

REPORT OF THE INSIDER DEALING TRIBUNAL OF HONG KONG

on whether insider dealing took place
in relation to the listed securities of

FIRSTONE INTERNATIONAL HOLDINGS LIMITED
(now known as Fortuna International Holdings Limited)

between

20th June and 23rd July 1997 (inclusive)

and on other related questions



The Chairman of a division of the
Insider Dealing Tribunal
Established under section 15 of the
Securities (Insider Dealing) Ordinance
Cap. 395 of the Laws of Hong Kong

**Section 16(2) of the
Securities (Insider Dealing) Ordinance Cap. 395**

Whereas it appears to me that insider dealing (as that term is defined in the Ordinance) in relation to the listed securities of a corporation, namely, Firststone International Holdings Limited now renamed Fortuna International Holdings Limited, ("the company"), has taken place or may have taken place, the Tribunal is hereby required to inquire into and determine -

- (a) whether there has been insider dealing in relation to the company connected with or arising out of the dealings in the listed securities of the company by or on behalf of -

Lombok Holdings Limited, Super Kingdom Investments Limited, Dragon Sentosa Limited, Setter Investments Limited, James Huang Xiao Jiang, Mo Siu Chung, Fang Naijun, Xie Ping, Phoebe Chiu Yuen Man, Lai Wai Yin, Diane Chu, Kwan Lai Sheung, Eddie Chow Kar Chun, Deng Guoxin, Li Xiao Jian, Lo Hon Chuen, Wang Chengzhi, Chow Ching Sum and Wu Xuhui during the period from 20 June 1997 to 23 July 1997 (both dates inclusive);

- (b) in the event of there having been insider dealing as described in paragraph (a) above, the identity of each and every insider dealer; and
- (c) the amount of any profit gained or loss avoided as a result of such insider dealing.

Dated this the 26th day of June 2002.

(Antony Leung)
Financial Secretary



The Chairman of a division of the
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Lombok Holdings Limited, Super Kingdom Investments Limited, Dragon Sentosa Limited, Setter Investments Limited, James Huang Xiao Jiang, Mo Siu Chung, Fang Naijun, Xie Ping, Phoebe Chiu Yuen Man, Lai Wai Yin, Diane Chu, Kwan Lai Sheung, Eddie Chow Kar Chun, Deng Guoxin, Li Xiao Jian, Lo Hon Chuen, Wang Chengzhi, Chow Ching Sum, Wu Xuhui, Tang Wai Na and Yip Hiu Sui during the period from 20 June 1997 to 23 July 1997 (both dates inclusive);

- (b) in the event of there having been insider dealing as described in paragraph (a) above, the identity of each and every insider dealer; and
(c) the amount of any profit gained or loss avoided as a result of such insider dealing.

Dated this the 23rd day of May 2003.

(Antony Leung)
Financial Secretary

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ABBREVIATIONS

Adonis	— Adonis Investment Management Ltd.
AIM	— Asia Investment Management Limited
Anniversary	— Anniversary Investments Limited
Asian Honour	— Asian Honour International Limited
Bonus	— Bonus Secretarial and Corporate Services Limited
BVI	— British Virgin Islands
CA Pacific	— CA Pacific Securities Limited
Capital Asia	— Capital Asia Limited
Credit Lyonnais	— Credit Lyonnais Securities (Asia) Limited
Dragon	— Dragon Sentosa Limited
Firstone	— Firstone International Holdings Limited
Fountain	— Fountain Datacom Limited
Grade China	— Grade China Trading Limited
Guanfair	— Guanfair Finance and Investments Limited
Guangdong Enterprises	— Guangdong Enterprises (Holdings) Limited

ABBREVIATIONS (cont'd)

Guangdong Securities	— Guangdong Securities Limited
Guangnan Group	— Guangdong Enterprises (Holdings) Limited and its subsidiary companies
Guangnan Holdings	— Guangnan (Holdings) Limited
Hang Seng Bank/HSB	— Hang Seng Bank Limited
HKCEA	— Hong Kong Chinese Enterprises Association
HSBC	— The Hongkong & Shanghai Banking Corporation Limited
Lombok	— Lombok Holdings Limited
Mok Seng	— Mok Seng Incorporated
Nanyang Bank	— Nanyang Commercial Bank Ltd.
New Century	— New Century Securities Limited
Newick	— Newick Holdings Limited
Nomura International	— Nomura International (Hong Kong) Limited
Offshore	— Offshore Incorporations Limited
On Hing	— On Hing Securities Limited
Oriental Patron	— Oriental Patron Securities Limited
Prestbury	— Prestbury Incorporated Limited

ABBREVIATIONS (cont'd)

Sahara	— Sahara Investors Group Limited
SCB	— Standard Chartered Bank
SEHK	— The Stock Exchange of Hong Kong Limited
Setter	— Setter Investments Limited
SFC	— Securities and Futures Commission
Sun Hung Kai	— Sun Hung Kai Securities Limited
SHKIL	— Sun Hung Kai International Limited
Sun Ming	— Sun Ming Asia Trading Company
Super Kingdom	— Super Kingdom Investments Limited
Taiwan Concord	— Taiwan Concord Capital Securities (Hong Kong) Limited
Tung Tai	— Tung Tai Finance Limited
TW	— Tribunal Witness
Win Wong	— Win Wong Securities Limited
Yardley	— Yardley Securities Limited
Yat Ming	— Yat Ming International Limited

ANNEXURES

- Annexure A — A chart depicting the structure of the Guangnan group of companies, and of their staff relevant to this inquiry and the relationship of relevant other persons to staff members of the Guangnan Group
- Annexure B — A schedule of price and turnover details for Firstone shares from 2nd June 1997 to 31st July 1997
- Annexure C — Sample Copy of Salmon Letter
- Annexure D — Ruling
- Annexure E — MO Siu Chung's First Report dated 23rd June 1997
- Annexure F — MO Siu Chung's Second Report dated 11th July 1997
- Annexure G — A chart summarizing particulars of telephone communications between James HUANG, Phoebe CHIU, Eddie CHOW and KWAN Lai Sheung
- Annexure H — Share trading details of suspected insiders
- Annexure I — Attempts at service upon the four BVI companies and other implicated persons and the responses thereto

CHAPTER 1

INTRODUCTION

Background

In 1997, Firststone International Holdings Limited ("Firststone") was a publicly listed company in Hong Kong. Its various subsidiary's primary business at that time was the design and manufacture of components used in the assembly of integrated electronic circuits used in audio and visual items. The largest single shareholder in Firststone, through a company Prestbury Incorporated Ltd., was a Mr. KWEE Cahyadi Kumala ("KWEE") an Indonesian Chinese who resides in Jakarta and Singapore. He controlled about 22% of Firststone's ordinary shares which together with Prestbury's ownership of 50 convertible preference shares gave him effective control of the company. He became Firststone's Chairman on the 27th June 1997, replacing its previous chairman and second largest shareholder Mr. WAN Sitt Kam who with his wife controlled about 20% of Firststone's ordinary shares through a company Hotline Assets Ltd.

In 1996, Firststone had diversified to some extent from its base electronic business into the food and beverages business which included a significant holding in a well-known and increasingly profitable wine distillery in Shaoxing, China. It is true to say that by early 1997 consideration had been given by the company to largely divesting itself of or at least reducing its electronic business and concentrating on its more profitable food and wine producing interests. In the course of its restructuring in this regard, and as the result of various debts, Firststone had found itself by early 1997 in need of capital.

In the first part of 1997 Firststone decided upon raising capital by a one-for-one rights issue on its issued share base of 541,103,960. That would result in a capital injection of about HK\$162 million. Sun Hung Kai International Limited ("SHKIL") was to act as both financial advisor and underwriter for the purpose of the rights issue.

On the 11th June 1997 a company Guanfair Finance and Investments Limited ("Guanfair") was enlisted by SHKIL as a sub-underwriter as to about 140,000,000 of the 541 million rights issue shares.

Guanfair was a wholly-owned subsidiary of Guangnan Hong (Group) Ltd. which in its turn was a wholly-owned subsidiary of the flagship of the Guangnan Group, Guangdong Enterprises (Holdings) Ltd.¹ The Guangnan group of companies was involved in a fairly wide range of enterprises but had the largest part of its activities contained within the food and beverage industry.

The Firststone rights issue eventually went ahead in June and July 1997. It had been announced on the 2nd June 1997. The book closing date was 7th July 1997.

The individual director within SHKIL who had been responsible for the role of SHKIL as financial advisor and underwriter to Firststone for that rights issue was Mr. Gilbert CHU. He knew and dealt with Mr. James HUANG who was a director of a number of companies within the Guangnan Group at the relevant time and had been until just before the conclusion of the rights issue arrangements a director of Guanfair.

After the rights issue arrangements had been concluded and as a result of his knowledge gained of both Firststone and the Guangnan group of companies during the negotiation and organizing of the rights issue, and particularly with a view to the Guangnan Group possibly wishing to obtain an interest in Firststone's wine distillery in China, Mr. CHU had approached James HUANG and broached with him, inter alia, the possibility of the Guangnan Group taking up a significant placement of Firststone shares through Mr. KWEE who held the largest interest in Firststone. James HUANG was interested.

¹ A chart depicting the structure of the Guangnan group of companies, and of their staff relevant to this inquiry is at Annexure "A" to this Report. That chart sets out also the relationship of other relevant persons to staff members of the Guangnan Group.

Discussions subsequently took place involving Mr. CHU and Mr. KWEE's friend and advisor Mr. William PEH leading up to a meeting between James HUANG and Mr. KWEE together with Mr. CHU and perhaps Mr. PEH on the 26th June 1997. Other negotiations followed which included a second meeting in the absence of Mr. KWEE on the 9th July 1997 and a third meeting on the 11th July 1997.

Eventually a formal agreement was signed on the 17th July 1997 by which Firststone was to make a placement of some 20% of its issued shares with Guangnan (Holdings) Ltd. ("Guangnan Holdings") a subsidiary of Guangnan Hong (Group) Ltd. At Firststone's request, trading in the shares had been suspended since Monday 14th July. The last day of trading had therefore been on Friday 11th July.

Firststone issued an announcement of the 20% placement of shares to Guangnan Holdings on the 17th July and that announcement appeared in various Hong Kong newspapers on Friday the 18th July. Trading in Firststone shares resumed on that day.

Prior to the suspension of trading in Firststone shares on the previous Friday 11th July they had closed at \$0.63. Following the resumption of trading on the 18th July, the morning of which day the announcement of the 20% placement to Guangnan Holdings was published, the shares of Firststone closed at \$1.75. They thenceforth slowly reduced in price until by the end of the month, 31st July 1997, they closed at \$1.67.²

In short between the close of trade on the 11th July and the close of trade on the 18th July (the 1st day of resumed trading) Firststone shares had appreciated 178%. Concomitantly, on the 11th July turnover in Firststone shares had been 24,360,000. On the resumption of trading on the 18th July turnover was 208,250,000.

² A schedule of price and turnover details for Firststone shares from 2nd June 1997 to 31st July 1997 appears at Annexure "B".

The Securities and Futures Commission investigation

It was subsequently suspected by the Surveillance Department of the Enforcement Division of the Securities and Futures Commission ("SFC") that a considerable number of persons, who were employees of the Guangan group of companies and private companies possibly controlled by some of those persons or associates of such persons had purchased Firststone securities prior to the suspension of trading on 11th July whilst in possession of information concerning the placement negotiations, and had sold that stock at a considerable profit upon the resumption of trading in Firststone securities on the 18th July 1997.

The SFC investigated the matter and reported their findings to the then Financial Secretary who in due course on 26th June 2002 issued a notice pursuant to section 16(2) of the Securities (Insider Dealing) Ordinance, Cap. 395 to this Tribunal directing it to inquire into such suspected insider dealing in Firststone's shares. That notice was subsequently superceded by a further notice issued on 23rd May 2003 which added the names of two further individuals whose dealings with Firststone shares during the relevant period were to be inquired into.³

The personalities whose dealings became the subject of this inquiry

By that notice the Tribunal was directed to inquire into suspected insider dealings in Firststone shares connected to transactions in those shares conducted by various individuals and companies during the period 20th June 1997 to 23rd July 1997.

Those individuals were in large part employees, or corporate officers, or the family and friends of persons within the Guangan group of companies. Four companies incorporated with single directors in the British Virgin Islands ("BVI") were also named in that notice. It was suspected that those companies were also controlled by individuals within the Guangan group of companies or their associates and had been used for the purposes of insider dealing in Firststone shares.

³ Those two notices appear at pages (i) and (ii) of this Report.

In brief, the implicated personalities and companies whose trading transactions in Firststone shares or whose role in those transactions came under scrutiny in the course of this inquiry were as follows:-

1. Lombok Holdings Limited — A BVI company
2. Super Kingdom Investments Limited — A BVI company
3. Dragon Sentosa Limited — A BVI company
4. Setter Investments Limited — A BVI company
5. James HUANG Xiao Jiang — A director of a number of companies in the Guangnan Group including Guangnan Holdings and the person involved on behalf of the Guangnan Group in the negotiations concerning the Firststone placement
6. MO Siu Chung — A subordinate of James HUANG
7. FANG Naijun — A friend of Mr. MO
8. XIE Ping — A colleague of Mr. MO within the Guangnan Group
9. Phoebe CHIU Yuen Man — A staff member of Guanfair, a company within the Guangnan Group, whose duties included share investments on behalf of the Group
10. LAI Wai Yin — Phoebe CHIU's mother
11. Diane CHU — Phoebe CHIU's sister in law
12. KWAN Lai Sheung — Phoebe CHIU's friend
13. Eddie CHOW Kar Chun — An investment adviser connected with James HUANG, Phoebe CHIU, KWAN Lai Sheung and some of the four BVI companies
14. DENG Guoxin — A director of Guanfair
15. LI Xiao Jian — A staff member of the Guangnan Group
16. LO Hon Chuen — A colleague of Mr. MO within Guangnan Holdings
17. WANG Chengzhi — A colleague of Mr. MO within Guangnan Holdings
18. CHOW Ching Sum — A staff member of the Guangnan Group
19. WU Xuhui — A staff member of the Guangnan Group
20. TANG Wai Na — A staff member of the Guangnan Group
21. YIP Hiu Sui — The husband of Madam TANG Wai Na (Mr. YIP was deceased at the commencement of the inquiry).

The suspected dealings

The share transactions⁴ of the above individuals and companies which came to be considered by this Tribunal were as follows:-

Date of Purchase	Purchaser/Seller	No. of Firststone shares purchased	Date of Sale	Broker/Account
24.6.1997	Dragon Sentosa Ltd. (a BVI company)	1,000,000	18.7.1997	CA Pacific
25.6.1997	KWAN Lai Sheung	100,000	18.7.1997	CA Pacific
26.6.1997	Lombok Holdings Ltd. (a BVI company)	580,000	7.7.1997	Win Wong
26.6.1997	Super Kingdom Investments Ltd. (a BVI company)	2,214,000	18.7.1997	Oriental Patron
26.6.1997	Setter Investments Ltd. (a BVI company)	1,000,000	18.7.1997	AIM
26.6.1997	KWAN Lai Sheung	100,000	18.7.1997	CA Pacific
27.6.1997	KWAN Lai Sheung	200,000	18.7.1997	CA Pacific
27.6.1997	YIP Hiu Sui (husband of TANG Wai Na)	300,000	18.7.1997	Tai Fook
4.7.1997	Phoebe CHIU	300,000	18.7.1997	Oriental Patron
4.7.1997	WU Xuhui	1 million	18.7.1997	Guangdong Securities
4.7.1997	LI Xiaojian	300,000	18.7.1997	Sun Hung Kai
7.7.1997	LI Sin Ling (wife of LO Hon Chuen)	200,000	18.7.1997	Taiwan Concord
8.7.1997	Dragon Sentosa Ltd.	500,000	18.7.1997	CA Pacific
8.7.1997	KWAN Lai Sheung	100,000	18.7.1997	On Hing
9.7.1997	Dragon Sentosa Ltd.	2,000,000	11.7.1997 18.7.1997	AIM
9.7.1997	KWAN Lai Sheung	100,000	18.7.1997	On Hing
9.7.1997	XIE Ping	150,000	18.7.1997	Guangdong Securities
9.7.1997	WANG Chengzhi	300,000	18.7.1997	Guangdong Securities

⁴ A large number of stockbroking firms were used by the various implicated parties for their trading activities. One of those involved was CA Pacific. That meant, as a direct result of that firm's somewhat chaotic failure in 1998 that we were at times confronted with incomplete trading account records in respect of that firm.

Date of Purchase	Purchaser/Seller	No. of Firststone shares purchased	Date of Sale	Broker/Account
10.7.1997	Lombok Holdings Ltd.	1,060,000	18.7.1997	Credit Lyonnais
10.7.1997	Super Kingdom Investments Ltd.	2,250,000	18.7.1997	Oriental Patron and Credit Lyonnais
10.7.1997	KWAN Lai Sheung	750,000	11.7.1997	Yardley
10.7.1997	LAI Wai Yin	162,000	18.7.1997	Oriental Patron
11.7.1997	MO Siu Chung (through FANG's account)	100,000	18.7.1997) New Century)))
11.7.1997	FANG Naijun	300,000 (a total of 400,000 purchased)	18.7.1997	
11.7.1997	CHOW Ching Sum	100,000	18.7.1997 23.7.1997 4.8.1997	
11.7.1997	Setter Investments Ltd.	2,524,000 (rights)	18.7.1997	
11.7.1997	KWAN Lai Sheung	2,000,000 (rights)	18.7.1997 21.7.1997	Yardley and CA Pacific

It can be seen these purchases of Firststone shares were made against a chronologically contemporaneous background of approaches and negotiations between Guangnan Holdings, represented by James HUANG, and Firststone represented by Mr. KWEE as to the placement of 20% of Firststone's shares with Guangnan Holdings.

As can be seen from the above table^{4A}, those purchased shares were in large part sold on 18th July 1997, the first day of resumed trading when the announcement as to the agreed placement was put in the public arena.

The Inquiry

In due course the inquiry commenced on the 6th August 2003. That was some considerable time after the issue of the original notice in June of 2002.

^{4A} A detailed breakdown of the purchases and sales of Firststone shares by each of the implicated parties is at Annexure "H".

That delay was occasioned in large part by the difficulties experienced in locating most of the parties referred to in that original notice.

More will be said about this in due course but it was the unfortunate fact that a number of the named individuals had become the subject of an extensive investigation by the Hong Kong authorities of a large scale fraud perpetrated within the Guangnan Group so as to artificially bolster its profits which involved fraudulent letters of credit and the disguised use of Guangnan funds to speculate on the stock market. These matters impinged upon the scope, considerations and procedures of the Tribunal and as a matter of practicality caused great difficulty in locating and effecting service of documents upon persons who were to be the implicated parties and whose roles were inquired into by the Tribunal. A further cause of the delay was James HUANG's incarceration in prison until 6th June 2003 as a result of his convictions for various of these fraud offences involving the Guangnan Group.

The nature of the insider dealing allegations

Broadly speaking, the nature of the suspected insider dealings as placed before us during the inquiry concerned firstly James HUANG, regarded potentially as the primary source of the inside information (as he was in fact responsible for conducting the placement negotiations on behalf of the Guangnan Group) who with the assistance of Phoebe CHIU, the business manager of Guanfair, whose duties included trading in shares on behalf of the Guangnan Group, and Eddie CHOW a director of AIM used the four BVI companies accounts which had previously been set up for the purposes of general share trading to purchase Firststone shares on the basis of their inside information concerning the placement negotiations.

James HUANG was suspected to have utilized the assistance of Phoebe CHIU to operate the accounts of Lombok and Super Kingdom at Oriental Patron, Credit Lyonnais and Win Wong (her sister in law Diane CHU operating the Super Kingdom account at Oriental Patron). He was suspected to have utilized the assistance of Eddie CHOW in operating the accounts of Setter and Dragon Sentosa at AIM. Eddie CHOW was also

suspected to have been involved in the operation of the Dragon Sentosa account at CA Pacific (a company related to AIM).

Both Eddie CHOW and Phoebe CHIU were suspected to have assisted James HUANG in this regard whilst they themselves were in possession of relevant information provided by him for that purpose. Phoebe CHIU was also suspected to have "tipped" off her mother LAI Wai Yin. Both Phoebe CHIU and Eddie CHOW were suspected to have "tipped off" their friend KWAN Lai Sheung so far as the relevant information was concerned.

Within the Guangnan Group, Mr. MO wrote two reports (dated 23rd June and 11th July) concerning the state of the placement negotiations with Firststone at Mr. James HUANG's request. From his contact with that information for those purposes Mr. MO was then also suspected to have disclosed it to his colleagues Mr. XIE Ping, who assisted Mr. MO with the second report, and Mr. LO Hon Chuen and WANG Chengzhi. Madam CHOW Ching Sum worked on the same floor of the Guangnan Group's offices as Mr. MO, Mr. LO and Mr. WANG in the Sun Hung Kai Centre in Wanchai and was suspected to have obtained the inside information from one or more of them.

DENG Guoxin worked with Phoebe CHIU within Guanfair as a director at the Guangnan Group's other offices in the Guangdong Building in Connaught Road and had worked previously with James HUANG and was suspected to have obtained the inside information from one of them, as was TANG Wai Na who had also worked with James HUANG and was also suspected to have passed on the inside information to her husband YIP Hiu Sui.

WU Xuhui also worked within the Guangnan Group and although no obvious route for the possible transfer of the inside information existed so far as he was concerned, he was suspected to have obtained it from one of the other implicated staff members of the group.

LI Xiao Jian was a fellow director of Guangnan Holdings with James HUANG, though they worked in different areas of that company's offices and functions in Wanchai and additionally lived nearby James

HUANG at Beverly Court in Shamshuipo. He was also suspected to have obtained the inside information from James HUANG.

It can be seen then that there is one suspected primary source for the disclosure of any relevant information, i.e. James HUANG. Other suspected secondary sources i.e. Phoebe CHIU and Mr. MO potentially then passed that information onwards or disclosed it to other implicated parties. In Chapters 7-13 of this Report, we will deal with the roles of each implicated party. The structure of those chapters broadly traces the potential path of the relevant information from James HUANG, through Phoebe CHIU and their involvement with Mr. Eddie CHOW and the four BVI companies, Setter, Lombok, Super Kingdom and Dragon Sentosa onward to other staff of the Guangnan Group and finally to their implicated family members and friends.

CHAPTER 2

PROCEDURE

In this chapter, we summarize the procedures adopted by the Tribunal during the course of its own establishment and its preparation for and conduct of the inquiry into the matters the subject of its terms of reference.

Constitution of the Tribunal

By his original notice dated 26th June 2002, the then Financial Secretary Mr. Antony LEUNG required the Insider Dealing Tribunal to inquire into certain transactions in Firststone shares during the period 20th June 1997 to 23rd July 1997 (both dates inclusive). At the time of the issuance of that original notice there were no other materials yet completed and available so as to be forwarded to the Tribunal. That no doubt was due to the magnitude of this case which involved a large number of individuals and companies. Eventually in December 2002 following the receipt of some preliminary material detailing the events and transactions relevant to the section 16(2) notice, the Chairman sought the appointment of two lay members to the Tribunal pursuant to section 15(2) of the Ordinance. In due course, on the 3rd January 2003 the present Tribunal was constituted as follows:-

Chairman: The Honourable Mr. Justice McMahon
Judge of the Court of First Instance

Member: Mr. Norman NGAI Wai Yiu
Certified Management Accountant and the Vice
President (Resources and Administrative Services)
of the Hong Kong Institute of Education

Member: Mr. Dickson WONG Kai Tat
Certified Public Accountant and the Director of
Dickson Wong C.P.A. Company Limited

Upon the establishment of the Tribunal, the members read and perused the various preliminary materials forwarded by or on behalf of the Financial Secretary.

The Tribunal directed itself that those materials were not evidence in the inquiry and were, at that stage, merely to serve as introductory material for the assistance of members' understanding as to the subject matter of the inquiry.

The material presented to the Tribunal in that regard consisted initially of a synopsis and summary of the SFC investigation and later, and more fully, of copies of interviews and statements of various persons made during the course of that investigation, and various accompanying documents. In due course, copies of all those materials were made available to the implicated parties.

Appointment of Counsel for the Tribunal

Having perused those initial documents, the Tribunal on the 24th January 2003 and 3rd March 2003 respectively appointed Mr. Daniel MARASH, SC of the Hong Kong Bar and Mr. Wesley W.C. WONG of the Civil Division of the Department of Justice as Counsel assisting the Tribunal.

Issuance of Salmon Letters

Following the appointment of Counsel to the Tribunal, and after consultation with them, the Tribunal, pursuant to paragraph 17 of the Schedule to the Ordinance, considered on the basis of the materials before it whether any person's conduct should be the subject of the inquiry and whether on the basis of those materials any person was at that stage to be regarded as potentially implicated or concerned in the subject matter of the inquiry.

Following that consideration, the Tribunal decided that Salmon⁵ letters should be sent to various individuals. It can be seen from a sample letter at Annexure C that each person and company to whom such a letter was addressed upon receipt and perusal of that letter would well understand that the present Tribunal was to inquire into their role in suspected insider dealing in Firststone shares during the relevant period.

The individuals to whom it was decided the Salmon letters should be sent were the individuals and companies named in the original section 16(2) notice and additionally also Madam TANG Wai Na who was subsequently named, together with her deceased husband YIP Hiu Sui, in an amended section 16(2) notice from the Financial Secretary dated 23rd May 2003.

Those individuals and companies to whom it was decided Salmon letters should be sent were therefore:-

1. Lombok Holdings Limited ("Lombok")
2. Super Kingdom Investments Limited ("Super Kingdom")
3. Dragon Sentosa Limited ("Dragon")
4. Setter Investments Limited ("Setter")
5. James HUANG Xiao Jiang ("James HUANG")
6. MO Siu Chung ("MO")
7. FANG Naijun ("FANG")
8. XIE Ping ("XIE")
9. Phoebe CHIU Yuen Man ("Phoebe CHIU")
10. LAI Wai Yin ("LAI")
11. Diane CHU ("Diane CHU")
12. KWAN Lai Sheung ("KWAN")
13. Eddie CHOW Kar Chun ("Eddie CHOW")
14. DENG Guoxin ("DENG")
15. LI Xiao Jian ("LI")
16. LO Hon Chuen ("LO")
17. WANG Chengzhi ("WANG")

⁵ Salmon letters are so named after Lord Salmon who first suggested this procedure as being appropriate for the notification of persons whose interests may be affected by the findings of a Tribunal of Inquiry. A sample copy of such a letter is found at Annexure C to this Report.

18. CHOW Ching Sum ("CHOW")
19. WU Xuhui ("WU")
20. TANG Wai Na ("TANG")
21. YIP Hiu Sui ("YIP")

Attempts to serve Salmon letters on the implicated parties commenced from about the 16th March 2003.

The Service of the Salmon Letters

As the events before the Tribunal occurred in mid-1997, some six years prior to the Tribunal being provided with the full materials relating to the inquiry it was not unexpected that a number of the implicated individuals could no longer be located.

As events transpired this expectation was to be borne out. Of the 17 individual implicated persons, eventually only 8 were located, leaving 8 who had presumably left Hong Kong and proven to be unlocatable. Another of the implicated persons Mr. YIP had died.

This position was inevitably exacerbated by the fact that a criminal investigation, which resulted in prosecutions, had taken place into the affairs of the Guangan group of companies after the events the subject of this inquiry and a number of the senior staff of that group had been convicted of offences relating to the use of fraudulent letters of credit or were sought by the authorities.

Perhaps as a direct or indirect result of that disturbance to the group's business affairs, many of the persons to be the subject of this inquiry who had been employees of the group had left Hong Kong and returned to the mainland. In large part they became practically unlocatable. A significant but largely unsuccessful effort was expended in trying to locate those individuals and effect service of documents upon them.

There was some successful service effected. One of the implicated persons, Mr. James HUANG had been convicted in respect of

the above-mentioned letter of credit fraud and been sentenced to six years' imprisonment. At the time of the issuance of the Salmon letters, he was still serving that sentence in Hong Kong and so was able to be served with a Salmon letter.

Seven other implicated individuals were able to be located at various times, some during the course of the proceedings, and served with Salmon letters. They were:

1. Madam LAI Wai Yin
2. Madam KWAN Lai Sheung
3. Mr. Eddie CHOW Kar Chun
4. Mr. LO Hon Chuen
5. Mr. WANG Chengzhi
6. Madam CHOW Ching Sum
7. Mr. WU Xuhui.

As we have mentioned, one further of the implicated persons Mr. YIP Hiu Sui had died prior to the issue of the original section 16(2) notice. His wife Madam TANG Wai Na, also an implicated person, had been arrested in respect of the letter of credit fraud investigation but had absconded whilst on bail and, not surprisingly, was unlocatable in Hong Kong or elsewhere for the purpose of service of the Salmon letters.

Phoebe CHIU Yuen Man (the daughter of Madam LAI who appeared at the preliminary hearing) had left Hong Kong for Australia in April of 2003. But it was strongly suspected that she continued to maintain a residential address in Hong Kong. Various attempts to serve her at that address were made without success and eventually a copy of the Salmon letter addressed to her was left there.

Further, as will be seen, her mother, LAI Wai Yin, who was another implicated party was told it would be in her daughter's interest to be informed of the inquiry taking place when her mother subsequently appeared at the first preliminary hearing.

Of the remaining implicated persons the following had returned to the mainland or otherwise left Hong Kong and were unlocatable throughout the course of these proceedings:

1. Mr. FANG Naijun
2. Mr. XIE Ping
3. Mr. DENG Guoxin
4. Mr. LI Xiao Jian
5. Mr. MO Siu Chung
6. Madam Diane CHU.

Of the 4 implicated companies registered in the British Virgin Islands namely Lombok, Super Kingdom, Dragon and Setter, none were able to be served.

That is because in the case of Lombok, Super Kingdom, and Setter, they had been removed from the list of companies registered in that jurisdiction. Their present status was unknown to the authorities.

In the case of Dragon Sentosa Ltd., the only available address for it was incomplete and insufficient for any form of service upon it to be effected.

The purported agent's addresses for two of those companies in Hong Kong were known, namely Super Kingdom and Setter, and were inquired into and resulted in responses to the effect the particular company was not known by the occupants of the address.

Accordingly at the first preliminary hearing of this inquiry on 16th April 2003, there were appearances from or on behalf of only the following implicated individuals:

1. Mr. James HUANG who was not present as he was still serving his sentence of imprisonment but who was represented by Mr. Paul K.Y. CHENG of Paul Cheng and Co.

2. Mr. Eddie CHOW who was not present but who was represented by Mr. Ben K.K. WONG of TANG, LAI & LEUNG. Subsequently Mr. Kevin CHAN of counsel instructed by Messrs. TANG, LAI and LEUNG appeared for Mr. Eddie CHOW at the time of his giving evidence and for the purpose of making submissions.
3. Madam KWAN Lai Sheung who was not present but who was represented by Mr. Eric KWAN of Chan, Wong & Lam Solicitors. Subsequently Mr. Paul KWONG of counsel instructed by Messrs. Chan, Wong & Lam appeared for Madam KWAN at the time of her giving evidence and for the purpose of making submissions.
4. Mr. WANG who was present but unrepresented.
5. Madam LAI who was present but unrepresented.

As mentioned previously, Madam LAI is the mother of Phoebe CHIU. She was told at that first preliminary hearing that it was most important that her daughter be informed of these proceedings and that an address be provided to counsel assisting for the purpose of them effecting service of the documents of the inquiry upon her. Madam LAI however stated she had no knowledge of the whereabouts of her daughter or of any telephone number which could be used to contact her. Immigration records established that by that time Phoebe CHIU had left Hong Kong. Madam LAI herself never returned before the Tribunal and herself became unlocatable thenceforth.

As a result of the difficulties experienced by counsel assisting in locating various implicated persons being brought to the Tribunal's attention at that first preliminary hearing on the 16th April 2003 and also the insufficient time for some of the implicated parties to have been able to peruse the served materials and the particular difficulties of Mr. James HUANG in that regard whilst he was still in prison the preliminary hearing was adjourned to the 19th May 2003. That adjournment, it was expected would provide a further chance to locate some of the unserved implicated parties. Counsel assisting was asked to ensure that efforts to locate the implicated parties continue.

But on the 19th May upon the resumption of the preliminary hearing, the Tribunal was told there had been no further advances made in the attempts to serve or locate those implicated parties who had not yet been served. By this time those attempts at service which were still unsuccessful had spanned some two months.

Accordingly as there was nothing before the Tribunal which suggested any further adjournment of the preliminary hearing would result in any progress in the location and service of any further implicated party the Tribunal proceeded with the preliminary hearing on the 19th May.

Those present at the inquiry were told of the actions taken by the Tribunal up to that point of time. Particularly, the parties present were told that the Tribunal had:

- (1) Received a section 16(2) notice from the Financial Secretary. The notice was read.⁶
- (2) Read and considered statements, recorded interviews and documentary exhibits compiled by the SFC during its investigation.
- (3) Read summaries of evidence provided by counsel assisting the Tribunal.
- (4) Determined from those materials who should be considered potentially implicated parties for the purposes of the inquiry.
- (5) Issued Salmon letters to those parties and served all the materials in the case on those parties who had responded to the Salmon letters.
- (6) Requested the Financial Secretary to consider expanding the terms of reference of the existing section 16(2) notice so as to include

⁶ At that time the amended section 16(2) notice had not yet been provided to the Tribunal by the Financial Secretary.

Madam TANG Wai Na as a person whose dealings in Firststone shares during the relevant period as subject matter of the inquiry.

In addition to that the procedures to be adopted by the Tribunal were explained.

Other important matters dealt with at that hearing concerned firstly the position of James HUANG. Mr. HUANG while still in prison at that time was by then expected to be released on or about the 6th June 2003 (as indeed it subsequently transpired he was so released). The solicitor representing him was still at that time Mr. CHENG of Paul Cheng & Co.

Mr. CHENG on behalf of his client asked that any hearing date be set for a time after Mr. HUANG's release from prison as Mr. HUANG wished to be present at the Tribunal's hearing. Mr. CHENG was also anxious that after Mr. HUANG's release from prison sufficient time be allowed for Mr. HUANG to be able to peruse the documentation involved in the case and provide his representatives with instructions. That latter concern was echoed on their own client's behalf by Mr. WONG for Eddie CHOW and by Mr. KWAN for Madam KWAN.

The concerns of the representatives for Mr. HUANG, Eddie CHOW and Madam KWAN were reasonable in view of Mr. Marash's stated intention of providing a further statement by an expert witness Mr. WITTS as to the materiality of that said to be the relevant information the subject matter of the inquiry to the price of Firststone shares during the reference period. Counterbalancing these concerns of the representatives of the implicated parties for further time to take instructions from their clients was the Tribunal's own concern to have the inquiry commence as soon as possible.

That concern was due to the delay which had occurred already in bringing this matter to a hearing, some 6 years having passed since the events in question.

For these reasons the commencement of the hearing of the inquiry was set down for the 6th August 2003, some ten weeks after the preliminary hearing. In our view, that time frame addressed the above concerns of the represented implicated parties and additionally and importantly allowed a further period of time so as to allow the location of those implicated parties who had still not been able to be served. We should add here that even after the 6th August attempts to locate still unserved implicated parties continued. Those efforts included updated immigration information, newspaper advertisements and the accessing of Transport Department drivers licence records.⁷

A few days before the 6th August hearing was due to commence Mr. LO Hon Chuen was located and on the 6th August appeared before the Tribunal in person.

Before the commencement of proceedings on that day Mr. LO was given the opportunity to apply for an adjournment so as to be able to instruct a legal representative, or so as to be able to more fully peruse the case materials which had been served on him only some five days before. He declined to ask for an adjournment for either reason expressing his desire that the proceedings continue. He wished to be notified only when the evidence concerning him was to be called. That arrangement was made.

On the morning of the 6th August before proceedings commenced, the Tribunal received a letter from James HUANG. By that letter he informed the Tribunal that he had returned to China for family reasons and was now prevented from returning to Hong Kong for some two years or so because of Chinese Government prohibitions in that regard relating to persons such as him who had been convicted of criminal offences in Hong Kong. He asked for an adjournment of the proceedings for a further two years. No representative appeared for him before the Tribunal on that day or thenceforth.

⁷ By the 6th August, more than 4 months had passed since the first efforts of service of Salmon letters had been made.

The Tribunal decided it should not delay the proceedings for a further two years or so on the supposition that James HUANG may then be both entitled to and decide to return to Hong Kong. We took into account what his legal representative had told us at the previous preliminary hearings to the effect that if James HUANG returned to China he would be so precluded from returning to Hong Kong. Arrangements were to be made and had been made by counsel assisting the Tribunal to make it possible for James HUANG to remain in Hong Kong for this hearing. In our view, James HUANG had deliberately ignored these possible arrangements and had returned to China well knowing he could not re-enter Hong Kong for some years. Accordingly we decided to continue with the proceedings in his absence.

The hearing then commenced and was conducted over 48 sitting days from 6th August 2003 to 25th February 2004. On the Tribunal's directions counsel assisting, through the SFC, made continuing efforts to locate the still missing implicated parties.

On Monday 18th August as a result of those ongoing efforts to locate any missing implicated party Madam CHOW Ching Sum had appeared in person. By that time the Tribunal had heard the evidence of 16 witnesses (i.e. TW 1 to TW 16).

The Tribunal explained in some detail the history and nature of the proceedings to Madam CHOW who had been served with the Salmon letter relating to her, the section 16(2) notice of 23rd May 2003 and the other documentary materials in 13 volumes only on the previous Friday 15th August.

The Tribunal was particularly concerned with providing Madam CHOW with sufficient time to consider her position and in particular to decide what time she needed to read the materials she had been served with and determine whether she required a legal representative or advice. For that, and indeed quite separate reasons relating to the availability of witnesses the Tribunal adjourned for two days. Upon the resumption of the hearing on 21st August Madam CHOW told us that she wished the inquiry to continue without any adjournment and for herself to be

unrepresented. She, like all other implicated parties who had been located (and remained available to the inquiry), chose not to personally attend the inquiry until asked to attend to give evidence.

On the 17th September, another implicated party, who had been previously unlocated, Mr. WU Xuhui appeared. On that day, the Tribunal was hearing evidence by way of pre-arranged video link from Singapore. The witness was TW 26 Mr. Kumala KWEE. Mr. WU chose not to attend after being informed by the Secretary to the Tribunal that the Tribunal was sitting in the High Court that day.

On the 19th September, Mr. WU appeared before the Tribunal in person. He said he had been served with a Salmon letter the previous Monday 15th September and with the various statements of witnesses and documents only that morning. The Chairman explained to him, as he had with Madam CHOW, the history and nature of the proceedings and of his right to legal representation. The Tribunal, due to the commitments of its lay members and of counsel assisting, then adjourned for two weeks. Upon resumption of the hearing on the 9th October, Mr. WU was represented by David HUI of David HUI & Co. who told us that he wished the proceedings to continue. Mr. WU wished to be notified for the purpose of giving evidence only and chose not to otherwise personally attend the inquiry. Mr. HUI attended the proceedings from October onwards. Subsequently Mr. HUI's firm instructed Catherine WONG of counsel to appear for Mr. WU when he gave evidence and at the time of submissions.

That concludes the history of appearances by implicated parties before the Tribunal.

The Inquiry

As stated earlier, the proceedings of the Tribunal were inquisitorial in nature rather than adversarial. That provided the Tribunal with considerable flexibility in dealing with the materials before it.

It was always borne in mind that the purpose of the Tribunal was not to build a case against a particular individual or individuals, but to hear evidence which would assist it in getting to the truth of the matters the Tribunal was required to inquire into.

Bearing that ultimate aim of the Tribunal in mind we emphasize for the purpose of this Report that whilst the procedures adopted by the Tribunal were flexible, the Tribunal was always aware that a primary consideration was fairness to the persons who were involved as implicated parties in the inquiry. At no time was any procedure adopted by the Tribunal which in the view of its members may have resulted in unfairness to any person in those categories.

At the commencement of the inquiry, counsel for the Tribunal made an opening statement. That statement had earlier been served in written form on the implicated parties. It was comprehensive, and effectively summarized the material which concerned each implicated person.

The Tribunal reminded itself however that it was not evidence, but was merely an aid to the understanding of the evidence which was to follow. The evidence was then called before the Tribunal. That evidence took the form of the oral evidence of witnesses, witness statements or affirmations, various documentary exhibits and schedules. As to the latter, the Tribunal was again careful to remind itself that schedules and charts which had been prepared for this hearing could not be relied upon unless they were properly proven from their source materials. In other words, before relying upon them the Tribunal satisfied itself that they were accurate and based upon reliable evidence otherwise before the Tribunal.

The evidence and the nature of the evidence called before the Tribunal is summarized generally at Chapter 4 of this Report. So far as particular aspects of the evidence we thought important are concerned, such evidence is set out in more detail in those chapters dealing with our findings.

The order of the calling of witnesses was notified to the implicated parties. In respect of implicated parties who had elected not to attend the sittings of the Tribunal they were notified in advance of the calling of any witness they wished to cross-examine.

Witnesses who were not implicated parties who gave evidence before the Tribunal were led through their evidence by counsel assisting. They were then available for cross-examination by any implicated party or their representative.

Witnesses who were available implicated parties were led through their evidence by their own representative, or if unrepresented gave their evidence in chief by themselves. At the conclusion of their evidence in chief the implicated party was then cross-examined by counsel assisting the inquiry. They were available for cross-examination by any other implicated party.

All available implicated parties (whether represented or not) were requested to provide a witness statement to the Tribunal prior to giving evidence. All who gave evidence did so and that statement was adopted by them as part of their evidence in chief. Most implicated parties who gave evidence also provided a written statement of their case. They had been permitted, but not required to do so.

With few exceptions (the more important being referred to specifically in the body of this Report) all non-implicated witnesses adopted their statements to the SFC. Implicated parties who were witnesses were in the main simply cross-examined on their previous statements though the Tribunal regarded such statements as part of the evidence before it in any event.

Statements made by implicated parties who were unlocatable and therefore unavailable as witnesses before the Tribunal were read before the Tribunal and accepted by the Tribunal as part of the evidence before it. Those statements were in the form of records of interviews of the implicated parties conducted by SFC officers. They are simply

referred to as "statements" throughout this Report as are the records of interviews of ordinary witnesses conducted by SFC officers.

At the end of the evidence we had submissions from counsel assisting and those parties who wished to make them and following that provided our findings as to paragraphs (a), (b) and (c) of our Terms of Reference to the Financial Secretary. Orders made pursuant to sections 23, 26, 26A and 27 of the Ordinance will be dealt with in the concluding chapter to this Report.

One further matter should be mentioned. On the 10th December 2003, some four months after the commencement of the taking of evidence one of the members brought to the attention of the Chairman that the member had had some contacts with one of the Tribunal witnesses. That witness was TW 3 Mr. Louis CHOW. In the view of the Chairman those contacts were entirely innocent and in no way prejudiced the interests of any of the implicated parties or of the Tribunal itself.

On the 15th January 2004, after providing the implicated parties with an opportunity to make submissions in respect of the matter, no implicated party wishing to do so, the Chairman delivered a ruling on the matter.

That ruling is at Annexure D.

CHAPTER 3

THE LAW

Having in the previous chapters addressed the general nature of the events the Tribunal was to inquire into and the procedures adopted for the purposes of the inquiry we now turn to the fundamental aspects of law which were applied by the Tribunal in the course of inquiring into those events and arriving at its determinations of fact.

It should be borne in mind that what is set out in this chapter is by no means intended to be a complete description of every aspect of the law which was considered and applied by us. Rather the purpose of the chapter is to simply set out the more general and fundamental principles of law which underlay our inquiry.

The Ordinance

The law applied to this hearing is that contained in the provisions of the Ordinance (i.e. the Securities (Insider Dealing) Ordinance Cap. 395). That is because the operation of the Ordinance is preserved so far as the present inquiry is concerned by the transitional provisions of the new Securities and Futures Ordinance Cap. 571 as contained in Schedule 10 sections 77 and 78. The provisions of the latter section potentially apply only to the two additional parties named in the Financial Secretary's amended notice under section 16(2) of the Ordinance dated 23rd May 2003, i.e. Madam TANG and her husband Mr. YIP.

Apart from Madam TANG and Mr. YIP's position all other implicated parties are named in the original section 16(2) notice dated 26th June 2002 and so fall plainly within the provisions of section 77 to Schedule 10 of the new Securities and Futures Ordinance. In short these proceedings are governed by the Ordinance.

The provisions in the Ordinance which were of particular relevance to this inquiry are as follows:-

(a) "Connected persons"

"4. "Connected with a corporation"

- (1) A person is connected with a corporation for the purposes of section 9 if, being an individual –
- (a) he is a director or employee of that corporation or a related corporation; or
 - (b) he is a substantial shareholder in the corporation or a related corporation; or
 - (c) he occupies a position which may reasonably be expected to give him access to relevant information concerning the corporation by virtue of –
 - (i) any professional or business relationship existing between himself (or his employer or a corporation of which he is a director or a firm of which he is a partner) and that corporation, a related corporation or an officer or substantial shareholder in either of such corporations; or
 - (ii) his being a director, employee or partner of a substantial shareholder in the corporation or a related corporation; or
 - (d) he has access to relevant information in relation to the corporation by virtue of his being connected (within the meaning of paragraph (a), (b) or (c)) with another corporation, being information which relates to any transaction (actual or contemplated) involving both those corporations or involving one of them and the listed securities of the other or their derivatives or to the fact that such transaction is no longer contemplated; or
(Amended 29 of 1994 s. 4)
 - (e) he was at any time within the 6 months preceding any insider dealing in relation to the corporation a person connected with the corporation within the meaning of paragraph (a), (b), (c) or (d).
(Amended 29 of 1994 s. 4)"

(b) "Relevant Information"

"8. Relevant Information

In this Ordinance "relevant information" (有關消息) in relation to a corporation means specific information about that corporation which is

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

(c) "Insider Dealing"

"9. When insider dealing takes place

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

- (a) when a person connected with that corporation who is in possession of information which he knows is relevant information in relation to that corporation deals in any listed securities of that corporation or their derivatives (or in the listed securities of a related corporation or their derivatives) or counsels or procures another person to deal in such listed securities knowing or having reasonable cause to believe that such person would deal in them;
- (b)
- (c) when relevant information in relation to that corporation is disclosed directly or indirectly, by a person connected with that corporation, to another person and the first-mentioned person knows that the information is relevant information in relation to the corporation and knows or has reasonable cause for believing that the other person will make use of the information for the purpose of dealing, or counselling or procuring another to deal, in the listed securities of that corporation or their derivatives (or in the listed securities of a related corporation or their derivatives);
- (d)
- (e) when a person who has information which he knows is relevant information in relation to that corporation which he received (directly or indirectly) from a person –
 - (i) whom he knows is connected with that corporation; and
 - (ii) whom he knows or has reasonable cause to believe held that information by virtue of being so connected,deals in the listed securities of that corporation or their derivatives (or in the listed securities of a related corporation or their derivatives) or counsels or procures another person to deal in those listed securities or their derivatives;
- (f)"

A fundamental question which arose on the evidence before us was at what stage the information concerning the placement of Firststone shares to Guangnan Holdings became specific information.

It will be recalled from Chapter 1 that this information was generated over a period of days in June and July of 1997 during the course of which various meetings and negotiations had occurred between persons representing Guangnan Holdings and Mr. KWEE (who controlled the majority of Firststone shares).

The evidence relating to the development of that information into specific information will be dealt with in Chapter 5 of this Report. The law relating to what is sufficiently specific information so as to be relevant information for the purposes of section 8 will also be dealt with at that time.

Considerations of Fact and Law

As a starting point the Tribunal complied with the provisions of paragraph 13 of the Schedule to the Ordinance:-

"Every question before the Tribunal shall be determined by the opinion of the majority of the members except a question of law which shall be determined by the chairman."

Every question of law which arose throughout the present proceeding was decided by the chairman.

Members were directed by and complied with directions of law given by the chairman.

So far as findings of fact were concerned the Tribunal proceeded on the basis that the members should try to be unanimous so far as possible in such findings but that otherwise a finding of fact could be made on the basis of the decision of a majority of the members. Members were directed that findings of fact could be based only on the

evidence called before the Tribunal and not on speculation or guesswork as to what lay behind or beyond that evidence.

The two lay members of the Tribunal were both qualified and senior members of the accountancy profession. Both had professional knowledge of certain aspects of the Hong Kong securities industry. In those circumstances the Tribunal was alert to any danger of it becoming its own witness. The Tribunal directed itself accordingly.

Standard of Proof

The standard of proof adopted by this Tribunal so far as any finding of fact adverse to an implicated party was concerned was that of proof to a high degree of probability.

We adopt, as have previous Tribunals, as correctly expressing the law in this regard the comments of the Tribunal contained within the Parkview Report:-

“The standard of proof should be simply stated and remain the same throughout. It is a high standard of proof – not the highest reserved for criminal allegations – but nonetheless high. It is not appropriate to say that within a given inquiry the more serious the allegation the higher the standard should be. The standard at all times is high. “A high degree of probability” refers to the top end of the civil standard. It is set high because the issues are serious. A finding of insider dealing against an individual is a finding of wrongdoing which will adversely affect his or her reputation. It carries with it penal sanctions and public obloquy.”

In the opinion of this Tribunal that standard of proof is commensurate with and proportionate to the gravity of the allegations of insider dealing the subject of our inquiry.

We bore in mind during the course of our deliberations that such a standard of proof is a genuinely high standard.

Inferences

It is not an exaggeration to say that in respect of a very considerable number of findings of fact made by the Tribunal those facts were inferred from other facts which had been established to the Tribunal's satisfaction.

It is true to say that commercial transactions of an unlawful or prohibited nature or the particulars of individual's involvement in and knowledge of those transactions are rarely wholly provable by direct evidence and that very often the question of the drawing of inferences looms large in the resolution of factual issues relating to such transactions.

In the course of the present inquiry it was necessary for the Tribunal on many occasions to consider whether certain inferences adverse to a particular person or company should be drawn.

In approaching the question of inferentially proven facts the Tribunal directed itself that any inference to be drawn adverse to any individuals or companies interest must be the only reasonable inference which could be drawn from the other established facts.

"Counsel" or "Procure"

In determining the roles of certain implicated parties, particularly those of James HUANG and Phoebe CHIU, we on occasion had to consider whether they had counselled or procured others to purchase Firststone shares.

In approaching that question we accepted the meaning of those words as they appear in section 9 of the Ordinance, and in the circumstances of this matter, to be as follows:-

"Counsel": we took to mean to advise in favour of or to encourage the purchase by another of Firststone shares.

"Procure": we took to mean to take steps to, or to initiate a course of action so as to, bring about the purchase by another of Firstone shares.

The separate cases of the implicated parties

In many instances the evidence relating to one implicated party related also to the case of another implicated party. There was a considerable degree of commonality of relevant evidence amongst the cases of various implicated parties.

Further in terms of the various cases of the implicated parties many had similar factual backgrounds and gave rise to similar issues.

For these reasons the Tribunal was particularly careful to direct itself that the case of each implicated party should be considered separately and that a finding of culpability or non-culpability in respect of one implicated party did not mean that a similar finding should be arrived at in respect of any other implicated party.

Their opportunity to be heard

Section 16(5) of the Ordinance is in the following terms:

"16. Inquiries into insider dealing

- (5) The Tribunal shall not identify any person as an insider dealer or as a person to whose breach of the duty imposed on him by section 13 the insider dealing by a corporation may be directly or indirectly attributable without first giving such person an opportunity of being heard."

In respect of a large number of the implicated persons there was no successful service upon them of any Salmon letter nor was there any other provable form of contact with them which formally or even informally notified them of the present inquiry.

Into this category fell the following:

1. MO Siu Chung

2. FANG Naijun
3. XIE Ping
4. Diane CHU
5. DENG Guoxin
6. LI Xiao Jian
7. TANG Wai Na (and Madam TANG's husband YIP Hiu Sui who had predeceased the commencement of this inquiry).

In respect of another broad category of implicated persons they were located and were able to be served prior to the commencement of this inquiry or during it with Salmon letters and with materials containing the evidence eventually led before the Tribunal.

Those persons were:

1. Madam LAI Wai Yin
2. Madam KWAN Lai Sheung
3. Mr. Eddie CHOW Kar Chun
4. Mr. LO Hon Chuen
5. Mr. WANG Chengzhi
6. Madam CHOW Ching Sum
7. Mr. WU Xuhui.

Between those two larger groups of implicated persons fell firstly the situation of Phoebe CHIU Yuen Man. Whilst not served formally with a Salmon letter and the inquiry materials, the Tribunal nevertheless had to consider whether she, by leaving Hong Kong in April of 2003, had deliberately absented herself so as to avoid service of those materials and avoid giving evidence before the Tribunal.

Secondly, James HUANG had also been served with all materials pertinent to the inquiry and had indeed been represented at the preliminary hearing. He had chosen to leave Hong Kong after his release from prison rather than to stay and attend the hearing.

Finally was the situation of the four BVI companies Lombok, Setter, Super Kingdom and Dragon Sentosa. No service was ever effected upon them.

Each of the absent parties' positions in respect of section 16(5) of the Ordinance is examined in later chapters when that implicated person's role in the suspected insider dealing is considered by us in detail.

For present purposes we take the law as expressed in section 16(5) of the Ordinance as being that before any person can be identified as an insider dealer pursuant to section 16(3)(b) and therefore pursuant to paragraph (b) of our terms of reference, any such person must first be availed of an opportunity to be heard.

Whether such a person has been given an opportunity to be heard is very much a question of fact.

In our view however a person has not had an opportunity to be heard if firstly he cannot be proven to have had some form of notice of these proceedings whether by way of Salmon letter or by way of some other less formal communication.

Secondly, he has not had an opportunity to be heard if he has not been placed in a position to be able to know of the evidence concerning him and to generally be made aware of materials relevant to any role he is thought to have played relating to any insider dealing.

In our view this latter principle was potentially particularly important in considering the individual cases of implicated parties who were located and served only after the commencement of these proceedings.

Those persons, upon their location, were provided with Salmon letters and the documentary materials and evidence which had been provided to the Tribunal. They were also provided with, or directed as to how to obtain, a transcript of all of the proceedings of the Tribunal up to that point in time.

Precisely how each individual implicated party was dealt with will be considered in more detail in due course in the chapter relating to that individual.

Character

In considering the evidence before us we reminded ourselves that the implicated parties (with the exception of James HUANG and XIE Ping) were persons of previous good character. That enhanced their credibility as witnesses so far as they gave evidence or had made witness statements. It rendered them also of a lesser propensity to commit unlawful acts.

So far as James HUANG and XIE Ping are concerned both had previously been convicted of frauds upon or involving the Guangan group of companies.

In their cases whilst they did not get the same benefit of good character as did the other implicated parties the Tribunal reminded itself that their previous convictions should in no way be held against them in assessing their credibility so far as their witness statements were concerned (neither gave evidence) or in any consideration by the Tribunal as to their roles in the events the subject of the inquiry.

Lies

On some occasions we were satisfied that various implicated parties who appeared before us told lies, both in terms of their various statements provided to the Tribunal and their evidence before the Tribunal. We were also satisfied that other implicated parties who had not appeared before us and whose evidence was before us in the form only of the statements they had made to SFC interviewers had also in those statements on occasion told lies. Those lies were, in their fundamentals, directed at exonerating them from trading in Firststone shares under the direction of another or whilst in possession of relevant, or any, information concerning the proposed 20% placement of Firststone shares to Guangan Holdings, or procuring dealings in Firststone shares at all, or combinations of the above.

The Tribunal directed itself in terms of the observations made regarding lies in the Public International Investments Limited Report as follows:-

“To the extent that we may decide that lies have been told to the SFC or to this Tribunal we are conscious of the fact that there may be reasons for lies consistent with absence of any wrongdoing, or of the particular wrongdoing alleged, and that it is only if we exclude such reasons that lies may support the allegation of that particular wrongdoing. We are also conscious of the fact that although a lie of itself proves nothing, save that the lie has been told, “lies can in conjunction with other evidence tend to support an inference of guilt in the sense that they can confirm or tend to support other evidence which of itself is indicative of guilt. ... we have ... borne well in mind the question whether a lie may have been motivated not by a realization of guilt of insider dealing, but by a realization of guilt of some other wrongdoing or by a conclusion or fear (whether justified or not) that certain conduct would be viewed by others as improper, or by a feeling that the truth was unlikely to be believed ... also that before a lie may be used to support a particular allegation, we have first to be satisfied that the lie was deliberate, and that it is material to the issue we have to decide”.

