

IN THE JUDICIAL COMMITTEE
OF THE PRIVY COUNCIL

No. 25 of 1976

O N A P P E A L
FROM THE FEDERAL COURT OF MALAYSIA (Appellate Jurisdiction)

IN THE MATTER OF THE KONG THAI SAWMILL (MIRI) SDN. BHD.

and

IN THE MATTER OF THE COMPANIES ACT 1965

B E T W E E N:

KONG THAI SAWMILL (MIRI) SDN. BHD. (First Respondent)

LING BENG SIEW (Second Respondent)

LING BENG SIONG (Third Respondent)

APPELLANTS

and

LING BENG SUNG (Applicant)

RESPONDENT

And by Cross-Appeal

B E T W E E N:

LING BENG SUNG (Applicant) APPELLANT ON
CROSS-APPEAL

and

KONG THAI SAWMILL (MIRI) SDN. BHD. (First Respondent)

LING BENG SIEW (Second Respondent) and

LING BENG SIONG (Third Respondent)

RESPONDENTS ON
CROSS-APPEAL

R E C O R D O F P R O C E E D I N G S

V O L U M E I

Coward Chance,
Royex House,
Aldermanbury Square,
LONDON EC2V 7LD

Stephenson Harwood & Tatham,
Saddlers' Hall,
Gutter Lane, Cheapside,
LONDON EC2V 6BS.

Solicitors for the Appellants
and the Respondent on the Cross-
Appeal

Solicitors for the Respondent
and the Appellant on the Cross-
Appeal

O N A P P E A L

FROM THE FEDERAL COURT OF MALAYSIA (Appellate Jurisdiction)

IN THE MATTER OF KONG THAI SAWMILL (MIRI) SDN.BHD.

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B E T W E E N:

KONG THAI SAWMILL (MIRI) SDN.BHD.
(First Respondent)

LING BENG SIEW (Second Respondent)
and

LING BENG SIONG (Third Respondent)

APPELLANTS

and

LING BENG SUNG (Applicant) RESPONDENT

And By Cross-Appeal

B E T W E E N:

LING BENG SUNG (Applicant) APPELLANT
On Cross-Appeal

KONG THAI SAWMILL (MIRI) SDN.BHD.
(First Respondent)

LING BENG SIEW (Second Respondent) and

LING BENG SIONG (Third Respondent)

RESPONDENTS
ON CROSS-APPEAL

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IN THE JUDICIAL COMMITTEE
OF THE PRIVY COUNCIL

No. 25 of 1976

O N A P P E A L

FROM THE FEDERAL COURT OF MALAYSIA
(Appellate Jurisdiction)

IN THE MATTER OF THE KONG THAI SAWMILL
(MIRI) SDN. BHD.

and

IN THE MATTER OF THE COMPANIES ACT 1965

B E T W E E N:

KONG THAI SAWMILL (MIRI) SDN. BHD
LING BENG SIEW
LING BENG SIONG

(First Respondent)
(Second Respondent) and
(Third Respondent)
APPELLANTS

and

LING BENG SUNG

(Applicant)
RESPONDENT

And by Cross-Appeal

B E T W E E N:

LING BENG SUNG

(Applicant)
APPELLANT ON
CROSS-APPEAL

and

KONG THAI SAWMILL (MIRI) SDN. BHD
LING BENG SIEW
LING BENG SIONG

(First Respondent)
(Second Respondent) and
(Third Respondent)
RESPONDENTS ON
CROSS-APPEAL

R E C O R D O F P R O C E E D I N G S

In the High
Court in
Borneo

No. 1

ORIGINATING MOTION No. 1 OF 1971
dated 21st September 1971

No. 1

Originating
Motion No. 1
of 1971

M A L A Y S I A

IN THE HIGH COURT IN BORNEO

(SIBU REGISTRY)

21st September
1971

ORIGINATING MOTION NO. 1 OF 1971

In the matter of Kong Thai
Sawmill (Miri) Sdn. Bhd.

And

In the matter of the
Companies Act, 1965

10

BETWEEN

Ling Beng Sung

Applicant

And

Kong Thai Sawmill (Miri) Sdn. Bhd.

1st Respondent

Ling Beng Siew

2nd Respondent

Ling Beng Siong

3rd Respondent

ORIGINATING MOTION

TAKE NOTICE that the Court will be moved on Friday
the 1st day of October, 1971 at 2 o'clock in the afternoon
or so soon thereafter as Counsel can be heard by Counsel
on the part of the Applicant, Ling Beng Sung, for the
following orders:-

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1. That the Second Respondent be removed forthwith from office as Chairman, Managing Director and Director of Kong Thai Sawmill (Miri) Sdn. Bhd. (hereinafter called "Kong Thai");
2. That the Third Respondent be removed from office as Director of Kong Thai;
3. That a Receiver and Manager be appointed ad interim to conduct the business of Kong Thai;
4. That the said Receiver and Manager investigate the whole affairs of Kong Thai and such other companies as he may lawfully do and as he may deem necessary

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with particular relation to abuses by the Second Respondent of his position in Kong Thai and furnish a report thereon to the Court;

In the High
Court in
Borneo

5. That the Second Respondent provide all information and documents required by the said Receiver and Manager and, in particular, that he produce all accounts of all companies and ventures in which Kong Thai's funds have been invested and that he produce all accounts of Chalfont Investments Ltd. and Glendale Investments Ltd., Hong Kong;
- 10 6. That the Second and Third Respondents do transfer or surrender to Kong Thai their entire shareholding in Kong Thai at a valuation to be fixed by the Court and that until the said shareholding is transferred or surrendered neither of them do exercise any voting rights as shareholders;
7. That the Second Respondent do pay to Kong Thai the sum of \$18,246.10 being donations made by him or with his authority in the year 1965/66 together with interest thereon at the rate of 8% to the date of payment;
- 20 8. That the Second Respondent do pay to Kong Thai the sum of \$7,081/- together with interest thereon at the rate of 8% to the date of payment being the sum disallowed by Inland Revenue in respect of entertainment expenses in the year 1965/66 except to the extent that he is able to satisfy the Receiver and Manager that it was legitimate and proper expenditure for the purposes of Kong Thai and was expended in Kong Thai's name;
- 30 9. That the Second Respondent do pay to Kong Thai the sum of \$10,849/- together with interest thereon at the rate of 8% to the date of payment being entertainment expenses disallowed by Inland Revenue in the year 1966/67 except to the extent that he is able to satisfy the Receiver and Manager that this was legitimate and proper expenditure for the purposes of Kong Thai and was expended in Kong Thai's name;
- 40 10. That the Second Respondent do pay to Kong Thai interest at the rate of 8% for the appropriate period on the sum of \$16,562/- drawn by Ling Beng Siew Sdn. Bhd. in the year 1966/67;

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1971

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1971

11. That the Second Respondent do pay to Kong Thai interest at the rate of 8% for the appropriate period on all sums drawn by him from Kong Thai in the year 1966/67;
12. That the Second Respondent do pay to Kong Thai interest at the rate of 8% for the appropriate period on all sums drawn by Ling Beng Siew & Co. from Kong Thai in the year 1966/67;
13. That the Second Respondent do pay to Kong Thai the sum of \$44,962.40 together with interest thereon at the rate of 8% from the date of the original payment to the date of repayment being donations made by him or with his authority in the year 1966/67; 10
14. That the Second Respondent do pay to Kong Thai the price paid by Kong Thai for Chevrolet Impala K.7000 together with interest thereon at the rate of 8% from the date of the original payment to the date of repayment and that Kong Thai transfer the said vehicle to the Second Respondent; 20
15. That the Second Respondent do pay to Kong Thai the sum of \$37,883/- being the price of a Mercedes 300 No. S.3456 together with interest thereon at the rate of 8% from the date of the original payment to the date of repayment and that Kong Thai do transfer the said vehicle to him;
16. That the Second Respondent do pay to Kong Thai the sum of \$19,191/- being the cost of Chevrolet Impala SV.2144 together with interest thereon at the rate of 8% from the date of the original payment to the date of repayment and that Kong Thai transfer the said vehicle to him; 30
17. That the Second Respondent do pay to Kong Thai interest from the date of expenditure to the date of the Order at the rate of 8% on all sums expended by Kong Thai on Aurora Hotel Sdn. Bhd. including the original purchase price;
18. That the Second Respondent do pay to Kong Thai the sum of \$16,575.05 being deposit on the hovercraft, less any sum recovered, together with interest thereon at the rate of 8% to the date of payment; 40

19. That the Second Respondent do pay to Kong Thai all sums expended in the purchase, reconstruction and operating of the motor yacht, Berjaya Malaysia, together with interest thereon at the rate of 8% from the date of expenditure to the date of payment and that Kong Thai transfer the said motor yacht to the Second Respondent;
20. That the Second Respondent do pay to Kong Thai interest at the rate of 8% on all sums drawn by Ling Beng Siew Sdn. Bhd. from Kong Thai during the year 1967/68 for the appropriate period;
21. That the Second Respondent do pay to Kong Thai interest at the rate of 8% on all sums drawn from Kong Thai by Ling Beng Siew & Co. during the year 1967/68 for the appropriate period;
22. That the Second Respondent do pay to Kong Thai interest at the rate of 8% on the sum of \$30,000/- advanced by Kong Thai to Ling Lee Soon during the period of the advance;
23. That the Second Respondent do pay to Kong Thai the sum of \$5,500/- being "preliminary expenses" drawn by him from Kong Thai during the year 1967/68 together with interest thereon at 8% from the date of payment to him to the date of repayment;
24. That the Second Respondent do pay to Kong Thai the sum of \$138,614.80 being donations made by him or with his authority during the year 1967/68 together with interest thereon at 8% from the date of the donations to the date of payment;
25. That the Second Respondent do pay to Kong Thai the sum of \$20,291/- being the amount disallowed as entertainment by the Inland Revenue for the year 1967/68 except to the extent that he is able to satisfy the Receiver and Manager that it was legitimately and properly expended on Kong Thai's business and in Kong Thai's name together with interest thereon at 8% from the original date of expenditure by Kong Thai to the date of repayment;
26. That the Second Respondent do pay to Kong Thai the total sum disallowed by Inland Revenue in respect of "Staff Travelling and Transport" for the year 1967/68, except to the extent that he is able to satisfy the Receiver and Manager that it was legitimately and properly expended on Kong Thai's business and in Kong Thai's name, together with interest thereon at 8%

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1971

- from the original date of expenditure to the date of repayment;
27. That the Second Respondent do pay to Kong Thai the sum of \$12,698/- together with interest thereon at 8% from the date of the original expenditure to the date of repayment being the amount disallowed by Inland Revenue in respect of legal expenses for the year 1967/68;
 28. That the Second Respondent do pay to Kong Thai the sum of \$13,000/- being the sum advanced by him or with his authority from Kong Thai's funds to Enche Harun Ariffin together with interest thereon from the date of the advances to the date of payment at 8%; 10
 29. That the Third Respondent do pay to Kong Thai interest at 8% on all sums drawn by him from Kong Thai during the year 1968/69 for the period of the advances;
 30. That the Second Respondent do pay to Kong Thai interest at 8% on all sums drawn by Ling Beng Siew & Co. from Kong Thai's funds during the year 1968/69 for the period of the advances; 20
 31. That the Second Respondent do pay to Kong Thai interest at 8% on the advance of bonus of \$301,201.11 taken by him in respect of the year 1968/69, the interest to run from the date on which he took the said advance to the date on which the other directors were paid bonus;
 32. That the Third Respondent do pay to Kong Thai the price paid by Aurora Hotel for the Nissan 2000 car No. KA.9455 together with interest at 8% from the date of purchase of the car by the Aurora Hotel to the date of payment and that the said car be transferred to the Third Respondent; 30
 33. That the Second Respondent do pay to Kong Thai all sums advanced or invested or otherwise expended by Kong Thai on Malaysia Daily News together with interest at 8% from the date of expenditure to the date of payment and that Kong Thai do transfer its shares in the newspaper to the Second Respondent and assign its rights as creditor to him; 40
 34. That the Second Respondent do produce all accounts of all profits made by Pan Sarawak Sdn. Bhd. and all dividends bonuses and other payments received by him

from Pan Sarawak Sdn. Bhd. and that he do pay to Kong Thai that proportion of all his receipts which Kong Thai's payments to Pan Sarawak Sdn. Bhd. represent of the latter's total receipts;

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35. That the Second Respondent do pay to Kong Thai the sum of \$1,304,743.49 being the donations made by him or with his authority from Kong Thai's funds in the year 1968/69 together with interest at 8% from the date of the donations to the date of payment;
- 10 36. That the Second Respondent do pay to Kong Thai the sum disallowed by Inland Revenue in respect of entertainment expenses for the year 1968/69 and any sum not deducted for income tax purposes together with interest thereon at 8% from the original date of expenditure to the date of repayment except to the extent that he is able to satisfy the Receiver and Manager that they were legitimately and properly expended on Kong Thai's business and in Kong Thai's name;
- 20 37. That the Second Respondent do pay to Kong Thai the sums of \$649.98 being the telephone bill of Kong Sieng Ong, one-half of \$1,587.40 being his own telephone bill, \$549.07 being Berjaya Malaysia bill, \$4,920.50 being the Singapore bill, all of them being telephone bills paid by him or with his authority in the year 1968/69 together with interest thereon at 8% from the date of the original expenditure to the date of payment;
- 30 38. That the Third Respondent do pay to Kong Thai \$2,007.90 being his Kuching telephone bill in the year 1968/69 together with interest thereon at 8% from the date of original expenditure to the date of payment;
- 40 39. That the Second Respondent do pay to Kong Thai the sum disallowed by Inland Revenue in the year 1968/69 by way of travelling expenses together with interest thereon at 8% from the date of original expenditure to the date of payment except to the extent that he is able to satisfy the Receiver and Manager that it was legitimately and properly expended on Kong Thai's business and in Kong Thai's name;
- 40 40. That the Second Respondent do pay to Kong Thai interest on all sums invested by Kong Thai in other ventures or advanced to them as "sundry debtors" from the date of the investment or advance to the date of

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the Order at 8%;

41. That the Second Respondent do pay to Kong Thai the sum of \$32,209.50 together with interest thereon at 8% from the date of the original expenditure to date. The said payments representing bonus and salaries paid in the year 1968/69 to Kong Sieng Ong, Kong Kuek Miew, Penghulu Poh, Pengarah Chundi, Wong Yew Ming, Chew Kwan Loke and Chen Ko Ming;
42. That the Second Respondent do transfer to Kong Thai all shares held by him in Kong Thai Lumber Sdn. Bhd., Sabah Agency Sdn. Bhd. and any other companies in which Kong Thai has invested and in which the Second Respondent has not disclosed his interest and that Kong Thai do pay to the Second Respondent any sums paid by him personally by way of purchase price for the said shares; 10
43. That the Third Respondent do pay to Kong Thai the sum of \$2,263.85 being Kong Thai's money used by him to repair a car for himself together with interest thereon at 8% from the date of the original expenditure to the date of payments; 20
44. That the Second Respondent do pay to Kong Thai \$1,383.70 and \$250/- being sums advanced by him or with his authority to Chen Ko Ming and Yii Suk Moi together with interest thereon at 8% from the date of the original expenditure to the date of payment;
45. That the Second Respondent do pay to Kong Thai interest on the loan of \$10,000/- made by him or with his authority from the Kong Thai's funds to Pay Tien Ha for the appropriate period at 8%; 30
46. That the Third Respondent do pay to Kong Thai interest at 8% for the appropriate period on all sums drawn by him without authority during the year 1969/70;
47. That the Second Respondent do pay to Kong Thai interest at 8% for the appropriate period on all sums drawn by Ling Beng Siew & Co. during the year 1969/70 and all sums drawn by or on behalf of Chalfont Investment Ltd. Hong Kong during that year;
48. That the Third Respondent do pay to Kong Thai \$17,783/- being the cost of Mercedes KB.2651 together with interest at 8% on the said sum from the date of purchase of the said car by Aurora Hotel to the date of payment and that the said car be 40

transferred to him;

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49. That the Second Respondent do pay to Kong Thai ~~£~~3,840/- being the cost of the Amphicar S.4048 together with interest thereon at 8% from the date of the purchase of the said vehicle to the date of payment and that Kong Thai transfer the said vehicle to him;
- 10 50. That the Second Respondent produce full accounts to date of all companies in which Kong Thai has invested the money or to which Kong Thai has advanced money together with all accounts to date of Chalfont Investment Ltd. Hong Kong and Glendale Investment Ltd. Hong Kong and that the same be supplied to the Receiver and Manager as well as to the Applicant;
51. That the Second Respondent reimburse to Kong Thai all sums paid or to be paid by Kong Thai in respect of interest on the borrowing from Hock Thai Finance Bhd. and from the Bangkok Bank Ltd.;
- 20 52. That the Second Respondent do pay to Kong Thai ~~£~~507,562.83 being donations made by him or with his authority in the year 1969/70 together with interest at 8% from the date of the donations to the date of payment;
53. That the Third Respondent do pay to Kong Thai ~~£~~16,513.53 being sums spent by him on entertainment during the year 1968/69 and charged to Kong Thai together with interest at 8% from the date of payment by Kong Thai to the date of repayment by the Third Respondent;
- 30 54. That the Second Respondent do pay to Kong Thai ~~£~~31,449.54 being sums spent by him on entertainment during the year 1969/70 and charged to Kong Thai together with interest at 8% from the date of payment by Kong Thai to the date of repayment by him;
55. That the Second Respondent do pay ~~£~~3,167.25 to Kong Thai being the sum paid by him or with his authority from Kong Thai's funds to International Executive Corporation for the year 1969/70 and interest thereon at the rate of 8% from the date of the original payment to the date of repayment;
- 40 56. That the Second Respondent do pay to Kong Thai all sums by way of travelling expenses disallowed by Inland Revenue or not deducted for income tax purposes in respect of the year 1969/70 save to the extent that he

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No. 1

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21st September 1971

is able to satisfy the Receiver and Manager that they were legitimately and properly expended on Kong Thai's business and in Kong Thai's name together with interest thereon at 8% from the date of original expenditure to the date of payment;

57. That the Second Respondent do pay to Kong Thai \$42,000/- being salaries paid by him or with his authority in the year 1969/70 together with interest at 8% from the date of payment by Kong Thai to the date of repayment by him;

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58. That the Second Respondent do furnish to the Receiver and Manager with all correspondence and other documents relating to the advance of \$1,954,143.43 from the Bangkok Bank Ltd. Kuala Lumpur to Kong Thai;

59. That the Receiver and Manager do conduct a check of all stocks, stores physical assets of Kong Thai and furnish a report thereon to the Court;

60. That the Third Respondent do pay to Kong Thai \$10,632/- being the cost of Mercedes 250 KA.505 together with interest thereon at 8% from the date of purchase by Kong Thai to the date of payment and that Kong Thai transfer the said car to the Third Respondent;

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61. And that the Applicant may have liberty to apply;

Alternatively

That Kong Thai be wound up.

Dated this 1st day of September, 1971.

(L.S.) Sgd: Chang Foo Lieng

ASSISTANT REGISTRAR
High Court, Sibul

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Sgd: Jugah & Hoo
Applicant's Advocates

This Motion was taken out by Messrs. Jugah & Hoo, Kampong Nyabor Road, Sibul, Advocates for the Applicant abovenamed.

The Affidavits of Andrew Peattie and Ling Beng Sung affirmed on the 10th day and 16th day of August, 1971 respectively and both filed herein will be read in support of this Motion.

This Motion will be served on :-

- 1. Kong Thai Sawmill (Miri) Sdn. Bhd.,
No. 13 Island Road,
Sibu;
- 2. Ling Beng Siew,
Lanang Road,
Sibu;
- 3. Ling Beng Siong,
Queensway,
Sibu.

In the High
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No. 1

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No. 2

Notice of Motion
dated 24th September 1971

No. 2
Notice of Motion
dated 24th
September 1971

TAKE NOTICE that the Court will be moved before the Honourable Judge on Friday the 1st day of October 1971 at 2 o'clock in the afternoon or so soon thereafter as Counsel can be heard by Counsel on behalf of the Applicant abovenamed for an Order that the Originating Motion be advertised in the form annexed hereto in one issue of The Sarawak Tribune, one issue of The Straits Times circulating in Singapore, one issue of the Straits Times circulating in Kuala Lumpur and one issue of a Chinese language newspaper circulating generally in Sarawak and that the costs of this application be costs in the cause.

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Dated this 24th day of September, 1971.

(L.S.) Sgd: Chang Foo Lieng
ASSISTANT REGISTRAR,
High Court, Sibu.

Sgd: Tang & Co.
Applicant's Advocates

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This Notice of Motion was taken out by Messrs. Tang & Co., Advocates for the Applicant whose address for service is No. 5, Wong Nai Siong Road, Sibu.

In the High Court in Borneo

This Notice of Motion will be served on:-

No. 2 Notice of Motion dated 24th September 1971

- 1. Kong Thai Sawmill (Miri) Sdn. Bhd.,
No. 13 Island Road,
Sibu;
- 2. Ling Beng Siew,
Lanang Road,
Sibu;
- 3. Ling Beng Siong,
Queensway,
Sibu.

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NOTICE

Notice is hereby given that an Originating Motion for an Order under Section 181 of the Companies Act 1965 was on the day of 1971 filed in the High Court in Borneo (Sibu Registry) by Ling Beng Sung of 21 Wong Nai Siong Road, Sibu, And that the said Originating Motion is directed to be heard before the Court sitting at on the day of 1971 and any creditor or contributory of the said Company desirous to support or oppose the making of an Order on the said Originating Motion may appear at the time of hearing in person or by his Advocate and Solicitor for that purpose and a copy of the Originating Motion will be furnished by the undersigned to any creditor or contributory of the said Company requiring such copy on payment of the regulated charge for the same.

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TANG & CO.,
No. 5, Wong Nai Siong Road,
Sibu, Advocates for the Applicant.

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NOTE - Any person who intends to appear on the hearing of the said Originating Motion must serve on or send by post to the abovenamed, notice in writing of his intention so to do. The Notice must state the name and address of the person, or, if a firm, the name and address of the firm, and must be signed by the person or firm, or his or their Solicitor (if any) and must be served, or if posted, must be sent by post in sufficient time to reach the abovenamed not later than one o'clock in the afternoon of the day of 1971.

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No. 3

AFFIDAVIT OF LING BENG SIEW
DATED 30th SEPTEMBER 1971

In the High
Court in
Borneo

No. 3

Affidavit of
Ling Beng Siew
dated 30th
September 1971

I, Dato Ling Beng Siew of No. 13, Island Road, Sibul, Sarawak do hereby sincerely and solemnly make oath and say as follows:-

- 10 (1) I am the abovenamed Second Respondent and am the Chairman, Managing Director and Director of Kong Thai Sawmill (Miri) Sendirian Berhad the abovenamed first Respondent and I have authority to make this affidavit on behalf of the abovenamed first and second Respondents and on my own behalf.
- (2) The abovenamed Applicant is the younger brother of the 3rd Respondent and myself; in all we are six brothers and regrettably there exists a family dispute between the three youngest of whom the abovenamed Applicant is one and the two eldest that is the third Respondent and myself.
- 20 (3) As recently as Civil Application No.1 of 1970 was heard on the 18th day of November, 1970; which has direct connection with these very proceedings, the Applicant has taken steps to ensure that maximum publicity should be given so as to discredit me. The newspaper cuttings, namely the Vanguard (both in English and Chinese and its translation) and International Times (in Chinese together with its translation) are exhibited herewith and marked 'A', 'B', 'B1'* (translation of news item in "The Vanguard" Chinese Version), 'C' and 'C1'* (translation of the news item in "The International Times").
- 30 (4) I have learnt with astonishment that these very proceedings were published both in The Sarawak Tribune and The Vanguard on the 31st day of August, 1971 even before the Originating Motion No.1 of 1971 had been served

* 'A' = see page 1230, Vol.IV
 'B' = " " 1231, Vol.IV
 'B1' = " " 1232, Vol.IV
 'C' = " " 1233, Vol.IV
 'C1' = " " 1234, Vol.IV

In the High Court in Borneo

No. 3
Affidavit of
Ling Beng Siew
dated 30th
September 1971

on any of the above Respondents. The said Newspaper cuttings are exhibited herewith and marked 'D'* and 'E'* respectively.

(5) I am advised by my Counsel that there is no legal authority for the making of an Order in the terms of this application. I verily believe that this application is made maliciously with the intention of disparaging myself and my brother the 3rd Respondent. I further verily believe that it will cause harm to the first Respondent Company and that it will serve no useful purpose.

10

(6) I accordingly pray that this Honourable Court will reject this application with costs.

Sworn at SIBU
this 30th day of September,
1971 at 4.30 p.m.) Sgd:
Ling Beng Siew
Declarant

Before me,

Sgd: First Class Magistrate,
Sibu.

* 'D' = see page 1235, Vol.IV
'E' = " " 1236, Vol.IV

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This Affidavit is filed by Messrs. Yong & Wong, Advocates for the Respondents whose address for service is No. 2, Kampong Nyabor Road, (First Floor), Sibu, Sarawak.

No. 4

AFFIDAVIT OF ANDREW PEATTIE
DATED 24th NOVEMBER 1971

In the High
Court in
Borneo

No. 4

Affidavit of
Andrew Peattie
dated 24th
November 1971

I, Andrew Peattie of full age of No. 28 Kampong Nyabor Road, Sibul, solemnly affirm and say as follows:-

1. I am a Chartered Accountant and an approved company auditor under the Companies Act, 1965.

2. By Order of the High Court in Borneo holden at Sibul dated 18th November 1970 I was appointed to inspect the accounts of Kong Thai Sawmill (Miri) Sdn. Bhd. (hereinafter called "Kong Thai").

3. Pursuant to the said Order I paid a number of visits to the office of Kong Thai at Sibul where its books of accounts, accounts and records are kept and I there scrutinized the accounts and records for the year 1964/65 to the year 1969/70 inclusive. Kong Thai's year ends on 30th September.

YEAR ONE - 1964/65

4. The first General Meeting was held on 16th January 1965. The minutes show that only Dato Ling Beng Siew was present and that he was Managing Director. The minutes record that the following decisions were taken:

a) to issue shares as follows:-

Ling Beng Siew	715,000
Ling Beng Siong	50,000
Ling Beng Thuang	100,000
Hii Yu Chong	100,000
Lau Hui Kang	30,000
Tuanku Bujang	5,000

b) to authorise payment of preliminary expenses to Dato Ling Beng Siew of \$50,000/-

No detail is given anywhere in Kong Thai's records that I have been able to discover of how the sum of \$50,000/- is made up and I have not seen any vouchers receipts or explanations in the course of my investigation.

5. According to the accounts, \$9,700 was paid to the

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Managing Director on account of what is described as "Premium to Natives". The accounts refer to a sum of \$5,000/- and a sum of \$4,700/-. The \$4,700/- was disallowed for tax purposes by the Inland Revenue. There is no Board minute approving or authorising these payments.

