
Enforcement News

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First criminal prosecution for disclosure of false or misleading information inducing transactions

The Securities and Futures Commission (SFC) has commenced criminal proceedings against Mr David Vong Tat leong, chief executive officer of Vongroup Ltd (Vongroup) (Note 1), alleging that he disclosed or was concerned in the disclosure of false or misleading information issued by Vongroup, which was likely to induce transactions in the shares of Vongroup or maintain or increase its share price.

This is the first criminal prosecution of its kind under the Securities and Futures Ordinance (SFO) (Note 2).

Vong appeared at the Eastern Magistracy today and the case was adjourned until 29 May 2009 pending an application by the Department of Justice to transfer it to the District Court. If the application is granted, the case will be prosecuted by the Department of Justice as an indictable prosecution.

On 15 May 2007, Vongroup issued an announcement to the Stock Exchange of Hong Kong Ltd and a press release disclosing that Vongroup Holdings Ltd, a company wholly owned by Vong through which he held 72% of the issued share capital of Vongroup, was selling a 9.9% stake in Vongroup to ABN AMRO Bank NV (ABN AMRO).

The share price of Vongroup rose 31.25% on the following day.

However, unknown to the investing public, Vong is alleged to have simultaneously executed two additional agreements with ABN AMRO. Under the first agreement, ABN AMRO secured the right to sell the shares back to Vongroup Holdings Ltd at the same price within three years. Under the second agreement, the proceeds were retained in an escrow account pending either ABN AMRO selling the shares to an independent third party or the expiry of the put option.

The SFC alleges that the announcement on 15 May 2007 was false or misleading because it omitted the existence of the two additional agreements.

In effect, the SFC asserts that the announcement failed to properly disclose the whole transaction and the investing public were likely to have been misled into believing ABN AMRO had decided to support Vongroup in buying 9.9% of the issued share capital when, effectively, the deal did not expose ABN AMRO to the same investment risks as other shareholders and was a virtually risk-free one.

The SFC further alleges that (i) Vong knew that the announcement, which was likely to induce the investing public to purchase shares in Vongroup or maintain or increase the market price of Vongroup shares, was false or misleading because, to his awareness, the two additional agreements were not disclosed or (ii) he was reckless as to whether that would be the case.

The SFC has no further comment to make until the conclusion of the proceedings.

End

Notes:

1. Vongroup was listed on 9 October 2001. The principal activities of Vongroup include consumer finance business, smart-card financial services business and restaurant business. Before the announcement on 15 May 2007, David Vong Tat leong held approximately 72% of the issued share capital of Vongroup.
2. Under section 298 of the SFO, it is an offence to disclose or circulate information that is likely to induce the sale or purchase of shares or to maintain, increase the price of securities if the information is false or misleading as to a material fact or the omission of a material fact and the person knows or is reckless as to whether the information is false or misleading. The maximum penalty is a fine of \$10 million and imprisonment of 10 years.

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