

Former Chief Executive faces additional bribery charge

11 October 2016

Former Chief Executive (CE) of the Hong Kong Special Administrative Region (HKSAR) Donald Tsang Yam-kuen, who was earlier charged by the ICAC with two counts of misconduct in public office (MIPO), was today (Tuesday) charged with an additional bribery offence when he appeared at the Court of First Instance.

Tsang, aged 72, faced an additional charge of CE accepting an advantage, contrary to Section 4(2B)(a) of the Prevention of Bribery Ordinance.

The prosecution also applied for amending the particulars of the two MIPO charges.

Having heard the submissions made by the prosecution and the defence last Tuesday (October 4), Mr Justice Andrew Chan Hing-wai today allowed the prosecution's application for adding the bribery charge and amending the indictment in respect of the two MIPO charges.

The additional charge alleged that between January 1, 2010 and June 30, 2012, Tsang, without lawful authority or reasonable excuse, accepted an advantage, namely the refurbishment and re-decoration of a three-storey residential property situated at East Pacific Garden in Shenzhen (the flat), as a reward for his performing or abstaining from performing acts in his capacity as the CE and President of the Executive Council (ExCo), namely considering and making decisions in relation to applications made by Wave Media Limited (WML) (subsequently renamed Digital Broadcasting Corporation Hong Kong Limited (DBC)):

(i) The applications of WML for a sound broadcasting licence for the provision of digital audio broadcasting services and surrendering a sound broadcasting licence for the provision of Amplitude Modulation radio services submitted to the Commerce and Economic Development Bureau in April and September 2010 respectively, and approved in principle and formally granted by Tsang acting in his capacity as the CE-in-Council at meetings of the ExCo held on November 2, 2010 and March 22, 2011 respectively;

(ii) The applications made by DBC between July and November 2011 for Arthur Li Kwok-cheung to exercise control of DBC as a director and chairman of the company and approved by Tsang acting in his capacity as the CE-in-Council at a meeting of the ExCo held on January 20, 2012.

One of the amended MIPO charges alleged that between January 1, 2010 and June 30, 2012, Tsang, in the course of or in relation to his public office, namely the CE and President of the ExCo, without reasonable excuse or justification, wilfully misconducted himself by failing to declare or disclose to, or by concealing from the ExCo his dealings and negotiations with Wong Cho-bau, the major shareholder of WML in respect of the flat when he was involved in decision making in relation to the aforesaid applications made by WML (subsequently renamed DBC).

The other amended MIPO charge alleged that between December 1, 2010 and July 31, 2011, Tsang, in the course of or in relation to his public office, namely the CE, without reasonable excuse or justification, wilfully misconducted himself by proposing that Barrie Ho Chow-lai be nominated for an honour or award under the HKSAR honours and award system at a time when Ho was carrying out interior design work at the flat; and failing to disclose to or by concealing from the then Permanent Secretary for the CE's Office, the Development Bureau and the Honours and Non-official Justices of the Peace Selection Committee the fact that (i) Ho had been engaged to carry out interior design work at the flat; (ii) the interior design work was carried out for Tsang's benefit and the costs of the work were met by East Pacific (Holdings) Limited; (iii) the flat was one in which Tsang had an interest and which was the subject matter of dealings and negotiations between Tsang and Wong; and (iv) Tsang's use of the honours and award system to reward Ho for the interior design work.

Mr Justice Chan adjourned the case to October 27 this year for further mention, and extended the defendant's bail on the same terms.

The prosecution was today represented by prosecuting counsel David Perry QC, Eric Kwok SC and Maggie Wong, assisted by ICAC officer Winnie Lee.

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前行政長官被加控貪污罪名

2016年10月11日

香港特別行政區(香港特區)前行政長官曾蔭權，早前被廉政公署控以兩項公職人員行為失當罪名，今日(星期二)在原訟法庭應訊時被加控一項貪污罪名。

曾蔭權，七十二歲，被加控一項行政長官接受利益罪名，違反《防止賄賂條例》第4(2B)(a)條。

控方同時申請修訂上述兩項公職人員行為失當控罪的詳情。

法官陳慶偉上星期二(十月四日)聽取控辯雙方的陳詞後，今日批准有關申請，准許控方加控一項貪污罪名及修訂兩項公職人員行為失當罪名的公訴書。

新增控罪指曾蔭權涉嫌於二〇一〇年一月一日至二〇一二年六月三十日期間，無合法權限或合理辯解而接受一項利益，即一個位於深圳東海花園的三聯式住宅物業(該物業)的整修及裝修工程，作為曾蔭權作出或不作出憑其行政長官及行政會議(行會)主席身分而作的作為，即考慮及決定雄濤廣播有限公司(雄濤)(其後更名為香港數碼廣播有限公司(數碼廣播公司))提交的申請的報酬。有關申請為：

(i) 雄濤分別於二〇一〇年四月及九月向商務及經濟發展局為提供數碼聲音廣播服務而提交的聲音廣播牌照申請，以及為交還用於提供調幅(AM)電台服務的聲音廣播牌照而提交的申請，而兩項申請分別於二〇一〇年十一月二日及二〇一一年三月二十二日舉行的行會會議中獲曾蔭權憑其行政長官會同行會身分原則上批准及正式批給；

(ii) 數碼廣播公司於二〇一一年七月至十一月期間，為使李國章以該公司董事兼主席身分對數碼廣播公司作出控制而提交的申請，而該申請於二〇一二年一月二十日舉行的行會會議中獲曾蔭權憑其行政長官會同行會身分批准。

其中一項經修訂的公職人員行為失當控罪指曾蔭權涉嫌於二〇一〇年一月一日至二〇一二年六月三十日期間，擔任公職即行政長官及行會主席，於履行其公職過程中或在與其公職有關的事上，無合理辯解或理由而下而故意作出失當行為，即參與決定雄濤(其後更名為數碼廣播公司)提交的上述申請時，沒有向行會申報或披露，或向行會隱瞞他與雄濤主要股東黃楚標就該物業所進行的事務往來及商議。

另一項經修訂的公職人員行為失當控罪指曾蔭權涉嫌於二〇一〇年十二月一日至二〇一一年七月三十一日期間，擔任公職即行政長官，於履行其公職過程中或在與其公職有關的事上，無合理辯解或理由而下而故意作出失當行為，即當何周禮為該物業進行室內設計工程時，建議何周禮在香港特區授勳及嘉獎制度下獲授勳及嘉獎的提名；及沒有向時任行政長官辦公室常任秘書長、發展局及授勳及非官守太平紳士遴選委員會披露，或向有關人士隱瞞(i)何周禮獲聘用在該物業進行室內設計工程；(ii)進行該室內設計工程是令曾蔭權受惠，而工程費用由東海聯合(集團)有限公司支付；(iii)曾蔭權擁有該物業的利益，而該物業是曾蔭權與黃楚標之間事務往來及商議的事項；及(iv)曾蔭權利用授勳及嘉獎制度以回饋何周禮進行該室內設計工程。

法官將案件押後至十月二十七日再提訊。被告獲准以原來條件繼續保釋。

控方今日由御用大律師David Perry、資深大律師郭棟明及大律師黃佩琪代表出庭，並由廉署人員李慧兒協助。

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