REPORT OF THE MARKET MISCONDUCT TRIBUNAL OF HONG KONG

on whether a breach of the disclosure requirements has taken place

in relation to the listed securities of

Mayer Holdings Limited

(Stock Code 1116)

and other related questions

Part II

The Report of the Market Misconduct Tribunal on whether a breach of the disclosure requirements has taken place in relation to the listed securities of
Mayer Holdings Limited
(Stock Code: 1116)

A report pursuant to section 307Q(1)(a) of the Securities and Futures Ordinance, Cap. 571

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The Orders of the Tribunal

Introduction

798. In its Report the Tribunal found that SP1 was in breach of the disclosure requirement imposed by section 307B of the SFO and that SP2 to SP11 (other than SP7) were also in breach of that requirement by virtue of section 307G of the SFO. It now falls to the Tribunal to consider what orders it should make in respect of these breaches.

The Powers of the Tribunal

799. The various orders that the Tribunal may make are set out in section 307N(1) of the SFO, a copy of which can be found at Annexure "C". They are:

(a) a director disqualification order for up to 5 years (section 307N(1)(a));

(b) a prohibition on acquiring, disposing of or dealing in securities, known as a cold shoulder order, for up to 5 years (section 307N(1))(b));

(c) an order that the person must not again perpetrate any conduct that is a breach of a disclosure requirement, known as a cease and desist order (section 307N(1)(c));

(d) the payment of a regulatory fine not exceeding $8,000,000 (section 307N(1)(d));

(e) the payment of the costs and expenses reasonably incurred by the Government in relation to or incidental to the proceedings (section 307N(1)(e));

(f) the payment of the costs and expenses reasonably incurred by the SFC in relation to or incidental to:

(i) the proceedings (section 307N(1)(f)(i));

(ii) any investigation of the Specified Person carried out before the proceedings were instituted (section 307N(1)(f)(ii));

(iii) any investigation of the Specified Person carried out for the purpose of the proceedings (section 307N(1)(f)(iii));

(g) a recommendation to a disciplinary body to take disciplinary action against a person (section 307N(1)(g));

(h) an order against the listed corporation to ensure that a breach of a disclosure requirement does not again take place in respect of the corporation including, but not limited to, an order that the corporation appoint an independent professional adviser approved by the SFC to review the corporation's procedures for compliance with Part XIVA of the SFO or to advise the corporation on matters relating to compliance with Part XIVA of the SFO (section 307N(1)(h));

(i) an order against an officer of a listed corporation to ensure that the officer does not again perpetrate any conduct that constitutes a breach of the disclosure requirement including but not limited to a training programme approved by the SFC on compliance with Part XIVA of the SFO, directors' duties and corporate governance (section 307N(1)(i)).

The Submissions of the Securities and Futures Commission

800. The SFC submitted that the Tribunal should consider making disqualification orders against all the Specified Persons, other than SP1, regulatory fine orders against all the Specified Persons, joint and several costs orders against all Specified Persons, disciplinary action against SP2 and training programmes for SP2 – SP11. Because a number of legal issues arose in respect of the costs orders it was decided to deal with them separately and they are the subject of the following chapter of this Report.

801. For the disqualification order the SFC submitted that the Tribunal should first determine the seriousness of each Specified Person's breach of the disclosure requirement as that determination will guide the Tribunal to the appropriate length of the order should it decide that an order is necessary. Having made this determination, the Tribunal should have regard to the period of time that has elapsed since the breach together with what is known of the conduct of the Specified Persons both before and after the breach. Finally, the Tribunal should consider whether a disqualification order is necessary to protect investors and the public.

802. As to the duration of the order, the SFC submits that the established practice of the Market Misconduct Tribunal is to adopt an approach similar to that adopted by the Court of Appeal of England and Wales in *Re Sevenoaks Stationers (Retail) Limited*[271] which created, under the United Kingdom's maximum 15 year disqualification period, three tiers of seriousness, namely particularly serious; serious and relatively, not very serious. When these three tiers are adapted to reflect section 307N(1)(a)'s lesser maximum disqualification period of 5 years, the following ranges for each tier of seriousness result:

relatively not very serious conduct: 0 – 20 months;

serious conduct: 21 – 40 months;

particularly serious conduct: 41 – 60 months.

803. In respect of the approach that should be taken to each of the Specified Persons, other than SP1, the SFC's submissions can be summarised as follows:

Specified Person	Seriousness of Breach	Suggested Period of Disqualification
SP2	serious	32 – 36 months
SP3	serious	32 – 36 months
SP4	serious	32 – 36 months
SP5	serious	24 – 28 months
SP6	serious	24 – 28 months
SP8	serious	24 – 28 months

[271] [1991] Ch 164.

SP9	relatively not very serious	8 – 12 months
SP10 and SP11	serious	20 – 24 months

804. Turning to regulatory fines, the SFC discussed the approaches taken by other Tribunals[272] and relied on the orders made by those Tribunals as providing guidance on the amount of regulatory fine that we should impose on the Specified Persons before us.

805. The SFC submitted that for the purpose of determining the amount of regulatory fine appropriate for each of the Specified Persons, SP1 – SP4 should all be treated as equally culpable. Below them, in descending levels of culpability, were SP5, SP6 and SP8, all equally culpable; then SP10 and SP11 and finally SP9.

806. Taking into account the various mitigating factors, the SFC suggested that the appropriate regulatory fine for each Specified Person was:

SP1 – SP4: HK$1,500,000

SP5, SP6 and SP8: HK$1,100,000

SP10 and SP11: HK$800,000

SP9: HK$500,000

[272] These approaches and orders can be found in the Report regarding CMBC Capital Holdings Limited, the Report regarding AcrossAsia Limited and the Report regarding Yorkey Optical International (Cayman) Limited.

807. The SFC also invited the Tribunal to recommend to the Accounting and Financial Reporting Council that disciplinary action be taken against SP2.

808. Finally, the SFC recommended the Tribunal make an order under section 307N(1)(i) that all the Specified Persons, other than SP1, undergo training on disclosure obligations, directors' duties and corporate governance.

The Submissions of SP1 and SP9

809. Mr Laurence Li accepted the correctness of the SFC's summary of the relevant legal principles in respect of the various orders available to the Tribunal under section 307N(1) of the SFO but differed with the SFC on "the application of the principles on the facts and circumstances" as they relate to his clients.

