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## Enforcement News

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16 September 2009

### SFC seeks disqualification orders against current and former directors of Warderly International Holdings Ltd

The Securities and Futures Commission (SFC) is seeking orders to disqualify six current and former directors of Warderly International Holdings Ltd as company directors for alleged misconduct (Notes 1 and 2).

The SFC has commenced proceedings in the High Court against the company's current executive director, Mr Godfrey Hung Kwok Wa, four former executive directors, namely Mr Yeung Kui Wong, Mr John Lai Wing Chuen, Ms Ellen Yeung Ying Fong and Mr Yu Hung Wong, and former alternate non-executive director, Mr Hermann Leung Ping Chung.

The SFC alleges that the six directors:

- failed to manage Warderly with the necessary degree of skill, care, diligence and competence as is reasonably expected of persons of their knowledge and experience holding their offices and functions within Warderly; and
- failed persistently to ensure Warderly fully complied with disclosure requirements under the Listing Rules.

The SFC also alleges that Leung has acted in breach of his fiduciary duty owed to Warderly by obtaining a profit and/or placing himself in a position of conflict through lending to Warderly's subsidiaries at an excessively high interest rate.

According to the SFC's case, the alleged breaches are centred on a number of material events during July 2006 to April 2007 concerning the financial position of Warderly which should have been disclosed under the Listing Rules, including:

- commencement of legal proceedings in Hong Kong and the Mainland against Warderly and its subsidiaries by banks for repayment of bank loans and by creditors for repayments;
- occurrence of several labour strikes in Warderly's Mainland factory which caused serious disruption to its factory production;
- appointment of a financial adviser in respect of Warderly's proposed debt restructuring and re-organisation;
- appointment of adviser to monitor Warderly's cash position at the request of a syndicate of banks who had lent money to Warderly and formation of a management committee to solve its financial problems; and
- grants of loans by Leung and third parties at excessively high interest rates.

The High Court is scheduled to hear the petition on 6 November 2009. A [summary](#) of the material events and the allegations is posted on the SFC website ([www.sfc.hk](http://www.sfc.hk)).

End

Notes:

1. Warderly was listed on the main board of The Stock Exchange of Hong Kong in December 2002. The company is principally engaged in the design, manufacture and sale of household electrical appliances such as electric fans, convector heaters, etc with Europe being its major market. On the SFC's order, trading in the shares of Warderly has been suspended since 14 May 2007.

2. Under section 214 of the Securities and Futures Ordinance, the court may make orders disqualifying a person from being a company director or being involved, directly or indirectly, in the management of any corporation for up to 15 years, if the person is found to be wholly or partly responsible for the company's affairs having been conducted in a manner involving defalcation, fraud or other misconduct.

Page last updated: 16 September 2009

## **SFC's Allegations against Respondents**

### **(an extract from the SFC's Petition filed with the Court)**

1. Upon receiving information that the Company had failed to issue any announcement of its deteriorating financial position since at least early 2007 despite the same being price sensitive information which should be made known to its members and/or the general investing public, the Petitioner, being concerned that there was neither an orderly and fair market nor a properly informed market in the Company's shares, directed the Stock Exchange to suspend all dealings in the shares of the Company from 14 May 2007. The suspension remains effective as at the date of this Petition
2. So far as the management of the Company is concerned Yeung Kui Wong ("KW Yeung") the 1<sup>st</sup> Respondent, Godfrey Hung Kwok Wa ("Godfrey Hung") the 2<sup>nd</sup> Respondent, John Lai Wing Chuen ("John Lai") the 3<sup>rd</sup> Respondent, Ellen Yeung Ying Fong ("Ellen Yeung") the 4<sup>th</sup> Respondent, Yu Hung Wong ("Yu") the 5<sup>th</sup> Respondent were at all material times executive directors of the Company. Hermann Leung Ping Chung ("Hermann Leung") the 6<sup>th</sup> Respondent, was an alternate non-executive director of the Company
3. At all material times, each of the Directors owed to the Company and to the Group the fiduciary duty to act in good faith and in the best interest of the Company and the Group. Further, each of them owed to the Company and the Group the duty of care at common law to exercise due and reasonable skill, care and diligence in the course of acting as the executive directors of the Company.
4. In order to act as directors of the Company, each of the Directors were required to and did sign a formal declaration and undertaking *as per* Form B of Appendix 5 to the Rules Governing the Listing of Securities on the Stock Exchange (the "Listing Rules") whereby each of them undertook that they would in the exercise of their powers and duties as directors of the Company comply with and procure the Company to comply with, inter alia, the Listing Rules from time to time in force.

