

14 February 2014

SBI Holdings, Inc.

Announcement: Judgment of the Court of Appeal in the Lawsuit Filed Against Facta Publishing Ltd.

SBI Holdings, Inc. (hereafter “SBIH”) issued a press release on 17 July 2013 about a lawsuit filed against Facta Publishing Ltd. (hereafter “Facta Publishing”) and its representative director, Mr. Shigeo Abe, which was a response to certain articles published by Facta Publishing on its website “FACTA Online” on 18 August 2012 as well as in the September edition of its print magazine “FACTA” (published 20 August 2012) (hereafter, “the Articles”). In the press release, SBIH announced that the Tokyo District Court fully agreed with SBIH’s claims, including the assertion that “there is no evidence to suggest that SBIH borrowed JPY 20.0 billion from an individual who was connected to speculators,” and that the court issued a judgment on 17 July 2013, ordering Facta Publishing and Mr. Shigeo Abe (hereafter, “Facta Publishing, etc.”) to pay, on a joint and several basis, JPY 2 million each to SBIH and Mr. Yoshitaka Kitao for a total of JPY 4 million (hereafter, “First Instance Judgment”).

In response, Facta Publishing, etc. raised objections against the First Instance Judgment and filed an appeal. SBIH hereby announces that the Tokyo High Court issued its judgment on the appeal trial (hereafter, “Court of Appeal Judgment”) yesterday.

1. Details of the Court of Appeal Judgment

In its decision, the Tokyo High Court fully rejected the appeal made by Facta Publishing, etc. and ordered Facta Publishing, etc. to pay, on a joint and several basis, JPY 3 million each to SBIH and Mr. Yoshitaka Kitao for a total of JPY 6 million, as compensation for damages worth more than what had been ordered under the First Instance Judgment.

A summary of the Tokyo High Court’s decision is provided below.

- (1) The compensation should take into account the malicious nature of statements in the Articles and the fact that Facta Publishing, etc. have continued to publish the Articles on the website FACTA Online even after the First Instance Judgment was issued.
- (2) While it was obvious that prior to publishing the Articles there was a need to gather

information to obtain the necessary evidence in an even more careful way than is normally done, Facta Publishing, etc. failed to adequately gather information. Therefore, the court is unable to conclude that the Articles were based on evidence to objectively support the details thereof.

- (3) Facta Publishing's failure to directly interview SBIH also reflects the fact that Facta Publishing, etc. did not adequately gather information to obtain the necessary evidence.
- (4) The court is unable to conclude that Facta Publishing, etc. had probable cause to believe the information described in the Articles was true.

2. Future Actions

As mentioned above, the Court of Appeal Judgment took the decision of the First Instance Judgment a step further and concluded that the details described in the Articles were baseless and that Facta Publishing, etc. failed to adequately gather information. The court ordered Facta Publishing, etc. to pay compensation for damages in an amount higher than that ordered in the First Instance Judgment, in consideration also of the fact that Facta Publishing, etc. kept the Articles published on the website even after the First Instance Judgment. However, the court did not order the publication of an official retraction and apology due primarily to its belief that a relatively long time had elapsed since the publication of the Articles and that SBIH is capable of bringing forth an adequate counterargument by publishing articles on the corporate website, etc. about the court's decision in favor of SBIH's claim for compensation for damages in this lawsuit. SBIH is currently considering its future actions on this point.

For further information, please contact:

SBI Holdings, Inc.: Corporate Communications Dept., Tel: +81 3 6229 0126