Public Prosecutor v Cheong Hock Lai and Other Appeals
[2004] SGHC 122

Case Number : MA 27/2004, MA 28/2004, MA 29/2004

Decision Date : 15 June 2004

Tribunal/Court : High Court

Coram : Yong Pung How CJ

Counsel Name(s) : James Lee (Deputy Public Prosecutor) for appellant; Subhas Anandan (Harry Elias Partnership) and Howard Cheam Heng Haw (Rajah and Tann) for respondents

Parties : Public Prosecutor — Cheong Hock Lai

Criminal Procedure and Sentencing – Sentencing – Appeals – Whether district judge erred in referring to cases involving other market misconduct where no direct sentencing precedent existed – Whether deterrent sentence ought to take form of custodial sentence

15 June 2004

Yong Pung How CJ:

1 This was the Prosecution's appeal against sentence only. The respondents were Cheong Hock Lai ("Cheong"), Low Li Meng ("Low") and Chow Foon Yuong ("Chow"). Four days into their trial in the District Court, they pleaded guilty to one charge each of engaging in a practice which operated as a deceit upon one MIL Corporate Services (Singapore) Ltd ("MIL"), an offence under s 102(b) of the Securities Industry Act (Cap 289, 1985 Rev Ed) ("SIA"). Each respondent had another charge under s 201(b) of the Securities and Futures Act (Cap 289, 2002 Rev Ed) ("SFA") taken into consideration for sentencing purposes. Low and Chow also each had an additional charge under s 102(b) of the SIA taken into consideration for sentencing purposes. The district judge sentenced the respondents to pay fines in the following amounts:

(a) Cheong: $100,000, in default ten months' imprisonment;

(b) Low: $50,000, in default five months' imprisonment;

(c) Chow: $30,000, in default three months' imprisonment.

I dismissed the Prosecution's appeal against the sentences imposed on all three respondents, and now set out my reasons.

Background

2 The evidence in the court below was led by way of an agreed statement of facts. At the material time, the respondents were employees of Alliance Capital Management (Singapore) Ltd ("ACMS"), a subsidiary of Alliance Capital Management Limited Partnerships, a company listed on the New York Stock Exchange. Cheong was the regional financial controller, and the person ultimately in charge of the day-to-day administration of ACMS funds. Low was a unit trust administrative manager. Chow was a unit trust administrative officer. Both reported directly to Cheong on administrative matters pertaining to ACMS funds.

The unit trust funds

3 The principal activity of ACMS is to provide fund management and marketing of fund

management services to retail and institutional clients. Among other funds, ACMS manages the Global Growth Trends Portfolio Class A and the International Health Care Portfolio Class A. These are both feeder funds that invest solely in their respective parent funds, the Global Growth Trends Portfolio and the International Health Care Portfolio ("the parent funds").

4 The parent funds are registered with Alliance Capital Management Global Investor Services SA Luxembourg ("ACM Luxembourg"). They are managed by portfolio managers based in New York. ACMS manages the feeder funds, but much of the marketing of these funds is performed by distributors, which are banks and financial institutions. Investors who wish to apply for units in the feeder funds submit their applications to these distributors, who then submit them to ACMS for processing.

5 The trustee of the feeder funds is Bermuda Trust (Singapore) ("BT"). BT calculates the feeder funds' daily net asset value per unit (termed "the price" herein for convenience). MIL is an affiliated company of BT, and the agent of the feeder funds' registrar. As the registrar's agent, MIL's functions include processing subscriptions, redemptions, transfers and switches with respect to the funds.

How the price of the feeder funds is derived

6 The New York-based portfolio managers invest the parent funds primarily in US and European equities. The price of the parent funds is therefore determined by the performance of their component equities on the US and European stock exchanges.

7 On any given trading day ("T"), the price of the feeder funds is directly derived from that of their respective parent funds for the previous trading day ("T-1"). This is done in the following manner.

8 After 3.00pm Singapore time (9.00am Luxembourg time) on T, ACM Luxembourg calculates the T-1 price of the parent funds. This figure is received by BT and ACMS at about 6.00pm Singapore time (12.00 noon Luxembourg time). The next morning ("T+1"), BT calculates the T price of the feeder funds, based on the T-1 market price of the parent funds supplied by ACM Luxembourg, and the prevailing foreign exchange rate. After 1.00pm, ACMS and MIL receive the T market price of the feeder funds from BT.

