

[Home](#) ▶ [News & announcements](#) ▶ [News](#) ▶ [All news](#)

## Market Misconduct Tribunal sanctions Augustine Cheong and his mother for insider dealing in Titan shares

15 Mar 2017

The Market Misconduct Tribunal (MMT) has found that a former senior executive of an affiliate of Titan Petrochemicals Group Limited (Titan), Mr Augustine Cheong Kai Tjeh, and his mother, Ms Gan Ser Soon, engaged in insider dealing in the shares of Titan in January 2012 (Notes 1 & 2).

Cheong and Gan were found to have sold their Titan shares while they knew inside information that Titan faced extremely difficult financial problems related to the likelihood of defaults by Titan and/or its subsidiaries on outstanding bank loans and certain fixed rate senior notes. Cheong gave Gan the inside information.

The MMT has ordered Cheong and Gan:

- to disgorge the losses they avoided totaling \$2,425,174 by selling Titan shares (Note 3);
- not to deal, directly or indirectly in Hong Kong, in SFC regulated financial products for two years and one year, respectively;
- not to insider deal again; and
- to pay the SFC's legal and investigation costs and the costs of the MMT.

The MMT took into account the admissions in a Statement of Agreed and Admitted Facts signed by Cheong and Gan, and considered that the orders the SFC proposed and agreed by them were proportional, sensible and acceptable in the circumstances.

The SFC has also instituted parallel proceedings in the Court of First Instance under section 213 of the Securities and Futures Ordinance against the two for their alleged insider dealing in Titan shares. In these proceedings, the SFC seeks an order to restore relevant counterparties of Cheong and Gan's sales of Titan shares to the positions they were in before they bought those shares from Cheong and Gan (Note 4).

End

Notes:

1. Titan was listed on the Main Board of The Stock Exchange of Hong Kong Limited in June 1998.
2. Gan is also known as Gan Chir Seam.
3. Trading in the shares of Titan was suspended on 19 June 2012 and resumed on 15 July 2016. The loss avoided of \$2,425,174 was determined with reference to the sales of Titan shares by counterparties of Cheong and Gan who sold their Titan shares before 19 June 2012 at the same or higher prices than their purchase prices. As some of the counterparties of Cheong and Gan are still holding the Titan shares, it is possible that these counterparties may sell part or all of the Titan shares after trading in the shares resumed on 15 July 2016 at the same or higher prices than their purchase prices. The MMT has also ordered such potential losses avoided be disgorged, the exact amount of which is to be determined by an administrator to be appointed in the SFC's parallel section 213 proceedings instituted against Cheong and Gan.
4. For more details, please see the SFC's press releases dated [21 December 2012](#), [25 January 2013](#) and [6 December 2016](#).
5. The MMT's report is available on its website (<http://www.mmt.gov.hk/>).

Page last updated : 15 Mar 2017

The report of the Market Misconduct Tribunal into dealings  
in the shares of Titan Petrochemicals Group Limited  
between 3 and 5 January 2012

**A report pursuant to sections 252(3)(a), (b) and (c) of  
the Securities and Futures Ordinance, Cap. 571**

**INDEX**

		Paragraphs
Chapter 1	Notice and Statement for the Institution of Proceedings given by the Securities and Futures Commission	1 - 6
Chapter 2	The Background and Factual Basis for the Inquiry Served on the Parties	7 - 48
	Introduction	7 - 18
	Events leading up to the Titan Group's likely default in obligations	19 - 32
	Mr Cheong's knowledge of the likely defaults by the Titan Group	33 - 36
	Price Sensitivity	37 - 41
	Dealing in the shares of the Company by Mr Cheong	42 - 43
	Counselling or procuring another to deal in the shares of the Company	44
	Dealing in the shares of the Company by Madam Gan	45 - 47
	Losses Avoided	48
Chapter 3	The Admitted Facts	49 - 92
	Preliminary Statement	49 - 50
	Background and Parties	51 - 57

		Paragraphs
	Relevant Information	58 - 70
	Misconduct by Cheong	71 - 77
	Misconduct by Gan	78 - 82
	Re-rated share price of Titan	83
	Notional losses avoided	84 - 85
	Relevant Provisions in the SFO	86 - 87
	The Schedules	88 - 92
Chapter 4	The Law and Scope of the Inquiry and Essential Elements of Insider Dealing	93 - 111
	The Task of the Tribunal	93 - 94
	The Standard of Proof	95
	The Essential Elements of Insider Dealing	96 - 98
	Listed Company	99
	Connected Person in respect of Titan	100
	The Information Possessed must be relevant information	101 - 107
	(i) The meaning of “Specific”	102
	(ii) Information likely to materially affect the price of the shares	103 - 105
	(iii) The element of knowledge	106
	(iv) The person must deal	107
	Each to be considered separately	108
	The Expert Evidence	109 - 110
	The Scope of the Inquiry	111
Chapter 5	Findings	112 - 128
	Preliminary Matters	112 - 113

		Paragraphs
	Listed Company	114
	Connected Person to Titan	115
	Relevant Information	116 - 117
	Specific Information	118
	Information likely to materially affect the price of shares if known	119 - 120
	The Element of Knowledge	121 - 122
	Conclusion	123 - 124
	The Respective Losses Avoided	125 - 128
Chapter 6	The Orders Consequent upon the Findings of Market Misconduct	129 - 133

Attestation to the Report

### **INDEX – APPENDICES**

		Page
Annexure A	Schedule 1 - Transactions entered into by Cheong	A1
Annexure B	Schedule 2 - Transactions entered into by Gan	A2
Annexure C	Schedule 3 - Counterparties to whom Cheong sold shares from 3 to 5 January 2012 (subsequently disposed at profit)	A3 - A5
Annexure D	Schedule 4 - Counterparties to whom Cheong sold shares from 3 to 5 January 2012 (subsequently disposed at same price)	A6

	Paragraphs
Annexure E Schedule 5 - Counterparties to Gan's trades in Titan shares on 3 January 2012 (subsequently disposed at profit)	A7
Annexure F Orders Imposed	A8 - A11

## CHAPTER 1

### NOTICE AND STATEMENT FOR THE INSTITUTION OF PROCEEDINGS GIVEN BY THE SECURITIES AND FUTURES COMMISSION

1.

#### **IN THE MATTER OF THE LISTED SECURITIES OF TITAN PETROCHEMICALS GROUP LIMITED (STOCK CODE: 1192)**

#### **NOTICE TO THE MARKET MISCONDUCT TRIBUNAL PURSUANT TO SECTION 252(2) OF AND SCHEDULE 9 TO THE SECURITIES AND FUTURES ORDINANCE CAP.571 ("THE ORDINANCE")**

Whereas it appears to the Securities and Futures Commission that market misconduct within the meaning of section 270 of Part XIII of the Ordinance has or may have taken place arising out of the dealings in the securities of Titan Petrochemicals Group Limited (Stock Code: 1192) (the "Company"), the Market Misconduct Tribunal is hereby required to conduct proceedings and determine:-

- (a) whether any market misconduct in the nature of insider dealing or otherwise has taken place;
- (b) the identity of any person who has engaged in the market misconduct found to have been perpetrated; and
- (c) the amount of any profit gained or loss avoided as a result of the market misconduct found to have been perpetrated.

#### **Persons suspected to have engaged in market misconduct activities**

Mr Cheong Kai Tjeh Augustine ("Mr Cheong")  
Madam Gan Ser Soon, alias Gan Chir Seam ("Madam Gan")

## Statement for institution of proceedings

1. At the material times, Mr Cheong was employed by Titan Resources Management (S) Pte Ltd, an indirectly wholly owned subsidiary of the Company in Singapore.
2. Madam Gan is Mr Cheong's mother.
3. As at 2 January 2012:-
  - (1) Mr Cheong held 52,500,000 shares in the Company through his investment services account at HSBC; and
  - (2) Madam Gan held 1,500,000 shares in the Company through her securities trading account at UOB Kay Hian Private Limited ("UOB").

### The likely default by the Company and/or its subsidiaries (the "Titan Group") in respect of the outstanding loans due to the Bank of China and ICBC and the Listco Senior Notes

4. On 13 December 2010, the Company published an announcement disclosing details of the following transactions:-
  - (1) On 5 December 2010, the Company entered into a framework agreement with Grand China Logistics Holding (Group) Company Limited ("**Grand China Logistics**") whereby the Company agreed to procure the disposal of a 95% equity interest in Titan Quanzhou Shipyard Co., Ltd ("**Titan Quanzhou Shipyard**") and to issue 500 million new shares in the Company to Grand China Logistics.
  - (2) Subsequently, on 11 December 2010, the Company entered into, *inter alia*:-
    - (a) a sale and purchase agreement (the "**Sale and Purchase Agreement**") in relation to the disposal of the 95% equity interest in Titan Quanzhou Shipyard for RMB1,865,670,000 (the "**Consideration**"); and

- (b) a subscription agreement (the “**Subscription Agreement**”) in relation to the issue of the 500 million new shares to Grand China Logistics at a price of HK\$0.61 per share (i.e. at a subscription price of HK\$305 million).
  - (3) Under the Sale and Purchase Agreement, the Consideration was to be paid by Grand China Logistics to the Company by 6 payments, with the first 2 payments to be made in the following manner:
    - (a) RMB280 million to be paid within 5 business days after obtaining the relevant approval from the State Administration of Foreign Exchange of the PRC (“**SAFE**”) (or if no approval is required from SAFE, within 20 business days after the date of the Sale and Purchase Agreement);
    - (b) RMB520 million to be paid within 10 business days after obtaining the relevant approval from Fujian Foreign Trade and Economic Corporation Bureau (“**Fujian FTEC**”) (if required) and shareholders’ approval of the Company (or if other approval(s) are required to be obtained other than that from Fujian FTEC, within 10 business days after obtaining such approval(s)).
  - (4) The subscription for the 500 million shares in the Company under the Subscription Agreement (the “**Subscription**”) was conditional upon, *inter alia*, the completion of the Sale and Purchase Agreement and the registration with the State Administration for Industry and Commerce of the PRC of the transfer of the 95% equity interest in Titan Quanzhou Shipyard.
  - (5) The reasons for the Subscription were to provide an opportunity to broaden the shareholder base of the Company and strengthen its capital base and financial position for the Titan Group’s future business developments.
5. On 16 March 2012, the Company published an announcement on the website of Hong Kong Exchanges and Clearing Limited (“**HKEx**”) stating that trading in its shares would be suspended with effect from 9:00 a.m. on 19 March 2012 pending the release of an announcement in relation to price sensitive information of the Company.

6. On 18 March 2012, the Company published an announcement on the HKEx website entitled “Update on the Financial Position of the Company” (the “**18 March 2012 Announcement**”) which contained, *inter alia*, the following information:
- (1) Whilst the Company had obtained regulatory and shareholder approvals for the first 2 payments of the Consideration, as at 31 December 2011, only RMB740 million (out of the RMB800 million that should have been paid) had been received from Grand China Logistics in respect of the Sale and Purchase Agreement. The third and fourth payments aggregating RMB665.67 million had not been paid.
  - (2) In order to preserve the rights of the Titan Group, registration of the transfer of the 95% equity interest in Titan Quanzhou Shipyard had not been effected.
  - (3) As the registration of the transfer of the equity interest in Titan Quanzhou Shipyard was a condition precedent to the completion of the Subscription Agreement, the Subscription Agreement had lapsed.
  - (4) The Titan Group would have been entitled to receive an aggregate of RMB1,712.05 million by 31 December 2011 had Grand China Logistics duly made the payments of the Consideration when due. The funds from these transactions were earmarked for, *inter alia*, repayment of debt of the Titan Group. The Company did not therefore expect to meet its payment obligations in respect of US\$105.87 million in principal amount of fixed rate senior notes issued by the Company (the “**Listco Senior Notes**”) when they matured on 19 March 2012.
7. On 11 May 2012, the Company published an announcement of its financial results for the year ended 31 December 2011 (the “**11 May 2012 Announcement**”) which showed a loss for the year of HK\$783 million. The auditor, Ernst & Young, had given a disclaimer of opinion on the consolidated financial statements. Its report mentioned that the Titan Group “*was in default to repay certain secured bank borrowings of RMB111,000,000 (approximately HK\$137,407,000) as at the year end*”. It also mentioned that the Company was unable to repay the overdue principal and interest of the Listco Senior Notes of US\$105.87 million and US\$4,499,000 which were due on 19 March 2012.

8. The “*secured bank borrowings of RMB111,000,000*” referred to in Ernst & Young’s report was a reference to an instalment due on 31 December 2011 in respect of a project loan. The total amount involved was RMB111 million made up of an outstanding payment of RMB30 million due to Industrial and Commercial Bank of China (“**ICBC**”) and RMB81 million due to the Bank of China.
9. Prior to the 18 March 2012 Announcement and the 11 May 2012 Announcement, there was no publicly available information regarding Grand China Logistics’ delay and failure to pay the Consideration in full, the serious adverse financial situation of the Company and in particular, the likely default by the Titan Group in respect of the outstanding loans due to the Bank of China and ICBC and the Listco Senior Notes (the “**Specific Information**”).
10. Trading in the Company’s shares remained suspended between 19 March 2012 and 11 May 2012. Upon resumption of trading of the Company’s shares on 14 May 2012, its share price dropped 36.4% from HK\$0.28 (its closing price on 16 March 2012) to HK\$0.178.
11. The Specific Information was not generally known to the persons who were accustomed or would be likely to deal in the shares of the Company but would if it were generally known to them be likely to materially affect the Company’s share price. Therefore, the Specific Information was “relevant information” within the meaning of section 245(2) of the Ordinance (as applicable to dealings in 2012)<sup>1</sup>.

#### **Mr Cheong’s knowledge of the relevant information**

12. During the period from August 2011 to March 2012, the Company held discussions with a number of potential investors/financiers regarding potential investment in the Titan Group and possible fund raising. One of the potential investors/financiers was China National Offshore Oil Corporation Petrochemical Import & Export Co. Ltd (“**CNOOC**”).
13. During the negotiations, CNOOC requested, as a condition precedent for investing in the Company, that certain specific consents and waivers be obtained from Warburg Pincus LLC (“**Warburg**”), a private equity firm which together with the Company

---

<sup>1</sup> For the avoidance of doubt, “relevant information” was the term used in the context of insider dealing prior to the amendments to the Ordinance which came into effect on 1 January 2013. These amendments made no substantive change to the definition of what is now called “inside information”.

owned Titan Group Investment Limited. CNOOC required the Company to reach an agreement with Warburg before 20 December 2011.

14. The Company failed to reach an agreement with Warburg by that date.
15. By reason of the fact that:
  - (1) Mr Cheong was involved in the discussions between the Company and Warburg;
  - (2) he was involved in the preparation and/or translation of letters sent by the Company to Warburg in November and December 2011, which made reference to the Specific Information; and
  - (3) he was kept updated on the status of the discussions between the Company and Warburg,

he became aware of the Company's failure to meet the deadline set by CNOOC and the consequences that would follow (i.e. defaults on the Listco Senior Notes and the outstanding loans due to ICBC and the Bank of China).

