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SFC commences MMT proceedings against Mayer Holdings Limited and its senior management over late disclosure of inside information

11 Mar 2016

The Securities and Futures Commission (SFC) has commenced proceedings in the Market Misconduct Tribunal (MMT) against Mayer Holdings Limited (Mayer) for failing to disclose price sensitive information as soon as reasonably practicable (Note 1).

The SFC has also commenced proceedings in the MMT against the company's 10 current and former senior executives for their reckless or negligent conduct causing the alleged breach by Mayer of the provisions of the statutory corporate disclosure regime.

They include Mayer's former chairman and executive director, Mr Hsiao Ming-chih; former company secretary and financial controller, Mr Chan Lai Yin Tommy; former executive directors, Mr Lai Yueh-hsing, Mr Chiang Jen-Chin, Mr Lu Wen-yi and Mr Xue Wenge; former independent non-executive directors, Mr Huang Jui-hsiang, Mr Lin Sheng-bin and Mr Alvin Chiu; and non-executive director, Mr Li Degiang.

The SFC found that between April and August 2012, while auditing Mayer's financial statements for the year ended 31 December 2011, the then auditors of Mayer repeatedly communicated with Mayer's management about issues they identified including:

- the suspicious nature of the disposal of a wholly-owned subsidiary of Mayer, for HK\$15.5 million;
- Mayer did not control projects in Vietnam, which it bought for HK\$620 million, and their valuations appeared to have been inflated; and
- two subsidiaries of Mayer's jointly controlled entity had made substantial prepayments of US\$10 million and US\$4 million respectively without security to suppliers which appeared to be irrecoverable (collectively, outstanding audit issues).

On 23 August 2012, Mayer's then auditors indicated that they would qualify their audit opinion for the financial statements for the year ended 31 December 2011 if the outstanding audit issues were not resolved (potential qualified audit report).

On 27 December 2012, Mayer received a resignation letter from its then auditors. But, Mayer only disclosed the auditors' resignation together with brief details of the outstanding audit issues on 23 January 2013.

The SFC alleges that the auditors' resignation, the outstanding audit issues together with the potential qualified audit report and the US\$10 million prepayment to the supplier were specific information regarding Mayer, price sensitive and not generally known to the public at the material time. The information would also have been viewed negatively by the investors and were of sufficient gravity to affect the share price of Mayer.

End

Notes:

1. Mayer was listed on the Main Board of The Stock Exchange of Hong Kong Limited (SEHK) in June 2004. Trading in the shares of Mayer has been suspended since 9 January 2012.
2. A copy of the Notice to the MMT, which contains the statement setting out the grounds for commencing the MMT proceedings, is available on the MMT's website (www.mmt.gov.hk).

Page last updated : 11 Mar 2016

**IN THE MATTER OF THE LISTED SECURITIES OF MAYER HOLDINGS
LIMITED (STOCK CODE 1116)**

**NOTICE TO THE MARKET MISCONDUCT TRIBUNAL
PURSUANT TO SECTION 307I(2) OF AND SCHEDULE 9 TO THE
SECURITIES AND FUTURES ORDINANCE CAP 571 (“ORDINANCE”)**

Whereas it appears to the Securities and Futures Commission (“**Commission**”) that a breach of the disclosure requirements within the meaning of sections 307B and 307G of Part XIVA of the Ordinance has or may have taken place in relation to the securities of Mayer Holdings Limited (Stock Code 1116) listed on the Stock Exchange of Hong Kong Limited, the Market Misconduct Tribunal is hereby required to conduct proceedings and determine:

- (a) whether a breach of a disclosure requirement has taken place; and
- (b) the identity of any person who is in breach of the disclosure requirement.

**Persons and/or corporate bodies appearing to the Commission to have breached
or may have breached a disclosure requirement**

1. Mayer Holdings Limited (美亞控股有限公司) (the “**Company**”)
2. Chan Lai Yin, Tommy (陳禮賢) (“**Chan**”)
3. Hsiao Ming-chih (蕭敏志) (“**Hsiao**”)
4. Lai Yueh-hsing (賴粵興) (“**Lai**”)
5. Huang Jui-hsiang (黃瑞祥) (“**Huang**”)
6. Chiang Jen-chin (蔣仁欽)
7. Lu Wen-yi (呂文義)
8. Xue Wenge (薛文革)
9. Li Deqiang (李德強)
10. Lin Sheng-bin (林聖斌)
11. Alvin Chiu (趙熾佳)