6. A meeting of the Board of Directors was held on 20th January 1965. According to the minutes the meeting decided that -

- 1) the Managing Director, Dato Ling Beng Siew, should be paid a salary of \$1,500/- per month from 1st January, 1965; 10
- 2) the Managing Director should be paid 4% of the net profits;
- 3) 1% of the net profits should be divided amongst the other directors;
- 4) the Managing Director should be paid an allowance for the second half of 1964.

7. The Balance Sheet for the year ending 30th September 1965 shows Preliminary Expenses of \$50,000/- and, in addition, what are described as Pre-Production Expenses of \$139,943.56. Of this latter sum, \$20,500/- was paid to the Managing Director, being \$7,000/- for the allowance mentioned in Paragraph 6(4) above and \$13,500/- being \$1,500/- per month for 9 months. Other staff salaries and allowance came to \$27,473.38. In addition the Managing Director drew \$1,200/- for travelling expenses. 20

YEAR TWO - 1965/66

8. For the year ended 30th September 1966 the Managing Director obtained a bonus of \$22,656/-. The remaining 8 directors received \$708/- each. 30

9. The accounts for the year ended 30th September 1966 show that sums of money were owed to Kong Thai in respect of share purchases by them as follows:-

Edmond Jugah	\$10,000/-	for 100 shares
Linggi Jugah	10,000/-	" 100 "
Temonggong Oyong		
Lawai Jau	5,000/-	" 50 "
Jonathan Bangau	5,000/-	" 50 "

40

The accounts show these items under "Sundry Debtors".

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10. The accounts for the year ended 30th September 1966 show a further "preliminary expense" not mentioned in the Preliminary expenses of the previous year's accounts. This is a sum of \$5,000/- paid to the Managing Director for additional travelling expenses.

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10 11. The accounts show that \$1,150.45 was expended on a premium for a Personal Accident Policy for Dato Ling Beng Siew. I did not see the Policy and thus was unable to ascertain in whose favour the policy was and what the risk was. There is no minute of the Board in which the payment or policy was mentioned.

12. The accounts show that Dato Ling Beng Siew was paid a daily allowance of \$60/- per day in respect of a trip to Hong Kong and Taipei. This \$60/- is additional to all hotel and travelling expenses. The total he drew by way of this allowance was \$1,200/-

20 13. In addition to the sum of \$22,656/- mentioned above, Dato Ling Beng Siew got \$18,000/- by way of Managing Director's salary. He also took \$500/- by way of annual director's fees.

14. The Inland Revenue disallowed \$7,081/- being 1/3 of the amount claimed for entertainment expenses.

15. During the year Kong Thai made Donations of \$18,246.10. The minutes of Board meetings do not mention these or give authority to anyone to make donations.

YEAR THREE - 1966/67

30 16. The accounts reveal that this year, the Inland Revenue disallowed \$10,849/- of a claim for entertainment expenses. I was unable, despite requests, to obtain from Kong Thai any sight of its returns and correspondence with the Inland Revenue for this year or any other year.

17. This year Dato Ling Beng Siew was paid \$123,680/- by way of bonus. The remaining 9 directors got approximately \$6,200/- each. Dato Ling Beng Siew also drew \$600/- as director's fees.

18. The sum of \$50,000/- was advanced to P.T. Kalimantan Sari. Despite requests, I was not given the opportunity to see any accounts of this Company for this

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or any other year nor any information as to its capital structure or shareholders.

19. Edmond Jugah, Linggi Jugah, Temonggong Oyong and J. Bangau had still not paid for their shares. Edmond Jugah still owed \$10,000/-, Linggi Jugah's debt was reduced to \$9,500/- and T. Oyong and J. Gangau to \$4,500/- each. Edmond Jugah's debt was reduced to \$9,000/- by credit of the 10% dividend which Kong Thai declared but then went up to \$10,964.50 by reason of an advance of \$1,964.50. I was unable to discover any explanation or authority for this advance. Linggi Jugah received a dividend of \$1,000/-, half of which was paid to him and half credited against his debt. T. Oyong and J. Bangau had their dividends of \$500/- each credited against their debts. No interest was charged against these debts in this year or any other year.

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20. Ling Beng Siew Sdn. Bhd. appears in the list of Sundry Debtors as at 30th September 1967 owing \$16,562/- to Kong Thai. There is no explanation or authority for the advance and no interest appears to have been charged on it.

20

21. The annual accounts disclose no debt owing from Dato Ling Beng Siew. However the books show him drawing various monthly sums which on 31st August totalled \$228,058/-. This debt was cleared before the year ended 30/9/67. I have been unable to discover any explanation or authority for these advances during this year or any other year. No interest has been charged on them nor was it ever subsequently charged on this or any other advances to him. They are not mentioned in any minute.

30

22. The annual accounts disclose no debt owing from Ling Beng Siew & Company. However the books show this firm drawing monthly sums which in September totalled \$351,067.88. Again this debt was cleared before the year ended 30/9/67. I have been unable to discover any explanation or authority for these advances during this year or any subsequent year. No interest has been charged on them nor was it ever subsequently charged on this or any other advances to him. They are not mentioned in any minute.

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23. Tong Aik Timber & Co. and Union Timber & Co. appear as debtors for \$162,642.36 and \$138,692.74. Both these companies are logging contractors for Kong Thai. It appears that Kong Thai bought the necessary equipment for these companies, gave it to them and debited their

accounts. No authority for this appear in the minutes.

24. Dato Ling Beng Siew was paid a salary of \$18,000/- for the year and received \$600/- as director's fees.

25. Copies of the Directors' Report for the year and the Statutory Statement by the Directors are now shown to me and exhibited hereto marked "AP.1"(*) and "AP.2"(*).

26. Donations of \$44,962.40 were paid out as follows:-

	Sarawak Chinese Association	\$ 7,453.00
10	United Malays National Organization	10,000.00
	Alliance	1,000.00
	Pesaka	1,884.20
	Olympic Council	10,000.00
	Others	<u>14,625.20</u>
		<u>44,962.40</u>

Kong Thai's records contain no explanation or authority for these donations.

27. The Profit and Loss Appropriations Account shows a loss on the sale of fixed assets of \$36,132.58. This is abnormal and accounting practice requires an explanation.

28. The loans to Dato Ling Beng Siew, Ling Beng Siew Sdn. Bhd. and Ling Beng Siew & Co. are abnormal and must have affected the Kong Thai's results because of their size which deprived Kong Thai of Capital and also of the fact that no interest was charged.

29. Royalty and liquidated damages of \$64,000/- was paid.

30. The position regarding despatch moneys is peculiar and unexplained. Sarawak United Sawmills Ltd. apparently received the despatch moneys but there are considerable delays before Kong Thai receives payment. No despatch moneys were received between 30th September 1966 and 28th February 1967 and then, on that one day, despatch money in respect of 11 ships was received. Some of these shippings were as early as March 1966. The total sum was \$40,483.84. No more despatch money was received till

* "AP.1" = see page 1237, Vol.IV
 "AP.2" = " " 1239, Vol.IV

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28th April when despatch money for 12 ships totalling \$46,309.13 was paid. The only other payment that year was on 30th June in respect of one ship which had sailed in April 1966. This odd position is never mentioned in any of Kong Thai's reports or minutes.

YEAR FOUR - 1967/68

31. This year a Chevrolet Impala KA 7000 was purchased for Kuching. So far as the books and records show, Kong Thai has no business in Kuching.
32. A Mercedes 300 No. S 3456 was purchased for use in Sibu. 10
33. A Chevrolet Impala SV 2144 was purchased for use in Singapore. So far as the books and records show, Kong Thai has no business in Singapore.
34. Two pieces of land were purchased in Green Road, Kuching, For \$155,000/-. Kong Thai has no office or other premises in Kuching and it is nowhere explained what the reason for the purchase is. According to the records, the purchase was not mentioned at any Directors' meeting and the Board gave no authority for it during the current year. Apparently they were asked to and did approve the purchase on 14th February 1969. 20
35. At the same time as this purchase of land, the sum of \$791,374/- was invested in Hock Thai Finance Corporation Bhd. Again the investment was not mentioned at any Board meeting and no specific authority was given for the investment before it was made. It appears to have been mentioned at a Board meeting on 14th February 1969 and approval obtained. Kong Thai's records do not disclose what the purpose of the investment was or what Hock Thai Finance Bhd. used the money for. 30
36. The Aurora Hotel was purchased by Kong Thai at a total cost of \$2,014,861/-. This figure includes \$150,000/- for which is said to be "Goodwill". I was unable to discover what this was intended to represent.
37. There are some noteworthy points in the accounts prepared regarding the running of the hotel from 1st February to 30th September 1968 -
- (a) Bar Bar sales work out at about \$300/- per day which is lower than one would expect. The mark-up on the sales of liquor, according to the account, is only about 40% on the wholesale purchase price. Hotels normally have a mark-up of about 100%. The net profit of 10% is abnormally low. 40

- (b) Dining room Salaries come to over \$4,000/- per month which seems extraordinarily high considering the size of the dining room and the number and calibre of the people who appear to be employed there.
- (c) Catering Gross profit appears to be 35% on cost of food. Overheads are about 65% of the cost of food. The gross profit is therefore substantially less than the overheads.
- 10 (d) Hotel shop The accounts show that the shop is selling goods at 25% under cost.

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Kong Thai's minutes and accounts contain no comment on or mention of these matters. The balance sheet shows that Dato Ling Beng Siew had incurred unpaid bills amounting to \$8,557.05. Dato Ling Beng Siew and Dato Ling Beng Siong were given 30% discount on all bills but this fact was not mentioned to Kong Thai by either of these directors. All their monthly hotel bills, so far as I could discover, were debited to Kong Thai. The hotel
20 made a loss during the period of \$80,217.72. It continued to make losses during the whole period under review, up to 30/9/70: this was never discussed or mentioned, so far as Kong Thai's records show, at any Kong Thai's meetings.

38. \$16,575.05 was paid as a deposit on a hovercraft. It does not appear that the Board of Directors was consulted or authorised this. No hovercraft was ever delivered and the deposit was not recovered during the period under review.

30 39. \$48,000/- was paid for a second-hand twin screw motor yacht. This was apparently not mentioned at any Board meeting and no authority was specifically obtained. The yacht was apparently only a hull or was regarded as such since it was renovated subsequently at a cost of over \$500,000/-. Despite the fact that it appears to have been under re-construction and not in use, \$1,672/- was spent on an electric food freezer and \$4,863.37 on a radio. Construction, according to the books and
40 accounts, was not finished until 1969. The total expended on the yacht in this year amounted to \$59,284.02.

40. During the year Ling Beng Siew Sdn. Bhd. obtained sums from Kong Thai totalling \$984,627.01 on which no interest was paid by it. On 29th December, Ling Beng Siew

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Sdn. Bhd. obtained from Kong Thai a cheque in its favour for \$461,500/-. On March 31st there is a credit entry of \$461,500/- in the account with the company of Ling Beng Siew Sdn. Bhd. and the explanation in the ledger is "Adjustment Wrong Posting". It would appear from an examination of this account that the first entry is simply an error. An examination of the account with the company of Ling Beng Siew & Co. shows that the \$461,500/- was debited to it as of 30th March. The effect is to have changed retrospectively the payment of 29th December from Ling Beng Siew Sdn. Bhd. to Ling Beng Siew & Co. Kong Thai's records contain no explanation of these transactions.

10

41. Total drawings of Ling Beng Siew & Co. on Kong Thai during the year amounted to \$1,262,975.47 on which no interest was charged. On 26th September the total outstanding was \$686,475.47. This was paid off by a cheque for \$386,475.47 and what is described as an "Advance of Bonus" of \$300,000/-. No other director obtained an Advance of Bonus and there is no minute authorizing this advance to Dato Ling Beng Siew. On 6th October, six days after the close of the previous year, Ling Beng Siew & Co. drew \$150,000/- from Kong Thai. On 29th December, Ling Beng Siew & Co. drew \$240,000/- and on 4th January the \$240,000/- was repaid.

20

42. Kong Thai incurred bills of \$225,780.68 to Cheng Man Boat Builder Singapore in respect of the renovation of the yacht which was subsequently named Berjaya Malaysia.

43. Advances to various companies for the purpose of investment were made as follows:-

Borneo Mining Sdn. Bhd.	\$5,017.00	30
Singapore Moulding Factory	4,514.70	
P.T. Kalimantan Sari	207,394.95	
Sabah Agency Sdn. Bhd.	134,722.75	

44. An advance of \$312,128.80 was made to Aurora Hotel. No interest was charged.

45. An advance to Yew Piu Ing was made of \$3,000/-. Kong Thai's records contain no explanation of this and the Board gave no authority. No interest was charged.

46. An advance of \$30,000/- was made to Ling Lee Soon. There is no explanation in the records of why this was made and no authority was given by the Board. No interest was charged. The debt was transferred to Ling

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Beng Siew & Co. in the following year.

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47. The debts of Edmond Jugah and Linggi Jugah remained unchanged. They were paid their dividends in full. On the other hand T. Oyong's debt was reduced to \$3,525/- and J. Bangau's was reduced to \$3,265/- by applying a part of their dividends. They were paid the remaining part.

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10 48. \$100,000/- was advanced to Ling Beng Hui. This was not authorized till 9th March 1970 when it was charged with interest and Ling Beng Hui was debited with interest retrospectively from the original date of the advance.

49. A further sum of \$5,500/- was apparently claimed and paid to Dato Ling Beng Siew in respect of Preliminary Expenses. This was said to be for additional travelling expenses incurred 3 or 4 years earlier. No details were ever given of the original Preliminary Expenses of \$50,000/- claimed by Dato Ling Beng Siew and it is not therefore possible to say if this sum of \$5,500/- was included in it.

20 50. Dato Ling Beng Siew was paid a bonus of \$368,784/-. This is in addition to his remuneration of \$18,000/- and \$600/- fee as a director. The other directors got a bonus of just over \$10,000/- each plus the director's fee of \$600/-.

51. Fines and penalties for contraventions of the Forest Ordinance amounted to \$78,753.34. This was subsequently disallowed as a deduction by the Inland Revenue. One would have expected this or part of it to be charged to the contractors.

30 52. Donations totalling \$138,614.80 were made. None were mentioned to or authorized by the Board. Of this sum, \$36,200/- was paid to Sarawak Chinese Association Binatang, \$30,000/- to the Olympic Council and \$30,000/- to Lions Club, Sibü. Teku Road Committee was paid \$5,000/-. So far as I could discover, Kong Thai has no connexion with Binatang. Some of the receipts for these sums acknowledge receipt from Dato Ling Beng Siew personally and not from Kong Thai.

40 53. The sum of \$63,809.68 appears in Kong Thai's books for Entertaining. Included in this is a bill for a party given by Dato Ling Beng Siew to Enche Semu. The records give no indication of what connexion Enche Semu has with the Kong Thai's business. \$20,291/- was disallowed by Inland Revenue.

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54. The sum of \$146,943.29 appears in Kong Thai's books for 'Staff Travelling and Transport'. Included in this total are the following items -

- (a) \$6,256.55 travelling expenses for Kong Sieng Ong;
- (b) Trips to Hong Kong, Taipei and Tokyo by Dato Ling Beng Siew and Dato Ling Beng Siong totalling approximately \$100,000/-;
- (c) Charter of MAC plane for trip to Indonesia, \$8,554.89;
- (d) Trip by Hii Yu Chong to Indonesia; \$6,288.22;
- (e) Dato Ling Beng Siew and family's bill in Hotel Singapura of \$1,865.75;
- (f) Dato Ling Beng Siew and family's bill in Goodwood Park Hotel of \$1,610.72;
- (g) A Hong Kong bill of \$8,066.64 includes the cost of new shirts and a new suitcase.

10

During the year, there seem to be about 12 trips to Kuala Lumpur, 27 trips to Singapore and 6 to Hong Kong. Kong Thai has no office and no business in these places so far as I could discover. One of the Kuala Lumpur items is a "Drinks & Chinese Party" in the Hotel Merlin: \$1,706.51. Another item is \$8,344.42 for a trip to Hong Kong and Taipei by Dato Ling Beng Siong. I was unable to ascertain how much of the total of \$146,943.29 was disallowed by Inland Revenue since I was not afforded any sight of Kong Thai's income tax papers.

20

55. Legal expenses incurred during the year amounted to \$12,998/-. \$12,698/- was disallowed by the Inland Revenue. I was unable to ascertain full details of what the legal work was but \$3,556/- was paid to Messrs. Rodyk & Davidson for "Sungei Reek Development". Kong Thai's records give no indication of what this might be.

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56. There are now shown to me and exhibited hereto marked "AP.3, AP.4, and AP.5",* copies of the Statutory Statement

- * "AP.3" = see page 1240, Vol.IV
- "AP.4" = " " 1241, Vol.IV
- "AP.5" = " " 1243, Vol.IV

by the Directors and the Directors' Report and the Auditor's Report. I am unable to reconcile these with the matters set out above.

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10 57. The Minutes of Meeting of the Directors dated 27th December 1967 approve the purchase of a land and shophouse at Sarikei for \$60,000/-. The records do not reveal what the purpose of this was and do not reveal that Kong Thai had any business at Sarikei. The same minutes delegate power to Dato Ling Beng Siew to make such investments as he thinks fit and proper on behalf of the Board of Directors. These particular minutes do not seem ever to have been approved. In these as in all other minutes, there are signatures of directors at the top of the page, then the minutes appear and at the bottom appears the signature of Dato Ling Beng Siew. The records of Kong Thai, so far as I could discover, do not disclose that any notice was given or agenda circulated.

YEAR FIVE - 1968/69

20 58. An advance of \$195,400.50 was made for the payment of Malaysia Air Charter Ltd. shares. No dividend ever seems to have been paid on this investment (or on any other investment made by Kong Thai except Hock Hua Bank Bhd. and Borneo Bhd.)

59. Sundry debtors include -

	P.T. Kalimantan Sari	\$758,038.49
	Sabah Agency Sdn. Bhd.	495,809.84
	Commercial Bank Brunei	161,462.38
	Singapore Moulding (Pte) Ltd.	250,000.00
	Kong Thai Lumber Sdn. Bhd.	344,368.03
30	Borneo Mining Sdn. Bhd.	5,161.10
	Borneo Ltd. Singapore	114,738.30
	Development Bank Brunei	18,478.50
	P.T. Indomark	15,000.00
	Kong Thai Glass (Pte) Ltd.	433.55
	United Singapore Lumber	600,600.00
	Kong Thai Plywood (Pte) Ltd.	146,649.25

I presume that these are investments. I asked for copies of the accounts of these various companies but was told that they were not available. I have never seen them.

40. 60. Amongst the debts carried forward from the preceding

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year are Yew Pui Ing's \$3,000/-, Ling Lee Soon's \$30,000/- and Chen Ko Ming's \$1,383.70. No interest was charged on these and there is nothing in the records that I could discover to show whether any attempt was made to collect them.

61. T. Oyong's debt remained unchanged at \$3,525/-: he drew the whole of his dividend. Linggi Jugah's dividend was also paid in full and no retention was made to reduce the outstanding which remained the same. Kong Thai paid to him on 30th December the sum of \$25,000/-. This was repaid 10 on 13th January. The reason for this transaction is not disclosed in Kong Thai's records and it is not mentioned in the Board minutes. Edmond Jugah's dividend was also paid in full. There was a further advance to him and his debt went up to \$11,406/-. The receipts for the dividends payable to Linggi and Edmond Jugah were not signed by them but by Temonggong Jugah. No interest was charged on these three debts and it appears that no attempt was made to collect them.

62. Ling Beng Hui's debt remained at \$100,000/-. No 20 interest was as yet charged on this sum.

63. The sum of \$10,000/- was advanced to Enche Harun Ariffin on 31st March 1969. There was no authority for it at the time it was made. No interest was charged on it. The loan was retrospectively approved in a minute of 9th March 1970 when it was said that it was a loan, repayable in 18 months and that interest was to be charged at 6½% per annum. No interest was in fact ever charged and the loan has never, so far as I can discover, been repaid nor has any attempt been made to collect it. I was unable to 30 discover what connexion Enche Harun Ariffin had with the Kong Thai's affairs.

64. Dato Ling Beng Siong obtained the sum of \$150,000/- from Kong Thai by drawing \$15,000/- per month for ten months. Part of this was paid off by crediting a dividend. The other part was paid off by cheque on 30/9/69 thus clearing the account on the day the financial year ended. No interest was charged on these drawings and there is no mention of them anywhere in the accounts or at any Board meeting. I have been unable to discover any authority for them. His 40 account with Kong Thai also shows a payment to Ling Beng Siew Sdn. Bhd. for him of \$101,250/- on 29th December. This sum was credited back on 8th January. There is a Ling Beng Siong No. 2 account in Kong Thai's books for this year. It contains only two entries. The first shows Kong Thai

paying the sum of \$440,706.05 on 24th December. The second shows this sum being repaid on 6th January. No interest was charged on these sums and there is no mention of them in the accounts or at Board meetings. No explanation appears anywhere in Kong Thai's records that I can discover.

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10 65. Sums totalling \$2,558,066.75 were paid to or on behalf of Ling Beng Siew & Co. during the year. Payment back started in September, on 10th September \$350,000/- was credited on account of "Donations". An advance of Bonus of \$301,201.11 was taken by Dato Ling Beng Siew on 30th September in order to clear the account and accordingly no debt appears in the annual accounts. No interest was charged on these advances and there is no authority that I could discover for making them or for making the advances of bonus. They are not mentioned in any minute.

20 66. Advances were made to Aurora Hotel during the year of approximately \$400,000/-. I have seen no authority for these advances. No interest was charged. There is no indication in Kong Thai's records of how this money has been spent. The Dining Room made a Gross Loss during the year of \$81,896.95. The operating net loss for the year came to \$172,935.75. The total net loss as at 30th September was \$253,153.47. It was then in debt to Kong Thai to the extent of \$708,838.93.

67. Specific items in the hotel accounts which appear to call for an explanation are -

- 30 (a) Mark up on the Bar Sales appear to be only 50% which is half the normal. This assumes that all purchases are duly sold and accounted for.
- (b) Travelling and Transport amounted to \$15,267.32. No details are given in the accounts.
- (c) A further three cars were bought by the hotel

Nissan Glorier Estate	KA 8566
- do - 2000	KA 9455
Holden Special	KA 2104

\$112/- was expended on a tape recorder for one of these cars. It is not clear why a hotel car should have a tape-recorder.

68. Shares in Malaysia Daily News Sdn. Bhd. to the apparent

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value of \$140,000/- were received during the year, leaving a debit balance in their account of \$21,505.67 being payment made for equipment supplied to them. No interest was charged. This company has not, at any time, made any profit for Kong Thai. Kong Thai's records contain no explanation of why this investment was made.

69. The sum of \$505,697.62 was spent on the yacht Berjaya Malaysia. There is no explanation for this expenditure in Kong Thai's records and there is nothing to show that it was necessary for or was used in Kong Thai's business. 10

70. \$1,801.35 was expended on electrical installations at the Green Road house. The records do not show who occupied the house. No rent was paid for it.

71. The sum of \$408,000/- was set aside for dividend. The net profit of Kong Thai was \$7,745,808.70.

72. Dato Ling Beng Siew was paid \$309,832/- by way of bonus. In addition he drew \$18,000/- remuneration as Managing Director and \$600/- as director. He was also paid a dividend of \$227,460/-.

73. The Kong Thai started making purchases from Pan Sarawak Sdn. Bhd. during this year and by the end of the year had made purchases exceeding \$400,000/-. There is no disclosure by any of the directors of any interest in this company. 20

74. Donations by Kong Thai during the year came to \$1,304,743.49. Of this sum, \$1,009,800.69 was paid to Sarawak Chinese Association. \$234,896.40 was paid to other political parties as follows:-

Pesaka	\$80,851.40	
SNAP	145,000.00	30
MCA (Kuala Lumpur)	9,045.00	

The payments to Sarawak Chinese Association were 63 in number. 50 payments were made on various dates beginning in October 1968 up to September 1969. The receipts given for these payments by Sarawak Chinese Association are consecutively numbered 1101 to 1150. 13 payments were made on various dates beginning in November 1968 up to July 1969 and the receipts are consecutively numbered 1301 to 1313. There were 4 donations to SNAP: \$50,000/-, \$50,000/-, \$35,000/- and \$10,000/-. I was unable to check on the \$10,000/- but the first three payments, made in April and 40

May 1969, were made in the name of Dato Ling Beng Siew. The payment to MCA Kuala Lumpur which was apparently for the purpose of purchasing a Volkswagon for it was also made in the name of Dato Ling Beng Siew. Various other donations from Kong Thai's funds were made in a name other than that of Kong Thai: these donations are as follows :-

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		In the name of -	
		<u>Dato Ling Beng Siew</u>	<u>Dato Ling Beng Siong</u>
10	1) Jawatan Kusa Masti Binatang	₤ 500.00	
	2) Ting Sing School	1,200.00	
	3) Sarawak Students in Taiwan	2,211.00	
	4) Berjaya Week Celebration Committee Binatang	200.00	
	5) Sibü Junior Club	200.00	
	6) Chinese Chess Association	500.00	
	7) Liang King School	4,000.00	
	8) Tao Yuang Church		₤2,000.00
20	9) Foo Chow Association Sibü	1,230.00	
	10) Nam Sang Road Committee	5,000.00	
	11) Teku Road Committee	3,000.00	
	12) Toh Guang Tong		2,100.00
	13) Sibü Amateur Boxing Association	496.00	
	14) Boys Brigade Band Association	100.00	
	15) Sarawak Football Association	100.00	
	16) Malay Amateur Volleyball	1,200.00	
	17) Guan Ann School		500.00
30	18) East Asia Research	<u>100.00</u>	
		<u>₤20,037.00</u>	<u>₤4,600.00</u>

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All payment vouchers to Sarawak Chinese Association were authorised by Dato Ling Beng Siew or Dato Ling Beng Siong.

75. Entertaining for this year cost Kong Thai ~~£~~108,523.95 or ~~£~~9,000/- per month. The entertaining included the following items :-

(a) At Sibü

Dato Ling Beng Siew's residence	£2,194.80	
Chicken and oranges for guests	267.80	
Gift of whisky and champagne from Dato Ling Beng Siew to various Schools	689.48	10
Berjaya Malaysia	3,225.50	

(b) At Miri

Set of golf clubs	1,150.00	
Party in honour of Minister of Youth and Culture - Dato Ling Beng Siong	2,318.30	
New Year Party	5,366.80	

(c) At Kuching

Deputy Prime Minister Malaysia	3,447.57	20
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(d) At Singapore

Tunku Abdul Rahman	1,326.85	
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(e) At Penang

Volley Ball Championship	2,477.60	
--------------------------	----------	--

I was unable to obtain the income tax papers in respect of this year and do not know how much of the total for entertaining was disallowed. There are numerous bills for parties at Singapore and Kuala Lumpur night clubs and hotels.

