

IN THE HIGH COURT OF MALAYA AT SHAH ALAM
IN THE STATE OF SELANGOR DARUL EHSAN
ORIGINATING SUMMONS NO. MT - 24 - 2007

In the Matter of the Securities Laws (as defined in the Securities Commission Act, 1993) including :-

- (i) Sections 100 & 122B of the Securities Industry Act 1983
- (ii) Division 1 of Part IV of the Securities Commission Act, 1993
- (iii) Listing Requirements of Bursa Malaysia Securities Berhad

And

In the Matter of the Rules of the High Court, 1980

BETWEEN

SECURITIES COMMISSION

... PLAINTIFF

AND

KENNETH VUN @ VUN YUN LIUN
(NO. K/P : 749618-12-5213)

... DEFENDANT

PLAINTIFF'S 1ST AFFIDAVIT

I, ARIS FADZILLAH ZULKIFLI (NRIC No. 750401-08-5563) of full age and having my office at No. 3, Persiaran Bukit Kiara, Bukit Kiara, 50490 Kuala Lumpur, do hereby sincerely and solemnly affirm and state as follows :-

1. I am a Senior Investigating Officer of the abovenamed Plaintiff, which for ease of reference would be referred to as the "Commission" herein and I am authorised by the Commission to affirm this Plaintiff's 1st Affidavit on its behalf.

2. Save and except where the contrary is stated, the facts deposed to herein are partly within my personal knowledge and partly gathered from records and documents made available to me in my capacity as an officer of the Plaintiff and which I believe to be true and accurate.
3. I affirm this Plaintiff's 1st Affidavit in support of the Commission's Originating Summons filed herein.

PARTIES

4. The Plaintiff is a body corporate established under Section 3 of the Securities Commission Act, 1993 with an address at No. 3, Persiaran Bukit Kiara, Bukit Kiara, 50490 Kuala Lumpur.
5. The Defendant (hereinafter referred to as "Kenneth Vun") is the founder of the FRB Group of Companies consisting of :-
 - (a) FTEC Resources Berhad ("FRB"), a company listed on the MESDAQ Market of the Bursa Malaysia Securities Berhad ("Bursa"), and
 - (b) its wholly owned subsidiaries; FTEC Systems Sdn Bhd, FTEC Distribution (M) Sdn Bhd, FTEC Networks Sdn Bhd and FTEC Evolution Sdn Bhd.
6. At all material times, Kenneth Vun held and continues to hold the following position in the FRB Group of Companies :-

<u>Name of Company</u>	<u>Designation of the Defendant</u>
FTEC Resources Berhad	Managing Director
FTEC Systems Sdn Bhd	Director
FTEC Distribution (M) Sdn Bhd	Director
FTEC Networks Sdn Bhd	Director
FTEC E-solution Sdn Bhd	Director

- Further, Kenneth Vun was at all material times a substantial shareholder in FRB with a direct shareholding of approximately 30% and an indirect interest through, inter alia, his family members.
- In addition, Kenneth Vun was at all material times and until 19.5.2004 the sole authorised signatory for all the FRB wholly-owned subsidiaries except for FTEC System Sdn Bhd's account in Public Bank Bhd, Kota Kinabalu branch which had 3 authorised signatories, namely, Kenneth Vun, Chong Phui Lan and Grace Vun Siaw Nei ("Grace Vun").

APPLICATION FOR LISTING ON MESDAQ MARKET & CONDITIONAL APPROVAL

- On or about 24.12.2002, an application was made by Public Merchant Bank Berhad ("Merchant Bank") to the Commission, on behalf of FRB, for, inter alia, the inclusion of FRB on the Official List of MESDAQ of the Bursa, on the terms contained in the said application ("Proposal").
- The Proposal envisaged, inter alia, the initial public offering of 39,879,000 new ordinary shares of RM 0.10 each at an issue price of RM 0.45 per ordinary share by way of public issue and private placement ("Public Issue") comprising, inter alia :-

- (a) 8,000,000 new ordinary shares of RM 0.10 each available for application by the public;
 - (b) 5,000,000 new ordinary shares of RM 0.10 each available for application by directors and employees of FRB and its subsidiaries; and
 - (c) 26,879,000 new ordinary shares of RM 0.10 each available for placement to selected investors.
11. On or about 21.7.2003, the Commission communicated its approval to the said Proposal to the Merchant Bank by way of letter of the same date subject, inter alia, to the condition that FRB shall disclose the status of its utilisation of the proceeds of the Public Issue in its quarterly and annual reports until full utilisation of the said proceeds ("Conditional Approval").
12. Now produced and shown to me are the following documents :-