So far as any lie told by any implicated party in the present inquiry is concerned we ignored it as any proof of that party's involvement in insider dealing. That is because, in our view, there may well have been a number of reasons consistent with activities other than insider dealing which may have prompted those individuals to lie. The companies for which many of the implicated parties worked or they themselves may have been involved in or been peripheral to significant fraudulent activities within the Guangnan Group which may have overlapped the period of our terms of reference. That may have been one reason unconnected with insider dealing for individuals to have told us lies. Further, others may have lied, in the circumstances of this case, because they acted on rumour or at least information which was less than

specific and they were fearful that in so doing they had acted wrongly and accordingly falsely denied they had any information concerning Guangnan Holdings taking a stake in Firststone at all.

As many individual cases in the present inquiry revolved around the question as to whether the individual had relevant information at the time of their trades, the latter consideration was one we addressed quite frequently.

In short for various reasons associated with different implicated parties whom we concluded had told lies, we were satisfied those lies could well have arisen, in the circumstances of this case, for reasons other than a desire to disguise their involvement in any actual insider dealing and we did not take those lies into account as evidence supportive of their guilt.

Having said that we did of course take those lies into account in assessing the credibility of the implicated parties' evidence in whatever form it was in.

The statements of the implicated parties and other witnesses

We accepted the prior statements of implicated parties and other witnesses as evidence before us, regardless as to whether that individual gave oral evidence.

What weight we attached to those statements varied in the circumstances of the particular case.

In the event the witness did not give evidence we bore in mind that the statement had not been subjected to anything in the way of cross-examination.

In the event the witness or party did give evidence and adopted the statement as true we regarded it simply as part of his or her evidence. In the event, the witness denied the truth of the earlier statement made by them, or it conflicted in some way with the evidence they gave in their oral testimony before the Tribunal we still regarded the earlier statement

as part of the evidence of that witness and also took the conflict into account in assessing the witness's credibility. Generally, we bore in mind in deciding what weight to place upon the conflicting testimony that statements to the SFC were not given upon oath or affirmation unlike the witness's testimony before the Tribunal. We did however take into account that the witness's statement was made much closer in time to the events it described than the witness's evidence before us.

So far as any implicated parties made admissions against their interest in those statements or in their evidence, we generally placed a higher evidential value upon that admission.

The Defence of Agency

Section 10(4)

In the course of our deliberations concerning Phoebe CHIU and Eddie CHOW we had to consider the provisions of this section. It is in the following terms:-

"10. Certain persons not to be held insider dealers

- (4) A person who, as agent for another, enters into a transaction which is an insider dealing shall not be held to be an insider dealer if he establishes that he entered into the transaction as agent for another person and he did not select or advise on the selection of the securities to which the transaction relates."

The question is what sort of agency is contemplated by section 10(4)? It is not defined in the Ordinance.

In *Kennedy -v- De Trafford* (1897) AC 180 Lord Herschell remarked "No word is more commonly and constantly abused than the word 'agent'. A person may be spoken of as an 'agent' and no doubt in the popular sense of the word may properly be said to be an 'agent', although when it is attempted to suggest that he is an 'agent' under such circumstances or create the legal obligations attaching to agency that use of the word is only misleading."

In our view, the section was never intended by our legislature to impart a popular or colloquial meaning to that word. Rather the intent

of the legislature, particularly given the specific meanings attached to the other provisions allowing defences to insider dealing by categories of individuals, was in our view to attach a formal and legalistic meaning to the concept of "agent" as referred to in section 10(4).

There are various categories of relationships between individuals which are recognized by law as amounting to an agency.

There is a general category which relies upon an authority being provided to an individual to create contractual relations between his principal and third parties. That authority is itself usually contractual.

Within and sometimes in addition to that general category are specific relationships recognized by the law as creating a situation of agency. Examples of such relationships are solicitors and their clients, insurance brokers and their customers, and partnerships.

But so far as the law gives to any such relationship the quality of "agency" it does so on the basis that there are legally enforceable rights and obligations given to and imposed upon each of the parties to the agency.

Such relationships are formal and legally binding. They almost always come about in a commercial environment. They have their roots in contract.

In our view the sort of agent referred to in section 10(4) is that class of individual recognized as such by law. Before the defence can be established the party relying upon it must show that they were acting under some obligation imposed by law to comply with the instructions of their principal.

In our view an informal arrangement between friends or associates which results in one purchasing shares for another is not an "agency" as contemplated by the provisions of section 10(4).

Such an arrangement would not be intended to form a contractual or legally binding relationship, and would not be enforceable as a relationship of agency.

In our view only Eddie CHOW as a professional stock advisor, as he called himself, could realistically, of all the implicated parties, have fallen into the category of agent. Accordingly it is only in respect of his role that we undertake an examination of the possible application of section 10(4) as a defence to any insider dealing conducted by him. The onus of proof of such a defence is upon the implicated party. It is proven on the balance of probabilities.

CHAPTER 4

A SUMMARY OF THE ISSUES AND OF THE NATURE OF THE EVIDENCE BEFORE THE TRIBUNAL

The evidence before the Tribunal extended over 43 days between the 6th August 2003 and 15th January 2004.

During that time, the Tribunal heard oral evidence from 31 witnesses.

They were:-

TW 1 ⁸	SUN Wen Jie	Vice President, Hong Kong Chinese Enterprises Association
TW 2	Gilbert CHU Kwok Tsu	Director, Sun Hung Kai Securities Limited Director, Sun Hung Kai International Limited
TW 3	Louis CHOW Ka Leung	Senior Manager of Surveillance Department in Enforcement Division of Securities and Futures Commission
TW 4	Miss YIP Sing Wai	Retail investor
TW 5	Miss HSU Yuen Ming	Fund Manager, AIG Investment Corporation (Asia) Limited
TW 6	Darryl SIN Chung Wai	Broker, CA Pacific Securities Limited
TW 7	WONG Kam Wing	Retail investor

⁸"TW" refers to "Tribunal Witness"

TW 8	Richard Arthur WITTS	Expert witness as to price materiality of placement information
TW 9	Barry CHU Kwok Yee	Account executive, Oriental Patron Securities Limited
TW 10	Horace WONG Chung Man	Stock Broker with Credit Lyonnais Securities (Asia) Limited
TW 11	KWAN Tart Yung	Director, Win Wong Securities Limited
TW 12	MA Jichao	Dealer, Guangdong Securities Limited
TW 13	CHAN Kin Sun	Director/Dealer, Yardley Securities Limited
TW 14	YAN Wa Tat	Managing Director, Taiwan Concord Capital Securities (Hong Kong) Limited
TW 15	Venice CHEUK Siu Ying	Director, New Century Securities Limited
TW 16	Dora CHEUNG Siu Kaap	Clerk at Guangnan Group
TW 17	YUNG Chun Man	Accountant for Guangnan Group
TW 18	LEE Lan Hing	Deputy Office General Manager, Guangnan (Holdings) Limited
TW 19	HUI Wai Fan	Clerk in Guangnan Group
TW 20	Patrick Gilwan MEANEY	Senior Manager in the Enforcement Division of the Securities and Futures Commission
TW 21	Patricia LEUNG	Senior Manager in the Enforcement Division of the Securities and Futures Commission

TW 22	William PEH	Business Consultant
TW 23	Wallace YUEN	Investment Executive, Capital Asia Limited
TW 24	NG Kong Sing	Finance Manager, Hong Kong Chinese Enterprises Association
TW 25	CHUNG Tak Ming	Manager, Sun Hung Kai International Limited
TW 26	Kumala KWEE	Chairman of Firstone International Holdings Limited
TW 27	Carson WEN	A partner of a firm of solicitors, Messrs. Heller, Ehrman, White & McAuliffe and a non-executive director of Guangnan (Holdings) Limited
TW 28	Timothy CHEUNG Man Yau	An accountant who had been a director and company secretary of Firstone International Holdings Limited
TW 29	Billy CHEUNG Chung Wai	A manager in the Enforcement Division of the Securities and Futures Commission
TW 30	Victor LEUNG Wing Kin	Head of Translation Department of the Securities and Futures Commission
TW 31	Dennis WONG Wing Cheung	Senior Manager in the Enforcement Division of the Securities and Futures Commission

Additionally, the following six implicated parties gave oral evidence:-

1. LO Hon Chuen
2. WANG Chengzhi

3. CHOW Ching Sum
4. WU Xuhui
5. KWAN Lai Sheung
6. Eddie CHOW Kar Chun.

So far as all the witnesses and implicated parties who gave oral evidence before the Tribunal were concerned, we had also as evidence before us their statements made to investigators of the SFC during the course of the investigation of these matters. The implicated parties also provided statements made for the purposes of the inquiry. All of those witnesses and parties in their evidence, with a few notable exceptions, adopted the contents of their earlier statements as being true to the best of their knowledge and belief.

There were also five witnesses who were not required to give oral evidence and whose statements (including records of their interviews by SFC officers) were simply read out and produced in evidence. They were:-

1.	XIN Janet Svampe	Deputy Manager of Office Administration, Guangnan (Holdings) Limited (since 5 th July 1997)
2.	David KELLY	General Manager, Offshore Incorporations Limited
3.	Candy WU Kam Ting	Clerk in the Enforcement Division of the Securities and Futures Commission
4.	CHO Wai Ling (Vanna)	Clerk in the Enforcement Division of the Securities and Futures Commission
5.	Angela WONG Mei Mei	Manager of the Securities and Futures Commission

Additionally, so far as those implicated parties were concerned who could not be located or were not available for the purpose of these proceedings, we had before us their statements made to investigators

during the SFC investigation of those matters. Those implicated parties who fell into this category were:

1. James HUANG Xiao Jiang
2. Phoebe CHIU Yuen Man
3. MO Siu Chung
4. XIE Ping
5. LAI Wai Yin
6. Diane CHU
7. DENG Guoxin
8. TANG Wai Na
9. YIP Hiu Sui.

No statements of any sort were obtained from FANG Naijun and LI Xiao Jian as both had left Hong Kong before the SFC could interview them.

Additionally, no interviews were ever able to be conducted with the persons described as the sole directors of Setter, Lombok, Super Kingdom and Dragon Sentosa, namely LEI Weiguang, POON To Chi, CHO Kin Wah and QIN Shanxue respectively.

It is not our purpose, nor would it be practical given the volume of evidence involved, to summarize in detail the evidence of all the oral witnesses and statement makers provided to us in this chapter. In due course, we will refer to relevant aspects of the evidence when we come to consider the issues relating to the roles of each of the implicated parties in the chapters which follow.

In considering all of the evidence of witnesses (including the implicated parties) we bore in mind that the oral evidence of a witness on oath or affirmation, which is subject to the examination of counsel and the Tribunal itself, has certain inherent advantages so far as the assessment of its reliability is concerned as opposed to a purely documentary record of interview or statement of a witness produced to us in the absence of that witness and therefore produced without the support of any affirmation or oath or the opportunity to question the maker.

Nevertheless we accepted such statements or interviews as evidence before us and bearing the above in mind attached to them what weight we thought appropriate.

In addition to the evidence received by the Tribunal by witnesses orally or by way of statements, we had produced before us a large volume of documentary materials.

Many of those materials were reduced for ease of reference to the form of charts or schedules. Before we relied upon any such chart or schedule we satisfied ourselves that it accurately reflected the underlying exhibits and that those exhibits were reliable.

The documents which were produced were in some relatively few cases produced by the person who made the document or had personal knowledge of it. But very often documents were allowed into evidence by us, together with statements written upon them, without proof of authorship. The provenance of these documents was often plain upon the face of the document or was proven through the evidence of witnesses such as Mr. Billy CHEUNG, TW 29. We bore in mind the provisions of section 17(a) of the Ordinance to the effect that:

"17. The Tribunal may, for the purpose of an inquiry under this Ordinance -

- (a) receive and consider any material whether by way of oral evidence, written statements, documents or otherwise, notwithstanding that such material would not be admissible in evidence in civil or criminal proceedings in a court of law."

The fact however that a document or other form of evidence was admitted into evidence while in a court of law it may have been excluded did not mean we ignored its nature. Though we admitted hearsay evidence for example we were alert to the inherent weaknesses of that sort of evidence in assessing what weight to place upon it.

In determining what weight to attach to a document as evidence we took into account its provenance and its nexus with particular

individuals where appropriate. The particular nature of the document was another matter going to its weight. For example bank records or security firm's trading records were documents we generally accepted as reliable whereas we treated, again for example, handwritten notes appearing on documents with much greater caution.

Some Common Ground

Much of the general evidence was not in issue. We say that against a background of only six of the twenty-one implicated parties giving evidence before us. But from their oral evidence and the statements of all of the implicated individuals produced before us it is apparent that certain fundamental matters are common ground. Those matters include the structure of the Guangnan group of companies which were held directly or indirectly by Guangdong Enterprises and the position and title of those directors or employees of the Guangnan Group who are implicated parties.

Further the occurrence of dealings in share trading accounts was not in issue nor was the movement of funds in various bank accounts connected to that share trading.

The movement in price of Firststone shares was also common ground both as to the ordinary shares and the nil paid rights shares.

So far as these general or background corporate and financial matters were concerned, they were in many cases reduced to the form of charts or schedules and we were provided with evidence in the form of witness statements or the oral evidence of witnesses which established, albeit on occasion indirectly, those matters as set out in such charts or schedules to our satisfaction. That evidence was primarily provided by TW 8 Richard WITTS, who produced various charts prepared by or confirmed by himself, TW 3 Louis CHOW who did the same and importantly by TW 29 Billy CHEUNG of the SFC.

Proof of the seizure of some documents from offices of the Guangnan group of companies was provided by TW 20 Patrick MEANEY and TW 21 Patricia LEUNG.

Other documents such as trading accounts were confirmed in their identity by witnesses whether implicated parties or not and whether orally in their evidence or through their statements to the SFC.

Many documents were self evident as to their provenance and were admitted into evidence on that basis alone.

The fundamental issues which arose and the general nature of the evidence relating to those issues

Although there were twenty one individuals or companies considered by us to be persons potentially implicated in any insider dealing activities which took place, and therefore over the course of the inquiry as a whole there were a myriad of specific issues to be resolved, it is true that there were a number of fundamental issues common to all or a number of the implicated parties.

The negotiations leading up to the placement of 20% of Firstone shares with Guangnan Holdings as Relevant Information

The first such issue was the question as to whether and when the information concerning the placement of Firstone shares with Guangnan Holdings became relevant information for the purposes of section 8 of the Ordinance. An important consideration within this issue was at what stage any such information became sufficiently specific so as to fall within the requirements of that section's definition of relevant information.

The evidence relating to the specific nature of the negotiations

Important witnesses in that regard were firstly TW 2, Gilbert CHU, the director of SHKIL who had been instrumental in introducing TW 26 Mr. KWEE of Firstone to James HUANG of Guangnan Holdings in relation to the placement proposal, and who had been present at the first meeting between Mr. KWEE and Mr. HUANG on the 26th June 1997 (a date we determined to be accurate).

Additionally, the evidence of TW 22, Mr. William PEH, a friend and advisor to Mr. KWEE who had also been involved to some extent in the negotiations leading up to the placement and who had acted as something of a "go-between" during the course of the negotiations, had a bearing on this issue.

The evidence of Mr. KWEE himself was also important as to the specificity of the information concerning the placement as at various times and was given by a video link established between Hong Kong and Singapore.

The evidence of the absent James HUANG was confined to that contained in his records of interview but obviously, matters of weight apart, also had a direct bearing on whether and when the various negotiations and discussions between Mr. CHU and Mr. PEH and eventually himself and Mr. KWEE matured into specific, and potentially therefore, relevant information.

Another witness whose evidence was somewhat relevant in this regard was TW 25 CHUNG Tak Ming, a manager working under Gilbert CHU at SHKIL at the time of the placement negotiations and who was responsible for the compilation of some preliminary documents relating to the placement.

Another such witness was TW 28 Timothy CHEUNG, a director and company secretary of Firstone at the relevant time who had heard something, though not perhaps a great deal, of the negotiations and who attended some, but not all, of the later meetings between Firstone and Guangnan Holdings representatives after the first meeting between Mr. KWEE and James HUANG.

In addition to the evidence of oral witnesses (and the contents of James HUANG's records of interview) various documentary exhibits also had a significant bearing on the specificity of the information concerning the placement negotiations at various times. One such category of documents were two reports prepared, on the evidence, by MO Siu Chung who worked under James HUANG in the Investment Planning Department of Guangnan Holdings. The reports were completed on the

23rd June 1997 and the 11th July 1997. The reports contained various details which either expressly or inferentially, if accepted by us, potentially threw considerable light on the stage the negotiations had reached at the time of their making.

In addition to the issue as to whether and when the negotiations leading to the placement of Firstone shares with Guangnan Holdings became sufficiently specific for the purposes of section 8 of the Ordinance, was the separate question, within the framework of that section, as to whether and when that now specific information had become price sensitive.

The price sensitivity of the specific placement information

The primary evidence in this regard was provided by TW 8 Mr. Richard WITTS. He gave expert evidence as to the effect of the negotiations leading to the placement on the price of Firstone's shares.

This can be seen to be an important issue particularly when it is remembered it had to be considered in the context of the information we were concerned with having developed over time.

In addition to the expert evidence of Mr. WITTS was the evidence given by TW 4 YIP Sing Wai and TW 7 WONG Kam Wing, retail investors in Firstone shares and TW 5 HSU Yuen Ming, a fund manager who had also invested in Firstone to the effect that a placement of Firstone shares to a red chip company such as Guangnan Holdings would give rise to a hope or expectation of its share price rising and would have had a bearing upon their own dealings in Firstone shares.

The evidence of TW 3 Louis CHOW Ka Leung was also of some relevance in this regard. He was a senior manager in the Surveillance Department of the SFC Enforcement Division who primarily gave evidence of Firstone share price movements relevant to this inquiry and sales and purchases of those shares and produced charts and schedules reflecting that evidence. But he also, as did Mr. WITTS, gave some evidence of the history of red-chip companies buying into Hong Kong listed companies and the effect on the latter's share price.

Which of the implicated parties was in actual possession of relevant information?

Leading on from questions relating to the relevant nature of the placement information was the quite fundamental question in the case of many of the implicated parties as to whether they (or, in the case of the four companies, their governing minds) were aware of that information in sufficient detail so as to place them in possession of relevant information for the purposes of the provisions of section 9 of the Ordinance at the time they traded in Firststone shares.

The evidence before us in this regard ranged from the cases of individuals who could be shown to have had direct contact with some or all of the relevant information such as James HUANG who was a personal participant in the whole of the placement negotiations and who accordingly might be said to have been wholly aware of the precise state of that information concerning the proposed placement as it developed, through to individuals like MO Siu Chung who prepared reports which on the evidence appeared to reflect some significant information about the proposed placement provided to him by James HUANG, and on through individuals like Phoebe CHIU and others within the Guangnan group of companies who on the face of the evidence could not be said other than inferentially to have known of any relevant information concerning Guangnan Holdings interest in Firststone but who had traded in Firststone shares or who had opened, or assisted in opening and sometimes operating, trading accounts for individuals or companies who traded in Firststone shares, and finally, to individuals who though not employed within the Guangnan Group were associated or related to such people and in respect of whom there was direct evidence as to their trading in Firststone shares.

Accordingly, the issue of whether each of the implicated parties was in possession of the relevant information at the time of any dealings by them in Firststone shares was one which varied considerably in its form of proof and in the degree of evidence available in respect of each implicated person.

It is true to say, with the specific exceptions of James HUANG and TANG Wai Na who both in their statements to the SFC denied trading in Firststone shares directly or through others, the issue concerning most of the implicated parties was not whether they had traded in Firststone shares during the relevant period (all apart from James HUANG and Madam TANG demonstrably had so traded through their own trading accounts or like Phoebe CHIU, Madam KWAN, Mr. MO or Mr. LO admitted they had so traded in their own or through others' accounts), but whether they had so traded whilst in possession of the relevant information.

James HUANG as the source of the relevant information

As will be seen in due course the potential role of James HUANG in disseminating the information concerning the proposed placement to other implicated staff members of the Guangnan Group was central in determining the state of knowledge of various particular staff members of Guangnan Holdings and its related companies at the time such persons, or persons associated with them, had purchased Firststone shares.

It is not too early to say that in considering this matter we were necessarily concerned to determine to what extent if any the information relating to the placement may have spread outwards from James HUANG amongst the staff members of the Guangnan group of companies, perhaps on occasion being passed from person to person by word of mouth or by exposure to documents connected to the placement, and thence onward to those persons' friends or relatives.

This obviously gave rise to considerations as to whether individual implicated persons acted as "tipsters" or were "tippees" or both so far as any spread of this information was concerned.

The four BVI companies and the persons associated with them

In considering the cases of James HUANG, Phoebe CHIU, Diane CHU and Eddie CHOW, evidence as to their roles in the setting up, funding and operation of the four BVI companies accounts was very

important so far as any inferences drawn by us were concerned as to them being connected with insider dealings through those companies.

Brokers from various securities companies gave evidence as to the conduct of the four BVI companies accounts where Firststone shares were traded. They were TW 6 Darryl SIN of CA Pacific and TW 23 Wallace YUEN of Capital Asia (the holding company of CA Pacific) as to the setting up and conduct of Dragon Sentosa's account at CA Pacific; TW 9 CHU Kwok Yee as to the setting up and conduct of Super Kingdom's account at Oriental Patron; TW 10 Horace WONG Chung Man as to the setting up and conduct of Lombok and Super Kingdom's trading accounts at Credit Lyonnais; TW 11 KWAN Tart Yung as to setting up and conduct of Lombok's account at Win Wong Securities.

Eddie CHOW, an implicated person, gave evidence of his conduct as investment advisor of the accounts of Setter and Dragon Sentosa at his firm Asia Investment Management Limited ("AIM") and other witnesses from stockbroking firms gave evidence of the conduct of trading accounts where, although no Firststone shares were traded, there was shown to have been some connection direct or indirect between an implicated person and one of the four BVI companies e.g. TW 15 CHEUK Siu Ying of New Century Securities Ltd. and TW 12 Ma Jichao of Guangdong Securities Ltd. From this evidence and the various witness statements and documentary evidence before us relating to the four BVI companies incorporation, the operation of their trading accounts and bank accounts it will be seen we were able to determine who in fact controlled those companies.

The varying roles of the individual implicated parties

It can be seen that the issues relating to an implicated person's possession of information concerning the Firststone placement, or trading (or procuring or counselling trading) in the shares of Firststone, were often multiplex and differed on occasion greatly from one implicated person to another.

So far as the individual implicated parties and companies were concerned the Tribunal, given the nature of the evidence and the

potentially multiple roles many of the implicated parties may have played, had to consider on occasion whether the role of an implicated party may have offended more than one provision of section 9 of the Ordinance.

Some complicating factors

A consideration we were to take into account in determining the roles of each of the implicated parties, including particularly those involved with the four implicated companies, was a background letter of credit fraud perpetrated within the Guangan Group which in some cases had resulted in activities and a flow of funds which on occasion may have joined into or run parallel to activities and monies relating to the Firststone share trading the subject of our inquiry. We deal with our approach to this matter further in Chapter 6.

From the operation of the four BVI companies trading accounts and potentially some other individuals accounts, and James HUANG's admissions in this regard it was apparent that there may have been a history of dealing on behalf of the Guangan Group or persons within the group through such nominee accounts.

Accordingly, we bore in mind that trading in Firststone shares by some implicated parties (and particularly by the implicated companies) was or may have been historically congruent with other independent trading in securities by those parties in such a way that the trading activities and flow of funds relating to trading in Firststone shares was intermingled with other trading activities and funds which were related to other trading wholly separate from our terms of reference. This had a bearing on our considerations as to whether the trading in Firststone shares by particular persons in such circumstances may have had reasonable explanations other than that they traded in Firststone shares because of their possession of relevant information.

Further, these aspects of the evidence made the isolation of funds specifically related to trading in Firststone shares in such circumstances difficult and the tracing of those funds to a final destination practically impossible. It was also a matter which we had to bear in mind when considering whether those who assisted in setting up,

for example, trading accounts in their own or others' names, or purchasing BVI companies or making funds available which were later used for the purpose of trading in Firststone's shares, may have done so for more general trading purposes without any knowledge that those activities would have some eventual connection with Firststone share trading. Again, this matter is dealt with in more detail in Chapter 6.

CHAPTER 5

RELEVANT INFORMATION

The history of dealings in Firststone shares by implicated persons commences, so far as our terms of reference are concerned, on the 24th June 1997 when Dragon Sentosa purchased 1 million shares at an average price of about \$0.59 through a trading account at CA Pacific.

Implicated individuals or companies continued to purchase Firststone shares on a regular basis up until the suspension of trading in those shares prior to trading on Monday 14th July, the last effective trading day therefore being Friday 11th July 1997.

Over that same period the negotiations for the placement of 20% of Firststone's shares to Guangnan Holdings had developed, so that on the 17th July it was announced to the Stock Exchange of Hong Kong Limited ("SEHK") by Firststone and Guangnan Holdings that they had arrived at a conditional agreement in respect of the placement.

That announcement was published in the Hong Kong press on the 18th July and trading in Firststone shares resumed on that date.

It will be seen that from an initial proposal first thought of apparently by Gilbert CHU and James HUANG sometime in June 1997, with a series of informal and indirect approaches to Mr. KWEE the dominant shareholder of Firststone leading on to a series of meetings, negotiations developed quite rapidly and resulted in the suspension of trading in Firststone shares on the 14th July.

Accordingly, as the agreement in respect of the placement had developed or had been developing over the same period as the suspected insider dealing share purchases had taken place, it was obviously of considerable initial importance for the Tribunal to determine precisely when the state of negotiations concerning the placement had matured to the extent that the information concerning those negotiations was

sufficiently specific for the purposes of the definition of relevant information in section 8 of the Ordinance.

What is capable of being specific information in law?

Perhaps the primary legal authority as to what amounts to "specific" information in an area of law remarkable for the absence of authorities is the Singapore High Court's judgment in Public Prosecutor - v - GCK Choudrie (1981)2 Co. Law 141.

That judgment held that information was specific if it possessed sufficient particularity to be capable of being "identified, defined and unequivocally expressed".

It may be that if those comments are taken as being a definition of what is "specific" information that, perhaps inevitably when a plain English word is sought to be defined, it raises as many questions as it provides answers.

Be that as it may, that phraseology has been adopted by a number of Tribunals inquiring into suspected insider dealing in Hong Kong.

The definition advanced by the Singapore High Court in Choudrie's case was itself based, in part at least, on similar phraseology in an earlier New South Wales Supreme Court decision of LEE J to the effect that "specific information must be capable of being pointed to and identified and must be capable of being expressed unequivocally" (see Ryan - v - Triguboff [1976]1 NSWLR 588 at 596).

The concern of both courts was really to attempt a workable distinction between information which was specific for the purposes of their jurisdictions legislation, and information which failed to achieve the required degree of specificity because it was too vague, inchoate or speculative.

In somewhat similar vein, in the case of Green - v - the Charterhouse Group of Canada 12 OR(2d)280, the Ontario Court of

Appeal determined the question of whether information that a takeover offer may have been forthcoming for a particular company was properly regarded as specific. In the judgment of Arup J.A. it was said "the information may not have been worthy of credence or of sufficient weight to justify any positive action Nevertheless in my view the information was specific; the word is used by the section in contradistinction to "general" as "not specific". (at page 306)

The question of the meaning to attach to the word "specific" in insider dealing legislation in England has been the concern of text writers over the past two decades.

In Rider & Ashe "Insider Crime - the New Law" (1993 Jordan Publishing Ltd.), the authors said as to what purpose the word "specific" served in the English Criminal Justice Act 1993 section 56(1) definition of inside information which requires the information to be "specific or precise":-

"The word specific is intended to ensure that information about (e.g.) a huge dividend cut can be inside information, whilst mere rumour and untargeted information cannot".

They go on to say:-

"Information may still be specific even though as information it has a vague quality".

A question of course arises as to how vague information may be before it is finally no longer sufficiently specific for the purpose of our legislation. It is that question which the definition in Choudrie's case seeks to answer and in our view the approach of the court in that case has much to recommend it.

We have for the purposes of the present inquiry directed ourselves that information concerning a company's affairs is sufficiently specific if it carries with it such particulars as to a transaction, event or matter, or proposed transaction, event or matter, so as to allow that

transaction, event or matter to be identified and its nature to be coherently described and understood.

In our view the fact that a transaction is only contemplated or under negotiation and has not yet been subjected to any formal or informal final agreement does not necessarily cause the information concerning that contemplated course of action or negotiation to be non-specific.

Indeed section 4(1)(d) of the Ordinance although dealing with the meaning to be attached to the phrase "connected person" expressly accepts that relevant information might relate to either an actual transaction or a transaction which is merely contemplated.

In this regard Brenda Hannigan, the author of the oft-cited text "Insider Dealing" (Kluwer Law 1988), says at page 54:

"Will knowledge of preliminary steps be sufficiently specific? What if ... an individual is found to know of a chain of events the most probable consequence of which is a takeover bid? Will that suffice? Both instances would seem to be within the legislation, for while unfounded rumours and vaguest hopes would not be sufficient to amount to unpublished price sensitive information, contemplated acts as well as actual events are certainly within the legislation⁹."
(emphasis added)

In this Tribunal's view, the fact that a transaction is merely contemplated or at a preliminary stage of negotiation does not mean information concerning those negotiations cannot be specific.

Again as Brenda Hannigan commented

"..... the whole point of insider dealing frequently is to deal while the transaction is only contemplated, for once it has actually occurred the

⁹ These comments are concerned with section 10 of the English Company Securities (Insider Dealing) Act of 1985 which requires "unpublished price sensitive information" to relate to "specific" matters.

market is likely to be aware of it and will move to reflect that fact in the price, thereby preventing any profiting by insiders".¹⁰

Of course merely vague hopes or wishful thinking that a transaction will occur or come to fruition does not amount to a sufficient "contemplation" or preliminary negotiation of that transaction in the sense used by the author.

Each particular case involving a contemplated transaction as potentially specific information will differ in its circumstances and facts and it would be difficult and perhaps inadvisable to suggest that any one approach or test as to determining specificity is to be generally preferred. But it should be remembered that for a transaction to be "contemplated" in a realistic commercial environment means that it has sufficient identity to be described and its nature understood in terms of the test in Choudrie's case. It should also be borne in mind that the fact that there are negotiations between parties may by itself mean nothing. It is usually the content of the negotiations which contains the information which might or might not be specific. It might be that the negotiations are lengthy but remain inchoate so that no particular transaction is proposed or can be identified in terms of the Choudrie test. It may be that they are short and to the point so that the Choudrie test is satisfied at a very early stage of negotiations. Indeed, it may be that there are no real negotiations at all but simply a proposal put forward by one party for the consideration of the other. Nevertheless that proposal may satisfy the Choudrie test.

For the purposes of our determining issues in the present inquiry relating to the specific nature of information, as required by the provisions of section 8 of our legislation, the proposed placement whether described as under contemplation or at a preliminary stage of negotiation must, in our view, have more substance than merely being at the stage of a vague exchange of ideas or a "fishing expedition". Where negotiations or contacts have occurred, as in the present case, there must be a substantial commercial reality to such negotiations which goes beyond a merely exploratory testing of the waters and which is at a more concrete

¹⁰ Op. cit, at page 54

stage where the parties have an intent to negotiate with a realistic view to achieving an identifiable goal.

In the present inquiry, for the reasons set out in the balance of this chapter, we have concluded that on the 26th June there was an understanding in principle between the parties, subject to further negotiations as to details, that a proposed placement of about 20% of Firststone's shares with Guangnan Holdings Ltd. would take place. In our view that is, without more, information which satisfies that test.

In our view, there is no need to impose any additional requirement that there be any foresight that the transaction will "probably" or "likely" come to fruition before information concerning the contemplated transaction becomes sufficiently specific.

In that regard we adopt the reasoning set out in the Report of the Tribunal in the Stime Watch inquiry¹¹.

The specific nature of the information concerning the placement negotiations

Before dealing with the reasons for our determination of this issue, it is necessary to summarize briefly the relevant evidence.

There were five witnesses whose evidence we regarded as being of considerable significance to our determination as to when the information concerning the placement negotiations became sufficiently specific.

They were:

TW 2, Gilbert CHU, who was at the relevant time a director of SHK Securities Ltd. and who oversaw the Corporate Finance Department of its subsidiary SHKIL which had acted for Firststone in its rights issue earlier in 1997.

¹¹ Report of the Insider Dealing Tribunal of Hong Kong on the Stime Watch International Holding Ltd. inquiry pages 85-89.

TW 22, William PEH, who was a friend and advisor to Kumala KWEE the largest shareholder in Firstone and its effective controller.

TW 26, Kumala KWEE, who was as we say the largest shareholder and controller of Firstone (and who became its chairman on 27th June 1997) and who effectively represented Firstone so far as the placement was concerned.

James HUANG, whose absence from Hong Kong throughout these proceedings meant he could not give oral evidence, but whose records of interview were accepted into evidence by the Tribunal, and Mr. MO, James HUANG's subordinate, who prepared two reports dated 23rd June and 11th July 1997 concerning the placement negotiations with Firstone. Mr. MO did not give oral evidence as he could not be located for the purposes of this inquiry.

We will set out that evidence in summary form.

TW 2 Gilbert CHU gave evidence both by way of his statement of 9th September 1997 and orally. His evidence was to the effect that he had first become involved with Firstone in 1997 during its rights issue when he had been responsible for the Corporate Finance Department of SHKIL which had acted as both advisor to and underwriter for Firstone's rights issue. During that process he had become aware of Firstone's ownership of a wine factory in Shaoxing, China. He had met James HUANG of Guangnan Group some years earlier and at the time of the rights issue one of the Guangnan Group's subsidiary companies, Guanfair, had acted or was acting as a sub-underwriter of the rights issue.

He said one of the reasons he had initially mentioned Firstone's ownership of the wine company when dealing with James HUANG in the course of Guanfair being approached to act as a sub-underwriter of the Firstone rights issue was to suggest that Guangnan Holdings potentially taking an interest in Firstone (and therefore its winery) could be some form of fall back position underpinning Guanfair's role as a sub-underwriter of the rights issue.

He said independently of the rights issue considerations James HUANG had expressed interest in acquiring some interest in the winery in any event and said he would like to meet with the owner of Firstone, Mr. KWEE, in due course.

So Mr. CHU said he spoke to Mr. William PEH, the advisor to Mr. KWEE, around about mid-June 1997 and according to Mr. CHU's statement, Mr. PEH confirmed shortly afterwards that it was possible that Mr. KWEE would agree to a placement of 20% of Firstone's shares to Guangnan Holdings. In his evidence Mr. CHU said that prior to the meeting that followed between James HUANG and Mr. KWEE on the 26th June he understood Mr. KWEE to be "amenable" to Guangnan Holdings taking a substantial interest in Firstone.

It must be said though, that Mr. CHU's evidence in this regard before us was somewhat contradictory as to whether he had heard of the placement figure of 20% before the first meeting between Mr. KWEE of Firstone and James HUANG of Guangnan Holdings was arranged, or whether that figure was first mentioned to his knowledge only during a later part of the negotiations.

In any event a meeting was arranged for the 26th June 1997 in Hong Kong at the Shangri-La Hotel and Mr. KWEE, James HUANG, and Mr. CHU himself attended it.

Mr. CHU described it in his evidence as an exploratory meeting. His understanding was that Mr. KWEE was amenable to the sort of proposal being put forward by Guangnan Holdings, i.e. some substantial share placement or transfer to Guangnan Holdings but not so as to dilute Mr. KWEE's holding to that of a minority shareholder. He understood Mr. KWEE to be reluctant to provide Guangnan Holdings with more than 20% of Firstone's equity, and that James HUANG wanted at least 20%. Mr. KWEE wanted to remain the major shareholder in Firstone.

His recollection in evidence was that by the end of the meeting of the 26th June there was an agreement in principle that Guangnan Holdings could take a substantial placement of shares and that the proposal should be moved forward though there was still a disparity

between Mr. KWEE and James HUANG concerning the amount of the placement involved, and the price of the placement shares. His assessment was it had been a positive meeting and there was "good room for development".

He said following upon that first meeting, he took steps to prepare a confidentiality agreement for James HUANG's signature and had a valuation of Firststone's share price done based on a holding of 20% by Guangnan Holdings. He said he used the 20% figure as he understood it to be the threshold or target figure which was acceptable to Mr. KWEE and that James HUANG wanted at least that percentage. According to Mr. CHU's evidence, he regarded the figure of a 20% placement at that time as a "workable" figure between the two sides.

He said that there was a subsequent meeting involving himself, Mr. PEH as representative of Mr. KWEE, and James HUANG on the 9th July. That meeting advanced matters so that the 20% level of placement was more or less acceptable to the parties and the only sticking point was the share price.

Following that meeting a final meeting was held on the 11th July at which both James HUANG and Mr. KWEE were present at which agreement was arrived at concerning all matters though still with some resolution of the share price to be done.

That was achieved in the next few days and by the 15th or 16th July all such details were agreed.

TW 22, William PEH, was the personal friend of and unpaid advisor to Kumala KWEE at the relevant times. He said he knew Gilbert CHU in 1997 and had introduced Mr. CHU to Mr. KWEE. Subsequently SHKIL, Mr. CHU's company, had become advisor and underwriter for Firststone's rights issue. Following the rights issue being arranged Mr. CHU had asked if Firststone wanted more funds and he had then put Mr. CHU in touch with Mr. KWEE. He said later, before any meeting had taken place, he had discussed the possibility of a 20% placement to the Guangnan Group with Mr. CHU.

Following that there was a first meeting of the parties involved. He was not sure of the date. He thought it may have taken place at Gilbert CHU's office. The meeting was attended by himself, Mr. KWEE, James HUANG and Gilbert CHU. He described it as "exploratory" in nature. But Mr. KWEE said afterwards that he was excited about the proposed deal and keen for it to go ahead. James HUANG said he would like to meet again after looking at the Firstone financial date. Both Mr. KWEE and James HUANG, according to Mr. PEH, agreed in principle that both parties were interested in proceeding with the deal. In Mr. PEH's view there was an agreement in principle "subject to due diligence". He said that Mr. KWEE's view, as he understood Mr. KWEE to have expressed it, was that an agreement was "very close" at the end of that first meeting.

Following that meeting TW 28 Timothy CHEUNG, the Firstone finance director prepared certain paperwork and there was discussion between the parties as to the share price. Mr. PEH thought the argument about the placement share price was within the range of 40-45 cents per share.

The next involvement he had in the matter was to attend another meeting. He was unsure of the date.

At this meeting there was James HUANG, Mr. KWEE, Mr. SUN Koon (who was the Chairman of Guangnan Holdings and accordingly the person to whom James HUANG reported), Gilbert CHU and Mr. PEH himself.

To Mr. PEH's recollection the share price may have been agreed before this meeting although it was discussed at the meeting and the meeting was held on the basis that the deal was going ahead. He thought Mr. SUN was present so that James HUANG could demonstrate personally to Mr. SUN that the size of the placement (i.e. 20%) was the best that could be obtained from Mr. KWEE.

TW 26, the third substantial witness relevant to the placement negotiations was Kumala KWEE.

He described himself as the major shareholder in Firststone in 1997 and William PEH as being his unpaid advisor and assistant. Mr. PEH had introduced him to Gilbert CHU and Mr. CHU had introduced him to James HUANG. In early 1997 Firststone was in debt, as the electrical side of its business was waning. A rights issue was made with SHKIL (i.e. Gilbert CHU's company) acting as advisor. At this stage Mr. KWEE had not had any personal dealings with James HUANG.

But he was told by either Mr. CHU or Mr. PEH that James HUANG was very interested in Firststone's performing asset of a wine distillery in Shaoxing, China. That wine company was some 300 years old and was quite famous.

So before any meeting had taken place there were conversations between himself and Mr. CHU or Mr. PEH during the course of which certain parameters of the proposal had become established. Those parameters were that the deal would proceed by way of a placement and that the amount of that placement would be no more than 20% of Firststone's shares.

He was aware James HUANG wanted at least 20% of Firststone's issued shares but was pressing for more. He also understood that Guangnan Holdings would require two directors on the board of Firststone.

This, he thought, was the starting point for negotiations on the occasion of the 1st meeting.

Like Mr. PEH he could not remember the date of that first meeting but from his passport was able to verify that he had been in Hong Kong between the 25th June 1997 and 28th June 1997. He said the 1st meeting took place at the Shangri-La Hotel at lunchtime.

We accept from the evidence of Gilbert CHU in this regard, supported by the contents of James HUANG's statements to the SFC and by the dates appearing in Mr. KWEE's passport as to his presence in Hong Kong at about this time that the first meeting between Mr. KWEE and James HUANG did in fact take place in Hong Kong on the 26th June 1997 at the Shangri-La Hotel.

Mr. KWEE was able to say that to his recollection this first meeting took place about 4 weeks after Gilbert CHU had first approached Mr. PEH with the proposal. He said at the meeting were himself, James HUANG and Gilbert CHU. He did not think Mr. PEH or anyone else attended.

He said at the end of that 1st meeting he was under the strong impression that the deal would go ahead, subject to the details being hammered out. The exact percentage and price per share were the primary details in that regard. He had expressed the view in his interview with the SFC (which he adopted in his evidence as true and correct to the best of his recollection) that he was 70-80% sure the deal would go through.

He said, though he could not remember with certainty, there should have been another meeting in his absence from Hong Kong following upon that 1st meeting. He said Mr. PEH would have attended that meeting as his representative.

Following that he returned to Hong Kong for a further meeting. We accept from Mr. KWEE's evidence of his notice given to the SEHK following that meeting, together with the evidence of Gilbert CHU and the contents of James HUANG's interviews in that regard that the date of that meeting was in fact Friday the 11th July.

At that meeting matters were advanced further so that at the end of it only the specific share price of the placement remained to be decided. The 20% placement size was established (though Mr. KWEE knew Guangnan Holdings still wanted a greater share holding) and the parties had effectively only to arrange the formal particulars of the transaction.

That leads us then to the evidence (in the form only of records of interview) of James HUANG.

HUANG participated in six interviews as follows:

1st: 15th August 1997

- 2nd: 26th September 1997
- 3rd: 17th October 1997
- 4th: 7th November 1997
- 5th: 1st September 1998
- 6th: 18th November 1998.

He said in the course of those interviews that after Guanfair had acted as a sub-underwriter in respect of the Firststone rights issue earlier in 1997 Gilbert CHU had approached him around 20th June and asked if he was interested in a "closer look" at Firststone. He was in fact interested in Firststone's holding in the Shaoxing winery and told Mr. CHU so. Accordingly, a meeting was arranged with the largest shareholder of Firststone Mr. KWEE and that meeting took place on the 26th June.

He said at that meeting little or no discussion occurred in respect of any share transfer or placement and all that was discussed was some sort of joint venture with Firststone and other trivial matters. He said they just spoke generally and vaguely of various options. He said all that was discussed concerning any investment in Firststone by Guangnan Holdings at that meeting of 26th June 1997 was as contained in Question and Answer 51 and 52 of the 1st interview as follows:

- "Q. 51: At the meeting held on 26 June 1997, was it mentioned that Firststone was to place shares to Guangnan?
- A. 51: The share placement was not specifically mentioned. However, it was mentioned that Guangnan would not consider acquiring directly equity interests in Firststone's food manufacturing operation until the latter had closed its electronic business. Mr. Kumala said he's to think about it.
- Q. 52: Regarding the acquisition of equity interests in Firststone you just mentioned, could you explain the way through which such acquisition might take place?
- A. 52: We had not discussed the way through which the acquisition would take place. We just mentioned that we were interested in taking part in the sale of liquor products. At the time, Kumala said he had to think about it."

Following that, around the 3rd July Mr. CHU contacted him and told him Mr. KWEE wanted to discuss further Guangnan Holdings taking an interest in Firstone. So he then took steps to obtain financial data and other information concerning Firstone.

He said after further discussions with Mr. CHU another meeting was arranged with Mr. KWEE on the 11th July and on that occasion Mr. KWEE agreed that Firstone would sell all of its electronic business and that Guangnan Holdings would get a placement of about 200 million Firstone rights shares at a price of about \$0.45 each. Other subsidiary agreements were arrived at involving a joint venture for the distribution of Firstone's wine products and that 2 directors could be nominated by Guangnan Holdings to the board of Firstone. In other words on about the 11th July the agreement as to the placement was effectively in place with some details perhaps still to be worked out.

In the course of his later interviews, James HUANG was shown a report dated 23rd June 1997 (i.e. some 3 days before the 1st meeting with Mr. KWEE) which dealt, on its face, with a proposed acquisition by Guangnan Holdings of a substantial equity interest in Firstone and which specifically stated that "the substantial shareholder of Firstone is willing to sell its 20% interest to our company after our preliminary negotiation". This report was written by Mr. MO Siu Chung, another absent implicated party, and James HUANG agreed that he had suggested Mr. MO write that report. Further HUANG agreed that certain handwritings which appeared on that report were his own and that they read in part: "..... some other hidden shareholders could transfer their shares to Guangnan. In addition Mr. BAI (or PEH, KWEE's personal advisor) could be asked to transfer 10% of the shareholdings bringing our shareholdings in the company to 30% as a result; or may be through capital injection".

James HUANG agreed he had written these words on Mr. MO's report dated 23rd June on the 26th June. He agreed also that at the same time he had written other details upon Mr. MO's report involving the profits of the Shaoxing Wine Co. and other brief details of the shareholding of Firstone.

He said that so far as this document or report was concerned that it did not represent Guangnan's intentions at the time it was written (i.e. the 23rd June 1997) but was simply a "practice exercise" he had set for Mr. MO by way of giving him a general concept. He said it was Mr. MO's own perception of what might happen and was just Mr. MO's "wishful thinking".

James HUANG was also shown a second report written by Mr. MO and dated 11th July (i.e. the same day as the 2nd meeting between Mr. HUANG and Mr. KWEE). He said in regard to this 2nd report the contents were all from Mr. MO's own mind also, and that the only information he had provided Mr. MO was technical and financial information relating to Firstone.

That concludes the summary of the evidence of the four major witnesses as to the development of the negotiations between Firstone and Guangnan Holdings as to the latter obtaining a placement of 20% of Firstone's equity.

We also took into account the records of interview of Mr. MO who was the Deputy General Manager of the Investment Planning Department of Guangnan Holdings Ltd. He, like James HUANG was absent from this inquiry, he having apparently returned to the mainland after his interviews with the SFC. But Mr. MO's statements to the SFC did have some bearing on how the two reports prepared by him on the 23rd June and the 11th July respectively came into being.¹²

Those interviews were made on the following dates:

- 1st: 20th August 1997
- 2nd: 21st August 1997
- 3rd: 19th September 1997.

He said in those statements that so far as the 23rd June report was concerned he had been contacted by James HUANG on the 22nd June and told to prepare a report containing basic background information of

¹² Those reports are at Annexures E and F respectively to this Report together with their translations.

Firststone, its strengths and weaknesses, and the benefits and risks to Guangnan in obtaining an equity interest in Firststone.

In that regard also he further said:

"Q. 19: Other than this, did he mention other reasons for preparing the report, including the potential co-operation between Guangnan and Firststone?

A. 19: I remember that on 22 June, Sunday, James Huang phoned me and asked me to draft a report on Firststone. Because if Guangnan was to co-operate with Firststone in the future, a report had to be submitted to the Board of Directors. Since James Huang mentioned that it was probable for Guangnan to co-operate with Firststone, he asked me to prepare this report. I recall that I finished the report on 23 June and then submitted it to James Huang."

"Q. 12: Based on what information did you come up with (this paragraph) on the first page of MSC-10 which reads like this "Our company is now in talks with Firststone International Holdings Limited on the acquisition of its shareholdings. The circumstances of this transaction are reported as follows:"?

A. 12: I talked with James Huang over the phone the previous night, i.e. the night of the 22nd. James Huang instructed me to write a report on Firststone. So I wrote this report.

Q. 13: But why did you put down "Our company is now in talks with Firststone International Holdings Limited on the acquisition of its shareholding"?

A. 13: After my telephone conversation with James Huang, I had this impression from the contents of the conversation with James Huang that Guangnan would buy stake in Firststone. Hence I put this down. But I don't recall now the detailed contents of the conversation with James Huang at that time. I did not know at that time whether Guangnan was still discussing with Firststone. It is my usual practice to use (the phrase) "is now ... with" in report writing."

He further said that the input of information into his 2nd report dated 11th July was also from James HUANG or from SHKIL documents concerning Firststone provided to him by James HUANG. He said of the content and purpose of the 2nd report:

"A. 29: The content includes the financial status of Firststone, for instance, its profit, liabilities and some financial analyses. In addition, information regarding the organisation structure of Firststone, its assets in the mainland, reasons for Guangnan's proposed investment in Firststone, and the potential difficulties and uncertain factors pertaining to this investment are also included. Meanwhile, the placing price on which Firststone was to be acquired and the net asset value as contained in MSC 4 supplied by SHK are also included in the second report.

Q. 30: As a matter of fact, what is the purpose of your writing the second report? And did James Huang mention this to you?

A. 30: The report was also to be submitted to the Board of Directors for considering and discussing the proposed investment of Guangnan in Firststone. James Huang also told me this."

That concludes the summary of the witnesses' evidence which in our view was of assistance in determining at which point of time the negotiations between Firststone and Guangnan Holdings became sufficiently specific for the purposes of section 8 of the Ordinance.

There were other witnesses such as TW 25 CHUNG Tak Ming who was Gilbert CHU's subordinate at SHKIL but whose evidence had, in our view, little weight in assisting our determining the true state of the negotiations at any particular time between Firststone and Guangnan Holdings as to the placement.

An analysis of the evidence relating to the specificity of the placement negotiations between Firststone and Guangnan Holdings

The witnesses' evidence

We were impressed with the evidence of TW 26, Kumala KWEE. In general we found him to be candid and forthright. He answered questions directly and those answers he gave were in large part succinct and logical. Overall his evidence had very much the ring of truth.

There were however three aspects of his evidence which we considered carefully before concluding he was in any event a reliable witness.

The first of those matters was quite simply that in the earlier part of his oral evidence he confused some of the events surrounding the meeting of the 26th June (i.e. the 1st meeting he attended with James HUANG and Gilbert CHU) with events concerning their meeting of the 11th July (i.e. their 2nd meeting).

He was quite candid about this error and then evidentially retraced his steps so as to, in his evidence, separate the events of the two meetings.

Insofar as the meeting which came to be of greater importance in our considerations was the meeting of 26th June, and the state of affairs leading up to that meeting, we were satisfied that Mr. KWEE had eventually reliably separated in his evidence that which transpired before and at that first meeting from that which later occurred before and at the 2nd meeting.

In short even given the time which had elapsed since the two meetings took place in mid-1997 and the initial confusion in Mr. KWEE's evidence we were satisfied that at the end of the day his evidence was reliable as to what stage the placement negotiations had reached at and prior to the meeting of 26th June.

The next matter which we considered in terms of Mr. KWEE's credibility were the contents of certain public announcements issued on behalf of Firststone at the time the placement negotiations were underway which in their terms suggested no change in Firststone's business was contemplated and no disclosable price sensitive negotiations were underway.

Those matters are encapsulated in a statement by the board of directors of Firststone (of which Mr. KWEE was then Chairman) published, inter alia, in the South China Morning Post on 7th July 1997 and dated 3rd July 1997 under the hand of TW 28 Timothy CHEUNG.

We bore in mind in considering this announcement (made at the request of the SEHK) that it was relatively formal in nature and that according to both Mr. KWEE and Timothy CHEUNG, Mr. KWEE had not informed Timothy CHEUNG of the negotiations underway between him and James HUANG. At the end of the day, we did not think any apparent conflict between Mr. KWEE's evidence that an agreement in principle had been arrived at during the meeting of 26th June and the contents of the Firststone announcement of 7th July 1997 was such as to materially undermine Mr. KWEE's credibility.

One further matter had caused us to consider Mr. KWEE's evidence carefully. That concerned his evidence of what proportion of the issued shares of Firststone he controlled or had some form of beneficial interest in.

In our view, and in respect only of this limited area of his evidence Mr. KWEE was less than completely candid. In our view he likely did not fully and openly disclose the scope of his interest or control over the issued shares of the company, particularly in regard to those owned by Hotline Limited, a British Virgin Island company, whose apparent owner was a Mr. WAN Sek Kham.

But in our view, even given this shortcoming in regard to this specific area of his evidence Mr. KWEE's evidence was in regard to its balance reliable.

In arriving at this conclusion we had also considered carefully another final aspect of his evidence which on the face of it seemed somewhat unusual to us at first. That evidence related to the working relationship between himself and TW 22 William PEH. Both Mr. KWEE and Mr. PEH claimed that Mr. PEH acted for Mr. KWEE on a completely gratuitous basis, i.e. without pay or any other financial reward. That seemed to us, given Mr. PEH's role as a "go-between" in these negotiations, as somewhat unusual but we finally concluded that given the long-standing business and personal relationship between Mr. PEH and Mr. KWEE there may well have been no specific financial

arrangement between them in regard to this particular transaction and we accepted that aspect of their evidence.

So far as the evidence of TW 22 William PEH is concerned, we accepted him also as a witness of truth. He had not been interviewed by the SFC until 29th August 2003 and accordingly both his witness statement (which he adopted as true and correct subject to the accuracy of the dates referred to therein) and oral evidence were somewhat vague.

The vagueness of his evidence extended to a confusion as to dates and places of meeting and persons present. In our judgment, he may have confused his presence at a meeting on the 9th July with his being present at the 26th June meeting at the Shangri-La Hotel.

Nevertheless his evidence, so far as it went generally supported that of Mr. KWEE and Gilbert CHU as to how far negotiations had progressed before any meetings had taken place at all.

We accepted, as we say, that he was a witness of truth and even taking into account the vagueness inherent in his evidence, which we accept were caused by the lapse of time, we were satisfied that he was a generally reliable witness.

One area of his evidence which initially caused us some concern related, as we have already said, to his claimed lack of any specific payment for acting on behalf of Mr. KWEE in regard to the negotiations with Guangnan Holdings. As we have already mentioned previously in dealing with Mr. KWEE's evidence, at the end of the day however this did not cause us to regard him as anything other than an honest and generally reliable witness.

So far as TW 2 Gilbert CHU was concerned, we concluded that there was, both in terms of specific matters and the general thrust of his oral evidence, eventually a quite distinct difference between what he said before us in his oral evidence and what was contained in his SFC statement of the 9th September 1997.

In our view there was good reason to believe that Mr. CHU had initially been less than anxious to be forthcoming in his evidence before us and, so far as his witness statement was concerned, had been even less so when first questioned by the SFC.

We say that firstly because it is apparent from a comparison between his SFC statement and his oral evidence that there were inconsistencies between his oral evidence as it developed and that statement.

For example in his SFC statement he said that at the meeting of 26th June 1997 between James HUANG and Mr. KWEE at the Island Shangri-La Hotel there were four possibilities discussed so far as Guangnan Group's potential involvement with Firststone was concerned. They were a placement of shares; a distribution joint venture, the direct purchase of the wine company, and finally, the direct purchase of a noodle company owned by Firststone. In his SFC statement Mr. CHU suggested at this meeting all four possibilities were discussed and that he was unsure as to whether the possible placement was the primary topic.

In his oral evidence however he said that before the meeting of the 26th June, around one week before that meeting, he had spoken to James HUANG about a possible placement of Firststone stock with Guangnan Group, and that HUANG had said he was interested. He agreed that before the 26th June meeting a figure of 20% may have been broached so far as any placement was concerned by Mr. PEH, Mr. KWEE's advisor, and that at the meeting itself an agreement in principle had been arrived at for there to be a substantial transfer of shares to Guangnan Group and that negotiations should move forward on that basis.

It may well be that as his evidence progressed Mr. CHU's recollection became clearer as to the events leading up to and concerning the meeting of 26th June.

Be that as it may, it was plain to us that as his evidence went on before us its characterisation of the state of negotiations between Firststone (i.e. Mr. KWEE) and Guangnan Group (James HUANG) slowly moved

towards a factual basis more attuned to there being substantial agreement being arrived at between them as to a placement at the meeting of the 26th June, rather than a merely exploratory or familiarisation get together at that time, and indeed eventually suggested a version of events at and before that meeting which approached that given in evidence by Mr. KWEE.

So far as James HUANG's evidence was concerned, as contained in his six witness statements or records of interview, we place little or no weight upon it as to matters in issue. We give it some weight so far as it is supported by reliable independent evidence but no weight where it is not.

In the result that means that we reject any suggestion by him that at the meeting of 26th June only "trivial" matters were discussed. We also reject the thrust of the contents of his earlier interviews that no understanding had been arrived at between himself and Mr. KWEE before or at that meeting as to the broad outline as to the agreement of the placement of Firstone shares which eventually took place.

