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SFC Suspends Tsang Wa Wai William and Reprimands Masterlink Securities

29 Nov 2002

The SFC has suspended the registration of Mr Tsang Wa Wai William for four months and reprimanded Masterlink Securities (Hong Kong) Corporation Limited and its dealing director Mr Lip Siu Ming Nelson.

Tsang

The action follows an inquiry into a complaint made to the SFC by clients of Masterlink about unauthorized trading in their accounts. After investigating, the SFC found that from 1 July 2000 to 31 August 2000, Tsang, a dealer's representative of Masterlink, had accepted orders from another employee of Masterlink for the accounts of two clients without their authority. The employee's unauthorized trading was substantial and created losses of over \$400,000 in the clients' accounts.

The SFC found that Tsang's accommodating the employee's unauthorised trading was improper and exposed the relevant parties to unnecessary risks. Further, his failure to monitor the trading in the two clients' accounts and his failure to ensure that the employee had the necessary authority to operate these two accounts breached the Code of Conduct.

Masterlink

At the time of Tsang's misconduct, Masterlink had insufficient credit and trading limits controls in place. The SFC also found that Masterlink's action in pursuing debt recovery against one of the clients was inappropriate and amounted to conduct unbecoming of a registered person. By then, Masterlink knew that the trading had been conducted without the knowledge and consent of the client. During the inquiry, the SFC also found inadequacies in the way in which Masterlink handled client funds so that clients were inadequately protected from financial losses. At the SFC's request, Masterlink appointed accountants to review its systems and controls.

Lip

Between 1 July 2000 and 31 August 2000, Lip was the sole dealing director who was responsible for Masterlink's day-to-day operations. The SFC found that Lip bore responsibility for the failings identified in Masterlink's internal controls and procedures and that he had failed to properly supervise his staff.

Based on these findings, the SFC concluded that Tsang, Masterlink and Lip were guilty of misconduct and their fitness and properness had been called into question. The SFC therefore decided to suspend Tsang's registration for four months and reprimand Masterlink and Lip.

In determining the level of penalty, the SFC noted that Masterlink had been co-operative during the SFC investigation and had taken measures to improve its systems and internal controls.

Mr Alan Linning, SFC's Executive Director of Enforcement, said: "A registered person must establish and maintain effective policies, operational procedures and controls in relation to its day-to-day business operations. In particular, prior to executing a client order, a designated staff member must check the sufficiency of available funds or securities in the relevant account, its margin position (including any applicable limitations) and the authority of the person placing the order. A registered person must also justify its action to be taken against its clients for collection of debt. It is not acceptable to hold clients responsible for losses caused by a staff member's misconduct. We will treat any breaches of these requirements seriously."

Masterlink is a registered dealer under the Securities Ordinance.

Ends

監會暫時吊銷曾華偉的註冊及

2002年11月29日

證監會已暫時吊銷曾華偉的註冊，為期4個月，並且譴責元富證券(香港)有限公司及其交易董事聶少明。

曾氏

繼元富客戶向證監會投訴有人利用他們的帳戶進行未經授權的交易後，證監會便進行查訊，並其後採取上述行動。證監會在調查後發現，在2000年7月1日至2000年8月31日期間，曾氏身為元富的交易商代表，曾經接受另一名元富僱員在沒有獲得兩名客戶授權的情況下，替有關客戶的帳戶發出的買賣指示。該名僱員在未經授權的情況下所進行的買賣涉及龐大金額，並導致有有關客戶帳戶損失超過400,000元。

證監會認為曾氏容許該名元富僱員進行未經授權的買賣是不恰當的，並且導致有關方面承受不必要的風險。此外，曾氏沒有監察該兩個客戶帳戶所進行的買賣，以及沒有確保該名元富僱員已獲得在操作該兩個帳戶前必須取得的授權，因而違反了《操守準則》的規定。

元富

在曾氏進行失當行為時，元富亦沒有就信貸及交易限額設立足夠的監控。證監會亦發現元富向其中一名客戶追收債項的行動是不恰當的，並且有違註冊人應有的操守。當時元富已經知道有關交易是在有關客戶不知情及沒有表示同意的情況下進行的。證監會亦在查訊過程中發現，元富在處理客戶資金方面有不足之處，以致未能保障客戶免受財務損失。在證監會要求下，元富已委任了會計師檢討其系統及監控措施。

聶氏

在2000年7月1日至2000年8月31日期間，聶氏是元富唯一的交易董事，負責該公司的日常運作。證監會認為聶氏須就元富出現的內部監控及程序缺失負責。此外，聶氏亦沒有適當地監督其員工。

基於這些調查發現，證監會認為曾氏、元富及聶氏的行為失當，同時其適當人選的資格亦受到質疑。證監會因此決定暫時吊銷曾氏的註冊4個月，以及對元富及聶氏作出譴責。

證監會在決定刑罰時，已注意到元富在調查期間，曾給予證監會充份合作。同時，元富亦已採取若干措施改善其系統及內部監控。

證監會法規執行部執行董事李顯能說：“註冊人必須就其日常業務運作設立及維持有效的政策、運作程序及監控措施，特別是在執行客戶指示之前，必須由指定員工檢查有關帳戶內的可動用資金或證券是否足夠及其保證金買賣持倉量(包括任何適用的限額)，以及發出有關指示的人士是否已獲得授權。註冊人向客戶追收債務的行動亦必須是合理的。要求客戶為員工的失當行為所引致的損失負責，是不可以接受的。我們將嚴厲對待任何違反這些規定的情況。”

元富是《證券條例》下的註冊交易商。

完

最後更新日期：2012年8月1日