



Press Releases

Duo jailed for \$6.4m bribery over trading of derivative warrants at re-trial

2018-2-26

A former senior executive of a bank and an investor, charged by the ICAC, were today (February 26) each sentenced to 45 months' imprisonment at a re-trial in the Court of First Instance (CFI) for accepting and offering about \$6.4 million in bribes respectively in relation to the trading of derivative warrants issued by the bank.

The defendants were Ma Sin-chi, 44, former director of Deutsche Bank Aktiengesellschaft (Deutsche Bank), and Ha But-ye, 66, an investor.

In sentencing, Judge Mrs Audrey Patricia Campbell-Moffat said it was a complicated case. For Ma, there was a serious breach of trust, but that breach of trust was exercised at the behest of and to the benefit of Ha.

The judge also ordered Ma to pay about \$6.4 million to Deutsche Bank by way of restitution.

At the re-trial in January 2018, Ma pleaded guilty to one count of agent accepting an advantage, contrary to Section 9(1)(a) of the Prevention of Bribery Ordinance (POBO), while Ha admitted one count of offering an advantage to an agent, contrary to Section 9(2)(a) of the POBO.

The court heard that at the material time, Ma was a director of Deutsche Bank and also served as a warrant trader.

Between January 16, 2007 and May 7, 2008, Ma accepted bribes of about \$6.4 million in total from Ha as rewards for giving information to Ha and his associates on derivative warrants issued by Deutsche Bank, which might assist them in their trading of those derivative warrants; or rendering assistance to them in their trading of those derivative warrants.

Ha offered the bribes of about \$6.4 million in total to Ma for the same purpose during the same period.

The court heard that Ha and several members of his family had made a net profit of over \$203 million through the trading of those derivative warrants issued by Deutsche Bank.

The management of Deutsche Bank strictly prohibited its staff members from accepting bribes for providing other persons with confidential information belonging to the bank. Ma was made aware of such a guideline concerning the acceptance of advantages while he was employed by the bank.

In December 2013, Ma and Ha were found guilty at the CFI by a jury of four counts of agent accepting an advantage and four counts of offering an advantage to an agent respectively. They were each sentenced to seven years' imprisonment.

Ma and Ha subsequently lodged appeals with the Court of Appeal (CA). In June 2016, the CA quashed their convictions and ordered a re-trial. After the CFI allowed the amendment of the indictment, Ma and Ha each faced one charge under the POBO at the re-trial.

Deutsche Bank and the Securities and Futures Commission had rendered full assistance to the ICAC during its investigation.

The prosecution was today represented by prosecuting counsel John Reading SC, Gilbert Chong and Public Prosecutor Zena Yuen, assisted by ICAC officer Natasha Li.

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新聞公佈

兩人就「窩輪」買賣受賄行賄六百四十萬元重審判囚四十五個月

2018年2月26日

一名銀行前高層人員及一名投資者，就該銀行發行的衍生權證(俗稱「窩輪」)進行買賣時，分別受賄行賄共約六百四十萬元，早前被廉政公署起訴。案件在原訟法庭重審，被告今日(二月二十六日)同被判入獄四十五個月。

被告為馬善智，四十四歲，德意志銀行(德銀)前董事，及哈弼意，六十六歲，投資者。

法官金貝理判刑時表示，這是一宗複雜案件。馬善智嚴重違反誠信，但其違反誠信的行為乃應哈弼意的指示作出，並令對方得益。

法官又命令馬善智須向德銀歸還約六百四十萬元。

馬善智於二〇一八年一月重審時承認一項代理人接受利益罪名，違反《防止賄賂條例》第9(1)(a)條；而哈弼意則承認一項向代理人提供利益罪名，違反《防止賄賂條例》第9(2)(a)條。

案情透露，馬善智於案發時是德銀的董事，並為該銀行的「窩輪」交易員。

馬善智於二〇〇七年一月十六日至二〇〇八年五月七日期間接受哈弼意共約六百四十萬元賄款，作為向哈弼意及其有聯繫者就由德銀發行的「窩輪」提供資訊，而有關資訊可能協助他們買賣該等「窩輪」；或在他們買賣該等「窩輪」時向他們提供協助的報酬。

哈弼意於同一期間以相同目的向馬善智提供該等共約六百四十萬元的賄款。

案情透露，哈弼意及其家庭數名成員透過買賣該等由德銀發行的「窩輪」獲取純利逾二億零三百萬元。

德銀管理層嚴禁其職員收受利益，以向他人提供屬於銀行的機密資料。馬善智受聘於該銀行時獲告知該項有關收受利益的指引。

馬善智及哈弼意於二〇一三年十二月在原訟法庭被陪審團分別裁定四項代理人接受利益罪名及四項向代理人提供利益罪名成立。他們同被判入獄七年。

馬善智及哈弼意其後向上訴法庭提出上訴。上訴法庭於二〇一六年六月撤銷其定罪並命令重審案件。案件重審時公訴書經修訂，馬善智及哈弼意各被控一項《防止賄賂條例》下的罪名。

德銀和證券及期貨事務監察委員會在廉署調查案件期間提供全面協助。

控方今日由資深大律師李定國、大律師莊向華及檢控官阮敏罡代表出庭，並由廉署人員李惠協助。

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