**Dealing in the shares of the Company by Mr Cheong**

16. Between 3 and 5 January 2012, Mr Cheong disposed of all his 52,500,000 shares in the Company for HK\$13,618,203.06 via the personal internet banking service of HSBC.
17. The average price at which his shares were sold was around HK\$0.259.
18. By reason of the above, Mr Cheong as a person connected with the Company having the Specific Information, which he knew was relevant information in relation to the Company, dealt in the shares of the Company by selling them prior to the 18 March 2012 Announcement.
19. Accordingly, Mr Cheong engaged or may have engaged in market misconduct contrary to section 270(1)(a)(i) of the Ordinance.

20. Further or alternatively, on or before 3 January 2012, Mr Cheong (who resided with Madam Gan in Singapore):
- (1) counselled or procured Madam Gan to deal in the Company's shares, knowing or having reasonable cause to believe that Madam Gan will deal in them; and/or
  - (2) disclosed the Specific Information to Madam Gan directly or indirectly, knowing or having reasonable cause to believe that Madam Gan will make use of the relevant information for the purpose of dealing in the Company's shares.
21. As a result, on 3 January 2012, Madam Gan disposed of all her 1,500,000 shares in the Company (see below).
22. By reason of the above, Mr Cheong as a person connected with the Company having the Specific Information, which he knew was relevant information in relation to the Company, counselled or procured Madam Gan to sell her securities, and/or disclosed relevant information to Madam Gan knowing or having reasonable cause to believe that she would make use of the relevant information and sell her shares in the Company.
23. Accordingly, Mr Cheong engaged or may have engaged in market misconduct contrary to sections 270(1)(a)(ii) and/or 270(1)(c) of the Ordinance.

**Dealing in the shares of the Company by Madam Gan**

24. At 9:28 am on 3 January 2012, Madam Gan instructed UOB to dispose of her entire holding of shares in the Company at a price above HK\$0.30 per share.
25. By around 10:45 am on 3 January 2012, all of Madam Gan's 1,500,000 shares were sold at a unit price of HK\$0.27.
26. By reason of their relationship, Madam Gan knew that Mr Cheong was an employee within the Titan Group. Further and/or alternatively, she knew that Mr Cheong occupied a position which might reasonably be expected to give him access to relevant information in relation to the Company by reason of him being an employee within the Titan Group. Further, Madam Gan knew or had reasonable cause to

believe that Mr Cheong held the relevant information as a result of being connected with the Company. By reason of the foregoing, Madam Gan, having information which she knew was relevant information in relation to the Company which she received from Mr Cheong, dealt in the shares of the Company by selling them prior to the 18 March 2012 Announcement.

27. Accordingly, Madam Gan engaged or may have engaged in market misconduct contrary to section 270(1)(e)(i) of the Ordinance.

Dated the 29<sup>th</sup> day of November 2016.

Securities and Futures Commission

2. Shortly after the issue of the Notice, the SFC served a synopsis dated 29 November 2016, giving a summary of the relevant factual background together with details of the dealing in the shares of Titan Petrochemicals Group Limited (“Company”) by the two specified persons, Mr Cheong Kai Tjeh Augustine (“Mr Cheong”), Specified Person 1, and Madam Gan Ser Soon, alias Gan Chir Seam (“Madam Gan”), Specified Person 2.

3. There were no directions hearings by the Tribunal. All matters were dealt with by correspondence.

4. It was agreed by all parties that the Chairman would sit and adjudicate alone.

5. It was indicated that the Specified Persons would not be contesting the allegation of market misconduct and the parties would agree to the orders to be made by the Tribunal. Nonetheless this being an inquiry, I still had the duty to consider to and rule upon the evidence of market misconduct and consider the appropriateness or otherwise of the orders proposed.

6. The hearing was held on 3 March 2017.

## CHAPTER 2

### THE BACKGROUND AND FACTUAL BASIS FOR THE INQUIRY SERVED ON THE PARTIES

#### A. Introduction

7. The present proceedings are instituted against Mr Cheong and Madam Gan in relation to their dealings in the shares of the Company from 3 to 5 January 2012 and on 3 January 2012 respectively.

8. The Company was principally engaged in the supply of oil products and provision of bunker refuelling services and logistics services including oil and chemical storage facilities and oil transportation.

9. At all material times, Mr Cheong was a senior employee within the group of companies established under the Company (“**Titan Group**”). Specifically, he was at the relevant time employed by Titan Resources Management (S) Pte Ltd, an indirectly wholly owned subsidiary of the Company in Singapore.

10. Madam Gan is the mother of Mr Cheong.

11. As at 2 January 2012:-

- (1) Mr Cheong held 52,500,000 shares in the Company through his investment services account at HSBC; and

(2) Madam Gan held 1,500,000 shares in the Company through her securities trading account at UOB Kay Hian Private Limited (“**UOB**”).

12. Between August 2011 and March 2012, the Company held discussions with a number of potential investors/financiers regarding potential investment in the Titan Group and possible fund raising in order to cope with its needs, including the repayment of *inter alia*, its outstanding loans due to the Bank of China and the Industrial and Commercial Bank of China (“**ICBC**”) on 31 December 2011 and certain fixed rate senior notes issued by the Company in the principal amount of US\$105.87 million which were due to mature on 19 March 2012 (“**Listco Senior Notes**”).

13. A potential investor, China National Offshore Oil Corporation Petrochemical Import & Export Co. Ltd (“**CNOOC**”), offered to invest in the Company subject to the obtaining of certain specific consents and waivers from Warburg Pincus LLC (“**Warburg**”) by 20 December 2011. Warburg is a private equity firm which jointly owned Titan Group Investment Limited (“**TGIL**” or “**StorageCo**”) with the Company. Following unsuccessful discussions between the Company and Warburg, the then Chairman of the Company, Mr Tsoi Tin Chun (“**Mr Tsoi**”), sent a letter to Warburg on 29 December 2011 noting the lapse of CNOOC’s offer.

14. Mr Cheong was involved in the discussions between the Company and Warburg, and was involved in the preparation and/or translation of letters sent by the Company to Warburg in November and December 2011 including the Chairman's letter as referred to in paragraph 13 above. He therefore had knowledge of the Titan Group's perilous financial situation. Almost immediately after the issuance of the Chairman's letter and the default by the Titan Group on the outstanding loans due on 31 December 2011, Mr Cheong disposed of all his 52,500,000 shares in the Company between 3 and 5 January 2012 at an average price of around HK\$0.259.

15. On 3 January 2012, the same day that Mr Cheong began to sell his shares, Madam Gan also instructed UOB to dispose of all her 1,500,000 shares in the Company, which were eventually sold at a unit price of HK\$0.27.

16. On 18 March 2012, the Company published an announcement on the website of Hong Kong Exchanges and Clearing Limited ("**HKEx**") entitled "Update on the Financial Position of the Company" ("**18 March 2012 Announcement**") regarding the likely default by the Titan Group in respect of the Listco Senior Notes.

17. On 14 May 2012, the first trading day after the Company made the 18 March 2012 Announcement, its share price dropped by 36.4% to close at HK\$0.178.

18. By reason of the above, Mr Cheong and Madam Gan engaged or may have engaged in insider dealing. The material evidence available before the Tribunal is highlighted in the paragraphs below.

**B. Events leading up to the Titan Group's likely default in obligations**

19. On 13 December 2010, the Company published an announcement disclosing details of the following matters:

- (1) On 5 December 2010, the Company and Grand China Logistics Holding (Group) Company Limited (“**Grand China Logistics**”) entered into a framework agreement whereby the Company agreed to procure the disposal of a 95% equity interest in Titan Quanzhou Shipyard Co., Ltd (“**Titan Quanzhou Shipyard**”), and to issue 500 million new shares in the Company to Grand China Logistics, subject to the signing of formal documents.
- (2) On 11 December 2010, the Company entered into, *inter alia*:
  - (a) a sale and purchase agreement (“**Sale and Purchase Agreement**”) in relation to the disposal of the 95% equity interest in Titan Quanzhou Shipyard for RMB1,865,670,000 (“**Consideration**”); and

- (b) a subscription agreement (“**Subscription Agreement**”) in relation to the issue of the 500 million new shares to Grand China Logistics at a price of HK\$0.61 per share (i.e. at a subscription price of HK\$305 million).
  
- (3) Under the Sale and Purchase Agreement, the Consideration was to be paid by Grand China Logistics to the Company by 6 payments, with the first 2 payments to be made in the following manner:
  - (a) RMB280 million to be paid within 5 business days after obtaining the relevant approval from the State Administration of Foreign Exchange of the PRC (“**SAFE**”) (or if no approval is required from SAFE, within 20 business days after the date of the Sale and Purchase Agreement);
  
  - (b) RMB520 million to be paid within 10 business days after obtaining the relevant approval from Fujian Foreign Trade and Economic Corporation Bureau (“**Fujian FTEC**”) (if required) and shareholders’ approval of the Company (or if other approval(s) are required to be obtained other than that from Fujian FTEC, within 10 business days after obtaining such approval(s)).

- (4) The subscription for the 500 million shares in the Company under the Subscription Agreement (“**Subscription**”) was conditional upon, *inter alia*, the completion of the Sale and Purchase Agreement and the registration with the State Administration for Industry and Commerce of the PRC of the transfer of the 95% equity interest in Titan Quanzhou Shipyard.
- (5) The reasons for the Subscription were to provide an opportunity to broaden the shareholder base of the Company and strengthen its capital base and financial position for the Titan Group’s future business developments. The Company intended to use the net proceeds of the Subscription as general working capital for the Titan Group.

20. On 4 August 2011, the Company received RMB60 million from Grand China Logistics, bringing the total amount received under the Sale and Purchase Agreement to RMB740 million. No further payment of the Consideration was made after this date.

21. As a result of Grand China Logistics’ failure to pay the Consideration in full, the Sale and Purchase Agreement did not complete and the registration of the transfer of the 95% equity interest in Titan Quanzhou Shipyard was not effected. The Subscription Agreement therefore lapsed.

22. Since August 2011, the Company held discussions with: (i) representatives of Grand China Logistics and/or its parent Hainan Air Group (“HNA”) regarding payment of the Consideration due; and (ii) a number of potential investors/financiers regarding potential investment in the Titan Group and possible fund raising, including CNOOC. CNOOC was only willing to invest in the Titan Group if the Company could obtain from Warburg certain specific consents and waivers.

23. On 29 November 2011, Mr Tsoi issued a letter (in Chinese) to Warburg (“**First Letter**”). The relevant paragraphs in the First Letter stated that:

*“... with the tightening of money supply by the Chinese government, Hainan Air is unable to perform the contract. Up till now, the Company has only received RMB740 million, with RMB1.37567 billion yet to be paid. The Company learnt from the market that, Hainan Air is no longer able to perform its obligation to make payments of a large scale. Owing to the aforesaid macro-economic control in China and the Hainan Air factor, the Company is unable to raise substantial amount of funds to cope with its need, including 81 million (yuan) for the Fujian Terminal, 54 million (yuan) bank loan that falls due in relation to the Nansha Terminal project and the injection of 120 million (yuan) of capital in relation to the construction of the Zone B, Phase II Fujian Terminal...The whole of*

*the Titan Group, including the listed company and the China Storage business, is facing the risk of cash flow interruption like broken chains. At the same time, the Company is also faced in the short term with the need to redeem bonds with a value of USD105 million due on 18 March 2012 and the capital requirement in relation to the preferred shares in the listed company held by Warburg Pincus due in June 2012. If the Company does not have new sources of capital, it would not be able to settle the debt when it becomes due...*

*The Company has been making positive efforts to tap into all kinds of resources and identify opportunities of cooperation with new investors. At present, it is in talks on cooperation with one or two big State-owned petrochemical enterprises in China. The conditions for cooperation raised by the other party must include a more than 50% control over the listed company. This will necessitate the placing of some of the shares by the Company. At the same time, I am also required to transfer half of the shares held by me at the same price. In particular, the legal department of the other party has shown great concern over the relevant terms and conditions in the cooperation agreement between Titan and Warburg Pincus (and) China Storage, requesting that its investment into the listed company and China Storage must be premised on the removal of the following restrictions: 1) to cancel the restriction on the shareholding ratio between Titan Oil and me and the requirement for Titan Oil to be the single major shareholder of the listed company;*

*2) Warburg Pincus must give up (its right) to obtain the control over China Storage by way of subscribing for the share options; 3) to cancel the requirement for China Storage to be listed before 21 June 2012, and to give up its right to require a mandatory sale of Titan's stake in China Storage according to the aforesaid agreement. After repeated contacts and rounds of explanations, although I have been trying hard to discuss and resolve the deal between Warburg Pincus and the new investor in a holistic manner, the other party has rejected our proposal to invite Warburg Pincus to join the negotiation, insisting that Titan Petrochemicals must obtain Warburg Pincus' reply to the aforesaid conditions precedent in one week before the cooperation negotiation can proceed further. Hence, we urgently request Warburg Pincus to jointly discuss a resolution..."*

24. In the attachment to the First Letter headed "Follow up work arrangement", it was stated that the new investor (i.e. CNOOC) "*would like Titan to provide the highest degree of coordination by reaching an agreement before 20 December ...*". It was further expressed that "*It is hoped that a consensus can be reached on or before 6 December...*".

25. Subsequently, correspondence was exchanged between the Company and Warburg from 29 November 2011 to 9 December 2011 which suggested that Warburg took the position that agreement must first be reached on its exit mechanism from the Titan Group.

- (1) On 29 November 2011, Mr Sun Chang of Warburg sent an email to Mr Patrick Wong (“**Mr Wong**”), an executive director of the Company, stating that it was impossible for them to give up their rights without first securing a mechanism for their exit.
- (2) On 30 November 2011, Mr Chan Ho Park of Warburg sent an email to Mr Wong attaching an exit mechanism proposal which parties had earlier discussed.
- (3) On 9 December 2011, Mr Rajiv Ghatalia of Warburg sent a letter to Mr Tsoi setting out Warburg’s approach to the valuation of TGIL.

26. On 12 December 2011, Mr Cheong circulated an e-mail entitled “Meeting Minutes – WP 12 Dec 2011” containing minutes of a meeting (“**Meeting**”) held between representatives from the Company (including Mr Cheong himself) and Warburg (“**Meeting Minutes**”). The attachments to the e-mail included the Company’s notes for discussion at the Meeting. These notes provided details of the financial condition of the Titan Group and included, among other financial information, the following statements:

*“Titan and StorageCo are still incurring huge loss. As of end of September, Titan recorded a loss of HK\$400 million and StorageCo recorded a loss of HK\$46 million.”*

*Titan's 2012 Bond matures on 18<sup>th</sup> March 2012. The amount payable on maturity (principal plus interest) is US\$110 million.*

*Titan has offshore free cash of approximately US\$2 million. The depressed Shipping market and Floating Storage (FSU) markets are not helpful, the forecasted cash flow generating from both operations in the next three months would be far from sufficient to cover fund requirement for the company's bond repayment in March 2012. In the absence of new capital injections into Titan, Titan will have no alternative but default on bond maturity.*

*Default in bond repayment will trigger defaults of the Group's borrowing including those of Storage[C]o's. Titan will be at risk of insolvency...*

*StorageCo is unable to repay the RMB135 million bank loans due at the end of this year. In addition, there are approximately another RMB378 million due for repayment in 2012...*

*As required by the new investor, the Company had to reply as to whether Titan and Warburg Pincus had reached agreement, by 6 December 2011. If Warburg Pincus fails to recognize the real situation that the Company is in and take timely decisions, it would not only affect Titan's survival, but also at the same time put its*

*investments at risk. This would be the only and final chance for Titan to overcome its challenges. If Titan misses this chance, neither Mr. Tsoi nor the Company is able to make any further efforts.”*

27. Between 15 and 20 December 2011, representatives of the Company and Warburg followed up by email the negotiations in respect of the terms and conditions of Warburg’s exit from the Company. On 20 December 2011, the deadline set by CNOOC had lapsed without the Company and Warburg reaching a solution.

