

# MMP RESOURCES: HEADING TOWARDS A DEAD END?

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## Case overview

On 11 June, 2008, Sino Construction Limited, announced its successful Initial Public Offering (IPO) and listing on the Singapore Exchange (SGX), after incorporating in Singapore in 2006. It later changed its name to MMP Resources Limited (MMP). Unfortunately, following its IPO, MMP was plagued by a plethora of issues such as high board turnover and postponement of its Annual General Meetings (AGMs). MMP also suffered disappointing financial results. There were frequent changes in its business, through investment in unrelated businesses. In early 2014, it announced its third consecutive year of loss. An application to transfer from the Mainboard to Catalist Board was then rejected by SGX. MMP was then placed on the SGX watch-list, which meant that it risk being delisted if it was not able to exit the watch-list within three years. The objective of the case is to allow for discussion of issues such as board structure and competencies; succession planning and board turnover; conflict of interest; and role of the regulator in ensuring disclosure and transparency.

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This is the abridged version of a case prepared by Lim Kai Jie Bryan, Lim Yi Jieh Edna, Loke Jia Jie Caleb, Lester Phua Yuan Xuan and Ong Jia Qi under the supervision of Professor Mak Yuen Teen. The case was developed from published sources solely for class discussion and is not intended to serve as illustrations of effective or ineffective management or governance. The interpretations and perspectives in this case are not necessarily those of the organisations named in the case, or any of their directors or employees. This abridged version was edited by Carissa Tan Wei Cui under the supervision of Professor Mak Yuen Teen.

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## MMP's beginnings

MMP started out as a construction firm in Daqing, China in 1998, engaged primarily in the construction, civil engineering, project consultancy and management services businesses.<sup>1</sup> MMP was awarded the Heilongjiang Province Outstanding Municipal Engineering Construction Enterprise in 2007 and had completed projects with contracts valued at RMB500 million in China.<sup>2</sup>

## Board of directors

The board of directors of MMP comprised of six directors, three of whom were independent directors (ID). The Non-Executive Chairman, Drew Ethan Madacsi, hailed from a multi-generational mining family and has experience in the resources market.<sup>3</sup> Before Madacsi's appointment as Non-Executive Chairman, he was its sole executive director (ED). Prior to his directorship at MMP, Madacsi had no experience as a director of a listed company.<sup>4</sup> Paul Andrew Crosio, who was previously a director of a listed Australian mining company with expertise in the industry and in corporate restructuring<sup>5</sup>, replaced Madacsi as ED on 12 May, 2016.<sup>6</sup> Another non-executive director (NED), Christopher Peck, has experience in the areas of portfolio and asset management, risk management and compliance, though he lacked prior experience as a director of a listed company.<sup>7</sup>

Chong Chee Meng Gerard, the lead ID, and two other IDs, Chan Ying Wei and Toshinori Tanabe, made up the rest of MMP's board. Chong has experience in the areas of public relations and online marketing communications<sup>8</sup>, while Chan has experience in auditing, accounting and taxation, and was previously the Chief Financial Officer of OCK Group Bhd.<sup>9</sup> The latest addition to the board, Toshinori Tanabe, was appointed on 22 September, 2016.<sup>10</sup> Tanabe has been the President of Satoyama Research Institute since April 2016 and has had prior experience working on a credit risk database and did not have prior experience serving on boards of other listed companies.<sup>11</sup>

MMP has three board committees. The Audit Committee, led by Chairman Chan, includes Chong and Tanabe. Both the Nominating Committee and Remuneration Committee were led by Chairman Chong, with Chan and Tanabe making up the other members of these committees.<sup>12</sup>

## Board upheavals

MMP experienced significant changes in board and senior management between 2013 and 2015. On 16 December, 2013, all three IDs on the previous board, namely Yap Wai Ming, Bob Low and Qin Zhong Sheng, resigned simultaneously. SGX queried whether there were specific concerns or information that have come to the attention of the three IDs who had resigned. MMP said there were none.<sup>13</sup>

On the same day, William Joseph Condon was appointed as a new ED, joining the incumbent ED, Zhou Xing Zhong, on the board.<sup>14</sup> Condon was said to be a champion of philanthropic causes and specialised in advertising and marketing but lacked prior experience as a director of a listed company. Three days later, on 19 December 2013, three new IDs – Chan Ying Wei, Rajesh Dilip Wadhvani and Chong Chee Meng Gerard – were appointed to the board.<sup>15</sup>

