

NOTE FOR FINANCE COMMITTEE

Legal expenses for briefing out cases not covered by approved fee schedules (2015-16)

INTRODUCTION

At the Finance Committee (FC) meeting on 14 October 1981, Members delegated to the then Attorney General (now Secretary for Justice) and the Solicitor General the authority to negotiate and approve payment of higher fees for engaging barristers in private practice in cases of unusual complexity or length; and fees for professionals on matters briefed out which are not covered by the approved scale of fees. At the same meeting, the Government agreed to provide Members with periodic reports indicating the levels of fees so negotiated and approved. This note reports on the expenditure incurred by the Department of Justice (DoJ) during the financial year of 2015-16 on briefing out cases not covered by the approved fee schedules.

2. The DoJ has been briefing out certain criminal and civil cases, according to fee schedules approved by the FC¹, or at negotiated fees in specified circumstances. Briefing out is mainly to meet operational needs. In general, DoJ may resort to briefing out when –

- (a) there is a need for expert assistance where the requisite skill is not available in the DoJ;
- (b) there is no suitable in-house counsel to appear in court for the Hong Kong Special Administrative Region;
- (c) the size, complexity, quantum and length of a case so dictate;
- (d) it is deemed appropriate to obtain independent outside counsel's advice or services so as to address possible perception of bias or issues of conflict of interests;

/(e)

¹ At the FC meeting held on 13 June 2003, Members gave approval for the Director of Administration to exercise the delegated authority to make adjustments to the approved fees provided that the extent of adjustment was no greater than the movement of the Consumer Price Index (C). On 12 June 2007, the authority for approving adjustments to the approved fees was re-delegated to the Permanent Secretary for Home Affairs.

- (e) there is a need for continuity and economy, e.g. where a former member of the DoJ who is uniquely familiar with the subject matter is in private practice at the time when legal services are required; and
- (f) there is a need for advice or proceedings involving members of the DoJ.

In addition, some criminal cases are briefed out with the objective of promoting a strong and independent local Bar by providing work, particularly to the junior Bar, and of building a pool of experienced prosecutors to supplement those within the DoJ.

Encl. 1 3. The approved schedule of fees for 2015-16 is at Enclosure 1.

LEGAL EXPENSES NOT COVERED BY APPROVED FEE SCHEDULES FOR THE YEAR ENDING 31 MARCH 2016

4. During the year ending 31 March 2016, the DoJ paid out a total of \$322,972,211 as briefing out expenses. The breakdown of expenditure under *Subhead 000 Operational expenses* is as follows –

	\$
Payment for hire of legal services and related professional fees	
(a) Briefing out of cases according to approved fee schedule	94,694,047
(b) Briefing out of cases at fees not covered by the approved scales	137,350,325
	232,044,372
Payment for legal services for construction dispute resolution	
(c) Briefing out of construction dispute resolution cases at fees not covered by approved scales ²	90,927,839
Total expenditure for 2015-16	322,972,211

/5.

² There is no approved scale of fee for construction dispute resolution because it is not possible to fix scale fees for construction or other civil cases which vary by complexity and nature.

5. Regarding paragraph 4(b) above, the DoJ briefed out various matters which were not covered by the approved scale of fees to lawyers, accountants, expert witnesses, consultants and appointed arbitrators. The amount of \$137,350,325 incurred in the financial year of 2015-16 involved 608 cases. Details are set out at Enclosure 2.

Encl. 2

6. As regards paragraph 4(c) above, the DoJ briefed out various matters which were not covered by any approved scale of fees to private practitioners engaged to undertake specialised work relating to construction dispute resolution. The amount of \$90,927,839 incurred in the financial year of 2015-16 involved 25 cases. Details are set out at Enclosure 3.

Encl. 3

Department of Justice
December 2016

**Approved scale of maximum fees for briefing out cases
(rate effective since 29.11.2013[#])**

(a) Court of Appeal

		\$
(i)	brief fee	32,700
(ii)	refresher fee per day	16,350

(b) Court of First Instance

		\$
(i)	brief fee	24,520
(ii)	refresher fee per day	12,260
(iii)	conference per hour	1,270

Brief fees and refresher fees are subject to a 10% increase on the base figure for each of the second to the sixth defendant.

