

**CHINA LOGISTICS GROUP LTD :
DID HE STEAL THE MONEY ?
PWC KISSES THE COMPANY : GOODBYE !**

Talk about the effects of a violent rainstorm – ‘*When it rains, it pours*’ – and one must refer to publicly listed China Logistics Group Ltd (Code: 217, Main Board, The Stock Exchange of Hongkong Ltd).

China Logistics – which had to make an announcement to The Stock Exchange of Hongkong Ltd, just last Wednesday, an announcement to the effect that PricewaterhouseCoopers (PWC) had quit as the company’s auditors due to the fact that PWC alleges, inter alia, that the company did not furnish it with ‘*adequate information and explanations*’ plus the company did not furnish the firm with information in respect of the company’s ‘*steps taken to recover monies expended and amounts outstanding ...*’ – has been experiencing one problem after another for the past 3 Financial Years.

And, now, it is lumbered with, yet, another major problem.

According to High Court Action Number 3436, the Chief Executive Officer of a 70-percent-owned subsidiary of China Logistics, a company by the name of China- eDN.com Ltd, as well as being the sole Director of a British Virgin Islands company, Sharp Class International Ltd – the first Defendant to the Action -- without authorisation, transferred more than \$HK308.44 million from China – eDN.com Ltd to Sharp Class International.

It is alleged, at Paragraph 9 (b) of the Statement of Claim, attached to the Writ of Summons, that Mr Lo Chu Kong – the Second Defendant to the Action – transferred the sum of \$HK308.44 million ‘*without any proper board authorization of the 1st, 2nd and/or the 3rd Plaintiffs*’ (China Logistics Group Ltd, Rich Access Ltd and China – eDN.com Ltd, the last, 2-named companies, being wholly owned by China Logistics).

The Statement of Claim explains the situation as follows:

- ‘7. (a) *In or about 2000, the 1st Plaintiff entered into a joint venture agreement with a PRC enterprise called Guang Hua Trading Development Company (“Guang Hua”) for the import/export and distribution of Procter & Gamble products in China (“JV Agreement”). The major responsibility of the 1st Plaintiff under the JV Agreement was to provide capital to Guang Hua to purchase Procter and Gamble products.*
- (b) *On or about 3 April 2000, the 1st Plaintiff nominated the 2nd Plaintiff to sign the JV Agreement with Guang Hua. Terms of the JV Agreement include, inter alia,*
- (i) *Capital to be provided by the 1st Plaintiff or the 2nd Plaintiff on its behalf to Guang Hua should be deposited into the bank account of Extensive Capital Limited (“Extensive Capital”), the designate agent of Guang Hua; and*
- (ii) *interest chargeable on the capital advanced by the 1st Plaintiff to Guang Hua will be calculated at the rate of HIBOR + 4% per annum.*

- ‘8. (a) On or about 19 to 20 July 2001, Extensive Capital had paid a total sum of HK\$308,444,772 to the 1st Plaintiff being repayment of capital advanced to Guang Hua and interest thereon; and
- (b) At that time, the 1st Plaintiff nominated the 3rd Plaintiff to receive payment of the said sum of HK\$308,444,772 on its behalf.
- ‘9. At about the same time (i.e. 19 and 20 July 2001), the 2nd Defendant being the then director, Chief Executive Officer and authorized bank signatory of the 3rd Plaintiff, caused a total sum of HK\$308,444,772 to be transferred from the 3rd Plaintiff’s bank account with The Hongkong and Shanghai Banking Corporation Limited (A/C No. 499-296978-001) to the bank account of the 1st Defendant with the same bank (A/C No. 511-750317-001) on various dates. Particulars of the transfers are as follows:-

PARTICULARS

<u>Date</u>	<u>Amount</u> <u>(HK\$)</u>
19.7.2001	36,000,000
19.7.2001	34,000,000
19.7.2001	38,000,000
19.7.2001	32,000,000
19.7.2001	50,000,000
20.7.2001	35,500,000
20.7.2001	48,444,772
20.7.2001	<u>34,500,000</u>
Total	<u>308,444,772</u>

