
FINAL NOTICE

To: Steven Geoffrey Griggs

Date of Birth: 23/03/1954

Date: 27 January 2009

TAKE NOTICE: the Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (“the FSA”) gives you final notice about a prohibition order against you and a requirement to pay a financial penalty.

1. ACTION

1.1 The FSA gave Mr Steven Geoffrey Griggs (“Mr Griggs”) a Decision Notice on 23 December 2008 that the FSA has decided to:

- (1) make a prohibition order in the terms of the decision set out at paragraph 2.109; and
- (2) impose a financial penalty of £80,000;
on Mr Griggs.

1.2 The prohibition order is made under section 56, and the financial penalty is imposed under section 66, of the Financial Services and Markets Act 2000 (“FSMA”).

2. REASONS FOR THE ACTION

Summary

2.1 The FSA has decided to make the prohibition order and impose the penalty on Mr Griggs for breaches of the FSA’s Statements of Principles arising out of his failings as a director and the chief executive of a retail stockbroker, Pacific Continental Securities UK Limited (“PCS”/“the Firm”).

2.2 In particular, between 1 April 2005 and 20 June 2007 (“the Relevant Period”), Mr Griggs:

- (1) failed to act with integrity in carrying out his controlled functions of a director and chief executive, in breach of Statement of Principle 1; and
 - (2) failed to take reasonable steps to ensure that the business of the Firm for which he was responsible in his controlled functions of a director and chief executive was organised so that it could be controlled effectively, in breach of Statement of Principle 5.
- 2.3 These breaches relate to a number of serious failures committed by Mr Griggs while a director and the chief executive of PCS, whose business during the Relevant Period was advising on and arranging for customers to purchase higher risk securities issued by new or emerging smaller capitalised companies (“the securities”).
- 2.4 In relation to Statement of Principle 1, Mr Griggs failed to act with integrity in carrying out his controlled functions in that he:
 - (1) misled customers, and knew that others misled customers, as to the extent of its research into the securities it promoted;
 - (2) permitted PCS’ advisers to engage in inappropriate selling practices; and
 - (3) misled the FSA as to the real role and function of an individual in relation to the affairs of PCS.
- 2.5 In relation to Statement of Principle 5, Mr Griggs failed to take reasonable care to organise and control PCS’ affairs responsibly and effectively. In particular, he failed to ensure the effective operation of:
 - (1) systems to manage information relating to the availability of stock to ensure that PCS did not create short positions;
 - (2) systems to ensure that PCS did not sell securities to customers in excess of their agreed risk limits;
 - (3) a compliance monitoring system; and
 - (4) training arrangements.
- 2.6 Mr Griggs’ failings are serious because:
 - (1) as an approved person performing the chief executive controlled function, he had responsibility, under the immediate authority of the board of PCS, for the conduct of the whole of its business;
 - (2) he was one of two directors of PCS and, among other things, had particular responsibility for sales; and
 - (3) as an approved person performing the controlled function of apportionment and oversight, he had responsibility for overseeing the establishment and maintenance of systems and controls under FSA rules.
- 2.7 He was therefore responsible for the failures:
 - (1) to prevent the use of unacceptable sales practices and methods employed by PCS which operated a high pressure sales business;
 - (2) to ensure that customers of PCS had the protection of systems and controls which were properly followed;
 - (3) to ensure that customers had sufficient information to enable them to make informed judgements about their investments; and

(4) in particular, to ensure that the claims made about the research carried on by PCS and related promotional material were honest and realistic.

2.8 The cumulative impact of Mr Griggs' failings represented a significant risk to the FSA's objectives of securing the appropriate degree of protection for consumers and maintaining confidence in the financial system.

Relevant statutory and regulatory provisions

2.9 The FSA's statutory objectives include the market confidence objective of maintaining market confidence in the financial system and the protection of consumers objective of securing the appropriate degree of protection for consumers (sections 2, 3 and 5 of FSMA).

2.10 The FSA meets these objectives in a number of ways including making rules for authorised persons and statements of principles for approved persons. The FSA may impose a financial penalty for breach of a Statement of Principle. The FSA may also prohibit an individual from performing any function in relation to a regulated activity carried on by an authorised person.

The Statements of Principle for approved persons

2.11 The FSA has a part in its Handbook in High Level Standards which has the title Statements of Principle and Code of Practice for Approved Persons ('APER'). The statements and the code are issued under section 64 of FSMA.

2.12 Statement of Principle 1 (APER 2.1.2P) states:

"An approved person must act with integrity in carrying out his controlled function."

2.13 Statement of Principle 5 (APER 2.1.2P) states:

"An approved person performing a significant influence function must take reasonable steps to ensure that the business of the firm for which he is responsible in his controlled function is organised so that it can be controlled effectively."