In our view Mr. HUANG's statements in his records of interview as to Mr. MO's report dated 23rd June being merely a "practice exercise" are nonsense. Mr. HUANG having taken the trouble to write his own comments on specific matters in the margins and at the conclusion of the report suggests it was more than a mere practice exercise and was in fact what it described itself as being, i.e. a report on the status of the approaches made between Firstone and Guangnan Holdings as to Guangnan Holdings taking a shareholding of about 20% in Firstone. The contents of that report must have come from a source other than Mr. MO and that other source must have had knowledge of the actual state of negotiations as between Mr. KWEE and James HUANG (conducted through Mr. PEH and Mr. CHU at that stage). The contents of that report cannot realistically have been the product of Mr. MO's imagination. In our view it must in large part have been based upon an understanding of where the negotiations stood at the time of the making of that report and where those negotiations were likely headed so far as the placement proposal was concerned. The logic of these matters points inexorably to James HUANG as the source of the information

provided to Mr. MO for the purposes of that report. That is indeed what Mr. MO said in his own interviews and we accept that evidence, given the contents of the 1st report, as being true. We are satisfied that the report was not a practice exercise and was in fact what it purported to be.

We accept the evidence of Mr. KWEE as setting out in broadly correct detail the development of negotiations between Mr. KWEE and James HUANG through their two intermediaries Mr. PEH and Mr. CHU.

The evidence before us established that in large part the parameters of the eventual placement agreement had been given a degree of positive approval by Mr. KWEE and James HUANG even before the meeting of 26th June, though neither had perhaps achieved wholly what they wished.

In our view, based upon the evidence of Mr. KWEE, Mr. CHU and Mr. PEH as supported by the contents of Mr. MO's 1st report it is obvious that as by the 23rd June 1997 both parties were interested in a placement of about 20% of Firstone's equity with Guangnan Holdings, though James HUANG wanted more than this, and although important matters such as the price of the placement were still open to negotiation.

According to Mr. KWEE's evidence, before the meeting of 26th June 1997 in Hong Kong he had been told that James HUANG, on behalf of Guangnan Holdings had expressed a strong interest in the Shaoxing wine company and wished to have at least 20% of Firstone's shares. Mr. KWEE's evidence was that in that preliminary stage of the proposal when contact between the two sides was only through Mr. PEH and Gilbert CHU he had wanted to place no more than 10% of Firstone's shareholding with Guangnan Holdings but that he was told it had to be at least 20%. Before the first meeting he had let James HUANG know that he was not prepared to place more than 20%. In his evidence he said before the 1st meeting that parameter was already in place although it was still the subject of discussion along with the exact share price.

The contents of Mr. MO's 1st report support Mr. KWEE's recollection in this regard. That report dated 23rd June 1997, i.e. some 3 days before the 1st meeting in Hong Kong commenced with the statement

"Our company is now in talks with Firststone International Holdings Limited on the acquisition of its equity stake."

and later

"The substantial shareholder of Firststone is willing to sell his 20% interest to our company after our preliminary negotiation."

The balance of the report concerns a fairly detailed examination of Firststone's then business operations and considerations of future steps able to be taken by Guangnan Holdings after it acquired such an interest in Firststone's operations together with a statement of the difficulties and commercial uncertainties involved in the transaction.

It can be seen from the contents of the report that some preliminary negotiations had taken place between Mr. KWEE's and Guangnan Holdings representatives and that a working figure of 20%, so far as Guangnan Holdings potentially taking on shares in Firststone, had been arrived at, but that there were still difficulties with the proposal.

Generally also it is obvious that Firststone was very much a target of Guangnan Holdings interest so far as an acquisition was concerned and that there had already been some significant contact between the parties to this end.

In that general sense the contents of Mr. MO's 1st report support also Mr. PEH's recollection of the preliminary contacts which occurred prior to the first meeting and indeed, to a more limited extent the eventual evidence of Gilbert CHU in that regard.

Conclusions

Accordingly we are satisfied that by the 23rd June 1997 there had already occurred contact via intermediaries (i.e. Messrs. PEH and CHU) between Mr. KWEE of Firststone and James HUANG of Guangnan Holdings as to Guangnan Holdings taking a placement of Firststone shares to the extent of at least 20% of Firststone's shareholding, and that those

initial contacts were promising in the sense that sufficient common ground had been arrived at between the parties so as to render a future substantial shareholding of about 20% in Firstone by Guangnan Holdings a prospect.

But in our view before the meeting of the 26th June, there remained still some uncertainty as to what Guangnan Holdings proposal was. A number of options, we accept, had been put forward in the preliminary contacts between the parties. Apart from Mr. MO's report of the 23rd June no specifics were given of those options, and that report, in large part was an expression of future possibilities and alternative methods of achieving control of Firstone.

In short, we are of the view that there was still uncertainty as to what particular form of transaction was being contemplated by either party.

The contents of that report should also be considered in conjunction with the evidence of witnesses we have considered to be reliable, Mr. KWEE, Mr. PEH and once he had become more forthcoming Mr. CHU. They were, it is true to say, unable to express any real certainty as to what particular stage negotiations had reached between the parties before 26th June 1997.

Before the 26th June 1997 it should be borne in mind all negotiations had been conducted by intermediaries. Indeed "negotiations" might be too strong a word. There had in strict terms been little more than contacts between the agents of two willing parties during the course of which each had made their position known. It seems to us that the deciding event was the meeting between the leaders of the two sides on 26th June 1997. It was at that point we were satisfied to a high degree of probability that the series of contacts, which up to that point of time might still have been regarded as somewhat exploratory coalesced into realistic negotiations directed at achieving Guangnan Holdings taking an interest in Firstone to the extent of about 20% of its share capital. We accept from the evidence of Mr. KWEE, Mr. PEH and Mr. CHU that at the conclusion of that meeting something approaching at least an agreement in principle to this effect had been arrived at, and that

future meetings were to be arranged to achieve that purpose. In other words we were satisfied that the two parties had arrived at an agreement to continue to pursue the matter of a placement and to conduct further negotiations directed at achieving that purpose.

In our view that information as at 26th June was, without more, specific for the purposes of section 8 of the Ordinance.

That leaves the question as to whether at that time, or at any later stage that information was price sensitive in the terms of the section.

Was that information likely to have materially affected the price of Firstone shares at that time if generally known to those accustomed or likely to deal in Firstone shares?

Obviously at the time of the ongoing negotiations between Firstone and Guangnan Holdings and up until the first announcement to the SEHK on the 17th July 1997 and the press announcements of the next day the state of those negotiations was unknown to the category of people accustomed or likely to invest in Firstone shares.

Those were the first real announcements made in this regard. There was nothing in any press article suggesting on any factual or realistic basis that Firstone was or may have been the subject of an approach by any Guangnan Group company and we are satisfied from the evidence of the three investors who gave evidence before us, namely TW 4 YIP Sing Wai, TW 5 HSU Yuen Ming and TW 7 WONG Kam Wing that this was so. The thrust of their evidence was that they had remained ignorant of any approach to Firstone by Guangnan Holdings before the announcement of 18th July 1997.

That leaves us with the final issue to determine in this chapter, i.e. whether the information concerning preliminary negotiations as they existed by the 26th June 1997 as to the placement of 20% of Firstone's share capital with Guangnan Holdings was information which at the time would likely materially have effected Firstone's share price had it in fact been known to the category of persons likely or accustomed to deal in Firstone's shares.

The evidence of TW 8 Mr. Richard WITTS who we accepted as an expert as to matters affecting the market price of shares in Hong Kong was unequivocal in this regard.

According to Mr. WITTS, the Hong Kong share market was particularly sensitive in mid-1997 as to news of large mainland companies taking an interest in listed Hong Kong companies. Mr. WITTS described this as the "red dye" effect. His evidence in this regard had the ring of common sense.

We accept that at the relevant time in 1997 there was considerable market sensitivity to news that a listed company was the target of some form of intended acquisition by a large China-linked or funded enterprise. We accept that to have been a major feature of the Hong Kong market at that time.

In his report or witness statement, Mr. WITTS says that:

"Under the "red dye" phenomenon, investors, mainly retail, would surge into stocks which were the subject of rumours that they were the target of acquisitions, resulting in substantial measures in both price and volume. Those companies where rumours became substantiated were subsequently re-rated at considerable premia to their pre rumour levels."

Mr. WITTS set out a number of examples of these phenomena in his witness statement adopted by him in his evidence before us. We accept his evidence that a placement of 20% of Firstone's shares with Guangnan Holdings represented a substantial stake and information concerning negotiations taking place between the parties to that effect would have had a material effect on the price of Firstone's shares.

In our view information as to the level of the stake being 20% was more than ample to have triggered the "red dye" effect in the shares of a third tier company such as Firstone. Mr. WITTS provided the court with examples of the effect having occurred in regard to acquisitions ranging between 9.6% to 24.3% resulting in an upward re-rating of share price of between 17.74% to 49.62%.

In our present case there was even more proof in the pudding, so to speak. The re-rated price of Firststone shares in the days following the announcement of 18th July was about \$1.65. That represented an increase of over 150% on the closing price of \$0.63 on Friday the 11th July the last trading day before suspension of trading on 14th July.

The volume of trading also increased spectacularly. On the 11th July turnover was 24,360,000. That was within the parameters of trading conducted over the previous two weeks. On the 18th July turnover was 208,250,000 representing an enormous increase in trading interest. We accept Mr. WITTS' evidence that the increase in price and trading volume could only sensibly be attributed to the announcement of 18th July that Guangnan Holdings was to take a 20% stake in Firststone.

Obviously the actual increase in price and trading volume of Firststone shares following upon the announcement of the agreement as to the placement to Guangnan Holdings is not by itself wholly probative of the price materiality of information concerning the negotiations only. But we accept Mr. WITT's evidence given before us that such negotiations were price sensitive. Indeed his view was that even at the stage of initial contact between Firststone and Guangnan Holdings through the agency of Mr. CHU and Mr. PEH that was a scenario which constituted price sensitive information if there was "some promise" of the transaction taking place. In his words if there was "a deal on the cards" then information concerning that position was price sensitive. He was quite sure that by the 23rd June the information as to the negotiations as contained in Mr. MO's report of that date was price sensitive. He was sure, finally, that information that something like an agreement in principle had been arrived at on the 26th June 1997 was price sensitive and material.

In our view that must be correct given the market sentiment which existed in mid-1997 regarding acquisitions by China enterprises of SEHK listed companies.

Accordingly, we are satisfied that by the end of the meeting of 26th June 1997 the information that realistic negotiations were firmly

underway between the parties directed at achieving Guangnan Holdings taking an interest of at least 20% in Firstone's share capital was information which was likely materially to affect the price of Firstone shares if known to investors accustomed to or likely to deal in the stock of that company.

CHAPTER 6

BACKGROUND ACTIVITIES WITHIN THE GUANGNAN GROUP FROM WHICH ANY INSIDER DEALING MUST BE DISTINGUISHED

Other and earlier trading of Setter, Lombok, Dragon Sentosa and Super Kingdom

One of the complicating matters we were confronted with during the course of the present inquiry was that, for a considerable time prior to that period set out in our terms of reference, there had been a system in place which was apparently designed to facilitate and perhaps disguise trading by or on behalf of the Guangan group of companies, or personalities associated with it, in listed companies shares by the use of the four implicated BVI companies' trading accounts.

Each of those companies was purchased in Hong Kong and had opened share trading accounts prior to the commencement of the period contained in our terms of reference, i.e. the period 20th June to 23rd July 1997.

From an analysis of their share trading accounts, it can be seen that each was used at various times to trade in considerable quantities of various shares commencing at a time well prior to there having arisen any suspicion of insider dealing in Firststone shares.

Accordingly in no way could it be suggested that Setter, Lombok, Super Kingdom or Dragon Sentosa were either purchased or that they opened trading accounts particularly for the purpose of insider dealings in Firststone's shares.

It should be emphasized that the trading evident in their accounts during the period of our terms of reference was not confined to Firststone shares and involved many other companies' shares.

Indeed the trading in Firstone shares in the four companies' total trading accounts comprised a minor portion only of the trades conducted in those accounts. That also meant that monies paid into those trading accounts and monies paid out from trading in those accounts could not be said to be exclusively or primarily for the purpose of trading in Firstone shares, or to have exclusively or primarily come from such trading.

In short, it was borne in mind by us when considering the position of those companies and of those individuals who assisted in purchasing or opening trading accounts for them or who further assisted in the operation of those companies' trading accounts that those companies and their trading accounts formed an infrastructure which had originally been set up and operated well prior to and independently of any suggestion of insider dealing in Firstone's shares arising. We were therefore unable to draw, and were careful not to draw, any adverse inference as to insider dealing against any individual for the purposes of this inquiry solely because they were involved in the funding, setting up or operation of any one of the four companies' trading or bank accounts.

Further, because much of the monies representing profits from eventual trading on those accounts in Firstone shares were intermingled with monies representing proceeds of other share trading conducted on those accounts and indeed apparently with other funds before being paid into bank accounts held in the name of other companies, no identification of any specific individual end recipient of the proceeds of the four BVI companies Firstone share trading or in most cases other share trading was possible.

These difficulties have been briefly mentioned in Chapter 4.

The Letter of Credit Fraud

In addition to the complications caused to our considerations arising out of the funding and operation of the four BVI companies share trading accounts for purposes other than insider dealing, we also bore in mind that there had been a letter of credit fraud involving at least two and potentially others of the implicated parties.

We refer to it as a "letter of credit" fraud, though there were other aspects to it which involved the misuse of funds of the Guangnan group of companies. Those funds on occasion, we accept from the materials placed before the High Court and agreed to by James HUANG and XIE Ping of the present implicated parties, were or may have been placed into the trading accounts of some at least of the four BVI companies, and eventually, at least in part returned to the Guangnan group of companies.

According to James HUANG's admissions on the occasion of his plea of guilty to various criminal charges in the High Court on 5th December 2000 he had, with others, instituted a scheme involving various BVI companies whereby funds from the Guangnan Group were injected into trading accounts in the names of these companies for the purpose of speculating in shares, the profits from which would be paid back into the Guangnan Group under the guise of trading profits so as to inflate the group's annual profit. One such company he referred to by name was Dragon Sentosa. He did not specify the names of any other such BVI company, but on the evidence presented to the Tribunal it appeared to us that it was at least likely that fund movements into and out of the accounts of all four BVI companies, not just Dragon Sentosa, were part of that background scheme.

We had to consider the present allegations in the context of that background in a way which did not cause prejudice to any implicated party, including James HUANG.

Nevertheless this evidence was probative of the specific issue as to who controlled the BVI companies the subject of this inquiry. That was the sole use we made of that evidence. We took it into account only in that way as will be seen in subsequent chapters of this Report when we consider the role of James HUANG and implicated persons associated with him.

We were aware that large sums of monies being processed through bank accounts and share trading accounts in ways which may otherwise have seemed suspicious as to the roles of the individuals and companies involved may not, so far as any individual or company was

concerned, have been something which would suggest that they were particularly or knowingly involved in insider dealing as opposed to a transaction of a different nature.

The Overall Perspective

From the above, it can be seen that so far as the share trading activities conducted through the accounts of the four BVI companies are concerned, which activities involved to a greater or lesser extent others of the individual implicated parties, our inquiry into insider dealing in Firststone shares had to be conducted against the larger background of the trading and bank accounts of the four BVI companies being potentially involved in and used for other disguised activities and purposes.

We wish to emphasize that an important practical effect of the background activities of the four BVI companies was that any probative tracing of funds so as to connect specific individuals with receipt of the proceeds of share trading, including the proceeds of Firststone share trading, was rendered impossible.

We accepted counsel assisting's advice in this regard. We were satisfied that proper attempts had been made to trace funds from the BVI companies share trading proceeds, but that those efforts could do no more, as established in the evidence before us, than demonstrate that a large part at least of the proceeds were returned to companies within the Guangnan Group. What parts of that flow of funds comprised profits from a company's Firststone share trading intermingled as they were with the larger flow of the company's general share trading proceeds was unknown.

CHAPTER 7

ROLE OF JAMES HUANG

Having determined the point of time relevant information came into existence concerning the placement of 20% of Firstone's shareholding with Guangnan Holdings, we turn now to determine the roles of the implicated individuals and companies in terms of their potential possession of that information and abuse of it by insider dealing in Firstone shares during the relevant period.

It is fitting we commence with James HUANG. His role was central in our considerations of the evidence.

James HUANG was at all relevant times a director of Guangnan Holdings and of various other companies within the Guangnan Group. He had up until 15th June 1997 also been a director of Guanfair and the boss, or one of them, of Phoebe CHIU who was the Business Manager of Guanfair. After that date he had surrendered his directorship of Guanfair so as to become the Managing Director of Guangnan Holdings.

He was the primary person at Guangnan Holdings responsible for the negotiations with Firstone as to a placement of that company's shares with Guangnan Holdings.

On 5th December 2000 he was sentenced to six years imprisonment for various fraud offences involving the Guangnan Group. He was released from prison on 6th June 2003.

James HUANG did not give oral evidence before us. As we have said he left Hong Kong shortly after his release from prison and returned to the mainland.

That meant that his evidence before us was contained within the six statements or records of interview he made to the SFC interviewers on the 15th August 1997, 26th September 1997, 17th October 1997, 7th November 1997, 1st September 1998 and 18th November 1998.

Much of what he told the SFC in those statements related to the conduct of the placement negotiations and we have already compassed that material in Chapter 5 in determining at what point the relevant information came into being.

In his statements from the 7th November 1997 onwards he deals with his involvement or lack of involvement with the four BVI companies Lombok, Setter, Super Kingdom and Dragon Sentosa.

He said that part of his duties within the Guangnan Group was to keep a general overview of the Group's share trading. In this regard he at one time described himself as the "chief controller". He said he was not concerned with the details of the share trading as he did not have time to take a detailed role or make particular enquiries. This, so far as it goes, we accept. It is common sense.

He goes on to say that he never authorized Phoebe CHIU to use any BVI companies, but subsequently admits that she did trade through BVI companies but that "these procedures were not well established" and that she did not have to obtain authorization to do so. He agrees the directors of Guangnan Holdings or Guanfair authorized to approve of her trading were himself, DENG Guoxin and YANG Wei.

He says in his statements that he was not aware and had never heard of a company called Lombok or a person POON To Chi (its stated director), or of a company Super Kingdom. He said he had heard of a company called Setter and described it as being involved in money lending matters for Guanfair. His evidence as to whether he had heard of Dragon Sentosa was ambiguous. He initially said he had heard of it and knew its director Mr. QIN who was a friend of his, but later said he knew the name of the company only from SFC documents he had seen during his interviews and had not known QIN was in charge of that company.

He was asked further of Setter affairs and said he didn't remember or did not know whether he had helped Setter set up a trading account at AIM, Eddie CHOW's investment company. He also said he

had no idea whether he had instructed Simon CHIU & Co. to pay \$9 million to Setter's account.

His evidence relating to his dealings with the four BVI companies can be said to suggest he had little or no dealings with them. The effect of his evidence was that in no way was he responsible for any share trading conducted by them. He was adamant that he had never disclosed any relevant information to Phoebe CHIU or Eddie CHOW or indeed anyone.

At the end of the day we rejected his evidence in this regard for the reasons we set out below in due course. In our view the evidence connecting James HUANG with each of Setter, Lombok, Super Kingdom and Dragon Sentosa was overwhelming.

James HUANG

His possession of the relevant information

So far as James HUANG is concerned there is absolutely no doubt that he was aware of the state of negotiations concerning the Firstone placement as they developed between Firstone and Guangnan Holdings from the earliest point in time.

He was after all the person on whose behalf the negotiations were initiated. We accept from the evidence of Mr. CHU, as supported by Mr. PEH and Mr. KWEE, that it was as a result of James HUANG's interest in Firstone after the arrangements for the rights issue had been or were being completed that the first approach had been made to Firstone on behalf of the Guangnan Group as to that group being interested in acquiring some interest in Firstone or its assets.

There is no doubt that James HUANG was responsible for all of Guangnan's input and received all of Firstone's feedback during the course of the preliminary negotiations even prior to 26th June 1997, the occasion of the first meeting between him and Mr. KWEE. Those early negotiations were conducted through Mr. CHU and Mr. PEH as "go betweens".

Given his role in the negotiations from the earliest contacts between the parties through to fruition we are satisfied that James HUANG was perfectly aware of the state of those negotiations at any one time. Given our findings in Chapter 5 of this Report, we are satisfied that he was in possession of relevant information about Firstone at all times after the meeting of 26th June 1997.

His being a connected person

That means one further thing. It means that James HUANG satisfies the requirements of sections 4(1)(c)(i) and 4(1)(d) of the Ordinance as to him being a person connected with Firstone.

These sections read as follows:

“4. Connected with a corporation

- (1) A person is connected with a corporation for the purposes of section 9 if, being an individual –
 - (a)
 - (b)
 - (c) he occupies a position which may reasonably be expected to give him access to relevant information concerning the corporation by virtue of –
 - (i) any professional or business relationship existing between himself (or his employer or a corporation of which he is a director or a firm of which he is a partner) and that corporation, a related corporation or an officer or substantial shareholder in either of such corporations;
or
 - (ii)
 - (d) he has access to relevant information in relation to the corporation by virtue of his being connected (within the meaning of paragraph (a), (b) or (c)) with another corporation, being information which relates to any transaction (actual or contemplated) involving both those corporations or involving one of them and the listed securities of the other or their derivatives or to the fact that such transaction is no longer contemplated;
or (*Amended 29 of 1994 s. 4*)
 - (e)

It is plain to us that James HUANG occupied a position within Guangnan Holdings which gave him access to the relevant information as a result of his initiating negotiations and being thenceforth directly or indirectly involved in those negotiations until their maturity. At all times he would be reasonably expected to have access to the information as it developed concerning Guangnan Holdings negotiating with Firstone's substantial shareholder Mr. KWEE as to Guangnan Holdings taking a 20% stake in Firstone, for the purpose of section 4(1)(c)(i).

Further it is equally plain that James HUANG had access to the relevant information in relation to Firstone, i.e. of Guangnan Holdings taking a substantial stake in that company, by reason of his being a director within the Guangnan group of companies, and particularly of Guangnan Holdings. The relevant information as of 26th June 1997 doubtlessly related to a contemplated transaction between that company and Firstone, for the purposes of the provisions of section 4(1)(d) of the Ordinance.

We have no hesitation in deciding that James HUANG was a connected person in the terms of section 4(1)(c)(i) and 4(1)(d) of the Ordinance at all times.

Having decided that James HUANG was a connected person at all material times and was in possession of relevant information in relation to Firstone from the point of time of the meeting with Mr. KWEE on 26th June onwards until the public announcements of 18th July 1997 we now turn to consider his potential role as an insider dealer in Firstone's shares during that period.

The role of James HUANG in trading in Firstone shares

There was no suggestion that James HUANG traded in Firstone shares during the relevant period in his own name.

However there is evidence which we will shortly consider which would suggest he either used the accounts of the four BVI companies to trade, as a person controlling those companies, or procured

other persons who controlled those companies to trade in Firstone's shares on those companies' accounts.

Further, given the scope of trading in Firstone shares by staff members of the Guangnan group of companies and by certain of their friends and family members during the period of the negotiations we considered also whether James HUANG had deliberately "tipped" others off as to the relevant information he possessed knowing or believing those others would deal, or counsel or procure others to deal in Firstone shares.

Accordingly so far as James HUANG was concerned we considered whether he was in breach of the provisions of either or both of section 9(1)(a) and (c) of the Ordinance.

James HUANG's breach of the provisions of section 9(1)(a) of the Ordinance

Section 9(1)(a) is in these terms:

"9. When insider dealing takes place

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

- (a) when a person connected with that corporation who is in possession of information which he knows is relevant information in relation to that corporation deals in any listed securities of that corporation or their derivatives (or in the listed securities of a related corporation or their derivatives) or counsels or procures another person to deal in such listed securities knowing or having reasonable cause to believe that such person would deal in them;"

The evidence before us, as we say, made no suggestion of James HUANG having dealt in Firstone securities in an account in his own name.

The only trading accounts with which James HUANG was connected on the evidence are those of the four BVI companies: Lombok, Setter, Dragon Sentosa and Super Kingdom.

We will examine the evidence concerning the trading accounts of each of those companies in turn in order to determine whether James HUANG either used them to trade in on his own account or procured or counseled another person to so trade.

James HUANG's connections with Setter

Setter was incorporated in the British Virgin Islands on 5th July 1995. It was purchased that same month in Hong Kong for \$10,000 by Dora CHEUNG (TW 16). She at the time was a clerk employed within the Guangnan group of companies.

She initially told the SFC investigators in her statement of 16th April 1998 that she had purchased the company on behalf of its subsequently solely named director LEI Weiguang who had provided her with the \$10,000 to do so.

In a subsequent statement to the SFC dated 11th August 2003 and in her evidence before us she resciled from the contents of her first statement and said she had lied when making that 1st statement.

She said she had in fact been asked to buy Setter by James HUANG who had also provided her with the cash to do so. She said subsequently James HUANG had asked her to also open a share trading account for Setter but she was not sure with which securities firm.

Further, she told us that James HUANG had also told her to go to "China Enterprises" and collect a \$10 million cheque and take it to an accounting firm which she thought was Simon CHIU & Co. where it was to be split into three cheques, one of which was to be paid to Setter.

Her evidence in this regard was somewhat confused inasmuch as documents produced before us demonstrated clearly that the original loan amount from Hong Kong Chinese Enterprises Association ("HKCEA") to Guangnan Hong (Group) Limited was \$12 million in July 1995 and the first drawdown was of \$9 million which was paid to Simon CHIU & Co. in 3 separate cashier's orders of \$5 million, \$2 million and \$2 million. That was confirmed by the evidence of SUN Wenjie the

Vice President of the HKCEA (TW 1) and by the copy loan documents, cashier's orders and bank statements produced before us. Nevertheless, we are sure Dora CHEUNG's evidence refers to the same transaction. There was only one such transaction.

In any event \$9 million of those sums was paid into Setter's account at AIM (a securities firm in which Eddie CHOW was involved) on 31st July 1995, the day the account was opened.

She said she had lied to the SFC when she made her first statement as James HUANG had come to see her and told her before she was first interviewed that "you cannot name me" and that she was not to reveal his name. Instead of mentioning his name he told her to use the name of Mr. LEI in respect of instructions given to her regarding Setter.

She said she was afraid of James HUANG as he was the general manager of Guangnan Group at the time so she did lie as he asked.

Before us she said that in 1995 she had opened various bank accounts and trading accounts for Setter. In 1996 in accordance with James HUANG's instructions she had handed over all of the Setter documentation to Phoebe CHIU.

We eventually accepted Dora CHEUNG generally as a witness of truth. We considered carefully the fact she had initially lied to the SFC and her stated reason for doing so. Her evidence however was given in a straightforward if somewhat naive manner and we do not think she had any good reason to fabricate her story before us.

Further, as we say, her evidence before us in parts was supported by documentary evidence relating to the provision of funds to Setter's account by way of the cashier's order obtained from Simon CHIU & Co. Inconsistencies between her evidence in that regard and the precise amount of money and nature of the documentation relating to that transaction in evidence before us was, in our view, entirely due to the seven year lapse in time since her involvement in those events.

In short Dora CHEUNG was a generally reliable witness and we accept her evidence given before us and the contents of her statement of 11th August 2003 as being true.

Other evidence less directly connects James HUANG with the operation of Setter.

Setter also had a trading account with Nomura International (Hong Kong) Limited ("Nomura International") although that account was never used to trade in Firststone shares. But within the account opening documentation Setter had given its contact address and phone number as being that of the 8/F of the Guangdong Building in Connaught Road where, at that time, James HUANG was, together with others, located.

Further the specimen signature of W.G. LEI, the stated sole director of Setter in the Nomura documentation, was identical to that in the trading account of Setter which was used to trade in Firststone shares at AIM. In the Nomura documentation the name of W.G. LEI was written out by whoever completed that documentation. The written name looked identical to the signature. The documentation, we are satisfied, is in Phoebe CHIU's handwriting as it looks identical to the writing in many other documents she admits in her statements to completing and, importantly, that her sister in law Diane CHU in her statement also said Phoebe CHIU completed. We approached this question of handwriting with very great care, but at the end of the day and after being exposed to a very large number of documents written by Phoebe CHIU, on her own admission in her statements to the SFC, and from the contents of Diane CHU's statement to the SFC, we are satisfied that the signature of W.G. LEI which appears in Setter's various trading accounts was affixed and used by Phoebe CHIU.

It is important to remember that at this time James HUANG was a director of Guanfair located on the 8/F of the Guangdong Building in Connaught Road, and Phoebe CHIU was his subordinate.

As we say Setter's initial trading activities in 1995 had been conducted through AIM on a discretionary basis. Eddie CHOW, a

director of AIM was authorized to trade for Setter and was according to his evidence entitled to receive 30% of the trading profits. Those first trades of Setter in 1995 were funded by the \$9 million we have already referred to which represented part of the proceeds of the \$12 million loan obtained by Guangnan Hong (Group) Limited from the HKCEA. That money was paid to Simon CHIU & Co. by 3 cashier's orders as we have stated above. Simon CHIU said in a letter to the SFC dated 10th July 1998 that on James HUANG's instructions it was converted into another cashier's order for \$9 million. This evidence broadly accords with that of Dora CHEUNG and is specifically supported by the produced documents and we accept it also. That money was paid into Setter's account at AIM. The following year in August 1996 James HUANG signed the loan roll-over documents on behalf of Guangnan Hong (Group) Limited. Further Phoebe CHIU paid the first annual interest on the loan in the sum of some \$544,000 by way of a transfer from Setter's account at HKCEA on 2nd August 1996.

Additionally in December 1996 James HUANG (with Mr. DENG, another director of Guanfair) had co-signed a Guanfair cheque for the payment of funds totalling \$2.08 million from Guanfair into Setter's HSBC account. The same day "W.G. LEI" signed a cheque drawn on Setter's HSBC account in precisely the same sum in favour of Credit Lyonnais Securities. We have said we are satisfied the signature of "W.G. LEI" as it appears on the cheque was signed by Phoebe CHIU. She also apparently completed that cheque. That Credit Lyonnais account was not used to trade in Firststone shares but its funding is evidence of James HUANG's connection with Setter directly and through Phoebe CHIU.

Obviously, in our view James HUANG was fundamentally involved with the setting up and funding of trading accounts at AIM and Credit Lyonnais for Setter.

On the 11th March and 24th April 1997 further funding of the Setter trading account with AIM occurred. On this occasion the funds came from a bank account in the name of XIAO Yigang who James HUANG had said in his recorded interviews with the SFC was a person he knew and conducted private business with. The total amount of

funds placed into the Setter account by way of two XIAO cheques of the above dates was \$4.9 million. That was the last substantial funding of the Setter account before the 26th June trading of Firststone shares occurred.

There are curious aspects to the person XIAO. Firstly he, or someone, originally requested apparently that the bank statements of the account at Standard Chartered Bank ("SCB") upon which the two cheques totalling \$4.9 million were drawn be sent to Dora CHEUNG (TW 16) at the 8/F of the Guangdong Building in Connaught Road because that is where they were addressed to. Further another address he provided the bank when applying for a credit card on one occasion was a residential address of James HUANG at the Guangnan Group "staff quarters" at Beverly Court.

Prior to early 1996 Dora CHEUNG whose evidence we accept in this regard had performed certain tasks for XIAO. She had helped him to open his private bank accounts in Hong Kong, and to open a share trading account with a securities firm (though she could not recollect which one). The monthly statements of XIAO's bank accounts and share trading accounts were posted to her office address at Asian Honour, the firm which employed her within the Guangnan Group. She also kept signed blank cheques drawn on XIAO's bank account, provided to her by him, which she would complete and post off in settlement of his share trading account. During 1996 she had no more dealings with XIAO's affairs. That was about the same time as she handed over Setter's documentation to Phoebe CHIU.

Asian Honour shared the 8/F of the Guangdong Building in Connaught Road with other Guangnan Group companies including Guanfair.

Whilst we accept Dora CHEUNG's evidence of her involvement with the affairs of XIAO's bank and trading accounts we place less weight on her assertion that she did all this for him simply because he was a client of her company Asian Honour. She said he had become a client of her company in relation to letter of credit transactions.

What we drew from her evidence was that XIAO Yigang seems to us a person who left a substantial part of his security trading, in terms of its setting up and settlement, in the hands of Dora CHEUNG who was at the relevant time herself effectively a subordinate of James HUANG amongst others. As she herself said in her statement and evidence before us eventually the time came when she had nothing further to do with XIAO's affairs. Phoebe CHIU then apparently stepped in. In 1997 XIAO's cheques relevant to this inquiry were, we are satisfied, filled in by Phoebe CHIU.

There were other substantial connections between Phoebe CHIU, a subordinate of James HUANG, and XIAO. Many of these connections will be relevant also when we consider the relationship between Phoebe CHIU and the same four BVI companies. Firstly Phoebe CHIU had received significant amounts of cash by way of XIAO cheques drawn on the SCB account. The backs of those cheques were endorsed by her. Further, she was authorized to trade on a East Asia Asset Management Ltd. account in his name and similarly on his Guangdong Securities account according to her statements to the SFC and Ma Jichao (TW 12) of Guangdong Securities. Phoebe CHIU, we are satisfied, also completed in her own handwriting many of the cheques drawn on XIAO's bank account, including the two cheques totalling \$4.9 million. We take this from the handwriting appearing on the cheques as well as her important admission to the SFC investigators that she had been provided with XIAO cheques signed in blank for the purpose of the operation of his trading accounts.

Because of Phoebe CHIU's relationship with James HUANG her involvement with XIAO bank accounts and trading accounts is some, though indirect, evidence reinforcing James HUANG's own connection with XIAO in the whole of the circumstances of the evidence we have heard in this inquiry. In our view realistically neither Dora CHEUNG nor even Phoebe CHIU were persons in any position to embark on these activities of their own volition or initiative. They did so under another's instructions. That person on the totality of the evidence we are satisfied was James HUANG.

Most of Setter's trading which we are concerned with was conducted in its account at AIM. That trading was conducted by Eddie CHOW, one of the directors of AIM and the person who allocated purchases of Firststone shares by AIM to Setter's account (it was a discretionary account and AIM operated through outside securities firms in its own name and then allocated purchases to its clients account), Eddie CHOW was a close friend of James HUANG and also of Phoebe CHIU.

In our view, all of the above connections direct and indirect between James HUANG and the acts of setting up, operation and funding of Setter's trading accounts generally show that he was closely connected to Setter and its operation as a share trader.

We appreciate that much of what we have stated above occurred before the commencement of our terms of reference. But it is nevertheless evidence which we accept in its totality as demonstrating a clear connection between James HUANG and the setting up, funding and operation of the Setter trading account.

We will deal with further evidence in the form of an admission by James HUANG suggesting general connections between James HUANG and the four BVI companies including Setter towards the end of this chapter.

James HUANG's connections with Lombok

Lombok was incorporated in the British Virgin Islands on 19th December 1996. It was purchased on the 8th January 1997 in Hong Kong by Phoebe CHIU from Offshore Incorporations Ltd. ("Offshore") using a cheque drawn on the account of XIAO Yigang at Standard Chartered Bank.

As we have said, although the purchase price for Lombok was paid by way of a XIAO cheque there was a considerable connection between XIAO and James HUANG. We have set out those matters when dealing with James HUANG's connection with Setter. In brief, XIAO's home address was given on SCB credit card application

documents as being the same as James HUANG's, though it was also provided in the other bank account documents as being 8/F Guangdong Building in Connaught Road c/o Dora CHEUNG. Phoebe CHIU admitted having been provided with XIAO cheques signed in blank for the purpose of settling amounts owed on XIAO's personal trading accounts.

The sole director of Lombok according to its trading account documents and those relating to its opening of a bank account at Nanyang Commercial Bank was a POON To Chi. The share trading accounts it operated which are relevant to the present inquiry were at Win Wong Securities and Credit Lyonnais. Phoebe CHIU in her interviews with the SFC admitted opening the Lombok account at Credit Lyonnais. She completed that trading accounts documentation. She denied having any connection with Lombok's account at Win Wong Securities.

On the bank account opening forms of Lombok at Nanyang Commercial Bank and the trading account opening forms at Credit Lyonnais the correspondence address for Lombok was given as P.O. Box 28282. We accept the evidence of LEE Lan Hing (TW 18) in that regard to the effect that James HUANG had her arrange this address for him by having her mother apply for that P.O. Box. He told her he needed an address of convenience for a friend of his.

Funds deposited into Lombok's bank account in early 1997 came from the bank accounts of two other BVI companies (Mok Seng and Yat Ming) of which POON was also the sole stated director. Both these companies had also been purchased by Phoebe CHIU from Offshore on the same day as she had purchased Lombok, i.e. the 8th January 1997. On both occasions the completed cheques used for payment were in Phoebe CHIU's handwriting so far as the particulars were concerned. One was drawn on XIAO's account at SCB, the other on Setter's account at HSBC. The latter cheque in our view for the reasons we have given was signed in the name of "W.G. LEI" by Phoebe CHIU.

The fund deposit into Lombok's Nanyang bank account in early 1997 had come about in the following way:- James HUANG together

with DENG on 12th February 1997 had arranged a transfer of \$13 million from Guanfair to the Nanyang bank account of Tung Tai Finance Ltd. and \$10 million was transferred to the bank account of Mok Seng from Tung Tai also on 12th February 1997. From there \$6 million was transferred onwards to Lombok's account at Nanyang Commercial Bank on 14th February 1997. That is plainly shown by the bank documents produced before us.

On the 19th March 1997 a further \$2.2 million was transferred into Lombok's Nanyang bank account from the account of another BVI company Yat Ming held at the same bank. Phoebe CHIU had purchased both Mok Seng and Yat Ming from Offshore Corporations Ltd. at the same time she had purchased Lombok on 8th January 1997.

So the funding of Lombok can be traced originally back to Guanfair and the then two directors of Guanfair James HUANG and DENG. That funding was conducted through a somewhat commercially unreal route using BVI companies connected to Phoebe CHIU.

Trading on Lombok's account at Credit Lyonnais was conducted by Phoebe CHIU according to Horace WONG (TW 10). This was also admitted by Phoebe CHIU in her interviews with the SFC.

According to Horace WONG in the course of the dealings he had with Phoebe CHIU (not necessarily concerning Lombok) she had told him her "boss" was James HUANG.

Trading on Lombok's Win Wong account was not directly conducted through Phoebe CHIU. Indeed according to KWAN Tart Yung (TW 11) of Win Wong a person he assumed was POON rang him to place orders. But settlement was conducted through Phoebe CHIU. KWAN faxed her to request settlement. Further on the 26th September 1997 when SFC investigators went to Guanfair's offices at the 8/F of 74-77 Connaught Road they found shredded documents which so far as they could be reconstructed related to Lombok's Firststone trades at Win Wong.

Subsequently after the reference period considerable monies were removed from Lombok's bank account in August of 1997 and deposited into the bank account of a person named ZHONG Yi and the BVI company Yat Ming at Nanyang Commercial Bank. Phoebe CHIU had purchased Yat Ming with a cheque drawn on Setter's account at HSBC. ZHONG Yi's account documents at Nanyang Commercial Bank stated James HUANG's address at Flat 8D, Beverly Court as ZHONG Yi's address and gave a contact phone number at the 8/F of the Guangdong Building. Accordingly monies withdrawn from Lombok's account went into bank accounts of other BVI companies and an individual connected with Phoebe CHIU and James HUANG respectively.

In brief, there was considerable connection between James HUANG and Lombok in terms of the fund flow of the company, and his then subordinate Phoebe CHIU's taking of steps to purchase that company and set up and operate its trading account at Credit Lyonnais. She was also involved in the operation of its account at Win Wong. Some or most of the connections between James HUANG and Lombok are indirect inasmuch as they go through Phoebe CHIU and XIAO Yigang and Zhong Yi but in our view those connections even if indirect can be properly taken into account by us.

We will deal with further general connections between James HUANG and the four BVI companies relating to admissions made by him at the end of this chapter.

The connections between James HUANG and Super Kingdom

Super Kingdom was incorporated in the BVI on 23rd January 1997. It was purchased on 27th February 1997 by Phoebe CHIU again from Offshore. Its sole director according to various documents was a Mr. CHO Kin Wah. It opened trading accounts at Credit Lyonnais and Oriental Patron. Phoebe CHIU opened those accounts and completed the account opening documents. She admitted this in her interviews with the SFC. Diane CHU said the same thing in her interview with the SFC.

In about June 1997, funds were arranged for it on the instructions of James HUANG according to the witness statement of Madam TANG Wai Na (another implicated party) by way of TANG raising \$5.59 million on a letter of credit issued in favour of a company Fountain Datacom Limited ("Fountain") which was owned by TANG's husband YIP Hiu Sui. \$5 million of that amount was then transferred on to the Super Kingdom bank account at HSBC on James HUANG's instructions. According to TANG's witness statement, James HUANG told her to get the details of this bank account from Phoebe CHIU. The signatory of this bank account, according to Phoebe CHIU and Diane CHU's interviews and from the bank documents, was Diane CHU. According to HSBC bank documents provided to us the \$5 million was deposited into Super Kingdom's account on 20th June 1997.

According to Phoebe CHIU, CHO Kin Wah the director of Super Kingdom was a friend of hers and also of Diane CHU. Diane CHU supported this in her own interview with the SFC. But in our view whether a friend or not, like the sole directors of the other three BVI companies CHO was simply a nominee director who did what he was told to do. From the evidence before us, as will be seen, he exercised no practical control over Super Kingdom or its funds.

Trading on Super Kingdom's account at Credit Lyonnais was conducted by Phoebe CHIU. She personally placed orders with Horace WONG (TW 10) of Credit Lyonnais.

Trading on Super Kingdom's account at Oriental Patron was conducted by Diane CHU, Phoebe CHIU's sister in law. Phoebe CHIU had introduced her to Oriental Patron for the purpose of her opening an account there. Both at the time lived together with Phoebe CHIU's brother at the address at Laguna City given as the contact address of Super Kingdom on all its account opening documents. Diane CHU said in her interview with the SFC that Phoebe CHIU and she would discuss shares and Phoebe CHIU would make recommendations to her as to shares to buy, including on one occasion Firststone shares. As will be seen in Chapter 13 when we deal with Diane CHU's role, and for the reasons set out there, we have concluded that Diane CHU was a mere nominee or puppet of Phoebe CHIU.

Following Super Kingdom's successful trading in Firststone shares during the relevant period monies were transferred from its trading accounts to its HSBC account and then by 28th August 1997 that bank account was substantially emptied when its contents were transferred by way of cheques signed by Diane CHU but completed by Phoebe CHIU to the HSBC account of a company Sahara Investors Group Limited ("Sahara"). CHO was also the sole director of Sahara and the signatory of that account. The correspondence address for the Sahara account was again given as P.O. Box 28282 which, as we have said, had been arranged by James HUANG through TW 18 LEE Lan Hing. The contact telephone number given on the Sahara bank account opening documents was that of Phoebe CHIU at Guanfair. Some \$24 million was transferred to Sahara's account from Super Kingdom's account in this way.

Diane CHU was the signatory of the Super Kingdom bank account at HSBC from which this money came. Diane CHU in her interview with the SFC said that all of the cheques she signed withdrawing funds from Super Kingdom's HSBC account were signed on Phoebe CHIU's instructions or at Phoebe CHIU's request. Phoebe CHIU filled in those cheques and Diane CHU signed. That evidence contained in Diane CHU's interviews is supported by an examination of the handwriting on the cheques. Given that and other evidence before us as to Phoebe CHIU's authorship of various documents, we have concluded that the rather distinctive handwriting on these cheques was in fact Phoebe CHIU's as Diane CHU asserts in her interview.

In short, there was a considerable connection between Phoebe CHIU and Super Kingdom, both directly and through Diane CHU. These connections existed both at the time Phoebe CHIU worked under James HUANG at Guanfair and after he left on the 15th June.

Further, James HUANG had been responsible for the original funding of Super Kingdom by way of a letter of credit and part of those funds had gone into Super Kingdom's share trading account at Oriental Patron.

Eventually, as we say, Super Kingdom's proceeds from share trading (not solely from its Firststone trading) had been paid into Sahara's bank account. The correspondence address for that account had been provided by James HUANG and Sahara's contact number was that of Phoebe CHIU at Guanfair.

In our view, James HUANG was directly connected with the funding of Super Kingdom's trading and in due course with the receipt of funds from its trading accounts. Further, his assistant or subordinate at Guanfair had been Phoebe CHIU at the time Super Kingdom's trading operations had been set up and she was the person who had arranged that. James HUANG, it is obvious, was intimately connected with Super Kingdom and its share trading activities.

James HUANG's connections with Dragon Sentosa

Dragon Sentosa was incorporated in the BVI on 6th March 1996. Its subsequently stated director was a person QIN Shanxue.

James HUANG said in his interviews with the SFC that he was a friend of QIN. He said that he and QIN had had some minor monetary dealings together in the form of loans and repayments.

Dragon Sentosa traded in Firststone shares on a CA Pacific account and by way of a discretionary account with AIM. In respect of the latter account Eddie CHOW (another implicated party) was the account executive. In respect of that latter account \$60 million was received for its benefit by way of a transfer from Guangnan Hong (Group) Limited on 13th June 1997 into AIM's Citibank account. By a letter dated 31st July 1998 Guangnan Hong (Group) Limited denied to the SFC that any such payment had ever been authorized. We accept this as evidence. It is, as will be seen, supported by James HUANG's own admissions. He was responsible for transferring that sum to AIM for the benefit of Dragon Sentosa.

Dragon Sentosa operated an account also with Credit Lyonnais (which was not used to trade in Firststone shares). That account gave as a contact number the mobile phone number of Phoebe CHIU.

On the 5th June 1997 Setter transferred \$7 million to Dragon Sentosa's trading account with CA Pacific which funded the latter's purchase of 1,000,000 Firststone shares on 24th June 1997.

Further, a Dragon Sentosa cheque drawn on its account at SCB was completed, we are satisfied, in the handwriting of Phoebe CHIU and signed with QIN's signature. We do not go further in the case of QIN and suggest that his signature like that of "W.G. LEI" of Setter was in fact signed by Phoebe CHIU. But we are satisfied that the SCB account opening documents were completed in Phoebe CHIU's handwriting as were the Credit Lyonnais trading account opening documents.

Eddie CHOW operated the account of Dragon Sentosa with AIM on a discretionary basis. Dragon Sentosa's account with CA Pacific had TW 6 Darryl SIN as its account executive. SIN said in his statement to the SFC that QIN had in fact placed orders through him. In his oral evidence before the Tribunal he resciled from that and said QIN had not in fact placed orders through him but that he had only been provided with buy and sell notes on the day after the transactions. He did not know who actually placed the orders on Dragon Sentosa's account. Nor did his superior at CA Pacific TW 23 Wallace YUEN. Nor did they know how settlement took place. Accordingly in the evidence before us there is nothing to suggest who actually placed the orders at CA Pacific in respect of Dragon Sentosa's trading.

That completes our recitation of our findings as to various particular material connections between James HUANG and the setting up and funding of the share trading of the four implicated BVI companies. Those connections are on occasion indirect but in our view, with nothing more, would establish that James HUANG was a controlling mind of those companies.

That conclusion is supported and confirmed by what follows.

James HUANG's admissions

On the 5th December 2000 in the High Court of HK, James HUANG pleaded guilty to and was sentenced in respect of certain criminal offences involving the fraudulent inflation of the profits of Guangnan Holdings and some of its subsidiaries by substantial amounts.

One of the charges he admitted involved an allegation that he (and others) had wrongfully transferred a sum of \$60 million to the bank account of AIM for use in the trading account of Dragon Sentosa.

In the summary of facts put before the court and personally agreed by him as being correct it was stated:-

"85. In early 1997, D1 (James HUANG) opened an investment account under the name of Dragon Sentosa with C.A. Pacific Securities Limited ("C.A. Pacific") through Eddie CHOW Ka-chun ("CHOW"), a broker/dealer of C.A. Pacific and its subsidiary, Asia Investment Management (Nominees) Limited ("AIM"). Although the investment account was opened in the name of QIN Shan-xue, D1's nominee, it was under D1's control and directions for share speculation through CHOW. Around 2 June 1997, D1 arranged CHOW to open an investment account at AIM in the name of Dragon Sentosa, to which QIN Shan-xue was also nominated as a director.

86. After the opening of investment account at AIM on 2 June 1997, D1 arranged to deposit HK\$60 million into the account for the purchase of the soon-to-be released convertible bonds of Guangnan Finance (Cayman) Limited and other shares.

87.

88. By then, all the deposits and withdrawals in Dragon Sentosa's investment account in AIM were in the exclusive control of D1, while QIN Shan-xue remained as a nominee.

89.

90. The sum of HK\$60 million was deposited into the bank account of AIM on 13 June 1997. From the sum, D1 loaned HK\$20 million to Capital Asia Limited, a related company of AIM for securities speculation. The remaining HK\$40 million was used for bond and share speculations in favour of Dragon Sentosa Limited."

We take these admissions by James HUANG into account in considering simply the relationship between him and the company Dragon Sentosa's trading on its AIM and CA Pacific accounts.

As we have said in Chapter 6, we draw no otherwise prejudicial or adverse conclusion against him or any other implicated party from this evidence. However, in our view, the evidence is probative within the above stated parameters and should be considered by us.

From those admitted facts we conclude that, together with the other evidence relating to his relationship with Dragon Sentosa, James HUANG was in fact the controlling, or at least a controlling, mind of Dragon Sentosa.

The admissions made by James HUANG on the occasion of his sentencing went further however and were more general. In an earlier part of the same set of agreed facts, the following was said:-

"70. Since 1997, D1 and DENG Guo-xin instructed CHIU Yuen-man, an employee of Guanfair, to acquire a number of shell companies incorporated in the British Virgin Islands (BVI companies). Later, the BVI companies were used and controlled by D1, DENG Guo-xin and YANG Wei.

71. During the material times, D1 with knowledge and approval of other co-conspirators, caused Guangnan to transfer substantial funds to the said BVI companies, These funds were mainly used in the speculation of shares, options and bonds."

We take this evidence into account simply on the issue as to the extent of James HUANG's (and as will be seen in Chapter 12, DENG's) connections with the operation of Dragon Sentosa, Setter, Lombok and

Super Kingdom generally. Although those companies are not specifically mentioned in the extract of the admitted facts, we have set out immediately above we are satisfied that it is evidence even though of a general nature which, when taken together with the other evidence before us, is probative of that issue.

In our judgment those individuals whose identities were used so as to make them directors of the four BVI companies we are concerned with were mere puppets. The evidence in this regard is overwhelming, and that is so regardless of who placed orders on the companies trading accounts. We have above looked at the position of each company separately but from that evidence it can be seen that the trading accounts or bank accounts of Lombok, Super Kingdom and Dragon Sentosa were opened by Phoebe CHIU. Those of Setter were opened by Dora CHEUNG. Phoebe CHIU's phone number, or on occasion another Guangnan Group phone number, was used as a contact number, as was on occasion Phoebe CHIU's address and the P.O. box opened on the instructions of James HUANG. Phoebe CHIU personally and her sister in law actually placed orders on accounts of at least two of the four companies. The accounts were funded or settled on many occasions by cheques drawn on the bank account of XIAO Yigang. Some of the companies were purchased with cheques drawn on that same account. Phoebe CHIU completed those cheques.

We give no credence to her suggestion that these acts of hers were done in order to make it more convenient for the actual owners of the companies to trade in shares.

There is far more than a high probability in our view that each of CHO, POON, LEI and QIN were merely puppets or nominees who had no control over the various companies' funding, share trading or subsequent disbursements of proceeds.

The person who really was in control of those companies was James HUANG. It may well be that he was not acting alone in this regard, and particularly may have been acting in collusion with DENG Guoxin, but we are sure James HUANG was at least a major controller of the share trading of these companies.

We will deal in further detail with the role of Phoebe CHIU in the following chapter, but for present purposes in our view it is obvious and highly probable that she acted under James HUANG's instructions and transmitted those instructions where necessary to the nominee directors of each of the four companies.

Specifically regarding Phoebe CHIU it is obvious and is a fact that we cannot sensibly ignore that her handwriting appears consistently on the bank and trading account opening documents of the four BVI companies, or her phone number is provided as a contact number. Her handwriting also appears on a large number of the cheques signed or purportedly signed by CHO, POON, LEI, QIN and also XIAO.

She admitted opening the accounts of Lombok and Super Kingdom at Credit Lyonnais and of Super Kingdom at Oriental Patron. She admitted placing orders for Lombok and Super Kingdom at Credit Lyonnais. She admitted completing various blank, signed cheques for settlement on the accounts she operated for Lombok and Super Kingdom. We are satisfied she controlled Diane CHU's activities so far as Super Kingdom was concerned.

She denied having conducted any of her activities either under the instructions of or with the knowledge of James HUANG. We reject that part of her evidence contained in her statements to the SFC. It simply did not make sense when the other evidence we have set out above which connects James HUANG with those companies was taken into account. Her assertions in her statements to the SFC that she was involved in Lombok's and Super Kingdom's trading as a result of her friendship with Mr. POON and Mr. CHO is inherently unbelievable and is completely contradicted by the realities of the evidence we accept.

We are satisfied Phoebe CHIU acted as the organizer and administrator of the trading accounts of Lombok and Super Kingdom and had an administrative role in all four of the BVI companies.

We are satisfied she did those things under the instructions of at least James HUANG.

We might add that, as will be seen in Chapters 8 and 9, Eddie CHOW at AIM (where Setter and Dragon Sentosa operated their trading accounts) had considerable autonomy in trading on behalf of those companies, though he had close contacts with both Phoebe CHIU and James HUANG in that regard. We are satisfied for the reasons set out therein that James HUANG was the effective controller of the accounts of Setter and Dragon Sentosa operated by Eddie CHOW.

We might further add in this regard that it is apparent from the evidence of contacts between James HUANG's telephone and the telephone numbers of Phoebe CHIU and Eddie CHOW that there was considerable and frequent contact between them both during and after office hours, and so far as Phoebe CHIU was concerned that remained so after James HUANG left his position as a director of Guanfair at the Guangdong Building in Connaught Road and took up his new position as director and general manager of Guangnan Holdings at the Shui On Centre on the 15th June 1997.

Was James HUANG aware that the four BVI companies were used to purchase Firstone shares?

We have concluded that the trading accounts of the four BVI companies were set up and operated with James HUANG's knowledge and under his direction.

From the evidence before us it is obvious he was aware that those accounts would trade heavily. He was instrumental in placing large amounts of funds in those accounts.

The question is whether he was aware of the trades those accounts conducted in Firstone shares.

In our view he must have been. As will be seen in Chapter 8, we do not accept the statements of Phoebe CHIU that she selected Firstone shares to trade in on the basis of favourable reports on Firstone in the press and on the basis of the information she obtained about Firstone when assisting James HUANG during the early stages of its

rights issue arrangements. Nor as will be seen in Chapter 9 do we accept the evidence of Eddie CHOW that he traded wholly without access to the relevant information in Setter's and Dragon Sentosa's accounts at AIM so far as Firstone share purchases were concerned and simply coincidentally booked Firstone share purchases to the trading accounts of those two companies. Both Phoebe CHIU and Eddie CHOW in their management of the trading accounts of the four companies claimed to have purchased Firstone shares simply on the basis of their own independent decisions arrived at on the basis primarily of price and turnover movements or newspaper reports. So far as price and turnover are concerned, there was no compelling or obvious linkage between the pattern of price and turnover in Firstone shares and the timing of their purchases by Phoebe CHIU and Eddie CHOW. Nor was the media information clear-cut. It revealed that Firstone was carrying heavy debts and in need of significant restructuring. Other newspaper reports whilst balanced on the side of optimism did not hold out any special promise for the performance of the company. There was it is true one very short media report which, without any real basis in revealed fact suggested Firstone might be entering into a "new age". But we do not think such an isolated speculative report would stand up against the far more factual information about Firstone contained in the other documents and reports Eddie CHOW and Phoebe CHIU on their own assertions were exposed to.

We do not accept that mere investing coincidence led Phoebe CHIU and Eddie CHOW to purchase Firstone shares in June of 1997 and to continue to purchase them at an increasing rate during the course of and maturing of the negotiations relating to the placement.

