



SFC Enforcement Reporter

A monthly summary of SFC enforcement action

November 2004

Highlights

In October, the SFC:

- successfully prosecuted five companies and five people
- disciplined one licensee

and the Takeovers Executive disciplined one company and seven people.

Prosecution

SFC acts on unauthorised advertisements and unlicensed activities to protect investors

Between 15 and 18 March 2004, in breach of the Securities and Futures Ordinance, Mr Ko Wai Yu issued adverts inviting the public to enter into an agreement to acquire or dispose of securities, without first seeking the SFC's authorisation. Further, Ko, whilst unlicensed, held himself out as providing securities trading and advisory services. Ko pleaded guilty and was fined \$10,000 and ordered to pay the SFC's investigation costs.

(Press release issued on 14 October 2004)

Between 5 March 2002 and 7 January 2003, in breach of the Securities Ordinance, Mr Cheung Tak Shun Dickson acted as a dealer's representative of TradingGuru.com Securities Ltd whilst unlicensed. Cheung pleaded guilty and was fined \$2,500 and ordered to pay the SFC's investigation costs.

(Press release issued on 28 October 2004)

Unauthorised advertisements and unlicensed activities pose significant threats to investor interests. The SFC does not treat these offences lightly. If in doubt about any advertisements, investors can call the SFC hotline. The SFC will continue to look into suspect advertisements and unlicensed activities.

Non-disclosure of listed company interests affects market transparency

South China Holdings Ltd, South China Industries (BVI) Ltd, South China Industries Ltd, Wah Shing International Holdings Ltd, and Man Wah Trading Ltd pleaded guilty to failing to disclose to HKEx and Pricerite Group Ltd (a) their initial 7.82% interests in Pricerite Group on commencement of the SFO, and (b) the subsequent increase of their interests. The five companies were fined a total of \$28,000 and South China Holdings Ltd was ordered to pay the SFC's investigation costs.

(Press release issued on 7 October 2004)

Mr Wong Man Hung Patrick pleaded guilty to failing to disclose to HKEx and Radford Capital Investment Ltd within five days both his holding of 1,900,000 Radford shares upon his appointment as a director and his subsequent sale of 1,500,000 shares. Wong was fined \$10,000 and ordered to pay the SFC's investigation costs.

(Press release issued on 14 October 2004)

Mr Lo Wai Shing Felix pleaded guilty to failing to notify HKEx on a timely basis of the disposal of his deemed interest in 47.54 million shares in MAE Holdings Ltd, of which he is a director. Lo was fined \$5,000 and ordered to pay the SFC's investigation costs.

(Press release issued on 28 October 2004)

Ms Tsui Muk Lan pleaded guilty to failing to disclose to HKEx and First Asia Capital Investment Ltd the changes in her notifiable interests in First Asia on five occasions. Tsui was fined \$18,000 and ordered to pay the SFC's investigation costs.

(Press release issued on 28 October 2004)

All market participants must familiarise themselves with the disclosure of interests regime. Failure to comply will harm the market's transparency and efficiency, and will therefore likely result in prosecution.

Discipline

Responsible officer suspended for lying

Mr Choy Tin Woo Johnnie, a responsible officer of Stockwell Securities Ltd, Stockwell Online (Securities) Ltd and Stockwell Commodities Ltd, lied when he told HKEx and the SFC that a short sale of 3.6 million shares of Digital World Holdings Ltd on 14 March 2002 belonged to a client, not himself. The SFC suspended Choy's licence for five months. Choy earlier pleaded guilty to illegal short selling of the shares and was fined.

(Press releases issued on 18 October 2004 and 25 March 2003)

Any form of dishonesty calls into serious question a licensee's fitness and properness and will attract serious sanctions.

Takeovers regulation

Directors of listed companies must comply with Takeovers Code

The Takeovers and Mergers Executive:

- imposed a cold shoulder order on Mr Fung Chiu and Mr Lian En Sheng, the Chairman and an executive director of GP NanoTechnology Group Ltd, denying them direct or indirect access to the securities markets for 24 months from 19 October 2004, and
- publicly censured GP Nano, Fung, Lian and other directors of the company including Mr Ong Hong Hoon, Mr Chow Chun Kwong, Mr Chiang Chi Kin Stephen, Mr Siu Siu Ling Robert, and Mr Feng Hui Liu.

In breach of the Takeovers Code, GP Nano and its directors never issued an offeree circular to shareholders after Right Field Holdings Ltd had announced a voluntary conditional cash offer for GP Nano shares and issued an offer document to shareholders.

The sanctions on Fung and Lian were more severe because they led the company's decision not to issue the circular, citing as reasons financial difficulties faced by the company, the resources and effort involved and that they considered the offer as unsolicited and unappealing. It appeared that, before Fung and Lian had raised their objections, the other directors genuinely intended to issue the circular.

(Press release issued on 18 October 2004)

The reasons Fung and Lian gave are not excuses for non-compliance with the Takeovers Code. Listed companies and all their directors must take care to ensure compliance with the Code. Without an offeree circular, shareholders of GP Nano were deprived of the opportunity to receive information and advice on which to properly make their decision on the offer. The Executive took a serious view of the failure as interests of the shareholders and the investing public were prejudiced. The actions of a company under the Code are the responsibility of all the company's directors even if certain aspects are delegated.

General Enforcement Statistics

Since 1 April 2004, the SFC has successfully prosecuted 51 entities. Summonses were withdrawn against eight entities resulting in their acquittals and a further five entities were acquitted after trial. In the same period, the SFC disciplined 36 licensees for various regulatory breaches and entered into settlements with voluntary payments with two licensees. The SFC also took disciplinary actions against 10 licensees which were eventually concluded with no formal sanction imposed, although seven of them received private warnings. Disciplinary proceedings were also commenced and discontinued against four deemed licensees who left their firms before the conclusion of the actions. (A person's deemed licence is effectively revoked on the day the person leaves his or her firm. Under the transitional



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arrangements, which came into force on 1 April 2003, the SFC has no jurisdiction to continue with disciplinary proceedings against such a person. However, the person would be required to answer the SFC's concerns about him or her if he or she reapplies for a licence or other regulatory approval.) The Takeovers Executive disciplined one company and seven people.

If you want to know more, the SFC's press releases are available at www.sfc.hk.

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