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66 QUEENSWAY, HONG KONG.  
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FAX (852) 2536 9963 (Case Management)  
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The Law Society of Hong Kong  
3/F., Wing On House  
71 Des Voeux Road Central  
Hong Kong

23 May 2024

Dear Sirs,

**Professional Conduct and Duties of Private Insolvency Practitioners**

The Official Receiver noted that there have been two recent judgments from the Court concerning the conduct of private insolvency practitioners ("PIPs"). Links to the judgments are set out below :-

- (i) [https://legalref.judiciary.hk/lrs/common/ju/ju\\_frame.jsp?DIS=159542&currpage=T](https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=159542&currpage=T)
- (ii) [https://legalref.judiciary.hk/lrs/common/ju/ju\\_frame.jsp?DIS=155506&currpage=T](https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=155506&currpage=T)

In these cases the Court have raised concerns about full and frank disclosure where there was a prior agreement in place concerning the fees to be paid to PIPs, as well as concerns about incorrect information being set out in disclosure statements required pursuant to Section 262D of the Companies (Winding Up and Miscellaneous Provisions) Ordinance, Cap. 32.

In Insolvency proceedings, PIPs (whether as trustees in bankruptcy, provisional liquidators or liquidators) are officers of the Court, and owe a duty of full and frank disclosure to the Court. There is also a duty to avoid any conflict of interest, and a duty to act impartially in compliance with all relevant statutory provisions as well as codes of professional conduct when performing their duties.

This letter serves to draw to the attention of PIPs the comments made by the Court in the above judgments and to remind them of these fundamental duties of full and frank disclosure in all insolvency proceedings. PIPs are reminded to set out all matters required to be disclosed in a disclosure statement in compliance with

section 262D of Cap. 32 and to avoid disclosing any relationship required to be disclosed under section 262D(1)(b) and (2) of Cap. 32 by way of a separate letter.

Please circulate this letter to your members who are insolvency practitioners. For any query please contact the undersigned.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'Michael TS Cheung', written in a cursive style.

(Michael TS Cheung)  
for Official Receiver