28. On 29 December 2011, Mr Tsoi issued a letter to Warburg’s two co-presidents in the United States (“**Second Letter**”). It stated, *inter alia*, as follows:

*“Recently, Titan is facing critical challenges, and I have found it my duty to write to you to communicate the following:*

- 1. Since March of 2010, Titan Petrochemicals Group Limited (“Titan”) has initiated long term cooperation talks with the China State Strategic Oil Reserve Bureau (“CSSORB”) with the aim of securing a ten year plus ten year long term lease contract for Titan’s China oil storage facilities. (Please refer to the attached for details). On this subject, we have kept up the communication with Mr. Rajiv Ghatalia. This*

*potential long term cooperation with the CSSORB will not only bring in stable revenue to our China Storages, but also greatly enhance the status and value of our assets. We fail to comprehend why Mr. Ghatalia, not only did he not endorse or support our cooperation with the CSSORB, but raised an incomprehensible condition that Warburg Pincus have to convert its investment into 9 billion shares of Titan Petrochemicals Group Limited before it approves of our cooperation. This has cost Titan its opportunity with the CSSORB and the chance to improve on its future operational and financial situation, and also the problems it faces today.*

2. *Titan has never given up sourcing for new cooperation models. Under operational stresses and funding requirement pressures, I have deployed all possible resources and contacts to convince and engage China National Offshore Oil Corporation (“CNOOC”) to formally enter into cooperation talks with the Company. We have informed the same to Warburg Pincus without delay. To ensure WP’s interest, Titan have undertaken to use the proceeds from CNOOC’s investment into Titan Petrochemicals Group Limited to first redeem Warburg Pincus’s preferred shares and convertible notes. On this subject, we have through letters and emails, communicated with Mr. Sun Chang, Mr. Rajiv Ghathalia and Mr. Chanho Park on 20 November 2011, 3 December 2011, 7*

*December 2011 and 9 December 2011 and further proposed the following in our meeting with them in Singapore on 12 December 2011:*

- a. WP may retain its investments in Titan subsequent to CNOOC's entry into Titan;*
  - b. WP may exit in June 2012 at 175% of face value of all of preferred shares and convertible notes in Titan's listed company and China StorageCo; or*
  - c. WP may request Titan to redeem all of preferred shares and convertible notes in China StorageCo at 175% of face value while keeping the preferred shares in Titan's listed company.*
- 3. CNOOC has completed preliminary due diligence on the Company in November 2011. Its legal department has particularly expressed great concern on the terms in the agreements between Titan and WP and insists Titan reaching a solution with WP before 20 December 2011. Regardless of our proposals and positive efforts in pushing forward such proposals, WP again impeded it and proposed solutions which are both unrealistic and unacceptable by new investors*

*and Titan, resulting in the lapse of CNOOC's deadline and losing another good but last opportunity.*

*Given that WP has repeatedly raised unreasonable and unworkable requests and disrupted our efforts to improve the Company's difficult operating situation, Titan and I will not be able to put in any further effort to salvage the current adverse situation. To be responsible for the shareholders and to avoid the delisting or liquidation of Titan Petrochemicals Group Limited, we are agreeable to sell our 50.1% shares in China StorageCo at a price lower than what Warburg Pincus have valued its 49.9% stake in China StorageCo. We hope that Warburg Pincus will look upon this as seriously as we do and make an informed and mindful judgment."*

29. As at 4 January 2012, no reply had been received from Warburg in relation to the Second Letter, and no agreement had been entered into with Warburg on the exit mechanism.

30. On 18 March 2012, the Company published the 18 March 2012 Announcement which contained, *inter alia*, the following information:

- (1) Whilst the Company had obtained regulatory and shareholder approvals for the first 2 payments of the Consideration, as at 31 December 2011, only RMB740 million (out of the RMB800 million that should have been paid) had been

received from Grand China Logistics in respect of the Sale and Purchase Agreement. The third and fourth payments aggregating RMB665.67 million had not been paid.

- (2) In order to preserve the rights of the Titan Group, registration of the transfer of the 95% equity interest in Titan Quanzhou Shipyard had not been effected.
- (3) As the registration of the transfer of the equity interest in Titan Quanzhou Shipyard was a condition precedent to the completion of the Subscription Agreement, the Subscription Agreement had lapsed.
- (4) The Titan Group would have been entitled to receive an aggregate of RMB1,712.05 million by 31 December 2011 had Grand China Logistics duly made the payments of the Consideration when due. The funds from these transactions were earmarked for, *inter alia*, repayment of debt of the Titan Group. The Company did not therefore expect to meet its payment obligations in respect of the Listco Senior Notes.
- (5) The failure to repay the Listco Senior Notes would not, in and of itself, constitute an event of default under the guaranteed senior payment in kind notes issued by the Company due 2015 with an original principal amount of

US\$14.19 million (“**Listco PIK Notes**”) or the guaranteed senior convertible notes issued by the Company due 2015 with an original principal amount of US\$78.73 million (“**Listco Convertible Notes**”). However, the enforcement actions taken by creditors or the trustee of the Listco Senior Notes as well as actions taken by other creditors of the Company could result in the acceleration of the Listco PIK Notes and Listco Convertible Notes. Cross defaults would also be triggered in respect of a bilateral loan with a financial institution in an outstanding principal amount of US\$1.3 million.

- (6) The Company was in advanced “in principle” negotiations with a potential strategic investor in respect of a possible equity investment in the Company.

31. On 11 May 2012, the Company published its financial results for the year ended 31 December 2011 (the “**11 May 2012 Announcement**”). The consolidated financial statements of the Company, which were appended to the 11 May 2012 Announcement, stated that:

- (1) the Titan Group “*was in default in repaying certain secured bank borrowings of RMB111,000,000 (approximately HK\$137,407,000) as at the year end*”; and

- (2) the Company was unable to repay the overdue principal and interest of the Listco Senior Notes of US\$105,870,000 and US\$4,499,000 which were due on 19 March 2012.

The bank borrowings referred to in sub-paragraph (1) above were instalments due as at 31 December 2011 to ICBC of RMB 30 million and Bank of China of RMB81 million.

32. Mr Wong Wing Cheung Dennis (“**Mr Dennis Wong**”), a market expert, is of the view that the information set out in paragraphs 20 to 31 above is specific information which, prior to public announcement by the Company, was not generally known to the persons who are accustomed or would be likely to deal in the shares of the Company at the relevant time. In particular, he confirmed that the information relating to (i) Grand China Logistics’ delay and failure to pay the Consideration in full, (ii) the negotiations between the Company and Warburg, or (iii) that the Company may be unable to meet the repayment obligations to ICBC and the Bank of China due by 31 December 2011 and the repayment of the Listco Senior Notes due on 18 March 2012, were not generally known to persons who are accustomed or would be likely to deal in the shares of the Company at the relevant time.

**C. Mr Cheong’s knowledge of the likely defaults by the Titan Group**

33. By emails exchanged amongst various staff members of the Titan Group between 24 and 29 November 2011, the draft of the First Letter was circulated for comments. On 26 November 2011, Mr Cheong circulated the

translation of the First Letter. On 29 November 2011, Mr Haemon Huang circulated the final version of the First Letter to, *inter alios*, Mr Cheong. Accordingly, Mr Cheong was fully aware of the likelihood of the default by Grand China Logistics, the impact of such default on the Company, that the solution was to find a new investor and Warburg's position would be vital to the matter.

34. By an email from Mr Cheong to Mr Wong on 12 December 2011, Mr Cheong attached the notes referred to in paragraph 20 above setting out the discussion points for the Meeting. On the same day, he circulated the Meeting Minutes to other staff members of the Company. The Meeting Minutes showed that he attended the Meeting.

35. By emails among various staff members of the Titan Group between 5 and 6 December 2011, the draft of the Second Letter was circulated for comments. Mr Cheong stated that he would translate the Second Letter. By an email on 29 December 2011, Mr Wong circulated the final version of the Second Letter to, *inter alios*, Mr Cheong. Mr Cheong was informed on each of the days of 3 and 4 January 2012 that there was no reply from Warburg to the Second Letter.

36. Based on the Second Letter, Mr Cheong knew of the lapse of the 20 December 2011 deadline set by CNOOC in relation to its proposed investment in the Company. He also knew, from the Second Letter, that the

Company would not be able to meet the 31 December 2011 deadline for making repayments to the Bank of China and ICBC.

**D. Price Sensitivity**

37. On 16 March 2012, the Company published an announcement on the HKEx website stating that trading in its shares would be suspended with effect from 9:00 a.m. on 19 March 2012 pending the release of an announcement in relation to price sensitive information of the Company.

38. On 18 March 2012, the Company published the 18 March 2012 Announcement which, as mentioned above, stated that the Company was likely to default on its repayment obligations in respect of the Listco Senior Notes (due the following day).

39. On 11 May 2012, the Company published the 11 May 2012 Announcement recording a loss of HK\$783,332,000 for the Titan Group for the year ended 31 December 2011. The auditor, Ernst & Young, had given a disclaimer of opinion on the consolidated financial statements.

40. Trading in the Company's shares was suspended between 19 March 2012 and 11 May 2012. Upon resumption of trading of the Company's shares on 14 May 2012, its share price dropped from HK\$0.28 (its closing price on 16 March 2012) to HK\$0.178. The difference of HK\$0.102 represents a 36.4% drop.

41. Mr Dennis Wong is of the opinion that the information set out in the Second Letter is of a significant magnitude in the context of the Company's financial position at the relevant time and likely to have a material adverse effect on the price of its shares. The information set out in the Second Letter would be likely to materially affect the share price of the Company if it became generally known to the persons who are accustomed or would be likely to deal in the shares of the Company.

**E. Dealing in the shares of the Company by Mr Cheong**

42. The records provided by HSBC show that between 3 and 5 January 2012, Mr Cheong disposed of all his 52,500,000 shares in the Company for HK\$13,618,203.06.

43. Mr Cheong sold the 52,500,000 shares in the Company whilst in possession of information which he knew was relevant information for the reasons stated in paragraphs 33 to 36 above.

**F. Counselling or procuring another to deal in the shares of the Company**

44. In addition, by reason of the matters stated in paragraphs 45 to 46 below, it must be inferred that:

- (1) Mr Cheong counselled or procured Madam Gan to sell her shares in the Company, knowing or having reasonable cause to believe that Madam Gan will sell the said shares; and/or

- (2) Mr Cheong disclosed, directly or indirectly, the relevant information to Madam Gan knowing or having reasonable cause to believe that she will make use of the information for the purpose of selling her shares in the Company.

**G. Dealing in the shares of the Company by Madam Gan**

45. At 9:28 am on 3 January 2012, Madam Gan called Mr Chan Kok Hiong (“**Mr Chan**”), a trading representative at UOB, to find out how many shares in the Company she had and gave instructions to dispose of all of her 1,500,000 shares in the Company at above HK\$0.30 per share. Of the 1,500,000 shares held by Madam Gan, 1,000,000 shares were purchased in March 2008 and 500,000 shares were purchased in August 2008.

46. By around 10:45 am on 3 January 2012, all of Madam Gan’s 1,500,000 shares were sold at a unit price of HK\$0.27.

47. Madam Gan sold the 1,500,000 shares in the Company whilst in possession of information which she knew was relevant information in relation to the Company (as set out above) and which she received, directly or indirectly, from Mr Cheong (whom she knew or had reasonable cause to believe held the information as a result of being connected with the Company).

## **H. Losses Avoided**

48. In selling their shares in the Company, and based on the 3-day weighted average price of the Company's shares on 14 to 16 May 2012:-

- (1) Mr Cheong avoided a loss of HK\$3,387,157.66; and
- (2) Madam Gan avoided a loss of about HK\$110,739.84.

## CHAPTER 3

### THE ADMITTED FACTS

#### **Preliminary Statement**

49. Between 3 and 5 January 2012, Mr Cheong engaged in insider dealing within the meaning of ss. 270(1)(a)(i), 270(1)(a)(ii) and 270(1)(c) of the SFO relating to the securities of the Company. Details of Cheong's misconduct are set out in paragraphs 51 to 77 below.

50. On 3 January 2012, Madam Gan engaged in insider dealing within the meaning of s. 270(1)(e)(i) of the SFO relating to the securities of Titan. Details of Gan's misconduct are set out in paragraphs 51 to 70 and 78 to 82 below.

#### **Background and parties**

51. Cheong was at all material times a senior employee within the group of companies ("**Titan Group**") established under Titan, which is a company listed on the main board of the Stock Exchange of Hong Kong Limited ("**SEHK**") (Stock Code 1192) since 17 June 1998. Gan is the mother of Cheong.

52. Cheong has been employed since around 2003 by Titan Resources Management (S) Pte Ltd, a service company which employs all staff in Singapore and which is wholly owned by Titan. He was also a director of

Titan Resources Management (S) Pte Ltd, Titan Bunkering Pte Ltd and Titan Solar Pte Ltd, although his directorship in these Titan Group companies ceased in 2006. He was responsible for managing the shipping and floating storage businesses of Titan in Singapore. He ceased to be an employee of the Titan Group on 22 January 2013.

53. On 13 December 2010, Mr Tsoi Tin Chun (“**Mr Tsoi**”), then Chairman of Titan, published on behalf of its Board of Directors an announcement on the SEHK (“**13 December 2010 Announcement**”) disclosing details of the subscription of 500 million new shares in Titan by a PRC incorporated company named Grand China Logistics Holding (Group) Company Limited (“**Grand China Logistics**”). The 13 December 2010 Announcement included the following details of the transactions:

- (1) On 5 December 2010, Titan and Grand China Logistics entered into a framework agreement whereby Titan agreed to procure the disposal of a 95% equity interest in Titan Quanzhou Shipyard Co., Ltd (“**Titan Quanzhou Shipyard**”), an indirectly wholly-owned subsidiary of Titan, and to issue 500 million new shares in Titan to Grand China Logistics, subject to the signing of formal documents.
- (2) On 11 December 2010, Titan entered into:
  - (a) a sale and purchase agreement (“**Sale and Purchase Agreement**”) in relation to the disposal of the 95%

- equity interest in Titan Quanzhou Shipyard for RMB1,865,670,000 (“**Consideration**”);
- (b) a subscription agreement (“**Subscription Agreement**”) in relation to the issue of the 500 million new shares to Grand China Logistics;
  - (c) a management agreement in relation to the engagement of Titan to manage the business operations of Titan Quanzhou Shipyard.
- (3) The Consideration was to be paid by Grand China Logistics to Titan by 6 payments, with the first 2 payments to be paid in the following manner:
- (a) RMB280 million within 5 business days after obtaining the relevant approval from the State Administration of Foreign Exchange of the PRC (“**SAFE**”) (or if no approval is required from SAFE, within 20 business days after the date of the Sale and Purchase Agreement);
  - (b) RMB520 million within 10 business days after obtaining the relevant approval from Fujian Foreign Trade and Economic Corporation Bureau (“**Fujian FTEC**”) (if required) and shareholders’ approval of Titan (or if such

approval(s) are required to be obtained other than from Fujian FTEC, within 10 business days after obtaining such approval(s)).

