

In the Matter of The Companies Law (1998 Revision)

And in the Matter of the Reduction of the Share Capital of Tung Fong Hung (Holdings) Limited



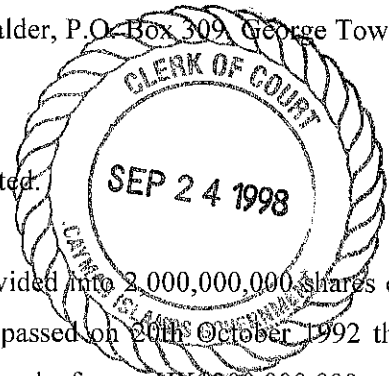
PETITION

To: The Grand Court

The humble Petition of Tung Fong Hung (Holdings) Limited shows that:-

1. Your Petitioner the above-named company (hereinafter called "the Company") was incorporated on 14th August 1992 under the then Companies Law as a company limited by shares.
2. The registered office of the Company is situate at Maples & Calder, P.O. Box 309, George Town, Grand Cayman, Cayman Islands, British West Indies.
3. The objects for which the Company was formed were unrestricted.
4. The original capital of the Company was HK\$200,000,000 divided into 2,000,000,000 shares of HK\$0.10 each. By an Ordinary Resolution of the Company passed on 20th October 1992 the authorised share capital of the Company was increased from HK\$200,000,000 to HK\$600,000,000 by the creation of an additional 4,000,000,000 shares of HK\$0.10 each. By a further Ordinary Resolution of the Company passed on 18th November 1997 the authorised share capital of the Company was increased to its present amount of HK\$2,000,000,000 by the creation of an additional 14,000,000,000 shares of HK\$0.10 each.
5. There has been no change in the authorised share capital of the Company since the date of the said Ordinary Resolution of 18th November 1997. The amount of the issued paid up share capital at the date hereof is HK\$467,568,019. There is no issued share capital that is not fully paid up.
6. Article 59 of the Articles of Association of the Company provides as follows:

“(a) The Company may from time to time by Ordinary Resolution:-



- (i) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares, on any consolidation of fully paid shares into shares of larger amount, the Board may settle any difficulty which may arise as it thinks expedient and in particular (but without prejudice to the generality of the foregoing) may as between the holders of shares to be consolidated determine which particular shares are to be consolidated into each consolidated share, and if it shall happen that any person shall become entitled to fractions of a consolidated share or shares, such fractions may be sold by some person appointed by the Board for that purpose and the person so appointed may transfer the shares so sold to the purchaser thereof and the validity of such transfer shall not be questioned, and so that the net proceeds of such sale (after deduction of the expenses of such sale) may either be distributed among the persons who would otherwise be entitled to a fraction or fractions of a consolidated share or shares rateably in accordance with their rights and interests or may be paid to the Company for the Company's benefit;
 - (ii) cancel any shares which at the date of the passing of the Resolution have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled; and
 - (iii) subdivide its shares or any of them into shares of smaller amount than is fixed by the Memorandum of Association, subject nevertheless to the provisions of the Law, and so that the Resolution whereby any share is subdivided may determine that, as between the holders of the shares resulting from such subdivision one or more of the shares may have any such preferred or other special rights, over, or may have such deferred rights or be subject to any such restrictions as compared with the others as the Company has power to attach to unissued or new shares.
- (b) The Company may by Special Resolution reduce its share capital or any other capital redemption reserve in any manner authorised and subject to any conditions prescribed by the Law.”