810. Mr Li emphasised what he described as the "peculiar features of this case", namely the fact that:

(i) the disclosure requirement only came into force on 1 January 2013;

(ii) during the period of non-disclosure Mayer was suspended;

(iii) during the period of non-disclosure Mayer was undergoing quite turbulent internal times;

(iv) SP1 and SP9 mounted a very narrow defence and admitted much of the SFC case;

(v) this Tribunal did not find all the allegations in the SFC's Notice proven and its basis for finding the breaches established was different from that of the experts;

(vi) there was no adverse impact from the non-disclosure on the market;

(vii) Mayer is now under new management;

(viii) SP1 and SP9 are both first offenders;

(ix) SP9 had acted as a whistleblower in trying to alert the authorities to some of the problems with the company;

(x) SP9 had to endure a lengthy investigation and multiple prolonged and delayed disclosure proceedings;

(xi) SP9 only held a non-executive role within Mayer and he was brought onto the Board to contribute his mining field expertise; and

(xii) SP9 is unemployed, has limited financial means, is the sole breadwinner in his family and his wife is recovering from breast cancer.

811. Mr Li submitted that compared to other cases of non-disclosure, the present case should be regarded in terms of seriousness as falling at the lower end of the spectrum. In support of this submission he relied in particular on the fact that there was difficulty in ascertaining the breaches and there was little, if any, adverse impact on the market. He also referred to Market Misconduct Tribunal Reports on Health and Happiness International Holdings Limited (the "HIH

Report"), Yorkey Optical International (Cayman) Limited (the "Yorkey Report") and AcrossAsia Limited (the "AAL Report").

812. In respect of each of the orders proposed by the SFC Mr Li submitted:

(i) the starting point for a fine should be less than $800,000 as this was considered appropriate by the Tribunal in the AAL Report and here the culpability is lower;

(ii) SP1's culpability should be equated with that of SP5, SP6 and SP8 on the basis that they were the other executive directors of the board but they were executive directors who acted passively, as opposed to SP2 – SP4 who acted positively, in breaching the disclosure requirement;

(iii) the fine for Mayer, SP1, should be approximately $400,000;

(iv) SP9's culpability is based solely on his ignorance of the law and he did not seek to benefit or profit from anything that was happening within Mayer;

(v) SP9 is impecunious and should only be fined a nominal amount of no more than $20,000 or not be fined at all;

(vi) a disqualification order against SP9 is not warranted as he poses no threat to the future integrity of the market; and

(vii) an order for SP9 to undergo training is all that is necessary to protect the market.

The Submissions of SP2, SP3, SP5, SP6, SP10 and SP11

813. Mr Jacky Lam, counsel for these Specified Persons, accepted the SFC's submission as to "the relevant legal principles pertaining to the scope of the Tribunal's powers" but wished to draw particular attention to the following matters:

(i) the purpose of the civil regime is to protect and maintain the integrity of the financial markets;

(ii) the Tribunal's function is to regulate the conduct of those participating in the financial markets in Hong Kong and is not to impose penalties or to adjudicate civil disputes;

(iii) the sanctions available to the Tribunal are all designed to protect financial institutions and the investing public or, in the case of costs orders, to serve a compensatory purpose;

(iv) the Tribunal's approach should be whether the particular sanction under consideration ultimately serves the predominant purpose of protecting the investing public; and

(v) given the unique facts of this case the types and lengths of sanctions will differ significantly from those ordered by other Tribunals in other breach of disclosure requirement cases.

814. In determining what sanctions are appropriate for each Specified Person, Mr Lam submitted that the Tribunal should have regard to how the Specified Persons defended the proceedings and the specific findings and observations the

Tribunal made. In respect of the former Mr Lam emphasised the narrowness of the dispute and admissions that were made including the admission that no proper procedures were in place to ensure timely disclosure of price-sensitive information. In respect of the latter Mr Lam highlighted that:

(i) this was more a case of inadequate disclosure; the Specified Persons did not seek to rely on SP2's explanation for the delay in announcing the resignation; and

(ii) there was no impact on the general investing public.

815. Mr Lam also relied on the following mitigating matters:

(i) there was no monetary loss caused by the breach of the disclosure requirement;

(ii) because the company was suspended from trading there was limited impact upon the wider market;

(iii) none of the Specified Persons gained any personal benefit from their conduct;

(iv) the Specified Persons limited the scope of their dispute before the Tribunal;

(v) the Grant Thornton resignation was ultimately announced;

(vi) SP2 had promptly informed the Stock Exchange of Hong Kong of the resignation;

(vii) the inside information came to the knowledge of the Board of SP1 before the disclosure requirement came into effect;

(viii) this breach is unlike other cases handled by other Tribunals;

(ix) all of the Specified Persons have a clear record and over the 10 years since this breach occurred none have committed any SFO related offences;

(x) none of the Specified Persons have sat on the boards of other Hong Kong listed companies and nor are they expected to;

(xi) the risk of re-offending is low.

816. In relation to each order sought by the SFC Mr Lam submitted as follows:

1. Disqualification

817. The SFC's recommended periods of disqualification are manifestly excessive as they represent periods that are at the heaviest and most serious end of the spectrum when compared with orders made by other Tribunals in breach of disclosure requirement cases. The SFC should not rely on what was done by other Tribunals as each case turns on its own facts and in any event the cases on which the SFC relies do not justify the orders it seeks.

818. Mr Lam submitted that, given the purpose of a disqualification order is to protect investors and the public, it was not necessary in the present case for the Tribunal to make any disqualification order against any of the Specified Persons for the following reasons:

(i) to the extent a deterrent effect is required then that can be satisfied by ordering a regulatory fine;

(ii) it is arguable that the breach of the disclosure requirement was attributable to the lack of a proper system being put in place to prevent the breach and this will be addressed by requiring the Specified Persons to undergo training;

(iii) SP2's conversations with the Stock Exchange of Hong Kong indicates "a certain degree of transparency and openness with the regulator";

(iv) more than 10 years have elapsed since the breach and nothing has occurred since then "that would demonstrate a need for the market to be protected" from the Specified Persons, and there is no risk to the market from them; and

(v) the SFC's proposed periods of disqualification are manifestly excessive, in particular given what orders were made by other Tribunals in other cases.

2. Regulatory Fines

819. Mr Lam does not contest the SFC assertion that SP2 falls within the definition of Chief Executive.

820. However, whilst conceding that the Tribunal may impose regulatory fines he contends that the amounts proposed by the SFC are manifestly excessive.

He submits that the SFC has been overly influenced by the finding of recklessness and/or negligence by the Tribunal with the result that the fines "appear to serve more of a penal or punitive purpose, than a protective one". Mr Lam argues that the same deterrent effect, serving a protective purpose, can be achieved with lower fines.

