

The report of the Market Misconduct Tribunal into dealings
in the shares of China Gas Holdings Limited
on and between 15 November and 6 December 2011

**A report pursuant to sections 252(3)(a) and (b) of
the Securities and Futures Ordinance, Cap. 571 and
Court of Appeal's Judgment dated 10 September 2018**

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IN THE MARKET MISCONDUCT TRIBUNAL

IN THE MATTER OF the listed securities of China Gas Holdings Limited (Stock Code: 384) (“**China Gas Holdings Limited**” or “**the Company**”)

IN THE MATTER OF Cheng Chak Ngok, Specified Person (“**the Specified Person**” or “**Cheng Chak Ngok 鄭則鏗**”)

IN THE MATTER OF section 252(2) of and Schedule 9 to the Securities and Futures Ordinance, Cap. 571 (“**the Ordinance**”)

SECURITIES AND FUTURES COMMISSION

and

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CHENG CHAK NGOK 鄭則鏐

Before: Mr Kenneth Kwok SC (Chairman)
Ms Lai Pik Chi Peggy
Ms Lai Tin Yin Fion
Dates of hearing: 26-30 August 2019 & 3, 27 September 2019
Date of Determination: 30 November 2020

**DETERMINATION – WHETHER
CHENG CHAK NGOK 鄭則鏐 HAD DEALT WITH THE SHARES**

CHAPTER 1

COURT OF APPEAL'S ORDER FOR RETRIAL

Introduction

1. Proceedings were initiated by the notice from the Securities and Futures Commission (“SFC”) dated 14 July 2016 (“Notice”) served on the Market Misconduct Tribunal (“MMT” or the “Tribunal”). The Notice is posted on MMT’s website:

https://www.mmt.gov.hk/eng/rulings/China_Gas_Holdings_Limited_Notice_25072016_e.pdf.

The first MMT Report

2. Cheng Chak Ngok 鄭則鏗 is the Specified Person. His English name is “Wilson”.

3. By the Report dated 23 March 2017 (the “First Report”), the Tribunal, differently constituted¹, concluded that:

“The Tribunal in the final analysis acknowledges the efforts of the SFC to investigate a very suspicious scenario but we were driven to conclude for all the reasons in the report that in all the circumstances we could not be satisfied on a balance of probabilities that the Specified Person, Mr Cheng had committed market misconduct

¹ Comprising Mr Garry Tallentire (as Chairman) and Mr Wong Kai-Tat, Dickson and Mr Kam Chi-Chiu, Anthony (as members).

by way of insider dealing. Therefore we so rule.”²

The Court of Appeal’s Order for retrial

4. The SFC appealed. The Court of Appeal allowed the SFC’s appeal and by its judgment dated 10 September 2018³ (“**Judgment**”):

“remit[ted] the matter to a differently constituted Tribunal to determine solely the question of whether Mr Cheng had dealt with the shares, as the other elements of market misconduct had been established and were not challenged in this appeal.”⁴

² at §121.

³ [2018] HKCA 590.

⁴ §10.

CHAPTER 2

INTERLOCUTORY PROCEEDINGS

Adjournment of MMT's directions hearing

5. By letter dated 13 September 2018, the secretary to the MMT (“**Secretary**”) gave notice to both the SFC and Cheng Chak Ngok 鄭則鏗 of the MMT’s intention to hold a directions hearing to give directions for the retrial and to fix dates for the retrial.

6. Neither party responded to the Secretary’s letter. By letter dated 21 September 2018, the Secretary informed the parties that the Chairman, Mr Kenneth Kwok, SC, had fixed 2 October 2018 for the directions hearing.

7. By letter dated 23 September 2018 from Michael Li & Co⁵ to the SFC, Michael Li & Co stated that Cheng Chak Ngok 鄭則鏗 intended to seek leave to appeal against the Judgment and that a “notice of his intended application ... will be served on [the SFC] shortly”. Michael Li & Co sought the SFC’s consent to adjourn the hearing of the retrial of the MMT case pending the final disposal of the intended appeal and to vacate the directions hearing scheduled for 2 October 2018.

8. By notice dated 24 September 2018, Michael Li & Co gave notice on behalf of Cheng Chak Ngok 鄭則鏗 of the latter’s intention to apply to the Court of Appeal for leave to appeal from the Judgment.

⁵ Solicitors for Cheng Chak Ngok 鄭則鏗.

A 9. By fax dated 24 September 2018, the SFC informed Michael Li & Co that: A

B “on the basis that [Michael Li & Co’s] client will appeal against the Court’s decision, [the SFC] do not object to [their] proposed directions”. B

C 10. By letter dated 26 September 2018, the Secretary informed the parties that: C

D “the directions hearing fixed for 2 October 2018 is adjourned to a date to be fixed by the Chairman on his own motion or on application by the parties, with costs reserved”. D

E *Court of Appeal refused leave to appeal* E

F 11. (a) By a Decision handed down on 4 December 2018, the Court of Appeal dismissed the application of Cheng Chak Ngok 鄭則鏢 to appeal to the Court of Final Appeal⁶. F

G (b) Cheng Chak Ngok 鄭則鏢 was represented by 1 leading and 2 junior counsel⁷, on the instructions of Michael Li & Co. G

H *Application to the Court of Final Appeal for leave and the Chairman’s directions* H

I 12. By letter dated 7 December 2018, Michael Li & Co: I

J (a) informed the Secretary that Cheng Chak Ngok 鄭則鏢 intended to apply to the Court of Final Appeal for leave to appeal; and J

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⁶ *Securities and Futures Commission v Cheng Chak Ngok and another* [2018] HKCA 923. L

M ⁷ Mr Paul Lam, SC, leading Mr Bernard Mak and Mr Ernest C Y Ng. M

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(b) sought the continuation of the adjournment of the directions hearing pending the disposal of the intended appeal.

13. By letter dated 10 December 2018, the SFC responded as follows:

“We do not however understand why it is necessary to seek another direction from the Chairman of the Tribunal and our consent for adjournment of the directions hearing, given that the Chairman’s direction of 26 September 2018 still stands and no action has been taken by either the Chairman or the parties to restore the directions hearing.”

14. By letter dated 13 December 2018, the Secretary wrote to both parties asking them to revert by 19 December 2018 on the following queries:

(a) Does an application under section 24(3) of the Court of Final Appeal Ordinance, Cap. 484, operate as a stay of the Court of Appeal’s judgment?

(b) If not, is there any order suspending the execution of the Court of Appeal judgment?

(c) If not, is there any reason why the MMT should not proceed to carry out the remittance as directed by the Court of Appeal, given that the Court of Appeal has dismissed the application for leave to appeal?

15. By letter dated 13 December 2018, Michael Li & Co informed the SFC that they took it that the SFC had no objection to the adjournment of the directions hearing pending the final disposal of the appeal.

