

HONG KONG / JUDGMENT

## RE CHELSEA SECURITIES LTD AND ANOTHER

[2026] HKDC 791

COURT

District Court

DECIDED

4 May 2026

CASE / FILE NUMBER

DCMP5061/2025

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DCMP 5061/2025

[2026] HKDC 791

IN THE DISTRICT COURT OF THE

HONG KONG SPECIAL ADMINISTRATIVE REGION

MISCELLANEOUS PROCEEDINGS NO 5061 OF 2025

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IN THE MATTER OF CHELSEA SECURITIES LIMITED and CHELSEA SECURITIES (NOMINEES)  
LIMITED

and

IN THE MATTER OF Section 56 and 62 of the Trustee Ordinance (Cap. 29)

and

IN THE MATTER OF Order 92 of the Rules of the District Court (Cap. 336H)

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CHELSEA SECURITIES LIMITED

1st Applicant

CHELSEA SECURITIES (NOMINEES)

LIMITED

2nd Applicant

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Before: Deputy District Judge Lincoln Cheung in Chambers (Open to Public)

Date of Hearing: 19 January 2026

Date of Judgment: 4 May 2026

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## JUDGMENT

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### INTRODUCTION

This is an ex parte application brought by Originating Summons dated 11 September 2025. The Applicants, Chelsea Securities Limited (“A1”) and its wholly-owned subsidiary Chelsea Securities (Nominees) Limited (“A2”) (collectively, “the Applicants”), seek orders under ss 56 and 62 of the Trustee Ordinance (Cap 29) (“TO”) and Order 92 of the Rules of the District Court (“RDC”) to enable them to deal with monies and securities held on trust for their clients following the cessation of their securities brokerage business.

The application is supported by the 1st and 2nd affirmations of Mr Choi Chung Tin affirmed on 11 September 2025 (“1st CCT Affirmation”) and 12 January 2026 (“2nd CCT Affirmation”), together with the affirmation of Mr Lam Kwok Ho Francis affirmed on 12 January 2026.

The hearing of the present application took place on 19 January 2026, at which Mr Griffith Cheng appeared on behalf of the Applicants. At the conclusion of the hearing, I granted leave for supplemental affirmations to be filed addressing the matters raised, and a further 3rd affirmation of Mr Choi Chung Tin was filed on 2 February 2026 (“3rd CCT Affirmation”). I reserved my decision to be handed down at a later date. This is my ruling.

### FACTUAL BACKGROUND AND PROCEDURAL HISTORY

As set out in the Applicants’ evidence, A1 commenced business in 1989 as a licensed securities dealer, and A2, incorporated in 1980 and renamed in 1989, serves as its nominee company responsible for holding physical certificates of foreign securities. In the ordinary course of their operations, the Applicants held securities, cash balances, dividends and proceeds of sale on trust for their clients pursuant to standard account opening documentation and client agreements.

The Applicants’ business was acquired by its present owners on 31 May 2016. Since then, the trust assets held for certain clients have remained dormant and unclaimed. On 31 December 2024, A1 ceased its securities trading operations. Prior to cessation, on 1 November 2024, it issued the first round of cessation notices to clients and subsequently notified the Securities and Futures Commission of its intention to revoke its licence.

Following cessation, the Applicants continued to hold monies and securities for 29 clients. As at 1 September 2025, the aggregate value of these assets was HK\$2,093,019.79. The assets fall into six categories, corresponding to Parts A to F of Schedule 2 to the Summons, namely: (a) unclaimed cash; (b) shares of companies that have been delisted but still exist; (c) shares of companies that have been delisted, wound up or struck off, which are of little or no market value and for which share certificates cannot be obtained; (d) shares which cannot be proportionately divided and for which the underlying clients cannot be identified; (e) foreign securities for which transfer forms and share certificates are available; and (f) foreign securities that are difficult or costly to transfer to the Court.

During 2024 and 2025, the Applicants made repeated attempts to contact the clients, including issuing several rounds of letters, making telephone calls, and, where appropriate, arranging for advertisements in foreign newspapers. A substantial number of clients nevertheless remained uncontactable or did not provide instructions.

In these circumstances, and given the Applicants' cessation of business, the Applicants contend that they have no practical means of concluding the administration of the trust assets without the Court's intervention. They therefore seek directions permitting the payment of the unclaimed monies into Court and authorising the disposition, sale or forfeiture of the remaining securities in accordance with their nature and transferability, so that the outstanding trust assets may be brought to final account.

## APPLICABLE PRINCIPLES

Ordinarily, a broker holds client assets on trust: *Re Goldin Equities Ltd* [2022] HKCFI 740 at §§15 to 16 per DHCJ Winnie Tsui (as she then was); *Re China-Hong Kong Link Securities Company Ltd* [2025] HKCFI 2571 per Au-Yeung J at §11.