- (4) The subscription for the 500 million shares in Titan under the Subscription Agreement (“**Subscription**”) was conditional upon, *inter alia*, the completion of the Sale and Purchase Agreement and the registration with the State Administration for Industry and Commerce of the PRC of the transfer of the 95% equity interest in Titan Quanzhou Shipyard.
- (5) The reasons for the Subscription were to provide an opportunity to broaden the shareholder base of Titan and to strengthen its capital base and financial position for the Titan Group’s future business developments.

54. On 16 March 2012, Titan published an announcement on the SEHK stating that trading in its shares would be suspended with effect from 9am on 19 March 2012 pending the release of an announcement in relation to price sensitive information of the company.

55. On 18 March 2012, Titan published an announcement on the SEHK entitled “Update on the Financial Position of the Company” (“**18 March 2012 Announcement**”) which contained, *inter alia*, the following information:

- (1) Whilst Titan had obtained regulatory and shareholder approvals for the first two stage payments, as at 31 December 2011, only RMB740 million (out of the RMB800 million that should have been paid) had been received from Grand China Logistics in respect of the Sale and Purchase Agreement. The third and fourth stage payments aggregating RMB665.67 million had not been paid.
- (2) In order to preserve the rights of the Titan Group, registration of the transfer of the 95% equity interest had not been effected.
- (3) As the registration of the transfer of the equity interest in Titan Quanzhou Shipyard was a condition precedent to the completion of the Subscription Agreement, the Subscription Agreement had lapsed.
- (4) Titan and its subsidiaries would have been entitled to receive an aggregate of RMB1,712.05 million by 31 December 2011 had Grand China Logistics made the stage payments when due. The funds from these transactions were earmarked for, *inter alia*, repayment of debt of the Titan Group. Titan did not therefore expect to meet its payment obligations in respect of US\$105.87 million in principal amount of fixed

rate senior notes issued by Titan (“**Listco Senior Notes**”) when they matured on 19 March 2012.

- (5) The failure to repay the Listco Senior Notes would not, in and of itself, constitute an event of default under the guaranteed senior payment in kind notes issued by Titan due 2015 with an original principal amount of US\$14.19 million (“**Listco PIK Notes**”) or the guaranteed senior convertible notes issued by Titan due 2015 with an original principal amount of US\$78.73 million (“**Listco Convertible Notes**”). However, the enforcement actions taken by creditors or the trustee of the Listco Senior Notes as well as actions taken by other creditors of Titan could result in the acceleration of the Listco PIK Notes and Listco Convertible Notes. Cross defaults would also be triggered in respect of a bilateral loan with a financial institution in an outstanding principal amount of US\$1.3 million.
- (6) Titan was in advanced “in principle” negotiations with a potential strategic investor in respect of a possible equity investment in Titan.

56. On 11 May 2012, Titan announced its financial results for the year ended 31 December 2011 which showed a loss for the year of HK\$783 million. The auditor, Ernst & Young, had given a disclaimer of opinion on the

consolidated financial statements. Its report mentioned that the Titan Group “was in default to repay certain secured bank borrowings of RMB111,000,000 (approximately HK\$137,407,000) as at the year end”. It also mentioned that Titan was unable to repay the overdue principal and interest of the Listco Senior Notes of US\$105.87 million and US\$4,499,000 which were due on 19 March 2012.

57. Trading in the shares of Titan remained suspended between 19 March 2012 and 11 May 2012. Upon resumption of trading of the shares of Titan on 14 May 2012, its share price dropped from HK\$0.28 (its closing price on 16 March 2012) to HK\$0.178. The difference of HK\$0.102 represents a 36.4% drop.

### **Relevant Information**

58. Titan received RMB60 million from Grand China Logistics on 4 August 2011 bringing the total amount received under the Sale and Purchase Agreement to RMB740 million.

59. On 24 August 2011, Titan published an announcement of its unaudited interim results for the 6 months ended 30 June 2011 which reported a loss of approximately HK\$239 million from continuing operations and approximately HK\$13 million from discontinued operations. Note 1 to the consolidated financial statements referred to the fact that RMB740 million of the Consideration had been received as at the date of the announcement.

60. Grand China Logistics did not make further payment to Titan after 4 August 2011. Between August 2011 and March 2012: (i) a number of meetings were held between representatives of Titan and Grand China Logistics and/or its parent Hainan Air Group (“**HNA**”) regarding payment of the Consideration due; and (ii) Titan held discussions with a number of potential investors/financiers regarding potential investment in the Titan Group and possible fund raising.

61. One of the potential investors/financiers was China National Offshore Oil Corporation Petrochemical Import & Export Co. Ltd (“**CNOOC**”), part of the China state owned CNOOC group. A “kick-off” meeting was held between Titan and CNOOC between 22 and 25 November 2011 followed by a site visit to Titan and an extended period of due diligence by CNOOC.

62. On 29 November 2011, Mr Patrick Wong Siu Hung (“**Mr Wong**”), an executive director of Titan, dispatched a letter issued by Mr Tsoi of even date to Mr Chang Sun (“**Mr Sun**”) of Warburg Pincus LLC (“**Warburg**”) which jointly owned Titan Group Investment Limited (“**TGIL**” or “**StorageCo**”) with Titan (“**First Letter**”). The First Letter (which is in Chinese) states:

*“However, with the tightening of money supply by the Chinese government, Hainan Air is unable to perform the contract. Up till now, the Company has only received RMB740 million, with*

*RMB1.37567 billion yet to be paid. The Company learnt from the market that, Hainan Air is no longer able to perform its obligation to make payments of a large scale. Owing to the aforesaid macro-economic control in China and the Hainan Air factor, the Company is unable to raise substantial amount of funds to cope with its need, including 81 million (yuan) for the Fujian Terminal, 54 million (yuan) bank loan that falls due in relation to the Nansha Terminal project and the injection of 120 million (yuan) of capital in relation to the construction of the Zone B, Phase II Fujian Terminal...The whole of the Titan Group, including the listed company and the China Storage business, is facing the risk of cash flow interruption like broken chains. At the same time, the Company is also faced in the short term with the need to redeem bonds with a value of USD105 million due on 18 March 2012 and the capital requirement in relation to the preferred shares in the listed company held by Warburg Pincus due in June 2012. If the Company does not have new sources of capital, it would not be able to settle the debt when it becomes due...*

*The Company has been making positive efforts to tap into all kinds of resources and identify opportunities of cooperation with new investors. At present, it is in talks on cooperation with one or two big State-owned petrochemical enterprises in China. The conditions for cooperation raised by the other party must include a more than 50% control over the listed company. This will*

*necessitate the placing of some of the shares by the Company. At the same time, I am also required to transfer half of the shares held by me at the same price. In particular, the legal department of the other party has shown great concern over the relevant terms and conditions in the cooperation agreement between Titan and Warburg Pincus (and) China Storage, requesting that its investment into the listed company and China Storage must be premised on the removal of the following restrictions: 1) to cancel the restriction on the shareholding ratio between Titan Oil and me and the requirement for Titan Oil to be the single major shareholder of the listed company; 2) Warburg Pincus must give up (its right) to obtain the control over China Storage by way of subscribing for the share options; 3) to cancel the requirement for China Storage to be listed before 21 June 2012, and to give up its right to require a mandatory sale of Titan's stake in China Storage according to the aforesaid agreement. After repeated contacts and rounds of explanations, although I have been trying hard to discuss and resolve the deal between Warburg Pincus and the new investor in a holistic manner, the other party has rejected our proposal to invite Warburg Pincus to join the negotiation, insisting that Titan Petrochemicals must obtain Warburg Pincus' reply to the aforesaid conditions precedent in one week before the cooperation negotiation can proceed further. Hence, we urgently request Warburg Pincus to jointly discuss a resolution..."*

63. An attachment to the First Letter referred to a date of 20 December 2011 set by the new investor for Titan and Warburg to reach agreement and expressed the wish for them to reach agreement by 6 December 2011.

64. Subsequently, correspondence was exchanged between Titan and Warburg from 29 November 2011 to 9 December 2011 which suggested that Warburg took the position that agreement must first be reached on its exit mechanism from the Titan Group.

- (1) On 29 November 2011, Mr Sun sent an e-mail to Mr Wong stating that it was impossible for them to give up their rights without first securing a mechanism for their exit.
- (2) On 30 November 2011, Mr Chan Ho Park (“**Mr Park**”) of Warburg sent an e-mail to Mr Wong attaching an exit mechanism proposal which parties had earlier discussed.
- (3) On 9 December 2011, Mr Rajiv Ghatalia (“**Mr Ghatalia**”) of Warburg sent a letter to Mr Tsoi setting out its approach to the valuation of TGIL.

65. On 12 December 2011, Cheong circulated an e-mail entitled “Meeting Minutes – WP 12 Dec 2011” containing minutes of a meeting (“**Meeting**”) held between representatives from Titan (Mr Tsoi, Mr Wong, Cheong and Mr Allen Tu) and Warburg (Mr Sun, Mr Gathalia and Mr Park)

(“**Meeting Minutes**”). The attachments to the e-mail included Titan’s notes for discussion at the meeting. These notes provided details of the financial condition of the Titan Group and included, among other financial information, the following statements:

*“Titan and StorageCo are still incurring huge loss. As of end of September, Titan recorded a loss of HK\$400 million and StorageCo recorded a loss of HK\$46 million.*

*Titan’s 2012 Bond matures on 18<sup>th</sup> March 2012. The amount payable on maturity (principal plus interest) is US\$110 million.*

*Titan has offshore free cash of approximately US\$2 million. The depressed Shipping market and Floating Storage (FSU) markets are not helpful, the forecasted cash flow generating from both operations in the next three months would be far from sufficient to cover fund requirement for the company’s bond repayment in March 2012. In the absence of new capital injections into Titan, Titan will have no alternative but default on bond maturity.*

*Default in bond repayment will trigger defaults of the Group’s borrowing including those of Storageco’s. Titan will be at risk of insolvency...*

*StorageCo is unable to repay the RMB135 million bank loans due at*

*the end of this year. In addition, there are approximately another RMB378 million due for repayment in 2012...*

*As required by the new investor, the Company had to reply as to whether Titan and Warburg Pincus had reached agreement, by 6 December 2011. If Warburg Pincus fails to recognize the real situation that the Company is in and take timely decisions, it would not only affect Titan's survival, but also at the same time put its investments at risk. This would be the only and final chance for Titan to overcome its challenges. If Titan misses this chance, neither Mr. Tsoi nor the Company is able to make any further efforts."*

66. Between 15 and 20 December 2011, representatives of Titan and Warburg followed up by email the negotiations in respect of the terms and conditions of Warburg's exit from Titan. Titan and Warburg did not reach a solution during this period.

67. On 29 December 2011, Mr Tsoi issued a letter of even date to Warburg's two co-presidents in the United States ("**Second Letter**"). It stated, *inter alia*, as follows:

*"Recently, Titan is facing critical challenges, and I have found it my duty to write to you to communicate the following:*

4. *Since March of 2010, Titan Petrochemicals Group Limited (“Titan”) has initiated long term cooperation talks with the China State Strategic Oil Reserve Bureau (“CSSORB”) with the aim of securing a ten year plus ten year long term lease contract for Titan’s China oil storage facilities. (Please refer to the attached for details). On this subject, we have kept up the communication with Mr. Rajiv Ghatalia. This potential long term cooperation with the CSSORB will not only bring in stable revenue to our China Storages, but also greatly enhance the status and value of our assets. We fail to comprehend why Mr. Ghatalia, not only did he not endorse or support our cooperation with the CSSORB, but raised an incomprehensible condition that Warburg Pincus have to convert its investment into 9 billion shares of Titan Petrochemicals Group Limited before it approves of our cooperation. This has cost Titan its opportunity with the CSSORB and the chance to improve on its future operational and financial situation, and also the problems it faces today.*
  
5. *Titan has never given up sourcing for new cooperation models. Under operational stresses and funding requirement pressures, I have deployed all possible resources and contacts to convince and engage China National Offshore Oil Corporation (“CNOOC”) to formally enter into cooperation talks with the Company. We have informed the same to*

*Warburg Pincus without delay. To ensure WP's interest, Titan have undertaken to use the proceeds from CNOOC's investment into Titan Petrochemicals Group Limited to first redeem Warburg Pincus's preferred shares and convertible notes. On this subject, we have through letters and emails, communicated with Mr. Sun Chang, Mr. Rajiv Ghathalia and Mr. Chanho Park on 20 November 2011, 3 December 2011, 7 December 2011 and 9 December 2011 and further proposed the following in our meeting with them in Singapore on 12 December 2011:*

- a. WP may retain its investments in Titan subsequent to CNOOC's entry into Titan;*
  - b. WP may exit in June 2012 at 175% of face value of all of preferred shares and convertible notes in Titan's listed company and China StorageCo; or*
  - c. WP may request Titan to redeem all of preferred shares and convertible notes in China StorageCo at 175% of face value while keeping the preferred shares in Titan's listed company.*
- 6. CNOOC has completed preliminary due diligence on the Company in November 2011. Its legal department has*

*particularly expressed great concern on the terms in the agreements between Titan and WP and insists Titan reaching a solution with WP before 20 December 2011. Regardless of our proposals and positive efforts in pushing forward such proposals, WP again impeded it and proposed solutions which are both unrealistic and unacceptable by new investors and Titan, resulting in the lapse of CNOOC's deadline and losing another good but last opportunity.*

*Given that WP has repeatedly raised unreasonable and unworkable requests and disrupted our efforts to improve the Company's difficult operating situation, Titan and I will not be able to put in any further effort to salvage the current adverse situation. To be responsible for the shareholders and to avoid the delisting or liquidation of Titan Petrochemicals Group Limited, we are agreeable to sell our 50.1% shares in China StorageCo at a price lower than what Warburg Pincus have valued its 49.9% stake in China StorageCo. We hope that Warburg Pincus will look upon this as seriously as we do and make an informed and mindful judgment.”*

68. On 31 December 2011, 2 subsidiaries of TGIL each failed to pay an instalment due on that day in respect of a project loan. The total amount involved was RMB111 million made up of an outstanding payment of RMB30 million due to Industrial and Commercial Bank of China (“ICBC”) and RMB81 million due to Bank of China.

69. As at 4 January 2012, Titan had not received a reply from Warburg in relation to the Second Letter nor had an agreement been entered into with Warburg on the exit mechanism.

70. Between 24 August 2011 and 18 March 2012, the information relating to the financial position of Titan and its subsidiaries as referred to in paragraphs 60 to 69 above, in particular, the likely default by Titan and/or its subsidiaries in respect of the outstanding loans due to Bank of China and ICBC and the Listco Senior Notes was “relevant information” within the meaning of s. 245(2) of the SFO (as applicable to dealings in 2012) because it was specific information about Titan which was not generally known to the persons who were accustomed or would be likely to deal in the listed securities of Titan but it would if it were generally known to them be likely materially to affect the price of Titan’s shares.

