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HERB GREENBERG: Checkered Past Of China Firms Advisor

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By Herb Greenberg

Will the real Benjamin Wey - or is it Benjamin Wei - please stand up?

That's the kind of question investors in Chinese companies he advises should be asking after Wey's firm, New York Global Group, issued a press release last week headlined, "New York Global Group Responds to Scurrilous Allegations." The release quoted Wey as saying, "NYGG has been victimized by false articles, and we are not going to sit idly by while an irresponsible reporter defames us and some of the companies we have advised."

The press release further quoted the company's attorney, Judd Burstein, as saying he has retained investigators to examine a possible connection between "the timing of these articles and short sales of hundreds of thousands of shares" of Bodisen Biotech (BBC). The press release, which came a day after a story in the New York Post by columnist Chris Byron, didn't name the reporter or publication. And it was issued a day after I lobbed a round of questions Wey's way.

Wey, once known as Wei, declined to be interviewed, instead replying by email to questions submitted through his outside public relations counsel and Burstein, his attorney.

Wey, 35, specializes in advising emerging Chinese companies, including Bodisen, that have gone public in the U.S. through reverse mergers. Wey says New York Global's China subsidiary has advised three companies that have gone public through reverse mergers.

Reverse Merger Mania

Reverse mergers, which have a history of controversy, generally involve backing a private company into the shell of a mothballed public company - often a failed penny stock. With hundreds of Chinese entrepreneurs eager to tap into the prestige and wallets of America, Chinese stock promoters have had no problem drumming up business.

At last count 95 of these companies have been created over the past two years, according to DealFlow Media, which publishes the Reverse Merger Report. Their total market value exceeds $7 billion.

Most trade on the OTC Bulletin Board or Pink Sheets, but at least a dozen, including Bodisen, Comtech (COGO), China BAK Battery (CBBT) and Tiens Biotech (TBV), have sprung up on the American Stock Exchange or the Nasdaq.

Some may wind up doing well, but China Energy Savings, for example, traded on the Nasdaq and was added to the Russell 2000 until a three-month halt earlier this year after its stock had slipped to around $7 from highs of nearly $30. It was then relegated to the pink sheets where it traded until Tuesday, when the SEC suspended trading citing a lack of "current and accurate information." Among the issues, according to the SEC, are whether China Energy Savings' former "purported" CEO, Sun Li, ever existed.

There's no question about whether China Automotive Systems (CAAS) CEO Hanlin Chen exists; he once rang the opening bell on the Nasdaq. But there is a question about his MBA, which he says in SEC filings came from Barrington University. A China Automotive spokesman says it was a "distance" learning program. However, an investigation several years ago by the Government Accountability Office's Office of Special Investigations showed that Mobile, Ala.-based Barrington, which no longer exists, was among several "diploma mills" that sold diplomas "on a flat-fee basis." The spokesman says the company declined further comment.

Bodisen Isn't Biotech

Then there's Bodisen, which has nothing to do with the "biotech" implied by its name. Wey said in his email responses to questions that Chinese companies use an equivalent of "biotech" for anything associated with living things, including agriculture, plants and bacteria. In the case of Bodisen, the "living" relates to the "organic" fertilizer. However, Wey has said its products aren't "organic," as defined by U.S. and European standards. "In fact," Wey said during a recent presentation on behalf of Bodisen, "in much more strict terms, it's in fact defined as natural fertilizers. It's produced based on very sophisticated manufacturing company proprietary technology and is not a manure product base at all." While it claims to have "proprietary" technology, according to its SEC filings, Bodisen says it has no patents.

Bodisen also mentions in its SEC filings that its "organic compound fertilizer products" have been "qualified" by the International Standards Organization. An ISO spokeswoman, however, says Bodisen's use of ISO suggests it's for product certification. "It isn't," she says. "It is the quality management system of the company" that is certified and that "has nothing to do with the definition of 'organic fertilizer.' The company should be told they cannot advertise their product this way." Bodisen's outside investor relations representative was unable to provide an explanation.

Wey was hired by Bodisen less than a year after one of the most enthusiastic promoters of reverse mergers, Timothy Halter, of Dallas-based Halter Financial, claims to have turned down the Bodisen reverse merger. Halter is such a fan of reverse mergers and Chinese stocks that he created an index called the Halter USX China Index. While he liked Bodisen, "and it seemed like a good business," Halter told me, "our auditor ultimately deemed it un-auditable at the time." Bodisen is not in the index.

Wey declined to discuss Halter's comments. He notes that Bodisen's financials have been scrubbed three times by the SEC in connection with share sales. And while its auditor is Los-Angeles-based Kabani & Co., which audits several New York Global clients, it was also reviewed earlier this year by Deloitte & Touche when its shares were dual-listed on the London Stock Exchange.

A Better Deal?

