

[Home](#) ▶ [News & announcements](#) ▶ [News](#) ▶ [All news](#)

SFC bans Benedict Ku Ka Tat for one year and fines him \$150,000

21 Nov 2016

The Securities and Futures Commission (SFC) has prohibited Mr Benedict Ku Ka Tat, a former employee of The Pride Fund Management Limited, from re-entering the industry for one year from 18 November 2016 to 17 November 2017 and fined him \$150,000 for failings relating to his sale of a fund to a client (Note 1).

An SFC investigation revealed that when Ku recommended a fund to a client in 2008, he failed to provide her with material information on the commission she would be charged for investing in the fund and his personal benefit from the commission. Unbeknown to the client, Ku received \$93,600 as commission, equivalent to 12 per cent of the client's intended investment of \$780,000.

The SFC also found that Ku failed to ensure that the fund he recommended was suitable for the client in view of her personal circumstances. Ku failed to conduct proper "know your client" process, including seeking adequate information about the client's financial situation, investment experience, investment objectives and risk tolerance.

In deciding the penalty, the SFC took into account all relevant circumstances, including that this was a one-off incident.

End

Note:

1. Ku was licensed under the Securities and Futures Ordinance to carry on Type 4 (advising on securities) and Type 9 (asset management) regulated activities, and was accredited to The Pride Fund Management Limited from 1 February 2008 to 13 October 2008. Ku is currently not licensed by the SFC.

[A copy of the Statement of Disciplinary Action is available on the SFC website](#)

Page last updated : 21 Nov 2016

STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has prohibited Mr Benedict Ku Ka Tat¹ (**Ku**), a former representative of The Pride Fund Management Limited (**PFML**), from re-entering the industry for one year and fined him \$150,000 pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).
2. The SFC found that Ku failed to:
 - (a) provide material information to a client (**Client H**) about the commission that she would be charged for investing in the Pride Opportunities Fund – Series II (**Fund**) via him, and his personal benefit in the commission; and
 - (b) ensure that the Fund he recommended to Client H was suitable to her in view of her personal circumstances.
3. Ku's conduct was in breach of General Principles 2 (diligence) and 5 (information for clients), and paragraphs 3.4 (advice to clients: due skill, care and diligence) and 5.2 (know your client: reasonable advice) of the Code of Conduct².

Summary of facts

Failure to provide material information

4. General Principle 5 (information for clients) of the Code of Conduct requires a licensed person to make adequate disclosure of relevant material information in its dealings with its clients.
5. In March 2008, Ku introduced his friend, Client H, to the Fund. On or around 28 March 2008, following Ku's introduction and explanation of the Fund to her, Client H issued two cheques for the total sum of HK\$780,000 for the subscription of shares of the Fund. One cheque for the sum of HK\$663,000 was issued in favour of the Fund, and the other cheque for the sum of HK\$117,000 was issued in favour of **Company L (HK\$117,000 Cheque)**.
6. Client H claimed that she had no knowledge that the HK\$117,000 Cheque, being 15% of her intended investment amount, was written in favour of

¹ Ku was licensed under the Securities and Futures Ordinance to carry on Type 4 (advising on securities) and Type 9 (asset management) regulated activities, and was accredited to The Pride Fund Management Limited from 1 February 2008 to 13 October 2008. Ku is not currently licensed by the SFC.

² Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission

Company L. There is also no documentary evidence showing that Client H agreed to such a high commission (or an upfront loss) of 15% to be paid to Company L in relation to her investment.

7. Further, Ku was not a staff of Company L. Company L was not a corporation licensed by the SFC and did not appear to have any role to play in the sale of the Fund to Client H.
8. The SFC's investigation shows that on 3 April 2008, the HK\$117,000 Cheque was deposited in Company L's HSBC bank account. On 9 April 2008, HK\$93,600 was transferred from Company L's bank account to Ku's account at HSBC. HK\$93,600 was equivalent to 12% of Client H's intended investment sum of HK\$780,000.
9. Ku accepted that he obtained a benefit of HK\$93,600 of the commission paid to Company L in respect of Client H's investment in the Fund, and that he had not told Client H that he would receive such sum as commission.
10. The SFC found that Ku had breached General Principle 5 (information for clients) of the Code of Conduct for failing to provide material information to Client H about the commission that she would be charged for investing in the Fund via him, and his personal benefit in the commission.

Failure to ensure that the Fund was suitable to Client H

11. General Principle 2 (diligence) of the Code of Conduct requires a licensed person to act with due skill, care and diligence, in the best interests of its clients and the integrity of the market in conducting its business activities.
12. A licensed person who provides advice to a client is required under paragraph 3.4 (advice to clients: due skill, care and diligence) of the Code of Conduct to act diligently and carefully in providing the advice and ensure that its advice and recommendations are based on thorough analysis and take into account available alternatives.
13. Further, paragraph 5.2 (know your client: reasonable advice) of the Code of Conduct provides that a licensed person should, when making a recommendation or solicitation, ensure the suitability of the recommendation or solicitation for that client is reasonable in all the circumstances.
14. Apart from Ku's informal understanding of Client H's personal background as a friend, he did not conduct proper "know your client" process, including seeking adequate information from Client H to understand her financial situation, investment experience, investment objectives and risk tolerance.
15. Apart from Ku's alleged understanding that Client H had investment experience and could bear higher risks, he did not appear to know Client H's personal circumstances and financial situation. There was no formal assessment of whether the Fund was suitable to Client H in view of her personal circumstances. There were no documentary records of the rationale of his recommendation of the Fund to Client H, and why he considered the Fund to be suitable to her.
16. Ku claimed that he was new to the industry at the time and he had arranged for X, sole shareholder of Company L, to explain details of the Fund to Client H.

Ku's claim is not supported by the evidence. Further, even if X did explain the Fund to Client H, this would not have discharged Ku's obligation to ensure suitability of the Fund to his client as X was not licensed by the SFC.

17. The SFC found that Ku had failed to act in the best interests of Client H, and failed to ensure that the Fund he recommended to Client H was suitable to her in view of her personal circumstances, in breach of General Principle 2 (diligence) and paragraphs 3.4 (advice to clients: due skill, care and diligence) and 5.2 (know your client: reasonable advice) of the Code of Conduct.

Conclusion

18. Having considered all the circumstances, the SFC is of the view that Ku is not fit and proper to be a licensed person for the purpose of section 194 of the SFO.
19. In deciding the penalty, the SFC took into account all relevant circumstances, including that this was a one-off incident.