

Trio has jail terms increased up to three years after review of sentences

17 December 2015

Two former senior executives of a listed company and an accountant, charged by the ICAC, were today (Thursday) ordered by the Court of Appeal (CA) to serve one year to three years more in jail for bribery and fraud in the acquisition of a Mainland plantation project at \$500 million in the wake of a review of their sentences.

Choy Ping-fai, 52, former president of China Environmental Resources Group Limited (CERG) (formerly known as Benefun International Holdings Limited (Benefun)) and sole owner of Blackpool Stadium Limited (Blackpool), had his jail term increased from five years to seven years and nine months.

Lo King-fat, 62, former executive director and company secretary of Benefun; and Ip Wing-lun, 47, certified public accountant, had their jail terms of three years increased to six years and four years respectively.

Choy, Lo and Ip were jailed in October 2014 after they were convicted by a jury at the Court of First Instance of the charges. Choy and Ip were found guilty of one count of conspiracy to offer advantages to an agent, contrary to Section 9(2)(a) of the Prevention of Bribery Ordinance and Section 159A of the Crimes Ordinance, while Choy and Lo were convicted of one count of conspiracy to defraud, contrary to Common Law.

The Department of Justice (DoJ) subsequently made an application for a review of sentences imposed on the defendants.

The application was heard by Mr Justice Michael Lunn, Vice President of the CA, Mr Justice Andrew Macrae and Mr Justice Derek Pang Wai-cheong, both Justices of Appeal of the CA, last month.

In a written judgment handed down today, the CA allowed the DoJ's application, and ruled that the jail sentences imposed on the defendants were manifestly inadequate. The CA increased their jail terms on the basis of their roles in the commission of the offences.

Meanwhile, the CA today also handed down its reasons for dismissing Ip's appeal against conviction after it did not consider that there was a failure properly to put the defence case before the jury so as to deprive him of a fair trial.

The CA heard that at the material time, Benefun, a company listed on the Stock Exchange of Hong Kong Limited (SEHK), engaged in apparel business. Benefun, who was operated with Tan Sim-chew as chairman, was later renamed CERG.

Blackpool was a British Virgin Islands-registered company owned by Choy, while Ample Rich Enterprises Limited (Ample Rich), a wholly owned subsidiary of Blackpool, held a plantation project on the Mainland.

Between January 1, 2008 and May 14, 2010, Choy and Ip conspired together and with a then accounting staff of Benefun to offer Tan advantages being Benefun's promissory note to the value of \$100 million and the payment of \$80 million for the acquisition of Tan's shareholding in Benefun.

In return, Tan caused Benefun to acquire Ample Rich for the plantation project in Xinjiang, caused Benefun to commit to pay a purchase price of \$500 million, and caused change to the constitution of Benefun's board of directors.

The CA also heard that Lo and Choy conspired together and with Tan, Fu Zi-cong, a then executive director of Benefun, and the then accounting staff of Benefun to defraud the SEHK, Benefun, its

existing shareholders and potential investors in the course of the acquisition of Ample Rich for the plantation project from Blackpool by concealing their corrupt scheme which was set out in a written agreement with Tan.

Tan and Fu are being wanted by the ICAC for their alleged roles in the case, and warrants have been issued for their arrest.

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三人涉五億元林木種植計劃貪污詐騙案加刑最高三年

2015年12月17日

兩名上市公司前高層人員及一名會計師，在以逾五億元收購內地一項林木種植計劃時涉及貪污及詐騙，被廉政公署拘控，並被裁定罪名成立及判囚。律政司其後就各被告的刑期申請覆核，上訴法庭今日(星期四)判各被告須分別加刑一年至三年。

蔡秉輝，五十二歲，中國環境資源集團有限公司(中國環境資源)(前稱奮發國際控股有限公司(奮發國際))前總裁及Blackpool Stadium Limited (Blackpool)東主，刑期由五年增加至七年零九個月。

盧敬發，六十二歲，奮發國際前財務總監兼公司秘書；及葉泳倫，四十七歲，執業會計師，刑期則由三年分別增加至六年及四年。

三名被告於二〇一四年十月在原訟法庭被陪審團裁定罪名成立後同被判囚。蔡秉輝及葉泳倫同被裁定一項串謀向代理人提供利益罪名成立，違反《防止賄賂條例》第9(2)(a)條及《刑事罪行條例》第159A條，而蔡秉輝及盧敬發則被裁定一項串謀詐騙罪名成立。

律政司其後就各被告的刑期申請覆核。有關申請於上月由上訴法庭副庭長倫明高及上訴法庭法官麥機智和彭偉昌審理。

上訴法庭今日頒下書面判詞，批准律政司的申請，裁定各被告原有的監禁刑期明顯不足，並按他們在案中所擔當的角色而加刑。

此外，上訴法庭早前駁回葉泳倫就定罪的上訴，並亦於今日頒布有關理據，指法庭並不認為辯方未能適當地向陪審團作出抗辯而剝奪其獲得公平的審訊。

案情透露，奮發國際於案發時是一間在香港聯合交易所有限公司(聯交所)上市的公司，從事成衣生意，而陳星洲則是該公司的主席。奮發國際稍後改名稱為中國環境資源。

Blackpool是一間在英屬維爾京群島註冊的公司，並由蔡秉輝持有。Ample Rich Enterprises Limited (Ample Rich)是Blackpool的全資附屬公司，在內地持有一項林木種植計劃。

蔡秉輝及葉泳倫於二〇〇八年一月一日至二〇一〇年五月十四日期間，一同串謀奮發國際當時一名會計員向陳星洲提供利益，形式包括價值一億元的奮發承付票，以及支付八千萬元以向陳星洲購入其奮發股份。

陳星洲則致使奮發國際收購Ample Rich，即其在新疆的一項林木種植業務，致使奮發國際承諾支付五億元的收購價，並致使奮發國際變動其董事局組成。

案情亦透露，盧敬發及蔡秉輝一同串謀陳星洲及奮發國際當時執行董事傅子聰和上述會計員，在向Blackpool就林木種植計劃收購Ample Rich的過程中，分別詐騙聯交所、奮發國際、其當時的存在股東和潛在投資者，隱瞞與陳星洲在書面協定的貪污勾當。

陳星洲及傅子聰因涉嫌與案件有關而被廉署通緝，而手令亦已發出以緝拿兩人歸案。

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