### **Misconduct by Cheong**

#### I. Dealing in 52.5 million Titan shares by Cheong (s. 270(1)(a)(i) of the SFO)

71. Between 3 and 5 January 2012, being connected with Titan, and having relevant information in relation to Titan (as referred to above) that he knew was relevant information, Cheong disposed of all 52.5 million Titan shares which he was holding for a total of HK\$13,618,203.06 (“**Cheong’s Sale**”).

**Proceeds**”). The details of the relevant dealings are set out in **Schedule 1** annexed to this statement.

72. Between 5 and 9 January 2012, Cheong’s Sale Proceeds were deposited into Cheong’s Premier bank account (HK\$ savings) with HSBC.

73. Cheong sold the 52.5 million shares in Titan between 3 and 5 January 2012 whilst in possession of relevant information which he knew was relevant information for the purposes of the SFO, given that:-

(1) Cheong was a senior member of management connected to Titan.

(2) Cheong had first-hand knowledge of the non-public price sensitive information of Titan.

(a) E-mails were exchanged between Cheong and others at Titan in November and December 2011 relating to a Debtwire article dated 17 November 2011 in which the liquidity issues of Grand China Logistics and its delays in making payment to Titan under the Sale and Purchase Agreement were discussed.

(b) Further, e-mails were exchanged between Cheong and Ms Josephine Phang (“**Ms Phang**”) of NIBC on

23 November 2011 concerning an article in the Business Times on the apparent liquidity problem faced by HNA. Ms Phang had e-mailed the article to Cheong and asked whether it would “affect the completion of the yard sale and payment of the last instalment for the purchase from TOPL in view that payment has been delayed for quite a few months”. The chain of correspondence ended with Cheong stating that “[t]he news is not new. We work with HNA closely and are confident that it will be resolved. With respect to timeline, it should be end Dec or early Jan”. In the circumstances, Cheong was involved in or had knowledge of possible payment issues as regards the Sale and Purchase Agreement.

- (c) Cheong was included in a chain of e-mails exchanged amongst various staff members of the Titan Group (including, inter alia, Mr Wong, Mr Allen Tu, Mr Haemon Huang and Mr George Lin) between 24 and 29 November 2011 in which they discussed and worked on the First Letter. Cheong assisted in the translation of a version of the First Letter from English to Chinese. Further, he was provided with a copy of the final version of the First Letter before it was dispatched by Mr Wong to Warburg. Accordingly, Cheong was fully aware of the likelihood of the default by Grand China Logistics,

the impact of such default on Titan, that the solution was to find a new investor and Warburg's position would be vital to the matter.

- (d) On 5 and 6 December 2011, Cheong was involved in the preparation and/or translation from Chinese into English of a draft of the Second Letter.
- (e) Cheong attended the Meeting and was aware of the divergence of opinion between the parties with regards to the terms on which Warburg was prepared to exit from its investment and/or permit CNOOC as a new investor to invest into the Titan Group. He was also involved in preparing for the Meeting, including the preparation of the discussion points to be raised at the Meeting.
- (f) Based on the Second Letter, Cheong knew of the lapse of the 20 December 2011 deadline set by CNOOC in relation to its proposed investment in Titan. He also knew, from the Second Letter, that Titan would not be able to meet the 31 December 2011 deadline for making repayments to Bank of China and ICBC in respect of the project loans.

- (g) From e-mails sent to Cheong in the period from 16 to 21 December 2011 by Mr Wong, he also had knowledge of the exchange of correspondence between Titan and Warburg on 15 and 20 December 2011 which followed from the Meeting.
  
- (h) On 19 December 2011, Cheong exchanged internal e-mails with Mr Wong and other staff members of the Titan Group regarding a possible investment proposal from Argyle Street Management Ltd (“ASM”) to finance repayment of the Listco Senior Notes with a maturity deadline of 18 March 2012. On that day, Mr Wong reported to Cheong and others the feedback from ASM on the proposed investment which did not appear to appeal to Titan.
  
- (i) Cheong was involved in the preparation or translation of the Second Letter and received a copy of that letter as sent to Warburg. He was therefore aware that Titan escalated the deadlock with Warburg to senior management of Warburg in the US. Cheong was also copied on internal Titan e-mail correspondence and he was informed on each of the days of 3 and 4 January 2012 that there was no reply from Warburg to the Second Letter.

- (j) From the matters stated above, Cheong was closely involved in or had knowledge of, *inter alia*, the following:
- i. Developments in respect of the Sale and Purchase Agreement between Titan and Grand China Logistics.
  - ii. The need for Titan to secure new investment as a result of the default by Grand China Logistics.
  - iii. CNOOC was one of the potential investors in Titan and the associated due diligence review over Titan conducted by CNOOC.
  - iv. The negotiations with Warburg for its consent before the then intended investment from CNOOC could proceed, during which Titan's unpublished financial information, the issues with payment by Grand China Logistics in respect of the Sale and Purchase Agreement and the likely default by Titan of the outstanding bank loans due to Bank of China and ICBC and under the Listco Senior Notes were discussed.

- v. The stance adopted by Warburg during the negotiations and the differences between Titan and Warburg over the valuation of TGIL.
- vi. The contents of the First Letter and the Second Letter which he translated or helped to translate and which he received final copies of.
- vii. As at 29 December 2011, the parties had not reached agreement with regards to CNOOC's potential investment in the Titan Group. As at 4 January 2012, there was no reply from Warburg in relation to the Second Letter.

(3) Cheong sold all his shareholding in Titan between 3 and 5 January 2012, very shortly after the Second Letter was issued and the official deadline for the Titan Group to make payments to Bank of China and ICBC was missed.

II. Disclosure of relevant information by Cheong to Gan and Cheong counselling or procuring Gan to deal in the Titan shares (ss. 270(1)(a)(ii) and 270(1)(c) of the SFO)

74. Prior to 3 January 2012, Gan held 1.5 million shares of Titan. Of the 1.5 million shares, 1 million were acquired in March 2008 and 500,000 were acquired in August 2008.

75. Cheong disclosed relevant information (as set out above) to Gan directly or indirectly, knowing or having reasonable cause to believe that Gan would make use of the relevant information for the purpose of dealing in the Titan shares. Further or alternatively, Cheong counselled or procured Gan to deal in the Titan shares, knowing or having reasonable cause to believe that Gan will deal in them.

76. As a result, on 3 January 2012, Gan disposed of all 1.5 million Titan shares which she was holding for HK\$401,776.21 (“**Gan’s Sale Proceeds**”) after deduction of brokerage fees and tax in Singapore.

77. On 5 January 2012, UOB Kay Hian Private Limited (through which Gan’s 1.5 million Titan shares were sold) issued a cheque in favour of Gan for S\$66,413.61 representing Gan’s Sale Proceeds.

### **Misconduct by Gan**

#### **Dealing in 1.5 million Titan shares by Gan (s. 270(1)(e)(i) of the SFO)**

78. Gan had information which she knew was relevant information in relation to Titan (as set out above) and which she received, directly or indirectly, from Cheong.

79. Gan knew that Cheong was an employee within the Titan Group; and/or alternatively, Cheong occupied a position which might reasonably be expected to give him access to relevant information in relation to Titan by reason of him being an employee within the Titan Group.

80. Gan knew or had reasonable cause to believe that Cheong held the relevant information as a result of being connected with Titan.

81. On 3 January 2012, Gan disposed of all 1.5 million Titan shares which she had held since March 2008 (1 million shares) and August 2008 (500,000 shares) and received the Gan's Sale Proceeds. The details of the relevant dealings are set out in **Schedule 2** annexed to this statement.

82. On 5 January 2012, UOB Kay Hian Private Limited (through which Gan's 1.5 million Titan shares were sold) issued a cheque in favour of Gan for S\$66,413.61 representing Gan's Sale Proceeds.

### **Re-rated share price of Titan**

83. Investors who dealt with Cheong during from 3 to 5 January 2012 purchased Titan shares at an average price of HK\$0.262 and investors who dealt with Gan on 3 January 2012 purchased Titan shares at the price of HK\$0.27. These were higher prices than investors would have paid if they had bought those shares after the relevant information (as referred to above) was known to the market. On 19 March 2012, trading in the Titan shares was

suspended. On 14 May 2012, trading resumed and the share price of Titan dropped by 36.43% before closing at HK\$0.178. The 3-day weighted average price of the Titan shares for the period from 14 to 16 May 2012 was HK\$0.1956, which reflected the market value of the shares after the market had learned and absorbed the relevant information. As a result of Cheong and Gan's insider dealing, they each received more from their counterparties than they would have received if the relevant information was known to the investing public.

### **Notional losses avoided**

84. Trading in the shares of Titan was again suspended from 19 June 2012 and resumed on 15 July 2016. The counterparties to whom Cheong sold Titan shares after receiving relevant information during the period 3 to 5 January 2012 and who had, prior to 15 July 2016, subsequently disposed of the shares at a price the same as, or higher than, the purchase price are shown respectively in **Schedules 3 and 4** annexed to this statement. Cheong's total notional loss avoided by reason of engaging in insider dealing in respect of these counterparties was HK\$2,321,816.86. As trading in Titan shares has resumed, it is possible that a counterparty who acquired shares from Cheong during the period from 3 to 5 January 2012 may upon the resumption of trading in Titan shares dispose of all or part of the Titan shares at a price the same as or higher than the purchase price.

85. The counterparty to whom Gan sold Titan shares after receiving relevant information on 3 January 2012 and who had, prior to 15 July 2016,

subsequently disposed of the shares at a price higher than the purchase price is shown in **Schedule 5** annexed to this statement. Gan's total notional loss avoided by reason of engaging in insider dealing in respect of this counterparty was HK\$103,357.19. As trading in Titan shares has resumed, it is possible that a counterparty who acquired shares from Gan on 3 January 2012 may upon the resumption of trading in Titan shares dispose of all or part of the Titan shares at a price the same as or higher than the purchase price.

### **Relevant provisions in the SFO**

86. By reason of the aforesaid, Cheong:

- (1) was a person connected with Titan within the meaning of s. 247 of the SFO;
- (2) engaged in insider dealing within the meaning of s. 270(1)(a)(i) of the SFO by dealing with the listed securities of Titan; and
- (3) engaged in insider dealing within the meaning of ss. 270(1)(a)(ii) and 270(1)(c) of the SFO by counselling or procuring Gan to deal in the listed securities of Titan, knowing or having reasonable cause to believe that Gan would deal in them; and disclosing the relevant information to Gan, knowing or having reasonable cause to believe that

she would make use of the information for the purpose of dealing in the listed securities of Titan.

87. By reason of the aforesaid, Gan engaged in insider dealing within the meaning of s. 270(1)(e)(i) of the SFO by dealing in the listed securities of Titan while having information which she knew was relevant information and which she received from Cheong, whom she knew was a person connected with Titan and whom she knew held the information as a result of being connected with Titan.

### **The Schedules**

88. Schedule 1 – Transactions entered into by Cheong is attached to this report as Annexure A.

89. Schedule 2 – Transactions entered into by Gan is attached to this report as Annexure B.

90. Schedule 3 – Counterparties to whom Cheong sold shares from 3 to 5 January 2012 (subsequently disposed at profit) is attached to this report as Annexure C.

91. Schedule 4 – Counterparties to whom Cheong sold shares from 3 to 5 January 2012 (subsequently disposed at same price) is attached to this report as Annexure D.

92. Schedule 5 – Counterparties to whom Gan sold shares on 3 January 2012 (subsequently disposed at profit) is attached to this report as Annexure E.

## CHAPTER 4

### THE LAW AND SCOPE OF THE INQUIRY AND ESSENTIAL ELEMENTS OF INSIDER DEALING

#### *The Task of the Tribunal*

93. As by agreement I sat without the assistance of members, it was my duty to determine all questions of law and fact.

94. The Notice of the SFC requested the Tribunal to determine whether market misconduct in the nature of inside dealing had taken place by either or both of the Specified Persons. In respect of the First Specified Person the allegation related to the period of the 3 to 5 January 2012 and in respect of the Second Specified Person, 3 January 2012. Whether market misconduct had taken place was to be determined in accordance with the relevant provisions of the SFO, specifically sections 270(1)(a)(i), 270(1)(a)(ii) and 270(1)(c) in respect of the First Specified Person, Mr Cheong and s. 270(1)(e)(i) in respect of the Second Specified Person, Madam Gan.

#### *The Standard of Proof*

95. The standard of proof for determining any issue or question before the Tribunal is that applicable to civil proceedings in a court of law. That is,

on a balance of probabilities. In *A Solicitor v The Law Society* (2008) 11 HKCFAR 117, Bokhary P J held –

“... only two standards of proof are known to our law. One proof is beyond reasonable doubt and the other is proof on a preponderance of probability.”

That is the standard I apply hereto in respect of the facts established by admission.

*The Essential Elements of Insider Dealing*

96. Whilst fully understanding and acknowledging that the Admitted Facts, shown in Chapter 3, comprise the case advanced by the SFC, I still have a duty to consider carefully whether those facts cover all essential elements of the market misconduct alleged. This I have done.

97. Sections 270(1)(a)(i) and (ii), 270(1)(c) and 270(1)(e)(i) of the SFO provide that:

“(1) Insider dealing in relation to a listed corporation takes place-

- (a) When a person connected to a listed corporation and having information which he knows is relevant information in relation to the corporation-

- (i) deals in the listed securities of the corporation or their derivatives or in the listed securities of a related corporation of the corporation or their derivatives, or
  - (ii) counsels or procures another person to deal in such listed securities or derivatives, knowing or having reasonable cause to believe that the other person will deal in them.
- (b) ....
- (c) When a person connected with the corporation and knowing that any information is relevant information in relation to the corporation, discloses the information, directly or indirectly to another person, knowing or having reasonable cause to believe that the other person will make use of the information for the purpose of dealing ..... in the listed securities of the corporation ....
- (d) ....
- (e) When a person who has information which he knows is relevant information in relation to the corporation and which he received directly or indirectly from a person whom he

knows is connected with the corporation and whom he knows or has reasonable cause to believe held the information as a result of being connected with the corporation-

- (i) deals in the listed securities of the corporation ...; or
  - (ii) ....
- (f) ...”

98. In the context of this Inquiry, the constituent elements of insider dealing are:

- (A) The corporation must be listed on the SEHK.
- (B) The person must be a connected person to that corporation;
- (C) The connected person must counsel or procure another person to deal in such securities or derivatives;
- (D) The person must have relevant information in regard to the corporation;
- (E) The person must know it is relevant information in relation to the corporation; and

- (F) The person and the person counselled or procured must deal in the securities of the listed corporation.

*Listed Company*

99. To establish that the Specified Persons have engaged in insider dealing, it has to be proved that they dealt in the securities of a listed company. There is no challenge and indeed there is a positive admission that Titan Petrochemicals Group Ltd was listed on the SEHK, Stock Code: 1192.

*Connected Person in respect of Titan*

100. s. 247 of the SFO sets out the circumstances in which a person will be deemed a connected person to the corporation. There is no dispute and indeed a positive admission that Mr Cheong was such a person being an employee of a corporation related to Titan under s. 247(1)(a) of the SFO and I also note under s. 247(1)(c) of the SFO he was in a position which may reasonably be expected to give him access to inside information.

