

27 February 2012

Former HAECO director convicted of insider dealing

Former independent non-executive director of Hong Kong Aircraft Engineering Company Limited (HAECO), Mr Lam Kwong Yu, was today found guilty of insider dealing following a trial in the Eastern Magistracy (Note 1).

Lam was sentenced to five months' imprisonment, suspended for two years and fined \$50,000 (Note 2).

The court heard that Lam bought 4,000 HAECO shares on 4 June 2010 after being told by the Chief Executive Officer of HAECO, at about 3:13 pm that day, that at an urgent meeting of the HAECO board later that day, there would be a discussion about an intended proposal in which Cathay Pacific Airways Limited, a substantial shareholder of HAECO, would sell all its HAECO shares to Swire Pacific Limited (Swire), a deal which would trigger a general offer by Swire for all shares in HAECO.

The deal, when announced, valued HAECO shares at \$105 per share which was about 25% higher than the then market price. HAECO publicly announced the deal on 7 June 2010.

Following the telephone call, Lam walked to his friend's office in Admiralty from the Hong Kong Club in Central where he had lunch and, through an internet account, purchased the 4,000 shares shortly before trading closed at 4:00 pm.

He did not have enough cash in his securities account and paid for the shares by electronically drawing down and transferring \$340,000 from an overdraft account. He sold the shares shortly after the deal was announced making a profit of approximately \$80,000. He subsequently donated his profits to charity (Note 3).

Lam, who pleaded not guilty at trial, claimed that at the time he purchased the shares, he had forgotten he was an independent non-executive director of HAECO; he was intoxicated and that he did not intend to profit from his trading and so he was entitled to rely upon the statutory defence (Note 4 and 5). Deputy Magistrate Mr John Glass rejected Lam's claims.

The Executive Director of Enforcement of the Securities and Futures Commission (SFC), Mr Mark Steward said: "This was a simple case of insider trading by a true company insider taking a cynical and illegal advantage of his insider status at the expense of other investors. We will continue to pursue insider dealing using the full spectrum of remedies available to us."

End

Notes:

1. Lam resigned as an independent non-executive director of HAECO on 6 June 2010.
2. Lam was also ordered to pay the SFC's investigation costs.
3. Lam's solicitor reported the transactions to the SFC in June 2010 saying Lam had bought the shares inadvertently and without following company policy in obtaining pre-approval for his share purchases. The SFC commenced investigation against Lam and charged him in June 2011 with one count of insider dealing.
4. Lam claimed that he had drunk a gin and tonic followed by two glasses of white wine and two glasses of red wine over a four-course lunch at the Hong Kong Club.
5. Under sub-section 292(3) of the Securities & Futures Ordinance, it is a defence to the charge of insider dealing if the person proves that the purpose for which he dealt in the shares did not include the purpose of securing or increasing a profit.

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