

Court dismisses judicial review against Takeovers Panel

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The Court of First Instance has dismissed a judicial review of the decision of the Takeovers and Mergers Panel (Takeovers Panel) not to stay disciplinary proceedings instituted by the Executive of the Securities and Futures Commission (SFC).

The applicants of the judicial review – A, B and C – whose names were suppressed by the order of the court, are also defendants in a criminal trial scheduled to be heard at the High Court in March 2015. The applicants, together with two other persons, are the subject of disciplinary proceedings before the Takeovers Panel over an alleged breach of the Code on Takeovers and Mergers.

In October 2013, A, B and C applied for a stay of the disciplinary proceedings until the completion of the criminal trial. The Chairperson of the Takeovers Panel refused their application in February 2014 following an oral hearing. Subsequently, they applied for judicial review of the Chairperson's decision.

In rejecting the judicial review, the Court of First Instance pointed out there is no real risk of prejudice to the criminal trial if the disciplinary proceedings continue.

The Court also found the Chairperson of the Takeovers Panel did not err in law and was satisfied that the Chairperson's decision was not unreasonable.

The SFC's disciplinary proceedings against A, B and C are continuing.

"This decision is very significant in that it confirms the appropriate test to apply in determining whether to stay disciplinary proceedings when there are concurrent criminal proceedings involving the same parties," the SFC's Executive Director of Corporate Finance, Mr Brian Ho said.

End

Note:

1. The judgment will be available on the Judiciary's website (www.judiciary.gov.hk).

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