Application No. 8 of 2025

**IN THE SECURITIES AND FUTURES APPEALS TRIBUNAL**

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IN THE MATTER OF Decisions made by the Securities and Futures Commission under sections 204, 205 and 208 of the Securities and Futures Ordinance, Cap. 571

AND IN THE MATTER OF section 217 of the Securities and Futures Ordinance, Cap. 571

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BETWEEN

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| ZHENG YONGHUI | 1st Applicant |
| OASIS TYCOON INVESTMENTS LIMITED | 2nd Applicant |
| and | |
| SECURITIES AND FUTURES COMMISSION | Respondent |

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Tribunal: Mr. Michael Lunn, GBS, Chairman
Date of Submissions: 11, 23 February and 11 March 2026
Date of Ruling: 26 June 2026

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**DECISION ON COSTS**

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*Background*

1. By a Notice of Application for Review, dated 24 September 2025, pursuant to section 217 of the Securities and Futures Ordinance, Cap 571 ("the Ordinance"), the 1st and 2nd Applicants applied to the Tribunal to review the decision of the Respondent, dated 3 September 2025, refusing to withdraw prohibitions and requirements imposed on the 1st and 2nd Applicants, pursuant to sections 204 and 205 of the Ordinance ("the "Restriction Notice").

2. By a Notice of Withdrawal, dated 26 January 2026, the 1st and 2nd Applicants withdrew that application. By an Order, dated 28 January 2026, the Tribunal ordered that the applications of the 1st and 2nd Applicants were withdrawn and that the issue of costs was to be determined by the Tribunal on paper. In compliance with the Directions given by the Tribunal, the parties filed written submissions in respect of the issue of costs.

*The 1st and 2nd Applicants' submissions*

3. In the submissions filed on behalf of the 1st and 2nd Applicants, dated 11 February 2026, Mr. Ryan Law invited the Tribunal to make no order as to costs. In doing so, he acknowledged that the principles relevant to the award of costs on the discontinuance of an action were those articulated by the Court of Appeal of England and Wales in *Brookes v HSBC plc*[1], cited with approval in the Court of First Instance in *Re China Solar Energy Holdings Ltd*[2]*;* and by this Tribunal in *Adamas Asset Management (HK) Ltd v SFC*[3] *and Lai Kwok Kwong v SFC*[4]. In particular, he accepted that there was a presumption that, "…the defendant should recover his costs; the burden is on the claimant

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1 *Brookes v HSBC plc* [2011] EWCA Civ 354.

2 R*e China Solar Energy Holdings Ltd HCCW 108/2015 [Le Pichon, Deputy High Court Judge] 1 March 2016.*

3 *Adamas Asset Management (HK) Ltd v SFC* [Application No. 2 of 2019, at paragraph 10; Chairman-Michael Lunn, 20 December 2019].

4 *Lai Kwok Kwong v SFC* [Application No. 5 of 2022, at paragraphs 24-25; Chairman-Michael Hartmann, 13 March 2023].

to show a good reason for departing from that position." Further, that, to succeed in displacing the presumption, a claimant, "will usually need to show a change of circumstances to which he has not himself contributed" and that, "no change in circumstances is likely to suffice unless it has been brought about by some form of unreasonable conduct on the part of the defendant which in all the circumstances provides a good reason for departing from the rule."

*The issue*

4. In that context, the Applicants submitted that such conduct was evidenced by the Respondent's wholly unreasonable conduct, "in repeatedly refusing to disclose to the Applicants the particulars and supporting evidence of the RN, until after the commencement of these proceedings..."[5] As a result, the Tribunal was justified in departing from the general rule. Mr. Ryan Law contended that, "…one would expect the issuance of a RN to be accompanied by detailed and precise statement of reason setting out the grounds, particulars and evidence in support".[6] In its Statement of Reasons, dated 3 September 2025, the Respondent, "…once again failed to identify the particulars or evidence about the alleged "linkage" or the alleged "aggressive purchases".[7]

*Procedural Background*

*(i) Restriction Notice: 20 November 2024*

5. By a Notice to the 1st and 2nd Applicants, dated 20 November 2024, pursuant to sections 204 and 205 of the Ordinance, the Commission informed the Applicants that, "it appears to the… Commission, for the reasons set out in the Statement of Reasons" that the Commission should exercise its powers under those sections. Further, that without the Commission's prior written consent, various prohibitions and requirement of notification were imposed

[5] Submissions for the Applicants on Costs at paragraph 6.
[6] *Ibid*, at paragraph 13.
[7] *Ibid*, at paragraph 21 e. iv.

upon them, including that they were prohibited from disposing of or dealing with assets in two stipulated client accounts of SBI China Capital Financial Services Limited (**"Specified Corporation"**) to a total of amounts of $9,237,800 and $2,877,600 respectively.