As will be seen when we examine the roles of Phoebe CHIU and Eddie CHOW in detail in Chapters 8 and 9 respectively of this Report the nature and timing of their Firstone purchases in the accounts of the four BVI companies and of the purchases of their mutual friend KWAN Lai Sheung and of Phoebe CHIU's mother LAI Wai Yin militate against any conclusion other than that their purchases of Firstone shares was directly related to the progress of the Firstone placement negotiations. In respect of each of Eddie CHOW and Phoebe CHIU we give reasons in those chapters, which we adopt here, for our conclusion that they traded

in Firststone shares as a direct result of receiving information from James HUANG concerning the placement negotiations. Those reasons are in summary as follows:-

As we set out in Chapters 8 and 9, Phoebe CHIU and Eddie CHOW were the trusted lieutenants of James HUANG. All three could be described as close friends. They socialized together. James HUANG was a busy man. The trading in Firststone shares was relatively complicated. It had to be divided up amongst four BVI companies and through a number of trading accounts. Purchases were made on different days and at different times on those days. In our view James HUANG simply would not have had the time or need to attend to all this. Phoebe CHIU was particularly trusted by him. She assisted him in generally running the affairs of the four BVI companies. There was every reason to trust her share trading expertise and allow her to manage the purchase of Firststone shares. The same applies to Eddie CHOW. To enable his two trusted experts and friends to trade effectively in Firststone shares James HUANG no doubt provided them with the relevant information as it developed. That he did so is supported by the pattern of trading in Firststone shares by the four BVI companies which eventually took place.

Was James HUANG aware the information was material?

There is no doubt that James HUANG would have been perfectly aware that the information he possessed concerning those negotiations was wholly relevant information after the meeting of the 26th June. We are satisfied that further purchases of Firststone stock by the four companies he controlled after that date occurred pursuant to James HUANG's encouragement. He must have initiated the scheme which eventuated to purchase those shares using the existing trading accounts of the four BVI companies. He must have been the one to do this and not DENG or YANG his admitted co-partners in the setting up of the trading of the four BVI companies as he, and not them, was the person involved in the placement negotiations with Firststone. He as an experienced businessman must have known the value of the information he held so far as Firststone's future share price was concerned. In our view that is why he utilized the assistance of Phoebe CHIU and Eddie CHOW to purchase

Firststone shares, using their own expertise as to the particulars of the purchases and using the existing trading infrastructure initiated by himself and others involving the four BVI companies. That trading structure was ideally suited for secretive trading. He, by his own admission, was an experienced share trader. He knew Firststone was a third line stock. He worked for a red-chip group. He was ideally placed to understand the impact the information he held as to the Firststone placement would likely have on the market for Firststone's stock in Hong Kong even before that information became specific.

"Counsel" or "Procure"

We are satisfied that James HUANG, according to an arrangement amongst them, provided Phoebe CHIU and Eddie CHOW with updated information on the Firststone placement negotiations as they developed in order to allow them to use their own expertise so far as individual purchases for or on individual accounts were concerned.

In our view, as we have said, he was probably not involved on a transaction by transaction basis. The evidence does not go so far as to establish that. Indeed in our view given the expertise of both Phoebe CHIU and Eddie CHOW, James HUANG would highly probably have left individual transactional decisions to them.

Nevertheless we are satisfied he took steps to procure the purchase of Firststone shares by deciding to use the existing share trading accounts of the four BVI companies and delegated the responsibility to place the orders on those accounts to others. We are satisfied he most certainly would have encouraged those others to do so.

In other words, we are satisfied that James HUANG counselled or procured pursuant to section 9(1)(a) through Phoebe CHIU and Eddie CHOW the purchase of Firststone shares by the four BVI companies whose trading accounts were dealt with by them. We are satisfied also that he counselled or procured (because he may have, or have caused another to, give direct instructions to the nominee director who placed the orders) the purchase of Firststone shares by Lombok on its Win Wong Securities

account and by Dragon Sentosa on its directly operated CA Pacific account.

These two latter accounts were accounts which we could not be satisfied to a high degree of probability were operated by either Phoebe CHIU or Eddie CHOW, though there is considerable suspicion that this may have been so. But we are satisfied that even if they were in fact operated by someone other than those two individuals, most likely the nominee directors Mr. POON for Lombok (as TW 11 KWAN Tart Yung of Win Wong Securities said in evidence) and Mr. QIN for Dragon Sentosa (although neither TW 6 Darryl SIN or TW 23 Wallace YUEN could say who operated Dragon Sentosa's account at CA Pacific) those persons were acting under the ultimate control of James HUANG.

James HUANG's breach of the provision of section 9(1)(c) of the Ordinance

In our view the provisions of section 9(1)(a) and 9(1)(c) of the Ordinance are not exclusionary. It may well be that an individual in possession of relevant information takes steps through another to have purchased the shares to which the information relates or encourages that other to purchase those shares in such a way as to breach the provisions of section 9(1)(a) of the Ordinance. But that does not mean that he cannot then act further in breach of section 9(1)(c) of the Ordinance by also providing that other person with relevant information either at the same time or subsequently. Accordingly we are satisfied also (as will be dealt with in detail in Chapters 8 and 9) that James HUANG provided relevant information to Phoebe CHIU and Eddie CHOW, knowing it was relevant information and knowing they would use it in breach of the provisions of section 9(1)(c) of the Ordinance, so far as the purchase of Firststone shares by the four BVI companies we have found they were responsible for was concerned.

Regarding Phoebe CHIU as will be seen in Chapter 8, we find her to be responsible for all purchases of Firststone shares by Lombok and Super Kingdom on their accounts at Oriental Patron and Credit Lyonnais. As we have said above and will deal with further in Chapter 8, we are not

satisfied to a high degree of probability that she was responsible also for the Firstone share purchases by Lombok on its Win Wong account.

Similarly with Eddie CHOW, we are not satisfied he was responsible for the purchase of Firstone shares by Dragon Sentosa on its CA Pacific account. We deal with that further in Chapter 9.

Other possible breaches of section 9(1)(c)

In our view, James HUANG should not be liable under section 9(1)(c) for Phoebe CHIU's own personal share trading in Firstone on her own account or on her mother's account. Perhaps over-generously we regard that as Phoebe CHIU embarking on a frolic of her own. The purpose of the disclosure to her was to facilitate her trading on the accounts of Lombok and Super Kingdom, we are not satisfied to a high degree of probability that he knew or had reasonable cause to believe she would also deal on her own or her mother's behalf.

A remaining question is whether James HUANG "tipped" any other individual in addition to Phoebe CHIU and Eddie CHOW as to the state of the negotiations between Guangnan Holdings and Firstone so as to further breach the provisions of section 9(1)(c) of the Ordinance.

We have concluded the only persons on the evidence before us whom James HUANG may have realistically "tipped" are in fact Phoebe CHIU and Eddie CHOW.

There is no other implicated individual where there can be shown any line of communication between that individual and James HUANG for the purposes of section 9(1)(c). We do not consider Mr. MO and Mr. XIE as any such individual for the simple reason that there is absolutely no evidence that James HUANG either was aware or could reasonably have been aware that MO or XIE would make use of the information for the purpose of dealing in Firstone shares. The relevant information was provided to them by James HUANG in the normal course of their department's business. There was nothing to suggest to James HUANG that they would abuse that information. Given our conclusions regarding James HUANG's breach of sections 9(1)(a) and (so

far as Phoebe CHIU and Eddie CHOW are concerned) 9(1)(c) of the Ordinance, we do not propose to go further and consider his position under sections 13 and 24 of the Ordinance.

Nor was there sufficient evidence before us to enable us to infer that James HUANG had "tipped" Madam TANG, who through her husband Mr. YIP had purchased Firststone shares on 27th June 1997. We mention her here specifically because the early date of this purchase suggests the possibility she received information about the Firststone placement negotiations directly from James HUANG. Reasons for our findings in this regard are given in Chapter 12 when we deal with Madam TANG's role.

The final question we must address is whether James HUANG was given an opportunity to be heard in these proceedings as required by the provisions of section 16(5) of the Ordinance.

Section 16(5) of Cap. 395 and James HUANG's opportunity to be heard

Section 16(5) is in these terms:

"16. Inquiries into insider dealing

(5) The Tribunal shall not identify any person as an inside dealer
without first giving such person an opportunity of being heard."

At the first preliminary hearing of this matter on 16th April 2003, James HUANG was represented by Messrs. Paul CHENG & Co. At that time James HUANG was serving a sentence of imprisonment imposed upon him on 5th December 2000 by Lugar-Mawson J in the High Court as a result of James HUANG's conviction of certain fraudulent offences already referred to. He had, while in prison, been served with a Salmon letter and materials relating to this inquiry.

It was expected that James HUANG would be released from prison on 6th June 2003. During that preliminary hearing, Mr. CHENG was at pains to point out that his client intended to defend his interests vigorously during this inquiry and wished for time to consider the materials provided to him.

But Mr. CHENG further pointed out that upon his client's release from prison on the 6th June it was feared he would be expatriated from Hong Kong back to the Mainland as he had no right of residence in Hong Kong.

The preliminary hearing of this matter was then adjourned to the 19th May 2003. Mr. CHENG on that day again appeared for James HUANG and again raised the potential problem of James HUANG being expatriated to Mainland China when released from prison.

Mr. CHENG pointed out that under new Mainland regulations an offender who returned to the Mainland after release from prison in Hong Kong could be prevented from returning to Hong Kong for a period of up to two years.

Counsel assisting the Tribunal on both the 16th April and 19th May indicated that they would approach the Immigration Department and assist Mr. CHENG in his efforts to make arrangements for James HUANG to remain in Hong Kong for the purposes of the Tribunal following his release from prison.

On the 19th May a hearing date had been set for the commencement of the inquiry. That was the 6th August 2003.

In the period between 19th May and 6th August 2003 various correspondence flowed between Counsel assisting the Tribunal, Paul CHENG & Co. and the Director of Immigration concerning Mr. James HUANG's being allowed to remain in Hong Kong after his release from prison on 6th June.

Eventually by a letter dated 27th May 2003 to Paul CHENG & Co. (copied to Counsel assisting) the Director of Immigration indicated that "on consideration of the comments from the Counsel to the Insider Dealing Tribunal and Mr. HUANG's confirmed intention of attending to the hearing of the Insider Dealing Tribunal we are prepared to consider to release Mr. HUANG on recognizance on completion of our inquiry in

accordance with section 36 of the Immigration Ordinance pending his removal from Hong Kong".

Subsequently on the 7th June 2003 following the expiration of his prison sentence James HUANG was released on recognizance under prescribed terms (an initial difficulty relating to his claimed inability to meet the financial terms of his recognizance having apparently been resolved).

By a letter dated 7th June to Counsel assisting the Inquiry, the Director of Immigration confirmed that "upon discharge on 7th June 2003 Mr. HUANG Xiaojang was released on recognizance under prescribed terms. He is to report to our Department on every Friday."

But two days later on the 9th June, after these arrangements were in place, James HUANG requested the Immigration Department in writing to be returned to the Mainland "for family reasons". He in fact left Hong Kong and returned to the Mainland on the 12th June 2003.

On the morning of 6th August 2003, the day the substantive hearing commenced, the Tribunal received a hand-written note from James HUANG requesting a two-year adjournment of the hearing. For the reasons set out in Chapter 2, the Tribunal decided not to adjourn but continued with the commencement of the substantive hearing on that day.

In our view, James HUANG had ample opportunity to be heard. Arrangements had been made for him to stay in Hong Kong. For wholly unexplained "urgent family reasons" he left Hong Kong of his own will on 12th June 2003. That was a date well after the service upon him of the Salmon letter, the section 16(2) notice and all the statements and documents then anticipated to be given or produced in evidence during the course of the inquiry.

Further, he left Hong Kong well knowing the prohibition upon any return by him for a period of two years.

In our judgment, James HUANG for his own reasons left Hong Kong. The vague statement that he had "family reasons" for doing so

was never in any way substantiated before us. He has been continuously served, through Messrs. Paul CHENG & Co. with materials served on implicated parties during the course of these proceedings. He had access to representation at an early stage of proceedings. That was a course, so far as we know, also open to him for any specific purpose in the latter portions of our proceedings. He was at all times free to provide us with any further written statement or submissions that he wished.

In our judgment he has been given an opportunity to be heard pursuant to section 16(5) of the Ordinance.

Findings

We make a finding of insider dealing against him pursuant to section 9(1)(a) of the Ordinance relating to all trading in Firstone shares from 27th June inclusive to the end of trading on the 11th July 1997 which was conducted on or in relation to accounts in the name of the four BVI companies, Setter, Lombok, Super Kingdom and Dragon Sentosa.

We make a finding of insider dealing against him pursuant to section 9(1)(c) of the Ordinance relating to the trading in Firstone shares from 27th June to the 11th July 1997 inclusive for which Phoebe CHIU and Eddie CHOW were responsible (as dealt with in Chapters 8 and 9 of this Report) on the accounts of the same four companies at AIM, Oriental Patron and Credit Lyonnais.

CHAPTER 8

ROLE OF PHOEBE CHIU YUEN MAN

Phoebe CHIU at all material times was the Business Manager of Guanfair. Her duties within that company included trading on its behalf in shares listed on the SEHK. In doing so she was under the supervision of the directors of Guanfair principally James HUANG (until he ceased being a director of Guanfair on 15th June 1997), DENG Guoxin and YANG Wei (from 15th June 1997). She had joined Guanfair in about early 1994 and had previously worked at Capital Asia Ltd. with Eddie CHOW Kar Chun and become friends with him. She was an old school friend of KWAN Lai Sheung.

She left Hong Kong prior to these proceedings and did not give evidence before us.

Phoebe CHIU's potential insider dealing

Unlike James HUANG, Phoebe CHIU Yuen Man did trade directly on her own account in Firststone shares. On the 4th July 1997 she purchased 300,000 Firststone shares through her personal account with Oriental Patron.

We therefore considered Phoebe CHIU's role from three perspectives.

Firstly, whether she procured or counselled trading in Firststone shares whilst in possession of relevant information through the accounts of any of the four BVI companies, Lombok, Setter, Super Kingdom and Dragon Sentosa.

Secondly, whether she was in possession of relevant information when she purchased Firststone shares on her own account at Oriental Patron.

Thirdly, because her mother LAI Wai Yin purchased 162,000 Firststone shares through an account in her own name at Oriental Patron on 10th July 1997 and her long time friend KWAN Lai Sheung purchased 3,350,000 shares and rights shares between 25th June 1997 and 11th July 1997 we considered also whether Phoebe CHIU may have acted as a counsellor or procurer of LAI and KWAN's purchases of Firststone shares or as a "tipper" of relevant information to both or either of LAI and KWAN.

That meant for the purposes of determining her role we had to consider her possible breach of the provisions of section 9(1)(a) of the Ordinance both in terms of her dealing on her own behalf on her personal account and dealing, as a counsellor or procurer, on the accounts of the four BVI companies or of LAI or KWAN. We had to consider also her possible breach of section 9(1)(c) so far as her "tipping" either or both of LAI and KWAN is concerned.

The above considerations depended on Phoebe CHIU being a "connected person" for the purposes of section 9. In the event she was not a connected person we then, and only then, would go on to consider her position only pursuant to section 9(1)(e) of the Ordinance, that is as a tippee of relevant information.

Was Phoebe CHIU a connected person?

So an initial consideration concerning Phoebe CHIU's role is whether she was, during the time period contained in our terms of reference, a person connected to Firststone as defined by section 4 of the Ordinance. If she was such a connected person then as we say potentially sections 9(1)(a) and 9(1)(c) could apply so as to render her an insider dealer. If she was not such a connected person at the relevant time then the only provision of section 9 that could conceivably apply to her is section 9(1)(e).

The provisions of section 4 which could possibly apply in this regard so as to make Phoebe CHIU a connected person are section 4(1)(c)(i), and section 4(1)(d).

Section 4(1)(c)(i) of the Ordinance

Section 4(1)(c)(i) is in the following terms:-

“4. Connected with a corporation

- (1) A person is connected with a corporation for the purposes of section 9 if, being an individual –
 - (a)
 - (b)
 - (c) he occupies a position which may reasonably be expected to give him access to relevant information concerning the corporation by virtue of –
 - (i) any professional or business relationship existing between himself (or his employer or a corporation of which he is a director or a firm of which he is a partner) and that corporation, a related corporation or an officer or substantial shareholder in either of such corporations; or
 - (ii)"

During the relevant period Phoebe CHIU was the business manager of Guanfair. As such her responsibilities primarily concerned the affairs of Guanfair, and involved the orchestrating of Guanfair's investments, on behalf of the Guangnan Group, in the Hong Kong stock market. That is from those parts of her statements in evidence before us which we accept. The normal share trading she conducted in this regard was perfectly proper and transparent. It was a part of Guanfair's day-to-day business.

The position she occupied, on its face, would not in our view reasonably be expected to give her access to information concerning another subsidiary of the Guangnan Group acquiring an interest in a listed company. Indeed in a perfect world one would expect some sort of firewall to be in place so as to prevent that sort of information reaching her.

But in determining whether a person's position may reasonably be expected to give him or her access to relevant information concerning another corporation for the purposes of section 4(1)(c) we have directed

ourselves that we are entitled to look at the factual reality of that person's position vis-à-vis access to relevant information concerning the other corporation.

So far as Phoebe CHIU was concerned, she had been up to 15th June 1997 working as a subordinate of James HUANG within Guanfair where, until that date, James HUANG had been a director.

We are satisfied that up until that date at least she had also acted as James HUANG's assistant, as was demonstrated by her handling of documents during the Firstone rights issue, and by the nature of documents found in her office when it was searched by SFC officers in August 1997 involving processing James HUANG's application for a golf club membership.

After 15th June 1997 James HUANG had become the general manager of Guangnan Holdings where he was already a director and had resigned his directorship of Guanfair. After the 15th June there was no formal working relationship between Phoebe CHIU and James HUANG other than that he worked for a related corporation within the group and as a director in the group would have been, to some undefined extent on the evidence before us, able to give her instructions. The relevant information concerning the Firstone placement did not come into existence until the 26th June 1997. That was therefore at a time after James HUANG had left Guanfair.

In other words, at no time either before the 15th June or after the 15th June 1997 did Phoebe CHIU occupy a position which could be reasonably expected to give her relevant information about the Firstone placement because of any business relationship existing between her employer Guanfair and Firstone as required by section 4(1)(c)(i). Guanfair and Firstone simply had no business relationship as required by the provisions of the section which provided Phoebe CHIU with access to the relevant information.

For that reason we conclude that Phoebe CHIU cannot be considered to have been a connected person vis-à-vis Firstone as defined by section 4(1)(c)(i) of the Ordinance during the period limited by our

Terms of Reference as required by section 9(1)(a). The provisions of section 4(1)(e) do not alter this conclusion.

Section 4(1)(d) of the Ordinance

Accordingly, we turn to consider whether Phoebe CHIU was a connected person in terms of section 4(1)(d) of the Ordinance.

That section is in the following terms:-

"4. Connected with a corporation

- (1) A person is connected with a corporation for the purposes of section 9 if, being an individual –
 - (a)
 - (b)
 - (c)
 - (d) he has access to relevant information in relation to the corporation by virtue of his being connected (within the meaning of paragraph (a), (b) or (c)) with another corporation, being information which relates to any transaction (actual or contemplated) involving both those corporations or involving one of them and the listed securities of the other or their derivatives or to the fact that such transaction is no longer contemplated; or (*Amended 29 of 1994 s. 4*)
 - (e)

There is no doubt that Phoebe CHIU was connected to Guanfair. She was an employee of that company. Because Guanfair is a corporation related to Guangnan Holdings, as both companies are subsidiaries of Guangnan Hong (Group) Ltd., she was connected to Guangnan Holdings pursuant to section 4(1)(a) as she was an employee of a related corporation.

The question is whether she had access to relevant information relating to the placement negotiations "by virtue" of her being so connected to Guangnan Holdings.

The phrase "by virtue of" is used in both section 4(1)(c) and section 4(1)(d). It is in our view a relatively broad phrase, but requires

the access to the information to have come about, or to exist because of the nature of the connection with the other corporation, i.e. Guangnan Holdings.

We say this because section 4(1)(d) requires the access to the primary corporation's information to be by virtue of a connection with the other corporation established under paragraphs (a), (b) or (c) of section 4(1). Those paragraphs require the connection to be made by way of an office (e.g. director or employee), property interest (shareholder) or position held by the connected person in his own company.

In our view, the obvious intent of the legislation is that the access to information comes about by way of or through the nature of that office, interest or position. What if the director of a company had dealings such as a contemplated transaction with a listed company whereby he was in possession of relevant information. Let's say he knew another individual (the proposed connected person) who was a director of a related company. They knew each other simply because they were members of the same club and had no business or professional relationship. In our view, if the first director passed on information about the listed company to the other individual because of their social relationship only, then that clearly falls outside the intent of section 4(1)(d).

On the other hand, if the first director in the course of his duties briefed the other individual only because he was an employee of another related company in the same group about the transaction, then in our view that would fall within section 4(1)(d).

Determining why or on what basis the information is transferred is a matter of fact. But the access to the information must exist by way of the nature of the proposed connected individual's office, interest or position in his own corporation.

That means we had to be satisfied that Phoebe CHIU received information concerning Firstone because she was an employee, the Business Manager, of Guanfair a company which was in the Guangnan Group and related to Guangnan Holdings. In determining this we are

entitled to look at the reality of the working relationship between James HUANG and Phoebe CHIU. Her duty was to trade in shares on behalf of the group through Guanfair's trading accounts.

We are sure also for the reasons set out in Chapter 7 and in this chapter that her position in Guanfair and her working relationship with James HUANG had involved her heavily in the administration of the four BVI companies both before and after the 15th June 1997 (when James HUANG ceased being a director of Guanfair and moved to Guangnan Holdings) and the personal placing of share trading orders on behalf of at least two of those companies. As we have said we are satisfied that, so far as her share trading on the accounts of these companies was concerned, it was done under the overall supervision of James HUANG. It is true that the operation of the four BVI companies by James HUANG and Phoebe CHIU's role in their operation was outside of the usual course of Phoebe CHIU's duties. It was plainly an operation which was effective in camouflaging the actual beneficiaries of those companies trading accounts. Indeed from James HUANG's admissions in the High Court on the 5th December 2000 the operation of those companies was ultimately for an illegal purpose, i.e. the false inflation of the Guangnan Group's profits. Regardless of whether or not Phoebe CHIU was aware of that ultimately fraudulent purpose of the generation of trading profits from those four BVI companies trading accounts it seems to us that the reality of the working relationship between her and James HUANG in regard to those companies historically came about because of Phoebe CHIU's position in Guanfair being that of conducting share trading on behalf of the Guangnan Group. It was because of her duties in that regard and her working relationship with James HUANG having come about because of those duties that she worked with or for him in the operation of the four BVI companies trading accounts.

Nevertheless, all that being so the requirement of section 4(1)(d) (somewhat paraphrased) is that she had access to the relevant information by virtue of her connection with Guangnan Holdings through her employment with a related company Guanfair.

In our view that requirement can be distilled into the question "Did Phoebe CHIU get the relevant information from James HUANG because she was an employee of Guanfair?"

That question must be addressed to the point in time when Phoebe CHIU received any such relevant information. The fact that the relationship between Phoebe CHIU and James HUANG historically came from their working together at Guanfair is something we can take into account, but is not determinative of whether Phoebe CHIU's employment in Guanfair at the time she received any relevant information was the reason she received that information.

In our view the words "by virtue of" in section 4(1)(d) of the Ordinance as applied to our considerations of Phoebe CHIU's role require us to be satisfied that there was something intrinsic to the nature of her employment in Guanfair rather than any personal relationship with James HUANG which caused her to have access to the relevant information.

We cannot be satisfied that this was so. No doubt as set out above there was both an historical working and personal relationship between James HUANG and Phoebe CHIU arising out of their having worked together at Guanfair and her having been involved in the setting up and operation of some at least of the four BVI companies' trading accounts.

But the fact that she and James HUANG once worked together at Guanfair and commenced their working and personal relationship there does not mean that there was necessarily something intrinsic to her employment at Guanfair which gave her access to the relevant information.

In our view she received any relevant information about the Firststone placement negotiations not because of the nature of her employment with Guanfair but because she was by then a trusted friend of James HUANG who was running the underground trading operations of at least two of the BVI companies and would have been the person best placed to use that information so far as the trading of those companies was concerned.

In this regard, it is apt to compare the similar reality of her position with that of Eddie CHOW. It is because of both their trusted personal relationships to James HUANG and control of the trading of the respective BVI company trading accounts they were responsible for on his behalf rather than the nature of their employment at either Guanfair or AIM which was the fundamental reason why they would have been provided with any relevant information about the Firststone placement negotiations by James HUANG.

In short, we are not satisfied Phoebe CHIU was a person connected with Firststone in the terms of section 4(1)(d) of the Ordinance.

That means that the provisions of sections 9(1)(a) and 9(1)(c) of the Ordinance cannot apply to her.

Accordingly, we go on to consider Phoebe CHIU's role simply as a tippee pursuant to section 9(1)(e) of the Ordinance.

Did Phoebe CHIU possess the relevant information?

We have already considered and set out in large part the factual background of Phoebe CHIU's involvement with the four BVI companies in Chapter 7 when we examined her role as James HUANG's assistant in the setting up and operation of those companies' trading and bank accounts. We will not repeat that evidence nor our reasons for concluding that she was James HUANG's assistant (or one of them) in the operation of those companies' trading and bank accounts.

Phoebe CHIU did not give evidence before us. She had left Hong Kong shortly before the service of Salmon letters had commenced. She had however been interviewed by the SFC on two occasions.

Those interviews (referred to by us as statements) were recorded and made on the 18th October 1997 and the 27th October 1997.

In her statements to the SFC Phoebe CHIU said that she had once worked with James HUANG when he had been a director of Guanfair, though she had more frequent dealings with DENG Guoxin.

She said that since James HUANG had left Guanfair on 15th June 1997 she had little to do with him. She explained the telephone contacts between her and James HUANG since that date as occurring as a result of James HUANG ringing her to inquire about the price of Guangnan Group shares.

She denied having used any other company or BVI company to trade shares apart from two companies she bought and operated for two personal friends Mr. POON To Chi, i.e. Lombok and Mr. CHO Kin Wah, i.e. Super Kingdom.

She did not know either of these persons' residential address, but contacted them simply by phone. CHO used her address as his contact address.

Her instructions so far as trading on Lombok's and Super Kingdom's accounts were similar. Both CHO and POON had told her to buy "if there was anything good". They gave her otherwise an open discretion and she traded in amounts of millions on both accounts.

CHO was also a friend of her sister in law Diane CHU and had similarly and coincidentally asked Diane CHU to trade for Super Kingdom. Phoebe CHIU opened Lombok's account at Credit Lyonnais and Super Kingdom's accounts at Credit Lyonnais and Oriental Patron. She knew nothing of Lombok's account at Win Wong Securities. She didn't know why shredded documents apparently relating to Lombok's account at Win Wong were found on the 8/F of the Guangdong Building.

So far as she knew neither CHO nor POON had anything to do with James HUANG and he knew nothing of Lombok or Super Kingdom. She was given blank signed cheques by POON so as to operate the account of Lombok.

In short, her evidence as contained in her statements was to the effect that she operated the accounts of Lombok and Super Kingdom for her two friends POON and CHO (as did Diane CHU for CHO). This was an arrangement completely independent of her work at Guanfair and completely, so far as she knew, independent also of James HUANG.

We reject her evidence as contained in her statements to the SFC as having any weight so far as her assertions of running Lombok and Super Kingdom for two personal friends are concerned.

It is inherently unbelievable that she would be placed in such a position of trust and deal in many tens of millions of dollars worth of shares by two persons in respect of whom she could give only sketchy details and who she could contact only by phone.

Her evidence in this regard is naïve and inconsistent with the funding, operation and control of Lombok and Super Kingdom which we have dealt with in Chapter 7.

Very substantial trading occurred in those companies' accounts. That trading was funded from sources inconsistent with POON and CHO being friends of hers and who, so far as she knew, were unrelated to James HUANG. The operation of the companies' trading accounts were significant and seemed to warrant something more than the "pocket money" she says she was promised by POON for operating Lombok's account.

The overwhelming weight of the evidence as we have set it out in Chapter 7 is that POON and CHO were mere nominees and that James HUANG and others were the minds behind these companies. James HUANG, as we have pointed out in Chapter 7, admitted this in his plea of guilty in the High Court on the 5th December 2000.

It is worth repeating one extract from the facts he personally agreed on that occasion:

"70. Since 1997, D1 (James HUANG) and DENG Guo-xin instructed CHIU Yuen-man, an employee of Guanfair, to acquire a number of shell companies

incorporated in the British Virgin Islands (BVI companies). Later, the BVI companies were used and controlled by D1, DENG Guo-xin and YANG Wei.

71. During the material times, D1 with knowledge and approval of other co-conspirators, caused Guangnan to transfer substantial funds to the said BVI companies, These funds were mainly used in the speculation of shares, options and bonds."

In short, it is enough to say that Phoebe CHIU was heavily involved in the trading infrastructure of the BVI companies, particularly with Lombok and also through her sister in law Diane CHU, with Super Kingdom. She had other non-trading connections with Setter and Dragon Sentosa, but trading for those companies was primarily conducted through their accounts at AIM and was in the hands of Eddie CHOW. Another account of Dragon Sentosa at CA Pacific was conducted by a person or persons unknown.

Phoebe CHIU could be best described as one of James HUANG's trusted lieutenants in the setting up and operation of the BVI companies' overall trading and banking activities.

But Phoebe CHIU's close and intimate involvement with those companies and even her personal conduct of Lombok's trading activities and, through her sister in law Diane CHU, of Super Kingdom's trading activities does not of itself mean that she was provided with the relevant information concerning the Firststone placement negotiations.

Nevertheless, we take into account her close relationship with James HUANG. He placed a considerable amount of trust in her.

We take into account also the nature of the Firststone trading she conducted. Combining the accounts of Lombok and Super Kingdom so far as their Firststone trading is concerned, that trading could only be described as controlled and managed. It was not a "one time" trade but consisted of a number of purchases commencing on the 26th June 1997 (the date of the first meeting between James HUANG and Mr. Kumala KWEE of Firststone in respect of the placement negotiations). On that day Lombok purchased 580,000 Firststone shares through Win Wong

Securities. We have already found (in Chapter 7) that POON To Chi the sole director of Lombok was a nominee. Though TW 11 KWAN Tart Yung, the account executive of Lombok at Win Wong recollects POON placed the Lombok orders, he also recollected that Phoebe CHIU was responsible for settlements on the account. More directly on the same day 26th June, Super Kingdom purchased 2,214,000 Firststone shares through its account at Oriental Patron. We have set out our reasons in Chapters 7 and 13 as to our finding that although Diane CHU placed orders for Super Kingdom on that account she was in reality under the control of Phoebe CHIU.

On that same day, a third BVI company Setter Investments Ltd. had purchased 1,000,000 Firststone shares through Eddie CHOW at AIM, and on that same day and the previous day and following day, KWAN Lai Sheung purchased a total of 400,000 Firststone shares. The fourth BVI company Dragon Sentosa had purchased 1,000,000 Firststone shares on 24th June 1997. It can be seen that the symmetry or near symmetry of purchases of Firststone shares by the four BVI companies and KWAN continued on the next occasion of purchases some 12 days later when Dragon Sentosa purchased 500,000 Firststone shares on the 8th July and a further 2,000,000 Firststone shares on the 9th July, Lombok purchased 1,060,000 Firststone shares on the 10th July. Super Kingdom purchased 2,250,000 Firststone shares on that same day, Setter purchased 2,524,000 rights shares on the 11th July and KWAN Lai Sheung purchased a total of 950,000 shares on the 8th, 9th and 10th July. She also purchased 2,000,000 rights shares on the 11th July. During this four day period of purchases by the four BVI companies and KWAN, Phoebe CHIU also purchased, or counselled the purchase (see our findings in Chapter 13) of 162,000 Firststone shares on her mother's trading account at Oriental Patron on 10th July 1997.

Ignoring for the moment purchases on the accounts of individuals, in our view it is highly probable there was a concerted purchasing campaign by the four BVI companies on the days leading up to and including the dates of the two meetings between James HUANG and Mr. Kumala KWEE of Firststone which took place on the 26th June and 11th July 1997.

As we have said we think it highly improbable that James HUANG would have orchestrated the four BVI companies buying campaign himself. We are satisfied that it is highly probable that he left the timing and amounts of these purchases in large part to his two "experts" i.e. Phoebe CHIU and Eddie CHOW. When we turn to Eddie CHOW's role in the following chapter we will refer to a transaction on the 11th July 1997 when CHOW sold 1,750,000 shares from the Dragon Sentosa account at AIM and then purchased 2,524,000 rights shares in the Setter account in an effective swap of shares for rights shares. In our view to do so displays considerable confidence in Firststone's future share price and is something of an indicator Eddie CHOW knew more than mere market movements and factors concerning Firststone's shares.

But for present purposes that transaction is also an indication that the dealings by the four BVI companies in Firststone shares were on occasion relatively complex and were timed to approximately reflect the progress of the Firststone placement negotiations and were split up through different trading accounts. The Super Kingdom transactions required cooperation between Phoebe CHIU and Diane CHU.

In short this all suggests strongly to us that James HUANG simply would not have had the time or inclination to involve himself in these purchases in the detail in which they were conducted. We are satisfied that he left the timing and amounts of the individual purchases and the accounts used to his two "experts", Phoebe CHIU and Eddie CHOW. For them to have been able to do so sensibly would require them to have been kept up to date on the developing negotiations with Firststone by James HUANG. That accords with the timing of the purchases occurring around the dates when the negotiations took steps forward, i.e. the 26th June, 9th July and 11th July.

The above considerations refer to the timing of the four BVI companies purchases. We have mentioned also however that Phoebe CHIU's close friend KWAN Lai Sheung and her mother LAI Wai Yin also purchased Firststone shares during the relevant period and while the Firststone placement negotiations were underway.

Whilst Madam KWAN may well, as will be seen, have received any information she had concerning Firststone shares from Eddie CHOW who was also a friend of hers the only reasonable inference so far as Madam LAI is concerned is that any information, instructions or suggestions she received concerning Firststone shares came from her daughter Phoebe CHIU. Phoebe CHIU of course also purchased 300,000 Firststone shares on her own Oriental Patron account on the 4th July 1997 (the day after a confidentiality agreement relating to the proposed placement was faxed by Gilbert CHU to James HUANG's office at Guangnan Holdings).

In our view the fact that Phoebe CHIU purchased Firststone shares herself and additionally procured or counselled her mother to do so is another indication that Phoebe CHIU was in possession of information concerning Firststone. As will be seen in Chapter 13, we dismiss Madam LAI's assertions in her statements to the SFC that the purchase of Firststone shares on her account was her own idea.

Further Phoebe CHIU, on the evidence before us formed part of a group of three friends, i.e. Madam KWAN, Eddie CHOW and herself. If the trading of the BVI companies Eddie CHOW was responsible for at AIM, i.e. Setter and Dragon Sentosa, the trading of the BVI companies Phoebe CHIU was directly or indirectly responsible for i.e. Lombok and Super Kingdom and KWAN's trading is taken as a whole it can be seen that the trading of those four BVI companies and Madam KWAN's took place during the same time frames. That has already been referred in the brief history of their trading given above.

We do not accept this could be coincidence with each of the three friends independently, through their own researches (which Madam KWAN and Eddie CHOW suggested in their evidence were limited enough) coming to the same conclusions about purchasing and selling Firststone shares.

In our view the evidence in this regard suggests nothing other than collusion between Phoebe CHIU, Eddie CHOW and Madam KWAN.

For that sort of collusive trading to have existed amongst the three friends suggests a high degree of communication amongst them and given what we have said about Phoebe CHIU and Eddie CHOW being responsible for the actual trading of the four BVI companies and that trading occurring on specific days and being distributed amongst the companies in different amounts suggests also special knowledge concerning Firststone shares. Where would that knowledge have come from? There is only one realistic source.

James HUANG quite obviously trusted Phoebe CHIU and Eddie CHOW. The three of them were close friends. They, according to Eddie CHOW's evidence and the contents of Phoebe CHIU's SFC statements, socialized together. From the telephone records provided to us each was in regular contact with each other. James HUANG had worked with Phoebe CHIU on the Firststone rights issue. He used her to set up and help run the BVI companies' trading and bank accounts in an operation which was less than completely regular and transparent. In short he placed considerable trust in her. Her assistance in this regard was fundamental to the setting up and operation of the BVI companies trading accounts.

Given that, and with the other matters we have mentioned we think it highly probable James HUANG had divulged to Phoebe CHIU information concerning the state of the Firststone placement negotiations on a regular basis. That information became relevant information at or after the meeting between James HUANG and Mr. Kumala KWEE on the 26th June 1997.

Phoebe CHIU then in her trading in Firststone shares following that meeting was trading with relevant information. She must have known James HUANG was a "connected person" so far as the requirements of section 4 are concerned. She knew he was a director of Guangnan Holdings conducting negotiations with Firststone so as to allow Guangnan Holdings, a red chip corporation in its own right and certainly part of a red chip conglomerate, take a significant shareholding in Firststone. She was an experienced share trader and must have known what that would mean to the price of Firststone shares should the information become public.

Phoebe CHIU is our view was plainly a "tippee" pursuant to section 9(1)(e) of the Ordinance.

She dealt as an insider in the shares of Firststone through Lombok and Super Kingdom. In our view with one exception she was responsible for the whole of those companies' trading. The obvious arrangement which had been made was that Eddie CHOW was responsible for the trading of Setter and Dragon Sentosa at AIM and Phoebe CHIU was responsible for the trading of Lombok and Super Kingdom at their different brokerages. So far as Super Kingdom's trading account at Oriental Patron was concerned for the reasons we give in Chapter 13 it is quite apparent, and we find highly probable that Diane CHU's operation of Super Kingdom's Oriental Patron account was as a mere "dummy" or nominee acting only on Phoebe CHIU's instructions.

In our view Phoebe CHIU at least procured the Firststone share dealings of Lombok and Super Kingdom either directly or through nominees. In respect of Lombok she traded or dealt directly in that company's account at Credit Lyonnais as she did also in Super Kingdom's account at that firm and as we say through Diane CHU at its Oriental Patron account. The exception we have referred to is this: Though as we have said POON To Chi was a mere nominee we are not satisfied Phoebe CHIU through him dealt on Lombok's account at Win Wong Securities. The evidence in this regard is simply not sufficient to allow us to say to a high degree of probability that she did so. It consists only of TW 11 KWAN Tart Yung's evidence that he contacted Phoebe CHIU occasionally in respect of settlements on the Lombok's Win Wong Securities account, and the finding of what appeared to be shredded Win Wong Lombok account documents on the 8/F of the Guangdong Building (i.e. the same floor where Guanfair and other Guangnan group companies) kept their offices. Phoebe CHIU's statement of 27th October 1997 that she may have accidentally shredded them was in its terms ambiguous and shortly retracted. Somewhat generously therefore we make no finding against her in respect Lombok's Win Wong Securities account trading in Firststone shares.

In short, we find Phoebe CHIU was responsible for all of the trading in Firstone shares by Lombok and Super Kingdom on their Credit Lyonnais and Oriental Patron's accounts only.

In our view Phoebe CHIU was responsible also for the trading in her mother's account which she must have at least either counselled or procured. As we say in Chapter 13 and for the reasons given there, we are satisfied that Madam LAI most certainly was not trading independently on her own account and that she was a mere nominee or puppet acting under her daughter's instructions so far as her Firstone trades were concerned.

Finally, Phoebe CHIU was obviously responsible for her own trading in Firstone shares in her own account at Oriental Patron.

All this trading was in breach of the provisions of section 9(1)(e).

One further matter to consider is whether Phoebe CHIU, herself a tippee, may have counselled or procured Madam KWAN to have purchased Firstone shares. We are not able to say that it was Phoebe CHIU rather than Eddie CHOW who informed Madam KWAN as to the relevant information. But as will be seen in Chapter 10, we are satisfied it was one or the other. As we have already found Phoebe CHIU, Eddie CHOW and Madam KWAN acted collusively in the purchase of Firstone shares. We go into our reasons further in Chapters 9 and 10 in this regard. This finding is based partly upon the similarity of Firstone trading patterns in the accounts operated by the three individuals. We further take into account, as set out in Chapter 10, Madam KWAN's movements of large sums of money in cash in and out of her bank accounts. Those sums of cash suggest to us she was acting in some way together with another or others so far as some part of her share trading was concerned and wished to preserve secrecy in this regard.

At the end of the day we are quite satisfied that by acting together with Eddie CHOW in providing relevant information to Madam KWAN, Phoebe CHIU did so on the basis that Madam KWAN would be in a position to utilize that information to trade in Firstone shares.

The question is whether that amounted to "counselling or procuring" pursuant to the provisions of section 9(1)(e) of the Ordinance. In our view it makes no difference that Phoebe CHIU may have provided the relevant information to Madam KWAN together with Eddie CHOW. That, quite simply, is a joint enterprise which, if it occurred, would make both responsible for the disclosure of the relevant information to Madam KWAN.

But "counselling or procuring" as required by section 9(1)(e) requires more than disclosure. We refer to the definition we provided of that phrase in Chapter 3.

If disclosure without more was sufficient, even if the discloser of the information was aware the person to whom he disclosed it was likely or certainly going to use the information to trade then there would have been little reason for the existence of section 9(1)(c) in the Ordinance, because the provisions of section 9(1)(a) would have been sufficient to encompass that situation.

To amount to "counselling" (and there is no suggestion Phoebe CHIU went further and "procured" Madam KWAN to trade in Firstone) there must be something in the nature of the discloser not just providing the information but also taking a further step towards pointing the recipient in the direction of deciding to trade in the particular shares.

After considerable reflection we are not satisfied Phoebe CHIU did so. We are sure she or Eddie CHOW or both of them disclosed the relevant information to Madam KWAN. We are sure she told Madam KWAN about the details of the information but, perhaps generously, we cannot say it is highly probable she in particular actively encouraged Madam KWAN to purchase Firstone. There is no direct evidence of her doing so. The evidence is circumstantial and we are not prepared to infer that there was any such advising or encouragement emanating from, particularly, Phoebe CHIU. For one thing Madam KWAN had a close friendship with Eddie CHOW as well as Phoebe CHIU.

In short, we are satisfied either Eddie CHOW or Phoebe CHIU or both gave Madam KWAN the relevant information and we are satisfied either Eddie CHOW or Phoebe CHIU or both would have discussed with her the particulars of the Firstone share purchases and offered their own views and opinions as to those purchases in doing so, in terms amounting to some form of "counselling" of her, but we are not prepared to say to a high degree of probability that, particularly, Phoebe CHIU was involved in any such discussion in terms which amounted to the counselling of Madam KWAN on any occasion to purchase Firstone shares.

Accordingly, though we are sure Phoebe CHIU, Eddie CHOW and Madam KWAN discussed the relevant information and their Firstone share purchases we are not able to say to a high degree of probability that Phoebe CHIU (or for the same reasons Eddie CHOW) did go further and counsel Madam KWAN to purchase Firstone. We should add that if there had been evidence connecting the large cash flows in Madam KWAN's bank account to either Phoebe CHIU or Eddie CHOW we would have had no doubts in this regard.

Accordingly, the culpability of Phoebe CHIU under the provisions of section 9(1)(e) is restricted to her dealings in Firstone in her personal account, on her mother's account and in respect of the whole of Lombok and Super Kingdom's dealings on the accounts in those companies' names at Credit Lyonnais and Oriental Patron only on or after 27th June 1997 to 11th July 1997 inclusive.

A possible defence under section 10(4) of the Ordinance

"10. Certain persons not to be held insider dealers

- (4) A person who, as agent for another, enters into a transaction which is an insider dealing shall not be held to be an insider dealer if he establishes that he entered into the transaction as agent for another person and he did not select or advise on the selection of the securities to which the transaction relates."

In our view Phoebe CHIU's actions in assisting James HUANG and perhaps others in the operation of the four BVI companies trading accounts was not that of an agent. She did so at the relevant time not

because of her employment within the Guangnan Group and any obligation upon her or the result of that employment but because, by the time she was instrumental in purchasing Firststone shares through those companies accounts, she was a friend of James HUANG and Eddie CHOW and did so because she was complicit with them in the trading in those accounts. It is also difficult to see how she could have been under any obligation to operate or assist in the operation of the companies' trading accounts in any event when that operation was designed to be outside the knowledge of the Guangnan Group (her employer) and hidden from it.

Finally, even if the concept of agency in section 10(4) could be stretched to include Phoebe CHIU's acting together with James HUANG out of friendship and their personal acquaintance, in our view she had considerable input into the trading activities of the BVI companies she was responsible for (Lombok and Super Kingdom) and was significantly involved in the selection of which shares to trade in. She, so far as Firststone was concerned, was as we have said responsible for the timing and amount of their purchases and, we are satisfied, which of Lombok's or Super Kingdom's trading accounts was to be used. In that regard we are satisfied also she directed Diane CHU's purchases on behalf of Super Kingdom.

On the evidence before us any defence under section 10(4) would inevitably have failed on the balance of probabilities.

The question that remains is whether Phoebe CHIU had been given an opportunity to be heard as is required by section 16(5) of the Ordinance.

Section 16(5) and Phoebe CHIU's right to be heard

That section says:

"16. Inquiries into insider dealing

- (5) The Tribunal shall not identify any person as an insider dealer or as a person to whose breach of the duty imposed on him by section 13 the insider dealing by a corporation may be directly or

indirectly attributable without first giving such person an opportunity of being heard."

Phoebe CHIU has never provably been served with any Salmon letter or any of the documentary materials relating to this case.

That is because on the 11th April 2003 some five days before the first preliminary hearing in this inquiry and after letters containing Salmon letters had been posted to various addresses thought to be those of implicated parties including the address of Diane CHU and what was once also Phoebe CHIU's at Laguna City, she had left Hong Kong and gone to Australia. Her address there was unknown. No contact telephone number in Australia was known by the SFC for her.

On the 16th April at the first preliminary hearing Phoebe CHIU's mother attended. She had been successfully served by post. Before that hearing was adjourned she was asked to contact her daughter and to inform her of these proceedings. Madam LAI never appeared in the proceedings again and subsequently proved uncontactable on a phone number she had provided to Counsel assisting the inquiry which had previously been used successfully to contact her. Diane CHU, Phoebe CHIU's sister in law, although believed to be in Hong Kong also proved to be uncontactable at the Laguna City address she had shared with Phoebe CHIU in 1997.

During the course of the hearing both Madam KWAN and Eddie CHOW appeared and gave evidence. Both were asked if they knew anything of Phoebe CHIU's whereabouts and how to contact her. Both replied in the negative.

More formal attempts to contact Phoebe CHIU continued throughout these proceedings.

Although Immigration Department records showed she had left Hong Kong on the 11th April 2003, beginning on the 9th May 2003 attempts at service upon her husband were made at Flat A, 14/F, Scenic

Heights, 97 Robinson Road in Hong Kong.^{12A} Government records show that she is married to a Stephen HO Cho Hang and that they jointly own the premises at that address. It is those premises we accept as being her residential address.

On 9th May 2003 a non-Chinese woman answered the door of the premises and told the SFC staff member attempting to serve the Salmon letter at that address that her mistress was not in. Service was refused. But a security officer at the building complex confirmed a Madam CHIU lived at the address.

On the 14th August 2003, one week after the hearing of evidence had begun, a further attempt at personal service was made. This time there was no access to the 14/F gained by the SFC staff member who spoke to a male occupant of the flat over the intercom. That male said Madam CHIU was not in Hong Kong.

Various attempts at postal service were made by double registered mail on 22nd August (unsuccessfully) and by ordinary post on 6th September 2003 (this latter mailed letter not being returned).

On the 9th January 2004 another staff member of the SFC had gone to the address at Scenic Heights and had managed to gain entry to the 14/F. A male answered the door of Flat A and was informed by the staff member that she wished to deliver a letter addressed to Phoebe CHIU in care of her husband Stephen HO Cho Hang. The male looked at the letter and replied that Mr. HO was not in and did not occupy the premises. He said he was a friend of Mr. HO but refused to accept service. The staff member then posted the letter up by sticking tape on the outside of the door of Flat A and left another copy in the Flat's letterbox. That staff member CHO Wai Ling subsequently was shown photographs of Stephen HO provided by him in an application to the Stock Exchange for a dealer's licence and confirmed that he was the person who had answered the door to Flat A and had spoken to her.

^{12A} Those premises have two addresses on Lands Department records. The other address given is Flat A, 14/F., Block 1, Scenic Heights, 58A & 58B Conduit Road.

There matters rested until the 6th February 2004 when the SFC was notified by the Immigration Department that Phoebe CHIU had returned to Hong Kong from the Mainland.

At that point of time the Tribunal was nearing the end of the evidence called before it, but final submissions had not yet begun.

On the 9th February a further attempt at personal service on Phoebe CHIU was conducted at the same address. This time when the SFC staff officer arrived the security supervisor of the building complex approached her and said no Madam CHIU lived at Flat 14A.

That was the position at the conclusion of the evidence before us. We began to hear submissions on the 19th February 2004.

Given all of that which we had heard in evidence concerning the attempts to serve Phoebe CHIU we are of the view that it is highly probable that she has deliberately avoided appearing before this Tribunal.

We find it difficult to believe, regardless of any formal service upon her, that she is ignorant of these proceedings taking place. Her mother Madam LAI was aware, at a very early time, of this inquiry. So were her two close friends Madam KWAN and Eddie CHOW, as was her husband Stephen HO. In our judgment it is highly probable Phoebe CHIU was aware of the imminence of these proceedings when she flew to Australia on the 11th April 2003.

We have no way of knowing whether she was in receipt of the Salmon letters sent to her address by ordinary post on the 6th September 2003 or left there on 9th January 2004 (i.e. whether they were forwarded or copied to her). For present purposes, we accept that no provable service had been effected upon her. But we think it highly improbable that she had not been told of the proceedings by her husband Stephen HO or mother, Madam KWAN or Eddie CHOW or one of them.

Further we are satisfied that during the course of the proceedings her husband Stephen HO did reside at the Scenic Heights address and had pretended to be someone else for the purpose of avoiding

service on the 9th January 2004. We can see no reason for him to have done so unless there was a pre-existing arrangement between him and his wife that he would attempt to avoid service of any such SFC documentation.

Finally, given her return to Hong Kong on the 6th February 2004 and the attempts to serve her which had predated that including the leaving of the Salmon letter documentation under her name in Flat A's letterbox and stuck to its front door we are sure she received that documentation once she had returned to Hong Kong and deliberately failed to respond to it.

Had she responded to that service or otherwise simply contacted this Tribunal prior to the conclusion of submissions arrangements could have been made and ample time could have been provided to her to review or to call evidence and to make her own submissions.

In our judgment Phoebe CHIU had an opportunity to be heard before this Tribunal but declined to do so.

Findings

Accordingly we make a finding of insider dealing against her from the 27th June 1997 to 11th July 1997 (the end of trading before the suspension period commenced on Monday 14th July) inclusive in respect of her trading in Firststone shares on those accounts of Lombok, Super Kingdom, her mother LAI Wai Yin and herself we have already identified.

CHAPTER 9

ROLE OF EDDIE CHOW

Eddie CHOW was at all material times an investment advisor who was a director of AIM. He was a friend of James HUANG, Phoebe CHIU and Madam KWAN. Two of the companies whose portfolios were under his supervision at AIM were Setter and Dragon Sentosa.

Eddie CHOW gave evidence before us. He had made four statements to the SFC on the 7th May 1998, 11th June 1998, 15th September 1999 and 19th October 1999. He also provided the Tribunal with a witness statement dated the 2nd December 2003.

The Issue

It is common ground that Eddie CHOW purchased Firststone shares on behalf of Setter and Dragon Sentosa through his investment company AIM as set out hereunder.

The issue concerning these purchases is whether when those purchases were made he was in possession of relevant information provided to him by James HUANG or Phoebe CHIU and was in breach of the provisions of section 9(1)(e) of the Ordinance.

A final issue is whether he is entitled to rely upon the "agents" defence pursuant to section 10(4) of the Ordinance.

Eddie CHOW's evidence

He said he was a close friend of Phoebe CHIU's and had once worked with her for one or two years at a company called Capital Asia Limited ("Capital Asia") which was an investment company. Subsequently she left to work at Guanfair in the Guangnan Group. He was also a friend of Madam KWAN and had met her through Phoebe CHIU.

According to his evidence, he was in 1997 at all relevant times a director of a company Asia Investment Management Ltd. ("AIM") which was effectively a vehicle for the management of a single investment fund for its various clients. AIM was a subsidiary of Capital Asia, the company he and Phoebe CHIU had earlier worked for. Eddie CHOW told us in evidence that in 1997 he earned \$40,000 per month with a bonus, based on profits. He described his occupation as being an investment advisor and worked for or with AIM between 1991 and 1998 when it ceased business.

His duties at AIM comprised of managing clients' accounts by trading in shares "for and on their behalf". That meant quite simply that after a client had invested a sum of money with AIM it was incorporated into AIM's global account and formed part of the funds AIM used to trade in shares on its client's behalf.

At the end of each day's trading the trades conducted on that day, whether purchase or sales would be distributed amongst AIM's client accounts on a discretionary basis. In other words, there would be no individual orders placed on behalf of a particular client by AIM. All AIM would do would be to trade with various brokers on its own accounts and then subsequently exercise its discretion in deciding to which client within its own accounting record to book particular transactions. Of course sales transactions could only be booked to client accounts which held such shares. Mr. CHOW was the advisor within AIM who performed most of these tasks as he said he was responsible for 80% of the trading of AIM.

Which particular account to book a transaction to was a matter of discretion, but in exercising that discretion Mr. CHOW told us he took into account three principles:-

Firstly, it depended on how much money was available to the client. The smaller the account balance the less chance there would be that purchased shares would be allocated to that client's account.

Secondly, the level of performance of the account. AIM tried to distribute shares amongst its clients' accounts so at the end of the year each had made the same pro-rata gains on its original investment.

Thirdly, the lesser performance of a particular account might determine that more profitable shares be allocated to it. And if it held a disproportionate number of losing shares then it would be more likely sales of such shares would be booked to that account.

On the basis of these principles transactions, whether for the purchase or sale of shares, were booked to clients' accounts.

Those three principles governed also, according to Eddie CHOW's evidence, the allocation of AIM's purchases of Firststone shares to customers' accounts.

AIM's purchases of Firststone shares predated June of 1997. It had made purchases in February and May of 1997 as well.

The history of AIM's purchases and sales of Firststone shares is set out hereunder.

Date	Transaction Type	Quantity	Account allocated to	Allocated quantity
3 February 1997	Placing	1,000,000	Brix Brix5 Brix8 Cap China Image Kay Len Setter Kitty	100,000 50,000 50,000 150,000 150,000 100,000 100,000 100,000 150,000 50,000
4 February 1997	Sold	(100,000)	Brix8 Kitty	(50,000) (50,000)
17 February 1997	Sold	(100,000) (84,000) (16,000)	Brix Brix5 Cap China Image Kay Len Setter	(22,000) (10,000) (34,000) (34,000) (22,000) (22,000) (22,000) (34,000)

Date	Transaction Type	Quantity	Account allocated to	Allocated quantity
18 February 1997	Sold	(70,000)	Brix Cap China Image Kay Len Setter	(8,000) (12,000) (12,000) (8,000) (8,000) (8,000) (14,000)
19 February 1997	Sold	(104,000)	China	(104,000)
24 February 1997	Sold Sold	(100,000) (100,000) (126,000)	Brix Brix5 Cap Image Setter	(70,000) (40,000) (104,000) (70,000) (42,000)
25 February 1997	Sold	(200,000)	Kay Len Setter	(70,000) (70,000) (60,000)
30 May 1997	Bought Bought	600,000 200,000 200,000	CMY Kitty Image	250,000 250,000 500,000
5 June 1997	Sold Sold Sold	(250,000) (250,000) (250,000) (250,000)	CMY Kitty Image	(250,000) (250,000) (500,000)
26 June 1997	Bought	1,000,000	Setter	1,000,000
9 July 1997	Bought Bought	400,000 300,000 300,000 500,000 500,000	Dragon Dragon	1,000,000 1,000,000
11 July 1997	Sold Sold Sold	(250,000) (250,000) (1,000,000) (250,000)	Dragon Dragon Dragon	(500,000) (1,000,000) (250,000)
18 July 1997	Sold	(250,000) (250,000) (500,000) (250,000)	Dragon Setter	(250,000) (1,000,000)
FIRSTONE RIGHTS TRANSACTIONS				
3 July 1997	Allocated	1,000,000	Setter	1,000,000
11 July 1997	Bought Bought	1,000,000 250,000 250,000 200,000 700,000	Setter Setter	1,700,000 824,000

Date	Transaction Type	Quantity	Account allocated to	Allocated quantity
		50,000 74,000		
18 July 1997	Sold	(250,000) (250,000) (750,000)	Setter	(1,250,000)
	Sold	(250,000) (24,000)	Setter	(274,000)
	Sold	(500,000) (500,000)	Setter	(1,000,000)
	Sold	(250,000) (250,000) (500,000)	Setter	(1,000,000)

Brix - Brixton Corporation
 Brix5 - Brixton Corporation A/C Five
 Brix8 - Brixton Corporation A/C
 Cap - Capital Asia Limited
 China - China View Group
 CMY - Chan Mei Yee
 Dragon - Dragon Sentosa Limited
 Image - Positive Image Investments Limited
 Kay - Kaybro Investments Limited
 Kitty - Kitty Tam
 Len - Lendas Investments Limited
 Setter - Setter Investments Limited

It can be seen from that history that two of AIM's clients were Setter and Dragon Sentosa.