7. By a Special Resolution of the Company duly passed in accordance with s.60 of the Companies Law (1998 Revision) at an Extraordinary General Meeting thereof held on 23rd September 1998, (the “Extraordinary General Meeting”) it was resolved (“Special Resolution numbered 1”):

“THAT, subject to the confirmation and approval of the matters set out in paragraph (A) below by the Grand Court of the Cayman Islands (the “Court Approval”) and conditional upon Ordinary Resolution numbered 2 set out in the Notice of Extraordinary General Meeting of the Company dated 31st August 1998 of which this resolution forms part (the “Notice”) being duly passed and the Listing Committee of the Stock Exchange of Hong Kong Limited granting or agreeing to grant listing of and permission to deal in the shares of HK\$0.10 each in the Company arising from the reduction and cancellation of capital and share subdivision referred to below and the consolidation (as defined in the Ordinary Resolution numbered 2 set out in the Notice):

- (A) the issued share capital of the Company be reduced from an amount between HK\$ 467,568,019 and HK\$478,417,219 by an amount not greater than HK\$468,848,875 but not less than HK\$458,216,659 (depending on the number of shares of HK\$0.10 each of the Company in issue as at the date of the Court Approval) to an amount between HK\$9,351,360 and HK\$9,568,344 by cancelling paid up capital to the extent of HK\$0.098 on each of the shares of HK\$0.10 each in issue on the date of the Court Approval and reducing the nominal amount of each such share to HK\$0.002 (the “Capital Reduction”);
- (B) the unissued capital of the Company be and is hereby and is subdivided into shares of HK\$0.002 each;
- (C) the entire amount standing to the credit of the share premium account of the Company as at 31st October 1998 be cancelled and such amount be transferred to a distributable reserve account of the Company and the directors be and are hereby authorised to apply appropriate sums from such distributable reserve account towards elimination of the accumulated deficit of the Company as at 31st March 1998 and as adjusted by the results of Tung Fong Hung from 1st April 1998 up to the determination date; and,
- (D) the Company shall apply the credit arising as a result of the Capital Reduction pursuant to paragraph (A) of the resolution to a distributable reserve account of the Company and the directors be and are hereby authorised to apply appropriate sums from such distributable reserve account towards elimination of the accumulated deficit of the Company as at 31st March 1998 and as adjusted by the results of Tung Fong Hung from 1st April 1998 up to the determination date,

it being acknowledged that this resolution shall only take effect upon registration by the Registrar of Companies of the Cayman Islands of the Order of the Grand Court of the Cayman Islands and the Minute of Reduction pursuant to s.16 of the Companies Law of the Cayman Islands (the "Effective Date")."

8. By an Ordinary Resolution of the Company duly passed at the Extraordinary General Meeting it was resolved ("Ordinary Resolution numbered 2"):-

"THAT, conditional upon Special Resolution number 1 set out in the Notice of Extraordinary General Meeting of the Company dated 31st August 1998, of which this resolution forms part (the "Notice"), becoming unconditional and effective:

- (A) with effect from the Effective Date (as defined in the Special Resolution number 1 set out in the Notice), the Company's issued and unissued shares of HK\$0.002 each resulting immediately upon the said Special Resolution becoming unconditional and effective (the "Post Capital Reduction Shares") be consolidated on the basis of every fifty issued Post Capital Reduction Shares being consolidated into one share of HK\$0.10 ("Consolidated Share") and every fifty unissued Post Capital Reduction Shares being consolidated into one consolidated share (the "Share Consolidation");
- (B) all of the Consolidated Shares resulting from the Share Consolidation shall rank pari passu in all respects and have the rights and privileges and be subject to the restrictions contained in the Company's Articles of Association;
- (C) any fractional entitlements to issued Consolidated Shares shall be aggregated and sold for the benefit of the Company by an agent appointed by the Company's Board of Directors for that purpose in accordance with the terms and conditions set out in the circular dated 31st August 1998 despatched to the shareholders of the Company, a copy of which marked "A" has been initialled by the Chairman of this meeting for the purpose of identification; and
- (D) the directors of the Company be and they are hereby authorised generally to do all things appropriate to effect and implement any of the foregoing."

