



29 June 2022

Ref : Chans advice/251

To: Transport Industry Operators

HKD 386 million theft

In Chans advice/191 and Chans advice/206, we reported a case relating to a shipping company's claim against its former deputy general manager (Mr Ma) over the alleged theft of the company's money. The Hong Kong High Court on 16 December 2020 sentenced Mr Ma to 15 years' imprisonment. [HCCC 20/2018] [2021 HKCFI 195]

Mr Ma first joined the shipping company Hyundai Hong Kong as an accounts clerk in 1992. By 2002 he was promoted to the post of deputy accounting manager. He was further promoted to the posts of accounting manager in 2005 and deputy general manager in 2011. He was summarily dismissed on 4/3/2016.

In or around 2003, Hyundai Hong Kong entrusted Mr Ma with duties and powers to operate online the company's bank accounts for the sole purpose of the business of the company. Mr Ma was given the passwords and safety devices to operate the company's bank accounts online.

It was an extremely serious breach of trust by Mr Ma in stealing a colossal sum of \$386,955,303.70 from his employer over a period of about seven years between 20 April 2009 and 18 February 2016 by transferring the amounts of money in 260 transactions on the Internet banking online system using security tokens in the name of the Korean managers or managing directors without their knowledge. Once the money was deposited into Mr Ma's personal accounts, he almost immediately transferred the money to his other bank accounts or to pay his credit-card expenses to the tune of over \$200 million. The credit card showed huge spending of money at casinos in Macau, buying luxury goods. He also bought properties in Hong Kong.

This was purely a calculated and simple theft. Mr Ma abused the trust Hyundai Hong Kong placed in him for almost seven years. This was a wholly premeditated, calculating theft by a dishonest man that Mr Ma was. Since he had stolen the company money, he deliberately hid the money, spent it or, salted away the money, hid it for future. He hid the sums away in China under different companies, he lost the moneys and put property in his girlfriend's name in Australia. He did not repay a single penny. When the manager, Mr Kim, asked him to provide his bank balance of his personal accounts, he answered, "We've got no money in Hong Kong actually here because I'm already thinking this day will happen, so I will not keep money in Hong Kong." This was a deliberate hiding of the money.

After Mr Ma's arrest in 2016, he continued in his dishonest ways. The High Court on 10 March 2016 imposed upon him a restraining order, restraining him from dealing or disposing with his assets.

On 1 February 2018, the High Court found him guilty of contempt of court in breaching the order from disposing of his properties. Without informing the High Court, he deliberately cashed in insurance policies to the value of some \$3 million and he spent it again on his lavish lifestyle even after his arrest. That was when he was on bail. He spent money on personal services like massage parlours and nightclubs. In one particular nightclub bill, he spent \$500,000. On a number of

occasions, he spent huge amounts on Chanel, in the boutique. He was sentenced already for that to 4 months' imprisonment.

This was a case of theft and the maximum penalty was one of 10 years' imprisonment. Mr Ma was charged with four separate offences of theft. Each charge was pertaining to different dates, different periods of time and different amounts and concerned different evidence. They were separate and distinct offences. In respect of the amounts, they too were of differing amounts. The period of theft was committed almost over a period of seven years. He did not show "one ounce of remorse".

The jury had found Mr Ma guilty after trial of four offences of theft.

Mr Ma was of clear record, but the Judge found there was absolutely no mitigating factors in this case.

The sentencing for theft and breach of trust involves guidelines set down by the Court of Appeal and revised in Ng Kwok Wing [2008] 4 HKLRD. The only starting point relevant here was amounts involving \$15 million or more is 10 years or above.

The amounts involved in this case far exceeded those amounts. For Charge 1, Mr Ma stole \$52,269,096.13. For Charge 2, he stole \$20,183,067.14. For Charge 3, he stole \$216,713,855.20. For Charge 4, he stole \$97,789,285.23.

To reflect the severity of the offences, the Judge considered the sentences should run partly consecutive and partly concurrent.

Mr Ma, on Charge 1, was sentenced to 10 years' imprisonment. On Charge 2, he was sentenced to 10 years' imprisonment. On Charge 3, he was sentenced to 10 years' imprisonment. On Charge 4, he was sentenced to 10 years' imprisonment. The Judge ordered Charges 1 and 2 to run concurrent to all charges. In Charge 3, 5 years was to run consecutive to Charge 4 and the remainder concurrent, and Charge 4, 10 years concurrent, which meant that he would serve a total term of 15 years' imprisonment.

Please feel free to contact us if you have any questions or you would like to have a copy of the Transcript of the Sentence.

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