It is common ground that Setter had opened an account with AIM at a relatively early time, i.e. on the 28th July 1995. Dragon Sentosa opened its account on the 2nd June 1997.

Mr. CHOW said in evidence he had met the person QIN Shanxue who opened the Dragon Sentosa account with AIM. QIN told him that James HUANG could give instructions concerning that account.

Eddie CHOW said he never met the person LEI Weiguang who opened the Setter account with AIM but that he occasionally contacted Phoebe CHIU for instructions in respect of that account. The account had been introduced to him by another broker Mr. MA Jichao of Guangdong Securities.

Eddie CHOW's evidence was to the effect that he eventually, following these events the subject of this inquiry, suspected James HUANG was in some way connected to both the Setter and Dragon Sentosa accounts but that he CHOW had no knowledge as to the setting up, funding or operation of the two companies at the time. He did not know of any connection between James HUANG and either of QIN Shanxue of Dragon Sentosa or LEI Weiguang of Setter.

He had, after the two accounts had been opened, proceeded to allocate transactions to each of them on the basis of the three principles we have referred to.

He said that so far as all the Firststone transactions were concerned, he had bought the stock on each occasion and sold it completely on his own initiative and that at no stage was he provided with any inside information about the Firststone placement negotiations with the Guangnan Group. He said his decisions to purchase or sell Firststone stock were based primarily on market movements of price and turnover. He paid attention also to the identity of other brokerages dealings with Firststone stock.

There are a number of reasons we rejected Eddie CHOW's evidence as being unworthy of credit.

Firstly, it can be seen from the above reproduced history of AIM's Firststone transactions that in February and May of 1997 AIM had purchased on the 3rd February 1 million Firststone shares as part of a placement and on the 30th May another 1 million Firststone shares. Those purchased shares had been allocated over the two dates to 12 separate client accounts. That is in accordance with Mr. CHOW's evidence as to how AIM purchased shares and then allocated them to clients' accounts.

But from 26th June 1997 the situation becomes somewhat inconsistent with Mr. CHOW's evidence.

On the 26th June a further 1 million Firststone shares were purchased. On the 3rd July 1 million nil paid rights shares were received (from the 26th June purchase). On the 9th July a further 2 million

Firststone shares were purchased and on the 11th July a further 2,524,000 Firststone rights shares were purchased.

All these shares were allocated to only two client accounts, i.e. Setter and Dragon Sentosa. It may well be that the nil paid rights shares received on 3rd July 1997 which were attached to the 1 million shares purchased on the 26th June were sensibly allocated to the same account as the original shares, i.e. to Setter's account.

But even so it appears to us to be beyond mere coincidence that all of the Firststone shares purchased from the 26th June 1997 onwards were allocated to the accounts of the two BVI companies, Setter and Dragon Sentosa only, which were companies we are satisfied were ultimately controlled by James HUANG.

Further than that however is the quite remarkable coincidence that each of these purchases occurred on days which reflected the meetings taking place between Firststone and Guangnan Holdings as to the placement of Firststone shares with Guangnan Holdings, i.e. the 26th June, 9th July and 11th July 1997.

In short, if Eddie CHOW's evidence is to be believed he, based on market factors, decided to purchase Firststone shares on the very same three days meetings took place between Firststone and Guangnan Holdings executives advancing the placement negotiations between those two companies, and additionally, according to Mr. CHOW, purely coincidentally his application of the three allocation principles he says he relied upon resulted in the allocation of those purchased shares only to two BVI companies Setter and Dragon Sentosa controlled, unknown to him, by his good friend James HUANG who at that same time also unknown to him was the Guangnan Holdings executive responsible for the ongoing placement negotiations.

In our view, Eddie CHOW's evidence that this was all coincidence is arrant nonsense.

His explanation for his purchase of Firststone shares at the time he purchased them was completely unconvincing. He said in his

evidence that he decided to purchase on the basis that Firststone's price was rising at that time or the turnover had increased. Yet when examined closely Firststone's stock price and turnover record showed no really significant increase on the days or at the times of the purchase. Any increase was no greater than on other occasions when Mr. CHOW had not purchased Firststone shares.

A further factor in our conclusion that Eddie CHOW was not purchasing Firststone shares on the 26th June, 9th July and 11th July 1997 on the basis of his own independent assessment of market factors is the degree and timing of telephone communications between himself and James HUANG as set out within the telephone records produced before the Tribunal¹³. From those records it can be seen that James HUANG and Eddie CHOW were in daily telephone contact with multiple calls (usually 2-3) between them each day. Such calls were made both during working hours and well after working hours.

In other words, there was significant and continuing contact between Eddie CHOW and James HUANG throughout the relevant period. That in our view renders Mr. CHOW's version of events to the effect that his dealing in Firststone shares and his allocation of those shares to companies under the control of James HUANG whilst at the same time James HUANG was furthering the negotiations which were eventually to have a tremendous effect on the prices of those same shares an even less believable series of coincidences.

Was Eddie CHOW trading with relevant information?

In our judgment as we have already intimated in Chapter 7 in dealing with the question of whether James HUANG "tipped" any individual, Eddie CHOW must have been in possession of the relevant information when he dealt in Firststone shares on behalf of Setter and Dragon Sentosa's accounts at AIM.

In coming to this conclusion the above stated coincidence of dates of Eddie CHOW purchasing Firststone shares and allocating them to

¹³ Those records are summarized in chart form at Annexure G.

Setter and Dragon Sentosa and of meetings relating to the Firststone placement negotiations was an important factor taken into account by us.

But another important consideration was the closeness of the relationship between James HUANG, Eddie CHOW and Phoebe CHIU.

We have, in dealing with Phoebe CHIU's role in Chapter 8, referred to the various factors which led us to find that she had traded in Firststone shares through Lombok and Super Kingdom accounts whilst in possession of relevant information.

Many of the matters referred to by us there apply also to our separate consideration of Eddie CHOW's role.

Firstly, we think it highly unlikely that James HUANG would have the time or need to himself conduct trading in any of the four BVI companies accounts. In our view, he left that to his two expert good friends Eddie CHOW and Phoebe CHIU.

There is no doubt James HUANG and Eddie CHOW were close friends. They played golf together, went to movies together and karaokes together according to Eddie CHOW's evidence.

Eddie CHOW was also trusted by James HUANG to handle the \$60 million obtained illicitly by James HUANG from the Guangan Group in June 1997. That \$60 million was placed in the AIM bank account for the use of Dragon Sentosa on the 13th June 1997.

That is in no way to suggest that Eddie CHOW was aware of the theft of that money from the Guangan Group by James HUANG. It is simply an illustration of the fact that James HUANG trusted Eddie CHOW and his company sufficiently to have them receive those funds.

Further, we have decided that James HUANG provided the relevant information to Phoebe CHIU as one of his trusted lieutenants. He trusted Eddie CHOW in the same way. Both Eddie CHOW and Phoebe CHIU were managing the BVI companies' trading accounts. It seems highly unlikely that James HUANG would provide the relevant

information to Phoebe CHIU but not to Eddie CHOW. All three were good friends. James HUANG must have known Eddie CHOW and Phoebe CHIU were closely acquainted. It makes little sense that James HUANG would not inform his other trader, Eddie CHOW, concerning the relevant information.

The timing of the Firststone purchases and the allocation of them by Eddie CHOW only to Setter and Dragon Sentosa once the relevant information came into existence as we say is powerful evidence that Eddie CHOW was aware not only that Firststone shares should be dealt with in a particular way but that also they should be allocated to certain companies. The dates of purchase of those shares is also a strong indicator that Eddie CHOW was aware of the placement negotiations meetings to be held on those days.

Further on the 11th July Eddie CHOW sold 1.75 million of the 2 million Firststone shares allocated to Dragon Sentosa at a loss of some \$100,000. But on the same day effectively replaced those sold shares with 2,524,000 Firststone rights shares (which were now trading). In our view that is an indication that Eddie CHOW was quite confident that Firststone's share price was going to escalate.

Finally, Eddie CHOW was a friend of KWAN Lai Sheung. Her trading showed, as did Phoebe CHIU's trading in Lombok and Super Kingdom, though not so precisely as Eddie CHOW's trading, some considerable symmetry with the developments in the Firststone placement negotiations, and particularly the meetings held on the 26th June and 9th and 11th July.

Bearing in mind that Eddie CHOW, Madam KWAN and Phoebe CHIU from their evidence and statements to the SFC met together and particularly lunched together frequently, their trading in Firststone shares, which in its timing appears collusive, had ample opportunity to in fact be collusive so far as the exchange of information concerning Firststone was concerned.

In our view it is highly probable when Eddie CHOW traded in Firststone shares and allocated them to Setter and Dragon Sentosa's

accounts after the meeting of 26th June 1997 between James HUANG and Mr. Kumala KWEE he was in possession of relevant information concerning the placement negotiations.

In our view, it matters little whether he received that information indirectly through Phoebe CHIU or directly from James HUANG. If he received it from Phoebe CHIU he must have been aware that it emanated from his good friend James HUANG. He knew Phoebe CHIU was a subordinate of James HUANG. In any event there is no reason why Phoebe CHIU would not have told him where the information came from and every reason for her to do so. They met and socialized frequently. They were both professional share traders. They had known each other for a long time and had once worked together. They were both trusted lieutenants of James HUANG.

In our view however the high probability is that Eddie CHOW received the information from both James HUANG and Phoebe CHIU. He had continuing social and telephone contacts with both of them over the course of his buying the Firstone shares. All three were in it together.

Eddie CHOW, as was Phoebe CHIU, James HUANG and Madam KWAN, was an experienced trader. He must have realized at a very early stage what impact the information concerning a red chip group potentially taking a substantial placement in Firstone would have on the price of Firstone shares at that time in mid-1997.

We find Eddie CHOW to have been in breach of the provisions of section 9(1)(e) and to have traded in Firstone shares after the 26th June 1997 as an insider in respect of the accounts of Setter and Dragon Sentosa maintained at AIM. In this regard we make one final comment concerning Eddie CHOW.

Dragon Sentosa operated an account at CA Pacific. That was operated independently of AIM.

TW 23 Wallace YUEN said that Eddie CHOW had introduced Dragon Sentosa to him "through its representative" and he had passed

that person on to TW 6 Darryl SIN of CA Pacific. Darryl SIN said Eddie CHOW brought Mr. QIN of Dragon Sentosa to CA Pacific for the purpose of a trading account being opened.

But apart from those two witnesses' evidence in that regard there is no evidence at all as to who operated the account of Dragon Sentosa at CA Pacific. Darryl SIN originally said in his statement to the SFC that it was Mr. QIN but subsequently said he was in a state of confusion when he made that statement and by a later statement said he had no idea who operated the account. He said Wallace YUEN simply provided him with the accounts dealing notes. Wallace YUEN when asked said he had never provided Darryl SIN with any dealing notes and had no idea who was operating the account of Dragon Sentosa.

Both these witnesses were persons of low credibility in our view, but the position at the end of the day is that there was insufficient reliable evidence to connect to a high degree of probability the operation of that account with Eddie CHOW. We might add that there exists great suspicion that Eddie CHOW was operating that account. Mr. QIN of Dragon Sentosa, as we have said, was a mere dummy. Nevertheless it is not the only reasonable inference that Eddie CHOW operated this account. His position in this regard is similar to the position of Phoebe CHIU vis-à-vis the Lombok account at Win Wong Securities.

Accordingly, our findings of insider dealing so far as Eddie CHOW is concerned are restricted to the two accounts of Setter and Dragon Sentosa he was in charge of at AIM in respect of their Firstone share trading from 27th June 1997 to the end of the trading period prior to the suspension of trading on the 14th July.

We do not go further and find him to be in additional breach of the provisions of section 9(1)(e) by way of counselling or procuring Madam KWAN to have traded in Firstone shares. Our reasons in this regard are essentially the same as we have set out in determining Phoebe CHIU's liability in this same regard in Chapter 8.

Whilst we are satisfied that there may well have been conversations between Madam KWAN and either or both of Eddie

CHOW and Phoebe CHIU which amounted to them counselling Madam KWAN to purchase Firststone shares, we are not prepared to say to a high degree of probability that in particular Eddie CHOW was involved in any such discussion in terms which amounted to the counselling of Madam KWAN on any occasion to purchase Firststone shares.

In our view, there is insufficient evidence to establish that, apart from merely disclosing the relevant information to Madam KWAN, Eddie CHOW went further and counselled or procured Madam KWAN to trade in Firststone shares.

That leaves one further matter to consider.

Does the defence of "agent" provided pursuant to section 10(4) of the Ordinance apply to Eddie CHOW's role?

That provision is as follows:-

"10. Certain persons not to be held insider dealers

- (4) A person who, as agent for another, enters into a transaction which is an insider dealing shall not be held to be an insider dealer if he establishes that he entered into the transaction as agent for another person and he did not select or advise on the selection of the securities to which the transaction relates."

We accept that Eddie CHOW was acting for James HUANG (in his cloak of Setter and Dragon Sentosa). Eddie CHOW, though styling himself as an investment advisor, was effectively the person acting as an account executive for Setter and Dragon Sentosa. He was, in trading and allocating shares to those companies accounts, acting pursuant to contractual obligations.

In our view whether that contractual agency is regarded as one existing between his company AIM and Setter and Dragon Sentosa, or is looked at more realistically as a relationship arising between Eddie CHOW and James HUANG, we are satisfied that Eddie CHOW was acting as an agent both of his company AIM and also, pursuant to agreements between AIM and Dragon Sentosa and Setter, of those

companies, and as he was aware they were mere "fronts" for James HUANG, for the controller of those companies James HUANG.

In short, however one regards the nature of Eddie CHOW's agency, we are happy he was acting as an agent when he purchased Firststone shares and allocated them to the accounts of Setter and Dragon Sentosa.

The issue then is whether in acting as an agent in the purchase of Firststone's shares and allocating them to Setter's and Dragon Sentosa's accounts he has established that he did not select or advise on the selection of those Firststone shares.

In our judgment he has failed to establish this. It is fair to say that Mr. Kelvin CHAN who appeared for Eddie CHOW did not place any great emphasis on this defence pursuant to section 10(4) of the Ordinance and directed no part of his original written submissions to it, but given our above findings it is our view we should address it in any event.

It was Eddie CHOW's own evidence that it was entirely up to him to decide to which account to book his purchases of Firststone shares and that he, at the relevant times, booked them to Setter's and Dragon Sentosa's accounts using the three principles we have outlined earlier.

In this latter regard we have given his evidence no weight. We accept that the procedures within his company AIM were that the company purchased shares through brokers in Hong Kong and then allocated those shares to the accounts of its customers at its discretion. That process is supported by the documents produced to us. We reject his evidence that it was by following this procedure (and the three guiding principles which governed it) that it came about that the Firststone shares purchased in June and July of 1997 were all booked to the accounts of Setter and Dragon Sentosa.

We are satisfied that Eddie CHOW enjoyed considerable independence and discretion in deciding how many Firststone shares to purchase at any one time and at what price and indeed when to purchase them. Further, we are satisfied it was entirely up to him as to which of

Setter's and Dragon Sentosa's accounts they were to be booked. In this regard, as we have said, we are satisfied James HUANG adopted a "hands off" approach and left it up to his two trusted lieutenants Eddie CHOW and Phoebe CHIU to manage the trading accounts of the four BVI companies.

For these reasons we are satisfied that Eddie CHOW has failed to establish any defence pursuant to section 10(4) of the Ordinance.

Findings

That being so, we find him to be an inside dealer in those Firststone shares he purchased on behalf of AIM and allocated to the accounts of Setter and Dragon Sentosa from the 27th June to the 11th July. That effectively means those purchases made by AIM on the 9th and 11th July 1997.

CHAPTER 10

ROLE OF KWAN LAI SHEUNG

KWAN Lai Sheung was in 1997 a close friend of Phoebe CHIU. They had, according to their statements to the SFC and Madam KWAN's evidence before us, been friends since their schooldays. Both herself and Phoebe CHIU were also friends of Eddie CHOW. It was common ground that all three would lunch together and on occasion dine together. They were three friends who worked or were involved in share trading or the share trading industry.

Madam KWAN was employed by Hang Seng Bank ("HSB") as a marketing officer. She had personally traded in shares in Hong Kong since about 1992.

She made the following purchases of Firststone shares within the relevant period:-

25 th June 1997	100,000	through CA Pacific
26 th June 1997	100,000	through CA Pacific
27 th June 1997	200,000	through CA Pacific
8 th July 1997	100,000	through On Hing Securities
9 th July 1997	100,000	through On Hing Securities
10 th July 1997	750,000	through Yardley Securities
11 th July 1997	2,000,000 rights	through Yardley Securities and CA Pacific

It should be noted that the purchases of 25th, 26th and 27th June attracted allocations of rights shares in due course as a result of Firststone's rights issue of 23rd June 1997 and that the purchase of 2 million rights shares on 11th July was in the main funded by the sale of 750,000 shares on that same day by Yardley Securities for Madam KWAN.

Madam KWAN gave evidence before us. Additionally, she provided us with a statement made by her on the 29th November 2003 and another document which was effectively an opening to her case. She

had also made two statements to the SFC when she was interviewed by them on 20th June and 27th June 1998.

The Issue

The suspicion of insider dealing concerning her was quite simply whether she had been a "tippee" of relevant information disclosed to her by Phoebe CHIU or Eddie CHOW. Accordingly, we considered her possible breach of the provisions of section 9(1)(e) of the Ordinance.

Madam KWAN's evidence

Her evidence was to the effect that she had been all along an independent trader and had never traded under the directions or on the instructions of or with inside information provided by Phoebe CHIU or anyone else. She was a Hong Kong University graduate in economics.

Apart from her trading accounts at CA Pacific, Yardley and On Hing brokerages (which were the ones in which she had traded in Firststone shares) she also operated another account at Oriental Patron (which had not traded in Firststone shares). She had also a discretionary account at AIM, where Eddie CHOW was a director and where he had complete discretion to trade on her behalf. That account dealt only in warrants and had not traded in Firststone shares.

Madam KWAN was on her evidence an experienced share trader and her trading accounts show frequent and large volume transactions.

In the five years since commencing her share trading in Hong Kong from 1992 to 1997, she had accumulated by her estimate in evidence some \$13 million or more in securities accounts clear of debt. She also estimated she had some \$2 million in forex trading and real estate trading profits. All in all she was, in 1997, about five years after completing her university education, according to her own evidence a woman of considerable wealth. Her trading accounts at CA Pacific and Yardley confirmed the share trading figures she advanced in her evidence.

What was an initial issue in her case was, quite simply, whether this was, as she said, all her own work or whether she had traded with other people's assistance. The further and fundamental question was whether any such assistance included the disclosure of inside information. The potential source of any such disclosure was, as we say realistically, Phoebe CHIU or Eddie CHOW.

Was Madam KWAN an independent trader?

We concluded at the end of the day that Madam KWAN was not a wholly independent share trader and that her assertions in evidence to the contrary were lies.

A starting point, though not in any way conclusive taken by itself, was the fact that she had in her CA Pacific account alone some \$11 million in assets (debt free) only five years after she had finished her university education and commenced work in Hong Kong. This is an impressive achievement even if we take into account her evidence that she had had accrued assets of \$2 - 3 million reflecting her real estate and forex profits which may have been at least partly recycled through her share trading account and therefore formed a part of her CA Pacific trading account assets. At that time in 1997 she was earning \$30,000 per month salary from her employment at HSB. She said she had accrued this substantial sum of money primarily by investing in shares and with little more research other than reading the newspapers for an hour or so each day. She did not for example seek to know stocks P/E ratio. She invested for the most part on a short-term basis though she held some stock (including Firststone) for longer periods.

Given her background and the relatively short period she had to accumulate the \$11 million or so in share trading assets in her CA Pacific account Madam KWAN's success in this regard was outstanding if based on her own efforts, but not impossible.

Against that background other factors come into play.

She operated two cheque accounts at HSB (her employer). One was quite obviously a "domestic" account in that it contained

transactions ranging from very small amounts to sometimes larger amounts. All transactions were by cheque or other documentary transfer with few exceptions.

The other account which we will refer to as the "large sum" account contained in the main only large sum transactions. They ranged from tens of thousands of dollars to millions of dollars for each transaction. Most were even number transactions. A surprisingly large percentage were pure cash transactions where even numbered hundreds of thousands of dollars were deposited in cash currency or withdrawn in cash currency. Initially the Tribunal thought that "CASH" references in Madam KWAN's cheque accounts at HSB may have referred to cash cheques. But Madam KWAN's own evidence was that these were pure cash transactions and indeed on the face of the account entries cash cheques had a separate reference of "CASH" followed by a cheque number.

Her explanation for these transactions being conducted in cash varied somewhat over time.

To the SFC interviewer in her statements of 20th June 1998 and 27th June 1998 she said she could not remember what any individual cash withdrawal in her large sum account was for but thought some may have been for playing mahjong and personal expenses. One, a cash withdrawal of \$3 million was a loan to a friend.

Initially Madam KWAN in her evidence before us seemed to be suggesting that the large cash withdrawals made by her were to facilitate her own share trading in that it took time for cheques drawn in favour of securities firms to clear and therefore a cash payment avoided a settlement not being made on time.

Of course that, if it was her evidence, would have overlooked that her trading accounts and certainly her CA Pacific account were margin accounts.

She resciled from this apparent position in due course and gave a slightly different version of events to the effect that she said the cash

withdrawals (with the exception of the \$3 million loan) from her large sum account were primarily due to her having to hurriedly provide money so as to be able to club together with friends or family for the purchase of shares or participate in forex transactions, and that the cash deposits were her friends putting money into her account for the purpose of pooling together with her.

This explanation was also fundamentally unbelievable. Given the number of cash withdrawals from her large sum account Madam KWAN would have spent a considerable number of her weekly lunchtimes obtaining and depositing into her friends' accounts large sums of cash money. Quite simply there are easier ways of going about share trading particularly when Madam KWAN operated at least two margin trading accounts generally with considerable cash surpluses. The concept of an experienced bank employee going from bank to bank transporting large sums of cash and waiting whilst they were counted, whether by machine or by hand, both at the time of withdrawal and of deposit because "she knew of the limitations of cheques" is simply nonsense. Other share traders in Hong Kong, amateurs or otherwise, normally get by perfectly well with using cheques, cashiers orders or margin accounts. Madam KWAN's evidence as to the advantages of her or her friends walking large sums of cash from bank to bank seems wholly imaginary. We do not accept her version of events in this regard.

One particular cash withdrawal from her large sum account was \$3 million. That withdrawal occurred on 9th July 1997. When interviewed by the SFC she said it was a loan to a friend. Initially in her first interview with the SFC on 20th June 1998 she refused to say who this friend was. On the occasion of her second interview one week later on the 27th June she revealed the name of this friend as being a Mr. XIA Wenji a mainlander whose phone number and address she either did not remember or did not know. She did not know what his line of business was at that time.

In her evidence before us, she was still unable to provide Mr. XIA's phone number. She had no longer any record of it and had forgotten it. She still did not know his address.

She said the \$3 million loan had come about because Mr. XIA had told her his business in China had cash flow problems. She had met him about a year before and they had become good friends though not intimate. They met on average about once a month. He pestered her for the loan. He finally met her at her place of work and she agreed to make the loan. She went to the bank with him and withdrew \$3 million in cash while he waited outside. She then gave it to him. She gave him the loan in cash in a bag because he asked for it to be in cash.

Once she gave him the money she never saw him again. She tried to ring him but the phone number he had given her now no longer worked. She had no way to contact him and she has subsequently been unable to recover the money. She did not do anything about the missing money. She did not go to the police or a lawyer. She said she simply wanted to forget the incident as it was distressing. There was no loan documentation and she had nothing to show she had lent the money to Mr. XIA and no way of locating him.

With respect to Madam KWAN, educated and qualified at Hong Kong University, this version of events is in our view nonsense. It flies in the face of Madam KWAN's previous history, in her own evidence, of considerable commercial acumen. It is inherently unbelievable. Madam KWAN in our view has lied blatantly in this regard and has done so to disguise the real purpose and destination of her cash withdrawal of an amount of \$3 million.

Further, taking together all of the other cash withdrawal transactions in her large sum account Madam KWAN was unable to link any one of them to her trading activities.

In our view it is highly probable Madam KWAN's large sum bank account reflected, in its cash deposits and withdrawals a payment of monies by and to other persons and were made in cash in an attempt to disguise the identity of that person and so prevent any association of them with Madam KWAN's share trading account which funded in large part that large sum account.

A further matter which we took into account was the payment into Madam KWAN's large sum account of a cheque in the sum of \$360,000 from a company called Newick Holdings Limited ("Newick"). That company was a BVI company whose stated director and authorized signatory on its bank account was a Mr. QIN. That company had once deposited a cheque into the account of a company controlled or at least partly owned by Eddie CHOW and according to a letter dated 15th April 1998 from Bonus Secretarial and Corporate Services Ltd. ("Bonus") (a seller of BVI companies in Hong Kong) Mr. QIN was introduced to them as a purchaser of the company by Eddie CHOW. Further, Phoebe CHIU paid for the purchase of Newick from Bonus on the 17th March 1997 by way of her own personal cheque.

This evidence may not go far but it does show some connection between Madam KWAN's bank account and a company also involved in the funding of Eddie CHOW's trading activities, which was also connected to Phoebe CHIU.

The \$360,000 deposit allowed Madam KWAN to purchase in her CA Pacific account Guangnan warrants. That purchase, which was a placement, was extremely lucrative for Madam KWAN as Guangnan warrants increased in price by a factor 10 or more and accounted for a significant part of her newly made wealth by mid-1997.

Madam KWAN's explanation of this payment into her account was difficult to understand. According to her the owner of Newick, a Mr. Wilson QIN, wanted to purchase some shares. She agreed to sell him some Pacific Rim stock she had. He gave her the cheque for \$360,000 and she held the shares in trust for him in her Yardley account. Eventually she said she sold them and paid Mr. QIN with a cash withdrawal from her HSB "large sums" account. This explanation as to why Newick paid her \$360,000 in time for her to make a timely purchase of Guangnan placement warrants seems somewhat artificial.

Why would Mr. QIN simply not purchase such shares himself? Particularly if he knew Eddie CHOW and CHOW had introduced him to Bonus. Why would Madam KWAN need to pay Mr. QIN in cash? His company Newick obviously operated a bank account in Hong Kong.

We conclude Madam KWAN's evidence in this regard is again a lie. In any event we give it no weight. In our view, she has concocted another story to disguise the truth concerning the source of and reason for monies paid into and withdrawn from her bank account.

In our view the history and nature of funding of Madam KWAN's share trading and particularly the nature of cash transactions in her large sum account at HSB make it highly probable when taken together with the other evidence we have referred to concerning Madam KWAN's background and relationship with Phoebe CHIU and Eddie CHOW that her share purchases funding came from, in large part, other individuals or sources.

While it is impossible for us to make any finding as to what specific source or sources Madam KWAN's funding in fact came from given the cash dealings involved, we are satisfied given her close relationship to Phoebe CHIU and the latter's role in assisting in the funding of the BVI companies, and given the fact of the Newick cheque providing Madam KWAN's funding for her original highly lucrative purchase of Guangnan Group warrants it seems to us that it is highly probable Madam KWAN's funding was in part at least assisted by Phoebe CHIU. Madam KWAN admitted in her evidence that she occasionally pooled funds with Phoebe CHIU.

Of course the fact that a large part of the funding for Madam KWAN's share trading was from outside sources, and that therefore a large part of her trading was either as a partner or nominee with or for someone else does not necessarily establish whether or not she was trading independently so far as particularly her Firststone share purchases were concerned.

Nor if she was not trading independently so far as Firststone shares were concerned but doing so on another's suggestion or at their request does it establish whether she was trading as a mere nominee or puppet or whether she had at the time of trading possession of relevant information in respect of those shares.

Did Madam KWAN possess relevant information when she traded in Firstone shares?

In our view Madam KWAN did possess relevant information at the time of her trading in Firstone shares after 26th June 1997. Prior to that date she possessed information (which was not yet relevant) concerning the state of the negotiations between Firstone and Guangnan Holdings.

In coming to that conclusion we take into account the following matters.

Madam KWAN was a close friend of Phoebe CHIU and Eddie CHOW. She formed a part of that group of three who regularly socialized with each other. It is common ground they lunched together often. The produced telephone records show communication between all three individuals (particularly between Eddie CHOW and Madam KWAN) during the relevant period.¹⁴ In other words, there was as a whole continuing and close communication during the relevant period between these three share traders, two of whom were close friends of James HUANG and who, in our view, had been for the reasons given in Chapters 8 and 9 provided by him with the relevant information.

Against that background we look at the timing of Madam KWAN's Firstone share purchases.

It is true to say that she purchased Firstone shares on the day before, on the day of and the day after each of the three meetings of the 26th June, 9th July and 11th July (except that she made no purchase on the 12th July. That day was a Saturday and trading in Firstone was suspended prior to trading on Monday 14th July). That means that her trading in Firstone shares was on a daily basis from Tuesday 8th July to Friday 11th July 1997. That is on each of the last four days of available trading before Firstone shares were suspended on Monday 14th July.

¹⁴ Annexure G

Madam KWAN's trading in Firstone shares can be seen to have tracked the Firstone placement negotiations. As those negotiations proceeded so did Madam KWAN's Firstone share trading increase.

Some point was made by Madam KWAN that she had purchased Firstone shares on the day before each of the meetings and accordingly that indicated she was purchasing the shares independently of any meeting being held. In our view such purchases simply reflect knowledge of the imminence of the meetings and of the state of affairs surrounding the meetings. Such purchases, we have concluded on all of the evidence, were anticipatory in nature.

So far as the purchases of 30th May are concerned which likely occurred prior to any placement negotiations or contacts occurring, we are satisfied that that purchase merely reflected knowledge of the then existing rights issue concerning Firstone. Whether that was as a result of information provided by Phoebe CHIU, who was aware of the background of Firstone as a result of her exposure to the rights documents is irrelevant to our terms of reference.

At the end of the day we are satisfied that Madam KWAN's intensive trading interest in Firstone at the time of the Firstone negotiations was no coincidence. She was told, in our view, of the information concerning the negotiations as the negotiations developed.

There was nearly a two week gap between the first meeting of James HUANG and Mr. Kumala KWEE on the 26th June and the second meeting (which took place without Mr. Kumala KWEE but with Mr. PEH present) on the 9th July. The next full meeting occurred on the 11th July.

Although Madam KWAN purchased Firstone shares on the day before, the day of and the day after the first meeting on 26th June 1997, she then did not make any further purchases of Firstone shares until the day before, the day of and the day after the second meeting of 9th July.

In other words, she made no purchases in the gap between the two meetings. We appreciate that the 1997 handover occurred at that

time, but the whole of that period was not a public holiday and trading could take place.

We are satisfied that information was provided to Madam KWAN concerning the Firststone placement meetings and negotiations. We are satisfied she was not a mere puppet. The complexity and extent of her trading in Firststone shares militates against this. Whether she obtained her information from Phoebe CHIU or Eddie CHOW we are satisfied she was given the whole picture concerning the Firststone placement negotiations. The pattern of her trading is inconsistent with her being a mere puppet.

Rather than sell all of her Firststone share holding on the 18th July (as did both of Eddie CHOW and Phoebe CHIU in respect of the BVI company accounts they controlled) on the date of the public announcement of the Firststone placement to Guangnan Holdings she sold most of her, by then 4,200,000 Firststone shares, but retained 1,300,000 of them.

That shows some independence of decision making. That is entirely consistent with our finding that she traded in Firststone shares on her own initiative and whilst in possession of relevant information provided to her by either Phoebe CHIU or Eddie CHOW.

Finally, but importantly, Madam KWAN was an experienced share trader. That was known both by Phoebe CHIU and Eddie CHOW. She was a close personal friend of both. Even accepting that she was partly funded by them there was little reason for them to treat her as a nominee and simply direct her trading in Firststone shares.

The high probability is, given the pattern of her trading in Firststone shares that Madam KWAN was aware of the placement information.

Was she aware the information was material?

Given her background as an experienced share trader, we are certain that she must have known what impact the placement negotiations

information must have had on the market for a third tier stock such as Firstone. Her purchases occurred in the midst of the 1997 "red chip" frenzy. In our view, her early purchases of Firstone stock at a time even before we are satisfied the placement information had become specific is an indication of Madam KWAN's appreciation of the importance and materiality of the information she was given.

Accordingly then, we are satisfied that Madam KWAN was knowingly in possession of the relevant information from 27th June to 11th July 1997 when she traded in Firstone shares.

Was she aware the information came from a connected person?

We have found Phoebe CHIU to have not been a person connected to Firstone pursuant to any provision of section 4 of the Ordinance. Eddie CHOW could never have been a connected person.

Accordingly the only remaining individual who Madam KWAN could realistically understand to have been a connected person and the source of the relevant information was James HUANG.

Madam KWAN said in her evidence that she did not know James HUANG, that she only knew Phoebe CHIU's boss was called "James". And it is true that there was no evidence of any direct contact between her and James HUANG before us. The telephone records of her and James HUANG do not reveal any contact between them.

But given the closeness of the relationship between Madam KWAN, Phoebe CHIU and Eddie CHOW, we are satisfied that Madam KWAN must have been made aware of the ultimate source of the relevant information. She was too experienced a share trader to willingly remain ignorant of such an important matter. Given her background of share trading, her close relationship with Phoebe CHIU and Eddie CHOW (both of whom we are satisfied were aware James HUANG was the source of the relevant information) it seems to us to be completely unrealistic to suggest she may have traded so intensively in Firstone stock without having taken steps to be aware, or being made aware, of where that information came from.

No doubt she would have wanted to know and tried to find out. There was no reason for Eddie CHOW or Phoebe CHIU to refuse to tell her. They were close friends. All were engaged in purchasing Firststone shares in a concerted and collusive manner which was orchestrated, as we have said, to the development of the placement information. We are satisfied at least one of them would have told Madam KWAN of the source of the information.

We are satisfied in those circumstances that it is at least highly probable that Madam KWAN was aware at any early stage that the information came from someone in the Guangnan group of companies who was involved in those negotiations. She may not have been aware of that person's full name or job description, though we are satisfied also she would have been told it was the person "James" who she knew was or had been Phoebe CHIU's boss.

In short, we are satisfied that Madam KWAN would have been at pains to find out, and did find out, sufficient about the source of the information so as to know it came from a person within the Guangnan group of companies who was negotiating with Firststone, on behalf of his company, concerning the proposed placement.

Findings

We are satisfied then that Madam KWAN was in breach of the provisions of section 9(1)(e) of the Ordinance and was an insider dealer in Firststone shares in her own trading accounts during the period 27th June to 11th July 1997.

CHAPTER 11

ROLE OF THE FOUR BRITISH VIRGIN ISLANDS COMPANIES: SETTER, LOMBOK, SUPER KINGDOM AND DRAGON SENTOSA ("THE FOUR BVI COMPANIES")

We have already set out in Chapter 7 our reasons for concluding that James HUANG was a directing mind of each of the four BVI companies.

For the reasons we have set out there we were satisfied that their share trading activities generally, and specifically their trading in Firststone shares, were under the ultimate control of James HUANG.

In coming to that conclusion, we considered separately James HUANG's connections with each of those companies and his involvement in their trading, funding and operation.

We say that James HUANG was the controlling mind of each of the companies though we appreciate that he may not have been acting alone.

Phoebe CHIU's role we have considered in Chapter 8. Eddie CHOW's role we have considered in Chapter 9. We concluded for the reasons set out there that they acted as the administrators of the trading activities of the four companies, acting under James HUANG's and perhaps others' supervision.

So far as those "others" are concerned, we are satisfied that if in fact James HUANG was not acting alone but acted in the control of the four BVI companies share trading with other individuals from within the Guangnan Group such as DENG Guoxin and YANG Wei that he and those others must have been of one mind in the operation of the trading activities of the four companies.

James HUANG admitted he was the guiding mind of Dragon Sentosa and that he acted in directing its share trading activities when he,

James HUANG, admitted various offences in the High Court on 5th December 2000 as referred to in Chapter 7. He admitted also that he and other directors and officers of the Guangnan Group (i.e. DENG Guoxin and YANG Wei) had set up various BVI companies to trade in shares in Hong Kong. We bear in mind that the latter admission did not go so far as to mention Setter, Lombok or Super Kingdom by name. However given the other evidence we have referred to connecting James HUANG with each of those companies we are satisfied that they were in fact part of the various BVI companies he admitted setting up for the purpose of share trading.

Further, given the preponderance of evidence connecting James HUANG with those companies through the whole range of their setting up and operation as opposed to any other individual we are satisfied that he exercised the primary and overriding control of the four BVI companies and that any other individuals involved were secondary to him. For example DENG Guoxin on occasion was involved in the funding of the companies' operations. But we are satisfied that in no way did DENG ever take any significant step in the furtherance of that funding without acting jointly with James HUANG. James HUANG on the other hand acted very frequently unilaterally in organising the affairs and operations of the companies (e.g. the obtaining of P.O. Box 28282). He was involved in the whole range of the companies setting up, funding and trading of the companies and importantly did so through his personal friends Phoebe CHIU and Eddie CHOW.

We are satisfied that James HUANG, if acting with others in the control of the share trading activities of Setter, Lombok, Super Kingdom and Dragon Sentosa, was acting in agreement with those others and that in dealing in Firststone shares those companies were under the direction of either the solitary guiding mind of James HUANG, or even if he were acting together with others, his as the companies' primary guiding mind. In that regard from the evidence and our findings of fact in Chapters 7, 8 and 9, we have concluded it is highly probable that in the operation of the Firststone share trading activities of the companies, James HUANG was in ultimate effective control and in that regard was subordinate to no-one. That is the only reasonable inference to draw from our findings of fact as

to the role played by James HUANG in the setting up, funding and operation of the companies' trading accounts.

Accordingly, we are satisfied that each of Setter, Lombok, Super Kingdom and Dragon Sentosa were fixed with the knowledge and intent of James HUANG in their trading activities in Firstone shares.

The only provision of the Ordinance the companies could realistically be in breach of is section 9(1)(a). That is, that fixed with the knowledge of James HUANG as their guiding mind they directly dealt in Firstone shares in their various trading accounts.

Before any finding of a breach of section 9(1)(a) can be arrived at however there are some other matters to be considered.

Were the companies "persons" for the purpose of section 9(1)(a) of the Ordinance?

Section 9(1)(a) imposes liability on a "person" only. The word "person" is not defined in the Ordinance. The Ordinance does however seem to assume that a person can be a "corporation". For example, section 2(1)(d) proceeds, in the course of defining the meaning of an associate under the Ordinance, to accept and deal specifically with the position where "that person is a corporation".

The Interpretation and General Clauses Ordinance does define "person" as follows:

"person" (人、人士、個人、人物、人選) includes any public body and any body of persons, corporate or unincorporate, and this definition shall apply notwithstanding that the word "person" occurs in a provision creating or relating to an offence or for the recovery of any fine or compensation.

That is a very broad definition and includes bodies corporate and unincorporate.

The Ordinance deals with both the definitions of "company" (which is the same as that in section 2(1) of the Companies Ordinance

and which cannot include a BVI company) and "corporation" which does include bodies incorporated elsewhere. The definition of "corporation" in the Ordinance is as follows:

"corporation"(機構) means any company or other body corporate or an unincorporated body, incorporated or formed either in Hong Kong or elsewhere.

We have directed ourselves therefore that the four BVI companies were, at the relevant times corporations within the meaning of the Ordinance and, given the definition of "person" as set out above and contained within the provisions of section 3 of the Interpretation and General Clauses Ordinance, were "persons" for the purposes of section 9(1)(a) of the Ordinance.

The four BVI companies opportunity to be heard

However even if the four BVI companies were affixed with James HUANG's knowledge and intent for the purposes of determining their culpability under the provisions of section 9(1)(a) and were "persons" for the purposes of that provision, there is one fundamental obstacle to a finding that they were insider dealers.

That is quite simply that no service was ever effected upon them of the materials relating to this inquiry. Nor was there any other proven notification to them of this inquiry.

From the attempts at service upon them and the responses thereto, which we will not detail here but which are set out at Annexure I hereto, it appears likely that the four companies have become defunct. But even if they remain in existence but dormant, we are satisfied that service of the documents relating to this inquiry upon James HUANG or Phoebe CHIU does not constitute notice being provided to the four BVI companies of these proceedings.

There was no other service effected upon them.

Accordingly whether they be defunct or merely dormant, we are not satisfied they have been given an opportunity to be heard and we make no finding of insider dealing against any of them.

We might add this: The fact that we have determined the four BVI companies to be "persons" under the Ordinance in no way impinges upon our findings regarding James HUANG. While legally persons they were as a matter of fact simply his instruments in the dealings he had conducted in their names.

CHAPTER 12

ROLE OF THE STAFF OF THE GUANGNAN GROUP OF COMPANIES

In this chapter, we consider the role of each of those remaining implicated persons who were staff members of the Guangnan Group. We have already dealt with James HUANG and Phoebe CHIU.

Those remaining implicated persons who were staff members of companies within the Guangnan Group can themselves be conveniently divided into those who were within or connected with the Investment Planning Department of Guangnan Holdings and those who were not.

That is because the Investment Planning Department of Guangnan Holdings located on the 29/F of the Shui On Centre in Wanchai contained within it Mr. MO who had personal responsibility in one degree or another for reports concerning the proposed placement issued by that Department under his name.

In that Investment Planning Department had worked three of the implicated parties, they were:-

1. MO Siu Chung, who purchased 100,000 Firststone shares through FANG Naijun's account at New Century Securities Ltd. on 11th July 1997.
2. LO Hon Chuen, who purchased on his own admission through his wife LI Sin Ling's account at Taiwan Concord Securities 200,000 Firststone shares on 7th July 1997.
3. WANG Chengzhi, who purchased 300,000 Firststone shares through his account at Guangdong Securities on 9th July 1997.

XIE Ping worked on the same floor but for the Finance Department of Guangnan Holdings. He, as did his Department, on occasion assisted or worked in conjunction with the Investment Planning

Department. He assisted Mr. MO in some degree in the production of the second report on the Firststone negotiations as compiled by 11th July 1997. After July 1997 he moved office to the 15/F of the building but still returned to the 29/F from time to time to work.

Prior to the relevant time Mr. WANG worked in the Investment Planning Department with Mr. MO and Mr. LO but in a different room. During the relevant period he had his office on another floor as he had been transferred to the 31/F to work with another Guangnan group company according to his evidence between February and August 1997.

Mr. MO and Mr. LO worked in the same room on the 29/F and their desks abutted each other, though with a small partition between them. Mr. MO wrote the first report issued by that Department concerning the Firststone placement negotiations dated the 23rd June 1997. As we say Mr. MO and Mr. XIE both contributed to the second report concerning those negotiations dated the 11th July 1997.

Accordingly, we will deal with Mr. MO, Mr. XIE, Mr. LO and Mr. WANG in that order. Of the four of them only Mr. LO and Mr. WANG were located for the purpose of these proceedings. Both gave oral evidence before us. Following that we will deal with the remaining implicated staff of the Guangnan Group in the order of their remoteness from the only practical sources of their obtaining relevant information that is from the connected "carriers", Mr. James HUANG, Mr. MO and Mr. XIE.

MO Siu Chung

Mr. MO was at the relevant time a Deputy General Manager of Guangnan Holdings' Investment Planning Department. Mr. MO fell under suspicion as an inside dealer because of admissions he made to the SFC as to having purchased 100,000 Firststone shares through the trading account of his friend, FANG Naijun (who is dealt with in Chapter 13 of this Report) on the 11th July 1997.

Mr. FANG's trading account shows that Mr. FANG purchased, on the 11th July 1997, 400,000 Firststone shares. Mr. MO in his

statements to the SFC suggests that only 100,000 shares of this purchase was for him, and that the balance of 300,000 shares was purchased by Mr. FANG on Mr. FANG's own behalf.

The bank savings account of Mr. MO at Nanyang Commercial Bank shows that on the 12th July 1997 Mr. MO had paid to Mr. FANG an amount equivalent to the exact total cost of the purchase of the 100,000 Firstone shares (\$57,000). The same bank account records the payment in, on the 26th July, to Mr. MO's account an amount equivalent to the proceeds of sale of the 100,000 Firstone shares purchased on the 11th July, namely \$126,216.38, reflecting a profit of \$69,216.38.

For that reason there is significant evidence to support Mr. MO's assertion that of the total 400,000 Firstone shares purchased through Mr. FANG's trading account on the 11th July 1997 only 100,000 were purchased on behalf of Mr. MO. The balance appear to have been purchased by Mr. FANG on his own behalf. Mr. FANG was never at any time located by the SFC. He made no statement and gave no evidence before this Tribunal.

Mr. MO was located so as to be interviewed by the SFC but following his interviews in 1997 was then unable to be contacted or located for the purposes of this Tribunal. He gave no oral evidence. His evidence was therefore in statement form only.

Mr. MO, according to his statements to the SFC of 20th August 1997, 21st August 1997 and 19th September 1997, prepared reports on 23rd June 1997 (the 1st Report) and 11th July 1997 (the 2nd report) concerning the advantages and other aspects of Guangnan Holdings taking an equity interest in Firstone. He wrote those reports according to his statements on the instructions of James HUANG. He said he received those initial instructions for the first report from James HUANG on or about the 22nd June at which time James HUANG told him it was "probable" that Guangnan would be "cooperating" with Firstone.

We have dealt in considerable detail with the contents of that report in Chapter 5 when we were dealing with the point in time when

information concerning the negotiations as to the placement became specific and relevant.

It is sufficient to say that we accepted that the information concerning the placement did become relevant information on the 26th June 1997 at the time of the first meeting between James HUANG and Mr. KWEE of Firstone.

Accordingly, as a first step we appreciate that the contents of that first report dated the 23rd June, of themselves do not amount to relevant information.

Nevertheless, Mr. MO in his statement of 19th September 1997 to the SFC admitted that on or about 4th July 1997 he had been provided with a copy of that first report he had written and dated 23rd June with James HUANG's handwritten notes upon it. He had then discussed the report with James HUANG.

We are satisfied that in order to conduct any sensible discussion about that report on that date Mr. MO must have been made aware of the fundamental position as to the negotiations and their status after the meeting between James HUANG and Mr. KWEE on the 26th June. Indeed even by perusing the handwritten notes of James HUANG (made on that report on 26th June according to James HUANG in his statement to the SFC of 26th September 1997) Mr. MO would have received further information about Guangnan Holdings intent to take a stake in Firstone. By that time, Mr. MO would have been very well aware of the intentions of Guangnan Holdings in relation to Firstone.

In his statement of 19th September 1997 Mr. MO said that after seeing James HUANG's annotations to his report dated 23rd June 1997 after he returned from a business trip to Beijing on the 4th July or thereabouts, he further discussed the report with James HUANG and subsequently incorporated some of James HUANG's comments into his second report dated 11th July 1997. During that discussion James HUANG said that the manner in which Guangnan would obtain a stake in Firstone had changed from that set out in the report of 23rd June.

In our view, it is highly probable that by the time Mr. MO had further discussed the 23rd June report's contents with James HUANG on or after the 4th July Mr. MO would have been aware that Guangnan was in serious commercial negotiations with Firststone for the taking of a stake of at least 20% in that company. By that time, one week after the meeting of 26th June the proposal that Guangnan Holdings take a stake in Firststone was now very firmly in the contemplation of the parties. In order for MO to continue in his role as the report writer (as he did) and to sensibly discuss the contents of the first report with James HUANG we are satisfied that James HUANG would have brought him broadly up to date with the negotiations.

In our view, Mr. MO had been provided by the 4th July or very shortly afterwards with the relevant information.

Further we have no doubt that Mr. MO was a person connected to Firststone by way of his employment as a Deputy General Manager of Guangnan Holdings. His position in the Investment Planning Department of that company meant that he both occupied a position which might reasonably be expected to and did give him access to the relevant information concerning Firststone and the placement negotiations because of the business relationship in existence between Guangnan Holdings and Firststone at that time in the terms of section 4(1)(c)(i), and that he also had access to that same information simply by virtue of his employment with Guangnan Holdings in its Investment Planning Department when he received information from James HUANG in the normal course of his duties concerning the contemplated placement transaction, pursuant to the terms of section 4(1)(d).

Equally, there is no doubt that Mr. MO, a relatively experienced share trader, was aware that the information he possessed concerning the placement negotiations was relevant information. He says he got his friend FANG Naijun to purchase the 100,000 Firststone shares for him in FANG's account "to avoid suspicion". On any reading of Mr. MO's statements to the SFC the irresistible conclusion is that those statements contain admissions to Mr. MO purchasing through Mr. FANG Firststone shares, for the first time, whilst Mr. MO was in possession of relevant information. We are satisfied Mr. MO was aware that if the information

he possessed concerning the placement negotiations became public it would have a material and beneficial effect on the price of these shares.

Although Mr. MO says he would have bought Firststone shares anyway, whether or not he had been in possession of the relevant information, we are satisfied he knew that information in his possession at the time he procured FANG to purchase those shares for him was relevant information.

We are satisfied on the evidence before us that Mr. MO's state of knowledge and his acts at the time he procured the purchase of Firststone shares through FANG's account would on the evidence before us amount to a breach of the provisions of section 9(1)(a) of the Ordinance. He procured Mr. FANG's purchases of those shares on his behalf.

Right to be heard

Section 16(5) of the Ordinance is as follows:-

"16. Inquiries into insider dealing

- (5) The Tribunal shall not identify any person as an insider dealer or as a person to whose breach of the duty imposed on him by section 13 the insider dealing by a corporation may be directly or indirectly attributable without first giving such person an opportunity of being heard."

Mr. MO was never served with any material relating to this inquiry. No address for service is known, so far as he is concerned. There is no evidence of any sort that he has been made aware of the proceedings of this Tribunal. It is believed he has returned to the Mainland.

Accordingly, Mr. MO has never been provided with an opportunity to be heard as is required by section 16(5). We therefore make no finding of insider dealing against him.

XIE Ping

Like MO Siu Chung, Mr. XIE did not give evidence. He made only one statement to the SFC dated 18th September 1997. He purchased 150,000 Firststone shares on the 9th July 1997 through his trading account at Guangdong Securities, and sold them all on the 18th July 1997. Mr. XIE had never purchased Firststone shares before the 9th July. Mr. XIE was at the relevant time a Deputy Financial Controller of Guangnan Holdings. He said he had prior to July 1997 worked in the offices of Guangnan Holdings' Finance Department on the 29/F of the Shui On Centre (that is the same floor as Mr. MO, Mr. LO, Mr. WANG and CHOW) but from July 1997 had moved to the 15/F of the building where he worked in the offices of a subsidiary of Guangnan Holdings.

However even after July 1997 according to his own statement he on occasion would work on the 29/F in his original office.

Mr. XIE Ping was suspected to have been in breach of section 9(1)(a) of the Ordinance and to have dealt in Firststone shares on his own behalf whilst in possession of the relevant information. He was plainly a connected person and the provisions of section 9(1)(e) do not need to be considered so far as he is concerned.

Mr. MO's second report, which more or less provided an up-to-date assessment of the negotiations between Firststone and Guangnan Holdings was dated the 11th July 1997. It was based on material provided to Mr. MO by and through James HUANG in the few days before that. Mr. MO estimates he got this information on or after the 9th July. He said in his statement of 21st August 1997 that he then, around the 9th July, approached Mr. XIE to help him compile some of the financial information in the report.

According to Mr. XIE's statement, Mr. MO came to see him on the 10th July in the afternoon and provided him with an annual report of Firststone and asked him to analyze it so far as Firststone's financial position was concerned. According to Mr. XIE's statement, Mr. MO did not tell him why he, Mr. XIE, was being asked to do this.

But in any event he provided Mr. MO with the relevant financial analysis requested and simply thought no more about it. It did not cross his mind that there may have been some possible cooperation between Guangnan Holdings and Firstone contemplated.

Mr. XIE further stated that in the course of providing his financial analysis he did not get any information from Mr. MO concerning the placement negotiations between Guangnan Holdings and Firstone, and did not see any copy of Mr. MO's first report.

Mr. XIE also said that he had no idea why his name appears together with Mr. MO's as the co-author of the report dated the 11th July. In this regard, it should be noted that the only copy of that second report available to be provided to the Tribunal is in Chinese characters and the names of both Mr. MO and Mr. XIE, though placed at the conclusion of that report as authors are unsigned by them. According to the oral evidence of TW 19 HUI Wai Fan who typed both reports, the name of Mr. XIE was added to the 2nd report because it appeared in the original handwritten draft of Mr. MO.

In our view the fact that Mr. XIE was in fact named as a co-author in that report of 11th July, even though both he and Mr. MO did not sign it, is important evidence.

It seems to us that taken together with his own admissions that he had contributed to the contents of the report, though he says this was only to a limited extent, it suggests he was in a position at some time prior to his purchase of the Firstone shares to have access to the information Mr. MO had as to the negotiations between Firstone and Guangnan Holdings.

Mr. MO himself, in his statement of 21st August 1997, says he could not remember whether he had shown anything of the contents of the report of the 11th July to Mr. XIE or discussed it with him.

But, in our view, it is difficult to imagine any practical course of conduct whereby MO would seek a financial analysis of Firstone from an in-house colleague with whom he had some working relationship without

providing that person with some sort of general briefing concerning the purpose of the analysis.

It is also difficult to imagine a person such as Mr. XIE, as an accountant, attempting to present a relevant and coherent analysis of the financial position of a company such as Firststone without inquiring as to what the purpose of that analysis was. Indeed in Mr. MO's first statement to the SFC dated 20th August 1997 he says he thinks he told Mr. XIE the purpose of the request for financial analysis of Firststone's financial position.

In this regard also it should be pointed out that even though Mr. XIE says the only document he received from Mr. MO was a copy of Firststone's 1996 Annual Report Mr. MO had been provided with other financial documents relevant to the report he was preparing. Those documents related to an analysis of Firststone's NAV and estimate of its placement price.

It seems to us that the very obvious and indeed rational course would have been for Mr. MO to provide Mr. XIE with these documents as well. According to both Mr. MO and Mr. XIE the report was prepared in a hurry. Mr. MO makes no suggestion in his statements that there was any reason he was aware of not to tell Mr. XIE what the purpose of the report was, or to not provide Mr. XIE with whatever documents may have assisted Mr. XIE in his task he had in his possession. James HUANG in his statements to the SFC says he took no steps to prevent Mr. MO keeping the information concerning the placement negotiations confidential. We are satisfied that it is very unlikely Mr. XIE would have performed his financial analysis of Firststone in the dark. We are satisfied Mr. MO told him the purpose of the report and provided Mr. XIE with an up-to-date briefing so far as the salient features of the proposed placement were concerned. There is no other reasonable explanation for the fact that the report on its face states that it is co-authored by both Mr. MO and Mr. XIE.

The date of Mr. XIE's share purchase is 9th July 1997. The report was published, or at least dated, 11th July. It was completed by that date but Mr. MO had received instructions to complete it from James

HUANG, and had received some documents relevant to it, some days before that.

Mr. XIE said Mr. MO came to see him on the 10th July. We do not accept that. In our view all of the evidence available to us leads us to the inevitable conclusion that Mr. XIE was in possession of information concerning the important aspects of the placement negotiations by the time he purchased his Firststone shares.

It is simply too great a coincidence that Mr. XIE, for the first time in his trading history, buys Firststone shares on the 9th July on his own initiative and on the basis of newspaper reports, as he claims in his statement, of a several days earlier vintage which he took as generally praising Firststone's prospects, just one day, he says, before he is approached by Mr. MO to participate in the making of a report concerning the very same transaction which will, when published, dramatically increase the price of those shares.

We accept Mr. MO's chronology. It is in accord with common sense and, in our view, is an accurate recitation of events. Mr. MO says he approached Mr. XIE around the 9th July for help in compiling the report. That in our view must be so. The report was to be prepared in a hurry. There is no reason for Mr. MO to have waited until the 10th July to approach Mr. XIE. Further, in our view, if he had it is difficult to see how the report could have been concluded and dated the 11th July.

It is highly probable in our view that when Mr. XIE purchased Firststone shares on the 9th July he possessed the relevant information concerning the contemplated placement of 20% of Firststone's shares with Guangnan Holdings.

