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Broker acquitted of illegal short selling

4 Jun 2014

The Eastern Magistrates' Court, on 30 May 2014, found Mr Wong Hung not guilty of illegal short selling five stocks in January 2012 (Note 1).

The Securities and Futures Commission (SFC) alleged that 20 times between 6 and 20 January 2012, Wong sold shares of five listed companies through his securities account when the total of all the shares he sold was more than the shares he held, contrary to section 170 of the Securities and Futures Ordinance (Note 2).

In deciding to acquit Wong, Magistrate Mr David Chum Yau-fong found that because Wong placed a lot of orders each day, he could not exclude the possibility that Wong was careless when placing the sell orders about whether he was selling more shares than he held.

Accordingly, the Magistrate found that the prosecution had not proved the case beyond reasonable doubt.

The SFC is considering the Magistrate's decision.

End

Notes:

1. Wong is licensed as a representative under the Securities and Futures Ordinance (SFO) to carry on Type 1 (dealing in securities) regulated activity. He was accredited to Hung Sing Securities Limited at the material time and is currently accredited to KGI Asia Limited.
2. Section 170 of the SFO prohibits the sale of securities when the person does not have a presently exercisable and unconditional right to sell them.

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經紀非法賣空罪名不成立

2014年6月4日

東區裁判法院於2014年5月30日裁定，黃鴻（男）在2012年1月非法賣空五隻股份的罪名不成立（註1）。

證券及期貨事務監察委員會（證監會）指，在2012年1月6日至20日期間，黃曾20次透過其證券賬戶沽出五家上市公司的股份，但沽出的股份總數多於其持有的股份數目，違反《證券及期貨條例》第170條（註2）。

在裁定黃罪名不成立時，裁判官覃有方先生認為由於黃每天都發出大量買賣盤，不能排除黃在發出賣盤時沒注意到沽出的股數是否多於持有的股數這個可能性。因此，裁判官裁定控方未能在無合理疑點的情況下證明控罪。

證監會正考慮裁判官的決定。

完

備註：

1. 黃根據《證券及期貨條例》獲發牌進行第1類（證券交易）受規管活動。他在關鍵時間隸屬鴻昇證券有限公司，現時隸屬凱基證券亞洲有限公司。
2. 《證券及期貨條例》第170條禁止任何人在沒有一項即時可行使而不附有條件的權利以將有關證券售賣的情況下售賣該等證券。

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