Section 56(1) of the TO empowers the Court to confer on a trustee such powers as may be expedient for the management or administration of trust property, where the trustee lacks the necessary power under the trust instrument or at law. The jurisdiction is a broad one.

In the context of unclaimed client assets held by securities brokers, the Court has repeatedly exercised this jurisdiction to authorise the sale, disposal or forfeiture of securities of little or no value, and to direct that any proceeds be paid into Court, see: *Re China-Hong Kong Link Securities Company Ltd* (supra) at §§9 to 10.

In summary, an applicant must demonstrate that: (1) the assets are held on trust; (2) the trustee lacks power to dispose of them; (3) despite reasonable efforts, the beneficiaries cannot be contacted, are unresponsive, or the trustee is otherwise unable to obtain instructions; and (4) it is expedient for the Court to confer the power sought. The Court may impose such terms and conditions as it thinks fit, including directions as to costs and the payment of assets into Court: see s 41U of TO; O 62 r 6(2) of the Rules of the District Court; *Re Deutsche Securities Asia Limited* [2026] HKCFI 1637 per Harris J at §10.

In exercising its discretion, the Court will also take into account the implications of a payment-in order for both untraceable clients and the Court:-

From the client's perspective, once assets are paid into Court, any later attempt to recover them requires an application under Order 92 rule 5 of the RDC, which may involve time and expense. Yet, where reasonable efforts to trace clients have already been exhausted, the likelihood of such applications is low, and any inconvenience to individual clients may be an unavoidable consequence of the circumstances.

On the other hand, from the Court's perspective, assets paid in fall to be administered under the Suitors' Funds Rules (Cap 4B), with the result that the burden of administration shifts from the applicant to the public purse (and thus to the taxpayer), and judicial resources would be deployed.

See: *Re Deutsche Securities Asia Limited* (supra) per Harris J at §11, citing DHCJ Winnie Tsui (as she then was) in *Re K&R International Ltd* [2021] HKCFI 561 at §§48 to 53.

## ANALYSIS

I have considered all the affirmations filed, including the 3rd CCT Affirmation, and the material facts relevant to this application are those set out below.

### Whether the Applicants are Trustees

The first issue is whether the Applicants hold the unclaimed assets on trust. On the evidence, I am satisfied that they do. The standard account opening documentation exhibited in the 1st CCT Affirmation contains the usual terms requiring client monies and securities to be held in designated accounts and regulating their use in accordance with client instructions. These provisions are consistent with the trust relationship ordinarily arising between a broker and its clients: see paragraph 9 above.

### Whether the Applicants lack power to dispose of the assets

The documents before me contain no clause permitting the Applicants to dispose of client assets without instructions, and their role was confined to holding the assets and acting only upon client directions. In the absence of any contractual power enabling the Applicants to deal with the assets, Court authorisation is required.

## Reasonable endeavours to contact clients

Having found that the Applicants hold the assets on trust and lack any power to dispose of them without instructions, the remaining question is whether they have taken reasonable steps to identify and contact the clients concerned. What amounts to reasonable endeavours is a fact-sensitive inquiry. The Applicants rely on a combination of notification letters, newspaper advertisements and telephone calls, and it is necessary to examine each of these steps in turn against the evidence exhibited in the affirmations.

The Applicants rely first on the notification letters issued to the clients. The exhibits to the CCT Affirmations show that six rounds of letters were sent between 1 November 2024 and 12 January 2026, although the correspondence makes clear that not every client received a letter in each round. Having reviewed the letters exhibited, I am satisfied that each of the clients received at least one notification letter. The uneven distribution of letters is not ideal. However, the test is one of reasonable endeavours, not best endeavours. The affirmations record that some clients responded by reclaiming their assets, which indicates that notification by letter was an effective and appropriate means of contact in the circumstances.

The Applicants also rely on newspaper advertisements placed in various overseas jurisdictions. The exhibits show that advertisements were published in Indonesia, Thailand, Singapore, Grenada and New Zealand between November 2025 and January 2026. Attempts were also made to place advertisements in Austria and Switzerland, although no responses were received from the newspaper outlets approached. While the timing of the overseas advertisements was relatively close to the hearing date and may not be entirely satisfactory, each client had already been notified individually by letter, and the advertisements served as an additional measure rather than the primary means of contact. In the circumstances, and bearing in mind that the standard is one of reasonable endeavours, the steps taken in relation to newspaper advertisements form part of a broadly adequate effort to bring the cessation of business to the attention of the clients.

