

SFC Revokes the Registration of Chan Hing Fung Katie for Misappropriation and Deception

21 Oct 2002

The SFC has revoked the registration of Ms Chan Hing Fung Katie, a securities dealer's representative, for misappropriation and deception.

Over a period of two and a half years, whilst employed by Hou Tak Securities Limited, Chan's dishonest acts had caused losses to her clients amounting to about \$3 million.

Chan abused the trust her clients had placed in her by, for example, inducing her clients to pay settlement monies into her personal bank account, which she then misappropriated. Further, she also deceived her clients to buy into apparently very favourable, but fictitious, investment schemes allegedly involving blue chip shares.

Being a settlement clerk as well as an account executive, Chan covered up her activities with ease by forging account statements. Some of the clients also trusted Chan so much that they did not even require Hou Tak to send account statements to them.

Mr Alan Linning, SFC's Executive Director of Enforcement, said: "Chan stole from and deceived her clients. She is unfit to have access to client money and assets."

"Misappropriation and fraud strike at the heart of a broker's responsibilities to the clients. We will immediately revoke any registered person who steals client money or securities or deceives or defrauds clients. We or the Police will also consider whether criminal prosecution is possible on the evidence," he said.

The SFC understands that Police is looking into this case after receiving reports from Chan's clients.

Internal controls and investor vigilance

Mr Linning reminds all registered persons that they must have adequate internal control policies and ensure compliance with them. Intermediaries must ensure that they comply with applicable laws, rules and codes of conduct at all times.

Investors are advised to protect themselves by at least checking their trading documents and monthly statements, which their brokers are obliged to send to them on a timely basis. Any irregularities should be immediately followed up with the broker's management personnel, instead of the account executives themselves. The broker's management personnel should also be consulted on any suspiciously favourable investment scheme.

Mr Linning said: "Clients should also ensure that client agreements with their brokers are properly executed before transacting any trades. Last but not least, clients should not settle their trades by paying the account executives personally."

A catalogue of dishonest acts

The SFC's action stemmed from an inquiry into Chan's conduct as a securities dealer's representative in which the SFC found that between December 1999 and July 2002:

- Unauthorized trading: Chan conducted unauthorized transactions in six client accounts, causing substantial losses to her clients;
- Chan caused the proceeds from the unauthorized sales to be deposited to her personal bank account or to be used for settlement of other unauthorized trades by her;
- Deceiving her clients: Chan failed to carry out her clients' instructions to purchase securities, but then told her clients that the trades had been executed; and she further induced them to make payment to her personal bank account to settle such unexecuted trades;
- where the clients paid the settlement monies for such purported trades, which in fact had not been executed, directly to Hou Tak, Chan caused the payments to be credited to an account controlled by her;

- Falsifying documents: Chan provided false information to the clients regarding the stock balances in their accounts, either orally or, if the clients requested for the transaction records, by preparing and sending falsified trading statements and contract notes to her clients to conceal the unauthorized transactions;
- Deception scheme: Chan falsely represented to her clients as well as two other individuals, who had not opened trading accounts with Hou Tak, that Hou Tak offered to sell them blue chip securities with guaranteed returns provided that they refrained from selling the securities for a period of time. Chan did not use the payments made by the clients to purchase the securities, but instead converted them to her own use; and
- Chan was responsible for both settlement and dealing functions, and was able to change the clients' correspondence address on Hou Tak's records; as a result, the clients did not receive the official trading statements issued by Hou Tak.

Chan's conduct involved a fundamental breach of trust, and made her completely unfit to remain registered. The SFC therefore revoked Chan's registration.

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證監會撤銷陳慶鳳的註冊指其挪用客戶款項/證券及欺騙客戶

2002年10月21日

證監會已撤銷證券交易商代表陳慶鳳的註冊，指其挪用客戶款項/證券及欺騙客戶。

陳氏之前受僱於厚德證券有限公司，在一段約兩年半的期間，她作出不誠實的行為，導致其多名客戶蒙受合共約300萬元的損失。

陳氏辜負其客戶對她的信任，包括誘使他們將交收款項存入其私人銀行帳戶，然後再挪用有關款項。此外，陳氏又哄騙其客戶參加看來異常吸引並聲稱包含藍籌股在內的投資計劃，但有關計劃其實並不存在。

陳氏除了是客戶主任外，也是交收文員，因而可以輕易地偽造帳戶結單，從而掩飾其活動。某些非常信任陳氏的客戶，甚至沒有要求厚德證券向他們發出帳戶結單。

證監會法規執行部執行董事李顯能表示：“陳氏偷取客戶的款項/證券並欺騙他們，所以不適宜獲准接觸客戶的款項和資產。”

李氏續說：“挪用資產及欺詐行為違背經紀對客戶承擔的責任。如有任何註冊人偷取客戶款項或證券，或對客戶作出欺騙或欺詐性行為，我們會立即撤銷其註冊。證監會或警方亦會視乎所取得的證據而考慮提出刑事檢控。”

證監會亦得悉警方在接獲陳氏的客戶的舉報後，已就本案展開調查。

留意內部監控，投資者增強警覺性

李氏提醒所有註冊人，他們必須訂有妥善的內部監控政策及確保其獲得遵守。中介人亦必須確保其本身在所有時候都遵守適用的法例、規則和操守準則。

為了保障自身利益，投資者最低限度應查閱其經紀有責任及時向其發出的交易文件和月結單。若發現有任何不尋常之處，投資者應即時通知經紀行的管理層以作跟進，而不要直接交由客戶主任處理。此外，投資者如對一些非常吸引的投資計劃存疑，亦應向有關經紀行的管理層查詢。

李氏表示：“客戶亦應確保在進行交易前，先與經紀簽妥客戶協議。此外，客戶就其買賣進行交收時，切記不要私下向客戶主任付款。”

連串不誠實的行為

證監會這次行動源自一項對陳氏作為證券交易商代表的操守的查訊。證監會在查訊中發現，在1999年12月至2002年7月期間：

- 未經授權交易：陳氏透過6名客戶的帳戶進行未經授權的交易，使該等客戶招致重大損失；
 - 陳氏將來自該等未經授權交易的出售所得款項，存入其私人銀行帳戶，或用作交收其進行的其他未經授權交易；
 - 欺騙客戶：陳氏未有執行客戶的購買證券指示，並向他們誑稱已替他們完成有關交易，然後再誘使他們為交收該等從未進行的交易，將款項存入其私人銀行帳戶；
 - 當有關客戶就該等聲稱已執行但事實上從沒發生的交易，直接向厚德證券支付結算款項時，陳氏促使有關付款記入其控制的帳戶；
 - 偽造文件：陳氏以口頭方式或(如客戶曾要求取得交易記錄)透過擬備及向客戶發出偽造的交易結單和成交單據，向客戶提供有關其帳戶的股票結餘的虛假資料，以圖掩飾有關的未經授權交易；
 - 欺騙計劃：陳氏向其客戶及另外兩名沒有在厚德證券開立買賣戶口的人士，誑稱厚德證券擬出售一些藍籌股，只要他們在某段時間內不將這些股票賣出，便可獲得回報保證，但事實上陳氏沒有將客戶支付的款項用以購買該等股票，反而將其據為己用；及
 - 陳氏同時負責交收及交易的職務，因而得以篡改厚德證券的記錄所載的客戶通訊地址，結果導致有關客戶未能收到厚德證券發出的正式交易結單。
- 陳氏的行為嚴重違反信託，使其對不適宜繼續獲得註冊。因此，證監會決定撤銷陳氏的註冊。

最後更新日期：2012年8月1日