<u>Exhibit No.</u>	<u>Description of Documents</u>
"P-1"	Proposal to the Commission dated 20.12.2002
"P-2"	Conditional Approval dated 21.7.2003 issued by the Commission to the Merchant Bank (file copy)

REPRESENTATION MADE ON UTILISATION OF PROCEEDS

13. Following from this, a Prospectus dated 24.11.2003 was prepared by the Merchant Bank towards the said Public Issue with, inter alia, the following representations made in respect of the utilisation of the proceeds of the Public Issue ("Utilisation of Proceeds") in paragraph 4.7 therein :-

Proposed Utilisation of Proceeds

The estimated gross cash proceed arising from the Public Issue amounting to approximately RM 17.95 million will be utilised in the following manner :-

	Note	Amount RM '000	Expected Timeframe for Proposed Utilisation
Research & Development	(i)	3,200	Within 3 years from the time of listing of FRB Shares
Working Capital	(ii)	13,046	Within 2 years from the time of listing of FRB Shares
Listing Expenses	(iii)	1,700	Within 6 months from the time of listing of FRB Shares
Total		17,946	

14. Consequently, upon the completion of the Public Issue, FRB was admitted to the Official List of the Bursa on the MESDAQ market on or around 19.12.2003.
15. Now produced and shown to me are the following documents :-

<u>Exhibit No.</u>	<u>Description of Documents</u>
"P-3"	Prospectus dated 24.11.2003
"P-4"	Announcement made by the Bursa on 17.12.2003 in respect of FRB's admission to the MESDAQ market

FURNISHING OF MISLEADING STATEMENT TO THE BURSA

- KENNETH VUN'S ROLE

16. On or about 21.5.2004, FRB had announced to, inter alia, the Bursa its Quarterly Report ("Subject Report") as at 31.3.2004 in purported compliance of the Conditional Approval.

17. The Utilisation of Proceeds of the Public Issue was reported in the Subject Report as follows:-

	Per Prospectus RM mil	Per Quarterly Report RM mil
Research & Development	3,200	473
Working Capital	13,046	1,141
Listing Expenses	1,700	1,999
Total	17,946	3,613

18. In this regard, Kenneth Vun had knowingly authorised the furnishing of a misleading statement to the Bursa through the Subject Report which did not disclose that a sum of RM 2.496 million and RM1.05 million (collectively "Subject Sum") of the Public Issue had been utilised as described hereinafter in contravention of Section 122B(b)(bb) of the Securities Industry Act, 1983.

IMPUGNED UTILISATION OF PROCEEDS

19. On 30.12.2003, Kenneth Vun had authorised, instructed or caused the transfer of a sum of RM 2.496 million ("1st Amount") being a portion of the proceeds of the Public Issue from FRB to one of its subsidiaries, FTEC Networks Sdn Bhd.
20. Then, on or about 1.3.2004, Kenneth Vun subsequently authorised, instructed or caused the transfer of the 1st Amount from the said FTEC Networks Sdn Bhd to another of FRB's subsidiary, that is to say, FTEC Distribution (M) Sdn Bhd.

21. On the same day, Kenneth Vun then went on to authorise, instruct or caused to be transferred from FTEC Distribution (M) Sdn Bhd a sum of RM 2.704 million (which included the 1st Amount) by way of a cash cheque.
22. Immediately thereafter, a sum of RM 2.654 million (which included the 1st Amount) was deposited into Kenneth Vun's personal account maintained at OCBC Bank ("OCBC Account").
23. On or about 2.3.2004, Kenneth Vun then caused to be transferred the sum of RM 2.6 million (which included the 1st Amount) from his OCBC Account to another of his personal accounts maintained with Citibank ("Citibank Account") from which he issued a cheque for the sum of RM 2.620 million (which included the 1st Amount) in favour of one Kuala Lumpur City Securities Sdn Bhd.
24. Now produced and shown to me are the following documents :-

