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Sino-Forest chairman rises to company's defense

February 15, 2012

By: Vancouver Sun

Sino-Forest Corp. Chairman William Ardell says he found no sign of major fraud while overseeing an eight-month probe of the company. He also says a full account of the Chinese timber producer's activities and business ties may never be known.

"There has been no material evidence provided that would indicate that there has been a major fraud," Ardell said in an interview. "I can't give you a 100 per cent guarantee as to everything.

Ardell led an independent committee of company directors charged with investigating allegations made by research company Muddy Waters LLC that Sino-Forest exaggerated its timber assets and operated a Ponzi scheme. The committee, which said in a report last month it may not be able to disprove some of the allegations, hasn't conclusively demonstrated that "there is timber there, and there is value there," Ardell said in the interview.

Once the largest Chinese forestry company by market value, Sino-Forest has lost shareholders about \$3.3 billion since Muddy Waters published its report on June 2. Ardell and his colleagues are trying to pull the company out of a death spiral after its shares were suspended amid investigations by Canadian regulators and police, and Chief Executive Officer and founder Allen Chan stepped down.

The plight of Hong Kong- and Mississauga, Ontario-based Sino-Forest and its shareholders also has thrown a spotlight on contrasting Chinese and North American business practices. Ardell, 68, who spoke at his lawyer's office in Toronto on Feb. 4 and in three separate phone interviews, says his challenge now is to convince investors, regulators and auditors that the company's lack of transparency doesn't diminish its underlying value.

'Life Imploded'

"I have a belief in the business," Ardell said. "I have a belief in Allen Chan."

The first inkling Ardell had that his belief might be put to the test came the day Muddy Waters issued its report.

"Have you heard?" Ardell recalls his wife, Sherry, asking him by phone just after he'd finished 18 holes at Lambton Golf & Country Club in Toronto. "Sino-Forest is a fraud."

"Life imploded at that point," Ardell said.

Sino-Forest shares slumped as much as 25 per cent before being suspended on the Toronto Stock Exchange. They tumbled 64 percent the following day after trading resumed. Ardell, a Canadian who lives in Oakville, just outside Toronto, says he's spent four months in Hong Kong since then dealing with the fallout.

'Unjustifiable Black Hole'

Ardell started his career in accountancy and rose to become CEO of Southam Inc., once Canada's largest newspaper publisher, which was acquired in 1996 by Hollinger International Inc., the media company whose chairman and CEO at the time was Conrad Black.

He joined Sino-Forest as a director in 2010 and was appointed chairman in August to replace Chan, who resigned after the Ontario Securities Commission halted the stock pending an investigation.

Sino-Forest's structure makes documenting its assets and revenues difficult, according to Ardell. About 80 per cent of its timber assets measured by value are held by subsidiaries based in the British Virgin Islands. Those units use suppliers and what the company calls "authorized intermediaries" in China to buy and sell timber and plantation harvesting rights.

The so-called BVI model and its use of intermediaries is "an unjustifiable black hole" that's been used to fabricate sales, avoid taxes and overstate the company's timber holdings, Muddy Waters said in its report.

Cash Flow

Ardell says the structure was put in place in the late 1990s to deal with rules barring foreign companies from leasing timberland and repatriating forestry profits.

With its profits marooned in China, Sino-Forest reinvested the money in more timberland while using some proceeds from sales of bonds and shares to cover operating costs, according to Ardell.

While it was the only way to organize the company, it meant "you can't see the cash move," he said. Ardell also says that helps explain why Sino-Forest doesn't have positive free cash flow or pay a dividend, both factors cited by Muddy Waters as evidence the company is a Ponzi scheme.

Since 2004, the company has been able to structure its Chinese units as so-called Wholly Foreign Owned Enterprises, which allows them to lease timberland and repatriate money, Ardell says. While Sino-Forest plans eventually to switch to this model entirely instead of the BVI structure, the timing isn't certain, he says.

No Maps

One of the few ways Sino-Forest can prove its ownership of standing timber is through purchase contracts negotiated with Chinese villages, communes and other leaseholders, Ardell says. Because they don't infer title to land, the contracts aren't registered with local government forestry bureaus, he says.

"There just isn't a central registry for sales and purchases of standing timber, and there wouldn't be in North America either," Ardell said.

What's more, Sino-Forest doesn't retain complete maps of some of its timber holdings because "there is a sensitivity in the Chinese government about maps being held by foreign-controlled companies," Ardell said.

The independent committee, aided by PricewaterhouseCoopers LLP, spent \$50 US million on its investigation and reviewed more than 1.5 million documents, according to Ardell. It was hindered by a lack of cooperation from many of the suppliers and intermediaries involved in the BVI transactions, Ardell says.

Cash Holdings

"All of a sudden a lot doors closed very quickly" following the Muddy Waters report, he said.

A lack of documentation relating to corporate relationships was due partly to a lack of adequate internal controls and also to Chinese business practices, he says.

"The Chinese generally aren't as meticulous at record-keeping as in the West because so much of the business is based on personal relationships," said John Evans, a retired senior partner at Osler Hoskin & Harcourt LLP in Toronto who has known Ardell for more than 20 years. "A lack of documentation is very

common in China.”

The committee said in its final report published Jan. 31 that it wasn't able to confirm the existence of all the company's timber and cash holdings in China, or the full scope of Sino-Forest's relationships with its suppliers.

Bondholder Accord

“You can't spend that much time, money and witness managements' interference with your investigation and reasonably conclude that the fraud charges had no merit,” Carson Block, a short seller and Muddy Waters founder, said Feb. 4 in a telephone interview.

Ardell says management hasn't interfered in the investigation.

After missing an interest payment on its 2016 convertible bonds in December, Sino-Forest reached an accord last month with a group of bondholders, in return ceding them a degree of control over its affairs. A restructuring committee is working to write a new plan for the company and deliver its report to bondholders by March 31.

Ardell says he's sticking with the company and continues to assist the Ontario Securities Commission and Royal Canadian Mounted Police investigations. Sino-Forest has commissioned two consulting companies to independently evaluate its holdings, which according to its website cover about 894,200 hectares in China, an area about three times the size of Rhode Island.

“If I can demonstrate ownership, existence and value, the rest of it all goes away,” Ardell said. “That's basically what the business is: Ownership and value.”

[Vancouver Sun](#)

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