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China Jewelry Maker Fuqi Settles Cash Trans Suit With SEC

By Tom Schoenberg - Jul 1, 2013 1:19 PM MT

Fuqi International Inc. (FUQI) settled a lawsuit by the U.S. Securities and Exchange Commission over \$134 million in cash transfers made by the company's chairman, Yu Kwai Chong.

Fuqi International, in a filing today in federal court in Washington, agreed to pay \$1 million to resolve allegations that the company and Chong violated U.S. securities laws by making about 50 cash transfers in 2009 and 2010 to three unidentified entities. Fuqi, based in Shenzhen, China, neither admitted or denied the SEC allegations.

“For a significant portion of the funds transferred in an out of the company, Chong and Fuqi have been unable to provide reliable third-party verification for the information found in Fuqi's internal records or representations made by Chong,” Ansu Banerjee, an SEC lawyer, said in the complaint.

Chong agreed to pay \$150,000 without admitting or denying accusations that he made the cash transfers without approval from the board or the required documentation.

Fuqi International's common stock was traded on the Nasdaq Stock Market until it was delisted on March 29, 2011.

Fuqi International's lawyer, Deborah Meshulam of DLA Piper in Washington, and Thomas Wardell, a lawyer for Chong at McKenna, Long & Aldridge LLP in Atlanta, didn't immediately respond to phone messages seeking comment on the settlement.

John Nester, an SEC spokesman, didn't immediately respond to an e-mail message seeking comment on the case.

The case is U.S. Securities and Exchange Commission v. Fuqi International Inc., 13-cv-00995, U.S. District Court, District of Columbia (Washington).

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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 69895 / July 1, 2013

ADMINISTRATIVE PROCEEDING
File No. 3-15367

In the Matter of

Fuqi International, Inc.,

Respondent.

**ORDER INSTITUTING
PROCEEDINGS, MAKING FINDINGS
AND REVOKING REGISTRATION
OF SECURITIES PURSUANT TO
SECTION 12(j) OF THE SECURITIES
EXCHANGE ACT OF 1934**

I.

The Securities and Exchange Commission (“Commission”) deems it necessary and appropriate for the protection of investors that proceedings be, and hereby are, instituted pursuant to Section 12(j) of the Securities Exchange Act of 1934 (“Exchange Act”), against Fuqi International, Inc. (“Fuqi” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Fuqi has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Fuqi consents to the entry of this Order Instituting Proceedings, Making Findings, and Revoking Registration of Securities Pursuant to Section 12(j) of the Securities Exchange Act of 1934 (“Order”), and to the findings as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds that:

1. Fuqi (CIK No. 0001382696) is a Delaware corporation headquartered in Shenzhen, People’s Republic of China (“China”). Fuqi’s common stock is registered with the SEC pursuant to Section 12(g) of the Exchange Act and was traded on the NASDAQ Global Market, until it was delisted on March 29, 2011. As of June 13, 2013, Fuqi stock was quoted at

\$1.43 per share on OTC Link (formerly "Pink Sheets") operated by OTC Markets Group Inc. ("OTC Link"), had 17 market makers, and was eligible for the "piggyback" exception of Exchange Act Rule 15c2-11(f)(3).

2. Fuqi has failed to comply with Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 thereunder because it has not filed any periodic reports with the Commission since the period ended September 30, 2009.

IV.

Section 12(j) of the Exchange Act provides as follows:

The Commission is authorized, by order, as it deems necessary or appropriate for the protection of investors to deny, to suspend the effective date of, to suspend for a period not exceeding twelve months, or to revoke the registration of a security, if the Commission finds, on the record after notice and opportunity for hearing, that the issuer of such security has failed to comply with any provision of this title or the rules and regulations thereunder. No member of a national securities exchange, broker, or dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any security the registration of which has been and is suspended or revoked pursuant to the preceding sentence.

In view of the foregoing, the Commission deems it necessary and appropriate for the protection of investors to impose the sanction specified in Respondent's Offer.

Accordingly, it is hereby ORDERED, that pursuant to Section 12(j) of the Exchange Act, the registration of each class of Respondent's securities registered pursuant to Exchange Act Section 12 be, and hereby is, revoked.

By the Commission.

Elizabeth M. Murphy
Secretary