
Enforcement News

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30 July 2008

Court confirms SFC's investigative powers

The SFC welcomes the Court of Appeal's decision to dismiss an appeal brought by Mr Koon Wing Yee against the SFC. The proceedings were dismissed at trial by Mr Justice Saunders on 5 November 2007. Koon launched an appeal against this decision which was heard by the Court of Appeal on 29 July 2008 (Note 1).

The SFC had issued a notice to Koon using special investigative powers under the Securities & Futures Ordinance (SFO) which permit the SFC to interview certain people during an investigation and obtain answers to questions (Note 2).

Koon argued that this power infringed his basic rights including his rights to silence and refused to give answers to questions. The SFC argued that Koon's objection is misplaced because the SFO properly protects all relevant fundamental rights.

In dismissing Koon's appeal, the Court of Appeal awarded costs to the SFC and indicated that it will give reasons for the decision at a later date.

End

Notes :

1. Koon commenced judicial review against the SFC on 19 January 2007. Please also see SFC press release dated [5 November 2007](#).
2. If a person is compelled to answer a question under these powers which might tend to incriminate, the person is permitted to claim privilege. If the person claims privilege, the answer cannot be used against the person in any criminal proceedings. The SFC maintains this ensures fundamental rights are protected.

Page last updated: 30 July 2008