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### Insider Trading — High Court Rules in Favour of SC

The High Court yesterday allowed a claim by the Securities Commission (**SC**) for insider trading of Worldwide shares in 2006, ordering among others the return of threefold the difference between the actual price acquired and the likely price if information is generally available, civil penalty of RM1 million, and prohibition of holding office as a director of public-listed companies for 10 years.



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The SC was represented by partners, **SM Shanmugam** and **CK Lung**, associate HY Siew, and the SC's prosecution team, K Mageswary and Daniel Ariff.

The civil action was premised on s 89 E of the Securities Industry Act 1983 (now replaced by the Capital Markets and Services Act 2007), which reads:

**"89E Prohibited conduct of person in possession of inside information.**

- (1) A person is an "insider" if that person –
  - (a) possesses information that is not generally available which on becoming generally available a reasonable person would expect it to have a material effect on the price or the value of securities; and
  - (b) knows or ought reasonably to know that the information is not generally available.
- (2) An insider shall not, whether as principal or agent, in respect of any securities to which information in subsection (1) relates –
  - (a) acquire or dispose of, or enter into an agreement for or with a view to the acquisition or disposal of such securities; or
  - (b) procure, directly or indirectly, an acquisition or disposal of, or the entering into an agreement for or with a view to the acquisition or disposal of such securities.



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...”

The claim saw through various interlocutory applications until trial was concluded. During trial, the High Court heard evidence from a number of witnesses, and two experts testified in areas of securities laws and capital markets. Post-trial, the High Court also heard oral submissions which centred on, among others, issues of possession of inside information and materiality of the information.

The High Court’s decision was also reported on [the SC’s website](#) and various media, including [The Edge Markets](#), [The Star](#), [New Straits Times](#), [Free Malaysia Today](#) and [The Malaysian Reserve](#).

**CK Lung**

If you have any queries, please contact partners [SM Shanmugam](#) ([ssm@lh-ag.com](mailto:ssm@lh-ag.com)) or [CK Lung](#) ([ckl@lh-ag.com](mailto:ckl@lh-ag.com)).

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