TheStreet

Small Cast Stars in China Reverse Mergers

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12/23/10 - 09:47 AM EST

BOSTON (TheStreet) -- Putting together the reverse mergers that bring Chinese companies to U.S. stock exchanges requires a lot of specialized expertise and connections, so the deals tend to get done in a small world where many of the same players work together on deal after deal.

It's such a small world that relationships and connections can generate conspiracy theories even where hard evidence is lacking.

Guang Xun Xu sees himself as the victim of just such a theory.

Until May 2009, he was the Nasdaq's lead representative in China. Last December, he was the target of criticism from Manuel Asensio, managing partner of Mill Rock Investment. Separately, Asensio uses a Web site, www.asensio.com, established in 1996 to publish short-focused research. Asensio suggested that, while working for Nasdaq in China, Xu had had a "connection to questionable stock-promoter Benjamin Wey."

Wey is an investment banker who has guided a series of reverse takeover deals as head of New York Global Group. He vehemently denies that there is anything "questionable" about any of his deals. He is often criticized in connection with work he did for **Bodisen Biotech**(BBCZ), a China-based reverse merger that was delisted by the Amex four years ago, partly on the basis of accounting and disclosure problems, including issues relating to Wey's role as a promoter of the stock. Wey says his role was proper, and was adequately disclosed.

Reverse mergers are perfectly legal, but serve as a back door to U.S. exchanges that allows stock promoters to get Chinese companies listed on U.S. exchanges without a full regulatory review. Sources who work with reverse mergers have told *TheStreet* that the category is now the target of an SEC investigation into allegations of fraud.

Xu, outraged at Asensio's innuendo, says any "connection" between himself and Wey was necessary and proper.

"For 13 years, I did my best to work for Nasdaq to make sure whatever companies I was sending to the U.S. were quality ones in compliance with regulations," said Xu. He no longer works for Nasdaq, but remains in China and is still helping Chinese companies get listed on U.S. stock exchanges.

No substantive conflict involving a Nasdaq official has ever come to light. A Nasdaq regulatory official declined to discuss the work of former employees, citing personnel policy. The exchange said it strictly forbids conflicts relating to new listings. The official said that, where a Nasdaq employee is involved in recruiting a company to list on the Nasdaq, "they would not be permitted to buy securities in the company that he or she was soliciting to list."

Asensio's issues with Xu stem from a press event that occurred in China two years ago. The purpose of the event was to announce a successful reverse merger and U.S. listing involving China's **Shenyang Taiyu Machinery & Electronic Equipment**. Xu attended the event. The RTO involving Taiyu was engineered via an American shell company called **Pacific Goldrim Resources**. The merged company is now known as **SmartHeat**(HEAT) and is traded on the Nasdaq. The RTO deal was guided by Wey.

SmartHeat hasn't faced any negative allegations and its shares have performed better than many other RTOs, but lately the stock has felt pressure from fears of dilution. The company's shares hit a high of $18.60 in January, before tumbling to $5 after the company on Nov. 18 announced a secondary offering of 5 million shares.

There has been concern about closeness between Xu and Wey among others involved in the small world of Chinese RTOs. According to one due-diligence investigator in China, who spoke on condition of anonymity, Xu visited two Chinese companies accompanied by Li Ming, a senior executive at Wey's firm.

Xu rejects all of this. He says that, as the chief representative for the Nasdaq in China, he was often in contact with bankers and promoters working on reverse mergers, including Li Ming. He explains that such contacts were necessary and proper, but have caused him frustration nonetheless.

"Because of Benjamin Wey, my name has been implicated," Xu said by telephone from China. "I only met him twice -- once at my office and another occasion at a seminar for SmartHeat. I can't even properly remember what he looks like. When I saw my name implicated, I said 'My God.' I couldn't believe it. I really couldn't believe it."

For his part, Wey says he has no relationship with Xu.

"I met that guy twice in my life," Wey says. "I don't know what he does. I don't know what he says. I don't know him. It was a casual two meetings."

In one Web posting critical of Xu, Asensio pointed out that Wey was censured by the Oklahoma Department of Securities in 2005, for recommending stocks to investors without disclosing the consulting agreement he had with the companies. Wey signed a settlement agreement, but did not admit the charges. He now says that the censure was motivated in part by politics.

"You had somebody in the Department of Securities in Oklahoma in the mid-1990s who was very loud and clear: 'We do not want Oklahoma to have a reputation of doing business with communist China. And your firm is doing business with communist China.' That was the sole reason. There is no other reason behind it," Wey told *TheStreet* in a recent interview.

Wey returned fire at Asensio, pointing out that the noted short-seller was censured by the NASD in November 2000 and fined $75,000 for reporting and advertising violations. A 2006 NASD decision barred Asensio from association with any NASD member. Asensio said this action is before the U.S. Court of Appeals.

Xu's explanation for his departure from the Nasdaq is simple: It was all about getting a raise.

"I wanted to make more money," Xu says. "I wanted to pursue my career. I really love investment banking and listings. I'm freelancing. I've got four companies headed in the direction of the Nasdaq. I'm also helping companies do RTOs and go to the Nasdaq, NYSE and U.S. There are so many companies even now considering and wanting to go to the U.S."

Xu isn't alone in facing criticism from short sellers who target Chinese reverse mergers. His predecessor at the Nasdaq in China was Lawrence Xiao Xia Pan, who served in the position from 2005 until 2007. Pan himself may have steered clear of conflicts, but his wife, Mary Meiyi Xia, has been heavily involved in RTOs and stock uplistings, SEC and other public records show.

In the late 1990s, Xia was a director at **Asia Electronic Holdings**, a company headed by China-based entrepreneur Du Qingsong, who was later arrested by Chinese authorities related to charges of conducting fraudulent investment schemes and incarcerated. Xia also partnered with Qingsong as co-founder of a securities firm, Asia Pacific Securities, according to Asensio's research.

In 2004, Xia became head of China operations at **Bio One**, a Florida-based company then involved in a complex RTO transaction with several China-based firms.

Bio One's stock registration was revoked in 2005 by the SEC, which cited materially false information in regulatory filings among other findings. Xia was not named in the 2005 SEC order.

Xia could not be reached for comment. When reached by phone and asked about his duties at the Nasdaq, Pan immediately hung up. He did not respond to further requests for comment. The Nasdaq also declined to discuss any issues related to Pan, citing personnel policy.

Speaking in general terms about Chinese RTOs, Xu commented that China lags the U.S. in terms of regulation, compliance and transparency. He rejected the notion that RTOs are problematical as a category. Any surprises, he says, are due more to shoddy research by professionals in the U.S. than to deception.

"What the hell were the U.S. lawyers and U.S. accountants doing? They were supposed to be doing their due diligence," Xu said.

-- Written by Robert Holmes in Boston.