

**IN THE MATTER OF THE LISTED SECURITIES OF  
YORKEY OPTICAL INTERNATIONAL (CAYMAN) LTD  
(STOCK CODE 2788)**

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

Whereas it appears to the Securities and Futures Commission (“**Commission**”) that a breach of the disclosure requirements within the meaning of sections 307A, 307B and 307G of Part XIVA of the Ordinance has or may have taken place in relation to the securities of Yorkey Optical International (Cayman) Ltd (Stock Code 2788) listed on the Stock Exchange of Hong Kong Limited (“**SEHK**”), the Market Misconduct Tribunal is hereby required to conduct proceedings and determine:

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

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

- (1) Yorkey Optical International (Cayman) Ltd (“**Yorkey**”)
- (2) Nagai Michio (“**Michio**”)
- (3) Ng Chi Ching (“**Ng**”)

## Statement for Institution of Proceedings

1. Yorkey has been listed on the Main Board of the SEHK since February 2006. Yorkey mainly makes and sells plastic and metallic parts and components of optical and optoelectronic products. Its main operating subsidiary is Dongguan Yorkey Optical Machinery Components Ltd.
2. At all material times, Michio was the Chief Executive Officer and Executive Director of Yorkey and Ng was the Financial Controller and Company Secretary of Yorkey. Michio and Ng were “officers” of Yorkey as defined in Schedule 1, Part 1 of the Ordinance by virtue of their positions at Yorkey.
3. At all material times, Yorkey’s auditors were Deloitte Touche Tohmatsu (“**Deloitte**”).
4. On 16 August 2012, Yorkey released its unaudited interim results for six months ended 30 June 2012 (“**2012 Interim Results**”). Compared to the corresponding period in 2011, Yorkey’s revenue decreased by 12.1%, from US\$54.4 million to US\$47.8 million, and its net profit decreased by 62%, from US\$3.3 million to US\$1.25 million. Yorkey however expressly stated in the 2012 Interim Results that regarding its results for the second half of 2012 it expected to see “*significant growth over that in the first half of the year, alongside with increasing profitability*”.
5. Contrary to the purported expectations of the management, rather than there being significant growth and increasing profitability as compared to the first half of 2012, Yorkey in fact sustained material losses in the second half of 2012 and its financial performance deteriorated significantly (“**Deterioration**”). On a full year basis, there was a substantial decline in

its 2012 profits as compared against its 2011 results *and* against its results for the first half of 2012.

6. On 25 March 2013, Yorkey announced its audited annual results for the year ended 31 December 2012 (“**2012 Final Results**”). The 2012 Final Results recorded a loss before tax of US\$136,000, compared to the profit before tax of US\$7.531 million in 2011. It also recorded a net profit (after taking into account tax credit) of US\$60,000 – this represented a decline of 99% compared to a profit of US\$6.685 million in 2011. The net profit figure for the whole year was less than that reported for the first six months. Compared to the first half of 2012, Yorkey’s revenue decreased by 5.9% and gross profit margin dropped from approximately 21.2% to 18.2%.
7. The share price of Yorkey dropped a total of 21.25% over the next three days, from HK\$0.80 per share at the close of business on 25 March 2013 to HK\$0.63 per share at the close of business on 28 March 2013.
8. Between the 2012 Interim Results (published on 16 August 2012) and the 2012 Final Results (published on 25 March 2013), Yorkey did not issue any profit warning announcement, nor did it inform the public of the Deterioration, which was contrary to management’s previous published expectations.

#### **The Deterioration coming to the knowledge of Yorkey**

9. At the material time Yorkey compiled consolidated management accounts on a monthly basis (“**Consolidated Monthly Management Accounts**”). The Consolidated Monthly Management Accounts for each month would be available by the middle of the next month and were provided to Michio for his review.

