
STATEMENT OF DISCIPLINARY ACTION

1. The Disciplinary Action

- 1.1. The Securities and Futures Commission (**SFC**) has prohibited Ms Luk Ping (**Luk**) from re-entering the industry for ten months under section 194(1)(iv) of the Securities and Futures Ordinance (**SFO**).
- 1.2. The disciplinary action addresses Luk's failures in handling accounts of her clients at OSK Securities Hong Kong Limited (**OSK**) between March 2008 and June 2011. The SFC finds that Luk had failed to carry on regulated activities diligently and compliantly by:
 - 1.2.1. failing to act with due skill, care and diligence when operating the account of two clients;
 - 1.2.2. operating those two accounts without proper authorisation; and
 - 1.2.3. failing to keep a proper record of trade order instructions and confirmations.

2. Summary of facts and breaches

Background

- 2.1. Investigation into Luk's misconduct stemmed from public complaints by two of Luk's clients at OSK, Client A and Client B.
- 2.2. Client A had subsequently withdrawn his complaint. Client B alleged, among other things, that three unknown securities transactions were conducted (**Three Unknown Transactions**) and two unknown deposits were made into her account (**Two Unknown Deposits**) between March and April 2011.

Luk's apparent misconduct and regulatory breaches

- 2.3. As a licensed person, Luk was required to comply with standards set out in the Code of Conduct¹. In particular:
 - 2.3.1. General Principle 2 requires a licensed person to act with due skill, care and diligence, in the best interests of clients and the integrity of the market;
 - 2.3.2. Paragraph 3.9 requires licensed persons to properly record and immediately time stamp records of the particulars of the instructions for agency orders;
 - 2.3.3. Paragraph 7.1 requires licensed persons to obtain written authorisation prior to operating a client's account on a discretionary basis.

¹ Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission

- 2.4 The available evidence showed that, in breach of paragraph 7.1 of the Code of Conduct, Luk operated the accounts of Client A and Client B on a discretionary basis without written authorisation from them or the necessary approval from her employer.
- 2.5 Investigation also revealed that the Three Unknown Transactions in Client B's account were in fact error trades that were intended to be carried out in Client A's account. Instead of immediately reporting the Three Unknown Transactions as error trades to OSK, Luk settled the same by making the Two Unknown Deposits into Client B's account. Luk's failures were in breach of General Principle 2 of the Code of Conduct, in that Luk did not exercise due care when handling client transactions.
- 2.6 As part of OSK's internal investigation, its staff listened to Luk's tape recordings from June 2010 to May 2011 and from January 2009 to May 2011 in relation to the accounts of Client A and Client B respectively. It was noted that, of the transactions conducted during the period, only around 60% and 40% of the transactions were instructed or confirmed by Client A and Client B via recorded phone respectively.
- 2.7 The SFC also performed a sample check on Luk's tape recordings involving Client A and Client B. Out of the 90 transactions for Client A in June 2010 and 114 transactions for Client B in January 2010, there were telephone recordings of order confirmation for only 5 transactions and 95 transactions respectively. Furthermore, there was only recording of a single order placing in the account of Client B but none in the account of Client A in those two respective months. It is apparent that Luk had failed to comply with paragraph 3.9 of the Code of Conduct.

3. Conclusion

- 3.1. Having considered all the circumstances, the SFC is of the view that Luk is not fit and proper to be licensed, and has decided to take the disciplinary action against Luk as described in paragraph 1.1.
- 3.2. In deciding the appropriate sanction, the SFC has taken into account all relevant circumstances including Luk's resignation from OSK in June 2011 and her otherwise clean disciplinary record.