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## Enforcement News

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### **SFC obtains court order to direct listed company to commence proceedings against former directors**

The Securities and Futures Commission (SFC) has obtained a court order directing Rontex International Holdings Ltd (Rontex) to bring legal proceedings against three former executive directors for compensation (Note 1).

This is the first time the SFC has obtained an order in the High Court directing a listed company to commence civil proceedings to seek recovery of compensation for the loss and damage suffered by the company as a result of directors' misconduct.

The Hon Mr Justice Burrell today ordered Rontex to commence proceedings within 60 days against its former executive directors, Mr Cheung Keng Ching, Ms Chou Mei and Mr Kevin Lau Ka Man.

The court ordered the company be permitted to use the SFC's evidence in bringing proceedings against the three directors, and to provide the SFC with a quarterly report on the progress of the proceedings (Note 2).

"This is the first order made by the court under section 214 of the Securities and Futures Ordinance directing a listed company to bring civil action to recover losses attributable to misconduct by the directors. There is no reason why shareholders should have to pay for losses caused by directors' misconduct," said Mr Mark Steward, the SFC's Executive Director of Enforcement.

The court also granted orders disqualifying Cheung and Chou from being a company director or being involved in the management of any company, without leave of the court, for five years (except for a private company through which they continue to conduct a business). Lau, who consented to the orders, was disqualified for a period of four years. The disqualification orders take effect from today (Note 3).

"While the SFC relied also on other misconduct in seeking these orders, this is the second case in which the SFC has obtained disqualification orders based on poor disclosure practices by company directors," Mr Steward added.

The legal proceedings and disqualification orders were based on the directors' misconduct as directors of Rontex.

The court found that the directors had:

- breached their fiduciary duty and/or duty of care owed to Rontex;
- failed to ensure shareholders received all the information concerning the company that they might reasonably expect; and
- failed to exercise reasonable skill, care and diligence in entering into a number of imprudent transactions on behalf of Rontex.

The breaches centred on four investments entered into by the company or its subsidiaries between 2002 and 2005, resulting in Rontex suffering losses and damages of about \$19 million (Note 4).

The reasons for decision will be available on the Judiciary website ([www.judiciary.gov.hk](http://www.judiciary.gov.hk)).

End

Notes:

1. Rontex was listed on the main board of the Stock Exchange of Hong Kong Ltd on 8 November 2002. At the relevant time, the company was involved in sourcing, manufacture and sale of garment and the trading of a variety of items including baby and party products to countries in South America and Canada. The company has now changed its name to Siberian Mining Group Company Ltd and is now involved in mining activities. The SFC commenced proceeding against the company in September 2008.
2. The court also ordered that the company be permitted to settle proceedings with the directors subject to obtaining court approval for the settlement.
3. Under section 214 of the Securities and Futures Ordinance, the court may make orders disqualifying a person from being a company director or being involved, directly or indirectly, in the management of any corporation for up to 15 years, if he or she is found to be wholly or partly responsible for the company's affairs having been conducted in a manner involving defalcation, fraud or other misconduct. The court may also order a company to bring proceedings in its own name against any person specified in the order.
4. For details, please see a summary of the allegations and transactions attached to the SFC [press release](#) dated 25 September 2008 concerning the proceeding.

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