The 5.00pm trading deadline

9 To qualify for the feeder funds' T price, all investors wishing to buy, sell or switch units have to submit their application forms to the distributors by 5.00pm on T. Then the distributors would submit the forms to ACMS. This 5.00pm deadline is prescribed in the feeder funds' prospectuses, but not in the Operating Memorandum ("OM"). The OM is a document signed by ACMS and BT, which sets out their internal guidelines and specifies the 5.00pm deadline only for transactions involving Central Provident Fund ("CPF") and Supplementary Retirement Scheme funds. There was no such prescription for cash transactions, which are how the respondents carried out their trades on the feeder funds. Specifically, the OM only provided that all subscriptions, redemptions or switches from distributors were to be consolidated by ACMS and forwarded to MIL by 1.00pm on T+1.

The late trading

10 As employees of ACMS, the respondents could purchase units in the feeder funds directly. They did not need to go through a distributor, and were not required to pay the 5% service charge.

11 Between July and October 2002, the respondents traded in the feeder funds using their own accounts with MIL. They would submit their applications on the morning of T+1, but backdate their applications so that it appeared that they were dated on T. This was done so that they could qualify for the T price. The backdated application forms would then be placed together with all the other investors' applications made on T. After that, the package would be forwarded to MIL for processing. MIL was thereby deceived into believing that the respondents' applications were made on the dates stated on the application forms.

12 The backdating allowed the respondents to determine the movement of the feeder funds with considerable accuracy. It enabled them to subscribe for units only when they had predicted an increase in their T+1 price. If they determined that the T+1 price would be higher than the T price, they would put in their backdated applications, thereby qualifying for the T price. Then they would redeem their units within 24 hours so as to take advantage of the higher T+1 price. This guaranteed a profit on every trade.

13 During the material time, the respondents made profits through late trading amounting to:

(a) Cheong: $62,931.90;

(b) Low: $19,671.51;

(c) Chow: $3,792.81.

If the profits made on the charges taken into consideration are added to those figures, the respondents made total profits of:

(a) Cheong: $107,925.29;

(b) Low: $46,556.05;

(c) Chow: $16,162.32.

The respondents had already made full restitution before their trial commenced in the District Court.

The decision below

14 In his grounds of decision ([2004] SGDC 37), the district judge observed that this was "the first case of its kind locally". While there had previously been prosecutions under s 102(b) of the SIA, there had been none specifically for the practice of late trading. As such, he could look only to sentencing precedents in cases of other types of market misconduct, which he recognised to be "somewhat helpful though not directly on point".

15 In approaching the question of sentence, the district judge first considered the case law to determine the sentencing norm in market misconduct cases. Then, he considered whether there were any special reasons in this case to depart from the norm.

The sentencing norm in market misconduct cases

16 The district judge examined cases of three types of market misconduct. These were cited to him by the Defence. They were:

(a) other offences under s 102(b) of the SIA, involving the fraudulent and deceitful use of others' accounts to trade;

(b) market rigging; and

(c) insider trading under s 103 of the SIA.

17 In his judgment, the respondents' acts of deceit were not of the same degree as those offenders who were given custodial sentences for abusing others' accounts to trade for their own benefit. Those offenders' acts were clearly more aggravating in nature than late trading. The degree of tangibility of harm in the case before him was low, compared to cases in which the counter actually had to be suspended from trading. The district judge therefore concluded that it was "abundantly clear" from those cases that the respondents ought not to be given custodial sentences under the current sentencing benchmarks for market misconduct offences.

No special reasons to depart from the sentencing norm

18 The Prosecution submitted that there were three reasons why custodial sentences should be imposed on the respondents.

19 First, the Prosecution argued that there was a strong public interest element in this case. The respondents' conduct was the type to "cause consternation" among the investing public. The district judge rejected this argument since it was characteristic of any form of market misconduct. He also noted that s 104 of the SIA had been amended with effect from 6 March 2000 to increase the maximum fine from $50,000 to $250,000. This enhanced sentencing range allowed the court to impose a severe fine as a deterrent sentence in appropriate cases without having to resort to a custodial sentence.

20 Second, the Prosecution contended that the respondents had abused their position in committing the offences. The district judge rejected this argument since it also applied to practically all market misconduct cases. Late trading and other forms of market misconduct could only happen if the offender was in some position of authority or privilege *vis-à-vis* other investors. The district judge emphasised that "in such offences, abuse of position is not a unique factor that makes a custodial sentence almost automatic".