3. Recommendation for disciplinary action against SP2

821. Mr Lam invited the Tribunal to refrain from making an order on the ground that it would not provide additional protection or utility to the other sanctions that were being imposed.

The Submissions of SP4

822. Ms Ferrida Chan, counsel for SP4, adopted the submissions made by Mr Lam for his clients. Ms Chan said that her client did not dispute the general legal principles cited by Mr Scott in his submissions on behalf of the SFC. She accepted comments made by the Tribunal in its Report on the listed securities of Magic Holdings International Limited to the effect that orders by other Tribunals in other cases do not set a benchmark for the imposition of orders in subsequent cases, but nevertheless urged us to avoid creating by our orders a disparity of sanctions. In respect of matters on which the Tribunal made no specific finding she urged us to adopt a view that was most favourable to her client.

823. Ms Chan then set out a number of factors that she claimed were favourable to SP4 and which she said we should consider when deliberating on

the orders we should make. First, was the narrowness of the dispute and the significant admissions made by SP4. Second, were the concessions of the SFC that no monetary loss had resulted to shareholders from the breach; the Specified Persons had no prior history of market misconduct and none of them were directors of listed companies in Hong Kong. Also, the SFC does not assert that there is present in this case any aggravating factor. Third, was the finding of the Tribunal that SP4's conduct was reckless and negligent only.

824. In respect of SP4 she emphasised:

(i) he was a first offender;

(ii) he gained no benefit from the breach;

(iii) his breach was not intentional or deliberate;

(iv) because Mayer was suspended, public investors were not affected;

(v) SP4 mounted a very narrow defence;

(vi) SP4 is not a director of any listed Hong Kong corporation; and

(vii) 10 years has elapsed since the breach occurred.

825. In view of all these matters Ms Chan submitted that the SFC's proposed orders are manifestly excessive and disproportionate. She urged us to, instead, proceed as follows:

(i) make no disqualification order for SP4;

(ii) impose a lower regulatory fine;

(iii) order the Government's costs to be jointly and severally paid by SP1 to SP11, to be taxed if not agreed;

(iv) reduce the SFC's costs and order them to be jointly and severally paid by SP1 to SP11; and

(v) order SP4 to undergo a training programme.

826. In respect of a disqualification order Ms Chan submitted that no such order was necessary to protect investors and the public; the risk of re-offending was low; and the protective and deterrent effect of disqualification could be achieved by a regulatory fine and a training course. Alternatively, Ms Chan submitted that a shorter period of disqualification should be ordered.

827. In respect of a regulatory fine, Ms Chan submitted that the amount of HK$1.5 million that was proposed by the SFC was manifestly excessive and disproportionate to the seriousness of SP4's conduct and the damage caused by it.

The Position of SP8

828. SP8 has been kept informed of the proceedings of the Tribunal and has been provided with a copy of its Report. He has been provided with copies of the parties' submissions for the hearing on 23 November 2023 and been invited to participate in that hearing and to file any submissions for the Tribunal's consideration. SP8 has chosen not to participate in the hearing or to file with the Tribunal any submissions relating to the orders it should or should not make. The Tribunal is satisfied that SP8 has been given a reasonable opportunity to be

heard but has chosen not to take advantage of the right granted to him by section 307K of the SFO. That being so, the Tribunal is satisfied that there is no impediment to it making any orders against SP8 under section 307N(1).

The Legal Principles Relating to Section 307N(1) Orders

829. Set out below are the legal principles relevant to each type of order.

(i) The twin objectives of the orders under section 307N(1)(a) – (c)

830. It must be emphasised that the orders contained in section 307N(1)(a) – (c) are not imposed as a punishment but only after the Tribunal has satisfied itself that there is a need for the orders. This need has to be ascertained against the backdrop of the objectives or purposes that these orders serve. The primary purpose of these orders is to protect shareholders, investors and the public when they participate in our markets and to protect the broader public interests of Hong Kong, such as protecting Hong Kong's international reputation and enhancing confidence, both domestically and abroad, in the integrity of our markets and the effectiveness of our regulation of those markets. There is also a secondary objective of deterring the Specified Person and others from engaging in this form of misconduct. Thus, the orders should only be made once it is shown that they are needed to serve this purpose and achieve this objective. Unlike a sentence imposed by a criminal court they do not have as one of their purposes the punishment of the Specified Person.

831. In his judgment in *Koon Wing Yee v Insider Dealing Tribunal*[273], Sir Anthony Mason described the nature of the disqualification order under the Securities (Insider Dealing) Ordinance (Cap 395) ("SIDO"), the predecessor of the SFO, as protective rather than as punitive. Responding to an argument that the deterrent effect of such an order was punitive, and whilst not denying it had such an effect, he said "that effect is incidental and subservient to the purpose of protecting shareholders, investors and the public from corporate officers who are unfit to hold office". The point that Sir Anthony Mason was making is that even though the effect of deterrence is felt by the Specified Person the primary purpose of the power is not to punish, but to protect.

832. Sir Anthony was certainly not saying that deterrence is not a legitimate consideration. After all, the purpose of deterrence, which is manifest in any court imposed punishment or tribunal imposed disciplinary or civil sanction, is always to protect and advance societal goals and interests. Within the SFO its purpose is to protect the range of public interests that can be impacted by market misconduct in its different forms or by any other breach of the provisions of the SFO. These public interests are protected when the Specified Person is deterred from re-offending and they are especially protected when others are deterred from offending.

833. Nor was Sir Anthony Mason saying that a protective order must not have a punitive effect on the person on whom it is imposed. After all, and this is perhaps stating the obvious, an order cannot have any chance of deterring if it does not carry a sting to it. It is only through the punitive effect on the person

[273] (2008) 11 HKCFAR 170.

against whom it is made that the Tribunal's message, namely, that there will be serious consequences for conduct in breach of the SFO, is brought home to all those who are subject to its jurisdiction.

834. We note that within the SFO there is another directors disqualification power. It is contained in section 214(2)(d) and it enables the SFC to petition the Court of First Instance under section 214(1) to make various orders under section 214(2) when the Court is of the opinion that the business or affairs of a corporation have been conducted in any of the improper ways that are described in subsection (1). Amongst the orders that the Court may make is a disqualification order for a maximum period of 15 years. It is helpful to note what has been said by the Court of First Instance in respect of how the Court should exercise this power.

835. A statement by Kwan J in *SFC v Fung Chiu and others*[274] on the objectives in making a disqualification order has been repeatedly followed. She described what is sought to be achieved by the making of such an order under section 214(2)(d) as follows:

> "12. I bear in mind two important objectives in the exercise of this jurisdiction to make disqualification orders: firstly, protection of the public against the future conduct of persons whose past records as directors of listed companies have shown them to be a danger to those who have dealt with the companies, including creditors, shareholders, investors and consumers; and secondly, general deterrence in that the sentence must reflect the gravity of the conduct complained of so that members of

[274] [2009] 2 HKC 19.

