

The Edge Malaysia – Monday, November 11, 2019(A) - Part 1

SMTrack boardroom fight moves to court

BY KANG SIEW LI

Two groups of shareholders of SMTrack Bhd, which provides track and trace solutions using radio frequency identification (RFID), are set to face off in court after weeks of negotiations failed to result in a deal.

The legal tussle dates back to September when two shareholders — Chung Kah Haur and Queck Han Tiong — with a combined 16.48 million shares or 10.1% stake, demanded an extraordinary general meeting (EGM) to propose three new directors.

The duo filed a requisition notice with the company on Sept 25 to convene an EGM to remove three existing directors, executive chairman Azmi Osman, executive director Datuk Tan Choon Hwa and senior independent non-executive director Chow Hung Keey, from the group's six-member board.

Chung and Queck want to appoint three others — comprising Chung himself, Kamal Abd Rahman and Lai Mee Hong — in their place.

SMTrack had two executive and four non-executive directors as at Nov 7 last year. Its independent non-executive director, Ng Swee Tuo, resigned on Nov 15 last year while more recently, on Nov 5, Chow resigned to pursue other opportunities and personal interests. Last Friday, the company announced the appointment

of Datuk Rosly Abas, formerly deputy director I of Malaysia's Special Branch, and Mahnorizal Mahat as independent non-executive directors.

The EGM did not proceed as the board had announced on Oct 9 that it deemed the requisition notice to be invalid after due verification on the shareholding of the requisitioners, namely Chung and Queck. The company claims that the duo's aggregate shareholding did not reach the prescribed minimum percentage of 10% on or after the serving of the notice. It then launched a lawsuit against Chung and Queck the following day.

In the weeks since, the two parties have been in negotiations but have failed to reach an out-of-court settlement, according to a source familiar with the matter.

"The talks involved both parties relinquishing their stakes or having joint control of the company. There was also a draft letter (from Chung and Queck) to withdraw their requisition notice for an EGM in exchange for the lawsuit to be dropped," the source tells *The Edge*.

SMTrack did not reply to requests for comment by press time.

The matter was due for case management at the Kuala Lumpur High Court last Friday but it is understood that it had to be postponed as efforts to serve Chung and Queck with the originating summons have been unsuccessful.

Noting that the lawsuit is going to be a long and protracted affair, the source says as far as the requisitioners are concerned, "they remain convinced that they haven't done anything wrong, so they are happy to go to court".

Minority Shareholders Watch Group (MSWG) CEO Devanesan Evanson says tussles between boards and shareholders can be seen from both the positive and negative perspectives.

"The good perspective is that it is evidence of shareholder activism where shareholders exercise their legal right to have the directors of their choice on the board, as in this case. Such shareholder activism should be encouraged and supported in a mature capital market, provided that such activism is in the best interest of the company," he tells *The Edge*.

"The bad perspective is that, almost always, the board and management are distracted as a result of the tussle and the ensuing legal actions. (In this case, the company has filed an originating summons against shareholders Chung and Queck.)

"With such distractions, the company's performance suffers. As it stands, its share price is trading at 12 sen," says Devanesan.

"The financials are even more depressing. Based on the 4QFY2019 results, there are losses for the quarter and the company is in a loss position for the financial year ended July 31, 2019 (FY2019). The company can ill afford to be embroiled in tussles

and litigation. It should focus on turning itself around.

"It is the board's fiduciary duty to turn the company around in the best interest of the company. And it is only good corporate governance for the board to try and enhance shareholder value," he adds.

Devanesan points out that the company's dire financial situation and the distraction caused by any tussle (legal or otherwise) are factors that shareholders should take into consideration.

"If minority shareholders believe that the small group of shareholders (the activists who are trying to nominate their representatives to the board) have the good intention of bringing about long-term shareholder value enhancement, then they should support the activists' activities.

"MSWG fully supports all forms of shareholder activism that are carried out according to the prevailing rules and laws as long as there is no evidence of mala fide intentions on the part of the activists," he says.

SMTrack has been loss-making since its listing on the ACE Market of Bursa Malaysia in 2011 when it was known as Smartag Solutions Bhd. It changed its name to SMTrack in May 2014.

Shares of SMTrack have slumped below their initial public offering price of 31 sen, closing at 12 sen last Friday, giving the company a market value of RM20.32 million.

CONTINUES ON PAGE 73

The Edge Malaysia – Monday, November 11, 2019(A) - Part 2

Plans to venture into LCC business

FROM PAGE 24

In FY2019, SMTrack narrowed its net loss to RM1.82 million, from RM3.87 million in the previous year, which the group attributed to lower impairment of other receivables.

Revenue rose 12% to RM1.7 million from RM1.5 million in FY2018.

The company's total current assets stood at RM14 million as at July 31 this year while total current liabilities were RM2.61 million.

The group's trade and other receivables amounted to RM13.65 million as at July 31. The trade and other receivables are significant to the group since they represent 98% of total assets.

In SMTrack's 2018 annual report, it highlighted that the group's major concentration of credit risk relates to the amounts owed by three customers, who constituted 88% of its trade receivables as at FY2018.

Tan is the single largest individual shareholder of SMTrack, with a 12.49% stake as at Nov 7 last year. This is followed by Sarawak tycoon Datuk Amar Abdul Hamed Sepawi, with 5.83% equity interest.

SMTrack recently acquired a 60% stake in Citilink Aviation (M) Sdn Bhd as part of its plans to venture into the low-cost airline business. Besides maintaining the RFID business, the group said it would continue to seek new business opportunities and projects in other sectors, including civil engineering, construction and food chain, in order to diversify its revenue base. ■