Zhou Xing Zong resigned on 31 March, 2014 despite being appointed just a year earlier, but continued as the general manager of Daqing Naifei Le Consulting Co. Ltd, which oversees the Group's operations in China<sup>16</sup> while its former financial controller resigned “to pursue other career opportunities”.<sup>17</sup> Condon resigned from MMP's board on 17 November, 2014, less than a year after he took on the role of ED.<sup>18</sup>

In June 2014, Andy Chee Tet Choy was appointed Non-Executive Chairman of the board, after joining the board as a non-executive director on 2 May, 2014<sup>19</sup>, while Kenneth Lim was appointed as an ED.<sup>20</sup> Both individuals resigned from the board on 18 February, 2015, citing personal commitments<sup>21</sup>, after the appointment of Madacsi as an Interim ED on 9 February, 2015.<sup>22</sup> On the same day, MMP announced that it would arrange for Madacsi to attend courses on directorship at the Singapore Institute of Directors (SID).<sup>23</sup> ID Wadhvani resigned from the board on 2 September, 2016, “due to other work commitments”.<sup>24</sup>

## Financial troubles escalate

From 2014, MMP's financial outlook took a turn for the worse. After three successive years of losses, it faced the prospect of being placed on the SGX Watch-list, after which it has three years to exit or risk being delisted.<sup>25</sup> Companies on the SGX Mainboard are placed on the SGX Watch-list based on Financial Entry Criteria or Minimum Trading Price (MTP) Entry Criteria. The SGX Watch-list does not apply to companies listed on Catalist Board.

## The SGX-MMP stare down

On 27 February, 2015, MMP requested for a time extension for the release of its unaudited FY2014 financial results. The reason provided was that Madacsi required more time to develop a better understanding of MMP as he was only appointed as the company's ED two weeks prior.<sup>26</sup>

MMP had also received numerous queries from SGX on a diverse range of issues, including disclosures in its financial statements, unusual trading activities, a lack of disclosure by the Group, and its acquisitions and disposals.<sup>27</sup> These queries also questioned the Group's poor compliance with disclosure requirements, including failure to provide assurance on the company's financial statements<sup>28</sup> and failure to announce an impairment loss due to share dilution in a subsidiary.<sup>29</sup>

In addition, SGX also queried the unusual price and volume movements of the company's shares.<sup>30</sup> SGX questioned whether MMP was aware of the possible causes of the unusual movements and whether they had withheld any material information. MMP said it had not withheld any material information and assured SGX of its compliance with listing rules.<sup>31</sup> However, it suggested that the unusual movements could be explained by market reaction to announcements relating to potential acquisitions<sup>32</sup> or the reorganisation and restructuring of its business.<sup>33</sup>

## Market scrutiny

The deluge of problems in the company attracted the attention of Professor Mak Yuen Teen, a corporate governance advocate. On 18 March, 2015, The Business Times published a commentary by Professor Mak, highlighting the main issues the company faced from a corporate governance standpoint. In his commentary, Professor Mak catalogued a litany of issues with the company, including questionable disclosures, repeated SGX queries, clarifications, disclaimers of opinion from auditors, auditor changes, discrepancies between audited and unaudited results, delays in announcing results and holding AGMs, and high turnover of directors and key officers.<sup>34</sup>

### ***Misstatements and clarifications***

In his commentary, Professor Mak highlighted multiple instances where MMP issued clarifications in response to media statements or SGX queries. On 19 November, 2014, in response to SGX queries about certain information published in a Business Times article which was not previously disclosed or announced, MMP issued a clarification that certain statements were wrongly attributed to its Non-Executive Chairman.<sup>35</sup> On 5 February, 2015, the company yet again clarified in response to a similar SGX query questioning the disclosure of information, that “the quote in the article stating that ‘the company plans to work with the South Korean government on a long-term fixed price contract for power produced out of its biofuel power plant’ was incorrectly attributed to the Company’s Non-Executive Chairman, Mr Andy Chee. Mr Chee did not make this statement.” The repeat incident made Professor Mak question the information source, which “the company was distancing itself from”.<sup>36</sup>

### ***Board experience and turnover***

Professor Mak also highlighted that the company had one ED – Madacsi – on its board who had no previous experience as a director of a listed company, while the other existing IDs did not seem to have any experience in the industry.<sup>37</sup>

