

**ENGLISH TRANSLATION**

IN THE HIGH COURT OF MALAYA AT KUALA LUMPUR  
(CIVIL DIVISION)

**SUIT NO.** \_\_\_\_\_ **2004**

BETWEEN

1. SARAWAK SHELL BHD (71978-W)
2. SHELL MALAYSIA TRADING SENDIRIAN BERHAD (6078-M)
3. SHELL REFINING COMPANY (FEDERATION OF MALAYA) BHD (3926-U)
4. SHELL TIMUR SDN BHD (113304-H)
5. SHELL EXPLORATION AND PRODUCTION MALAYSIA B.V. (993963-V)
6. SHELL OIL AND GAS (MALAYSIA) LLC (993830-X)
7. SHELL SABAH SELATAN SDN BHD (228504-T)
8. SABAH SHELL PETROLEUM COMPANY LTD (993229-W)      PLAINTIFFS

AND

HUONG YIU TUONG

DEFENDANT

**STATEMENT OF CLAIM**

1. The 1<sup>st</sup> Plaintiff is a company incorporated in Malaysia and having its registered address at Locked Bag No. 1, Lutong, 98009 Miri, Sarawak and having places of business in East Malaysia and West Malaysia. The 1<sup>st</sup> Plaintiff is engaged in the business of exploration and production of oil and gas in Malaysia.

2. The 2<sup>nd</sup> Plaintiff is a company incorporated in Malaysia and having its registered address at Bangunan Shell Malaysia, Changkat Semantan, 50490 Kuala Lumpur. The 2<sup>nd</sup> Plaintiff is engaged in business of inter alia, marketing of petroleum oil products, liquefied petroleum gas and retail products.
3. The 3<sup>rd</sup> Plaintiff is a company incorporated in Malaysia and having its registered address at Bangunan Shell Malaysia, Changkat Semantan, 50490 Kuala Lumpur. The 3<sup>rd</sup> Plaintiff is engaged in business of inter alia, refining and manufacturing of petroleum products, manufacturing lubricating oils and filling of liquefied petroleum gas into cylinders.
4. The 4<sup>th</sup> Plaintiff is a company incorporated in Malaysia and having its registered address at Bangunan Shell Malaysia, Changkat Semantan, 50490 Kuala Lumpur. The 4<sup>th</sup> Plaintiff is engaged in business of inter alia, marketing petroleum oil products and liquefied petrol gas and retail products.
5. The 5<sup>th</sup> Plaintiff is a company incorporated in Netherlands and having its registered address at Carel Van Bylantlaan 30, The Hague, 2596 HR and a registered office in Malaysia at Level 18, Tower 2, Petronas Twin Towers, Kuala Lumpur City Centre, 50088 Kuala Lumpur, Malaysia. The 5<sup>th</sup> Plaintiff is engaged in business of inter alia, exploration and production of oil and gas in Malaysia.
6. The 6<sup>th</sup> Plaintiff is a company incorporated in Malaysia having its registered address at Locked Bag No. 1, Lutong, 98009 Miri, Sarawak and having business interest in East Malaysia and West Malaysia. The 6<sup>th</sup> Plaintiff is engaged in business of inter alia, exploration and production.
7. The 7<sup>th</sup> Plaintiff is a company incorporated in Malaysia having its registered address at Bangunan Shell Malaysia, Changkat Semantan, 50490 Kuala

Lumpur. The 7<sup>th</sup> Plaintiff is engaged in business of inter alia, exploration and production of petroleum in Malaysia.