A 16. By letter dated 17 December 2018, the SFC informed Michael
Li & Co that the SFC did not consent to further adjourn the execution of
B the Court of Appeal’s judgment.

C 17. By letter dated 19 December 2018, Michael Li & Co accepted
that an application under section 24(3) of the Court of Final Appeal
Ordinance did not operate as a stay of execution and that there was no
D order suspending the execution. Michael Li & Co did not contend that
the MMT had jurisdiction to stay the execution of the Court of Appeal’s
E judgment pending the intended appeal to the Court of Final Appeal.

F 18. By letter dated 19 December 2018, the SFC requested the
MMT to restore the directions hearing.

G 19. By letter dated 21 December 2018, the Secretary cited section
26(1) of the Court of Final Appeal Ordinance which provided that:

H **“Stay of execution**

- I (1) Where a judgment appealed from requires the appellant to
pay money or perform a duty, the Court of Appeal or the
Court, as the case may be, shall have power, when
granting leave to appeal or subsequently, either to direct
that the judgment shall be carried into execution or that
the execution shall be suspended pending the appeal.
- J (2) Where the Court of Appeal or the Court directs the
judgment appealed from to be carried into execution, the
person in whose favour it was given shall, before the
execution, enter into good and sufficient security, to the
K satisfaction of the Court of Appeal or the Court, as the
case may be, for the due performance of such order as the
Court shall make in respect of the appeal.
- L (3) Where the Court of Appeal or the Court directs that the
execution of the judgment appealed from shall be
suspended pending the appeal, the appellant shall enter
into good and sufficient security, to the satisfaction of the

A Court of Appeal or the Court, as the case may be, for the
B due performance of such order as the Court shall make in
C respect of the appeal.”

B and informed the parties of the Chairman’s intention to hold a directions
C hearing.

D 20. On 28 December 2018, Michael Li & Co gave notice of
E motion of the application of Cheng Chak Ngok 鄭則鏗 to apply to the
F Court of Final Appeal for leave to appeal to the Court of Final Appeal.

E *The Chairman’s directions*

F 21. The directions hearing was held on 7 January 2019. Cheng
G Chak Ngok 鄭則鏗 was represented by 2 junior counsel⁸ on the
H instructions of Michael Li & Co. After hearing both parties, the
I Chairman gave the following directions:

- H (a) The Commission to prepare clean sets of the bundles used at
I the previous substantive hearing, with the addition of the
J transcripts of the previous hearing, and lodge 4 sets of the
K same with the Tribunal as well as serve the new bundle of
L transcripts on the specified person within 3 weeks from 7
M January 2019 (i.e. 28 January 2019).
- (b) The specified person to file and serve any additional witness
statement on the issue of dealing, if so advised, within 12
weeks from 7 January 2019 (i.e. 1 April 2019).

⁸ Mr Bernard Mak and Mr Ernest CY Ng.

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- (c) The Commission to file and serve any witness statement in reply, if so advised, within 4 weeks thereafter (i.e. 29 April 2019).
- (d) No further witness statement be filed without leave of the Chairman.
- (e) The Commission to file and serve its opening submissions 4 weeks before the start of the substantive hearing (i.e. 29 July 2019).
- (f) The specified person to file and serve his opening submissions 2 weeks before the start of the substantive hearing (i.e. 12 August 2019).
- (g) The re-hearing on the issue of dealing be fixed to commence at 10:00 am on 26 August 2019, with 5 days reserved (i.e. 26 to 30 August 2019). The Tribunal will be sitting normal court hours for the re-hearing.
- (h) Any application for witness(es) giving evidence by way of video-conference be made 4 weeks before the start of the substantive hearing (i.e. 29 July 2019).
- (i) There be liberty to apply to the Chairman.
- (j) Costs of the directions hearing on 7 January 2019 be reserved.

22. On 14 March 2019, Michael Li & Co requested an extension of time for filing the additional witness statement. Such request was rejected by the SFC by letter dated 15 March 2019.

23. The next application made by Michael Li & Co was by letter dated 20 March 2019 for variation of the time limit for Cheng Chak Ngok 鄭則鏗 to file witness statement to 14 days after the disposal of the

A substantive appeal or disposal of the leave application, as the case may be. Not satisfied that there was any or any good ground for variation, the Chairman declined to vary.

24. The 12-week time-limit for Cheng Chak Ngok 鄭則鏗 to file and serve additional witness statement, if so advised, expired on 1 April 2019. A Supplemental Witness Statement of Cheng Chak Ngok 鄭則鏗 was filed on 1 April 2019.

Court of Final Appeal refused leave to appeal

25. The Court of Final Appeal dismissed the application of Cheng Chak Ngok 鄭則鏗 for leave to appeal to the Court of Final Appeal. Reasons for Determination by the Court of Final Appeal were handed down on 30 April 2019 (the “**Determination**”⁹). Cheng Chak Ngok 鄭則鏗 was represented before the Court of Final Appeal by 1 leading and 2 junior counsel¹⁰, on the instructions of Michael Li & Co.

3rd application by Cheng Chak Ngok 鄭則鏗 for variation of the directions

26. By letter dated 26 July 2019, Michael Li & Co stated that Cheng Chak Ngok 鄭則鏗 had “recently retained Mr Nigel Kat SC as leading counsel to advise and represent” Cheng Chak Ngok 鄭則鏗 at the new hearing. Application was made to extend time for filing evidence to 30 July 2019. By the date of the letter, i.e. 26 July 2019, Cheng Chak

⁹ *Securities and Futures Commission v Cheng Chak Ngok and another* [2019] HKCFA 17.

¹⁰ Mr Paul Lam, SC, leading Mr Bernard Mak and Mr Ernest C Y Ng.

A Ngok 鄭則鏗 was more than 3 months out of the 12-week time limit which
B expired on 1 April 2019.

27. The Chairman dismissed the application. Reasons were
C given in a Decision dated 7 August 2019, a copy of which is posted at
MMT's website:

D [https://www.mmt.gov.hk/eng/rulings/China_Gas_Holdings_Limited_20190807_e.p
df.](https://www.mmt.gov.hk/eng/rulings/China_Gas_Holdings_Limited_20190807_e.pdf) D

E *4th application by Cheng Chak Ngok 鄭則鏗 for variation of the directions* E

28. Michael Li & Co responded immediately by their letter dated
F 7 August 2019, and made the following extraordinary statement in the
penultimate paragraph that (*written exactly as in the original*):

G “We would therefore respectfully ask the Tribunal to reconsider
its Decision, failing which we reserve all our client’s rights”. G

29. The Chairman’s Decision dismissing the application is dated
H 14 August 2019, a copy of which is posted at MMT’s website
I [https://www.mmt.gov.hk/eng/rulings/China_Gas_Holdings_Limited_2019
0814_e.pdf.](https://www.mmt.gov.hk/eng/rulings/China_Gas_Holdings_Limited_20190814_e.pdf) I

30. Cheng Chak Ngok 鄭則鏗 did not make any further
J interlocutory applications. J

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CHAPTER 3

THE BACKGROUND FACTS

31. Cheng Chak Ngok 鄭則鏗 submitted an amended Chronology admitting most of the facts in the Chronology filed by the SFC. The background facts in this chapter are taken from facts admitted by him or from transcripts of interviews by the SFC of him.