(c) District Court

		\$
(i)	brief fee	16,320
(ii)	refresher fee per day	8,160
(iii)	conference per hour	1,040

Brief fees and refresher fees are subject to a 10% increase on the base figure for each of the second to the sixth defendant.

(iv)	brief fee for attending sentencing hearings or procedural applications	3,240
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(d) Magistrates' Court

		\$
(i)	brief fee	9,800
(ii)	refresher fee per day	4,890
(iii)	brief fee on daily basis	6,520

[#] On 29 November 2013, with the Legislative Council's endorsement, the rates of the approved criminal legal aid fees were adjusted upward by around 9.3%. As the DoJ used the same scale of fees for briefing out, the briefing out fees for cases briefed since that date were adjusted accordingly.

Enclosure 2 to FCRI(2016-17)13

**Hire of legal services and related professional fees
Breakdown of cases briefed out at fees
not covered by the approved scales in 2015-16**

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
Civil		
<p>1. Commission of Inquiry into Excess Lead Found in Drinking Water (the Commission) (MIS 486/2015)</p> <p>Fees and expenses incurred in relation to briefing a local Senior Counsel (SC) and two local junior counsel to act for the Director of Water Supplies before the Commission, and five experts to render opinion to the Water Supplies Department in relation to the Inquiry before the Commission. The Commission was appointed by the Chief Executive (CE) to (a) ascertain the causes of excess lead found in drinking water in public rental housing developments; (b) review and evaluate the adequacy of the present regulatory and monitoring system in respect of drinking water in Hong Kong; and (c) make recommendations with regard to the safety of drinking water in Hong Kong. At the conclusion of a 68-day hearing, the Commission submitted its report to the CE on 11 May 2016.</p>	8	14,768,570
<p>2. ZN v Secretary for Justice (SJ), Director of Immigration (D of Imm), Commissioner of Police (C of P) and Commissioner for Labour (C for L) (HCAL 15/2015)</p> <p>Fees and expenses incurred in relation to briefing a London Queen's Counsel (QC), a local SC and a local junior counsel to act for the D of Imm, the C of P and the C for L in resisting the Applicant's judicial review (JR) application, which challenged the lack of specific statutory provision in Hong Kong in</p>	3	4,919,761

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
combatting human trafficking in the context of forced or compulsory labour, in breach of Article 4 of the Hong Kong Bill of Rights (regarding protection against forced or compulsory labour). The substantive hearing was held from 12 to 15 January 2016 with judgment to be handed down on 23 December 2016.		
3. Television Broadcasts Limited (TVB) v The Communications Authority (the Authority) and the Chief Executive in Counsel (CEIC) (CACV 44/2016 (on appeal from HCAL 176/2013))	2	1,829,300

Fees and expenses incurred in relation to briefing a local SC and a local junior counsel to act for the CEIC in resisting TVB's JR application against the Authority's determination that TVB had contravened the anti-competitive provisions under the Broadcasting Ordinance (Cap. 562) (the Ordinance) on grounds including illegality. TVB also challenged that the appeal mechanism to the CEIC under the Ordinance was in breach of Articles 10 and 11 of the Hong Kong Bill of Rights (regarding right to a fair hearing and rights of persons charged with or convicted of a criminal offence respectively) and Article 80 of the Basic Law (regarding the exercise of the judicial power by the courts). The substantive hearing was held from 6 to 9 October 2015. By a judgment handed down by the Court of First Instance (CFI) on 29 January 2016, the JR was allowed and the Authority's determination was quashed. The Authority and the CEIC each served a notice of appeal on 26 February 2016. The hearing date of the appeal is yet to be fixed.

