
STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has prohibited Mr Ho Pak Hay (**Ho**)¹ from re-entering the industry for life pursuant to section 194 of the SFO.
2. The SFC's investigation found that Ho had:
 - (a) misappropriated and misused the total amount of HK\$1.8 million (**Investment Amounts**) received from three clients of KGI, namely, Client A, Client B and Client C (together, **Clients**) between February 2018 and July 2019 for personal purposes and never invested the Investment Amounts as agreed with the Clients; and
 - (b) issued eight dishonoured cheques to Client A between around August 2018 and April 2019 as purported repayment of investment money that Ho owed to her.
3. Ho's conduct casts serious doubts on his integrity and reliability, and his ability to carry on regulated activities honestly.

Summary of Facts

4. At the material time, Ho was employed by KGI and KGI Futures as an investment representative, and was the account executive for the trading accounts held by the Clients.
5. Between February and July 2018, Ho entered into four private agreements² with the Clients (**Agreements**), where he agreed with each Client that:
 - (a) the Client would pay Ho a fixed amount and entrust him to invest on the Client's behalf;
 - (b) the investment period was for one year and the Client would receive interests on a monthly basis;
 - (c) Ho would invest the amount received from the Client at his sole discretion; and
 - (d) Ho would make up for the difference if the funds in the Client's account were less than the investment amount that the Client had paid to Ho.
6. Pursuant to the Agreements:
 - (a) Client A paid Ho a total of HK\$1.4 million for investment; and

¹ Ho was licensed under the Securities and Futures Ordinance (**SFO**) to carry on Type 1 (dealing in securities) and Type 2 (dealing in futures contracts) regulated activities, and was accredited to KGI Asia Limited (**KGI**) and KGI Futures (Hong Kong) Limited (**KGI Futures**) respectively between 10 October 2017 and 12 July 2019. Ho is currently not licensed by the SFC.

² Ho entered into two Agreements with Client A.

- (b) each of Client B and Client C paid Ho HK\$200,000 for investment.
7. Notwithstanding that Ho had agreed with each Client that he would return their respective investment amount at the end of the one-year investment period, Ho had only paid a part of the agreed monthly interests to each Client and never returned any of the Investment Amounts to the Clients as agreed. The evidence suggests that Ho had spent a portion of the Investment Amounts on horse and football gambling and never invested any of the HK\$1.8 million on behalf of the Clients.
 8. The SFC's investigation also found that Ho had issued eight cheques drawn in Client A's favour between around August 2018 and April 2019. Nevertheless, all eight cheques were dishonoured because there were either insufficient funds in Ho's bank account at the material time, or the cheques were dated on or after Ho's bank account was closed. The SFC considers that Ho's failure to honour his promise to pay the dishonoured cheques reflected negatively on his honesty and reliability.

Conclusion

9. Section 129 of the SFO provides that, in considering whether a person is fit and proper, the SFC shall, in addition to any other matter that the SFC may consider relevant, take into account the person's integrity and reliability, and his/her ability to carry on regulated activities honestly.
10. In the circumstances, the SFC is of the view that Ho is not a fit and proper person to be licensed as his conduct casts serious doubts on his integrity and reliability, and his ability to carry on regulated activities honestly.
11. Having considered all the circumstances, the SFC has decided that a prohibition for life is appropriate and commensurate with the SFC's view on the gravity of Ho's conduct. In determining the sanction, the SFC took into account all relevant circumstances, including Ho's otherwise clean disciplinary record.