



Press Update Session
Intervention into the practice of Messrs. Wong, Fung & Co.
12 January 2020, 4 p.m.

I. Introduction

1. Pursuant to Sections 26A(1)(a)(ii) and 26A(1)(c) of the Legal Practitioners Ordinance, Cap. 159 (“the Ordinance”), the Law Society exercised the powers conferred by Schedule 2 to the Ordinance to intervene in the practice of MESSRS. WONG, FUNG & CO. (the “Intervened Firm”) on 24 December 2020.

II. Role of the Law Society

2. First, we would like to clarify the role of the Law Society.
3. The Law Society is the regulatory body of the solicitors’ profession. It has been given the duty to maintain the standards of the profession.
4. As with any other profession, there may be members who do not comply with the rules and the standards.
5. In these circumstances, the Law Society is granted the regulatory power to take necessary actions in accordance with the law.
6. The power of intervention is governed strictly under the Legal Practitioners Ordinance and it is only to be exercised under specified circumstances.
7. When those circumstances arise, not taking any action is not an option. The Law Society is under a duty to exercise its power to protect the public and clients of law firms.
8. In the case of Messrs. Wong, Fung & Co., as a result of an investigation, the Council had reason to suspect the dishonesty of a former clerk of the Firm who had misappropriated the Firm’s client money. The matter has been reported to the Police. Further, the Council was satisfied that the Firm had committed serious breaches of the Solicitors’ Accounts Rules (Cap 159 sub leg) including, among others, overdrawing on client accounts and allowing unqualified persons to be authorized signatories of client accounts.
9. Taking into account the seriousness of the findings of the investigation on the Firm, the Council had no alternative but to exercise its statutory powers to intervene into the practice of the Firm.

10. Intervention into the practice of a law firm enables the preservation of the funds of the law firm as of the date of the intervention.

III. Advance notice of intervention

11. Some affected former clients queried if advance notice of intervention should be given.
12. There is a risk that if the decision to intervene into the practice of a law firm is made known widely in advance of the intervention, it may alert those in control of the firm to take prior action detrimental to the interest of the clients of the firm including absconding with the client money and destroying documents and records of the firm that may implicate them.
13. Thus, please understand that the Law Society cannot give any prior notice of intervention to anyone. Those involved in the decision making process are all required to keep the decision strictly confidential.
14. The Law Society carefully considered all relevant circumstances and assessed the risks to the public and the clients of the firm based on the information available when making a decision of whether to intervene. It is not a matter of the Law Society picking a specific date to do intervention. When the Council decides that the situation is so serious that it has to exercise its power to intervene to preserve the funds of the law firm for protection of the firms' clients, action will be taken as soon as practicable.

IV. Work to minimize impact of the intervention

15. Since the commencement of the intervention, The Law Society has been working closely with all stakeholders to minimize the impact of the intervention:
 - (a) called for law firms to assist clients of the intervened firm and conducted a briefing session for them on how they could assist;
 - (b) appealed to Stamp Office to exercise its discretion to remit any penalty caused by the intervention;
 - (c) kept relevant departments including the Secretary for Justice, the Financial Secretary, the Transport and Housing Bureau and the Commerce and Economic Development Bureau updated on the intervention and appeal them to consider any assistance from the Government; has also written to the Judiciary Administrator, the Land Registry and the Official Receiver's Office as well to alert them about the intervention and to seek their assistance an understanding in case there has been disruption to cases involving the intervened firm;
 - (d) updated the Monetary Authority on the intervention and written to the Association of Banks to urge banks to consider support measures for clients of the intervened firm;

- (e) liaised with Legal Aid on legally aided cases involving the intervened firm;
 - (f) alerted the Estate Agents Authority of the intervention and shared the FAQs with them, appealing them to consider ways that their licensees can help clients of the intervened firm for whom they might have acted before;
 - (g) alerted the Consumer Council of the intervention and shared the FAQs with them to enable them to assist with enquiries from former clients of the intervened firm;
 - (h) coordinating a list of mediators to provide mediation services to parties affected by the intervention with a view to facilitating a speedy resolution of disputes and talking to a number of mediation service platforms to seek their assistance
16. We are pleased to share that the Collector of Stamp Revenue is prepared to consider remission of penalty for late stamping of any property transfer instruments previously submitted by the Intervened Firm or to be submitted by its clients or new solicitors of such clients, in case late stamping is the result of the intervention.
17. Last week, the Law Society held a briefing sessions for law firms which have expressed interest in providing legal services to former clients of the Intervened Firm. We hope that the briefing session would encourage the members in assisting the clients within the bounds of their professional duty, to resolve the difficulties amicably, particularly on matters such as the possibility of postponing the dates for deposit payments, deferring the completion date for sale and purchase, resorting to mediation in the event of any dispute.
18. We will continue to maintain close communication with different stakeholders and release timely updates to everyone.

V. Time frame

19. We understand the affected former clients are asking if there would be ways to apply for release of funds from the Firm's client accounts to enable the property transactions to proceed.
20. The claims for return of client money paid to an intervened firm are subject to verification by the Intervention Agent ("IA").
21. In particular circumstances, for example in the current case, where dishonesty was involved and the intervened firm's records are incomplete, the manner of release of client money will need to be subject to authorisation by a court order.
22. The IA is working round the clock and all assisting law firms are doing their best to handle the process efficiently. The IA and the assisting law firms have been handling cases in order of their urgency.

23. However, because of the volume of files and the records are disorganised, the IA is unable to give a realistic timeline of the process at this stage yet. But clients should expect that the process will take some time.
24. The IA will announce the procedure for a lodging a claim for return of client money, including the completion and submission of a formal claim form in due course.

VI. Claim for loss

25. We notice some affected former clients queried if they could claim against Solicitors Professional Indemnity Scheme (“PIS”).
26. The PIS is a statutory scheme and its operation is governed in accordance with the provisions in the Solicitors (Professional Indemnity) Rules.
27. The PIS, in its current statutory form, operates to indemnify solicitors against civil claims, rather than as a fidelity fund for the public. It is therefore correct that under the Rules, clients affected by the intervention cannot notify and make a claim under the PIS.
28. Generally speaking, the PIS covers claims made against the indemnified as defined in the Rules which includes the firm, its principals and employees in respect of civil liability whatsoever incurred in connection with the Practice (as defined in rule 2 of the Rules), e.g. negligence by a firm in the course of acting for its clients. However, the PIS will not cover losses arising out of any claim brought about by, among others,
 - (i) the dishonesty, fraudulent act or fraudulent omission of a principal i.e. partner / sole practitioner (Paragraph 1(2)(c)(iii) of Schedule 3 to the Rules); or
 - (ii) the dishonesty, fraudulent act or fraudulent omission of an employee unless the firm can show that the dishonesty, fraudulent act or fraudulent omission did not occur as a result of recklessness or dishonesty or fraudulent act or fraudulent omission on the part of a principal in the conduct or management of the Practice (Paragraph 1(2)(c)(iiia) of Schedule 3 to the Rules).
29. Clients need to seek independent legal advice as to whether they have grounds to make a civil claim against their solicitors, who in turn will notify and make a claim against the PIS.

Closing

30. The Law Society treasures communication and will continue to work together with all stakeholders to assist those who have been affected in the process within our remit.