There is no doubt, as we say, that Mr. XIE at the time was a connected person pursuant to the provisions of both section 4(1)(c)(i) and section 4(1)(d). The reasons he was such a connected person are identical to those we have stated for Mr. MO in this regard though Mr. XIE worked for a different Department within Guangnan Holdings.

Nor is there any doubt that Mr. XIE knew the information he received from Mr. MO was relevant information. That is why he purchased the shares.

Mr. XIE on the evidence before us was in breach of the provisions of section 9(1)(a) of the Ordinance when he purchased his Firststone shares.

Right to be heard

The final question concerning Mr. XIE is whether he has been provided with an opportunity to be heard pursuant to section 16(5) of the Ordinance.

Mr. XIE following his single statement to the SFC on the 18th September 1997 was not located again. At no time material to this inquiry was any address for service known for him. There was no evidence before us that he was in any way provided with notice of this inquiry taking place. He apparently, so far as we are aware, remains ignorant of it.

In our view, as with Mr. MO, Mr. XIE was not provided with an opportunity to be heard pursuant to section 16(5) of the Ordinance. Therefore we make no finding of insider dealing against him.

We should conclude with one further comment about Mr. XIE. He pleaded guilty together with James HUANG to a joint offence of fraud committed upon Chaozhou Industries (a company within the Guangnan Group) as well as other offences. He had been released from prison and returned to China well before these proceedings. His fraud was related to the Letter of Credit frauds we have referred to. Whilst it shows some relationship between XIE Ping and James HUANG, there was no evidence before us to suggest the source of XIE Ping's information concerning the Firststone placement was from James HUANG.

We turn now to individuals who purchased Firststone shares during the same week as Mr. MO and Mr. XIE (i.e. 7th July 1997 - 11th July 1997) and who also worked on the 29/F of the Shui On Centre, but

had no provable direct exposure to either James HUANG or to the reports prepared by Mr. MO and Mr. XIE.

LO Hon Chuen

Mr. LO was another Deputy General Manager within the Investment Planning Department of Guangnan Holdings at the relevant time. As did Mr. MO, he reported directly to James HUANG. He worked in the same room as Mr. MO and their desks abutted each other separated, as we say, by a small partition. Others also worked in that room. He was suspected of having received information and acting upon it in breach of the provisions of section 9(1)(a) or 9(1)(e) of the Ordinance. It may be that section 9(1)(e) could have become relevant to Mr. LO's case because it may be that Mr. LO was not a connected person pursuant to either section 4(1)(c)(i) or section 4(1)(d) of the Ordinance. That is because there was no evidence before us which suggested Mr. LO may have come across the relevant information in the course of his duties within Guangnan Holdings. He had nothing to do with and no apparent contact with the placement negotiations. That being so it may be that his potential liability was restricted to a breach of the provisions of section 9(1)(e). As it transpires however we did not need to go that far.

According to his statement to the SFC dated 23rd September 1997, which in his oral evidence before us he adopted as true and correct, he was out of Hong Kong between the 20th June and 2nd July and when he returned to HK noticed a number of press reports about Firstone over the next few days which prompted him to buy 200,000 shares on 7th July, through his wife LI Sin Ling's account at Taiwan Concord. We accept the evidence of TW 14 Mr. YAN Wa Tat of Taiwan Concord that Mr. LO always placed the orders in his wife's account, and that Madam LI did not trade on that account. Mr. LO said at no time did he receive any information about Firstone from Mr. MO or anyone else, and his purchase of Firstone was his own idea based on the newspaper reports which included a chart of Firstone's price. He said he used his wife's account simply because, although he had two other accounts in his own name, he had opened it for her some time previously and as she never used it had fallen into the habit of using it as his own.

The evidence against Mr. LO is circumstantial. It is no doubt a considerable coincidence he asks us to digest. That is that the very first time he purchased Firststone shares it so happened that his Department was involved in preparing a report as to a proposed stake being taken in Firststone by his own company. The person preparing that report sits opposite him. Mr. LO happens to use his wife's trading account (which might be taken as an attempt to disguise the purchase) rather than either of his own accounts to purchase the shares. At the same time this is happening Mr. MO, Mr. WANG of his Department and Mr. XIE, are also, unbeknownst to him, purchasing Firststone shares. But Mr. LO says that there was no collusion or transfer of information amongst them. He, like they, sold his Firststone shares on the 18th July. He said he did so because the price went up and he thought it an appropriate time to sell.

We reject his evidence in this regard. It is simply unbelievable. In our view, it was not a mere coincidence that these members of the Investment Planning Department of Guangnan Holdings purchased Firststone shares at the same time.

We are satisfied that there was some common reason why those purchases took place all within a few days of each other. We are satisfied that all acted on some information they had obtained from their work place.

What we are not satisfied of is that Mr. MO or Mr. XIE provided any one or both of their colleagues Mr. LO and Mr. WANG with the relevant information. There was no evidence before us to show that either of Mr. LO or Mr. WANG had any actual dealings with Mr. MO's reports or actual access to them. Mr. LO was simply working in his immediate vicinity and Mr. WANG was in a room at an opposite corner of the floor.

So far as Mr. LO is concerned, after considerable deliberation, we cannot say there is a high probability of him having purchased his shares because he was told of the specific information concerning the Firststone negotiations.

He purchased his shares on the 7th July. That was a date between Mr. MO's compilation of the two reports. The only report in existence on the 7th July was the "non specific" report of the 23rd June. The 7th July was also a date prior to Mr. MO's receipt of any documentation relating to his task of preparing the report subsequently dated the 11th July.

The issue with Mr. LO is therefore whether he might equally have been "tipped" with something less than specific relevant information such as "buy Firstone, we have something going on with it" as with relevant information to the required degree of specificity. Whilst Mr. LO did work at a desk opposite Mr. MO there was no other evidence of contact between them so as to particularly show any form of information sharing or close social contact.

In our judgment, whilst there is considerable suspicion attached to Mr. LO, we conclude there is as high a probability that he acted on information which was less than that required by section 8 of the Ordinance to qualify as relevant information.

We do not find Mr. LO to have been an inside dealer under our terms of reference.

WANG Chengzhi

Mr. WANG was another Deputy General Manager of the Investment Planning Department. He did not work in the same room on the 29/F of the Shui On Centre as did Mr. LO and Mr. MO but in a room further down the corridor. He was suspected of having received relevant information and acting upon it in breach of the provisions of section 9(1)(a) or 9(1)(e) of the Ordinance in the same way as Mr. LO was so suspected.

He purchased 300,000 Firstone shares on the 9th July 1997. He said in his evidence before us that he did so because of newspaper reports and his own "sense" that Firstone would rise in price, and that in no way did he act on anyone else's suggestion. Again, he said it was unknown to him that he, Mr. LO, Mr. XIE and Mr. MO purchased Firstone shares,

all for the first time, within a four-day period in somewhat broadly similar amounts and sold them on the same day, the 18th July.

We reject his evidence that he purchased the Firstone shares entirely on his own initiative. This was the first time he had purchased that company's shares. It is too great a coincidence that he would make such a purchase on that particular day (which was when Mr. MO said he received instructions and documents for the writing of the 2nd report) when his Department was dealing with reporting the state of the Firstone negotiations.

We are satisfied that there was indeed some commonality or collusion amongst this group of individuals who were in or connected with the work of the Investment Planning Department. We have already found Mr. MO to have been in breach of the provisions of section 9(1)(a) of the Ordinance.

What we are not satisfied has been proven in the case of Mr. WANG, as in the case of Mr. LO, is that he acted upon relevant information. In our view, it is as probable that he was acting on rumour or gossip or at least something less than relevant information to the required degree of specificity. It seems to us that it may very well have been the case that some information did leak directly or indirectly from Mr. MO, but we are not able to say there is a high probability that information would have satisfied the requirements of section 8 of the Ordinance so as to be relevant information. In this regard, we bear in mind that so far as an office working environment such as that on the 29/F of the Shui On Centre is concerned, where a large number of employees are in the habit of regularly speculating on the Hong Kong stock market, it may well have been the situation that rumour and gossip about that market and particularly their own company's role in the affairs of listed companies were commonplace.

We do not find Mr. WANG to be an inside dealer under our terms of reference.

CHOW Ching Sum

Madam CHOW also gave evidence before us. She worked at the relevant time as a clerk for a company called Grade China Ltd. ("Grade China") which also had its office on the 29/F of the Shui On Centre (i.e. the same floor as Mr. MO, Mr. LO and Mr. WANG) and which was a 100% owned subsidiary of Guangnan Holdings, the company of which James HUANG was a director. Her duties involved her with the shipping documents of Grade China which was a trading company. She was suspected of having received relevant information and of having acted upon it in breach of the provisions of section 9(1)(e) of the Ordinance. Section 9(1)(a) could not have applied to Madam CHOW as in our view, as she worked for and was paid by a wholly different corporation to Guangnan Holdings which had absolutely nothing to do with the Firststone negotiations. She could not have been a person connected to Firststone by way of any of the provisions of section 4 of the Ordinance.

She operated a share trading account, as did many of the staff of the Guangnan Group, at Guangdong Securities and was a regular trader. On the 11th July 1997 (the same date as Mr. MO's second report was completed) she bought 100,000 Firststone shares. She said that she had read various newspaper reports concerning Firststone and that was one reason why she bought the shares. Other reasons were that the original owner of Firststone Mr. WAN Sik Kam had gone to the same university as her in China and that, though she didn't know him, she was interested in the progress of his company Firststone and finally because the share was cheap and its trading volume was increasing. She said she received no information about Guangnan Holdings taking an interest in Firststone. Purchasing the Firststone shares, she asserted, was entirely her own idea and she received no information from any work colleague in that regard.

She also said in her evidence that she was unaware of other staff members of the Guangnan Group on the 29/F of the Shui On Centre also buying Firststone shares during that same week she made her purchase, and that they sold those shares, as she did the majority of her own shares, on the 18th July.

Again, we reject this assertion of coincidence. In our view, it was highly probable that there was some commonality or collusion as to the reason behind Madam CHOW and the others who had been working on the 29/F purchasing similar amounts of Firststone shares during the same week of 4th July to 11th July 1997.

Nevertheless, as we have said, we cannot be satisfied that the high probability was that each of the 29/F colleagues of Mr. MO and Mr. XIE purchased these shares because they had been provided with sufficiently specific relevant information concerning the placement negotiations.

In our view, it is as likely that Madam CHOW purchased her Firststone shares on the basis of gossip or rumour. In considering her case, we bore in mind that she had even less connection in her working environment with Mr. MO (who was the realistic primary source of the relevant information on the 29/F) than any of the other implicated parties on the 29th Floor. There is no suggestion on the evidence before us that she had any particular personal or social contact with Mr. MO or Mr. XIE. In other words, she had less opportunity to access that information than either Mr. LO or Mr. WANG.

We do not find her to have been an insider dealer under our terms of reference.

WU Xuhui

During the relevant period Mr. WU had been the office manager of Guangdong Enterprises (Holdings) Limited and a director of Guangdong Tannery Limited. The former was the 100% holding company of the Guangnan Hong (Group) Limited which in turn directly or indirectly held Guangnan Holdings and Guanfair. Mr. WU's office was on the 23/F of the Guangdong Building. He was suspected of having received relevant information and of having acted upon it in breach of the provisions of section 9(1)(e) of the Ordinance. Section 9(1)(a) of the Ordinance could not have applied to him as he was employed by Guangnan Enterprises in a position which had nothing whatsoever to do with Guangnan Holdings negotiations with Firststone and

so could not have been a person connected to Firstone by way of any of the provisions of section 4 of the Ordinance.

On the 4th July 1997, Mr. WU purchased 1 million Firstone shares at \$0.63 each and sold them on the 18th July for \$1.65 each. That resulted in a profit of \$1,009,329.60. He also had never purchased Firstone shares previously.

His purchase on 4th July of Firstone shares was one of the few trading transactions Mr. WU had executed in the months of June and July. His account at Guangdong Securities was used. In July there were four transactions only, one of which was the Firstone purchase.

Mr. WU worked underneath the General Manager of Guangnan Enterprises, Mr. SUN. Mr. WU earned \$20,000 per month (including a \$6,000 rental component). He had no contact with James HUANG in the course of his duties other than to notify James HUANG of meetings at Guangnan Enterprises. He personally did not attend those meetings.

We accept that there was little formal work related contact between Mr. WU and James HUANG. Nor was there any apparent work related contact between Mr. WU and any other individual including Mr. MO and Mr. XIE who might be thought to be a reasonable source of information concerning the Firstone negotiations. Nor is there any evidence that Mr WU had any social connection with any such individual.

In short, there is no evidence before us that Mr. WU had any avenue of access to the information concerning the negotiations.

In his evidence before us, and in his statements to the SFC, Mr. WU explained his dramatic expenditure of some \$600,000 on Firstone shares on 4th July as being because of newspaper articles and market rumours to the effect that Guangnan and Firstone had "a chance of cooperation". He said the money in his trading account came from his savings and trading profits he had accumulated since arriving in Hong Kong in 1992.

We have considerable reservations about Mr. WU's ability to accumulate that amount of money on the basis of his salary savings and trading profits. His trading was not very active and revolved around his own group of companies shares.

Nor do we accept Mr. WU's evidence that all he had heard of Firstone being a "good buy" came from newspaper articles and market gossip.

On the 4th July the only newspaper articles published concerning Firstone had been less than overwhelmingly favourable. They had reported its \$87 million losses and simply suggested it may well rise in the future. Other "tipster" articles gave no reason as to why Firstone shares were tipped to rise.

In short, we do not think Mr. WU has told us the whole truth either concerning the source of the monies he used to trade in his account or the nature and source of his information about Firstone.

But that without more does not lead to the inference that he was in possession of the relevant information concerning the Firstone negotiations when he traded in that company's shares. Further, it is some distance from proving that the source of any information in this regard was a connected person.

In our view it is as likely that Mr. WU was the recipient of some information from within his working environment which fell short of relevant information and from a person who was not a connected person as it is likely that the information was relevant information which he knew came from some person who was connected with the Firstone negotiations.

The most substantial evidence against Mr. WU is that on his salary of \$20,000 per month he was prepared to pay over \$600,000 in a single purchase of Firstone shares.

But against that it must be said that Mr. WU's trading account at Guangdong Securities reflects another transaction of \$150,000 and one of over \$1 million.

Accordingly, while we have doubts about the origin of his funds we cannot be satisfied there was any provision of information so specific as to be relevant information to him and in our view he, like others of the Guangnan Group staff were likely trading on the basis of workplace rumours and partially leaked information concerning the possibility of a Guangnan Group company taking an interest in Firststone. We do not therefore find him to have been an inside dealer for the purposes of section 9(1)(e) of the Ordinance.

TANG Wai Na

Madam TANG was at the relevant time the Deputy General Manager of Asian Honour International Ltd. ("Asian Honour") which was a 100% owned subsidiary of Guangnan Holdings.

Asian Honour was in the business of trading. It had become involved, as a documentary vehicle, with the letter of credit fraud perpetrated within the Guangnan Group by James HUANG and others.

Madam TANG was herself placed on bail for the purposes of the police investigation, but absconded or at least failed to answer to it and was unlocatable for the purposes of this inquiry.

In considering her case, as with other implicated parties' cases, we reminded ourselves of that which we have set out in Chapter 6 of this Report. We bore in mind that Madam TANG's involvement in suspicious funding transactions may well have been for reasons other than to make monies available for share trading transactions so far as she was concerned.

Madam TANG was the wife of another implicated person Mr. YIP Hiu Sui who unfortunately died prior to the commencement of this inquiry. His case will be dealt with briefly along with the cases of other

implicated friends and family members of the implicated staff members of the Guangnan Group in Chapter 13.

Madam TANG together with her husband controlled two companies called Sun Ming Asia Trading and Fountain Datacom. Sun Ming was involved in a flow of funds totalling \$9.7 million from Setter to Sun Ming Asia and then onwards to Asian Honour in December 1996. Further in June 1997 Fountain Datacom paid \$570,000 to Super Kingdom.

In our view, whilst these transactions may show some contact or relationship between Madam TANG (and her husband Mr. YIP) and at least two of the BVI companies whose trading accounts were used to purchase Firstone shares, that evidence is equivocal when placed in the context of the letter of credit fraud transactions that were on-going at the same time and which in our view renders evidence of a knowledge by implicated parties of large fund movements through the accounts of shelf companies or small trading companies of no weight in determining whether that implicated party was aware of or a knowing participant in any share trading activities by that company.

Madam TANG said in her interview that in respect of one letter of credit document she was shown during the course of her interview she knew there were no goods underlying the transaction but that she simply followed James HUANG's instructions. Given James HUANG's own admissions of fact on the occasion of his plea of guilty to letter of credit offences in the High Court, we accept Madam TANG's statement in this regard as being correct.

Accordingly, we do not regard the evidence of fund movements between her company Sun Ming and her husband's company Fountain Datacom and Setter and Super Kingdom as being of any help to us in determining the issues relating to her case except to the limited extent mentioned below.

Those issues are quite straightforward. Madam TANG did not purchase any Firstone shares in her own name. But on 27th June 1997 her husband Mr. YIP bought 300,000 Firstone shares through his account

at Tai Fook Securities. Those shares were sold at a profit on the 18th July.

Madam TANG accordingly fell under suspicion as having been in breach of section 9(1)(e) of the Ordinance as being potentially a "tippee" of relevant information who then counselled her husband Mr. YIP to purchase Firstone shares on his own trading account.

No other aspect of section 9 really could apply to Madam TANG as we are quite satisfied that at no relevant time was she a person connected to Firstone for the purposes of section 4.

As a Deputy General Manager at Asian Honour, she would not in the normal course, nor is there any evidence that she did, come into contact with any part of the information concerning the Firstone negotiations. At most she would have been a "tippee".

In her statements of 3rd August 1999 and 24th August 1999 to the SFC, she quite simply denied any knowledge of her husband having purchased Firstone shares. She said she herself had no securities trading account. She said she and her husband had no discussion concerning Firstone before he purchased that company's shares. In other words, her case was quite simply that she had nothing whatsoever to do with her husband's purchase of Firstone shares.

Her husband in his statement of 17th August 1999 said the purchase of Firstone shares was entirely his own idea and was based on market reports of its rise in turnover and price and on an article in the Hong Kong Economic Times.

Because of her involvement with James HUANG through Asian Honour and her private company Sun Ming in flows of funds which we have mentioned above, it is apparent Madam TANG must have been a trusted associate of James HUANG.

The question is whether that relationship was such as to make it highly probable that James HUANG whether directly or indirectly

revealed to her the relevant information concerning the Firstone negotiations.

As a starting point, we reject Mr. YIP's explanation as contained in his statement to the SFC of 17th August 1999 as to why he purchased Firstone shares. There is quite simply too great a coincidence involved for that purchase to have been his own idea. There are two main parts to that coincidence.

Firstly, though he had been share trading since 1991 this was the first Firstone purchase he had made. Secondly, the purchase occurred on 27th June 1997, one day after the 1st meeting between James HUANG and Kumala KWEE.

Other aspects of YIP's purchase of the shares are that he said it was partly encouraged by a newspaper article or articles. But prior to 27th June most newspaper articles had been negative. Even those which expressed some positive attitude to Firstone mostly concerned the rights issue and were by 27th June some days or even weeks in the past.

Mr. YIP in his statement to the SFC was less than convincing in his ability to point to any announcement or article in the press which might reasonably have prompted him to buy Firstone for the first time on 27th June.

In our view, Mr. YIP's purchase of 300,000 Firstone shares on the 27th June 1997 must have been prompted by some form of information from Madam TANG.

That means Madam TANG must herself have been in receipt of information concerning Firstone shares being a good buy.

In our judgment, she was likely prompted to buy those shares either directly or indirectly by James HUANG or one of the small group of individuals who at that time were aware of the placement negotiations. At such an early stage in the history of the negotiations between Guangnan Holdings and Firstone, we do not think that the source of

Madam TANG's information about Firststone shares being a good buy would yet have been general office scuttlebutt or rumour.

However, even accepting that she was a trusted acquaintance of James HUANG the mere fact that she was so prompted to purchase those shares does not mean that the suggestion or information she received to the effect that she should do so was sufficiently specific as to be relevant information for the purposes of section 8 of the Ordinance.

She is not in the same category as Phoebe CHIU or Eddie CHOW. There was no reason for James HUANG to have provided her with the complete relevant information if he was the one who "tipped" her. It is as likely he simply told her that Firststone might become a good buy as Guangan Group was in some way involved or potentially involved with it. Such information would not be specific enough to be relevant information. We are not prepared on the evidence before us to infer that sufficiently specific information so as to be relevant information was provided to Madam TANG by James HUANG. Nor were we prepared to infer James HUANG counselled or procured her to purchase Firststone shares. We might emphasize we think there is a material probability in any event that even though the information she received was not general office scuttlebutt it was still information likely known to more individuals than James HUANG. Mr. MO and Phoebe CHIU at that time were aware of information concerning the Firststone placement negotiations.

In our view, it is as probable that Madam TANG was told by James HUANG or others that she should buy Firststone because some good news would be related about it in future, as it was likely she received specific and so relevant information concerning the negotiations.

For that reason, we are unable to say that Madam TANG, when she counselled or procured her husband Mr. YIP to purchase the Firststone shares was in possession of relevant information concerning the Firststone negotiations.

Accordingly, we do not find her to have been an inside dealer when she passed on whatever "tip" it was she received directly or indirectly from James HUANG to her husband Mr. YIP.

LI Xiao Jian

Mr. LI was never interviewed by the SFC and was never able to be located for the service of any notice or Salmon letter in respect of these proceedings.

Accordingly, we had neither any statement made by him or his oral evidence before us for the purpose of this inquiry.

The available facts concerning Mr. LI's role are accordingly quite sparse.

They are that he was a director of Guangnan Holdings and that on the 4th July 1997 he purchased 300,000 Firststone shares through his account at Sun Hung Kai Securities. On the 18th July he sold them, as did many other Guangnan Group employees who had purchased those shares, and made a profit of \$224,000. He had never on that account previously purchased Firststone shares.

Mr. LI had no apparent working relationship with James HUANG and was not, on the evidence, involved in any way with the Firststone negotiations.

The only provision which could realistically apply to his trading in Firststone shares is section 9(1)(e) of the Ordinance.

Apart from Mr. LI's employment as a director of Guangnan Holdings, the only other potential avenue for his receipt of relevant information is that he was apparently a neighbour of James HUANG. Both lived in flats in Beverly Court at the relevant time.

We are satisfied that Mr. LI's purchase of Firststone shares for the first time on the 4th July was no mere trading coincidence. He worked in Guangnan Holdings and lived nearby James HUANG. He purchased his

shares on the 4th July which was a day after some materials concerning the placement proposal had been faxed to Guangnan Holdings offices. Mr. LI, we are satisfied, had heard something concerning Firststone shares being a good buy.

In our view, however, there is absolutely no evidence to suggest that Mr. LI was ever in possession of anything which would qualify as relevant information pursuant to section 8 of the Ordinance.

Like many of his colleagues, we are satisfied that on the evidence it is at least as likely that Mr. LI had been provided with information, gossip or rumour amounting to less than relevant information, whether the source of that information was James HUANG or someone else, and acted upon it.

That being so regardless of his not appearing before us, Mr. LI could not have been in breach of the provisions of section 9(1)(e) and we do not make any finding of insider dealing against him.

DENG Guoxin

Mr. DENG did not give evidence before us as he could not be located for the purpose of serving notice upon him of these proceedings. Accordingly, his case is set out by way of his statement to the SFC dated 19th June 1998.

We bear in mind when considering the role of Mr. DENG as we did with Phoebe CHIU that his connections with the four BVI companies and particularly Setter and Lombok have to be placed in perspective against the background of the unusual money flows and share trading surrounding those companies and the Guangnan group of companies which had nothing to do with the present allegations of insider dealing.

Mr. DENG at relevant times was one of the directors of Guanfair, the company for which Phoebe CHIU was business manager and in respect of which James HUANG had been a director until 15th June 1997. An important aspect of Guanfair's daily business was stock market investment. That activity was conducted by the directors of

Guanfair, including Mr. DENG, and Phoebe CHIU as Business Manager of Guanfair.

Phoebe CHIU in her statement to the SFC of 18th October 1997 said that she reported to Mr. DENG and Mr. YANG (another director of Guanfair) after James HUANG left on 15th June 1997. Before that she reported to Mr. DENG and occasionally James HUANG.

She said that she and the two directors of Guanfair ran their own share portfolios on behalf of Guanfair and each day, they would prepare a summary of the total share transactions they had conducted on behalf of Guanfair in its various accounts with brokerages.

Mr. DENG did not purchase Firstone shares in his own name. The suspicion attached to Mr. DENG is that he was a participant in the share trading of the four BVI companies, together with James HUANG and Phoebe CHIU and counselled or procured those companies to purchase Firstone shares whilst he was in possession of relevant information. We accordingly considered his role in the share purchasing activities of the four BVI companies Setter, Lombok, Super Kingdom and Dragon Sentosa with section 9(1)(a) in mind. The application of section 9(1)(a) would depend upon whether Mr. DENG, by the application of any provision of section 4 of the Ordinance, was a person connected to Firstone.

Another provision which could have conceivably applied to Mr. DENG, in the event section 9(1)(a) did not apply because of him not being a connected person, is section 9(1)(e) where as a "tippee" of the relevant information he counselled or procured any of the four BVI companies to deal in Firstone shares.

In many respects, from the point of view of his suspected relationship with the four BVI companies, the considerations relevant to Mr. DENG's role are similar to our considerations as to the role of Phoebe CHIU under the provisions of section 9(1)(a) and 9(1)(e) of the Ordinance.

The evidence relating to Mr. DENG's role comprises primarily the contents of his statement to the SFC made on 19th June 1998 and of various documentary exhibits connecting him to some part of the flow of funds to and from the four BVI companies. Those significant transactions or connections as established by the documentary evidence before us were as follows:-

Lombok had four accounts with Nanyang Commercial Bank opened in January and April 1997. On 29th April 1997 Mr. DENG, by way of a letter of that date on Lombok's letterhead to the bank, signed by one of the nominees of James HUANG, Mr. POON To Chi, was stated to be the person who could confirm payments and transfers of money through two of Lombok's accounts held with that bank. DENG's office telephone number appeared on the authorized signature card for another Lombok account at that bank.

TW 17 YUNG Chun Man was an accountant within the Guangan Group who reported to DENG. In June of 1997 by a series of withdrawals from Lombok's account at Nanyang Bank he transferred some \$47 million dollars to other accounts. The withdrawals were nominally made in cash so no beneficiary appears on the withdrawal slip. A separate transfer document was then completed effectively allowing a transfer or transfers of the sums to other accounts. TW 17 gave those transfer documents back to DENG. This convoluted transfer exercise was done on DENG's instructions according to TW 17. The recipients of these funds are unknown.

In October 1997 another \$21 million were transferred from one of Lombok's accounts at the bank to Guangdong Foodstuffs Corporation (which represented part of the proceeds of Lombok's share trading). The Nanyang Bank sought approval from Mr. DENG for the transfer according to a note on the remittance document made by a staff member of the bank. On another occasion on the 7th and 8th August 1997, \$9.9 million was withdrawn from Lombok's Nanyang account and can be shown to have been deposited into the account of a Mr. ZHONG Yi according to the documents before the Tribunal. Mr. DENG was an authorized signatory on Mr. ZHONG's account and ZHONG's address was stated on the account documents to be Mr. DENG's address at

Beverly Court. Other withdrawals were deposited into the account of a company Yat Ming Ltd. which was purchased by Phoebe CHIU by way of a cheque written by her and drawn on Setter's bank account signed by "W.G. LEI".

It is important to realize these funds which were in Lombok's Nanyang Bank accounts were in large part unrelated to its share trading activities. Its account was apparently used to "launder" funds involved in the letter of credit round robin and which found their way back into the Guangan Group. Of course funds related to Lombok's share trading also passed through these accounts and were co-mingled with the other funds. That is explained in Chapter 6.

All of this considerable evidence points to Mr. DENG's close association to the company Lombok.

So far as Setter is concerned, Mr. DENG appears to have been a co-signatory on a cheque for \$2,080,867 drawn by Guanfair and written by Phoebe CHIU on the 7th December 1996. Those funds were subsequently used by Setter for share trading.

This evidence suggests some connection between Setter and Mr. DENG.

Mr. DENG in his statement to the SFC denied any knowledge of any BVI company relevant to this inquiry. He specifically denied any knowledge of Lombok. He was unaware as to why he was described on the Lombok account documents at Nanyang Bank as the contact person for that account.

In short, his case was, as set out in his statement of 19th June 1998 that he had no dealings with or on behalf of any of the four BVI companies and was not to his knowledge involved in their operation or funding in any way, and that so far as his name appeared on any such documentation it was without his knowledge or consent.

As a starting point, we determined whether Mr. DENG was a person connected to Firstone for the purposes of section 9(1)(a) of the Ordinance.

The provisions of section 4(1)(c) do not apply to him as his employer was Guanfair and therefore, as there was no business relationship (formal or informal) between Guanfair and Firstone, the provisions of that subsection do not apply to him so as to connect him to Firstone. Nevertheless, he is a person who potentially falls within the provisions of section 4(1)(d). That is because he is connected with Guangnan Holdings as a result of both that company and Guanfair being subsidiaries of Guangnan Hong (Group) Ltd. and therefore being related companies for the purposes of section 2 and so section 4(1)(d) of the Ordinance.

As we have said in this chapter previously concerning Phoebe CHIU if his connection with Guangnan Holdings (and realistically with James HUANG of that company) gave rise to any possession of relevant information by Mr. DENG insofar as the reality of any business contact between him and Guangnan Holdings was concerned then Mr. DENG got that information "by virtue" of his connection with Guangnan Holdings. In this regard, Mr. DENG's position, though somewhat factually different to that of Phoebe CHIU, can be regarded in the same way and was not such as to, in our view, cause him to fall within the provisions of section 4(1)(d) so far as his working relationship with James HUANG was concerned.

Accordingly as with Phoebe CHIU we consider his position only so far as the "tippee" provisions of section 9(1)(e) are concerned.

However, it is apparent also from the evidence against Mr. DENG that his involvement with Lombok and Setter was generic. That is, he dealt with funds going into their accounts and removed from their accounts. There was nothing adduced in evidence before us which connected him specifically to any of those companies involvement in actual share trading either generally or Firstone share trading in particular.

Mr. DENG's evidence in the form of his statement to the SFC we reject so far as its denials of any involvement by him with the companies or in the transactions set out by us above are concerned. The evidence to the contrary is overwhelming. He must have known of his involvement with Lombok at the very least. That involvement was over an extended period of time and resulted in the movement of over tens of millions through its accounts at Nanyang Bank.

Nevertheless we bear in mind, as we did with Phoebe CHIU and others including James HUANG, that which we have set out in Chapter 6. We do not think Mr. DENG's lack of credibility in his SFC statement goes so far as to provide any proof of his knowing involvement in inside dealing. His lies to the investigators may well have been to distance himself from the activities of James HUANG and companies and transactions associated with those activities for other reasons.

There is no evidence to suggest that Mr. DENG was ever in possession of relevant information. All of the evidence against him is simply consistent with his involvement in the funding of Lombok in particular. There is nothing to suggest he was aware of any purchases of Firststone shares.

Accordingly, in our findings he could not in any event have been found to be in breach of any provisions of section 9 of the Ordinance.

We would have made no finding of insider dealing against him regardless of the provisions of section 16(5) of the Ordinance.

CHAPTER 13

ROLE OF PERSONS ASSOCIATED WITH IMPLICATED STAFF OF THE GUANGNAN GROUP

YIP Hiu Sui

We deal very briefly with Mr. YIP. He was the husband of Madam TANG, the Deputy General Manager of Asian Honour International Ltd. (a 100% subsidiary of Guangnan Holdings), who, as we have said, absconded from or failed to answer her bail during the course of the Hong Kong authorities investigation into the affairs of the Guangnan Group.

Mr. YIP operated a company Fountain Datacom which saw funds pass through its account from Guangnan Holdings on the 18th June 1997 (\$5,591,346) to Super Kingdom's HSBC account on 20th June 1997 (\$5,000,000). That money was used to fund the purchase of Firststone and other shares. The original transaction resulting in the deposit of money into Fountain Datacom's account was a letter of credit transaction purporting to involve a Shipment of Methane.

The balance of those funds (\$579,000) was paid by Mr. YIP from the Fountain Datacom's Yien Yieh Bank account to a company owned by his wife Madam TANG called Sun Ming Asia Trading Company.

Mr. YIP purchased 300,000 Firststone shares on the 27th June 1997 (i.e. one day after the first meeting between Mr. KWEE and James HUANG). He had never purchased Firststone shares beforehand.

On that basis, we considered his role on the basis that he may have been "tipped" by his wife Madam TANG in breach of the provisions of section 9(1)(e) of the Ordinance.

We have already found, however, that Madam TANG has not been proven to have received any relevant information, and that while she was highly probably the person who procured or counselled Mr. YIP to

purchase the Firstone shares she may well have done so on the basis of information which fell short of relevant information or was no more than gossip or rumour.

We apply and endorse those findings in respect of Mr. YIP's role. It has not been established to a high degree of probability that when he purchased the Firstone shares on 27th June 1997 he was in possession of relevant information.

Nor is there any evidence which could realistically establish that he was aware that any information he received came from a person connected with Firstone. Madam TANG was not such a person and there was nothing to suggest Mr. YIP was aware any information he received came directly or indirectly from James HUANG.

Further, we would add that Mr. YIP's predeceasing the commencement of this inquiry effectively meant that he was unable to be considered in any way as a person who had been provided with an opportunity to be heard as required by section 16(5) of the Ordinance.

We make no finding of insider dealing against him.

FANG Naijun

Mr. FANG was a close friend of MO Siu Chung during the relevant period. Mr. FANG was not an employee of the Guangan Group and apparently had no working or social relationship with any potential source of relevant information other than Mr. MO.

Mr. FANG was never located by the SFC for an interview. Nor could he be located for the purposes of this inquiry. It is believed he had returned to the mainland prior to the SFC investigation into these matters commencing.

Suspicion falls upon him through the contents of Mr. MO's statement to the SFC where Mr. MO admits to using Mr. FANG's trading account at New Century Securities Ltd. with Mr. FANG's permission so as to trade in 100,000 Firstone shares on the 11th July 1997.

For the reasons set out in Chapter 12 of this Report when we dealt with the role of Mr. MO, we accept that of the 400,000 Firststone shares purchased through Mr. FANG's account on the 11th July 1997 100,000 were purchased by Mr. FANG on behalf of Mr. MO.

That left a balance of 300,000 Firststone shares which, we conclude, were purchased by Mr. FANG on his own behalf. All 400,000 shares were sold through Mr. FANG's account on the 18th July 1997.

Though Mr. FANG was never able to be questioned about this purchase by the SFC, Mr. MO was so questioned and suggested that the 300,000 shares apparently purchased by Mr. FANG on his own behalf may have been a reflection of Mr. FANG simply "tracking" Mr. MO.

That is as far as the evidence concerning Mr. FANG goes.

The only possibly realistic breach of the provisions of section 9 of the Ordinance by Mr. FANG is section 9(1)(e). That is, that in purchasing the Firststone shares Mr. FANG was acting as a "tippee".

In our view, there is no doubt Mr. FANG received some information about Firststone shares from Mr. MO which prompted him to purchase 300,000 of them for himself. Mr. FANG would have been aware that any information he received from Mr. MO was obtained by Mr. MO in the course of the latter's work. A more difficult question would be whether Mr. FANG could be proven to have been aware that the nature of Mr. MO's work made him a person connected with Firststone. As will shortly be seen however our considerations did not have to go so far.

The initial question is whether we are able to be satisfied that the information passed on to Mr. FANG by Mr. MO was specific enough so as to be relevant information for the purposes of sections 8 and 9 of the Ordinance.

We are unable to say that we find it highly probable that Mr. MO did pass on information specific enough to qualify as relevant information to Mr. FANG.

In our judgment on the basis of the scant evidence available in respect of Mr. FANG, it is entirely feasible Mr. MO provided information to Mr. FANG to a degree of specificity less than that required by section 8 of the Ordinance. He may, for example, simply have impressed upon Mr. FANG that something may be happening between Firststone and the Guangnan Group and that Firststone was a good buy. As we have found on previous occasions such information would, in our view, be insufficiently specific so as to be relevant information pursuant to section 8 of the Ordinance.

Accordingly, in any event and, we might add, regardless of Mr. FANG not having had an opportunity to be heard pursuant to section 16(5) of the Ordinance, we would not have found him to be in breach of the provisions of section 9 of the Ordinance.

We make no finding of insider dealing against him.

LAI Wai Yin

Madam LAI is the mother of Phoebe CHIU. She has no other apparent connection with the Guangnan Group or with any person within it who could be considered a realistic and possible source of relevant information.

On the 10th July 1997, she purchased 162,000 Firststone shares on her personal trading account at Oriental Patron. She sold them on the 18th July 1997, as did many other implicated parties. That day of course was the day the placement of Firststone shares with Guangnan Holdings was publicly announced.

Madam LAI was both interviewed by the SFC, making one statement on the 15th May 1998 and appeared unrepresented at the preliminary hearing of these proceedings. She did not however further appear during the course of the proceedings and became unlocatable.

In her statement to the SFC, she agreed that her Oriental Patron trading account (as well as another account she held at Taiwan Concord

Securities) were opened for her by Phoebe CHIU. This was, according to the account opening documents, in 1992. She said she placed orders on her account personally. This was confirmed by the evidence before us of TW 9 CHU Kwok Yee, an account executive at Oriental Patron.

Diane CHU, Phoebe CHIU's sister in law, also operated accounts at Oriental Patron, one was for herself and one was in the name of Super Kingdom in respect of which she placed orders herself, though according to Mr. CHU's evidence she had once asked whether she could arrange for someone else to place orders on the Super Kingdom account but eventually took the matter no further.

Phoebe CHIU also operated accounts at Oriental Patron. One was in her own name and others for her trading on behalf of Guanfair and the Guangnan Group.

One initial question therefore which arose for our consideration in this regard was whether the accounts opened and operated at Oriental Patron by Phoebe CHIU's family members were in fact operated by Phoebe CHIU with her mother and Diane CHU simply being nominees.

We have set out our findings in this regard concerning Diane CHU later in this chapter and generally concerning Phoebe CHIU's role in Chapter 8. It is sufficient to say that, in our view, Diane CHU was nothing more than a nominee or "puppet" of Phoebe CHIU in the latter's operation of the Super Kingdom account at Oriental Patron.

But the considerations in respect of Madam LAI are somewhat different.

Firstly, according to TW 9 Mr. CHU, Madam LAI was the first of the "family" to have opened an account at Oriental Patron and in fact had introduced Phoebe CHIU who in turn later introduced Diane CHU for the purposes of opening trading accounts.

But against that is the evidence from Madam LAI's statement to the SFC that Phoebe CHIU had in fact completed and signed Madam LAI's account opening forms herself and had written in her own, Phoebe

CHIU's, address as the address to which the account statements were to be sent. These admissions by Madam LAI in her statement are borne out by the contents of the account opening documents themselves. Importantly, she also said that the signature purporting to be hers which appears on the account opening documents is in fact that of Phoebe CHIU.

TW 9, Mr. CHU's evidence was to the effect that Madam LAI placed her own orders. But we do not place any particular importance on this. It is not of great assistance in determining whether the person placing the orders is a mere nominee or acting independently. The same applied to Diane CHU's operation of the Super Kingdom account.

We are satisfied, given Phoebe CHIU's involvement with the documentation relating to Madam LAI's account, Phoebe CHIU's signing of the account documents and the nature of the trading in the account, i.e. the same or similar stock which was purchased by Phoebe CHIU on other occasions in other accounts (such as Hopewell, Mansion, Guangnan Holdings) and Phoebe CHIU's funding on occasion of Madam LAI's account, as stated by Madam LAI in her interview with the SFC, that the account was really under the control and direction of Phoebe CHIU.

Bearing this in mind, we nevertheless considered whether Madam LAI's trading activities on her account when she purchased Firstone shares on the 10th July 1997 may have been as a "tippee" in breach of section 9(1)(e) of the Ordinance. That is the only provision she realistically may have breached.

The question is perhaps better expressed in this way. Given that she operated her account under the directions of Phoebe CHIU, might she nevertheless have been provided with the relevant information by Phoebe CHIU when she purchased the Firstone shares on the 10th July 1997.

We have no doubt given the coincidence of Madam LAI purchasing Firstone shares for the first time (or at least in a long time as she says in her statement) on a date when the information available in respect of the placement negotiations had just been provided to Mr. MO

for the purpose of him compiling his 2nd report, and on the same day that Madam KWAN, Super Kingdom (through its, Diane CHU operated, Oriental Patron account), and Lombok (through its Credit Lyonnais account on Phoebe CHIU's order) had all purchased Firststone shares that the purchase of 162,000 Firststone shares on Madam LAI's account was not an independent purchase by her.

In her statement to the SFC, Madam LAI admits asking Phoebe CHIU about Firststone as a possibly worthwhile purchase. According to Madam LAI's statement, Phoebe CHIU replied in words to the effect that "you should just go ahead and buy it if you feel like it." She then generally admitted that she sometimes consulted her daughter about share purchases.

She, in her statement, was unable to give any rational basis for her purchase of Firststone shares. She simply said she thought it was a good idea or that she wanted to.

We dismiss Madam LAI's assertion that the idea to purchase Firststone shares originated with her. In our view, she was lying in saying that in order to protect her daughter.

We are sure that Phoebe CHIU provided the suggestion or direction which prompted Madam LAI to place the order for the purchase of Firststone shares on the 10th July.

Given the degree of control exercised by Phoebe CHIU over her mother's account at Oriental Patron, it is quite obvious that it was in no way necessary for Phoebe CHIU to provide her mother with any part of the relevant information in order to have her mother make the purchase of Firststone shares.

There is no evidence before us that suggests Phoebe CHIU, in fact, did tell her mother of the Firststone placement negotiations. So far as can be gleaned from the contents of Madam LAI's statement, she does not seem to be a knowledgeable share trader and it is very possible she would not have been curious or interested in such information.

At the end of the day, we cannot be satisfied to a high degree of probability that Madam LAI was told by her daughter of the relevant information concerning the Firststone share placement to Guangnan Holdings. It seems to us more likely that Madam LAI was simply told to purchase Firststone shares, or if provided with any information at all, that information would have fallen short of the requirements of section 8 of the Ordinance and so would not have been relevant information.

Accordingly, although we are satisfied Madam LAI was provided with a sufficient opportunity to be heard before this Tribunal, we are not satisfied that she was, on the evidence before us, in breach of the provisions of section 9(1)(e) of the Ordinance and we make no finding of insider dealing against her.

Diane CHU

Diane CHU was in 1997 Phoebe CHIU's sister in law. Phoebe CHIU lived at that time in the same flat at Block D, 23/F., Laguna City as Diane CHU and Diane CHU's husband and children.

Diane CHU made a statement to the SFC on 12th February 1998. In that statement she described herself as the director of Super Kingdom, one of the four BVI companies we dealt with in Chapter 11. We there (and in Chapter 7) set out our reasons for concluding that the four BVI companies were ultimately controlled by James HUANG. We will now deal with the role of Diane CHU in the operation of Super Kingdom and its trading accounts.

Diane CHU did not give evidence before us. Like her sister in law Phoebe CHIU and mother in law LAI Wai Yin she was unlocatable for that purpose. Accordingly, so far as her case is concerned there exists only her statement to the SFC.

Super Kingdom operated two share trading accounts. One was at Credit Lyonnais which, according to the statements of Phoebe CHIU, Diane CHU and the account documents and TW 10 Horace WONG of Credit Lyonnais was operated personally by Phoebe CHIU even though on the account opening documents Diane CHU was recorded as the

beneficiary. According to both Phoebe CHIU and Diane CHU that latter entry was in error and the real beneficiary of Super Kingdom was a Mr. CHO who was a friend of theirs.

The other account operated by Super Kingdom was at Oriental Patron and according to TW 9 Barry CHU of that company it was operated by Diane CHU.

Super Kingdom made the following purchases of Firststone shares:-

26 th June 1997	2,214,000, purchased at Oriental Patron by Diane CHU.
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10 th July 1997	2,250,000, of which 1,500,000 were purchased by Phoebe CHIU at Credit Lyonnais and 750,000 by Diane CHU at Oriental Patron.
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In Chapter 8 of this Report, when dealing with Phoebe CHIU's involvement in respect of the four BVI companies, we said that so far as Super Kingdom was concerned we were satisfied that she, under the supervision of James HUANG controlled that company and through the use of Diane CHU as a nominee traded on its Oriental Patron securities account.

We will now consider in some detail why we arrived at that conclusion.

While both Phoebe CHIU and Diane CHU in their statements to the SFC said that Diane CHU independently decided which stock to purchase on Super Kingdom's Oriental Patron account, there is simply too much evidence to the contrary for any credit to be placed on that version of events.

Diane CHU when interviewed by the SFC displayed a fundamental ignorance concerning matters basic to the operation of the Oriental Patron account of Super Kingdom. She did not know how

settlement on the account was effected. She gave two conflicting versions to the interviewer. Firstly, she said she drew cheques in favour of Oriental Patron. Then she said she had forgotten how settlement occurred. Finally, she said there was money in the HSBC account of Super Kingdom (of which she was the signatory) and settlement was effected automatically. Nor did she appreciate she was not the "owner" of Super Kingdom. She, on a number of occasions, expressed her view that she was the owner of Super Kingdom to the interviewer. She apparently did not appreciate the fundamental difference between a director and a controlling shareholder of a company so far as beneficial ownership is concerned.

Nor did she appreciate the funding details of Super Kingdom. She thought there was somewhere between \$5 to \$10 million made available by Mr. CHO for her to trade in. When the bank account of Super Kingdom was closed in November 1997 she was not aware of how much money was taken out of it (until she was referred to its bank statement) or what was done with that money with any degree of certainty.

More importantly, perhaps she was demonstratively a typical nominee in operating that bank account of which she was the signatory on behalf of Super Kingdom.

By her own admissions during the course of the interview, she exercised virtually no control over that bank account. Through it passed tens of millions of dollars. That money was disbursed by way of cheques signed by Diane CHU but in circumstances where Phoebe CHIU had completed the cheques, including the payee and amount details, and simply gave them to Diane CHU for signature. They then were signed and returned to Phoebe CHIU. That was in fact the evidence of Diane CHU as contained in her statement.

Diane CHU could not remember the reason any one of the cheques drawn on Super Kingdom's account and shown to her during her interview were paid to the stated payee. She could not remember whatever she had asked or had been told and forgotten. Her statement in that regard was one of confusion. In particular, four cheques were

signed by her totalling \$24 million payable to a company Sahara Investors Group Limited. That was a BVI company whose director was stated, so far as its bank account documents are concerned, as also Mr. CHO. But there was nothing to suggest Diane CHU knew that to be so at the time she signed those cheques, and further, as we have said in Chapter 7, that company we are satisfied, was controlled by James HUANG. She was unable to offer any explanation as to why those cheques were drawn. Given the amounts involved one would have thought if she had in fact exercised any real responsibility or judgment as a director of Super Kingdom she would have remembered something of those cheques.

Lesser but still significant amounts of money were drawn down on the Super Kingdom account by cheques signed by Diane CHU and completed by Phoebe CHIU and payable to Phoebe CHIU. Diane CHU was unable to offer any explanation as to why this was so.

She seemed a person peculiarly ignorant of share trading realities. She said she didn't know what her share trading philosophy was. She could offer no reason for her purchases of nearly 3,000,000 Firstone shares other than that she discussed shares at home with Phoebe CHIU every night and that Phoebe CHIU had thought Firstone was good.

The transcript of her interview in that regard is as follows:-

"Q: So, Diane, why you bought Firstone International Holdings Limited

A: Why?

Q: In June 1997 on behalf of Super Kingdom Investment Limited.

A: Why that I buy it, I think because it sounds good.

Q: Tell me why it's good?

A: Why it's good? Well, it is cheap. So, it's 52 cents and then Phoebe say, it would, be quite good. (Cantonese in the original)

Q: A lot of the shares got 50 cents or below 50 cents. Why you bought Firstone?

A: It's like, you like buying things (Cantonese in the original), it's no reason behind it. You like buying things (Cantonese in the original).

Q: There is no reason, you just want to buy it, and buy it.

A: Yeah.

Q: If Phoebe tell me to buy

A: Phoebe suggests, she didn't tell me to buy, you know, to discuss stock (Cantonese in the original) during that time, you know, because it's hot, and she thinks that Firststone was quite good, and I said it's (Cantonese in the original) okay.

Q: And she suggests you to buy?

A: She thinks it's okay, quite cheap and its' ok. (Cantonese in the original)"

In short: Phoebe CHIU opened both trading accounts for Super Kingdom at Oriental Patron and Credit Lyonnais. Phoebe CHIU was the signatory to those accounts opening documents and completed them. Phoebe CHIU completed the HSBC cheque account opening forms for Super Kingdom with Diane CHU as signatory.

Trading on Super Kingdom's Credit Lyonnais account was conducted by Phoebe CHIU personally.

Trading on Super Kingdom's Oriental Patron account was conducted by Diane CHU.

But control of Super Kingdom's bank account was effectively exercised by Phoebe CHIU. Cheques drawn on it were made out by her and presented by her to Diane CHU for signature. In our view, Diane CHU, regardless of her protestations in that regard during her SFC interview was simply a "rubber stamp" for the disbursement of Super Kingdom's funds from its HSBC account.

All this taken together with the fundamental improbability of the person Mr. CHO providing millions of dollars to Diane CHU to trade on his company's behalf given Diane CHU's demonstrated ignorance of share trading, in our view, gives the lie to her and her sister in law's

version of events as contained in their statements to the SFC to the effect Diane CHU traded independently on the account of Super Kingdom at Oriental Patron.

In our view, she was no more than a nominee used by Phoebe CHIU (in much the same way as Phoebe CHIU had used her mother) to trade in stocks, including those of Firstone.

As we have said in Chapter 7, we are satisfied that James HUANG had ultimate control of the four BVI companies including Super Kingdom. Any suggestion that he may have acquiesced to a person like Diane CHU exercising an independent discretion so far as trading in tens of millions of dollars on its account, or exercising any real control over the disbursement of the trading proceeds is quite simply laughable.

The only realistic provision which Diane CHU may have been in breach of during the course of her trading in Firstone shares in section 9(1)(e) of the Ordinance.

And the only realistic source of any relevant information which may have been transmitted to Diane CHU is her sister in law Phoebe CHIU.

That is because even though Diane CHU was no more than a puppet or a nominee she may still have offended against the provisions of section 9(1)(e) if she traded, or procured Super Kingdom to trade, in Firstone shares whilst she was in possession of relevant information which she knew emanated from a connected person.

The question then is whether, accepting that Diane CHU's role in respect of Super Kingdom's trading account was simply to trade on the basis of her sister in law's instructions, there was a high probability that she was told by Phoebe CHIU, at the time Super Kingdom purchased Firstone shares on the 26th June or the 12th July 1997, of the relevant information then in existence as to the Firstone placement negotiations.

In our view, we cannot be satisfied that she was told of that information.

Firstly, we are satisfied she was a pure nominee. As such, there was no reason to tell her anything more than that she should purchase the Firststone shares. Given her displayed ignorance of matters commercial in her statement to the SFC, which we are satisfied was not feigned, there was no real reason for Phoebe CHIU to have told her anything of the Firststone negotiations. The purchase of the Firststone shares, given the volume of trading on the Super Kingdom account at Oriental Patron, would simply have been one of a number of transactions carried out by Diane CHU at the direction of Phoebe CHIU. No special reason need have been given to Diane CHU to prompt or procure her purchase of those shares. We strongly doubt she had the interest or commercial curiosity to prompt her to ask.

Secondly, Diane CHU did not trade in Firststone shares on her own behalf. We think that is a compelling indicator that she remained ignorant of the relevant information at the time she was purchasing Firststone shares for Super Kingdom. She did nothing to personally benefit from the information by, for example, trading on her own behalf in Firststone shares.

The trading proceeds from Super Kingdom's trading accounts, including the Oriental Patron account operated by Diane CHU mostly found their way, so far as can be determined, into accounts such as that of Sahara Investors Group Ltd., controlled by James HUANG and perhaps others, and ultimately back into the trading accounts of the Guangnan group of companies so as to boost the group's profits.

Accordingly, we are satisfied that Diane CHU was a pure nominee in operating the Super Kingdom trading account with Oriental Patron and operated that account on the directions of Phoebe CHIU who was herself accountable to James HUANG in that regard. We are far from satisfied Diane CHU at any stage possessed relevant information concerning the Firststone placement and indeed we are satisfied that the great likelihood is that she did not.

Accordingly, we do not find Diane CHU to have been in breach of any of the provisions of section 9 of the Ordinance. We might add

that had we done so we nevertheless would not have found her to be an inside dealer as, in our view, she was not shown to have been provided with an opportunity to be heard pursuant to section 16(5) of the Ordinance. She was, quite simply, not locatable for the purposes of having service of the Tribunal's process and documents upon her.

CHAPTER 14

FINDINGS AS TO INSIDER DEALING

We now summarize our findings.

We have found that there was insider dealing in respect of Firststone shares during the reference period by or on behalf of the following individuals.

(1) James HUANG Xiao Jiang

We have found James HUANG to have been an insider dealer by being in breach of two separate provisions of the Ordinance.

(A) Section 9(1)(a)

James HUANG is found to be an insider dealer in breach of the terms of the above provision in respect of all Firststone share purchases made from 27th June to 11th July 1997 inclusive made on all the accounts of the four BVI companies dealt with in this Report, namely Setter, Lombok, Super Kingdom and Dragon Sentosa. He is therefore liable in this regard for all purchases made from 27th June to 11th July 1997 inclusive on or allocated to the accounts of those companies at Credit Lyonnais, Oriental Patron, CA Pacific and AIM. (Lombok's purchase of Firststone shares at Win Wong having occurred on 26th June 1997 not being encompassed by our findings).

(B) Section 9(1)(c)

In the course of counselling or procuring the purchase of Firststone shares on the accounts of the above four companies, James HUANG disclosed the relevant information to Phoebe CHIU and Eddie CHOW in breach of the terms of the above provision. He is accordingly liable for that part of the dealings in Firststone shares conducted by those persons on the accounts of the same four companies as follows:-

(i) Phoebe CHIU's dealings

Phoebe CHIU's dealings (and her dealings through her nominee Diane CHU) on the accounts of Lombok and Super Kingdom at Oriental Patron and Credit Lyonnais from 27th June to 11th July 1997 inclusive.

(ii) Eddie CHOW's dealings

Eddie CHOW's purchases (through his company AIM) of Firststone shares allocated to the accounts of Setter and Dragon Sentosa at AIM.

(2) Phoebe CHIU Yuen Man

We have found Phoebe CHIU to have been an insider dealer by being in breach of section 9(1)(e) of the Ordinance in respect of trading in Firststone shares as follows:-

- (a) All purchases of Firststone shares on the accounts of Lombok and Super Kingdom at Oriental Patron and Credit Lyonnais between 27th June and 11th July 1997 inclusive.
- (b) The purchase of Firststone shares on her own account at Oriental Patron on 4th July 1997.
- (c) The purchase of Firststone shares on her mother LAI Wai Yin's account at Oriental Patron on 10th July 1997.

(3) Eddie CHOW Kar Chun

We have found Eddie CHOW to have been an insider dealer by being in breach of section 9(1)(e) of the Ordinance in respect of trading in Firststone shares as follows:-

All purchases of Firststone shares by AIM allocated to the accounts of Setter and Dragon Sentosa from 27th June to 11th July 1997 inclusive (i.e. purchases made on 9th and 11th of July).

(4) KWAN Lai Sheung

We have found Madam KWAN to have been an insider dealer by being in breach of section 9(1)(e) of the Ordinance in respect of trading in Firststone shares as follows:-

All purchases of Firststone shares made by her on accounts in her name at CA Pacific Securities Ltd., On Hing Securities Ltd. and Yardley Securities Ltd. between 27th June and 11th July 1997 inclusive.

We made no finding of inside dealing against any other individual or company.

CONCLUSIONS

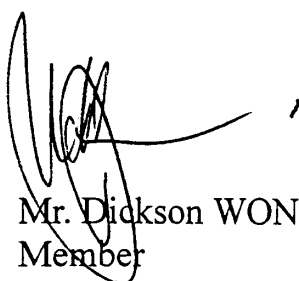
Chapters 1-14 of this Report are now forwarded to the Financial Secretary in response to the questions raised by his notice of the 23rd May 2003 in sub-paragraphs (a) and (b) thereof. In due course after hearing from counsel assisting and counsel representing those found to be insider dealers, we will provide our response to sub-paragraph (c) of the notice and set out the terms of any penalties imposed and orders made by us.



