
FINAL NOTICE

To: **Park Row Associates Limited**

Of: 5th Floor, Gallery House, 125 – 131 The Headrow,
Leeds LS1 5RD

Date: **23 February 2010**

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (“the FSA”) gives you final notice of its decision to issue a public censure.

1. ACTION

- 1.1. The FSA gave Park Row Associates Limited (“Park Row/the Firm”) a Decision Notice on 25 January 2010 which notified the Firm that pursuant to section 205 of the Financial Services and Markets Act 2000 (“the Act”), the FSA had decided to issue a public censure with regard to Park Row for breaches of Principle 3 (management and control) and Principle 9 (customers: relationships of trust) of the FSA’s Principles for Businesses between 1 January 2007 and 20 January 2009 (“the Relevant Period”);
- 1.2. The Firm confirmed on 22 January 2010 that it will not be referring the matter to the Financial Services and Markets Tribunal.
- 1.3. In taking this action, the FSA had had regard to the financial position of Park Row. The serious nature of the breaches identified in this Notice would ordinarily have led the FSA to impose a financial penalty of £2.4m. However, the FSA acknowledges that Park Row is currently in a state of orderly wind-down and that its current

resources are insufficient for it to pay such a fine and meet its regulatory requirements. Therefore the FSA has not imposed a financial penalty on Park Row.

- 1.4. Park Row is currently undertaking an orderly wind-down of its business and has agreed (with the backing of its parent company Royal Liver Assurance Limited (“Royal Liver”)) to undertake a customer contact programme relating to the sale of certain high-risk products by Park Row between June 2006 and November 2009. This review programme covers sales of pension switches, investment bonds, structured products, film partnerships, annuities and sales to the elderly. The object of the customer contact programme is to identify whether any customers were not treated fairly because they received or were at risk of receiving unsuitable advice. If any such cases are identified, Park Row has agreed that redress will be paid. It is estimated that redress payable to consumers will be in the region of £5m to £7.8m. This cannot be met from Park Row’s own financial resources and Royal Liver has agreed to provide additional financial support.
- 1.5. The public censure will be issued on 24 February and will take the form of this Final Notice, which will be published on the FSA’s website.

2. REASONS FOR THE ACTION

- 2.1. The breaches of Principles, referred to in more detail at section 4 below, relate to failings by Park Row and its advisers in ensuring that files properly evidenced the suitability of sales and, in some cases, that sales were suitable when advising customers about pensions, investments, bonds, mortgages, structured products and annuities. The consequences of these actions were that customers were placed at risk of receiving unsuitable advice and not being treated fairly when being advised by Park Row.
- 2.2. Park Row breached Principle 3 in the Relevant Period by failing to ensure that its systems and controls were adequate to manage the risk of the business and ensure suitability of advice through compliance checks conducted by its Desk Based Monitoring function (“DBM”). In doing so Park Row failed to take reasonable care to organise and control its affairs responsibly and effectively.

- 2.3. Park Row breached Principle 9 in the Relevant Period by failing to take reasonable care to ensure the suitability of its advice for any customer who was entitled to rely upon its judgement.
- 2.4. The FSA views Park Row's failings as particularly serious in view of the following considerations:
- (1) Park Row failed to address these issues despite receiving internal and external reports (including feedback from the FSA) highlighting concerns;
 - (2) Park Row had continued failings and showed inadequate improvement over the Relevant Period;
 - (3) Park Row sold high risk products;
 - (4) Park Row gave its customers unsuitable advice in some instances and in others placed them at risk of being given unsuitable advice; and
 - (5) the remedial action taken by Park Row did not adequately address the issues identified.
- 2.5. Although Park Row did take some steps to rectify the concerns identified by the reports, including restructuring and resourcing its compliance department, these did not adequately address the issues identified.

3. RELEVANT STATUTORY PROVISIONS AND REGULATORY REQUIREMENTS

- 3.1. The FSA's statutory objectives are set out in Section 2(2) of the Act. The relevant objectives for the purposes of this case are public awareness and the protection of consumers.
- 3.2. Section 205 of the Act provides:

“If the Authority considers that an authorised person has contravened a requirement imposed on him by or under this Act, the Authority may publish a statement to that effect.”

- (1) Park Row is an authorised person for the purposes of section 205 of the Act. A requirement imposed on a firm includes the FSA Principles made under section 138 of the Act.
- (2) The FSA Principles are a general statement of the fundamental obligations of firms under the regulatory system and reflect the FSA's regulatory objectives.
- 3.3. Principle 3 for Businesses states that a firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.
- 3.4. Principle 9 for Businesses states that a firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgement.
- 3.5. The FSA's Principles constitute requirements imposed on authorised persons under the Act; breaching a Principal and/or a Rule makes a firm liable to disciplinary sanctions.
- 3.6. The procedures to be followed in relation to the publication of a statement under section 205 of the Act are set out in sections 207, 208 and 209 of the Act.

