

**Headline – Group Dismissal for “Holding Hong Kong to Ransom”**

**Judge ruled that the group sacking by Cathay Pacific in 2001 was the issuance of warning message of “kill one to warn hundreds” by the company, to other pilots involved in the industrial action.**

**Large compensation** - In 2001, during the course of industrial dispute, Cathay Pacific had suddenly sacked 49 pilots, and openly criticized them. The sacked pilots reckoned that they were sacked because of their involvement in union activities. 18 of them fought persistently over 8 years and sued Cathay Pacific for “Unfair Dismissal” “Wrongful Termination” and “Defamation”. Yesterday, the High Court ruled that Cathay Pacific is guilty of all charges and ordered the company to compensate the pilots for the damages, amongst which the damages on Defamation alone had amounted to over HK\$50million which has established the highest single record in the history of Hong Kong for Defamation.

Cathay spokesperson replied that Cathay management is disappointed on the Judgment. They are currently discussing with their legal advisors on the court rulings to determine if there would be further action. Former Chief Operating Officer Mr. Philip Chen who was said to have involved in the defamation, was at the Horse Racing Course last night and he says he will have to study the rulings before making any response.

The first of the three charges against Cathay Pacific was “Unfair Dismissal”. Cathay claimed that the plaintiffs had taken unusual sick leave and did not explain to the management about it. Moreover their attitudes were not satisfactory thus they decided to sack them. Cathay denied the sacking has anything to do with union activities. The Judge believed that their explanation could be part of the reasons but certainly not all of the reasons.

Judge Reyes ruled that the main reason for the sacking is Cathay Pacific want to show their iron fist to the pilots involved in the industrial action. They chose 49 pilots who had taken sick leave or has attitude which they regarded as indicative to the support of union activities, to serve as a warning “kill one and warning hundreds” to the other pilots that they might be facing the same consequences if they do not observe directives from the company.

**Compensation including one month salary** - The Judge pointed out although Cathay Pacific was not aware if these sacked pilots actually caused problems to operations or the company, they only believed that they “probably” had and did not give them a chance for explanation before sacking them. That was regarded as “Injustice” according to the Hong Kong Employment Ordinance. Thus, the Judge ordered Cathay Pacific to pay the maximum penalty of HK\$150,000 to each of the plaintiffs.

The second charge was Cathay Pacific had wrongfully terminated the contract and given them three months pays in lieu without explanation. The Judge pointed out Cathay’s explanation is contradicting their original accusations on the plaintiffs of their “unprofessionalism”. Cathay should have followed the Disciplinary Procedure and allowed the pilots to give their explanation, however Cathay Pacific adopted the termination by giving them three months pay in lieu in accordance to the legal requirement, which is in violation of the contractual agreement. As the ordinary disciplinary procedure might takes about one month to complete, thus Cathay Pacific has to compensate to each plaintiff one month’s salary.

Under the charge of “Defamation”, the Judge ruled that Cathay Pacific’s then Corporate Director Mr. Tony Tyler had issued scripts to the media accusing the 49 pilots of “holding Hong Kong to Ransom” plus other accusations while the Chief Operating Officer Mr. Philip Chen had also issued an open letter to the public. The contents saying that the

plaintiffs were unprofessional, disregarded the interests of Cathay Pacific and Hong Kong, and they were all regarded by the Court as “defaming the pilots”. The Judge pointed out these articles were published on the Cathay Pacific website since 2001 and were not removed until two months ago this year. These had caused severe damage to the reputations of the plaintiffs and caused difficulties to them in finding a job. Additionally, Cathay Pacific refused to apologize for the defamation thus they have to pay to each plaintiffs HK\$3.3million as compensation.

