

**O2NEW TECHNOLOGY LTD :  
DOES THIS SMELL RIGHT ... OR DOES IT STINK ?**

One of the many problems of directors of publicly traded companies, borrowing money from the companies in which they hold a position of fidelity, is that, among other things, it just does not smell right.

The irrefutable logic is that, if a director cannot get the financial support of his bank(s) when he requires financing, for any reason, then, for what reason should his publicly listed company have to bear the brunt of his potential inability to repay a debt by advancing cash to him.

An extension of this logic is when a director of a publicly listed company makes use of his public company, directly or indirectly, in respect of trading, whether or not such trades are in the best interests of the company.

Again, it just may not smell right – even with the best intentions of the director.

In the case of High Court Action Number 4351, an Action between Tomei Industrial (Holdings) Ltd, now known as O2 New Technology Ltd (Code: 94, Main Board, The Stock Exchange of Hongkong Ltd) and Orient Channel Enterprises Ltd, the Defendant is a company in which a former Director of Tomei Industrial was a Director of the supplier.

The Defendant, Orient Channel Enterprises Ltd, lives at Number 53, Hung To Road, Kwuntong, Kowloon, the Hongkong Special Administrative Region (HKSAR) of the People's Republic of China (PRC).

According to the Statement of Claim, attached to the Writ of Summons, Paragraph 3:

*'The Defendant drew 7 cheques in favour of the Plaintiff (Tomei Industrial) all on The Hongkong and Shanghai Banking Corporation Limited ("the Bank") at its branch office at 673 Nathan Road, Kowloon, Hong Kong for the total sum of HK\$10,731,563.49, particulars of the said cheques are as follows :-*

**PARTICULARS**

| <i>Cheque No</i> | <i>Date of Cheque</i> | <i>Date of Presentation</i> | <i>Amount (HK\$)</i>                     |
|------------------|-----------------------|-----------------------------|--|
| 743755           | 20.5.2001             | 17.9.2001                   | 1,338,465.75                             |
| 743761           | 14.6.2001             | 21.6.2001                   | 1,170,565.53                             |
| 743918           | 17.6.2001             | 21.6.2001                   | 3,143,013.70                             |
| 743923           | 20.6.2001             | 21.6.2001                   | 1,567,821.92                             |
| 743762           | 14.7.2001             | 17.9.2001                   | 1,170,565.53                             |
| 743764           | 14.8.2001             | 17.9.2001                   | 1,170,565.53                             |
| 743765           | 14.9.2001             | 17.9.2001                   | <u>1,170,565.53</u>                      |
|                  |                       |                             | <i>Total : <u>HK\$10,731,563.49'</u></i> |

When the cheques were presented, the Statement of Claim alleges, they all bounced with the bank's remark: 'Refer to drawer'.

Notice of dishonour was given to the Plaintiff on September 27, 2001, but the money ... [CLICK TO ORDER FULL ARTICLE](#)

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