> the business community are given a clear message that if they break the trust reposed in them they will receive proper punishment."

In our view these comments are equally applicable to section 307N(1)(a) and they succinctly describe the objectives of the Market Misconduct Tribunal when exercising this power to disqualify a director or, indeed, when exercising either of the powers in section 307N(1)(b) and (c).[275]

(ii) There must be a need for orders under section 307N(1)(a) – (c)

836. The importance of not making any of the orders under section 307N(1)(a) – (c) of the SFO unless there is a need for them was emphasised by the Tribunal in its Report on Bank of China Limited where it said:

> "68. Unless the leave of the Court of First Instance is first obtained, a cold shoulder order has the effect of prohibiting a person who is the subject of the order from any dealings, direct or indirect, in the Hong Kong financial market for the life of the order. Put succinctly, the person is shut out entirely from the market for the life of the order. For a person whose profession is based on the ability to have access to the market it is potentially a Draconian prohibition. It is not therefore an order to be imposed as a matter of course.
>
> …
>
> 80. Finally, for the avoidance of ambiguity, it needs to be clearly stated that cold shoulder orders and cease and desist orders, being imposed in order to protect the integrity of the market and not by way of a penalty, are only to be imposed when,

[275] This statement by Kwan J of the objectives of disqualification were applied in The Report of the Market Misconduct Tribunal in relation to the securities of Tianhe Chemicals Group Limited at [153]. The Chairman of this Tribunal was Mr M Hartmann GBS and its Report is dated 25 January 2022.

in the view of the Tribunal, there is a requirement for protection."

(iii) Assessing the need for section 307N(1)(a) – (c) orders: the context

837. This assessment of the need for section 307N(1)(a) – (c) orders must be conducted against the backdrop of the importance of what it is that is sought to be protected, namely, the investing public, Hong Kong's financial markets and Hong Kong's status as an international financial centre. These are all very strong public interests which go to the core of Hong Kong's prosperity. In the Market Misconduct Tribunal's Report on Bank of China Limited, it was said:

> "79. When looking to the purpose of protective orders such as cold shoulder and cease and desist orders it is important, we think, to take into the account the importance of what is sought to be protected. What is sought to be protected is the integrity of Hong Kong's financial markets. Our courts (in both the criminal and regulatory jurisdictions) have pointed out on numerous occasions the degree to which the prosperity of Hong Kong relies on its financial industry and the degree to which the strength of that industry in its turn is reliant on the perception of all market participants, both local and international, that it is an orderly-run, transparent market."

838. In *Luk Ka Cheung v The Market Misconduct Tribunal*[276] A Cheung J, with whom Hartmann JA agreed, echoed the comments made by the Court of Final Appeal in *Koon Wing Yee* and by Hartmann and Lam JJ in *Chau Chin Hung*

[276] [2009] 1 HKC 1.

v Market Misconduct Tribunal[277] on the protective nature of the sanctions available to the Tribunal. A Cheung J said:

> "52. In my view, quite plainly, looking at the dual regimes under the Ordinance, and particularly the Pt XIII scheme, the purpose is to protect and maintain the integrity of the financial markets in Hong Kong, thereby enhancing and preserving Hong Kong's reputation as an international financial centre. It is regulatory in nature. The investing public, and therefore public interest at large, is protected in the sense that the regime ensures the integrity of the financial markets in which the investing public carry on their investment or trading activities. …"

(iv) Assessing the need for section 307N(1)(a) – (c) orders: matters to be considered

839. In order to determine whether there is a need to protect the public and to deter the Specified Person and others, the Tribunal must conduct assessments of the gravity of the misconduct, the character of the Specified Person and the risk of others engaging in similar misconduct. The gravity of the Specified Person's misconduct speaks to his character. The Tribunal's assessments of the gravity of the conduct and of the character of the Specified Person, including the motivation for his misconduct, will assist the Tribunal in its assessment of the risk of the Specified Person reoffending.

840. In conducting the assessments, and bearing in mind the importance of the public interests to be protected, the Tribunal will have regard to a broad range

[277] HCAL 123/2007, unreported, 22 September 2008.

of matters amongst which will be the following.

(i) The nature, duration and purpose of the breach of or non-compliance with the regulatory provision; and any benefit the Specified Person obtained from the breach or non-compliance, whether in profit gained or loss avoided;

(ii) the impact of the breach or non-compliance on others or on the market.

These matters, together with (iii) below, go to the gravity or seriousness of the Specified Person's breach of or non-compliance with the regulatory provision.

(iii) The importance to the integrity of Hong Kong's markets of compliance with the regulatory provision and the potential for a breach of or non-compliance with that provision to cause harm to Hong Kong's reputation as an international financial centre;

(iv) the frequency that the regulator encounters such conduct in the market.

These matters, together with those in (i) – (ii) above, are relevant to the question of whether there is a need for the Tribunal's order to contain an element of general deterrence so as to protect Hong Kong from future breaches of or non-compliance with the regulatory provision.

(v) The character of the Specified Person, including any remorse exhibited;

(vi) whether the Specified Person has cooperated with the regulator and assisted the regulator in its investigation;

(vii) the criminal and regulatory history of the Specified Person[278] including in the period from the breach of or non-compliance with the regulatory provision to the hearing by the Tribunal;

(viii) the likelihood of the Specified Person re-offending and how great a need there is for the Tribunal's order to contain an element of personal deterrence;

(ix) the likely impact of the order on the Specified Person; and

(x) the likely adverse impact of the order on any innocent third party, including any corporation with which the Specified Person has been associated.

These remaining matters deal with the Specified Person's character and, together with (i) and (ii) above, are relevant to the risk of his reoffending.[279] They are also relevant as either mitigating the Specified Person's misconduct or, where he has a history of prior offending or shows no remorse or has sought to frustrate the regulator's investigation or, for whatever reason, presents as a high risk of re-offending, as aggravating the Specified Person's misconduct.

841. Addressing all these matters will assist the Tribunal in making its assessments, but it must be emphasised that the relevance and importance of each of these matters to the assessments will necessarily vary from case to case.

842. After these assessments have been completed it should be clear to the Tribunal whether there is a need for shareholders, investors or the public to be

[278] See section 257(2) of the SFO.
[279] Many of these matters echo what is contained in section 307N(2) of the SFO.

protected from the Specified Person and whether his misconduct is so grave that the civil sanctions imposed on him should contain an element of deterrence against future offending by him and by others. The Tribunal will then decide whether it should make an order and, if so, what order it should make.

