

## Enforcement Actions

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24 April 2003

The Takeovers Executive of the Securities and Futures Commission sanctions the executive directors of International Capital Network Holdings Limited, Mr. Hui Chuen Kin, Daniel and Mr. Lui Bing Kin, Michael

The Securities and Futures Commission announces today that the following disciplinary action has been taken against Mr. Hui Chuen Kin, Daniel (Mr. Hui) and Mr. Lui Bing Kin, Michael (Mr. Lui) :

1. The Takeovers and Mergers Executive (Executive) has imposed an order denying Mr. Hui and Mr. Lui direct or indirect access to the securities markets (Cold Shoulder Order) for a period of 24 months commencing on 17 June 2003.
2. The Executive publicly censures Mr. Hui and Mr. Lui.
3. As a deemed licensed representative under the Securities and Futures Ordinance (Cap. 571) (SFO), Mr. Hui will voluntarily suspend his license for a period of 24 months commencing on 17 June 2003.

### Events leading to the sanctions

On 5 September 2002, Koffman Securities Limited (Koffman) announced a voluntary general offer for International Capital Network Holdings Limited (ICNH), a company listed on the Stock Exchange of Hong Kong, thus commencing an offer period. It issued an offer document on 10 October 2002.

The ICNH board issued an announcement on 17 September 2002 advising its shareholders not to take any action in response to the offer until they received the advice of the board and its financial advisers. In the same announcement ICNH also set out details of a trust arrangement entered into in December 2001 concerning the custody of ICNH's cash reserve of some \$40 million. According to the announcement, the \$40 million was being kept under the control of a wholly-owned subsidiary of ICNH, ICN Finance Limited.

The ICNH board refused to prepare and issue a response document on the grounds that Koffman's offer was not a bona fide offer and requested the Takeovers Panel to review the Executive's ruling that ICNH should comply with the Takeovers Code and issue a response document. The Panel met on 31 October 2002 and published its decision on 8 November 2002 requiring ICNH to comply with the Takeovers Code and issue the response document.

On 28 October 2002 ICNH published its annual results for the year ended 31 July 2002. There was no mention in the 28 October 2002 results announcement of the transactions entered into by ICNH group in early October 2002.

ICNH made an announcement on 19 November 2002 disclosing to the public for the first

time that its cash reserve had been reduced to \$3.6 million. According to the announcement, the cash reduction was mostly due to two transactions. In the first transaction, ICNH group entered into a contract with Mutual Well International Limited (Mutual Well) on 3 October 2002, requiring Mutual Well to open four representative offices for ICNH in PRC, to run those offices as service manager and to engage in market development for the ICNH group for a 12 month period. By 24 October 2002 ICNH had paid \$20 million in total to Mutual Well under the contract.

In the second transaction, ICNH group entered into a loan contract with JQK Investment Limited (JQK Investment) requiring ICNH group to provide a 12-month loan facility of \$11,250,000 to JQK Investment. This loan was to finance JQK Investment's purchase of the entire issued share capital of Regal Town Trading Limited, which owns 30% of a company, which in turn is the beneficial owner of intellectual property associated with a technology while it is a subject of a patent application. By 9 October 2002, JQK Investment had drawn down a total of \$10,237,500 (after payment of interest and fees).

The ICNH board did not consult the Executive on either of these two transactions. Koffman's offer lapsed on 9 December 2002. ICNH did not issue a response document throughout the offer period.

The Executive considers that –

- (1) Mr. Daniel Hui and Mr. Michael Lui, as the executive directors of ICNH, breached the Takeovers Code in connection with the two transactions and payments made thereunder on behalf of ICNH group during the offer period; and
- (2) they breached Rule 8.4 of the Takeovers Code and the Panel's ruling when they failed to ensure that ICNH issued a response document during the offer period.

Without admission of any breaches, liability and wrongdoing Mr. Hui and Mr. Lui have separately and independently agreed to accept the disciplinary action taken against each of them separately by the Executive pursuant to section 12.3 of the Introduction to the Takeovers Code. The Executive takes the view that this arrangement under section 12.3 of the Introduction to the Takeovers Code is in the interests of the public.

### **The Cold Shoulder Order**

To protect the interests of the public shareholders of ICNH, the Cold Shoulder Order takes effect on 17 June 2003 in order to allow ICNH group time to find an appropriate licensed person who will enable it to carry on its investment advisory business under the requirements of the SFO.

Ends

*Page Last Updated: 24 April 2003*