*The Information Possessed must be relevant information*

101. Relevant information is often referred to as price sensitive information. For the purpose of this inquiry relevant information in relation to the corporation is defined in s. 245(2) of the SFO as:

“Specific information about-

- (a) the corporation;
- (b) a shareholder or officer of the corporation; or
- (c) the listed securities of the corporation on their derivatives,

which is not generally known to the persons who are accustomed or would be likely to deal in the listed securities of the corporation but which would if it were generally known to them be likely materially affect the price of the listed securities.”

(i) The meaning of “Specific”

102. Specific information is defined as information which possesses sufficient particularity to be capable of being identified, defined and unequivocally expressed. This is in contrast to information which fails to achieve the required degree of specificity being too vague, inchoate or speculative (See the Report of the MMT in relation to Asia TeleMedia Ltd dated 26 November 2015).

(ii) Information likely to materially affect the price of the shares

103. In the report of the Insider Dealing Tribunal relating to Public International Investments Ltd dated 5 August 1995 the issue of whether or not information was likely to affect the price of the company shares, if known to those accustomed to dealing with them were addressed and the nature of the test described in paragraph 19.4.2:

“... hypothetical in that on the date that the insider acts on inside information, he acts when the investing public, not in possession of the inside information, either does not act, or acts in response to other information or advice. The exercise in determining how the general investor would have behaved on that day, had he been in possession of that information, has necessarily to be an assessment. It is true that an examination of how those investors react once the information is stripped of its confidentiality and becomes public knowledge, will often provide the answer, although care must be taken to ascertain whether the investors’ response is indeed attributable to the information released or whether it is wholly or in part attributable to other events or considerations...”

104. In that same report at paragraph 19.4.5, the term “materially” was addressed:

“... We think that the word “materially” speaks for itself – it is to be contrasted with “slight”, “insignificant” and “immaterial”. ...”

105. In the report of the Insider Dealing Tribunal in the matter of The International City Holdings Ltd dated 27 March 1986 the Tribunal observed in paragraph 2.6 of the requirement of materiality that the information-

“... be likely to bring about a material change in the price of those securities. Thus information that would be likely to cause a mere fluctuation or a slight change in price would not be sufficient; there must be the likelihood of changes of sufficient degree in any given circumstances to amount to a material change.”

(iii) The element of knowledge

106. A person cannot be found guilty of market misconduct by insider dealing simply because he possesses information which determined objectively is found to constitute price sensitive information. The person can only be found to be culpable if the Tribunal is satisfied to the requisite standard of proof he possesses knowledge at the time he deals in the shares that the information in his possession is price sensitive. Whether a person possesses such necessary knowledge is an evidential point that has to be proved on a balance of probabilities by the SFC. This may be by way of admissions made, inferences drawn from the relevant facts or from the circumstances.

(iv) The person must deal

107. By their admission of the facts set out in Chapter 3, both the Specified Persons clearly and unequivocally admit to dealing in the shares of Titan.

*Each to be considered separately*

108. The case against each of the Specified Persons was considered separately by me.

*The Expert Evidence*

109. The only expert opinion in this matter was provided by Mr Dennis Wong Wing Cheung who had been consulted by the SFC. That evidence is neither challenged, contradicted nor queried by either of the Specified Persons. Indeed it is fully admitted.

110. The Tribunal is not bound to accept the evidence of an expert witness, in so far as it forms expressions of opinion. Although those opinions will be considered and weighed carefully with due deference to the experience of the expert. Whilst the Tribunal is entitled to accept or reject all or part of that evidence and come to its own conclusions on such matters based on a consideration of the totality on the evidence, I took into account the acceptance of those opinions by the Specified Persons.

*The Scope of the inquiry*

111. Put very simply the Tribunal's task was to consider whether market misconduct by way of insider dealing had been proved on a balance of probabilities against both, one or neither of the Specified Persons based on the facts they had admitted.

## CHAPTER 5

### *Findings*

#### *Preliminary Matters*

112. I duly noted that the facts admitted as set out in Chapter 3 of this report substantially and comprehensively address all the essential elements of the market misconduct alleged by the SFC.

113. In examining the evidence, I did so in the context of the provisions of sections 270(1)(a)(i), 270(1)(a)(ii), 270(1)(c) of the SFO as they related to Mr Cheong and s.270(1)(e)(i) of the SFO as it related to Madam Gan. In paragraph 97, page 63 of Chapter 4, I set out those provisions in full, for reference.

#### *Listed Company*

114. See paragraph 99 of Chapter 3. Clearly the shares they dealt in are those of a listed company and I so find.

*Connected Person to Titan*

115. See paragraph 100 of Chapter 3. Given the Admitted Facts Mr Cheong was clearly a connected person in relation to Titan for the reasons set out therein. I therefore rule accordingly and so find.

*Relevant information*

116. The relevant information to which Mr Cheong was privy is clearly set out in paragraphs 58 to 70 of pages 39 to 49 of the Admitted Facts, Chapter 3. Those facts are self explanatory. I do not repeat them.

117. In short they amount to information that Titan faced extremely difficult financial problems especial related to the likelihood of defaults by Titan and / or its subsidiaries in respect of outstanding loans due to the Bank of China, ICBC and the Listco Senior Notes. The information became available between 24 August 2011 and 18 March 2012.

*Specific Information*

118. Clearly such information was specific information about Titan and its subsidiary companies. Again this is admitted in paragraph 70 of the Admitted Facts and confirmed by the expert Mr Dennis Wong Wing Cheung.

*Information likely to materially affect the price of shares if known*

119. This information was not generally known to those accustomed or would be likely to deal in the shares of Titan. The announcement of the 18 March 2012 was the first time Titan disclosed problems to the public. Again this is accepted in paragraph 70 of the Admitted Facts, Chapter 3 and confirmed by the expert.

120. The fall in the value of Titan shares upon resumption of trading on 14 May 2012 supports the concept of material affect. On resumption of trading the 3 day weighted average price of Titan shares had fallen to \$0.1956. The price on the actual day of resumption was \$0.178 showing a fall of about 36.43% from the closing price of \$0.28 on the day of suspension. This demonstrated admirably that the information not only had the potential to, but in fact did materially affect the value of the shares.

*The Element of Knowledge*

121. Cheong sold his 52.5 million shares in Titan between 3 and 5 January 2012 while being in possession of price sensitive information which he knew to be so. This he clearly admitted this in paragraph 71, page 49 of Chapter 3. On that basis accordingly I find, that he had the requisite knowledge.

122. Gan sold her 1.5 million shares in Titan on 3 January 2012 whilst in possession of relevant information which she knew to be so and which she had received directly or indirectly from Cheong. This she confirms this in paragraphs 78 to 80 of pages 56 and 57 of Chapter 3, the Admitted Facts. I therefore rule she too had the requisite knowledge.

### *Conclusion*

123. Having considered the alleged facts, the admitted facts and counsel's opening submissions, I was satisfied on a balance of probabilities that each of the Specified Persons, Cheong and Gan had committed market misconduct in the nature of insider dealing. Cheong between 3 and 5 January 2012 and Gan on 3 January 2012.

124. That the result of such insider dealing was that each avoided a loss when selling their respective shares in Titan.

### *The Respective Losses Avoided*

125. Mr Dennis Wong, the expert employed the methodology set down in *Insider Dealing Tribunal v Shek Mei Ling* [1999] 2 HKC to calculate the notional loss avoided by each specified person.

126. The calculations referred to above were accepted by and admitted by each of the specified persons in paragraphs 84 and 85 on pages 58 and 59 of Chapter 3, of the Admitted Facts. I agreed with these calculations.

127. In respect of Cheong the notional loss avoided was calculated to be \$2,321,816.86.

128. In respect of Gan \$103,357.19.

## CHAPTER 6

### THE ORDERS CONSEQUENT UPON THE FINDINGS OF MARKET MISCONDUCT

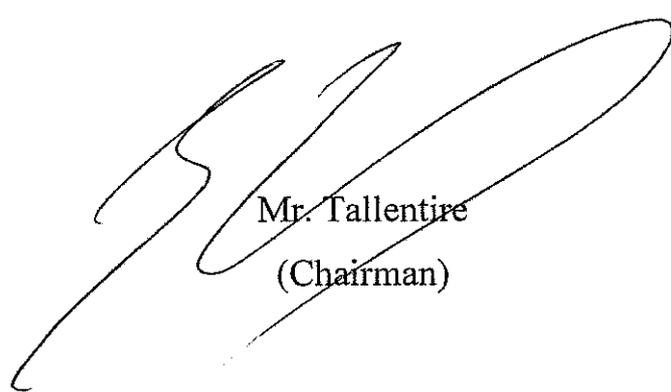
129. Having found market misconduct on the part of each Specified Person by way of insider trading to avoid a loss on the shares, I was invited to consider the orders to be made, if any.

130. As a result of negotiation the orders and orders for costs have been agreed and presented to me in the form of a document entitled “Agreed Proposed Orders”.

131. This being an inquiry I took the view there still reposed in me the duty to examine, consider and weigh the proposed orders even though agreed between the parties. Of course I did give full weight to the fact that they were agreed.

132. Having considered carefully the proposed orders, I was of the opinion that in respect of each Specified Persons what was proposed and agreed to by way of orders and orders for costs was proportional, sensible and acceptable, given all the circumstances.

133. Therefore in respect of the orders and the orders for costs I make orders in terms as suggested. The specific terms of such orders and orders for costs is Annexure F to this report as “Orders Imposed”.



Mr. Tallentire  
(Chairman)

Date : 13 March 2017

# **Annexure A**

## Schedule 1 - Transactions entered into by Cheong

Date	Quantity sold by Cheong	Price*	Gross proceeds (HK\$)	Net proceeds (HK\$)
03-Jan-12	2,500,000	0.2700	675,000	672,583.50
03-Jan-12	380,000	0.2800	106,400	106,018.49
03-Jan-12	3,800,000	0.2750	1,045,000	1,041,258.90
03-Jan-12	500,000	0.2750	137,500	137,007.24
03-Jan-12	3,700,000	0.2700	999,000	995,423.58
03-Jan-12	4,000,000	0.2700	1,080,000	1,076,133.60
03-Jan-12	560,000	0.2700	151,200	150,657.90
04-Jan-12	80,000	0.2750	22,000	21,876.24
04-Jan-12	1,980,000	0.2650	524,700	522,821.27
05-Jan-12	100,000	0.2650	26,500	26,370.87
05-Jan-12	5,000,000	0.2650	1,325,000	1,320,256.50
05-Jan-12	440,000	0.2600	114,400	113,989.85
05-Jan-12	2,000,000	0.2550	510,000	508,174.20
05-Jan-12	60,000	0.2550	15,300	15,182.77
05-Jan-12	60,000	0.2550	15,300	15,182.77
05-Jan-12	9,000,000	0.2500	2,250,000	2,241,945.00
05-Jan-12	1,200,000	0.2550	306,000	304,904.52
05-Jan-12	1,000,000	0.2550	255,000	254,087.10
05-Jan-12	2,200,000	0.2550	561,000	558,991.62
05-Jan-12	120,000	0.2550	30,600	30,466.55
05-Jan-12	100,000	0.2550	25,500	25,371.95
05-Jan-12	2,400,000	0.2550	612,000	609,809.04
05-Jan-12	6,320,000	0.2500	1,580,000	1,574,343.60
05-Jan-12	4,000,000	0.2550	1,020,000	1,016,348.40
05-Jan-12	1,000,000	0.2800	280,000	278,997.60
Total gross proceeds			13,667,400	
			Total net proceeds	13,618,203.06

\* Unit selling price (before transaction costs), as shown in Cheong's investment services account statement with HSBC

# **Annexure B**

Schedule 2 - Transactions entered into by Gan

Date	Quantity sold by Gan	Price*	Gross proceeds (HK\$)	Net proceeds (HK\$)
03-Jan-12	1,500,000	0.2700	405,000	401,776.21

\* Unit selling price (before transaction costs), as shown in the record of Gan's account with UOB Kay Hian Private Limited

# **Annexure C**

## Schedule 3

Titan Petrochemicals Group Limited (Stock Code 1192)

Counterparties to Cheong's trades in Titan shares from 3 to 5/1/2012 (subsequently disposed at profit)