76. ~~£~~1,161.80 was spent on maintenance of the Green Road House. 30

77. General expenses include a number of items which, so far as I can discover are unconnected with the Kong Thai's business :-

Survey of Tensei Maru	¥1,746.00
Mining survey	945.30
Analysis of Silica	540.00
Analysis of glass sample	950.00
Atimony survey	590.55

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78. The telephone bills came to ¥24,351.73 and included
¥649.98 paid to or for Kong Sieng Ong, a house bill;
¥1,587.40 paid to or for Dato Ling Beng Siew's residence,
¥549.07 paid to or for Berjaya Malaysia, ¥4,920.50 paid to
10 or for calls made in Singapore and ¥2,007.90 paid to or for
Dato Ling Beng Siong's residence, Kuching.

79. Travelling expenses came to ¥138,383.07 or over
¥11,000/- per month. Of this, the sum of ¥27,855.84
appears to be Dato Ling Beng Siew's nightclub bills in
Singapore. ¥23,389.30 is 1/2 of Dato Ling Beng Siew's
night-club bills in Hong Kong, Taipei, Japan, London,
¥14,389.64 appears to be for bills incurred by members of
Dato Ling Beng Siew's family in Singapore, Kuching Hong
Kong, Sydney, Adelaide etc. ¥19,128.67 appears to be for
20 trips by Dato Ling Beng Siong to Kuala Lumpur, Hong Kong,
Taipei etc. Over ¥50,000/- of Dato Ling Beng Siew's bills
were claimed from Kong Thai just before the end of the
financial year in September.

80. Kong Thai kept the following cars during the year -

KA 7000	Kuching
S 3456	Sibu
M 4000	Miri
S 1662	
SV 2144	Singapore
S 6283	

30

81. The running expenses of Berjaya Malaysia during the
year came to ¥189,027.80 or nearly ¥16,000/- per month.
A directors' meeting held on 20th June 1969 approved the
purchase and reconstruction of this vessel: the vessel had
been purchased and reconstruction started the year before
and the vessel appears to have been in operation before this
approval was given. There appears to have been no discussion
as to the purpose of purchasing and reconstructing the vessel.
No comment on the amount spent on "reconstruction" and no
40 comment on the disparity between the original cost and the
cost of reconstruction.

82. Total dividends received during this year amounted to
¥4,515/- being ¥1,740/- from Borneo Bhd., ¥600/- from Hock

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Hua Bank and \$2,175/- from Borneo Bhd.

83. Bonus was paid for the year include \$4,000/- to Kong Sieng Ong and a salary to him of \$11,800/-. \$5,100/- was paid by way of salary to Kong Kuek Miew. \$3,600/- each was paid to Penghulu Poh and Pengarah Chundi who were described in the account as "Labour Hirers". Wong Yew Ming was paid \$2,100/- by way of salary. Chew Kwan Loke is described in the account as a clerk in Singapore: he was paid \$4,009.50 by way of salary. Chen Ko Ming was paid a sum of \$1,600/-.

84. The minutes of the Directors' Meeting of 14th February 1969 approve the purchase of the Aurora Hotel and the Green Road land. Both of these had been purchased the year before. 10

85. There are now shown to me and exhibited hereto marked "AP.6", "AP.7" and "AP.8", * copies of the Statutory Statement by the Directors and of their Report and of the Auditor's Report. I am unable to reconcile the statements made in them with the matters mentioned above.

86. Dato Ling Beng Siew took 1,349 shares in the Sabah Agency Sdn. Bhd. It does not appear that this was authorised by or disclosed to the other directors. 20

87. Accounts show \$2,263.85 spent to repair a Kong Tahi's car in Sibiu, including cost of flying mechanic from Singapore.

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88. During the year advances totalling \$463,724.15 were made to P.T. Kalimantan Sari, \$285,998.66 to Sabah Agency Sdn. Bhd. and \$20,686.10 to Singapore Moulding (Pte) Ltd. Despite my requests, I was not given any accounts of these companies or any other information concerning them. These companies were originally shown as Sundry Debtors but later appear as "Associated Companies" which have issued shares to Kong Thai. They therefore appear to represent investments of Kong Thai and their accounts and other information ought to be available. 30

89. Other Sundry Debtors are -

* "AP.6" = see page 1244, Vol.IV
"AP.7" = " " 1245, Vol.IV
"AP.8" = " " 1247, Vol.IV

Commercial Bank Brunei	£161,747.89
Kong Thai Lumber Sdn. Bhd.	341,436.91
Borneo Mining Sdn. Bhd.	5,425.60
Borneo Ltd., Singapore	160,000.00
Development Bank Brunei	31,278.50
P.T. Indomark	15,000.00
United Singapore Lumber (Pte) Ltd.	30,025.75
Pirima Ulang Concession	20,841.25
Kong Thai Plywood (Pte) Ltd.	236,690.00

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10 These may well also be investments and accounts and other information ought to be available.

90. Linggi Jugah's debt went up from £9,550/- to \$11,550/- since another £2,000/- was advanced to him. There appears to be no authority for the advance. No interest was charged. He was paid his dividend in full. T. Oyong and Edmond Jugah's debts remained unchanged. They were paid their dividends in full. No interest was charged to them. No effort appears to have been made to collect these long outstanding debts.

20 91. Chen Ko Meng's debt of £1,383.70 remained outstanding. No interest was charged. Yii Suk Moi appears as a debtor for £250/-.

92. Ling Beng Hui's debt of £100,000/- went up to £104,385.42 the increase representing interest charged to date less his dividend which was credited against the debt. This is the only debt on which Kong Thai has ever charged interest.

30 93. Inche Harun Ariffin's debt increased from £10,000/- to £13,000/- since he received a further advance of £3,000/-. Interest should have been charged at 6½% but no interest in fact was debited to or paid by him.

94. Payment of £157,000/- was made to P.T. Hutan Sari on account of the shares issued or to be issued to Kong Thai in P.T. Kalimantan Sari. P.T. Hutan Sari is apparently a partner in the venture of P.T. Kalimantan Sari.

40 95. A loan was made to Pau Tien Ha, a Sibu merchant of £10,000/-. The records contain no explanation of why Kong Thai made this loan. Apparently it was made on the instructions of Dato Ling Beng Siew. No authority appears ever to have been given by the Directors. No interest was charged.

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96. Dato Ling Beng Siong drew \$107,530/- from Kong Thai two days after the opening of the financial year, October 2nd. He had paid in \$97,530/- on the last day of the preceding financial year i.e. 30/9/69. Apparently therefore he was withdrawing this sum plus \$10,000/-. He continued to draw \$10,000/- every month throughout the year making total drawings of \$217,530/-. He cleared off \$31,800/- in April by the credit of his dividend. The balance of \$185,730/- was paid off in September before the financial year closed. Again, no interest was charged and no authority appears to have been given. 10

97. Ling Beng Siew & Co's drawings amounted to \$1,210,762.93 for the year. Kong Thai paid \$150,000/- to Pan Hutan Nusantara on behalf of Chalfont Investment Ltd., Hong Kong. What the reason for this is nowhere appears in Kong Thai's records. On 30th April 1970, the debit was transferred to Dato Ling Beng Siew's account. No interest has been charged to Chalfont or to Dato Ling Beng Siew and there is no authority any where in the records, that I can discover, for this payment. 20

98. Sums totalling \$2,800/- were paid during the year to Wong Kwong Ching for "Pahang Concession". No explanation or authority for these payments appears in the records, that I can discover. After April 1970, the debit was apparently paid off by Goldhill Lumber Sdn. Bhd.

99. There were further payments to or on behalf of Aurora Hotel during the year of approximately \$241,000/-. The hotel's debit balance with Kong Thai at the beginning of the year was \$2,223,699.99 and at the end of the year was \$2,964,749.01. Although a further loan was made to the hotel of \$240,402.53, the net loss for the year was \$52,626.01. The dining room and the bar were run at a loss of \$42,217.13. The directors paid themselves salaries and bonus of \$14,718/-. Dato Ling Beng Siew is Chairman and Managing Director. A new Mercedes was purchased KB.2651 at a cost of \$17,783/-. Casual debtors including Cheng Yew Kiew \$1,496.28, Sarawak Alliance \$803.25 and Sarawak Chinese Association \$994.20. 30

100. Further sums totalling \$60,000/- were advanced to Malaysia Daily News. There appears to be no authority for this.. No interest was charged. No payment or dividend was received. Total debt at the end of the year was \$81,505.67. 40

101. Another \$6,396/- was spent on additions to Berjaya Malaysia raising the total spent on this to \$512,093.62.

102. Two more vehicles were purchased. Amphicar S.4048 and a Mercedes 250 KA.505 at a cost of \$3,840/- and \$10,632/- respectively.

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103. The Green Road land and building was sold during the year to Hock Thai Finance Corporation Bhd. Kong Thai never received rent for this property and there is nothing in the records to indicate why Kong Thai bought it.

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104. The Investment account shows the purchase of 500,000 shares in Singapore Moulding Pte Ltd., the purchase of 35,000 Malaysia Air Charter Ltd. shares and the sale of 8,000 Hock Thai Finance Bhd. shares. Also shown are the purchase of shares as follows:-

P.T. Kalimantan Sari	1,008,000
Sabah Agency Sdn. Bhd.	270,000
Kong Thai Lumber Sdn. Bhd.	337,500
United Singapore Lumber (Pte) Ltd	150,000
Goldhill Lumber Sdn. Bhd.	50,000
Malaysia Air Charter	195,000

20 These investments previously appeared in the annual accounts as Debtors but this year appear as Investments.

105. Again I was unable, despite requests, to obtain the income tax papers - returns, correspondence and assessment.

106. This year purchases from Pan Sarawak Co. Sdn. Bhd. again exceeded \$400,000/-.

107. During the year Kong Thai borrowed \$1,000,000/- from Hock Thai Finance Corporation Bhd. There is no mention in the records of why this money was borrowed.

30 108. Kong Thai also borrowed \$1,954,143.43 from the Bangkok Bank. There is no record of this being authorised by the Board nor is there any mention of why this money was borrowed.

109. This year Dato Ling Beng Siew drew \$151,240/- as his 4% bonus. He also this year claimed that he was entitled to a share of the 1% bonus divided amongst the other directors. In addition, he took a salary of \$18,000/- plus director's fee of \$600/-.

110. Donations this year came to \$507,562.86. Of this there was paid to -

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Sarawak Chinese Association	₹292,628.21
Pesaka	21,150.00
Olympic Council	45,897.15
Malayan Amateur Basketball Association	50,000.00
Sarawak Badminton Association (Olympic)	10,000.00

The Auditor has reported that "Donations were mostly through Directors". His note does not mention which Directors.

10

111. At a meeting held on 10th June 1970 when many retrospective resolutions were passed, the Donations of ₹1,304,742.19 made in the previous year were approved. Those directors present, according to the heading of the minute, were Dato Ling Beng Siew, Dato Ling Beng Siong, Ting Lik Hung and Lau Hui Kang. Dato Ling Beng Siew also represented Ting Ing Yee by proxy and Dato Ling Beng Siong represented Ling Beng Thuang by proxy. This appears to be the only time proxies were ever used at a Board meeting. At this stage Kong Thai had eleven directors.

20

112. Entertaining this year came to ₹100,176.88. Of this -

- (a) ₹13,136.13 appears to have been spent by Dato Ling Beng Siong at the Aurora Hotel;
- (b) A further ₹3,377.40 was spent on entertaining by Dato Ling Beng Siong;
- (c) ₹8,343.54 was spent by Dato Ling Beng Siew at the Aurora Hotel;
- (d) A further ₹2,284.89 was spent on entertaining by Dato Ling Beng Siew;
- (e) ₹5,671.24 was spent on whisky for ship's captains;
- (f) ₹3,470.30 was spent on entertaining on Berjaya Malaysia;
- (g) ₹6,023.15 was spent on a New Year Party.
- (h) ₹5,656.42 was paid to Yien King.

30

113. ₹1,243.45 was spent on maintaining the Green Road house. This was transferred to Hock Thai Finance Corporation Bhd. during the year.

114. Amongst the general expenses, \$3,167.25 was paid to International Executive Corporation. This payment appears to be in connexion with mining. It does not appear from the records what connexion this has with Kong Thai's business.

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115. Amongst the travelling expenses are -

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- 1) \$835.74 being driver's expense to Kuala Lumpur;
- 2) \$1,353.08 for Cheng Siong Seng to travel to Kota Kinabalu, Taiwan and Hong Kong;
- 3) \$3,416/- for G.F. Paterson of International Executive Corporation to travel from New York to Sibul and back.

10

As in the previous year, there are very numerous visits to Singapore and Kuala Lumpur. On 31st July 1970, various amounts totalling \$29,911.21 were removed from the travelling expenses account and debited to Ling Beng Siew & Co. The sums transferred included, amongst others, Dato Ling Beng Siew's trip with a games team to Rangoon and later to London.

20 116. This year, the cost of operating Berjaya Malaysia came to \$95,910.49 or approximately \$8,000/- per month.

117. The cars listed this year comprise, amongst others, two Mercedes in Sibul, S 3456 and 5505 and a Chevrolet KA 7000 in Kuching. In addition there was a car in Singapore.

118. Penghulu Poh and Pengarah Chundi were also paid \$300/- per month for this year. Sng Ching Joo was paid \$1,000/- per month this year. Kong Kuek Miew was paid \$400/- per month; Wong Yew Ming was paid \$300/- per month; Kong Sieng Ong was paid \$1,050/- per month; Vincent Bujang was paid \$150/- per month.

30 119. The Minutes of a meeting of the Board of 14/4/70 show that the opening of a Bank Account with the Bangkok Bank, Kuala Lumpur, was approved: the Directors present at the meeting were Dato Ling Beng Siew and Dato Ling Beng Sieng.

120. At the meeting of 10th June 1970 referred to above, approval was retrospectively given in respect of a number of matters which had never been authorised at the time they were carried out.

(a) Donations of \$1,304,742.19 were approved.

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- (b) P.T. Kalimantan Sari
An advance of $\$952,841.38$ to P.T. Kalimantan Sari up to 30/4/70 was approved.
- (c) Investment of $\$1,008,000/-$ in P.T. Kalimantan Sari, representing 48% of the total "raised capital" was approved. It was also approved that $\$157,000/-$ should be paid "to pay $7\frac{1}{2}\%$ capital" for P.T. Hutan Sari.
- (d) Sabah Agency Sdn. Bhd.
An advance of $\$579,150.30$ to Sabah Agency Sdn. Bhd. up to 30/4/70 was approved. It was also resolved to re-invest $\$270,000/-$ in Sabah Agency Sdn. Bhd. representing 30% of the total issued capital. 10
- (e) Kong Thai Lumber Sdn. Bhd. - Sabah
The advance of $\$660,275.13$ to this company was approved. Investment of $\$337,500/-$ in this company, representing $37\frac{1}{2}\%$ of the total issued capital was approved.
- (f) United Singapore Lumber (Pte) Ltd.
Advances of $\$630,374.88$ up to 30/4/70 was approved. It was also resolved to invest $\$150,000/-$, being 50% of the total issued capital in this company. 20
- (g) Commercial Bank Brunei
Development Bank Brunei
Advances of $\$161,747.89$ and $\$27,278.50$ respectively were approved. (Neither of these banks appear to have been in operation or even licensed at this time).
- (h) Glass Project and Plywood Project, Singapore
The meeting approved advances of $\$10,156.25$ and $\$196,649.25$ respectively. At the same time the Chairman reported that these two projects had ceased and asked for and got the approval of the meeting to write off these sums. No statement of how these moneys were spent was produced to the meeting. 30
- (i) The loan to Ling Beng Hui was approved and interest was said to be 7%.
- (j) The loan to Harun Ariffin was approved at $6\frac{1}{2}\%$ interest. The loan at that stage was $\$10,000/-$ and it was said to be repayable by monthly instalments 40

at \$400/- per month eighteen months after the date of the loan - 3/3/69. So far as I have been able to discover, there has been no repayment and I have seen no evidence that there has been any attempt to recover the loan. A further loan of \$3,000/- was made this year, raising the total, exclusive of interest, to \$13,000/-.

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(k) Malaysia Air Charter

Investment of \$195,000/- was approved.

10 (l) Dato Ling Beng Siew was appointed as proxy of Kong Thai to attend any general meetings of any company in which Kong Thai holds shares.

(m) Goldhill Lumber Sdn. Bhd., K.L.

Investment of \$50,000/-, representing 50% of the total issued capital was approved.

20 (o) It was resolved that any director or shareholder receiving an advance from Kong Thai should be charged with interest at the rate of 7% per annum and that this resolution should have retrospective effect to any advance in the past. (This resolution has not been put into effect except as regards Ling Beng Hui: interest has been calculated on the loan to him with effect from the original date and the appropriate sum has been debited to him in the Books: his dividend has not been paid to him but has been credited against the loan plus interest).

30 121. The records of Kong Thai do not, so far as I have been able to discover, contain any agenda of this directors' meeting on 10th June 1970. There appears to have been no discussion of the various items mentioned above. So far as appears, the meeting was summoned for the sole purpose of approving retrospectively the items mentioned. It was not apparently mentioned at the meeting that the Petitioner herein had demanded details of Donations, Debtors, Investments etc., in April and in May had informed Kong Thai that he proposed to institute legal proceedings seeking a Court Order to investigate the financial affairs of Kong Thai because they had not been disclosed to him.

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122. Since I have not been supplied, despite requests, with the accounts or any other information regarding the various companies in which investments or to which advances have been made, I have been unable to discover if any of the directors of Kong Thai have a financial interest in these other companies. If they have, it has not been disclosed.

123. There is now shown to me and exhibited hereto marked "AP.9"* a copy of the Directors' Report for the year which appears to be signed by Dato Ling Beng Siew and Dato Ling Beng Siong. I am unable to reconcile paragraph (a) with the matters revealed by the scrutiny of Kong Thai's books and mentioned above.

10

124. There is now shown to me and exhibited hereto marked "AP.10"* a copy of the Auditor's Report. I am unable to reconcile the statements in this with the matters above.

125. There is now shown to me and exhibited hereto marked "AP.11",* a copy of the Statutory Statement by Directors signed by the same two directors. I am unable to reconcile this also with the said matters.

20

126. The accounts show an overdraft of $\text{RM}1,954,143.43$ with the Bangkok Bank, Kuala Lumpur.

127. I have not checked the physical assets of Kong Thai. There is no evidence that the physical assets have ever been checked by the auditor from the commencement of Kong Thai's business. There can be no certainty that the assets shown in the accounts exist unless there is a thorough physical check by an independent party. From my examination of the books and accounts, it appears to me to be unlikely that all the physical assets shown in them still exist in the possession of Kong Thai.

30

128. It appears from the books that Dato Ling Beng Siew is paid $\text{RM}1,500/-$ per month by P.T. Kalimantan Sari which is credited to Kong Thai. He draws $\text{RM}1,800/-$ from Kong Thai Lumber Sdn. Bhd. and $\text{RM}1,800/-$ per month from Sabah Agency Sdn. Bhd. He obtains a salary from every company which I have been able to check in which Kong Thai has a financial interest. Apparently he also draws various expenses and other sums from these companies. How much he draws I have been unable to check since I have not been able to obtain the accounts of these companies.

40

* "AP.9" = see page 1248, Vol. IV
"AP.10" = " " 1250, Vol. IV
"AP.11" = " " 1251, Vol. IV

129. With respect to Kong Thai Lumber Sdn. Bhd., Dato Ling Beng Siew is shown owing \$149,900/- on the capital account of the company. From this, it appears that he may have been issued with shares in the subsidiary without paying for them and that Kong Thai, to which this interest has not been disclosed, is financing his share. It would be necessary to see the accounts of Kong Thai Lumber Sdn. Bhd. before the position could be clearly and correctly ascertained.

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10 130. An account with Kong Thai in the name of P.T. Indomark was opened. It appears that \$15,000/- was advanced to P.T. Indomark. I have been unable to obtain any information or explanation about this transaction: it appears to be unauthorised.

20 131. United Singapore Lumber (Pte) Ltd. had an account with Kong Thai and was debited with \$606,000/-. This was a company in which the Borneo Company Ltd. had an interest. The Borneo Company Ltd. objected to this debit and on 30th June 1970, the debit was transferred to the account of P.T. Kalimantan Sari. I have been unable to obtain any explanation for this item.

132. Pirima Utang Concession \$20,841.25 was paid to or on behalf of this account. I have been unable to obtain any explanation of what it represents. The records show no authority for the payment or any mention of what the concession might be.

133. Kong Thai appears to have paid \$157,500/- as the price of P.T. Hutan Sari's share in P.T. Kalimantan Sari. This ought to have been borne by P.T. Kalimantan Sari.

30 133A. As mentioned above, it was reported by Dato Ling Beng Siew to the meeting on 10th June 1970 that Kong Thai Plywood (Pte) Ltd. had ceased and it was resolved that the losses, amounting to \$196,649.25 be written off. Despite this, a further \$40,000/- was advanced to Kong Thai Plywood (Pte) Ltd. on 29th June. There is no authority for this advance and there is no explanation of it anywhere that I can discover. No details of what the advance was for or how it was spent were available to me. There is no authority for writing it off.

40 134. On 31st July 1970, a number of items totalling about \$30,000/- which had previously been charged to Kong Thai as travelling expenses for Dato Ling Beng Siew were taken out of the Travelling Expenses account and debited to Ling Beng Siew & Co.

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135. Chalfont Investment Ltd., Hong Kong, was paid \$150,000/- on 25th October 1969 on the instructions of Dato Ling Beng Siew. I have not been able to discover the reason for this payment. On 30th April 1970, six months after the payment was made, it was debited to Dato Ling Beng Siew. It would appear from this that the payment to Chalfont was originally a payment due from Dato Ling Beng Siew personally and that he procured the payment of Kong Thai's funds on his behalf. I have been unable to check this matter fully.

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136. Although the bonus in respect of the year 1968/69 was not paid until March 1970, Dato Ling Beng Siew, without authority, drew \$301,202.11 on account of advance of bonus on 30th September 1969, the last day of the financial year. On 30th September 1969, the last day of the financial year, \$350,000/- was paid into the account of Ling Beng Siew & Co. to clear it of debt. The total bonus eventually paid to Dato Ling Beng Siew for 1968/69 was \$316,873.63. The sums provided for dividend for the year was \$408,000/-. "Entertaining" for the year came to \$110,176.88.

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137. During the year Kong Thai borrowed approximately \$3,000,000/-. Approximately \$2,000,000/- from Bangkok Bank, Kuala Lumpur, and \$1,000,000/- from Hock Thai Finance Corporation Bhd.

138. The only shareholder or other individual person debited with interest during the year (or at any time) was Ling Beng Hui.

139. Dato Ling Beng Siew's 4% bonus for this year amounted to \$151,240.00. He also claimed an equal part share with each of the other directors in the 1% bonus divisible amongst them. In addition he drew, as before \$18,000/- by way of salary and \$600/- by way of fees.

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140. Amongst the bonuses to employees shown in the books were \$4,000/- to Kong Sieng Ong.

141. Amongst the cars which the accounts state are owned by Kong Thai is S 505 or KA 505 a Mercedes. This car was acquired this year.

142. The overall position with regard to the investments as mentioned above is as follows:-

A) P.T. Kalimantan Sari

Kong Thai paid to or on behalf of this company \$207,394.95 in the year 1967/68, \$550,642.54 in the year 1968/69, \$871,186.66 in the year 1969/70.

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The total sum amounts to \$1,629,224.15. As against this, Kong Thai was issued with 1,008,000 shares in P.T. Kalimantan Sari in 1969/70 and was debited with \$157,500/- on account of P.T. Hutan Sari making a total nominal value of \$1,165,500/- in shares. The balance of moneys owing to Kong Thai by P.T. Kalimantan Sari as at the date of conclusion of my survey i.e. 30th September 1970 is \$463,724.15. Kong Thai's shares are said to represent 48% of the issued share capital. P.T. Kalimantan Sari paid Dato Ling Beng Siew at least \$7,500/- by way of salary in the year 1969/70. This sum was paid to him by Kong Thai on P.T. Kalimantan Sari's account. There is an unexplained payment by it or by Kong Thai on its behalf to United Singapore Lumber of \$600,000/- in this year. No accounts have ever been produced to Kong Thai.

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B) Sabah Agency Sdn. Bhd.

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Kong Thai advanced to or for this company a sum of \$134,722.75 in the year 1967/68, \$1,361,087.09 in the year 1968/69 and \$178,828.26 in the year 1969/70 making a total of \$1,674,638.10. Kong Thai has received back from Chalfont Investment (Hong Kong) Ltd. \$1,118,639.44 leaving a balance owing by Sabah Agency Sdn. Bhd. of \$555,948.66. Kong Thai has received 270,000 shares leaving a net balance owing by Sabah Agency Sdn. Bhd. to Kong Thai on 30th September 1970 of \$285,998.66. Kong Thai's holding is said to be 30% of the total issued capital.

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In the year 1967/68 there is an unexplained payment of \$124,990/- to United Investment by Kong Thai on behalf of Sabah Agency Sdn. Bhd. in the year 1968/69 Kong Thai delivered cash totalling \$465,000/- to Tawau on behalf of Sabah Agency, paid for trucks to the value of \$446,939.06, tractors to the value of \$201,227.08, tug boats to the value of \$105,318.86 and supplied additional capital as previously mentioned.

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In the year 1969/70 Sabah Agency Sdn. Bhd. apparently began to pay Dato Ling Beng Siew a salary of at least \$1,800/- per month: this sum was paid to Dato Ling Beng Siew by Kong Thai on behalf of Sabah Agency Sdn. Bhd. Also in this year, Kong Thai paid Ling Beng Siew Sdn. Bhd. \$60,000/- on behalf of Sabah Agency Sdn. Bhd. for reasons unexplained. No accounts have ever been produced to Kong Thai.