## **The Directors**

5. KW Yeung is the founder of the Group of which the Company was and still is the holding company. He was the Chairman and the Managing Director of the Company from 18 April 2002 to 20 March 2007, and was represented in the Company's Prospectus and Annual Reports for the period from 2003 to 2007 as having over 15 years of experience in the industry of household electrical appliances and being responsible for managing the Group's overall business, supervising the operations of the Group's business and maintaining the relationships with the Group's major customers.
6. KW Yeung was a substantial shareholder of the Company. According to the Company's Annual Reports for the period from 2003 to 2007, he was the beneficial owner of the issued shares of the Company as follows 266,250,000 (71%) as at 30 April 2003, 230,050,000 (54.52%) as at 30 April 2004, 232,050,000 (54.99%) as at 30 April 2005 and 30 April 2006, and 152,050,000 (36.03%) as at 30 April 2007. KW Yeung ceased to be a shareholder of the Company on 30 April 2008.
7. Godfrey Hung was an executive director of the Company since 18 April 2002 and remains so as at the date of this Petition. He was represented in the Company's Prospectus and Annual Reports for the period from 2003 to 2008 as having extensive experience in the financial industry and being responsible for financial planning and related financial activities of the Group. According to the Company's Annual Reports for the period from 2003 to 2004, he was the beneficial owner of 15,000,000 (4%) of the issued shares of the Company as at 30 April 2003 and 3.55% as at 30 April 2004. It was further represented that he has been an associate member of the Association of Chartered Certified Accountants since 1997.
8. John Lai was an executive director of the Company from 18 April 2002 to 10 June 2007. He was represented in the Company's Prospectus and Annual Reports for the period from 2003 to 2007 as having over 20 years of experience in the industry

of household electrical appliances and being responsible for the sales and marketing department of the Group.

9. Ellen Yeung is the daughter of KW Yeung and was an executive director of the Company from 28 September 2005 to 15 January 2007. She was represented in the Company's Annual Report for the year ended 30 April 2006 as being responsible for the overall management and general administration of the Group.
10. Yu was an executive director of the Company from 16 January 2007 to 12 March 2007. He was represented in the Company's Prospectus and Annual Report 2003 as one of the senior management of the Company and as having over 24 years of management experience in household electrical appliances production and technical and quality control. Prior to his appointment as a director, he was the manager responsible for production operation management of the Group's factory in the People's Republic of China ("the PRC").
11. Hermann Leung was an alternate non-executive director of the Company from 23 December 2003 to 16 May 2007. He was represented in the Company's Annual Reports for the period from 2004 to 2006 as having over 20 years of management and executive experience throughout the Asia Pacific region.

**Deteriorating financial position of the Company and/or its subsidiaries in the period from July 2006 to April 2007 ("the Relevant Period")**

12. On 23 August 2006, the Company announced its annual results for the year ended 30 April 2006, which indicated that the Company had been operating with serious financial difficulties:-
  - 12.1. its turnover had dropped by approximately 14% to HK\$288,688,000 from HK\$337,499,000 in the year ended 30 April 2005;
  - 12.2. the Inland Revenue Department had claimed an under-provision for the previous years in the sum of HK\$16,554,000, when the sum so claimed was only HK\$482,000 in the year ended 30 April 2005;

- 12.3. its net profit had dropped drastically by approximately 99.3% to HK\$398,000 from HK\$58,014,000 in the year ended 30 April 2005; and
  - 12.4. its earnings per share had dropped to HK\$0.01 from HK\$0.137 in the year ended 30 April 2005.
13. On 23 January 2007, the Company announced its interim results for the six months ended 31 October 2006, from which no sign of improvement could be discerned:-
- 13.1. its gross profit had dropped by approximately 23.99% to HK\$39,942,000 from HK\$52,547,000 in the same period in 2005;
  - 13.2. its net profit had dropped by approximately 89.3% to HK\$2,194,000 from HK\$20,443,000 in the same period in 2005; and
  - 13.3. its bank balances and cash had been reduced by approximately 76.1% in only six months to HK\$27,775,000 from HK\$116,168,000 as at 30 April 2006, a reduction which was particularly alarming because the management had acknowledged in the announcement that the Group generally financed its operations mainly with internally generated cash flow.
14. On 22 October 2008, the Company announced its annual results for the year ended 30 April 2007 which showed that the financial position of the group had further deteriorated:-
- 14.1. turnover dropped by approximately 35.09% to HK\$187,384,000 from HK\$288,688,000 in the year ended 30 April 2006;
  - 14.2. the net profit of HK\$398,000 recorded for the year ended 30 April 2006 had turned into a loss of HK\$707,359,000; and
  - 14.3. earnings per share fell from HK\$0.1 for the year ended 30 April 2006 to a loss of HK\$1.68.