(v) Assessing the duration of a disqualification order

843. As mentioned earlier in this chapter[280], the SFC invites us to apply an adaptation of the approach taken by the English Court of Appeal in *Re Sevenoaks Stationers (Retail) Limited* when dealing with the United Kingdom's director's disqualification regime which is set out in section 6 of the Company Directors Disqualification Act, 1986. That act contained maximum and minimum periods of disqualification of 15 years and 2 years respectively. In its judgment the Court of Appeal endorsed a division of the 15 years into three tiers of seriousness as set out in the following passage from the judgment of Dillon LJ at page 174 of the report:

> "I would for my part endorse the division of the potential 15-year disqualification period into three brackets, … viz.: (i) the top bracket of disqualification for periods over 10 years should be reserved for particularly serious cases. These may include cases where a director who has already had one period of disqualification imposed on him falls to be disqualified yet again. (ii) The minimum bracket of two to five years' disqualification should be applied where, though disqualification is mandatory, the case is, relatively, not very serious. (iii) The middle bracket of

[280] See [802] *ante*.

disqualification for from six to 10 years should apply for serious cases which do not merit the top bracket."

844. We mention the English Court of Appeal's judgment in the *Sevenoaks* case because the three tiers of seriousness endorsed by Dillon LJ have been employed in Hong Kong in respect of the disqualification power that is contained in section 214(2)(d) of the SFO[281] and which, like the United Kingdom statutory provision, also has a maximum disqualification period of 15 years.[282] However, unlike the United Kingdom provision it has no minimum disqualification period. The maximum disqualification period of 15 years in the United Kingdom legislation and in section 214(2)(d) of the SFO lends itself to this neat division of the period into a three tier classification with each tier consisting of a 5 year range.

845. The maximum disqualification period of 5 years that is contained in section 307N(1)(a) results in a much smaller range of 20 months for each tier but we are of the view that is still broad enough to accommodate the range of culpability the Market Misconduct Tribunal is likely to encounter. We note that other Market Misconduct Tribunals have employed an adapted three tier *Sevenoaks* approach to the lesser five year disqualification period[283] and hence the assertion by the SFC that this approach has become the established practice of the Market Misconduct Tribunal. This may be overstating the position but, be

[281] See [834] – [835] of this chapter.

[282] See *Securities and Futures Commission v Cheung Keng Ching* [2011] 4 HKC 453; *Re Styland Holdings Limited* [2011] 1 HKLRD 96; *Re First China Financial Network Holdings Limited* [2015] 5 HKLRD 530.

[283] See The Report of the Market Misconduct Tribunal in relation to the securities of Yorkey Optical International (Cayman) Limited at [56] – [57], chaired by Mr K Kwok SC and dated 15 May 2017 and The Report of the Market Misconduct Tribunal in relation to the securities of Magic Holdings International Limited at [670] – [671], chaired by Mr M Lunn GBS and dated 10 March 2021.

that as it may, we are satisfied that this method of classifying levels of seriousness remains useful and are content to employ it in the present case.

846. This brings us to the question of how to apply this regime to determine what period of disqualification is appropriate for a particular Specified Person. In *SFC v Yeung Kui Wong and others*[284] Harris J was dealing with this question in respect of a disqualification order being made under section 214(2)(d) of the SFO. He referred with approval to comments made by the English Court of Appeal. He said:

> "9. In *Re Westmid Packing Services Ltd.* [1998] 2 BCLC 646, the Court of Appeal in England gave useful guidance as to the relevant factors for determining the length of the disqualification period under the Companies Directors Disqualification Act 1986:-
>
> > "(1) It is of the greatest importance that any individual who undertakes the statutory and fiduciary obligations of being a company director should realise that these are personal responsibilities.
> >
> > (2) The primary purpose of disqualification is to protect the public against the future conduct of companies by persons whose past records as directors of insolvent companies showed them to be a danger to creditors and others. Other factors also come into play in the wider interests of protecting the public, i.e. a deterrent element in relation to the director himself and a deterrent element as far as other directors are concerned.

[284] Unreported HCMP 1742/2009, 9 April 2010.

(3) The period of disqualification must reflect the gravity of the offence.

(4) The period of disqualification may be fixed by starting with an assessment of the correct period to fit the gravity of the conduct, and a discount is then given for mitigating factors.

(5) A wide variety of factors, including the former director's age and state of health, the length of time he has been in jeopardy, whether he has admitted the offence, his general conduct before and after the offence, and the periods of disqualification of his co-directors that may have been ordered by other courts, may be relevant and admissible in determining the appropriate period of disqualification." "

847. We, also, have found these comments helpful in exercising our section 307N(1)(a) power. They set out a process for determining the duration of a disqualification order that essentially involves the following three steps:

(i) assess the gravity of the conduct;

(ii) determine, as a starting point, a period of disqualification to fit that level of gravity; and

(iii) discount this starting point to allow for any mitigating factors.

848. In *Re Styland Holdings Ltd*[285] Thomas Au J also addressed the question of the matters to which regard should be had when exercising the section 214(2)(d) disqualification power. He said:

"***B1. Relevant considerations***

[285] [2011] 1 HKLRD 96.

6. In considering what is an appropriate period of disqualification, the court takes into account a broad spectrum of considerations with the dual objective of protecting the public and deterrence: *Re Peregrine Investments Holdings Ltd* (unrep., HCMP 112/2002, [2004] HKEC 1214), para. 27."

849. After quoting Lord Woolf R in *Re Westmid Packing Services Ltd*, the English Court of Appeal judgment which Harris J quoted with approval in *Yeung Kui Wong*, Thomas Au J continued:

"8. There are also eight criteria which govern the court's exercise of the power of disqualification, namely:

(1) Character of the offenders.

(2) Nature of breaches.

(3) Structure of the companies and the nature of their business.

(4) Interests of shareholders, creditors and employees.

(5) Risks to others from the continuation of offenders as company directors.

(6) Honesty and competence of offenders.

(7) Hardship to offenders and their personal and commercial interests.

(8) Offenders' appreciation that future breaches could result in future proceedings."

850. In essence, these are encompassed in the matters we have mentioned at [840] of this chapter. Those matters that go to the gravity of the Specified

Person's misconduct will determine into which tier of seriousness the Specified Person falls. These matters, and those that deal with the Specified Person's character and risk of reoffending, will guide the Tribunal to where within each tier the Tribunal should make its order. They may, exceptionally, cause the Tribunal to place the Specified Person into a higher or lower tier.