Statement of Institution of proceedings

I. PARTIES

1. The Company (the 1st Specified Person) is a Cayman Islands incorporated company. At the material times, the Company and its subsidiaries (the “**Group**”) were principally engaged in the processing and manufacturing of different kinds of steel sheets and steel pipes which are used by its customers in the manufacture of 3C products, sports equipment, as well as spare parts of household appliances and motor vehicles.
2. The Company was listed on the Stock Exchange of Hong Kong Limited on 21st June 2004 (Stock code: 1116). At the request of the Company, the trading of its listed securities has been suspended since 9th January 2012.
3. At all material times, Chan (the 2nd Specified Person) was the Company Secretary and Financial Controller of the Company.
4. At all material times, the 3rd to 11th Specified Persons were members of the board of directors of the Company (the “**Board**”). In particular, Hsiao (the 3rd Specified Person) was the chairman of the Board, Lai (the 4th Specified Person) was an executive director responsible for the day to day management of the business of the Company, and Huang (the 5th Specified Person) was the chairman of the audit committee (the “**Audit Committee**”) of the Company.
5. All of the Specified Persons (except the Company) were at all material times “*officers*” of the Company as defined in Part 1 of Schedule 1 of the Ordinance.

II. THE AUDIT FOR FINANCIAL YEAR ENDED 31ST DECEMBER 2011 AND RESIGNATION OF GRANT THORNTON AS AUDITORS

6. Crowe Horwath (HK) CPA Limited (“**Crowe Horwath**”) was appointed as the Company’s auditors on 11th June 2010. Crowe Horwath resigned as the Company’s auditors on 16th February 2012.
7. Following Crowe Horwath’s resignation, the Company appointed Grant Thornton Hong Kong Limited (“**Grant Thornton**”) as auditors on 29th February 2012.
8. Between April and August 2012, Grant Thornton had repeated communications with the Company’s management regarding issues identified in the course of auditing the Group’s financial statements for the year ended 31st December 2011. The Company failed to give satisfactory answers to those inquiries.
9. The salient issues identified by Grant Thornton include, among other things, the following (collectively, the “**Outstanding Audit Issues**”):
 - (a) The nature of the disposal of a wholly-owned subsidiary of the Company, Advance Century Development Limited, for a consideration of HK\$15,500,000, is questionable;
 - (b) The Company’s projects in Vietnam, including the Dan Tien Port Project and Phoenix Project which were acquired by the Company at a consideration of HK\$620,000,000, were not under the Company’s control and their prospects were far less promising than originally valued and contemplated; and
 - (c) Two subsidiaries of the Company’s jointly controlled entity, namely Elternal Galaxy Limited (“**Elternal**”) and Sinowise Development Limited, had entered into two supply agreements with two different suppliers and had made substantial prepayments of US\$10,000,000 and

US\$4,000,000 respectively, without security, to those suppliers which appeared to Grant Thornton as irrecoverable.

10. In view of the Outstanding Audit Issues, on 23rd August 2012, Grant Thornton sent a list of “*potential qualifications to the audit report*” to the Company indicating that they would have to qualify their audit opinion if the Outstanding Audit Issues were not resolved. The Outstanding Audit Issues referred to in paragraph 9 above and the indication by Grant Thornton as at 23rd August 2012 that they would issue a qualified audit report did, or alternatively, ought reasonably to have come to the knowledge of the 2nd to 11th Specified Persons, in the course of their performing their functions as officers of the Company. From about September 2012 onwards, no constructive response had been provided by the Company or its directors or Audit Committee to Grant Thornton to address the Outstanding Audit Issues.
11. On 27th December 2012, Calvin Chiu (Partner of Grant Thornton) verbally informed Chan that Grant Thornton intended to resign as the Company’s auditors. Later on the same day, Chan received Grant Thornton’s resignation letter dated 27th December 2012 (the “**Resignation Letter**”) by email.
12. The Resignation Letter was addressed to “*The Audit Committee and the Board of Directors*”. The Resignation Letter expressly stated, among other things, the following:-
 - (a) in unequivocal and unconditional terms, that Grant Thornton gave “*formal notice of [their] resignation as auditors of the Company with immediate effect*” (the “**Resignation**”);
 - (b) that during “*the course of the audit for the financial statements for the year ended 31 December 2011*”, Grant Thornton had “*identified and*

reported certain significant matters to the [Company's] Management, the Board of Directors and the Audit Committee including [the Outstanding Audit Issues]";

