
Enforcement News

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SFC appeals against High Court decision to discharge injunction in insider dealing investigation

The Securities and Futures Commission (SFC) has appealed to the Court of Appeal against a High Court decision to discharge an interim injunction obtained to prevent dissipation of assets in an on-going insider dealing investigation.

The SFC has also obtained orders from the High Court and the Court of Appeal – on 24 and 27 October respectively – for stay of execution of the order to discharge the interim injunction until the determination of the appeal or further court order (Note 1). This was to prevent the dissipation of assets pending the determination of the appeal.

The interim injunction froze disposal of assets of up to \$43 million based on evidence and suspicions that “C”, a person whose identity is the subject of a suppression order, was involved in insider trading of Asia Telemedia shares (Note 2).

On 22 October 2008, the High Court discharged the interim injunction against “C” and two British Virgin Islands companies (BVI companies) controlled by “C”.

The High Court discharged the interim injunction on the principal ground that the High Court does not have jurisdiction to order injunctions under the Securities and Futures Ordinance where the defendant and the assets to be frozen exist outside the Hong Kong Special Administrative Region. “C” resides or appears to reside mainly in Beijing and the assets are in other overseas jurisdictions.

The SFC appealed to the Court of Appeal on 24 October 2008 against the High Court’s decision. The hearing date of the appeal is yet to be fixed.

“This case raises a serious and important issue about the enforcement of Hong Kong’s securities laws against persons who are outside Hong Kong and the prevention of misconduct by such persons. We are eager to resolve this in the Court of Appeal,” the SFC’s Executive Director of Enforcement, Mr Mark Steward, said.

End

Notes:

1. The interim injunction against “C” and the two BVI companies remains in force until the determination of the appeal or further court order.
2. Please see SFC [press release](#) dated 2 May 2008 for details.

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