



BOARD OF TRADE

Investigation into the affairs of Lok Kawi Rubber, Limited

Report by
Mr. Thomas William Chalk, ACA

*(Inspector appointed by the Board of Trade
in accordance with the provisions of
Section 165(b) of the Companies Act, 1948)*



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CONTENTS

<i>Paragraphs</i>		<i>Page</i>
1	Appointment	3
2	Introduction	3
3- 4	Directors and secretaries	3
5- 6	Books and records	3
7- 8	Acquisition of the company's shares by Mr. Larholt	4
9-14	Payment for the company's shares... ..	4
15	Alleged purchase by the company of shares in Whitefriars Investment Trust Limited	5
16-23	Accounts	6
24-25	Dividend paid by the company	7
26-27	Mr. Larholt's indebtedness to the company	8
28-32	Conclusions	8

Appendices

A	Accounts for the year ended 31st December 1959	10
B	Accounts for the fifteen months ended 31st March 1961	13

Appointment

1. On 29th October 1964 I was appointed inspector to investigate the affairs of Lok Kawi Rubber, Limited (hereinafter referred to as the company) in the following terms:

The Board of Trade in pursuance of the powers conferred on them by Section 165(b) of the Companies Act, 1948, hereby appoint Mr. Thomas William Chalk, chartered accountant of Hillgate House, 35 Old Bailey, London, E.C.4, to act as inspector to investigate the affairs of the above named company and to report thereon in such manner as the Board may direct.

Introduction

2. Lok Kawi Rubber, Limited, a public company, was incorporated on 20th October 1909. Its issued capital amounts to £89,703 12s. 0d. in shares of 2s. each. The company owned and operated rubber estates in North Borneo until 1958 when its directors decided to dispose of the estates. In a circular letter dated 21st July 1959 the members of the company were informed that the sales thereof had been completed and this was confirmed at the annual general meeting held on 23rd November 1959, when the company's net assets totalled some £105,000, almost entirely in cash.

Directors and secretaries

3. On 23rd November 1959 the company's directors were a Lieutenant Colonel J. R. P. Williams, MBE, and a Mr. A. R. Malcolm. On 2nd December 1959 they resigned and a Mr. Percy Phillips, FACCA, FCIS, and his brother Mr. Bernard Phillips, FCA, were appointed. At a board meeting held on 22nd December 1959 Mr. Percy Phillips proposed that a Mr. Mark Tree and a Mr. Walter John Turner, MBE, be appointed to the board and they were appointed, following which Mr. Percy Phillips and his brother resigned. Mr. Tree and Mr. Turner, who were in fact nominees of a Mr. Louis Larholt, were in office at the date of the last annual general meeting held by the company on 29th December 1961. Particulars filed with the Registrar of Companies on 24th January 1963 show that these directors resigned and that Mr. Larholt and a Mr. H. Cobden-Turner were appointed with effect from 20th November 1962. However, Mr. Cobden-Turner wrote to the Board of Trade on 5th May 1964 to the effect that his appointment had been made by Mr. Larholt without his consent and that he is not and never has been a director of Lok Kawi Rubber, Limited. Mr. Tree died on 26th June 1964.

4. For many years the company's secretaries were The Borneo Company Limited and later The Borneo Company (London) Limited. These secretaries resigned on 2nd December 1959 and a Mr. R. N. Sharma was appointed. He resigned on 22nd December 1959 when Mr. Turner, director, became secretary. Following Mr. Turner's resignation on 20th November 1962 a Mr. Vernon Blunt was appointed on 22nd January 1963 and when he resigned on 12th August 1964 the present secretary, Mr. J. P. H. Larholt (Mr. Larholt's son), was appointed.

Books and records

5. During my investigations I have obtained the register of directors of the company and have seen a cash book, the last entry in which is dated 14th February 1962, and sundry files. I have been unable to trace the company's minute

books but have, however, obtained copies of the minutes of certain meetings of the company's directors from its bankers, the Bank of Nova Scotia, and from Noble, Sears & Company, accountants, who told me that the company's books were last kept at the offices of Whitefriars Investment Trust Limited, a company of which Mr. Larholt was then chairman.

6. The last annual return, filed by Mr. Larholt on 31st May 1965 was made up to 31st December 1964 and was not accompanied by accounts.

