



SFC Enforcement Reporter

A monthly summary of SFC enforcement action

October 2003

Highlights

In September the SFC:

- had five people convicted for breaking securities laws
- disciplined five intermediaries

Prosecution

[Dodging SFC investigation interviews risks jail terms](#)

Mr Chan Kim Wing and Mr Tang Kin Lok, Eddie, after pleading guilty to and being fined for ignoring investigation interview notices the SFC sent to them under section 33(4) of the **Securities and Futures Commission Ordinance** and section 183(1)(c) of the **Securities and Futures Ordinance**, were warned by the magistrate that they still had to co-operate with the SFC and failure to do so could land them in jail.

(Press release issued on 30 September 2003)

Since April this year, the SFC has successfully prosecuted two people for non-compliance with interview notices.

In investigating market misconduct, the SFC relies heavily on its power to compel assistance by people connected with the matters under investigation. Whilst the SFC aims to minimise any inconvenience that may be caused, non-compliance with investigation interview notices undermines the SFC's effort to curb illicit activities that threaten Hong Kong's markets. Offenders will be prosecuted and face tough sentences.

[Six-month suspended sentence plus fine for market manipulator](#)

In June and July 2001, Mr Lam Yat Wa placed repeated single board-lot buy orders for three stocks, intending to create the false belief that those stocks' prices were going up. Lam was convicted of creating a false market in respect of the three stocks in breach of section 135 of the **Securities Ordinance**. In addition to fining him and ordering him to pay costs, the magistrate sentenced him on each count to six months' imprisonment suspended for one year.

(Press release issued on 5 September 2003)

Since April this year, the SFC has successfully prosecuted six people for market manipulation.

The courts' view that market manipulation is a serious offence is reflected in the immediate and suspended prison terms that often follow convictions. The SFC has now given numerous reminders that the new Securities and Futures Ordinance, under which the SFC investigates new suspected misconduct cases, imposes even harsher penalties on manipulators. A sojourn in prison appears to be not an unlikely prospect.

[Two unlicensed representatives of TG Holborn prosecuted](#)

Mr Chan Pui Sing Thomas and Mr Wong Wai Kuen pleaded guilty to acting as investment representatives of TG Holborn (Hong Kong) Limited without registration with the SFC. Both were fined and ordered to pay costs.

(Press releases issued on 9 and 16 September 2003 respectively)

Since April this year, the SFC has successfully prosecuted three people for unlicensed or unregistered activities.

Regulated activities must only be carried out by licensed personnel; otherwise clients' interests are subjected to unnecessary risks. The firm, its staff and the individuals involved may face both prosecution and disciplinary actions. See a case below - "Have all representatives licensed or face suspension" - where a licensee was suspended for three weeks.



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Discipline

[Destruction of documents and conflict of interest led to suspension and severe reprimand](#)

Not only did Yardley Securities Limited agree with clients not to record in statements, or issue bought and sold notes for, subscriptions for and grey market trades in some derivative warrants, its director, Mr Leung Tak Shing Raymond decided to destroy all its internal records concerning these trades. Yardley Securities also allowed a party connected with it to buy the warrants from its clients. It did not disclose the conflict of interest to clients. Leung's licence as a margin financier's representative of Yardley Finance Limited was suspended for 14 months, and his approval as a director of Yardley Finance was revoked. Yardley Securities was severely reprimanded.

(Press release issued on 10 September 2003)

Brokers must send to clients accurate statements of account and contract notes. Trying to contract out of the obligation to issue them is not acceptable. Any attempt to scupper SFC investigations by, for example, destroying documents, will lead to severe disciplinary actions.

Conflict of interest is a serious type of misconduct and it is an area on which the SFC's disciplinary resources are focused. Licensees should take meticulous care to identify instances of not only actual conflicts of interest, but also potential conflicts. Licensees should withdraw themselves from such situations, unless it takes all reasonable steps to ensure fair treatment of clients, including through full disclosure.

[Have all representatives licensed or face suspension](#)

A new recruit under Ms Siu So Fun Sandy's charge, who was not licensed, handled trading orders from clients. Siu not only allowed such unlicensed activities, but also instructed the staff to share the commission. Siu's licence was suspended for three weeks.

(Press release issued on 4 September 2003)

[Get client authorisations before accepting third party orders](#)

Mr Lau Chun Wai and Mr Li Kwok Hung were reprimanded for accepting orders from people other than the account holders themselves without written authorisations.

(Press releases issued on 29 and 30 September 2003 respectively)

It does not bear repeating that accepting third party orders without written authorisations risks not only possible reputational damage, but also possibly significant financial consequences. Remember also that market manipulators often try to hide themselves behind others' accounts. Harsher penalties will be imposed in cases commencing after 1 April 2003; even harsher penalties if there are other suspicious circumstances that are indicative of market misconduct, and the licensees fail to make proper enquiries.

General Enforcement Statistics

Since 1 April 2003, the SFC has successfully prosecuted 33 entities and disciplined 44 licensees for various regulatory breaches.

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