*Statement of Reasons: 20 November 2024*

6. The Statement of Reasons, dated 20 November 2024, asserted that, "It appears to the… Commission that the imposition of the prohibitions and requirements set out in the Notice… is desirable in the interests of the investing public or in the public interest."[8] Of the basis on which that determination had been made, it was asserted that it was on reports on 25 October 2024 and 6 November 2024 from two separate brokerage firms of unauthorised access into client accounts which had resulted in unauthorised purchases on 24 October 2024 and 6 November 2024 of stock in two separate companies, Company A and Company B, listed on the Stock Exchange of Hong Kong ("the SEHK"). Of those circumstances, it was asserted:[9]

> "(c) The Commission suspects that these client accounts might have been hacked by market manipulators and the share prices of Company A and Company B experienced substantial movements due to the aggressive purchases from the hacked accounts.
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> (d) Whilst the investigation is still ongoing, evidence obtained by the Commission to date suggests that certain traders (**Traders**) might have been involved with the suspected hackers and manipulative trading and/or participated in the deceptive scheme in respect of the dealings in shares of Company A and Company B on and around 24 October 2024 and 6 November 2024 respectively, by inflating the share prices to an artificially high level to enable the subsequent disposals of these shares by the Traders at significant profit.
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> (e) The accounts which are the subject of the Notices of this date issued by the Commission under sections 204 and 205 of the SFO *are securities accounts belonging to the Traders which contain the sale proceeds of the suspected manipulative activities.*"

[8] Statement of Reasons, 20 November 2024, at paragraph 2.
[9] *Ibid*, at paragraph 3.

[Italics added.]

7. Having asserted that the Commission, "has reasons to suspect" that, "false trading, price rigging and/or stock market manipulation", contrary to sections 274, 275 and 276 of the Ordinance might have taken place, "and/or persons might have committed offences under section 295, 296, 299 and/or 300" of the Ordinance, the Commission adverted to the steps that might be taken by the Commission to apply to the Court, including to restore the parties to the transaction to the position in which they were before the transaction was entered into. Section 303(1) provides that persons who commit offences, including in respect of section 295, 296, 299 and 300 are liable, on conviction on indictment, to a "fine of $10,000,000 and to imprisonment for 10 years".

8. Of the reasons for the Commission's determination to impose prohibitions and requirements on the Applicants, the Commission asserted:[10]

> "(h) The Commission believes that it is necessary to prevent the Traders and/or person (s) connected with the Traders from operating and dealing with the accounts specified in the Notices and to preserve the cash and securities in the accounts pending further investigation.
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> (i) As there is a potential risk of dissipation, the Commission considers that it is desirable in the interest of the investing public or in the public interest to impose on the Specified Corporation the prohibitions and requirements as set out in the Notices issued by the Commission on this date."

*Application for withdrawal of the Restriction Notice: 9 April 2025*

9. By a letter, dated 9 April 2025, pursuant to section 208 of the Ordinance, the Applicants applied to the Commission to withdraw the prohibition and requirements in the Restriction Notices. [11] Having acknowledged the statements made by the Commission in the Statement of

[10] Statement of Reasons, 20 November 2024, at paragraph 3.
[11] Application to withdraw, s.208, 9 April 2025, at paragraph 3.

