

Broker acquitted of illegal short selling

25 Jul 2018

The Eastern Magistrates' Court today found Mr Wong Hung not guilty of illegal short selling (Notes 1 & 2).

The Securities and Futures Commission (SFC) alleged that, on 20 occasions between 6 and 20 January 2012, Wong sold shares of five stocks through his securities account at Hung Sing Securities Limited, his employer at the material time, when the total of the shares he sold was more than the shares he held (Note 3).

In deciding to acquit Wong, Magistrate Mr Li Chi-ho found that as Wong placed a large number of orders each day and that he did not gain any profit from selling the five stocks, he could not exclude the possibility that Wong was just careless and that he did not realise he was not holding sufficient interests in the five stocks when placing the sell orders.

The SFC is considering the Magistrate's decision.

End

Notes:

1. Wong was acquitted in 2014 at the Eastern Magistrates' Court for the same offences but the case was remitted back for a re-trial as a result of a successful appeal by the SFC in the Court of First Instance. Please see the SFC's press releases dated [4 June 2014](#) and [27 December 2017](#).
2. Wong is currently licensed under the Securities and Futures Ordinance (SFO) to carry on Type 1 (dealing in securities) regulated activity and is accredited to KGI Asia Limited.
3. Section 170(1) of the SFO prohibits the sale of securities when the person does not have a presently exercisable and unconditional right to sell them.

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經紀非法賣空罪名不成立

2018年7月25日

東區裁判法院今天裁定，黃鴻（男）非法賣空罪名不成立（註1及2）。

證券及期貨事務監察委員會（證監會）指，黃在2012年1月6日至20日期間，曾20次透過他在鴻昇證券有限公司（即其於關鍵時間的僱主）持有的證券帳戶沽出五隻股票，但沽出的股份總數多於他持有的股份數目（註3）。

李志豪裁判官在裁定黃罪名不成立時，認為由於黃每天都發出大量買賣盤，而他並無因出售該五隻股票而獲得任何利潤，故不能排除黃在發出賣盤時可能只是大意及沒意識到他當時並無持有該五隻股票的足夠權益。

證監會正考慮裁判官的決定。

完

備註：

1. 黃曾於2014年就相同控罪在東區裁判法院被裁定罪名不成立，但此案其後因證監會在原訟法庭上訴得直而發還予重審。請參閱證監會2014年6月4日及2017年12月27日的新聞稿。
2. 黃現時根據《證券及期貨條例》獲發牌進行第1類（證券交易）受規管活動，並隸屬凱基證券亞洲有限公司。
3. 《證券及期貨條例》第170(1)條禁止任何人在沒有一項即時可行使而不附有條件的權利以將有關證券售賣的情況下，售賣該等證券。

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