

SFC seeks disqualification orders against former directors of Luxey International (Holdings) Limited

7 Mar 2019

The Securities and Futures Commission (SFC) has commenced legal proceedings in the Court of First Instance to seek court orders to disqualify the former chairman and executive director of Luxey International (Holdings) Limited (Luxey), Mr Joseph Lau Chi Yuen, and the company's former chief executive officer and executive director, Mr Chung Man Wai (Notes 1 to 4).

The SFC's action follows an investigation into Luxey's very substantial acquisition of Easy Time Trading Limited (Easy Time) which held a 99 per cent stake in Ratio Knitting Factory Limited (Ratio) at the time of the acquisition on 31 March 2011.

The SFC alleges that Lau breached his director's duties to Luxey by utilising nominees Big Good Management Limited (Big Good) and its sole shareholder and director, Mr Ma Hoi Cheuk, who acted on his instructions, to acquire Ratio for \$50.1 million before Ratio (through Easy Time) was resold to Luxey for \$390 million. Lau allegedly obtained a profit or at least part of such profit – namely, the difference between the \$50.1 million Big Good paid to acquire Ratio and the substantially higher price of \$390 million for which Luxey acquired Ratio. He also concealed his secret profit and/or material interest in these transactions (Scheme).

As a result of the Scheme, Luxey was deprived of the opportunity to acquire Easy Time or Ratio at a price substantially lower than the consideration of \$390 million.

The SFC also alleges that Chung breached his director's duties to Luxey by failing to make sufficient enquiries about the relationships among Lau, Ma and Big Good and to take steps to prevent Luxey from acquiring Easy Time at a substantially higher price while knowing or ought to have known that the Scheme, if carried out, would result in a loss to Luxey.

The SFC further alleges that Lau and Chung were culpably responsible for the publication of false statements in Luxey's announcement and circular relating to the very substantial acquisition in that Big Good and Ma were not disclosed as non-independent third parties and the transaction was not at arm's length and the terms of the acquisition were not on normal commercial terms, nor were they fair and reasonable and in the interests of Luxey and its shareholders as a whole.

Against this background, the SFC alleges that Lau and Chung, in their capacity as directors of Luxey at the material time, conducted the company's business or affairs in a manner involving fraud, misfeasance or other misconduct, resulting in Luxey's shareholders not having been given all the information as they might reasonably expect.

End

Notes:

1. Luxey was listed on the Growth Enterprise Market of The Stock Exchange of Hong Kong Limited on 7 July 2000. It was known as Intcera Inc. before it was listed. It changed its name to Intcera High Tech Group Limited on 2 June 2000 and then to China Post E-Commerce (Holdings) Limited on 29 April 2009 before changing to its current name on 22 December 2011. Luxey is principally engaged in the manufacture and sale of apparel.
2. At the material time, Lau was the chairman and executive director of Luxey while Chung was the chief executive officer and executive director of Luxey.
3. The legal proceedings were commenced under section 214 of the Securities and Futures Ordinance (SFO). The first hearing of the petition presented by the SFC will be heard in the Court of First Instance on 6 May 2019.
4. Under section 214 of the SFO, the court may, inter alia, make orders to disqualify a person from being a director or being involved, directly or indirectly, in the management of any corporation for a period of up to 15 years, if the person is found to be wholly or partly responsible for the company's affairs having been conducted in a manner, amongst other, involving defalcation, fraud, misfeasance or other misconduct towards it or its members.

主頁 ▶ 新聞稿及公布 ▶ 新聞稿 ▶ 所有新聞稿

證監會申請對薈萃國際（控股）有限公司前任董事發出取消資格令

2019年3月7日

證券及期貨事務監察委員會（證監會）在原訟法庭展開法律程序，尋求取消薈萃國際（控股）有限公司（薈萃）前主席及執行董事劉智遠（男）和該公司前行政總裁及執行董事鍾文偉（男）出任董事的資格（註1至4）。

證監會就薈萃對Easy Time Trading Limited（Easy Time）進行的非常重大收購事項作出調查後，決定採取上述行動。當該宗收購在2011年3月31日進行之時，Easy Time持有利都織造廠有限公司（利都）99%的股權。

證監會指，劉違反了對薈萃負有的董事責任，原因是劉利用代名人Big Good Management Limited（Big Good）以及按其指示行事的唯一股東及董事馬凱卓先生，以5,010萬元收購利都，其後利都（透過Easy Time）以3.9億元被轉售予薈萃。劉從而涉嫌獲得一項收益或至少部分有關收益，即Big Good為收購利都而支付的5,010萬元與薈萃其後以遠高於這個價格來收購利都的3.9億元之間的差額。他亦涉嫌隱瞞了他在該等交易中的隱藏收益及／或重大利益（該計劃）。

該計劃令薈萃失去以遠低於3.9億元代價的價格收購Easy Time或利都的機會。

證監會亦指，鍾違反了對薈萃負有的董事責任，原因是鍾沒有就劉、馬及Big Good之間的關係作出充分的查詢，也沒有在知道或理應知道若進行該計劃便會導致薈萃蒙受損失的情況下，採取措施阻止薈萃以高出很多的價格收購Easy Time。

證監會進一步指，劉及鍾均須為薈萃在有關該宗非常重大收購事項的公告及通函中刊發虛假聲明一事負責，原因是Big Good及馬並非獨立第三方，有關交易並不是經公平磋商後達致，及收購條款既非按一般商業條款訂立，亦不公平合理，同時也不符合薈萃及其股東的整體利益。

基於以上情況，證監會指劉及鍾於關鍵時間身為薈萃的董事，曾以涉及欺詐、不當行為或其他失當行為的方式，經營或處理該公司的業務或事務，導致薈萃的股東未獲提供他們可合理期望獲得的所有資料。

完

備註：

1. 薈萃於2000年7月7日在香港聯合交易所有限公司創業板上市。該公司在上市前名為Intcera Inc.，在2000年6月2日更名為大陶精密科技集團有限公司，其後在2009年4月29日更名為中郵電貿（控股）有限公司，並在2011年12月22日更改為現時的名稱。薈萃主要從事服飾製造及銷售。
2. 於關鍵時間，劉為薈萃主席及執行董事，而鍾則為薈萃行政總裁及執行董事。
3. 有關法律程序是根據《證券及期貨條例》第214條展開。證監會提出的呈請將於2019年5月6日在原訟法庭進行首次聆訊。
4. 根據《證券及期貨條例》第214條，若法庭認為某公司的事務曾以（其中包括）涉及對該公司或其成員作出虧空、欺詐、不當行為或其他失當行為的方式處理，而某人須為此負全部或部分責任的話，法庭可（其中包括）作出命令，取消該人擔任任何法團董事的資格，或飭令該人不得直接或間接參與任何法團的管理，最長為期15年。

最後更新日期：2019年3月8日