Guidance on the fit and proper test for approved persons

2.14 The FSA has a part of the Handbook in High Level Standards which has the title the Fit and Proper test for Approved Persons ("FIT"). The guidance in FIT on the fit and proper test is given under section 157 of FSMA.

2.15 FIT 1.3.1G states that:

"The FSA will have regard to a number of factors when assessing the fitness and propriety of a person to perform a particular controlled function. The most important considerations will be the person's:

- (1) honesty, integrity and reputation;
- (2) competence and capability; and
- (3) financial soundness."

2.16 FIT 1.3.2G states that:

"In assessing fitness and propriety, the FSA will also take account of the activities of the firm for which the controlled function is or is to be performed, the permission held by that firm and the markets within which it operates."

2.17 FIT 2.1.1G provides that in determining a person’s honesty, integrity and reputation, the FSA will have regard to matters including, but not limited to, those set out in FIT 2.1.3G. FIT 2.1.3G(13) provides that a relevant factor is:

“whether, in the past, the *person* has been candid and truthful in all his dealings with any *regulatory body* and whether the *person* demonstrates a readiness and willingness to comply with the requirements and standards of the *regulatory system* and with other legal, regulatory and professional requirements and standards.”

2.18 FIT 2.2.1G provides that in determining a person’s competence and capability, the FSA will have regard to matters including whether the person has demonstrated by experience and training that they are able to perform their controlled function.

The power to prohibit

2.19 Under section 56 of FSMA, if it appears to the FSA that that individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by any authorised person, exempt person or exempt professional person, the FSA has the power to make an order prohibiting an individual from performing a specified function, any function falling within a specified description, or any function,.

The FSA’s approach to a prohibition order

2.20 Guidance relating to prohibition orders is contained in the Enforcement Guide (“EG”) at EG 9.

2.21 EG 9.1 states that:

“The FSA may exercise this power to make a *prohibition order* where it considers that, to achieve any of those objectives, it is appropriate either to prevent an individual from performing any function in relation to *regulated activities*, or to restrict the functions which he may perform.”

2.22 EG 9.3 states that:

“In deciding whether to make a *prohibition order* and/or, in the case of an *approved person*, to withdraw its approval, the FSA will consider all the relevant circumstances ...”

2.23 A non-exhaustive list of nine relevant circumstances is given at EG 9.9, including:

- (1) “Whether the individual is fit and proper to perform functions in relation to *regulated activities*.” (EG 9.9(2)) The criteria for assessing this are set out in FIT 2.1, 2.2 and 2.3.
- (2) “Whether, and to what extent, the approved person has:
 - (a) failed to comply with the *Statements of Principle* issued by the FSA with respect to the conduct of *approved persons*; or ...” (EG 9.9(3))
- (3) “The relevance and materiality of any matters indicating unfitness.” (EG 9.9(5))
- (4) “The particular *controlled function* the *approved person* is (or was) performing, the nature and activities of the *firm* concerned and the markets in which he operates.” (EG 9.9(7))
- (5) “The severity of the risk which the individual poses to *consumers* and to confidence in the *financial system*.” (EG 9.9(8))

2.24 EG 9.5 states:

“The scope of a *prohibition order* will depend on the range of functions which the individual concerned performs in relation to *regulated activities*, the reasons why he is not fit and proper and the severity of risk which he poses to *consumers* or the market generally.”

The power to fine

2.25 Under section 66 of FSMA, if appears to the FSA that a person is guilty of misconduct and it is satisfied that it is appropriate in all the circumstances to take action against him, it may take action against the person. A person is guilty of misconduct if, among other things, he has failed to comply with a statement of principle issued under section 64. The action the FSA may take includes imposing a penalty on him of such amount as it considers appropriate.

The FSA’s approach to a financial penalty

2.26 The FSA’s general approach to determining whether to impose a financial penalty and the appropriate level of any such penalty is set out in the Decision Procedures and Penalties Guide (“DEPP”), which is part of the Handbook of Rules and Guidance. The principal purpose of imposing a financial penalty is to promote high standards of regulatory conduct by deterring firms and approved persons who have breached regulatory requirements from committing further contraventions, helping to deter other firms and approved persons from committing contraventions and demonstrating, generally, to firms and approved persons, the benefit of compliant behaviour (DEPP6.1.2G). DEPP6.5.2G sets out a non-exhaustive list of thirteen factors that may be relevant to determining the appropriate level of financial penalty.

2.27 In considering whether to impose a financial penalty and the amount of the penalty to impose, the FSA has also had regard to the provisions of the Enforcement Manual (“ENF”) which were in force during the Relevant Period.