21 Finally, the Prosecution submitted that the nature of these offences was such that they were difficult to detect. The district judge rejected this argument. He observed that the respondents had given the Commercial Affairs Department their full co-operation. There had been no surreptitious concealment. In his view, there was a lack of fundamental controls in the system that "made it very 'grey'" as to what would be permissible conduct, and what would not.

Approaches to regulating late trading

22 The district judge concluded by pointing out that the respondents had been charged under s 102 of the SIA, a "catch-all provision" designed to cover forms of securities fraud not specifically dealt with elsewhere in the SIA. He cited the recent action instituted in the New York Supreme Court in September 2003 by the New York Attorney-General against Canary Capital Partners (*State of New*

York v Canary Capital Partners, LLC), as an example of the manner in which late trading is dealt with in the United States – by way of a civil penalty action, rather than criminal proceedings.

23 He highlighted that in Singapore, the civil penalty concept has been expanded under s 232 of the SFA to cover all forms of market misconduct. He noted that the civil penalty regime is meant to complement the existing criminal regime by providing a "calibrated approach to enforcement" that punishes and deters market misconduct, but does not impede the growth of the securities markets here.

24 In his view, the ultimate question was "whether it would be fair with the benefit of hindsight to adopt a draconian approach to punish the accused persons with a custodial sentence for late trading". He reasoned at [42] that:

> Prior to the indictments of these offences, the sheer lack of internal and external regulatory controls actually facilitated late trading and made them possible. They include, no date/time stamping, inconsistent and vague operating instructions in different documents, unclear or no guidelines for staff trading, liberal and/or unauthorised communication of acceptance of application forms out of time, no internal verification of application forms and the list goes on.

He added, however, that a report carried in *The Business Times* on 13 February 2004 showed that the Monetary Authority of Singapore had recently taken steps to put corrective and preventive actions in place to frustrate any contemplated late trading.

25 In the light of all these factors, the district judge sentenced the respondents to pay fines in the amounts set out earlier.

The appeal

26 Before I turn to the appeal proper, it bears repeating that an appellate court may only interfere with the sentence meted out by the trial judge if it is satisfied that:

(a) the trial judge made the wrong decision as to the proper factual basis for sentence;

(b) the trial judge erred in appreciating the material before him;

(c) the sentence was wrong in principle; or

(d) the sentence imposed was manifestly excessive, or manifestly inadequate, as the case may be.

This is trite law, as set out in *Tan Koon Swan v PP* [1986] SLR 126, and recently reiterated in *Ong Ah Tiong v PP* [2004] 1 SLR 587.

27 The Prosecution brought this appeal on the fourth ground. It was argued that the sentences imposed on the respondents were manifestly inadequate in light of the district judge's misplaced reliance on other market misconduct cases as sentencing precedents and his failure to appreciate that the present facts called for a deterrent sentence in the form of a custodial term.

28 I turn now to consider the arguments raised.

The district judge's reliance on cases of other types of market misconduct

29 The Prosecution took issue with the district judge's reliance on these cases for the following reasons. As to the other s 102(b) cases, he had failed to properly consider the decisions of this court in *Peh Bin Chat v PP* Magistrate's Appeal No 15 of 1998 (5 May 1998) (unreported) and *Syn Yong Sing David v PP* Magistrate's Appeal No 266 of 1998 (2 March 1999) (unreported), both digested in *Sentencing Practice in the Subordinate Courts* (2nd Ed, 2003) at 782–783. As to the market rigging cases, he had wrongly formed the view that they evidenced greater harm to the market, and that the offenders in those cases had demonstrated higher degrees of culpability. As to the insider trading cases under s 103, the district judge was wrong to have referred to them at all. In particular, it was emphasised that an "important distinguishing factor" of this appeal was that it concerned CPF-approved unit trusts, which are marketed to all sectors of society, including laymen investors, as a low-risk investment option.

30 I was firmly of the view that the important distinguishing factor in this case was not the nature of the funds, but the fact that the respondents had traded on their own accounts at all material times. It was beyond question that this evidenced a lower degree of deceit than if they had chosen to trade unauthorised on an account belonging to a member of the investing public. Unauthorised trading on another person's account was a common denominator in those cases of market misconduct in which a custodial sentence was imposed. In my opinion, the district judge could not be faulted for referring to these cases. On the contrary, it was eminently reasonable for him to do so in the absence of direct precedent.