8. The 8<sup>th</sup> Plaintiff is a company incorporated in United Kingdom and having a registered office in Malaysia at 2-10-1 9<sup>th</sup> Floor, Wisma Han Sin, Plaza Wawasan, Lorong Wawasan, 88000 Kota Kinabalu, Sabah. The 8<sup>th</sup> Plaintiff is engaged in business of inter alia, exploration and production of petroleum within, inter alia, Malaysia.
9. The Plaintiffs are part of the Shell group of companies which had a presence in Malaysia for over one hundred years and a brand name "Shell" has acquired a reputation and standing as a leader in the oil and gas industry worldwide, including Malaysia.
10. The Defendant is a former employee of the 1<sup>st</sup> Plaintiff and whilst in the 1<sup>st</sup> Plaintiffs' employment, he was an Assistant Technology Co-ordinator.
11. On or about 28.5.03, the Defendant's employment with the 1<sup>st</sup> Plaintiff was terminated, following a Domestic Inquiry constituted in April 2003, which found the Defendant guilty of misconduct in absenting himself from work, without leave or without obtaining consent or permission, on various occasions in February and March 2003 and for insubordination.
12. Between April to May 2004, the Defendant circulated various emails to a number of individuals, containing allegations of improper, wrongful and even criminal conduct against the Plaintiffs and their senior management employees.
13. On 14.5.04, the Defendant published and disseminated to a number of individuals, a circular entitled "**Does Shell Management in Malaysia promote and support Injustice, Lies, Deception, Cover Up and Conspiracy in the country they operate?**". The Plaintiffs aver that the statements, particularly the title of the circular, was published by the

Defendant, of and concerning the Plaintiffs and referred to the Plaintiffs, and each of them.

14. The Plaintiffs further aver and will contend that the statements (in particular, the title) is false and constitute a grave libel on the Plaintiffs and each of them, as the words in their natural and ordinary meaning, mean or are understood to mean that:
  - (a) The Plaintiffs engage in deception and therefore are dishonest.
  - (b) The Plaintiffs are cheats and liars and therefore are guilty of criminal conduct.
  - (c) The Plaintiffs are engaged in conspiracy with their senior employees to victimise other staff and employees.
  - (d) The Plaintiffs cover up their dishonest misdeeds and deceive others into believing that they are worthy of their international standing and reputation.
  - (e) The Plaintiffs are generally guilty of criminal and unethical conduct.
15. As a result of the publication and dissemination of the false and defamatory circular, the Plaintiffs have suffered considerable distress, anguish and hurt/injury to their reputation and have been brought into public scandal, odium and contempt.
16. On or about 9.7.03 and 17.5.04, the Plaintiffs issued request to the Defendant requiring him, inter alia, to cease all publications and dissemination of such or similar articles or statements which are defamatory of the Plaintiffs and/or their servants or agents.

17. The Defendant refused to accede to the Plaintiffs' requests to cease and desist from the publication and dissemination of such statements. The Plaintiffs aver and will contend that this conduct aggravate damages.
18. On 10.6.04, 13.6.04 and 16.6.04, the Defendant published on the internet website "**Whistleblower No 2**" various false, malicious and defamatory statements of and concerning the Plaintiffs and each of them.

### PARTICULARS

- (a) On 10.6.04, the Defendant published, inter alia, the following statements in the said website:

*I will supply for publication further informed comment and revelations in the run up to Shell's AGM on 28 June. It will include examples of the toxic combination of arrogance, greed, dishonesty, and blatant disregard for all ethical norms by Shell Management, that has culminated in the current shame heaped upon the once proud Shell name.*

*"In my experience Shell directors" and Shell managers, "believe that truth is a precious commodity to be used as a last resort. It has to be squeezed out of them. They prefer to deceive, make empty pledges (Shell's code of ethics), intimidate, "ostracize, "hide information from their own shareholders", employees, the government who gave them the license to operate and, and finally "retreating behind their army of lawyers" for shelter "whenever there is a prospect that management misdeeds will be exposed".*

*Correspondence between Sir Mark Moody Stuart and Mr Richard Wiseman below shows the actual mentality of Shell Management in high places. This behaviour was inevitably imitated by executives in operating companies who followed and adopted the example of a ruthless and deceitful corporate culture practiced by those at the very top of the Royal Dutch Shell Group. Shell's ethical code was and is not worth listening to unless top management becomes a role model for integrity and transparency. Under current circumstances what is the point of having an annual ritual performed for the CEO at operating companies, where it is a mandatory requirement for staff to sign off their ethical health forms (ie Conflict of Interest) irrespective of compliance with Shell's Statement of General Business Principles".*