Executing broker (as shown in Market Statistics System)	Date of purchase	Time	No. of shares	Unit price (before transaction cost) of purchase (HK\$)	Total purchase consideration (HK\$)	Date of disposal	Unit price (before transaction cost) of disposal (HK\$)
BAN HIN SECURITIES CO. LTD.	03/01/2012	11:24:59	200,000	0.2700	54,000	03/01/2012	0.2750
BOCI SECURITIES LTD.	03/01/2012	11:24:59	300,000	0.2700	81,000	03/01/2012	0.2850
BOCI SECURITIES LTD.	03/01/2012	11:24:59	40,000	0.2700	10,800	05/01/2012	0.2800
BOCI SECURITIES LTD.	03/01/2012	11:24:59	180,000	0.2700	48,600	03/01/2012	0.2800
BOCI SECURITIES LTD.	03/01/2012	11:24:59	40,000	0.2700	10,800	13/01/2012	0.3050
BOCOM INT'L SECURITIES LTD	03/01/2012	11:24:59	100,000	0.2700	27,000	11/01/2012	0.2950
CELESTIAL SECURITIES LTD.	03/01/2012	11:24:59	60,000	0.2700	16,200	11/01/2012	0.2950
CHINA MERCHANTS SEC (HK) CO LTD	03/01/2012	11:24:59	60,000	0.2700	16,200	05/01/2012	0.2900
HSBC SEC. BROKERS (ASIA) LTD.	03/01/2012	11:24:59	40,000	0.2700	10,800	06/01/2012	0.2900
HSBC SEC. BROKERS (ASIA) LTD.	03/01/2012	11:24:59	200,000	0.2700	54,000	05/01/2012	0.2900
HSBC SEC. BROKERS (ASIA) LTD.	03/01/2012	11:24:59	200,000	0.2700	54,000	05/01/2012	0.2900
HSBC SEC. BROKERS (ASIA) LTD.	03/01/2012	11:24:59	40,000	0.2700	10,800	06/01/2012	0.2900
OCBC SECURITIES (HK) LTD	03/01/2012	11:24:59	500,000	0.2700	135,000	17/01/2012	0.2950
OCBC SECURITIES (HK) LTD	03/01/2012	11:24:59	300,000	0.2700	81,000	17/01/2012	0.2950
SUN HUNG KAI INV. SERVICE LTD.	03/01/2012	11:24:59	200,000	0.2700	54,000	11/01/2012	0.2900
UBS SECURITIES HONG KONG LTD	03/01/2012	11:24:59	20,000	0.2700	5,400	17/01/2012	0.2900
BOCI SECURITIES LTD.	03/01/2012	11:51:46	180,000	0.2750	49,500	06/01/2012	0.2900
OCBC SECURITIES (HK) LTD	03/01/2012	11:51:46	300,000	0.2750	82,500	17/01/2012	0.2950
OCBC SECURITIES (HK) LTD	03/01/2012	11:51:46	300,000	0.2750	82,500	17/01/2012	0.2950
OCBC SECURITIES (HK) LTD	03/01/2012	11:51:46	160,000	0.2750	44,000	17/01/2012	0.2950
OCBC SECURITIES (HK) LTD	03/01/2012	11:51:46	60,000	0.2750	16,500	18/01/2012	0.2950
OCBC SECURITIES (HK) LTD	03/01/2012	11:51:46	240,000	0.2750	66,000	19/01/2012	0.2950
SUCCESS SECURITIES LTD	03/01/2012	11:51:46	300,000	0.2750	82,500	03/01/2012	0.2800
TUNG SHING SEC (BROKERS) LTD	03/01/2012	11:51:46	100,000	0.2750	27,500	11/01/2012	0.2900
TUNG SHING SEC (BROKERS) LTD	03/01/2012	11:51:46	100,000	0.2750	27,500	11/01/2012	0.2950
OCBC SECURITIES (HK) LTD	03/01/2012	11:51:46	140,000	0.2750	38,500	18/01/2012	0.2950
OCBC SECURITIES (HK) LTD	03/01/2012	11:51:46	240,000	0.2750	66,000	19/01/2012	0.2950
OCBC SECURITIES (HK) LTD	03/01/2012	11:51:46	660,000	0.2750	181,500	19/01/2012	0.2900
OCBC SECURITIES (HK) LTD	03/01/2012	11:51:46	100,000	0.2750	27,500	19/01/2012	0.2900
HANG SENG SECURITIES LTD.	03/01/2012	11:54:04	500,000	0.2750	137,500	17/02/2012	0.3500
BAN HIN SECURITIES CO. LTD.	03/01/2012	11:55:27	200,000	0.2700	54,000	03/01/2012	0.2750
BAN HIN SECURITIES CO. LTD.	03/01/2012	11:55:27	200,000	0.2700	54,000	03/01/2012	0.2750
BOCI SECURITIES LTD.	03/01/2012	11:55:27	220,000	0.2700	59,400	04/01/2012	0.2800
BOCI SECURITIES LTD.	03/01/2012	11:55:27	160,000	0.2700	43,200	04/01/2012	0.2750
BOCOM INT'L SECURITIES LTD	03/01/2012	11:55:27	100,000	0.2700	27,000	03/02/2012	0.3150
BOCOM INT'L SECURITIES LTD	03/01/2012	11:55:27	20,000	0.2700	5,400	03/01/2012	0.2750
EAST ASIA SECURITIES CO. LTD.	03/01/2012	11:55:27	40,000	0.2700	10,800	06/01/2012	0.2850
FULBRIGHT SECURITIES LTD.	03/01/2012	11:55:27	100,000	0.2700	27,000	04/01/2012	0.2750
ICBC (ASIA) SECURITIES LTD	03/01/2012	11:55:27	80,000	0.2700	21,600	06/01/2012	0.2850
OCBC SECURITIES (HK) LTD	03/01/2012	11:55:27	300,000	0.2700	81,000	19/01/2012	0.2900
OCBC SECURITIES (HK) LTD	03/01/2012	11:55:27	300,000	0.2700	81,000	19/01/2012	0.2900
OCBC SECURITIES (HK) LTD	03/01/2012	11:55:27	300,000	0.2700	81,000	19/01/2012	0.2900
UBS SECURITIES HONG KONG LTD	03/01/2012	11:55:27	40,000	0.2700	10,800	11/01/2012	0.3000
BOCOM INT'L SECURITIES LTD	03/01/2012	14:12:25	20,000	0.2700	5,400	03/01/2012	0.2750
DBS VICKERS (HONG KONG) LTD	03/01/2012	14:12:25	40,000	0.2700	10,800	12/01/2012	0.2800
FULBRIGHT SECURITIES LTD.	03/01/2012	14:12:25	20,000	0.2700	5,400	04/01/2012	0.2750
HSBC SEC. BROKERS (ASIA) LTD.	03/01/2012	14:12:25	300,000	0.2700	81,000	21/02/2012	0.3600
HSBC SEC. BROKERS (ASIA) LTD.	03/01/2012	14:12:25	200,000	0.2700	54,000	24/02/2012	0.3450
OCBC SECURITIES (HK) LTD	03/01/2012	14:12:25	380,000	0.2700	102,600	19/01/2012	0.2900
OCBC SECURITIES (HK) LTD	03/01/2012	14:12:25	300,000	0.2700	81,000	19/01/2012	0.2900
OCBC SECURITIES (HK) LTD	03/01/2012	14:12:25	300,000	0.2700	81,000	19/01/2012	0.2900
OCBC SECURITIES (HK) LTD	03/01/2012	14:12:25	200,000	0.2700	54,000	19/01/2012	0.2900
OCBC SECURITIES (HK) LTD	03/01/2012	14:12:25	100,000	0.2700	27,000	19/01/2012	0.2900
OCBC SECURITIES (HK) LTD	03/01/2012	14:12:25	500,000	0.2700	135,000	19/01/2012	0.2900
PHILLIP SECURITIES (H.K.) LTD.	03/01/2012	14:12:25	500,000	0.2700	135,000	11/01/2012	0.2900
PHILLIP SECURITIES (H.K.) LTD.	03/01/2012	14:12:25	280,000	0.2700	75,600	11/01/2012	0.2900
SHACOM SECURITIES LTD	03/01/2012	14:12:25	500,000	0.2700	135,000	04/01/2012	0.2750
UOB KAY HIAN (HONG KONG) LTD.	03/01/2012	14:12:25	100,000	0.2700	27,000	05/01/2012	0.2850
CHINA POINT STOCK BROKERS LTD.	03/01/2012	15:47:19	100,000	0.2700	27,000	05/01/2012	0.2750
HANG SENG SECURITIES LTD.	03/01/2012	15:47:19	100,000	0.2700	27,000	06/02/2012	0.3100
OCBC SECURITIES (HK) LTD	03/01/2012	15:47:19	40,000	0.2700	10,800	30/01/2012	0.2850
UBS SECURITIES HONG KONG LTD	03/01/2012	15:47:19	20,000	0.2700	5,400	04/01/2012	0.2800
GUOSEN SEC (HK) BROKERAGE CO LTD	04/01/2012	15:49:19	80,000	0.2650	21,200	20/01/2012	0.2900
OCBC SECURITIES (HK) LTD	04/01/2012	15:49:19	180,000	0.2650	47,700	06/02/2012	0.3300

Executing broker (as shown in Market Statistics System)	Date of purchase	Time	No. of shares	Unit price (before transaction cost) of purchase (HK\$)	Total purchase consideration (HK\$)	Date of disposal	Unit price (before transaction cost) of disposal (HK\$)
OCBC SECURITIES (HK) LTD	04/01/2012	15:49:19	200,000	0.2650	53,000	06/02/2012	0.3250
CHIEF SECURITIES LTD.	05/01/2012	10:10:47	60,000	0.2650	15,900	13/01/2012	0.3000
CHONG HING SECURITIES LTD.	05/01/2012	10:10:47	40,000	0.2650	10,600	11/01/2012	0.3000
BOCI SECURITIES LTD.	05/01/2012	10:15:34	320,000	0.2600	83,200	05/01/2012	0.2750
CHIEF SECURITIES LTD.	05/01/2012	10:15:34	60,000	0.2600	15,600	13/01/2012	0.3000
BARCLAYS CAPITAL ASIA LTD	05/01/2012	10:20:29	320,000	0.2550	81,600	05/01/2012	0.2600
BOCI SECURITIES LTD.	05/01/2012	10:20:29	200,000	0.2550	51,000	05/01/2012	0.2650
BOCI SECURITIES LTD.	05/01/2012	10:20:29	100,000	0.2550	25,500	05/01/2012	0.2600
BOCI SECURITIES LTD.	05/01/2012	10:20:29	380,000	0.2550	96,900	04/01/2012	0.2650
BOCOM INT'L SECURITIES LTD	05/01/2012	10:20:29	100,000	0.2550	25,500	05/01/2012	0.2600
HSBC SEC. BROKERS (ASIA) LTD.	05/01/2012	10:20:29	100,000	0.2550	25,500	05/01/2012	0.2700
I-ACCESS INVESTORS LTD	05/01/2012	10:20:29	20,000	0.2550	5,100	05/01/2012	0.2750
SUN HUNG KAI INV. SERVICE LTD.	05/01/2012	10:20:29	100,000	0.2550	25,500	05/01/2012	0.2600
WING HANG SHARES BRO. CO. LTD.	05/01/2012	10:20:29	100,000	0.2550	25,500	05/01/2012	0.2650
BAN HIN SECURITIES CO. LTD.	05/01/2012	10:21:53	40,000	0.2550	10,200	05/01/2012	0.2600
BAN HIN SECURITIES CO. LTD.	05/01/2012	10:22:34	60,000	0.2550	15,300	05/01/2012	0.2600
UBS SECURITIES HONG KONG LTD	05/01/2012	10:24:09	20,000	0.2550	5,100	16/02/2012	0.3350
UBS SECURITIES HONG KONG LTD	05/01/2012	10:24:09	40,000	0.2550	10,200	05/01/2012	0.2750
BAN HIN SECURITIES CO. LTD.	05/01/2012	10:24:48	300,000	0.2500	75,000	05/01/2012	0.2600
BOCI SECURITIES LTD.	05/01/2012	10:24:48	120,000	0.2500	30,000	05/01/2012	0.2600
BOCI SECURITIES LTD.	05/01/2012	10:24:48	100,000	0.2500	25,000	05/01/2012	0.2700
BOCI SECURITIES LTD.	05/01/2012	10:24:48	80,000	0.2500	20,000	05/01/2012	0.2650
BOCI SECURITIES LTD.	05/01/2012	10:24:48	420,000	0.2500	105,000	05/01/2012	0.2850
BOCOM INT'L SECURITIES LTD	05/01/2012	10:24:48	20,000	0.2500	5,000	03/01/2012	0.2750
CHIEF SECURITIES LTD.	05/01/2012	10:24:48	40,000	0.2500	10,000	05/01/2012	0.2700
CHONG HING SECURITIES LTD.	05/01/2012	10:24:48	100,000	0.2500	25,000	05/01/2012	0.2650
FULBRIGHT SECURITIES LTD.	05/01/2012	10:24:48	500,000	0.2500	125,000	05/01/2012	0.2550
FULBRIGHT SECURITIES LTD.	05/01/2012	10:24:48	500,000	0.2500	125,000	05/01/2012	0.2550
FULBRIGHT SECURITIES LTD.	05/01/2012	10:24:48	100,000	0.2500	25,000	05/01/2012	0.2550
GREAT ROC CAPITAL SEC LTD	05/01/2012	10:24:48	300,000	0.2500	75,000	05/01/2012	0.2550
HANTEC SECURITIES CO., LTD.	05/01/2012	10:24:48	200,000	0.2500	50,000	05/01/2012	0.2550
HENYEP SECURITIES LTD.	05/01/2012	10:24:48	300,000	0.2500	75,000	09/01/2012	0.2750
HENYEP SECURITIES LTD.	05/01/2012	10:24:48	200,000	0.2500	50,000	10/01/2012	0.2800
HSBC SEC. BROKERS (ASIA) LTD.	05/01/2012	10:24:48	200,000	0.2500	50,000	05/01/2012	0.2750
LEGARLEON SECURITIES LTD	05/01/2012	10:24:48	200,000	0.2500	50,000	05/01/2012	0.2550
OCBC SECURITIES (HK) LTD	05/01/2012	10:24:48	260,000	0.2500	65,000	06/02/2012	0.3200
PAUL SECURITIES LTD.	05/01/2012	10:24:48	100,000	0.2500	25,000	05/01/2012	0.2550
PHILLIP SECURITIES (H.K.) LTD.	05/01/2012	10:24:48	100,000	0.2500	25,000	05/01/2012	0.2550
REALINK FINANCIAL TRADE LTD	05/01/2012	10:24:48	500,000	0.2500	125,000	05/01/2012	0.2600
REDFORD SECURITIES LTD	05/01/2012	10:24:48	600,000	0.2500	150,000	05/01/2012	0.2600
SUN HUNG KAI INV. SERVICE LTD.	05/01/2012	10:24:48	60,000	0.2500	15,000	06/01/2012	0.2850
SUN HUNG KAI INV. SERVICE LTD.	05/01/2012	10:24:48	20,000	0.2500	5,000	08/03/2012	0.3100
TUNG SHING SEC (BROKERS) LTD	05/01/2012	10:24:48	100,000	0.2500	25,000	05/01/2012	0.2550
TUNG SHING SEC (BROKERS) LTD	05/01/2012	10:24:48	100,000	0.2500	25,000	05/01/2012	0.2600
TUNG SHING SEC (BROKERS) LTD	05/01/2012	10:24:48	200,000	0.2500	50,000	05/01/2012	0.2550
UBS SECURITIES HONG KONG LTD	05/01/2012	10:24:48	20,000	0.2500	5,000	11/01/2012	0.3000
UBS SECURITIES HONG KONG LTD	05/01/2012	10:24:48	20,000	0.2500	5,000	16/02/2012	0.3600
UBS SECURITIES HONG KONG LTD	05/01/2012	10:24:48	60,000	0.2500	15,000	05/01/2012	0.2650
WIN WONG SECURITIES LTD.	05/01/2012	10:24:48	40,000	0.2500	10,000	05/01/2012	0.2800
WING HANG SHARES BRO. CO. LTD.	05/01/2012	10:24:48	120,000	0.2500	30,000	05/01/2012	0.2600
OCBC SECURITIES (HK) LTD	05/01/2012	10:24:48	2,000,000	0.2500	500,000	07/02/2012	0.3200
OCBC SECURITIES (HK) LTD	05/01/2012	10:24:48	740,000	0.2500	185,000	07/02/2012	0.3250
BAN HIN SECURITIES CO. LTD.	05/01/2012	10:27:53	300,000	0.2550	76,500	05/01/2012	0.2600
BOCOM INT'L SECURITIES LTD	05/01/2012	10:27:53	60,000	0.2550	15,300	05/01/2012	0.2600
FULBRIGHT SECURITIES LTD.	05/01/2012	10:27:53	200,000	0.2550	51,000	05/01/2012	0.2600
I-ACCESS INVESTORS LTD	05/01/2012	10:27:53	40,000	0.2550	10,200	03/02/2012	0.3150
SUN HUNG KAI INV. SERVICE LTD.	05/01/2012	10:27:53	100,000	0.2550	25,500	05/01/2012	0.2600
TIMBER HILL SECURITIES HK LTD	05/01/2012	10:27:53	500,000	0.2550	127,500	22/02/2012	0.3500
BOCI SECURITIES LTD.	05/01/2012	10:30:51	100,000	0.2550	25,500	05/01/2012	0.2600
BOCOM INT'L SECURITIES LTD	05/01/2012	10:30:51	40,000	0.2550	10,200	05/01/2012	0.2600
BOCOM INT'L SECURITIES LTD	05/01/2012	10:30:51	100,000	0.2550	25,500	05/01/2012	0.2600
CORE PACIFIC-YAMAICHI SEC.	05/01/2012	10:30:51	60,000	0.2550	15,300	06/01/2012	0.2750
CORE PACIFIC-YAMAICHI SEC.	05/01/2012	10:30:51	40,000	0.2550	10,200	06/01/2012	0.2900
FULBRIGHT SECURITIES LTD.	05/01/2012	10:30:51	160,000	0.2550	40,800	05/01/2012	0.2600
TIMBER HILL SECURITIES HK LTD	05/01/2012	10:30:51	500,000	0.2550	127,500	22/02/2012	0.3500
BARCLAYS CAPITAL ASIA LTD	05/01/2012	10:32:59	140,000	0.2550	35,700	05/01/2012	0.2600
BARCLAYS CAPITAL ASIA LTD	05/01/2012	10:32:59	160,000	0.2550	40,800	05/01/2012	0.2850
BOCOM INT'L SECURITIES LTD	05/01/2012	10:32:59	100,000	0.2550	25,500	05/01/2012	0.2600
FULBRIGHT SECURITIES LTD.	05/01/2012	10:32:59	40,000	0.2550	10,200	05/01/2012	0.2600

