

FINAL NOTICE – SUMMARY OF CONTENTS

Date of issue: 28th October 2005

Mr James Austin Caviel

On 16 September 2005 the FSA refused an application made under section 60 of the Financial Services Act 2000 for the approval of Mr James Caviel to perform the controlled function of investment adviser with a firm of independent financial advisers.

Between July 1999 and October 2004, Mr Caviel was employed by a previous firm of financial advisers, first as an investment adviser and from August 2003 as a director.

By his own admission, in December 2003, and again in September 2004, Mr Caviel appended the false signatures of a client and a client's accountant respectively to documents which he then gave to junior staff to send to product providers.

Following the FSA issuing a Warning Notice proposing to refuse the application, Mr Caviel made oral representations to the FSA Regulatory Decisions Committee ("RDC") and admitted that he was wrong to falsify the signatures. He was supported at the oral representations by two senior staff of the investment adviser he sought to join. Each said that Mr Caviel had worked for them in a non regulated capacity for several months and that in their view he was fit and proper for the controlled function to which the application related.

The RDC took into account a Regulatory Update ("RU77") issued to all regulated firms by the Board of the Personal Investment Authority ("PIA") in 2000. Mr Caviel was registered with the PIA when RU77 was issued. In respect of forging documents, the PIA Board stated "...it considers the forgery (or other similar falsification) of documents – for whatever reason – to be totally unacceptable. PIA will regard any future incidents of forgery as prima facie evidence that the individual concerned may not be fit and proper, and it will not accept expediency (irrespective of whether the act was undertaken with the authority of the client) as justification for such actions."

The RDC noted that PIA's policy had not been rescinded and considered that the standard set was applicable under the Financial Services and Markets Act 2000 regime. Therefore, the FSA has concluded that it is unable to satisfy itself that Mr Caviel is a fit and proper person to perform the controlled function to which the application related. Accordingly a Decision Notice, refusing the application, was issued to Mr Caviel and the applicant firm.

No reference by the applicant firm or Mr Caviel was made to the Financial Services and Markets Act Tribunal. A Final Notice has therefore been issued.