The Applicants also rely on attempts to contact clients by telephone. The 1st CCT Affirmation records that two rounds of calls were made between July and August 2025 to clients who had provided telephone numbers. However, it appears that only 10 of the 29 clients had provided telephone numbers. The record further shows that one client answered the call, but no follow-up communication was recorded thereafter. In the absence of call logs or further details as to the content or outcome of these calls, the telephone attempts add limited weight to the overall assessment. Nonetheless, they only form part of the Applicants' broader efforts to reach the clients and may be taken into account as one component of their reasonable endeavours.

I must further add that the steps taken by the Applicants must be assessed against the practical circumstances in which they were operating:

The clients concerned are dispersed across multiple jurisdictions, and several of the addresses and telephone numbers provided at the time of account opening were no longer current. In that context, the Applicants' primary reliance on individual notification letters was appropriate, as it was the only direct means of communication supported by the records.

The additional steps, e.g. placing advertisements in overseas newspapers and attempting telephone contact, were secondary measures intended to supplement the letters. Although the timing of some of these steps was close to the hearing date and the telephone records are limited, the evidence shows that the Applicants pursued each available channel of communication to the extent reasonably open to them.

More importantly, the statutory test does not require exhaustive or speculative measures, and the Applicants' efforts must be viewed in light of the information actually available to them.

In the circumstances, I am of the view that the Applicants have taken the steps reasonably required of them to trace the clients.

### **Expediency**

As the Applicants have ceased business, they no longer have the capacity to continue holding or administering the unclaimed assets. That circumstance gives rise to a practical need to bring the trust to an end. It would be expedient for the Court to authorise the disposal of the assets.

### **DISPOSITION**

I note from the 3rd CCT Affirmation, and the updated draft order exhibited with it, that there have been changes in the value and composition of the unclaimed assets arising from corporate actions such as privatisations, dividend payments and stock code amendments. These developments do not affect the conclusions reached above and will be addressed within the terms of the order. For the avoidance of doubt, the directions below apply to the trust assets as updated in the schedules exhibited to the 3rd CCT Affirmation.

In the circumstances, I am satisfied that it is appropriate to make an order in the terms sought, with necessary modifications, as follows:-

There be a declaration that all cash and securities held by the Applicants on behalf of the clients named in Schedule 1 ("the Clients") are assets held on trust ("Trust Assets");

Leave be granted to the Applicants to use the Trust Assets for the purposes of (a) paying the assessed costs referred to in §25.6 below, and (b) defraying the advertising and mailing expenses required under §25.4 hereinbelow;

Pursuant to ss.56 and 62 of the Trustee Ordinance ("TO"), the Applicants do have leave to deal with the Trust Assets as follows:

Cash in Hong Kong currency, as listed in Part A of Schedule 2, be paid into Court;

Shares of listed companies or companies delisted but still in existence, as listed in Part B of Schedule 2, are to be withdrawn from the Central Clearing and Settlement System (“CCASS”) or obtained from the relevant companies, registered in the name of the Registrar of the District Court, and deposited into Court;

Shares of companies that have been delisted, wound up or struck off, or are of little or no market value, or for which share certificates cannot be obtained, as listed in Part C of Schedule 2, may be disposed of, including by sale or forfeiture, with any proceeds to be paid into Court;

Shares that cannot be proportionately divided among individual clients or where clients cannot be identified, as listed in Part D of Schedule 2, may be disposed of, including by sale or forfeiture, with any proceeds to be paid into Court;

Shares requiring transfer forms from the relevant companies or agents, as listed in Part E of Schedule 2, are to be registered in the name of the Registrar of the District Court and deposited into Court;

Shares listed in Part F of Schedule 2 may be disposed of, including by sale or forfeiture, with any proceeds to be paid into Court.

Notification of this order, and of the Clients’ rights to apply for payment out under Order 92 of the Rules of the District Court (Cap 336H) (“RDC”), shall be given by advertisements in one Chinese-language and one English-language daily newspaper in Hong Kong within 28 days from the date of this Order, and by ordinary or air-mail post (where applicable) to the Clients at their last known addresses;

Upon compliance with paragraphs 25.3 and 25.4 above, the Applicants be discharged from any obligations or claims in respect of the Trust Assets, and ss. 56 and 62 of the TO and Order 92 of the RDC are deemed to have been complied with by the Applicants;

The costs of and occasioned by this application are to be paid to the Applicants out of the Trust Assets, summarily assessed at \$160,000; and

Liberty to apply.

It remains for me to thank Mr Cheng for his able assistance.

( Lincoln Cheung )

Deputy District Judge

Mr Griffith Cheng, instructed by Cedric & Co, for the 1st and 2nd Applicants

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