Reasons, dated 20 November 2024, it was accepted on behalf of the Applicants that on 24 October 2024 the 1st and 2nd Applicants had sold a total of 41,990,000 and 14,390,000 shares respectively in China Kingston Mining Holdings Ltd, of which it was asserted that, "we understand Company A to be China Kingston Mining Holding Ltd."[12] On that basis, it was asserted:

> "7. Given the Statement of Reasons, in order for the Commission's allegation to stand, *it is essential to have evidential proof of the followings*:
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> a. Mr. Zheng and OTIL might be the Traders;
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> b. Mr. Zheng and OTIL might have been involved with the suspected hackers; and
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> c. Mr. Zheng and OTIL might have participated in the Deceptive Scheme.
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> 8. It is our submission on behalf of Mr. Zheng and OTIL that none of the above allegations could be upheld. In fact, there are ample direct and circumstantial evidence disproving the same."
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> [Italics added.]

10. Having referred to evidence, said to have been obtained by the Applicants, namely the full trading record of Company A on 24 October 2024,[13] it was asserted that, "the Commission has no evidential basis to suggest that Mr. Zheng or OTIL have contravened false trading, price rigging and/or stock market manipulation… or have committed offences" under the Ordinance.[14] In the result, it was submitted that, "the Commission has no basis, either on the ground of interest of the investing public or in the public interest or otherwise, to impose the Restriction Notices against our clients" and the Commission was invited to withdraw the prohibition and requirements in the Notices.

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[12] *Ibid*, at paragraphs 5 and 6.
[13] Application to withdraw, s.208, 9 April 2025, at paragraph 9 a.
[14] *Ibid*, at paragraph 12.

*(ii) Notice - section 209(3): 3 September 2025*

11. In a Notice to the Applicants, dated 3 September 2025, the Commission advised that, having considered the Applicants' application, dated 9 April 2025, "the Commission decided to refuse it. The reasons for the refusal are set out in the attached Statement of Reasons."

*Statement of Reasons: 3 September 2025*

12. In the Statement of Reasons, dated 3 September 2025, the Commission noted that the Applicants confirmed that the accounts are the subject of the restrictions, "… contain proceeds from the sale of stock under investigation on 24 October 2024"[15], but that explanations were advanced, "…in support of the assertion that the proceeds and the Accounts were gains from ordinary and proper trading activities, rather than proceeds from any manipulative activities."[16]

13. Of their reasons for refusal, the Commission said:[17]

> "8. The Commission's investigation is ongoing. The Commission has identified links between Zheng, Oasis, and other Traders suspected of involvement in the Scheme. Further, the Commission found that Zheng and Oasis offloaded a substantial amount of Kingstone shares to other Traders in a coordinated manner on 24 October 2024. Their disposals were followed shortly by aggressive purchases from the Hacked Accounts and other Traders. The aggressive purchases drove the share price higher, allowing other Traders to sell at elevated prices. *These findings support the suspicion that Zheng and Oasis were involved and played a part in the Scheme.*
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> 9. *The Applicant's explanations failed to dispel the Commission's suspicion and are inconsistent with the evidence so far gathered by the Commission.* The Commission's response to the Applicant's explanations is as follows:
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> (a) The Commission is not convinced that Zheng and Oasis's sell orders were legitimate trades made in response to market

[15] Statement of Reasons, 3 September 2025, at paragraph 10.
[16] *Ibid*, at paragraph 6.
[17] *Ibid*, at paragraphs 8 and 9.

movements as alleged. There is evidence to suggest that the market movements, in particular those during the morning session, resulted from coordination amongst the Traders. As the Commission has found that Zheng and Oasis might be connected to the Traders, we remain suspicious that Zheng and Oasis were involved in the Scheme and their trading activities were part of the Scheme.

(b) Our suspicion regarding Zheng and Oasis is not that their trading activities inflated the share price of Kingstone shares. As such, the response that Zheng and Oasis's disposals of Kingstone shares might have produced limited price impact is irrelevant.

(c) Our suspicion regarding Zheng and Oasis is that their involvement was to facilitate the Scheme by offloading a substantial amount of shares to the Traders. Their disposals of Kingstone shares not being at the peak price point and the fact that they were not counterparties to the Hacked Accounts are irrelevant."

[Italics added.]

14. In their submissions to the Tribunal on the issue of costs, the 1st and 2nd Applicants contended that, in the Notice, dated 3 September 2025:[18]

> "Not only did the Respondent set out a different case, the Respondent once again *failed to identify the particulars or evidence* about the alleged "linkage" or the alleged "aggressive purchases". [Italics added.]

