

## Trio guilty of bribery and false accounting over HA's building projects

05.12.08

Three senior executives of two companies, charged by the ICAC, were today (Friday) convicted at the District Court of bribery and false accounting offences in relation to the supply of electrical materials to Hong Kong Housing Authority's (HA) building projects.

Wong Hung-ki, 57, director of Mpower Engineering Limited (Mpower); Yu Chi-wai, 49, and Ann Wong Tin-sum, 41, respectively president and financial controller of ABB (Hong Kong) Limited (ABB), were found guilty of two counts of conspiracy to offer an advantage to public servants and two of conspiracy to falsify account.

Judge Andrew Chan Hing-wai adjourned the case until December 18, 2008 for sentence, pending background reports. The defendants were remanded in the custody of the Correctional Services Department.

The court heard that HA contracted out building projects to main contractors, who would in turn sub-contract the installation of various building services, namely electrical equipment, fire service and water pumps, air-conditioning and ventilation, as well as lifts and escalators, to other subcontractors. HA would then appoint those building services sub-contractors as Nominated Sub-contractors (NSCs).

Since August 1998, Wong Hung-ki, Yu Chi-wai, a sales manager of ABB and another supplier had regular meetings, during which they formed a cartel and discussed the order of priority for Mpower, ABB Industrial and Building Systems Limited (now known as ABB (Hong Kong) Limited) and another cartel member to secure contracts for the supply of an electrical material, known as Miniature Circuit Breaker (MCB), to those NSCs in forthcoming HA building projects. Two other suppliers subsequently joined the cartel in January 1999.

As a result, the suppliers avoided genuine competitions among themselves, and secured a greater profit margin.

At a subsequent meeting, Wong Hung-ki told Yu Chi-wai and the sales manager of ABB that certain HD officers had offered assistance in pressurizing some of the NSCs to engage the cartel members to supply MCBs.

The court also heard that between May and July 1999, Wong Hung-ki and Yu Chi-wai conspired with other persons to offer a bribe payment of about \$700,000 to the above HD officers. The bribe money was equally contributed by Mpower, ABB and other companies in the cartel, the court heard.

To cover up ABB's share of the bribe payment, equivalent to \$233,350, Wong Hung-ki, Yu Chi-wai and Ann Wong Tin-sum conspired with the sales manager of ABB to issue a bogus purchase order to Mpower.

The bogus purchase order, for the same amount of \$233,350, purported to show that ABB had placed an order with Mpower for the provision of technicians and equipment for modification of capacitor banks.

The court also heard that between May and August 1999, Wong Hung-ki and Yu Chi-wai conspired with other persons to offer a bribe payment of about \$1.2 million to those HD officers for the same purpose.

Wong Hung-ki, Yu Chi-wai and Ann Wong Tin-sum then conspired with the sales manager of ABB to issue two bogus purchase orders for the amount of \$200,000 each, purporting to show that ABB had placed orders with Mpower and another company in the cartel respectively, the court was told.

The defendants were charged in June 2004. A District Court deputy judge ordered a stay of proceedings in July 2005 on grounds that the ICAC's taping of a meeting between Yu Chi-wai and his lawyer in November 2002 had infringed Yu's legal professional privilege.

In December 2005, the Court of First Instance ruled in favour of the Department of Justice in a judicial review on the aforesaid ruling and ordered the case to be remitted to the District Court for fresh determination.

The defendants' subsequent bids to revert the ruling were dismissed by the Court of Appeal and Court of Final Appeal respectively in December 2006 and September 2007.

In delivering his verdict, Judge Chan also gave reasons for his earlier dismissal of the defendants' fresh application for stay of proceedings made in the current trial.

The judge found that the November 2002 meeting was yet another occasion where Yu was trying to pervert the course of public justice, and lawyers were being used as innocent tools to further his criminal purpose. It was a meeting where legal professional privilege had no application.

The judge also determined that there was no abuse of executive power in this case, and the ICAC's action to tape the meeting was not unreasonable and was without bad faith.

The prosecution was today represented by prosecuting counsel Keith Oderberg and Giles Surman, assisted by ICAC officer Clement Cheng.