*For examples read the Shell Shareholder.org section of the website:*

*"No amount of spin and hype can hide the fact that Shell's claimed core principle of truth and honesty in all of its dealings is unadulterated propaganda. Like Enron and WorldCom executives, Shell senior management obviously feels that it is okay to hide the truth from its shareholders and the public. This has been proven time and time again in our dealings with them – as the gagging agreements drafted by*

*Shell lawyers at the insistence of Shell senior management prove”.*

*Hhttp://www.shell2004.com/2004%20Documents/pr  
essrelease26april.htm*

*“If a company loses the trust and respect of its shareholders, employees, and customers, as Shell Management has done on a truly spectacular basis, then there’s only going to be a rather empty shell left. It will obviously be a very long time before Shell could ever again use the famous advertising slogan “you can be sure of Shell”*

*Investors – “You cannot be sure of Shell” growing your funds. Potential employees – do not trust your career and aspirations to Shell until you understand the true inside story. If Shell is unwilling to undergo radical change at every level in the organization for the better, Shell’s negative and evil ingrained cultures will ultimately destroy the little which remains of its former reputation.*

*When I started with Shell all those years ago I was proud to be an employee of what I considered to be nothing less than the best company in the world; an internationally respected brand and an equally highly respected management. It is a matter of the deepest regret to me that the company has sunk so low with its management acquiring global notoriety for participating in a disgraceful scandal which ranks alongside the likes of Enron and WorldCom.*

***I am finding it hard to come to terms with the con-artist mentality of a management which thought it could say one thing in speeches and advertising – pledging “Profits and Principles” honesty, openness, integrity etc and actually get away and rewarded with doing the exact opposite.***

- (b) On 13.6.04, the Defendant published, inter alia, the following statements in the said website:

***I have been unable to obtain any redress from this hypocritical Shell management which says one thing yet does another; a bunch of lying and deceitful bunglers, as has been revealed to the whole world by the oil reserves catastrophe which has pulverized Shell's reputation.***

***“It sound preposterous but the facts” reveal the pervasive spread of corrupt practices by this evil multinational. Since Shell operations cover more than 100 countries it must be a matter of great concern that its lack of principles are impacting negatively upon the lives of countless people where they operate. Shell has promoted and therefore encouraged corruption in host governments and government officials. This evil has percolated down through whole societies. We only have to consider the results of a report carried out for Shell in Nigeria which has made news headlines in the last few days e.g.***

***It is very hard for anyone to believe a company with AAA+ rating, endowed with such a high***



*reputation in the past has, due to greed and incompetence, allowed these impossible to value assets to wither away.*

*Shells' reputation*

*Is now an international disgrace and its credit rating has plummeted to a correspondingly all time low.*

*Unfortunately there are many other examples of Shell's empty slogans which have been exposed as pure propaganda eg. "Profits and Principles". They certainly had that one wrong. It should have been "Profits and No Principles". And how about the most famous one of all "You Can Be Sure of Shell". I doubt that Shell management will be using that slogan again for many years after the flood of negative news headlines in the last several months. The Shell brand name has an entirely different connotation these days. It stands for deceit, cover-up, dishonesty, pollution, corruption, undercover spies, class action law suits, defective gasoline, exploitation of the poorest people on the planet; support of a murderous military regime, etc – arrogance and evil on a breathtaking scale. All brought about by a horrendous MANAGEMENT.*

*For now, what do YOU think about Shell Managers, their attitudes towards their host governments, their behaviour to employees and fellow citizens? Should the world imitate Shell cultures and embrace their value systems*

***ultimately making it a norm for the world at large under the pretext of globalization?***

***Should we let  
the worst excesses  
in human nature run rampant,  
a lust for greed and power,  
as has happened at the top of Shell?***

***A message to Shell management: please do not keep treating us all as fools by expecting us to believe your platitudes and your promises to restore Shell's reputation when you continue to display all of the same attitudes which have caused the current indelible stain on a once great brand. You have no credibility left. It is deeds not words which are needed. You have had your opportunity and failed miserably. I repeat that it is time for a fresh start with completely new management.***

- (c) On 16.6.04, the Defendant published, inter alia, the following statements in the said website:

***"Does Shell Management in Malaysia promote and support Injustice, Lies, Deception, Cover-up and Conspiracy in the country they operate?"***

This is a reproduction of the title of a circular dated 14.5.04, which the Defendant disseminated to various people.