	Number of counsel/ legal firms/other professionals involved	Expenditure \$
<p>4. Hong Kong Television Network Limited (HKTVN) v The CEIC (CACV 111/2015)</p>	2	1,678,000
<p>Fees and expenses incurred in relation to briefing a local SC and a local junior counsel to act for the CEIC in resisting HKTVN's JR application against the CEIC's decision announced on 15 October 2013 rejecting HKTVN's application of 31 December 2009 for a domestic free television programme service licence. The CFI handed down its judgment on 24 April 2015 allowing the JR and, quashing the said CEIC's decision. The CEIC's appeal against the CFI's decision was heard from 17 to 18 February 2016. The Court of Appeal (CA) handed down its judgment on 6 April 2016 setting aside CFI's judgment and order, and dismissing the JR with costs to the CEIC.</p>		
<p>5. (1) Chan Wai Tong Christopher, Wong Tak Wai and Jong Yat Kit, the Joint and Several Administrators of the Estate of Kung, Nina also known as Nina Kung and Nina T H Wang, (2) Chinachem Charitable Foundation Limited (the Foundation) and (3) 施福英, the natural mother of the Deceased v SJ (FACV 9/2014)</p>	3	1,569,281

Fees and expenses incurred in relation to briefing a London QC, a local SC and a local junior counsel to act for the SJ in the Foundation's appeal to the Court of Final Appeal (CFA) against the CA's judgment dated 11 April 2014 upholding the CFI's construction of the 2002 Will that the bequest was for the Foundation to hold the residuary estate in trust to give effect to certain directions in the Will including charitable purposes. The hearing before the CFA took place from 21 to 23 April 2015. By a judgment dated 18 May 2015, the CFA dismissed the Foundation's appeal.

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
6. Dembele & Others v D of Imm (HCAL 44/2014)	2	1,395,000
<p>Fees and expenses incurred in relation to briefing a local SC and a local junior counsel to act for the D of Imm in opposing an application for JR against the D of Imm's decision to refuse the dependant visa application of the first Applicant, relying on the Applicants' alleged family rights and the best interests of child principle under the Basic Law, various international instruments and common law. By its judgment handed down on 22 April 2016, the CFI dismissed the JR, refused to grant extension of time and set aside the ex parte leave on the basis of delay, with costs to the D of Imm. The Applicants lodged an appeal to CA on 29 June 2016. The hearing has been fixed for 10 July 2017.</p>		
7. Sham Wing Kan v The C of P (HCAL 122/2014)	2	1,136,050
<p>Fees and expenses incurred in relation to briefing a local SC and a local junior counsel to act for the C of P in resisting the Applicant's JR application which challenged the constitutionality of section 50(6) of the Police Force Ordinance (Cap. 232) on the grounds that it empowered the Police to search the contents of the Applicant's mobile phones without a search warrant and that such a warrantless search was in breach of Article 14 of the Hong Kong Bill of Rights (regarding protection of privacy) and Article 30 of the Basic Law (regarding protection of freedom and privacy of communication). The substantive hearing was held on 21 December 2015 with judgment reserved.</p>		
8. Kwok Cheuk Kin v Secretary for Constitutional and Mainland Affairs (SCMA) (CACV 57/2014)	3	1,413,103
<p>Fees and expenses incurred in relation to briefing a London QC, a local SC and a local junior counsel to act for the SCMA in resisting the Applicant's appeal</p>		

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
<p>arising from his JR application which challenged the constitutionality of section 39(2A) of the Legislative Council Ordinance (Cap. 542) that disqualified a person from being nominated as a candidate at a by-election within six months from the date of the resignation taking effect unless an intervening general election was held. The Applicant's appeal against the CFI judgment of 5 March 2014 dismissing his JR was heard on 9 September 2015 and was dismissed by the CA by its judgment of 22 October 2015. The Applicant's application to the CA for leave to appeal to the CFA, which was dealt with on paper, was dismissed by the CA by its judgment of 2 February 2016. The Applicant's application for leave to appeal to the CFA was granted by the CFA on 29 September 2016. The substantive hearing before the CFA is scheduled for 20 June 2017.</p>	3	1,079,062
<p>9. China International Fund Limited (Applicant) v Dennis Lau & Ng Chun Man Architects & Engineers (HK) Limited (Respondent) & SJ (HCMP 2472/2014)</p>		
<p>Fees and expenses incurred in relation to briefing a local SC and a local junior counsel to act for the SJ as an Intervener in the leave application to appeal as it involved the challenge against the constitutionality of the finality provisions in section 81(4) of the Arbitration Ordinance (Cap. 609) (the provisions) which provides that the appeal against an arbitration award may not be brought in the CA unless the CFI grants leave to appeal; and fees incurred for engaging an international arbitration expert. The leave application to appeal was brought by the Applicant against the CFI's refusal to set aside an arbitration award in favour of the Respondent. The leave application was heard on 24 July 2015, and by CA's judgment dated 12 August 2015, the constitutionality of the provisions was upheld. The Applicant's leave application to appeal to the CFA, which was dealt with on paper, was dismissed by the CA's judgment dated 18 December 2015.</p>		