(vi) Regulatory fine: section 307N(1)(d)

851. In determining whether to impose a regulatory fine and, if so, the terms of its order, the Tribunal must first have regard to section 307N(3) which provides:

> "(3) The Tribunal must not impose a regulatory fine on a person under subsection (1)(d) unless, in all the circumstances of the case, the fine is proportionate and reasonable in relation to the breach of the disclosure requirement. For that purpose, the Tribunal may take into account, in addition to any conduct referred to in subsection (2), any of the following matters—
>
> (a) the seriousness of the conduct that resulted in the person being in breach of the disclosure requirement;
>
> (b) whether or not that conduct was intentional, reckless or negligent;
>
> (c) whether that conduct may have damaged the integrity of the securities and futures market;
>
> (d) whether that conduct may have damaged the interest of the investing public;
>
> (e) whether that conduct resulted in any benefit to the person or any other person, including any profit gained or loss avoided;
>
> (f) the person's financial resources."

852. The first question the Tribunal must address is whether a regulatory fine is warranted and in doing so it must consider all the matters referred to in the subsection and to any of the other matters we have mentioned in [840] of this Report. This will require the Tribunal to also bear in mind that the objectives of such a fine must be, through effective deterrence, to provide future protection to the market. The deterrence will only be effective if there is a punitive effect that is felt by the Specified Person and which is capable of impacting on the consciousness of others.

853. If the Tribunal concludes that a regulatory fine is warranted and that making such an order would not be a disproportionate or unreasonable response to the breach of the disclosure requirement and the circumstances of the Specified Person then the Tribunal must proceed to assess what quantum of regulatory fine would be proportionate and reasonable for each Specified Person. In determining what amount of regulatory fine each Specified Person should be ordered to pay, the Tribunal will have regard to all the matters mentioned in section 307N(3) of the SFO and the others that we have mentioned in [840] of this chapter.

854. If a Specified Person wishes the Tribunal to have regard to any special circumstances peculiar to him then he will have to inform the Tribunal of them and, if the Tribunal so requires, to provide evidence in support of those asserted special circumstances.

855. Of course, any assessment of quantum must have regard to the maximum fine that the ordinance allows to be imposed, namely $8 million, as that creates the range within which the assessment must be made.

Assessing the Culpability of the Specified Persons

856. We shall now address the matters referred to in [840] of this chapter as they pertain to the present case.

(i) The importance of compliance with the disclosure requirement

857. In the present case the regulatory provision with which we are concerned is the disclosure requirement. We have referred in our Report to the importance of companies complying with their disclosure obligation.[286] A continuous disclosure regime contributes to an efficient, transparent and fair market place and is essential to maintaining and increasing investor confidence in our markets. By making the management of companies accountable, such a regime enhances corporate governance. All of these matters are key elements in the way Hong Kong and our markets are perceived and that perception, both domestically and internationally, is crucial to Hong Kong's success.

858. Incidents such as that which occurred here damage the reputation of Hong Kong and places the integrity of our markets under a cloud. The orders of this Tribunal must remove that cloud by recognising the importance of the disclosure requirement as a regulatory provision and by sending a very strong

[286] See [84] – [87] of this Report.

message that non-compliance with it will bring serious consequences. Nothing less will be effective in safeguarding the public interest of Hong Kong.

(ii) The gravity of the breach of the disclosure requirement

859. No determination can be made in respect of any of the orders without the Tribunal forming a view of the seriousness of the Specified Persons' misconduct.

860. The resignation of Grant Thornton was announced on 23 January 2013. As it was effective from 27 December 2012 the announcement of it was over 3 weeks later than it should have been. As to the other inside information, it was not disclosed at all. The resignation of auditors is a matter which has been long regarded as something that should be disclosed to the market. There is no excuse for the persistent delay in doing so.

861. The breach of the disclosure requirement by SP1, the company, was through the action or inaction of its directors and of SP2. SP1 is liable as a matter of law but, not having a human personality, it is difficult to assess its culpability, in the sense of blameworthiness. If its culpability is to be assessed by reference to the conduct of those most closely and heavily involved with it, namely SP2 and SP4, then it would have to be regarded as highly culpable. We do not believe that would be a fair and just way of treating the company and through it, its new owners. Its culpability was its failure to have in place policies and guidelines to assist in the identification of disclosable information and to implement practices

and procedures for the treatment of disclosable, or potentially disclosable, information. We place SP1 at the low end of the serious conduct category.

862. SP2 and SP4 were, in effect, jointly running the company and so the Tribunal assesses their culpability as being at a higher level of seriousness. Their culpability, based as it was on positive acts of commission, is to be contrasted with that of SP3 whose culpability is due more to egregious acts of omission. But, those acts of omission related directly to his deliberate non-performance of his important duties as Chairman of the Board of Directors. We assess his culpability at the same level as that of SP2 and SP4. In terms of the categories of seriousness that are employed in the UK in determining director's disqualification periods, we regard SP2 – SP4's conduct as serious conduct towards the middle of the serious range.

863. SP5 was Chairman of the Audit Committee and we have described in our Report how irresponsible and negligent he was in performing this duty. He was also an Independent Non-Executive Director which gave him a particular importance on Mayer's Board and on its Audit Committee. Though not as culpable as SP2 – 4 his culpability was, nevertheless, still of a high level. In our view SP5's conduct falls below the mid-range of the serious conduct category.

864. SP6 and SP8 were both Executive Directors of Mayer who failed to take their roles seriously and failed to discharge their duties responsibly. They are of equal culpability and they also fall within the serious conduct category.

865. SP10 and SP11 were both Non-Executive Directors and both were members of the Audit Committee. Both failed to properly discharge their duties and this was particularly significant for both of them were Independent Non-Executive Directors.

866. We do not see that a meaningful distinction can be drawn between SP6, SP8, SP10 and SP11 in terms of their culpability but we do see them as less culpable than SP2 – SP5. As with SP1 we would place them at the beginning of the range of the serious conduct category.

867. SP9 is the director who has troubled us most. Much reliance has been placed by Mr Li on his efforts to play a meaningful role within the company and to properly discharge his director's duties. It is true that he was a prolific letter writer who gave vent to his complaints and even went so far as to take action against the company when he felt he was being unlawfully denied access to its records. But, he did not pursue his litigation and, more significantly did not resign his directorship. He continued to enjoy the benefits of his directorship with its accompanying remuneration but made no real effort to learn about his duties and responsibilities as a director of a Hong Kong listed corporation. It was this failure which led to him being ignorant of his responsibilities in respect of disclosable information. We are not persuaded that we should distinguish him from SP6, SP8, SP10 and SP11. His fractious relationship with the company does not excuse him from being required to properly perform his director's duties.

