

香港聯合交易所有限公司

(香港交易及結算所有限公司全資附屬公司)

THE STOCK EXCHANGE OF HONG KONG LIMITED

(A wholly-owned subsidiary of Hong Kong Exchanges and Clearing Limited)

This case concerns impairment losses in the sum of \$8.9 billion which were made by two listed issuers. Such losses stemmed from serious breaches of fiduciary duties and duties of skill, care and diligence by the directors of these issuers.

The Exchange adopts a robust approach on the duties of directors upon the acquisition of assets and on directors' obligations to monitor investments made by a listed issuer. Directors will be held accountable for impairment losses caused to a listed issuer, where their conduct falls short of the Exchange's expectations, such as failing to conduct sufficient due diligence, obtain professional advice, or raise enquiries at Board meetings.

The Listing Committee of The Stock Exchange of Hong Kong Limited ("Listing Committee")

CENSURES:

- (1) **Professor KAN Man Lok Paul ("Paul Kan")**, former executive director ("ED") of **Champion Technology Holdings Limited ("Champion")** (Stock Code: 92) and **Kantone Holdings Limited ("Kantone")** (Stock Code: 1059);
- (2) **Mr KAN Kin Leung Leo ("Leo Kan")**, former ED of Champion and former non-executive director ("NED") of Kantone;
- (3) **Mr LAI Yat Kwong Fred ("Mr Lai")**, former ED of Champion and Kantone;

AND CRITICISES:

- (4) **Ms HA Suk Ling Shirley ("Ms Ha")**, former NED of Champion and former ED of Kantone;
- (5) **Mr Terry John MILLER ("Mr Miller")**, former independent non-executive director ("INED") of Champion;
- (6) **Mr Frank BLEACKLEY ("Mr Bleackley")**, former INED of Champion and Kantone;
- (7) **Mr LEE Chi Wah ("Mr Lee")**, former INED of Champion; and
- (8) **Ms HO Mo Han, Miranda ("Ms Ho")**, former INED of Kantone (together with the directors identified above, the "**Relevant Directors**");

for breaching Rule 3.08(f) of the *Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited* ("**Exchange Listing Rules**");

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AND STATES in the Exchange's opinion, had Paul Kan, Leo Kan and Mr Lai remained in office, their retention of office would have been prejudicial to the interests of investors.

For the avoidance of doubt, the Exchange confirms that the sanctions in this news release apply only to the Relevant Directors, and not to any other past or present members of the boards of directors ("**Boards**") of Champion and Kantone.

HEARING

On 11 February 2020, the Listing Committee conducted a hearing into the conduct of the Relevant Directors in relation to their obligations under the Exchange Listing Rules.

FACTS

Cultural Products (Champion & Kantone)

From November 2015 to June 2016, Champion and Kantone acquired 371 items of cultural products, the majority of which were purportedly Tianhuang stones ("**Cultural Products**"), with the intention of trading in such products. According to the Group's annual results for the financial year ended 30 June 2016, the value of the Cultural Products which were ready for trading was \$8,536,913,000, which represented approximately 92 per cent of the total assets of the Group.

There was no evidence that the Boards of Champion and Kantone procured any professional authentication and/or valuation of the Cultural Products prior to the Group's acquisition of the same. At the request of the Group's auditors ("**Auditors**"), experts were engaged to assess a sample of the Cultural Products for the purposes of the preparation of the financial statements for the financial year ended 30 June 2017, whose findings led to further experts being engaged to inspect and conduct a scientific examination of all of the Cultural Products in 2018.

The Auditors issued disclaimer opinions for the financial years ended 30 June 2017 and 2018, with an impairment loss of \$4,275,921,000 recorded in 2017, and a further impairment loss of \$4,222,621,000 in 2018. The impairment losses represented over 99 per cent of the value of the Cultural Products.

AFS Investment (Champion)

From 2000 to 2003, Champion acquired shares in four private companies incorporated outside Hong Kong ("**AFS Companies**"). These were recorded in Champion's financial statements as available-for-sale investments ("**AFS Investment**"). After the departure of Paul Kan and Leo Kan from the Board of Champion, the management of Champion tried to establish communications with the management of the AFS Companies, but were unable to do so.

Champion then instructed various agents, lawyers and private investigators to conduct searches on the current status of the AFS Companies, who were unable to contact or locate any of the AFS Companies using the contact details provided by Leo Kan, who was the director in charge of monitoring the AFS Investment. Further, at least two of the AFS Companies were found to be "defunct" or "struck off dissolved" as early as 2014.

The Auditors recorded a full impairment loss of the AFS Investment in Champion's results for the financial year ended 30 June 2017, in the sum of \$418,296,000. The impairment of the AFS Investment was also one of the bases for the Auditor's disclaimer opinion in 2017 and 2018.

Exchange Listing Rule Requirements

Under Rule 3.08, the board of directors of an issuer is collectively responsible for the issuer's management and operations.