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
10. Keen Lloyd Holdings Limited and Others v Commissioner of Customs and Excise (C of C&E) & Department of Justice (DoJ) (CACV 97/2015 & CACV 107/2015)	3	1,930,300
<p>Fees and expenses incurred in relation to briefing a local SC and two local junior counsel to act for the C of C&E in his appeals and the Applicants' cross-appeals against the CFI judgments dated 23 December 2014 and 16 April 2015. The underlying JR concerned challenges against the validity of search warrants executed by the C of C&E. The issues in the appeals included, amongst others, whether the warrantless power of the C of C&E to search non-domestic premises under section 21(1)(a) of the Import and Export Ordinance (Cap. 60) (the provision) was constitutional in relation to Article 14 of the Hong Kong Bill of Rights (regarding protection of privacy) and Article 29 of the Basic Law (regarding protection against arbitrary search of premises). The appeals and cross-appeals were heard together from 15 to 17 March 2016. By its judgment handed down on 22 April 2016, the CA held that the provision was unconstitutional, and further applied remedial interpretation to make it compliant with the Basic Law.</p>		
11. SJ v Rafat Ali Rizvi (D1) & Heham al-Warraq (D2) (HCMP 2557/2010) & (CACV 44/2014)	3	2,336,634

Fees and expenses incurred in engaging international law experts (including a London QC) to advise on questions of international law in relation to a foreign request for legal assistance to the Government of the Hong Kong Special Administrative Region (HKSAR) and the related ongoing Hong Kong court proceedings.

SJ commenced proceedings under Part IV of the Mutual Legal Assistance in Criminal Matters

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
<p>Ordinance (Cap. 525) to restrain certain properties and to register an external confiscation order in the foreign criminal proceedings against D1 and D2. The hearing for the registration of the external confiscation order against all properties restrained took place before the CFI in November 2013 and judgment was delivered in January 2014. D1 and D2 then lodged an appeal against the CFI's judgment.</p>		
<p>In February 2015, D2's solicitors brought to SJ's attention an award of December 2014 under an investor-state arbitration, which found, inter alia, that the prosecution and conviction of D2 in the said foreign criminal proceedings breached the relevant investment promotion and protection agreement, but without awarding D2 any damages for want of "clean hands" on his part. This development raised the question of whether the freezing and confiscation of properties pertaining to D1 and D2 should continue in light of the award in favour of D2 and the claim that D1 was in the same factual scenario as D2 as far as their criminal convictions were concerned. SJ thus sought opinions from international law experts on the effect under international law of the award. In the meantime, the appeal hearing has been adjourned to a date that is yet to be fixed.</p>		
12. Fees and expenses incurred in 552 other civil cases under \$1 million each	-	71,735,648
Sub-total: 563 cases		105,790,709

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
Criminal		
13. HKSAR v Hui Rafael Junior & Three Others (CACC 444/2014 on appeal from HCCC 98/2013)	4	7,469,331

Following their convictions and sentences handed down by the court, the four Defendants (D1, D2, D4 and D5) in HCCC 98/2013 filed notices of application for leave to appeal.

D2 filed a Notice of Application for leave to appeal against conviction on 29 December 2014. He also filed an application for bail pending appeal on 30 December 2014 which was dismissed by the CA on 16 March 2015.

On 30 December 2014, D4 filed a Notice of Application for leave to appeal against both conviction and sentence. On 18 March 2015, he also filed an application for bail pending appeal which was dismissed by the CA on 28 May 2015.

On 15 January 2015, D1 and D5 both filed their Notices of Application for leave to appeal against their convictions.

The substantive appeal by D1, D2, D4 and D5 were heard from 2 to 5 November 2015 before the CA, with judgment handed down on 16 February 2016. The CA dismissed the Defendants' appeals against convictions. In separate Notices of Motion filed on 22 and 23 February 2016, each Defendant applied to the CA for certification that points of law of great and general importance were involved in the decision.