Acquisition of the company's shares by Mr. Larholt

7. In a letter dated 30th October 1959 the company's members were informed of the receipt by the company of an offer to purchase their shares for 2/4 $\frac{1}{4}$ d. each from Scott and Trench Ltd., acting on behalf of Mr. Percy Phillips. The directors of the company recommended acceptance of the offer which put a value of some £105,600 on the shares and, at a board meeting held on 2nd December 1959 it was reported that acceptances had been received representing 87.5% of the issued capital and that the offer had become unconditional and had been closed on 26th November 1959. A letter dated 2nd December 1959 from Lloyds Bank Limited to the company certified that cheques in respect of 769,250 shares had been sent to assenting shareholders and on the same day the London Stock Exchange suspended its quotation (which was cancelled on 9th January 1963) of the company's shares. Eventually Mr. Phillips took up 781,650 shares.

8. Mr. Phillips told me that he purchased the company's shares for a client who subsequently decided not to complete the purchase whereupon Mr. Phillips advertised the company for sale and arising therefrom made the acquaintance of Mr. Larholt who agreed to purchase the Lok Kawi Rubber shares. At a board meeting held on 24th December 1959 consisting of Mr. Tree (chairman) and Mr. Turner it was resolved that two share transfers for a total of 781,650 shares out of the names of Mr. Percy Phillips (779,650) and his brother (2,000) into the name of Scotiabank Nominees Limited be duly registered. Scotiabank Nominees Limited was acting for Mr. Larholt. A copy of the minutes of this meeting signed by Mr. Tree and Mr. Turner was given to me by the Bank of Nova Scotia.

Payment for the company's shares

9. Prior to Mr. Phillips joining the board the company kept accounts at the Chartered Bank, and the Bank of Scotland. In addition, money had been deposited with the Mercantile Credit Company Limited. Later, accounts in the company's name were also opened at Lloyds Bank Limited, 190 Great Portland Street, W.1, where Mr. Phillips kept an account. At the board meeting held on 2nd December 1959 at which Mr. Phillips and his brother were appointed directors and the former directors resigned, it was resolved that the company's bankers be instructed to honour all cheques, bills, etc., purported to be drawn on the company's account provided they were in future signed by two directors or one director and the secretary. On 9th and 11th December 1959 the balances on the company's accounts with the Chartered Bank and the Bank of Scotland amounting to £54,465 2s. 11d. were transferred to its accounts at Lloyds Bank together with the balances on dividend accounts, amounting to £111 17s. 5d.

10. At the meeting of directors held on 22nd December 1959 at which Mr. Phillips and his brother resigned and Mr. Tree and Mr. Turner were appointed it was resolved 'that a bank account be opened with the Bank of Nova Scotia, 11 Waterloo Place, London, S.W.1, and that all cheques, bills, etc., purported to be drawn on the company's account be signed by Mr. Mark Tree only'. The account was opened by Mr. Tree on 24th December 1959. The minutes of this meeting, which opened with Mr. Phillips in the chair, were signed by Mr. Tree and Mr. Turner, chairman and secretary, respectively. A certified copy of the minutes was given to me by the Bank of Nova Scotia during my investigations.

11. On 24th December 1959 £54,265 7s. 6d. was transferred from the company's account at Lloyds Bank to the newly-opened account at the Bank of Nova Scotia. On the same day the Bank of Nova Scotia issued two drafts payable to Mr. Phillips for £44,526 12s. 0d. and £3,473 8s. 0d. respectively, which were charged to the account of Lok Kawi Rubber, Limited.

12. On 28th December 1959 Mr. Phillips, who had resigned from the board of the company on 22nd December 1959 wrote, as a director of the company, to the Mercantile Credit Company Limited requesting repayment of the company's monies on deposit plus interest accrued. On 29th December 1959 Mr. Phillips acknowledged receipt from the Mercantile Credit Company Limited of two cheques for £50,000 and £431 10. 1d. respectively, which were paid into the company's account with the Bank of Nova Scotia by Mr. Tree. On the same day (29th December 1959) the Bank of Nova Scotia issued a draft for £50,000 payable to Mr. Phillips which was charged to the account of Lok Kawi Rubber, Limited. In addition, a cheque for £250 drawn on 29th December 1959 by Mr. Tree, in favour of Mr. Phillips, was charged to the company's account.

13. Mr. Phillips told me that he required payment from Mr. Larholt to be made by bankers' drafts. Later, he wrote that the payment of £250 was 'in respect of my profit on the transfer of the shares'.

14. The sum of £98,250 belonging to Lok Kawi Rubber, Limited was apparently used to purchase 781,650 shares in the company from Mr. Phillips.

