
Enforcement Actions

25 February 2002

SFC Successfully Prosecutes Asia Network Base (Hong Kong) Limited (ANBHK) and its Directors

The Securities and Futures Commission (SFC) announced today that it had successfully prosecuted ANBHK together with its Directors, Li Ka Yin (Li) and Kam Chi Yin Paul (Kam) and an officer in charge of the company, Fung Tak Hoi Alrick (Fung) under the Protection of Investors Ordinance for :

- (a) the issuance of advertisements relating to 2 investment arrangements without due authorization;
- (b) the issuance of documents containing advertisements relating to 2 investment arrangements without due authorization; and
- (c) possession for the purposes of issue of documents containing advertisements relating to 2 investment arrangements without due authorization.

Both of the investment arrangements were linked to returns from the leasing of property promoted and marketed in Hong Kong by ANBHK. ANBHK was fined \$40,000, Li, Kam and Fung were fined \$10,200, \$10,000 and \$10,000 respectively. ANBHK was ordered to pay the SFC's investigation costs of \$6,500.

Alan Linning, Executive Director of Enforcement, said "there appears to be a growing trend for property schemes to be marketed in Hong Kong which risk violating the Protection of Investors Ordinance. Promoters and property developers in particular are reminded that any document which contains an invitation or offer to the public to take part in an investment arrangement must be approved in advance by the SFC.

It is of paramount importance that potential investors are told clearly what they are being invited to participate in. The Protection of Investors Ordinance provides a vetting process to help protect investors from misleading promotional literature for investment arrangements. The SFC is committed to ensuring this vetting process is observed by promoters and breaches of the law will be prosecuted. Promoters are advised to take adequate legal advice before launching any scheme. The SFC is willing to assist promoters by discussing in advance the particular terms of any scheme.

As a general guide, we expect all advertisements and other promotional documents to disclose material facts about any guarantor and a clear statement to the potential investor of the risks involved in the particular arrangement."

執法行動

2002年2月25日

證監會成功檢控澳亞投資顧問有限公司(澳亞投資)及其董事

證券及期貨事務監察委員會(證監會)今天公布,本會已成功地根據《保障投資者條例》檢控澳亞投資及其董事李嘉賢(李氏)和甘志賢(甘氏),及另一名公司負責人馮得海(馮氏),指該公司及有關人士:

- (a) 在未獲適當認可的情況下,發出與兩項投資安排有關的廣告;
- (b) 在未獲適當認可的情況下,發出載有與兩項投資安排有關的廣告的文件;及
- (c) 在未獲適當認可的情況下,為發出的目的而管有載有與兩項投資安排有關的廣告的文件。

上述兩項投資安排均與出租澳亞投資在香港推廣及推銷的物業的回報有關。澳亞投資、李氏、甘氏及馮氏被分別判處罰款40,000元、10,200元、10,000元及10,000元。澳亞投資更被下令向證監會支付調查費用6,500元。

證監會法規執行部執行董事李顯能說:"為了在香港推銷物業計劃而冒險觸犯《保障投資者條例》的情況,看來有上升的趨勢。證監會尤其要提醒推廣人及物業發展商,任何載有請公眾參與投資安排的邀請或要約的文件都必須事前獲得證監會批准。"

準投資者必須獲得清楚地告知他們被邀請參與怎樣的投資安排。《保障投資者條例》規定設立審核程序,協助投資者避免因為誤導性的投資安排推廣資料而蒙受損失。證監會致力確保推廣人遵守這項審核程序,及會對違例者提出檢控。證監會提醒推廣人在推出任何計劃前都應充分諮詢法律意見。證監會樂意就任何計劃的特定條文與推廣人事前進行商討,以便提供協助。

根據證監會的一般指引,所有廣告及其他推廣文件都應該能夠披露關於任何保證人的重大資料,及載有向準投資者作出的有關該特定安排所涉及的風險的明確聲明。"