On 22 March 2016, the CA certified that a point of law of great and general importance arose from its judgment of 16 February 2016, namely "Is the offence of conspiracy to commit misconduct in public office made out on proof that the conspirators intended and agreed that, in return for a payment to be made to a person whom they knew was about to

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
<p>become Chief Secretary of the HKSAR, whilst in public office and as such the recipient would be and remain favourably disposed to the payer or at the direction of the payer?”.</p> <p>Pending the CA’s certification mentioned above, on 14 and 15 March 2016, D1, D2, D4 and D5 filed separate Notices of Applications for leave to appeal to the CFA (FAMC 8-11/2016), seeking leave on both “point of law” and “substantial and grave injustice” limbs.</p> <p>On 12 July 2016, the Appeal Committee of the CFA granted leave in relation to Count 5 (Conspiracy to commit misconduct in public office). Leave was however refused on all other grounds advanced by all the Applicants. The Court also directed that the substantive appeal to be heard on 9 and 10 May 2017. Bail was granted to D2 pending the appeal hearing while D4 and D5’s bail applications were refused.</p> <p>For continuity and economy, the prosecution has engaged the same team of overseas QC, local SC, overseas junior and local junior counsel which conducted the trial to handle the appeal and related proceedings.</p>	1	3,699,056
<p>14. HKSAR v Chen Keen & Others (ESCC 1834/2012 & HCCC 83/2014)</p>		

The prosecution asserted that D1, a co-chairman of a publicly listed company in Hong Kong, conspired with D2, the owner of a company in New Zealand, to acquire dairy farms in New Zealand for D1’s company at NZ\$500 million (the Acquisition) without disclosing their beneficiary interest in the Acquisition. The Acquisition was done by way of D1’s company taking over D2’s company in consideration of cash and convertible notes issued.

D3, an accountant engaged by D2, provided false accounting records of the dairy farms to deceive The

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
<p>Stock Exchange of Hong Kong Limited (SEHK) and the audit team of D1's company in the due diligence check of the said farms in New Zealand. The false accounting records were then published in the listed company's Announcement and Circular.</p>		
<p>D1 to D3 therefore faced two charges of Conspiracy to Defraud the listed company and SEHK respectively.</p>		
<p>Proceeds raised by the issuance of convertible notes for the acquisition of the farms were subsequently transferred to a company solely owned by D1 in Hong Kong.</p>		
<p>D1 therefore faced a further count of Dealing with property known or reasonably believed to represent proceeds of an indictable offence.</p>		
<p>The case was complex both in terms of facts and in law given that it involved (a) a publicly listed company with international element; (b) large amount of documentary evidence and complicated financial documents; (c) a substantial amount of money; (d) complicated commercial transactions and tracing of funds; and (e) overseas evidence. A local SC was therefore engaged for the trial. The Preliminary Inquiry overran until February 2014. Expenses were incurred as a result of an evidence taking exercises held at the New Zealand High Court pursuant to a Mutual Legal Assistance Request.</p>		
<p>D1 to D3 were committed to the CFI for trial (HCCC 83/2014). The trial commenced on 13 October 2015 and concluded on 29 April 2016. D1 was represented by an overseas silk and a local SC. Further expenses were incurred as a result of a second evidence taking exercises held at the New Zealand High Court pursuant to a Mutual Legal Assistance Request and Letter of Request. All Defendants were convicted on all charges.</p>		

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
In June and July 2016, all three Defendants filed their Notice to appeal against conviction and/or sentence.		
15. HKSAR v Yeung Ka Sing Carson (DCCC 860/2011 (HCA 1426/2014))	3	2,300,000

The Defendant was charged with five counts of “money laundering” offences in relation to the bank accounts controlled by him. The offences covered a period of six years involving a total of around \$721 million.

In view of the sensitivity and complexity of the case, in particular that the expert evidence was in serious dispute, a local SC and a local junior counsel were engaged to prosecute. A forensic accountant was also engaged to deal with the evidence of the two defence experts.

The trial took place between 29 April and 12 December 2013. After a 55-day trial, the Defendant was convicted on 28 February 2014 of all charges.

