

## SFC seeks court orders to redress consequences of alleged insider dealing

22 Dec 2010

The Securities and Futures Commission (SFC) has commenced civil proceedings in the High Court against two solicitors, Ms Young Bik Fung and Mr Lee Kwok Wa, and his two sisters Ms Patsy Lee Siu Ying and Ms Stella Lee Siu Fan for alleged insider dealing in the shares of Hsinchu International Bank Company Limited and Asia Satellite Telecommunications Holdings Limited (Note 1 & 2).

The SFC is seeking orders against the defendants in relation to alleged insider dealing as well as orders dealing with the consequences of that dealing on those who dealt with the defendants. In particular, the SFC is seeking orders to restore people who they transacted with through the alleged insider dealing to the positions they were in before those transactions.

The SFC started the proceedings under section 213 of the Securities and Futures Ordinance (SFO). The SFC served originating summonses on the four defendants on 20 December 2010 and 21 December 2010.

The SFC has applied for court orders:

1. declaring the relevant trading transactions to be contraventions of relevant SFO provisions, that the defendants were involved in those contraventions in various ways and that the transactions be void or voidable;
2. restraining the defendants from disposing of the profits or traceable proceeds of their insider dealing;
3. appointing an administrator to receive the profits or traceable proceeds of the defendants' insider dealing and distribute those profits or proceeds appropriately; and
4. requiring the defendants to:
  - i. disgorge or account for the profits or traceable proceeds of their insider dealing and pay them to a person the court directs; and/or
  - ii. restore the counterparties to their insider dealing transactions to the positions they were in before the insider dealing transactions happened; and/or
  - iii. pay damages to any person as the court considers appropriate.

The SFC alleges that in Hsinchu Bank transactions:

- Young Bik Fung had obtained information about a tender offer on Hsinchu Bank shares while working on this offer as a lawyer seconded to a client of her employing law firm who intended to make the tender offer (Note 3);
- the information about the offer was non-public, confidential and materially price sensitive;
- subsequently, Young bought Hsinchu Bank shares and tipped off her boyfriend Lee Kwok Wa and his two sisters to buy the shares before the announcement of the tender offer;

In Asia Satellite transactions:

- Lee Kwok Wa had obtained information about the proposed privatization of Asia Satellite shares when the law firm he worked for advised on this transaction;
- that information was non-public, confidential and materially price sensitive;
- subsequently Lee tipped off his girlfriend Young and his two sisters to buy Asia Satellite shares before the announcement of the proposed privatization (Note 4).

The SFC alleges the defendants, who made a total profit of \$2.9 million from the two transactions, had contravened in various capacities:

- section 300 of the SFO by engaging in fraudulent or deceptive schemes to trade and by misusing confidential information to acquire Hsinchu Bank shares; and
- section 291 of the SFO by insider dealing in Asia Satellite shares.

End

Notes:

1. Young Bik Fung and Lee Kwok Wa were solicitors working at different law firms at the material time.
2. Hsinchu International Bank Company Limited was listed on the Stock Exchange of Taiwan in September 2006 and Asia Satellite Telecommunications Holdings Limited was a locally listed stock in February 2007.
3. On 29 September 2006, Standard Chartered Bank announced the tender offer for Hsinchu Bank shares at NT\$24.50 per share which was around a 40% premium over the last closing price for Hsinchu Bank shares.
4. On 14 February 2007, the proposed privatization of Asia Satellite shares was announced and the offer price was \$18.30, which was around a 30% premium over the last closing price for Asia Satellite shares.

Page last updated : 1 Aug 2012

## 證監會尋求法院就懷疑內幕交易的後果頒令作出補救

2010年12月22日

證券及期貨事務監察委員會（證監會）在高等法院對楊碧鳳（女）、李國華（男）（兩位均是事務律師）及李國華的兩位姊姊李少英及李少芬展開民事法律程序，指上述人士涉嫌進行新竹國際商業銀行股份有限公司（新竹銀行）股份及亞洲衛星控股有限公司（亞洲衛星）股份的內幕交易（註1及2）。

證監會向法院提出申請，要求法院對該四名涉嫌進行內幕交易的被告作出命令，並頒令處理有關交易對曾經與該四名被告進行交易的人士所帶來的後果。具體來說，證監會尋求法院作出命令，使該四名被告所進行的懷疑內幕交易的交易對手，回復至涉嫌內幕交易發生前的狀況。

證監會根據《證券及期貨條例》第213條展開有關法律程序，並於2010年12月20日及2010年12月21日將原訴傳票送達該四名被告。

證監會申請法院作出以下命令：

1. 宣布有關交易違反《證券及期貨條例》相關條文、宣布該四名被告曾以不同方式牽涉入該等違規活動，及宣布有關交易已無效或可使無效；
2. 限制該四名被告處置他們因進行內幕交易而獲取的利潤或可追查得益；
3. 委任管理人接管該四名被告藉內幕交易獲取的利潤或可追查得益，及以適當方式分派這些利潤或得益；及
4. 要求該四名被告：
  - i. 交出或交代內幕交易所帶來的利潤或可追查得益，及向法院指示的人士支付該利潤或得益；及／或
  - ii. 使有關內幕交易的交易對手回復至他們在內幕交易發生前的狀況；及／或
  - iii. 向法院認為適當的人士支付賠償。

證監會指在新竹銀行股份的交易中：

- 楊碧鳳任職的律師事務所的一家公司客戶有意收購新竹銀行股份，她被借調至該公司以律師身分處理收購建議事宜，期間取得有關該收購計劃的資料（註3）；
- 該資料屬非公開、機密及有重大影響的股價敏感資料；及
- 楊碧鳳其後在有關收購建議公布前買入新竹銀行的股份，並向男友李國華及他兩位姊姊洩露消息，促使他們買入新竹銀行的股份；

在亞洲衛星股份的交易中：

- 李國華任職的律師事務所就亞洲衛星股份的私有化計劃提供法律意見，他因而取得該私有化計劃的資料；
- 該資料屬非公開、機密及有重大影響的股價敏感資料；及
- 李國華其後在該私有化計劃公布前，向女友楊碧鳳及他兩位姊姊洩露消息，促使她們買入亞洲衛星的股份（註4）。

證監會指四名被告從上述兩宗交易獲利合共290萬元，並以不同身分干犯以下罪行：

- 從事具欺詐或欺騙性質的計劃以進行新竹銀行股份的交易，及利用機密資料買入新竹銀行股份，違反《證券及期貨條例》第300條；及
- 進行亞洲衛星股份的內幕交易，違反《證券及期貨條例》第291條。

完

備註：

1. 在關鍵時間，楊碧鳳及李國華在兩家不同律師事務所任職事務律師。
2. 新竹國際商業銀行股份有限公司在2006年9月已在台灣證券交易所上市；亞洲衛星控股有限公司在2007年2月已在香港上市。
3. 2006年9月29日，渣打銀行公布以每股新台幣24.5元對新竹銀行股份提出收購建議，較新竹銀行股份當時最後收市價高出約40%。
4. 2007年2月14日，亞洲衛星股份私有化的建議正式公布，收購價為18.3元，較亞洲衛星股份當時最後收市價高出約30%。

最後更新日期：2012年8月1日