



# SFC Enforcement Reporter

A monthly summary of SFC enforcement action

February 2004

## Highlights

In January 2004 the SFC:

- successfully prosecuted three people for failure to assist SFC investigations
- disciplined eight licensees for various regulatory breaches

## Prosecution

### Co-operate with SFC investigations or face prosecution

Mr Cheung Wai Kei, formerly a licensed dealer's representative of JS Cresvale Securities International Ltd, pleaded guilty to failing to assist the SFC in its investigation into suspected market manipulation. Cheung was fined and ordered to pay the SFC's investigation costs.

(Press release issued on 13 January 2004)

Mr Cheuk Yik Cheung and Mr Tang Kin Lok Eddie were both convicted of failing without reasonable excuse to attend SFC interviews in connection with two investigations into suspected market manipulation. Tang was sentenced to two weeks' imprisonment and ordered to pay \$2,248 as investigation costs to the SFC. Cheuk was sentenced to 80 hours of community service work and ordered to pay \$500 costs.

(Press releases issued on 20 and 27 January, and 10 February 2004)

*This is the first time a person has been jailed for failing to assist an SFC investigation. People who deliberately attempt to thwart the SFC's investigations will be prosecuted. If convicted, offenders can face a maximum fine of \$100,000 and six months' jail. Magistrate Mr Ian Candy when sentencing Cheung said the offence was not minor. Licensees who fail to co-operate with the SFC will also face disciplinary action.*

## Discipline

### Don't misrepresent your licensed status

The SFC suspended Mr Michael Fawdry, a deemed licensed representative of Ernest Maude Investment Services Ltd, for seven weeks for entering into a service agreement with a client to provide investment advisory services for remuneration. The service agreement expressly stated that Ernest Maude Continental Investment Ltd was registered as an investment adviser when it was not.

(Press release issued on 21 January 2004)

*It is a criminal offence to represent that a firm or a person is licensed when it isn't. These misrepresentations are equivalent to unlicensed trading and can damage both investor interests and market integrity. It also jeopardises the integrity of the licensing regime. The SFC views these misrepresentations seriously and offenders can expect to face prosecution and/or disciplinary action.*

### Know your client!

Mr Ko Ka Keung, a licensed representative of KGI Asia Ltd, received a two-month suspension for falsely certifying on account opening documents that he had explained their contents to a client and had also witnessed the client's signature on the documents. In fact, Ko had never met the client.

(Press release issued on 28 January 2004)

*The SFC cannot stress enough the importance of checking a client's identity. This is a vital first defence to prevent market manipulators and other fraudsters from entering the market. Further, knowing who your client is and explaining the risks of securities trading to a client are fundamental requirements which protect both clients and brokerages from unnecessary financial risks. In future, licensees who flout or ignore these basic requirements will be suspended and/or fined.*



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## Suspension and reprimand for inadequate supervision and internal control failings

Mr Anthony Yung, a former dealing director of KGI Asia Ltd, failed to adequately and diligently supervise the management of branch operations at KGI. Yung failed to provide clear delineation of responsibilities to a manager employed to supervise one of the branch offices. This allowed one employee to conduct unlicensed activities. Yung also failed to detect these unlicensed activities despite regular visits to the branch office. There was also insufficient control of trading limits and this allowed two client accounts to regularly trade above their limits. The SFC suspended Yung's licence for one month.

The SFC also reprimanded KGI for the lax internal controls over the management of its branch offices described above. In addition, KGI failed to employ any person to supervise the operation of two of its branch offices for several months. When it did employ a manager, the manager was inexperienced and insufficiently trained. Account executives were also given some control as to trading limits based on their own risk assessment. This lacked uniformity, objectivity and supervision.

*(Press releases issued on 8 and 28 January 2004)*

## More internal control failings

The SFC reprimanded Gransing Securities Company Ltd and Mr Go Mau Ngai, its licensed representative, for inadequate supervision of staff and inadequate internal controls to prevent unlicensed dealing. This resulted in two unregistered employees at Gransing taking and processing clients' telephone orders. Go was directly responsible for supervising the two employees.

*(Press release issued on 2 January 2004)*

## Beware of improper allotment of scrip dividends

The SFC reprimanded Mr Wong Ching Lau, a licensed representative, for failing to monitor properly the allotment of scrip dividends to the clients of Uni-Crown Investment Ltd. This facilitated the misappropriation of shares by a settlement supervisor. Lau was also found to be partially responsible for Uni-Crown's numerous internal control failings.

*(Press release issued on 13 January 2004)*

*These cases highlight the importance for brokerages to have sound internal controls and to ensure their staff are properly and diligently supervised. Effective internal controls are fundamental for the detection and prevention of fraud and misconduct by employees. Brokerages should check their internal controls regularly to ensure they continue to remain effective.*

## Reprimand for inadequate audit trails

Mr Luk Kwok On, a licensed representative of Stockwell Securities Ltd, was reprimanded for applying with another Stockwell employee for excess rights issue shares in a rights issue of Digital World Holdings Ltd's shares through a client account. Although the client consented to the application, Luk failed to properly record this arrangement with Stockwell. This had the potential to conceal trades from Stockwell and blurred the audit trails for these transactions.

*(Press release issued on 5 January 2004)*

*Maintaining proper audit trails is important to protect both a licensee and its employer in the event of disputes arising with a client. It also assists in enabling the SFC and other regulatory bodies to reconstruct events and evaluate regulatory compliance during inquiries or investigations. In future, licensees who fail to keep adequate records may be fined.*



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## General Enforcement Statistics

Since 1 April 2003, the SFC has successfully prosecuted 50 entities. There have been no acquittals. In the same period, the SFC has disciplined 73 licensees for various regulatory breaches. The SFC has also taken disciplinary proceedings against 11 licensees which were eventually concluded with no formal sanction imposed. Disciplinary proceedings were also commenced and discontinued against a further seven deemed licensees who left their firms before the conclusion of the actions. A person's deemed licence is effectively revoked on the day he or she leaves the firm. Under the transitional arrangements, which came into force on 1 April 2003, the SFC has no jurisdiction to continue with disciplinary proceedings against these people. However, they would be required to answer the SFC's concerns about them if they re-apply for a licence or other regulatory approval.

*If you want to know more, the SFC's press releases are available at [www.hksfc.org.hk](http://www.hksfc.org.hk).*

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**CONTACT US** – Media Enquiry: (852) 2840 9287 / Investor Hotline: (852) 2840 9333 / Email: [enquiry@hksfc.org.hk](mailto:enquiry@hksfc.org.hk)