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## FINAL NOTICE

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To: John White  
Of: 5 Rochford Close  
Hornchurch  
Essex  
RM12 5PD

Date: 25 May 2010

**TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (the “FSA”) gives you final notice about an order prohibiting you from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.**

### 1. THE ORDER

- 1.1. The FSA gave you, John White, a Decision Notice on 2 February 2010 (the “Decision Notice”) which notified you that it had decided to make an order pursuant to section 56 of the Financial Services and Markets Act 2000 (the “Act”), prohibiting you from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm (the “Prohibition Order”).
- 1.2. You did not refer the matter to the Financial Services and Markets Tribunal within 28 days of the date on which the Decision Notice was given to you. The Prohibition Order takes effect from 27 May 2010.

## **2. REASONS FOR THE ORDER**

### **Summary**

- 2.1. The FSA has concluded that you lack honesty and integrity and are therefore not a fit and proper person to perform functions in relation to regulated activities carried on by an authorised person, exempt person or exempt professional firm.
- 2.2. Whilst employed as Settlements Manager at Seymour Pierce Limited (“SPL”), you committed a number of frauds on SPL and its clients:
  - (1) you stole approximately £152,000 from SPL’s internal and client accounts, over a four and a half year period in thirty-seven separate transactions;
  - (2) you hid £145,000 that had been paid to SPL in error in an account where you knew it was unlikely to be discovered, and used part of this sum to cover-up an earlier fraud; and
  - (3) you attempted to conceal your misconduct from SPL by deliberately failing to complete internal account reconciliations.
- 2.3. The majority of the frauds involved you making unauthorised changes to static data on client accounts (e.g. the client’s name, address, bank account and payment instructions) and/or misusing dormant client accounts (i.e. accounts on which no trading activity had occurred for a period of at least two years or which were otherwise inactive). In one case you intentionally transferred a loss that you had incurred on your personal dealing account into an SPL internal account. You also stole principal trading profits, dealing commission and credit interest belonging to SPL on a number of occasions.

### **Relevant statutory and regulatory provisions**

#### *Statutory provisions*

- 2.4. The FSA’s regulatory objectives, set out in section 2(2) of the Act, include the reduction of financial crime and the protection of consumers.
- 2.5. Section 56 of the Act enables the FSA to make an order prohibiting an individual from performing a specified function, any function falling within a specified description or any function if it appears to the FSA that the individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person, exempt person or exempt professional firm. The order may relate to a specified regulated activity, any regulated activity falling within a specified description or all regulated activities.

#### *Enforcement guide*

- 2.6. The FSA’s approach to exercising its main enforcement powers is set out in the Enforcement Guide (“EG”) and Chapter 9 of EG relates to prohibition orders.
- 2.7. EG 9.1 states that the FSA’s power under section 56 of the Act helps it work towards achieving its regulatory objectives. The FSA may exercise this power where it considers that, to achieve any of its objectives, it is appropriate either to prevent an individual from performing any functions in relation to regulated activities or to restrict the functions which he may perform.
- 2.8. EG 9.4 sets out the general scope of the FSA’s power to make a range of prohibition orders depending on the circumstances of each case and the range of regulated activities to which the individual’s lack of fitness and propriety is relevant. EG 9.5 provides that the scope of a prohibition order will vary according to 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.
- 2.9. EG 9.17 notes that where the FSA is considering making a prohibition order against an individual who is not an approved person, exempt person or member of a professional firm, the FSA will consider the severity of the risk posed by the individual, and may prohibit the individual where it considers this is appropriate to achieve one or more of its regulatory objectives. EG 9.18 notes that when considering whether to exercise its power to make a prohibition order against such an individual, the FSA will consider all the relevant circumstances of the case. These may include the factors set out in EG 9.9.
- 2.10. EG 9.9 provides that when deciding whether to make a prohibition order the FSA will consider all the relevant circumstances of the case, which may include (but are not limited to):
- (1) whether the individual is fit and proper to perform functions in relation to regulated activities, including in terms of their honesty and integrity with reference to Chapter 2.1 of FIT (see below) – EG 9.9(2);
  - (2) the relevance and materiality of any matters indicating unfitness – EG 9.9(5); and
  - (3) the severity of the risk which the individual poses to consumers and to confidence in the financial system – EG 9.9(8).
- 2.11. EG 9.12 provides a number of examples of types of behaviour which have previously resulted in the FSA deciding to issue a prohibition order or withdraw the approval of an approved person. The examples include severe acts of dishonesty, for example those which may have resulted in financial crime.

