

Highlights

In December 2006, the SFC:

- prosecuted four companies and six people;
- disciplined four licensees;
- bankrupted one person; and
- varied a Restriction Notice

Prosecution

Prosecutions for unlicensed activities

Ms Amanda Elizabeth Bottomley pleaded guilty to giving advice and recommendations on securities to two investors whilst unlicensed. She was given a conditional discharge on her recognisance of \$2,000 for a period of 12 months and ordered to pay the SFC's investigation costs.

(Press release issued on 1 December 2006)

Wall Street Global (Hong Kong) Ltd was convicted after trial for holding itself out as carrying on a securities dealing business by introducing some investment products to investors in Hong Kong whilst unlicensed. Its senior officers, Mr Todd Gilmer Everts and Mr Alan John Norman, were convicted after trial for aiding and abetting the offence of Wall Street Global. Wall Street Global, Everts and Norman were each fined \$10,000 and ordered to pay the SFC's investigation costs.

(Press release issued on 5 December 2006)

Ms Ling Man Siu was convicted after trial for introducing two clients to open an account with Hong Kong Forex Investment Ltd to trade leveraged foreign exchange contracts whilst unlicensed. Ling was fined a total of \$4,000 and order to pay the SFC's investigation costs.

(Press release issued on 21 December 2006)

Unlicensed activities are taken seriously by the SFC because investors dealing with unlicensed persons risk financial losses. The SFC will prosecute and take disciplinary action against those who engage in unlicensed activities and those aiding and abetting them.

Prosecutions for issuance of unauthorised advertisements

Centaline (China) Property Consultants Ltd, Dalian Victory Plaza Development Company Ltd (a PRC company) and Mr Lee King Fung, the senior officer in Centaline (China), pleaded guilty to issuing advertisements relating to a collective investment scheme without authorisation from the SFC. Centaline (China) and Dalian Victory posted advertisements in their respective websites to promote an investment scheme in relation to the sale of shop units in Dalian Victory Plaza in China. Centaline (China) also distributed various promotion leaflets of the scheme, while Dalian Victory issued advertisements in some Hong Kong newspapers, and stations and carriages of the Mass Transit Railway and Kowloon-Canton Railway. Lee was the most senior officer in Centaline (China) responsible for the promotion of the scheme. Centaline (China), Dalian Victory and Lee were respectively fined \$25,000, \$39,000 and \$8,000. Centaline (China) and Dalian Victory were ordered to pay the SFC's investigation costs.

(Press release issued on 21 December 2006)

The SFC must authorise promotional material relating to investment schemes before they are issued to the public. Failure to do so is a crime.



SFC Enforcement Reporter

A monthly summary of SFC enforcement action

證監會 January 2007

Prosecutions for failure to disclose interests

Metro Capital Finance Ltd and its major shareholder, Mr Vong Kuoc Meng, pleaded guilty to their failure to notify both the SEHK and China Sciences Conservational Power Ltd within the specified period regarding their acquisitions of China Sciences shares. They were fined \$4,000 each and Metro Capital Finance was ordered to pay the SFC's investigation costs.

(Press release issued on 14 December 2006)

Disclosure of interests in listed companies is essential to ensuring market transparency. The SFC will prosecute for failure to do so.

Discipline

Suspension for misusing confidential information

The SFC suspended Mr Stephane Hug for four months. On 28 November 2003, a representative of Daiwa Securities SMBC (Europe) Ltd in Geneva telephoned Hug and told him about a potential convertible bond issue by Sumitomo Light Metal Industries Ltd, a company listed on the Tokyo Stock Exchange. The terms of the potential convertible bonds were disclosed to Hug to "sound out" his views about the attractiveness of the bonds to investors. While in possession of this information and additional information (which had been communicated to him on 1 December 2003) confirming the convertible bonds would be announced to the market after the market closed on 2 December 2003 and the issue price would be fixed on 3 December 2003, Hug placed orders to sell Sumitomo shares on 2 December 2003. As the trading in this case occurred on the Tokyo Stock Exchange, Hug's conduct did not contravene Hong Kong's securities laws. However Hug's conduct was a breach of the Code of Conduct in that he failed to act with due skill, care and diligence in the best interests of clients and market integrity. The disciplinary action took into account that Hug consented to the decision and the internal discipline his employer imposed upon him.