- ‘(b) The transfers of the said sum of HK\$308,444,772 from the account of the 3rd Plaintiff were made under the direction of the 2nd Defendant who signed eight written authorizations to the bank for and on behalf of the 3rd Plaintiff without any proper board authorization of the 1st, 2nd and/or 3rd Plaintiffs; and
- ‘(c) According to the records of the 1st, 2nd and 3rd Plaintiffs, only the said authorization letters to the bank signed by the 2nd Defendant and the corresponding debit advices can be found, and there is no other document recording the payment nor indicating the purpose of such payment.
- ‘10. As a result of such unauthorized payments to the 1st Defendant directed by the 2nd Defendant, the 1st Plaintiff being the beneficial owner of the said sum of HK\$308,444,772 suffered damages.
- ‘11. Despite of repeated requests, the 1st Defendant has failed/refused and still fails/refuses to repay the said sum of HK\$308,444,772 or any part thereof being money had and received by it to any of the Plaintiffs.
- ‘12. Or alternatively, the 3rd Plaintiff being the agent of the 1st Plaintiff in receiving repayment of the said sum of HK\$308,444,772 from Extensive Capital is liable to return the money to the 1st and/or 2nd Plaintiff, but due to the refusal of the 1st Defendant to repay to the 1st and/or

2nd Plaintiff and/or the unauthorized transfers directed by the 2nd Defendant, the 3rd Plaintiff is not able to do so. As a result thereof, the 3rd Plaintiff also suffered damages.

‘13. Regarding the 2nd Defendant, the Plaintiffs say that the 2nd Defendant being the then director and Chief Executive officer of the 3rd Plaintiff owed fiduciary duties to act in the best interests of the 3rd Plaintiff with fidelity and good faith in conducting business of the 3rd Plaintiff.

‘14. In breach of his fiduciary duties owed to the 3rd Plaintiff, the 2nd Defendant

(a) had caused and/or directed the transfers of the said sum of HK\$308,444,772 from the 3rd Plaintiff to the 1st Defendant without proper board authorization of the 3rd Plaintiff;

(b) had failed to obtained sufficient security from the 1st Defendant before directing the said transfers of fund to protect the interest of the 3rd Plaintiff; and

(c) had failed to keep proper and full records showing the purpose of the said transfers.

‘15. Further or alternatively, the 3rd Plaintiff repeats the averments in paragraph 6 (i) and (ii) hereinabove and says that the 2nd Defendant being a party connected with and/or closely related to the 1st Defendant, had failed to act in the best interest of the 3rd Plaintiff by making unauthorized transfers of fund from the 3rd Plaintiff to the 1st Defendant purported for its benefit, that the 2nd Defendant being the then director and Chief Executive Officer of the 3rd Plaintiff had breached his fiduciary duties owed to the 3rd Plaintiff.

‘16. Due to the breach of fiduciary duties of the 2nd Defendant towards the 3rd Plaintiff, the 3rd Plaintiff is not able to, but is still liable to return the said sum of HK\$308,444,772 to the 1st and/or 2nd Plaintiff.

‘17. Despite of repeated requests, the 2nd Defendant has failed/refused and still fails/refuses to account to the damages suffered by the 3rd Plaintiff.

‘18. The 1st to 3rd Plaintiffs also claim interest on the said sum of HK\$308,444,772 and damages payable by the 1st Defendant and the 2nd Defendant respectively at such rate and for such period as this Honourable Court shall deem fit pursuant to Sections 48 and 49 of the High Court Ordinance, Cap. 4, Laws of Hongkong ...’

The Interim Report

In the Interim Report of China Logistics, the Company explained that the November 2001, Winding-Up Petition against it had been dismissed on February 6, 2002 and that *‘Efforts will be made to find way to recover the unsecured advances of approximately HK\$128 million made to an independent third party.’*

By way of a Consent Summons, China Logistics reached an accommodation with New Era Foundation (China) Ltd with regard to a \$HK25-million outstanding loan, owed to New Era Foundation.

It cost the Company \$HK29.07 million, not including lawyers’ fees, to settle this matter.

The Report continues:

'The recovery of part, if not all, will definitely improve our current cash tight position. The Board is monitoring the accounts receivables closely and further provision, if require, will be made at year end. Appropriate actions will be taken to protect the interest of the Group.

'The outcome of the above major events is not certain. Management is of the view that it is rather difficult for the Group to make a turnaround position in the second half of the financial year.'

This Company is engaged in a number of ventures, from property development, to trading, to making investments in companies, domiciled and operating in the People's Republic of China (PRC), to companies that are engaged in various businesses.

The Company's attempts at e-commerce, to date, have failed ... [CLICK TO ORDER FULL ARTICLE](#)

<p><u>For More On China Logistics, Please See:</u> TARGET Intelligence Report, Volume IV, Number 98, Published on May 29, 2002</p>

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