

CRIMINAL PROSECUTIONS AND APPEALS

As at 30 September 2022, there were 8 ongoing criminal trials at the Sessions Court for various offences in relation to securities laws. The offences include market manipulation, unlicensed activities, and securities fraud. As for criminal appeals, there were 11 ongoing appeals at the High Court and the Court of Appeal.

The details and highlights of the criminal cases for Q3 2022 are summarised in the table below:

No.	Nature of offence	Offender(s)	Outcome
1.	Failing to appear before an investigating officer of the SC as required under s.32(2)(a) of the <i>Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001</i> (AMLATFAPUAA), contrary to s.32(8)(a) of the same Act.	Amirruddin Nin (Amirruddin)	<p>On 19 February 2020, Amirruddin was charged with 3 charges under s.32(8) of the AMLATFAPUAA.</p> <p>On 14 July 2022, the Sessions Court convicted Amirruddin on all 3 charges and sentenced him as follows:</p> <ul style="list-style-type: none"> • A fine of RM100,000 and 1-day imprisonment for each of the 3 charges (in default of fine, 6 months imprisonment); • Imprisonment term for all 3 charges to run concurrently; and • A daily fine of RM2,000 for the 979 days he had failed to appear before an Investigating Officer of the SC as required which amounts to RM1,958,000 (12 months imprisonment in default).
2.	Abetting one Toh Chun Toh Gordon to engage in an act which operates as a fraud in connection with the purchase of securities under s.87A of the <i>Securities Industry Act 1983</i> (SIA) (Principal charge) Criminal breach of trust under s.409 of the <i>Penal Code</i> (Alternative charge)	Abul Hasan Mohamed Rashid (Abul)	<p>On 13 March 2009, Abul was charged with abetting Toh Chun Toh Gordon in engaging in an act which operated as a fraud on Multi-code Electronic Industries (Multi-code), in utilising RM17.6 million of its funds to finance the purchase of 11.1 million Multi-code shares. At the material time, Abul was a director of Multi-code. Abul also faced an alternative charge of committing criminal breach of trust involving RM26 million of Multi-code's funds.</p> <p>On 22 September 2011, the Sessions Court Judge convicted both Abul and Gordon of the alternative charge. Abul was sentenced to 6 years imprisonment while Gordon was sentenced to 12 years' imprisonment and also a fine of RM1 million.</p> <p>Abul and Gordon filed an appeal to the High Court against their respective conviction and sentence. The appeal by Gordon has since abated upon his demise on 27 August 2012.</p> <p>On 29 September 2020, the High Court allowed Abul's appeal and set aside the conviction and sentence on the issue of court jurisdiction.</p> <p>On 2 October 2020, an appeal to the Court of Appeal was filed against the acquittal and discharge of Abul by the AGC/SC.</p>

No.	Nature of offence	Offender(s)	Outcome
			<p>The AGC and SC jointly conducted the appeal hearing at the Court of Appeal on 27 May 2022.</p> <p>On 20 July 2022, the Court of Appeal unanimously allowed the AGC/SC's appeal, and set aside the decision of the High Court. The Court of Appeal further remitted the case to the High Court for merits of the case to be heard before another High Court judge.</p>

CIVIL ACTIONS

As at 30 September 2022, there were 6 ongoing civil cases at the High Court. No civil suits were filed by the SC in Q3 2022.

