# The Maruko-Lawsuit Plaintiff Team Report

**by Dr.Luke Karasawa**

## OUTLINE

The Maruko-lawsuit plaintiff team is composed of more than 1,000 ordinary citizens in Japan, such as businessmen, housewives, civil servants, and individual proprietors. We purchased from Maruko Inc. smal1 joint ownerships of overseas real estates and various paintings, which should be jointly shared between Maruko and us. We were financed by the subsidiary company of Maruko, General Lease (GL) Co., which was to be regarded substantially as the finance department of Maruko, and other finance companies as well.

Maruko was the most famous company in Japan of sales and administration of one-room system apartment in those days. However, Maruko went into bankrupt in 1991 due to its lax management and has been under the application of Corporate Reorganization Law. As a result, according to the reorganization administrators' decision of withdrawal from overseas business they sold off their overseas properties including ours under the permission of the Bankrupt Court of the U.S., so that nothing has been left to us but enormous balance of debts.

At this stage we found out that Maruko had deceived us. The reasons why we were deceived are as follows: First, the correct information on the reality of the investments planned by Maruko was not disclosed in those days. Second, it is truer to say that Maruko tried intentionally to make us  believe its investment plans were excellent by actively presenting untruthful information that had sufficient reason for us to believe their properties to be fit for the purpose. But their explanations were mere sales talk and full of lies.

Therefore, we have decided to take legal actions against Maruko, as well as against those companies, Mitsubishi Trust and Banking (MTB) Corp.. The Long-term Credit Bank of Japan(LTCB), Mitsubishi Shoji Co. and Nissho-Iwai Co., that had played crucial roles in every scene to promote Maruko's business. We have been demanding so far compensation for the damage we received. The root of our case is just identical with that of the scandals caused by banks and security companies today in Japan due to their low morality.

We hope you would understand our standing and the content of our lawsuits through following Home Pages. We are expecting your sincere warm-hearted support.

# MTB, LTCB, MSSHO-IWAI AND MITSUBISHI SHOJI SHOULD TAKE OWN RESPONSIBILITY FOR HAVING TAKEN PART IN MARUKO'S BUSINESS--2000 PEOPLE DAMAGED BY SWINDLE BUSINESS OF MARUKO

Maruko has been frequently putting advertisements in various media with such attractive copies as "You Can Become Owner Of Overseas Real Estates With Down Payment of 5%" and " It Will Serve As A Private Pension At Your Old Ages". We purchased small joint ownerships of overseas real estates, e.g. office buildings, condominiums and hotels, from Maruko financed by its subordinate subsidiary company of Maruko, General Lease Co., and so on.

At the same time Maruko rented those facilities as a whole from us and contracted to pay the rent to us every month for long term. So it is quite natural that we expected the rent would serve as a personal pension when we finish to pay off the loans. At the time of purchasing, we concluded formally three contracts, i.e. the sales contract, the loan contract and the lease contract with Maruko and General Lease Co.

However, we recognized then the three contracts as a whole were essentially one because if any of them had been lacked the investment system could never have functioned properly. The three can function corporately and simultaneously as a system when and only when they are concluded together at the same time.

Maruko, however, went into bankrupt due to their lax management in l991, and has been applied the Corporate Reorganization Law. The reorganization administrators of Maruko have canceled one-sidely only the lease contract and have stopped paying the rent to us. To make the matter worse they sold off their/our overseas real estates under the permission of the Bankrupt Court of the U.S. because of its withdrawal from overseas business in the reorganization plan. As a result, only enormous balance of debts has been left to us according to the loan contract that is still formally valid.

We found we had been deceived. Up to that time we had believed that the real properties of Maruko were fit for the investment conditions presented in the lease contract. But actually their properties were defective for the purpose and the amount of the rent

they paid to us exceeded their actual earnings. They were paying us the rent by their own load. That is to say, Maruko concluded the lease contract only for sales promotion without any reasonable and realizable planning. Tliey sold us their deficient system by presenting unrealizable plan and untruthful promise to us.

