

# Airocean case: Three former directors convicted

**They are found guilty of violating securities laws; sentencing on Jan 20**

By **GRACE LEONG**

[SINGAPORE] A misleading statement issued to the Singapore Exchange (SGX) in 2005 came home to haunt three former Airocean directors yesterday. They were found guilty of violating securities laws by making a statement that sought to downplay a probe involving the company's former chief executive.

Former chief operating officer Johnson Chong and two ex-independent directors – Ong Seow Yong and Peter Madhavan – were all convicted yesterday on charges of violating the Securities and Futures Act. Their misleading statement on Nov 25, 2005 was seen as an effort to allay investors' fears and shore up Airocean's stock price.

The freight forwarding company had announced that a September 2005 probe by the Corrupt Practices Investigation Bureau (CPIB) was related to practices "in some other companies in the air cargo industry". It omitted to mention the arrest of then-CEO Thomas Tay and the fact that the investigation extended to other Airocean units.

Madhavan and Chong were found guilty of another charge of non-disclosure of material information that Tay had been investigated for offering bribes, released on bail and had his passport impounded.

Chong was also convicted on three other charges



FILE PHOTOS

**In breach:** (From left) Chong, Ong and Madhavan. Their misleading statement to the Singapore Exchange on Nov 25, 2005 was seen as an effort to allay investors' fears and shore up Airocean's stock price

of insider trading for selling more than two million Airocean shares between Sept 26 and 28, 2005 through his mother's bank account.

Each charge carries a maximum penalty of up to seven years and a \$250,000 fine. The three men will be sentenced on Jan 20.

"The facts of this case clearly showed that the accused persons Johnson, Peter and Seow Yong could not be said 'to have honestly believed' in the truth of the announcement . . . , especially when they were well aware of the information that the CPIB were investigating into the affairs of Airocean, its officers and its subsidiaries," Judge Liew Thiam Leng wrote in a 178-page grounds of decision issued yesterday.

"It took them almost three months to reveal the true picture in the announcement," Judge Liew wrote. "Airocean and its officers were reckless in releasing the announcement when they knew that it did not contain the correct information."

In fact, Tay was picked up on Sept 6, 2005, detained and questioned by CPIB for 36 hours on two transactions involving Airocean subsidiaries with Jetstar Asia Airways and Lufthansa Technik Logistik. A few staff members were also interviewed by CPIB and one other key executive was detained. This information was made known to the directors of Airocean at the time.

But the company statement not only omitted information about the CPIB

probe and Tay's arrest, it even went "as far as to suggest that (Tay) was not an accused", Judge Liew said.

In doing so, the defendants were trying to keep the company's bankers from withdrawing their loans, as some were already spooked by earlier reports of Tay's gambling habits, according to Judge Liew's grounds of decision.

Ironically, when the company's November 2005 announcement was released, its share price fell.

According to testimony from the prosecutors' expert witness Chan Heng Toong, that was because the market "did not believe what the company said".

"In other words, the market believed the Straits Times report rather than the company's denial of what was stated in that

report. This reinforced the effect the news of the CPIB investigations would have and did have an impact on Airocean's share price," Judge Liew wrote.

On the insider trading charges, the evidence "clearly showed that as a connected person, (Chong) was aware and knew or ought to have known that the 'relevant information' which was available to him was price sensitive and not available generally", the ruling said.

In finding Chong guilty on the charges of insider trading, Judge Liew wrote: "When the trades were conducted, the public did not know about the above information, (Chong) agreed that he had thus an informational advantage over other members of the public at the time when he sold the shares."