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- C) Singapore Moulding (Pte) Ltd.
Kong Thai advanced to or on behalf of this company in the year 1967/68 \$4,514.70 in the year 1968/69 \$245,485.30, in the year 1969/70 \$270,686.10, making a total \$520,686.10. Kong Thai has received 500,000 shares and this leaves a debit balance outstanding of \$20,686.10 on the 30th September 1970. No accounts have ever been produced to Kong Thai.
- D) Kong Thai Lumber Sdn. Bhd. 10
Kong Thai advanced to or on behalf of this company in the year 1968/69 \$344,368.03, and in the year 1969/70 \$334,568.88, making a total of \$678,936.91. Shares have been received by Kong Thai up to a total of 337,500. The debit balance of the company is \$341,436.91 on 30th September 1970. Shares issued to Kong Thai are said to be 37½% of the total issued share capital. In 1968/69 \$220,000/- in cash was sent to Tawau on behalf of the company. Dato Ling Beng Siew was paid a salary of \$22,500/-. In 1969/70 Kong Thai paid cash of \$157,444.50 to Tawau office on behalf of the company and in addition paid \$130,500/- for two tug boats. It also paid a salary of at least \$9,000/- to Dato Ling Beng Siew: this sum appears in Kong Thai's book as having been paid to him by Kong Thai on behalf of Kong Thai Lumber Sdn. Bhd. No accounts have ever been produced to Kong Thai. 20
- E) Commercial Bank } Brunei 30
Development Bank }
Kong Thai advanced in this matter in the year 1967/68 \$2,060,117.86 in the year 1968/69 \$101,344.52 and in the year 1969/70 \$285.51 making a total of \$2,161,747.89. Of this, a sum of \$2 millions being bank deposit was repaid leaving a debit balance of \$161,747.89 which appears to be a complete loss.
143. Donations
- a) Of the receipts for donations which I have been able to examine in respect of the year 1966/67 half were not given in the name of Kong Thai but were given in the name of Dato Ling Beng Siew or Dato Ling Beng Siang. 40

b) Party Pesaka

I was unable to discover any official receipts given by Party Pesaka. All payments were made by cheques. I was unable to obtain the cheques to find out who had endorsed them. In the year 1969, of the payments to Pesaka, \$10,000/- appears to have been paid to Temonggong Jugah, \$5,000/- was paid to the candidate for Lundu, two payments to Kana of \$50,000/- and \$10,000/- respectively and two payments were made to Tawi Sli of \$2,000/- each.

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c) Party SNAP

What appear to be official receipts were available for these donations. The donations were also paid by cheques.

d) The ledger shows payments to various political parties including Party Bumiputra but receipts appear to be given in the name of Sarawak Chinese Association. The receipts numbered 1302 to 1313 given by Sarawak Chinese Association in fact m³ appear to represent the following payments:-

1302	Bumiputra	\$10,000	7th November 1968
1303	Pesaka	5,000	7th November 1968
1304	Bumiputra	50,000	15th February 1968
1305	Tunku's Fund	5,000	2nd April 1968
1306	Bumiputra	5,000	2nd April 1968
1307	Perikatan Bahagia Council	5,000	2nd April 1968
1308	Pesaka	5,000	29th April 1968
1309	Alliance	30,000	23rd May 1968
1310	Malay National Volleyball Competition	5,000	2nd June 1968
1311	(?)	5,000	2nd June 1968
1312	Reimbursement to Dato Ling Beng Siew	300,000	28th July 1968
1313	Alliance Party - Tengku	50,000	28th July 1968

e) With respect to donations to donees other than political parties in the year 1968/69 these amounted to \$60,046.40 of which Dato Ling Beng Siew appears to have obtained receipts personally in his own name of \$4,600/-

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AFFIRMED at Kuching)
this 24th day of November) Sgd. Andrew Peattie
1971 at 3.15 p.m.)

No. 4

Before me,

Affidavit of
Andrew Peattie
dated 24th
November 1971

Sgd: Leong Mok Chong
Commissioner for Oaths,
High Court,
Kuching, Sarawak.

This Affidavit was filed by Messrs. Tang & Co.,
No. 5, Wong Nai Siong Road, Sibul, Advocates for the
Applicant abovenamed.

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No. 5

No. 5

Affidavit of
Ling Beng Sung

AFFIDAVIT OF LING BENG SUNG
DATED 12th FEBRUARY 1972

12th February
1972

I, DATO LING BENG SUNG of full age of 21, Wong Nai
Siong Road, Sibul, solemnly affirm and say as follows:-

1. I am the Applicant herein.

2. By Originating Motion dated 29th September 1970 in the
High Court in Borneo (Sibul Registry) (Civil Action No. 1
of 1970) I asked for an Order pursuant to Section 167(5)
of the Companies Act 1965 that the accounting and other
records of Kong Thai Sawmill (Miri) Sdn. Bhd. (hereinafter
referred to as "Kong Thai") be open to inspection by an
approved company auditor acting for me. The reasons for
the application were set out in my Affidavit affirmed on
25th September 1970 and filed in support of the Motion. For
some time I had been and still was concerned about the manner
in which the affairs of Kong Thai were being conducted by
Dato Ling Beng Siew, the Second Respondent herein, and in
particular I was concerned about the application of the
liquid assets and revenue of Kong Thai.

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3. The annual accounts were by no means clear and seemed to contain a number of unusual and unexplained matters. I had written for information on these matters on 27th April 1970 and again on 14th May 1970. Copies of these letters are now shown to me and are exhibited hereto marked "LBS.1"* and "LBS.2".* Both letters were ignored.

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4. At the time of the filing of and hearing of the Motion I was a director of Kong Thai. On 18th November 1970, the High Court granted the Motion by an Order in terms and appointed Mr. Andrew Peattie of 28 Kampong Nyabor Road, Sibul, a Chartered Accountant and an Approved Company Auditor under the Companies Act 1965, to inspect the accounting and other records of Kong Thai on my behalf. At the next general meeting of Kong Thai following upon the making of the said Order by the High Court, I was removed as a director of Kong Thai on the instance of the Second Respondent.

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5. Pursuant to the said Order, Mr. Andrew Peattie duly scrutinized such accounting and other records as he was permitted to see. His Affidavit setting out the results of his scrutiny is filed herein.

6. [OMITTED]

7. I refer to Paragraph 11 of the said Affidavit. If this policy was in favour of the Second Respondent, it would appear that without the authority of Kong Thai he was using Kong Thai's funds in order to obtain personal insurance for his own benefit. The Second Respondent should be required to produce the policy and in the event that it proves to be in his favour, I submit that he should be ordered to repay the amount of the premium together with appropriate interest up to the date of repayment to Kong Thai.

8. I refer to Paragraph 12 of the said Affidavit. A daily allowance of \$60/- per day is excessive when all his hotel and travelling expenses were paid by Kong Thai. In any event the visit to Hong Kong was not for the benefit of Kong Thai.

9. I refer to Paragraph 15 of the said Affidavit. It is the habit of the Second Respondent to make donations as personal donations from himself and not from Kong Thai so that he gets personal credit for his generosity. [OMITTED]

10. I refer to Paragraph 14 of the said Affidavit. It is

* "LBS.1" = see page 1252, Vol.IV
"LBS.2" = " " 1254, Vol.IV

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apparent from Mr. Andrew Peattie's Affidavit that he was never permitted to see the income tax papers and so accordingly was unable to obtain any detailed information on income tax matters. In my submission, the Second Respondent should be required to produce all vouchers in respect of entertainment expenses for this year and in the event that he is unable to justify as legitimate and proper expenditure for the purposes of Kong Thai the sum disallowed by the Inland Revenue, he should be required to repay that sum to Kong Thai with interest.

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11. I refer to Paragraph 16 of the said Affidavit and submit that the same procedure would be appropriate as in the matter of Paragraph 14 of the said Affidavit.

12. I refer to Paragraph 20 of the said Affidavit. The shareholders in Ling Beng Siew Sdn. Bhd. and their shareholdings on 30th September 1967 were as follows:-

Ling Beng Siew	6,600	shares	
Ling Beng Thuang	4,500	"	
Sim Ung Yew			
(wife of Ling Beng Siong)	400	"	
Ling Beng Siong	4,500	"	
Ling Lee Soon	2,000	"	- 1st son of Ling Beng Siew
Ling Lee Kang	2,000	"	- 2nd son -do-
	<u>20,000</u>		

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I submit that the Second Respondent should be ordered to pay the appropriate interest on this sum to Kong Thai.

13. I refer to Paragraph 21 of the said Affidavit. [OMITTED] In my submission, he ought to be required to pay interest to Kong Thai in respect of these drawings.

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14. [OMITTED]

15. I refer to Paragraph 23 of the said Affidavit. This illustrates the fact that the Second Respondent simply ran Kong Thai as he chose without reference to the Board of Directors.

16. I refer to Paragraph 26 of the said Affidavit. Sarawak Chinese Association is a political party of which the Second Respondent has been President since about 1963. The Second Respondent has been actively pursuing a political career for many years and was formerly a nominated member of Parliament. United Malays National Organisation is a political party in

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West Malaysia and has no connection with the affairs of Kong Thai nor with East Malaysia. The Alliance and Pesaka are also political parties. They have nothing to do with the affairs of Kong Thai. The Olympic Council is a sports organization of which the Second Respondent was a prominent member. Again, it has nothing to do with the affairs of Kong Thai. These substantial donations were incurred without any reference to the Board of Kong Thai and the Second Respondent took the credit for them personally. I submit that he should be ordered to repay these sums to Kong Thai together with interest to the date of repayment. [OMITTED] there is no mention of these individual donations as abnormal in the Auditor's Report or in the Directors' Report. The annual accounts and balance sheet do not, of course, disclose the names of the donees. The Directors' Report stating that the result of the operations of Kong Thai has not been materially affected by any items of abnormal character would appear to be misleading or untrue. It was signed by the Second Respondent. Apart from the donations, the loans to the Second Respondent, to Ling Beng Siew Sdn. Bhd. and to Ling Beng Siew & Co. are abnormal and must have affected Kong Thai's results because of their size which deprived Kong Thai of capital and also because of the fact that no interest was charged.

17. I refer to Paragraphs 31, 32 and 33 of the said Affidavit. Kong Thai has no place of business and conducts no business in Kuching. It has no place of business and conducts no business in Singapore. KA.7000 cost between \$20,000/- and \$30,000/-. It was used mostly by the Third Respondent and sometimes by the Second Respondent. The Third Respondent became a Minister in Sarawak in 1967 and used the car as his official car. The Government of Sarawak provided him with a car but it was a Ford Falcon which apparently he considered unsuitable for him. The Mercedes 300 No. S 3456 was used by the Third Respondent in Sibu as his private car. The cost of this would be in the region of \$37,883/-. The Chevrolet Impala SV 2144 cost \$19,191/- and was used by the Second Respondent as his private car in Singapore. In my submission, the Second and Third Respondents respectively should be ordered to pay the cost of these cars to Kong Thai with interest upon transfer to them of the cars.

18. The unauthorised investment of \$791,374/- in Hock Thai Finance Corpn Bhd. was made by the Second Respondent in order to provide capital for Hock Thai Finance Corpn Bhd. of which he was the chairman. By this investment Kong Thai became a shareholder in Hock Thai Finance Corpn Bhd. to the extent of over 30%. The Second Respondent held Kong Thai's proxy in

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respect of Hock Thai Finance Corpn Bhd.'s affairs and in effect held 30% of the voting power on that account alone. The Hock Hua Bank Bhd. has 51% shareholdings in Hock Thai Finance Corpn Bhd. and the Second Respondent is the chairman of the Hock Hua Bank Bhd. The result of Kong Thai's investment was thus to make the Second Respondent virtually the complete controller of Hock Thai Finance Corpn Bhd.'s affairs.

19. I refer to Paragraphs 36 and 37 of the said Affidavit. At the time the Aurora Hotel Sdn. Bhd. was purchased, it was in a poor state of repair and a very substantial amount of money had subsequently to be spent on renovation. At no time did Aurora Hotel Sdn. make a profit for Kong Thai. The purchase was made by the Second Respondent without any authority from the Board and since the hotel has been used extensively for private and public entertaining by the Second and Third Respondents principally in connection with their political ambitions, the Second Respondent, in my submission, should be required to produce the accounts of the Aurora Hotel Sdn. Bhd. prior to the date of purchase in order that it may be seen whether there was any justification for the investment. The Second Respondent should be required to pay interest on the amount expended by Kong Thai on the Aurora Hotel Sdn. Bhd. at the time of purchase and thereafter.

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20. I refer to Paragraph 38 of the said Affidavit. The purchase of the hovercraft was publicised by the Second Respondent as his own private acquisition. It was not required for Kong Thai's business. Kong Thai's only forest is in Niah which is a hill forest where the hovercraft could not be used. Moreover, the Niah river is a narrow and congested, winding river and can not be used by a hovercraft. The Second Respondent should, I submit, be ordered to repay to Kong Thai the sum lost on the hovercraft plus interest to date.

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21. I refer to Paragraph 39 of the said Affidavit. This yacht, Berjaya Malaysia, was also not required and, in fact, has never been used for the business of Kong Thai. It can not enter the Niah river. It is not a working boat. It is an extremely luxurious private yacht fully air-conditioned with bar and dining rooms. [OMITTED] the amount of renovation is enormously out of proportion of the original cost of the yacht. When it is not in use, which is most of the time, the yacht is moored at the wharf of a company near Sibu in which the Second and Third Respondents have substantial interests. Most of the trips of the yacht have been in taking Third Respondent on political visits to his constituency or on his ministerial business. It has also been used very substantially by the Second Respondent for

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parties for his political friends and other guests. He has used it to go to Sabah and Singapore, Port Swettenham and to Penang, in none of which places has Kong Thai any business. The Second Respondent has always let it be understood that the yacht was his own property: there is now shown to me and exhibit hereto marked "LBS.3" a cutting from the Sunday Times dated 11th April 1971 with the headline "Gunboat now a millionaire's luxury yacht." No director apart from the Second and Third Respondents was ever permitted to take the boat for a trip. The electric food freezer referred to in Paragraph 39 of the said Affidavit was bought on the 17th June 1968. The yacht itself was not bought until 30th September 1968. From this, it appears unlikely that the electric food freezer was bought for the yacht which, when it was bought, required a great deal of work in putting it into a condition which satisfied the Second Respondent. The same comments apply to the radio which was purchased on the 12th September 1968. In my submission, the Second Respondent should be required to take over the said yacht from Kong Thai and pay Kong Thai all sums expended on it together with interest.

22. I refer to Paragraph 40 of the said Affidavit.

[OMITTED] In my submission, he ought to be ordered to pay personally interest on the said drawings to Kong Thai.

[OMITTED]

23. I refer to Paragraph 41 of the said Affidavit.

[OMITTED] At this stage it was not possible to ascertain what the bonus would be. [OMITTED] the sum paid in on 26th September was merely to clear off his account to prevent it appearing in the annual accounts and balance sheet of Kong Thai because only a few days later, after Kong Thai's new financial year had begun, he drew out again \$150,000/-. Again, [OMITTED] on the 29th December, two days before the close of the financial year of a number of banks and other companies the Second Respondent drew out \$240,000/- and repaid it six days later.

[OMITTED] I submit that the Second Respondent should be ordered to pay the appropriate interest on these drawings to Kong Thai.

24. I refer to Paragraph 46 of the said Affidavit. Ling Lee Soon is the son of the Second Respondent. He was not working and never has worked for Kong Thai. At the time of this advance he was in the United Kingdom furthering his education. There is no reason why Kong Thai should have paid this sum. [OMITTED] In my submission, the Second Respondent should be required to pay interest for the period of this advance.

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25. I refer to Paragraph 49 of the said Affidavit. In my submission this alleged claim for additional travelling expenses incurred three or four years earlier should not have been met. An original award of preliminary expenses of \$50,000/- was made by the Second Respondent to himself without anyone else being consulted or given an opportunity to check. No details whatever were given and [OMITTED] this is not an exact figure, but merely a round sum produced by the Second Respondent. Since he has made it impossible for Kong Thai to check on this he ought to be required to repay the sum of \$5,500/- together with interest to Kong Thai.

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26. I refer to Paragraph 52 of the said Affidavit. Kong Thai has no connection with the town of Binatang. Teku Road is an area near Sibu and a protege of the Second Respondent was standing as a candidate for Sarawak Chinese Association in this area. A relation of the Second Respondent's wife was standing for Council Negri as a candidate in Binatang in 1969. The donation to the Lions Club, Sibu, was represented by the Second Respondent to the press and to the club as his personal donation. There is now shown to me and exhibited hereto marked "LBS.4" a cutting of the Sarawak Tribune dated 21st February 1968 bearing the heading "Dato Ling Beng Siew gives \$30,000/- for Sibu Golf Course". All of these donations were made without the authority of Kong Thai and without the knowledge of Kong Thai [OMITTED] In my submission, he ought to be required to repay these sums together with interest to Kong Thai.

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27. I refer to Paragraph 53 of the said Affidavit. Enche Semu was then Minister of Information. His visit to Sarawak had nothing whatever to do with Kong Thai [OMITTED] In my submission the amount disallowed by the Inland Revenue should be ordered to be paid together with interest by the Second Respondent to Kong Thai except in respect of any items which he may be able to justify as expenditure legitimately and properly incurred by and in the name of Kong Thai and in furtherance of Kong Thai's business.

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28. I refer to Paragraph 54 of the said Affidavit. Kong Sieng Ong is the private secretary and interpreter of the Third Respondent. He worked full time for the Third Respondent and went everywhere with him. At this time the Third Respondent was a Sarawak Minister and was fully engaged with his ministerial duties.

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[OMITTED] Kong Thai has no business in Hong Kong, Taipei and Tokyo. Its log sales are handled by a company named Sarawak United Sawmills Sdn. Bhd. The trips mentioned in sub-paragraph (b) of Paragraph 54 were private trips. Similarly, Kong Thai has no business in Indonesia and has no need to charter any plane. [OMITTED] In my submission,

Kong Thai and the Second Respondent should be ordered to produce all income tax papers relating to this and other matters so that, in particular, the total disallowed for this year could be ascertained and the Second Respondent and the Third Respondent as the case may be should be ordered to repay to Kong Thai all sums disallowed together with interest unless it can be shown that these sums were legitimately and properly expended on Kong Thai's business and in Kong Thai's name.

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10 29. The statutory statement of directors signed by the Second Respondent is clearly untrue and so is the director's report also signed by the Second Respondent.

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30. I refer to Paragraph 55 of the said Affidavit.
[OMITTED] In my submission, the Second Respondent should be ordered to repay the sum disallowed to Kong Thai together with interest thereon.

20 31. I refer to Paragraphs 58 and 59 of the said Affidavit.
[OMITTED] the Second Respondent is the chairman or managing director or a director of a number of, if not, all of these companies, he has never reported on them to Kong Thai, he has never made available their annual reports, he has never made available their annual accounts and balance sheets and they have never paid a single cent by way of dividends to Kong Thai. Their affairs have been kept completely concealed from Kong Thai which is left in the position of providing a great deal of money without ever been told what has been done with it or what is happening to it. Those companies mentioned in the said Paragraph 59 are shown not as investments but as sundry debtors.
30 [OMITTED] none of these investments were treated as such or were reported to the Board of Directors until after I had intimated that I proposed to seek an Order of the Court to investigate the accounting and other records of Kong Thai.

40 32. I refer to Paragraph 63 of the said Affidavit. Enche Harun Ariffin was at that time the Federal Secretary in Sarawak. He had, to the best of my knowledge and belief, nothing to do with Kong Thai's affairs and Kong Thai was never told that this loan was being made to him [OMITTED]
Since the loan is quite improper and has not been repaid, I submit that the Second Respondent should be ordered to repay this sum to Kong Thai together with interest to date.

33. I refer to Paragraph 64 of the said Affidavit.
[OMITTED] The Third Respondent should be ordered to pay

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interest on all sums drawn in this matter.

[OMITTED] The Third Respondent is a director and vice-chairman of the Hock Hua Bank Bhd. of which the Second Respondent is the chairman.

34. I refer to Paragraph 65 of the said Affidavit.

[OMITTED] I submit that the Second Respondent should be ordered to pay interest. [OMITTED] in September when he needed to have money to pay it into Kong Thai in order to clear his account no less a sum than \$350,000/- was credited to him on account of "donations".
[OMITTED]

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35. I refer to Paragraphs 66 and 67 of the said Affidavit.

[OMITTED] The Nissan 2000 car No. KA 9455 was not used by the hotel but was used by the Third Respondent's family and intimate friends. The Third Respondent should be ordered to pay the cost of the same together with interest upon the transfer of the said car to him by Aurora Hotel Sdn. Bhd.

36. I refer to Paragraph 68 of the said Affidavit. Kong

Thai had now become the holding company of Malaysia Daily News. [OMITTED] The Second Respondent should be ordered to pay to Kong Thai all sums expended by it on this newspaper plus interest on transfer of the shares and Kong Thai's rights as a creditor to him.

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37. I refer to Paragraph 71 of the said Affidavit and would draw attention to the smallness of the dividend compared with the net profits. It is clear that a substantial dividend could not be paid since Kong Thai's funds were being used by the Second and Third Respondents for their own private ends. It is interesting to compare this dividend of \$408,000/- with the sum paid to directors by way of remuneration, namely \$411,890/-. It is also interesting to compare with the total drawings of the Third Respondent which comes to \$691,956.05 and even more interesting to compare with the drawings on behalf of Ling Beng Siew & Co. plus bonus, dividend etc. paid to the Second Respondent which come to \$3,098,958.75.

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38. I refer to Paragraph 73 of the said Affidavit. The Second Respondent is a shareholder in Pan Sarawak Sdn. Bhd. He should be required to account to Kong Thai for all profits made by him out of his shareholding in the proportion that Kong Thai's payments to Pan Sarawak represent of the latter total receipts.

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39. I refer to Paragraph 74 of the said Affidavit.

[OMITTED] there is a substantial payment to mutually opposed parties: Pesaka which was a party member of the

Alliance at that time and SNAP which was not. It is astonishing that the receipts given by the Sarawak Chinese Association between October 1968 and September 1969 to Kong Thai should be numbered consecutively. These donations made without the authority or knowledge of Kong Thai are grossly scandalous and a gross abuse of the Second Respondent of his position in Kong Thai. [OMITTED] in my submission, he should be ordered to pay the whole sum to Kong Thai together with interest. The Sarawak Chinese Association's accounts filed with the Registrar of Societies in respect of this period show that no such payments were made to them as are contained in the Kong Thai's accounts. The Second Respondent should be ordered to furnish the fullest explanation and information on this matter.

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40. I refer to Paragraph 75 of the said Affidavit. [OMITTED] Kong Thai and the Second Respondent should be ordered to produce all the income tax papers and the Second Respondent should be ordered to repay to Kong Thai all sums disallowed by the income tax authorities together with interest thereon.

41. I refer to Paragraph 78 of the said Affidavit. Kong Sieng Ong, as has been mentioned above, is the general factotum of the Third Respondent. The Third Respondent does nothing for Kong Thai and his general factotum does even less. The Second Respondent who authorised all these payments should be ordered to repay the sum expended on behalf of Kong Sieng Ong, one half of his own telephone bills, the whole of the Berjaya Malaysia bills, the whole of the Singapore bills and the whole of the bills in respect of the Third Respondent's residence, to Kong Thai together with interest. The Third Respondent's main residence is in Sibul and [OMITTED] no bill was submitted in respect of that. He resided a good deal in Kuching at that time because he was a Minister and was supposed to be working full time as such. There is no reason why Kong Thai should pay his Kuching telephone bills and the Second Respondent was well aware of that. The Second Respondent's travelling expenses include night club bills amounting to over \$4,000/- per month and this is exclusive of his claims under the heading "Entertainment". Kong Thai has no business in any of the places mentioned in Paragraph 79 of the said Affidavit. [OMITTED] \$50,000/- of bills were claimed on behalf of the Second Respondent at a time when he required to clear off his account with Kong Thai in order to conceal his drawings from his fellow directors and shareholders. The Third Respondent has never travelled on Kong Thai's business. The travelling expenses include bills for Ling

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Lee Soon, the Second Respondent's son who has no connection whatever with Kong Thai; a bill for \$135/- incurred in Singapore; a second bill in Singapore of \$135/-; a bill said to be incurred in Kuching for \$72/-; a bill for \$2,344/- in connection with expenses in Sydney and Adelaide [OMITTED] There was a bill for the Ladyhill Hotel, Singapore, in connection with Ling Lee Soon for \$269.74. There is also a bill for the Second Respondent's family trip to Djakarta and Hong Kong of \$11,346/-. I submit that all bills disallowed by the income tax department should be repaid by the Second Respondent or the Third Respondent as the case may be to Kong Thai together with interest. 10

42. I refer to Paragraph 82 of the said Affidavit. The investments in the balance sheet amount to \$1,034,392.38. This does not include the Aurora Hotel Sdn. Bhd. which appears at a value of \$2,014,861/-. The return on these investments amount to 0.15%. This does not include the investment in P.T. Kalimantan Sari (\$758,037.49). Sabah Agency Sdn. Bhd. (\$495,809.84), Commercial Bank Brunei (\$161,462.38), Singapore Moulding (Pte) Ltd. (\$250,000/-), Kong Thai Lumber Sdn. Bhd. (\$344,368.03), Kong Thai Glass (Pte) Ltd. (\$606,000/-), Kong Thai Plywood (Pte) Ltd. (\$146,649.25). These unincluded investments totalled about \$2,600,000/-. If these are taken into account the return on investments for the year is 0.07%. [OMITTED] The foregoing comments do not take into account the capital losses of Kong Thai which are referred to elsewhere. In my submission, the Second Respondent ought to be ordered to pay interest on the total sums invested during the period of investment to Kong Thai. 20

43. I refer to Paragraph 83 of the said Affidavit. I have already commented on Kong Sieng Ong. Kong Kuek Miew was a party member of Sarawak United People Party which he left in order to join SNAP which he left in order to join Sarawak Chinese Association. He does not and never has worked for Kong Thai. He does not work for the Second Respondent. There is no reason for the employment by Kong Thai of Penghulu Poh and Pengarah Chundi. Ibans come to logging camps looking for jobs and they come from the logging areas. [OMITTED] Penghulu Poh's area is in Igan which is the constituency area of the Third Respondent. Pengarah Chundi's area of jurisdiction is also within the constituency area of the Third Respondent. The payments to them are to obtain their political support for the Third Respondent. Wong Yew Ming was a newspaper man and works for Malaysia Daily News. He has never worked for Kong Thai. Chew Kwan Loke cannot be working for Kong Thai since it has no office in Singapore and no business there. Chen Ko Ming is an official of the Sarawak Chinese Association and works for the Second Respondent 30 40

in that capacity. He has never been an employee of Kong Thai. In my submission, all these sums ought to be repaid by the Second Respondent to Kong Thai together with interest.

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44. I refer to Paragraph 84 of the said Affidavit. The purchase of the Aurora Hotel Sdn. Bhd. [OMITTED] was done by the Second Respondent without consulting anyone. I first learned of the investment, although I was a director, from reading the newspaper. The newspaper said that the hotel was bought by the Second Respondent personally.

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10 45. The Second Respondent has shares in Kong Thai Lumber Sdn. Bhd. but has never revealed this to the Board of Directors or shareholders of Kong Thai despite the fact that Kong Thai Lumber Sdn. Bhd. is a subsidiary. In my submission, it is quite improper for him to have these shares and he ought to be ordered to disclose how they were paid for and to transfer them to Kong Thai on an appropriate payment. He is also a shareholder in Sabah Agency Sdn. Bhd. and the foregoing remarks and submission apply equally to that.