Alleged purchase by the company of shares in Whitefriars Investment Trust Limited

15. At the board meeting held on 24th December 1959 (chairman Mr. Tree) it was resolved 'that the company purchase 100,000 fully paid ordinary shares of 5s. each in Whitefriars Investment Trust Limited at the market figure of £1 per share, amounting to a sum of £100,000'. The minutes then continue 'a share transfer was produced to the meeting in respect of the purchase, which was duly executed on behalf of the company and the chairman issued a cheque in respect of the purchase of the same'. A certified copy of the minutes of this meeting, which were signed by Mr. Tree, was given to me by the Bank of Nova Scotia. The share transfer referred to has not been discovered but I have obtained from Turquand, Youngs & Company, Chartered Accountants, then the company's auditors, a copy of a photostat copy of an incomplete transfer form purporting to transfer the shares in Whitefriars Investment Trust Limited from Mr. Larholt to Lok Kawi Rubber, Limited. In fact the shares were not trans-

ferred, Lok Kawi Rubber, Limited was never registered as a member of Whitefriars Investment Trust Limited and no cheque was met by the company's account for the alleged transaction, which was in fact a device to cover Mr. Larholt's indebtedness to the company.

Accounts

16. For many years the accounts of the company were audited by Turquand, Youngs & Company, Chartered Accountants. The last accounts of the company to be so audited, i.e. those for the year ending 31st December 1959 are reproduced at Appendix A. The evidence which the auditors obtained to support the alleged purchase of 100,000 Whitefriars shares by the company (paragraph 15) includes:

- (a) a photostat copy of a declaration of trust dated 29th December 1959 signed by Mr. Larholt and addressed to the company's secretary which reads 'I, Louis Larholt, acknowledge that I hold 100,000 (one hundred thousand) ordinary shares of 5s. each, fully paid, in WHITEFRIARS INVESTMENT TRUST LIMITED in trust for you, and I undertake to transfer such shares to you or as you may direct at any time when called upon to do so'.
- (b) a photostat copy of the unstamped and incomplete share transfer referred to above (paragraph 15) for 100,000 Whitefriars shares signed by Mr. Larholt and by Mr. Tree and Mr. Turner for Lok Kawi Rubber, Limited
- (c) a letter, dated 13th December 1960 from the secretary of Whitefriars Investment Trust Limited which, referring to Mr. Larholt, reads

I hereby confirm that at the 24th December 1959 the above named was a member of this company with a registered shareholding of not less than 100,000 5s. ordinary shares all fully paid up and that to the best of my knowledge and belief at least 100,000 5s. ordinary shares were held free of all lien. I further confirm that at all time during the period from 24th December 1959 up to today's date the above named's registered shareholding in this company has not been less than 100,000 5s. ordinary shares, fully paid, and that to the best of my knowledge and belief at least 100,000 5s. ordinary shares have been and still remain free of all lien.

17. The auditors also obtained a letter dated 12th December 1960 signed by Mr. Larholt confirming that as at 31st December 1959 the company was

indebted to me for the sum of £1,500 only made up as follows:

Consideration for the sale of 100,000 Whitefriars Investment Trust Ltd. ordinary shares of 5/- each	£100,000
Less: Payments made on my behalf:	
24.12.59 Bank of Nova Scotia	£44,526 12 0
24.12.59 Bank of Nova Scotia	3,473 8 0
29.12.59 Bank of Nova Scotia	50,000 0 0
29.12.59 P. Phillips	250 0 0
30.12.59 Whitefriars Investment Trust	250 0 0
	98,500
	£ 1,500

The auditors' working papers show that this sum of £1,500 was included in the total of £1,763 for sundry creditors in the balance sheet at 31st December 1959.

18. Due to the unusual circumstances surrounding the alleged share purchase the auditors decided to qualify their report dated 8th June 1961 on the accounts for the year ending 31st December 1959, as follows:

We are unable to express any opinion as to the value of the investment shown above which consists of 100,000 5s. shares in Whitefriars Investment Trust Limited. The shares in question were purchased from Mr. L. Larholt who, we understand, is the principal shareholder in Lok Kawi Rubber, Limited, on the 24th December 1959 on the basis of the middle market price at that date; the transfer into the company's name has not yet been completed. A valuation of this investment, based on the middle market price at 5th June 1961 amounts to £72,500.

19. The chairman, in his review accompanying these accounts reported that

Meanwhile, a temporary investment has been made so as to provide an income for the company; although this has since depreciated in value we have an undertaking that the investment will be repurchased at the acquisition price as soon as an alternative means of utilising the company's funds is available.