Facts and matters relied on in the Warning Notice

2.28 Having considered representations from Mr Griggs, some of the facts and matters relied on in the Warning Notice are no longer relevant. Those facts and matters which remain for purposes of this Decision Notice include the following.

1. Relating to PCS and its business

2.29 PCS was incorporated on 13 February 2001 and has been authorised by the FSA since 1 December 2001. Prior to 15 June 2007, PCS was permitted to undertake the regulated activities of advising on investments as agent, arranging deals in investments, arranging safeguarding and administration of assets, dealing in investments as agent and making arrangements. On 15 June 2007, PCS voluntarily varied its permissions to not undertake any regulated activity except to the extent necessary to close and settle existing client positions. On 20 June 2007, PCS ceased trading and went into administration. PCS is now in insolvent liquidation.

2.30 PCS was a stockbroking firm specialising in the Relevant Period in recommending to retail customers and dealing as agent in securities that had been admitted to trading on the Alternative Investment Market (“AIM”). This market specialises in providing primary and secondary trading services for smaller capitalised and/or emerging companies.

2.31 The management accounts and transactions figures supplied by PCS show that in the

period from January to June 2006 PCS generated AIM sales to value of £7,349,859.65 and from this earned commission of £1,819,560.28. Assuming that these trading levels were representative, this would suggest customer investment in AIM stock of some £14,000,000 per year and earnings to PCS from this of over £3,600,000

2. Relating to the experience and functions of Mr Griggs

- 2.32 Mr Griggs started working in the financial services industry over 35 years ago, and in that time has worked in broking, proprietary trading, information services, and financial publishing.
- 2.33 Mr Griggs was a director of PCS from its incorporation, and held Controlled Functions CF1 (Director), CF3 (Chief Executive), CF8 (Apportionment and Oversight) and CF21 Investment Adviser from 1 December 2001 until 20 June 2007. CF1, CF3 and CF8 are significant influence functions.
- 2.34 Mr Griggs was in charge of the front office and responsible for driving the business forward in respect of the sales, marketing and selection of securities. Mr Griggs considered himself to be a hands on manager who also tended to keep a close eye on compliance, customer relations and complaints handling.

3. Relating to Statement of Principle 1 (Integrity)

Misleading the FSA as to an individual's role

- 2.35 Emails sent or received by Mr Griggs suggest that one individual ("A") played a role in the operations of PCS and another entity within the same overall group of companies. The FSA has particular concerns about the individual as having been linked in press reports to boiler room operations. A was also linked to such activities by another FSA investigation.
- 2.36 The emails show that A was involved by Mr Griggs in the operation of PCS, in that he was kept informed or consulted about staffing issues, particular trades, and the financial position of the Firm and its clients, and was engaged in the selection of stock for promotion to customers.
- 2.37 Mr Griggs was aware that the FSA was concerned about the nature of A's involvement in PCS, as he had been interviewed in relation to that involvement in 2002. At that time, Mr Griggs told the FSA that he knew A socially and that, although he was involved in the business through a US entity that provided research on the stocks PCS promoted, he had not taken any instruction from him in the running of PCS.
- 2.38 In interview in 2008, Mr Griggs initially repeated the claim that his only contact with A was social. When the emails referred to in paragraph 2.35 were shown to him he then stated that A was involved in introducing stock to the ultimate owner of PCS rather than to PCS directly, and acted as a go-between on other matters between Mr Griggs and PCS' ultimate owner. The FSA does not consider this to be a truthful or complete explanation of A's involvement.

Misleading customers about the extent of research into securities

- 2.39 Mr Griggs was aware that PCS emphasised its research and careful stock selection and used this as a promotional tool when contacting customers and selling securities to them. PCS' brochures and promotional material describe its advisory service as including free detailed market analysis and research. For example, a promotion letter produced by PCS and signed by Mr Griggs states:

“Why Pacific Continental Securities? We keep a close eye on the world’s markets. I know of no other company that bases its recommendations on such rigorous research. Every one of our selections is the product of detailed investigation and our team’s experience”.

- 2.40 Mr Griggs was responsible for research and due diligence conducted by the Firm. The consultant engaged by Mr Griggs to conduct the research did not have specific expertise in the type of securities promoted by PCS. In addition, he did not subscribe to any specialist sources of financial information but relied primarily on information provided by external broking firms. Although the external brokers’ research carried warnings that it should not be used for private clients, no consideration was given by Mr Griggs to these warnings or to the fact that these reports had been commissioned by the companies whose securities were being promoted or was produced by brokers promoting the securities.
- 2.41 In addition, Mr Griggs only instructed the consultant to produce a report once it had already been decided that PCS would promote a particular stock. Mr Griggs has provided no evidence to suggest that he undertook proper due diligence before making that decision.

