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## Enforcement News

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29 November 2010

### Court of Appeal says criminal procedures not applicable to SFC disciplinary process

The Court of Appeal has allowed the Securities and Futures Commission's (SFC) appeal against a decision of the Securities and Futures Appeals Tribunal (SFAT) and decided that criminal procedures are not applicable to SFC disciplinary proceedings (Note 1).

On 19 March 2010, the SFAT altered the SFC's decision to revoke the licence of Asser Li Kwok Keung and ban him for 10 years to a suspension for 18 months for lying to the SFC and breaching his undertaking to co-operate. In addition, in its determination, the SFAT equated the obligations of the SFC in disciplinary proceedings with that of a prosecutor in criminal proceedings (Note 2).

The SFC appealed to the Court of Appeal against both the penalty imposed by the SFAT and its analogy drawn between the SFC's disciplinary process and criminal procedures.

The Court of Appeal, comprising Madam Justice Kwan JA, Mr Justice Stone and Mr Justice Bharwaney, unanimously allowed the SFC's appeal and increased the penalty for Li from a suspension of licence for 18 months to a prohibition order for three years (Note 3).

End

Notes:

1. The Court of Appeal's judgment dated 26 November 2010 will be available on the Judiciary website at [www.judiciary.gov.hk](http://www.judiciary.gov.hk) (CACV 85/2010, Securities and Futures Commission v Li Kwok Keung Asser).
2. Please see SFC [press release](#) dated 23 March 2010 for details. The SFAT's [determination](#) is attached.
3. Since Li is no longer a licensed person, a suspension of licence cannot be imposed on Li. Accordingly, the Court of Appeal imposed a prohibition order banning Li from returning to the industry.

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