<u>Exhibit No.</u>	<u>Description of Documents</u>
"P-5"	FRB's Telegraphic Transfers Application Form to transfer the 1 st Amount to FTEC Networks Sdn Bhd
"P-6"	REPO Documents in respect of placement of RM 2 million in favour FTEC Networks Sdn Bhd
"P-7"	Bank Statements of FRB and FTEC Networks Sdn Bhd, both dated 31.12.2003
"P-8"	OCBC Cash Cheque No. 163742 dated 1.3.2004 issued by FTEC Networks Sdn Bhd for the 1 st Amount

<u>Exhibit No.</u>	<u>Description of Documents</u>
"P-9"	Banking in slip showing the deposit of the 1 st Amount by FTEC Distribution Sdn Bhd
"P-10"	OCBC Cash Cheque No. 192429 dated 1.3.2004 issued by FTEC Distribution (M) Sdn Bhd for the sum of RM 2.704 million (which included the 1 st Amount)
"P-11"	Banking in slip showing the deposit of the sum of RM 2.654 million (which included the 1 st Amount) by Kenneth Vun into his OCBC Account
"P-12"	Telegraphic Transfer Application Form showing the transfer of RM 2.6 million from Kenneth Vun's OCBC Account to his Citibank Account
"P-13"	Bank statements of FTEC Networks Sdn Bhd and FTEC Distribution (M) Sdn Bhd, both dated 31.3.2004
"P-14"	OCBC Account and Citibank Account statements of Kenneth Vun dated 31.3.2004

25. On 24.12.2003, Kenneth Vun had authorised, instructed or caused the transfer of an aggregate sum of RM1.05 million ("2nd Amount") being a portion of the proceeds of the Public Issue in the following manner :-

- (1) a sum of RM300,000 from FRB to one of its subsidiaries, FTEC System Sdn Bhd; and
- (2) a sum of RM750,000 from FRB to another of its subsidiaries, FTEC Distribution (M) Sdn Bhd.

26. Then, on 24.12.2003, Kenneth Vun authorised, instructed or caused the transfer of an aggregate sum of RM879,000 of the 2nd Amount in the following manner :-
- (1) a sum of RM279,000 from FTEC System Sdn Bhd into the personal account of his mother, Chong Phui Lan maintained at Public Bank ("Chong Phui Lan's PBB Account"); and
 - (2) a sum of RM600,000 from FTEC Distribution (M) Sdn Bhd into Chong Phui Lan's PBB Account.
27. Also on 24.12.2003, a sum of RM879,000 was transferred from Chong Phui Lan's PBB Account into the personal account of his sister; Grace Vun maintained at Arab-Malaysian Bank Berhad.
28. Further and also on 24.12.2003, 6 cheques amounting to an aggregate of RM879,000 were issued out of his sister's said personal account and deposited into the bank account of another of FRB's subsidiary, that is, FTEC System Sdn Bhd maintained at OCBC Bank, Kota Kinabalu Branch.
29. Now produced and shown to me are the following documents :-

<u>Exhibit No.</u>	<u>Description of Documents</u>
"P-15"	Bank Statements of FRB dated 31.12.2003
"P-16"	FRB's Telegraphic Transfers Application Form to transfer RM300,000 of the 2 nd Amount to FTEC System Sdn Bhd

<u>Exhibit No.</u>	<u>Description of Documents</u>
"P-17"	FRB's Telegraphic Transfers Application Form to transfer RM750,000 of the 2 nd Amount to FTEC Distribution (M) Sdn Bhd
"P-18"	Bank Statements of FTEC System Sdn Bhd dated 31.12.2003
"P-19"	Bank Statements of FTEC Distribution (M) Sdn Bhd dated 24.12.2003
"P-20"	PBB Cheque No. 080658 dated 24.12.2003 issued by FTEC System Sdn Bhd for RM279,000 of the 2 nd Amount
"P-21"	PBB Cheque No. 080377 dated 24.12.2003 issued by FTEC Distribution (M) Sdn Bhd for RM600,000 of the 2 nd Amount
"P-22"	Banking in slip showing the deposit of RM279,000 of the 2 nd Amount into Chong Phui Lan's PBB Account
"P-23"	Banking in slip showing the deposit of RM600,000 of the 2 nd Amount into Chong Phui Lan's PBB Account
"P-24"	Bank Statements of Chong Phui Lan dated 20.1.2004
"P-25"	Withdrawal slip showing the withdrawal of RM879,010 of the 2 nd Amount from Chong Phui Lan's PBB Account
"P-26"	Demand Deposit Account Statement History of Grace Yun

