

## Listing aspirant placed under JM amid controversial claims

JM says Tendcare Medical Group not cooperating with process; questions also raised over transfer of key subsidiary and payments totalling US\$35 million

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LISTING aspirant Tendcare Medical Group Holdings was this week placed under judicial management (JM) by the Singapore courts – and not without some controversy.

In court documents filed as part of the judicial management application, the company once known as Tian Jian Hua Xia Medical Group Holdings - which owns and operates hospitals in China - is accused of refusing to cooperate with interim judicial managers appointed in July.

Director and majority shareholder Gong Ruizhong is also said to have transferred a key operating subsidiary in the Tendcare group to another company outside the group soon after the JM application was filed.

The claims have not gone unchallenged; in his filings to the court, Mr Gong argues that Tendcare is financially healthy and solvent and on track to its planned public listing; he claims that such plans were merely delayed, as a result of gross mismanagement by a former manager who is now facing criminal proceedings in China.

Mr Gong has also argued that documents supporting claims of his alleged refusal to cooperate have not been produced.

The current matter traces its roots back to 2014, when - according to court documents - Tendcare had undergone a restructuring with a view to listing "on an international stock exchange".

It had secured, as third-party investors during the pre-IPO (pre-initial public offering) phase, investors such as Olympus Capital Asia (OCA), EFG Atlantis China Pre-IPO Master Fund, Atlantis China Star Fund, Easom and China Merchants Capital Investment Co, Ltd (CMC). All invested varying amounts, in various forms, in Tendcare.

Easom, for whom Hong Kong conglomerate Chow Tai Fook acted as agent proxy or nominee, is said to have invested the largest sum at just under US\$60 million, according to court filings.

Private equity firm OCA, represented in this latest action by Sim Kwan Kiat and Mark Cheng from Rajah & Tann, had invested just under US\$20 million in Tendcare at this stage.

OCA claims that, when the principal sum plus interest accrued but unpaid, amounting to some US\$25 million was due in May 2017, Tendcare was unable to meet its obligation and defaulted on its payment. OCA subsequently filed to place Tendcare under judicial management.

Subsequently, OCA said it found that Tendcare had - in the days following OCA's application - transferred all its shares held indirectly in a key operating subsidiary Beijing Tian Jian to Shanxi Jin Bang, a company outside the group; OCA then filed for an urgent order to place Tendcare under interim judicial management, which was granted by the court in July 2017. Steven Yit of FTI Consulting was appointed the interim JM.

Around the same time, Tendcare's Hong Kong subsidiary, Tian Jian HK, was placed under provisional liquidation by the Hong Kong courts and Ernst & Young were appointed the provisional liquidators (PLs).

OCA's application to put Tendcare under judicial management - supported by Chow Tai Fook - was heard and granted by the Singapore High Court this week.

In his affidavit, Mr Yit, who is represented by Sim Chong of Sim Chong LLC, said that Mr Gong was "largely unwilling and/or unable to provide information regarding the company and the group's affairs... was unable to provide and promptly deliver up the books and records of the company... (and) was also unable to provide meaningful responses or explanations to basic questions regarding the affairs of the company".

Mr Yit also said he found that funds amounting to over US\$35 million, raised from third-party investors during Tendcare's pre-IPO stage, were paid in the form of "funds transfer", "expenses payment" and "loan", between April 2014 and July 2017, to a company called Hua Xia Tian Jian. Mr Yit said Mr Gong is the sole director and shareholder of Singapore-incorporated Hua Xia Tian Jian.

Mr Gong, represented by Chua Sui Tong of RevLaw LLC, said in his affidavit that he would be responding only to matters relevant and material to the judicial management application, and that this should not be taken as an acceptance or admission of other matters raised.

He said he believed there was no need to place Tendcare under judicial management as the company is solvent and able to meet its obligations. He said its IPO efforts were delayed because of mismanagement by a former officer of the company, who was in charge of management and operations of the group's hospitals and/or subsidiaries in China. Mr Gong said this officer's actions disrupted the group's operations and caused "widespread damage", and that this person has since been arrested and is now the subject of criminal proceedings in China.

Mr Gong said he believes external auditors Deloitte would be able to complete their audit of the group for the purposes of Tendcare's IPO, after the former officer's trial takes place in the coming months.

"In the meantime, the company has continued to devote efforts to progress towards an IPO," Mr Gong said, adding that, even as of May 2017, conference calls and meetings have been held with investors to provide them with updates to the process.

As for the repayment issues raised by OCA, Mr Gong said the funding Tendcare obtained from third-party investors were used for the acquisition and running of hospitals and related businesses in China. He said these "cannot be readily or easily liquidated in order to immediately satisfy large demands for repayment".

"However, this does not mean the company is insolvent. In fact, the company's business is doing well and we have been approached by investors, some of whom we are currently engaging with," Mr Gong asserted.

As for allegations that Tendcare had refused to cooperate with the interim JM, Mr Gong said in his affidavit that "no supporting details or evidence" have been provided to show that repeated requests for information had been made of the company.

Mr Gong also said that when OCA sent its notice of repayment to Tendcare, the company needed more time for the repayment so that its IPO preparations would not be delayed. He said OCA had also sent a detailed restructuring proposal that he needed

time to go over, and that he was taken by surprise that OCA then applied for judicial management of Tendcare just a week later.

Mr Gong concluded that, notwithstanding all of the aforementioned, Tendcare is "fully prepared to mediate the present disputes and disagreements with (OCA), including exploring alternative financing arrangements and the appointment of suitable representatives of the investors".

Tendcare is represented by Smitha Menon of WongPartnership.