
STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (SFC) has prohibited Ma Tin Luk (Ma)¹ pursuant to section 194 of the Securities and Futures Ordinance for a period of 3 years from:
 - (a) applying to be licensed as a representative;
 - (b) applying to be approved 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 his name entered in the register maintained by the Monetary Authority under 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 because Ma had :
 - (a) fabricated telephone order recordings; and
 - (b) deliberately provided false and misleading information to the SFC,in breach of General Principle 1 (Honesty and fairness) of the Code of Conduct².

Summary of facts

Fabricating telephone order recordings

3. On 26 November 2009, Ma executed a short selling order for a client of Phillip Securities (Hong Kong) Limited (**Phillip**).
4. When Phillip followed up with Ma for the relevant telephone order recordings, Ma requested his wife to pretend to be his client and created two false

¹ Ma was licensed as a representative to carry on Type 1 (dealing in securities), Type 2 (dealing in futures contracts) and Type 4 (advising on securities) regulated activities and was accredited to Phillip Securities (Hong Kong) Limited and Phillip Commodities (HK) Limited between 26 March 2007 and 1 January 2011. Ma is currently not a licensed person.

² Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission

telephone order recordings with a view to covering up the lack of records regarding the short sell orders.

5. The client's evidence was that she did not know Ma and was not involved in any transactions through Phillip.

Providing false and misleading information to the SFC

6. During an interview with the SFC, Ma listened to the telephone order recordings provided by Phillip to the SFC and informed the SFC that they recorded the telephone conversations between him and his client, even though he knew that the conversations were in fact between him and his wife.
7. Phillip later discovered that the phone number Ma purportedly called his client was the same number which he frequently called. Ma then admitted to the SFC that he actually called his wife and not his client for confirming the transactions.

Conclusion

8. General Principle 1 of the Code of Conduct requires licensed persons to act honestly, fairly, and in the best interests of their clients and the integrity of the market, when conducting licensed activities.
9. Having considered all the circumstances, the SFC is of the view that Ma's conduct was gravely dishonest and in breach of General Principle 1 (Honesty and fairness) of the Code of Conduct. Ma's conduct also calls into question his fitness and properness to be a licensed person.
10. The SFC has decided that a prohibition of 3 years is most appropriate and commensurate with the view of the SFC on the gravity of Ma's misconduct. In coming to the decision to take disciplinary action against Ma, the SFC has taken into account:
 - (a) Ma's misconduct was seriously dishonest;
 - (b) it was only after Phillip discovered evidence which contradicts his earlier statement that Ma confessed he had lied to the SFC;
 - (c) providing false and misleading information to the SFC could jeopardize the efficiency of its investigation. A deterrent message needs to be sent to the market that such conduct is not acceptable; and
 - (d) Ma has no previous disciplinary record.