

Securities and Futures Appeals Tribunal Upholds the SFC's Decision to Suspend Hung Hing Chuen

1 Sep 2006

The SFC has suspended Mr Hung Hing Chuen, a licensed representative of Sincere Securities Limited and Hong Kong Forex Investment Limited, for six weeks from 1 September to 12 October 2006, pursuant to a determination of the Securities and Futures Appeals Tribunal (SFAT) (Note 1).

The action follows a market manipulation investigation into the trading of the shares of New Chinese Medicine Holding Limited from August to September 2002 (Note 2). Hung allowed a third party to operate a client's account without written authorisation from the client, although he knew that his employer required authorisation in writing. He knowingly breached his employer's policy in that he had never met the third party and did not know the full name of the third party. Eventually, the client and the third party failed to repay the outstanding amounts resulted from the trading and Hung's employer suffered losses as a result.

The SFC concluded that Hung had been guilty of misconduct and his fitness and properness had been called into question. On 2 May 2006, the SFC issued its decision to suspend Hung for six weeks. In determining the penalty, the SFC took into account Hung's clear record, his co-operation with our investigation and that he had reimbursed his employer for the losses. Hung lodged an application for review to the SFAT on 23 May 2006.

At the appeal hearing, Hung argued that the SFC, when deciding the penalty, had failed to give sufficient credit to his mitigating factors, including that he had reported the breach to his employer and that he had made restitution to cover his employer's losses. The SFAT rejected Hung's argument and dismissed his application. The SFAT considered that the SFC had already taken into account all the relevant factors when deciding the appropriate penalty for Hung (Note 3).

Mr Eugène Goyne, an SFC Senior Director of Enforcement, said: "Account executives should not accept orders from any third party unless the third party is properly authorised by the client in accordance with the procedures of their firms. Account executives should also record the personal details of the third party so that the third party can be traced if there is any problem with the orders. Market manipulators and other offenders often use nominee accounts to commit market misconduct. If account executives properly follow the third party authorisation procedures and record the personal details of the third party, market misconduct can be minimised."

Ends

Notes:

1. Hung is licensed under the Securities and Futures Ordinance to carry on Type 1 (dealing in securities) and Type 3 (leveraged foreign exchange trading) regulated activities. He is a representative accredited to Sincere Securities and Hong Kong Forex Investment.
2. The market manipulation investigation concerning New Chinese Medicine Holdings Limited has been concluded with no prosecution.
3. The [determination](#) is attached for your reference and will be available on the SFAT's website at www.sfat.gov.hk.

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