

# 1MDB: JHO LOW WAS NAJIB'S PROXY

**'As a shadow director, Low also owed plaintiffs fiduciary duties and was a trustee of plaintiffs' assets'**

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**1** MALAYSIA Development Berhad (1MDB) has claimed that fugitive businessman Low Taek Jho, or Jho Low, was running the company as a proxy of Datuk Seri Najib Razak.

The strategic development firm in a court document claimed Najib, who was the then prime minister, was at all material times a

shadow director of 1MDB as its directors were accustomed to acting upon Najib's instructions and directions.

"Accordingly, the defendant (Jho Low), as the proxy and/or associate and/or agent of Najib in giving instructions and directions to the board and senior management of 1MDB, was also at all material times a shadow director of the plaintiffs.

"Hence, the defendant also owed the plaintiffs fiduciary duties and was at all material times a trustee of the plaintiffs' assets.

"The defendant knew or ought to have known at all material times, that the monies which he received are monies belonging to or traceable to the plaintiffs," it claimed.

1MDB and its entities said this in their statement of defence in reply to Jho Low's statement of defence last month.

The plaintiffs in the suit were 1MDB, 1MDB Energy Holdings Limited, 1MDB Energy Limited, 1MDB Energy (Langat) Limited, and Global Diversified Investment Company Limited (Formerly known as 1MDB Global Investment Limited or 1MDB GIL).

The strategic development firm is seeking to recover US\$3.7837 billion from Jho Low, his father Tan Sri Larry Low Hock Peng, sister Low May Lin, and associate Tan Kim Loong.

1MDB claimed Jho Low had procured his proxies to work in the plaintiffs, including Terrence Geh, Casey Tang Keng Chee, Faisal Ariff Kamil and Jasmine Loo Ai Swan, who were all his cohorts.

"The said proxies occupy key senior management positions in the 1MDB to inter alia monitor the management and the firm's board.

"They would also implement

key decisions in accordance with the defendant's and Najib's fraudulent intentions," it claimed, adding that Jho Low knew or ought to have known that the said funds were diverted to him in breach of trust and/or fiduciary duties.

Jho Low, who has been on the run since 2015, claimed that the lawsuit ought to be dismissed as it failed to disclose a reasonable cause of action over allegation of breach of trust or fiduciary duty.

He said he did not have any position or legal standing to control 1MDB, which was fully owned by the government through the Ministry of Finance Incorporated.

The defendant contended that he has never been a director, shareholder, or a member of the board of advisors in 1MDB or its four subsidiaries.

"As such, the first defendant

has no legal standing to exercise control over the plaintiffs, including but not limited to directing or otherwise causing the alleged transfer and/or receipt of funds," he claimed.

However, his name is heavily mentioned in the ongoing corruption trial of Najib, who is the Pekan member of parliament involving the misappropriation of 1MDB funds.

Several key witnesses, including 1MDB's top brass, have testified that they were introduced to Jho Low as Najib's special adviser despite him not having any official position in the company.

Najib in his other criminal trial involving SRC International Sdn Bhd, a former subsidiary of 1MDB, contended that he did not have any knowledge of any wrongdoing and alleged it was mastermind by the rogue financier and his affiliates.