

## Ex-Chief Secretary and three others guilty of bribery and misconduct

19 December 2014

A former Chief Secretary for Administration (CS), two senior members of a listed company in Hong Kong and a businessman, charged by the ICAC, were today (Friday) convicted by a jury at the Court of First Instance of misconduct and bribery involving payments, unsecured loans and flat rental fees totalling over HK\$25 million.

The defendants were Hui Rafael Junior, also known as Rafael Hui Si-yan, 66, former CS, former Managing Director of the Mandatory Provident Fund Schemes Authority (MPFA) and former Non-Official Member of the Executive Council (Exco); Thomas Kwok Ping-kwong, 63, joint Chairman of Sun Hung Kai Properties Limited (SHKP); Thomas Chan Kui-yuen, 68, Executive Director of SHKP; and Francis Kwan Hung-sang, 64, businessman.

They were variously found guilty of a total of five charges - three of misconduct in public office (MIPO), contrary to Common Law; one of conspiracy to commit MIPO, contrary to Common Law and Section 159A of the Crimes Ordinance; and one of conspiracy to offer an advantage to a public servant, contrary to Section 4(1)(a) of the Prevention of Bribery Ordinance and Section 159A of the Crimes Ordinance.

Mr Justice Andrew Macrae adjourned the case to next Monday (December 22) for mitigation, and remanded the defendants in custody of the Correctional Services Department.

A spokesperson for the ICAC said this case demonstrated the Commission's determination to uphold Hong Kong's probity.

"Regardless of the background, status and position of the persons involved, the Commission impartially discharges its law enforcement duties in strict accordance with the law with perseverance," the spokesperson said.

"As for various issues revealed in the case, the ICAC will bring them to the attention of the Administration, and stands ready to provide corruption prevention and education advice."

Hui alone was found guilty by the jury of a misconduct charge, which stated that between June 7, 2000 and August 13, 2003, he, being the Managing Director of the MPFA, in the course of his public office, wilfully misconducted himself by failing to declare or disclose to or by concealing from the MPFA his acceptance of the rent free use of two flats; two unsecured loans totalling HK\$2.4 million from Honour Finance Company Limited (Honour Finance); and his negotiations for a consultancy agreement with SHKP and/or Sun Hung Kai Real Estate Agency Limited (SHK Real Estate). Both Honour Finance and SHK Real Estate were subsidiaries of SHKP.

Hui, Thomas Kwok, Chan and Kwan were found guilty of one count of conspiring together between March 1, 2005 and June 30, 2007 for Hui to wilfully misconduct himself in the course of his public office, namely the CS, by remaining favourably disposed to SHKP, its subsidiaries or associated companies, Thomas Kwok, Raymond Kwok Ping-luen and/or Chan in return for a sum of HK\$8.5 million through a series of payments from Thomas Kwok, Raymond Kwok, Chan and Kwan. Raymond Kwok was acquitted of this charge.

Hui was further convicted of a misconduct charge, which stated that between June 30, 2005 and June 30, 2007, Hui, being the CS, in the course of his public office, wilfully misconducted himself by failing to declare or disclose to or by concealing from the Hong Kong Government the provision to him and annual extensions of an unsecured loan of HK\$3 million from Honour Finance.

The jury further found Hui, Chan and Kwan guilty of another charge, which stated that between June

30, 2005 and January 20, 2009, Hui, being the CS and the Non-Official Member of the Exco, Chan and Kwan conspired together to offer to Hui HK\$11.182 million through a series of payments from Thomas Kwok, Raymond Kwok, Chan and Kwan as a reward for Hui remaining favourably disposed to SHKP, its subsidiaries or associated companies, Thomas Kwok, Raymond Kwok, and/or Chan. Both Thomas Kwok and Raymond Kwok were found not guilty of this charge.

The jury also found Hui guilty of the remaining misconduct charge, which stated that between July 1, 2007 and January 20, 2009, Hui, being the Non-Official Member of the Exco, in the course of his public office, wilfully misconducted himself by failing to declare or disclose to or by concealing from the Hong Kong Government his acceptance of the above HK\$11.182 million through a series of payments from Thomas Kwok, Raymond Kwok, Chan and Kwan.

The prosecution was today represented by David Perry QC and Joseph Tse SC, assisted by ICAC officers David Williams, Winnie Lee and Hazel Law.

