

Enforcement Actions

17 March 1999

SFC Reprimands Mansion House Securities (FE) Limited and Revokes the Registrations of Lai Nung Chi, Donald

The Securities and Futures Commission announced today that it had reprimanded Mansion House Securities (FE) Limited (MHSFE) and revoked the registrations of Mr Lai Nung Chi, Donald (Lai), as a securities dealer's representative and a commodity dealer's representative.

Following receipt of complaints by Lai's former clients for unauthorised diversion of funds from their accounts in mid-1998, the SFC conducted inquiries into both Lai's and MHSFE's conduct under section 56 of the Securities Ordinance (SO). A separate inquiry under section 36 of the Commodities Trading Ordinance (CTO) was also instigated into Lai's conduct.

At the end of the inquiries, the SFC found that Lai had at the material time:

- a. caused the cash deposits of a client to be diverted to other clients' accounts maintained at MHSFE without the client's knowledge and consent;
- b. changed the correspondence addresses of the client and his companies to prevent him from receiving monthly account statements issued by MHSFE; and
- c. given the client copies of monthly account statements of his own making.

The SFC further found that MHSFE had not maintained an effective and appropriate internal control system at the material time which, had it been in place, would have rendered it more difficult for Lai to have committed the above acts.

In the light of the above findings, the SFC is of the view that:

1. Lai, by the above acts, had grossly abused the trust reposed in him by his clients and thereby breached the fundamental duty of a registered representative to act honestly and fairly in the best interests of his clients. Accordingly, Lai's fitness and properness to remain registered has been seriously impugned; and
2. MHSFE had breached a number of relevant conduct rules and internal control guidelines which require that, among other things, a registered person should put in place effective systems and procedures to protect its clients' assets and to ensure clients' assets are properly accounted for. Such breaches have impugned MHSFE's fitness and properness to remain registered in that there are doubts in its ability to perform the functions of a dealer efficiently and fairly.

As a result of the above, the SFC has decided to reprimand MHSFE and revoke Lai's registrations.

In deciding the penalty for MHSFE, the SFC has taken into account the following factors:

- immediately after Lai's acts had been discovered, MHSFE appointed a firm of independent auditors to review its internal control systems. It had also accepted many of the

recommendations made by the auditors; and

- throughout the inquiry process, MHSFE had rendered full co-operation to SFC staff.

A SFC spokesman, commenting on the actions taken, said: "The SFC is committed to protecting the integrity of the Hong Kong market and takes a very serious view of improper conduct. It expects registered intermediaries to act honestly and fairly in the best interests of their clients as well as to maintain adequate and effective internal control systems which will minimise the exposure of their clients' assets to dishonest acts or omissions. The SFC would take all necessary regulatory actions to ensure that such standards are adhered to by registered intermediaries."

Page last updated: 7 November 2001

證監會譴責萬勝證券(遠東)有限公司並撤銷黎能賜的註冊

1999年3月17日

證券及期貨事務監察委員會今天公布，本會已對萬勝證券(遠東)有限公司(萬勝)作出譴責，並已撤銷黎能賜(黎氏)作為證券交易商代表及商品交易商代表的註冊。

證監會於1998年年中接獲黎氏的前客戶投訴，表示有人在未獲授權的情況下挪撥其帳戶的資金。本會隨後根據《證券條例》第56條對黎氏及萬勝的操守展開查訊，並且亦另外根據《商品交易條例》第36條對黎氏的操守進行獨立查訊。

當本會完成有關查訊後，本會發現在有關的關鍵時間，黎氏曾經：

- a. 在一名客戶不知情及未獲得其同意的情況下，將該客戶的現金存款轉撥至其他客戶在萬勝開立的帳戶；
- b. 更改該客戶及其公司的通訊地址，藉以防止他收到萬勝發出的帳戶月結單；及
- c. 將其本人製造的帳戶月結單副本交予該客戶。

本會進一步發現，萬勝未有在上述關鍵時間維持有效及適當的內部監控制度。如果萬勝當時設有該等制度，黎氏將較難於作出上述行為。

鑑於以上的查訊結果，證監會認為：

1. 黎氏上述行為嚴重違反客戶對他的信託，有違了註冊代表必須誠實地、公平地及按照其客戶的最佳利益行事的基本責任。因此，黎氏的行為令人極其懷疑他是否適宜繼續獲准註冊；及
2. 萬勝違反了多項有關的業務操守及內部監控規定。這些規定的其中一項要求是註冊人必須制訂有效的系統及程序，以保障客戶的資產及確保註冊人對這些資產有妥善的交待。上述違規行為令人質疑萬勝是否適宜繼續獲准註冊，及其是否能夠有效率及公平地履行交易商的職能。

根據上述所得資料，本會決定譴責萬勝及撤銷黎氏的註冊資格。

本會在決定對萬勝作出處分時，已顧及下列因素：

- 當黎氏的行為被揭發後，萬勝便立即聘請獨立核數師檢討其內部監控制度，並採納多項由獨立核數師提出的建議；及
- 在整個查訊過程中，萬勝與本會職員充分合作。

證監會發言人就其所採取的行動表示：“證監會致力維護本港市場的持正操作，並會嚴厲處理任何失當行為。本會要求註冊中介人誠實地、公平地及按照客戶的最佳利益行事，並維持妥善及有效的內部監控制度，盡量避免客戶資產可能因不誠實或錯漏行為而蒙受風險。本會亦會採取一切必需的監管行動，以確保註冊中介人遵循該等標準。

最後更新日期：2012年8月1日