

DOES 401.COM MOVE IN MYSTERIOUS WAYS ?

They say that God moves in mysterious ways.

It seems that so does the workings of Management of publicly listed 401.com Ltd (Code: 401, Main Board, The Stock Exchange of Hongkong Ltd, formerly known as AWT Holdings Company Ltd).

401.com, an air and sea freight-forwarding company, has been on its financial knees for at least 6 Financial Years (Financial Year ends March 31), going back to at least 1996, lent a very considerable sum of money to a private company.

TARGET uses the term, '*considerable sum of money*,' meaning that this sum of money is relative to 401.com's profits – which have been nil for the past 6 Years.

According to High Court Action Number 680 of 2001, it is alleged that, on March 4, 2000, 401.com lent \$HK5 million to Apex Win Holdings Ltd.

The Statement of Claim, attached to the Writ of Summons, alleges that this loan was to be for a period of 3 months, from the date of the draw down, and that interest at the rate of one percent per month would be charged on the loan.

The loan was supposed to be repaid by June 4, 2000, Paragraph 2 of the Statement of Claim, alleges. The loan was jointly and severally guaranteed by Messrs Frank Ng, Frank Yam and Anthony Tyen Kan Kee, it is alleged.

As at November 30, 2000, Paragraph 4 claims that Apex Win owed 401.com \$HK5,445,161.29.

Solicitors for the Plaintiff wrote to Apex Win, demanding its money on December 19, 2000. It, also, claimed its money from Apex Win's Guarantors.

It is alleged in Paragraph 7 of the Statement of Claim:

'By a letter dated 9th January, 2001, the Defendant together with Frank Yam and Anthony Tyen Kan Yee jointly requested the Plaintiff to accept their proposal that each guarantor shall be responsible for his one-third share of the guaranteed indebtedness of HK\$5,445,161.29 without prejudice to the liability of the other co-guarantors and that the guarantors will not dispute their respective obligation under the guarantee dated 4th March 2000.'

This offer was accepted, the Statement of Claim alleges, evidenced by a letter, dated January 11, 2001.

However, that was that, the Statement of Claim states.

And no money has been forthcoming since January 11.

Paragraph 9 of the Statement of Claim puts it this way:

'Despite such demand, the Defendant has failed to pay the sum of HK\$1,815,053.76 being one-third share of the total indebtedness owed by the Borrower to the Plaintiff or any part thereto.'

And so, 401.com has gone to the High Court of the Hongkong Special Administrative Region (HKSAR) of the People's Republic of China (PRC) to try to recover its money.

High Court Action 680 of 2001 follows the filing of another claim against Apex Win Holding Ltd, a Writ that was filed on February 1, 2000.

In that Writ, 401.com claimed \$HK5,445,161.29.

The address of Mr Frank Ng is given in the Writ of Summons as being Room 1825, Hutchison House, Hongkong.

TARGET visited the offices in Hutchison House and discovered that it is (was?) the offices of Anthony Tyen and Company, Certified Public Accountants, and PRO 8 Consultants Ltd.

There was a lady in the office, when TARGET showed up at about 1 p.m., who would only state that Mr Frank Ng was no longer in the office.

When asked where he could be located, she relied: *'Not quite sure.'*

It appeared to TARGET that the office was packing up and moving out of Hutchison House, but, when the lady was asked whether or not the office was moving, she said: *'Not quite sure.'*

The 2 High Court Writs, issued by 410.com, would hardly be worthy of a second look had it not been for the fact that the Company is desperate for cash, if one may rely on the statements, contained in the last 5 Annual Reports of the Company.

On December 18, 2000, 401.com reported that an Interim Net Loss for the period to September 30, 2000, amounting to about \$HK36.54 million.

This was slightly better, in terms of being a larger sum of money, than the comparable 1999 period when the Company turned in an Interim Loss of \$HK23.96 million.

For the Financial Year, ended March 31, 2000, the Company reported a Net Loss of about \$HK43.56 million, against a 1999 Net Loss of about \$HK87.95 million.

For the past 5 Financial Years and 6 months, to September 30, 2000, the aggregate Net Losses of 401.com were about \$HK796.52 million.

This Company is embroiled in so much litigation that TARGET is loathe to use reams of paper to reproduce all the legal Actions, lodged against the Company and/or its subsidiaries.

Suffice it to say that, in the 2000 Annual Report, there exist 8 pages of explanations about legal Actions, aggregating not less than 22 Actions, brought against the 401.com Group of Companies.

Even the Company's former joint auditors, PricewaterhouseCoopers, had laid claim to about \$HK1.56 million, that amount of money, being outstanding services rendered. It obtained judgment.

Without pontificating, it would seem that a company in this kind of cash/profits crunch could hardly start extending loans to private companies.

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