20 46. The director's statement and the director's report referred to in Paragraph 85 of the said Affidavit are both of them signed by the Second Respondent and are clearly quite untrue. They state that there are no items of abnormal character and there is no reference whatever to the donations of \$1,304,743.49 nor is there any reference to the very large drawings by two of the directors during the year nor is there any reference to the large sums expended by the directors personally on travel and entertainment for themselves or their families. The auditor's report is equally untrue.

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47. I refer to Paragraph 87 of the said Affidavit and submit that the said sum of \$2,263.85 should be repaid by the Third Respondent to Kong Thai with interest.

48. I refer to Paragraph 91 of the said Affidavit. Yii Sok Moi works for Sarawak Chinese Association in Sibu and is not an employee for Kong Thai and I submit that the Second Respondent ought to be ordered to repay his debt and that of Chen Ko Ming plus interest.

40 49. I refer to Paragraph 93 of the said Affidavit and make the same submission on the additional advance as on the original advance.

50. I refer to Paragraph 95 of the said Affidavit and submit

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that the Second Respondent should pay interest on the said loan to Kong Thai.

51. I refer to Paragraph 96 of the said Affidavit. This parallels with the Third Respondent's procedure in the previous year and I make the same submission in respect of it.

52. I refer to Paragraph 97 of the said Affidavit and submit that the Second Respondent should be ordered to pay interest on the drawings for the year. I refer to the transfer of the 30th April 1970. This was done three days after my first letter to Kong Thai asking inter alia the names of all debtors and details of the debts. Chalfont Investment Ltd., Hong Kong, is a company which has 100,000 issued shares. 20,000 shares are owned by the Second Respondent and 17,500 shares are owned by the Third Respondent. Pan Hutan Nusantara is the owner of a large timber concession in Kalimantan. Kong Thai has put \$678,936.91 into Kong Thai Lumber Sdn. Bhd. Kong Thai now, so it is said, owns 37½% of the total issued capital of Kong Thai Lumber Sdn. Bhd. The Second Respondent is also a shareholder although he has not disclosed his shareholdings to the directors or shareholders of Kong Thai and the amount is at present unknown to me. The Third shareholder is the Borneo Co.Ltd. which is a major shareholder in Chalfont Investment Ltd., Hong Kong with 22,500 shares. Kong Thai Lumber Sdn. Bhd. is the logging contractor for Chalfont Investment Ltd., Hong Kong in the Pan Hutan Nusantara concession. Kong Thai Lumber Sdn. Bhd. has never made a profit. [OMITTED] No other shareholder of Kong Thai apart from the Second and Third Respondents is a shareholder in Chalfont Investment Ltd., Hong Kong and Kong Thai has never been told anything about this company. These facts only came to my knowledge after the present investigation of Kong Thai's accounts. I submit that the Second Respondent should be ordered to produce Chalfont Investment Ltd's accounts in order that it may be seen what profits it is making out of the operations of Kong Thai Lumber Sdn. Bhd. At the same time, he should be ordered to produce full accounts in Kong Thai Lumber Sdn. Bhd.

53. I refer to Paragraph 98 of the said Affidavit. I know nothing of Goldhill Lumber Sdn. Bhd. The Second Respondent should be ordered to furnish an explanation of this transaction and to produce the accounts of that company.

54. I refer to Paragraph 99 of the said Affidavit. The Mercedes No. KB 2651 is used exclusively by the Third Respondent's family and the Third Respondent should be ordered to pay for the car upon transfer to him of it by Aurora Hotel Sdn. Bhd. He should also be ordered to pay

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interest to date of the transfer.

55. I refer to Paragraph 100 of the said Affidavit. In spite of the loss of 1968/69 and the fact that there is no apparent prospect of profit, a further advance of \$60,000/- was made. [OMITTED]

The Second Respondent ought to be ordered to repay this money to Kong Thai with interest.

56. I refer to Paragraph 102 of the said Affidavit. The Amphicar S 4048 is amphibious. It is always kept at the Second Respondent's house in Sibu which is in an area liable to flooding. [OMITTED] he should be ordered to take it over from Kong Thai on payment of the cost plus interest. It is notable that Kong Thai now has two cars apparently in Kuching although it has no office or business there.

57. I refer to Paragraph 104 of the said Affidavit. P.T. Kalimantan Sari has paid no dividend to Kong Thai. It is a concessionaire of a forest in Kalimantan and ought to have made a great deal of money if it had sold its logs on the market price. In fact it has sold its logs to Chalfont Investment Ltd., Hong Kong or Glendale Investment Ltd. Hong Kong. The shareholders in Glendale Investment Ltd. are the same as the shareholders in Chalfont Investment Ltd. Hong Kong. The Second and Third Respondents have not disclosed their interest in Glendale to any directors or shareholders of Kong Thai nor has Kong Thai been informed of the details of sales by P.T. Kalimantan Sari. The approved company auditor appointed to inspect the accounts of Kong Thai on my behalf has not been able to obtain any details or any information regarding its activities despite the very large sum of money put into it by Kong Thai.

58. Sabah Agency Sdn. Bhd. is a logging contractor in Indonesia, like Kong Thai Lumber Sdn. Bhd., and it also works for Chalfont Investment Ltd. Hong Kong like Kong Thai Lumber Sdn. Bhd. It has paid no dividend whatever to Kong Thai. [OMITTED] No information whatever has been given to Kong Thai about Sabah Agency Sdn. Bhd. and the approved company auditor has been unable to obtain the accounts or information. The Second Respondent, in my submission, should be ordered to produce full accounts of both Chalfont Investment Ltd. Hong Kong and Glendale Investment in order that the position can be seen as well as the accounts of Kong Thai Lumber Sdn. Bhd. and Sabah Agency Sdn. Bhd.

59. I refer to Paragraph 106 of the said Affidavit. This company has been commented on previously.

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60. I refer to Paragraph 107 of the said Affidavit. It is abundantly clear from the information obtained from the accounts and records of Kong Thai that Kong Thai's funds have been utilised by the Second Respondent and the Third Respondent to finance their own private affairs and have also been invested in investments which produce no returns to Kong Thai and have been donated for purposes which have nothing to do with Kong Thai. [OMITTED]

The accounts of Kong Thai have been investigated (insofar as the investigator was permitted to do so) up to 30th September 1970. In fact, Kong Thai has borrowed another \$1,500,000/- from Hock Thai Finance Corpn Bhd. after that date. In 1967/68, Kong Thai provided Hock Thai Finance Corpn Bhd. with capital to the extent of \$791,734/-. Now it has to borrow from Hock Thai Finance Corpn Bhd. in order to pay its way. Hock Thai Finance Corpn Bhd. has additionally given an unsecured loan of \$500,000/- to Kong Thai. Between the Bangkok Bank and Hock Thai Finance Corpn Bhd., Kong Thai has borrowed \$5,000,000/-. There is now shown to me and exhibited hereto marked "LBS.5"* a copy of the auditor's report to the members of Hock Hua Bank Bhd. for the year ended 31st December 1970. The subsidiary referred to is Hock Thai Finance Corpn Bhd. This report is required by law to be published in a newspaper and it was published in the Sarawak Tribune. [OMITTED] the first paragraph of the report which mentions the loan and advances was omitted from the report as published. There is now shown to me and exhibited hereto marked "LBS.6" the relevant cutting from the Sarawak Tribune. The Second Respondent should be ordered to reimburse Kong Thai for all sums by way of interest required to be paid on these borrowings.

61. I refer to Paragraph 110 of the said Affidavit. These donations were made in the year running from September 1969 to September 1970. [OMITTED] It is difficult to see how donations to Sarawak Chinese Association and Pesaka could have been employed. These donations were never authorised except ex post facto as hereinafter mentioned nor was the Board informed. They have nothing to do with Kong Thai and the Second Respondent should be ordered to refund them to Kong Thai with interest. The same applies to donation to the Olympic Council, the Malayan Amateur Basketball Association and the Sarawak Badminton Association, which are purely the personal concerns of the Second Respondent.

62. I refer to Paragraph 112 of the said Affidavit. Yien King is the name of a restaurant in Sibu which also does catering in private houses. All items mentioned in

* "LBS.5" = see page 1255, Vol. IV

Paragraph 112 are the personal concern of the Second Respondent and Third Respondent and they should respectively be ordered to refund them with interest. The totals are ~~£~~16,513.53 for the Third Respondent and ~~£~~31,449.54 for the Second Respondent.

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63. I refer to Paragraph 114 of the said Affidavit. Kong Thai does no mining and this payment was never authorised by the Board. The Second Respondent should be ordered to repay this sum to Kong Thai with interest.

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10 64. I refer to Paragraph 115 of the said Affidavit. The sum of ~~£~~835.74 to take a driver to Kuala Lumpur and back is not legitimately charged on Kong Thai and should be repaid with interest by the Second Respondent out of whose personal convenience and personal business this payment arose. The payment for Cheng Siong Seng is also not Kong Thai's matter. It is probably related to Chalfont Investment Ltd. Hong Kong or Glendale Investment Ltd.'s matters and the Second Respondent should be ordered to repay it with interest. The payment to G.F. Paterson is also
20 unauthorised and should be repaid with interest by the Second Respondent.

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65. I refer again to Paragraph 115 of the said Affidavit, and would respectfully draw the Court's attention to the removal of various sums on the 31st of July 1970 from the travelling expenses account and their debiting to Ling Beng Siew & Co. This took place presumably because I had by that time informed Kong Thai that I proposed to seek a Court Order to investigate its financial affairs if I was not apparently afforded an opportunity to see them.

30 66. I refer to Paragraph 116 of the said Affidavit. In this year as in all other years, Berjaya Malaysia was not used for the business of Kong Thai but for the private business of the Second Respondent and his family and the Third Respondent.

40 67. I refer to Paragraph 118 of the said Affidavit. Penghulu Poh and Pengarah Chundi did not work for Kong Thai this year and were paid for their political influence. Sng Ching Joo is a businessman in Kapit and is a Sarawak Chinese Association leader there. He does no work for Kong Thai. The Second Respondent should be ordered to repay all the sums mentioned in the said Paragraph 118 and totalling ~~£~~42,000/- to Kong Thai with interest.

68. I refer to Paragraph 119 of the said Affidavit. Kong

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Thai has no business in Kuala Lumpur and there appears to be no explanation why it should go to Kuala Lumpur to borrow money from a Thai Bank. Presumably the Second Respondent has other arrangements with the Bangkok Bank which this ties into. The Second Respondent should be ordered to supply a full explanation. [OMITTED] No explanation has been furnished to Kong Thai by the Second Respondent but clearly an explanation is required.

69. I refer to Paragraph 120 of the said Affidavit. The notice of this matter contained no agenda and no indication whatever of what the meeting was going to discuss. 10
[OMITTED] A number of resolutions approved investments for unexplained purposes and neither the Second or the Third Respondents disclosed at that time or at any other time that they have taken a personal share in a number of these companies which they have arranged for Kong Thai to finance and they therefore are benefitting personally either directly or indirectly from Kong Thai's investment not as a shareholder or director of Kong Thai (none of these investments have ever paid any dividend to Kong Thai) but because of their 20
direct shareholdings in the companies invested in or because they are drawing a salary or fees and travelling expenses or entertainment allowances from the other companies or because the other companies are directly benefitting from the finance being given by Kong Thai or profitting at the expense of the companies invested in by Kong Thai.
[OMITTED] The resolution to charge interest [OMITTED] has never been applied to the very large and continuing drawings of the Second and Third Respondents or to any of the loans given out by the Second Respondent except that to 30
Ling Beng Hui.

70. I refer to the copy of the director's report for the year 1969/70 exhibited with the said Affidavit. The directors' comments at (a) mentions a loss of \$10,156.25 advanced to Kong Thai Glass (Pte) Ltd. The amount of the loss to Kong Thai Plywood (Pte) Ltd. is not mentioned presumably because it was so substantial as to be embarrassing, namely, \$196,649.25. Apart from these and one or two small items, the report certified that the results have not been materially affected by items of abnormal nature. In my 40
submission, the foregoing paragraphs in this report and the Affidavit put in by Mr. Peattie show quite clearly that this is quite untrue and that, as in the case of the previous year, a great deal of information which would have been inconvenient and embarrassing to reveal, has been suppressed by the Second Respondent. The auditor's report is similarly untrue.

71. I refer to Paragraph 127 of the said Affidavit.

[OMITTED] It is most desirable that there should be a full check on this as soon as possible.

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72. I refer to Paragraph 141 of the said Affidavit. Mercedes No. S 505 or KA 505 is a sports car. Kong Thai has no use of a car of this kind: the car is used exclusively by the Third Respondent's family and intimate friends in Kuching. He should be ordered to pay the cost of both cars to Kong Thai together with interest on the transfer of these cars to him.

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10 73. [OMITTED]

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74. The accounts show what has been paid into the investments. They do not show who else is interested in these investments and they do not show what has been done with the money.

[OMITTED] The shareholders in Kong Thai apart from the Second and Third Respondents do not know what goes on in these other companies [OMITTED] in view of the substantial financial interest of Kong Thai in these companies the Second Respondent should be obliged forthwith to produce all their accounts and to make the fullest disclosure of their affairs.

20 75. [OMITTED]

The scandalous position revealed makes it essential in my submission to take steps to remove the Second and Third Respondents from their position, hold a full and detailed investigation with a view to obtain reimbursement to Kong Thai of the loss injury and damage which it has sustained at their hands.

76. [OMITTED]

77. In particular -

- 30 (a) The Second Respondent used the funds of Kong Thai to pay for a premium for a personal accident policy in respect of himself;
- (b) The Second Respondent was responsible, contrary to the express provisions of the Companies Act 1965, for the financing by Kong Thai of the subscription for its shares by Edmond Jugah, Linggi Jugah, Temonggong Oyong Lawai Jau and Jonathan Bangau in the year 1965/66 and to this date the major part of the purchase price of the said shares has not been paid to Kong Thai;
- 40 (c) The Second Respondent misappropriated the funds of

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Kong Thai to make donations in his own name or for the furtherance of his own personal or political ambitions and those of the Third Respondent, in the year 1965/66 of \$18,246.10, in the year 1966/67 of \$44,962.40, in the year 1967/68 of \$138,614.80, in the year 1968/69 of \$1,304,743.49 and in the year 1969/70 of \$507,562.86, amounting in total to \$2,014,129.65;

- (d) The Second Respondent obtained without the knowledge and authority of the other directors and shareholders from Kong Thai's funds sums of money alleged to be for travelling expenses for himself and sometimes the Third Respondent which were in fact his own personal expenses or those of the Third Respondent and were not expenses incurred properly on Kong Thai's behalf. In the year 1967/68, their "expenses" amounted to \$132,642.77, in the year 1968/69, they amounted to \$84,763.45 and in the year 1969/70 they amounted to at least approximately \$30,000/-; 10 20
- (e) The Second Respondent without the knowledge or authority of the other directors or shareholders misappropriated and converted to his own private and personal use funds of Kong Thai amounting in the year 1966/67 to \$596,687.88; in the year 1967/68 to \$2,277,602.48; in the year 1968/69 to \$2,558,066.75; in the year 1969/70 to \$1,210,762.93; the total amounting to \$6,643,120.04;
- (f) The Third Respondent with the authority and connivance of the Second Respondent and without the knowledge or authority of the other directors or shareholders misappropriated and converted to his own private and personal use funds of Kong Thai amounting in the year 1968/69 to \$691,956.05; and in the year 1969/70 to \$217,530/-; 30
- (g) The Second Respondent procured the purchase by Kong Thai or its wholly owned subsidiary Aurora Hotel Sdn. Bhd. of various cars which were intended for and were exclusively used by himself or by the Third Respondent for their own private pleasure or business and not for that of Kong Thai. The cars concerned were - 40

1)	a Chevrolet Impala	KA.7000
2)	a Mercedes 300	S.3456
3)	a Chevrolet Impala	SV.2144
4)	a Nissan 2000	KA.9455
5)	Amphicar	S.4048
6)	Mercedes 250	KA or S 505
7)	Mercedes 200	KB 2651

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10 (h) Without the authority or knowledge of the other
directors or shareholders, the Second Respondent
purchased Aurora Hotel Sdn. Bhd. at a cost of
12,014,861/-. The said hotel has been run at a
loss ever since and was at the beginning or has been
made to be a bad investment for Kong Thai. It is
run either dishonestly or incompetently. The
Second Respondent, notwithstanding, has put more
and substantial sums from Kong Thai's funds into
the said Hotel. The said Hotel is used very
20 frequently for entertaining by the Second and Third
Respondents in furtherance, not of Kong Thai's
business, but of their own personal and political
ambitions;

(i) The Second Respondent paid 16,575.05 out of Kong
Thai's funds on what was represented in Kong
Thai's accounts to be a hovercraft for Kong Thai
but which was intended to be and was represented to
the Press to be his own personal purchase. The
said hovercraft was never delivered and the major
part of the said payment was written off as a dead
loss to Kong Thai;

30 (j) The Second Respondent without the authority or
knowledge of the other Directors or shareholders
purchased a second hand motor yacht at a cost to
Kong Thai of 48,000/- and subsequently spent over
500,000/- of Kong Thai's funds upon renovating
it. The running expenses of this yacht in the
year 1968/69 alone came to 189,027.80. The said
yacht was not required for and was not used for the
Kong Thai's business but was used and was publicised
40 by the Second Respondent as his private yacht and
was frequently used also by the Third Respondent
for their own private pleasure or profit and in
furtherance of their own private ends;

(k) The Second Respondent without the authority or
knowledge of the other directors or shareholders
loaned or invested 221,505.67 of Kong Thai's money
to or in a newspaper company named Malaysia Daily

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News Sdn. Bhd. The said company was not a profitable investment at the time of the said loan or investment and there was no reason for Kong Thai to loan or invest this money. At no time has any dividend or interest been paid on the loan or investment to Kong Thai and it is most unlikely that the loan or investment could be recovered. The said sums were loaned or invested by the Second Respondent because he wished to have a vehicle for his own personal publicity in furtherance of his own personal and political ambitions;

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(l) The Second Respondent misappropriated and converted the funds of Kong Thai to pay for entertainment by himself or the Third Respondent; in the year 1967/68, \$63,809.68 or over \$5,000/- per month was debited to Kong Thai; in the year 1968/69 \$108,523.95 or \$9,000/- per month was debited to Kong Thai and in the year 1969/70, \$100,176.88 or over \$8,000/- per month was debited to Kong Thai. The income tax papers were not shown to the auditor appointed by Order of the Court and it is not known how much of these totals was disallowed by the Inland Revenue but it is clear a substantial part of these expenses represented the personal and private expenditure of the Second Respondent or the Third Respondent.

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(m) Personal telephone bills of the Second Respondent and the Third Respondent were debited to Kong Thai although the said bills could not have been incurred on Kong Thai's business;

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(n) Without the prior authority or knowledge of the other directors or shareholders, the Second Respondent loaned to or invested large sums of Kong Thai's funds to or in the following companies -

i)	P.T. Kalimantan Sari	\$1,629,244.15	
ii)	Sabah Agency Sdn. Bhd.	1,674,638.10	
iii)	Singapore Moulding (Pte) Ltd	520,686.10	
iv)	Kong Thai Lumber Sdn. Bhd.	678,936.91	
v)	Commercial Bank/Development Bank Brunei	2,060,117.86	
vi)	Borneo Mining Sdn. Bhd.	5,425.60	
vii)	Borneo Ltd., Singapore	160,000.00	
viii)	P.T. Indomark	15,000.00	
ix)	United Singapore Lumber Pte Ltd.	30,025.75	

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x)	Brima Ulang Concession	₹ 30,025.75
xi)	Kong Thai Plywood Pte Ltd.	236,690.00
xii)	Goldhill Lumber Sdn.Bhd.	50,000.00
xiii)	Malaysia Air Charter	195,000.00
xiv)	Glass Project	10,156.25

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At no time have any accounts been supplied to Kong Thai by these companies or by the Second Respondent who is the proxy for Kong Thai at their meetings and who in all of these companies or in a number is a shareholder or director. At no time has any dividend or interest been paid to Kong Thai by any of these ventures. At no time has any explanation or information been given regarding their affairs to Kong Thai by the Second Respondent (except a report that Kong Thai Plywood (Pte) Ltd. had ceased business when he asked the Kong Thai's Board, ex post facto to approve at one and the same time the investment of ₹196,690/- in Kong Thai Plywood (Pte) Ltd. and the writing off of the said sum. Subsequent to this resolution, a further ₹40,000/- was advanced to the said defunct company by the Second Respondent out of Kong Thai's funds without the authority or knowledge of the other directors or shareholders). At no time has any explanation or information regarding their affairs been given to Kong Thai by the Second Respondent (except as aforesaid).

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78. [OMITTED]

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79. In the circumstances the Applicant submits that the affairs of Kong Thai are being conducted in a manner oppressive to one or more members (including the Applicant) or in disregard of their or his interests as members or shareholders.

AFFIRMED at Sibul
this 12th day of February,)
1972 at 11.45 a.m.) Sgd. Ling Beng Sung

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Before me,
Sgd: Sia Mee Hong,
Commissioners for Oaths
High Court in Borneo,
at Sibul.

This Affidavit was filed by Messrs. Tang & Co., No. 5 Wong Nai Siong Road, Sibul, Advocates for the Applicant abovenamed.

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No. 6

AFFIDAVIT OF LING BENG SIEW
DATED 14th MARCH 1972

No. 6

Affidavit of
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14th March 1972

I, LING BENG SIEW of full age of Upper Lanang Road, Sibul, Company Director make oath and say as follows:-

1. (i) I am the abovenamed second Respondent and I make this affidavit on my behalf and on behalf of Kong Thai Sawmill (Miri) Sdn. Bhd. and Ling Beng Siong, the abovenamed first and third Respondents respectively, by whom I am authorised to make it. I have read copies of the originating motion, the affidavit of Andrew Peattie dated the 10th August 1971, and the affidavit of Dato Ling Beng Sung dated the 16th August 1971 and the exhibits thereto all as filed herein. For ease of reference the following abbreviations are used in this affidavit:

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|-----|--|--------------------------------|----|
| 1. | Andrew Peattie's affidavit dated 10th August 1971 and 24th November 1971 | "Peattie's Affidavit" | 10 |
| 2. | Ling Beng Sung's affidavit dated 16th August 1971 and 10th February 1972 | "Beng Sung's Affidavit" | 20 |
| 3. | Kong Thai Sawmill (Miri) Sdn. Bhd. | "Kong Thai" | |
| 4. | Ling Beng Tuang | "Beng Tuang" | |
| 5. | Ling Beng Siong | "Beng Siong" | |
| 6. | Ling Beng Sung | "Beng Sung" or "the applicant" | |
| 7. | Ling Beng Hui | "Beng Hui" | |
| 8. | Ling Beng King | "Beng King" | |
| 9. | Alex Ling Lee Soon | "Alex" | 30 |
| 10. | Mukah Sawmills (1962) Sdn. Bhd. | "Mukah Sawmills" | |

(ii) The following are now produced and shown to me marked as indicated and are referred to in this affidavit by their marking numbers :-

	<u>Exhibit *</u>	<u>Marking</u>	In the High Court in Borneo
	1. A photograph showing the University Degree of Beng Sung from Queensland University Australia sent to the deponent.	"R 1"	————— No. 6
	2. A photograph showing the University Degree of Beng Hui from Queensland University Australia.	"R 2"	Affidavit of Ling Beng Siew —————
10	3. A photograph of Beng Sung and Beng Hui taken together showing the University Degrees from Queensland University Australia.	"R 3"	14th March 1972
	4. Copies of Judgment and Pleadings in Sibul Civil Suit No. 2 of 1963.	"R 4"	
	5. The receipt dated 2nd October 1965 from Kong Thai acknowledging the payment of the sum of \$100,000 from Mukah Sawmills (1962) Sdn. Bhd. for 1,000 shares of Kong Thai	"R 5"	
20	6. The Approval dated 4th April 1966 in the form of the Minutes of Directors Meeting of Kong Thai, given to allocate 1,000 shares to Mukah Sawmills (1962) Sdn. Bhd.	"R 6"	
	7. The Minutes showing Beng Sung was present at an annual General Meeting of the Company. The only occasion he turned up for a Meeting.	"R 7"	
	8. The figures representing the profits of Kong Ming Bank Bhd. and Hock Hua Bank Bhd., National Finance Corporation Bhd., (Kong Ming Finance Corporation Bhd.) Hock Thai Finance Corporation Bhd. and Mukah Sawmills (1962) Sdn. Bhd. (from the Registry of Companies)	"R 8"	
30	9. An Agreement with translation signed between Mukah Sawmills and Sabah Agency Sdn. Bhd. in the presence of Peter Wong of United Investment Finance Limited, and Mr. T. Wasito Kapten whereby Mukah Sawmills agreed not to continue any more illegal timber felling in Sabah Agency's areas and even to repair the old jungle path within Sabah Agency's area as		

* Exhibits "R 1" to "R 27" see
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- shown in the diagram attached without first serving a written notice on Sabah Agency. A sketch is attached too. "R 9"
10. The Report of Mr. Charles Henderson, an approved Auditor of Turquand Young & Co. "R 10"
11. The relevant page of Minutes showing persons present at the Meeting of Kong Thai on 16th January 1965 - the first General Meeting. "R 11"*
12. The lists of donations with details of the donees amounting to \$18,246.10 as referred to in Peattie's affidavit at paragraph 15. 10 "R 12"
13. The newspapers reports on the donations made by Kong Thai to the Sarawak Amateur Football Association:-
- (a) The Malaysia Daily News (Chinese) dated 2nd December 1971 "R 13a"
- (b) The Sarawak Tribune (English) dated 4th December 1971 "R 13b" 20
- (c) Chinese Daily News (Chinese) dated 7th December 1971. "R 13c"
- (d) By way of an example, political donations made by other timber companies and trading companies such as Mukah Sawmills (1962) Sdn. Bhd. (where Beng Sung, Beng Hui, Beng King are the only shareholders presently) B.T.C., and Austral Sdn. Bhd., etc. "R 13d"
14. Document showing trading relationship between Kong Thai and Ling Beng Siew Sdn. Bhd. Herein is shown a casual supply goods of logging equipments such as "S" hooks, Ring spikes, steel wire ropes by Kong Thai to Ling Beng Siew Sdn. Bhd. - by way of an example only. 30 "R 14"

* "R 11" = see page 1377, Vol.V
marked KTS.1

- | | | | |
|-----|---|---------|---|
| 15. | Document showing trading relationship between Kong Thai and Sarawak United Sawmills Sdn. Bhd. A supply of logging equipments to Kong Thai by Sarawak United Sawmills Sdn. Bhd. which also exports logs for Kong Thai - by way of an example only. | "R 15" | In the High Court in Borneo

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| 16. | Credit Balance, the period during which Ling Beng Siew & Co. lent money to Kong Thai and interest charged on it. | "R 16" | Affidavit of Ling Beng Siew
_____ |
| 10 | 17. A copy of the resolutions dated 27th December 1967 at page 26 of the Minutes Book giving Dato Ling Beng Siew general authority to make investments on behalf of the Company | "R 17" | 14th March 1972 |
| 18. | Particulars of the Hovercraft and the dividends paid out in the winding up of this Hovercraft manufacturing company | | |
| | (a) Particulars of the Hovercraft - a photograph | "R 18a" | |
| 20 | (b) Diagram of its shape | "R 18b" | |
| | (c) The letter from the liquidator of Hovermavre Ltd. (voluntary Liquidation) - Stoy Hayward & Co., London. | "R 18c" | |
| 30 | 19. (1) Letters and telegrams indicating the intention of the deponent to bring "Berjaya Malaysia" to Indonesia eight months before the applicant asked detailed enquiries about the Companies Affairs while deliberately refusing to attend the Board Meeting. | "R 19a" | |
| | (2) Telegram dated 4th August from the deponent to Kong Thai indicating intention to use "Berjaya Malaysia" to go to Pontianak in Indonesia where Kong Thai has a substantial interest in the logging and sawmilling operations of P.T. Kalimantan Sari. | "R 19b" | |
| 40 | (3) The same intention to use that Yacht "Berjaya Malaysia" to Pontianak in a letter sent from the Manager of United | | |

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Singapore Lumber to Mr. Ting Ka
Siang of Kong Thai, Sibiu.