The Defendant subsequently appealed against conviction and sentence. The appeal was heard on 11 and 12 March 2015.

By its judgment handed down on 13 May 2015, the CA dismissed the appeal against convictions. On 15 May 2015, the appeal against sentence was also dismissed.

The Appeal Committee granted leave to both parties to appeal to the CFA on four questions of law. The substantive final appeal hearing was heard from 31 May to 2 June 2016. By its judgment handed down on 11 July 2016, the CFA dismissed the Defendant’s appeal.

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
16. HKSAR v Chan Chun Chuen (CACC 233/2013)	2	2,011,437

The case against the Defendant arose from a probate action initiated by Chinachem Charitable Foundation Ltd. In the course of the probate action, the Defendant sought to rely on a will purportedly made by the late Madam Nina WANG by which her entire fortune was left to him. At the end of the probate action, the trial Judge found that the will produced by the Defendant was a forged document.

Following the trial Judge's comments on the forged will, investigation was conducted against the accused, resulting in the Defendant being charged for one count of "forgery" and one count of "using a false instrument". The trial proceedings with jury ran for 32 days in the CFI from May to July 2013. The Defendant was eventually convicted after trial of both charges. The trial Judge imposed a concurrent sentence of twelve years' imprisonment.

The Defendant subsequently lodged an application with the CA for leave to appeal against conviction and sentence. The appeal was heard by the CA on 17, 18, 21 to 24 September 2015 (six days). The same team of counsel (including one London QC and local junior counsel, plus in-house counsel) was engaged in the trial handled the appeal.

In a judgment delivered on 30 October 2015, the CA dismissed the Applicant's appeal against conviction and refused his application for leave to appeal against sentence. Costs of the appeal were awarded to the prosecution on 5 February 2016.

17. HKSAR v Wu Wing Kit & another (CACC 299/2014)	3	1,858,422
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This is the District Court (DC) part of the case HKSAR v Chen Keen & Others (HCCC 83/2014) (see item 14 above) concerning fraud and money laundering in relation to the acquisition of dairy

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
<p>farms in New Zealand. The Appellants (“A1” and “A2”) were tried in the DC (DCCC 1022/2012) and were each convicted of one charge of money laundering on 25 May 2014. A1 was subsequently sentenced to six years’ imprisonment and A2 to six years and six months’ imprisonment.</p> <p>This appeal against conviction and sentence was heard on 23 and 24 February 2016. A London silk, as well as a local counsel who prosecuted the trial, were briefed to prosecute in the appeal. Another local silk was briefed to attend to the issue of whether the court had the power to postpone reporting and publicity of a case.</p> <p>The judgment was handed down on 26 May 2016. The appeals were allowed and the Court ordered a retrial for both Appellants. Pre-trial review hearing has been fixed for 9 January 2017, whilst the re-trial hearing has been fixed from 27 February to 5 May 2017.</p>	2	1,589,000
<p>18. HKSAR v Lew Mon-hung & others and HKSAR v Wong Yuk Kwan alias Wong Kwan (HCCC 561/2013)</p> <p>The case was investigated by the Independent Commission Against Corruption (ICAC). There were initially fifteen counts on the indictment.</p> <p>D1, D2 and D4 were respectively the chairman, deputy chairman and deputy financial controller of a public limited company (the company). In the acquisition of certain natural gas and oil fields in Utah, United States by the company, an announcement and a circular were issued by the company which contained false statements about the acquisition. As a result, SEHK was deceived into allowing their publication, and the company, its shareholders and potential investors were deceived into approving the acquisition. D3, D1’s mistress, was used as a front in the acquisition. It was falsely</p>		