Permitting inappropriate and persistent selling practices

- 2.42 Mr Griggs had responsibility for sales at PCS. He was made aware of inappropriate sales practices prevalent at the Firm and allowed them to continue despite his knowledge of the risks and impact of such practices on PCS’ customers.
- 2.43 In at least two instances, Mr Griggs became aware of information which was likely to have a material impact on the price of stock. In one instance, he was aware that the price of stock was likely to rise yet allowed PCS to recommend that customers should sell their holding in that stock at a lower price in order that PCS could buy the stock back. In another instance, he permitted PCS to advise its customers to buy a stock for 1.5p when it had information that the company was shortly going to make a secondary placing of 120 million shares at 0.75p.
- 2.44 PCS provided instructions to advisers in the form of a manual containing details of what was expected of advisers in terms of their sales tactics, and a series of recommended responses designed to undermine and eventually overcome a customer’s objections to a sale. This manual was known as the “*bible*” by advisers and was relied upon in promoting the securities to customers. In interview, Mr Griggs claimed that the “*bible*” was not used at the Firm, but the FSA does not find this to be credible, given that it was printed on PCS letterhead, and verbatim extracts from it have been identified in the FSA’s analysis of calls to PCS customers.
- 2.45 PCS advisers also applied pressure by making multiple telephone calls over consecutive days and disregarding statements by customers that they were not interested in investing. Some PCS advisers adopted a tactic of claiming that they knew of an upcoming opportunity about which they could only say that the customer would be contacted again and would have to act quickly to secure it.
- 2.46 PCS advisers were also found to deliver information at great speed, in a manner unlikely to be absorbed by the client and leaving little room for questions.
- 2.47 Mr Griggs stated in interview that he “tended to walk around the dealing room, [...] listen to business that’s being transacted.” His close supervision of PCS’ advisers, including receipt of compliance reports, his physical proximity to the sales floor and

his self-styled “hands on” style of management lead the FSA to conclude that Mr Griggs knew of and condoned these inappropriate sales tactics.

- 2.48 Reports produced by Compliance Department and the external compliance consultant between April 2005 and September 2006 highlighted concerns about poor sales practices and non-compliant behaviour. These reports did not show an improvement in these areas over time.

Failure to take action in respect of known inadequacies at the Firm

- 2.49 Mr Griggs was aware of serious inadequacies at the Firm as a result of monthly compliance reports to the Board of Directors which included the results of transaction calls monitoring and monthly reports from an external compliance consultant engaged by the Firm for some of the Relevant Period. Those highlighted a number of compliance issues from call monitoring exercises such as:

- “(1) calling in unsuitable circumstances;
- (2) poor or lack of investment arithmetic abilities on the part of advisers;
- (3) switching;
- (4) misleading statements about securities prices and trends;
- (5) a lack of understanding of investment ratios and gearing on the part of advisers; and
- (6) use of unstructured sales presentations by advisers.”

- 2.50 In addition, Mr Griggs was informed about the lack of clarity of the sales scripts and how further information should be added; that the Compliance function was short staffed specifically in relation to the call monitoring function; and of the risks associated with recruiting poor quality staff with little trading experience, poor financial knowledge and a lack of investment arithmetic abilities.

- 2.51 Mr Griggs was also provided with reports highlighting the fact that senior advisers had a dismissive and cold attitude towards Compliance. This attitude was demonstrated by instances when sales adviser team leaders wrote their own sales scripts without prior review by Compliance. Mr Griggs however took no action.

- 2.52 Mr Griggs did not accept that the issues raised in compliance reports indicated areas of concern within the Firm. He maintained that PCS was maintaining “*the highest possible standards*” in compliance, and always looking at ways to improve those. The FSA considers this untenable given Mr Griggs’ awareness of the number of complaints received by the Firm and the fact that overall compliance performance did not improve over time.

4. Relating to Statement of Principle 5 (Organisation of the business)

Lack of adequate systems to manage stock availability

- 2.53 Mr Griggs knew that PCS had no system for keeping a real time tally of the securities that were being sold by the advisers, and that they had no access to complete and accurate stock information. While the Back Office was in charge of monitoring the levels of stock available, this information was communicated to Mr Griggs only, who would pass the information to the floor from time to time via email and by writing figures on a whiteboard. The only way for the advisers to check availability was through Mr Griggs, and routinely the only information the advisers had was the name of the stock they were to sell and its price.

2.54 As a result there were in many instances insufficient shares to satisfy demands in the event of customer claims. Mr Griggs was aware this was a problem as from February 2007 he received weekly reports that set out the short positions. On 19 June 2007, a day prior to the Firm going into administration, Mr Griggs received an email from his co-director which acknowledged the issue, stating that the in-house reconciliation system needed to include:

“a check to ensure that [the entity from which PCS sourced shares] or equivalent cannot oversell a position”.

