



THE STOCK EXCHANGE OF HONG KONG LIMITED

(A wholly-owned subsidiary of Hong Kong Exchanges and Clearing Limited)
(the “Exchange”)

25 March 2013

The Listing Appeals Committee of The Stock Exchange of Hong Kong Limited (the “Listing Appeals Committee”) censures the following parties for breaching the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (the “Exchange Listing Rules”):

- (1) The Grande Holdings Limited (the “Company”) (Stock Code: 186);**
- (2) Mr Ho Wing On Christopher, an executive director and the Chairman of the Company (“Mr Ho”);**
- (3) Mr Ma Chi Chiu Adrian, a former executive director and the former Chief Executive Officer and Managing Director of the Company (“Mr Ma”), resigned effective 23 June 2011;**
- (4) Mr Law Kwok Fai Paul, a former executive director of the Company (“Mr Law”), resigned effective 3 January 2011;**
- (5) Mr Michael Andrew Barclay Binney, a former executive director of the Company (“Mr Binney”), re-designated as a non-executive director effective 31 January 2009 and resigned effective 13 August 2010;**
- (6) Mrs Asprey Lai Shan Christine, a former executive director of the Company (“Mrs Asprey”), resigned effective 1 February 2013; and**
- (7) Mr Lam Chuck Fai, a former executive director of the Company (“Mr Lam”), resigned effective 31 December 2008.**

On 17 January 2012, the Listing Committee conducted a hearing into the conduct of, among others, the Company and Mr Ho, Mr Ma, Mr Law, Mr Binney, Mrs Asprey and Mr Lam (collectively, the “**Relevant Directors**”) in relation to their obligations under the Exchange Listing Rules and the Declaration and Undertaking with regard to Directors given by the Relevant Directors to the Exchange in the form set out in Appendix 5 Form B to the Exchange Listing Rules (the “**Director’s Undertaking**”).

On 26 June 2012, the Listing Committee conducted a disciplinary (review) hearing on the application by, among others, the Relevant Directors for a review of the sanctions imposed on them by the Listing Committee at first instance.

On 28 February 2013, the Listing Appeals Committee conducted a further disciplinary (review) hearing on the application by the Relevant Directors for a further review of the sanctions imposed on them at the earlier disciplinary (review) hearing.

Facts

Corporate information

The Company was listed on 9 July 1987. Trading in the Company's shares was suspended with effect from 30 May 2011, and remained suspended. On 31 May 2011, provisional liquidators of the Company were appointed by the High Court of Hong Kong.

In 2007, the Company's principal activities were (i) the design, development, manufacture and distribution of electronic and computer products and components; and (ii) trading of audio and video products, and shares. Its core business segments comprised the Branded Distribution Group (the "**BDG**") and the Electronics Manufacturing Services Group (the "**EMSG**").

In 2007 and 2008, the Company prepared monthly "Flash Reports" for each of the BDG and EMSG. These reports were sent to Mr Ho, Mr Ma, Mr Law and Mr Binney each month. They were snap-shots capturing sales, costs and expenses. They did not however include the performance of Lafe Technology Limited ("**Lafe**") and Emerson Radio Corporation ("**Emerson**"), which were the Company's subsidiaries respectively listed on the Singapore and US stock exchanges. The financial performance of these subsidiaries was published quarterly.

Financial performance up to 2007 H1

Between 2002 and the first half of 2007, the Company and its subsidiaries (the "**Group**") were making profits, with an annual profit of between \$302 million and \$556 million. On 21 September 2007, it published the Group's results for the six months ended 30 June 2007 ("**2007 H1**"), recording a profit attributable to shareholders of \$168 million, a 3 per cent increase compared to the Group's results for the corresponding period in 2006.