(iii) The impact on the market of the breach

868. As Mayer was suspended from trading at the time of the breach it cannot be said that the non-compliance with the disclosure requirement had any adverse impact on the market.

(iv) The need to protect Hong Kong and to deter others

869. We are satisfied that the conduct of the SP2 – SP11 clearly demonstrates a need to protect Hong Kong from them.

870. We are similarly satisfied that SP2 – SP11 need to be deterred from re-offending. In addition to the need for individual deterrence there is also a need for general deterrence so that others who may think that they also may approach their director's duties and the disclosure requirement in a similarly cavalier way are sufficiently discouraged from doing so.

(v) The impact of the orders on the Specified Persons

871. The orders will of course have an adverse impact on the Specified Persons but none, other than SP9, have claimed that the financial orders are beyond their means to pay.

Mitigating Considerations

872. In terms of mitigating the seriousness of the Specified Persons' conduct there are the following matters:

(i) there was no adverse impact upon the market because of the suspension of the company;

(ii) the disclosure requirements only came into force on 1 January 2013 and so listed companies and their officers were coming to grips with their new obligations. Although it must also be borne in mind that there existed at the time a disclosure obligation that was contained in the SEHK Listing Rules;

(iii) throughout 2012 much was happening to Mayer which would have had the effect of distracting its Board and SP2 and preoccupying them with what they would have regarded as important company matters;

(iv) the breach of the disclosure requirement did not take place by any of the Specified Persons for personal gain; and

(v) the breach of the disclosure requirement in respect of the resignation of Grant Thornton was only a late disclosure as opposed to a complete non-disclosure.

873. Matters personal to the Specified Persons for which they are entitled to some credit, are:

(vi) the Specified Persons confined their defence to a very narrow issue and made extensive admissions which contributed to a shorter and expedited hearing;

(vii) the Specified Persons have no prior history of regulatory infractions; and

(viii) since the occasion of this incident, some 10 years ago, they have not committed any other breaches of the SFO. Although it must also be borne in mind that most of the Specified Persons are not resident in Hong Kong and during the post-offence period were not directors of any Hong Kong listed corporation.

The Determination of the Tribunal

874. Having considered the submissions of the parties and taking into account the Tribunal's assessment of the differing culpability of each of the Specified Persons, the Tribunal is satisfied it should make disqualification orders, orders for the payment of regulatory fines, an order that the Accounting and Financial Reporting Council be recommended to take disciplinary action against SP2 and training orders.

(i) Disqualification orders: section 307N(1)(a)

875. In deciding whether an order should be made and, if so, the duration of the order, we have assessed the seriousness of each Specified Person's conduct by deciding which of the three tiers of seriousness was appropriate for each Specified

Person. Each tier creates a disqualification range of 20 months and so we have then had to determine where within each range each Specified Person fell. In doing so we have taken into account all the matters referred to in our discussion of the culpability of each Specified Person and given consideration to all that has been written and said by their counsel in their submissions to us.

876. A disqualification order is inapplicable to SP1 but applies to all the other Specified Persons. We are satisfied there is a need to protect Hong Kong from the other Specified Persons performing the roles set out in section 307N(1)(a) of the SFO and a need to deter others from breaching a disclosure requirement.

877. We have decided that the following periods of disqualification are appropriate for each Specified Person:

SP2, SP3 and SP4: 30 months

SP5: 24 months

SP6, SP8, SP9, SP10 and SP11: 20 months

(ii) Cold shoulder orders: section 307N(1)(b)

878. Because the misconduct of the Specified Persons does not involve the trading in securities the SFC does not seek a cold shoulder order. We agree that the circumstances of this breach of the disclosure requirement do not evidence a need for such an order.

(iii) Cease and desist orders: section 307N(1)(c)

879. Nor does the SFC seek a cease and desist order. Such an order is made under section 307N(1)(c) which provides:

> "(c) an order that the person must not again perpetrate any conduct that constitutes a breach of a disclosure requirement."

880. The SFC explained in its written submission that in reaching its decision not to seek such an order against any of the Specified Persons it has taken into account "the Tribunal's observation at §45 – 48, 71 and 83 of the Yorkey Report".[287] That Tribunal said at [48] of its Report:

> "48. The Tribunal is given the discretion to decide whether to make a cease-and-desist order and is not bound to do so in every case of breach of the disclosure requirement. The question is whether it is proportionate and appropriate in all the circumstances of each case to make such an order against a first offender, bearing in mind the other sanctions which the Tribunal intends to impose. This is a fact sensitive balancing exercise. As against Yorkey, the Tribunal intends to impose a regulatory fine of HK$1 million; to order Yorkey to pay the costs and expenses of both SFC and the Government; and to order the appointment of independent professional advisers. In the circumstances and having regard to the mitigating factors accepted by the Tribunal, we have decided to give Yorkey a chance to behave itself without a cease-and-desist order."

[287] The Market Misconduct Tribunal's Report in relation to the securities of Yorkey Optical International (Cayman) Limited dated 27 February 2017.

881. At [71] and [83] of its Report the Tribunal employed the same reasoning to justify not making cease and desist orders against the Chief Executive and Financial Controller of Yorkey.

882. The decision of this Tribunal was very much a fact sensitive one and there is no statement of principle in it that in any way binds us to follow a similar course. What can be taken from the Yorkey Tribunal's observations is guidance on the approach to determining whether to make such an order. That approach is, fundamentally, whether there is a need for such an order bearing in mind the gravity of the non-disclosure, the post-offence conduct of the Specified Person, the personal circumstances of the Specified Person and the other orders the Tribunal intends to make.

883. The other key factor is the substantial nature of the order itself. The cease and desist order carries with it very significant consequences. Section 307O(4) of the SFO makes it an offence to fail to comply with orders made under section 307N(1)(a), (b) or (c). If tried on indictment, a person convicted of this offence is liable to a maximum punishment of a fine of $1,000,000 and to imprisonment for 2 years. On summary conviction the maximum punishment is a fine at level 6 and imprisonment for 6 months. A cease and desist order is clearly not a meaningless order. It has a substantial sting to it which can contribute significantly to the overall deterrent effect of the Tribunal's orders. It is not an order which is lightly made.

884. In the present case almost all of the Specified Persons are resident out of Hong Kong and since the time of the non-disclosure have not been involved in

performing director's duties for Hong Kong companies. Given the other orders we intend to make, all of which provide substantial protection to the Hong Kong market and considerable deterrence to both the Specified Persons and any others involved in the management of Hong Kong companies, we do not see that there is a need for any additional protection and deterrence. In the circumstances of this particular case, and of these particular Specified Persons, the deployment of a cease and desist order would appear as a disproportionate and heavy handed response to the gravity of the non-disclosure that occurred in the present case.