Rule 3.08 provides that the Exchange expects the directors, both collectively and individually, to fulfil fiduciary duties and duties of skill, care and diligence to a standard at least commensurate with the standard established by Hong Kong law. These duties include a duty to apply such degree of skill, care and diligence as may reasonably be expected of a person of his/her knowledge and experience and holding his/her office within the issuer (Rule 3.08(f)).

LISTING COMMITTEE'S FINDINGS OF BREACH

The Listing Committee considered the written and/or oral submissions of the Listing Division and the Relevant Directors and concluded as follows:

Relevant Directors' breaches

The Listing Committee concluded that the Relevant Directors breached Rule 3.08(f) by failing to exercise sufficient skill, care and diligence in respect of the acquisition of the Cultural Products, and, for Leo Kan, in respect of the monitoring of the AFS Investment:

- (a) Paul Kan and Leo Kan, being the directors who were responsible for the acquisition of the Cultural Products, failed to conduct sufficient due diligence and to obtain independent authentication and/or valuations of the Cultural Products at the time of their acquisition.
- (b) Given the size of the Group's intended investment, Paul Kan failed to seek prior approval of the Boards of Champion and Kantone for the acquisition of the Cultural Products.
- (c) Mr Lai, Ms Ha, Mr Miller, Mr Bleackley, Mr Lee and Ms Ho (in respect of Kantone only) should have been aware of Champion and/or Kantone's increase in inventory when considering the Group's interim results for the six months ended 31 December 2015, but did not raise any queries with the respective Boards of Champion and/or Kantone. Further, even when Paul Kan informed the Boards of Champion and Kantone about the possibility of the Group's investment in the Cultural Products, they simply relied upon Paul Kan and Leo Kan to deal with this investment, and did not ask for further details, such as the amount of the Group's intended investment, how much inventory the Group would acquire, the risks of keeping such inventory, and how the Group could ensure the authenticity and safety of the inventory accumulated.
- (d) In respect of Mr Lai, he was an ED and the Chief Financial Officer of Champion and Kantone for around 20 years. As the Chief Financial Officer, he was expected to ensure proper accounting and internal control (including cheque signing and other financial controls) of Champion and Kantone and their respective subsidiaries, particularly for the acquisition of Cultural Products of such magnitude. However, he failed to discharge his responsibility.
- (e) Leo Kan failed to monitor the AFS Investment, particularly given that at least two of the AFS Companies were struck off or became defunct without Champion's knowledge.

The significant impairment losses incurred by Champion and Kantone was caused by (i) Paul Kan and Leo Kan's failure to conduct sufficient due diligence on the authenticity and value of the Cultural Products acquired at the time of their acquisition, (ii) Paul Kan's failure to seek approval from the Boards of Champion and Kantone prior to making a very significant investment in the Cultural Products, (iii) Mr Lai's failure to ensure proper accounting and internal control particularly for the acquisition of Cultural Products of such magnitude, (iv) the other Relevant Directors' failure to exercise independent judgement by raising enquiries and taking a diligent and intelligent interest in information presented to the Boards of Champion and Kantone, and (v) Leo Kan's failure to monitor the AFS Investment.

The Listing Committee considered that the actions of Paul Kan and Leo Kan were particularly egregious. Paul Kan appeared to conceal from the Boards of Champion and Kantone the fact that the Group had already accumulated an inventory of Tianhuang stones, even when he sought the Boards' approval for the investment in March 2016. Paul Kan and Leo Kan did not inform the other Relevant Directors that the Group's intended trading of Tianhuang stones would involve a very significant accumulation of inventory. Most importantly, they did not procure any authentication of the Cultural Products acquired by the Group to be Tianhuang stones at the time of their acquisition.

REGULATORY CONCERN

The board of directors of a listed company is entrusted with the company's funds. It is imperative that directors exercise their fiduciary duties and duties of skill, care and diligence to a sufficiently high standard when making investment decisions or acquiring assets on behalf of the company. Directors must ensure that they carry out independent and sufficient investigation and due diligence on any potential assets to be acquired.

Where the company proposes to acquire significant valuable assets, directors are expected to obtain a professional valuation and take all necessary steps to ensure that the interests of the company and its shareholders are protected. Directors should not simply rubber-stamp recommendations of other directors, particularly where there are potential red-flags such as a substantial increase in the inventory accumulated by the company.

SANCTIONS

Having made the findings of breach stated above, the Listing Committee decided to impose:

- (1) a public censure against each of Paul Kan, Leo Kan and Mr Lai for breaching their obligations under Rule 3.08(f);
- (2) a public statement involving criticism against each of Ms Ha, Mr Miller, Mr Bleackley, Mr Lee and Ms Ho for breaching their obligations under Rule 3.08(f); and
- (3) a statement that in the Exchange's opinion, had Paul Kan, Leo Kan and Mr Lai remained in office, their retention of office would have been prejudicial to the interests of investors.

Hong Kong, 27 April 2020