Appendix 7.4.1
Announcement of Appointment

Information on any action taken by Regulatory Authorities against Yin Kum Choy

(1) On 12th July 2004, upon the finding of the Inquiry Committee that Yin Kum Choy is guilty of improper conduct in the discharge of his professional duty which, in the opinion of the Public Accountants Oversight Committee, would bring the profession of public accountancy into disrepute within the meaning of Section 34(1)(c) of the Accountants Act, Cap. 2, the Public Accountants Oversight Committee ordered that Yin Kum Choy pays a penalty of $5,000/- and that he also pays to the Accounting and Corporate Regulatory Authority a sum of $23,857.25, being the costs and expenses of and incidental to the hearing held by the Inquiry Committee on 2 March 2004..

(2) Pursuant to Section 32(2) of the Accountants Act, Cap. 2, the then Public Accountants Board appointed an Inquiry Committee to Inquire into the Information touching on my conduct as a Judicial Manager of Yuan Guang Building Materials Pte Ltd ("YGBM"), a Special Adviser to Mr Kuan Yew Choong ("KYC") and Mr Kwan Fatt Cheong ("KFC") (collectively referred to as "the Kwan Brothers"), my role as Special Accountant to the related companies of YGBM and my role as Special Accountant of M/s Quarz Trading, Quarz Trading (Singapore) Pte Ltd and Yuan Guang Safety Glass Pte Ltd.

(3) The Inquiry Committee was to inquire into whether there was a possible breach by me of Rule 12 of the Public Accountants Board Rules 2000, in particular paragraphs 1(2) and 1(4) of the Third Schedule of the Code of Professional Conduct and Ethics, which reads as follows:-

"1(2) A public accountant shall both be and appear to be free of any interest which might be regarded whatever its actual effect, as being incompatible with integrity and objectivity

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1(4) A public accountant shall conduct himself in a manner consistent with the good reputation of the accountancy profession and refrain from any act or default likely to bring discredit to himself or the profession.":

(4) The Information laid before the Inquiry Committee were those set out in the grounds of decision ("GD") of Justice Rubin in Suit No. 198 of 2001/W ("the Suit") and the article appearing in the Straits Times on 8 July 2002 ("the Article") which had reported the said decision.

(5) The Suit was commenced by the plaintiff, Mr Cendekia Candranegara Tjiang ("Cendekia"), for a declaration that the Memorandum of Understanding ("the MOU") signed on 10 November 1999 among parties, including the plaintiff, and I in my capacity as the Judicial Manager of YGBM is not a complete and binding agreement as further terms have to be agreed upon. Cendekia's object was to get a refund of the sum of S$462,800 which he paid under the MOU. If Cendekia succeeded in having the MOU declared not binding, he would be entitled to the refund. My defence in the Suit was that as a matter of construction and in law, the MOU is a valid and binding agreement and there was part performance of the MOU by Cendekia. Justice Rubin held in his Grounds of Decision ("GD") that the MOU was not a complete and binding agreement.

Appendix 7.4.1
Announcement of Appointment

(6) Justice Rubin in his GD also made various remarks that suggested that because of my various appointments and roles, I was placed in a conflict of interest position that had contributed to the collapse of the deal contemplated under the MOU. The thrust of the Article was on the obiter views of the trial judge which invited attention upon my conduct from my various appointments and roles.

(7) In my representation to the Inquiry Committee, my position, in summary, was that:

(i) the Inquiry was based on the obiter or by the way remarks made by Justice Rubin in his GD, which remarks were not findings or binding in law; and that the truth and veracity of these remarks which had surfaced only in his GD (given well after the trial and the decision made in the Suit) had not been tested or evaluated;

(ii) in my appeal against Justice Rubin's decision in Civil Appeal No. 27 of 2002, the issue raised by me before the Court of Appeal was purely a legal question of whether as a matter of construction, the MOU can be said to be a complete agreement in itself and therefore binding on the parties. Based on the advice of my then legal advisors, it was not even necessary or relevant for me to put to ask the Court of Appeal to rule on the appropriateness or correctness of the remarks made by Justice Rubin. For this reason, in my appeal I did not deal with those remarks (personal to the judge) concerning my various appointments and the effect thereof;

(iii) it would be grossly unfair and unjust if I should be made to answer the Inquiry for remarks that were merely obiter and not part of the issues raised at trial since I was not given the opportunity to defend my position. In the Suit, the whole purpose was to get a Court's ruling on whether the MOU is binding. It was not part of the plaintiff's case that the MOU was not binding and should be set aside on grounds that I was in a conflict of interest position, that I was biased etc. Neither was there any complaint about my conduct in the deal. In fact, all parties concerned, the Court, the plaintiff, the Secured Creditors and personal creditors of the Kwan Brothers were all aware of my various appointments and had all along sanctioned those appointments;

(iv) there was nothing in the Act or the rules or in any of our code of ethics that prohibits me (either on grounds of conflict or other grounds) from taking up those various appointments, which I had assumed because I was acquainted with the matters and it was expedient to do so, for the benefit of all parties. In the light of the circumstances in which the various appointments were undertaken by me, it was a matter for me as an insolvency practitioner to assess whether I may accept and/or continue the various appointments in the particular context that subsisted at the time;

(v) there was no conflict as between the appointments that I had assumed since the interest of all parties converged; and even if there was any potential conflict as between the various appointments that were assumed by me, I had taken more than reasonable steps and safeguards to fully and frankly disclose my various appointments to all parties, including the Secured Creditors and the Court in all proceedings; and there was no objection from either the Secured Creditors or the Court as to my continuing with the various appointments that then subsisted; and

Appendix 7.4.1
Announcement of Appointment

(vi) therefore, my appointments and my conduct of the various dealings were not in any way incompatible with my integrity or objectivity or would discredit the accounting profession.

(8) Though I was disappointed with the outcome of the Inquiry, leading to the order of the Public Accountants Oversight Committee, as was set out at para 1 above, I did not appeal to the High Court against this order, as I had by then gone through the ordeals of the Inquiry, and the Appeal, following the Suit, and was not prepared to go through further torment by pursuing the matter further.

(9) The order of the Public Accountants Oversight Committee did not affect my registration as a public accountant, which I have been renewing on a yearly basis, since then.

(10) I had not raised this matter earlier as I did not consider it as being relevant for the scope and purpose of the current engagement under consideration. I would have nevertheless disclosed the same, had I been specifically asked about any actions taken against me by regulatory authorities.