose to his prospective employer any classified or sensitive information acquired while he was in Government service

(meaning his entire civil service career) and not only such information acquired by him during the last 3 years before his retirement, being one of the standard work restrictions.

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

Since Mr. Leung was a career civil servant and I have been involved in public service of various kinds for over 20 years, it is possible that our paths may have crossed at some stage in the past but I have no recollection of meeting him, or if we have met, where, when or how. Although I am aware of who Mr. Leung is, I cannot say that I know him personally. I therefore had no interest to declare in respect of Mr. Leung's application.



Simon IP Sik-on

26th March 2009