In addition, Professor Mak commented on the high board and senior management turnover experienced by the company. He highlighted that the company seemed to have neither appropriate handover procedures nor proper systems in place. Professor Mak further elaborated that “well-governed companies do not scramble to get their financial statements in order when there is senior management turnover”.<sup>38</sup>

## **Conflict of interest**

While Andy Chee Tet Choy was the Non-Executive Chairman of MMP until his resignation in February 2015, he was also a director and shareholder of Quintestellar Re Capital Inc (QRC), which held 20.24% of MMP’s shares.<sup>39</sup> On 17 April, 2015, QRC reduced its interest in MMP to 4.68%.<sup>40</sup>

News later surfaced that MMP had received a letter of demand from QRC for the repayment of loans amounting to S\$4.7 million.<sup>41</sup> It soon evolved into a writ of summons and statement of claim.<sup>42</sup> Fortunately, the company was able to have the application thrown out in court and QRC was ordered to pay its legal costs.<sup>43</sup>

This ordeal came to an end in August 2016 when a notice of discontinuance was subsequently filed by QRC.<sup>44</sup>

## **Strategic realignment**

MMP's business focus has shifted over the years, from construction to mining, and in more recent years, towards renewable energy and even ski resorts. For instance, in 2014, it acquired Elite Bay Sdn Bhd (Elite Bay)<sup>45</sup>, to enter into the Malaysian construction market; Sunny Cove Investment Limited (Sunny Cove), to ease its entrance into the oil and gas industry<sup>46</sup>; and Renaissance Enterprises S.A. (Renaissance Enterprises), to enter the titanium and heavy mineral resources industry.<sup>47</sup>

In early 2015, the company embarked on a restructuring strategic plan to focus on micro power plants, with the aim of becoming a significant player in the global energy market.<sup>48</sup> In April 2015, MMP announced that its subsidiary had completed the construction of its first micro power plant, "Korea MPP One" in South Korea. This was reportedly part of the company's multi-year programme to roll out a number of micro power plants. ED Madacsi claimed that this programme was "important to the company's cash flow, allowing it the opportunity to divest its underperforming assets".<sup>49</sup>

On 11 August, 2015, the company announced a change in name from "Sino Construction Limited" to "MMP Resources Limited". The change of name was in line with the company's strategic realignment, to focus on construction and exploring opportunities in the energy and resources industry.<sup>50</sup>

## **Moving to the Catalist Board**

On 2 November, 2015, MMP applied for a transfer from the SGX Mainboard to the Catalist Board. MMP said that its application was made after taking into account its current state of market capitalisation, company size and its belief that a Catalist sponsor would provide better support for future actions.<sup>51</sup> In early December 2015, a letter to The Business Times by Professor Mak warned that Catalist may become a graveyard for dying companies, thereby harming its reputation, if SGX Mainboard companies that are at risk of being placed on the Watch-list could easily transfer to the Catalist Board. He specifically mentioned the case of MMP.<sup>52</sup>

MMP's application was rejected by the SGX on 2 January, 2016.<sup>53</sup> SGX stated that MMP's application was rejected as its ability to operate as a going concern was questionable, which hinged on its ability to raise funds and the outcome of its legal proceedings against QRC that might result in a claim of up to S\$4.7 million.<sup>54</sup> Furthermore, although MMP announced a net profit of S\$4.71 million for FY2016 in March 2017, the 'net profit' arose mainly from the reversal of two contingent liabilities amounting to S\$5.22 million.<sup>55</sup>

## Further changes in business

In December 2015, MMP released further restructuring initiatives for FY2016, which indicated a shift to renewable fuels, fuel technology, renewable energy generation, commercial and retail construction, and building materials.<sup>56</sup>

In April 2016, MMP stated that the current tariff rates and high capital investment required to continue pursuing renewable power generation opportunities in South Korea would place excessive financial strain on MMP.<sup>57</sup> Following this statement, there were no updates from MMP regarding how this obstacle would be handled or what its future plans for the programme were.