"R 19c"

(4) A telegram dated 20th August from
United Singapore Lumber informing
Kong Thai, of the postponement of
the trip to Pontianak by
"Berjaya Malaysia".

"R 19d"

(5) A letter dated 23rd May 1970 from
the United Singapore Lumber to
the Manager of Kong Thai Sawmill
acknowledging copy of the details
for "Berjaya Malaysia".

"R 19e"

10

(6) A letter dated 8th January 1971
from the Manager of Kong Thai to
Mr. Ting Ing Yee in Indonesia
enclosing certain details on the
said Yacht.

"R 19f"

(7) A reply from Mr. Ting Ing Yee
acknowledging the receipt of the
aforesaid letter dated 8th January
1971 and its given details of the
said Yacht.

"R 19g"

20

20. Other exhibits on "Berjaya Malaysia" and
"Sri Tania" a luxury Yacht belonging to
Mukah Sawmills (1962) Sdn. Bhd. which
later on became the property of Kong
Ming Bank Bhd.

(1) A photograph of "Berjaya Malaysia".

"R 20a"

(2) A photograph of "Sri Tania".

"R 20b"

(3) The publication of "Bena Negara" from
Tractors Malaysia Berhad Volume 1
No. 6 on the write-up of the Yacht
"Sri Tania" which the applicant purported
to be his apart from owning "five other
boats which range from cargo carrying
vessels to passenger launches",
entertaining VIPs, political figures
and functions among whom a party of
New Zealand members of Parliament
cruising from Sibiu to Binatang.

"R 20c"*

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(4) Re publication of the Yacht "Sri Tania"

* "R 20c" = see page 1452, Vol.V (KTS.32)

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- | | | | |
|----|--|---------|--|
| | in the New Nation Newspaper from Singapore dated 23rd November 1971 and the Borneo Bulletin dated 13th November 1971 a Newspaper based outside Sarawak with these captions - "Terrorists tie up a floating Bank" and "Terrorism leaves a \$150,000 bank moored". | "R 20d" | In the High Court in Borneo
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| 10 | (5) A party on board "Berjaya Malaysia" reported in the vanguard dated 18th November 1969 showing the applicant too. | "R 20e" | |
| | 21. A letter from Chan Siew Foong from Penang enquiring on the price of M.V. "Berjaya Malaysia". | "R 21" | |
| 20 | 22. The additional travelling expenses namely Hotel Bills incurred by the deponent in the year 1966 amounting to \$5,500/- which was claimed few years later - totally different from the originally preliminary expenses of \$50,000/- | "R 22" | |
| | 23. Details of the Donations of \$138,614.80 out of which only \$36,000 were made to political institutions. | "R 23" | |
| | 24. The original loan agreement made between Inche Harun and Kong Thai dated 1st March 1969. | "R 24" | |
| | 25. (a) A bundle of newspaper cuttings from Malaysia Daily Newspaper showing the applicant, the deponent and the third respondent. | "R 25a" | |
| 30 | (b) A bundle of newspaper cuttings on the applicant deponent and the third respondent in other newspapers. | "R 25b" | |
| | 26. The profits and dividends and investments of Kong Thai over the years. | "R 26" | |
| | 27. Advances of payment by Lian Seng Crane Co. to Chew Kwan Lok and debited to Kong Thai. | "R 27" | |
| | 28. The Agreement signed between Chalfont Investments Ltd. and Kong Thai Lumber Sdn.Bhd. | "R 28" | "R 28" |

* "R 28" = see page 2020, (KTS.64) Vol. VII

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29. The Agreement signed between Glendale
Investments Ltd. and Sabah Agency
Sdn. Bhd.

"R 29" *

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2. I am advised by my solicitors and verily believe that to enable the court to have a proper understanding of these proceedings it is necessary that something of the history of the relationship between the Applicant and the Respondents be narrated. My father, Ling Chu Ming died in 1955. He had six sons, namely, myself, Beng Tuang, Beng Siong, Beng Sung, Beng Hui and Beng King and three daughters, namely, Mrs. Hoo Lien Poh, Mrs. Luk Sung Kee and Mrs. Ting Lien Poh. I am the eldest son and Beng Siong is the third son and the third Respondent to these proceedings. Beng Sung the Applicant herein is the fourth son. From the end of 1959 onwards ever since the Applicant and Beng Hui came back with degrees from Queensland University as shown in Exhibits marked "R1" "R2 and "R3" there have been a series of family disputes in which the elder three brothers have been ranged on one side of the dispute and the younger three brothers of whom the Applicant is one, have been on the other side. These disputes have involved various aspects of the family business and have involved the parties in litigation on several occasions. 10

3. To begin with there was a dispute threatened over the estate of my late father in regard to its administration and various accusations were made by the Applicant accusing me of misappropriation of the assets of the estate. Beng Sung also in the course of this dispute sent the account books of the family business to the police and threatened me that he would ask the Attorney-General to bring a prosecution. These allegations were groundless and were in fact never pursued, and the estate of my late father has since been wound up in the ordinary way. 30

4. Immediately following my late father's death the six sons were all partners in two partnerships, one Kong Thai (M.K.) Sawmill Sibu and another Ban Hin Sawmill Mukah. In 1962 a dispute arose relating to these two partnerships which resulted in litigation between the three older brothers as plaintiffs and the three younger brothers as defendants, the reference to the record whereof is Sibu Civil Case No. 2 of 1963. The object of those proceedings was to procure a dissolution of the partnerships and to deal accordingly with the assets. The proceedings were defended and were ultimately disposed of by asking the judge who heard the case 40

* "R 29" = see page 2023, (KTS.65) Vol.VII

to rule which of two proposed alternative methods of settlement should be adopted. These different methods of settlement had been proposed by the parties through their solicitors and an order was ultimately made in the High Court in SibU by the Honourable Mr. Justice MacGilligan on the 18th July 1963. Exhibit "R 4" contains a copy of this judgment, copies of the Statement of Claim and Defence and a copy of the proposals for settlement submitted to the Judge and referred to in his Judgment.

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- 10 5. A list of the partnerships or Companies in which the six brothers are now interested with their respective interests therein which had also been discussed by Henderson in this report at pages 18 to 38 is set out below:-

(1) KONG THAI SAWMILL (MIRI) SDN. BHD.

Authorised Capital :	M\$3,000,000
Paid-Up Capital :	M\$1,360,000
Nominal Value of each share:	\$100

Relevant shareholdings in this Company are as follows:

- | | | |
|----|---|-------------|
| 20 | (a) Dato Ling Beng Siew | 7582 shares |
| | (b) Dato Ling Beng Siong | 1060 " |
| | (c) Ling Beng Tuang | 1060 " |
| | (d) Hii Yu Chong | 60 " |
| | (e) Lau Hui Kang | 318 " |
| | (f) Tun Tuanku Bujang | 203 " |
| | (g) Ting Sik Toh | 200 " |
| | (h) Ting Ing Yee | 106 " |
| | (i) Dato Ting Lik Hung | 48 " |
| | (j) Mukah Sawmills (1962) Sdn.Bhd. | 63 " |
| 30 | (k) Ling Beng Sung | 330 " |
| | (l) Ling Beng Hui | 330 " |
| | (m) Ling Beng King | 340 " |
| | (n) Hii Kah Tung & Sons Sdn. Bhd. | 1000 " |
| | (o) Natives or Bumuputras of Sarawak(4) | |
| | (i) Leonard Linggi Jugah
(son of Temenggong Jugah) | 100 Shares |
| | (ii) Edmund Jugah | 100 " |
| | (iii) J. Banggau | 50 " |
| | (iv) Temenggong Oyong | 50 " |
| 40 | (p) The three children of Dato Ting | |
| | (i) Ting Shi Chiang | 200 " |
| | (ii) Ting Shi Tiang | 200 " |
| | (iii) Ting Sik Kang | 200 " |

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The re-elected directors of the Company are as follows:-

1. Dato Ling Beng Siew - Chairman & Managing Director
2. Dato Ling Beng Siong - Director
3. Mr. Ling Beng Tuang - Director
4. Mr. Hii Yu Chong - Director
5. Mr. Lau Hui Kang - Director
6. Dato Ting Lik Hung - Director
7. Mr. J. Bangau ak Renang - Director
8. Mr. Cheng Yew Kiew - Director
9. Mr. Ting Ing Yee - Director
10. Mr. Wan Abdul Rahman bin Tan Sri Tuanku Bujang - Director

10

The Applicant who was formerly a director was not re-elected at the Annual General Meeting held on 16th February 1971.

(2) HOCK HUA BANK BHD.

Authorised Capital:	\$10,000,000
Paid-up Capital :	\$ 5,000,000
Nominal Value of each share :	\$1

Up to date the relevant shareholdings in this company are as follows:-

(1) Beng Siew	465,250 shares	20
(2) Beng Tuang	131,000 "	
(3) Beng Siong	156,250 "	
(4) Beng Sung	156,250 "	
(5) Beng Hui	156,250 "	
(6) Beng King	131,250 "	
(7) Kong Thai	40,000 "	
(8) Mr. Hii Yu Chong	30,000 "	
(9) Dato Ting Lik Hung	25,000 "	

Beng Siew, the Chairman and Beng Siong the Vice-Chairman, Beng Tuang, Beng Sung and Beng Hui are all Directors. Beng Sung, Beng Siong and Beng Siew, all sit on the loan committee. Beng Sung is also the Chairman of Kong Ming Bank Bhd. while Beng Hui is Managing Director and Secretary of the same bank.

30

The following are directors of the Hock Hua Bank Bhd. :

- (1) Dato Ling Beng Siew
- (2) Dato Ling Beng Siong
- (3) Dato Ting Lik Hung
- (4) Dato Ling Beng Sung
- (5) Mr. Tiong Wan Ming
- (6) Mr. Kong Sung Seng

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- (7) Mr. Chew Chiong Tack
 (8) Mr. Chieng Keh Ming
 (9) Mr. Lau Hieng Ing
 (10) Mr. Ling Beng Hui
 (11) Mr. Ling Beng Tuang
 (12) Mr. Ling Chee Huah
 (13) Mr. Ling Hieh Tieng
 (14) Mr. Ting Ming Hui
 (15) Mr. Ling Lee Hua
 (16) General Tuanku Osman Bin Tunku Mohd. Jawa
 (17) Tan Sri Haji Mohd. Noah bin Osman

10

(3) HOCK HUA BANK (SABAH) BHD.

Authorised Capital : \$5,000,000
 Paid-Up Capital : \$3,000,000
 Nominal Value of each share : \$1

The shareholders of the Hock Hua Bank (Sabah) Bhd.
are as follows:

- (a) Hock Hua Bank Bhd., Sarawak holds 45%
 (b) The Sabahan families hold the other 45%
 (c) The older 3 brothers hold 5% and the
 younger 3 brothers 5%

20

The second Respondent is also the Chairman of this bank.
 The third Respondent is the Director of the said bank.
 Beng Sung, the Chairman of Kong Ming Bank Bhd. and the
 National Finance Corporation Bhd., (now re-named Kong Ming
 Finance Corporation Bhd.) is also a Director of the Board.

The members of the Board of Directors are as follows:

SARAWAK

- (1) Dato Ling Beng Siew
 (2) Dato Ling Beng Siong
 (3) Dato Ling Beng Sung
 (4) Dato Ting Lik Hung
 (5) Mr. Kong Sing Seng
 (6) Mr. Ling Lee Hua
 (7) Mr. Chieng Keh Ming

30

SABAH

- (8) Mr. Ngui Tet Loi
 (9) Mr. Kwang Tong Ming
 (10) Mr. Kwang Chue Ming
 (11) Mr. Ngui Tet Yin (plus two more from Sabah side)

40

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(4) HOCK THAI FINANCE CORPORATION BHD.

Authorised Capital : ~~£~~5,000,000
Paid-Up Capital : ~~£~~2,000,000
Nominal value of each share : ~~£~~1

The Shareholding from these six brothers and connected companies are as follows :

(a)	Hock Hua Bank Bhd.	1,020,000	shares	
(b)	Kong Thai Sawmill (Miri) Sdn.Bhd.	763,734	"	
(c)	Dato Ling Beng Siew	2,000	"	
(d)	Dato Ling Beng Siong	10,000	"	10
(e)	Mr. Ling Beng Tuang	2,000	"	
(f)	Dato Ling Beng Sung	33,333	"	
(g)	Mr. Ling Beng Hui	33,333	"	
(h)	Mr. Ling Beng King	—	"	
(i)	Dato Ting Lik Hung	2,000	"	
(j)	Kong Ming Finance Corporation Bhd.	23,300	"	

Hock Thai Finance Corporation Bhd. is a subsidiary of Hock Hua Bank with Kong Thai holding quite a substantial interest in it.

The following are Directors of Hock Thai Finance Corporation Bhd. :- 20

(1)	Dato Ting Lik Hung		
(2)	Dato Ling Beng Siew		
(3)	Dato Ling Beng Siong		
(4)	Dato Ling Beng Sung		
(5)	Mr. Kong Sung Seng		
(6)	Mr. Ting Ming Hui		
(7)	Mr. Chieng Keh Ming		
(8)	Mr. Ling Beng Hui		
(9)	Mr. Ling Chee Hua		30
(10)	Mr. Ling Beng Tuang		
(11)	Mr. Lau Hieng Ing		
(12)	Mr. Chieng Hie Kwong		
(13)	Mr. Ting Ing Yee		
(14)	Mr. Lau Hui Kang		
(15)	Mr. Ling Hie Tieng.		

(5) SARAWAK UNITED SAWMILLS SDN. BHD.

Authorised Capital : ~~£~~500,000
Paid-Up Capital : ~~£~~125,000
Nominal value of each share : ~~£~~3,000 40

The shareholders of the Company are as follows:-

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(1)	Dato Ling Beng Siew	8 shares
(2)	Mr. Ling Beng Tuang	6 "
(3)	Dato Ling Beng Siong	5 "
(4)	Dato Ling Beng Sung	2 "
(5)	Mr. Ling Beng Hui	4 "
(6)	Mr. Ling Beng King	1 share
(7)	Mr. Ting Ming Hui	1 "
(8)	Mr. Ngo Kok Leong	1 "
10	(9) Mr. Lau Cheng Nguong	2 shares
	(10) Lien Ho Sawmill Bhd.	3 "
	(11) Moulin Sawmill Co. Sdn Bhd.	4 "

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The five members of the Board Directors are as follows:-

(1)	Dato Ling Beng Siew	
(2)	Dato Ling Beng Siong	
(3)	Mr. Ting Ming Hui	
(4)	Mr. Ngo Kok Leong	
(5)	Mr. Ling Beng Tuang	
20	(6) Dato Ling Beng Sung) not re-elected at 29.9.71
	(7) Mr. Ling Beng Hui	

Sarawak United Sawmills Sdn. Bhd. deals mainly with import business and export of timber and equipments related to timber operation, shipping, agency, air travel and insurance business. Kong Thai exports its logs mainly through Sarawak United Sawmills Sdn. Bhd. But the second Respondent and to some extent the third Respondent have to do personal marketing for Kong Thai.

(6) BORNEO TIMBER CO. SDN. BHD.

30	Authorised Capital :	£2,000,000
	Paid-Up Capital :	£1,000,000
	Nominal value to each share :	£1

The shareholders of the Company are as follows:-

Company "A"	Borneo Co. Sdn. Bhd.	500,000 shares
Company "B"	Dato Ling Beng Siew	90,000 "
	Mr. Ling Beng Tuang	80,000 "
	Dato Ling Beng Siong	80,000 "
	Dato Ling Beng Sung	90,000 "
	Mr. Ling Beng Hui	80,000 "
	Mr. Ling Beng King	80,000 "

40 This Company is involved in the legal suit Civil Suit No. 70 of 1971 brought by Geng Sung, Beng Hui and Beng King.

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The Directors of this Company are as follows:-

Company "A" Mr. A.B. Smith alternate Mr. B.A. Crane
Mr. J.N. Hacking alternate Mr. Chew Hock Siew

Company "B" Dato Ling Beng Siew alternate Mr. Alex Ling
Lee Soon
Dato Ling Beng Siong alternate Mr. Ling Beng Hung
Dato Ling Beng Sung
Mr. Ling Beng Hui alternate Mr. Robin Hoo Tung
Kwong

(7) MALAYSIA DAILY NEWS SDN. BHD.

10

(It is a subsidiary of Kong Thai)

Authorised Capital : \$200,000
Paid-Up Capital : \$160,000
Nominal value of each share : \$100

The shareholders of the Company are as follows:-

(1)	Dato Ling Beng Siew	10 shares	
(2)	Dato Ting Lik Hung	10 "	
(3)	Tai Sing Chii	10 "	
(4)	Chieng Hie Kwong	10 "	
(5)	Chen Ko Ming	10 "	20
(6)	Ting Ka Siang	10 "	
(7)	Ting Huong Sing	10 "	
(8)	Yong Ping Kuai	10 "	
(9)	Ting Kwong Ee	10 "	
(10)	Ling Beng Hung	10 "	
(11)	Kong Thai	1400 "	
(12)	Sarawak United Sawmills Sdn. Bhd.	100 "	

The Directors of the Company are as follows:-

(a) Mr. Tai Sing Chii
(b) Dato Ling Beng Siew
(c) Ling Beng Hung
(d) Dato Gin Lik Hung
(e) Chieng Hie Kwong
(f) Chen Ko Ming
(g) Ting Kuong Sing
(h) Ting Kuong Ho
(i) Ting Ka Siang

30

The Company is a subsidiary Company of Kong Thai.

(8) P.T. KALIMANTAN SARI

It is a joint venture Company in Indonesia.

Authorised Capital : US\$1,000,000 (150 A shares
850 B shares)
Paid-Up Capital : US\$ 700,000
Nominal value of each share: US\$ 1,000

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The shareholders of the Company are as follows:-

10	Borneo Co. (S) Sdn. Bhd. (B shares)	210 shares	30%
	Kong Thai (B shares)	336 "	48%
	Dato Ling Beng Siew (B shares)	49 "	7%
	Other shareholders (Indonesian) (Hutan Sari) (A shares)	105 "	15%

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(9) UNITED SINGAPORE LUMBER (PTE.) LTD.

Authorised Capital : \$3,000,000
Paid-Up Capital : \$2/-
Nominal value of each share : \$1/-

The shareholders of the Company are as follows:-

20	(1) Borneo Co. (S) Sdn. Bhd. in the name of K. Gould	1 share
	(2) Dato Ling Beng Siew	1 share

The Directors of the Company are as follows:-

(1) J. Hacking of Borneo Co. Ltd.
(2) Dato Ling Beng Siew

This Company is formed basically to do the import and export of timber business in Singapore, Malaysia and Indonesia, similar in nature to that of Sarawak United Sawmills Sdn. Bhd. There is no controlling interest by any single shareholder.

(10) SINGAPORE MOULDINGS (PTE.) LTD. (TIMBER BUSINESS)

30 Authorised Capital : \$5,000,000 (divided into
2,500,000 A and 2,500,000
B ordinary shares of \$1/-
each)
(Allotted) and Paid-Up Capital: \$1,500,000
Nominal value of each share : \$1

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The shareholders of the Company are as follows:-

1.	Kenneth Gould	1 (A share)
2.	L.E.J. Shelley	1 (A share)
3.	The Borneo Co. (Singapore)	749,998 (A shares)
4.	Kong Thai	500,000 (B shares)
5.	Sarawak United Sawmill Sdn. Bhd.	250,000 (B shares)

(11) KONG THAI PLYWOOD (PTE) LTD.

Authorised Capital :	£10,000,000	10
Paid-Up Capital :	£2	
Nominal value of each share :	£1	

The shareholders of the Company are as follows:-

- (1) Borneo Co. (S) Sdn. Bhd.
- (2) Kong Thai
- (3) Dato Ling Beng Siew

The present Directors are as follows:-

- (1) Mr. Cheng Ting Kong
- (2) Mr. Ting Ing Yee

20

No single shareholder holds any controlling interest in this Company.

(12) GOLD HILL LUMBER SDN. BHD. (TIMBER BUSINESS IN WEST MALAYSIA)

Authorised Capital :	£1,000,000
Paid-Up Capital :	£100,000
Nominal value of each share :	£1

The shareholders of the Company are as follows:-

- (1) Borneo Co. (S) Sdn. Bhd. 50%
- (2) Kong Thai 50%

30

The Directors of the Company are as follows:-

- (1) Dato Ling Beng Siew
- (2) Mr. J. Hacking
- (3) Dato Ling Beng Siong

None of the shareholders has any controlling interest in this Company.

(13) SABAH AGENCY SDN. BHD.

Authorised Capital : $\$1,000,000$
 Paid-Up Capital : $\$900,000$
 Nominal value of each share : $\$100$

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The shareholders of the Company are as follows:-

(1)	Borneo Co. (S) Sdn. Bhd.	2700 shares
(2)	Kong Thai	3045 "
(3)	Koh Yee Kieng	675 "
(4)	Joseph Wong Hieng Cheng	675 "
(5)	Peter Wong Hieng Tock	900 "
(6)	Dato Ling Beng Siew	1005 "

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The Directors of the Company are as follows:-

1. Dato Ling Beng Siew
2. Koh Yee Kieng
3. Peter Wong Hieng Tock
4. Dato Ling Beng Siong
5. Ting Ing Yee
6. Dato Ting Lik Hung
7. Kenneth Gould
8. Ling Lee Soon

None of the shareholders has any controlling interest in this Company.

(14) KONG THAI LUMBER SDN. BHD.

Authorised Capital : $\$1,000,000$
 Paid-Up Capital : $\$900,000$
 Nominal value of each share : $\$100$

The shareholders of the Company are as follows:-

(1)	Dato Ling Beng Siew	1,490 shares
(2)	Dato Ting Lik Hung	1 share
(3)	Kong Thai	4,134 shares
(4)	Borneo Co. (S) Sdn. Bhd.	3,375 "

The Directors of the Company are as follows:-

- (1) Dato Ling Beng Siew
- (2) Dato Ting Lik Hung
- (3) Mr. Ling Lee Soon
- (4) Kenneth Gould
- (5) Mr. J. Hacking

Kong Thai Lumber Sdn. Bhd. is not a subsidiary of Kong Thai.

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(15) KONG MING BANK BHD.

Authorised Capital :	£5,000,000
Paid-Up Capital :	£2,000,000
Nominal value of each share :	£1,000

The shareholdings of the brothers at this bank are as follows :-

Controlling	(Dato Ling Beng Sung (Chairman)	1,188	
	(Mr. Ling Beng Hui (Managing Director)	1,187	
	(Mr. Ling Beng King (Director)	1,186	10
	(Dato Ling Beng Siew	50 shares	

The seven directors include Tun Jahi Tuanku Haji Bujang, His Excellency the Government of Sarawak.

(16) REJANG TRANSPORT SDN. BHD.

The authorised capital :	£1,000,000
Nominal value of each share :	£1/-

The shareholders of the Company are as follows:-

(1) Borneo Co. (M) Sdn. Bhd. holding

(a)	204,000 "A" shares of one dollar each.	20
(b)	102,000 "B" shares of one dollar each.	

(2)	Dato Ling Beng Siew	17,000 shares
(3)	Dato Ling Beng Siong	17,000 "
(4)	Dato Ling Beng Sung	17,000 "
(5)	Ling Beng Tuang	12,000 "
(6)	Ling Beng Hui	17,000 "
(7)	Ling Beng King	17,000 "

The Directors of the Company are as follows:-

(a)	Kenneth Gould	
(b)	John Hacking	30
(c)	Dato Ling Beng Siew	
(d)	Dato Ling Beng Siong	
(e)	Dato Ling Beng Sung	

(17) REJANG TRANSPORT CO. (U.K.) LTD. (WHOLLY-OWNED
SUBSIDIARY OF REJANG
TRANSPORT SDN. BHD.)

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Authorised Capital : £70,000
Paid-Up Capital : £52,000
Nominal value of each share : £1 each

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The shareholders of the Company are as follows:-

- 10 (1) Borneo Co (S) Sdn. Bhd. 75% of the total issued
and paid up capital.
(2) Six Ling brothers 25% (the elder three
brothers with 12.5%;
the other three
brothers 2.5%).

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Directors are :-

- 20 (1) Dato Ling Beng Siew
(2) Dato Ling Beng Sung
(3) Dato Ling Beng Siong
(4) Borneo Company's nominee
(5) Borneo Company's nominee
(6) Borneo Company's nominee

(18) MUKAH SAWMILLS (1962) SDN. BHD.

Authorised Capital : \$1,200,000
Paid-up Capital : \$900,000
Nominal value of each share : \$1,000

The shareholders of the Company are as follows:-

Dato Ling Beng Sung 400 shares
Mr. Ling Beng Hui 400 "
Mr. Ling Beng King 400 "

The directors are :-

- 30 Dato Ling Beng Sung
Mr. Ling Beng Hui
Mr. Ling Beng King

The 3 younger brothers have a complete control over
this Company.