20. Following the completion of their audit, Turquand, Youngs & Company resigned as auditors from 30th June 1961, the date of the next annual general meeting. Subsequently, a Mr. Alan L. Low, FCA, then a partner in the firm of Noble, Low & Company, Accountants, was appointed auditor and gave an unqualified report dated 6th December 1961 on the accounts to 31st March 1961 which are reproduced at Appendix B. Neither Mr. Low nor his firm had communicated with the previous auditors before accepting his appointment. Mr. Low considers that his clerk had obtained sufficient evidence to support the ownership by the company of the investment shown in its balance sheet and that no qualification to his report was required.

21. The chairman's review attached to these accounts, which were presented to the annual general meeting held on 29th December 1961, reads

... the company has received a bonus of 10,000 Whitefriars Investment Trust Limited shares together with a dividend of 30% during the accounting period. A further dividend of 30% has been received at 30th June 1961. The market value of our investment is now about £80,000.

22. Between the dates of the balance sheets Mr. Larholt's account was charged with two sums of £5,000 and £500 paid to Whitefriars Investment Trust Limited on 12th January 1960 and 8th February 1960 respectively and credited with a sum of £500 paid into the company's bank account by the secretary of Whitefriars Investment Trust Limited on 9th February 1960.

23. In the auditor's working papers Mr. Larholt was also charged with the net proceeds amounting to £5,053 of the dividend of 30% less tax on the holding of 110,000 shares in Whitefriars Investment Trust Limited. The entries resulted in a debit balance of £8,553 on Mr. Larholt's account at 31st March 1961 and this figure was included in the total of £9,553 for sundry debtors appearing in the balance sheet at that date. The balance of £1,000 was due from another company controlled by Mr. Larholt, Turner and Savage Limited, to whom the company paid £1,000 on 17th August 1960. Neither of the dividends paid by Whitefriars Investment Trust Limited was received by the company.

Dividend paid by the company

24. At the last annual general meeting held by the company on 29th December 1961 its directors recommended the payment of a dividend of 5%

less tax. An amount of £336 15s. 10d., approximately sufficient to pay the dividend to members other than Mr. Larholt, was transferred to a new dividend account with the Bank of Nova Scotia on 5th February 1962 following the payment by Mr. Tree into the company's account of a cheque for £350 credited in the company's books to Mr. Larholt.

25. At 19th November 1963 the sum of the balances on the company's accounts with the Bank of Nova Scotia amounted to £165 13s. 7d. of which £164 9s. 1d. represented unclaimed dividends.

Mr. Larholt's indebtedness to the company

26. In reply to an enquiry from the Board of Trade Mr. Larholt wrote on 2nd September 1964 'The 100,000 shares in Whitefriars were repurchased by me soon after the meeting without loss to the company'. The meeting referred to was the annual general meeting held on 30th June 1961 at which accounts to 31st December 1959 were presented. On 27th January 1965 Mr. Larholt told me that he owes the company 'about £100,000' and that his idea is to wind-up the company and to repay the minority shareholders.

27. If Mr. Larholt held the shares in Whitefriars Investment Trust Limited in trust for the company until 30th June 1961 and then repurchased them for £100,000, the information available to me indicates that he owes the company some £111,000 and owns approximately 87% of the issued capital.

Conclusions

28. A total of £98,250 belonging to Lok Kawi Rubber, Limited was paid in December 1959 to Mr. Percy Phillips for 781,650 shares in the company which were then registered in the name of Scotiabank Nominees Limited, acting for Mr. Larholt. £98,000 was paid by drafts of the Bank of Nova Scotia and £250 by a cheque drawn by the late Mr. Tree. At the same time the company was alleged to have purchased from Mr. Larholt 100,000 shares in Whitefriars Investment Trust Limited for £100,000. Mr. Tree appears to have acted throughout these transactions on Mr. Larholt's instructions. The second director during this time, Mr. W. J. Turner, admits to having taken no active part in controlling the company's affairs but merely to have complied with Mr. Larholt's wishes.

29. Mr. Phillips, who resigned from the board of directors of the company on 22nd December 1959, subsequently instructed the company's bankers as a director. He might have been aware that the company's money was being used to purchase its shares.

30. Mr. Larholt, who claimed to hold the Whitefriars shares in trust for Lok Kawi Rubber, Limited, now claims that he subsequently repurchased them and that he owes the company 'about £100,000'.