Instead, on 13 April, 2016, the company announced its intentions to acquire a Japanese ski tour operator and a ski lodge in Hokkaido, Japan.<sup>58</sup> This was part of the company's strategic direction to focus on construction opportunities, asset acquisitions and brand growth in Tier-1 markets, particularly in the tourism, hospitality and leisure (THL) industry.<sup>59</sup> On 4 July, 2016, MMP signed a memorandum of understanding to acquire the entire issued share capital of JRT Trading Pty Ltd (JRT Trading), a Hokkaido ski operator and ski lodge owner, for 80 million yen.<sup>60,61</sup>

Further, on 13 September, 2016, MMP announced the formation of a wholly-owned subsidiary incorporated in Japan, MMP Resources Japan K.K. (MMP Japan).<sup>62</sup> The principal activity of the subsidiary was to carry out MMP's corporate strategy of focusing on construction opportunities<sup>63</sup>, asset acquisition and the THL industry.<sup>64</sup> On 14 September, 2016, it was reported that MMP decided to rent some of JRT Trading's premises instead of acquiring the Japanese company's entire issued share capital. The lease agreement allowed for the redevelopment of buildings to "house high value global brand tenants which operate within the lifestyle and aspirational retail space".<sup>65</sup>

On 7 November, 2016, MMP announced that its subsidiary, MMP Japan, entered into a binding term sheet with vendor Iryo Houjin Showakai to purchase a three storey property for redevelopment. The property was located in an area near a number of ski resorts and the Chisenupuri ski fields. MMP elaborated in its announcement that the rationale behind this agreement was to further its corporate strategy of focusing on the THL industry, and assured shareholders that subsequent to redevelopment, the newly acquired property would contribute “immediately” to cash flow and was expected to offer a substantial return on investment.<sup>66</sup> Later in the same month, MMP announced that MMP Japan entered into another agreement with JRT Trading on the operations and management of the Chisenupuri ski field area.<sup>67</sup>

## **Disclaimer of opinion**

Disclaimers of opinion on the Group’s consolidated financial statements were issued by the company’s two external auditors, Ernst & Young LLP (EY) for FY2012, and Moore Stephens LLP (Moore Stephens) for FY2013 to FY2016.

For EY, the disclaimer stemmed from a lack of sufficient evidence for it to perform audit procedures, due to an ongoing tax investigation of the Group’s key operating subsidiaries in China during FY2012.<sup>68</sup> This issue stretched to subsequent financial years, and posed a problem for the new auditors Moore Stephens as well.<sup>69</sup> More acquisitions and disposals of assets and subsidiaries, coupled with a lack of sufficient audit evidence and the uncertainty for the Group and company to continue as a going concern, led the auditors to issue disclaimers for the subsequent financial years.<sup>70,71</sup>

On 4 April, 2017, Moore Stephens issued yet another disclaimer of opinion in respect of the financial statements for FY2016. They were again unable to satisfy themselves as to the ability of the Group and company to operate as a going concern, given insufficient audit evidence on the Group’s impairment charges and receivables, as well as other unresolved issues from previous financial years.<sup>72</sup>



## Darkness or light at the end of the tunnel?

Following the litigation with QRC, a writ of summons amounting to S\$5.22 million was served to MMP from a former major shareholder, Edward Lee Ewe Ming, on 7 October, 2016.<sup>73</sup> Fortunately for MMP, it won an appeal on the S\$5.2 million claim filed by Lee on 16 May, 2017.<sup>74</sup>

However, other recent developments for MMP have not been positive, such as its placement on SGX's Watch-list on 5 June, 2017 for failing to meet the revised MTP Entry requirement announced in December 2016.<sup>75</sup>

## Discussion questions

1. Evaluate the board structure and competencies in relation to MMP's business.
2. What reasons may explain the frequent board turnover in MMP? What impact might this have on the performance of the company?
3. One reason cited for the extension of time to release the unaudited results for FY2014 was that Drew Ethan Madacsi needed to familiarise with the financial statements as he was newly appointed to the company. Is this a valid reason? What concerns does this raise about the company?
4. Evaluate any conflicts of interest arising from Andy Chee Tet Choy's position as Non-Executive Chairman of MMP and his role in QRC. Comment on his actions after leaving MMP.
5. MMP started as a construction business in China, tried to get into the mining business in South Africa, then moved into micro powerplants in South Korea, and most recently bought a ski operator in Japan. How do you view such frequent changes in the business of MMP? What implications do they have from a corporate governance and risk management standpoint?
6. Do you think the regulators have been effective in discharging their responsibilities in the case of MMP? What more could they have done?
7. Comment on MMP's attempt to transfer from the Mainboard to the Catalist Board. What should be the regulator's stance towards such transfers? How can the regulator better filter companies from the Mainboard entering the Catalist Board?

## Endnotes

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