15. Investigations by the Petitioner reveal that the Group has had a net deficit in all its bank accounts maintained in Hong Kong, Macau and the PRC throughout the period from December 2006 to April 2007.

**Events in relation to the business or affairs of the Company and/or its subsidiaries which occurred in the Relevant Period but were not disclosed by the Company to its members and/or the general investing public**

16. During the Relevant Period, the following events occurred in relation to the business or affairs of the Company and/or its subsidiaries (collectively referred to hereinbelow as “the Events”):-
  - 16.1. Legal proceedings in Hong Kong and the PRC commenced by banks against KW Yeung, the Company and/or its subsidiaries as a result of the Group’s failure to repay promptly loans since July 2006.
  - 16.2. Labour strikes in the factory operated by a wholly owned subsidiary of the Company in the PRC in September and December 2006, and February and April 2007.
  - 16.3. Legal proceedings in Hong Kong and the PRC commenced by raw material suppliers against the Company and/or its subsidiaries as a result of their failure to promptly make invoice payments.
  - 16.4. Formation of a management committee (“the Management Committee”) in November 2006, which fundamentally changed the way in which the Group was managed and operated.
  - 16.5. Appointment of, and a payment of HK\$1,000,000 to, Baron Capital Limited and Baron Asia Limited (collectively referred to as “Baron”) in October 2006 for professional advice on the Group’s proposed debt restructuring and, if necessary, re-organisation.

- 16.6. Appointment of Ferrier Hodgson Limited (“Ferrier Hodgson”) in December 2006 to monitor the cash position and carry out a financial review of the Group.
- 16.7. Loans from Hermann Leung and third parties to subsidiaries of the Company for which KW Yeung pledged 232,050,000 shares in the Company as security.
17. Notwithstanding that the occurrence of the Events in the Relevant Period, whether generally or in the particular adverse circumstances faced by the Company and/or its subsidiaries, constituted share price sensitive information, the Directors have failed or omitted to cause the Company to disclose the same to its members and/or the general investing public.

**Legal proceedings in Hong Kong and the PRC against KW Yeung, the Company and its subsidiaries for loan repayment**

18. At the time when the Company announced its annual and interim results the Company’s subsidiaries had borrowed substantially from a number of banks.
19. Upon learning of the Company’s disappointing annual and interim results from its said announcements, the lender banks became seriously concerned with the financial position of the Company, and tightened the banking facilities previously granted to the Company’s subsidiaries and called for repayment of the loans that had become due.
20. The Company and/or its subsidiaries did not have sufficient cash and could not repay the said loans on demand. The management of the Company then negotiated with the lender banks for further credit facilities, rollovers and/or postponement of repayments.
21. In the meantime, where the said negotiations failed, some of the lender banks commenced legal proceedings in Hong Kong and the PRC against KW Yeung, the Company and/or its subsidiaries.



### **Labour strikes**

22. Dongguan Kalee Electrical Company Limited (“DGKL”) was a wholly owned subsidiary of the Company and at all material times operated as a factory in Dongguan, the PRC (“Kalee Factory”). According to the Company’s Annual Report for the year 2006, DGKL was at all material times the only subsidiary within the Group which manufactured household electrical appliances. According to the Annual Report for 2007 the Kalee Factory had ceased operation.
23. As a result of the Group’s failure to pay the wages of its workers at the Kalee Factory on time, labour strikes occurred in September and December 2006, and in February and April 2007 which caused serious disruption to the production at the Kalee Factory and thereby the core business of the Company.