Lack of adequate systems to ensure that customer trading limits were adhered to

2.55 Within the customer information form completed and signed for each customer, PCS was meant to agree a trading limit for each customer based on their liquid assets and risk appetite before any trade was conducted. Once a customer’s agreed trading limit had been reached, any subsequent amendment to the trading limit was supposed to be justified by a demonstrated change in the customer’s financial circumstances or risk appetite and recorded on a customer update form.

2.56 A review of the 46 trades forming part of the FSA’s sample indicated that:

(1) 80% (37 out of 46 transactions) conducted their first trade before a signed Customer Information Form or Customer Update Form was received. The Firm’s internal procedure required these documents to have been received prior to any transaction being carried out; and

(2) 44% of customers (20 out of 46) were traded in excess of their agreed limits.

2.57 In at least one instance, a customer’s agreed risk capital level was exceeded to enable PCS to switch the customer into different stocks.

2.58 It appears that PCS increased trading limit levels merely to accommodate further trading and breached customers’ limits in order to switch customers into other securities to meet its internal sales targets.

2.59 The investigation showed that the Firm’s records did not make it clear whether customers were aware that they may have been trading over their stated limit, whether that limit was updated to reflect an increase in assets, or whether advisers were looking at agreed limits plus any profit showing on the customer’s account.

2.60 Mr Griggs stated that if clients were traded in excess of their client limits, these were isolated incidents and potentially either an error or happening with the collusion of the client in question to overstate their assets in order to trade in larger quantities. The evidence, however, does not support that explanation.

Lack of adequate compliance monitoring

2.61 While PCS had systems in place for reporting and recording compliance risks, the information produced by them was inconsistent and internal reports were contradicted by the monitoring conducted by the Firm’s external consultant.

2.62 In addition, the compliance systems did not identify the true extent of the failings at the Firm. A review by the FSA of calls made to 15 randomly selected clients between 7 July 2006 and 6 September 2006 revealed that the most senior advisers scored markedly less well than they did in the Firm’s monitoring results.

Lack of appropriate training

- 2.63 New joiners had little trading experience and had noticeable gaps in their financial knowledge. Staff lacked or had poor investment arithmetic abilities, no understanding of gearing and investment ratios and other financial fundamentals which made the advisers' presentations to clients potentially misleading.
- 2.64 It appears however that training was very limited, and that which did take place was focussed on sales techniques rather than the skills that would enable advisers to take assess the strengths and weaknesses of the recommendations or their suitability to individual customers.

Analysis of breaches in the Warning Notice

- 2.65 The analysis of breaches in the Warning Notice included the following.

Statement of Principle 1

- 2.66 By reason of the facts and matters set out in paragraphs 2.35 - 2.52, the FSA considered that Mr Griggs breached Statement of Principle 1.

Misleading customers about the extent of research into securities

- 2.67 Mr Griggs knew that PCS operated a business that specialised in recommending higher risk securities, and that such securities presented particular and higher risks for customers. Mr Griggs also knew that its customers would rely upon the Firm's judgement and recommendations when deciding to purchase high risk securities. Regardless, Mr Griggs failed to ensure that the research that PCS commissioned on the securities that were recommended was either thorough or complete, or such as the customers had been led to expect. Furthermore, Mr Griggs knew that PCS failed to undertake adequate due diligence in respect of the securities it promoted.
- 2.68 Mr Griggs was therefore aware that there was no "detailed investigation" and "rigorous research", as PCS advised its customers was undertaken, before a stock was selected to be recommended to PCS' customers. Mr Griggs therefore knew that PCS exposed its customers to the risk of being given inadequate and misleading information.
- 2.69 PCS' exaggerated claims may have given customers more confidence than was warranted in the statements made by advisers about the potential performance and prospects of the securities. The FSA considers that exaggerating the extent of research was intended to persuade customers to use PCS' services and to purchase the securities the Firm recommended. In allowing PCS to promote its business on this false basis, Mr Griggs showed a lack of regard for proper standards and hence a lack of integrity.

Misleading customers about the price, value, nature and prospects of the investments and underplaying the illiquid nature and risks inherent in the investments

- 2.70 Mr Griggs was aware that customers were on occasion misled about the price, value, nature and/or prospects of investments being promoted and that the illiquid nature of and risks inherent in the securities were downplayed by advisers. These failures are particularly serious because of the high risk nature of the securities and the sparse and infrequent trading in the securities during the Relevant Period.
- 2.71 Many of these failings were identified by PCS' compliance monitoring functions, and despite this Mr Griggs failed to take action to remedy them. In so doing, he

demonstrated a disregard for the proper standards required for the conduct of his controlled functions.