31 I turn first to consider the s 102(b) cases. The Prosecution referred to an article reporting *Peh Bin Chat*, entitled "Illegal Trading: Man Spared Jail", which was carried in the 6 May 1998 edition of *The Straits Times* at 3. In that article, I was reported as saying that "[e]very future offence will indeed mean a custodial sentence", and that I had imposed a fine of $50,000 only because I was bound to follow precedent. The report is incontrovertible, but the offence in *Peh Bin Chat* involved unauthorised trading on a share trading account opened in someone else's name for the express and sole purpose of carrying out unauthorised trades. Peh had opened a share trading account with Tat Lee Securities in the name of one Tan Liap Song, an illiterate man who worked as a driver in Peh's company. Peh traded almost $2.5m worth of shares on that account, and racked up some $25,642 in losses.

32 It is apparent from the face of the report alone that the offender in *Peh Bin Chat* demonstrated a far higher degree of culpability than the respondents in this appeal. In my view, he had committed precisely the type of offence under s 102(b) for which a custodial sentence should be imposed and, therefore, I made this clear when a fine had to be imposed upon him simply because I was constrained to do so by statute and by precedent.

33 I would also add that, as the district judge correctly noted, the maximum fine stipulated under s 104 for offences under s 102(b) was increased from $50,000 to $250,000 with effect from 6 March 2000. The legislative intent behind this amendment, as reflected in the speech of the Deputy Prime Minister, Brigadier-General Lee Hsien Loong, given at the Second Reading of the Securities Industry (Amendment) Bill (No B 40 of 1999), was to "[strengthen] the criminal sanctions for market misconduct such as price manipulation and insider trading": see the *Parliamentary Debates, Official Report* (17 January 2000) at col 676. This significant increase now gives the courts far more flexibility in the exercise of sentencing discretion. In my view, the district judge rightly took advantage of the higher statutory limit in this case, in particular, to impose a hefty fine of $100,000 on Cheong. Before

6 March 2000, he would have been compelled, as I was in *Peh Bin Chat*, to impose a fine of only $50,000 on Cheong. Clearly, that would have been manifestly inadequate on the present facts.

34 By way of further illustration, I refer to *Syn Yong Sing David*, and two other cases under s 102(b) cited to me by the Prosecution, *Teo Kian Leong v PP* [2002] 1 SLR 147 and *Shapy Khan s/o Sher Khan v PP* [2003] 2 SLR 433.

35 In *Syn Yong Sing David*, the offender, a senior assistant manager with Deutsche Bank, made use of a client's account in order to generate enough trades to meet his annual profit target. He racked up some RM2m in losses, and never made restitution. I upheld the sentence of four months' imprisonment imposed in the district court.

36 In *Teo Kian Leong*, the offender was convicted on eight charges under s 102(b). He was a dealer's representative at UBS Warburg & Associates (Singapore) Pte Ltd ("UBS"). His job was to make securities transactions on behalf of laymen investors who had trading accounts with UBS. From March to May 2000, the offender traded on accounts belonging to 11 such clients of UBS, who only found out about the trades when UBS issued letters of demand for the losses incurred, which amounted to some $500,000. In upholding the sentence of six months' imprisonment for each charge, with two of the sentences to run concurrently, I held at [46] that the offender had:

> … deliberately abused the trust and confidence [his clients] had in him and [come] up with a scheme to profit and later escape responsibility. Even after being confronted about his "mistakes", he boldly continued to carry out similar transactions and accumulated greater losses at the expense of his clients, probably in the hope of recouping the losses and evading the consequences of his actions … [T]he appellant in this case, while causing less loss to his clients, had acted against their wishes and caused them financial hardship.

37 Similarly, in *Shapy Khan s/o Sher Khan*, the offender was a dealer at a securities firm who traded on behalf of one Yeo and one Mok, both of whom were his clients. Mok issued a cheque to cover some *contra* losses on his account, and gave it to the offender, who credited the sum into Yeo's account to cover *contra* losses that the offender had incurred on unauthorised trades. The offender faced one charge under s 102(b) of the SIA, and one charge under s 409 of the Penal Code (Cap 224, 1985 Rev Ed) ("PC"). The sentencing judge indicated that she would have imposed a fine of $50,000 for the s 102(b) charge, but for the indication that the offender was unable to pay. She therefore sentenced him to four months' imprisonment.