From the balance sheet ending 31st December 1969 these
figures are apparent :-

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As at 31.12.1968
₹(315,624) (Loss) Loss (deficit) - ₹ (717,472) (Profit
& Loss Account)

<p>_____</p> <p>No. 6</p> <p>Affidavit of Ling Beng Siew</p> <p>_____</p> <p>14th March 1972</p>	<p>₹ 36,707</p> <p>₹ 272,465</p> <p>—</p> <p>₹ 11,376</p> <p>₹ 265,000</p>	<p>(1)</p> <p>(2)</p> <p>(3)</p> <p>(4)</p> <p>(5)</p>	<p>Trade creditors</p> <p>Other creditors</p> <p>Provision for taxation</p> <p>Bank Overdraft (secured)</p> <p>Amounts owing to associate company</p>	<p>₹ 346,013</p> <p>₹ 2,430,029</p> <p>₹ 500</p> <p>₹ 294,029</p> <p>₹ 247,396</p> <p>TOTAL ₹ 3,317,967</p>	<p></p> <p></p> <p></p> <p></p> <p>₹ 3,070,571</p> <p>10</p>
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Current Assets

<p>₹ 20,655</p> <p>₹ 55,454</p> <p>₹ 87,382</p> <p>₹ 12,046</p>	<p>Trade debtors</p> <p>Other debtors</p> <p>Stocks at valuation</p> <p>Cash at bank and on hand</p>	<p>₹ 278,506</p> <p>₹ 342,021</p> <p>₹ 154,369</p> <p>₹ 13,987</p> <p>TOTAL ₹ 788,883</p>	<p></p> <p></p> <p></p> <p>20</p>
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Fixed Assets

Net book value - ₹ 2,532,637

6. (a) Beng Sung is also the Chairman of Kong Ming Bank Bhd. while Beng Hui is managing director and secretary. Beng Sung and Beng Hui were allowed to continue to sit on the board of directors of Hock Hua Bank Berhad in spite of realistic conflict of interest and ample opportunities of advantage in acquiring confidential information in a competitor bank which is local by nature. The applicant also sits on the loan committee of the Hock Hua Bank Berhad. There were several occasions when the applicant together with Beng Hui came into conflict with the deponent and Beng Siong on matters relating to banking business such as opening of a new branch in Kuala Lumpur, increase of paid-up capital of Hock Hua Bank Berhad and proposed amendments to the articles of association of the said bank to permit "Bumuputras" or natives to become directors of the bank without share qualification. 30

(b) In relation to Hock Hua Bank (S) Bhd. there was also conflict of interest, tension and ill feelings between the applicant and this deponent and the third respondent. None of the six brothers have a controlling interest in this bank. 40

(c) In relation to Hock Thai Finance Corporation Bhd. there were occasions and reasons for tensions and ill feelings between the applicant towards the deponent and the third respondent. Prior to the establishment of Hock Thai Finance Corporation Bhd. - the Kong Ming Bank Bhd. had the National Finance Corp. Bhd. its wholly owned subsidiary company. When the deponent here proposed to establish Hock Thai Finance Corporation Bhd. the applicant quarrelled bitterly over the structure of the shareholding of this corporation and indeed showed clear objection to the formation of this strongly backed enterprise which naturally would run and is in fact running as a very formidable competitor to Kong Ming Bank Bhd. and the National Finance Corp. Bhd. (now renamed Kong Ming Finance Corporation Bhd.). Therefore the unfriendly attitude of the applicant towards Hock Thai Finance Corpn. Bhd. in which King Thai has a substantial interest is understandable. Despite this serious conflict of interest and the availability of access to confidential information the applicant and Beng Hui were allowed to sit on the board of directors of Hock Thai Finance Corporation Bhd. In addition Beng Hui also sits in the Executive (Loan) Committee of Hock Thai Finance Corp. Bhd.

(d) It must be emphasised that the conflict of interests is also realistic in both banking and financing operations because of the following factors:-

1. the actual and potential customers are mainly Foochow (a chinese clan)
2. the shareholders of Hock Hua Bank Bhd., Kong Ming Bank Bhd. and National Finance Corp. Bhd., Kong Ming Finance Corporation Bhd. are almost all Foochow, so there is a tendency for clannish support.
3. the areas of operation of Kong Ming Bank Bhd. and National Finance Corp. Bhd. (now renamed Kong Ming Finance Corporation Bhd.) viz. in Sibü Kuching with the exception of Simanggang are also covered by the Hock Hua Bank Bhd. and Hock Thai Finance Corp. Bhd.
4. above all the question of merger of the said two banks increasingly became the deepest area of conflict and ill-feelings and this has also involved Kong Thai who is a shareholder in both Hock Hua Bank Bhd. and Hock Thai Finance Corp. Bhd.

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(e) In relation to Kong Ming Bank Bhd. the three younger brothers have overall control. The deponent was removed from office of director on 14th July 1971 - not "not re-elected". No notice was given to the deponent of the annual general meeting held on 14th July 1971. In fact no notices whatever were ever given for director's meetings and general meetings. The intention is obvious. The profits of the bank are low and up to date no dividend has been declared.

Following these disputes the family business in relation to timber, logging, sawmills, banking was broadly speaking divided into two with the elder three brothers retaining the interest in Kong Thai (1963) Sdn. Bhd. which is a completely different company totally unrelated to Kong Thai Sawmill (Miri) Sdn. Bhd. The elder 3 brothers retain 50% of the share capital in Kong Thai (1963) Sdn. Bhd. while Borneo Co. Sdn. Bhd. holds the rest. On the other hand, the younger 3 brothers out of the settlement got Ban Hin Sawmill Company and over two million dollars in cash. 10

7. After the settlement of the Ling's family dispute, the following companies or partnerships were formed as stated in paragraph 5 above, namely :- 20

Mukah Sawmill (1962) Sdn. Bhd.

(The elder three brothers had no share at all)

Kong Ming Bank Bhd.

National Finance Corpn. Bhd.

(now renamed Kong Ming Finance Corporation Bhd.)

Hock Thai Finance Corpn. Bhd.

Kong Thai (1963) Sdn. Bhd.

Malaysia Daily News Sdn. Bhd. 30

Hock Hua Bank Bhd.

Hock Hua Bank (Sabah) Bhd.

Borneo Timber Co. Sdn. Bhd.

Sarawak United Sawmills Sdn. Bhd.

Rejang Transport Co. (U.K.) Ltd.

Rejang Transport Sdn. Bhd.

Malaysia Air Charter Co. Sdn. Bhd.

Chalfont Investments Ltd.

Glendale Investments Ltd.

Kong Thai Sawmill (Miri) Sdn. Bhd. 40

P.T. Kalimantan Sari

United Singapore Lumber (Pte) Ltd.

Singapore Mouldings (Pte) Ltd.

Kong Thai Plywood (Pte) Ltd.

Gold Hill Lumber Sdn. Bhd.

Sabah Agency Sdn. Bhd.

Kong Thai Lumber Sdn. Bhd.

Tai Ching Timber Limited (H.K.)

(The elder three brothers have no share at all)

8. After the Legal Suits in 1963 when I was starting the project of Kong Thai as a token of goodwill and family relationship, I asked Beng Sung whether he and the two younger brothers would join in this new project. The applicant stated that the project was a very risky one. Indeed after more than eleven months of operation, there was no sign of any logs coming out from the forest camp which is about 15 miles away from the mouth of the river near Miri. Moreover, rumours round the Sibu Town was that I were really finished as a businessman at that time. When the logs had been towed to the mouth of river Niah waiting for shipment, the applicant begged me to let the younger three brothers to have a share in this business. The reports of the size and quality of timber from Kong Thai were very good. However, after sleepless nights, I managed to ship timber to Japan in 1965. The applicant approached me, (the founder of Kong Thai who got the concession for that piece of forest in my own right), and requested me to help the younger three brothers also since Beng Tuang and Beng Siong, the other two elder brothers had each 1,000 shares in that Company and that I have been the head of the Ling family since the death of my mother in 1959 X^mas Eve. So I was touched and persuaded by the blood brother relationship, since Beng Sung and Beng Hui were relatively new in business circles in terms of Banking and timber business. Being soft hearted, believing the traditional concept of head of family in Chinese custom and further hoping that by giving shares to the younger three brothers this would further heal the old scars of family disputes and strengthen the unity of the Ling family. I agreed that I would do my utmost to get the consent of the rest of the shareholders of Kong Thai to issuing further shares to the younger three brothers. So I asked the Applicant the number of shares he would like to subscribe. The Applicant said that since Beng Tuang and Beng Siong then each had 1,000 shares of \$100 each, he would ask for 1,000 shares of the same class to be issued to the three younger brothers under the name of Mukah Sawmill (1962) Ltd. of which there are only three shareholders, namely : Beng Sung, Beng Hui and Beng King. So I had to persuade the rest of the shareholders who do not belong to the Ling family, e.g. Dato Ting Lik Hung, Mr. Hii Yu Chong of Delta Bhd. and Borneo United Sawmills Bhd. and Mr. Lau Hui Kang of K.T.S. Sdn. Bhd.

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In fact at first I had to explain to the shareholders and the Board of Directors privately that it was in the interest of the Ling family to help my younger three brothers in issuing another 1,000 shares, because being head of the family and the eldest brother, I carried such responsibility

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to help the three younger brothers, the youngest of whom, Beng King, had gone for further studies in Australia before 1958 and England after that date and is still studying law in England. The shares were issued purely on family relationship. Between October 1965 and the meeting of the Board of Directors on the 4th April 1966, Beng Sung approached me several times for an increase of 1,000 more shares in addition to 1,000 shares promised to be allocated to Mukah Sawmill (1962) Sdn. Bhd. to the younger three brothers. Even before the said directors' meeting at 3.00 p.m., Beng Sung rang up begging me to approve the 1,000 shares and increase another 1,000 shares for them.

10

All this time, the Applicant had been most sweet to me and my family, often sent his wife and children up to my house at Lanang Road, Sibul, leaving them there frequently for a few hours for my wife to look after them. The younger brother Beng Hui used to sleep in my house and borrowed my house for his wedding reception. I also instructed the manager in Sarawak United Sawmills in Hong Kong to receive them and looked after them during their honeymoon stay there.

20

On 2nd October 1965, the Applicant begged me to accept the cheque of \$100,000 for the payment of 1,000 shares to be issued to Mukah Sawmill (1962) Ltd. as shown in exhibit marked "R 5". At that time, excellent large logs were ready for shipment. I told the Applicant I would try my best. However the approval for allocation of shares to Mukah Sawmill (1962) Ltd did not take place until six months later in the 4th April 1966 at 3.00 p.m. as shown in exhibit marked "R 6".

Just before the meeting began, Beng Sung rang me again asking me for an increase of another 1,000 shares, because Beng Tuang and Beng Siong each had 1,000 shares, so the younger three brothers should have the same treatment. I asked my brother, Beng Tuang about this additional 1,000 shares requested by Beng Sung. [OMITTED]

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However, the issue of the original 1,000 shares were approved accordingly on the 4th April 1966 and eleven days later, Beng Sung turned up for the Second Annual General Meeting at 11 a.m. as shown in exhibit marked "R 7" which was the only occasion he ever appeared at a meeting.

40

Between that date and early July 1966, he requested me again and again for the issue of additional 1,000 shares but finally about July 1966, I told him that it was not possible as the other shareholders were opposed to the idea unless all were allowed to increase their shares proportionately.

Since that date, the relationship between him and his family with mine became soured. [OMITTED]

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The shareholders, among them, Mr. Hii Yu Chong and Mr. Lau Hui Kang who had seen the logging operation and production figures of this hill logging operation, knew fully well that it would be a financial success and would represent great potential in store for Kong Thai.

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On July 1966, the family dispute centralising round this refusal to issue further shares sparked off and was carried to England where my youngest brother then was preparing for his matriculation. [OMITTED]

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Malaysia Timber Co. Sdn. Bhd. obtained another small area of concession commonly referred to as "M 9" next to Kong Thai, of which Ling Beng Siew Sdn. Bhd. is a contractor. [OMITTED] That was another cause for conflict in the Ling family.

Besides, the suspicion of interference with Mukah Sawmill (1962) Sdn. Bhd. entertained by the Applicant and Beng Hui was a further ground for the family conflict.

On my part I have made several attempts to remove this friction over the years since July 1966. (a) In 1967 I went to pay my respect by visiting him on the Chinese New Year day which he did not reciprocate despite our close relatives' persuasion. This is most odd according to the Chinese customs as he is still my younger brother. (b) I have always sent social invitations to him on personal or companies entertaining in Sibul, but he rarely turned up, nor did he permit his wife or children to do so. But he never sent invitations in return once since July 1966. (c) I sent my sons and daughters to visit him and his family. [OMITTED] (d) Family friends and mediators were sent by me to talk to him, which was of no avail. (e) An appointment was made in Cuscaden House Hotel in Singapore to settle all the family issues in 1969, but it was fruitless, as he just simply walked away during the middle of discussion. (f) I sent Alex to explain all the family and business issues to the Applicant and Beng Hui, [OMITTED] this was to no avail too.

9. While various attempts had been made by me and members of my family to effect a lasting reconciliation and a settlement of such disputes as may exist, Beng Sung has consistently since that date refused to accede to such requests and the parties have not been on speaking terms for some considerable time.

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10. There have been a number of matters on which disputes have arisen. The principal matters on which the parties have been unable to agree and which have given rise to ill-feeling on the part of Beng Sung are as follows:-

(a) The bank merger issue, since the refusal of further issue of shares to, my younger three brothers had become one of the biggest and deepest reason for the sour relationship and animosity between the brothers. I invited Beng Sung to have a lunch in Cuscaden House Hotel in Singapore to resolve the family animosity. He proposed a formula for the proposed merger between Hock Hua Bank Bhd. and Kong Ming Bank. The history and profit of both banks and their subsidiary finance companies are different which are shown in exhibit marked "R8". My answer was that his suggestion should get the approval and support of the shareholders of Hock Hua Bank Bhd. His reply was that if I should bow my head he could tackle the whole board of directors of Hock Hua Bank Bhd. including the managing director, Dato Ting Lik Hung. However, I expressly mentioned to him that if the Ling's family were to swallow up Hock Hua Bank Bhd. like that I, as a chairman of Hock Hua Bank Bhd., would not be able to face the rest of the shareholders and people in Sarawak. Beng Sung angrily stated if that was the case, there was no need to talk about family's co-operation and unity. He paid the bill and walked off, leaving me puzzled. 10

OMITTED

Further disputes, inter alia we had are :-

- (b) the question of the increase of the share capital in Kong Thai,
- (c) the question of the participation in the Indonesian venture and the subsequent difficulties which arose over that in Pontianak concession, 30
- (d) the illegal timber felling and difficulties which arose over the Nunukan concession in Indonesian as shown in exhibit marked "R 9",
- (e) Mukah Sawmills (1962) Sdn. Bhd. operation,
- (f) "M 9" forest concession applications,
- (g) conflicts arising in general management and support of shareholders in various companies,
- (h) the participation and the shares allocation of 40

Kong Thai in Hock Thai Finance Corpn. Bhd. and the effects on the National Finance Corpn. Bhd. and later on Kong Ming Finance Corporation Bhd.

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11. With this background Beng Sung made his application that an approved company auditor acting on his behalf be at liberty to inspect the books and records of the respondent company pursuant to the provisions of section 167 of the Companies Act, 1965. I do not accept that the reasons for the application were as set out in his affidavit dated the 25th September, 1970 and filed in support of the application, nor do I accept the reasons given in paragraph 2 of Beng Sung's affidavit. I believe these proceedings to be part and parcel of the general family dispute. [OMITTED]

12. Until the letters referred to in paragraph 3 of Beng Sung's affidavit Beng Sung made no effort and expressed no wish to participate in the management of Kong Thai at all although he was a director and shareholder. At no time during the history of Kong Thai has Beng Sung ever attended a director's meeting. He did attend one Annual General Meeting of the company in his capacity as a shareholder. Until the letters referred to in paragraph 3 of Beng Sung's affidavit he made no enquiries as to the management of the company nor did he ever attend at the company's premises to inspect the books and records, nor did he make any enquiries at all relating the company.

13. An order was made by the High Court under section 167 of the Companies Act, this order being made by consent, and following that order Peattie acting on behalf of Beng Sung made his inspection following which he swore and filed in these proceedings Peattie's affidavit.

14. [O M I T T E D]

15. I have, following the receipt of Beng Sung's affidavit and of Peattie's affidavit filed herein, caused enquiries to be made by Mr. Charles Henderson of Messrs. Turquand Young and Company, certified public accountants of Malaysia, the resident partner in the Sabah office of Messrs. Turquand Young & Company. Mr. Henderson is himself a chartered accountant and an approved company auditor under the Companies Act, 1965. I have caused all relevant records, accounts and other documents to be made available to Mr. Henderson relating to the affairs of Kong Thai and also those records, accounts and other documents relating to other companies which have been referred to in Peattie's affidavit.

[OMITTED]

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I refer to Beng Sung's affidavit and I have the following comments to make on the various allegations contained therein in so far as they are not already dealt with in the report of Mr. Henderson. The references to paragraphs are references to paragraph numbers in Beng Sung's affidavit.

16. Paragraph 6 (First General Meeting)

It is not correct that I constituted myself a one-man "meeting" nor did I authorise payment to myself of \$50,000. The minute book of the Kong Thai (Exhibit "R 11") shows that the following persons were present at this meeting :-

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- (1) Mr. Ling Beng Siew
- (2) Mr. Ling Beng Siong
- (3) Mr. Hii Yu Chong
- (4) Mr. Ling Beng Tuang
- (5) Mr. Lau Hui Kang

The sum of \$50,000 relating to preliminary surveys was a figure agreed at that meeting by way of compensation to me for the time, trouble and expense incurred by me in connection with the acquisition of the forest licence which is the principal asset of Kong Thai. These expenses covered visiting the areas in question, having surveys prepared and other expenses related to this including fees to surveyors, travelling and other expenses which were met personally by me, and this sum of \$50,000 was intended to cover these and also to cover the time to which I myself devoted to the project.

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OMITTED

17. Paragraph 7 (One Insurance Premium)

The insurance policy referred to in this paragraph was in favour of my wife. [OMITTED]

30

18. Paragraph 8 (Daily Allowance \$60/-)

I do not agree that a daily allowance of \$60/- a day is excessive. This allowance is intended to cover all incidental expenses, such as car charges, tips other than basic hotel charges with bills and anyone who has been to Hongkong will know very well that the cost of living and entertaining in Hongkong is high. The trip was made in the interest of the company. Kong Thai sells timber to Japan and Formosa. Sarawak United Sawmills Sdn. Bhd. normally has been the exporting agent for Kong Thai. However, as this was in the second year of operation when the large scale

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logging really began, I had to go and convince buyers personally at Taipei that Kong Thai was a financially sound and bona fide timber operator, able to supply constantly the quality and quantity demanded. This personal touch has since proved invaluable to the Company.

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10 Sarawak United Sawmills Sdn. Bhd. had a branch in Hong Kong, acting quite often as a half way "house" between Japan, Formosa and Sarawak. Buyers were informed to direct enquiries to their branch office also while certain arrangements had to be made, so that customers of Kong Thai could be properly looked after when they are in transit at Hong Kong. Consequently, a higher price had since been offered for the logs through this personal effort which was not possible through purely the exporting agent, Sarawak United Sawmills Sdn. Bhd. This was for the benefit of Kong Thai.

19. Paragraph 9 (Donations)

20 I deny that the donations shown in the Company's account were made for my personal benefit and not for that of Kong Thai. Many of these donations were to ordinary straightforward charities and are within the powers of the company contained in its Memorandum of Association. [OMITTED] It is alleged by Beng Sung in his affidavit that other donations to bodies of a political nature were made solely for my personal benefit and in furtherance to what is alleged to be my personal political advancement.

[OMITTED] The donations of \$18,246.10 in question here is by means political as shown in Exhibit marked "R 12".
[OMITTED]

30 Due to inaccurate press reports, donations issued under my personal or Kong Thai's cheques had been reported to be personal donations of the 3rd Respondent and myself. I refer by way of example in the most recent case of \$5,000 donation to the Sarawak Amateur Football Association as shown in Exhibit marked "R 13a" "R 13b" and "R 13c". I refer by way of example, to donations made by the following persons or bodies to objects of a political nature, for example from other timber companies as shown in Exhibit marked "R 13d".

20. Paragraphs 10 and 11 (Entertainment & Tax Deductions)

40 Since the date of the Peattie and Beng Sung's affidavits, Peattie has requested the sight of and has seen such income tax papers and returns which he wanted and accordingly has such information as he wishes relating to the company's tax

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affairs. Beng Sung's second affidavit and Peattie's second affidavit affirmed on the 24th November 1971 were served on my solicitors just before the Chinese New Year Eve on 14th February 1972. [OMITTED]

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21. Paragraph 12 (Ling Beng Siew Sdn. Bhd. Trading Account)

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Interest on the sum in question namely \$16,562/- has in fact been credited to the company and charged to the accounts of Ling Beng Siew Sdn. Bhd. The same action has been taken in respect of all advances either to me personally or to Ling Beng Siew & Company referred to in the course of the Beng Sung's and Peattie's affidavits. Trade relationship existed between Kong Thai and Ling Beng Siew Sdn. Bhd. ever since the latter company commenced its timber business in Sungei Sekalo in respect of supplies of logging materials such as S-hooks, wireropes and ring-spikes and Kong Thai made at least 3% profit on these goods mentioned on a very conservative estimate. The above figure of \$16,562 merely represents the cost of logging materials supplied and salary and wages paid on behalf of Ling Beng Siew Sdn. Bhd. at Niah. I refer by way of example of this trading relationship between the said companies in Exhibit marked "R 14". [OMITTED]

14th March 1972

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22. Paragraph 13 (Advances)

[OMITTED]

Interests has in fact been credited on these and on other advances. Nothing is in fact mentioned in respect of certain period during which I had credit balance with the Company [OMITTED]

23. Paragraph 14 (Advances)

I make the same observation on this paragraph as I made above in connection with paragraph 13 but I deny any intention or desire to conceal anything from the other directors or shareholders. All these transactions were duly recorded in Kong Thai accounts open for inspection to any director.

30

24. Paragraph 15 (Contractors)

I am advised by Mr. Henderson as appears in his report at page 62 that these transactions are perfectly normal business transactions within my authority as Managing Director of the company. As Managing Director of the Company I am responsible for running it. Those directors who chose to take an interest in the affairs of the company were fully aware of what was going on and Beng Sung if he had chosen at any time to look at the company's books or records would

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similarly have had access to them.

25. Paragraph 16 (Donations)

I refer to my observations above under paragraph 19 on subject of donations, I deny that the allegations of these donations were not for the benefit of the company [OMITTED]. On the allegations in regard to the loans to me, to Ling Beng Siew Sdn. Bhd. and Ling Beng Siew & Company and I say that now that interests had been charged on these sums, [OMITTED].

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10 26. Paragraph 17 (Aurora Hotel)

Mr. Andrew Peattie has throughout his affidavit misunderstood the relationship between the company and the Aurora Hotel. It is not correct that the company purchased Aurora Hotel Sdn. Bhd. There is in fact no such company. The company did purchase the assets and business under the name of Aurora Hotel from Tan Hoan Lee (Realty) Ltd. The Aurora Hotel which is a building situated in this town of Kuching is now one of the assets of the company [OMITTED]. It is therefore incorrect to say that the Company has no
20 place of business and conducts no business in Kuching. It does in fact own and operate the Aurora Hotel in Kuching. The cars referred to in this paragraph are the property of the company and are used in connection with the business of the Aurora Hotel in addition to this they are used by the directors as officers of the company when they visit Kuching. Aurora Hotel is also discussed in Henderson's report at pages 38A to 43. The car SV2144 Chevrolet Impala which
30 was used in Singapore by me, other shareholders and directors including Beng Sung once and customers and staff of Kong Thai. [OMITTED].

27. Paragraph 18 (Delegated Authority)

A general authority to make investments on behalf of the company was given to me by resolution of the directors dated 27th December 1967. A copy of this resolution appears at page 25 of the minute book is exhibited hereto and marked "R 17". Mr. Henderson also has referred this in his report at pages 5, 42 and 57.

The investment in Hock Thai Finance Corporation Bhd. was accordingly an authorised investment. [OMITTED]

40 Hock Thai Finance Corpn. Bhd. is a subsidiary of Hock Hua Bank Bhd. where the six Ling brothers have substantial

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interests. [OMITTED] Kong Ming Finance Corporation
Bhd. holds 23,300 share in Hock Thai Finance Corporation.

28. Paragraph 19 (Aurora Hotel)

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The accounts of Aurora Hotel (not Aurora Hotel Sendirian Berhad as stated by Beng Sung) are part of the accounts of the company and are available for Mr. Peattie's inspection at any time. [OMITTED] The investment was again authorised by resolution of the Board at paragraph 27 above. [OMITTED] The latest set of accounts for that branch of the company's business discloses a net profit of \$25,362 and I anticipate that this profit will increase in future years. The so-called mark-up of 100% on the sale of liquor is totally misleading and untrue and I refer to Henderson's report, at pages 39 and 40. The sales on liquor is the main source of profit in the bar. Therefore 40% on the wholesale purchase price in Kuching as opposed to Singapore is normal even without rebate. There were some public and private entertainments in Aurora, after the acquisition of Aurora Hotel on 1st February 1968, to give publicity of new ownership and hoping thereby to get more business for the hotel, and naturally many V.I.Ps. including political figures, casual customers and their families very often threw parties in the hotel since it is the best hotel in town. The discount of bills of 30% for directors in respect of food and drinks offered by Aurora Hotel is a normal practice in hotel business and authorised by the Board of Directors. [OMITTED]

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29. Paragraph 20 (Hovercraft)

There is now produced and shown to me a photo with particulars of the hovercraft in question. This is a relatively small machine which could very easily ply in the Niah river and was intended to be used for the Company's business. It is not the sort of machine which any sane person would buy for his own personal amusement. It was in fact never delivered because the selling company failed financially and it was for this reason it was impossible to recover any initial deposit it has paid for it. Dividends in the selling company's winding up have in fact been paid to the extent of \$823.24 as shown in Exhibit marked "R 18c". [OMITTED]

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The diagram and photos of the said hovercraft is shown in Exhibit marked "R 18a" and "R 18b".

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30. Paragraph 21 (Yacht "Berjaya Malaysia")

I do not dispute that the yacht referred to in this

paragraph is an extremely well-appointed and luxurious type of yacht. It serves a number of purposes, just as "Sri Tania" belonging to Mukah Sawmills (1962) Sdn. Bhd. and later on to Kong Ming Bank Bhd. does. When I originally purchased it on behalf of the company, I envisaged it being used on the company's business for travelling to and from Indonesia as shown in Exhibit marked "R 19a" "R 19b" "R 19c" "R 19d" and "R 19e". It has not in fact been used for this purpose because of difficulties with the Indonesian Authorities. I do not dispute that the yacht has been used on a number of occasions for purposes for entertaining visitors and other guests, nor do I dispute that it has travelled to places where Kong Thai does not directly have any business. Nevertheless the yacht was used also in Singapore, Kuching, Penang, Sibu and Tawau to entertain customers of Kong Thai and business associates. However, it is not correct to say that no one other than myself and Beng Siong were ever permitted to take the boat for a trip. Any director of the company would have been at liberty to use it if he had wish to do so, but no director at any stage ever intimated to the company or to me that he did wish to do so. The yacht was in fact used by Dato Ting Lik Hung on at least one occasion and directors were reminded that they could use the yacht at the director's meeting. General shareholders and directors have been invited to parties given on board to actual and potential customers, business associates and guests of the company, including Beng Sung as reported in the Vanguard as shown in the Exhibit marked "R 20e".