Permitting inappropriate and persistent selling practices

- 2.72 Mr Griggs' response to non compliant sales or inappropriate behaviour was wholly inadequate and ineffectual. Mr Griggs did not take reasonable steps to address the failings of PCS' advisers via the penalty regime and the effect of this was that the advisers had no real incentive to modify their behaviour. This is reflected in the compliance reports received by Mr Griggs that consistently reported similar levels of non-compliance in sales calls throughout the Relevant Period.

Misleading the FSA as to an individual's role

- 2.73 Mr Griggs was aware of the FSA's interest in the involvement of an individual in PCS' business and the reasons for this interest. Despite this, he failed to inform the FSA of that individual's involvement and was not candid and truthful about that involvement when directly questioned about it in the course of this investigation. In deliberately seeking to conceal these matters from the FSA, the FSA considers Mr Griggs to have demonstrated a lack of integrity.

Statement of Principle 5

- 2.74 By reason of the facts and matters set out in paragraphs 2.53 - 2.64 above, Mr Griggs breached Statement of Principle 5.
- 2.75 Mr Griggs supervised the front office, sales and marketing of the Firm. As a director of PCS and its CEO, he also was involved in managing compliance, customer relations and complaints handling. In those roles, Mr Griggs failed to take reasonable steps to ensure that PCS' business was organised so it could be controlled effectively. In particular, Mr Griggs:
- (1) failed to ensure that the Firm had adequate systems to manage information relating to the availability of stock;
 - (2) failed to ensure that the Firm had adequate systems to ensure that customers' agreed trading limits were adhered to, as the Firm's systems failed to prevent overtrading;
 - (3) failed to implement and act on a compliance monitoring system which consistently and effectively highlighted matters of serious concern to senior management, in that systems provided inconsistent results and the call monitoring process was inadequate to produce improvement over time; and
 - (4) failed to ensure that the Firm had an adequate training and competence programme. Although Mr Griggs was alerted to the fact that PCS' advisers did not all have requisite knowledge, skills and understanding to carry out their roles and claimed to recognise the importance of training, he failed to take reasonable steps to ensure that PCS implemented a training programme that was planned and appropriately structured and evaluated, or that focussed on regulatory and compliance requirements.
- 2.76 Mr Griggs did not take reasonable care to deal with the regulatory requirements in all the circumstances. He was aware that reasonable steps had not been taken to organise and control PCS' affairs responsibly and effectively, and to operate appropriate systems, controls and procedures to manage its risks. As a result, PCS' business could

not be controlled effectively, in that it could not adequately monitor, identify and manage the regulatory risks facing its business and its customers as and when they arose.

- 2.77 Despite these weak systems and controls, inadequate training and lack of compliance monitoring, as Mr Griggs was aware, PCS relied on its advisers to ensure that recommendations made to customers complied with the regulatory requirements. This reliance was inappropriate, and unwarranted, with the consequence that customers continued to be exposed to unacceptable sales practices and the risk of unsuitable recommendations.

Mr Griggs' representations

- 2.78 In the course of the proceedings leading to this Decision Notice, Mr Griggs made the following representations:
- (1) written submissions dated 31 October 2008 in response to a Warning Notice;
 - (2) oral representations made at a meeting on 11 November 2008;
 - (3) written submissions dated 21 November 2008 in response to the document entitled: Steven Griggs – Issues Arising from the Oral Representations Meeting; and
 - (4) a letter dated 9 December to the FSA.

Generally

- 2.79 In relation to his responsibility as an approved person performing the function of chief executive, in his oral representations Mr Griggs accepted that the approval of another person as a co-director and compliance officer did not absolve him from his responsibility as chief executive officer. However, the FSA had to be satisfied that, given the size of the firm and the structures and procedures within it, Mr Griggs was aware of any breaches and took no action.
- 2.80 Mr Griggs also relied on the fact that PCS had properly set up its systems and procedures for compliance.

In relation to research

- 2.81 Mr Griggs said that the analyst they used was independent, experienced and qualified to advise on the securities. The marketing and sales material used by PCS was produced in-house and passed by the compliance department after liaison with its solicitors. It was accompanied by the appropriate risk warnings. Rather than the research being 'significantly overstated or vastly exaggerated' as the FSA was alleging, the firm claimed that it was high quality, independent, research produced by a single, unimpeachable, source who had long experience in these securities.

In relation to inappropriate selling practices

- 2.82 Mr Griggs denied that he had ever seen or approved of what was referred to 'the bible'. This was a collection of sheets of paper containing a variety of selling techniques. The evidence that some of the things said by account executives in telephone conversations with clients corresponded with phrases from 'the bible' were not sufficient to demonstrate that Mr Griggs was personally responsible for the material or approved it; or that the clients were subjected to the kinds of techniques are disclosed in that document.