38 Therefore, the Prosecution was quite right to point out that custodial sentences have consistently been imposed for offences under s 102(b) after *Peh Bin Chat*, and despite the higher statutory maximum fine prescribed under s 104. I would also point out that in *Shapy Khan s/o Sher Khan*, the sentencing judge was initially minded to impose a fine. In all those cases, up to and save for this appeal, there was a clear abuse of position by professional securities dealers *vis-à-vis* laymen investors who came to them for assistance and advice on trading. These dealers instead used their clients' accounts to carry out unauthorised trades. While it is not at all in question that the respondents' conduct was criminal in nature, these aggravating factors were simply not present on the facts before me. The respondents traded in their own names, and for themselves, at all material times. No laymen investor clients were involved.

39 Next, I turn to the market rigging cases. The district judge referred specifically to *PP v Kwek Swee Heng* District Arrest Cases Nos 28926, 3045 and 3046 of 2003 (unreported) ("the Links Island case"), and *PP v Gwee Yow Pin* District Arrest Case No 1738 of 2001 (unreported) ("the Mid-Continent

Equipment case"). In the Links Island case, the offender effected transactions in Links Island Holdings shares in order to manipulate the price of those shares. His actions led to the counter being suspended. He was sentenced to pay a total fine of $90,000. In the Mid-Continent Equipment case, the offenders transacted in shares for the sole purpose of creating the impression that there was a high level of interest in those shares. This jacked up the price of those shares from 15 cents to 87.5 cents. The counter was also suspended, the shares cornered and the stock de-listed. After a 45-day trial, the offenders were each sentenced to three months' imprisonment.

40 Returning to the appeal before me, the respondents together generated profits of less than $200,000, which must be juxtaposed against the size of the unit trusts. They are worth more than US$1bn. The respondents' conduct caused nothing even remotely close to the level of market mayhem triggered in the Links Island and Mid-Continent Equipment cases. In light of those factors, I could not agree with the Prosecution's submission that these cases evidenced less harm to the market, and that the offenders therein demonstrated lower degrees of culpability than the respondents in the present appeal. I was therefore also unable to see why a custodial sentence should be imposed in this case, when a fine was imposed in the Links Island case.

41 Finally, I come to the insider trading cases, in which fines, rather than custodial sentences, were imposed. As regards these cases, the Prosecution's submission was simply that the district judge should not have referred to those cases because the objective of the law against insider trading is predominantly to ensure a level playing field in the market, rather than to protect investors' interests from *mala fides*. I took the Prosecution's point, but would emphasise that s 102(b) is a catch-all provision, intended to cover *any other form* of securities fraud not specifically dealt with by other provisions in the SIA. As such, I did not think it inapposite to draw the analogy between insider trading under s 103, and the particular type of offence under s 102(b) which formed the subject matter of this appeal. The respondents had no knowledge of price-sensitive information specific to the unit trusts. However, by backdating their application forms to T on T+1 morning so that they could use the price information provided by BT to their advantage, the respondents were effectively practising something akin to insider trading, in that they traded with an illicit advantage over other investors. Therefore, I found it difficult to see why the district judge should not have taken those cases into account.

Whether it was necessary for a deterrent sentence to take the form of a custodial term in this case

42 This argument may be dealt with very shortly. It is clear that a deterrent sentence need not always take the form of a custodial term. As I made clear in *Chia Kah Boon v PP* [1999] 4 SLR 72, a deterrent sentence may take the form of a fine if it is high enough to have a deterrent effect on the offender himself ("specific deterrence"), as well as others ("general deterrence").

43 The Prosecution argued that only a custodial sentence was appropriate to achieve the objective of general deterrence in this case. In support of its submission, the Prosecution also relied on this passage from *Rupchand Bhojwani Sunil v PP* [2004] 1 SLR 596 ("*Rupchand*") at [28]:

> [W]hen a court is faced with a charge of cheating involving a sum of money akin to that in this appeal, it has to impose a sentence that has the potential to deter future similar offences. In that respect, a fine, though appropriate in other cases, would not have a deterrent effect in cases that are similar to this appeal. … The criminal law should never become a "business" of sorts.

I was urged to "send a clear message" to deter potential late trading, and to show that the courts will adopt a robust approach to the protection of investors' interests, and not condone abuses by administrators and fund managers of unit trusts.

