

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (SFC) has suspended Cheung Shi Gai Sky (Cheung) in relation to all of the regulated activities for which he is licensed for a period of 30 months and to fine him \$500,000 pursuant to section 194 of the Securities and Futures Ordinance (SFO).
2. Cheung's conduct has called into question his fitness and properness to remain licensed. His failures also constitute breaches of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (Code of Conduct).
3. The SFC found that, from March 2009 to March 2010, Cheung has
 - (a) concealed from his ex-employer Quam Securities Company Limited (QSCL) the securities account that was in the name of his wife and maintained with QSCL;
 - (b) put himself in a conflict of interest position by purchasing shares in his wife's accounts before positive comments or favourable recommendations were made in his Apple Daily column with respect to these shares, and sold them shortly after the column was published on numerous days, contrary to his own recommendations; and
 - (c) made false or inaccurate declarations about his stock holdings in his wife's accounts with respect to the stocks covered in his Apple Daily column.

Summary of Facts

4. During the time when Cheung was accredited to QSCL, staff members of Quam Group were required to declare the accounts of their spouse and children under the age of 18 and accounts in which the staff had a beneficial interest.
5. Cheung did not declare the account in his wife's name to QSCL. The trades conducted in the account were therefore not subject to QSCL's monitoring as required by the Code of Conduct.
6. Cheung's wife also had a securities account with Polaris Securities (Hong Kong) Limited at the material time.
7. Cheung was responsible for the trading in his wife's accounts.
8. Between 1 March 2009 and 30 March 2010, on 21 days and 25 occasions, Cheung
 - (a) purchased the stocks in his wife's accounts that would be the subject of positive comments or favourable recommendations in his column shortly before it was published; and

- (b) sold part of or all the stocks in his wife's accounts contrary to his positive comments or favourable recommendations at a profit within the same day to three business days after publication of the column.
9. Cheung's assistant who prepared draft articles for Cheung's column gave evidence that there had been numerous times when Cheung asked him not to cover certain stocks in the column until the next day or later as Cheung and his clients had not purchased the stocks yet.
 10. During the material time, on 2 days and 3 occasions, Cheung declared that he and his clients did not have holding in the stocks mentioned in his commentaries but in fact the stocks were held in his wife's accounts. Further, contrary to his confirmation to QSCL, Cheung had not indicated in his column that the views expressed were personal while claiming that he was a director at QSCL.

Conclusion

11. Having considered the evidence, the SFC is of the view that Cheung's conduct has cast serious doubt on his ability to carry on the regulated activity competently, honestly and fairly, as well as his reputation, character and reliability. Further, his conduct was in breach of General Principle 1 (Honesty and fairness), General Principle 2 (Diligence) and General Principle 6 (Conflicts of Interest) of the Code of Conduct.
12. In coming to the decision to take disciplinary action against Cheung, the SFC has taken into account all relevant considerations, including:
 - (a) A series of arrangements were made by Cheung over a long period of time with the aim to make use of his column at the Apple Daily to advance his/his wife's financial interest. Cheung put himself in a conflict of interest position by purchasing the stocks shortly before favourable comments were published in his column and sold them at a profit shortly after publication of the column. At the material time, a majority of these trades were conducted in his wife's account with QSCL, which he had concealed from QSCL. As a result of the concealment, Cheung had circumvented the monitoring that QSCL had put in place with respect to employee and related accounts.
 - (b) A period of suspension is warranted in order to deter other market practitioners from conducting similar conduct in the future.
 - (c) Cheung has a clean disciplinary record.