31. The company's auditors, who subsequently resigned, commented on the alleged purchase of the shares of Whitefriars Investment Trust Limited in their report on the accounts to 31st December 1959. The succeeding auditor did not approach the retiring auditors before accepting his appointment and gave an unqualified report to the accounts at 31st March 1961.

32. Mr. Larholt failed to arrange for the company to hold annual general meetings since 29th December 1961 and also to lay before a general meeting accounts of the company since those to 31st March 1961. In addition the members of the company have not been given the information of its affairs to which they were entitled. In all these respects, Mr. Larholt's conduct as a director of a public company has been irresponsible.

(Signed) T. W. CHALK

25th October 1965

Auditors' report to the members of Lok Kawi Rubber, Limited

We have examined the above balance sheet and profit and loss account which are in accordance with the company's books of account and we have obtained all the information and explanations which, to the best of our knowledge and belief, were necessary for the purpose of our audit.

We are unable to express any opinion as to the value of the investment shown above which consists of 100,000 5s. shares in Whitefriars Investment Trust Limited. The shares in question were purchased from Mr. L. Larholt who, we understand, is the principal shareholder in Lok Kawi Rubber, Limited, on the 24th December 1959 on the basis of the middle market price at that date; the transfer into the company's name has not yet been completed. A valuation of this investment, based on the middle market price on 5th June 1961 amounts to £72,500.

Subject to the above, in our opinion, and to the best of our information and according to the explanations given to us, the balance sheet and profit and loss account give the information required by the Companies Act, 1948, in the manner so required and present a true and fair view of the state of the company's affairs at 31st December 1959 and of the profit for the year ended on that date.

TURQUAND, YOUNGS & Co.,
Chartered Accountants

19 Coleman Street, London, E.C.2.
8th June 1961

Appendix B
LOK KAWI RUBBER, LIMITED
Balance sheet, 31st March 1961

		£	£		£	£
31/12/59				31/12/59		
£				£		
170,000	Authorised capital: 1,700,000 shares of 2s. each	170,000		100,000	Investments (quoted securities): at cost <i>(market value, based on the middle market price at 31st March 1961, £82,500)</i>	100,000
89,704	Issued capital: 897,036 shares of 2s. each fully paid	89,704		6,196	Current assets: Cash at banks Sundry debtors	197 9,553
12,847	Revenue reserves and surplus: Profit and loss appropriation account	14,665		—		9,750
102,551		104,369				
1,200	Future taxation: Reserve for United Kingdom income tax	—				
1,763	Current liabilities: Sundry creditors	752				
682	Taxation	1,882				
—	Proposed dividend	2,747				
2,445		5,381				
£106,196		£109,750		£106,196		£109,750

On behalf of the board
M. TREE } *Directors*
W. J. TURNER }

Profit and loss account for the fifteen months ended 31st March 1961

31/12/59	£	£	£	31/12/59	£
14,398	Estate expenditure	—			Net proceeds of crop for nine months to 30th
1,653	Export duty and rubber cess	—		18,432	September 1959
52	Upkeep of immature rubber	—		2,960	Interest on short term deposits and other interest
438	Directors' fees	210		—	Investment income
1,215	London expenditure	278			8,250
1,200	Income tax	3,197			
200	Profits tax	—			
2,236	Balance to appropriation account	3,197			
		4,565			
<u>£21,392</u>		<u>£8,250</u>		<u>£21,392</u>	<u>£8,250</u>

14

Appropriation Account

31/12/59	£	£	£	31/12/59	£
171	Loss on sale of fixed assets	—		9,489	Balance from previous year
3,418	Estate manager's retiring gratuity	—		2,236	Balance brought down
1,500	Directors' compensation for loss of office	—		5,725	Transferred from replanting reserve
1,500	Secretaries' compensation for loss of office	—		1,986	Sundry provisions no longer required
—	Proposed dividend at 5% (Net)	2,747			
12,847	Balance proposed to be carried forward	14,665			
<u>£19,436</u>		<u>£17,412</u>		<u>£19,436</u>	<u>£17,412</u>

Auditor's report to the members of Lok Kawi Rubber, Limited

I have examined the above balance sheet and profit and loss account which are in accordance with the company's books of account and I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of my audit.

In my opinion, and to the best of my information and according to the explanations given to me, the balance sheet and profit and loss account give the information required by the Companies Act, 1948, in the manner so required and present a true and fair view of the state of the company's affairs at 31st March 1961 and of the profit for the fifteen months ended on that date.

ALAN L. LOW,
Chartered Accountant

2 Doughty Street, London, W.C.1.
6th December 1961



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