885. We agree that cease and desist orders are not necessary in this case.

(iv) Orders for the payment of a regulatory fine: section 307N(1)(d)

886. In relation to the payment of a regulatory fine the SFC argued that SP2 was liable for such a payment as Section 307N(1)(d) of the SFO applied to both directors and the chief executive of a listed corporation and SP2 fell within the SFO definition of chief executive.[288] Section 307N(3) of the SFO prohibits the imposition of a regulatory fine "unless, in all the circumstances of the case, the fine is proportionate and reasonable in relation to the breach of the disclosure requirement". The subsection then lists out different matters that the Tribunal may take into account.

[288] Section 307N(6) of the SFO states that in section 307N the term "chief executive" has the meaning given to it by section 308(1). Section 308(1) provides:
"**chief executive** (最高行政人員) means the person employed or otherwise engaged by a corporation who, either alone or together with one or more persons, is or will be responsible under the immediate authority of the board of directors for the conduct of the business of the corporation."

887. In respect of SP1, the company, the SFC invited the Tribunal to follow the approach of the Market Misconduct Tribunal in the AAL Report where it was said that because the senior officers of the company:

> "acted on behalf of the company, with full authority to so act. Therefore, the company was equally culpable."

888. Notwithstanding that none of the Specified Persons have previous convictions in Hong Kong or have been identified by a Tribunal as having engaged in market misconduct or as having been in breach of a disclosure requirement, we are satisfied that their conduct is so serious that it warrants the Tribunal making orders against them for the payment of a regulatory fine in order to deter them and others from taking their disclosure duty so lightly. Effective deterrence, as we have said, is necessary to protect the market and Hong Kong in the way that we have previously set out. Furthermore, the Tribunal has taken into account all the matters set out in section 307N(3) and after doing so is satisfied that, in all the circumstance of this case, the following fines against SP1– SP11 are proportionate and reasonable in relation to their breach of the disclosure requirement.

SP1: $300,000

SP2, SP3 and SP4: $800,000

SP5: $600,000

SP6, SP8, SP10 and SP11: $300,000

889. The position of SP9 has again troubled us. We have assessed his culpability as being at the same level of seriousness as SP6, SP8, SP10 and SP11

and so we would have ordered him to pay a fine of $300,000. However, Mr Li has claimed that SP9 is of limited financial means but without going so far as to claim that he is totally impecunious. Mr Li has provided some support for his claim.

890. We accept that SP9 can be distinguished from the other Specified Persons that share his same level of culpability but we do not accept that his financial positions is such that he would be unable to pay a regulatory fine of $150,000 and so that is the order we make in respect of SP9.

(v) Recommendation for disciplinary action against SP2: section 307N(1)(g)

891. As a member of the Hong Kong Institute of Certified Public Accountants SP2 is subject to the disciplinary jurisdiction of the Accounting and Financial Reporting Council. The conduct of SP2 was so serious and reflected such a recklessly indifferent attitude to his professional responsibilities that we have no hesitation in recommending to the Accounting and Financial Reporting Council that it take disciplinary action against him.

(vi) Appointment of an Independent Professional Adviser: section 307N(1)(h)

892. The SFC did not ask the Tribunal to make any order under section 307N(1)(h) against Mayer in order to ensure that a breach of a disclosure requirement does not again take place in respect of it. We agree that, in the circumstances of this particular case, no order in respect of the company under section 307N(1)(h) is necessary.

(vii) Training orders: section 307N(1)(i)

893. All the Specified Persons who were officers of Mayer have shown by their conduct that they have need of training in order to obtain a better knowledge of what is expected of them as directors of a listed company, particularly in respect of the disclosure requirement.

The Tribunal's Orders

894.

1. Pursuant to section 307N(1)(a) of the SFO (Cap. 571), that for a period of 30 months from the date of this Order, SP2, SP3 and SP4 must not, without the leave of the Court of First Instance:

   (a) be or continue to be a director, liquidator, or receiver or manager of the property or business, of a listed corporation or any other specified corporation; or

   (b) in any way, whether directly or indirectly, be concerned or take part in the management of a listed corporation or any other specified corporation.

2. Pursuant to section 307N(1)(a) of the SFO, that for a period of 24 months from the date of this Order, SP5 must not, without the leave of the Court of First Instance:

(a) be or continue to be a director, liquidator, or receiver or manager of the property or business, of a listed corporation or any other specified corporation; or

(b) in any way, whether directly or indirectly, be concerned or take part in the management of a listed corporation or any other specified corporation.

3. Pursuant to section 307N(1)(a) of the SFO, that for a period of 20 months from the date of this Order, SP6, SP8, SP9, SP10 and SP11 must not, without the leave of the Court of First Instance:

(a) be or continue to be a director, liquidator, or receiver or manager of the property or business, of a listed corporation or any other specified corporation; or

(b) in any way, whether directly or indirectly, be concerned or take part in the management of a listed corporation or any other specified corporation.

4. Pursuant to section 307N(1)(d) of the SFO, that:

(a) SP1 pay to the Government a regulatory fine of HK$300,000.

(b) SP2 pay to the Government a regulatory fine of HK$800,000.

(c) SP3 pay to the Government a regulatory fine of HK$800,000.

(d) SP4 pay to the Government a regulatory fine of HK$800,000.

(e) SP5 pay to the Government a regulatory fine of HK$600,000.

(f) SP6 pay to the Government a regulatory fine of HK$300,000.

(g) SP8 pay to the Government a regulatory fine of HK$300,000.

(h) SP9 pay to the Government a regulatory fine of HK$150,000.

(i) SP10 pay to the Government a regulatory fine of HK$300,000.

(j) SP11 pay to the Government a regulatory fine of HK$300,000.

5. Pursuant to section 307N(1)(g) of the SFO, that the Accounting and Financial Reporting Council be recommended to take disciplinary action against SP2.

6. Pursuant to section 307N(1)(i) of the SFO, that SP2 to SP11 (except SP7) undergo a training programme approved by the Commission on compliance with Part XIVA of the SFO, directors' duties and corporate governance.

Further, the Tribunal has determined that, by written notice, it will register the above orders in the Court of First Instance pursuant to sections 307S(1) and 264(1) of the SFO.

Mr Ian McWalters, GBS

(Chairman)

Mr Leroy Yau

(Member)

Dr Yuen Wai-kee

(Member)

Dated the 15th day of December 2023