***Fit and Proper Test for Approved Persons***

- 2.12. The part of the FSA Handbook entitled “FIT” sets out the Fit and Proper test for assessing the continuing fitness and propriety of approved persons and for assessing candidates for becoming approved persons. In accordance with EG 9.17 and EG 9.9 FIT is also a relevant consideration for the FSA in deciding whether to make a prohibition order against an unapproved person.
- 2.13. FIT 1.3 provides that the FSA will have regard to a number of factors when assessing a person’s fitness and propriety. Among the most important considerations will be the person’s honesty, integrity and reputation.
- 2.14. In determining a person’s honesty, integrity and reputation, FIT 2.1 states that the FSA will have regard to matters including, but not limited to, those set out in FIT 2.1.3 G. This includes 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 (FIT 2.1.3 G (13)).

### **Facts and matters relied on**

#### ***Background***

- 2.15. From 2 June 1997 to 24 July 2006 you were employed by SPL, a corporate finance firm which has been authorised by the FSA since 1 December 2001 with permission to carry out a range of investment related regulated activities. You worked in SPL’s Settlements department (“Settlements”) in the role of Settlements Manager.
- 2.16. From 1998, trades executed by SPL on behalf of its institutional clients and private clients were settled by a third party firm pursuant to a settlements, clearing and custody arrangement. However, as SPL’s Settlements Manager, you played an important administrative role in the settlements process. Specifically, it was your responsibility to manually enter details of executed trades onto the third party firm’s settlement system (“System A”). It was also your responsibility to make changes to static data on client accounts set up on System A in accordance with client instructions that SPL received. You had access rights to System A to enable you to do this.

#### **The frauds**

- 2.17. Between September 2001 and April 2006 (the “Relevant Period”), you stole a total of £152,372 by way of thirty-seven separate transactions. Around half of this amount was from SPL and around half from SPL’s private clients. You also hid approximately £145,000 that had been paid to SPL in error in a dormant account where you knew it was unlikely to be discovered. You then used part of this sum to cover-up an earlier fraud that you had committed.

#### ***Frauds against private clients***

- 2.18. For the majority of the Relevant Period, SPL had a small number of private clients. These clients had remained with SPL after its private client department was closed in 1997. SPL tried to make contact with and return

monies or assets to these clients but was not always able to do this. Accounts were maintained on System A in these clients' names in the meantime.

2.19. Between September 2001 and February 2005, you stole a total of £77,091 from four of these private client accounts, all of which were dormant:

- (1) One account held investments and related dividends. Between 30 July 2001 and 1 August 2001, three dividends were credited to the account totalling £3,207.50. In September 2001, you manipulated payment instructions on the account so that this amount was automatically paid out to your personal bank account by CHAPS.
- (2) A second account held the proceeds of securities that had been sold in November 1998. The proceeds remained on the account accruing interest at six-monthly intervals. In December 2004, you manipulated payment instructions on the account so that the total balance of £4,426 was automatically paid out to your personal bank account by CHAPS.
- (3) A third account held a balance that had been accruing interest at six-monthly intervals since March 1998. In December 2004, you manipulated payment instructions on the account so that the total balance of £16,787 was automatically paid out to your personal bank account by CHAPS.
- (4) A fourth account held securities since November 1999. In 2004, you changed payment details on System A to transfer the securities initially to a dormant institutional client account and then to your personal dealing account. Staff personal dealing accounts were set up to pay away cleared funds automatically. Therefore, when the securities were redeemed in February 2005, the proceeds of £52,670 were automatically paid to your personal bank account.

### ***Frauds against SPL***

2.20. Between May 2003 and April 2006, you stole a total of £75,281 from SPL in thirty-three transactions:

- (1) Twenty-four transactions related to 'riskless principal' trading profits that SPL had earned. Trading on a riskless principal basis involved SPL buying stock from (or selling to) a client in the firm's own name (as opposed to acting as an agent) at one price and simultaneously selling the stock to (or buying from) another client at a different price. SPL traded on this basis when clients insisted that they did not want to pay agency broking commission and that instead SPL should make its profit from the difference between the buying and selling price. These trades should have been booked onto the firm's internal trading account. However, you booked the trades onto a dormant institutional client account whose payment instructions you had manipulated so that funds were automatically paid out by cheque to your home address. You stole a total of £39,127 from the firm in this way between May 2003 and March 2005.