No.	Breach	Defendant(s)	Outcome
1.	Insider trading in the shares of KNM Group shares under s.188(2)(a) of the CMSA	Lee Swee Eng (Lee)	<p>On 29 April 2020, the SC filed civil action against Lee for a breach of s.188(2)(a) of the CMSA in respect of the disposal of KNM Group Bhd shares.</p> <p>On 23 August 2022, the High Court recorded a consent judgment and ordered among others:</p> <ul style="list-style-type: none"> • A declaration that Lee had breached s.188(2)(a) of the CMSA; • Lee to pay the SC a sum of RM3,667,858.00, being the loss avoided; • Lee to pay the SC a civil penalty of RM500,000; • Lee be barred from being a director of any PLC for 5 years (with effect from 23 August 2022); • Lee be restrained from dealing in securities for 5 years (with effect from 23 August 2022); and • Lee to pay SC costs of RM100,000.
2.	Insider trading in the shares of Worldwide Holdings Bhd (Worldwide) under s.89E of the SIA	Dato' Sreesanthan Eliathamby (Dato' Sreesanthan)	<p>On 5 September 2022, the Court of Appeal unanimously affirmed the High Court's finding that Dato' Sreesanthan had engaged in insider trading of Worldwide Holdings Bhd shares and upheld the reliefs granted by the High Court. In addition, the Court of Appeal further awarded the SC costs of RM50,000.</p> <p>Previously, on 4 November 2020, after a full trial, the Kuala Lumpur High Court allowed the SC's claim against Dato' Sreesanthan for insider trading of Worldwide Holdings Bhd shares.</p> <p>Consequently, the High Court granted the reliefs sought by the SC which include:</p> <ul style="list-style-type: none"> • A declaration that Dato' Sreesanthan had engaged in insider trading in respect of Worldwide Holdings Bhd shares between 7 June 2006 and 11 July 2006;

No.	Breach	Defendant(s)	Outcome
			<ul style="list-style-type: none"> • Dato' Sreesanathan to pay the SC the sum of RM1,989,402.00 which is equivalent to 3 times the amount of RM663,134.00 being the difference between the price at which the securities had been disposed of by Dato' Sreesanathan and the price at which the securities would have been likely to have been disposed of at the time of the disposal, if the material non-public information had been generally available; • Dato' Sreesanathan to pay the SC a civil penalty of RM1,000,000; • Dato' Sreesanathan be barred from being a director of any PLC for a period of 10 years (with effect from 18 November 2020); • Interest at the rate of 5% per annum on the judgment sum effective from 5 November 2020 until full realisation thereof; and • Dato' Sreesanathan to pay the SC the costs of RM100,000. <p>Aggrieved by the said decision, Dato' Sreesanathan filed an appeal to the Court of Appeal.</p>
3.	<ul style="list-style-type: none"> • Use of manipulative and deceptive devices under s.179 of the CMSA. • Causing wrongful loss to a listed corporation under s.317A of the CMSA; and • Attempt, Abetment and Conspiracy under s.370 of the CMSA 	Datin Chan Chui Mei (Datin Chan)	<p>On 7 September 2022, the Federal Court unanimously dismissed Datin Chan's leave application.</p> <p>Previously, on 26 September 2016, the SC filed a civil suit against Datin Chan Chui Mei for breaches under section 179, 317A and 370 of the CMSA.</p> <p>After a full trial, the High Court had on 17 December 2019 granted the following orders:</p> <ul style="list-style-type: none"> • A declaration that Datin Chan had contravened section 179, 317A and 370 of the CMSA; • Datin Chan to pay the SC the sum of RM11.54 million and that this sum be held by the SC on trust for Stone Master; • An account and inquiry of the sum of RM11.54 million and all profits earned by Datin Chan of this amount from the time that it was deposited into her personal bank accounts; • That all sums awarded and to be paid to the SC by Datin Chan be vested in the SC pursuant to section 360(1) of the CMSA; • Datin Chan be barred from being a director, be involved in the management, whether directly or indirectly, of any PLC for a term of 5 years (with effect from 17 December 2019);

No.	Breach	Defendant(s)	Outcome
			<ul style="list-style-type: none"> Datin Chan to pay the SC civil penalty of RM1,000,000.00 within 30 days of the judgment; Datin Chan to pay the SC costs of RM150,000; and Datin Chan to pay interest of 5% per annum on all sums awarded to the SC from the date of the judgment until full settlement. <p>Datin Chan filed an appeal to the Court of Appeal against the decision of the High Court.</p> <p>On 3 March 2022, the Court of Appeal dismissed Datin Chan's appeal and affirmed the High Court's decision.</p> <p>Datin Chan further applied for leave to appeal at the Federal Court against the decision of the Court of Appeal.</p>

REGULATORY SETTLEMENTS

The SC did not enter into any regulatory settlements in Q3 2022.