The background facts

32. Cheng Chak Ngok 鄭則鏗 was an executive director, the chief financial officer and company secretary of ENN Energy Holdings Limited (“**ENN**”), a company whose shares were listed on the Stock Exchange of Hong Kong (“**SEHK**”).

33. Li Wei 李威 was a Mainland resident and a former consultant of ENN Group Co Ltd (“**ENN Group**”), an associate company of ENN in the Mainland.

34. (a) In about early December 2002, with the help of Cheng Chak Ngok 鄭則鏗, securities and integrated banking accounts were opened by the Bank of China (Hong Kong) Limited (“**BOC**”) in the name of Li Wei (“**Li Wei 李威**”), (the “**BOC Securities Account**” and the “**BOC Integrated Banking Account**”, as the case may be, and collectively the “**BOC Accounts**”).

A (b) When asked on what occasion he came to know Li Wei 李威 A
B and when, Cheng Chak Ngok 鄭則鏗 said: B

C “I make a claim. Well, Li Wei should be a consultant of our C
parent company, huh, well, so er, *it should be sometime between*
D *(20)01 and (20)09* (emphasis added) that I came to know her but D
E if you ask me exactly which year it was, I now really do not E
F recall it, huh, (my) recollection is va – very vague, huh.”¹¹ F

G The period he asserted was “between (20)01 and (20)09”, a G
H period of 9 years. Is this credible? Li Wei 李威 must have H
I been known to Cheng Chak Ngok 鄭則鏗 by the time he I
J helped her to open the BOC Accounts in December 2002. J
K By reference to the accounts opening date, Cheng Chak Ngok K
L 鄭則鏗 would have known Li Wei 李威 by December 2002, L
M at the latest. Yet, he felt able to state that “it should be M
sometime between (20)01 and (20)09 that [he] came to know
her”. The period 2003-2009 was demonstrably untrue and
must have been calculated to mislead.

H (c) The occupation of Li Wei 李威, as recorded in BOC’s H
I account opening documents, was “Clerk/Secretary”. I

J (d) Although the accounts were in the name of Li Wei 李威, J
K Cheng Chak Ngok 鄭則鏗 arranged for BOC to send all K
L correspondence and account statements to Xinao Hong Kong L
M Holdings Limited (“**Xinao**”)¹². Cheng Chak Ngok 鄭則鏗 M
paid the service company’s fees.

L ¹¹ EBA, p. 65 327. L

M ¹² A corporate service company used by him for his private company. M

A 35. In 2011, ENN wanted to acquire China Gas Holdings Ltd A
B (“China Gas”), a company whose shares were listed on SEHK. In B
C around late October/early November 2011, ENN formed a consortium with C
China Petroleum & Chemical Corporation (“Sinopec”) to carry out the
takeover.

D 36. In November 2011, Cheng Chak Ngok 鄭則鏗 was informed D
E that there was an intended acquisition. He flew to Beijing to attend a E
kick-off meeting in respect of the proposed acquisition.

F 37. On 11 November 2011, Cheng Chak Ngok 鄭則鏗 had a F
G meeting with some senior officials of ENN. Cheng Chak Ngok 鄭則鏗 G
was told that ENN and Sinopec would form a consortium to make an offer
for the shares of and to take over China Gas. Cheng Chak Ngok 鄭則鏗
was also told that Citigroup Global Markets Asia Ltd (“Citigroup”) would
be the consortium’s financial adviser.

H 38. Cheng Chak Ngok 鄭則鏗 was responsible for negotiating a H
I bridging loan with Citigroup for the takeover. Cheng Chak Ngok 鄭則鏗 I
had access to key information, notably the intended price range, the
assumed final price of the takeover offer, and the progress of the
J transaction. J

K 39. The IP address 113.28.171.113 (“IP Address”) was assigned K
L to computers/terminals in ENN’s office with internet access. For L
M connections to the internet by smartphone, there is no record of any IP M
address.

40. On 14 November 2011, an email was sent from Jeff Ng of Citigroup and copied to Cheng Chak Ngok 鄭則鏗 containing a financial model and a set of rating discussion materials. Later that day, Jeff Ng sent another email which was also copied to Cheng Chak Ngok 鄭則鏗. This email contained an updated model and materials, showing the intended offer price range of HK\$3 – HK\$3.75 per share¹³.

41. Starting from the date immediately following the date of these 2 Citigroup emails, orders were input to the BOC Securities Account in the name of Li Wei 李威 for the Shares of the Company. The orders starting from 15 November 2011 to 6 December 2011 were all buy orders and there was no sell order. The actual price range for the purchases was from HK\$2.45 to HK\$2.84 per share as follows¹⁴:

<u>Date</u> (dd/mm/yyyy)	<u>Time</u>	<u>Cancel/</u> <u>Reduce</u>	<u>Buy/</u> <u>Sell</u>	<u>No. of</u> <u>Shares</u>	<u>Price</u> <u>per</u> <u>Share</u> (HK\$)	<u>IP Address/</u> <u>Smartphone</u>
15/11/2011	10:06:09		Buy	500,000	2.800	Smartphone
15/11/2011	11:28:14		Buy	500,000	2.700	IP Address
15/11/2011	11:36:54	Cancel the 11:28:14 order	Buy	500,000	2.700	IP Address
15/11/2011	11:37:28		Buy	500,000	2.600	IP Address
15/11/2011	11:56:52		Buy	500,000	2.700	IP Address
16/11/2011	11:34:11		Buy	500,000	2.600	Smartphone
[17/11/2011	<i>Cheng Chak Ngok 鄭則鏗 attended a meeting in Beijing and received materials from Citigroup which assumed the offer price</i>					

¹³ The 2 copy emails in the hearing bundles were hardly legible. This paragraph is based on the facts as stated in the Amended Chronology. Not an insignificant number of documents in the hearing bundles had legibility problems.

¹⁴ This price range was lower than the intended take-over offer price range of HK\$3 – HK\$3.75 per share.