- (2) Seven transactions related to interest that the firm had earned. Institutional clients normally settled their transactions on a delivery-versus-payment basis. This meant that credit balances would not normally be left on their accounts. However, where interest did accrue on these accounts, SPL's terms of business made it clear that it would be due and payable to SPL. You committed six of the seven frauds by manipulating payment instructions on client accounts where interest had accrued. This resulted in the monies automatically being paid either directly to your personal bank account by CHAPS or by cheque sent to your home address. The other fraud involved the diversion of interest that had accrued on one of SPL's internal accounts to your personal bank account. You stole a total of £22,257 from the firm in this way between October 2004 and September 2005.
- (3) One transaction involved you transferring, into one of the firm's internal accounts, a loss that you had incurred on your personal dealing account. SPL employees were permitted to be SPL clients and to maintain accounts set up on System A through which they could buy and sell securities, in accordance with the firm's personal dealing procedures. You sold stock in your own name in March 2005, incurring a loss of £2,883 on a corresponding purchase trade that you had previously instructed the firm's front office to effect but which had not settled. You then misused your access rights to System A by transferring both trades (and the resulting loss) from your personal dealing account into one of SPL's internal accounts.
- (4) One transaction related to dealing commission that SPL had earned on the sale of an institutional client's shares. You committed this fraud by manipulating payment instructions on the client account so that the monies were automatically paid out to your personal bank account by CHAPS, when they should have been booked to one of SPL's internal accounts. You stole a sum of £11,015 from the firm in this way in April 2006.

2.21. In addition, in November 2005 you hid £145,000 had been paid to SPL in error in a dormant institutional client account knowing that the presence of funds on this dormant account was unlikely to be discovered. In April 2006 you then transferred £16,787 of this amount into the private client account referred to in paragraph 2.19(3) above. You did this because you became aware that SPL was making further efforts to locate the private client who held this account and you feared that your earlier fraud would be discovered.

***Failure to complete internal account reconciliations***

2.22. SPL operated a number of internal accounts that were set up on System A. As part of your responsibilities, SPL expected you to regularly carry out reviews and reconciliations of each of these internal accounts. However, during the Relevant Period you did not do this adequately, if at all. Moreover, you deliberately failed to complete reconciliations of these accounts because you knew that this would reveal the frauds that you had committed.

### ***Representations from third party***

- 2.23. SPL, as a third party, made a representation that the £152,372 stolen by you in 37 separate transactions, referred to in paragraph 2.17 of this Notice, is £3,207 more than the amount referred to in the Final Notice issued to SPL on 8 October 2009. The reason for this difference is that your theft of £3,207.50 in 2001, referred to in paragraph 2.19(1) of this Notice, occurred before the Relevant Period of investigation in respect of SPL's conduct.
- 2.24. The FSA accepts this representation.

### **Conclusions**

- 2.25. You were a longstanding employee of SPL and you misused your senior position within the firm. You committed a number of frauds on SPL and its clients over a long period, stealing approximately £152,000 and misusing a further £145,000, part of which you used to cover-up an earlier fraud. You also attempted to conceal your misconduct by deliberately failing to complete internal account reconciliations.
- 2.26. As a result, the FSA has concluded that you lack honesty and integrity. You are therefore not fit and proper to perform functions in relation to regulated activities carried on by an authorised person, exempt person or exempt professional firm. Having regard to the seriousness of your misconduct, your lack of honesty and integrity, and the severity of the risk that you pose to the FSA's statutory objectives of protecting consumers and reducing financial crime, the FSA has decided to make the Prohibition Order against you.
- 2.27. Taking this action against you is consistent with the FSA's policy of seeking to prevent individuals who lack honesty and integrity from working in authorised firms.

### **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.

### **4. IMPORTANT**

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

### **Publicity**

- 4.2. Sections 391(4), 392(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.

**FSA contacts**

- 4.3 For more information concerning this matter generally, contact Bill Sillett (direct line: 020 7066 5880 / fax: 020 7066 5881) of the Enforcement Division of the FSA.

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**William Amos**  
**Head of Department**  
**FSA Enforcement and Financial Crime Division**