

Ms. HO Lai-sheung, Cora, JP  
Returning Officer  
New Territories East Geographical Constituency  
4/F, Sha Tin Government Offices  
1 Sheung Wo Che Road  
Sha Tin, New Territories

27<sup>th</sup> July 2016

Dear Madam,

**Re: 2016 Legislative Council General Election –**  
**LEUNG Tin-kei Edward**

1. I refer to your letter dated 22 July 2016 (“**the Letter**”) and your letter dated 25 July 2016 sent to me by e-mail.
  
2. In paragraph 5 of the Letter, you, purportedly under section 10(10) of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation, Cap 541D (“**the Regulation**”), requested me to answer the following question for your consideration of whether my nomination is valid:

“你是否承認，雖然你簽署了提名表格上擁護《基本法》和保證效忠香港特別行政區的聲明，但事實上你仍然繼續主張和推動香港獨立？” (“**the Question**”)

3. I have sought legal advice (for which I claim privilege) as to whether you have power to ask the Question. I hereby reply as follows:

(1) Section 40(1)(b)(i) of the Legislative Council Ordinance, Cap 542 (“**LCO**”) provides:

“A person is not validly nominated as a candidate for an election for a constituency unless the nomination form includes or is accompanied by a declaration to the effect that the person will uphold the Basic Law and pledge allegiance to the Hong Kong Special Administrative Region”.

(2) My nomination form duly submitted to you on 16 July 2016 (“**the Nomination Form**”) includes “a declaration to the effect that the person will uphold the Basic Law and pledge allegiance to the Hong Kong Special Administrative Region” (“**the Declaration**”), which complies with section 40(1)(b)(i) of the LCO.

(3) Section 40(1)(b)(i) of the LCO is complied with so long as the Nomination Form includes the Declaration. You have no power to enquire into, for example, whether I was *bona fide* in signing the Declaration in the Nomination Form.

(4) Section 10(10) of the Regulation *only* empowers you to require me to furnish any other information that you consider appropriate to be satisfied: (a) that I am eligible to be nominated as a candidate; and (b) as to the validity of the nomination.

(5) Section 10(10) of the Regulation *does not* empower you to enquire into the subject-matter of the Question, which has nothing to do with whether I am eligible to be nominated as a candidate or the validity of the nomination:

(i) under section 16(2) of the Regulation, I stand validly nominated unless: (a) you decide that the Nomination Form is invalid; or (b) I withdraw my candidature; and

(ii) under section 16(3) of the Regulation, you may decide that my nomination is invalid *if and only if* any of the grounds specified in section 16(3)(a)-(f) applies. You have failed to identify which of the grounds (if any) specified in section 16(3)(a)-(f) are engaged.

(6) Further, the Nomination Form complies with section 10 of the Regulation and sections 37, 39 and 40 of the LCO.

(7) Therefore, you have no power to decide that my nomination is invalid.

4. Without prejudice to the forgoing (in particular paragraphs 3(3)-(5) above), and for the avoidance of doubt, I hereby declare that:

(1) the answer to the Question is a resounding “no”;

(2) I am not responsible for and do not accept the accuracy of some of the hearsay statements contained in the materials referred to in paragraph 2 of the Letter (“**the Hearsay Statements**”);

(3) I hereby dissociate myself from all of the contents of the Hearsay Statements;

(4) I have sought legal advice (for which I claim privilege) and now:

- (i) I fully understand the legal requirements and, on that basis, am “*bona fide* in signing the declaration in the nomination form”<sup>1</sup>; and
- (ii) I clearly understand “the relevant Articles of the Basic Law”<sup>2</sup>, namely Articles 1, 12 and 159(4);
- (5) for the avoidance of doubt, the “Facebook webpage of LEUNG Tin-kei Edward” referred to in paragraph 2 of the Letter (“**the Old Facebook Page**”) was not managed by myself and I did not upload anything on it;
- (6) on 23 July 2016, I closed the Old Facebook Page which contains statements that are inconsistent with my present stance and opened a new Facebook page<sup>3</sup>; and
- (7) further, on 23 July 2016, I instructed my election agent to correct the information in relation to my election advertisements by removing the Old Facebook Page as my election advertisement through the online platform, which has been completed before the date of this letter;
- (8) in any event, irrespective of the Hearsay Statements and/or any other statements that may be inconsistent with my present stance, I hereby re-iterate and re-confirm that I will uphold the Basic Law (including Articles 1, 12 and 159(4) thereof) and pledge allegiance to the Hong Kong Special Administrative Region – see a duly signed Confirmation Form enclosed herewith.

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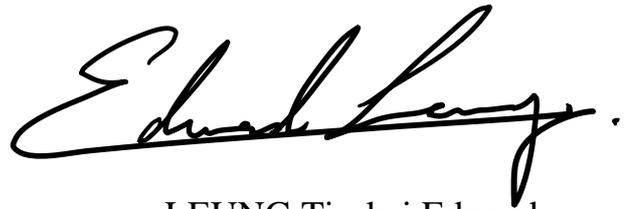
<sup>1</sup> See the press statement issued by the Electoral Affairs Commission on 14 July 2016.

<sup>2</sup> *Ibid.*

<sup>3</sup> <https://www.facebook.com/leungtinkei/?pnref=story>

5. In the premises, please decide whether I am validly nominated *as soon as practicable* in accordance with section 16 of the Regulation.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Edward Leung', with a long horizontal stroke extending to the right.

LEUNG Tin-kei Edward

Encl.