		<i>was HK3.75 per share.]</i>					
A	17/11/2011	9:54:41		Buy	500,000	2.500	Smartphone
B	17/11/2011	10:04:24		Buy	500,000	2.570	Smartphone
C	17/11/2011	10:05:00	<i>Cancel the 9:54:41 order</i>	Buy	500,000	2.500	Smartphone
D	17/11/2011	10:09:31		Buy	500,000	2.570	Smartphone
E	17/11/2011	15:29:26	<i>Update an earlier order and shares were acquired at \$2.62 per share</i>	Buy	500,000	2.620	Smartphone
F	18/11/2011	11:09:32		Buy	460,000	2.500	Smartphone
G	21/11/2011	10:12:07		Buy	240,000	2.470	Smartphone
H	21/11/2011	11:20:43		Buy	240,000	2.500	Smartphone
I	21/11/2011	11:21:14		Buy	230,000	2.500	Smartphone
J	22/11/2011	10:03:51		Buy	250,000	2.500	Smartphone
K	22/11/2011	10:04:39		Buy	250,000	2.480	Smartphone
L	22/11/2011	10:06:57		Buy	150,000	2.450	Smartphone
M	23/11/2011	12:05:58		Buy	250,000	2.650	Smartphone
	23/11/2011	15:33:12		Buy	250,000	2.640	IP Address
	24/11/2011	14:52:32		Buy	500,000	2.770	IP Address
	24/11/2011	15:04:07		Buy	250,000	2.790	IP Address
	24/11/2011	15:09:02		Buy	500,000	2.800	IP Address
	24/11/2011	15:09:33	<i>Cancel the 15:09:02 order</i>	Buy	500,000	2.770	IP Address
	24/11/2011	15:10:17		Buy	500,000	2.800	IP Address
	24/11/2011	15:58:36		Buy	430,000	2.770	IP Address
	24/11/2011	15:59:26		Buy	420,000	2.770	IP Address
	25/11/2011	11:35:09		Buy	420,000	2.750	Smartphone

A	28/11/2011	15:11:37		Buy	220,000	2.790	IP Address	A
	28/11/2011	15:23:18		Buy	200,000	2.780	IP Address	
B	05/12/2011	10:46:04		Buy	500,000	2.800	Smartphone	B
	05/12/2011	11:51:04		Buy	500,000	2.840	IP Address	
C	05/12/2011	14:54:25	<i>Update the 10:46:04 order to \$2.82 per share, 194,000 shares were acquired at \$2.82 per share</i>	Buy	500,000	2.820	Smartphone	C
D								D
E								E
F	05/12/2011	15:21:30		Buy	230,000	2.840	IP Address	F
	06/12/2011	11:52:46		Buy	110,000	2.800	IP Address	
	06/12/2011	11:55:15		Buy	200,000	2.780	IP Address	
G	06/12/2011	13:36:32		Buy	220,000	2.800	IP Address	G
	06/12/2011	13:56:15		Buy	200,000	2.820	IP Address	
	06/12/2011	13:57:44		Buy	230,000	2.820	IP Address	
H	06/12/2011	14:06:05		Buy	100,000	2.800	IP Address	H
	06/12/2011	14:44:44		Buy	200,000	2.810	IP Address	
	06/12/2011	14:45:35		Buy	100,000	2.800	IP Address	
I	06/12/2011	14:55:12		Buy	200,000	2.810	IP Address	I
J	06/12/2011	15:03:49	<i>Cancel the 11:55:15 order</i>	Buy	200,000	2.780	IP Address	J
	06/12/2011	15:19:48		Buy	240,000	2.800	IP Address	
K	06/12/2011	15:26:48		Buy	90,000	2.800	IP Address	K

From 15 November 2011 to 6 December 2011, 4,930,000 Shares were purchased at an aggregate consideration of HK\$13,763,605.60.

42. After the close of trading on 6 December 2011, ENN and Sinopec approached and told China Gas of the consortium's intention to make a takeover offer. On 7 December 2011, trading in the Shares was suspended.

43. On 12 December 2011, ENN and Sinopec jointly announced their takeover offer at HK\$3.50 per share. On 13 December 2011 trading in the Shares resumed.

44. Returns submitted by BOC showed the following orders (all sell orders, there being no buy order), for the period from 13 December 2011 (when trading in the Shares resumed) to 15 December 2011:

<u>Date</u> (dd/mm/yyyy)	<u>Time</u>	<u>Cancel/ Reduce</u>	<u>Buy/ Sell</u>	<u>No. of Shares</u>	<u>Price per Share (HK\$)</u>	<u>IP Address/ Smartphone</u>
13/12/2011	9:46:57		Sell	500,000	3.450	IP Address
13/12/2011	9:47:29		Sell	500,000	3.440	IP Address
13/12/2011	9:48:26		Sell	500,000	3.450	IP Address
13/12/2011	9:48:58	<i>Cancel</i>	Sell	500,000	3.440	IP Address
13/12/2011	9:54:24		Sell	430,000	3.440	IP Address
13/12/2011	9:54:58		Sell	500,000	3.440	IP Address
13/12/2011	10:06:02		Sell	500,000	3.430	IP Address
13/12/2011	10:06:23		Sell	500,000	3.430	IP Address
14/12/2011	13:36:54		Sell	1,000,000	3.380	IP Address
14/12/2011	13:37:24		Sell	1,000,000	3.390	IP Address
14/12/2011	15:42:17		Sell	100,000	3.400	IP Address
14/12/2011	15:43:20	<i>Cancel</i>	Sell	100,000	3.400	IP Address
14/12/2011	15:43:41		Sell	1,000,000	3.400	IP Address
15/12/2011	11:22:59		Sell	100,000	3.380	IP Address

15/12/2011	11:23:47		Sell	1,000,000	3.380	IP Address
15/12/2011	11:24:06	<i>Cancel</i>	Sell	100,000	3.380	IP Address
15/12/2011	14:24:05		Sell	1,000,000	3.390	IP Address

All the sell prices listed in this paragraph were higher than the buy prices listed in §41 above, but below the take-over price of HK\$3.50 per share announced by ENN and Sinopec jointly. All the Shares purchased through the BOC Securities Account were sold for an aggregate consideration, less charges, of HK\$16,752,442.26.

45. The gain of HK\$2,988,836.66¹⁵, is shown in the Table “Gain from share transactions” annexed to this Determination as Annex 1. The period from 15 November 2011 to 15 December 2011 is 1 month.

46. Cheng Chak Ngok 鄭則鏗 said Fong Man Chun Alen (“Fong”) was a “friend” of his, but told the Tribunal very little about (a) Fong, (b) his relationship with Fong, or (c) his transactions with Fong, or (d) Fong’s relationship with Li Wei 李威 or (e) Fong’s transactions with Li Wei 李威.

47. (a) There were numerous fund transfers between Fong and i) Li Wei 李威, ii) Fong’s father, iii) Fong’s mother, iv) Polaris Securities (HK) Limited¹⁶, v) Cheng Chak Ngok 鄭則鏗’s RMB account and vi) Xinao¹⁷. The fund transfers / settlement of dealings, as summarised by the SFC, is

¹⁵ HK\$16,752,442.26 less HK\$13,763,605.60.

¹⁶ Cheng Chak Ngok 鄭則鏗’s securities broker.