9. By a further Ordinary Resolution of the Company duly passed at the said Extraordinary General Meeting it was resolved (“Ordinary Resolution numbered 3”):-

“THAT,

- (A) subject to the following provisions of this resolution, the exercise by the directors of the Company during the Relevant Period (as defined below) of all the powers of the Company to allot, issue and deal with additional shares in the capital of the Company, and to make or grant offers, agreements or options which would or might require the exercise of such powers, subject to and in accordance with all applicable laws, be and is hereby generally and unconditionally approved in substitution for and to the exclusion of any existing authority previously granted;
- (B) the approval in paragraph (A) of this resolution shall authorise the directors of the Company during the Relevant Period to make or grant offers, agreements or options which would or might require the exercise of such powers after the end of the Relevant Period;
- (C) the aggregate nominal amount of share capital allotted or agreed conditionally or unconditionally to be allotted (whether pursuant to an option or otherwise) by the directors of the Company pursuant to the approval in paragraph (A) of this resolution, otherwise than pursuant to (i) the exercise of options(s) granted under any share option scheme adopted by the Company or an issue of shares in the Company in lieu of the whole or part of a dividend on shares of the Company in accordance with the Company’s Articles of Association; or (ii) any offer of any class of securities of the Company made pro rata (apart from fractional entitlements) by the Company to holders of such class of securities (excluding for that purpose any holder who is resident in a place where such offer is not permitted under the laws of that place), shall not exceed 20% of the aggregate nominal amount of the share capital of the Company in issue either (a) as at the date of the passing of this resolution or, (b) if the Capital Reduction and the Share Consolidation; (as defined in the Special Resolution numbered 1 and the Ordinary Resolution numbered 2 respectively set out in the Notice of Extraordinary General Meeting of the Company dated 31st August 1998 of which this resolution forms part) become unconditional and effective, as at the date of the passing of this resolution as reduced by the Capital Reduction and the Share Consolidation: and,

(D) for the purpose of this resolution;

“Relevant Period” means the period from the passing of this resolution until whichever is the earlier of:

- (i) the conclusion of the next annual general meeting of the Company;
- (ii) the expiration of the period within which the next annual general meeting of the Company is required by Cayman Islands law or the Articles of Association of the Company to be held; or,
- (iii) the revocation or variation of the authority given under this resolution by an Ordinary Resolution of the shareholders of the Company in general meeting.”

10. By a further Ordinary Resolution of the Company duly passed at the said Extraordinary General Meeting it was resolved (“Ordinary Resolution numbered 4”):-

“THAT,

- (A) subject to paragraph (C) below, the exercise by the directors of the Company during the Relevant Period (as defined below) of all the powers of the Company to repurchase shares of HK\$0.10 each in the capital of the Company (“Shares”) on The Stock Exchange of Hong Kong Limited (the “Stock Exchange”) or any other exchange on which the securities of the Company may be listed and recognised by the Securities and Futures Commission and the Stock Exchange for this purpose (“Recognised Stock Exchange”), subject to and in accordance with all applicable laws and the requirements of the Rules Governing the Listing of Securities on the Stock Exchange as amended from time to time or those of any other Recognised Stock Exchange, be and is hereby generally and unconditionally approved in substitution for, and to the exclusion of any existing authority previously granted;
- (B) the aggregate nominal amount of Shares to be repurchased pursuant to the approval in paragraph (A) above shall not exceed 10% of the aggregate nominal amount of the Share Capital of the Company issue either (a) as at the date of the passing of this resolution or,

(b) if the Capital Reduction and the Share Consolidation (as defined in the Special Resolution numbered 1 and the Ordinary Resolution numbered 2 respectively set out in the Notice of Extraordinary General Meeting of the Company dated 31st August 1998 of which this resolution forms part) become unconditional and effective, as at the date of the passing of this resolution as reduced by the Capital Reduction and the Share Consolidation, as the case may be, and the said approval shall be limited accordingly; and,

(C) for the purposes of this resolution:

“Relevant Period” means the period from the passing of this resolution until whichever is the earlier of:

- (i) the conclusion of the next annual general meeting of the Company;
- (ii) the expiration of the period within which the next annual general meeting of the Company is required by Cayman Islands law or the Articles of Association of the company to be held; and,
- (iii) the revocation or variation of the authority given under this resolution by an Ordinary Resolution of the shareholders of the Company in general meeting.”

