

Hendra Rahardja (Hong Kong SAR, China)

Case ID:

ARW-76

Jurisdiction of Origin of Public Official or Entity Allegedly Involved:

Indonesia

Position of Public Official(s) (yrs in office):

President / CEO of PT Bank Harapan Sentosa (?-1997)

Jurisdiction of Asset Recovery:

Hong Kong SAR, China

Jurisdiction of Asset Recovery ? Description:

Undertaking Recovery Effort, Location of Recovery Effort, Asset Location / Alleged Asset Location

Asset Recovery End:

Unknown

UNCAC Offenses Implicated:

Art.17

Art.23

Money laundering Implicated:

Yes

Legal Basis for Asset Recovery:

Actions Initiated by Foreign Jurisdiction

Intl.Cooperation: MLAT/Letter of Request?:

MLAT

Basis for Intl Cooperation:

Unspecified

Contributing Factors in Asset Recovery:

[Unknown Status of Recovery]

Status of Asset Recovery :

Unknown

Stage in Asset Recovery Chain:

Unknown

Assets Frozen or Seized (USD):

\$3,000,000 (secondary source)

Agreement for Returned Assets:

Unknown

Agreement for Returned Assets - Description:

Unknown

Case Summary:

According to the March 1, 2005 Judgment by Australia's New South Wales Supreme Court, "It was contended that the crimes of the deceased Rahardja produced a total loss to the Central Bank of Indonesia of A\$390 million of which some A\$38.5 million came to Australia." (Source: CDPP - In the Matter of S.19 of the Proceeds of Crime Act 2002; In the Matter of Funds in a Bank Account; In the Matter of Sunshine Worldwide Holdings Limited and South East Group Limited [2005] NSWSC 117.) According to the International Centre for Asset Recovery, in February 2009, an official of the "Hong Kong Ministry of Justice would confirm only that USD 3

million was frozen in Hong Kong, despite press reports of larger amounts concealed in that jurisdiction." (Source: <http://www.assetrecovery.org/kc/node/88a69af9-f1fe-11dd-acdc-479fc5e02d5a>.) At the time of Hendra Rahardja's case in Indonesia, Hong Kong and Indonesia did not have a bilateral Mutual Legal Assistance Treaty (they signed one in 2008). The lack of an MLAT between the two jurisdictions cited as one of the reasons Australia was acting as intermediary between the two jurisdictions. (Source: Working Group Report, Australia/ Indonesia Working Group on Legal Cooperation (Denpasar, 26-27 June 2006), at 5: "In particular, the group discussed recent developments in the Hendra Rahardja case, including Australia's recent mutual assistance request to Hong Kong requesting a portion of the assets identified and restrained in Hong Kong be returned to Indonesia.)

Disposition of Criminal Case(s):

According to the March 1, 2005 Judgment by Australia's New South Wales Supreme Court, "The deceased had been convicted in Indonesia on 18 March 2002 in absentia of charges relating to this matter and was sentenced to life imprisonment and fined 30 million rupiah." (Source: CDPP - In the Matter of S.19 of the Proceeds of Crime Act 2002; In the Matter of Funds in a Bank Account; In the Matter of Sunshine Worldwide Holdings Limited and South East Group Limited [2005] NSWSC 117.)

Jurisdiction of Origin: Investigative Agency:

Unspecified

Jurisdiction of Origin: Prosecuting Authority/Civil Attorney(s):

Unspecified

Jurisdiction of Origin: Courts Involved:

Unspecified

Jurisdiction of Asset Recovery: Investigative Agency:

Unspecified

Jurisdiction of Asset Recovery: Prosecuting Authority/Civil Attorney(s):

Unspecified

Jurisdiction of Asset Recovery: Courts Involved:

Unspecified

Documents:

Hendra_Hong_Kong_9WGLC+REPORT+Final1.doc

Hendra_Hong_Kong_62_NSWLR_400_2005.pdf

Documents Links:

http://www1.worldbank.org/finance/star_site/documents/arw/Hendra_Hong_Ko...

http://www1.worldbank.org/finance/star_site/documents/arw/Hendra_Hong_Ko...

Other Sources:

CDPP - In the matter of S.19 of the Proceeds of Crime Act 2002; In the matter of Funds in a bank account; In the matter of Sunshine Worldwide Holdings Limited and South East Group Limited, 62 NSWLR 400 [2005] (notes Hong Kong government's assistance to Australian investigation), accessed at the website of New South Wales Government LawLink: <http://www.lawlink.nsw.gov.au/scjudgments/2005nswsc.nsf/0000000000000000...>

Working Group Report, Australia/ Indonesia Working Group on Legal Cooperation (Denpasar, 26-27 June 2006), accessed at "[http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/\(CFD7369FCAE9B8F32F341DBE097801FF\)~9WGLC+REPORT+Final1.doc/\\$file/9WGLC+REPORT+Final1.doc](http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/(CFD7369FCAE9B8F32F341DBE097801FF)~9WGLC+REPORT+Final1.doc/$file/9WGLC+REPORT+Final1.doc)";

International Centre for Asset Recovery, "Hendra Rahardja Case Study," at <http://www.assetrecovery.org/kc/node/88a69af9-f1fe-11dd-acdc-479fc5e02d5a>.