

TARGET

Intelligence Report

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T U E S D A Y

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**CHINA RESOURCES AND TRANSPORTATION GROUP LTD:
... AND THE WRITS CONTINUE TO HAUNT MR FUNG TSUN PONG –
AS DO THE COMPANY'S LOSSES**

For the second time in the past few months, Mr Fung Tsun Pong (馮浚榜) has been named as a Defendant in two Civil Actions, lodged in the High Court of the **Hongkong Special Administrative Region (HKSAR)** of the **People's Republic of China (PRC)**.

Mr Fung Tsun Pong is an Executive Director of China Resources and Transportation Group Ltd (中國資源交通集團有限公司) (Code: 269, Main Board, The Stock Exchange of Hongkong Ltd).

In both cases, the Civil Actions were in respect of alleged debts, according to the HKSAR Litigation Database of **TOLFIN** (泰達資訊), the Computerised, Online Financial Intelligence Service and Web-Based, Credit-Checking Provider.

The aggregate amount of money, being claimed by the two Plaintiffs in respect of Actions, Numbers 851 of 2020 and 1348 of 2020, is not less than \$HK68,679,710.00.

The smaller of the two Actions was lodged on August 12, 2020, when VMS Securities Ltd (鼎珮證券有限公司) (the Plaintiff) filed Action Number 1348 of 2020 in the HKSAR High Court, naming the two Defendants as being:

| | |
|-------------------------|------------------|
| Ocean Gain Ltd (海得有限公司) | First Defendant |
| Mr Fung Tsun Pong | Second Defendant |

VMS Securities Ltd is claiming from the First Defendant, a company, domiciled in the **British Virgin Islands (BVI)**, the sum of \$HK4,599,710.82, plus interest at the rate of 15 percent per annum.

The Second Defendant is said to be '*Ultimate Beneficial Owner*' of the First Defendant and is the Sole Guarantor '*as principal obligor and not merely as surety on written demand by the Plaintiff to pay and discharge ...*' etc, etc, etc, Paragraphs Three and Six of the Statement of Claim, attached to Writ of Summons, Number 1348 of 2020.

The Statement of Claim makes the allegations that, on September 11, 2015, the First Defendant '*requested the Plaintiff to open and maintain a margin securities trading account*

or accounts on the terms and conditions set out in the Plaintiff's Margin Account Terms and Conditions ("T and C"). (Paragraph Three of the Statement of Claim)

Among the terms and conditions of the T and C were the following:

'(a) Clause 5.1

"The Client agrees to maintain such Margin and shall on demand pay such additional Margin by means of cash, securities or in such form and/or amounts and within such time as may be determined by the Company to be payable by the Client or by the Company on the Client's behalf in respect of such Margin or any other payment in connection with any transaction in securities on the Client's behalf under the terms of the Client's Agreement and these Terms and Conditions."

'(b) Clause 5.2

"The time for payment of any Margin is of the essence and if no other time is stipulated by the Company when marking a demand then the Client is required to comply with such demand before the expiry of two hours from the time of making the demand (or more quickly if required by the Company to do so). The Client also agrees to pay immediately in full and on demand any amount owing with respect to any of the Company's accounts. All initial and subsequent deposits and payments for Margin and other purposes shall be made in cleared funds and in such currency and in such amounts as the Company may in its sole discretion require."

'(c) Clause 5.5

"For the avoidance of doubt, failure by the Client to meet Margin calls made by the Company by the time prescribed by the Company or otherwise or any other accounts payable hereunder shall give the Company the right (without prejudice to other rights) to close the Account(s) and/or to close out any position in the Account(s) (as the case may be) without notice to the Client and to dispose of any or all securities held for or on behalf of the Client and to apply the proceeds and any cash deposit(s) to pay the Company all outstanding balances owing to the Company by the Client. Any monies remaining after that application shall be refunded to the Client."

'(d) Clause 9.1

"Unless otherwise indicated, the Client undertakes to pay interest to the Company in respect of any debit balance on the Account(s) or any amount otherwise owing to the Company at any time at such rate as may be specified from time to time by the Company or failing any such specification at a rate equivalent to (10) ten per cent per annum above the best lending rate quoted by The Hongkong and Shanghai

Banking Corporation Limited from time to time. Such interest shall accrue on a day-to-day basis and shall be payable on the last day of each calendar month or upon any demand being made by the Company.”

‘(e) Clause 14.1

“Any one of the following events shall constitute an event of default (“Event of Default”):

- (i) 14.1.1 the Client’s failure to pay any deposits, Margins or any other sums payable to the Company or submit to the Company any documents or deliver any securities to the Company hereunder, when called upon to do so or on due date;*
- (ii) 14.1.12 if the Company determines that the Margin that the Client has deposited with the Company is inadequate; and*
- (iii) 14.1.13 if at any time the value of the collaterals falls below the liquidation Margin level as prescribed by the Company from time to time.”’*

Then, taking up the Statement of Claim from Paragraph Eight, it is alleged:

- ‘8. In breach of the Agreement and the T&C, there is an outstanding shortfall in the Account in the sum of HK\$4,599,710.82 as at 31st July 2020 and the 1st and 2nd Defendants have made no payment to top up the outstanding shortfall.*
- ‘9. By a letter from the Plaintiff dated 3rd August 2020 to the 1st and 2nd Defendants, the Plaintiff has demanded the repayment of the said outstanding amount. By such letter and together with the Monthly combined Statement of Account attached thereto, it is confirmed and certified that the outstanding amount indebted to the Plaintiff is in the sum of HK\$4,599,710.82 as of 31st July 2020.*
- ‘10. Despite repeated demands (including the said letter dated 3rd August 2020 to the 1st the 2nd Defendants), the 1st and 2nd Defendants have still failed and/or refused to pay to the Plaintiff the outstanding sum or any part thereof.*
- ‘12. The Plaintiff claims interest at the rate of 15% per annum (i.e. (10) ten percent per annum over The Hongkong and Shanghai Banking Corporation Limited’s best lending rate) on HK\$4,599,710.82 which was provided in the Agreement and/or T&C, or on such sum and at such rate as determined by the Court pursuant to Section 48 and/or 49 of the High Court Ordinance.*

‘13. *And the Plaintiff claims against the 1st and 2nd Defendants jointly and severally for :-*

- (a) Under paragraph 9 hereof, the sum of HK\$4,599,710.82;*
- (b) Interest on the sum of HK\$4,599,710.82 at the rate of 15% per annum as from 1st August 2020 to the date of Judgment and thereafter at judgment rate until payment or any such sum and at such rate as the Court thinks fit;*
- (c) Costs of the action on an indemnity basis; and*
- (d) Such further or other relief.’*

In respect of the larger of the two Actions, lodged in the HKSAR High Court (on June 1, 2020), Sun City Gaming Promotion Company Ltd made the claim of \$HK64,080,000.00 from Mr Fung Tsun Pong with regard to an alleged ‘**Contract**’ and ‘**Debt**’.

About China Resources and Transportation Group Ltd

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