11. By a further Ordinary Resolution of the Company duly passed at the said Extraordinary General Meeting it was resolved (“Ordinary Resolution numbered 5”):-

“THAT, subject to the passing of Ordinary Resolutions numbered 3 and 4 as set out in the Notice of Extraordinary General Meeting dated 31st August 1998, of which this resolution forms part, the general mandate granted to the directors of the Company and for the time being in force to exercise the powers of the Company to allot shares be and is hereby extended by the addition to the aggregate nominal amount of share capital which may be allotted or agreed conditionally or unconditionally to be allotted by the directors of the Company pursuant to such general mandate of an amount representing the aggregate nominal amount of shares in the capital of the Company repurchased by the Company since the granting of the said general mandate pursuant to the exercise by the directors of the Company of the powers of the Company to repurchase such shares.”

12. The proposed reduction of capital does not involve an alteration or variation to the rights attached to any class of shares.
13. The proposed reduction of capital does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital.
14. Prior to the passing of Special Resolution numbered 1 for the reduction of capital set out in paragraph 7 hereof, capital to the extent of approximately HK\$523,868,000 had been lost or was unrepresented by available assets. The Company suffered losses of approximately HK\$750,946,000 during the eight months ended 31st March 1998, resulting in an accumulated deficit of approximately HK\$523,868,000. The par value of the Company's shares is currently higher than their market price. Therefore the purpose of the proposed reduction is both to create a distributable reserve account which may be written off against the accumulated losses of the Company, and to enable further issues of shares to be made without obtaining the sanction of the Court on each occasion to issue shares at a discount.
15. The form of Minute proposed to be registered is as follows:

“The issued and fully paid up capital of Tung Fong Hung (Holdings) Limited was by virtue of a Special Resolution and with the sanction of an Order of the Grand Court dated the 29th day of October 1998 reduced from **[amount of issued share capital at the date of the hearing]** divided into **[insert number]** shares of HK\$0.10 each to **[insert amount]** divided into **[insert number]** of shares of HK\$0.002 each, and the authorised but unissued share capital of the Company was subdivided from shares of HK\$0.10 each into shares of HK\$0.002 each. At the date of the registration of this Minute **[insert number]** of the said shares of HK\$0.10 each have been issued and are deemed to be fully paid up. A Special Resolution of the Company has been passed to take effect upon the said reduction of capital taking effect, consolidating the said issued and unissued shares of HK\$0.002 each on the basis of fifty issued Post Capital Reduction Shares being consolidated into 1 share of HK\$0.10 and every fifty unissued Post Capital Reduction Shares being consolidated into 1 share of HK\$0.10. The capital of the Company is accordingly, on the registration of this Minute, **[total amount of share capital, to include issued and unissued shares at the date of confirmation]** divided into **[number also to be inserted]** ordinary shares of HK\$0.10 each, of which **[insert number of issued shares at date of**

confirmation] have been issued and are deemed to be fully paid up and the remaining **[insert number of authorised but unissued shares]** are unissued.”

16. Your Petitioner the Company therefore humbly prays as follows:

- (1) That the reduction of the capital of the Company proposed to be effected by the Special Resolution set forth in paragraph 7 of this Petition may be confirmed and that the above-mentioned Minute may be approved by the Court.
- (2) That to this end all necessary inquiries and directions may be made and given.
- (3) Or that such other Order may be made in the premises as to the Court shall seem meet.
- (4) And your Petitioner will every pray, etc.

DATED the 24th day of September 1998.

FILED the 24th day of September 1998.

W. S. Walker & Company
W. S. WALKER & COMPANY
Attorneys-at-Law for the Applicant

NOTE: It is not intended to serve this Petition on any person.

FILED by W. S. Walker & Company, P.O. Box 265, Caledonian House, George Town, Grand Cayman for Attorneys-at-Law for the Applicant herein whose address for service is that of their said Attorneys-at-Law.