10. The Consolidated Monthly Management Accounts showed that the Deterioration began in October 2012 and continued into November and December 2012, with Yorkey incurring significant net losses in all of those months.
11. By mid-January 2013, the December 2012 Consolidated Monthly Management Accounts and the internal management accounts for the full year of 2012 (“**2012 Internal Accounts**”) were available. These accounts were provided to Michio in mid-January 2013. Michio had therefore been aware of the Deterioration since mid-January 2013 at the latest.
12. On 25 February 2013, Deloitte sent a draft consolidated financial statement to Yorkey. This document was provided to Ng in late February 2013. Ng had therefore been aware of the Deterioration since late February 2013 at the latest.

### **Inside information**

13. The Deterioration was apparent from the relatively low turnover and loss figures contained in the Consolidated Monthly Management Accounts for October, November and December 2012, and also from the draft consolidated financial statement prepared by Deloitte which was provided to Ng in late February 2013. The figures reported in those accounts were specific information relating to Yorkey, they were not generally known to the investing public and would, if made known to them, be likely to materially affect the share price. The monthly results for the five months between July and November 2012 were already sufficiently poor for it to have been a clear indication to management that the results for the second half 2012 (and hence also the full year of 2012) would be much worse than expected. In the premises, information about the Deterioration, as shown

by the financial figures contained in the Consolidated Monthly Management Accounts mentioned above, was inside information in relation to Yorkey.

#### **Breach of a disclosure requirement by Yorkey**

14. Information about the Deterioration as apparent from the figures contained in the internal management accounts as specified above came to the knowledge of Yorkey:
  - (i) from around mid-December 2012 when the Consolidated Monthly Management Accounts up to November 2012 had, or ought reasonably to have, come to the knowledge of Michio in the course of performing his functions as Chief Executive Officer and Executive Director of Yorkey; or
  - (ii) from around mid-January 2013 at the latest when the Consolidated Monthly Management Accounts for December 2012 and the 2012 Internal Accounts had, or ought reasonably to have, come to the knowledge of Michio in the course of performing his functions as Chief Executive Officer and Executive Director of Yorkey.
  
15. A reasonable person acting as an officer of Yorkey would consider that information about the Deterioration as was apparent from the figures contained in the company's internal accounts was inside information in relation to Yorkey. The information however was not disclosed to the public as soon as reasonably practicable after it came to the knowledge of Yorkey – the public was not informed of the Deterioration until the publication of Yorkey's 2012 Final Results on 25 March 2013.

16. Under s.307(A)(2) of the Ordinance, a breach of a disclosure requirement takes place if any of the requirements in, *inter alia*, s.307B is contravened in relation to a listed corporation.
17. By reason of the matters aforesaid, Yorkey was, or may have been, in breach of the disclosure requirement as provided for in s.307B of the Ordinance.

**Breach of a disclosure requirement by Michio and Ng**

18. It was the responsibility of Michio and Ng, as officers of Yorkey, to take all reasonable measures from time to time to ensure that proper safeguards exist to prevent a breach of a disclosure requirement by Yorkey under the Ordinance (s.307G(1) of the Ordinance). Moreover, as officers of Yorkey, Michio and Ng are themselves in breach of the disclosure requirement if the breach of disclosure requirement by Yorkey was the result of their reckless or negligent conduct (s.307G(2)(a) of the Ordinance), or their failure to take all reasonable measures from time to time to ensure that proper safeguards exist to prevent the breach (s.307G(2)(b) of the Ordinance).
19. Both Michio and Ng were aware of the Deterioration well before the publication of the 2012 Final Results. Both failed to take any steps to ensure timely disclosure of information about the Deterioration to the investing public. Such failure amounted to reckless or negligent conduct on the part of Michio and Ng. Their reckless or negligent conduct as described above resulted in, or may have resulted in, Yorkey's breach of a disclosure requirement. In these circumstances, both Michio and Ng were, or may have been, also in breach of a disclosure requirement pursuant to section 307G(2)(a) of the Ordinance.

20. Further or alternatively, neither Michio nor Ng took reasonable measures to ensure that proper safeguards exist to prevent a breach of a disclosure requirement by Yorkey. In these circumstances, both Michio and Ng were, or may have been, also in breach of a disclosure requirement pursuant to section 307G(2)(b) of the Ordinance.

Dated this 29<sup>th</sup> day of March 2016

*Securities and Futures Commission*

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