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
<p>represented that D3's company (one of the two vendors) and its beneficial owners were third parties independent of the company and its connected persons.</p>		
<p>All four Defendants were charged with two counts of "conspiracy to defraud". D1 was additionally charged with one count of "employing a device, scheme or artifice in a transaction in securities with intent to defraud or deceive" and seven counts of "dealing with property known or believed to represent proceeds of an indictable offence"; D2, D3 and D4 were additionally charged respectively with one, three and one counts of "dealing with property known or believed to represent proceeds of an indictable offence".</p>		
<p>Prior to the trial, D1 travelled to Taiwan and through his counsel claimed that his medical condition prevented him from returning to Hong Kong for the trial. An application was subsequently made by the prosecution for D1 to be severed from the trial. As a result of the severance, amended indictments respectively containing ten and seven counts were filed against D1, and D2, D3 and D4.</p>		
<p>The trial for the remaining three Defendants proceeded. One senior junior counsel and one junior counsel were briefed to handle the trial. On 20 May 2015, D2 was acquitted of all charges he faced while D3 and D4 were respectively convicted of five and two counts. On 22 May 2015, D3 was sentenced to seven years' imprisonment while D4 was sentenced to five years' imprisonment. Both D3 and D4 were disqualified from acting as directors for ten years.</p>		
<p>For D1, he subsequently applied for JR, challenging the prosecution's decision to rely on the opinion of an officer of SEHK to prove the falsity of the statements mentioned in the first paragraph above, on which his prosecution was based. Hearing for the application for leave for JR was held on 19 February 2016 (HCAL 71/2015) and the junior counsel who</p>		

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
handled the earlier trial was briefed to appear on behalf of the SJ as putative respondent. On 22 June 2016, the application was dismissed with costs order nisi to the SJ.		
19. Ng Chi Keung v HKSAR (HCAL 27/2013)	2	1,265,000

In June 2009, the Applicant and four others were charged, together with other Defendants, with conspiracy to blackmail an individual into transferring some shares to one of the individual's nominees. The trial of that case (HCCC 66/2010) was subsequently heard in the CFI before a Deputy Judge with a jury. All Defendants (including the Applicant) were found not guilty of all charges by the jury unanimously and were thus acquitted on 25 March 2014.

Before the relevant criminal charges were determined at the said trial, the Applicant lodged a complaint with the Police in December 2011 alleging that three persons involved in the case had conspired to make a false report to the Police in relation to two incidents of theft of their shares. On 20 July 2012, the Applicant, through his legal representatives, commenced proceedings at the Magistrates' Court and issued summonses against the above-mentioned three persons for the private prosecutions of them for conspiracy to pervert the course of justice.

By way of a notice under section 14(3) of the Magistrates' Ordinance (Cap. 227), the private prosecutions proceedings were taken over by the SJ on 12 October 2012, and upon careful consideration by the then Director of Public Prosecutions, it was decided to discontinue the proceedings on the ground that the evidence available did not disclose a reasonable prospect of conviction. On 28 December 2012, the three private summonses were formally withdrawn by the DoJ.

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
<p>On 30 January 2013, the Applicant made an application for leave to apply for JR against the SJ's decisions to intervene and assume conduct of three private prosecutions instituted by the Applicant, and then to discontinue those proceedings. The application, made ex parte, was refused by a Deputy Judge on the ground that it was unarguable and had no prospects of success.</p> <p>The Applicant subsequently launched an ex parte appeal against the Deputy Judge's decision (CACV 32/2013). On 30 April 2014, the CA allowed the appeal and gave the Applicant leave to apply for JR.</p> <p>The JR hearing ultimately took place before a CFI judge on 14 January 2015, 9 to 11 November 2015 and 22 January 2016. Given the legal complexity of the matter and significant implication of the ruling on the constitutional role of the SJ in terms of prosecutorial independence, an experienced local SC of high standing and a local junior were briefed to handle the case on behalf of the SJ as Respondent. Judgment, in favour of the Respondent, was eventually handed down on 21 April 2016.</p>		
20. Fees and expenses incurred in 38 other criminal cases under \$1 million each	-	11,367,370
Sub-total: 45 cases		31,559,616
Total expenditure	(608 cases)	137,350,325

**Legal services for construction dispute resolution
Breakdown of cases briefed out at fees
not covered by the approved scales in 2015-16**