15. In the result, it was contended that, "the Applicants were compelled to commence the current application on 24 September 2025."[19]

*The Law*

16. The Applicants submitted that a Restriction Notice is highly intrusive to the individual's property rights.[20] Although the Commission had the power to determine that in its view it was desirable in the public interest to impose the prohibition or restrictions, it was nevertheless required that, "the SFC's view must be based on appropriate evidence permitting a rational

[18] Submissions for the Applicants on Costs at paragraph 21 e. iv.
[19] Submissions for the Applicants on Costs at paragraph 21 f.
[20] *Tam Sze Leung v Secretary for Justice* [2022] 5 HKLRD 44 at paragraph 81.

conclusion, and there has to be some proper objective basis" for forming the subjective view.[21]

17. Further, in imposing a prohibition or making requirements the Commission had to perform a balancing exercise, as described by Coleman J. in *Tam Sze Leung v Secretary for Justice*[22]. The Tribunal was invited to note that in its judgment in *Chen Wencan v Secretary for Justice*, the Court of Appeal had said that in forming its view:[23]

> "…the SFC must, it seems to us, be able to point to some proper objective basis to support its view that it is desirable an interest of the investing public or in the public interest to exercise the powers under ss. 204 and 205."

18. The Applicants contended that those requirements were consistent with the common law principles, "…including the right to a fair hearing and a reasonable opportunity to be heard."[24] In support of that submission the Applicants pointed to the proceedings in *X v Securities and Futures Commission*[25], in which the Commission had given Notice of Proposed Disciplinary action to X and provided a list of relevant documents. Reyes J refused an application for disclosure of additional documents, but in doing so acknowledged the validity of *dicta* of Lord Denning in the Advice of the Privy Council in *Kanda v Government of the Federation of Malaya* that the right to be heard in proceedings, "must carry with it a right in the accused man to know the case which is made against him."[26]

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[21] Submissions for the Applicants on Costs at paragraph 9: *Tam Sze Leung v Secretary for Justice* at paragraph 81.
[22] *Tam Sze Leung v Secretary for Justice* at paragraph 103.
[23] *Chen Wencan v Secretary for Justice* [2025] 3 HKLRD 654 at paragraph 84(4).
[24] Submissions for the Applicants on Costs at paragraph 15.
[25] *X v Securities and Futures Commission* [2012] 4 HKLRD 296 at paragraphs 29-31.
[26] *Kanda v Government of the Federation of Malaya* [1962] AC 322 at page 337.

*Compelled to file the application of notice of review*

19. Of the assertion, that the Applicants had been compelled to file the Notice of Application for Review on 24 September 2025, the Applicants submitted that, in imposing the prohibitions and restrictions on the Applicants on 20 November 2024, together with the Statement of Reasons, the Commission, "failed to explain whether and how a balancing exercise was considered" and, "disclosing no underlying evidence, the Applicants were not afforded any meaningful right to be heard."[27] Further, The Commission's Notice, pursuant to section 208, together with the Statement of Reasons, dated 3 September 2025, not only disclosed a different case but also provided no "sufficient particulars or evidence".[28]

*Change of circumstances*

20. The Applicants submitted that the "change of circumstances", upon which reliance was placed in displacing the presumption that the Commission should recover its costs, was the provision by the Commission of the witness statement of Mr. Chow Ching In, dated 22 December 2025, in which, for the first time, the Commission provided "specific particulars and evidence said to underpin the Respondent's suspicions and the continued maintenance" of the prohibitions and restrictions.[29] In response to the provision of that information, "…the Applicants sensibly withdrew the application at the earliest reasonable opportunity."[30]

21. Further, in the Applicants' application, pursuant to section 208, dated 9 April 2025 the Applicants had identified, "the lack of evidential basis of the RN" and had requested, "detailed reasons" as required by section 209(2) and (3) of the Ordinance. If the Respondent had, "adhered to the Applicants'

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[27] Submissions for the Applicants on Costs at paragraph 22 a and b.
[28] *Ibid*, at paragraph 22 d.
[29] *Ibid*, at paragraph 23.
[30] *Ibid*, at paragraph 20.

request" in the context of the legal submissions made earlier, "the costs of commencing this application could have been avoided".[31]

*The Respondent's Submissions*

22. In his written Submissions for the Respondent, Mr. Norman Nip SC opposed the Applicants' application and invited the Tribunal to order that the Applicants pay the costs of the proceedings to the Respondent. There was no reason to depart from the usual rule that the party withdrawing an application should bear the costs.