<u>Exhibit No.</u>	<u>Description of Documents</u>
"P-27"	(1) AMBB Cheque No. 069878 dated 24.12.2003 issued by Grace Vun for RM150,000 (2) AMBB Cheque No. 069879 dated 24.12.2003 issued by Grace Vun for RM150,000 (3) AMBB Cheque No. 069880 dated 24.12.2003 issued by Grace Vun for RM150,000 (4) AMBB Cheque No. 069881 dated 24.12.2003 issued by Grace Vun for RM150,000 (5) AMBB Cheque No. 069882 dated 24.12.2003 issued by Grace Vun for RM159,000 (6) AMBB Cheque No. 069883 dated 24.12.2003 issued by Grace Vun for RM120,000
"P-28"	Bank Statements of FTEC System Sdn Bhd (OCBC Kota Kinabalu Account) dated 31.12.2003
"P-29"	Bank Statements of FTEC System Sdn Bhd (OCBC Petaling Jaya Account) dated 31.12.2003

BOARD MEETING & APPROVAL OF SUBJECT REPORT

30. A Board Meeting of FRB was held on 19.5.2004 to consider, inter alia, the recommendations of the Audit Committee, of which Kenneth Vun was a member, for purposes of approving the release of FRB Group's unaudited quarterly financial statements for the first quarter ending on 31.3.2004 to the Bursa.

31. The Subject Report was presented and tabled before the Board at the said Board Meeting and it was resolved that the said Subject Report with the recommendations of the Audit Committee be adopted and approved for release to the Bursa.
32. Following this, Kenneth Vun had on or about 21.5.2004 authorised the release of, inter alia, the Subject Report to the Bursa.
33. Now produced and shown to me are the following documents :-

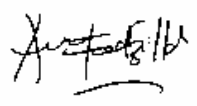
<u>Exhibit No.</u>	<u>Description of Documents</u>
"P-30"	Minutes of the 3 rd Board Meeting of FRB held on 19.5.2004
"P-31"	Announcement to the Bursa dated 21.5.2004 together with the Subject Report

CONCLUSION

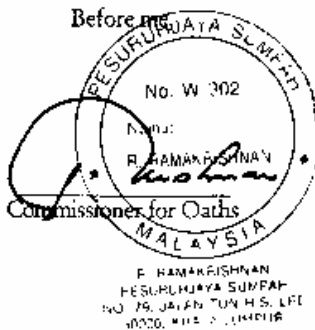
34. It is clear from the above that Kenneth Vun utilised the Subject Sum being part of the proceeds of the Public Issue for his own benefit and personal use.
35. It is also clear that he knowingly authorised the furnishing of misleading statement pertaining to the Utilisation of Proceeds in the Subject Report in contravention of Section 122B(b)(bb) of the Securities Industry Act, 1983.
36. Further and/or alternatively, by his act and conduct, he had breached the conditions of the Conditional Approval given by the Commission in contravention of Section 32(6) of the Securities Commission Act, 1993.

37. He ought be made to account for and/or to restitute the Subject Sum to FRB for proper utilisation as envisaged in the Conditional Approval as part of its Utilisation of Proceeds of the Public Issue.
38. Until he does so, or in the alternative, he ought to be restrained from directly or indirectly managing funds of FRB and/or any of the companies in the FRB Group of companies in the absence of proper controls being put in place by the said companies.
39. Further, he ought to be made to account for and/or return any sum of interest/profit made from the Subject Sum to FRB.
40. I therefore pray for the orders contained in the Originating Summons herewith together with any consequential orders which this Honourable Court deems appropriate and just.

AFFIRMED by the said)
ARIS FADZILLAH ZULKIFLI)
at Kuala Lumpur)
on this 26th day of September, 2007)
at 9.00 a.m/p.m.)



Before me



Commissioner for Oaths
MALAYSIA
E. RAMAKRISHNAN
PESURUHJAYA SUMPAH
NO. 79, JALAN TUN H.S. LEE
10200, KUALA LUMPUR

This Plaintiff 1st Affidavit is filed by Messrs. Logan Sabapathy & Co., solicitors for the abovenamed Plaintiff and having an address for service at Suite 2002, Tingkat 20, Wisma Hamzah Kwong Hing, No. 1 Leboh Ampang, 50100 Kuala Lumpur.
Tel : 03 - 2031 9780
Fax : 03 - 2031 9781
[Ref : 2.5803.2/07.25]