Relevant Events during 2007 H2 and early 2008

A number of significant events and/or developments (collectively, the "**Relevant Events**") took place during the second half of 2007 ("**2007 H2**") and early 2008, before the Company announced the Group's results for the year ended 31 December 2007 (the "**2007 Results**") on 23 April 2008:

- (1) In early September 2007, the Company implemented a restructuring of the BDG and EMSG (the “**Restructuring**”). This included gradually reducing investments in the research and development of and scaling down the manufacturing operations for self-developed flat panel display products and closing down unprofitable domestic distribution operations. It led to a significant amount of provisions and write-offs in the 2007 Results (around \$320 million).
- (2) The BDG and EMSG recorded a combined operating profit in 2006 (\$217 million) and 2007 H1 (\$211 million). Their performance significantly deteriorated in 2007 H2:
 - (a) each of the BDG “Flash Reports” recorded a year-to-date net loss ranging from \$36.6 million to \$40.1 million;
 - (b) each set of the BDG and EMSG “Flash Reports” recorded a combined year-to-date net loss ranging from \$20.4 million to \$43.4 million;
 - (c) the “Flash Reports” and the published results of Emerson and Lafe since July 2007 showed a combined net loss ranging from \$38.3 million to \$50.2 million; and
 - (d) the 2007 Results recorded a combined loss of \$72 million.
- (3) The Company took legal action to recover a debt of around \$200 million outstanding from some US distributors (the “**US Distributors**”) since mid August 2007. Demand letters and a writ were issued on 31 August 2007 and 3 March 2008 respectively. On 26 March 2008, the Company learnt that one of the US Distributors might go into receivership. On 31 March 2008, it signed a settlement agreement to receive \$31 million for the \$206 million outstanding, and to obtain the full interest of the “Cellboost” trademark and its distribution network in the US (the “**Settlement Agreement**”). This resulted in a bad debt provision of \$175 million recorded in the 2007 Results.
- (4) In December 2007, the Group completed the disposal of Nakamichi Corporation Berhad (the “**Disposal**”), resulting in a loss of \$42 million. On 1 April 2008, Moore Stephens, the Company’s auditors, proposed writing off a translation deficit of \$93 million arising from the Disposal. These items were recorded in the 2007 Results.
- (5) In January 2008, the Company received statements and valuation reports showing a loss in fair value of derivative instruments of \$82 million as at 31 December 2007 (the “**Loss in Fair Value**”). This was also recorded in the 2007 Results.
- (6) On 19 February 2008, the Company received Toshiba’s notice to terminate the HD DVD manufacturing business conducted through its subsidiary, Tomei Shoji Limited (“**Tomei**”) since October 2006 (the “**Termination**”). That business contributed to 11 per cent of the Group’s turnover in 2007 (and 4 per cent of its net loss).

- (7) Between 19 March and 24 April 2008, there were suppliers' litigation against Tomei's subsidiary, Tomei Shoji (Hong Kong) Limited ("**Tomei HK**"), claiming around \$12 million for goods supplied (the "**Litigation**"). This amount represented about 0.52 per cent of the Group's total shareholders' equity as at 31 December 2007.

The Relevant Events numbered (1) to (5) had caused a significant deterioration in the 2007 Results.

Most of the Relevant Events not public information before 2007 Results published

On 19 February 2008, Toshiba published a press release regarding the Termination. There was also some media coverage regarding this on 19 and 20 February 2008. The press release and articles did not mention the Company, Tomei or Tomei HK.

On 21 April 2008, there were again press articles published regarding the Termination and the Litigation. These articles referred to the Company and Tomei/ Tomei HK.

Before the Company announced the 2007 Results:

- (1) it did not disclose any of the Relevant Events, or the significant deterioration in the Group's financial performance in 2007 H2; and
- (2) except for Toshiba's press release and the press articles concerning the Termination and the Litigation mentioned above, the other Relevant Events and the significant deterioration in the 2007 Results were not public information.

2007 Results

At around 7:45pm on 23 April 2008, the Company published the 2007 Results (the "**Results Announcement**"), which recorded a loss attributable to shareholders of \$595 million. This was a drop of \$955 million (265 per cent) compared to the Group's profit of \$360 million for the year ended 31 December 2006 (the "**2006 Results**").

The Results Announcement disclosed or reflected, for the first time, the Relevant Events (except the Termination and the Litigation).

On 24 April 2008, the closing price of the Company's shares dropped approximately 9.38 per cent (from \$1.92 on 23 April 2008 to \$1.74), with a maximum drop of 27.08 per cent during the day. Trading volume (2,150,000 shares) was 10.8 times the past 10-day average.

