

26 April 2012

SFC secures short selling convictions

The Eastern Magistrates Court today fined seven investors a total of \$71,000, ranging from \$2,000 to \$30,000 each, after they had pleaded guilty to 11 charges of illegal short selling shares of Imagi International Holdings Limited (Imagi) in May 2010.

Acting Principal Magistrate Mr. David Dufton also ordered the defendants - Kung Ping Cheung, Chan Ki, Siu Kam Fung, Siu Kam Mei, Siu Hung Keung, Ma Siu Fan and Yau Ka Yiu - to pay the Securities and Futures Commission's (SFC) investigation costs of \$21,820.

The SFC told the court that, on 7 May 2010 and/or 11 May 2010, the defendants placed various orders to sell 31,000 to 16,855,600 shares of Imagi when they did not and could not have reasonable grounds to believe that they had a presently exercisable and unconditional right to sell the shares, thus constituting illegal short selling.

In May 2010, Imagi conducted a rights issue in which all shareholders received four rights for each old share. Each of the rights entitled shareholders to subscribe for one new share. However, not all shareholders exercised their rights to subscribe for the new shares. These non-subscribed new shares became excess rights which other shareholders could apply to subscribe for on top of their own entitlements.

The seven investors subscribed for Imagi excess rights shares and placed orders to sell the amount of shares that they thought they would be allocated or would be able to receive in time for settlement. At the time of short selling Imagi shares, they did not receive the excess rights shares or receive any confirmation as to the time and the quantity of excess rights shares they would receive.

"Taking advantage of a rights issue to sell shares in expectation of an allotment constitutes illegal short selling if the investor has no presently exercisable and unconditional right to sell the shares. It is also an abuse of the rights issue and the excess rights process," Mr Mark Steward, the SFC's Executive Director of Enforcement said.

"This kind of arbitrage carries all the risks of naked short selling. This case should send a clear message that this practice is illegal," he added.

End

Page last updated: 26 April 2012

證監會成功檢控非法賣空者

2012年4月26日

七名投資者今天於東區裁判法院承認11項在2010年5月非法賣空意馬國際控股有限公司（意馬）股份的控罪，每人被判罰款介乎2,000元至30,000元不等，合共71,000元。

杜大衛署任主任裁判官（Mr David Dufton）同時命令被告龔炳祥、陳琪、邵金鳳、邵金美、邵洪強、馬笑芬及游嘉兒，向證券及期貨事務監察委員會（證監會）繳付調查費21,820元。

證監會向法院表示，在2010年5月7日及／或2010年5月11日，各被告發出不同賣盤出售31,000股至16,855,600股意馬股份，而他們當時沒有亦不可能有合理理由相信自己具有即時可行使而不附有條件的權利出售該等股份，因此屬非法賣空。

意馬在2010年5月進行供股，據此，所有股東每持有一股舊股，即獲授四份供股權；每份供股權均賦予股東權利認購一股新股。然而，並非所有股東都有行使他們認購新股的權利；未獲認購的新股均轉為額外供股權，而其他股東除行使本身享有的供股權外，也可申請認購這些額外供股權。

案中七名投資者認購了意馬的額外供股股份，並落盤出售他們以為自己將獲配發或將可及時收取的股份數目以作交收。在非法賣空意馬股份時，他們並未收到額外供股股份，亦沒有就他們將收取額外供股股份的時間及股數接獲任何確認。

證監會法規執行部執行董事施衛民先生（Mr Mark Steward）表示：“投資者如利用供股出售預期自己將獲配發的股份，但實際上並無即時可行使而不附有條件的權利出售該等股份，即屬進行非法賣空，以及濫用供股和額外供股的程序。”

他續說：“這種套戥行為涉及無貨沽空的所有風險。本案應可傳達明確的訊息，表明這樣的做法屬違法行為。”

完

最後更新日期：2012年8月1日