

LCQ22: Chinachem Charitable Foundation

Following is a question by the Hon Paul Tse and a written reply by the Secretary for Justice, Mr Rimsky Yuen, SC, in the Legislative Council today (February 17):

Question:

In response to a question on the Chinachem Charitable Foundation Limited (the Chinachem Foundation) which I raised on June 3 last year, the Secretary for Justice (SJ) indicated that since December 10, 2007, the Estate of the late Mrs Nina Wang (the Estate) had, in accordance with a court order, been administered and preserved by independent interim administrators (administrators) appointed by the court until any further court order. SJ pointed out that he, as the protector of charities, would actively follow up on the arrangements for and the details of the implementation of the Will, and would continue the discussion with the Chinachem Foundation on the plans for administering the Estate, upon the detailed consideration by the Department of Justice (DoJ) of the judgment handed down by the Court of Final Appeal in May last year (that is, the Chinachem Foundation is to hold the Estate as a trustee and will not receive the Estate as an absolute gift). SJ also indicated that DoJ had all along been paying attention to the administration of the Estate and keeping contact with the administrators, including vetting the periodical reports provided by the administrators. In this connection, will the Government inform this Council:

(1) as the accountants from an accounting firm are serving as the aforesaid administrators, whether the Government has assessed if those accountants have the experience necessary for administering the business relating to the Estate, which is worth tens of billions of Hong Kong dollars; if it has, of the details;

(2) of the details of the administrators' work in administering and preserving the aforesaid Estate at present, the monthly fees charged by the administrators, and the expected time when the court will order the termination of the work of the administrators;

(3) whether DoJ has, in the course of keeping contact with the administrators and vetting the relevant periodical reports, uncovered any behaviour damaging the value of the Estate, such as negligence, conspiracy to commit a breach of duties, maladministration, etc; if DoJ has, of the details;

(4) whether the data on the balance and expenditure of the properties for charitable purposes under the Estate will be made public regularly, or disclosed upon public enquiry; if so, of the details of the relevant practices; if not, the reasons for that; and

(5) of the details and progress of DoJ's discussion with the relevant stakeholders on the various tasks relating to the administration of the Estate, including the stakeholders involved, and whether DoJ has sought directions from the court on the relevant tasks; the expected time for DoJ to come up with the proposals for the implementation of and arrangements for the Will?

Reply:

President,

The question raised by the Hon Paul Tse concerns the status of the management of the estate of the late Mrs Nina Wang (the Estate) as well as the follow-up work by the Department of Justice (DoJ) in respect of the matters relating to the implementation of the Will. As regards parts (1) to (5) of the question, DoJ replies are as follows:

(1), (2) & (3)

Since December 10, 2007, the Estate of the late Mrs Nina Wang has, pursuant to a Court order, been administered and preserved by independent interim administrators appointed by the Court. Professional accountants have all along been acting as the independent interim administrators. The Court has taken into account the relevant experience and professional background of the professional accountants concerned before appointing them as independent interim administrators.

As regards the work of the independent interim administrators, pursuant to the order of the Court, they are authorised to manage the properties and affairs of the Estate. Their principal responsibilities are to get in and preserve the properties of the Estate, including making enquiries as they deem reasonably necessary or taking out legal proceedings when necessary, and requiring any person(s) having custody, control or management of properties of the Estate to deliver or transfer to the interim administrators such properties so as to ensure that the Estate is properly preserved. Besides, the relevant work also includes handling matters arising from the operation of the Chinachem Group.

The judgment of the Court of Final Appeal (CFA) delivered on May 18, 2015 does not affect the current independent interim administrators' discharge of the abovementioned duties to manage and preserve the Estate pursuant to the Court's appointment until any further Court order. As the work in implementing the Will is still ongoing, it cannot be anticipated at this stage when the work relating to interim administration will come to an end.

By keeping contact and by considering materials provided by the interim administrators (including periodical reports), DoJ has all along been paying close attention to

the work of administering and preserving the Estate, including how the interim administrators have followed up irregularities which concern the Chinachem Group and the Estate, and the latest development of legal proceedings already instituted. As the relevant follow-up work and proceedings are still ongoing, save for information already available in the public domain, it is inappropriate for DoJ to make any further comment at this stage. Further, the work of the interim administrators will continue to be monitored by the Court, including the consideration of the periodical reports and other materials provided by them.

The fees of the independent interim administrators have been provided for in the appointment order of the Court. In the absence of any order of the Court directing disclosure, it is inappropriate for DoJ to disclose the relevant information to the public.

(4) & (5)

By its judgment of May 18, 2015 concerning the Will of the late Mrs Nina Wang, the CFA held that the Chinachem Charitable Foundation Limited (the Foundation) is to hold the Estate as a trustee rather than receiving it as an unconditional absolute gift. The judgment has clarified the proper interpretation of the Will and provides a clear legal basis and guidance for the future relevant work concerning the implementation of the Will.

In accordance with the said judgment, DoJ is now actively liaising with the Foundation in relation to the implementation of the Will and will seek the Court's direction as and when necessary so as to eventually submit a scheme on using the Estate for charitable purposes to the Court for approval. DoJ aims to complete the draft of the scheme by around the middle of this year and to seek the Court's direction at an appropriate time. Before that, the Estate will continue to be administered by the Court

appointed independent interim administrators, whose work will continue to be monitored by DoJ and the Court.

As the details for the scheme are still being discussed, it remains undecided at the stage as to how the relevant expenditure and the balance of the Estate for charitable purposes are to be disclosed in future to the extent permitted or required by law.

Ends/Wednesday, February 17, 2016