*Background*

23. Relevant to the application was the undisputed fact that the 1st Applicant had been an executive director of China Kingstone Mining Holdings Limited ("China Kingstone") until his resignation on 21 October 2024. He held 56 million shares, or 26%, of China Kingstone's shares. In the period on and between 21 October and 23 October 2024, China Kingstone's shares traded at and between HK $0.127 and HK $0.13 per share. On 24 October 2024, from 12:49 p.m. to 13:54 p.m., the 1st and 2nd Applicants sold 56,380,000 China Kingstone shares at and between HK $0.18 and HK $0.22 per share.

*The Commission's Statement of Reasons*

24. Of the Applicants' complaint that in the Statement of Reasons, dated 20 November 2024, the Commission had failed to disclose, "evidence why the Applicants were implicated" and that the Statement of Reasons provided on 3 September 2025, " lacked evidential basis to suggest that the Applicants had contravened provisions regarding false trading, price rigging, or stock market manipulation" the Respondent submitted that section 209 does

[31] *Ibid*, at paragraphs 24 and 25.

not require the Commission to disclose evidence or, for that matter, particulars. Further, there was no requirement to provide "detailed reasons", as requested by the Applicants in their letter dated 9 April 2025. In any event, it was to be remembered that the Applicants' Notice of Application for a Review was of the Commission's decision on 3 September 2025 only.

*Statement of Reasons: 20 November 2024*

25. The Commission's Statement of Reasons, dated 20 November 2024, clearly described the ongoing nature of the Commission's investigation, "Whilst the investigation is still ongoing, evidence obtained by the Commission to date suggests that certain traders (Traders) might have been involved with the suspected hackers in manipulative trading and/or participated in a deceptive scheme". Nevertheless, the connection of the Applicants to the investigation was stated clearly to be the fact that their accounts, the subject of the Notice, "contain the sale proceeds of the suspected manipulative activities."[32]

*Statement of Reasons: 3 September 2025*

26. The Respondent invited the Tribunal to note that the Commission's Statement of Reasons, dated 3 September 2025, was made in response to the application by the Applicants, dated 9 April 2025, and, "focused on the Applicants (as opposed to the general case against all the suspects in the previous Statement of Reasons)." It was not, as contended by the Applicants, "a significantly different case." The Applicants had not provided particulars as to how it was suggested that the case was significantly different. In the Statement of Reasons, dated 3 September 2025, the Applicants were informed that the explanations provided in the application, dated 9 April 2025, "…are inconsistent with the evidence so far gathered by the Commission." In paragraph 9 of the Statement of Reasons, set out *in extenso* earlier, the

[32] Respondent's Submissions on Costs at paragraph 6.

Commission identified the basis on which the Commission had "suspicions" about the conduct of the Applicants.

*The Law*

27. The Respondent invited the Tribunal to note the statements in the judgment of the Court of Appeal in *Chen Wencan* as to the nature of a Restriction Notice, namely that it is, "administrative as opposed to judicial".[33] In that context, the Respondent pointed to the statements by this Tribunal in *Leung Yuk Kit v SFC* in its consideration of the nature and purpose of the powers provided to the Commission in Part X, Division I of the Ordinance's namely that it provides: [34]

> "…the SFC with administrative powers that will enable it to more effectively carry out its statutory duties in the early stages of an investigation when it is handicapped by not having a complete picture of the misconduct may have occurred, is lacking in formal evidence to prove it suspicions and it faces a problem or situation of some urgency that requires it act expeditiously."

28. Further, the "powers are interim powers, exercised administratively"[35] The Commission, "is not exercising its disciplinary powers and it makes no finding of misconduct or wrongdoing."[36] *Kanda* and *X v SFC* [37]involved disciplinary proceedings.

