

Jury Clears Ex-Nomura Trader, Rejects SEC No-Lying Theory

By **Pete Brush**

Law360, New York (May 6, 2022, 3:43 PM EDT) -- A Manhattan federal jury on Friday cleared a former Nomura trader of fraud over lies he told to counterparties in the commercial bond market, rejecting the U.S. Securities and Exchange Commission's theory that traders must adhere strictly to factual statements.

The jury of five men and three women deliberated over two days before reaching a verdict after a civil trial against James Im that opened April 27 and was overseen by U.S. District Judge J. Paul Oetken.

An elated Im smiled broadly as the verdict was read in the 3 p.m. hour. His lawyers patted him on the back. After Judge Oetken released the jury, Im received hugs from his legal team.

Im, who was charged by the SEC in 2017, earned some \$3.8 million in bonuses from 2010 through 2014 as he dissembled in chats with other traders about both the prices at which Nomura had bought debt and the profits it could realize. The SEC's suit sought injunctive relief as well as monetary penalties.

Im, 45, took the stand during the trial and testified that he always acted in the bank's best interests. He also told jurors that misstatements in his line of work were common, and asserted that they had no real impact on the pricing of, or profits derived from, bundled real estate debts.

Im's trial is part of a line of cases that began with criminal charges filed in 2013 targeting former Jeffries trader Jesse Litvak over his own misstatements. Litvak was cleared in 2018 after a lengthy legal saga.

The SEC's complaint charged Im with fraud counts under both the Securities Act and the Exchange Act, as well as with aiding and abetting Nomura's own fraudulent conduct under both federal statutes.

Im was cleared of all claims.

In 2019, Nomura Securities International Inc. agreed to pay \$26 million to resolve SEC allegations that the bank failed to supervise Im and other traders who allegedly lied to clients.

In a statement provided by SEC spokesperson Cory Jarvis, the SEC said it respects the verdict.

"We will continue to bring and try cases to enforce the securities laws and to help ensure that the securities markets remain honest and fair," the SEC statement said.

Im's defense team said in a statement that their client was "completely vindicated."

"This has been a long and arduous road for him, but he fought valiantly, and we're gratified the jury gave this complex matter such thoughtful deliberation," defense counsel Matthew Ingber and Michael Martinez said via email.

Im is represented by Michael Martinez and Michelle Ben-David of Kramer Levin Naftalis & Frankel LLP and Matthew Ingber, Robert Hamburg and Ilana Cohen of Mayer Brown LLP.

The SEC is represented by its counsel Richard Hong, Ladan Stewart, Chevon Walker and George Stepaniuk.

The case is SEC v. Im, case number 1:17-cv-03613, in the U.S. District Court for the Southern District of New York.

--Editing by Peter Rozovsky.