The Honourable Mr. Justice McMahon
Chairman



Mr. Norman NGAI Wai Yiu
Member



Mr. Dickson WONG Kai Tat
Member

2nd April 2004

CHAPTER 15

PENALTIES AND CONSEQUENTIAL ORDERS

We will now turn to the assessment of profits pursuant to section 16(3)(c) of the Ordinance of those found to be insider dealers and of the penalties we impose and other orders we make in respect of those individuals.

We found there to have been only four identifiable insider dealers. They were James HUANG, Phoebe CHIU, Eddie CHOW and KWAN Lai Sheung.

They were all found to have dealt as insiders in various trading accounts in Firststone shares (i.e. Firststone ordinary and rights shares) between 27th June and 11th July 1997 inclusive.

We will deal with the position of each firstly so far as the orders we think appropriate to be made pursuant to section 23(1)(a), (b) and (c) of the Ordinance are concerned and lastly so far as any order as to the payment of expenses pursuant to section 27 of the Ordinance is concerned.

James Huang

We found James HUANG to have been an insider dealer in respect of his procuring the trading in Firststone shares on accounts in the names of the four BVI companies Setter, Lombok, Dragon Sentosa and Super Kingdom during the period from 27th June to 11th July 1997 inclusive contrary to the provisions of section 9(1)(a) of the Ordinance.

We made a further finding of insider dealing against him in respect of trading in the names of those same four companies on accounts controlled by Phoebe CHIU and Eddie CHOW at AIM, Oriental Patron and Credit Lyonnais, contrary to section 9(1)(c) of the Ordinance.

The reasons for those findings are set out in Chapter 7 of this Report.

It should be pointed out that although separate findings of insider dealing were arrived at in respect of James HUANG so far as each of the provisions of sections 9(1)(a) and 9(1)(c) of the Ordinance are concerned, the finding pursuant to section 9(1)(c) does not effectively add in any way to his culpability as his responsibility for insider dealing in respect of the share trading on the four companies accounts pursuant to section 9(1)(a) already covers all dealings in Firststone shares on the accounts of those companies during the insider dealing period.

We accept from the contents of the evidence and statement of Dennis WONG Wing Cheung, a chartered accountant employed by the SFC, who gave evidence before us as to the profits realized by the various trading activities of the implicated persons that the profit realized by the Firststone share trading activities of the four companies Setter, Lombok, Dragon Sentosa and Super Kingdom was \$3,641,309.81¹⁵. The principles adopted by Mr. WONG in calculating this profit were, we accept from his evidence, in accordance with the methodology approved in *Insider Dealing Tribunal - v - Shek Mei Ling (1999) 2 HKC 1*.

That may be summarized as follows.

Profits are only calculated from ordinary shares or rights shares purchased during the period 27th June to 11th July 1997 inclusive.

Where the sale of those shares occurred before the dissemination of the relevant information on the 18th July 1997 then the calculated profit is the actual realized profit.

If there was no sale of the shares until a point in time later than the date of dissemination of the relevant information (i.e. the 18th July) then a notional profit is calculated based on the difference between the

¹⁵ This total of trading profits for the four BVI companies includes Dragon Sentosa's account profits at CA Pacific which were attributable to James HUANG but to neither of Phoebe CHIU or Eddie CHOW. See Chapters 7 and 9.

purchase price of the shares and the value of those shares based on their re-rated trading price.

The re-rated trading price was calculated by reference to the total monetary turnover of Firststone shares in the 3 trading days from 18th July (the date of dissemination of the relevant information) to the 22nd July 1997 divided by the total number of shares traded over those 3 trading days. That re-rated price was \$1.577 per ordinary share. Using the same method, the re-rated price of the rights shares traded was \$1.001 each. This method of obtaining a re-rated share price was not specifically addressed in *Shek Mei Ling* but in our opinion does give a very fair and representative re-rated share price.

Where shares were purchased between 27th June to 11th July 1997 inclusive and were added to an existing shareholding, which had accrued prior to the 27th June 1997 then the "last in first out" principle applied. Effectively that means that the first sales are taken to be of those shares purchased during the period of 27th June to 11th July 1997 inclusive.

From the gross calculated profit, transaction costs are deducted.

That arrived at a profit of \$3,641,309.81 attributed to the Firststone share trading in the names of Lombok, Setter, Dragon Sentosa and Super Kingdom during the period 27th June to 11th July 1997 inclusive procured by James HUANG and we proceed on that basis.

In our view the probabilities are that eventually a significant part of that sum was transferred to bank accounts of subsidiary companies within the Guangan Group. The reason for that being done was likely to assist in the covering up of the fact that James HUANG had, with others, removed at least some \$60 million from the Group for the purposes of share trading amongst other things as part of a series of frauds conducted by him and those others. We have referred to those matters in previous chapters of this Report and particularly in Chapters 6 and 7.

That leaves us with the question however as to whether James HUANG should be considered as having in fact obtained any profit from his insider dealing activities using the four companies trading accounts.

In our view a person should not be ordered to "disgorge" a profit pursuant to the provisions of section 23(b) unless that person has gained that profit for himself. The purpose of section 23(b) is not to penalize an insider dealer, that is the function of section 23(c), but to take away from the person who is found to be an insider dealer any gain he made as a result of his insider dealing.

That interpretation is supported by the terms of section 23(b) which relate only to "the amount of any profit gained by that person as a result of the insider dealing" (emphasis added).

It is supported also by the contrasting reference in section 23(c) to the imposition of a penalty on the insider dealer being limited by "the amount of any profit gained by any person as a result of the insider dealing" (emphasis added).

That being so however the profits of insider dealers may be dealt with in many ways by them. They may be reinvested, used to repay a debt or otherwise dealt with so that they are not retained by that person but were nevertheless profits "gained" by him.

The question is always one of fact. Did the insider dealer gain a profit in the sense that the monies were effectively his to use and dispose of as he wished or at his discretion? In answering that question all the circumstances of the potential gain by the insider dealer should be taken into account.

In the present instance James HUANG ultimately controlled the trading operations of the four BVI companies. We are satisfied that the bank accounts of those four companies were also under his control.

We are satisfied from all the evidence before us as to the monies from the insider dealings on those four companies trading accounts either remaining in those accounts to be used for further trading or being

transferred to bank accounts in those companies names which were operated by the signature of one of the four nominee directors controlled by James HUANG, often through Phoebe CHIU, that he had the effective direction control and use of the profits obtained from the insider dealings on the trading accounts of those companies. The fact that he may have chosen to inject some large part of those profits back into the Guangnan Group or otherwise use or dispose of them so as to not personally enrich himself does not, in our view, detract from the conclusion that James HUANG had the effective direction control and use of the insider dealing profits and so "gained" in the terms of section 23(b) of the Ordinance from the insider dealings on the trading accounts of the four companies (including of course the accounts of Setter and Dragon Sentosa at AIM).

We make one qualification. It was part of the terms of the apparent agreement between AIM and Setter and Dragon Sentosa that AIM was to retain 30% of the profits made in the name of those companies on their accounts at AIM (see later concerning Eddie CHOW). We accept that those monies were or would be in fact retained by AIM and were therefore not part of the monies usable by James HUANG. They amount to 30% of \$1,404,426.95 (the profit generated by insider dealing on the Setter and Dragon Sentosa accounts at AIM). That is an amount of \$421,328.10.

That means the profits attributable to James HUANG from the insider dealing he procured on the trading accounts of the four BVI companies are reduced by that amount to \$3,219,981.71. In our view he should disgorge the whole of that final amount.

We order, pursuant to section 23(1)(b) of the Ordinance, that James HUANG pay to the Government of the Hong Kong Special Administrative Region a sum of \$3,219,981.71.

So far as section 23(1)(c) is concerned, in considering the amount of any financial penalty to be imposed on James HUANG we take into account that his insider dealing activities were part of an infrastructure he had taken steps to have set up to disguise and accommodate other fraudulent activities including illicit share trading he was involved in at the Guangnan group of companies, but were not a

wholly intrinsic part of those other activities. The insider dealing activities were separate activities, though closely connected in methodology, nexus and time to those other activities.

Accordingly therefore we do take into account to some extent in considering the matter of an appropriate financial penalty the fact that James HUANG was sentenced to six years' imprisonment in respect of those other activities and has served his sentence in that regard.

Taking therefore into account the somewhat connected nature of the insider dealing activities of James HUANG with the other fraudulent activities in respect of which he has already served a sentence of imprisonment, together with his leading role in and responsibility for the insider dealings which took place in Firstone's shares between 27th June and 11th July 1997 inclusive we believe an appropriate penalty to be an amount equivalent to the profit he gained, i.e. \$3,219,981.71. Nothing has been put before us to suggest he cannot pay that level of fine. Given the very large sums of cash monies that passed through his hands during the period of his illicit share trading generally we are satisfied he can pay that level of penalty.

Accordingly, we order James HUANG pay a penalty of \$3,219,981.71 to the Government of the Hong Kong Special Administrative Region pursuant to section 23(1)(c) of the Ordinance.

So far as the provisions of section 23(1)(a) of the Ordinance are concerned we take into account the complexity and scope of the scheme of insider dealing instituted by James HUANG and importantly also that he used the resources of his company and his position as an officer of his company to further that scheme. We take into account that he used at least one senior staff member of his company i.e. Phoebe CHIU to further his insider dealing activities.

Accordingly we regard his culpability pursuant to his insider dealing activities so far as his breach of his responsibilities as a director are concerned as extremely high.

We order that he shall not, without leave of the Court of First Instance be a director, liquidator, receiver or manager of the property of a listed company or any other limited company, or in any way whether directly or indirectly be concerned or take part in the management of a listed company or a limited company for 5 years.

In making these orders against James HUANG the Tribunal took into account the provisions of section 23(2) of the Ordinance.

That provision, as does section 16(5) in respect of the identification of a person as an insider dealer, requires any person the subject of any order made under the provisions of section 23 to have been first given an opportunity to be heard.

In our view James HUANG was given ample opportunity to be heard for the whole of the purposes of this inquiry but deliberately absented himself from it by leaving Hong Kong. Our reasons in that regard have already been set out in Chapter 7 of this Report. We are satisfied that James HUANG therefore was provided with an opportunity to be heard for the purposes of section 23(2) of the Ordinance.

Phoebe CHIU

We found Phoebe CHIU to have been an insider dealer in Firststone shares purchased between 27th June to 11th July 1997 inclusive on the accounts of Lombok and Super Kingdom at Credit Lyonnais and Oriental Patron and on her mother LAI Wai Yin's account at Oriental Patron and on her personal account also at Oriental Patron. The reasons for our findings in that regard are set out in Chapter 8 of this Report.

On those accounts the profit realized from her insider dealing was \$2,371,341.41 according to the evidence of Mr. Dennis WONG which, as we have said, we accept.

Of that \$2,371,341.41 profit the major part represents the profits made on the trading accounts of Lombok and Super Kingdom. That portion of the calculated profits was \$1,991,693.52. The balance of

\$379,647.89 represents the profits made by Phoebe CHIU on her personal account and her mother's account at Oriental Patron.

As, for the reasons stated above, we are satisfied that James HUANG was the person who had the effective control and usage of the profits of the four BVI companies, including those of the Lombok and Super Kingdom accounts at Credit Lyonnais and Oriental Patron, we do not consider a "disgorgement" order against Phoebe CHIU pursuant to section 23(1)(b) would be appropriate in respect of those part of the profits made by her on those accounts of Lombok and Super Kingdom.

That is because she did not personally "gain" those particular profits. They went elsewhere. As we have said in Chapter 8 of this Report Phoebe CHIU was a lieutenant of James HUANG in the scheme of insider dealing within the larger scheme of disguised share trading she helped establish for him. But we are satisfied there is no evidence to suggest that she was able to deal with the funds obtained from the insider dealing on those accounts of Lombok and Super Kingdom she was responsible for at her own discretion. The ultimate control of those accounts, and the usage of profits obtained from them, was vested in James HUANG. We have therefore made a disgorgement order pursuant to section 23(1)(b) against him regarding all profits of the four BVI companies including those made on the accounts in the names of Lombok and Super Kingdom at Credit Lyonnais and Oriental Patron which were under the control of Phoebe CHIU because in our judgment the profits from those accounts trading went to him. That means that Phoebe CHIU did not personally gain from the trading on the accounts operated in the name of Lombok and Super Kingdom at Credit Lyonnais and Oriental Patron.

Accordingly the only profits gained by her from her insider dealing were on her own personal account and her mother's account at Oriental Patron.

So far as her mother's account was concerned, we have already given our reasons for finding that Madam LAI was a mere nominee or puppet of her daughter in the operation of that account. Those reasons are set out in full in Chapter 13 of this Report. We are satisfied for the

same reasons that Phoebe CHIU had the effective use of the profits made by her insider dealing on her mother's account.

We accordingly make a disgorgement order against Phoebe CHIU in an amount of \$379,647.89 representing the profits of her insider dealing on her personal and mother's accounts at Oriental Patron.

We order her to pay that amount to the Government of the Hong Kong Special Administrative Region pursuant to the provisions of section 23(1)(b) of the Ordinance.

So far as the question of penalty is concerned, we take into account her high culpability in the operation of the Lombok and Super Kingdom's trading accounts and bank accounts for the purposes of insider dealing.

We take into account also however that in respect of the major part of her insider dealing she was acting under the supervision of James HUANG who was a director of the group of companies she was employed within and that the insider dealing was instigated by him. She no doubt had pressure upon her to comply with his suggestions in this regard.

Accordingly, in our judgment an appropriate level of penalty is a sum equivalent to the profits generated by her insider dealing on the accounts of Lombok and Super Kingdom at Credit Lyonnais and Oriental Patron and on her own and her mother's accounts at Oriental Patron. That is a sum of \$2,371,341.41. We are satisfied from her property ownership in Hong Kong she can afford that level of fine.

Accordingly, pursuant to the provisions of section 23(1)(c) of the Ordinance we order that she pay that sum as a penalty to the Government of the Hong Kong Special Administrative Region.

Finally, so far as the provisions of section 23(1)(a) are concerned given her role in these insider dealings whilst a manager of a subsidiary of a listed company, we think a period of 3 years' disqualification pursuant to that provision is appropriate.

Accordingly, we order that she shall not, without the leave of the Court of the First Instance, be a director or a liquidator or a receiver or manager of the property of a listed company or of any limited company or in any way whether directly or indirectly be concerned or take part in the management of a listed company or any limited company for a period of 3 years.

So far as Phoebe CHIU is concerned before deciding upon the above orders, we took into account the provisions of section 23(2) of the Ordinance which requires that before any such orders are made that she be given an opportunity to be heard in respect of any such contemplated order.

As we have already stated in Chapter 8 of this Report, we were satisfied that Phoebe CHIU was given ample opportunity to be heard so far as the inquiry generally was concerned.

Prior to the commencement of this latter stage of the proceedings further attempts to contact Phoebe CHIU were made at her residential address at Scenic Heights in Robinson Road in Hong Kong (previously wrongly referred to as Scenic Villas in the body of the interim report forwarded to the parties and to the Financial Secretary). Based on the Lands Department records provided to us and for the reasons set out in Chapter 8 of the Report, we are satisfied that that address is still the residential address of Phoebe CHIU and of her husband Stephen HO and is jointly owned by them.

The further attempts at service of notice of these proceedings comprised further attempted service at the residential address of Phoebe CHIU at Scenic Heights and, additionally, service of notice of these proceedings upon her husband Mr. Stephen HO at his office address. He is an executive director of a listed company Tai Shing International (Holdings) Limited. He returned to the Tribunal the papers served upon him at his office address.

We are satisfied that, as she did so far as the main part of this inquiry was concerned, Phoebe CHIU has had ample notice of these proceedings and of her right to attend them and has chosen not to do so.

Accordingly she has had an opportunity to be heard pursuant to section 23(2) of the Ordinance.

Eddie CHOW

We have found Eddie CHOW to have been an insider dealer in those Firstone shares purchased by him and allocated by him to the accounts of Setter and Dragon Sentosa between the 27th June to the 11th July 1997 inclusive. Our reasons in that regard are set out in Chapter 9 of this Report.

We accept the evidence of Mr. Dennis WONG as to his calculation of the profits made by Eddie CHOW's insider dealing in respect of the Setter and Dragon Sentosa accounts at AIM.

We are satisfied that the insider dealing profits made by Eddie CHOW on the accounts of Setter and Dragon Sentosa at AIM amounted to \$1,404,426.95.

As we have already said however earlier in this Chapter we are satisfied that the major part of those profits were not "gained" by Eddie CHOW as they were returned to the control of James HUANG.

So far as Eddie CHOW is concerned we are satisfied that of those profits made on the accounts of Setter and Dragon Sentosa at AIM through insider dealings in Firstone shares only some 30% was retained by AIM. That was pursuant to an "agreement" between AIM and those companies. Whatever the status of such an agreement when signed by a purely puppet sole director of a BVI company such as Setter or Dragon Sentosa and where the trading accounts it concerns have, in the larger picture, been set up to aid in the perpetration of a fraud, we accept that the reality of the disbursements of the profits were that 70% of those profits were to be returned to the control of James HUANG and only 30% were to be retained by AIM. The latter is an amount of \$421,328.10.

The question is whether any part of that latter amount of profit should be considered as a gain made by Eddie CHOW and as such be subject to a disgorgement order under section 23(1)(b) of the Ordinance.

The answer to that question depends in our view upon whether or not Eddie CHOW as a matter of practical realities obtained the control and use of that money for himself so as to be able to dispose of it as he wished or at his discretion.

AIM employed Eddie CHOW as an investment advisor during the period relevant to this inquiry. He was additionally a director of that company. It was a related company to CA Pacific but Eddie CHOW was neither a director of CA Pacific nor a shareholder of that company or of AIM. Those matters were put to us by Mr. CHAN during mitigation for Eddie CHOW and we accept them as being true.

Accordingly there is no sufficient evidence before us to establish that Eddie CHOW obtained the use of that part of the 30% of the profits of Setter and Dragon Sentosa attributable to the insider dealing which occurred on their accounts at AIM.

For those reasons we make no order against Eddie CHOW pursuant to the provisions of section 23(1)(b) of the Ordinance.

As far as the question of penalty pursuant to the provisions of section 23(1)(c) of the Ordinance is concerned we take into account that Eddie CHOW, unlike Phoebe CHIU, was completely independent of James HUANG and was not obliged by any pressure of employment to assist him in his insider dealing. Eddie CHOW was a professional person. He did his profession a great disservice in participating in James HUANG's insider dealing. He was in a better position than most to know it was wrong.

We balance these comments by taking into account in Eddie CHOW's favour that his insider dealing was apparently limited to benefiting AIM and James HUANG. There is no sufficient evidence that he in any way benefited personally by trading with that insider information or that, apart from what we have said so far as his possible

transfer of the information to Madam KWAN is concerned, provided that information to others.

In our view an appropriate level of penalty for Eddie CHOW is an amount equivalent to the profit he made for AIM and James HUANG for his insider dealing.

Accordingly we order Eddie CHOW to pay the amount of \$1,404,426.95 to the Government of the Hong Kong Special Administrative Region pursuant to the provisions of section 23(1)(c) of the Ordinance.

It was urged upon us in mitigation that Eddie CHOW is presently unemployed and, while not impecunious, is currently living on his past savings and is experiencing financial difficulties.

His most recent company was Adonis Investment Management Ltd. ("Adonis") which was wound up by special resolution passed on 11th May 2004, a few weeks prior to the penalty hearing phase of this inquiry. That was a voluntary winding-up.

Mr. CHOW provided the Tribunal with the Annual Report of that company for the year ended 31st March 2003. According to its income statement for that year the company made a loss of \$2,558,123. A significant portion of that net loss was due to administrative expenses of \$3,035,737. We are satisfied that up until the company's liquidation just before this penalty hearing Eddie CHOW had receipt of a considerable income albeit his company was running at a loss. We understand also he has substantial equity in a residential property in Hong Kong.

We have concluded that Eddie CHOW can afford the level of penalty we have imposed.

In our view Eddie CHOW's behaviour also warrants the imposition of a sanction pursuant to the provisions of section 23(1)(a) of the Ordinance.

The insider dealings he conducted occurred while he was a licenced person for the purposes of the Securities and Futures Ordinance Cap. 571. Additionally he was a director of AIM, an investment management company, with a significant amount of clients' funds at its disposal.

In our view Eddie CHOW acted in a way which showed complete disregard for his responsibilities as a director of an investment management company. As he did also in regard to his responsibilities as a licenced person.

He was not however the ringleader or mastermind of the insider dealing scheme and we think a period of 3 years' disqualification in the terms described below is appropriate.

Accordingly pursuant to the provisions of section 23(1)(a) of the Ordinance we order that Eddie CHOW shall not, without the leave of the Court of First Instance be a director or a liquidator or a receiver or manager of the property of a listed company or of any other limited company or in any way, whether directly or indirectly be concerned or take part in the management of a listed company or other limited company for a period of 3 years.

KWAN Lai Sheung

Madam KWAN was found by us to be an insider dealer in Firststone shares in trading accounts in her own name at CA Pacific, On Hing Securities and Yardley Securities between 27th June and 11th July 1997 inclusive.

During that period, according to the evidence of Mr. Dennis WONG, she realized \$1,643,742.13 profits from her insider dealing. We accept his evidence in that regard. Madam KWAN does not dispute it.

All of Madam KWAN Firststone share dealing took place in accounts in her own name.

The heaviest dealing took place in her CA Pacific account. The breakdown of her Firststone share trading profits in her three accounts was as follows:

CA Pacific	\$955,895.57
On Hing	125,509.10
Yardley	562,337.46
Total:	<u>\$1,643,742.13</u>

Madam KWAN in her evidence before us was an unconvincing witness. She claimed that the very large cash sums deposited into her "large sum" Hang Seng Bank current account were either her own monies or, on occasion, those of her family or friends whom she had clubbed together with for the purpose of share trading or other investment activities. She claimed the very large cash sums withdrawn from that Hang Seng Bank account were for the same purpose, that is of her clubbing together with her family and friends to invest hurriedly in stocks or forex transactions.

We concluded Madam KWAN had lied about the purpose and nature of the large cash sums going into and out of her Hang Seng Bank account. Other cheque deposits and withdrawals from that account supported our conclusion that the money going into and out of that account related to payments of monies by and to other persons and were made in cash in an attempt to disguise the origin and destination of those sums of money.

Whilst the evidence as to precisely who the persons were who provided monies to Madam KWAN's Hang Seng Bank account and received them from it never reached that high degree of proof required to establish those persons as participants in Madam KWAN's insider dealing activities, nevertheless for the purposes of considering Madam KWAN's position so far as the provisions of section 23(1)(b) is concerned that evidence together with the other evidence we summarize below leads us to conclude that the profits obtained by her dealings on the CA Pacific trading account in her name have not been established to have been "gained" by her.

The other evidence before us is to the effect that orders were placed on occasion on her CA Pacific account also by Eddie CHOW, and the evidence from TW 6 Darryl SIN of CA Pacific that the statement he had originally made to the SFC to the effect Madam KWAN was a client who personally gave him instructions was false, and that she in fact had never given him instructions to trade on the account but that trading had taken place on the account without his involvement even though he was the account executive. Also the fact that an early transaction in the account consisted of a large deposit of Guangnan warrants suggests something more than Madam KWAN, an amateur investor at that time, operating the account solely in her own interests.

That combined with other evidence that the particulars on the account were not accurate particulars of Madam KWAN and the existence of the large sum cash transactions we have referred to in her Hang Seng Bank account leads us to conclude, for the purposes of section 23(1)(b) that though she was aware of the trading on that CA Pacific account in her name and was a participating party to it, that we cannot be satisfied to a high degree of probability that she personally "gained" the insider dealing profits which accrued to that account. It is as likely that the substantial proportion of those profits were returned to Phoebe CHIU or perhaps Eddie CHOW or both to be dealt with in the same way as other profits obtained from the insider dealing scheme were dealt with, that is for ultimate disposal by James HUANG. Whatever the true position we cannot be satisfied to a high degree of probability Madam KWAN "gained" those profits or any part of them for her own use. In short, perhaps somewhat generously there is a substantial possibility she operated her CA Pacific account for the benefit of others using funds provided by others whilst in possession of the relevant information.

For these reasons we propose to regard Madam KWAN's position as to profits gained by her from her insider dealing only as being the profits made by her on her On Hing and Yardley accounts. These profits totalled \$687,846.56. There is no doubt those were her personal profits, and in our view that amount reflects actual profits realized or immediately realizable by Madam KWAN.

We think a disgorgement order pursuant to section 23(1)(b) of the Ordinance of \$687,846.56 is appropriate and we order Madam KWAN to pay that sum to the Government of the Hong Kong Special Administrative Region pursuant to the provisions of that section.

So far as the question of penalty is concerned we bear in mind that Madam KWAN was, like Eddie CHOW, an independent person. She had not the pressure of an employment relationship with James HUANG upon her as did Phoebe CHIU. What she did was done partly out of friendship.

But she had not, as had some of the other insider dealers, abused her position of trust within her company so as to further the scheme.

For that reason we do not think her insider dealing should be penalized as highly as the others. We take into account the overall level of financial penalty to be imposed by us. She was the junior member of the group of herself, Phoebe CHIU and Eddie CHOW. We think in fairness her overall financial orders should not exceed those of Eddie CHOW.

In our judgment a penalty of an amount equal to the amount of profit gained by her for her own use is sufficient to reflect her culpability.

By her own admission she is still the joint owner of a property in Hong Kong and we are satisfied she can afford to pay the penalty we impose on her.

Accordingly we order her to pay as a penalty to the Government of the Hong Kong Special Administrative Region the sum of \$687,846.56 pursuant to the provisions of section 23(1)(c) of the Ordinance.

Madam KWAN's insider dealing was not in any way related to her position within her employing company, nor did it have anything to do with the nature of her work. .

For that reason in our view it is appropriate to make only a limited order pursuant to the provisions of section 23(1)(a) to the effect that Madam KWAN shall not without the leave of the Court of First Instance be a director or a liquidator or a receiver or manager of the property of a listed company for a period of 2 years.

Expenses

The total expenses of this inquiry were \$7,205,295.91.

Taking into account that part of the time costs and other expenses of the hearing attributable to the inquiry into the roles of each of the implicated parties we think it appropriate to order they pay the following proportions of the overall expenses:-

James HUANG: \$2,161,588.77. That represents a proportion of 30% of the overall expenses of the Tribunal.

Phoebe CHIU: \$1,080,794.39. That represents a proportion of 15% of the overall expenses of the Tribunal.

Eddie CHOW: \$720,529.59. That represents a proportion of 10% of the overall expenses of the Tribunal.

Madam KWAN: \$720,529.59. That also represents a proportion of 10% of the overall expenses of the Tribunal.

Summary of Orders

James HUANG

Section 23(1)(a): he shall not without leave of the Court of First Instance be a director, liquidator, receiver or manager of the property of a listed company or any other limited company or in any way whether directly or indirectly be concerned or take part in the management of a listed company or a limited company for 5 years.

Section 23(1)(b): he shall pay a sum of \$3,219,981.71 to the Government of the Hong Kong Special Administrative Region.

Section 23(1)(c): he shall pay a sum of \$3,219,981.71 to the Government of the Hong Kong Special Administrative Region.

Expenses: he shall pay a sum of \$2,161,588.77 to the Government of the Hong Kong Special Administrative Region.

Phoebe CHIU

Section 23(1)(a): she shall not without the leave of the Court of the First Instance be a director or a liquidator or receiver or a manager of the property of a listed company or of any limited company or in any way whether directly or indirectly be concerned or take part in the management of a listed company or any limited company for a period of 3 years.

Section 23(1)(b): she shall pay a sum of \$379,647.89 to the Government of the Hong Kong Special Administrative Region.

Section 23(1)(c): she shall pay a sum of \$2,371,341.41 to the Government of the Hong Kong Special Administrative Region.

Expenses: she shall pay a sum of \$1,080,794.39 to the Government of the Hong Kong Special Administrative Region.

Eddie CHOW

Section 23(1)(a): he shall not without the leave of the Court of First Instance be a director or a liquidator or a receiver or manager of the property of a listed company or any limited company or in any way whether directly or indirectly be concerned or take part in the management of a listed company or limited company for a period of 3 years.

Section 23(1)(b): no order is made.

Section 23(1)(c): he shall pay an amount of \$1,404,426.95 to the Government of the Hong Kong Special Administrative Region.

Expenses: he shall pay a sum of \$720,529.59 to the Government of the Hong Kong Special Administrative Region.

KWAN Lai Sheung

Section 23(1)(a): she shall not without the leave of the Court of First Instance be a director or a liquidator or receiver or manager of the property of a listed company for a period of 2 years.

Section 23(1)(b): she shall pay a sum of \$687,846.56 to the Government of the Hong Kong Special Administrative Region.

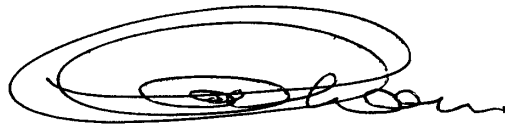
Section 23(1)(c): she shall pay a sum of \$687,846.56 to the Government of the Hong Kong Special Administrative Region.

Expenses: she shall pay a sum of \$720,529.59 to the Government of the Hong Kong Special Administrative Region.

Time to pay

We allow each implicated person 3 months to pay any sum ordered to be paid.

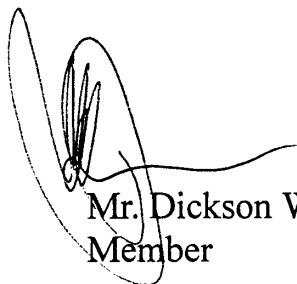
We wish to thank counsel who assisted the Tribunal and counsel and solicitors who represented at various times the implicated parties. Their contribution to the proceedings was greatly appreciated.

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The Honourable Mr. Justice McMahon
Chairman

A stylized, cursive signature in black ink, featuring a large, sweeping loop at the top and a series of smaller, connected loops below.

Mr. Norman NGAI Wai Yiu
Member

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Mr. Dickson WONG Kai Tat
Member

8th July 2004

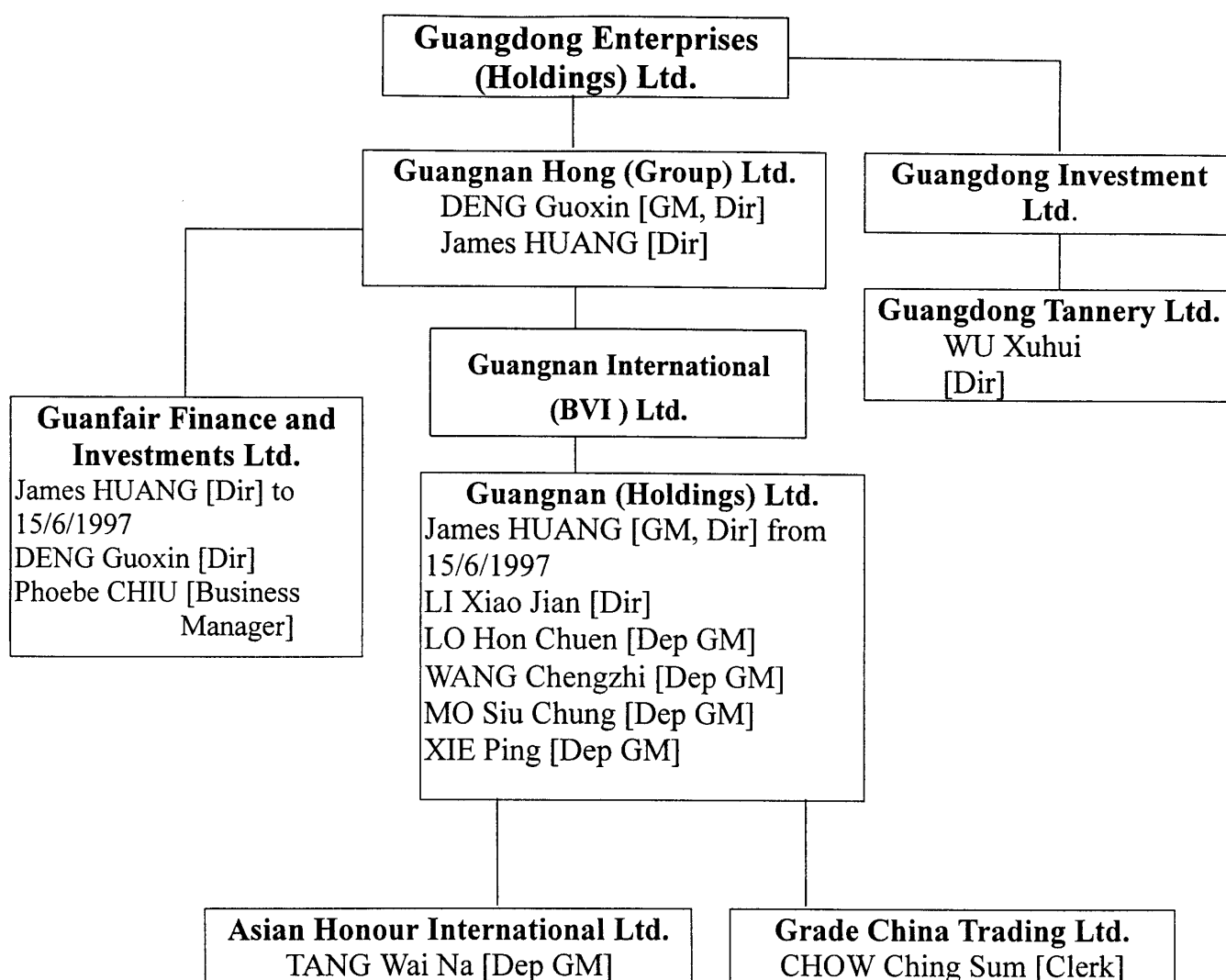
ANNEXURES

- Annexure A — A chart depicting the structure of the Guangnan group of companies, and of their staff relevant to this inquiry and the relationship of relevant other persons to staff members of the Guangnan Group
- Annexure B — A schedule of price and turnover details for Firstone shares from 2nd June 1997 to 31st July 1997
- Annexure C — Sample Copy of Salmon Letter
- Annexure D — Ruling
- Annexure E — MO Siu Chung's First Report dated 23rd June 1997
- Annexure F — MO Siu Chung's Second Report dated 11th July 1997
- Annexure G — A chart summarizing particulars of telephone communications between James HUANG, Phoebe CHIU, Eddie CHOW and KWAN Lai Sheung
- Annexure H — Share trading details of suspected insiders
- Annexure I — Attempts at service upon the four BVI companies and other implicated persons and the responses thereto

Annexure A

A CHART DEPICTING THE STRUCTURE OF
THE GUANGNAN GROUP OF COMPANIES,
AND OF THEIR STAFF RELEVANT TO THIS INQUIRY
AND THE RELATIONSHIP OF RELEVANT OTHER PERSONS TO
STAFF MEMBERS OF THE GUANGNAN GROUP

The Guangan Group



Family/Associates

of James HUANG
Eddie CHOW (friend)

of Phoebe CHIU
LAI Wai Yin (mother)
Diane CHU (sister in law)
KWAN Lai Sheung (friend)

of MO Siu Chung
FANG Naijun (friend)

of TANG Wai Na
YIP Hiu Sui (husband)

Note:

1. Only implicated individuals are named. Other directors of the Guangan Group are not referred to.
2. Only relevant companies within the group are referred to in this chart. The group contained a much larger number of companies irrelevant to this inquiry.

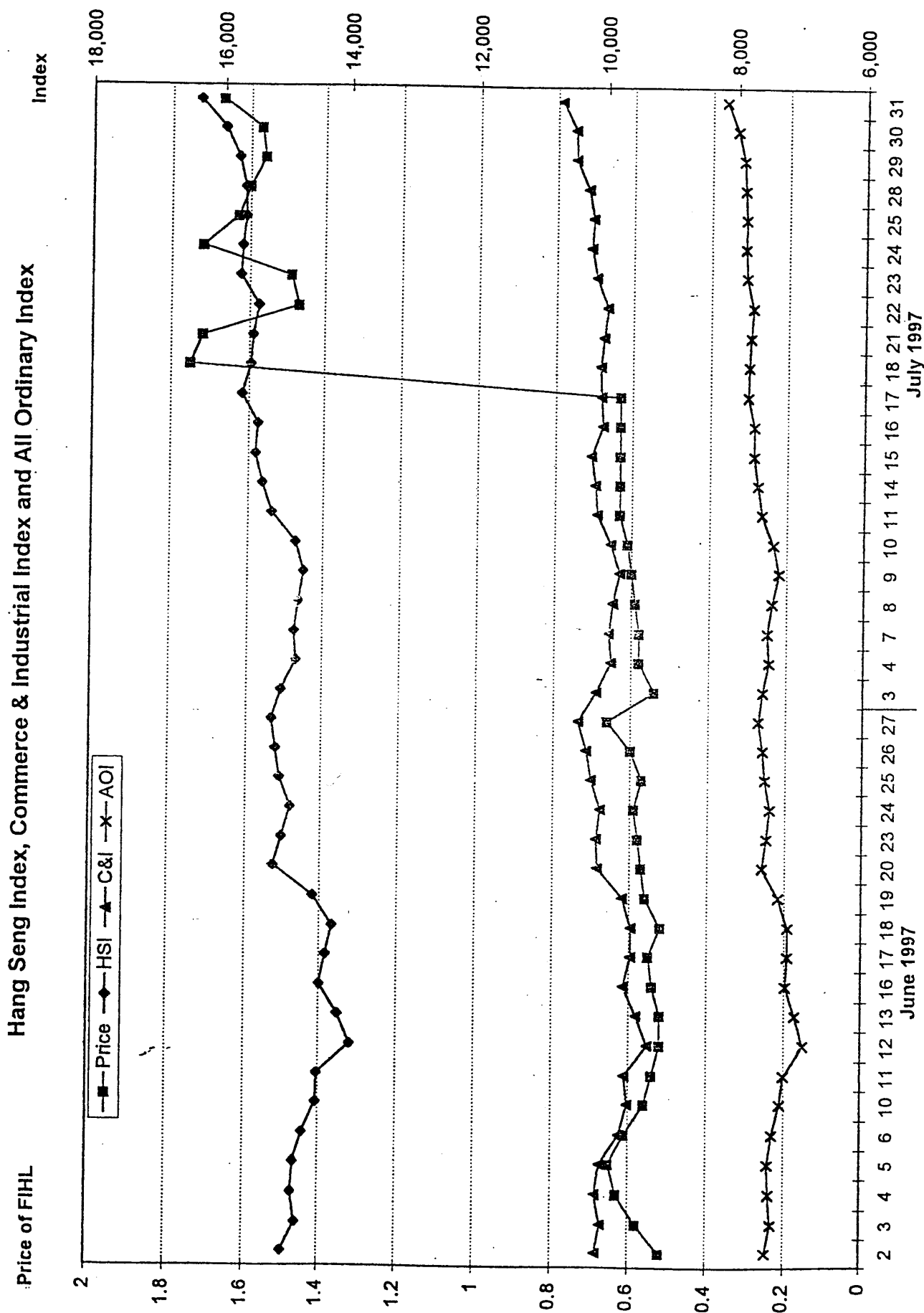
Annexure B

A SCHEDULE OF PRICE AND TURNOVER DETAILS
FOR FIRSTONE SHARES
FROM 2ND JUNE 1997 TO 31ST JULY 1997

**A history of Firststone shares price
and turnover 10th June to 31st July 1997**

Date	Turnover	High	Low	Closing price	% change	Hang Seng Index	% change	C & I Index	% Change
10-Jun-97	3,250,000	0.62	0.56	0.56		14,439.71		9,612.87	
11-Jun-97	688,000	0.55	0.54	0.54	-3.57%	14,421.52	-0.13%	9,657.45	0.46%
12-Jun-97	7,162,000	0.55	0.51	0.52	-3.70%	13,924.34	-3.45%	9,308.26	-3.62%
13-Jun-97	2,112,000	0.52	0.485	0.52	0.00%	14,112.55	1.35%	9,487.20	1.92%
14-Jun-97									
15-Jun-97									
16-Jun-97	1,960,000	0.54	0.51	0.54	3.85%	14,394.60	2.00%	9,683.88	2.07%
17-Jun-97	2,180,000	0.58	0.55	0.55	1.85%	14,307.15	-0.61%	9,571.71	-1.16%
18-Jun-97	2,212,000	0.55	0.52	0.52	-5.45%	14,203.89	-0.72%	9,567.28	-0.05%
19-Jun-97	3,118,000	0.59	0.53	0.56	7.69%	14,506.49	2.13%	9,702.63	1.41%
20-Jun-97	4,020,000	0.58	0.55	0.57	1.79%	15,154.36	4.47%	10,092.46	4.02%
21-Jun-97									
22-Jun-97									
23-Jun-97	6,399,000	0.59	0.56	0.58	1.75%	15,021.23	-0.88%	10,115.55	0.23%
24-Jun-97	6,857,500	0.61	0.57	0.59	1.72%	14,890.96	-0.87%	10,056.39	-0.58%
25-Jun-97	4,398,000	0.60	0.57	0.57	-3.39%	15,065.02	1.17%	10,196.36	1.39%
26-Jun-97	10,742,000	0.62	0.57	0.60	5.26%	15,128.02	0.42%	10,276.21	0.78%
27-Jun-97	29,207,000	0.70	0.60	0.66	10.00%	15,196.79	0.45%	10,400.37	1.21%
28-Jun-97									
29-Jun-97									
30-Jun-97									
01-Jul-97									
02-Jul-97									
03-Jul-97	11,072,000	0.58	0.53	0.54	-18.18%	15,055.74	-0.93%	10,125.39	-2.64%
04-Jul-97	21,440,000	0.65	0.57	0.58	7.41%	14,822.97	-1.55%	9,897.82	-2.25%
05-Jul-97									
06-Jul-97									
07-Jul-97	18,571,000	0.65	0.56	0.58	0.00%	14,858.58	0.24%	9,938.33	0.41%
08-Jul-97	4,679,000	0.61	0.56	0.59	1.72%	14,792.17	-0.45%	9,878.48	-0.60%
09-Jul-97	21,157,000	0.66	0.59	0.6	1.69%	14,703.73	-0.60%	9,775.23	-1.05%
10-Jul-97	11,768,000	0.62	0.59	0.61	1.67%	14,839.23	0.92%	9,914.53	1.43%
11-Jul-97	24,360,000	0.63	0.54	0.63	3.28%	15,225.29	2.60%	10,128.67	2.16%
12-Jul-97									
13-Jul-97									
14-Jul-97						15,370.94	0.96%	10,163.46	0.34%
15-Jul-97						15,487.24	0.76%	10,223.02	0.59%
16-Jul-97						15,446.02	-0.27%	10,048.64	-1.71%
17-Jul-97						15,706.29	1.69%	10,080.93	0.32%
18-Jul-97	208,250,000	1.77	0.75	1.75	177.78%	15,570.40	2.27%	10,089.13	-0.39%
19-Jul-97									
20-Jul-97									
21-Jul-97	163,730,000	1.99	1.66	1.72	-1.71%	15,536.30	-0.58%	10,043.71	-0.61%
22-Jul-97	60,201,000	1.74	1.43	1.47	-14.53%	15,446.78	-0.58%	9,982.87	-0.61%
23-Jul-97	51,794,000	1.64	1.48	1.49	1.36%	15,738.81	1.89%	10,161.62	1.79%
24-Jul-97	76,844,000	1.75	1.50	1.72	15.44%	15,709.23	-0.19%	10,248.29	0.85%
25-Jul-97	42,691,000	1.77	1.62	1.63	-5.23%	15,658.12	-0.33%	10,217.46	-0.30%
26-Jul-97									
27-Jul-97									
28-Jul-97	25,581,000	1.68	1.55	1.60	-1.84%	15,666.59	0.05%	10,299.65	0.80%
29-Jul-97	47,482,000	1.67	1.55	1.56	-2.50%	15,772.06	0.67%	10,495.98	1.91%
30-Jul-97	17,296,000	1.61	1.53	1.57	0.64%	15,983.18	1.34%	10,503.36	0.07%
31-Jul-97	82,145,000	1.76	1.58	1.67	6.37%	16,365.71	2.39%	10,717.66	2.04%

Changes in Closing Price of Firststone International Holdings Limited



Annexure C

SAMPLE COPY OF SALMON LETTER

SAMPLE

COUNSEL FOR THE INSIDER DEALING TRIBUNAL

c/o 2/F, High Block,
Queensway Government Offices,
66 Queensway, Hong Kong.
Tel.: 2867 2052
Fax: 2869 0062

Our Ref. : IDTI 1/02C

27 March 2003

Mr. James Huang Xiao-jiang
c/o Senior Superintendent
of Shek Pik Prison
Shek Pik Prison,
47 Shek Pik Reservoir Road,
Lantau,
New Territories

BY HAND ONLY

[Total Pages (Including this Page) : 3 + Encl]

Dear Sir/Madam,

Insider Dealing Tribunal – Inquiry into Suspected Insider Dealing in the Shares of Firststone International Holdings Limited, 20th June 1997 to 23rd July 1997 (the “Inquiry”)

On 26th June, 2002 the Financial Secretary, Mr. Antony Leung, by Notice given pursuant to Section 16(2) of the Securities (Insider Dealing) Ordinance, Cap. 395, Laws of Hong Kong (the “Ordinance”), required the Insider Dealing Tribunal to inquire into and determine as follows:

- (a) “whether there has been insider dealing in relation to Firststone International Holdings Limited, now renamed Fortuna International Holdings Limited (“the company”), connected with or arising out of the dealings in the listed securities of the company by or on behalf of Lombok Holdings Limited, Super Kingdom Investments Limited, Dragon Sentosa Limited, Setter Investments Limited, James Huang Xiao Jiang, Mo Siu Chung, Fang Naijun, Xie Ping, Phoebe Chiu Yuen

Man, Lai Wai Yin, Diane Chu, Kwan Lai Sheung, Eddie Chow Kar Chun, Deng Guoxin, Li Xiao Jian, Lo Hon Chuen, Wang Chengzhi, Chow Ching Sum and Wu Xuhui during the period from 20th June 1997 to 23rd July 1997 (both dates inclusive);

- (b) in the event of there having been insider dealing as described in paragraph (a) above, the identity of each and every insider dealer; and
- (c) the amount of any profit gained or loss avoided as a result of such insider dealing."

The Tribunal comprises The Honourable Deputy Judge McMahon (Chairman) and two lay members, Norman Ngai Wai-yiu and Dickson Wong Kai-tat. In accordance with section 15(5) of the Ordinance and para. 18 of the Schedule thereto, Mr D. Marash, SC and the undersigned have been appointed to act as counsel for the Tribunal for the purposes of the Inquiry.

The Inquiry has been convened as a result of an investigation by the Securities & Futures Commission ("SFC") into the affairs of the company, which brought to light evidence which suggests you may have been an insider dealer. It appears to the Tribunal that your conduct will be the subject of the Inquiry or that you are implicated or concerned in the subject matter of the Inquiry.

The Tribunal intends to conduct the Inquiry at public sittings and will require you to attend before it and give evidence. You are entitled to be represented by a barrister or solicitor and may apply to the Tribunal to call any material witnesses concerning these allegations.


I am enclosing with this letter a summary of evidence, which will serve as a guide to the allegations that may be made against you. In due course you (or your legal representatives on your behalf) will receive copies of statements and other evidence previously obtained by the SFC and on which the summary of evidence is based. It is intended to adduce this evidence before the Tribunal for the purposes of the Inquiry.

Unless you are notified to the contrary, the Inquiry will commence by way of a public preliminary hearing to be held on 16th April 2003 at 9:00 a.m. at the Insider Dealing Tribunal, 38th Floor, Immigration Tower, 7 Gloucester Road, Wanchai. This preliminary hearing is unlikely to last more than 1 hour and, if you wish to be legally represented before the Tribunal, application must be made by your counsel or solicitor on your behalf at this hearing. If you intend to be legally represented, could you kindly notify me through Miss Carmen Leung, Department of Justice, Civil

Division, 2nd Floor, High Block, Queensway Government Offices, 66 Queensway, Hong Kong (telephone 2867.2066). If you do not wish to be legally represented, you must appear in person at this hearing.

It is expected that the Tribunal will commence its public sittings to hear evidence on 5th May 2003. Thereafter, it is intended that the Tribunal will sit to hear evidence every weekday between 9:00am and 1:00 pm or at such other times as are convenient (public holidays excepted) until the Inquiry is concluded.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Wesley Wong', with a long horizontal stroke extending to the right.

Wesley W.C. Wong
Counsel for the Tribunal

Encl.

(with Chinese Translation / 連本信中文譯本)

[中文譯本]

內幕交易審裁處

香港金鐘道 66 號金鐘道政府合署高座 2 樓律政司轉交

電話號碼：2867 2052 傳真號碼：2869 0062

本司檔號：IDTI 1/02C Pt.2

[姓名和地址]

先生/女士：

內幕交易審裁處一對 1997 年 6 月 20 日至 1997 年 7 月 23 日期間
益通國際集團有限公司股份涉嫌內幕交易進行研訊(“該研訊”)

2002 年 6 月 26 日，財政司司長梁錦松先生依據《證券(內幕交易)條例》(香港法例第 395 章)(“該條例”)第 16(2)條發出通知書，要求內幕交易審裁處研訊和裁定—

- (i) “關於 Lombok Holdings Limited、Super Kingdom Investments Limited、Dragon Sentosa Limited、Setter Investments Limited、黃曉江、武少松、方乃俊、謝平、趙婉文、黎慧賢、Diane Chu、關麗嫦、周家俊、鄧國新、李小健、魯漢銓、王誠志、周靜森與吳旭輝本身或透過代表在 1997 年 6 月 20 日至 1997 年 7 月 23 日期間(首尾兩天包括在內)，就益通國際集團有限公司現易名為廣益國際集團有限公司(“該公司”)的上市證券交易所牽涉及引出的事宜，是否有人曾進行與該公司有關的內幕交易；
- (ii) 如果確有第(a)段所述的內幕交易，每一個內幕交易者身分；以及
- (iii) 因進行該宗內幕交易而獲取的利潤或避免的損失的數額。”

審裁處由暫委高等法院法官麥明康(主席)及兩名業外委員倪偉耀及王啟達組成。根據該條例第 15(5)條及附表第 18 段，資深大律師麥禮士先生及下方簽署人獲委任為審裁處的代表律師，以便進行研訊。

證券及期貨事務監察委員會(“證監會”)調查過該公司的業務後，發現有證據顯示你可能曾經是內幕交易者，所以審裁處決定召開研訊。審裁處表面認為研訊會針對你的行為，或你會受研訊所針對的事情牽連或牽涉於該事情內。

審裁處擬進行公開聆訊，並會要求你出席及作供。你有權就有關指控延聘大律師或律師作為代表，也有權向審裁處申請傳召任何重要證人。

現隨函夾附證據摘要，作為可能對你提出指控的指引。你(或你的代表律師)稍後會收到證監會早前取得的陳述書和其他證據的副本，而證據摘要則以這些陳述書和證據為依據。這些證據會在進行研訊時呈交審裁處。

除非另有通知，審裁處會在 2003 年 4 月 16 日上午 9 時於灣仔告士打道 7 號入境事務大樓 38 樓內幕交易審裁處展開公開的初步聆訊，需時應該不超過一小時。如果你打算延聘代表律師，代表你的大律師／律師必須在初步聆訊時提出申請。如你擬委託代表律師，請經由律政司民事法律科梁嘉雯小姐通知本人，地址為香港金鐘道 66 號金鐘道政府合署高座 2 樓(電話：2867 2066)。如你不打算延聘代表律師，你則要親自出席聆訊。

預計審裁處會於 2003 年 5 月 5 日進行公開聆訊。其後聆訊會在每個周日上午 9 時至下午 1 時或其他方便的時間內(公眾假期除外)繼續進行，聽取證據，直至研訊終結為止。

內幕交易審裁處代表律師黃惠沖

2003 年 3 月 27 日

附件

#299902

Annexure D

RULING

INSIDER DEALING TRIBUNAL

**IN THE MATTER of the Securities
(Insider Dealing) Ordinance, Cap 395**

and

**IN THE MATTER of an Inquiry into
certain dealings in the listed securities of
Firststone International Holdings Limited**

Tribunal: Chairman: The Hon Mr. Justice McMahon

Members: Mr. Norman NGAI

Mr. Dickson WONG

Date of hearing: 15 January 2004

Date of deliver of ruling: 15 January 2004

RULING

There was a matter I raised on the 10th December last. It concerns one of the members being acquainted with two witnesses. On the morning of 10th December 2003 one of the members Mr. Dickson WONG told me he was concerned that he had met and had lunch with a witness TW 3 Mr. Louis CHOW prior to the commencement of the calling of evidence before the Tribunal.

What happened was this. Mr. WONG was enrolled in a course at Polytechnic University during 2002. Mr. CHOW was a lecturer at that University though not in Mr. WONG's subject but Mr. WONG had met him at some formal functions at the University.

On one occasion after they became acquainted Mr. WONG had lunch with Mr. CHOW as Mr. WONG wished to discuss something relating to company registration procedures with Mr. CHOW. That lunch occurred to Mr. WONG's recollection during or after May 2003 and to Mr. CHOW's recollection about July of 2003. On either basis that was before Mr. CHOW gave evidence in August 2003 and at the time of the lunch the member was not aware that the Mr. CHOW who was to be a witness in these proceedings was the same Mr. CHOW who was the lecturer at Poly University.

The matter had concerned the member since Mr. CHOW gave evidence before the Tribunal on 11th August 2003.

He brought it to my attention on the 10th December 2003 and I informed the Tribunal of the problem on that day.

Subsequently, Mr. WONG remembered he had met Mr. CHOW in the street after the commencement of evidence before the Tribunal. They had stopped and said hello and Mr. CHOW

had been with another person Mr. Alex PANG a former employee of the SFC who was to be at one time a witness before the Tribunal but who, in the event, was not called as a witness. Mr. WONG's recollection is that he said nothing to this other person whom he did not know. Mr. CHOW's recollection is that he introduced Mr. PANG to Mr. WONG. It may be that Mr. WONG was introduced to Mr. PANG at that time but he does not remember that having taken place.

The following day Mr. WONG told me that he also knew of another witness who had appeared before the Tribunal TW 27 Mr. Carson WEN. They had both attended Diocesan Boys' School together though in different classes and had occasionally greeted each other over the years when they met, though they were not really acquainted with each other.

All of these matters are unfortunate. It is always best if members of a tribunal have absolutely no contact with either the parties or witnesses before the Tribunal.

I asked counsel for the Tribunal to notify all implicated parties, who were able to be contacted of the above matters and that was done by letter. Those parties were told that should they have any application arising out of the above events they should make it on the resumption of the Tribunal's proceedings on the 15th January.

No party made any such application or raised any matter arising out of the above events. Nevertheless it seems to me to fall for consideration as to whether the above events affect the propriety of these proceedings or the Tribunal's ability to fairly determine the matters contained in its terms of reference.

In my view, it is a matter of law as to whether the Tribunal should proceed or take any steps to recuse itself on the basis of contacts between a member and a witness and I will deal with the matter on that basis.

It is obvious that the contacts between Mr. WONG and Mr. CHOW were entirely innocent. The main contact, that is the lunch in about July, occurred before either was aware the other was involved in these proceedings. Nothing was spoken of concerning these proceedings.

The later meeting in the street was unfortunate and was perhaps something which could have been avoided but again had no bearing on the conduct of this inquiry. Mr. CHOW's evidence was, at the end of the day, unchallenged and, given that TW 8 Mr. WITTS an expert witness also gave evidence albeit in more detail on the same or similar subject matter, was evidence which was before us from another source in any event.

Mr. WONG's acquaintance with Mr. Carson WEN has even less bearing on these proceedings. That acquaintance could only be described as somewhat remote and limited to the exchange of greetings on the occasions they met.

So far as the effect of any of the above events on the proper conduct of these proceedings is concerned, I note that at no stage is there any suggestion that the subject matter of these proceedings was discussed. Nor did anything happen which could conceivably relate to or have a bearing upon this Tribunal's functions. The whole of the events have been addressed in open court. The implicated parties have been informed.

I cannot see any possibility of prejudice to any implicated party should the Tribunal proceed as presently constituted.

Accordingly, we will continue with these proceedings.

A handwritten signature in black ink, appearing to read 'McMahon', with a large, stylized initial 'M'.