29. Of the ambit of the information to be provided by the Commission in a Statement of Reasons, Mr. Nip submitted that, "It was simply not contemplated that evidence and details would be contained in the Statement of Reasons". The two Statement of Reasons were made by the Commission whilst their investigations were still ongoing. It was to be remembered that it was

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[33] *Chen Wencan* at paragraph 64(4).
[34] *Leung Yuk Kit v SFC* (SFAT No. 4 of 2021; Mr. Ian McWalters-25 April 2022, at paragraph 125)
[35] *Ibid*, at paragraph 124.
[36] Respondent's Submissions on Costs at paragraph 30.3.
[37] *X v SFC* [2012] 4 HKLRD 296.

required that the Statement of Reasons was gazetted[38], so that it was available not only to the persons subjected to the prohibition or requirements but also to the public, to anyone and everybody.[39] It was submitted that, "The information to be included in a statement of reasons is a matter of the SFC's discretion. The Applicants cannot "expect" the investigator to provide any particular aspects of investigation or piece of information to them."[40]

30. Mr. Nip invited the Tribunal to note the deference afforded by the Courts to the operational discretion afforded to the Police and to the Commissioner of ICAC in the conduct of investigations.[41] Further, in *X v SFC*, in refusing to order the SFC to disclose documents to X and in refusing to order that the SFC be compelled to explain how certain *n* transactions were selected out of the sample of *q* transactions, Reyes J. said:[42]

> "I do not think that it is the function of the Court in a judicial review to micromanage the SFC's conduct of disciplinary proceedings. It is not apparent how ordering the particulars of *n* sought by X falls within the limited collateral jurisdiction which the Court exercises in a judicial review. I would be in danger of telling the SFC how to do what it (not the Court) is tasked by statute to do. That would be to usurp the SFC's functions."

31. Finally, the Respondent submitted that the Applicants did not satisfy the "change of circumstances" requirement set out in the judgment of the Court of Appeal in *Brookes v HSBC.*[43] The filing of a witness statement, in response to a direction[44] of the Tribunal, was not a change in circumstances. If

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38 S. 209(6).
39 Respondent's Submissions on Costs at paragraph 19.
40 *Ibid*, at paragraph 23.
41 *Tam Sze Leung v Commissioner of Police* [2022] 1 HKLRD 480 paragraphs 138-139 (Coleman J.). *Yeung Wing Kit v The Commissioner of the Independent Commission Against Corruption [*2021] HKCFI 3337 at paragraphs 32-33. (Coleman J.)
42 *X v SFC* at paragraph 65.
43 Respondent's Submissions on Costs at paragraph 16.
44 Directions, 18 November 2025: …on or before 22 December 2025, the Commission "…shall file copies of the statements of witnesses… upon which the Commission wishes to rely."

that contention was correct, there would be a change of circumstances in most if not all cases.[45]

32. In his concluding submissions, having noted that no issue was taken by the Applicants with the evidence disclosed by the Commission on 22 December 2025 in the witness statement of Mr. Chow Ching In, a Manager of the Enforcement Division of the Commission, Mr. Nip suggested that, "It seems that the Applicants were in full knowledge of the suspected connections and circumstances, but nevertheless applied for the review, gambling on the SFC not having found out that evidence of such connections."[46]

*A consideration of the submissions*

**Part X: Powers of Intervention and Proceedings**

33. At the outset, it is to be noted that Part X of the Ordinance is entitled, Powers of Intervention and Proceedings. Further, Division I is entitled, Powers of Intervention. It is within that Division that section 204 to section 211 lie. Clearly, the powers of intervention of the Commission may be exercised in the course of an investigation in circumstances in which, although it has only an incomplete understanding of the circumstances, the Commission may need to act to preserve the *status quo*, and may need to do so quickly. It is empowered to do so, if it determines it is desirable in the interests of the investing public or in the public interest.

34. The exercise of those powers is constrained by safeguards built into the legislation. First, by the requirement to furnish the person the subject of a prohibition or requirement with a statement specifying the reasons for the imposition of the prohibition or requirement. Secondly, by the right of the person so affected to request the withdrawal, substitution or variation of the

[45] Respondent's Submissions on Costs at paragraph 17.
[46] *Ibid*, at paragraph 27.

prohibition or requirement. Again, if that application is refused, the exercise of the right is buttressed by the requirement that the Commission provide a statement specifying the reasons for the refusal. Finally, the person so affected has the right to seek a review of the decision in the Securities and Futures Tribunal (the "SFAT").

