Former Styland's chairman and executive director ordered to pay $85 million compensation to company

7 Mar 2012

The Court of First Instance today ordered the founder and former chairman of Styland Holdings Ltd (Styland) , Mr Kenneth Cheung Chi Shing, and his wife Ms Yvonne Yeung Han Yi, a former executive director of Styland, to pay compensation totalling over $85 million to the company for their misconduct (Note 1 and 2).

This is the first time a compensation order has been made directly in proceedings brought by the Securities and Futures Commission (SFC) under section 214 of the Securities and Futures Ordinance (SFO).

The Court has also disqualified Cheung and Yeung for 12 years each (Note 3) – the longest disqualification orders ever to be imposed in such proceedings (Note 4).

A third former director, Ms Miranda Chan Chi Mei was disqualified for a period of seven years (Note 3). A fourth former director, Mr Steven Li Wang Tai, was earlier disqualified by the Court for a period of six years (Note 5).

The SFC alleged Styland entered into a number of transactions which were not in the company's interests but directly or indirectly benefitted Cheung and Yeung. The pair is alleged to have received financial benefits totalling $79 million and $6.95 million respectively.

These transactions, which were not properly disclosed or approved by Styland and its shareholders as required, caused loss and damage to the company and its shareholders. Cheung, Yeung, Chan and Li were all responsible for these matters (Note 6).

The Court accepted that these transactions amounted to a defalcation of Styland's assets as well as misconduct or misfeasance which caused unfair prejudice to Styland's shareholders.

The Court heard evidence that Styland appointed an independent committee to investigate the transactions in question and that, after the SFC commenced this proceeding, the committee reported the results at a general meeting and the independent shareholders approved the transactions and ratified the directors' conduct.

The SFC contended the approvals and ratifications were defective because they failed to tell the shareholders what had really happened including the nature and extent of the benefits paid directly or indirectly to Cheung and Yeung. The Court agreed with the SFC's contention.

The SFC also alleged Styland had suffered a number of unquantified investment losses caused by the misconduct of the four former directors. The Court declined to order an assessment of these losses, deciding that this is an issue to be determined by Styland "in light of this judgement" (Note 7).

The SFC's Executive Director of Enforcement, Mr Mark Steward said: "These directors flouted their responsibilities, abused shareholders' funds and then sought to prevent steps being taken to make them accountable. The compensation order means they must now account for those shareholders' funds that were misappropriated and the lengthy disqualification periods send a deterrent message."

"Companies and shareholders may lose money legitimately for all sorts of reasons but misconduct by directors is not one of those reasons," he added.

End

Notes:
1. Styland was listed on the Main Board of the Stock Exchange of Hong Kong (SEHK) on 5 December 1991. The group's business includes securities dealing, property investment, general trading and infrastructure development. Trading in Styland shares was suspended by the SEHK for over six years before it resumed on 15 December 2011.
2. The SFC commenced proceedings under section 214 of the SFO in September 2008. For details,

please see SFC's press release dated 9 September 2008. The case was heard before the Hon Mr Justice Barma in the Court of First Instance in January 2011. A copy of the decision, which was handed down today, will be available on the judiciary website: www.judiciary.gov.hk.
3. The Hon Mr Justice Barma ordered that the disqualification orders are to take effect from 21 days after the date of the order.
4. Under section 214 of the SFO, the court may make orders disqualifying a person from being a company director or being involved, directly or indirectly, in the management of any corporation for up to 15 years, if the person is found to be wholly or partly responsible for the company's affairs having being conducted in a manner involving defalcation, fraud or other misconduct. The Court may also order a company to bring proceedings in its own name against any person specified in the order and may make any other order it considers appropriate.
5. Please see SFC's press release dated 23 November 2010.
6. A summary of SFC's Petition is attached to the SFC's press release dated 9 September 2008 which sets out the details of the transactions.
7. Please see para 147 of the decision.

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