44 There could be absolutely no quarrel with that statement on principle, and so I wholeheartedly agreed with the Prosecution in so far as the requirement for a deterrent sentence was concerned. In my judgment, however, the Prosecution faced an uphill task in persuading me that it was necessary to impose a custodial sentence to achieve the objective of general deterrence on these particular facts. This was not a case in the category of previous s 102(b) cases such as *Teo Kian Leong* and *Shapy Khan s/o Sher Khan*, in which the interests of specific laymen investors suffered at the hands of their trusted fund managers. It is certainly not in dispute that the respondents committed criminal offences, but the fines imposed on them by the district judge were not insubstantial. For the reasons I have already set out, I did not think the fines were manifestly inadequate. In my view, they were also sufficiently high to achieve a deterrent purpose.

45 I did not think that *Rupchand*, which should be strictly limited to very similar facts, was applicable to the appeal at hand. The genesis of that passage in *Rupchand* was my decision in *Lim Choon Kang v PP* [1993] 3 SLR 927, a case under s 415 of the PC, in which I held at 928–929, [6]–[7]:

> In my view, fines instead of custodial sentences can be imposed where the amounts involved are not of great magnitude or consequence, but when the operation smacks of something on a considerable scale, a custodial sentence must necessarily follow. … *I think it should also be remembered that prosecutions for such offences normally take place in the district courts in which a district judge's power to fine is presently limited to only $10,000.* People who are minded to commit such offences of multiple share applications on a substantial scale must be discouraged from thinking that, if they are caught, they can simply surrender their ill-gotten gains and the worst that will then happen to them will be a fine of $10,000. For them, there must now be a custodial sentence. [emphasis added]

46 *Rupchand* was a case of cheating under s 417 of the PC, in which the offender deliberately downloaded an Internet site so that he could access orders for merchandise placed through the site. The offender cheated one Kevyan-Alf of US$42,000 in this manner. *Rupchand* was next applied in *Chua Kim Leng Timothy v PP* [2004] SGHC 74 and *Lim Teck Chye v PP* [2004] SGHC 72, both cases under s 6(b) of the Prevention of Corruption Act (Cap 241, 1993 Rev Ed). Both cases involved elaborate scams, conceptualised and orchestrated by the offenders, to short-supply fuel oil to customers of their companies, which provided ship bunkering services. The scams also involved the offenders' bunker clerks and bunker surveyors. The latter were systematically bribed to "overlook" the provision of lower grades of fuel oil, or shortfalls in supply of fuel oil.

47 I did not think that that passage in *Rupchand* was applicable to the present appeal. First, the prescribed punishment under both ss 415 and 417 is one year's imprisonment, or fine, or both, and the maximum limit on any fine that may be imposed is $10,000 by virtue of s 11(3) of the Criminal Procedure Code (Cap 68, 1985 Rev Ed) ("CPC"). I have no doubt that in the present context, a fine as low as $10,000 would certainly lead potential offenders to think of the criminal law as a mere "business of sorts". By contrast, however, the offence under s 102(b) of the SIA may be met with a fine of up to $250,000, as prescribed by s 104 of the same. Therefore, in dealing with the offence of late trading, the district court may impose the maximum fine by virtue of s 117(4) (*in pari materia* with s 327 of the SFA) read with s 11(7) of the CPC, and does not operate under its ordinary criminal jurisdictional limit as in *Rupchand* and *Lim Choon Kang*.

48 Second, where *Rupchand* is applied outside the narrow confines of ss 415 and 417 of the PC, and where it involves a departure from the usual sentencing norm for the offence in question, the circumstances justifying such departure must be exceptional: *Lim Teck Chye* at [73]. The offence to which the principle is applied must contain, *inter alia*, the crucial element of deliberate organisation calculated to further the offender's criminal intent on a systematic and very large scale. There was nothing of this sort on the evidence before me. I did not see any parallels with either *Rupchand* or *Chua Kim Leng Timothy* that would have necessitated the imposition of a custodial sentence. In my judgment, the fines imposed by the district judge amply served the twin aims of specific and general deterrence.

Conclusion

49 In the light of the general approach to market misconduct cases and the specific circumstances of this appeal, I did not think that the fines imposed by the district judge were manifestly inadequate. Accordingly, I dismissed the Prosecution's appeal.

Appeal dismissed.

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