*SFAT*

35. As the Court of Appeal noted in *Chen Wencan*: [47]

> "Under s. 217(1) a person aggrieved by a "specified decision" of the SFC made in respect of him may… by notice in writing given to the SFAT, apply to the SFAT for a review of the decision", which review is a "full merits de novo review."

Further, that the Tribunal:

> "…is not limited to examining the legality or rationality of the SFC's decision, but is entitled to come to its own decision on whether the prohibition or requirement imposed by the SFC under s.204 and s. 205 ought to be maintained, or whether such prohibition or requirement ought to be withdrawn, substituted or varied under s. 208 (1)."

*The witness statement of Chow Ching In*

36. The witness statement of Chow Ching In, dated 22 December 2025 speaks eloquently to the very extensive nature of the enquiries conducted by the Commission. Attached to the 14 pages of statement was a total of 271 pages of documentary exhibits. Moreover, Mr. Chow stated that, "… the SFC the investigation is ongoing".[48]

*Search of China Kingstone's offices*

37. Mr. Chow said that a search of the offices of China Kingstone on 21 January 2025 led to the seizure of evidence which showed that the 1st and

[47] *Chen Wencan* at paragraphs 44 and 46.
[48] Chow Ching In's Witness Statement, paragraph 28.

2nd Applicants, "might be connected to 22 traders ("Suspected Nominees") and that 9 of them collaborated in the trading of China Kingstone shares on 24 October 2024." [49] Further, "…the SFC found documents listing out securities account numbers, corresponding password and shareholdings of the accounts of Zheng, Oasis and the Suspected Nominees."[50] In addition, "The SFC also seized, inter-alia, 17 mobile phones at the office of China Kingstone. Each of the mobile phones was labelled with the name of Suspected Nominees. Some of the mobile phones were labelled with information such as the "identification number", "phone number", "email", "account number" and "password" of various suspected nominees."[51] The mobile phone of Cheung Wai Kee, the Company Secretary of China Kingstone, was found to contain photographs of "…transaction confirmations in respect of the accounts of the Suspected Nominees on 24 October 2024."[52]

38. Of that evidence, Mr. Chow said:[53]

> "The fact that details of the Suspected Nominees accounts were listed together with those of the Applicants in documents found from the office of China Kingstone tend to show that the Applicants and the Suspected Nominees were likely connected. These seized documents together with the seized mobile phones also tend to show that all the Suspected Nominees were nominees, given the lack of apparent legitimate reason for them to share their account passwords, and that their accounts were likely under the control of someone who had control over China Kingstone. This suspicion is further fortified by the trade confirmations found on Cheung's phone. It is particularly noticeable that Zheng was up until 21 October 2024, the executive director of China Kingstone; and up until 24 October 2024, he was the single largest shareholder of China Kingstone."

39. Of the co-ordinated trading activities, Mr. Chow said:[54]

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[49] *Ibid*, paragraph 14.
[50] *Ibid*, paragraph 14(1).
[51] *Ibid*, paragraph 14(2).
[52] *Ibid*, paragraph 14(3).
[53] *Ibid*, paragraph 15.
[54] *Ibid*, paragraph 20.

> "The trading activities in the shares of China Kingstone on 24 October 2024 were highly coordinated and can be divided into four stages:
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> (1) Unusual active morning session;
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> (2) Substantial disposal by Zheng and Oasis and aggressive purchases by Future King;
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> (3) Aggressive Unauthorised Purchases by the Hacked Accounts and the rise of share price; and
>
> (4) Offloading five Future King at elevated prices."