- 2.83 Mr Griggs said that the monitoring system and the scripts were designed to ensure that selling took place properly.
- 2.84 Concerning complaints, Mr Griggs said that the trigger for the FSA's investigation had been the complaints to the Financial Ombudsman Service about their AIM stocks and not the Reg S stocks which PCS was no longer marketing. Mr Griggs said that, in any event, the complaints into the AIM stocks had not been upheld.

In relation to systems and controls

- 2.85 Mr Griggs relied on the fact that proper processes and procedures had been put in place and that PCS relied on an experienced and competent compliance officer. He said that he took a personal interest in compliance whenever appropriate and made resources available as necessary.
- 2.86 Mr Griggs said that if a transaction was going to exceed a client's limit, this would be agreed in advance with the client and compliance.

Findings

1. In relation to Statement of Principle 1 and integrity

Generally

- 2.87 The FSA noted that Mr Griggs accepted that as chief executive he had responsibility for the whole of the business, as guidance in the FSA's to the chief executive function indicates:
- “This function is having the responsibility, alone or jointly with one or more others, under the immediate authority of the *governing body*, for the conduct of the whole of the business (or relevant activities); ...” (SUP 10.6.3G)
- 2.88 The FSA took particular note also that Mr Griggs was one of only two directors of PCS and that he had particular responsibility for marketing and sales.

Promotional statements and research

- 2.89 When faced with such promotional statements as:
- (1) ‘Every one of our selections is the product of detailed investigation and our team's experience’; and
 - (2) ‘[PCS] has an extremely experienced team of corporate financiers that carefully sift through a large number of potential opportunities and conduct detailed due diligence in the growth stocks recommended ...’;

the FSA would have expected to see evidence of the investigations and the experience of a team. Instead, it found that PCS relied on the advice of one analyst, who was expected to report on companies in a variety of different sectors, and there was no evidence of detailed investigations and detailed due diligence. Also, the analyst himself said that it was not part of his role to comment on the value of stock.

- 2.90 The FSA noted that the PCS Procedures Manual stated, among other things, that 'This [the work of the analyst] is then subjected to the scrutiny of team members who meet to vigorously investigate the merits of the case.' However, the FSA found no supporting evidence for such vigorous investigation.
- 2.91 The FSA concluded that claims made by PCS in its brochures and marketing material about the extent and quality of its research were unfounded and a considerable distortion of what happened.

- 2.92 When considering the existence and use of a sales manual prepared by one of the team leaders and referred to as 'the bible', the FSA noted that Mr Griggs was a 'hands on manager' who tended to keep a close eye on, among other things, compliance. It noted too that Mr Griggs' office was next to the account executives. With Mr Griggs' personal interest in sales, the FSA is satisfied that he did know about it even if, as he claims, he never saw it. But whether or not he knew about it, it was his responsibility to ensure that the selling practices were proper and he had responsibility for what one of his team leaders prepared in the course of his employment.
- 2.93 This 'collection of sheets of paper' was a spiral bound manual on the headed notepaper of PCS and begins with items under the headings of 'About Pacific Continental Securities', 'What we do', 'How do we get our clients?', 'Office Times and Procedures' etc. It has all the hallmarks of an official publication of PCS endorsed by its senior management.
- 2.94 Among the 'Helpful Lines & Phrases for Prospective Clients' is:
'I am one of the top brokers of a very powerful investment banking firm and more importantly my connections in this industry are top notch.'
- 2.95 Among the 'Good Lines in relation to the Stock' is:
'This is a Great stock, it is in an industry that is showing exponential growth, the management is top drawer and most importantly of all the price at which the stock is currently trading ... as far as we are concerned ... is massively under valued!'
- 2.96 Among the 'Good Lines for the Tee-up' is:
'This is a great company, the price is very attractive and it is in an industry that is really set to explode!'
- 2.97 Under the 'Client Is unsure' section of 'Objection Handling' is:
'In this business it's about trust would you agree? You have to trust your broker, the information and your judgment, what I'm asking is for 1% of your trust, let me earn the rest.'
- 2.98 The FSA believed that these suggestions indicated the sort of practices which were used by account executives and for which Mr Griggs was responsible.
Misleading the FSA about the role of an individual
- 2.99 The FSA is satisfied that Mr Griggs misled the FSA about the role of an individual ('Mr A').
- 2.100 In an email to Mr Griggs on 11 September 2006, Mr A informed Mr Griggs that he was flying to Switzerland:
'to further conversations. Please send me an outstanding list of your issues so that I can follow them up. I would like to hook up this week to progress issues that you and I are not happy with.'
- 2.101 Mr Griggs responded the same day to say that there was no issue list but he could not accept having emailed Mr B on 1 August to request payment of his money and then not getting either payment or reply. He wrote:
'No-one seems to act pro-actively to manage paying me in accordance with the agreement. ... there is no excuse for lack of basic civility, manners and respect. ... I do not want any further direct dealings with [Mr B] ... I will not expect any PCS staff to

respond to him either ... The only important business issues are also seeing [Mr C] taking the FSA seriously and not undoing the vast progress we have made in keeping them off our backs ... he should be more sensitive to the fact that it is mine and [Mr D's] personal FSA licence that would be affected by his obstructiveness.'