Clarification Announcement

At the Exchange's request, the Company published an announcement at around 10:03pm on 24 April 2008 (the "**Clarification Announcement**"), stating that its board of directors (the "**Board**") did not consider the Termination and the Litigation to have any significant impact on the Group's financial position/ operations.

The Clarification Announcement stated that *“The Board decided to undergo a drastic restructuring program to wind down all its unprofitable ... operations ...during [2007 H2]. During the review of the Group’s 2007 management accounts, the Board decided to make appropriate provisions and write-offs against all the excessive facilities, inventories and other assets of the restructured operations for the purpose of finalizing the 2007 results”*.

The Clarification Announcement also stated that, *“The Board considers that [the Termination] would have a significant impact on [Tomei]. But, the Board does not consider such termination to have any significant financial and operational impact to the Group as a whole. ...Subsequent to the balance sheet date of 31 December 2007, [Tomei HK] has received four claims against it for approximately HK\$12.34 million. ...The Board does not consider these litigations to have any significant impact on the Group’s financial position”*.

Findings of breach by the Listing Committee at first instance

The Listing Committee at first instance concluded as follows:

Relevant Events and deterioration in the 2007 Results discloseable under Rule 13.09(1)*

Rule 13.09(1) requires issuers to disclose, as soon as reasonably practicable, any information relating to the group which (a) is necessary to enable the Exchange, shareholders and the public to appraise the position of the group; (b) is necessary to avoid the establishment of a false market in the issuer’s securities; or (c) might be reasonably expected materially to affect market activity in and the price of its securities.

Note 11(ii) to Rule 13.09(1) further elaborates that the disclosure obligation must be discharged without delay where to the knowledge of the directors, there is such a change in the issuer’s financial condition or in the performance of its business or in the issuer’s expectation of its performance that knowledge of the change is likely to lead to substantial movement in the price of its listed securities.

The Listing Committee at first instance concluded that the Relevant Events and the significant deterioration in the Group’s financial performance during 2007 H2 were discloseable under Rule 13.09(1)(a) and (c), and Note 11(ii) to Rule 13.09(1):

- (1) The Restructuring was contrary to the disclosure in the Company’s 2006 annual and 2007 interim reports. It amounted to changes in the focus or mode of operation of the Company’s core business segments. It had also led to substantial provisions and write-offs of around \$320 million. The Restructuring was, on its own, discloseable under Rule 13.09(1);
- (2) The BDG and EMSG “Flash Reports” and the published results of Emerson and Lafa since July 2007 already suggested a significant deterioration in the core business performance during 2007 H2. Such information regarding the core business was discloseable under Rule 13.09(1);

- (3) The amount of the claim against the US Distributors was significant and had a potential impact on the 2007 Results. Information regarding the claim, the recovery action and the specific subsequent events in the legal proceedings were material information and discloseable under Rule 13.09(1); and
- (4) Each of the Relevant Events numbered (4) to (7) under “Relevant Events during 2007 H2 and early 2008” above might not have been discloseable under Rule 13.09(1) on its own in the absence of other circumstances adversely affecting the Group’s performance. However, they exacerbated the then significant deterioration of the Group’s financial position, and took place when the Company was facing severe pricing pressure on its electronic products and was implementing the Restructuring. Therefore, those Relevant Events collectively amounted to information discloseable under Rule 13.09(1).

The Listing Committee at first instance also concluded that the significant deterioration in the Group’s financial performance for 2007 H2 was discloseable under Rule 13.09(1). The \$595 million loss recorded in the 2007 Results represented a drop of 265 per cent or \$955 million compared to the 2006 Results. This was the first time since at least 2002 that it recorded a loss. The adverse market reaction, as reflected by the trading movements of the Company’s shares on 24 April 2008, showed that the 2007 Results were not within market expectation.

When Rule 13.09(1) obligation arose

The Listing Committee at first instance concluded that the Company’s Rule 13.09(1) obligation to disclose each of the Relevant Events and the significant deterioration of the 2007 Results arose when or shortly after one of the Relevant Directors became aware of them.