Therefore, we must say that the ruin of Maruko was inevitably fated even at its beginning and the way of sales applied by Maruko must be judged as swindle. In addition, Maruko had been selling the small joint ownerships of the paintings at very high price with guaranty that they would buy them back in future at the same price even just before it went into bankrupt. Maruko guarantied the repurchase only for sales promotion again. But in reality Maruko could not afford to buy the paintings back due to her bad financial condition even at that time. Thus this sales method is an illegal act that violates Capital Subscription Law.

Furthermore, considering the fact that a couple of banks and trading companies have taken part in the swindle business of Maruko and shared not a little profit with it we have instituted the lawsuit against such banks and trading companies to pursue their corporate responsibility as well. The legal actions we have taken are as follows:

## 1. DAMAGE SUIT AGAINST GENERL LEASE CO.

Maruko promoted sales of overseas real estates by financing us through its totally-held subsidiary company The General Lease (GL) Co. Note that GL should not be recognized as an independent company from Maruko because it shares 100% capital of GL and common executive directors, which means without Maruko GL could not have function individually. As a matter of fact, Maruko established GL so that it could function as its financing department in order to promote the sales.

Nevertheless, while Maruko has canceled only the lease contract and has stopped paying the rent to us after it went into bankrupt, GL has been asking us to pay back the debt according to the loan contract still formally valid, insisting that it is the independent company from Maruko. Those 850 people who purchased small joint ownerships of overseas real estates from Maruko financed by GL have instituted the suit against GL to demand compensation for the damage and to confirm nonexistence of their liability for debts.

## 2. DAMAGE SUIT AGAINST BANKS AND TRADING COMPANTES

Those 920 people who purchased small joint ownerships of overseas real estates from Maruko have started suit to demand compensation for the damage against Mitsubishi Trust and Banking, The Long-term Credit Bank of Japan, Mitsubishi Shoji, and Nissho-Iwai because those companies had joined Maruko and promoted the swindle business of Maruko. The validity of our claim is based on the principle of Joint Tort Responsibility (Article 719 of the Civil Law of Japan) and the theory of Lender Liability. We note that our suit is the first case in Japan in which the Lender Liability is pursued in real earnest.

## 3. ART-SUIT

Those 100 people who purchased small joint ownerships of paintings from Maruko financed by GL have instituted the suit in order to demand compensation for the damage and to confirm the non-existence of their liability for debts.

## 4. SUIT FOR CONFIRMATION OF OUR REORGANIZATION CLAIM

Those 656 people who purchased small joint ownerships of oversea real estates and paintings from Maruko have instituted the suit against its reorganization administrators in order to fix their right to demand compensation for damage from Maruko and ask them to pay the indemnity to them according the reorganization plan.

## 5. HONDA-WAREHOUSE SUIT

Those 3 people who purchased the small joint ownerships of the warehouse in New York State, which was rented by Honda U.S. then, have instituted the suit against The Long-term Credit Bank of Japan who financed them and actively promoted the sales corporately with Maruko. They claim non-existence of their liability for debts and their right to demand compensation for the damage.

# MTTSUBISHI TRUST AND BANKING CORP. AND THE LONG-TERM CREDIT BANK OF JAPAN JOTNED SWINDLE BUSINESS OF MARUKO

Mitsubishi Trust and Banking (MTB) Corp. and The Long-term Credit Bank of Japan (LTCB) noticed the financial crisis of Maruko at early stage. On the one hand they instructed Maruko to set up some reconstruction scheme by exercising their leadership over it, and on the other hand they provided Maruko with funds to purchase properties for sale and forced it to promote the sale.

At the Ikebukuro-branch of MTB they held fund-management conference every month with the presence of directors of Maruko, in which they gave every instruction to Maruko's staffs concerning its fund-management and overall administration. Virtually and practically MTB controlled and managed Maruko through such conferences.

For example, Mr. Shoji Kanazawa, the President of Maruko then, testified in an interview by the magazine Weekly Diamond that MTB gave all the instructions, e.g., how many funds to be provided, which debt to be paid back, what real estate to be purchased, and which construction plan to be continued, everything was under the administration of the bank.

In addition, at the critical point of Maruko just before its bankruptcy, MTB dispatched its staff, suggesting he would be the next vice-president, and LTCB also sent own staff as the candidate for executive director into Maruko, by which they tried to obtain stronger management power over it.