*Mr Lompoh and Mr kandiahpillai, no matter how much you like to talk about defamation, be it slander or libel about Shell management (including the Malaysian henchman) there's no way for you to stop the continuous avalanche of bad news. You were the first to sour a wonderful and cordial communal relationship built up around Miri since 1910 and for the last years the inheritance built by our fore-fathers were destroyed and have come to a grinding halt; you just have to listen to the coffee shop talk. I now feel ashamed being identify with Shell.*

19. The words used in various statements, particularised above, in their natural and ordinary meaning, mean or are capable of conveying the following meanings:
- (a) The Plaintiffs practise deception and therefore are dishonest in their dealings, including dealings with employees.
  - (b) The Plaintiffs engage in corrupt practices, such practices being done in liaison with Government and Government officials.
  - (c) The Plaintiffs engage in lies, deceit and corrupt practices to further their own greed and to the detriment of their employees and the community as a whole.
  - (d) The Plaintiffs engage in such criminal and corrupt practices as evil multinational corporations, for their own gain, regardless of the welfare of its employees and society.

- (e) The Plaintiffs engage in conspiracy with its senior management staff in victimising employees and thereby are guilty of further criminal conduct.
- (f) The Plaintiffs, although multinational corporations of international repute and standing are untrustworthy, unethical, corrupted and generally practise evil corporate culture.
20. Further or in the alternative, the words used in the website postings referred to above, in their context bore and were understood to bear, the meanings pleaded in paragraph 19 by way of innuendo.

**PARTICULARS UNDER ORDER 78 RULE 3**  
**OF THE RULES OF THE HIGH COURT, 1980**

The Plaintiffs repeat the meanings pleaded in paragraph 19.

21. By reason of the publication of these statements on the Internet, the Plaintiffs and each of them have suffered and continue to suffer considerable damage/injury to their reputation.
22. In the posting on the internet on 16.6.04, the Defendant threatened to continue with the wide ranging and pervasive defamatory publications against the Plaintiffs unless the Plaintiffs resolved matters with him by 22.6.04.
23. By reason of each or all of the matters aforesaid, the Plaintiffs have suffered and will continue to suffer loss and damage and/or injury to their feelings and reputation and have been brought into public scandal, contempt and odium.
24. Unless restrained, the Defendant will continue to post the defamatory and/or similar and/or related statements against the Plaintiffs.

**AND THE PLAINTIF-PLAINTIFFS CLAIM:**

25. Damages, including aggravated damages against the Defendant.
26. A permanent injunction to restrain the Defendant from publishing in any form, the same or similar or related statements of or concerning the Plaintiffs, their servants or agents and/or the brand name, "Shell"
27. A Mandatory Injunction to compel the Defendant to forthwith, take all necessary steps to give notice, or cause notice to before given to person or persons maintaining the website "Shell Whistle Blower No. 2" that all the web posting's of the 10<sup>th</sup>, 13<sup>th</sup> and 16<sup>th</sup> June 2004 made by the Defendant, be deleted and removed.
28. Costs.
29. Such further or other reliefs which this Honourable Court consider just and/or necessary.

Dated this 22 day of June 2004



Messrs T H Liew & Partners  
Solicitors for the Plaintiffs

This Statement of Claim is filed by Messrs T H Liew & Partners of Level 28, Central Plaza, 34 Jalan Sultan Ismail, 50250 Kuala Lumpur, Malaysia, Solicitors for the Plaintiffs.

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