40. Having addressed each of those stages separately, Mr. Chow concluded:[55]

> "Having considered the trading activities that day, it appears to the SFC that (i) the Suspected Nominees first traded in the shares to increase the trading volume (ii) thereafter Zheng and Oasis "supplied" Future King with China Kingstone shares by their disposing nearly all of their holdings to the company at prices over 53% higher than the previous closing price (iii) thereafter the Hacked Accounts made the Unauthorised Purchases and the share prices were driven up (iv) Future King offloaded its holdings (24% of which to the Hacked Accounts directly) and made substantial profits from such transactions.
>
> Given the evidence of the links between the Applicants and Suspected Nominees and the coordinated manner in their trades with Future King, the SFC suspected that Zheng and Oasis were involved in the scheme, with Zheng successfully offloading most of his shareholding at around the same time he resigned from China Kingstone."

41. Although Mr. Chow does not speak specifically to the overall ambit of the enquiries made by the Commission arising from the trading by the Applicants on 24 October 2024 in China Kingstone shares and, although the Commission has not provided any such detail to the Tribunal, from the information available to the Tribunal, it is readily apparent that it is very likely there were multiple lines of enquiry in respect of multiple persons. In those circumstances, Mr. Nip's reminder to the Tribunal that the Statement of Reasons provided by the Commission were required to be gazetted and thereby made publicly available is particularly apposite. Information provided to the

[55] *Ibid*, paragraphs 23 and 24.

Applicants was made publicly available, including to those into whose conduct the Commission was most likely to have been making enquiries.

42. Given that the Commission was investigating conduct of a nature that clearly could have constituted serious criminal offences, for which sentences of imprisonment of up to 10 years might be imposed on conviction on indictment, against multiple persons, the Commission enjoyed a wide discretion as to the information disclosed to the Applicants in the two Statements of Reasons and thereby to the public at large. I am satisfied that, in those circumstances, the Commission was not required to identify to the Applicants the specific evidence on which it relied. To do so, clearly was to risk jeopardising the ongoing investigation. What was required was that the Applicants were informed of the nature of the suspicions that were held by the Commission as to the overall conduct and, in particular, in respect of the roles of the Applicants themselves.

43. Clearly, the information provided to the Applicants by the Commission in the Notice and the Statement of Reasons, dated 3 September 2025, amply satisfied those requirements. It is that decision, to refuse to withdraw the prohibition and requirements, that is the subject of the Notice of Review of the Applicants, dated 24 September 2025. The Commission's suspicions as to the overall scheme were clearly described as was the suspicion of the Commission as to the role of the Applicants in that scheme. The Commission not only rejected the explanations advanced by the Applicants, dated 9 April 2025, as dispelling the Commission's suspicions but also provided trenchant and cogent reasons for doing so, in particular in paragraphs 9(a) to 9(c) of the Statement of Reasons. It was the reasoning that led to the Commission to determine that it was desirable, in the interest of the investing public or in the public interest, to exercise its powers of prohibition and

restriction in respect of the respective accounts of the Applicants, "accounts containing the sale proceeds of the suspected manipulative activities".[56]

*Costs: the general rule*

44. There is no dispute that the general rule is that there is a presumption that the party withdrawing proceedings should bear the costs of the other party in the proceedings and that to rebut the presumption it is usually necessary to show changes in circumstances to which he is not himself contributed, including some form of unreasonable conduct on the part of the other party, which provides a good reason to depart from the rule. [57]

*Conclusion*

45. I am satisfied, that there is no merit whatsoever in the submission that the filing with the Tribunal of the witness statement of Mr. Chow on 22 December 2025 constituted a change of circumstances within the test articulated in *Brookes v HSBC plc.* It was nothing of the sort. The Applicants did not withdraw the application at "the earliest reasonable opportunity" after service of Mr. Chow's statement. In fact, the withdrawal of the application was made more than one month after service of the Commission's evidence and made only on the last day on which the Applicant had been directed to file their evidence. There is no reason why the usual order of costs should not be made, namely that costs should be borne by the party withdrawing the proceedings.

[56] Statement of Reasons, 3 September 2025, at paragraph 3.
[57] *Brookes v HSBC plc.*

*Order*

46. I order that the Applicants pay the costs of the proceedings of the Respondent, to be taxed if not agreed.






Mr. Michael Lunn, GBS
(Chairman)

Mr. Ryan Law, Counsel
for the Applicants

Mr. Norman Nip, SC and Mr. Lau Ka Kin, Counsel
for the Respondent