



MARKET MISCONDUCT TRIBUNAL

IN THE MATTER OF THE LISTED SECURITIES OF
MEADVILLE HOLDINGS LIMITED

Ruling

The application

1. By a letter to the Tribunal copied to the Specified Persons, dated 6 November 2020,¹ Ms Simone Hui, an Assistant Presenting Officer invited the Chairman to grant leave to file a witness statement of Ms Wong Mei Mei, dated 9 October 2020.² In short, the statement addressed four telephone conversations Ms Wong had with Ms Li, the 2nd Specified Person, on 9, 12 and 19 April 2010 in advance of a record of interview conducted of Ms Li by Ms Wong on 20 April 2010.³ Ms Wong had made telephone attendance notes of those conversations, which were attached to her witness statement. Attached to the SFC's letter to the Tribunal was a copy of a letter written by the Assistant Presenting Officer to the parties, dated 9 October 2020, attaching Ms Wong's statement, and indicating an intention to file the witness statement with the Tribunal that day, together with the replies of their respective solicitors on the same date.

2. During the record of interview, reference was made by Ms Wong to a telephone conversation she asserted that she had with Ms Li prior to the record of interview in which Ms Li gave an answer as to whom monies, used by Ms Li to buy Meadville shares in October 2009, belonged. The note in respect of a telephone conversation at 11:00 hours on 12 April 2010 was relevant to the assertion made by Ms Wong in the record of interview, in particular in that it was at variance with Ms Wong's assertion. It recorded Ms Li as having said that the "monies belonged to her and her boyfriend who had no knowledge of her purchase of Meadville shares." In her witness statement, Ms Wong explained that she did not have the telephone attendance notes available to her at the record of interview.

3. The issue was not raised in the oral evidence of Ms Wong, but it was raised by the Chairman at the conclusion of cross-examination of Ms Li by the Presenting Officer, MrDuncan S.C.. Having been reminded that in the record of interview she had said to Ms Wong

¹ Tribunal Exhibit 1.

² Tribunal Exhibit 2.

³ HB-6, pages 2599-2746.

that the money used to purchase more than 2 million Meadville shares in her name was her money, Ms Li's attention was drawn to the subsequent assertion made by Ms Wong in the interview, namely "during my earlier... phone conversation with you, you revealed to me that this sum of money belonged to your boyfriend, right?" Given that Ms Li's answer to Ms Wong's request of Ms Li that she confirm that is what she had said in the telephone conversation was non-responsive, the Chairman asked Ms Wong if she had given the alleged reply to Ms Wong in the telephone conversation. Again, her answer was non-responsive.

4. The context in which the application was made, was that oral evidence at the hearing had concluded on the evening of 4 November 2020 and the hearing had been adjourned pending the provision of written submissions to the Tribunal by the Presenting Officer on 9 November 2020 and the Specified Persons on 12 November 2020.

5. By letter, dated 6 November 2020, the 1st Specified Person's solicitors informed the Tribunal that they "strongly object" to the application by the SFC for leave to file Ms Wong's statement dated 9 October 2020. They indicated that they did so by adopting the objections that had been set out in their letter to the SFC, dated 9 October 2020, in response to the latter's statement in a letter to the parties of that date informing them that they intended filing the witness statement with the Tribunal that day. The primary basis of the objection was that both Ms Wong and Ms Li had concluded their oral testimony. In a letter to the SFC, dated 9 October 2020, the solicitors representing the 2nd Specified Person echoed those objections. However, they have not communicated with the Tribunal in response to the SFC's letter of 6 November 2020.

6. In addition, in their letter to the Tribunal, dated 6 November 2020, the 1st Specified Person's solicitors asserted that receipt of the proposed evidence by the Tribunal would clearly prejudice the 1st and 2nd Specified Persons, if that was done "without recalling the relevant witnesses to address the context of this additional material and to respond to issues that may arise from them." Further, they informed the Tribunal that this controversy between the parties was the "point of law" of which the Tribunal was advised during the hearing on Monday, 12 October 2020, in respect of which Mr Duncan had asked the Chairman to resolve before the close of the hearing that day.⁴ However, at the close of the hearing that day the Tribunal was informed by Mr Duncan that the matter "can be dealt with at a later stage."⁵ The Tribunal was

⁴ Transcript, Day 6, page 83.

⁵ Transcript, Day 6, page 144.

not asked to deal with the matter subsequently. Of those circumstances, the 1st Specified Person’s solicitors assert that they had assumed that the SFC “has dropped this matter”. They complained that, if the matter had been raised earlier, it could have been dealt with at an oral hearing.

7. Although the Presenting Officer was afforded an invitation by the Tribunal to respond to the letter of the solicitors of the 1st Specified Person, dated 6 November 2020, the Tribunal was informed that day that he had no submission to make. It follows that the Tribunal has no explanation at all as to why it was that this application was made to the Tribunal almost a month to the day after the issue arose on 7 October 2020. More particularly, the issue having been addressed in Ms Wong’s statement, dated 9 October 2020, the Tribunal has no explanation why the matter was not raised with the Tribunal that day, as apparently was envisaged, or subsequently at any of the oral hearings held up and until 4 November 2020.

Conclusion

8. Although the application was directed at the Chairman, given its nature, the application has been considered and resolved by the Tribunal as a whole.

9. Clearly, this is an application that ought to have been made during the oral hearing. That would have afforded the Specified Persons the opportunity to apply to the Tribunal, if they wished to do so, to recall witnesses, in particular Ms Wong and Ms Li. Although, on its face, Ms Li is likely to be more interested in and affected by the proposed evidence of Ms Wong, the assertions to the Tribunal of clear prejudice were made by the 1st Specified Person’s solicitors, not by Ms Li’s solicitors.

10. The Tribunal is mindful of the fact that no explanation at all has been offered by the Presenting Officer as to why the application has been made at this late stage. In all the circumstances, the Tribunal declines to receive the proposed evidence.

Dated: 11 November 2020.



A handwritten signature in black ink, appearing to read 'Michael Lunn'.

Michael Lunn
(Chairman)