
STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (SFC) has prohibited Tsang Siu Kam Selina (Tsang)¹ pursuant to section 194 of the Securities and Futures Ordinance (SFO) for a period of 2 years from:
 - (a) applying to be licensed as a representative;
 - (b) applying to be approved under section 126(1) of the SFO as a responsible officer of a licensed corporation;
 - (c) applying to be given consent to act or continue to act as an executive officer of a registered institution under section 71C of the Banking Ordinance; and
 - (d) seeking through a registered institution to have her name entered in the register maintained by the Monetary Authority under section 20 of the Banking Ordinance as that of a person engaged by the registered institution in respect of a regulated activity.
2. The disciplinary action is taken due to Tsang's failure in:
 - (a) taking order instructions from a third party for a client account without written authorization from the client; and
 - (b) conducting trading for the client without his knowledge of and authorization for the trading.²

Summary of facts

Taking order instructions without written authority

3. Among other things, paragraph 7 of the Code of Conduct³ provides that a licensed person should not effect a transaction for a client unless before the transaction is effected, the client or a person designated by the client has specifically authorized the transaction. If an authority is granted to a person who is not an employee or agent of the licensed person, the authority should state the person is not an employee or agent of the licensed person and on an

¹ Tsang was licensed to carry on Type 1 (dealing in securities) and Type 4 (advising on securities) regulated activities and was accredited to CIC Investor Services Limited between July 2003 and April 2011

² The affected client has accepted compensation for Tsang's misconduct

³ Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission

annual basis the licensed person should confirm with the client whether the client wishes to revoke the authority.

4. Between January 2006 and August 2008, Tsang was acting as the relationship manager responsible for handling the respective accounts of a client and his former girlfriend. In the absence of required authorization in writing, Tsang relied on her understanding that order instructions for the client's account would come from his former girl friend.
5. The explanation given by Tsang that she thought that an authorization in writing was not necessary is not acceptable. A written authorization is a regulatory requirement and has to be in place for designating the authorized person and defining the extent of the authority. It is not for Tsang to decide whether or not the written authorization is necessary.
6. Tsang's failure to obtain the required written authorization from the client before taking order instruction from a person other than the account holder is a neglect of her regulatory duties.

Unauthorized trading

7. From September to November 2008, Tsang initiated transactions involving currency, stocks and deposit in the client's account without his knowledge and authorization.
8. Tsang explained that the relevant transactions were conducted to improve the performance of the client's account. The failure to obtain authorization from the client was a mistake and serious negligent oversight. Again, Tsang's explanation is not acceptable.
9. The SFC considers an honest representative would not conduct trading transactions in his or her client's account without the client's knowledge and authorization. The fact that the failure was committed for the purpose of improving the account performance is not an excuse for dishonesty.

Conclusion

10. Having considered all the circumstances, the SFC is of the view that Tsang is guilty of misconduct and her fitness and properness to be a licensed person has been seriously called into question. The prohibition of 2 years is most appropriate and commensurate with the view of the SFC on the gravity of the failures.
11. In coming to the decision to take disciplinary action against Tsang, the SFC has taken into account:
 - (a) Tsang's conduct was not isolated and took place over a number of years;
 - (b) Tsang's trading in a client account without the client's knowledge and authorization is dishonest; and
 - (c) acting in the interests of a client is fundamental to the fitness and properness of a licensed representative.