

Ex-tobacco chief jailed for bribery and fraud over cigarette smuggling**24.02.09**

The former chairman of a tobacco manufacturer, charged by the ICAC, was today (Tuesday) sentenced to a jail term of four years and six months at the District Court for bribery and fraud in relation to cigarette smuggling activities.

Lu Dayong, 61, former chairman of Nanyang Brothers Tobacco Company Limited (Nanyang Brothers), was earlier found guilty by Judge Joseph Yau Chi-lap in his absence. Lu absconded and failed to turn up for the trial in June last year, and a warrant for his arrest was issued by the court.

Co-conspirators Ko Kit, 40, a director of Hang Chun Trade Development Limited (Hang Chun); and Chan Kai-san, 41, a sales manager of Hang Chun, were respectively jailed for three years and six months, and two years for their roles in the scam.

In sentencing, Judge Yau said bribery, whether by accepting or offering of an advantage, was an evil which could strike at the heart of commercial and public life if it was left unchecked, and therefore warranted deterrent sentences.

The three defendants were found guilty of one count of conspiracy to defraud Nanyang Brothers.

Lu and Ko were further convicted of one count of conspiracy for an agent to accept an advantage from a cigarette trader, Golden Leaf International Development (Hong Kong) Limited (Golden Leaf), contrary to Section 9(1)(a) of the Prevention of Bribery Ordinance and Section 159A of the Crimes Ordinance.

The court heard that Nanyang Brothers, a subsidiary of publicly listed Shanghai Industrial Holdings Limited, manufactured "Double Happiness" cigarettes at a plant in Hong Kong.

Lu, then chairman of Nanyang Brothers, approved Hang Chun and Golden Leaf as overseas distributors for Nanyang Brothers' cigarettes.

Between November 2003 and February 2004, Lu, Ko and Chan concealed from Nanyang Brothers that Lu had interests in Hang Chun, and caused Nanyang Brothers to supply "Double Happiness" cigarettes to Hang Chun, knowing that the cigarettes would be sold in the Mainland in violation of the contracts between Nanyang Brothers and Hang Chun.

Nanyang Brothers subsequently sold \$48 million worth of cigarettes to Hang Chun.

Lu and Ko received over \$7.5 million in illegal commissions from two directors cum shareholders of Golden Leaf between April 2003 and February 2004 as rewards for causing Nanyang Brothers to sell "Double Happiness" cigarettes worth \$42 million to Golden Leaf, the court was told.

The court also heard that the cigarettes sold to Hang Chun and Golden Leaf, which were prohibited from sales in China, had been smuggled to the Mainland via other places including the Philippines and Vietnam.

In the course of the investigation and subsequent trial, the ICAC had received full co-operation from the management of Nanyang Brothers.

Judge Yau adjourned hearing on restitution orders and costs applications to March 20, 2009.

The prosecution was today represented by prosecuting counsel Daniel Marash SC, assisted by ICAC officer Eric Leung.