The Rule 13.09(1) obligation first arose in early September when Mr Ho, Mr Ma, Mr Law and Mr Binney (collectively, the “**Core Directors**”) knew that the Restructuring had been implemented. At that time, they already foresaw that it could lead to provisions and write-offs in the 2007 Results.

The Rule 13.09(1) obligation further arose on 19 February 2008 when the Company received the Termination notice. By then, (i) the Core Directors had received the December 2007 “Flash Reports” showing a combined year-to-date net loss of around \$20.4 million for the BDG and EMSG, (ii) Mr Ho and Mr Binney already knew about the \$42 million loss from the Disposal, and (iii) Mr Ho already knew about the Loss in Fair Value. The Company should have disclosed these events and the Restructuring.

Further or in the alternative, the disclosure obligation in respect of the Relevant Events (to the extent that they had arisen) arose on:

- (1) 22 February 2008 when the Core Directors knew, or should have known, that the “Flash Reports” and Emerson’s and Lafe’s published results recorded a combined net loss of around \$38.3 million for the BDG and EMSG in 2007;

- (2) 3 March 2008 when a writ was issued against the US Distributors to try to recover around \$206 million then due. The Company's recovery action since August 2007 did not yield any positive results;
- (3) 26 March 2008 when the Company learnt that one of the US Distributors might go into receivership. This suggested that it was unlikely to be able to recover the debt;
- (4) 31 March 2008 when the Settlement Agreement was signed. The Company would have known that a potential bad debt provision of up to \$175 million could have a significant impact on the 2007 Results;
- (5) 1 April 2008 when Moore Stephens recommended writing-off a translation deficit of \$93 million;
- (6) 7 April 2008 when Mr Ho and Mr Ma received the draft financial statements recording a loss of around \$194 million in the 2007 Results;
- (7) 8 April 2008 when Mr Ho and Mr Ma became aware of potential provisions and write-offs totalling around \$400 million to the 2007 Results, and the \$93 million translation deficit. Mr Law, Mr Binney and Mr Lam also became aware of potential provisions and write-offs relevant to their designated business units on around this date (around \$60 million for the BDG and \$20 million for the EMSG);
- (8) 16 April 2008 when Mr Ho and Mr Ma became aware that the Group might record a loss of around \$590 million after Moore Stephens recommended provisions and write-offs;
- (9) 18 April 2008 when Mr Ho and Mr Ma received the revised draft financial statements recording a loss of around \$595 million in the 2007 Results; and
- (10) 21 April 2008 when all the Relevant Directors received the final draft financial statements recording a loss of around \$595 million.

The Listing Committee at first instance concluded that the Company's disclosure of (a) the Relevant Events (except the Termination and the Litigation) and the significant deterioration in the 2007 Results in the Results Announcement on 23 April 2008, and (b) the Termination and the Litigation in the Clarification Announcement on 24 April 2008, was not "as soon as reasonably practicable" and "without delay", as required by Rule 13.09(1) and Note 11(ii) to that Rule. The Company therefore breached those provisions. The length of delay in disclosure was up to over 7.5 months.

Inadequate internal controls to ensure Listing Rule compliance

The Listing Committee at first instance concluded that the Company did not have adequate and effective internal controls between 1 September 2007 and 23 April 2008 (the “**Relevant Period**”) to procure Rule 13.09(1) compliance, in that it did not have any procedures to allow (a) relevant information to be reported to the Board in a timely manner for consideration and action, or (b) the Board to consider in a systematic manner whether such information would be discloseable under Rule 13.09(1). The Company’s failure to implement adequate and effective internal controls to ensure Listing Rule compliance partly caused its breach of Rule 13.09(1).

Relevant Directors’ breach of the Director’s Undertaking

The Listing Committee at first instance concluded that each of the Relevant Directors breached the Director’s Undertaking for failing to use best endeavours to procure the Company’s compliance with Rule 13.09(1), in that:

- (1) despite their knowledge of some, if not all, of the Relevant Events and the significant deterioration of the 2007 Results during the Relevant Period, there was no evidence that the Core Directors had considered the Rule 13.09 implications concerning these events. Despite the series of the Relevant Events which took place since early September 2007, the Core Directors did not immediately inform the other Directors, or escalate them to the Board for Rule compliance consideration. They had ample opportunities to consult the Exchange or professional advisers on the Company’s Rule obligations concerning these events, but failed to do so. The Company’s breach of Rule 13.09(1) was directly and primarily caused by their conduct or inaction; and
- (2) all of the Relevant Directors failed to ensure that the Company had an adequate and effective internal control system by which Rule compliance might be achieved. These internal control deficiencies partly caused the Company’s breach.