### **Legal proceedings in Hong Kong and/or the PRC against the Company and/or its subsidiaries for invoice payments and payments of statements of account**

24. Upon learning of the Company’s disappointing annual and interim results from its said announcements, and the labour strikes, the raw material suppliers demanded payment of outstanding invoices and accounts by the Company and/or its subsidiaries.
25. The Company and/or its subsidiaries did not have sufficient cash and could not repay the raw material suppliers, some of which then commenced legal proceedings in Hong Kong and the PRC against the Company and/or its subsidiaries. Furthermore, some of the raw material suppliers attended the Kalee Factory and made threats to its management staff to force payments. Out of fear for their own safety, a number of its senior staff resigned, which further disrupted the operation and production at the Kalee Factory.
26. With their invoices not settled, the raw material suppliers ceased to supply the Group with raw materials that were essential for the manufacture of household electrical appliances. This seriously disrupted if not paralysed the production at the Kalee Factory, which could not meet half of its purchase orders in January

2007, and the failure rate was over 80% in February and March 2007. As stated in the Company's Annual Report for the year ended 30 April 2007, production at the Kalee Factory ceased operation due to the inability of DGKL to pay its debts and liabilities. In April 2007, the Kalee Factory was sealed up and closed down by the People's Court in Dongguan City of Guangdong Province following claims made by DGKL's creditors. The Kalee Factory together with its plant and equipment were sealed up and the manufacturing operations ceased. DGKL filed for insolvency and a debt structuring proposal was rejected by its creditors. In May 2008 the Dongguan Intermediate People's Court ordered that DGKL be liquidated and that the debts owed to creditors be settled from the sale of the Kalee Factory, land and plant and machinery.

#### **Formation of the Management Committee in November 2006**

27. In November 2006, the Management Committee was set up with KW Yeung, Godfrey Hung, John Lai, Hermann Leung and Anthony Kong Kwok Pun ("Anthony Kong", the financial controller of the company from 18 April 2002 to 1 April 2007) as its members. Its purpose was to assist KW Yeung in solving the financial problems faced by the Group and to ensure better corporate governance.
28. The establishment of the Management Committee fundamentally changed the way in which the Group was managed and operated. Previously, KW Yeung had at all material times been the sole signatory of cheques for the Group's bank accounts in Hong Kong without limit and he was not required to obtain the approval of the board of directors of the Company to sign cheques. After the Management Committee was formed, any bank withdrawal of over HK\$50,000 would require a joint signatory by two members of the Management Committee.

#### **Appointment of and a payment of HK\$1,000,000 to Baron in October 2006**

29. On 19 October 2006, KW Yeung on behalf of the Company appointed Baron as advisers in respect of the Group's proposed debt restructuring and, if necessary, re-organisation.

30. The duties of Baron under the said appointment were, *inter alia*, to:-
- 30.1. assist the Group in reviewing its structure, assets and liability positions;
  - 30.2. advise the Group about the regulatory requirements under the Listing Rules in relation to its proposed debt restructuring and, if necessary, re-organisation;
  - 30.3. attend any meeting(s) with the Group's financial institutions and negotiate with them for an acceptable debt restructuring proposal; and
  - 30.4. prepare announcement and circulars, if necessary, in respect of the said debt restructuring and, if necessary, group re-organisation.
31. Remuneration for Baron was agreed as follows:-
- 31.1. the Company would pay Baron an advisory fee of HK\$5,000,000 in any event; and
  - 31.2. should the debt restructuring and group re-organisation proceed to completion, the Company would issue and allot 9.99% of its enlarged issued share capital to Baron or its designated nominee(s), or, in case the said allotment failed for any reason, the cash equivalent to 9.99% of the net asset value of the Company as shown in its latest audited financial statements or the market value of those shares, whichever was the higher.
32. On or about 31 October 2006, the Company paid Baron HK\$1,000,000 as part of the said advisory fee.
33. In appointing and paying HK\$1,000,000 to Baron on behalf of the Company, KW Yeung had obtained neither the prior approval of the board of directors of the Company nor its subsequent ratification of the appointment and/or payment.