¹⁷ See Annex 2, Company owned by Cheng Chak Ngok 鄭則鏗.

reproduced in the Table called “Funds to and from Fong” annexed to this Determination as Annex 2.

(b) Both Cheng Chak Ngok 鄭則鏗 and Fong have told the MMT precious little about Fong and is by no means forthcoming about their relationship and dealings with each other. What they did tell the MMT was conspicuously lacking in material particulars. Significantly, Cheng Chak Ngok 鄭則鏗 has not produced any document on or evidencing his financial dealings with Fong or on Fong’s relationship or dealings with Li Wei 李威.

48. (a) On all the occasions when the IP Address was recorded as having access to the BOC Securities Account to place the buy or sell orders, as the case may be, Cheng Chak Ngok 鄭則鏗 was within the jurisdiction and in ENN’s office.

(b) The use of Smartphones to place buy or sell orders for the Shares when Cheng Chak Ngok 鄭則鏗 was in the ENN office does not prove that he was not the person making those deals as he could have used a Smartphone to gain access to the BOC Securities Account despite his presence in Hong Kong and in the ENN office.

(c) There was no occasion when the IP Address was recorded as having access to the BOC Securities Account when Cheng Chak Ngok 鄭則鏗 was not within the jurisdiction.

A 49. According to the records kept by the Hong Kong Immigration
B Department, Li Wei 李威 was seldom, if ever, in Hong Kong at any of
C the times of the deals listed in § 41 and § 44 above.

D 50. When asked if Li Wei 李威 has ever been in Hong Kong,
E what Cheng Chak Ngok 鄭則鏗 said was:

D “Er, I make a claim. In my recollection, she has, at the time of
E account opening, we offered her some help, well, I am not clear
F (as to the occasions) other than that.”¹⁸

E 51. At the hearing before us, Cheng Chak Ngok 鄭則鏗 was
F referred to the monthly statements of the BOC Securities Account and
G asked whether Li Wei 李威 ever asked him to place any orders for stock
H trading for her. Cheng Chak Ngok 鄭則鏗 said:

G “I make a claim. Er. I do not have much recollection about this.
H Huh ... Er, there was not any according to my recollection, it
I should be, huh.”

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M ¹⁸ EBA pp. 129-130 732.

CHAPTER 4

SFC'S CONTENTIONS

52. The SFC conceded that there is no direct evidence of Cheng Chak Ngok 鄭則鏗 trading through the BOC Securities Account but contended the available evidence in this case pointed to a compelling inference and clearly showed it to be more probable than not that he was the person who dealt with the Shares through the BOC Accounts. The SFC argued that 4 aspects of the evidence were worth highlighting:

- (a) The sources of the orders placed to trade the Shares through the BOC Securities Account and their correlation to Cheng Chak Ngok 鄭則鏗's whereabouts;
- (b) The time and quantity of the orders and their correlation to Cheng Chak Ngok 鄭則鏗's receipt of the relevant information;
- (c) Cheng Chak Ngok 鄭則鏗's control over the funds in the purchase as well as disposal of the Shares in the BOC Securities Account; and
- (d) Cheng Chak Ngok 鄭則鏗's control over and involvement in Li Wei 李威's accounts with BOC including the BOC Securities Account.

CHAPTER 5

CHENG CHAK NGOK 鄭則鏗'S CONTENTIONS

53. Cheng Chak Ngok 鄭則鏗 disputed the SFC's contentions.

54. His submission in §19 of his opening submissions was:

“As to the **burden of proof**, Mr Cheng accepts the decisions of the CA and the CFA on this topic, **q.v.** That said, the Tribunal will be aware of the SFC's important statutory duty to present the evidence set out in §21 of Schedule 9 to the SFO”.

In §39 of his closing submissions, he asserted:

“the principle and statutory duty set out in §§21(b) of Schedule 9 of the Ordinance ...”

55. His written and oral submissions seem to be ingenious attempt to argue that the burden is on the SFC. We disagree and reject his submissions. With respect, he has not made out a case under §21(b) of Schedule 9 of the Ordinance (“**the provision**”).

56. The *ratio decidendi* of what the Court of Appeal and the Court of Final Appeal say about the burden of proof and the provision is binding on the MMT. It does not matter whether he “accepts” or “not accept”.

57. The provision reads as follows:

“Without prejudice to a Presenting Officer's powers and functions under Part XIII of this Ordinance, in any proceedings

instituted under section 252 of this Ordinance, the Presenting Officer—

(a) represents the Commission; and

(b) must present to the Tribunal *any evidence available to the Commission*, including any evidence that the Tribunal requests the Presenting Officer to present, and make any submissions, *that will enable the Tribunal to reach an informed decision as to whether market misconduct has taken place and, if so, the nature of the market misconduct,*” emphasis added.

(a) The provision only applies to “*evidence available to the Commission*”. And the relevance of the available evidence lies in whether it “*will enable the Tribunal to reach an informed decision as to whether market misconduct has taken place and, if so, the nature of the market misconduct*”.

(b) Cheng Chak Ngok 鄭則鏗 has not identified any evidence which he contends is *available to the Commission* (but not presented). Nor has he identified any evidence which *the Tribunal has requested the Presenting Officer to present* (but not presented). We have not requested the Presenting Officer to present any evidence.

(c) Thus, he has not made out any case under the provision.

58. More importantly, the provision was in fact cited and considered by the Court of Appeal in the Judgment¹⁹. The Court of Appeal rejected the contention that the burden of proof was on the SFC and held that:

¹⁹ §9.4 3).

A “I am of the view that this is one of the rare cases where the Tribunal had failed to properly evaluate the evidence because, notwithstanding its express statement that the civil standard of proof was to be applied, it had actually applied the criminal standard. The mistake is compounded by the Tribunal imposing a burden of proof on the SFC when none is required.”²⁰

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C “I am of the view that the orthodox approach that in an inquisitorial inquiry by a tribunal there is no place for the requirement of burden of proof is the guiding principle that this Court should adopt. It is a clear and succinct principle consistent with the nature of an inquisitorial inquiry. If there are no adversaries as such then it is meaningless to talk about a party carrying a burden. The language in the Ordinance only goes so far as to require SFC to present evidence to the Tribunal to enable the Tribunal to form a decision on the matter. This requirement does not mean that SFC carries a ‘legal burden’ in the traditional sense. Certainly when the Tribunal used the term ‘burden’ it had not used it in the sense as used by Kirby J or Munby J. When the Tribunal expressly stated that Mr Cheng did not carry the evidential burden, it must have in mind SFC carrying the legal burden as understood in adversarial proceedings.”²¹

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G “The requirement for the presenting authority to present evidence is readily understood but it has nothing to do with the presenting authority ‘proving its case’ as such.”²²

H The MMT is bound by the *ratio decidendi* of Court of Appeal Judgments. No burden of proof is imposed on the SFC and the provision has nothing to do with the presenting authority “proving its case” as such. The provision has not been shown to be relevant.