Bodisen has since bought 8.6% of China Natural Gas, another New York Global client. Through the investment, Bodisen has said it "will gain substantial cost savings for urea" - a natural gas byproduct used in fertilizer production - because China Natural Gas "has plans underway to serve one of the largest urea manufacturers" in one of China's provinces. How does China Natural Gas' role as a supplier to a urea producer help Bodisen - an investor in China Natural Gas - get "substantial cost savings" from a China

Natural Gas customer? According to Bodisen, while the relationship doesn't provide "direct cost savings, it indirectly reduces our material cost" through a discount provided by the urea producer. Bodisen did not elaborate on how its investment in China Natural Gas translates into a cost-savings from a China Natural Gas customer; it offers no such related-party disclosure, beyond the investment, in its SEC fillings.

Wey, however, said that the investment by Bodisen "secured a significant price advantage on its purchase of urea." He, too, didn't elaborate, which gets us back to Wey: What's his real story and why did he change the spelling of his name? Burstein, his attorney of a week, says Wey legally changed his name in late 2003 after moving to New York so it would be more "Americanized." He adds that Wey's wife, Czech-born Michaela Wei, who is listed in NASD documents as majority owner of New York Global, intends to change her last name when she becomes a citizen of the U.S.

It's Wey, however, who is the star of the show at New York Global. His company has issued press releases about how he has been named senior economic advisor to multiple Chinese cities, executive director of the Foreign Investment Committee of the Investment Association of China and deputy director of the China Mergers & Acquisitions Association. The front page of firm's website features a video of Wey "interviewed by Forbes as a China expert."

On The Trail Of Wey

Yet a search of any pre-New York Global background on "**Benjamin Wey**" on Google, the NASD's website or New York Global's website comes up empty-handed about Wey's work life before New York Global, which was founded two years ago. Even a press release by New York Global about the naming of Wey as president offers little in the way of his employment background.

But a search of "Benjamin" and his wife's last name "Wei" provides some insight into his past. Even before getting his MBA in 1999 from the University of Central Oklahoma, Benjamin Tianbing Wei became an investment advisor and started an investment advisory firm in Oklahoma. He quickly became somewhat of a business celebrity in Oklahoma, where his China investment banking ideas helped him rub shoulders with Oklahoma's business elite; he even claims that he became "an informal advisor" on China affairs to Oklahoma's governor.

Then, in 2002, he ran into trouble with securities regulators, including a brief suspension and fine by the NASD for allegedly maintaining discretionary accounts "with a member firm" without giving his firm notice.

Wey never admitted or denied the charges. In his email responses, he told me he was stung by "a technical charge" because he refused to sell a 40 cent stock for a small broker dealer. He never sought to get reinstated. Burstein, his attorney, adds that Wey has had no legal obligation to reacquire any securities licenses or disclose disciplinary actions relating to services he no longer provides.

This much is certain, however: Wey will never likely be reinstated as a broker or investment advisor in Oklahoma. Last year, after several years of legal wrangling, he was censured by the Oklahoma Department of Securities. While not admitting or denying the charges, he agreed he wouldn't ever again seek to do any brokerage or investment advisory business in the state. [09-29-06 1223ET]

According to state records, he recommended stocks to several people without properly disclosing their risks. It was also alleged that he made at least one trade that wasn't authorized and that on several occasions didn't follow his clients' instructions. Furthermore, according to the state's complaint, he didn't tell customers he had a consulting agreement with companies whose stocks he was selling. Burstein says none of the allegations against Wey in Oklahoma were ever proven and that it was "far more cost-effective" for him to accept censure and agree never to do business "in a state to which he never planned to return, especially since he never intended to secure similar licensing anywhere or anytime in the future." New York Global's brokerage arm, however, is licensed in Oklahoma.

Fired As CEO

But there's more: Wey had been founder, majority shareholder and CEO of Benchmark Global Capital in Oklahoma, which like New York Global, specialized in Chinese stocks. When I first asked, through his spokesman, whether he had ever been associated with "Benchmark Capital" - not Benchmark Global Capital - and whether he changed his name from Wei to Wey, his email response was, "No."

He moved the company to New York in June 2002 through the purchase of his Oklahoma operations by a New York-based entity of the same name. Within six months he was fired as CEO and as a director by his board. He sued the board to get his jobs back. According to a detailed affidavit by Jerry Gruenbaum, then general counsel of Benchmark, Wei was fired "for cause" because he was believed to be involved in insider trading and misappropriating Benchmark funds. Burstein says Wey received a preliminary injunction that restored him to the board "and then settled the case on confidential terms that resulted in him receiving substantial monies and assets from Benchmark." Gruenbaum says there was never a settlement and that Wey was never returned to the board.

Meanwhile, back at New York Global: Research reports by the brokerage division of Wey's firm, which until recently covered Bodisen, did not disclose any current or prior business relationship between New York Global and Bodisen. At a recent Roth Capital conference, where Wey gave the presentation for Bodisen, he only identified himself as vice director of the China Mergers and Acquisitions Association and a visiting professor of two Chinese universities. He never mentioned he was president of New York Global. He says he was specifically instructed not to mention New York Global's name during the session "out of concern that Bodisen might be seen to be promoting" New York Global's business.

Not to mention the appearance of a possible conflict. Makes you wonder what else investors might not know.

(Herb Greenberg is senior columnist for MarketWatch, based in San Diego. He doesn't own stocks - except for shares of his employer - and he doesn't sell stocks short or invest in hedge funds.)

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