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
<p>1. Stonecutters Bridge - Contract No. HY/2002/26 Arbitration between Maeda-Hitachi-Yokogawa-Hsin Chong Joint Venture and the Government of the Hong Kong Special Administrative Region (HKSAR)</p> <p>Fees and expenses incurred in relation to appointing an arbitrator as well as engaging a solicitors' firm, a London Queen's Counsel (QC), a local junior counsel, a quantum expert, a programming expert, a general bridge engineering expert, an engineering expert in wind and structural health monitoring system and a specialist engineering expert in arbitrations in respect of claims brought by the Contractor against the Government for missing items, variations and requests for variations and the Final Account claims.</p>	9	44,231,662
<p>2. Rehabilitation of Shek O Quarry - Contract No. GE/93/14 Arbitration between Shek O Quarry Limited and the Government of the HKSAR</p> <p>Fees and expenses incurred in relation to appointing an arbitrator as well as engaging a solicitors' firm, a London QC, a local junior counsel, a quarry expert, a quantum expert, a programming expert, a site formation engineering expert and a construction materials engineering expert in an arbitration in respect of claims brought by the Contractor against the Government for additional costs, loss of profits, management costs and interest.</p>	9	9,606,207

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
<p>3. Sha Tin New Town, Stage II Road Work at Areas 34 & 52 in Shui Chuen O and Area 56A in Kau To - Contract No. ST/2005/02 Arbitration between Penta Ocean-Peako Joint Venture and the Government of the HKSAR</p> <p>Fees and expenses incurred in relation to appointing an arbitrator as well as engaging a solicitors' firm, a local Senior Counsel (SC), a local junior counsel, a programming and quantum expert and a civil and geotechnical engineering expert in an arbitration in respect of claims brought by the Contractor against the Government for the cost of extension of time, prolongation, delay, measurement and valuation, variations, additional works and Final Account items.</p>	6	15,922,983
<p>4. Route 8 between Cheung Sha Wan and Sha Tin – Design and Construction Assignment - Consultancy Agreement No. CE 50/98 Arbitration between the Government of the HKSAR and AECOM Asia Company Limited (formerly known as Maunsell Consultants Asia Limited) and Hyder Consulting Limited trading as Maunsell Hyder JV</p> <p>Fees and expenses incurred in relation to appointing an arbitrator as well as engaging a solicitors' firm, a London QC and a local junior counsel in an arbitration in respect of claims brought by the Government against the former Engineer in relation to the works of the Lai Chi Kok Viaduct.</p>	4	2,686,182
<p>5. Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL)</p> <p>Fees and expenses incurred in relation to engaging two solicitors' firms, a London QC and a local SC to provide legal advice on matters relating to the XRL Project.</p>	4	4,583,989

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
<p>6. Enhancement of Footbridges in Tsim Sha Tsui East - Contract No. HY/2007/15 Arbitration between Yee Hop Engineering Company Limited and the Government of the HKSAR</p>	4	6,265,028
<p>Fees and expenses incurred in relation to engaging a solicitors' firm, a local SC, a local junior counsel and a quantum and programming expert in an arbitration in respect of claims brought by the Contractor against the Government for extension of time, refund of liquidated damages, prolongation/disruption costs and the final account.</p>		
<p>7. Formation and Associated Infrastructure Works for Development at Choi Wan Road and Jordan Valley - Contract No. CV/2000/06 Arbitration between China State Construction Engineering (HK) Limited and the Government of the HKSAR</p>	3	2,200,908
<p>Fees and expenses incurred in relation to engaging a solicitors' firm, a local junior counsel and a quantum expert in an arbitration in respect of claims brought by the Contractor against the Government for additional costs, measurement and valuation of various claims.</p>		
<p>8. Sludge Treatment Facilities - Contract No. EP/SP/58/08 Mediation between VW-VES(HK) Limited and the Government of the HKSAR</p>	2	1,832,528
<p>Fees and expenses incurred in relation to engaging a solicitors' firm and a local junior counsel in a mediation in respect of claims brought by the Contractor against the Government for extension of time and additional payments and a dispute as to levy of liquidated damages.</p>		

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
9. Extension of Footbridge Network in Tsuen Wan Footbridge A along Tai Ho Road - Contract No. HY/2007/03 Arbitration between Sun Fook Kong (Civil) Limited and the Government of the HKSAR	1	1,502,950
Fees and expenses incurred in relation to engaging a programming and quantum expert in an arbitration in respect of claims brought by the Contractor against the Government for variations, missing items and re-measurement.		
10. Fees and expenses incurred in 16 other civil cases under \$1 million each		2,095,402
Total expenditure	(25 cases)	90,927,839