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J 59. The Court of Final Appeal has not disapproved what the Court of Appeal said and quoted in the preceding paragraph. The Court of Final Appeal dismissed Cheng Chak Ngok 鄭則鏗’s application. That

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²⁰ §9.6.

²¹ §9.9.

²² §9.10.

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effectively put an end to Cheng Chak Ngok 鄭則鏗's interlocutory applications.

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CHAPTER 6

THE CORRECT APPROACH

60. The Court of Final Appeal laid down the correct approach as follows:

“The correct approach is not to look for a degree of certainty akin to proof beyond reasonable doubt. What the MMT should do is to assess the evidence on the balance of probabilities, applying a standard commensurate with the seriousness of the allegation in question”²³.

“The Court of Appeal’s views on the evidence that was before the Tribunal, as originally constituted, will not bind a differently constituted Tribunal hearing the remitter. Nor, do we think that a differently constituted Tribunal will be unduly or improperly influenced by the Court of Appeal’s reasons for setting aside the original Tribunal’s findings on the issue of whether the applicant dealt with the Shares. Save that it is the reason for the remitter, the judgment of the Court of Appeal will not be relevant to the determination of the issue that has been remitted to the Tribunal to be newly and differently constituted. That Tribunal (i.e. the Tribunal as newly and differently constituted), will have to consider and evaluate the relevant evidence on the issue of dealing that is before it and come to its own conclusion on that issue on the basis of that evidence before it”²⁴.

61. On the elements of market misconduct, we bear in mind what the Court of Appeal said in §10 of the Judgment:

“I will, therefore, remit the matter to a differently constituted Tribunal to determine solely the question of whether Mr Cheng had dealt with the shares, as the other elements of market misconduct had been established and were not challenged in this appeal”²⁵.

²³ §8 of the Determination.

²⁴ §11 of the Determination.

²⁵ §10 of the Judgment.

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The sole question before us

62. The *sole* question remitted to us was whether Cheng Chak Ngok 鄭則鏢 had dealt with the Shares. The reason for restricting the retrial to this one question is that “the other elements of market misconduct had been established and were not challenged in [the] appeal” to the Court of Appeal.

63. Thus, it is not open Cheng Chak Ngok 鄭則鏢 to dispute that the information²⁶ he had acquired amounted to or was known to him to be relevant information. The Court of Appeal held that he was fully aware that this amounted to relevant information.

²⁶ Information in relation to Project 128 by a consortium comprising ENN and Sinopec, to issue a Pre conditional Voluntary General Offer Announcement to acquire all outstanding shares in China Gas at HK\$3.50 per share.

CHAPTER 7

WHETHER CHENG CHAK NGOK 鄭則鏗 HAD DEALT WITH THE
SHARES

The sole question before us

64. Cheng Chak Ngok 鄭則鏗 accepted that the MMT should not be straitjacketed by the Commission's case as put²⁷.

65. As directed by the Court of Final Appeal, our task is to assess the evidence on the balance of probabilities, applying a standard commensurate with the seriousness of the allegation in question.

66. On the evidence before us, is it more probable than not that Cheng Chak Ngok 鄭則鏗 had dealt with the Shares?

Neither Cheng Chak Ngok 鄭則鏗 nor Fong a credible witness

67. Both Cheng Chak Ngok 鄭則鏗 and Fong gave oral evidence before us.

68. Li Wei 李威 did not attend the retrial.

²⁷ It is stated in §32 of the Closing Submission of Cheng Chak Ngok 鄭則鏗 that:

“At the beginning of the rehearing, the learned Chairman rightly observed that the Tribunal should not be straitjacketed by the Commission's case as put”.

69. We were unimpressed by the evidence given by Cheng Chak Ngok 鄭則鏗. Despite the close association between Cheng Chak Ngok 鄭則鏗, Fong and Li Wei 李威, Cheng Chak Ngok 鄭則鏗 did not give a coherent, cogent, complete or credible account. He was not forthcoming, but was vague and evasive, alleging that he had no or no clear recollection when it suited his purpose. When he did give an account, the account was conspicuously lacking in material particulars. We attach no weight to the evidence of Cheng Chak Ngok 鄭則鏗. The following are examples of the unreliability of Cheng Chak Ngok 鄭則鏗's evidence.

(a) Cheng Chak Ngok 鄭則鏗, Fong and Li Wei 李威 were involved in numerous transactions in terms of hundreds of thousands or millions of dollar²⁸. On the contemporaneous documents, Li Wei 李威 had told the BOC that she was a "clerk/secretary". The sums involved are not "petty cash" to a "clerk/secretary". There was no allegation of any trust which they reposed in each other. There is also no allegation of any banking facilities, whether for securities dealing or otherwise for Li Wei 李威. Yet, no documentary evidence of any of the alleged transactions was produced. This is surprising given Cheng Chak Ngok 鄭則鏗's position as an executive director, the chief financial officer and company secretary of ENN, a listed company. What he told us about the transactions were bare assertions.

(b) Cheng Chak Ngok 鄭則鏗 helped Li Wei 李威 to open accounts with BOC in about December 2002. He also

²⁸ See Annex 2.

A arranged for her account statements and correspondence to be
B sent to him. When Cheng Chak Ngok 鄭則鏗 was asked
C when and on what occasion he came to know Li Wei 李威,
D Cheng Chak Ngok 鄭則鏗 would have us believe that:

E “I make a claim. Well, Li Wei should be a consultant of our
F parent company, huh, well, so er, it should be sometime between
G (20)01 and (20)09 that I came to know her but if you ask me
H exactly which year it was, I now really do not recall it, huh, (my)
I recollection is va – very vague, huh”²⁹

J The period between 2001 and 2009 is 9 years. There are
K numerous reference points between 2001 and 2009 to which
L Cheng Chak Ngok 鄭則鏗 could make or could have made to
M tell us when he first came to know Li Wei 李威. Yet he
choose to allege a 9-year period.

The BOC Accounts were opened in or about early December
2002 which meant that Cheng Chak Ngok 鄭則鏗 and Li Wei
李威 must have known each other by then. The reference to
the period between early December 2002 and 2009 was
calculated to confuse the Tribunal.

(c) When asked if Li Wei 李威 has ever been in Hong Kong,
Cheng Chak Ngok 鄭則鏗 said:

“Er, I make a claim. In my recollection, she has, at the time of
account opening, we offered her some help, well, I am not clear
(as to the occasions) other than that.”³⁰

²⁹ EBA, p. 65 327.

³⁰ EBA pp. 129-130 732.

A Bearing in their close association, it is simply not credible for
him not to be able to recall whether she had been in Hong
B Kong other than on the occasion of the accounts opening. The
question was not “when she was in Hong Kong” but “whether
C she had ever been in Hong Kong”.

