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## Enforcement News

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17 December 2003

### SFC Suspends Wong Wai King Mona For Three Months

The SFC has suspended the licence of Ms Wong Wai King Mona, a dealing director of Concord Capital Securities Limited, for three months from 6 December 2003 to 5 March 2004 (both dates inclusive).

The suspension follows an SFC investigation into the market manipulation and illegal short selling of shares in May 2002 by Mr Chan Shing Chun, a licensed representative of Concord (Note 1). The SFC found a number of internal control weaknesses at Concord (Note 2).

The SFC found that Wong, as a dealing director of Concord responsible for its day-to-day operations, bore direct responsibility for the internal control failings at Concord and for failing to properly supervise staff under her direct control.

The SFC also found that Wong had negligently provided wrong information to the SFC about Concord's telephone records. Wong also instructed Chan to request a client to backdate an authorisation letter. These acts had the potential to jeopardise the SFC investigation.

In light of these findings, the SFC concluded that Wong's fitness and properness had been called into question. The SFC therefore decided to suspend her licence for three months.

Wong applied to the Securities and Futures Appeals Tribunal (SFAT) on 10 December 2003 for an extension of time to file a notice to review the SFC's decision. Wong's Notice of Review was received by the SFAT outside the 21-day period specified in section 217(3) of the Securities and Futures Ordinance. By operation of law, Wong's licence has been suspended from 6 December 2003, the date when the appeal period expired.

#### SFAT's decision on the extension of time application

The SFAT dismissed Wong's application on 16 December 2003 after considering written representations from both Wong and the SFC. The SFAT also issued reasons for its decision on the same day (Note 3).

In those reasons, the SFAT set out the test that it will apply when considering whether to grant a time extension:

"The framers of this legislation, and in particular the provisions of section 217(5), Cap 571, have seen fit to lay down that an extension *"shall not"* be granted unless the Tribunal is satisfied that there is *"good cause"* for such grant. In the circumstances it seems reasonable to posit that, whilst putting in place a safety net for what are considered to be excusable cases of delay, the legislative intent in laying down the 21-day time limit for making an application for review was to impose an element of certainty in terms of commencement of service of such penalties as are meted out by the SFC *qua* industry regulator. Hence the requirement of *"good cause"*, however that may be

interpreted in the circumstances of any given case."

In the present case, the SFAT concluded that Wong's reasons for an extension that (i) she was discussing the matter with friends in the industry; (ii) she was concerned about incurring legal costs and attempting to persuade her employer to meet any such costs and (iii) she was concerned that instructing lawyers would be seen to be contesting the SFC, were not sufficient to have met the statutory requirement of "good cause".

Mr Alan Linning, SFC's Executive Director of Enforcement, said: "The SFC welcomes the SFAT's decision. This reinforces the legislative intent that there should be a degree of certainty for the commencement of penalties imposed by the SFC."

Ends

Notes to Editor:

1. Chan was convicted of illegal short selling and market manipulation. Please see [SFC's press release dated 25 March 2003](#) for details of the case.
2. The SFC has publicly reprimanded Concord for its internal control weaknesses. Please see the [SFC's press release dated 9 December 2003](#) for details of the case.
3. Under the SFO regime, all review hearings are open to the public unless the SFAT decides otherwise. A copy of the "[Determination](#)" in this case is attached to this press release.

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