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SFC seeks compensation and disqualification orders against Perfect Optronics Limited's chairman and board members

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The Securities and Futures Commission (SFC) has commenced legal proceedings in the Court of First Instance to seek court orders against Mr Cheng Wai Tak, the chairman and executive director of Perfect Optronics Limited (Perfect Optronics), and the rest of its directors for their alleged breach of fiduciary duties (Note 1).

The other directors involved in the SFC's legal proceedings are: Mr Tse Ka Wing and Mr Liu Ka Wing, both of whom are executive directors of Perfect Optronics; and Mr Li Shui Yan, Mr Wong Chi Chiu and Mr John Wong Yik Chung, all of them being independent non-executive directors of Perfect Optronics.

Specifically, the SFC is seeking disqualification and compensation orders against all the directors under section 214 of the Securities and Futures Ordinance (SFO). **If a compensation order is obtained, it would compel the directors to compensate Perfect Optronics for the alleged loss caused by their misconduct** (Note 2).

The SFC's action follows an investigation arising from **Cheng's guarantee that if a group of companies that he had sold to Perfect Optronics in April 2015 failed to meet a minimum profit of \$34 million for the two years ending 31 December 2016, he would compensate Perfect Optronics a sum equivalent to 9.513 times the shortfall in the guaranteed minimum profit.**

On 22 December 2016, nine days before the expiry of the minimum profit guarantee period, Perfect Optronics sold part of the group of companies that it acquired from Cheng. The gain from the transaction boosted the profit of the group of companies by \$26.5 million.

As a result, the compensation payable by Cheng to Perfect Optronics due to the shortfall in the guaranteed minimum profit was significantly reduced by \$251.9 million.

The SFC alleges that Cheng had a material interest in the transaction in light of the significant reduction in the compensation payable by him under the minimum profit guarantee. **But he failed to, among other things, avoid any involvement in the negotiations for the transaction, properly disclose to the other directors his material interests in it and abstain from voting in the approval of the transaction. Therefore, Cheng was in breach of his fiduciary duty as a director of Perfect Optronics.**

The SFC also alleges that **the other directors of Perfect Optronics failed to properly investigate the terms of the transaction and/or balance the pros and cons of postponing the transaction after 31 December 2016. Therefore, they deliberately and/or recklessly preferred the interests of Cheng over that of Perfect Optronics and as such, they were in breach of their fiduciary duties as directors of the company.**

On 24 September 2019, the SFC issued a restriction notice to KGI Asia Limited prohibiting the broker from dealing with or processing certain assets held in several client accounts which are beneficially owned by Cheng (Note 3).

End

Notes:

1. Perfect Optronics' shares have been listed on the Growth Enterprise Market (GEM) of The Stock Exchange of Hong Kong Limited since 7 February 2014. Perfect Optronics is principally engaged in the trading of display components for electronics and the development and sale of optics products and related electronic components.
2. Under section 214 of the SFO, the court may, inter alia, make orders to disqualify a person from being a director or being involved, directly or indirectly, in the management of any corporation for up to 15 years, if the person is found to be wholly or partly responsible for the company's affairs having been conducted in a manner, among other things, involving defalcation, fraud, misfeasance or other misconduct towards it or its members. The court may also order a company to bring proceedings in its own name against any

person specified in the order and may make any other order it considers appropriate. The first hearing of the petition presented by the SFC will be heard in the Court of First Instance on 13 February 2020.

3. For further details, please refer to the SFC's press release dated [27 September 2019](#).

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