The freezer was ordered in advance and purchased on 17th June 1968 while the radio phone, not radio, on the 12th September 1968 intended solely for the use of the yacht, although the yacht itself was finally purchased on 30th September 1968.

[OMITTED]

Once the yacht is owned by the company it has to be maintained and kept up irrespective of whether it is used or not; there is therefore no substantial additional expense for the company other than the cost of fuel when the yacht is in fact used. It is suggested by Beng Sung that I should personally take over the yacht paying to the company what it costs to the company in the purchase and renovation together with interest. I have recently had a verbal offer to purchase the yacht at a figure which would result in a profit to the company of approximately \$200,000/- if the survey of the vessel is satisfactory. I will be only too willing to take the yacht over on the basis that has been suggested if the court sees fit so to order but I must in

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fairness to the shareholders whose interests appear to have been overlooked by Beng Sung that such an order will result in a substantial loss to the company and therefore to the other shareholders and a personal gain to myself which appears to be what Beng Sung is anxious to avoid.

There have been several offers for the purchase of this yacht and offer of both long and short term chartering for the same vessel. For example, from the Oil Companies and from the shipping magnate, and a proposed syndicate in Penang to run it as a floating casino, since gambling on the casino in the Genting Highlands have been formally licensed. This apparently is a very profitable venture. Precise nature of the offers are as follows:-

- (1) The proposed verbal offer of \$700,000 from a Penang syndicate is a tentative offer, subject to survey and negotiation.
- (2) The oil companies had made enquiries on the proposed chartering of this yacht.
- (3) A Singapore Ship magnate has asked for details and wanted a survey of the vessel before negotiating on the price.

A letter from Chan Siew Foong from Penang is shown in Exhibit marked "R 21".

31. Paragraph 22 (Advances)

[OMITTED] I deny there is any misappropriation or conversion or any abuse of my position. [OMITTED].

32. Paragraph 23 (Advances)

[OMITTED] deny that these drawings were illicit or that there was any conspiracy not to disclose. [OMITTED] At no time was the advance of bonus greater than the actual bonus which I was entitled to at the end of the financial years. [OMITTED] I further deny the motives alleged by Beng Sung in this paragraph in connection with the drawings referred to. [OMITTED]

33. Paragraph 24 (Advances)

At no time has it been claimed that Kong Thai should be responsible for the payment of this sum to Alex. It constituted an advance. That advance had since been repaid and the company had been credited with interest. I deny that

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it represents a misappropriation and conversion of Kong Thai's funds. It is not true to say that he has never promoted the interests of the company during the summer vacations here and while he was in England.

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34. Paragraph 25 (Preliminary Expenses)

[OMITTED] I have already dealt with the original amount of preliminary expenses of \$50,000/- and deny again in the allegations made in connection with that sum. The additional travelling expenses as appears in Mr. Henderson's report relates to an entirely different period and are supported by vouchers as shown in Exhibit marked "R 22".
[OMITTED].

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35. Paragraph 26 (Donations)

This paragraph relates to donations and I refer to my general observations on this under paragraph 19 above. Out of the total sum of \$138,614.80 only \$36,000 were made to political institutions, [OMITTED]. I deny the insinuations and conclusions drawn by Beng Sung in this paragraph. The reasons why some receipts were in the third respondent's and my name have been explained already at paragraph 9 above and in Henderson's report at pages 46 to 48.

36. Paragraph 27 (Entertainment)

I refer to my comments above on entertainment at paragraph 28 [OMITTED].

37. Paragraph 28 (Travelling Expenses)

[OMITTED] During the period when the third Respondent was a Sarawak Minister, he continued to look after the affairs of the company in connection with the Aurora Hotel with the help of Mr. Kong Siang Ong. Mr. Kong Siang Ong acted as his part time private secretary and would also have been concerned at the relevant time with the same business. [OMITTED].

It is not correct to say that the company has no business in Hongkong, Taipeh and Tokyo. The company is responsible for the production of timber and sales of timber as is well known take place in Hongkong, Taipeh and Tokyo.

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STAFF AND DIRECTORS TRAVELLING EXPENSES

(a) Mr. Kong Siang Ong who has been dealing with some aspects of the operations and investment of Kong Thai travelled mostly with the third Respondent on Company's matters.

(b) Trips to Hong Kong, Taipeh and Tokyo by the second and third Respondents are for and in the interests of the Company. Indeed, right now other timber operators and top executives of other timber companies such as Limbang Company, Delta Bhd., Sin Hua Sdn. Bhd. K.T.S. Sdn. Bhd. Borneo United Sawmills Sdn. Bhd. have to make personal trips to these places to sell their timbers. 10

(c) The charter of Malaysia Air Charter planes for trip to Indonesia was to survey the forest concession before subsequent investment there in Pontianak.

(d) Mr. Hii Yu Chong, director of Kong Thai made a trip by air with the Managing Director of Kong Thai Sawmill Sdn. Bhd. in Indonesia to survey the forest concession in Pontianak before the investment of P.T. Kalimantan Sari and also another piece of forest concession called "wanita concession", the option of which was later on assigned to Mukah Sawmill (1962) Sdn. Bhd. after Beng Sung and Beng Hui requested the deponent to do so at the Kuching airport. 20

(e) [OMITTED] The expenses amount to only \$1,865.75.

(f) The same comment as (e).

(g) This bill on shirts and suit cases should have been charged to my personal account. This is a misleading representation because out of \$8,066.04, only \$315.27 was involved. 30

I made the same comment on the entertainment expenses incurred in Singapore and I agreed that the cost of my shirts and my suitcase should have been charged to my personal account. These charges were sent direct by the hotel in Hong Kong to the company and were wrongly charged to the company, and have since been debited to my own account. [OMITTED]

38. Paragraph 29 (Statutory Statement of Directors)

Beng Sung does not say in what respect the statutory statement is alleged to be untrue. I deny that the statement is untrue and I also deny that the directors' report is untrue. 40

39. Paragraph 30 (Disallowance of legal expenses)

[OMITTED]

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Borneo40. Paragraph 31 (Investments)

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10 The investments referred to in this paragraph and in Peattie's affidavit at paragraphs 58 and 59 have not been concealed from Kong Thai. Those directors who have chosen to take an active interest in the affairs of the company were very well aware of the existence of these investments and had approved them. Had Beng Sung elected to concern himself with the affairs of the company, and had he taken the trouble to look at the records at any time, all this material would have been available to him. I have certainly not regarded these as my personal projects, financed with Kong Thai's money and there is no foundation for the clearly biased suggestion that I was leaving it open if the investment proved unprofitable to saddle Kong Thai with the resulting loss.

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41. Paragraph 32 (Advances)

20 The loan to Enche Harun was the subject to the loan agreement, a copy of which is now produced and shown to me and marked as "R 24". This agreement provided for the paying of interest but the loan has in fact since been partially repaid with interest. [OMITTED].

42. Paragraph 33 (Advances)

30 These items have been partly dealt with under paragraph 22 above. Interest has been paid on them. I deny that there was any of these in my possession in connection with this or that the drawings by the third Respondent constitute misappropriation or conversion. Now that interests had been charged on these sums. The Company had not suffered any loss [OMITTED].

43. Paragraph 34 (Advances)

These advances have already been dealt with under paragraphs 22 and 23 above.

44. Paragraph 35 (Aurora Hotel)

I refer to the report of Mr. Henderson dealing with the Aurora Hotel. [OMITTED] I refer to paragraphs 17 and 19 above. I do not dispute that car KA9455 was on occasion

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used by the third Respondent's family. It was primarily intended to be used and was used in connection with the hotel's business and it was purchased for this purpose. It was subsequently exchanged for a larger car - Mercedes 200 KB2651.

45. Paragraph 36 (Malaysia Daily News)

I deny that the purchase of Malaysia Daily News was for the purpose alleged by Beng Sung. Any publicity which that newspaper may have given to me was basically no different from similar publicity given to me by other newspapers in which I have no financial interest as shown in exhibit marked "R 25a" and "R 25b". In my view the investment was a potentially sound one. [OMITTED] Mukah Sawmills, wholly owned, run and controlled by Beng Sung, Beng Hui and Beng King invested in SA Chiew Daily Newspaper, a local press in 1966 and 1967.

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46. Paragraph 37 (Dividends and Investments)

[OMITTED] The smallness of the dividend remains to be governed by the availability of cash for the purposes of paying it. The remainder of the net profits of the company had been used for purposes of investment as shown in exhibit marked "R 26" [OMITTED].

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47. Paragraph 38 (Non-Disclosure of Interests by the Board)

I do not dispute that there was no disclosure of interest in the manner required by the Companies Act in connection with my interest in Pan Sarawak Sdn. Bhd. [OMITTED] and I myself was certainly unaware at the time of the detailed provision of the Companies Act relating to this. [OMITTED] The applicant has not declared his interest too. [OMITTED].

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48. Paragraph 39 (Donations)

I have already commented above on donations generally. There is nothing astonishing about the consecutive receipt numbers. The simple reason is that no donations were received by the Sarawak Chinese Association other than those made by Kong Thai between the relevant dates. I deny that these donations were made without authority or that they are scandalous and grotesque abuse of my position. At the relevant time, I was president of the Sarawak Chinese Association, but did not stand for election either at the state or federal level. The accounts filed with the Registrar of Societies are merely the accounts of the Kuching branch of the association. Each branch normally maintains

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its own separate accounts and the donations referred to in this paragraph do appear in the accounts of the Sibü branch. The Sibü Branch office has been broken in and accounts stolen. It has been reported to the police.

49. Paragraph 49 (Entertainment)

[OMITTED]

10 The golf clubs were maintained at Miri for the benefits of visitors and members of the staff. I make the same objection with regard to expenditure as I made before and in regard to the claim for a refund of sums disallowed by the tax authorities in paragraphs 10 and 11 above.

The entertainment in question for the year 1968/1969 are as follows:-

(a) At Sibü

A sum of \$2,194.80 was expended by the Managing Director for customers at home, actual or potential customers from Taiwan, Japan and the staff of the Company and guests. [OMITTED].

20 The sum of \$267.80 were also paid of the above entertainment purposes in the yacht for the same purpose.

Gift of whisky etc. amounting to \$639.48 which had been settled already was wrongly charged as this has always been paid every year by Ling Beng Siew & Co. This is the same as the shirts wrongly charged to my hotel bill at Hotel in Hong Kong.

30 An amount of \$3,225.50 expended on "Berjaya Malaysia" was used for entertaining customers and buyers of Kong Thai, VIPs connected with the political world, staff of the Company and guests including the directors and shareholders of Kong Thai.

(b) At Miri

A set of golf clubs costing \$1,150.00 were provided for senior staff and Japanese and other timber buyers and representatives visiting or stationed at Miri.

The party costing \$2,318.30 given in honour of Dato Ling Beng Siong, then the Minister of Youth and Culture. He was a Director, Minister visiting Miri and it was a great occasion for the Company to receive him there with the staff

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and guests of the Company.

The annual New Year party in the camp costing \$5,366.80 for the staff families and guests is in the interests of the Company for promoting goodwill. This is quite a common practice in most big companies within Malaysia and Singapore.

(c) At Kuching

The party costing \$3,447.57 was given in honour of the Deputy Prime Minister. [OMITTED].

(d) At Singapore

Kong Thai has interest in three projects:-

- (1) P.T. Kalimantan Sari where part of the administration is carried out in Singapore.
- (2) Singapore Moulding (Pte) Ltd. where Kong Thai holds not less than 30% of the total shares issued.
- (3) Kong Thai Plywood (Pte) Ltd.

A few of the senior staff of Kong Thai and actual and potential customers, buyers of Kong Thai of P.T. Kalimantan Sari, Singapore Moulding (Pte) Ltd., were guests at the party costing \$1,326.85, given in honour to the Prime Minister of Malaysia in a foreign country. Such prestige was for the interests of the Company.

(e) At Penang

\$2,477.60 was donated in promoting sports in the national level which is common in other companies either at a state or national level including other banks and sawmills.
[OMITTED]

50. Paragraph 41 (Travelling Expenses)

[OMITTED]

It is quite untrue to say that the third Respondent has never travelled on Kong Thai's business.

[OMITTED]

The proposed "Goodwill" trip by my family and myself as Chairman and Managing Director of Kong Thai to Indonesia was

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cancelled. So tickets issued between Singapore and Djarkata sector which were to be issued by Kong Thai were refunded.

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51. Paragraph 42 (Investments)

The returns on investments are a matter of mathematics. I deny that Kong Thai's investment policy has been disastrous. I deny that it shows incompetence or dishonestly on my part [OMITTED].

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52. Paragraph 43 (Employees)

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10 The following persons were employed directly or indirectly with Kong Thai in the following ways:-

(a) Mr. Kong Siang Ong was involved at the very beginning in the operation of Kong Thai. Ever since that date up to present moment, he is still in charge of the applications for explosives for the operation of Kong Thai's stone quarry. He has helped in the management of the Aurora Hotel since its acquisition. Although he has been a part time personal secretary to the third Respondent during and outside the period when the said respondent was a Minister, he was also helping him in dealing with the Aurora Hotel business, paper work and correspondence, which the third Respondent had to deal with during my absence.

(b) Mr. Kong Kuek Miew was active in the political activities yet he was engaged part time by Kong Thai to acquaint himself with timber business and go to Indonesia and to report to me of the working conditions there, most important the political climate in Indonesia for large scale investment for the Company and to find any Indonesian counterparts who may have forest concessions to offer for a joint venture project. He went to the Niah forest camps in Miri on several occasions.

(c) Penghulu Poh and Pengarah Chundi. These Iban Chiefs were engaged to recruit labourers and acted as advisors to the Company in native customary laws and to deal with the native tractor drivers and labourers in case there were labour or racial problems. It is not true that all labourers were recruited from logging areas or that all the Ibans came from there. Political influence from them is beneficial to the Company. Many Ibans tractor drivers were recruited from Kapit and along the Rejang river.

40 (d) Mr. Wong Yew Ming. He is also advising me on the feasibility of setting up a third English Newspaper in

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Sarawak and the possible acquisition for printing press in Penang by Kong Thai apart from the fact that he has been running the Malaysia Daily News, a subsidiary of Kong Thai.

(e) Mr. Chew Kwan Loke. He was a clerk stationed in Singapore looking after the purchase of various equipments and machineries for Niah logging camps through Lian Seng Crane Company. The advance of payment by this Company to him was periodically debited to Kong Thai as shown in Exhibit marked "R 27".

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(f) Mr. Chen Ko Ming is mainly involved in the prospecting of minerals projects by Kong Thai in Sarawak. He has been prospecting for antimony in Sarikei, at Bau and bauxite in Semetan. He has also recruited workers for the Company. Although he is the Secretary-General of the Sarawak Chinese Association and a member of Parliament, he is still an employee of Kong Thai and he does a lot of applications and writes a lot of letters for Kong Thai in connection with the projects of Kong Thai at Government and non-Government levels.

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53. Paragraph 44 (Aurora Hotel)

I have explained above the true position of the Aurora Hotel. I am not responsible for what has been said in the newspapers. It was correct that I have bought the hotel and the newspapers were evidently unaware that I bought it on behalf of the Company.

54. [OMITTED]

55. Paragraph 46 (Director's Report)

[OMITTED].

I make no admissions as to the allegations made in the paragraph.

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56. Paragraphs 47 to 51 (Advances)

I make no admissions in respect of these paragraphs and I deny that there is any liability to be paid.

57. Paragraph 52 (Associated Companies)

I refer to paragraph 13 above. I have in fact paid interest. The figures and drawings are deceptive for the reasons which I have given above. [OMITTED].

Mr. Andrew Peattie has not presented a correct view in

this matter. Chalfont Investment Ltd. obtained the forest concession in Numukan near Sebuku river, Indonesia from Pan Hutan Nusantara and Kong Thai Lumber Sdn. Bhd. is the sub-contractor of Chalfont Investment Ltd. which Chalfont favoured else it can give the contract to other companies. Kong Thai holds as shown in exhibit marked "R 28" approximately 46% of the total issued capital.

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10 It is for Kong Thai's benefit that the contract was given to Kong Thai Lumber Sdn. Bhd. which started operation in 1968. It is well known to the applicant that with such a big capital investments it is not easy for a timber company to make a sizable profit before the third year of operation. More so in the case in Indonesia where budgeting and planning are very difficult.

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Indeed, dividends have been paid out since 1971 are as follows:-

(a) Sabah Agency Sdn. Bhd.

- (1) dated 1.8.71 at 7½% total \$31,005.00
- (2) dated 1.1.72 at 10% total \$41,340.00

20 (b) Kong Thai Lumber Sdn. Bhd.

- (1) dated 1.8.71 at 7½% total \$22,837.50
- (2) dated 1.1.72 at 10% total \$30,450.00

It is expecting a final dividend after the Company's account 1971 had been properly closed and audited.

[OMITTED]

58. Paragraph 53 (Associated Company)

30 If the Applicant chose to attend the meetings, he would know that the investment of Gold Hill Lumber Sdn. Bhd. had been mentioned. Kong Thai is a shareholder in that company and the audited accounts of that company were only sent to Kong Thai after 10th of September 1971. [OMITTED].

59. Paragraph 54 (Cars)

I make the same observations as I made above in regard to the cars. Car No. KB2651 is not exclusively used by the third Respondent's family. It was in fact purchased for the purposes for Aurora Hotel and is used mainly for that purpose. [OMITTED]

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60. Paragraph 55 (Malaysia Daily News)

I refer to my comments under paragraph 36 above. I have no personal interest other than financial interest in keeping the Malaysia Daily Newspaper going. [OMITTED]. For this purpose I have authorised further investment in it under the general authority delegated to me on 27th December 1967 as shown in Exhibit marked "R 17".

61. Paragraph 56 (Amphibious Car)

The amphibious car S4048 is intended to ensure that I can travel from my house to my office when the Lanang Road in Sibul is flooded. My presence in the office is necessary for the running of the Company. [OMITTED] It is also used in time of floods by members of the staff. It is kept in my house because the area adjacent to the office is subject to flood frequently whereas my house is not. I have commented above on the fact that company does have business interest in Kuching.

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62. Paragraph 57 (Associated Companies)

[OMITTED]

United Singapore Lumber (Pte) Ltd is exporting both logs and sawn timber from P.T. Kalimantan Sari and other suppliers but not Glendale Investment Ltd. or Chalfont Investment Ltd. The Company is a profitable going concern. Again I would like to emphasize the point that it is normally impossible for a joint venture project to make a profit before the 3rd year of operation. P.T. Kalimantan Sari had ample teething troubles for being a large scale pioneer timber operator down in Pontianak. Kong Thai Timber Sdn. Bhd. is a sub-contractor of Chalfont Investments Ltd. as shown in Exhibit marked "R 28".

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Indeed, the Applicant, Beng Hui and Beng King the 3 younger brothers through the co-operation of the Borneo Co. (S) Sdn. Bhd., Mr. Hii Yu Chong and Kong Thai were given an option on a concession of approximately 100,000 Hectares. Up-to-date that concession under the name of "Wanita" is still lying there and the Indonesian counterparts are very unhappy along with the Indonesian Government.

63. Paragraph 58 (Associated Companies)

The structure of Sabah Agency Sdn. Bhd. has no connection either with Chalfont Investments Ltd or Glendale Investments Ltd. The same comments in paragraph 57 will apply here. Glendale Investments Ltd obtained the concessions from United

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Investment Finance Co. and which in turn from the General Janakar group as shown in exhibit marked "R 29". Sabah Agency is a sub-contractor of Glendale Investments Ltd. An interim dividend of 7½% and 10% was declared on 20th December 1971 and 1st January 1972. If Beng Sung chose to attend the Board Meetings, he would have known of this investment.

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64. Paragraph 59 (Pan Sarawak Sdn. Bhd.)

I refer to my comments under paragraph 38 above.

10 65. Paragraph 60 (Advances)

I deny each and every allegation made in this paragraph [OMITTED] interest has in fact been paid to the company on these borrowings.

66. Paragraph 61 (Donations)

I have already commented above at paragraph 9 on donations generally and the same observations would apply.

67. Paragraph 62 (Entertainment)

[OMITTED]

20 It is customary to supply visiting ships' captains with liquor and this is the item referred to under paragraph (e) of paragraph 112 of Mr. Peattie's affidavit. I deny that the items mentioned in paragraph 112 of Mr. Peattie's affidavit are purely the personal concern of myself and the third Respondent. They are for the customers and guests of Kong Thai and Aurora Hotel.

68. Paragraph 63 (Investment & Mining)

30 Mining projects of Kong Thai are dealt by Mr. Chen Ko King who is in charge of the prospecting and arrangement for the applications of G.P.L. (General Prospective Licence) and E.P.L. (Exclusive Prospective Licence) Licenses. Alex Ling assisted in this project too.

69. Paragraph 64 (Cars)

The driver drove the car from Singapore to Kuala Lumpur where Kong Thai has a substantial interest in another timber company called - Gold Hill Lumber Sdn. Bhd. That car has ever since been used mainly by that Company. It has not been charged yet to Kong Thai. SV2144 had an accident in Kuala

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Lumpur. Mr. Chen Siong Seng was there on investment discussion and payment was made for Mr. G.P. Paterson of International Executive Corporation, who was rendering professional advice in the investment of Kong Thai.

70. Paragraph 65 (Travelling Expenses)

[OMITTED]

71. Paragraph 66 (Yacht "Berjaya Malaysia")

[OMITTED]

72. Paragraph 67 (employee)

Penghulu Poh and Pengarah Chundi have been dealt with in paragraph 42 above. In respect of Mr. Sng Chin Joo, a business man although he was engaged in politics, I asked him to recruit workers for the Company. He did so. 10

Mr. Vincent Bujang is an office boy working in Kong Thai's office. For the other named persons, please see paragraph 42 above.

73. Paragraph 68 (Borrowing Loans)

[OMITTED]

The loans are intended to be used to pay part of the tax due and to finance more investments of Kong Thai. Kong Thai has an interest in Gold Hill Lumber Sdn. Bhd., and Malaysia Air Charter Sdn. Bhd. whose offices are situated in Kuala Lumpur. I gave a personal guarantee for the benefit of the Company. 20

74. Paragraph 69 (Meetings of the Company)

The contents of this paragraph are purely speculative and represent Beng Sung's conclusion drawn apparently from the minutes of the meeting held in the 10th June 1970. I deny that these transactions were carried out without the authority and knowledge of Kong Thai. The purpose of these resolutions was to place the matter on record. In his affidavit, Beng Sung makes frequent requests to this honourable court that I be ordered to pay interest. Now that interest has been paid, he appears to refer to this as a piece of white-washing. It is wrong to say that interest has not been applied in respect of the drawings by myself and the third Respondent. Interest has in fact been paid. 30

75. Paragraph 70 (Director's Report)

I deny the allegations contained in this paragraph. The documents themselves are available to the court to form its own views on their accuracy or otherwise.

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76. Paragraph 71 (Allegations)

The language of this paragraph speaks for itself. There is no evidence to support the allegation that the company's auditor is not to be relied on or that the items shown in the accounts of this company are not represented by physical assets. The auditor in question is now dead and is not in a position to answer. [OMITTED]

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77. Paragraph 72 (Cars)

This car is primarily used by the third Respondent. It is occasionally used on the business of the hotel but I am advised that as the third Respondent concerns himself with the affairs of the hotel, there is nothing unusual in a car being provided for his use by the company which owns the hotel.

78. Paragraph 73 (Travelling Expenses)

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[OMITTED]

79. Paragraph 74 (Investments)

[OMITTED]

80. Paragraph 75 (Allegations)

Mr. Peattie has been permitted to see everything that he wished to see [OMITTED].

81. Paragraphs 76 & 77 (Summary of Allegations)

These paragraphs merely repeat in a different form of allegations made elsewhere in the affidavit by Beng Sung. I deny each and everyone of them in so far as they alleged improper conduct by myself or the third Respondent.

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82. Paragraph 78 (Allegations)

I deny that the evidence shows that either I or the third Respondent have misappropriated whether deliberately or otherwise the company's funds. I deny that we have shown

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contempt for the interests of the company and its shareholders and I deny that we have abused our positions as directors of the company or that we have exploited it and its resources for our personal benefits to the detriment of the other shareholders. [OMITTED]

[OMITTED]

[OMITTED]

A copy of this affidavit will be served on the shareholders. [OMITTED]

I will not be serving my two brothers Beng Hui and Beng King and Mukah Sawmills in view of their attitude in the family dispute generally neither would I be serving his excellency the Governor because I do not think it would be right, [OMITTED], to involve a shareholder in his position in a controversy of this kind. [OMITTED]

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If at all there is any oppressive conduct (which is denied) the nature of the relief to be granted should be that the applicant sells his shares in Kong Thai to either this deponent, the third Respondent or to Kong Thai itself. [OMITTED]

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I accordingly pray on behalf of myself and behalf of the third Respondent that this application be dismissed, and that the applicant be ordered to pay the costs of these proceedings.

SWORN TO at SINGAPORE }
this 14th day of March, } (Sgd) LING BENG SIEW
1972 at 4.45 p.m. }

Before me,

Sgd: illegible

Notary Public Singapore.

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This affidavit is filed for and on behalf of the above-named respondents, by Messrs. Yong & Wong whose address for service is No. 2 Kampong Nyebor Road, Sibiu.

O N A P P E A L
FROM THE FEDERAL COURT OF MALAYSIA (Appellate Jurisdiction)

IN THE MATTER OF THE KONG THAI SAWMILL (MIRI) SDN. BHD.

and

IN THE MATTER OF THE COMPANIES ACT 1965

B E T W E E N:

KONG THAI SAWMILL (MIRI) SDN. BHD. (First Respondent)

LING BENG SIEW (Second Respondent)

LING BENG SIONG (Third Respondent)

APPELLANTS

and

LING BENG SUNG (Applicant)

RESPONDENT

And by Cross-Appeal

B E T W E E N:

LING BENG SUNG (Applicant) APPELLANT ON
CROSS-APPEAL

and

KONG THAI SAWMILL (MIRI) SDN. BHD. (First Respondent)

LING BENG SIEW (Second Respondent) and

LING BENG SIONG (Third Respondent)

RESPONDENTS ON
CROSS-APPEAL

R E C O R D O F P R O C E E D I N G S

V O L U M E I

Coward Chance,
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Stephenson Harwood & Tatham,
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Gutter Lane, Cheapside,
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Solicitors for the Appellants
and the Respondent on the Cross-
Appeal

Solicitors for the Respondent
and the Appellant on the Cross-
Appeal