34. After the said appointment, despite repeated requests from Baron, the Company failed to furnish Baron with its company records and arrange a meeting with its finance officers to enable Baron to ascertain the financial position of the Company.
35. On 15 November 2006, Baron advised KW Yeung to announce, *inter alia*, the following information, concerning the business or affairs of the Group, to the public as soon as practicable:-
  - 35.1. the latest financial position of the Group;
  - 35.2. the proposed debt restructuring contemplated by the Group;
  - 35.3. the discussion between the Group and its banks which was aimed at coming up with an acceptable debt restructuring proposal; and
  - 35.4. the proposed work to be done relating to the debt restructuring of the Group.
36. In giving the above advice, Baron:-
  - 36.1. emphasised to KW Yeung that the information in paragraph 35 above should be released to the existing shareholders of the Company and the public at the same time and no shareholders should be informed ahead of the others;
  - 36.2. reminded KW Yeung of his duties as an executive director of the Company; and
  - 36.3. drew the attention of KW Yeung to the requirements under Chapter 13 of the Listing Rules governing the continuing disclosure obligations of the Company as a listed company.
37. Shortly after Baron gave the aforesaid advice, KW Yeung on behalf of the Company terminated the appointment of Baron on 17 November 2006.

38. Notwithstanding the aforesaid advice of Baron, the Company has never announced any of the matters identified by Baron.

**Appointment of Ferrier Hodgson in December 2006**

39. On 16 August 2005, Housely Industries Limited (“Housely Industries”), a wholly owned subsidiary of the Company, was granted a term loan of HK\$125,000,000 and a revolving credit facility of HK\$75,000,000 by a syndicate of lenders, namely, Bayerische Hypo- and Vereinsbank AG (“HVB”), Malayan Banking Berhad and Bangkok Bank Public Company Limited. As security for such loans, the Company and Tacho Company Limited (another wholly owned subsidiary of the Company) acted as guarantors. HVB acted as the coordinating arranger.
40. On 14 November 2006, KW Yeung accompanied by Anthony Kong and Joseph Wan, the Chairman of Baron Asia Limited, met with the representative of HVB. At that meeting, Joseph Wan as financial adviser of the Company informed the representative of HVB that the Company was in desperate need of debt restructuring in light of its distressed financial situation, without which it would definitely go into liquidation with nothing left for the syndicate of lenders and other creditors.
41. Having been so advised, HVB convened an urgent all-bankers meeting on 17 November 2006, which was attended by KW Yeung, Godfrey Hung, Hermann Leung and the representatives from HVB and the syndicate of lenders. At that meeting, Godfrey Hung on behalf of the Company admitted that the working capital available to the Group at the material time was very tight, and pleaded for the continuing support of the syndicate of lenders.
42. The syndicate of lenders at the said all-bankers meeting agreed to support the Company but insisted that the cash flow of the Group be monitored. Upon the recommendation of HVB, the Company appointed Ferrier Hodgson in December 2006 to monitor its cash position and carry out a financial review of the Company and its subsidiaries and related companies.

43. Despite the efforts pleaded above, the financial problems of the Company remained unresolved. Housely Industries defaulted in its interest payments of HK\$1,195,668.59 and HK\$1,863,352.47 on 29 March 2007 and 27 April 2007 respectively. Demands of repayment were made to Housely Industries, Tacho Company Limited and the Company. Finally, on 7 May 2007, the syndicate of lender banks served statutory demands on all parties liable under the syndicated loan agreement including the Company.

**Loans from Hermann Leung and third parties to subsidiaries of the Company for which KW Yeung pledged his shares in the Company as security**

44. On 17 November 2006 and 11 December 2006, Hermann Leung transferred HK\$2,000,000 and HK\$1,200,000 respectively to Sharp Venture Holdings Limited (“Sharp Venture”), a wholly owned subsidiary of the Company. These sums represented a joint loan from Hermann Leung and a third party Liu Su Ke to the Company at an interest rate of 5% per month, for which no written agreement had been entered into.
45. On 28 December 2006, Housely Industries and Vision Eagle Limited (“Vision Eagle”) entered into an agreement whereby the latter agreed to grant to the former a term loan of HK\$6,000,000 at an interest rate of 5% per month. This again represented a joint loan from Hermann Leung and Liu Su Ke. Liu Su Ke and Hermann Leung each paid a sum of HK\$3,000,000 to Housely Industries on 28 December 2006.
46. As security for the HK\$6,000,000 term loan granted by Vision Eagle, KW Yeung pledged his 231,800,000 ordinary shares in the Company, held by Imperial Profit Enterprises Limited (“Imperial”) and Primer Capital Investments Limited (“Primer”) as his nominees, to Liu Su Ke on 28 December 2006.
47. Upon the subsequent default in repayment, 30,000,000 of KW Yeung’s shares were transferred to Liu Su Ke, who held and is still holding the same on behalf of Hermann Leung and himself *qua* lenders in equal shares, on 20 April 2007 in satisfaction of the debt.