(d) During the hearing before us, Cheng Chak Ngok 鄭則鏗 was
D referred to the monthly statements of the BOC Securities
Account and asked whether Li Wei 李威 had ever asked him
E to place any orders for stock trading for her. What Cheng
Chak Ngok 鄭則鏗 said was:

F “I make a claim. Er. I do not have much recollection about this.
Huh ... Er, there was not any according to my recollection, it
should be, huh.”

G The BOC Securities Account was in Li Wei 李威’s name. It
would be out of the ordinary for her to ask him to trade for her,
H *using the account in her name*. If she had asked him to place
any order for stock trading for her, it was inherently
I improbable for him not to have “much recollection about this”.
We are unable to accept the veracity of his evidence. His
attitude is at least cavalier.

J 70. Independently of the unreliability of Cheng Chak Ngok
鄭則鏗’s evidence, we must proceed to consider and evaluate the relevant
K evidence on the issue of dealing that is before us and come to our own
conclusion on that issue on the basis of that evidence before us.

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A 71. The BOC Accounts were opened with the “assistance” of A
Cheng Chak Ngok 鄭則鏗. He also made arrangements to have BOC B
sent all correspondence and account statements of the accounts in the name B
of Li Wei 李威 to a corporate service company used by him for his private C
company. He also paid the service company’s fees. While introducing C
her to BOC to open accounts might have been a “one-off” favour, there is D
no explanation why he should make these alleged arrangements thereby D
incurring expenses and trouble of forwarding them to Li Wei 李威 (as E
alleged by him). Those documents could have simply be posted by BOC E
to her. It is a pointer to Cheng Chak Ngok 鄭則鏗 acquiring knowledge F
of the state of the BOC Accounts to facilitate trading using those accounts F
and having an interest in the Shares. Making arrangements to receive G
statements and correspondence in relation to the BOC Accounts is a G
pointer towards arming himself with knowledge of the state of the BOC H
Accounts to facilitate trading by him using the BOC Accounts. To trade H
using the BOC Accounts, he needs to know the number of Shares held in I
the BOC Securities Account and the available balance of the BOC I
Integrated Banking Accounts. J

I 72. Cheng Chak Ngok 鄭則鏗 was responsible for negotiating a I
bridging loan with Citigroup for the takeover. He had access to key J
information, notably the intended price range, the assumed final price of J
the takeover offer, and the progress of the then intended take-over K
transaction. By 14 November 2011, he had acquired inside information K
that the proposed acquisition was going ahead. Commencing L
immediately on the first trading day after obtaining inside information and L
in a matter of 3 weeks, 4,930,000 Shares were acquired. The acquisition M
stopped after the trading in the Shares were suspended on 7 December M

A 2011. The acquisition of the Shares on a significant number of occasions
B and in sizeable volumes through the BOC Securities Account started
C immediately on the first trading day after the acquisition of inside
D information by him and lasted until trading in the Shares was suspended.
E A total of 4,930,000 Shares were purchased through the BOC Securities
Account at an aggregate consideration of HK\$13,763,605.60, at prices per
share below the proposed take-over offer price. Selling all of them within
3 trading days is pointer towards reaping a quick profit. There is thus a
clear correlation between the trading of the Shares and the acquisition of
inside information by Cheng Chak Ngok 鄭則鏢.

F 73. The sources of the orders placed to trade the Shares through
G the BOC Securities Account were the IP Address and Smartphones. As
H explained in §48 above, there is a correlation with Cheng Chak Ngok
鄭則鏢's whereabouts. When he was in Hong Kong and in the ENN
office, he traded through the IP Address. When he was out of the
jurisdiction, he traded through Smartphones. On rare occasions when he
was in Hong Kong and in the ENN office, he traded through Smartphones.

I 74. Mr Nigel Kat SC sought to argue that one could gain
J "remote" access to the BOC Securities Account by using a "remote"
telephone outside ENN office or any "remote" phone to gain access
through the IP Address.

K 75. Learned leading counsel faced 2 difficulties.

L 76. First, there is no evidence that one could gain "remote" access
M this way.

A 77. Second, there is no reason why anybody should act in this A
B manner – he or she could simply use a Smartphone and the trade could not B
C be traced to him or her.

C *Trades made by Li Wei 李威 or some other party, such as Yang Yu* C

D 78. In his Closing Submissions, Cheng Chak Ngok 鄭則鏗 D
submitted that:

- E (a) Li Wei 李威 traded; or E
F (b) It is another possible inference that Yang Yu traded.

F 79. It is not enough to show that the trades could have been made F
G by Li Wei 李威 or some other party such as Yang Yu. We deal with G
H these “candidates” together. To conclude that Li Wei 李威 or some H
I other party such as Yang Yu (“**Unidentified Third Party**”) traded, we I
J must be satisfied, on the evidence, of *all* of the following: J

- K (a) Li Wei 李威 or some Unidentified Third Party had relevant K
L information. There is suggestion that some ENN officials L
M had relevant information. There is no suggestion that Li Wei M
N 李威 had relevant information.
O (b) To trade through the BOC Accounts, Li Wei 李威 or some O
P Unidentified Third Party need to know the state or available P
Q balance of the BOC Integrated Banking Account so that she Q
R or he could trade within the limits of the available balance. R
S The account statements and correspondence were sent to S
T Cheng Chak Ngok 鄭則鏗. There is no evidence that Li Wei T
U

李威 or some Unidentified Third Party had access to the statements of the BOC Accounts. It is inherently improbable for one to trade without knowledge of the available balance of the bank account balance.

(c) Li Wei 李威 or some Unidentified Third Party knew the state or balance of the BOC Securities Account so that she or he could trade within the limits of the Shares held in that Account. The account statements and correspondence were sent to Cheng Chak Ngok 鄭則鏗. There is no evidence that Li Wei 李威 or some Unidentified Third Party knew the state or balance of the BOC Securities Account.

(d) Li Wei 李威 was seldom, if ever, in Hong Kong during the relevant period, i.e. from 15 November 2011 to 15 December 2011. There is no evidence that Li Wei 李威 or some Unidentified Third Party was in the ENN office to trade as stated in Annex 2. We have rejected the submissions of the “remote” access.

Conclusion

80. On the basis of the evidence before us, we conclude that it is more probable than not that Cheng Chak Ngok 鄭則鏗 dealt with the Shares.

81. By way of completeness, we conclude that on the basis of the evidence before us, neither Li Wei 李威 nor some unidentified individual would have been in a position to place such orders.



