



Our Ref.: SC 101/15/34 PT 2

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16 September 2005

The President
The Law Society of Hong Kong
3/F Wing On House
71 Des Voeux Road Central
Hong Kong

Dear Sir,

I wish to draw to the attention of your members, particularly those who have been involved in the voluntary arrangement cases, to the fact that most of the nominees appointed have failed to comply with Rule 122Z of the Bankruptcy Rules (Cap. 6A).

According to Rule 122Z(1), where the voluntary arrangement authorizes or requires the nominee to administer or dispose of any funds of the debtor or the estate, the nominee shall keep accounts and records of his dealings, and also according to R. 122Z(2) the nominee shall not less often than once in every 12 months prepare an abstract of receipts and payments and send copy of it together with his comments on the progress and efficacy of the arrangement to the court, the debtor and the creditors.

If the nominee is not so authorized in the arrangement, according to R. 122Z(5) he has to not less often than every 12 months send a report on the progress and efficacy of the voluntary arrangement to the court, the debtor and the creditors.

I regret to say that according to our estimation, there are about 6,000 cases where arrangements had been approved with nominees appointed in 2002, 2003 and 2004, and in only about 100 cases the nominees have complied with this reporting requirement and the majority of the nominees have overlooked these provisions.

I wish to remind your members of this requirement and to ask them to check, in cases they acted as solicitors for the debtors, whether the nominees have complied with the provisions. When the nominees wish to be nominated in new cases, the court may take into consideration of the fact whether the nominees have record of default in complying with the rules. We have written letters to the Hong Kong Association of Banks and the Institute of Certified Public Accountants on this subject.

Yours faithfully,

A handwritten signature in black ink, appearing to read "C. Chan", with a flourish at the end.

(Christopher C. Chan)
Registrar