**As the career of Pilots is very “Narrow”, pilots have to change his job to drive trucks. Families were broken, with no means to support life, after persistent fighting for 8 years before justice is done.**

8 years ago, the pilots who were sacked and accused of being unprofessional, had difficulties in finding a job. One of them after dismissal because of unable to cope with the pressures hence committed suicide. Another changed career as driver for trucks. One has no income whatsoever. Finally, only 18 pilots left in the legal battle against Cathay Pacific. The lawyer representing the plaintiffs says their clients want to regain their “reputations”, and hope this case is now closed satisfactorially.

One of the 49ers was the first amongst the 32 pilots to submit his claim to the High Court for compensation between 2001 and 2007. Some of them had already settled out of Court which left only 18 to continue with the lawsuit. One of these pilots unfortunately died in Jan 2002 thus his mother represented him in this lawsuit. In his Judgment, Judge Reyes pointed out the “Career” of the pilots is very narrow, any defamation on their professionalism would spread out fast causing extreme difficulty in their looking for jobs. Hence each plaintiff is awarded in excess of HK\$3.3million.

The barrister Ms Priscilla Leung, representing the plaintiffs, says it took over 8 years for the sacked pilots to get “Justice” during which they have gone through a lot of hard times including the facing of the team of barristers from the defendants plus other accusations on unprofessionalism which made them unable to work in the Aviation business. Their reputations “finished” which had resulted to the cause of commit suicide to one of them and another two divorced. Some of them are still “unemployed” and others left Hong Kong for other countries.

It was advised that the Union - Aircrew Officers Association (AOA), initially supported the sacked pilots for their living and lawsuit expenses. For that, they have to raise the membership fees; however after long time in battling, the Union finds it difficult to support them any longer. Yesterday, the AOA expressed that they have no comments on the result of the lawsuit brought up by the individual sacked pilots.

Over 5,000 members of the Flight Attendants Union (FAU) welcomed the judgment and regarded it as “Justified and Fair”. They also said, it has reflected that the employer should not have unfairly dismissed the employees without proper justifications or to dismiss them because of their involvement in industrial action.

**The Storm of fighting for better Salary and Benefit resulted in Industrial Action affecting the whole city** - This industrial dispute between the employees and the employer of Cathay Pacific started 10 years ago over salary and benefit. The negotiation had come to a halt when Cathay Pacific refused to continue the talking. The matter was worsening in July 2000 when the union members voted “work to rule”. This included not answering phone calls from the company on their official day-off; taking sick leave when feeling unwell, in an attempt to force the company to go back to the negotiation table but Cathay Pacific management did not respond. Instead, the company sent out “Concern Letters” to the pilots who reported sick and applied their “sick leave management procedure”.

Because the “Work to Rule” action did not work, the Union called for another EGM meeting in June 2001 to vote for the upgrading to “industrial action” and also sending out “letter of apology” to the public and travelers. The action to be

taken was confidential and was not disclosed. However, Cathay management has no intention of giving in. With the possible industrial action due to occur, all the government officials urged both parties to talk to resolve their differences.

The Union initially decided that on 1<sup>st</sup> July 2001, the holiday to celebrate the anniversary of “Reunification of Hong Kong to China”, to commence their “limited industrial action” but later on agreed to defer it to 3<sup>rd</sup> July 2001. On 29<sup>th</sup> June, the Union informed its members to adopt the “Highest Safety Measure” for their pre-flight check and asked the pilots to take the necessary time it requires in accordance to the rules laid down in the Safety Ordinance. Thereafter, both parties announced the negotiation has broken down and the Union will continue with their industrial action. Cathay Pacific then decided to apply their iron fist on the pilots involved.

After the announcement of “no negotiation” by the company, a team of 20 managers was formed by Cathay Pacific to pick the “uncooperative” pilots for sacking. According to the evidence presented in Court, this team of management staff did not keep any document for the three days' meeting that took place. After the meetings, 49 pilots were chosen and “letter of dismissal” was sent out to each of them. The remainder of the pilots however had received “raised salary”. After 8 years of legal battle, 18 of these 49ers had eventually won and got “justice”.