(Mr Kenneth Kwok SC)
Chairman, Market Misconduct Tribunal



(Ms Lai Pik Chi Peggy)
Member, Market Misconduct Tribunal



(Ms Lai Tin Yin Fion)
Member, Market Misconduct Tribunal

Mr Selwyn Yu, SC, Presenting Officer, & Mr Laurence Li, SC, Assistant Presenting Officer (SFC), Ms Shirin Chu & Ms Jasmine Chan (both of the SFC), Assistant Presenting Officers, for the SFC

Mr Nigel Kat, SC, and Mr Ernest Ng (Michael Li & Co) for Cheng Chak Ngok 鄭則鏢

Annex 1
Gain from share transactions

BUY ORDERS

Ref	Transaction Date	Settlement Date	No. of Shares	Share Price (\$ per Share)	Total (HK\$)	Total with charges (HK\$)	Batch Sub-Totals (HK\$)
EB3/61/1755	15/11/2011	17/11/2011	500,000	2.80	1,400,000.00	1,404,312.00	
EB3/61/1755	16/11/2011	18/11/2011	146,000	2.60	379,600.00	380,952.07	Batch 1 Sub-Total
EB3/61/1756	17/11/2011	21/11/2011	500,000	2.62	1,310,000.00	1,314,034.80	3,099,298.87
EB3/61/1756	24/11/2011	28/11/2011	250,000	2.79	697,500.00		
			500,000	2.80	1,400,000.00		
				Sub-total:	2,097,500.00	2,103,960.81	
EB3/61/1756	28/11/2011	30/11/2011	220,000	2.79	613,800.00		
			200,000	2.78	556,000.00		Batch 2 sub-total
				Sub-total:	1,169,800.00	1,173,403.18	3,277,363.99
EB3/61/1760	5/12/2011	7/12/2011	194,000	2.82	547,080.00		
			500,000	2.84	1,420,000.00		
			230,000	2.84	653,200.00		
				Sub-total:	2,620,280.00	2,628,351.22	
EB3/61/1761	6/12/2011	8/12/2011	110,000	2.80	308,000.00		
			220,000	2.80	616,000.00		
			62,000.00	2.81	174,220.00		
			138,000	2.82	389,160.00		
			230,000	2.82	648,600.00		
			100,000	2.80	280,000.00		
			200,000	2.81	562,000.00		
			100,000	2.80	280,000.00		
			200,000	2.81	562,000.00		
			240,000	2.80	672,000.00		
			90,000	2.80	252,000.00		Batch 3 sub-total
				Sub-total:	4,743,980.00	4,758,591.52	7,386,942.74
TOTAL:			4,930,000		13,721,160.00	13,763,605.60	

SELL ORDERS

Ref	Transaction Date	Settlement Date	No. of Shares	Share Price (\$ per Share)	Total (HK\$)	Total less charges (HK\$)
EB3/61/1761	13/12/2011	15/12/2011	500,000	3.43	1,715,000.00	1,709,717.80
EB3/61/1762	14/12/2011	16/12/2011	1,000,000.00	3.38	3,380,000.00	3,369,589.60
EB3/61/1762	15/12/2011	19/12/2011	1,000,000.00	3.38	3,380,000.00	3,369,589.60
EB3/61/1762	16/12/2011	20/12/2011	1,000,000.00	3.42	3,420,000.00	
			1,000,000.00	3.43	3,430,000.00	
			430,000.00	3.44	1,479,200.00	
				Sub-total	8,329,200.00	8,303,545.26
Total			4,930,000.00		16,804,200.00	16,752,442.26

PROFIT MADE:

2,988,836.66

Annex 2
Funds to and from Fong

Funds from Xinao to Fong

Ref - Fong's A/C	Date	Time	Type	Amount (HK\$)	Ref - Xinao's A/C	Ref - document
EB3/83/1818	2/12/2011	16:40	Cheque no. 535247	4,000,000.00		EB3/86/1847 EB3/75/1801
EB3/83/1818	5/12/2011	11:02	Cheque no. 535246	<u>4,000,000.00</u>		EB3/86/1847 EB3/77/1805

TOTAL: 8,000,000.00

Funds from Fong to Li Wei 李威

Ref - Fong's A/C	Date	Time	Type	Amount (HK\$)	Ref - Li Wei 李威's Bank A/C	Ref - document	Sub-totals (HK\$)
EB3/82/1815	21/11/2011	14:23	Phone Banking	500,000.00	EB3/65/1773	EB3/71/1788	
EB3/82/1815	22/11/2011	15:48	Transfer	1,000,000.00	EB3/65/1773	EB3/73/1799	Nov sub-total
EB3/82/1815	22/11/2011	16:00	Phone Banking	300,000.00	EB3/65/1773	EB3/74/1800	1,800,000.00
EB3/82/1816	2/12/2011	16:42	Transfer	3,500,000.00	EB3/66/1774	EB3/76/1804	
EB3/82/1816	5/12/2011	16:28	Transfer	4,100,000.00	EB3/66/1774	EB3/78/1808	Dec sub-total
EB3/82/1817	6/12/2011	16:47	Transfer	<u>1,400,000.00</u>	EB3/66/1774	EB3/79/1809	9,000,000.00

TOTAL: 10,800,000.00

Funds from Li Wei 李威 to Fong

Cheque Date	Execution Date	Time	Type	Amount (HK\$)	Ref - document
28/12/2011	28/12/2011	17:02	Cheque no. 453319	4,000,000.00	EB3/62/1766
28/12/2011	30/12/2011	14:07	Cheque no. 453321	4,000,000.00	EB3/63/1768
28/12/2011	4/1/2012	10:30	Cheque no. 453320	4,000,000.00	EB3/63A/1769-2
6/1/2012	6/1/2012	15:24	Cheque no. 453322	4,000,000.00	EB3/64/1770
16/1/2012	16/1/2012	16:49	Cheque no. 453323	<u>2,170,000.00</u>	EB3/81/1812

TOTAL: 18,170,000.00

Entities Receiving Funds from Fong's Bank Account

Ref - Fong's A/C	Execution Date	Time	Entity	Amount (HK\$)
EB3/83/1819	30/12/2011	14:07	Mind Easy Limited	1,234,567.00
EB3/83/1819	3/1/2012	12:11	Venetian Macau Ltd	2,000,100.00
EB3/83/1819	3/1/2012	15:16	Cash	120,000.00
EB3/83/1819	4/1/2012	13:29	Fong	800,000.00
EB3/83/1819	4/1/2012	13:29	Fong Sik Yim (Fong's father)	300,000.00
EB3/83/1819	4/1/2012	15:06	Mind Easy Limited	615,763.00
EB3/83/1819	4/1/2012	15:08	Shing Hing Plastic Co. Ltd	615,233.00
EB3/83/1820	12/1/2012	16:00	Helen Wong (Fong's mother)	2,800,000.00
EB3/83/1820	12/1/2012	16:02	Polaris Securities (HK) Ltd	1,000,000.00
EB3/83/1820	20/1/2012	12:00	Fong Sik Yim (Fong's father)	500,000.00
EB3/83/1820	20/1/2012	12:26	Fong	<u>3,800,000.00</u>

TOTAL: 13,785,663.00