(Press release issued on 13 December 2006)

Licensees are warned to review internal practices and guidelines on handling confidential information to ensure the obvious risks of sounding out, including insider dealing and prejudicial conflicts of interest, are adequately addressed.

Market manipulator suspended

The SFC suspended Mr Yang Chih Chen for five months for manipulating the calculated opening price of the September 2002 Hang Seng Index futures contract on the Hong Kong Futures Exchange Ltd. Yang placed a pair of matched limit orders for the futures contract at his desired level in the last few seconds before expiry of the pre-market opening period. Yang's actions fixed and positioned the calculated opening price to his advantage in order to enable his auction sell order to match with the auction buy order placed earlier by another market participant at the artificial price. Yang made a profit through his net short positions.

(Press release issued on 28 December 2006)

Licensees who rig the opening or closing of the market face suspension or revocation, and the possibility of criminal prosecution or a Market Misconduct Tribunal referral.

Licensee banned for cold calling

The SFC banned Mr Law Wing Sang, Vincent from re-entering the industry for three months for cold calling a person with a view to inducing the person to open an account to trade leveraged foreign exchange contracts. Law was convicted of making unsolicited calls earlier this year.

(Press releases issued on 4 June and 20 December 2006)

Investors should not be pressured into trading securities, futures contracts or leveraged foreign exchange trading contracts through unsolicited calls. Licensee who cold calls will be prosecuted and/or disciplined.

Licensee punished for false witness

The SFC reprimanded Mr Wong Tung Ching and fined him \$210,000 for recklessly representing in the account opening documents of five clients that he had witnessed the signing of the documents by the clients and inspected their original identity documents when in fact he had not.

(Press release issued on 6 December 2006)

Pretending to have witnessed a client's signature is a form of dishonesty that the SFC will not tolerate, as it creates an environment conducive to more serious abuses.

Bankruptcy Order

Bankruptcy order to recover costs

The SFC obtained a bankruptcy order against Mr Ng Yat Chi and recovered indemnity costs from Mr Choy Bing Wing. The SFC was awarded costs on an indemnity basis after the High Court dismissed a writ action brought by Mr Ng and Mr Choy. They failed to pay the costs despite repeated demands and the SFC therefore issued bankruptcy proceedings against both of them. Subsequently, Mr Choy paid the SFC its outstanding costs and interest and as a result, the petition against Mr Choy was dismissed but Mr Choy was further ordered to pay the SFC its costs of bringing the bankruptcy proceedings.

(Press release issued on 19 December 2006)

This case demonstrates again that the SFC does not subsidise unsuccessful litigants and will enforce cost orders when they are not paid.

Restriction Notice Varied

Restriction Notice against Whole Win Securities Ltd varied

In light of the Restructuring Deed between Mr Vincent Woo Wing Fai and the former Administrator of Whole Win, under which Mr Woo will provide funds to help return client assets and meet clients' and other creditors' claims, the SFC varied the Restriction Notice imposed against Whole Win. The varied notice principally requires Whole Win to restrict its business solely to that required to implement the Restructuring Deed in a timely and proper manner, and to fulfil and comply with both the terms and the spirit of the Restructuring Deed, and at all times to act so as to best protect and further the interests of Whole Win's clients to the extent that it is consistent with the Restructuring Deed.

(Press release issued on 1 December 2006)

The SFC considers it appropriate and necessary to vary the Restriction Notice enabling Mr Woo to procure Whole Win to achieve the prompt return of assets to the company's clients. The SFC will closely monitor Whole Win's return of client assets.

General Enforcement Statistics

From 1 April 2006 to end of December, the SFC successfully prosecuted 47 entities. In the same period, the SFC took disciplinary action against 70 licensees for various regulatory breaches. In addition, the SFC entered into settlements with three licensees with no formal sanction imposed.



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