Maruko repeated the precarious day-to-day management depending on the loan and its closing account had gone into deficit at the ordinary profit level already one year before its bankruptcy. Nevertheless, MTB and LTCB overlooked window dressing settlement by Maruko and supported it to continues business for years.

Finally at the very point they allowed the bankruptcy of Maruko they put their mortgages on its assets, and then they succeeded to recollect their own credit forestalling other creditors. But they show no attitude to care our damage caused by the swindle business of Maruko and to take their corporate responsibility to the results.

# MITSUBISHI SHOJI CO. AND NISSHO-IWAI CO, COLLABORATED WITH MARUKO

Mitsubishi Shoji and Nissho-Iwai permitted Maruko to put expressions as follows in newspapers and pamphlets published by Maruko: “Plan Corporation by Mitsubishi Shoji Co." and “Plan Corporation by Nissho-Iwai Co." A lot of people inevitably got the impression that the investment plans presented by Maruko were excellent now that such big and famous companies in Japan collaborated with Maruko. Then they be-

lieved Maruko and purchased small joint ownerships of overseas real estates without any doubt.

In addition, Nissho-lwai financed the funds by which Maruko could purchase overseas real properties for sale. Furthermore, Mitsubishi Shoji and Nissho-lwai cared the finance of General Lease Co. by making their subsidiary companies and non-banks under them provide GL with enough money to finance its customers who were mediated by Maruko with no hindrance. In fact, the overseas real estates business of Maruko was carried out literally under the "absolute financial patronage" of Mitsubishi Shoji and Nissho-Iwai.

## MITUBISHT SHOJI CO. AND NISSHO-IWAI CO. GAINED ENORMOUS PROFIT THROUGH MARUKO'S SWINDLE BUSINESS

Every time Maruko succeeded to sell small joint ownership of overseas real estates both companies received a large margin as a reward for their corporation to Maruko. Mitsubishi Shoji and Nissho-Iwai shared with Maruko the profit that was far greater than expected in usual real estates dealings due to Maruko's guaranteeing the high rent that exceeded the actual earnings. Such fact means that they deceived the consumers to gain an unfair profit standing upon their sacrifices. Why can we allow them go without putting any penalty on them? Who must be charged in this case? The answer is crystal clear.

## WINDOW DRESSING IN MARUKO'S ACCOUNTING AND DOUBTFUL CB ISSUE

In the Inspection Report the reorganization administrators of Maruko submitted to the court, they pointed out there was room for doubt that the transfer contract (sales: 5 billion yen; profit on sales: 1.8 billion yen) of “Hyatt Ground Champions Resort" (signed on June 29, 1990) and other one concluded between Maruko and Nissho-Iwai were to be considered as financial transactions. In addition, they noted that it could be concluded that the closing account of Maruko had been in serious deficit already in the previous term (Jan. 1 1990 - Dec. 31 1990) , if they eliminate the profit gained in the dealing mentioned above assuming it as fictitious one.

Further, we deduced the following conclusion by our precise analysis of the details of

the financial statements of Maruko: If the transfer contract of "Hyatt Ground Champions Resort" was assumed to be a financial transaction, then Maruko had fallen into deficit in the first half of that term (Jan.1 1990- June 30 1990). In the court Nissho-Iwai admitted that they had made the contract with special agreement of repurchase, and actually they had made an affiliate of Maruko buy it back in the same year. But they refused to disclose the details of the contract itself. Moreover, MTB and LTCB helped Nissho-Iwai by releasing their mortgage on it for the convenience of the dealing between Nissho-Iwai and Maruko.

On the other hand, Maruko succeeded to raise shrewdly the capital amount of 16.3 billion yen from the market by issuing the CB in July 1990, in which MTB also filled the role of co-agent and vice-representative for conversion.

One year later, August 1991, Maruko eventually went into bankrupt. The converted stocks have become a useless batch of waste papers, and they restored only 6% of the face value of the bond to holders of the non-converted CB. This case of CB issue was carried out not only without any disclosure of correct information, but also even with the window dressing of the closing account done by all the parties concerned. We cannot but conclude that it is just an illegal act and the corporate responsibility of those involved in this case should be strictly pursued.