
Enforcement News

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2 May 2008

SFC Obtains a Worldwide Injunction in Insider Dealing Investigation

The Court has granted an interim worldwide injunction to freeze assets of up to HK \$43 million held by two individuals involved in suspected insider trading of Asia Telemedia (ATML) shares (Note 1).

At this stage, the SFC has identified approximately HK\$31.2 million held in the bank accounts of two individuals, "C" and "D" as well as in the bank accounts of two British Virgin Islands companies (BVI companies) controlled by "C". The Court has suppressed the identities of "C" and "D". These bank accounts are now frozen under the terms of the interim worldwide injunction. The SFC is continuing to make inquiries to identify more assets up to the value of HK\$43,661,568.

The SFC's action was based on evidence and suspicions that "C" sold approximately 100 million shares through his own and suspected nominees' accounts between 27 April and 30 May 2007.

Investigations by the SFC found that these transactions occurred before ATML informed the market that a winding up petition had been served on the company and that winding up proceedings had commenced (Note 2).

The sum of money frozen by the injunction is the loss that appears to the SFC to have been avoided by "C" in selling approximately 100 million ATML shares before news of the statutory demand and winding up petition became generally known.

The injunction serves to prevent the dissipation of assets pending the finalisation of the SFC's investigation and to ensure there are sufficient assets to satisfy any financial penalty, compensation or disgorgement orders, if relevant proceedings are commenced and orders are made against "C" (Note 3).

The Court was told that “C” is a PRC resident who did not appear to be residing in Hong Kong and that the SFC suspected “C” had transferred most of the sales proceeds through “D” to overseas bank accounts.

The SFC sought the interim worldwide injunction on an ex parte basis (i.e. on the absence of notification to any of the defendants).

The case returned to the High Court this morning where legal representatives appeared for “C”, “D” and the two BVI companies. The Court gave directions for filing further material with the court and adjourned the hearing of the case to a date to be fixed being not less than 10 weeks from today.

The SFC will not disclose any further details about the investigation, which is continuing.

Ends

Notes:

1. The original application made by the SFC on 16 April 2008 was made in chambers (not open to public) and could not be publicised. This is the third application made by the SFC since 27 July 2007 freezing proceeds of suspected insider trading. The interim orders in all three cases prevent the dissipation of almost HK\$100 million. These orders remain in place pending further order by the Court.
2. On or around 26 April 2007, ATML received from a creditor a statutory demand for payment of a debt in an amount of approximately HK\$70 million. Based on non-payment of the debt, the creditor issued winding up proceedings on 5 June 2007. ATML announced on 15 June 2007, to the Stock exchange of Hong Kong, that a winding up petition had been served on the company. ATML is now in liquidation.
3. The SFC calculated the amount of HK\$43,661,568 by comparing the amount realised from the shares sold and the market value of the shares after the market learned and absorbed the relevant information.

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