48. In February 2007, Godfrey Hung on behalf of the Company approached a third party Derrick Luu for funding. Derrick Luu agreed to lend HK\$10,000,000 to the Company and take up its debt in the sum of HK\$12,800,000. As a result, on 6 March 2007, Lanakia Investments Limited (“Lanakia”) (a company owned by a friend of Derrick Luu and a nominee for him) granted a HK\$22,800,000 loan facility to Housely Industries at an interest rate of 3% per month. A total sum of HK\$10,000,000 was advanced by Derrick Luu on divers dates from 15 February 2007 to 4 April 2007.
49. Again, as security for the HK\$22,800,000 loan facility granted by Derrick Luu KW Yeung pleaded his aforesaid 231,800,000 ordinary shares in the Company to Derrick Luu.
50. Upon the subsequent default in repayment, 50,000,000 of KW Yeung’s shares were transferred to parties nominated by Derrick Luu on 21 March 2007 and 16 April 2007 in satisfaction of the debt.

### **Recurrent breaches of the Listing Rules**

51. The Listing Rules applicable at the material time provided as follows:-

#### **Rule 1.01**

*“controlling shareholder” means “any person who is ... entitled to exercise or control the exercise of 30% ... or more of the voting power at general meetings of the issuer or who is ... in a position to control the composition of a majority of the board of directors of the issuer ...”*

#### **Rule 3.08(f)**

*“The board of directors of a listed issuer is collectively responsible for the management and operations of the listed issuer. The Exchange expects the directors, both collectively and individually, to fulfill fiduciary duties and duties of skill, care and diligence to a standard at least commensurate with the standard established by Hong Kong law. This means that every director must, in the performance of his duties as a director ... apply such degree of skill, care and diligence as may reasonably be expected of a person of his knowledge and experience and holding his office within the listed issuer.”*

Rule 13.04

*“The directors of an issuer are collectively and individually responsible for ensuring the issuer’s full compliance with the Exchange Listing Rules.”*

Rule 13.09(1)

*“Generally and apart from compliance with all the specific requirements in this Chapter, an issuer shall keep the Exchange, members of the issuer and other holders of its listed securities informed as soon as reasonably practicable of any information relating to the group (including information on any major new developments in the group’s sphere of activity which is not public knowledge) which:-*

- (a) is necessary to enable them and the public to appraise the position of the group; or*
- (b) is necessary to avoid the establishment of a false market in its securities; or*
- (c) might be reasonably expected materially to affect market activity in and the price of its securities.”*

Notes 4 and 11 to Rule 13.09(1)

*“4. The question of timing of the release of an announcement to the market is crucial, having regard to its possible effect on the market price of the issuer’s listed securities. The overriding principle is that information which is expected to be price-sensitive should be announced immediately it is the subject of a decision. Failure to follow this principle may result in the Exchange imposing a temporary suspension of dealings.*

*11. The issuer must notify the Exchange, members of the issuer and other holder of its listed securities without delay where:-*

*...*

- (ii) to the knowledge of the directors there is such a change in the issuer’s financial condition or in the performance of its business or in the issuer’s expectation of its performance that knowledge of the change is likely to lead to substantial movement in the price of its listed securities;*

*...*

*It is the responsibility of the directors of the issuer to determine what information is material in the context of the issuer’s business,*



*operations and financial performance. The materiality of information varies from one issuer to another according to the size of its financial performance, assets and capitalisation, the nature of its operation and other factors. An event that is 'significant' or 'major' in the context of a smaller issuer's business and affairs is often not material to a large issuer. The directors of the issuer are in the best position to determine materiality. The Exchange recognises that decisions on disclosure require careful subjective judgments, and encourages issuers to consult the Exchange when in doubt as to whether disclosure should be made."*