- (c) *that despite Grant Thornton's "continuing efforts to take the audit forward and resolve the [Outstanding Audit Issues], the [Company's] Management is unable to provide information [Grant Thornton] requested and update [Grant Thornton] in respect of the developments of these matters on a timely basis"; and*
 - (d) *a reminder that the Company was required under "the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited ("SEHK")....to inform the SEHK immediately of any decision made, and to publish an announcement as soon as practicable, in regard to any change in auditors, the reason(s) for the change and any other matters that need to be brought to the attention of the holders of securities of the Company".*
13. On 28th December 2012, Chan verbally informed Lai (the 4th Specified Person) of the receipt and contents of the Resignation Letter.
14. As the Resignation Letter was addressed to the Board and the Audit Committee, the Resignation did, or alternatively, ought reasonably to have come to the knowledge of the 2nd to 11th Specified Persons, in the course of performing their functions as officers of the Company.
15. There was substantial delay on the part of the Company and its officers in reacting to and making an announcement regarding the Resignation:

- (a) It was not until 22nd January 2013 that the Company called a Board meeting, more than three weeks after the Resignation Letter was sent to Chan; and
- (b) A Board meeting was held on 23rd January 2013 to discuss the Resignation Letter. An announcement concerning Grant Thornton's resignation was published on the same day (the "**Resignation Announcement**").

III. FAILURE TO DISCLOSE INSIDE INFORMATION

- 16. Three categories of "*inside information*" within the meaning of section 307A of the Ordinance have not been adequately disclosed by the Company, namely:
 - (a) the Resignation;
 - (b) the Outstanding Audit Issues referred to in paragraph 9 above and the indication by Grant Thornton as at 23rd August 2012 that they would issue a qualified audit report as referred to in paragraph 10 above ("**Potential Qualified Audit Report**"); and
 - (c) the circumstances surrounding the substantial prepayment made by Elternal ("**Prepayment by Elternal**").
- 17. The three categories of information referred to in paragraph 16 above:-
 - (a) were specific information about the Company; and
 - (b) were not generally known to the persons who were accustomed to or would be likely to deal in the listed securities of the Company but would

if generally known to them have been likely to materially affect the price of those securities.

18. The Resignation came to the knowledge of the Company on 27th December 2012. Once such information came to the knowledge of the Company, it was obliged, under section 307B(1)¹ of the Ordinance, to disclose that information to the public as soon as reasonably practicable. However, no disclosure was made until the Resignation Announcement was issued on 23rd January 2013.
19. Grant Thornton alerted the Company on 23rd August 2012 that the Outstanding Audit Issues (including the Prepayment by Elternal) might lead to the Potential Qualified Audit Report. Once such information came to the knowledge of the Company, it was obliged, under section 307B(1)² of the Ordinance, to disclose that information to the public as soon as reasonably practicable. However, no disclosure was made.
20. It was the responsibility of the 2nd to 11th Specified Persons, as officers of the Company, to ensure that the Company complied with its disclosure obligation. They failed to so ensure. Their intentional, reckless or negligent conduct resulted in the Company's breach of a disclosure requirement, and they were therefore also in breach of a disclosure requirement under section 307G of the Ordinance.
21. By reason of the matters set out above, the Company failed to disclose to the public (i) the Resignation, (ii) the Outstanding Audit Issues and the Potential Qualified Audit Report as from 23rd August 2012 and (iii) the Prepayment by Elternal, each of which constituted "*inside information*" (within the meaning of

¹ Part XIVA (sections 307A-ZA) of the Ordinance came into effect on 1 January 2013. The Company and its officers were obliged to make a disclosure under section 307B(1) as soon as reasonably practicable on or after 1 January 2013.

² Please see footnote 1.

section 307A(1) of the Ordinance) as soon as reasonably practicable after the said inside information had come to its knowledge, contrary to section 307B(1)³ of the Ordinance.

22. The 2nd to 11th Specified Persons, as the officers of the Company, were also in breach by virtue of section 307G of the Ordinance by failing to ensure the Company complied with its disclosure obligation.

Dated this 4th day of March 2016

Securities and Futures Commission

³ Please see footnote 1.