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## Court finds two solicitors engaged in insider dealing and fraud or deception

15 Jan 2016

The Court of First Instance today found that two solicitors, Mr Eric Lee Kwok Wa and Ms Betty Young Bik Fung, and Eric Lee's sister, Ms Patsy Lee Siu Ying, contravened the Securities and Futures Ordinance (SFO) by insider dealing in the shares of Asia Satellite Telecommunications Holdings Ltd (Asia Satellite) and engaged in fraud or deception in transactions involving securities of Hsinchu International Bank Company Ltd (Hsinchu Bank) (Note 1).

The court's decision is a landmark ruling on the interpretation of section 300 of the SFO which prohibits the use of fraudulent or deceptive schemes in transactions involving securities.

The Securities and Futures Commission (SFC) started civil proceedings in the court against Eric Lee, Betty Young, Patsy Lee and Ms Stella Lee, both sisters of Eric Lee, in December 2010 under section 213 of the SFO and alleged the defendants made a total profit of \$2.9 million in these transactions.

The SFC alleged that, in relation to Hsinchu Bank transactions in September 2006:

- Betty Young obtained information about a tender offer for Hsinchu Bank shares while working as a lawyer seconded to a client of her employing law firm;
- the client she was seconded to intended to make the tender offer and she was working on the offer (Note 2);
- the information about the offer was non-public, confidential and materially price sensitive;
- subsequently, Betty Young bought Hsinchu Bank shares and tipped off Eric Lee and his sisters to buy the shares before the announcement of the tender offer; and
- this amounted to fraud or deception under section 300 of the SFO because Betty Young owed duties to her employer and their client including the duty to refrain from using such information for personal gain.

The SFC further alleged that, in relation to Asia Satellite transactions in February 2007:

- Eric Lee obtained information about the proposed privatization of Asia Satellite shares when the law firm he worked for advised on this transaction;
- that information was non-public, confidential and materially price sensitive;
- subsequently Eric Lee tipped off Betty Young and his sisters to buy Asia Satellite shares before the announcement of the proposed privatization (Note 3); and
- this amounted to insider dealing under section 291 of the SFO.

The court found that these allegations were proven against Betty Young, Eric Lee and Patsy Lee.

The court ruled that there was not enough evidence to prove the allegations against Stella Lee. Nevertheless, the court may exercise its power under section 213 of the SFO against her to remove the illicit profit from her and restore the victims in the transactions. The court may make orders under section 213 against people who are knowingly or otherwise involved in a contravention of the SFO.

The SFC and the defendants are directed to jointly work out the precise terms of the final orders in view of the judgment.

The court also directed that a copy of the judgement be sent to the Law Society of Hong Kong because Eric Lee and Betty Young are both member of the Law Society (Note 4).

End

Notes:

1. Hsinchu Bank was a listed company on the Stock Exchange of Taiwan in September 2006 and Asia Satellite was a listed company on the Stock Exchange of Hong Kong in February 2007.
2. On 29 September 2006, Standard Chartered Bank announced the tender offer for Hsinchu Bank shares at NT\$24.50 per share which was around a 40% premium over the last closing price for Hsinchu Bank shares.

3. On 14 February 2007, the proposed privatization of Asia Satellite shares was announced and the offer price was \$18.30, which was around a 30% premium over the last closing price for Asia Satellite shares.
4. Betty Young and Eric Lee were employed, at the relevant time, as solicitors by Slaughter & May and Linklaters respectively. They are no longer employed by these firms.
5. Please also see the SFC's press releases dated [28 October 2013](#) and [22 December 2010](#).

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## 法庭裁定兩名事務律師進行內幕交易及從事欺詐或欺騙活動

2016年1月15日

原訟法庭今天裁定，兩名事務律師李國華（男）及楊碧鳳（女）以及李國華的姊姊李少英（女）曾進行亞洲衛星控股有限公司（亞洲衛星）股份的內幕交易，以及在進行涉及新竹國際商業銀行股份有限公司（新竹銀行）股份的交易時使用欺詐或欺騙手段，違反《證券及期貨條例》（註1）。

法庭的裁決對於《證券及期貨條例》第300條（該條文禁止在證券交易中使用欺詐或欺騙手段）的詮釋，具有重大意義。

證券及期貨事務監察委員會（證監會）於2010年12月根據《證券及期貨條例》第213條對李國華、楊碧鳳，以及李國華的兩名姊姊李少英及李少芬展開民事法律程序，指被告從該等交易中合共獲利290萬元。

證監會指，在於2006年9月進行的新竹銀行交易方面：

- 楊碧鳳在被借調至其任職的律師事務所的客戶擔任律師期間，取得有關收購新竹銀行股份的資料；
- 當時她被借調前往工作的客戶有意提出收購，而她正就該項收購進行相關工作（註2）；
- 該資料屬非公開、機密及關鍵的股價敏感資料；
- 楊碧鳳其後在有關收購建議公布前，買入股份並向李國華及他兩位姊姊洩露消息，促使他們買入新竹銀行的股份；及
- 此行為根據《證券及期貨條例》第300條構成欺詐或欺騙，原因是楊碧鳳對其僱主及其僱主的客戶負有責任，包括有責任避免使用該等資料謀取私利。

證監會亦指，在於2007年2月進行的亞洲衛星交易方面：

- 李國華任職的律師事務所就建議亞洲衛星股份的私有化計劃提供法律意見，他因而取得此項交易的資料；
- 該資料屬尚未公開、機密及關鍵的股價敏感資料；
- 李國華其後在建議的私有化計劃公布前，向楊碧鳳及他兩位姊姊洩露消息，促使她們買入亞洲衛星的股份（註3）；及
- 此行為根據《證券及期貨條例》第291條構成內幕交易。

法庭裁定，這些針對楊碧鳳、李國華及李少英的指控屬實。

法庭裁定沒有足夠證據證明針對李少芬的指控。然而，法庭可根據《證券及期貨條例》第213條對李少芬行使其權力，令她退還非法獲取的利潤，並使受害人回復到交易發生前的狀況。法庭可根據第213條對有關人士作出命令，而不論該人是否明知而違反《證券及期貨條例》。

法庭指示證監會與被告根據其判決共同協定最終命令的確切條款。

由於李國華及楊碧鳳均為香港律師會的會員，故此法庭指示亦須向該會送交一份判決書的副本（註4）。

完

備註：

1. 於2006年9月，新竹銀行為一間在台灣證券交易所上市的公司；於2007年2月，亞洲衛星為一間在香港聯交所上市的公司。
2. 2006年9月29日，渣打銀行公布以每股新台幣24.5元對新竹銀行股份提出收購建議，較新竹銀行股份當時最後收市價高出約40%。
3. 2007年2月14日，亞洲衛星股份私有化的建議正式公布，收購價為18.3元，較亞洲衛星股份當時最後收市價高出約30%。
4. 在有關時間，楊碧鳳及李國華分別獲司力達律師事務所及年利達律師事務所聘為事務律師。他們已不再受聘於該兩間律師事務所。
5. 請參閱證監會2013年10月28日及2010年12月22日的新聞稿。

最後更新日期：2016年1月15日