The Listing Committee at first instance also concluded that the Relevant Directors’ lack of consideration of Rule 13.09(1) implications concerning the Relevant Events and/or the significant deterioration of the 2007 Results, and the reasons given for not issuing an announcement under Rule 13.09(1) before the 2007 Results were published, demonstrated that they did not adequately and/or properly understand the Rule 13.09(1) requirements.

Sanctions and Directions

The Listing Committee at first instance decided to censure:

- (1) the Company for its breach of Rule 13.09(1); and
- (2) each of Mr Ho, Mr Ma, Mr Law, Mr Binney, Mrs Asprey and Mr Lam for breach of the Director’s Undertaking.

The Listing Committee on review concluded that there were no grounds for removing or lessening the sanctions imposed on the Relevant Directors by the Listing Committee at first instance.

The Listing Appeals Committee noted that the Relevant Directors accepted the findings of breach by the Listing Committee and were seeking a review of the sanctions imposed on them. The Listing Appeals Committee, having considered all relevant submissions of the Relevant Directors and the Listing Division, endorsed and confirmed the sanction of public censure on each of the Relevant Directors.

The Listing Appeals Committee directed that:

- (1) as conditions for the Company's trading resumption, it:
 - (a) retain an independent professional adviser satisfactory to the Listing Division (the "**Adviser**") to conduct a thorough review of and make recommendations to improve the Company's internal controls to ensure Rule 13.09 compliance. The Adviser is to provide the Listing Division with its written report containing such recommendations. The Company is to submit the proposed scope of retainer to the Listing Division for comment before such appointment;
 - (b) furnish the Listing Division with the Adviser's written report on the Company's full implementation of the Advisers' recommendations within two months after submission of the first report referred to in (a) above; and
 - (c) appoint an independent Compliance Adviser (as defined in Chapter 3A of the Listing Rules namely, an entity licensed or registered under the Securities and Futures Ordinance for Type 6 regulated activity and permitted under its licence or certificate of registration to undertake work as a sponsor) satisfactory to the Listing Division on an ongoing basis for consultation on Rule compliance for two years, such appointment to start on or within one week before the date of trading resumption. It is to submit the proposed scope of retainer to the Listing Division for comment before such appointment. The Compliance Adviser shall be accountable to the Company's Audit Committee;
- (2) Mr Ho (who is still on the Board) undergo 24 hours of training on Rule compliance, director's duties and corporate governance matters to be given by the Hong Kong Institute of Chartered Secretaries, the Hong Kong Institute of Directors or other course providers approved by the Listing Division (the "**Training**"), within 90 days from the publication of this News Release;
- (3) the Company provide the course provider's written certification of compliance within two weeks after completion of the Training at (2) above;

- (4) as a pre-requisite of any future appointment as a director of any company listed on the Exchange, Mr Ma, Mr Law, Mr Binney, Mrs Asprey and Mr Lam (who are no longer on the Board and are not directors of other companies listed on the Exchange) attend the Training before the effective date of any such appointment. These Relevant Directors to provide the Listing Division with the course provider's written certification of compliance after Training completion; and
- (5) the Company publish an announcement to confirm that each of the directions in paragraphs (1)(a) to (c) and (3) above has been fully complied with within two weeks after fulfilment. It is to submit drafts of the announcements for the Listing Division's comment before publication. The last announcement to be published is to include the confirmation that all directions in paragraphs (1) to (3) above have been complied with.

For the avoidance of doubt, the Exchange confirms that the above sanctions and directions apply only to the Company and the Relevant Directors, and not to any past or present member of the Board of Directors.

* References to Rule 13.09(1) in this News Release are to the applicable Rule 13.09(1) at the material time.