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來函請註明本署檔號

IN REPLY PLEASE QUOTE THIS REF.: ORO CMD/1-80/30/2

來函檔號 YOUR REF.:

電話 TEL. NO.: 2867 2515

圖文傳真 FAX NO.: 2110 0315

- (i) The Hong Kong Institute of Certified Public Accountants
- (ii) The Law Society of Hong Kong
- (iii) The Hong Kong Chartered Governance Institute

28 December 2023

Dear Sirs,

Summary Procedure Order Applications by Provisional Trustees in Bankruptcy Cases

Subsequent to my letter of 30 May 2022 on the captioned subject, the court has observed certain common errors / inconsistencies in the applications for summary procedure orders (“SPO”) by different provisional trustees in bankruptcy cases. As a result, the template for the application for SPO and the checklists for creditor’s petition and debtor’s petition cases have been further reviewed and revised by the Court.

I attached at Annex A to C the said revised template for the application and the checklists. **With immediate effect**, provisional trustees are expected to follow the said revised template and complete the relevant revised checklist in every SPO application. Provisional trustees must answer all questions on the relevant revised checklist for each application and sign the checklist.

The Court has also requested the Official Receiver to inform private insolvency practitioners in their capacity of provisional trustees to note the following when completing the checklist for self-petition cases :

- (a) If shares of a limited company held by the Bankrupt have been identified, item 3 of the checklist should be marked as "Yes" even the shares are of no value.
- (b) It is the limited company (separate legal entity) which has carried on business in Hong Kong instead of the Bankrupt. Even the Bankrupt held shares

and/or directorship of a limited company, item 4 of the checklist should be marked as "N/A".

- (c) If the total amounts of both columns 2 and 3 of List H are "Nil" / "\$0" / "N/A", item 5 of the checklist should be marked as "N/A".

Please circulate this letter to your members who are provisional trustees for their attention. Should there be any query on this letter, please contact the undersigned on 2867 2515.

Yours faithfully,

Signed
(Michael T S Cheung)
for Official Receiver

Ex-parte Application

HCB []/[]

IN THE HIGH COURT OF THE

HONG KONG SPECIAL ADMINISTRATIVE REGION

COURT OF FIRST INSTANCE

IN BANKRUPTCY PROCEEDINGS / **BANKRUPTCY PROCEEDINGS** /
BANKRUPTCY NO.

NO. [] OF []

Re: [] (“**the Bankrupt**”)

Ex parte: [The Official Receiver / The Provisional Trustees]

Please be reminded that all court documents should have a title that tallies with the Petition.

APPLICATION FOR SUMMARY PROCEDURE ORDER

The [Official Receiver / Provisional Trustees] report(s) to the court as follows:

1. On [], a bankruptcy order was made against the above-named **Bankrupt**.
2. [The Official Receiver / (names of the Provisional Trustees)] [was/were] appointed provisional trustee(s).
3. The [Official Receiver / Provisional Trustees] [has/have] made a preliminary investigation into the affairs of the **Bankrupt**, including the extent of the **Bankrupt's** assets. Particulars are confirmed in the attached checklist.
4. (Further information provided pursuant to Questions 2 and [4/5] of the Checklist.)
5. Based upon that investigation, the [Official Receiver / Provisional Trustees] believe(s) that the property of the **Bankrupt** is not likely to exceed in value the sum of \$200,000.
6. In the circumstances, the [Official Receiver / Provisional Trustees] respectfully request(s) the court to order that the **Bankrupt's** estate be administered in a summary manner and that:

(1) the first meeting of creditors shall be dispensed with;

- (2) [the Official Receiver / (names of Trustees)] shall be the trustee(s) of the property of the Bankrupt; and
- (3) there shall be no creditors' committee, and the [Official Receiver / Trustees] may do all things which may be done by a trustee with the permission of a creditors' committee.

Date: []

(name of the Provisional Trustee / officer for the OR)

Checklist for Summary Procedure Order Application (creditor's petition)

- | | | | |
|---|-----|----|-----|
| 1. Has the Official Receiver filed the appointment letter? | Yes | No | N/A |
| 2. Has/Have the Provisional Trustee(s) (“PT”) interviewed the Bankrupt?
(If no, please state efforts to locate the Bankrupt and his assets in the report.) | Yes | No | |
| 3. If yes to 2 above, has the Bankrupt submitted SOA? | Yes | No | N/A |
| 4. If yes to 3 above, has/have the PT checked all the assets disclosed in the SOA? | Yes | No | N/A |
| 5. Has/Have the PT found assets not disclosed in the SOA?
(If yes, please provide particulars in the report.) | Yes | No | N/A |
| 6. Has/Have the PT checked the assets of the business formerly operated by the Bankrupt? | Yes | No | N/A |

Date: []

I confirm the above are true and correct

(name of the PT / officer for the OR)