#### Rule 13.10

*"An issuer shall respond promptly to any enquiries made of the issuer by the Exchange concerning unusual movements in the price or trading volume of its listed securities or any other matters by giving such relevant information as is available to the issuer or, if appropriate, by issuing a statement to the effect that the issuer is not aware of any matter or development that is or may be relevant to the unusual price movement or trading volume of its listed securities and shall also respond promptly to any other enquiries made of the issuer by the Exchange."*

#### Rule 13.12

*"The issues set out in rules 13.13 to 13.19 should be viewed on a group basis, including those arising either from a direct relationship or indirectly through subsidiaries and affiliated companies."*

#### Rule 13.17

*"A general disclosure obligation will arise where the controlling shareholder of the issuer has pledged its interest in shares of the issuer to secure debts of the issuer or to secure guarantees or other support of obligations of the issuer. The following details are to be disclosed:-*

- (1) the number and class of shares being pledged;*
- (2) the amount of debts, guarantees or other support for which the pledge is made; and*
- (3) any other details that are considered necessary for an understanding of the arrangements."*

#### Rule 13.21

*“Where an obligation arises under rules 13.17, 13.18 or 13.19, the disclosures required by these rules should be included in subsequent interim and annual reports for so long as circumstances giving rise to the obligation continue to exist.”*

Rule 14A.02

*“... where any connected transaction is proposed, the transaction must be announced publicly and a circular must be sent to shareholders giving information about the transaction. Prior approval of the shareholders in general meeting will be required before the transaction can proceed...”*

Rule 14A.13(2)(b)(i)

*“A connected transaction is ... the provision of financial assistance ... to a listed issuer by ... a connected person...”*

Rule 14A.10(4)

*“‘financial assistance’ include granting credit, lending money, providing security for, or guaranteeing a loan ...”*

Rule 14A.10(7)

*“a ‘listed issuer’ shall have the meaning set out in rule 14.04(6) ...”*

Rule 14.04(6)

*“a ‘listed issuer’ means a company or other legal person whose securities are already listed on the Main Board and, unless the context otherwise requires, includes its subsidiaries ...”*

Rule 14A.11(1)

*“In this Chapter, the definition of ‘connected person’ includes ... a director, chief executive or substantial shareholder of the listed issuer ...”*

Rule 14A.63

*“Any transaction involving a connected person ... and financial assistance which is not exempted under rules 14A.65 or 14A.66 is subject to the reporting,*

*announcement and independent shareholders' approval requirements of this Chapter.”*

Appendix 16, paragraph 46

*“A listed issuer shall publish a preliminary announcement of its results in accordance with rule 2.07c for the first six months of each financial year as required under rule 13.49(6) which shall include, as a minimum, the following information: -*

...

*(3) a business review covering the following:*

...

*(b) details of important events affecting the listed issuer and its subsidiaries which have occurred since the end of the financial period.”*

Appendix 16, paragraph 51

*“Summary interim reports of listed issuers shall include, as a minimum, the following information in respect of listed issuers:-*

*(1) the information required under paragraphs 46(1) to (9)”*

52. The Company has failed to disclose the Events or any of them to its members, the general investing public and/or the Stock Exchange, and has thus acted in breach of the Listing Rules.

(A) Particulars of breach of Rule 13.09

- (1) Proceedings taken against KW Yeung, and Company and its subsidiaries by banks for loan repayments constituted material and/or price sensitive information which the Company, in light of its deteriorating financial position, should have disclosed to its members and/or the general investing public.

- (2) The labour strikes and legal proceedings issued against the Company and/or its subsidiaries constituted material and/or price sensitive information indicative of the serious operational problems faced by the Company which the latter should have disclosed to its members and/or the general investing public.
- (3) Measures adopted to rescue the Company and which fundamentally changed the way in which it was managed and operated constituted material and/or price sensitive information which the Company should have disclosed to its members and/or the general investing public.
- (4) The loans obtained from Hermann Leung and third parties showed that the Company was in desperate need of funding to such an extent that it had agreed to borrow at abnormally high interest rates. They constituted information which would affect materially the market activity in and the price of the Company's shares, and the Company should have disclosed the same to its members and/or the general investing public.

(B) Particulars of breach of Rule 13.10

The Petitioner repeats the particulars pleaded above.

