

Company director jailed for bribery and false accounting over HA's building projects

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A director of an engineering company, charged by the ICAC, was today (Wednesday) sentenced to 32 months' imprisonment at the District Court for committing bribery and false accounting offences in relation to the supply of electrical materials to Hong Kong Housing Authority's (HA) building projects.

Shum Chiu, 73, director of Rickson Engineering Limited (Rickson), earlier pleaded guilty to one count of conspiracy to offer an advantage to public servants, contrary to Section 4(1)(a) of the Prevention of Bribery Ordinance and Section 159A of the Crimes Ordinance, and one of conspiracy to falsify account. Another similar bribery offence against him was placed on court file.

In sentencing, Judge Andrew Chan Hing-wai said in view of the seriousness of the offences, a custodial sentence must be imposed on the defendant to serve as a deterrent.

The judge said the courts must do what they could to stop the spread of corruption in both the public and commercial sectors.

The judge added that the jail term of the defendant was reduced from a starting point of four years, after taking into account his old age, ill health and surrender of crime proceeds totalling \$600,000 to the government.

The court heard that HA contracted out building projects to main contractors, who would in turn sub-contract the installation of various building services, namely electrical equipment, fire service and water pumps, air-conditioning and ventilation, as well as lifts and escalators, to subcontractors. HA would then appoint those building services subcontractors as Nominated Sub-contractors (NSCs).

Since August 1998, Shum, together with Wong Hung-ki, director of Mpower Engineering Limited (Mpower), Yu Chi-wai, president of ABB (Hong Kong) Limited (ABB) (previously known as ABB Industrial and Building Systems Limited), and a sales manager of ABB, had regular meetings.

During the meetings, they formed a cartel and discussed the order of priority for Rickson, Mpower and ABB to secure contracts for the supply of an electrical material, known as Miniature Circuit Breaker (MCB), to those NSCs in forthcoming HA building projects. Two other suppliers subsequently joined the cartel in January 1999.

As a result, the suppliers avoided genuine competitions among themselves, and secured a greater profit margin.

At a subsequent meeting, Wong told Yu and the sales manager of ABB that certain officers of the Housing Department (HD) had offered assistance in pressurising some of the NSCs to engage the cartel members to supply MCBs.

The court heard that Shum conspired with Wong, Yu and other persons to offer a bribe payment of about \$1.2 million to those HD officers between May and August 1999. The bribe money was equally contributed by Rickson, Mpower and ABB.

In return, the HD officers concerned remained favourably disposed towards the above suppliers; provided them with information, documents or complaints received from third parties in respect of the pricing of MCBs; and/or delayed the addition of other approved suppliers of MCBs to the approved list of building services products maintained by HD.

The court also heard Yu instructed the sales manager of ABB that the bribe money would be covered up as payments for goods or services from Rickson and Mpower.

Shum then conspired with Wong, Yu, Ann Wong Tin-sum, financial controller of ABB, and the sales manager of ABB to issue two bogus purchase orders between June and August 1999 for the amount of \$200,000 each, purporting to show that ABB had placed

orders with Rickson and Mpower respectively for the provision of labour and equipment for certain building services works, the court was told.

Apart from Shum, Wong, Yu and Ann Wong were also charged in June 2004 for their respective roles in the case.

A District Court deputy judge ordered a stay of proceedings in July 2005 on the grounds that the ICAC's taping of a meeting between Yu and his lawyer in November 2002 had infringed Yu's legal professional privilege.

In December 2005, the Court of First Instance ruled in favour of the Department of Justice in a judicial review on the aforesaid ruling and ordered the case to be remitted to the District Court for fresh determination.

The defendants' subsequent bids to revert the ruling were dismissed by the Court of Appeal and Court of Final Appeal respectively in December 2006 and September 2007.

The defendants then subsequently made a fresh application for stay of proceedings at the District Court, but their application was rejected by Judge Chan in June 2008.

In August 2008, a severance application made by Shum was allowed, while the trial for Wong, Yu and Ann Wong commenced.

In convicting the trio in December 2008, Judge Chan gave reasons for his earlier dismissal of the defendants' fresh application for stay of proceedings.

The judge found that the meeting in November 2002 was yet another occasion where Yu was trying to pervert the course of public justice, and lawyers were being used as innocent tools to further his criminal purpose. It was a meeting where legal professional privilege had no application.

The judge also determined that there was no abuse of executive power in this case, and the ICAC's action to tape the meeting was not unreasonable and was without bad faith.

Wong, 58, and Yu, 50, each received a jail term of five years, while Ann Wong, 42, was jailed for 21 months.

The prosecution was today represented by prosecuting counsel Giles Surman, assisted by ICAC officer Jamie Fung.