

SFC Reprimands Pacific Sun Investment Management (H.K.) Ltd & Andrew Pieter Mantel for Breaches of the Financial Resources Rules and other Rules

12 Dec 2002

The SFC has reprimanded Pacific Sun Investment Management (H.K.) Ltd and Mr Andrew Pieter Mantel. Pacific Sun and Mantel are registered as investment advisers under the Securities Ordinance.

The SFC started an inquiry into the conduct of Pacific Sun and Mantel after Pacific Sun had failed to submit its annual audited accounts within the prescribed time. The inquiry revealed that Pacific Sun had:

- failed to maintain the required level of net tangible assets (of \$500,000) in breach of section 8 of the Financial Resources Rules;
- failed to submit the annual audited accounts on time in breach of section 2 of the Annual Returns (Amendment) Rules; and
- failed to maintain proper records which are sufficient to readily establish whether or not the Financial Resources Rules have been complied with in breach of section 16 of the Securities (Dealers, Investment Advisers, Partnerships and Representatives) Rules.

The failure on the part of Mantel, the sole supervisory director of Pacific Sun, to ensure Pacific Sun's full compliance with relevant rules and regulations cast doubts on his ability to carry out his functions as a registered investment adviser in an effective and efficient manner.

The SFC concluded that Pacific Sun and Mantel were guilty of misconduct and their fitness and properness had been called into question. The SFC issued its decisions to revoke the respective registrations of Pacific Sun and Mantel on 15 May 2002. However, both of them appealed to the Securities and Futures Appeals Panel against the decisions. By the decision of the Panel dated 4 December 2002, the SFC's decisions are varied as follows:

- that Pacific Sun and Mantel be publicly reprimanded; and
- that the registrations of Pacific Sun and Mantel not to be revoked if Pacific Sun is able to demonstrate full compliance of the net tangible assets requirement under the Financial Resources Rules through the injection of new capital of at least \$500,000 within 8 weeks from the date of this decision (or any extended period approved by the Panel).
- Pursuant to the decision of the Panel, the SFC now reprimands Pacific Sun and Mantel and will monitor their compliance with the conditions of the Panel's decision.

Mr Alan Linning, Executive Director of Enforcement, said: "Registered persons are required to maintain proper records and to closely monitor their financial positions to ensure full compliance with the Financial Resources Rules at all times. The SFC takes such breaches seriously."

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