

## Enforcement Actions

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18 March 2002

### Immediate Custodial Sentence for Market Manipulators

The Court has for the first time imposed immediate custodial sentences on persons manipulating stocks on the Stock Exchange of Hong Kong.

Mr P.C. White at Western Magistracy today convicted Choy Wai Zak (Choy) and Yuen, Cyril Sze Ning (Yuen) of intentionally creating a false and misleading appearance of active trading in the shares of The Hong Kong Parkview Group Limited (Parkview) during the period 19 to 23 November 1999.

In addition, Choy was also convicted of effecting purchases and sales of Parkview shares on 15 November 1999 which involved no change in the beneficial ownership of the shares.

Choy was sentenced to four months' imprisonment on each count of conviction, to be served consecutively, and Yuen was sentenced to 4 months. They were ordered to pay the Securities and Futures Commission's investigation costs of \$39,128.

During sentencing, the Magistrate commented that these were serious offences which the defendants had carried out intentionally in the hope of gaining substantial profits without regard to how it would affect the financial position of the investing public. He also refused the application for suspended sentence because it would not properly reflect the seriousness of the crime or the need to sentence as a deterrent.

The SFC welcomes the decision of the Magistrate and is encouraged by his comments on the seriousness of the offences. An SFC spokesman said: "We agree that the penalties imposed should serve as a strong warning to deter those intending to manipulate shares listed on the Hong Kong stock exchange."

The SFC found that on 15 November 1999, Choy had placed matching buy and sell orders for Parkview shares within a short duration of time through two different brokers. As a result of these transactions, also known as "wash sales", Choy effected a purchase and sale of Parkview shares which involved no change in the beneficial ownership of those shares, but which served to create a false appearance of active trading in the stock which was likely to mislead the investing public.

On the same day, Yuen, accompanied by Choy, opened an account with one of the brokers used by Choy.

During the three trading days between 19 and 23 November 1999, Choy and Yuen traded with each other in Parkview shares, and their trading accounted for a substantial portion of the total turnover of Parkview shares. The transactions were also conducted within five minutes before the market close and at prices higher than the last transaction price and the previous closing price, which had the effect of artificially inflating the price of the shares and created a false or misleading appearance of active trading.

The defendants were convicted under sections 135(1)(a) and 139 of the Securities Ordinance. Choy was further convicted under sections 135(3) and 139 of the Ordinance.

The offences carry a maximum sentence of two years' imprisonment and a fine of \$50,000.

Choy and Yuen applied for bail pending appeal on sentence. Choy was refused bail and Yuen was granted bail of \$30,000.

*Page last updated: 18 March 2002*

## 操控市場人士被判處即時監禁

2002年3月18日

法庭首次對在香港聯合交易所操控股份的人士判處即時監禁。

西區裁判法院裁判官韋達今天判處蔡韋澤(蔡氏)及阮士寧(阮氏)，在1999年11月19日至1999年11月23日期間，意圖造成僑福建設企業機構有限公司(僑福建設)股份交易活躍的虛假或屬誤導性的表象，罪名成立。

此外，蔡氏亦被判處在1999年11月15日，就僑福建設股份進行不涉及任何實益擁有權轉變的購買或出售交易，罪名成立。

蔡氏分別就每項控罪被判處監禁4個月，分期執行。阮氏則被判處監禁4個月。兩人同時被下令須支付證券及期貨事務監察委員會的調查費用39,128元。

裁判官在判刑時表示，由於兩名被告在沒有考慮到其行為將可能會如何影響到投資大眾的財務狀況的情況下，蓄意進行有關罪行以圖謀取大額利潤，因此犯有嚴重罪行。裁判官又拒絕被告的緩刑申請，因為如批准其申請便無法適當地反映有關罪行的嚴重性，或無法顯示出有關刑罰作為阻嚇的需要。

證監會對裁判官的判決表示歡迎，並因為裁判官就該罪行的嚴重性的評語而感到鼓舞。證監會發言人說："本會同意所施加的罰則應該發揮強烈的警告作用，以阻嚇有意操控在香港的證券交易所上市的股份的人士。"

證監會發現在蔡氏在1999年11月15日，透過兩家不同的經紀行，在短時間內就僑福建設股份發出對銷買盤及賣盤。蔡氏通過這些又稱為"虛售"的交易，成功地就僑福建設股份進行不涉及該等股份的任何實益擁有權轉變的購買或出售交易，但有關交易卻足以造成該股交易活躍的虛假表象，而這表象相當可能會誤導投資大眾。

同日，阮氏在蔡氏的陪同下，在蔡氏所使用的其中一家經紀行開立了一個帳戶。

在1999年11月19日至23日的3個交易日內，蔡氏及阮氏互相向對方買入和賣出僑福建設股份，而他們的交易佔僑福建設股份的成交總額一個很大的比例。該等交易亦是在收市前5分鐘內進行的，而且是以高於其最後成交價及先前收市價進行的，具有人為地抬高股價的效果，以及造成了交易活躍的虛假或屬誤導性的表象。

兩名被告被控違反《證券條例》第135(1)(a)及139條，罪名成立。此外，蔡氏亦被加控違反《證券條例》第135(3)條及139條，罪名成立。

上述控罪最高可被判處監禁兩年及罰款50,000元。

蔡氏及阮氏申請在其就判刑而提出的上訴待決期間保釋外出。蔡氏不獲准保釋，而阮氏則獲准以30,000元保釋。

最後更新日期：2012年8月1日