

upon which these proceedings were initiated has not been heard by the Panel. Consequently, the Panel can express no opinion on whether there was a basis or otherwise for the Executive to institute proceedings.

3. Having regard to the decision in paragraph 2 above, there is no basis for the Panel to consider the question of recommending that the Commission order the SFC to pay the other Directors' costs. The Panel also notes that the Code contains no provisions with regard to the Panel making recommendations on parties' costs.

AGENDA ITEM 2

No items for decision arose under this point. It should be noted that the Chairman confirmed that Mr Liang Xiaoting had indicated both that he would not be attending this meeting and, moreover, due to travel commitments, he would now not be able to attend the hearing in October. Mr Liang had, however, confirmed that from his standpoint, he was not aware of any conflict of interest or real danger of bias that would disqualify him from membership of the Panel for the purposes of this hearing. The Chairman confirmed to the solicitors Charles Yeung Clement Lam & Co, representing Mr David Wong, that if Mr Liang was subsequently able to join the Panel for the hearing scheduled in October, then he would most certainly be entitled to raise again the question of whether Mr Liang should remain on the Panel for the purposes of this hearing.

AGENDA ITEM 3 - REQUESTS FOR LEGAL REPRESENTATION IN RESPECT OF THE REMAINING PARTIES

Submissions were made on this point by all parties including the solicitors to Mr E, Mr F and Mr G and by the solicitors Mr Raymond Ho & Koo, representing {X} ("X"), who were not listed on the agenda item. The Executive also presented its views. The question of whether to permit representation other than as prescribed by Introduction Section 16.2 is a matter that falls to the discretion of the Chairman. In exercising this discretion, the Chairman has regard to the submissions made both by the parties and the Executive and also has particular regard to the views of the Panel members. In previous disciplinary cases, the Chairman notes that whilst Solicitors had presented opening and closing submissions, financial advisers or the parties themselves presented the remainder of their case.

Cognisant of the procedure previously adopted by the Panel in this matter, the Chairman grants consent to all of the parties presenting their opening and closing submissions through their Solicitors should they so wish. No general consent is given to the parties' Solicitors to ask questions of the parties or witnesses. In exercising his discretion in this manner, the Chairman has, as stated above, had particular regard to previously established procedures and to the fact that the parties are free to consult their Solicitors during the course of the proceedings.

It should be noted that the Panel would encourage the parties to make their written submissions as full and comprehensive as practicable and to set out in them all the material matters on which they intend to rely.

The proceedings before the Panel are intended to be informal and it is for this reason that the Code encourages parties before the Panel to represent themselves or to be represented by a financial adviser. Most of the representations made to the Panel take the form of written submissions and there is no restriction on the parties in the persons they employ to assist them in the preparation of written submissions. The Code also permits all parties to bring with them any solicitor they wish so that all parties are able to receive legal advice during the course of the proceedings. The Panel considers that these arrangements properly safeguard the interests of the parties appearing before it and will ensure fairness to all parties. Further the Chairman is not persuaded that there are any exceptional circumstances which would cause him to depart from the procedures previously adopted by the Panel.

The Panel is entirely sympathetic to certain of the parties' concerns as to the language of the proceedings and specifically directs that sufficient interpreters should be present during the proceedings so as to ensure that those parties requiring translation of the proceedings are adequately served. In this regard, the Panel is also mindful of the fact that several members of the Panel are fluent in both English and Cantonese.

Two parties (solicitors Charles Yeung Clement Lam & Co, representing Mr David Wong, and the solicitors, representing Mr H) also made applications for their clients to be represented by Counsel at the hearing. Again, this is a matter in which discretion falls to the Chairman. Having regard again to established procedures, the arguments of solicitors representing Mr David Wong and Mr H and to the views of the Panel

and challenge evidence that may be relevant in the context of the allegations against Mr Wong and the other parties.

AGENDA ITEM 6 - TO APPROVE THE PROCEDURAL RULES GOVERNING THE CONDUCT OF DISCIPLINARY PROCEEDINGS

No matters for the Panel's decision were raised under this heading. As mentioned below, the final Procedural Rules Governing the Conduct of Disciplinary Proceedings will be despatched to all parties as soon as practicable after 26 June 1998.

AGENDA ITEM 7 TIMETABLE

It is the view of the members that the hearing date 12 October 1998 should be maintained if this is at all possible. The Executive has been directed to complete its revision to the Panel paper and provide copies to the Secretary to the Panel by no later than 26 June 1998.

The Panel is, however, mindful of the fact that until the revision to the Panel paper currently contemplated by the Executive has been completed and the paper distributed to the Panel and the parties, it will not be possible to determine whether the dates currently fixed for replies will need to be revised. Such determination will be made, and the final Procedural Rules Governing the Conduct of the Disciplinary Proceedings will be despatched, as soon as practicable after 26 June 1998 when the Chairman has seen the revision of the Panel paper.

ANY OTHER BUSINESS - SUBMISSIONS BY RAYMOND HO & KOO ON BEHALF OF {X}

Solicitors, Raymond Ho & Koo representing {X} requested that particulars of the allegation against {X} be properly framed and i

that {X} should be given full opportunity to respond to the allegations made against him and to any facts that are presented to the Panel. The Panel considers that its independence is not affected simply by virtue of the fact (enshrined in the provisions of Section 16.1 of the Code) that its proceedings include an inquisitorial element (in that the Panel may make any enquiries it deems relevant or appropriate and initiates the questioning of the parties and witnesses).

Raymond Ho & Koo were also concerned that certain other respondents in respect of whom proceedings were withdrawn had received preferential treatment and that there was no rational reason for these withdrawals. The Panel accepts the Executive's explanation for the withdrawal of proceedings and in particular that they were not withdrawn solely because they were last in chronological order. The Panel is concerned only with the proceedings now before it, which include the allegations against {X}, and is not required to consider whether proceedings might be maintained against the other respondents.

Raymond Ho & Koo confirmed that they were now withdrawing the two other submissions set out in paragraphs 5 and 6 of their letter of 17 June 1998.

June 1998