- 2.102 Mr Griggs explained the background to the email in an interview with the FSA saying that he was enlisting Mr A's assistance as a friend to lobby Mr C and potentially Mr B on behalf of PCS in order to have the company more properly funded.
- 2.103 In his written representations, Mr Griggs maintained 'and has always maintained and no evidence has been adduced to contradict him because none exists that there is no relationship between [Mr A] and the Firm.'
- 2.104 In one interview, Mr Griggs said that he had no business connection with Mr A and was asked if that was still true some years later. His reply was 'Yes, it was true then and it's true today and the times in between.'
- 2.105 In the same interview, Mr Griggs was asked to explain why Mr A appeared to be providing him with client fund figures. The explanation was that Mr A had acted for Mr C on a consultancy basis and that this was quite possibly information that he was relaying to and from PCS on behalf of Mr C. Mr Griggs was asked if this was a business relationship with PCS. He replied 'No it's a business relationship he had with Mr C so it's not a relationship he had with me.'
- 2.106 The FSA is being asked to accept that someone who is so well acquainted with the affairs of PCS, and others who have an interest in PCS, and who acts as conduit of such sensitive information, is no more than a friend; a friend who happens to be able to make contact with someone central to the business of PCS more readily than Mr Griggs himself. In the light of all the evidence before it, the FSA is satisfied that Mr Griggs is misleading the FSA as to the real role and function of Mr A in relation to the affairs of PCS.

2. In relation to Statement of Principle 5 and systems

- 2.107 The FSA accepted that PCS had set up appropriate procedures and processes to ensure that failings were drawn to the attention of senior management. However, the FSA was not satisfied that Mr Griggs took sufficient notice of matters that were either drawn to his attention or of which, in a diligent discharge of his responsibilities, he should have made himself aware. The lack of material improvement in sales practices also failed to satisfy the FSA that Mr Griggs adequately discharged his duties as chief executive.
- 2.108 The FSA was particularly concerned that the procedures did not prevent PCS selling securities to customers in excess of their agreed risk limits.

Decisions

- 2.109 For the reasons set out above, it appears to the FSA that Mr Griggs is not a fit and proper person to perform significant influence functions in relation to a regulated activity carried on by an authorised person. It has therefore decided to make an order prohibiting Mr Griggs from performing any regulated activity within the description of a 'significant influence function' in the FSA Handbook.
- 2.110 Also for the reasons set out above, it appears to the FSA that Mr Griggs is guilty of misconduct and it is satisfied that it is appropriate in all the circumstances to take action against him. Taking into account the seriousness of the breaches and

comparable cases, the FSA has decided to impose a financial penalty on Mr Griggs of £80,000.

3. DECISION MAKER

3.1 The decision which gave rise to the obligation to give this Final Notice was made by the Regulatory Decisions Committee (“RDC”).

4. IMPORTANT

4.1 This Final Notice is given to you in accordance with section 390(1) of FSMA.

Manner of and time for payment

4.2 The financial penalty must be paid in full by Mr Griggs to the FSA by no later than 27 July 2009, six months from the date of the Final Notice.

If the financial penalty is not paid

4.3 If all or any of the financial penalty is outstanding on 28 July 2009, the FSA may recover the outstanding amount as a debt owed by Mr Griggs and due to the FSA.

Publicity

4.4 Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this notice relates. Under those provisions, the FSA must publish such information about the matter to which this notice relates as the FSA considers appropriate. The information may be published in such manner as the FSA considers appropriate. However, the FSA may not publish information if such publication would, in the opinion of the FSA, be unfair to you or prejudicial to the interests of consumers.

4.5 The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

FSA contacts

4.6 If you have any questions regarding the procedures of the Regulatory Decisions Committee, you should contact Daniel Lewsey (direct line: 020 7066 7468/fax: 020 7066 7469) in the Regulatory Decisions Committee Professional Support Services.

4.7 For more information concerning this matter generally, you should contact Suzanne Burt at the FSA (direct line: 020 7066 1062 /fax: 020 7066 1063).

Georgina Philippou
Head of Department
FSA Enforcement Division