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## 前政務司司長及另外三人涉賄賂及 行為失當罪成候判

2014年12月19日

一名前政務司司長、一間香港上市公司的兩名高層人員及一名商人觸犯行為失當及賄賂罪行，涉及款項、無抵押貸款及單位租金共逾二千五百萬港元，被廉政公署拘控。被告今日(星期五)在高等法院原訟法庭被陪審團裁定罪名成立。

被告為許仕仁，六十六歲，前政務司司長、強制性公積金計劃管理局(積金局)前行政總裁及行政會議前非官守議員；郭炳江，六十三歲，新鴻基地產發展有限公司(新鴻基地產)聯席主席；陳鉅源，六十八歲，新鴻基地產執行董事；及關雄生，六十四歲，商人。

他們被裁定共五項罪名成立，即三項藉公職作出不當行為，違反《普通法》；一項串謀藉公職作出不當行為，違反《普通法》及《刑事罪行條例》第159A條；及一項串謀向公職人員提供利益，違反《防止賄賂條例》第4(1)(a)條及《刑事罪行條例》第159A條。

法官麥機智將案件押後至下星期一(十二月二十二日)，以待聽取各被告求情。各被告暫時還押懲教署看管。

廉政公署發言人表示，案件顯示廉署堅守維護香港廉潔的決心。

發言人稱：「不論涉案者的背景、身分和地位，廉署均嚴格遵守依法辦事的原則，鏗而不捨，不偏不倚地進行執法工作。」

發言人續稱：「因應案件揭示的問題，廉署會向政府當局反映，並樂意就有關的防貪及教育工作提供意見。」

陪審團裁定許仕仁一項藉公職作出不當行為罪名成立，指他於二〇〇〇年六月七日至二〇〇三年八月十三日期間履行積金局行政總裁的公職過程中，故意作出不當行為，沒有向積金局申報或披露，或向積金局隱瞞他接受免租使用兩個單位，由忠誠財務有限公司(忠誠財務)提供的兩筆共二百四十萬港元無抵押貸款；及他與新鴻基地產及/或新鴻基地產代理有限公司(新鴻基地產代理)洽談一份顧問合約。忠誠財務及新鴻基地產代理同為新鴻基地產的附屬公司。

許仕仁、郭炳江、陳鉅源及關雄生同被裁定一項罪名成立，指他們於二〇〇五年三月一日至二〇〇七年六月三十日期間，串謀使許仕仁履行政務司司長的公職過程中故意作出不當行為，即保持傾向優待新鴻基地產、其附屬或聯營公司、郭炳江、郭炳聯及/或陳鉅源，以換取多筆透過郭炳江、郭炳聯、陳鉅源及關雄生支付的八百五十萬港元款項。郭炳聯是項控罪被裁定罪名不成立。

許仕仁又被裁定一項藉公職作出不當行為罪名成立，指他於二〇〇五年六月三十日至二〇〇七年六月三十日期間履行政務司司長的公職過程中，故意作出不當行為，即沒有向香港政府申報或披露，或向香港政府隱瞞他獲忠誠財務提供一筆三百萬港元無抵押貸款及該筆貸款多次獲每年延展還款期。

陪審團又裁定許仕仁、陳鉅源及關雄生另一項罪名成立，指身為政務司司長及行政會議非官守議員的許仕仁、陳鉅源及關雄生，於二〇〇五年六月三十日至二〇〇九年一月二十日期間，一同串謀由郭炳江、郭炳聯、陳鉅源及關雄生透過多筆付款而向許仕仁支付一千一百一十八萬二千港元的款項，作為許仕仁保持傾向優待新鴻基地產、其附屬或聯營公司、郭炳江、郭炳聯及/或陳鉅源的報酬。郭炳江及郭炳聯是項控罪被裁定罪名不成立。

陪審團另裁定許仕仁餘下一項藉公職作出不當行為罪名成立，指許仕仁於二〇〇七年七月一日至二〇〇九年一月二十日期間履行行政會議非官守議員的公職過程中，故意作出不當行為，即沒有向香港政府申報或披露，或向香港政府隱瞞他收取來自郭炳江、郭炳聯、陳鉅源及關雄生透過多筆付款而支付上述的一千一百一十八萬二千港元款項。

控方今日由David Perry QC及大律師謝華淵代表出庭，並由廉署人員韋理民、李慧兒及羅貝雯協助。