
STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Securities and Futures Commission (**SFC**) has prohibited Mr Li Tak Wa (**Li**) from re-entering the industry for 15 months pursuant to section 194(1)(iv) of the Securities and Futures Ordinance.
2. The disciplinary action is taken in relation to Li's failures in handling the accounts of a client (**Client**) at Kaiser Securities Limited (**Kaiser Securities**) and Kaiser Futures Limited (**Kaiser Futures**) (collectively **Kaiser**) between December 2009 and March 2012. The SFC's investigation found that Li:
 - (a) knowingly recorded incorrect information about the Client in the Client account opening forms;
 - (b) effected transactions in the Client's accounts on a discretionary basis without obtaining written authorization from the Client; and
 - (c) conducted more than two day trades¹ and opened short options positions in the Client's futures account without obtaining the Client's prior written approval specifically authorizing such trades.
3. Li's conduct was in breach of General Principle 2, paragraphs 5.1(a) and 7.1 and paragraph 4 of Schedule 4 of the Code of Conduct.

Summary of Facts

4. The SFC's investigation into Li's conduct stemmed from a complaint by the Client that Li had, among others, conducted unauthorized trading in her accounts at Kaiser and she suffered losses as a result.
5. The Client was introduced to Li through a mutual friend and opened her accounts at Kaiser on 21 December 2009. Li was her account executive and he handled her account opening process.
6. Li knew that the Client owned and operated a toy manufacturing factory and was not married. He however allowed the Client's account opening forms to state that she was a housewife even though he knew that such information was incorrect.
7. After the Client opened her accounts at Kaiser, she verbally authorized Li to trade in her accounts on a discretionary basis. Li admitted that during the period from January 2010 and March 2012, he conducted trades in the Client's accounts on a discretionary basis without obtaining written authorization from the Client.

¹ For the purpose of paragraph 4 of Schedule 4 of the Code of Conduct for Persons Licensed by or Registered with the SFC (Code of Conduct), a "day trade" is a transaction whereby a licensed person executes in the same day an order to buy and an order to sell futures or options contracts on the same market in the same futures contract month, option series or currency contract type for the same client.

8. The operation of discretionary accounts was not allowed at Kaiser Securities, and was discouraged at Kaiser Futures. According to a responsible officer of Kaiser Futures, special procedures had to be followed and approval had to be obtained before a discretionary account could be opened. Kaiser Futures had never received any formal request to open a discretionary account and did not know the Client authorized Li to operate her account on a discretionary basis.
9. The SFC also found that, Li:
 - (a) conducted more than two day trades in the Client's futures account between January 2012 and March 2012; and
 - (b) opened around 52 short options positions in the Client's account between December 2011 and March 2012 (some of these positions were left opened for 1 to 10 days before they were settled),without obtaining the Client's prior written approval specifically authorising such trades.
10. Li said that he had not read the Code of Conduct, and did not know the Code of Conduct requires licensed persons to establish the true and full identity of his clients and are prohibited from carrying out more than two day trades in futures or opening short options position in a discretionary account without the client's specific written approval.

Conclusion

11. As a licensed person, Li was required under:
 - (a) General Principle 2 of the Code of Conduct to act with due skill, care and diligence, in the best interests of his clients and the integrity of the market, in conducting his business activities;
 - (b) paragraph 5.1(a) of the Code of Conduct to take all reasonable steps to establish the true and full identity of each of his clients; and
 - (c) paragraph 7.1 of the Code of Conduct to obtain written authorization and seek senior management's approval before operating a discretionary account for a client.
12. Further, paragraph 4 of Schedule 4 of the Code of Conduct provides that a licensed person should not accept, carry or initiate on behalf of a discretionary account more than two day trades in the futures market or open short options positions in a discretionary account, unless it has obtained from the client prior written approval specifically authorising such transactions.
13. The evidence shows that Li breached:
 - (a) paragraph 5.1(a) of the Code of Conduct as he failed to set out the true and full identity of the Client by knowingly recorded incorrect information about the Client in the Client's account opening forms;
 - (b) paragraph 7.1 of the Code of Conduct by failing to obtain written authorization from the Client and seek senior management's approval before he operated the Client's accounts on a discretionary basis; and

- (c) paragraph 4 of Schedule 4 of the Code of Conduct as he conducted more than two day trades and opened short options positions in the Client's account without having obtained her prior written approval specifically authorizing such trades.
14. As the management of Kaiser was not aware of the Client's authorization for Li to manage her accounts, the Client's accounts were not designated as discretionary accounts by the firm and senior management's approval to operate them as such had never been obtained. Accordingly, the operation of the Client's accounts was not properly monitored and supervised by the firm, and it was not able to detect the fact that Li had conducted more than two day trades and opened short options positions in her futures account without her specific written authorization. The Client's interests were prejudiced and not properly protected as a result.
 15. Li's conduct in the handling of the Client's accounts, his admission that he did not read the Code of Conduct and his apparent lack of knowledge of regulatory requirements applicable to his day-to-day duties as a licensed person further show that he failed to act with due skill and care and in the best interests of the Client, in breach of General Principle 2 of the Code of Conduct.
 16. Having considered all the circumstances, the SFC is of the view that Li is not fit and proper to be licensed and has decided to take the disciplinary action against Li as described in paragraph 1 above.
 17. In deciding the appropriate sanction, the SFC has taken into account all relevant circumstances, including that:
 - (a) Li has more than 20 years of experience in the industry at the time of the misconduct;
 - (b) a strong deterrent message is necessary to deter other licensed representatives from committing similar conduct; and
 - (c) Li has no previous disciplinary record.