(C) Particulars of breach of Rules 13.17 and 13.21

- (1) KW Yeung was at all material times a controlling shareholder of the Company, as a result of which the loans to subsidiaries of the Company in return for the pledging of his shares matters became disclosable transactions, for the purposes of the Listing Rules. The Company should have disclosed the same to its members and/or the general investing public.
- (2) The pledges by KW Yeung of his shares in the Company remained effective until March and April 2007 when part of those shares were transferred to Liu Su Ke and Derrick Luu in satisfaction of their loans.

However, the Company has failed to disclose the said pledges in announcing its interim results on 23 January 2007.

(D) Particulars of breach of Rules 14A.02 and 14A.63

The joint loans from Hermann Leung and Liu Su Ke to the Company and/or its subsidiaries constituted financial assistance for the purpose of Chapter 14A of the Listing Rules, and the reporting, announcement and independent shareholders' approval requirements of Chapter 14 of the Listing Rules were applicable to them unless the loans were "on normal commercial terms (or better to the listed issuer)" as provided for in Rule 14A.65(4) of the Listing Rules. The said joint loans from Hermann Leung and Liu Su Ke carried an interest rate of 5% per month, which was substantially higher than the interest rates charged or expected to be charged on normal commercial or bank loans to the Company or its subsidiaries, and the said joint loans could not be regarded as being on normal commercial terms (or better to the Company). However, the Company has failed to report to the Stock Exchange of, announce to its members of and obtain the approval of its members for, such loans.

53. Furthermore, the Directors have also acted in breach of Rules 3.08(f) and 13.04 of the Listing Rules in failing persistently to ensure compliance by the Company of the Listing Rules in the Relevant Period.

54. During the Relevant Period or any part thereof, the Directors or any of them were responsible, whether wholly or partly, for the business or affairs of the Company and/or its subsidiaries:-

54.1. The lender banks demanded the Company and/or its subsidiaries to repay loans and commenced proceedings in Hong Kong and the PRC against KW Yeung, the Company and its subsidiaries from July 2006 when KW Yeung, Godfrey Hung, John Lai, Ellen Yeung, Yu, and Hermann Leung were directors.

- 54.2. The labour strikes at the Kalee Factory occurred when all the Directors were in office, save and except that KW Yeung and Yu had resigned before the labour strike in April 2007; Ellen Yeung had resigned before the labour strikes in February and April 2007; and the labour strikes in September and December 2006 occurred before Yu's appointment as a director.
- 54.3. The raw material suppliers commenced proceedings in Hong Kong and the PRC against the Company and its subsidiaries from March 2007 when KW Yeung, Godfrey Hung, John Lai and Hermann Leung were directors.
- 54.4. The Management Committee was formed, Baron was appointed and paid, and Ferrier Hodgson was appointed when KW Yeung, Godfrey Hung, John Lai, Ellen Yeung and Hermann Leung were directors.
- 54.5. Hermann Leung and Liu Su Ke lent HK\$3,200,000 and HK\$6,000,000 to Sharp Venture and Housely Industries respectively, for which KW Yeung pledged his shares in the Company as security, when KW Yeung, Godfrey Hung, John Lai, Ellen Yeung and Hermann Leung were directors.
- 54.6. Derrick Luu lent HK\$10,000,000 to Housely Industries, for which KW Yeung again pledged his shares in the Company as security, when all the Directors, except Ellen Yeung who resigned on 15 January 2007, were in office.
- 54.7. In failing persistently to ensure compliance by the Company of the Listing Rules in the Relevant Period, the Directors have failed to manage the Company with the necessary degree of skill, care, diligence and competence as is reasonably expected of persons of their knowledge and experience and holding their offices and functions within the Company.
- 54.8. The Events or any of them constituted information relating to the business or affairs of the Company of which its members or any part thereof might reasonably expect to be informed. However, the Company has never disclosed the Events or any of them to its members.

- 54.9. In addition, by reason of the matters pleaded above, Hermann Leung has acted in breach of his fiduciary duties owed to the Company by obtaining a profit and/or placing himself in a position of conflict through lending to the Company and/or its subsidiaries at an excessively high interest rate.
55. The Petitioner contends that the Directors have conducted the business or affairs of the Company in a manner:-
- 55.1. involving misfeasance or misconduct towards the Company, its members or part of its members other than KW Yeung and Godfrey Hung; and
- 55.2. resulting in its members or part of its members (other than KW Yeung and Godfrey Hung) not having been given all the information with respect to its business or affairs that they might reasonably expect.