

Six guilty of conspiracy to defraud over acquisition of listed company

01.09.08

Six persons, including a former financial controller of Shanghai Land Holdings Limited (Shanghai Land) and three lawyers, charged by the ICAC, were today (Monday) found guilty of conspiracy to defraud in relation to the acquisition of imGO Limited (imGO) (later renamed as Shanghai Land).

The defendants are Habibullah Abdul Rahman, 44, then financial controller of Shanghai Land; Rowena Ng See-wai, 45, then managing director of BOCI Asia Ltd. (BOCI); Fiona Lam Lai-chu, 42, then vice-president of BOCI; Fan Cho-man, 43, and Donald Koo Hoi-yan, 55, then partners of Koo and Partners; and Simon Lai Sau-cheong, 47, partner of Deacons.

District Court Judge Colin Mackintosh found Abdul Rahman, Ng, Lam, Fan and Lai guilty of one count of conspiracy to defraud the Stock Exchange of Hong Kong (Stock Exchange), the Securities and Futures Commission (SFC) and shareholders of imGO. Fan, Lai and Koo were also convicted of a similar charge.

Fan and Koo were further found guilty of one count of publishing a false statement by company directors.

Judge Mackintosh will continue to deliver his reasons for verdict tomorrow. All defendants were granted bail but ordered not to leave Hong Kong.

The case arose from a corruption investigation. Subsequent ICAC enquires revealed the above offences.

Co-defendant, then executive director of Shanghai Land, Angela Gong Beiying, had earlier pleaded guilty to the two conspiracy charges.

The court heard that in March 2002, businessman Chau Ching-ngai approached the Bank of China (Hong Kong) Limited (BOCHK) for a loan facility of \$2.15 billion to finance his intended acquisition of imGO, a listed company in Hong Kong.

The loan facility was obtained in the name of Global Town Limited (Global Town), a British Virgin Islands company in which Chau was the sole director and only shareholder.

At the time of the offences, Abdul Rahman was Chau's financial controller while Ng and Lam were respectively managing director and vice president of BOCI, the financial adviser to Global Town in the aforesaid acquisition.

Deacons, and Koo and Partners were respectively then legal advisers to Global Town and BOCHK in relation to the said loan facility.

The court heard that Chau had planned to sell his properties in Shanghai to imGO after he took over its control and use the sale proceeds to repay the loan that Global Town obtained from BOCHK.

Chau's plan was fully known to Abdul Rahman, Ng, Lam, Fan and Lai when they discussed with Chau and Gong over the loan facility and intended acquisition between April 18 and June 22, 2002.

They had made false representations in May and June in a joint announcement, the composite offer and response documents regarding the acquisition of imGO by concealing Chau's plan.

Fan, Lai and Koo had also conspired with Gong and Chau between June 4 and August 13, 2002 to publish a false announcement and circular regarding the amendment of the Articles and Association of imGO and the setting up of an executive committee.

They had falsely represented that the executive committee was to facilitate the management of the assets of the company. In fact, the real purpose was to control over imGO's cash and activities.

As a result of the false representations, the Stock Exchange and the SFC were prejudiced by being prevented from performing their public duties in relation to the listing rules and takeover codes; and the existing and potential shareholders of imGO were misled and prevented from making an informed decision in relation to the general offer and amendment to imGO's Articles of Association.

The court further heard that Koo, Fan and Gong, being directors of Shanghai Land, had made a false and misleading statement in the directors' report of Shanghai Land for the financial year ending June 30, 2003.

They had concurred in the report that Chau had no material interest in any contract of significance with Shanghai Land despite they were aware that Chau had been in control of various properties acquired by Shanghai Land, and that the proceeds of the sale of the properties to Shanghai Land were used to repay the loan Global Town obtained from BOCHK.

The prosecution was today represented by prosecuting counsel Ian Lloyd and Peter Callaghan, assisted by ICAC officer Tang Chi-kong.