(The Hon. Mr. Justice McMahon)
Judge of the Court of First Instance
& Chairman of the Insider Dealing Tribunal

Annexure E

MO SIU CHUNG'S FIRST REPORT

DATED 23RD JUNE 1997

Guangnan (Holdings) Limited

Re : Firststone International Holdings Limited - Status Report

To : Chairman Mr. Sun, General Manager Mr. Huang and the Directors

The following report concerns our current negotiation with Firststone International Holdings Limited on the acquisition of its shareholdings :

1. Background and operation of the Firststone International Holdings Limited

Firststone was incorporated in Bermuda in 1977 with its head office and principal place of business situated in Hunghom, Kowloon, Hong Kong. Since its inception, the company's core operation is the manufacturing and sale of electronic capacitors and other electronic components. The production was mainly conducted in places like Shenzhen and Shaoqing etc. within the Guangdong Province and the products were primarily exported to Hong Kong, mainland China, India and Thailand etc. The production facilities and their shareholding structures are detailed in Appendix 1.

In recent years, the production and sale of Shaoxing wine have become Firststone's another core business. In October 1994, the company, through its subsidiary Firststone Food & Beverage Industry Company Limited, formed a joint venture Dong Feng Shao Xing Wine Co. Ltd. with Shao Xing Dong Feng Wine Factory in Jiejiang Province (which was set up over 200 years ago) in which Firststone Food & Beverage had a 51% stake whereas Dong Feng Wine Factory held the remaining 49%.

The registered capital of the above joint venture was about HK\$ 156,000,000 to which Firststone Food & Beverage contributed HK\$ 79,000,000 and Dong Feng Wine Factory contributed HK\$ 77,900,000 in the form of plant, machinery, equipment and technical know-how. The joint venture owned the trademark of "Huiji Shan" and its annual production capacity was planned to be 40,000 tonne. From the information available to us, the annual output of the factory reached 60,000 tonne by the end of 1996.

2. Operating Conditions of Firststone International Holdings Limited

Firststone International Holdings Limited was listed on the Hong Kong Stock Exchange in October 1992. At that time, 63,000,000 new shares were issued at a price of HK\$ 1 per share. According to our latest information, the total number of Firststone shares in issue is 541,077,664, with a market capitalization of HK\$ 3,030,003,492. The 50-day moving average of this stock is HK\$0.56 per share and the substantial shareholder's stake is 26.51%.

The net profit of Firststone has been declining after its listing owing to the increase in the production cost of electronic components and the weak demand for its products. In 1996, the company even recorded a loss of HK\$ 87,000,000 (see Appendix 2). In May 1997, Firststone disposed of its interest in 6 manufacturing operations and used the sale proceeds of \$ 49,000,000 as working capital. To date, it is still unknown as to how much its food industry (mainly Shaoxing wine and instant noodles) accounts for its turnover and profit. However, it could be seen from the information supplied by the company that the gross profit margin of its food industry is 22.4% and 41% in Hong Kong and mainland China respectively.

In addition, Shenzhen Capstone Industrial Co., Ltd., in which Firststone held a controlling interest, is currently listed on the Shenzhen Stock Exchange (A shares).

3. Main consideration and factors for our acquisition of its shareholdings

The substantial shareholder of Firststone (*or maybe some other hidden shareholders could transfer their shares to Guangnan. In addition, Mr. Peh could transfer about 10% of his shareholdings, bringing our shareholdings in the company to 30% as a result; or maybe through capital injection*) is willing to sell its 20% interest to our company after our preliminary negotiation. Thereafter, our company would be given the operational and management right of Firststone and we could further acquire shares from the market.

Our main considerations are as follows :

First of all, Firststone has decided to scale down its production of electronic components and has started to dispose of its shareholdings in certain electronic

manufacturing operations. As a result, Firstone may in the future transform into a concept stock in the food industry sector (Shaoxing wine and instant noodles). If we are to acquire Firstone shares, we may consider injecting into Firstone the rice liquor breweries, white liquor breweries and tobacco operations acquired by our company to further enhance the liquor and tobacco concept pertaining to the stock.

Secondly, after acquiring Firstone's shareholdings, we would be able to control another Shenzhen listed company. As such, we may subsequently inject certain mainland projects into this A share company. If Guangnan (Holdings) Limited successfully controls an A share company, we will have greater influence and will be able to tap the mainland capital market. In light of this, successful acquisition of Firstone would be an important strategic move conducive to our future growth.

Meanwhile, we are aware of the following difficulties and uncertainties :

1. Whether Firstone can be successfully transformed into a food concept stock hinges on whether the relevant statutory provisions of Hong Kong could be met on the one hand and also at the same time that requires down-sizing of its electronic components operation which currently still plays an important role. As the two core activities of electronic components production and food production presently exist side by side, it is still unknown as to how we can control the food production operation of Firstone after we have become a shareholder.
2. The other two Chinese shareholders of the Shenzhen Capstone Industrial Co., Ltd. are Guangdong Hua Qiao Trust and Shenzhen Asset Management Company. As far as the statutory requirements on listed companies and joint venture are concerned, whether Firstone, the parent company of Capstone, may transfer its shareholdings successfully to us is still uncertain.

They may purchase a BVI company in Hong Kong for holding this company which in turn could be transferred to Guangnan. As such, no approval will be needed from the mainland authorities. However, as for the case of transforming its business nature and the issue of new shares, advice has to be sought from the professionals.

3. Currently, the Shaoxing wine industry is an industry under state protection and so it is difficult to set up any new joint venture factory. It is by no means easy to acquire control over Dong Feng Shao Xing Wine Co. through the acquisition of the controlling interest in Firstone. However, export through different channels in recent years triggered a decline in the international market price of Shaoxing wine. The preferential taxation policy of "two years exemption" and "three years reduction" enjoyed by the joint venture is also due to expire.

In 1995, the total national output of Shaoxing wine was 1.1 million tonne with a production value of approximately 2.2 billion, which generated foreign exchange export earnings of US\$ 20 million. The production of Shaoxing wine in the Jiejiang Province accounted for about 60% of the total output of China. The state-owned "China Shaoxing Wine Group Company" is the largest production facility of Shaoxing wine. Hence, if our company is to enter into the industry, we have to further enquire into the price trend of the products, our market competitors, market positioning of the breweries owned by Firstone etc.

The person-in-charge of Firstone is coming to Hong Kong on Tuesday to discuss with us. By then, we will be able to exchange our view on the above issue and the technicalities of the transaction.

Mo Siu Chung

Investment Department

(Prepared from information available)

Dated : 23 June 1997

To : Investment Department

After the change of sovereignty on 1 July, you may, on the one hand, monitor the A shares to collect information on the A share market. On the other hand, on-site inspection has to be carried out at the Dong Feng Wine Factory before making any conclusion. It is preferable to proceed with this proposal in July or August. In addition, somebody should be retained to handle the management matter. Convince the boss Mr. Guo that quality instant noodles factories have to be injected or to trade with the party in Indonesia. The profit so earned could be very substantial.

Another area which is worth noting is to strengthen our efforts in advertising and marketing so that the products would become an important source of revenue of Guangnan.

Translator's Note : Those parts in italic refer to the handwritten remarks in the source language text.



電話：
TELEPHONES:
2828 3938

廣南(集團)有限公司

香港灣仔港灣道六至八號瑞安中心二十九樓
GUANGNAN (HOLDINGS) LIMITED
29/F., Shui On Centre, 6-8 Harbour Road, Wanchai,
Hong Kong.

電 掛：〇五六九
CABLE: "GUANANTRAD"
HONG KONG
TELEX: 72099 GUNAN HX
圖文傳真機：
FAX: 2583 9288

關於益通國際有限公司 情況報告

孫董事長、黃總及各位董事：

我司現正與益通國際集團洽談購買其股權事宜，現將此單交易之有關情況報告如下：

一、益通國際集團公司背景及業務

該集團公司於一九七七年在百慕達註冊成立，總辦事處及主要經營地點在香港九龍紅磡。自公司成立以來，電容器及其它電子元器件之生產、銷售乃是該公司核心業務，生產基地主要位於廣東省境內之深圳、肇慶等地，產品主要銷往香港、中國、印度及泰國等。其詳細生產廠家及股權比例可參見附表一。

近年來，紹興酒製造及銷售成為該集團另一大核心業務。一九九四年十月，該公司透過合資附屬公司——益通食品工業有限公司與浙江省紹興東風酒廠(建廠歷史逾兩百年)合資成立了“東風紹興酒有限公司”，益通食品擁有合資企業之 51%權益，東風酒廠擁有 49%權益。

上述合資企業註冊資本約為一億五千六百萬港元，益通食品以現金 7,900 百萬港元入股，東風酒廠

以廠房、機器、設備、釀酒技術作價 7,790 萬作為其入資部份。合資企業擁有“會稽山”牌商標，設計能力為 40,000 噸/年。據資料顯示，該廠 1996 年底之產量已達到 6 萬噸/年。

二、益通國際有限公司經營狀況

益通國際於一九九二年十月於香港聯交所掛牌上市，當時以 1 元/股發行 6,300 萬新股。據最新資料顯示益通現流通總股數為 541,077,664 股，市值為 3030,003,492 元，其股票 50 日平均價為 0.56 元/股。大股東掌握總股本之 26.51%。 $21+22=43\%$

益通上市以來，由於電子原器件之生產成本上升及需求量不理想，淨利潤一直處於滑波狀況，1996 年更錄得 8,700 萬元虧損(見表二)。97 年 5 月，益通已將 6 項工業股權出售，共收益 4,900 萬用於營運資金。到目前為止，尚不知它的食品工業(主要是紹興酒和方便面生產)佔公司營業額及利潤額多大比例。但從該司提供的資料中看出該司食品工業的毛利率為 22.4%(香港)和 41%(國內)。

另外，益通佔控制性股權的深圳大通實業股份有限公司亦在深圳證券交易所上市(A 股)。

三、我方收購其股權的主要考慮及要點

經初步接觸，益通國際大股東願意將其持有之股票的 20%轉讓我司，其後，我方取得益通的經營管理權，並可在市場上進一步擴大收購其股份。

酒廠
2.5-3
21+22=43%
10%左右
我佔30%
我佔30%
我佔30%

我方收購其股權的主要考慮是：

第一，益通已決定減少電子原器件的生產並已開始出讓其電子工業生產的股權，益通今後可能成為食品工業概念股(黃酒及即食麵)。如我入股，在今後可考慮將我司收購之米酒廠、白酒廠及香~~酒~~輔料廠注入到益通中去，使其酒煙食品的概念更強。
或飲料 煙米 麵

第二，收購益通並取得~~控制性~~股權後，我方可~~間~~^{另外}接控有一間深圳上市公司，這樣今後亦可以將國內的一些項目轉而注入到這一支A股中。如果廣南能控制一^支國內A股，更能擴大我司之影響力，並能更進一步利用國內資本市場集資。從上述角度看，能成功入股益通對我司將來之發展具戰略意義。

與此同時，我們亦看到此項交易的難度及不確定性：

1. 是否能將益通順利地轉變成為一^支食品概念股，一方面要符合香港有關法律規定，又要益通確實減輕了電子原件業務之比重(目前還是佔重要地位)。在益通電子原器件與食品生產兩個核心業務並存的情勢下，我司入股後如何控制其食品生產業務？

2. 深圳大通實業(A股)的另外二家中方股東為廣東華僑信托和深圳市資產管理公司，如從上市公司規定和合資法的角度看，大通之母公司益通是否能順利將股權轉讓與我方還是未知數。
他們在廣東，老據此，有股權，所有，股份大

3. 黃酒行業目前為國家保護性產業，建新合資廠很困難，如能順利拿到益通控制性股權從而拿到東
但要轉型，股權也到，尋求意見

7/21 游 有否重估，可以

風紹興酒公司股權實屬不易。但近年內各種渠道出口黃酒已引發了國際市場價格下跌。其合資原享受之兩免叁減之稅收優惠政策亦面臨結束。

1995 年全國黃酒總產量 110 萬噸，產值約 22 億元，出口創匯約 2,000 萬美元。浙江省產量約佔全國的 60%，最大的生產集團企業是國營的“中國紹興酒酒集團公司”。因此，我司如涉足黃酒業還應對該行業的產品價格走向、競爭對手情況，益通擁有之酒廠的市場地位等做進一步的調查了解。

益通負責人將於本周二來香港與我司商談此交易，屆時我方應就上述問題及交易的技術問題作深度交流。

自時產酒價

有嗎?

高產量

想食部:

“七二”回歸紹

一、收購 A 股情況。目前已收 A 股

二、奉到東風酒廠房地產，再作信託

此事在 7 月或 8 月

再行披露。

另外，我人不理。控住郭老教把

伏匿食品工廠投入。或另印記做

多收工廠管理。和

新力能前和普失信品

是這話。一頭

投資部 武少松(根據資料整理)

一九九七年六月二十三日

1997.6.26

Annexure F

MO SIU CHUNG'S SECOND REPORT

DATED 11TH JULY 1997

(Translation)

Guangnan (Holdings) Limited

Re : Firststone International Holdings Limited - Status Report

CONFIDENTIAL

To : Chairman Mr. Sun and the Directors

The following report concerns our current negotiation with Firststone International Holdings Limited on the acquisition of its shareholdings :

1. Background and operation of the Firststone International Holdings Limited

Firststone was incorporated in Bermuda in 1977 with its head office and principal place of business situated in Hunghom, Kowloon, Hong Kong. Since its inception, the company's core operation has been the manufacturing and sale of electronic capacitors and other electronic components. The production is mainly conducted in places like Shenzhen and Shaoqing etc. within the Guangdong Province and the products are primarily exported to Hong Kong, mainland China, India and Thailand etc. The production facilities and their shareholding structures are detailed in Appendix 1.

In recent years, the production and sale of Shaoxing wine have become Firststone's another core business. In October 1994, the company, through its subsidiary Firststone Food & Beverage Industry Company Limited, formed a joint venture Dong Feng Shao Xing Wine Co., Ltd. with Shao Xing Dong Feng Wine Factory in Jiejiang Province (which was set up over 200 years ago) in which Firststone Food & Beverage had a 51% stake whereas Dong Feng Wine Factory held the remaining 49%.

The registered capital of the above Shaoxing wine operation was about HK\$ 156,000,000 to which Firststone Food & Beverage contributed HK\$ 79,000,000 and Dong Feng Wine Factory contributed HK\$ 77,900,000 in the form of plant, machinery, equipment and technical know-how. The joint venture owns the trademark of "Huiji Shan" and its annual production capacity is planned to be 40,000 tonne. From the information available to us, the annual output of the factory reached 60,000 tonne by the end of 1996.

2. Operation and financial situation of Firststone International Holdings Limited

In 1996, the turnover of Firststone was some HK\$ 400 million, with a loss of about HK\$ 87 million (see Appendix 2). The operational results could be attributed mainly to the competitiveness of the electronic components market. Besides, the continuously rising operating cost and the strong Japanese ¥ were also factors contributing to such performance. In response to this situation, Firststone has started to streamline its corporate operations by gradually reducing its investment in the electronic components products while enhancing its development in the liquor and food manufacturing operations.

As stated in the Annual Report for the year 1996, liquor business made a substantial contribution to the turnover, in particular, the operating profits of the company (see Appendix 3).

As for assets and liabilities, according to the valuation report of Firststone prepared by Sun Hung Kai International Limited, the book value of the company's assets was as follows : the book value of the net tangible assets for the year 1996 was approximately HK\$ 140 million, representing a net asset value of about HK\$ 0.322 per share (the net asset value per share would be HK\$ 0.35 if the new issue in June this year was taken into account). After a re-valuation had been undertaken in respect of the wine production facilities, the net asset value per share of the company was HK\$ 0.499 (the net asset value per share would be HK\$ 0.498 if the new issue in June this year was taken into account). As at 9 July 1997, the market value of the company was HK\$ 0.61 per share and a total of 1,082 million shares were issued at HK\$ 0.10 each, constituting a market capitalization of about HK\$ 650 million.

In 1996, the debt-equity ratio was about 83%. In June 1997, the company made a one-for-one rights issue at HK\$ 0.30 per share to raise approximately HK\$ 160 million to repay certain bank borrowings. It was believed that the debt-equity ratio was accordingly reduced.

The total assets for the year 1996 were approximately HK\$ 900 million odd with fixed assets and current assets each accounting for about 50%. Some of the fixed assets were machinery and equipments mainly for the production of electronic components and Shaoxing wine, with a book value of about HK\$ 54 million (with HK\$ 8 million as depreciation amortized). Some of the fixed assets were

properties and according to the latest valuation, the Hong Kong properties were valued as around HK\$ 22.5 million whereas those in overseas countries (mainly in the mainland) were around HK\$ 190 million. However, the majority of the properties had been secured with banks to obtain a credit of around HK\$ 179 million, of which 65.88% had been utilized. The current assets amounted to about HK\$ 498 million , in which inventory was in the amount of HK\$ 248 million, accounts receivable of HK\$ 145 million, other receivables of HK\$ 64 million and other assets of HK\$ 41 million, representing percentage figures of 49.74%, 29.13%, 12.85% and 8.28% respectively.

The current liabilities for the year 1996 were around HK\$575 million, in which amounts payable to creditors was about HK\$ 188 million, bank borrowings were HK\$ 166 million, trust receipt borrowings were HK\$ 155 million and other current liabilities of about HK\$66 million, representing 32.75%, 28.93%, 27.05% and 11.27% respectively.

As indicated in its debt-equity ratio for the year 1996, the short-term liquidity of Firstone was relatively unsatisfactory, and so was its financing ability, with interest rate ranging between 9-21%.

Since no further information is available for examination, it is preliminarily estimated that the business operation and debt-equity ratio of the company will be substantially improved when the electronic operations of Firstone are gradually scaled down or even disposed of.

In addition, Shenzhen Capstone Industrial Co. Ltd., in which Firstone held a controlling interest, is currently listed on the Shenzhen Stock Exchange (A shares).

3. Main consideration and terms of negotiation for our acquisition of its shareholdings

Our main considerations are as follows :

First of all, Firstone has decided to dispose of its shareholdings in the electronic components. Firstone has become a concept stock in the food industry sector (Shaoxing wine and instant noodles). If we are to acquire Firstone shares, we may consider injecting into Firstone the rice liquor breweries, tobacco or

beverage operations acquired by our company to further enhance the liquor and tobacco concept.

Secondly, after acquiring Firststone's shareholdings, we would be able to control another A share listed company (consideration to be determined). As such, we may subsequently inject certain mainland projects into this A share company. If Guangnan (Holdings) Limited successfully controls an A share company, it will have greater influence and will be able to tap the mainland capital market. In light of this, successful acquisition of Firststone will be an important strategic move conducive to our future development.

Meanwhile, we are aware of the following difficulties and uncertainties :

1. Currently, the Shaoxing wine industry is an industry under state protection and so it is difficult to set up any new joint venture factory. It is by no means easy to acquire control over Dong Feng Shao Xing Wine Co. through the acquisition of the controlling interest in Firststone. However, export of Shaoxing wine through different channels in recent years triggered a decline in its international market price. The preferential taxation policy of "two years exemption" and "three years reduction" enjoyed by the joint venture is also due to expire.

In 1995, the total national output of Shaoxing wine was 1.1 million tonne with a production value of approximately RMB 2.2 billion, which generated foreign exchange export earnings of approximately US\$ 20 million. The production of Shaoxing wine in the Jiejiang Province accounted for about 60% of the total output of China. The state-owned "China Shaoxing Wine Group Company" (transliteration) is the largest production facility of Shaoxing wine. Hence, if our company is to enter into the industry, we have to further enquire into the price trend of the products, our competitors and the market positioning of the breweries owned by Firststone etc.

2. The determination of consideration

It is our preliminary intention that for the purpose of the acquisition, Firststone is to place a further 216.4 million new shares to Guangnan (Holdings) Limited, representing 16.66% of its original shareholdings, and then assign the original 108.17 million shares (representing 8.32% of the original share

capital) to Guangnan (Holdings) Limited. As a result, our company will control a total of 324.612 million Firststone shares, accounting for about 25% of the enlarged issued share capital of Firststone.

Factors affecting Firststone's net asset value and the determination of consideration :

(1) By the end of March 1996, a re-valuation was carried out in respect of the asset, equipment and operations of the Shaoxing wine facilities of Firststone. After the re-valuation, Firststone's interest in the Shaoxing wine facilities was around HK\$ 190 million; (2) The disposal of the electronic operation will generate an income of HK\$ 80 million in 6 months; (3) The issue of new shares in June 1997 resulted in an income of HK\$ 107 million on the books. These 3 factors may result in a substantial increase in Firststone's net book asset value which will be reflected in the net asset value of HK\$ 0.49 per share. However, if the amount stated in (1) is discounted and the majority of the income in (3) is used for repaying debt, then the net asset value per share will be less than HK\$ 0.49.

It may be advisable for us to offer at a price of HK\$ 0.32 to HK\$ 0.5 per share. Assuming that we are to acquire Firststone at HK\$ 0.5 per share, the maximum amount of cash required for the acquisition of 25% of Firststone shares will be HK\$ 324.612 million $0.5 =$ HK\$ 162.3 million.

3. Guarantee for the amount receivable

To date, the cash generated from the disposal of electronic operations by Firststone amounts to some HK\$ 80 million. This sum of money will be fully recovered in 6 months which carries certain risks. In view of this, it is suggested that the contract must clearly stipulate that the original substantial shareholder of Firststone shall guarantee the recovery of this sum.

4. Future management

It is our intention that upon completing the transaction, the major management duties of Firststone will be undertaken by Guangnan (Holdings) Limited. The new Board of Directors will consist of 9 persons, with 5 from Guangnan.

5. Having regard to the fact that Firstone still controls the stake of a mainland listed company (A share company), this transaction involves certain technicalities, i.e. whether Firstone is to place shares to our company first, or we are to acquire its mainland A shares, or whether the two routes have to proceed at the same time ? We are still consulting professionals in respect of this specific proposal.

Mo Siu Chung Xie Ping
(Prepared from information available)

Dated : 11 July 1997

This report has been submitted to the Chairman Mr. Sun and General Manager Mr. Huang who both agree in principle that an offer will be made for 20% shareholdings in Firstone at a price of HK\$ 0.45 per share. An announcement is expected to be made next Monday.

Mo Siu Chung

Dated : 11 July

Translator's Note : Please note that the italic parts are in the form of handwritings in the source language text.



電話：
TELEPHONES:
2828 3938

廣南(集團)有限公司

香港灣仔港灣道六至八號瑞安中心二十九樓

GUANGNAN (HOLDINGS) LIMITED

29/F., Shui On Centre, 6-8 Harbour Road, Wanchai,
Hong Kong.

電 掛：〇五六一九
CABLE: "GUANANTRAD"
HONG KONG
TELEX: 72099 GUNAN HX
圖文傳真機：
FAX: 2583 9288

關於益通國際有限公司情況報告

松安

孫董事長及各位董事：

我司現正與益通國際集團洽談購買其股權事宜，現將此單交易之有關情況報告如下：

一、益通國際集團公司背景及業務

該集團公司於一九七七年在百慕達註冊成立，總辦事處及主要經營地點在香港九龍紅磡。自公司成立以來，電容器及其它電子元器件之生產、銷售乃是該公司核心業務，生產基地主要位於廣東省境內之深圳、肇慶等地，產品主要銷往香港、中國、印度及泰國等。其詳細生產廠家及股權比例可參見附表一。

近年來，紹興酒製造及銷售成為該集團另一大核心業務。一九九四年十月，該公司透過合資附屬公司—益通食品工業有限公司與浙江省紹興東風酒廠(建廠歷史逾兩百年)合資成立了“東風紹興酒有限公司”，益通食品擁有合資企業之 51 % 權益，東風酒廠擁有 49 % 權益。

上述紹興酒企業註冊資本約為一億五仟六百萬港元，益通食品以現金 7,900 百萬港元入股，東風酒廠以廠房、機器、設備、釀酒技術作價 7,790 萬作為其入資部份。合資企業擁有“會稽山”牌商標，設計能力為 40,000 噸/年。據資料顯示，該廠 1996 年底之產量已達到 6 萬噸/年。

二、益通國際有限公司之經營及財務狀況

益通國際於一九九六年營業額約 4 億多港元，虧損約 8,700 萬港元(見表二)，主要原因是由於電子原器件行

業市場競爭激烈，經營成本持續上升及日元匯率高企等因素造成。益通國際已開始重組公司業務，逐漸減少對電子原器件業務的投資，加強酒類及食品業務的發展。

在 1996 年的公司年報中，酒類在營業額特別是經營溢利中佔了很大的比重(見表三)。

資產負債方面，根據新鴻基國際對益通的評估報告，其帳面資產分別為：1996 年度帳面淨有形資產約為 1.4 億港元，每股淨資產約港幣 0.322 元(將今年 6 月發行新股計算在內，每股淨資產 0.35 港元)。在對酒廠資產進行重估後，每股淨資產則為 0.499 港元(將今年 6 月發行新股計算在內，每股淨資產 0.498 港元)。截止 1997 年 7 月 9 日，每股市價為 0.61 港元，已發行股份 10.82 億股(每股面值 0.10 港元)，總市值約 6.5 億港元。

1996 年資產負債比率約 83 %，於 1997 年 6 月該公司 1 配 1 股，每股作價 0.30 港元，集資約 1.6 億港元用於償還部份銀行貸款後，相信資產負債比率已有所降低。

1996 年總資產約 9 億多港元，固定資產和流動資產約各佔一半。固定資產中一部份是機器設備，主要是屬於生產電子原器件的固定資產，屬於生產紹興酒的固定資產原值約 5,400 萬港元(已折舊 800 萬港元)；另一部份是物業，根據最新估值，屬於香港的物業約為 0.225 億港元，屬於海外(主要是大陸)的物業約為 1.9 億港元，但物業大部份已抵押給銀行以獲取約 1.79 億港元之信貸額，該信貸額已動用 65.88 %。流動資金約 4.98 億港元，其中存貨 2.48 億港元，應收帳款 1.45 億港元，其它應收款 0.64 億港元及其它資產 0.41 億港元，分別佔 49.74 %、29.13 %、12.85 %及 8.28 %。

1996 年流動負債約為 5.75 億港元，其中應付貿易款約 1.88 億港元、銀行貸款 1.66 億港元、信托收據貸款 1.55

1
億港元及其它流動負債約 0.66 億港元，分別佔 32.75 %、28.93 %、27.05 % 及 11.27 %。

1996 年的資產負債結構顯示，益通公司的短期償債能力較差，非主權性融資能力較差，利率介乎 9-21 % 之間。

由於沒有進一步的資料可供研究，根據初步估計，如果能將益通公司中的電子業務逐步減少或者剔除，相信不管是經營運作還是資產負債結構都將得到較大改善。

另外，益通佔控制性股權的深圳大通實業股份有限公司亦在深圳證交所上市(A 股)。

三、我方收購其股權的主要考慮及談判條件

我方收購其股權的主要考慮是：

第一，益通已決定出售電子原器件的股權，益通已成為食品工業概念股(黃酒及即食麵)。如我入股，在今後可考慮將我司收購之米酒廠、香煙或飲料產品等輔料廠注入到益通中去，使其酒煙食品的概念更強。

第二，收購益通並取得股權，我方可另外控有一間 A 股上市公司(價格待定)，這樣今後亦可以將國內的一些項目轉而注入到這一隻 A 股中。如果廣南能控制一隻國內 A 股，更能擴大我司之影響力，並能更進一步利用國內資本市場集資。從上述角度看，能成功入股益通對我司將來之發展具戰略意義。

與此同時，我們亦看到此項交易的難度及不確定性：

1. 黃酒行業目前為國家保護性產業，建新合資廠很困難，如能順利拿到益通控制性股權從而拿到東風紹興酒公司股權實屬不易。但近年內各種渠道出口黃酒已引發了國際市場價格下跌。其合資原享受之兩免叁減之稅收優惠政策亦面臨結束。

1995 年全國黃酒總產量 110 萬噸，產值約 22 億元，出口創匯約 2,000 萬美元。浙江省產量約佔全國的 60%，最大的生產集團企業是國營的“中國紹興酒酒集團公司”。因此，我司如涉足黃酒業還應對該行業的產品價格走向、競爭對手情況，益通擁有之酒廠的市場地位等做進一步的調查了解。

2. 關於收購作價問題。

我方收購的初步考慮是：益通再發售 21,640 萬新股(佔原總股數之 16.66 %)給廣南，然後將原有的 10,817 萬股(佔原股本 8.32 %)轉讓與廣南。這樣我司可總持有益通股票 32,461.2 萬股，約佔益通擴大後已發行股份的 25 %。

影響益通資產淨值及股票作價的因素有：

(1) 96 年 3 月底益對紹興酒廠的資產、設備和業務等進行了重新評估，重估後的益通在酒廠的權益約為 1 億 9 千萬；(2) 買掉電子企業將在半年內收入 8,000 萬元；(3) 97 年 6 月發行新股帳面收益 1 億零 7 百萬。這三項使得益通帳面淨資產大大增加，這反映到每股淨資產上就已是 0.49 元/股。但是如第(1)項有水份、第(3)項大部份收益用於還債，則每股淨資產則要低於 0.49 元/股。

我方收購的價錢以 0.32-0.5 港元/股為宜，假設我方如按每股 0.5 元收購，則此單交易最多需動用現金 $32,461.2 \text{ 萬} \times 0.5 = 16,230 \text{ 萬}$ 來控制 25 % 的益通股份。

3. 關於應收款的擔保問題。

到現在為止，益通出售電子企業可得現金 8,000 餘萬，但這些款項需在半年內才能全部收回，具有一定的風險性，最好在我們收購合同中寫清此款項由原益通大股東保證收回。

4. 關於日後管理問題。

希望在交易後，益通的主要管理工作由廣南來做，新的董事會9人，廣南佔5名為宜。

5. 由於益通還持有國內一間上市公司(A股)的股份，所以此單交易還需要一些技術性問題，是益通先批股予我司，還是我方先收購其國內A股，或是二者同時做？我方現就此具體操作方案正向專家諮詢。

武少松 謝平 (根據資料整理)

一九九七年七月十一日

本報告經投研董經和董經，兩位原則同意。

0.45元/股價格收購益通10%股份，公告擬於

下星期一公告。

武少松

七月十一日

A CHART SUMMARIZING PARTICULARS OF
TELEPHONE COMMUNICATIONS BETWEEN JAMES HUANG,
PHOEBE CHIU, EDDIE CHOW AND KWAN LAI SHEUNG

Life, Records for the period from 20 June 1997 to 11 July 1997

Date	Time	James HUANG mobile office	Phoebe CHIU mobile office	(Diane CHU) Home	Eddie CHOW mobile	KWAN Lai Sheung mobile Office	MO Siu Chung mobile	DENG Guoxi mobile	Dragon office	LAI Wai Yin office	XIE Ping mobile
20/06/97	19:07		caller								
	19:30	receiver									
	19:31	caller			caller						
	20:02	caller			caller	receiver					
	20:03	caller			receiver						
	20:27	caller						receiver			
23/06/97	9:06	caller	receiver								
	9:09	caller									
	18:15	caller			receiver						
	18:47	caller			caller	receiver					
	19:13	caller			receiver						
	20:20	caller	receiver								
24/06/97	16:09	receiver			caller						
	18:09	caller	receiver		receiver						
	19:06										
25/06/97	12:41				caller	receiver					
	12:42				caller						
	12:42				caller						
	18:00				caller						
	18:58	caller				receiver					
	19:03	caller									
	19:05	caller							receiver		
	19:24	caller									
	19:34	caller									
	20:24	caller			receiver		receiver				
	20:27	caller									
	22:01	caller							receiver		
	22:20	caller					receiver				
	22:39	caller					receiver				
26/06/97	23:28										
	20:59	receiver			caller	receiver					
	21:05	caller	receiver								
	21:34	receiver			caller						
	21:50				caller						
	22:17	receiver	caller		caller	receiver					

Date	Time	James HUANG mobile office	Phoebe CHIU mobile office	(Diane CHU) Home office	Eddie CHOW mobile	KWAN Lai Sheung mobile office	MO Siu Chung mobile	DENG Guoxi mobile office	Dragon office	LAI Wai Yin office	Home	XIE Ping mobile
		90925301 28283939	91957089 28529882	27272668	90935137	91096246	28253750	94687096	25173285	26093368	27507650	90211378
							29784649					
27/06/97	22:39	caller	caller	receiver	receiver							
	8:38											
	8:46											
29/06/97	12:44											
	2:44	caller	caller	receiver	caller	receiver						
	10:41	caller	receiver									
	18:36	caller	receiver									
	23:26	caller			receiver							
30/06/97	16:40				caller	receiver						
	18:52	receiver			caller	receiver						
	18:56		caller		caller							
	18:57		caller									
	18:57	receiver			caller							
	18:58	receiver			caller							
	18:58	caller			receiver							
	18:58											
	18:59	caller										
	19:00	receiver			receiver							
	19:17		caller		caller							
	19:28											
	19:41											
	19:49				caller	receiver						
	19:49				caller	receiver						
	19:59				caller	receiver						
	20:05				caller	receiver						
01/07/97	12:05	caller	receiver									
	13:44	caller			receiver							
	15:05		caller	receiver								
	17:29	receiver			caller							
	17:35	receiver			caller							
	17:47	receiver			caller							
	17:59	receiver			caller							
	18:42		caller	receiver								
	18:45		caller	receiver								
	19:03	receiver			caller							
	19:47	caller			receiver							

[illegible]

[illegible]

Annexure H

SHARE TRADING DETAILS OF SUSPECTED INSIDERS

Name of Suspected Insider	Date of Transaction	Note	Buy/ Sell	Price	Quantity	Net		Broker
						Value	Value	
1 Lombok Holdings Limited	26/06/1997		B	0.60	580,000	(349,680.84)		Win Wong
	07/07/1997		S	0.61	580,000	354,877.02		Win Wong
	10/07/1997		B	0.60	110,000	(648,168.67)		Credit Lyonnais
	10/07/1997		B	0.61	950,000			Credit Lyonnais
	18/07/1997		S	1.13	1,060,000	1,201,573.44		Credit Lyonnais
2 Super Kingdom Investments Limited	26/06/1997		B	0.60	2,214,000	(1,340,982.87)		Oriental Patron
	28/06/1997	Ris			2,214,000			Oriental Patron
	10/07/1997		B	0.61	182,000			Oriental Patron
	10/07/1997		B	0.60	568,000	(453,710.38)		Oriental Patron
	10/07/1997		B	0.60	1,500,000	(902,712.87)		Credit Lyonnais
	18/07/1997		S	1.23	2,964,000	3,652,642.80		Oriental Patron
	18/07/1997		S	1.32	1,500,000	1,980,983.40		Credit Lyonnais
	18/07/1997	Ris	S	0.90	2,214,000	1,903,587.46		Oriental Patron
	24/06/1997		B	0.59	1,000,000	(593,502.49)		CA Pacific
	24/06/1997	Ris			1,000,000			CA Pacific
3 Dragon Sentosa Limited	08/07/1997		B	0.57	500,000	(285,074.16)		CA Pacific
	09/07/1997		B	0.63	1,000,000	(633,606.03)		AIM/CA Pacific
	09/07/1997		B	0.64	1,000,000	(642,707.20)		AIM/Yardley
	11/07/1997		S	0.57	1,750,000	1,013,258.17		AIM/CA Pacific
	18/07/1997		S	1.04	250,000	273,853.05		AIM/G Honest
	18/07/1997		S	1.12	1,500,000	1,650,653.77		CA Pacific
	18/07/1997	Ris	S	0.90	1,000,000	896,283.00		CA Pacific
	26/06/1997		B	0.60	1,000,000	(602,508.00)		AIM/Guangdong Securities
	26/06/1997	Ris			1,000,000			AIM/G Honest
	11/07/1997	Ris	B	0.24	2,524,000	(589,751.13)		AIM/G Honest
4 Selter Investments Limited	18/07/1997		S	1.09	1,000,000	1,095,412.20		AIM/G Honest
	18/07/1997	Ris	S	0.80	3,524,000	2,760,080.69		AIM/G Honest
	04/07/1997		B	0.62	100,000			Oriental Patron
	04/07/1997		B	0.59	200,000	(180,752.40)		Oriental Patron
	18/07/1997		S	1.46	4,000			Oriental Patron
5 Phoebe CHIU Yuen Man	18/07/1997		S	1.45	260,000			Oriental Patron

Shares Trading Details of suspected Insiders in

res of Firststone International Holdings Limited.

period from 20 June 1997 to 11 July 1997

6 MO Siu Chung (Through FANG Naijun)	18/07/1997	S	1.40	36,000	431,427.92	Oriental Patron
7 XIE Ping	11/07/1997	B	0.57	100,000	(57,000.00)	New Century
	18/07/1997	S	1.30	100,000	126,216.38	New Century
8 LO Hon Chuen (Through his wife's account in name of LI Sin Ling)	09/07/1997	B	0.63	50,000		Guangdong Securities
	09/07/1997	B	0.65	100,000	(96,952.38)	Guangdong Securities
	18/07/1997	S	1.33	150,000	198,565.58	Guangdong Securities
9 WU Xuhui	07/07/1997	B	0.63	100,000		Taiwan Concord
	07/07/1997	B	0.59	100,000	(122,508.74)	Taiwan Concord
	18/07/1997	S	1.05	200,000	209,124.30	Taiwan Concord
10 WANG Chengzhi	04/07/1997	B	0.63	1,000,000	(632,948.40)	Guangdong Securities
	18/07/1997	S	1.65	1,000,000	1,642,278.00	Guangdong Securities
11 CHOW Ching Sum	08/07/1997	B	0.66	200,000		Guangdong Securities
	09/07/1997	B	0.59	100,000	(191,893.88)	Guangdong Securities
	18/07/1997	S	1.25	100,000		Guangdong Securities
	18/07/1997	S	1.18	100,000		Guangdong Securities
	18/07/1997	S	1.13	100,000	354,333.92	Guangdong Securities
12 LI Xiao Jian	11/07/1997	B	0.61	50,000		Guangdong Securities
	11/07/1997	B	0.60	50,000	(60,783.90)	Guangdong Securities
	18/07/1997	S	1.10	30,000	77,634.96	Guangdong Securities
	18/07/1997	S	1.50	30,000		Guangdong Securities
	22/07/1997	B	1.44	10,000	(14,526.37)	Guangdong Securities
	23/07/1997	S	1.49	20,000	29,649.13	Guangdong Securities
	04/08/1997	S	1.66	20,000	33,042.68	Guangdong Securities
13 KWAN Lai Sheung	04/07/1997	B	0.63	200,000	(60,397.80)	Sun Hung Kai
	04/07/1997	B	0.60	100,000	(126,835.38)	Sun Hung Kai
	18/07/1997	S	1.38	300,000	411,255.18	Sun Hung Kai
	25/06/1997	B	0.58	100,000	(58,239.54)	CA Pacific
	25/08/1997	Ris		100,000		

Shares Trading Details of suspected insiders

Shares of Firststone International Holdings Limited

the period from 20 June 1997 to 11 July 1997

26/06/1997	B	0.58	22,000		CA Pacific
26/06/1997	B	0.61	78,000	(60,590.20)	CA Pacific
26/06/1997 RIs			100,000		
27/06/1997	B	0.63	200,000	(126,520.38)	CA Pacific
27/06/1997 RIs			200,000		
08/07/1997	B	0.56	100,000	(56,231.30)	On Hing Securities
09/07/1997	B	0.61	100,000	(61,251.90)	On Hing Securities
10/07/1997	B	0.60	500,000		Yardley
10/07/1997	B	0.59	250,000	(449,393.68)	Yardley
11/07/1997 RIs	B	0.232	1,000,000	(232,981.36)	Yardley
11/07/1997	S	0.60	750,000	448,096.50	Yardley
11/07/1997 RIs	B	0.226	1,000,000	(226,432.07)	CA Pacific
18/07/1997	S	1.13	100,000		On Hing
18/07/1997	S	1.31	100,000	242,992.30	On Hing
18/07/1997	S	1.22	400,000	491,561.43	CA Pacific
18/07/1997 RIs	S	0.80	1,000,000	796,616.00	Yardley
18/07/1997 RIs	S	0.88	1,100,000	972,765.52	CA Pacific
21/07/1997 RIs	S	1.145	200,000	228,052.72	CA Pacific
14 LAI Wai Yin					
10/07/1997	B	0.60	100,000		Oriental Patron
10/07/1997	B	0.61	62,000	(98,278.07)	Oriental Patron
18/07/1997	S	1.36	2,000		Oriental Patron
18/07/1997	S	1.41	160,000	227,250.44	Oriental Patron
27/06/1997	B	0.65	300,000	(195,912.60)	Tal Fook Securities Co. Ltd
27/06/1997 RIs			300,000		
18/07/1997	S	1.38	300,000	412,066.62	Tal Fook Securities Co. Ltd
16 FANG Nallun					
11/07/1997	B	0.57	100,000		New Century
11/07/1997	B	0.59	200,000	(175,976.72)	New Century
18/07/1997	S	1.27	300,000	378,649.15	New Century

Note: (1) Issued rights shares obviously carry no purchase price.

(2) James HUANG, Eddie CHOW, Diane CHU and DENG Guoxin are not included in the above chart as they did not trade in Firststone shares in their own accounts and were suspected of insider dealings involving the accounts of the 4 BVI companies only.

Annexure I

ATTEMPTS AT SERVICE UPON THE FOUR BVI COMPANIES
AND OTHER IMPLICATED PERSONS
AND THE RESPONSES THERETO

**Summary on the Service of Salmon Letters
on Certain Implicated Parties**

<i>Person/Corporation</i>	<i>Service Address</i>	<i>Results</i>	<i>Movements</i>
1. Lai Wai-yin (黎慧賢) [Mother of Phoebe Chiu]	沙田火炭 背灣街 38 號 - 42 號華衛 工貿中心 11 樓 2 號 室†	<p>Telephone conversation on 28.04.03 with a Mr Cheung at the commercial number failed to reach Mdm Lai personally.</p> <p>Telephone conversation on 30.04.03 with Mdm Lai confirming that she would be available at the service address on Friday, 02.05.03 after 10 a.m.</p> <p>Hearing Bundles Vol 1-9 was delivered at the service address on 02.05.03</p> <p>Letter dd 10.06.03 re : 2nd preliminary hearing (by Ordinary Post) no returned.</p>	-

Person/Corporation	Service Address	Results	Movements
		Letter dd 02.07.03 encl. revised s.16 & List of unused materials (by Ordinary Post) not returned.	
		Letter dd 28.07.03 encl. Opening Speech (by Double Registered Mail item no. RR 063 974 927 HK) returned on 01.08.03 marked “拒收”, literally meaning “refused”.	
		Letter dd 18.08.03 encl. updated Proposed Order of witnesses as at 18.08.03 (by Ordinary Post) not returned.	
		On 16.09.03 at 1515hrs, WW attempted to call Mdm Lai and was told to call again after 1800hrs. At 1629hrs, ML attempted to call Mdm Lai but could on left message re change of venue for hearing on 17.09.03.	
		Letter dd 19.09.03 re adjourned hearing & encl. proposed order of witnesses (by Ordinary Post) not returned.	

Person/Corporation	Service Address	Results	Movements
		Letter dd 14.10.03 - re hearing schedule for Nov 03 (by Ordinary Post) not returned.	
		Letter dd 24.10.03 - re hearing schedule for Nov 03 (by Ordinary Post) not returned.	
		Letter dd 31.10.03 requesting for opening /statement (by Ordinary Post) not returned.	
		Letter dd 13.11.03 encl. schedule of dates to testify (by Ordinary Post) not returned & (Reg'd Post item no. RR 063 975 318 HK) was tendered for delivery on 18.11.03 w/o success because the addressee was not at the address indicated or addressee's office was closed and finally returned on 21.11.03 marked "老闆改無此人", literally meaning "boss change no such person".	

Person/Corporation	Service Address	Results	Movements
		<p>Letter dd 15.11.03 (in Chinese), informing Mdm Lai to attend IDT (by Ordinary Post) not returned & (by Reg'd Post item no. RR 063 975 406 HK) was tendered for delivery on 18.11.03 w/o success because the addressee cannot be located and finally returned on 24.11.03 marked "老闆說無此人", literally meaning "boss says no such person".</p> <p>On 15.11.03, WW attempted to call Mdm Lai who was said not to be in at the moment and could only left message for Mdm Lai to return call which she did not.</p>	

Person/Corporation	Service Address	Results	Movements
		<p>Letter dd 17.11.03 encl. David Chan's statement (by Ordinary Post) not returned & (by Reg'd Post Item No RR 063 975 410 HK) was tendered for delivery on 19.11.03 w/o success because the addressee cannot be located but finally returned on 24.11.03 marked “不收”, literally meaning “not receive”.</p>	
		<p>Letter dd 19.11.03 re implicated parties' dates to testify (by Ordinary Post) not returned & (by Reg'd Post item no. RR 063 975 370 HK) returned returned on 24.11.03 marked “不收”, literally meaning “not receive”.</p>	
		<p>Letter dd 21.11.03 encl. Bundle XIV [S-67 to S-69] & [X:D-87 to 88] (by Ordinary Post) not returned & (by Reg'd Post item no. RR 063 975 397 HK) returned on 12.12.03 marked ‘不到收’, literally meaning “unclaimed”.</p>	

Person/Corporation	Service Address	Results	Movements
		<p>Letter dd 21.11.03 (2nd letter) re further evidence & closing submissions (by Ordinary Post) not returned & (by Reg'd Post item no RR 063 975 445 HK) returned on 28.11.03 marked "他說離職" literally meaning "He said left post."</p> <p>Letter dd 21.11.03 (Second letter) re further evidence & closing submission resent in unmarked envelope on 26 November 2003 (by Reg'd Mail item no. RR 075 990 856 HK) tendered for delivery on 27.11.03 w/o success because the addressee cannot be located and finally returned on 12.12.03 marked "不收", literally meaning "not receive".</p>	

Person/Corporation	Service Address	Results	Movements
		<p>Letter dd 27.11.03 - encl Victor Leung's statement [XI:S-70:285] (by Ordinary Post) not returned & (by Reg'd Post item no. RR 063 975 437 HK) but finally returned on 03.12.03 marked "不收", literally meaning "not receive".</p>	
		<p>Letter dd 29.11.03 - encl Kwan's statement/opening [XIV:S-71:106-147] (by Ordinary Post) not returned & (by Reg'd Post item no. RR 063 975 471 HK) and returned on 04.12.03 marked "不收", literally meaning "not receive".</p>	
		<p>Letter dd 15.12.03 re C. Wen; D. Wong & L. Chow] (by Ordinary Post) not returned & (by Reg'd Post item no. RR 075 990 944 HK) returned on 23.12.03 marked "派後退回", literally meaning "returned after delivery".</p>	

Person/Corporation	Service Address	Results	Movements
		<p>Letter dd 17.12.03 - re D. Wong & L. Chow] (by Ordinary Post) not returned & (by Reg'd Post item no RR 084 802 454 HK) returned on 23.12.03 marked "無此人", literally meaning "no such person".</p> <p>Letter dd 19.12.03 - re hearing schedule (by Ordinary Post) not returned & (by Reg'd Post item no. RR 063 975 335 HK) returned on 27.12.03 marked "退回、不收", literally meaning "return, not receive".</p>	
● <i>Appeared in Person on 16.04.03 – 1st Preliminary Hearing.</i>			
2. Chiu Yuen Man Phoebe (趙婉文) [Business Mgr, Guangfair; Daughter of Lai Wai-yin who is unable to offer Chiu's whereabouts.]	Room D, 23/F, Block 6, Laguna City, Cha Kwo Ling Road, Kowloon#	Unsuccessful, occupant denied such person	Occasional travel in and out of H.K, but last departed for Australia on 11.04.03 with no record of re-entry since.
	8/F, Guangdong Building, 74-77 Connaught Road Central, Hong Kong#	Building on the address already demolished	
	Unit 2, 11/F, Wah Wai Industrial Centre, Fo Tan, Shatin, New Territories# [i.e. her mother, Lai Wai-yin's service address†]	Personal service failed on 04.08.2003.	

Person/Corporation	Service Address	Results	Movements
	Room F, 23/F, Block 7, Laguna City, Cha Kwo Ling Road, Kowloon#	Personal service failed on 17.06.2003, door not answered.	
	¶Flat A, 14/F, Block 1, Scenic Height, 58A & 58B Conduit Road, Mid-Levels, Hong Kong# [Ownership confirmed by land search.]	Highly believed to be her residential address but attempts on 09.05.2003 & 14.08.2003 unsuccessful.	
<ul style="list-style-type: none">● Strongly believed to be H.K. based with residential address, but effective personal service never successful, with last attempt made on 14.08.03 where no entry to the building was granted and Salmon letter or its abridgement cannot be left in a letter box or posted securely at the address (see ¶ above).● Abridged Salmon letter sent by double-registered mail on 22.08.03 but unsuccessfully served on 25.08.03 (see ¶ above).● Abridged Salmon letter further sent by ordinary post on 06.09.03 and not returned (see ¶ above).● Abridged Salmon letter failed to be delivered personally on 09.01.04 as male person answering door who denied being Ho Cho-hang refused to accept service on Mdm Chiu's behalf. One copy of the same was hence securely posted outside the door to the flat and another was deposited into the mail box for the address.			
3. Diane Chu [Sister-in-law of Phoebe Chiu.]	Room D, 23/F, Block 6, Laguna City, Cha Kwo Ling Road, Kowloon#	Attempt for personal service failed on 31.03.2003, occupant saying no such person.	Occasional travel in and out of H.K, but last departed for South Korea on 28.07.03 with record of re-entry on 19.08.2003.
	¶Flat A, 26/F, Block 11, Laguna City, Cha Kwo Ling Road, Kowloon#	Personal service failed on 20.08.03, occupant denied being Diane Chu – see bullet point below.	

Person/Corporation	Service Address	Results	Movements
<ul style="list-style-type: none">● Believed to be Hong Kong based.● Pervious unsuccessful attempts for personal service made on 31.03.03, 17.06.03 and 31.07.03, door not answered.● Last attempt for personal service made on 20.08.03 and a female answering the door refused identifying herself, denied being the addressee and otherwise not able to give any useful information and did not accept service. Abridged Salmon letter securely posted outside the flat and another copy deposited in the mail box for the address (see ¶ above).● Abridged Salmon letter sent by double-registered mail on 22.08.03 but unsuccessfully served on 25.08.03 (see ¶ above).● Abridged Salmon letter further sent by ordinary post on 06.09.03 and not returned.			
4. Mo Siu-chung (武少松) [Deputy Director, Strategic Plan'g and Investment, Guangnan Holdings.]	香港西環西祥街 寶翠閣 2 座 7B#	Incomplete address	Frequent travels between mainland & H.K. up to 09.01.03, but only one short stay in H.K. since, namely: <ul style="list-style-type: none">● 06.07.03 to 09.07.03
	香港西環西祥街 寶翠閣 2 座 7B(4)#	Abridged Salmon letters sent by post. On 22.08.03 and 06.09.03 – see bullet points below.	
<ul style="list-style-type: none">● Unsuccessful attempts for personal service made on 28.03.03 and 23.07.03.● Best known address already provided to SFC through Guangnan with no further lead.● Abridged Salmon letter sent by double-registered mail on 22.08.03 but unsuccessfully served on 25.08.03 (see ¶ above).● Abridged Salmon letter further sent by ordinary post on 06.09.03 and not returned (see ¶ above).● Believed to be mainland based.			
5. Fang Naijun (方乃俊) [Close friend of Mo Siu-chung.]	c/o Ng Fung Hong Ltd., 8/F, China Resources Building, 26 Harbour Road, Wanchai, Hong Kong#	Company address no longer valid.	Frequent travels between mainland & H.K. up to 02.03.99, but only one stay in H.K. since, namely: <ul style="list-style-type: none">● 11.07.03 to 12.07.03

Person/Corporation	Service Address	Results	Movements
<ul style="list-style-type: none">● <i>Unsuccessful attempt for personal service made on 28.03.03, occupant stating that Fang no longer employed thereat.</i>● <i>Only company address provided to SFC through Gunagnan with no further lead.</i>● <i>Abridged Salmon letter sent by double-registered mail on 22.08.03 but unsuccessfully served on 23.08.03.</i>● <i>Abridged Salmon letter further sent by ordinary post on 06.09.03 and not returned.</i>● <i>Believed to be mainland based.</i>			
6. Xie Ping (謝平) [Deputy Gen. Mgr and Asst Financial Ctrl'or, Guangnan Holdings]	九龍深水 海壇街 151-159 號 普陞閣大廈 C/4#	Door not answered, believed to have left for Mainland after release from prison	Departed for Mainland on 06.02.02; no movement since.
<ul style="list-style-type: none">● <i>Served Sentence in Hong Kong.</i>● <i>Unsuccessful attempts for personal service on last known address made on 01.04.03 and 25.07.03.</i>● <i>Abridged Salmon letter sent by double-registered mail on 22.08.03 but unsuccessfully served on 25.08.03.</i>● <i>Abridged Salmon letter further sent by ordinary post on 06.09.03 and not returned.</i>● <i>Believed to have returned to mainland for good.</i>			
7. Deng Guoxin (鄧國新) [Finance Director, Guangfair]	香港北角木星街 粵星大廈 B 座 11D*	Unable to locate the building, address inaccurate	Departed for mainland on 08.06.99; no movement since.
	廣州市淘金路 淘金直街 40 號 701 室*	Delivered on 30.03.03 to Mainland address by speedpost	
<ul style="list-style-type: none">● <i>Salmon letter delivered by speedpost to mainland address on 30.03.03 and not returned.</i>● <i>Believed to be mainland based.</i>			
8. Li Xiaojian (李小健) [Director,	香港永樂街 229 號 享隆大廈四樓*	Occupant of the premises claimed addressee was not in Hong Kong	Departed for France on 15.04.00; no movement since.

Person/Corporation	Service Address	Results	Movements
Guangnan Holdings]	廣州市環市東路 天勝村 54 號地下*	Speedpost was tendered for delivery on 29.03.03 without success to Mainland address, mail returned.	
<ul style="list-style-type: none"> ● French address never known to SFC, and Guangnan is unable to provide any lead. ● Personal service on last known H.K. address on 31.03.03 and mainland address by mail unsuccessful. 			
9. Tang Wai-na (鄧維娜) [Deputy Gen. Mgr, Asian Honour (at same office with P. Chiu)]	九龍旺角 上海街 488 號 順明大廈 6A*	Personal service failed on 17.06.2003, door not answered.	No movement since absconded from bail.
<ul style="list-style-type: none"> ● Absconded from bail since 10.01.01, with warrant of arrest issued on 14.02.01. ● Abridged Salmon letter sent by double-registered mail on 22.08.03 but unsuccessfully served on 23.08.03. ● Abridged Salmon letter further sent by ordinary post on 06.09.03 and not returned. 			
10. Yip Hui-sui (葉曉穗) [Husband of Tang]	-	-	-
<ul style="list-style-type: none"> ● Deceased on 25.01.00. ● Probate search – nil result. 			

Person/Corporation	Service Address	Results	Movements
11. Lombok Holdings Ltd.	P.O. Box 957 Offshore Incorporations Centre, Road Town, Tortola, B.V.I.#	By double registered mail, returned on 19.05.03 with remarks "That company already struck off on 01.05.2000, lost contact with client. Please update your records. Thanks!"	
12. Super Kingdom Investments Ltd.	P.O. Box 957, Offshore Incorporations Centre, Road Town, Tortola, B.V.I.#	By double registered mail, returned on 15.05.03 with remarks "That company already struck off on 01.11.2000, lost contact with client. Please update your records. Thanks!"	
	c/o Room D, 23/F, Block 6, Laguna City, Cha Kwo Ling Road, Kowloon#	Occupant at the HK address denied knowledge of the company	
13 Dragon Sentosa Ltd.	2/F, Hop Fung Mansion, 108 Queen's Road West, Hong Kong#	Incomplete address	

Person/Corporation	Service Address	Results	Movements
14. Setter Investments Ltd.	P.O. Box 71, Craigmuir Chambers, Road Town, Tortola, B.V.I.#	By double registered mail, returned on 30.05.03 with remarks "This company already struck off on 01.05.1999, lost contact with client, please update your records. Thanks!"	-
	c/o Suite 31, 3/F, New Henry House, 10 Ice House Street, Central, Hong Kong#.	HK address belongs to a firm of solicitors whose occupant denied any knowledge of the company.	-

Note: Company Secretary of Guangnan Holdings Limited confirmed on 18.08.03 that none of the remaining implicated persons were still staff of the Guangnan group (and further confirm on 19.09.03) nor of its subsidiaries overseas.

- * Information supplied by Guangnan on 26 March 2003
- # Information indicated on account opening or other documentation obtained under section 33 of the SFC Ordinance (Cap. 24)
- † Information provided by implicated person to Counsel for Tribunal.