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SFC Suspends Cheng Wai Shan for Deceiving Employer in Account Opening and Facilitating Unauthorised Trades

24 Dec 2004

The SFC has suspended the licence of Mr Cheng Wai Shan, a licensed representative of Sun Hung Kai Commodities Ltd, for six months from 23 December 2004 to 22 June 2005, pursuant to the decision of the Securities and Futures Appeals Tribunal (SFAT).

The suspension stems from an inquiry in which the SFC found that Cheng had signed on the account opening documents of a client to certify that he had witnessed the signing of the documents by the client and that he had explained their content to the client, when in fact he had never met or known the client. His employer was therefore deceived by his false representation that he had acted in accordance with proper account opening procedures. Cheng was aware of such requirements at the time.

Furthermore, Cheng allowed a subordinate to take orders from a client when he knew that the subordinate was prohibited from doing so under a condition imposed on her licence. The subordinate also conducted trades on behalf of the client without authorisation. In other words, Cheng assisted the subordinate in breaching her licence condition and facilitated her in conducting unauthorised trades. The SFC concludes that Cheng has been guilty of misconduct and that his fitness and properness has been called into question.

Cheng appealed to the SFAT against the SFC's decision to suspend him for nine months. The SFAT acknowledges that Cheng's actions merit a significant period of suspension and decides that a six-month suspension is appropriate after considering the facts of the case.

Mr Alan Linning, SFC's Executive Director of Enforcement, said: "Under the *Code of Conduct*, account executives must know their clients because this is essential in preventing subsequent unlawful activities. Supervisors must also ensure that their subordinates comply with their licence conditions in the conduct of their business. The suspension was necessary to sanction Cheng's misconduct and failings in staff supervision. In giving its reasons for the decision, the SFAT noted that Cheng was frank at the appeal and admitted full responsibility for what had taken place."

Ends

Note:

1. [The SFAT determination](#) is attached for your reference.

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證監會暫時吊銷鄭偉山的牌照 指其就開戶事宜欺騙僱主 並利便他人從事未經授權的交易

2004年12月24日

證監會依據證券及期貨事務上訴審裁處(上訴審裁處)的決定，將新鴻基期貨有限公司持牌代表鄭偉山(男)的牌照暫時吊銷6個月，由2004年12月23日起至2005年6月22日止。

上述暫時吊銷牌照的行動源自證監會的一項查訊，當中發現鄭曾在一名客戶的開戶文件上簽署，以證明他曾見證該客戶簽署有關文件，並且已向該客戶解釋文件的內容。但事實上，鄭從未見過亦不認識該客戶。鄭的僱主因此被他的虛假申述所欺騙，以為鄭已按照適當的開戶程序行事。當時，鄭是知悉上述規定的。

此外，鄭允許一名下屬處理一名客戶的買賣盤，而鄭是知道根據施加於該名下屬的發牌條件，她是不獲准這樣做的。該名下屬亦曾在未獲授權的情況下，代表該客戶進行交易。換言之，鄭曾協助該名下屬違反她的發牌條件，並利便她進行未經授權的交易。證監會在經過仔細考慮後認為鄭行為失當，而他作為適當人選的資格亦受到質疑。

鄭就證監會暫時吊銷其牌照9個月的決定向上訴審裁處提出上訴。上訴審裁處認同鄭應因其行為而被暫時吊銷牌照一段長時期，及在考慮過本案的實情後，決定暫時吊銷牌照6個月是適當的做法。

證監會法規執行部執行董事李顯能先生表示：“根據《操守準則》，客戶主任必須認識其客戶，因為此舉對防止其後的違法活動十分重要。主管人員必須確保下屬在經營業務時遵守他們的發牌條件。本會有必要暫時吊銷鄭的牌照，以制裁他的失當行為及在監督員工方面的缺失。上訴審裁處在解釋其決定時表示，已注意到鄭在上訴時坦白認錯，並且承認須就所發生的事負上全部責任。”

完

備註：

1. 現附上上訴審裁處的裁決，以供參考(只有英文版本)。

最後更新日期：2012年8月1日