**Annexure C**  
(Page 3 of 3)

Executing broker (as shown in Market Statistics System)	Date of purchase	Time	No. of shares	Unit price (before transaction cost) of purchase (HK\$)	Total purchase consideration (HK\$)	Date of disposal	Unit price (before transaction cost) of disposal (HK\$)
FULBRIGHT SECURITIES LTD.	05/01/2012	10:32:59	200,000	0.2550	51,000	05/01/2012	0.2600
SUN HUNG KAI INV. SERVICE LTD.	05/01/2012	10:32:59	100,000	0.2550	25,500	05/01/2012	0.2600
FULBRIGHT SECURITIES LTD.	05/01/2012	10:33:56	40,000	0.2550	10,200	05/01/2012	0.2600
CELESTIAL SECURITIES LTD.	05/01/2012	10:37:24	20,000	0.2550	5,100	11/01/2012	0.2900
CELESTIAL SECURITIES LTD.	05/01/2012	10:37:24	40,000	0.2550	10,200	02/02/2012	0.3050
DBS VICKERS (HONG KONG) LTD	05/01/2012	10:37:24	20,000	0.2550	5,100	18/01/2012	0.2900
WING LUNG SECURITIES LTD.	05/01/2012	10:37:24	40,000	0.2550	10,200	05/01/2012	0.2750
HSBC SEC. BROKERS (ASIA) LTD.	05/01/2012	10:44:45	200,000	0.2550	51,000	09/01/2012	0.2750
BAN HIN SECURITIES CO. LTD.	05/01/2012	10:44:56	20,000	0.2550	5,100	05/01/2012	0.2600
BAN HIN SECURITIES CO. LTD.	05/01/2012	10:46:50	300,000	0.2500	75,000	05/01/2012	0.2600
BOCI SECURITIES LTD.	05/01/2012	10:46:50	40,000	0.2500	10,000	05/01/2012	0.2800
BOCI SECURITIES LTD.	05/01/2012	10:46:50	300,000	0.2500	75,000	05/01/2012	0.2700
BOCI SECURITIES LTD.	05/01/2012	10:46:50	100,000	0.2500	25,000	05/01/2012	0.2800
FULBRIGHT SECURITIES LTD.	05/01/2012	10:46:50	300,000	0.2500	75,000	05/01/2012	0.2550
FULBRIGHT SECURITIES LTD.	05/01/2012	10:46:50	300,000	0.2500	75,000	05/01/2012	0.2550
FULBRIGHT SECURITIES LTD.	05/01/2012	10:46:50	100,000	0.2500	25,000	05/01/2012	0.2550
FULBRIGHT SECURITIES LTD.	05/01/2012	10:46:50	100,000	0.2500	25,000	05/01/2012	0.2600
GREAT ROC CAPITAL SEC LTD	05/01/2012	10:46:50	300,000	0.2500	75,000	05/01/2012	0.2550
HAITONG INT'L SEC CO LTD	05/01/2012	10:46:50	80,000	0.2500	20,000	06/01/2012	0.2900
HANG SENG SECURITIES LTD.	05/01/2012	10:46:50	100,000	0.2500	25,000	15/02/2012	0.3350
HANTEC SECURITIES CO., LTD.	05/01/2012	10:46:50	200,000	0.2500	50,000	05/01/2012	0.2550
ICBC (ASIA) SECURITIES LTD	05/01/2012	10:46:50	80,000	0.2500	20,000	05/01/2012	0.2600
KINGSTON SECURITIES LTD.	05/01/2012	10:46:50	100,000	0.2500	25,000	05/01/2012	0.2650
LEGARLEON SECURITIES LTD	05/01/2012	10:46:50	200,000	0.2500	50,000	05/01/2012	0.2550
OKACHI INVESTMENTS (HK) CO LTD	05/01/2012	10:46:50	100,000	0.2500	25,000	05/01/2012	0.2600
PAUL SECURITIES LTD.	05/01/2012	10:46:50	200,000	0.2500	50,000	05/01/2012	0.2550
PHILLIP SECURITIES (H.K.) LTD.	05/01/2012	10:46:50	200,000	0.2500	50,000	05/01/2012	0.2550
REALINK FINANCIAL TRADE LTD	05/01/2012	10:46:50	500,000	0.2500	125,000	05/01/2012	0.2600
REDFORD SECURITIES LTD.	05/01/2012	10:46:50	60,000	0.2500	15,000	05/01/2012	0.2550
SINCERE SECURITIES LTD.	05/01/2012	10:46:50	500,000	0.2500	125,000	05/01/2012	0.2550
STOCKWELL SECURITIES LTD.	05/01/2012	10:46:50	300,000	0.2500	75,000	05/01/2012	0.2600
TAK FUNG SHARES INV. CO. LTD.	05/01/2012	10:46:50	60,000	0.2500	15,000	05/01/2012	0.2600
TUNG SHING SEC (BROKERS) LTD	05/01/2012	10:46:50	200,000	0.2500	50,000	05/01/2012	0.2650
TUNG TAK SEC. (H.K.) CO. LTD.	05/01/2012	10:46:50	120,000	0.2500	30,000	05/01/2012	0.2700
UBS SECURITIES HONG KONG LTD	05/01/2012	10:46:50	20,000	0.2500	5,000	05/01/2012	0.2650
UBS SECURITIES HONG KONG LTD	05/01/2012	10:46:50	100,000	0.2500	25,000	05/01/2012	0.2800
VC BROKERAGE LTD	05/01/2012	10:46:50	200,000	0.2500	50,000	05/01/2012	0.2550
WING LUNG SECURITIES LTD.	05/01/2012	10:46:50	60,000	0.2500	15,000	05/01/2012	0.2650
BAN HIN SECURITIES CO. LTD.	05/01/2012	11:57:36	300,000	0.2550	76,500	05/01/2012	0.2600
BOCI SECURITIES LTD.	05/01/2012	11:57:36	40,000	0.2550	10,200	10/01/2012	0.2800
BOCOM INT'L SECURITIES LTD	05/01/2012	11:57:36	100,000	0.2550	25,500	05/01/2012	0.2600
CHINA PACIFIC SECURITIES LTD.	05/01/2012	11:57:36	200,000	0.2550	51,000	11/01/2012	0.2700
FULBRIGHT SECURITIES LTD.	05/01/2012	11:57:36	200,000	0.2550	51,000	05/01/2012	0.2600
HSBC SEC. BROKERS (ASIA) LTD.	05/01/2012	11:57:36	40,000	0.2550	10,200	08/03/2012	0.3100
HSBC SEC. BROKERS (ASIA) LTD.	05/01/2012	11:57:36	960,000	0.2550	244,800	09/03/2012	0.3150
OCBC SECURITIES (HK) LTD	05/01/2012	11:57:36	500,000	0.2550	127,500	07/02/2012	0.3150
OCBC SECURITIES (HK) LTD	05/01/2012	11:57:36	500,000	0.2550	127,500	07/02/2012	0.3150
OCBC SECURITIES (HK) LTD	05/01/2012	11:57:36	340,000	0.2550	86,700	07/02/2012	0.3150
SUCCESS SECURITIES LTD	05/01/2012	11:57:36	200,000	0.2550	51,000	05/01/2012	0.2600
SUCCESS SECURITIES LTD	05/01/2012	11:57:36	100,000	0.2550	25,500	05/01/2012	0.2800
DBS VICKERS (HONG KONG) LTD	05/01/2012	13:50:24	100,000	0.2650	26,500	06/03/2012	0.3150
HSBC SEC. BROKERS (ASIA) LTD.	05/01/2012	14:28:07	40,000	0.2650	10,600	20/01/2012	0.2900
<b>Total</b>			<b>35,820,000</b>		<b>9,269,000</b>		

No. of counterparties

102

# **Annexure D**

Schedule 4

Titan Petrochemicals Group Limited (Stock Code 1192)

Counterparties to Cheong's trades in Titan shares from 3 to 5/1/2012 (subsequently disposed at same price)

Executing broker (as shown in Market Statistics System)	Date of purchase	Time	No. of shares bought from Cheong	Unit price (before transaction cost) of purchase (HK\$)	Total purchase consideration (HK\$)	Date of disposal	Unit price (before transaction cost) of disposal (HK\$)
HANTEC SECURITIES CO., LTD.	03/01/2012	11:50:53	20,000	0.2800	5,600	03/01/2012	0.2800
FULBRIGHT SECURITIES LTD.	03/01/2012	11:51:46	100,000	0.2750	27,500	03/01/2012	0.2750
FRIEDMANN PACIFIC SECS. LTD.	04/01/2012	11:56:51	40,000	0.2750	11,000	09/01/2012	0.2750
BAN HIN SECURITIES CO. LTD.	05/01/2012	10:20:29	300,000	0.2550	76,500	05/01/2012	0.2550
PAUL SECURITIES LTD.	05/01/2012	10:24:48	100,000	0.2500	25,000	05/01/2012	0.2500
BAN HIN SECURITIES CO. LTD.	05/01/2012	10:32:59	300,000	0.2550	76,500	05/01/2012	0.2550
FULBRIGHT SECURITIES LTD.	05/01/2012	10:32:59	60,000	0.2550	15,300	05/01/2012	0.2550
HANTEC SECURITIES CO., LTD.	05/01/2012	10:32:59	60,000	0.2550	15,300	05/01/2012	0.2550
SINCERE SECURITIES LTD.	05/01/2012	10:40:19	100,000	0.2550	25,500	05/01/2012	0.2550
Total				<u>1,080,000</u>	<u>278,200</u>		
No. of counterparties		7					

# **Annexure E**

Schedule 5

Titan Petrochemicals Group Limited (Stock Code 1192)

Counterparties to Gan's trades in Titan shares on 3/1/2012 (subsequently disposed at profit)

Executing broker (as shown in Market Statistics System)	Date of purchase	Time	No. of shares	Unit price (before transaction cost) of purchase	Total purchase consideration (HK\$)	Average unit price (before transaction cost) of disposal
OCBC Securities (HK) Limited	03/01/2012	10:34:59	500,000	0.27	135,000	0.2925
OCBC Securities (HK) Limited	03/01/2012	10:35:30	900,000	0.27	243,000	0.2925
<b>Total</b>			<b>1,400,000</b>		<b>378,000</b>	
No. of counterparties	1					

# **Annexure F**

**IN THE MATTER OF THE LISTED SECURITIES OF  
TITAN PETROCHEMICALS GROUP LIMITED (STOCK CODE 1192)**

**MARKET MISCONDUCT TRIBUNAL PROCEEDINGS  
PURSUANT TO SECTION 252(2) OF AND SCHEDULE 9 TO THE  
SECURITIES AND FUTURES ORDINANCE CAP. 571**

**Orders Imposed**

1. Pursuant to section 257(1)(b) of the Securities and Futures Ordinance (“SFO”), that Cheong Kai Tjeh Augustine (“**Cheong**”) the 1<sup>st</sup> Specified Person herein, shall not, without the leave of the Court of First Instance, in Hong Kong, directly or indirectly, in any way acquire, dispose of or otherwise deal in any securities, futures contract or leveraged foreign exchange contract, or an interest in any securities, futures contract, leveraged foreign exchange contract or collective investment scheme for a period of 24 months, that period to commence on the date hereof.
2. Pursuant to section 257(1)(b) of the SFO, that Gan Ser Soon (alias Gan Chir Seam) (“**Gan**”), the 2<sup>nd</sup> Specified Person herein, shall not, without the leave of the Court of First Instance, in Hong Kong, directly or indirectly, in any way acquire, dispose of or otherwise deal in any securities, futures contract or leveraged foreign exchange contract, or an interest in any securities, futures contract, leveraged foreign exchange contract or collective investment scheme for a period of 12 months, that period to commence on the date hereof.
3. Pursuant to section 257(1)(c) of the SFO, that Cheong shall not again perpetrate any conduct which constitutes insider dealing as defined in the SFO.

4. Pursuant to section 257(1)(c) of the SFO, that Gan shall not again perpetrate any conduct which constitutes insider dealing as defined in the SFO.
5. Pursuant to section 257(1)(d) of the SFO, that Cheong shall pay to the Government the loss avoided by him as a result of his insider dealing in the sum of:
  - (a) HK\$2,321,816.86; and
  - (b) such further sum (if any) being the loss avoided by Cheong in respect of his disposals of the shares in Titan Petrochemicals Group Limited (“**Titan**”) to any person during the period from 3 to 5 January 2012 inclusive and such person is determined by the Administrator appointed by the Court in High Court Action No. 2269/2012 as a person who disposed of the said Titan shares on or after 19 June 2012 at a price equal to or higher than the price at which the Titan shares were purchased from Cheong.
6. The further sum (if any) referred to in paragraph 5(b) above shall be the sum representing the difference between the total net proceeds received by Cheong in respect of his disposals of the Titan shares to such person as referred to in paragraph 5(b) and the total net proceeds Cheong would have received if the price of the Titan shares was HK\$0.1956 per share.
7. Pursuant to section 257(1)(d) of the SFO, that Gan shall pay to the Government the loss avoided by her as a result of her insider dealing in the sum of:
  - (a) HK\$103,357.19; and

- (b) such further sum (if any) being the loss avoided by Gan in respect of her disposals of the Titan shares to any person on 3 January 2012 and such person is determined by the Administrator appointed by the Court in High Court Action No. 2269/2012 as a person who disposed of the said Titan shares on or after 19 June 2012 at a price equal to or higher than the price at which the Titan shares were purchased from Gan.
8. The further sum (if any) referred to in paragraph 7(b) above shall be the sum representing the difference between the total net proceeds received by Gan in respect of her disposals of the Titan shares to such person as referred to in paragraph 7(b) and the total net proceeds Gan would have received if the price of the Titan shares was HK\$0.1956 per share.
9. By consent, that Cheong and Gan do pay the costs to the Commission pursuant to section 257(1)(f)(i) and (ii) of the SFO being:
- (1) pursuant to section 257(1)(f)(i) of the SFO, a sum of HK\$669,600 being the costs and expenses, including legal costs, expert costs and disbursements, reasonably incurred by the Commission in relation to or incidental to the Market Misconduct Tribunal proceedings herein (“**Tribunal Proceedings**”); and
  - (2) pursuant to section 257(1)(f)(ii) of the SFO, a sum of HK\$392,307 on account of the costs and the expenses reasonably incurred by the Commission in relation or incidental to the investigations carried out before the Tribunal Proceedings were instituted.

10. Pursuant to section 257(1)(e) of the SFO that Cheong and Gan pay the costs and expenses incurred by the Government (the Tribunal) in relation to or incidental to the Tribunal Proceedings in the sum of HK\$165,532.04.

Dated the 13th day of March 2017.