4. FACTS AND MATTERS RELIED ON

- 4.1. Park Row is a national independent financial adviser network; it was authorised by the FSA on 1 December 2001. The firm has permission from the FSA to carry on regulated activities in relation to, among other things.
 - (1) Advising on Pension Transfers and Pension Opt Outs;
 - (2) Advising on investments (except on Pension Transfers and Pension Opt Outs);
 - (3) Advising on regulated mortgage contracts;
 - (4) Arranging (bringing about) deals in investments;
 - (5) Arranging (bringing about) regulated mortgage contracts;
 - (6) Making arrangements with a view to regulated mortgage contracts; and

(7) Making arrangements with a view to transactions in investments.

- 4.2. During the Relevant Period Park Row had up to 535 advisers and completed 37,409 regulated sales to approximately 23,688 customers. The net commissions and fees generated by Park Row during the Relevant Period amounted to approximately £10,385,000.
- 4.3. Park Row is a wholly owned subsidiary of Royal Liver.

SUITABILITY OF ADVICE

- 4.4. During the Relevant Period Park Row was made aware, via FSA Risk Mitigation Programmes (“RMP”) and skilled persons reports, that it did not have sufficient controls in place to ensure that customer files properly demonstrated the suitability of sales and the advice it gave to customers was suitable. This included pensions advice, advisers providing advice when not authorised and the risk of commission influencing the selection of products.
- 4.5. The DBM function at Park Row performs compliance checks to review and assess the suitability of advice given to customers. DBM performs a sample of post-sale checks based on the risk rating of the product and the adviser.

Reports

- 4.6. During the Relevant Period Park Row received several reports with supporting documentation highlighting concerns relating to advice given to customers and the quality of the DBM compliance controls. These reports alerted Park Row to the fact that Park Row advisers had and in some cases had provided customers with unsuitable advice and that Park Row had or may have not treated its customers fairly, including by failing to ensure that all documentation required to evidence suitability was retained on the customer file.
- 4.7. The FSA made Park Row aware of its concerns after a Supervisory visit carried out between 23 August and 19 September 2006. The visit resulted in the FSA issuing Park Row with an extensive RMP on 18 December 2006 requiring improvements in a number of areas including:

- (1) a reduction in the level of DBM backlog;
- (2) actions to mitigate a DBM backlog occurring again;
- (3) a review of training and competence to ensure the competency of advisers could be maintained;
- (4) taking steps to ensure treating customers fairly was implemented;
- (5) a review of risk management processes to ensure emerging risks were identified;
- (6) actions to ensure that the compliance function was effective and fully embedded;
- (7) actions to ensure that management information was adequate to identify weaknesses in the business; and
- (8) actions to ensure an adequate internal audit function was in place.

4.8. The Park Row board was also required to provide the FSA with written assurances that these actions had been completed.

4.9. In 2007 Park Row was required by the FSA to appoint a skilled person (“Skilled Person 1”) under S166 of the Act to review pensions advice cases and a selection of cases which had been rated low and medium risk by Park Row. The scope of the review included the adequacy of corporate governance and internal controls in accordance with the issues identified in the RMP. Skilled Person 1 issued a draft report on 26 July 2007. The draft report showed that not all the required actions in the RMP had been implemented or embedded yet and a further review by Skilled Person 1 was required. A final report was issued on 17 January 2008; the findings of the file review are outlined below:

- (1) Skilled Person 1 reviewed 23 high risk cases completed by the Park Row pension and investment specialists, all of which were passed by Park Row compliance checks. Skilled Person 1 found that 12 (52%) of these cases should have been categorised as a fail, as there was insufficient information on

file to pass the case. Skilled Person 1 could not conclude whether the sales in the failed cases were suitable or unsuitable. Further, Skilled Person 1 found that 3 (13%) of these cases should have been rejected due to the advice being unsuitable on the evidence provided.

- (2) Skilled Person 1 also reviewed 56 low to medium risk cases as categorised by Park Row. Skilled Person 1 found that 19 (34%) of these cases should have been categorised as fail as the DBM check failed to identify issues fundamental to the advice given and therefore had not been checked in a competent manner. Again, Skilled Person 1 could not conclude whether the sales were suitable or unsuitable.

4.10. The FSA conducted a further Supervisory visit the following year between 11 and 14 March 2008. Following a review of 9 customer files, which raised concerns regarding the quality of compliance file reviews, adviser documentation and the suitability of investments, the FSA requested Park Row to appoint an external consultant (the “Consultant”) to conduct a quality assurance exercise to review 50 client files. The Consultant completed the review on 5 June 2008, and the findings are outlined below:

- (1) in 13 cases (26%) the advice was suitable;
- (2) in 20 cases (40%) the advice was likely to be suitable but there were gaps in the documentation;
- (3) in 15 cases (30%) there was insufficient evidence to conclude whether the advice given to the customer had been suitable or unsuitable; and
- (4) in one case (2%) where the advice was likely to be unsuitable.

4.11. Park Row undertook further work on the sample of 50 and the number of cases where advice was unsuitable increased to three (6%).

4.12. The FSA issued an RMP on 1 August 2008 requiring improvement in a number of areas including: actions to ensure Park Row files included appropriate documentation and that its advisers were demonstrating they were treating customers fairly; and improvement of treating customers fairly management information to enable senior

management to effectively manage the business. The FSA also required Park Row to appoint an additional skilled person (“Skilled Person 2”). The scope of the review included the quality of the DBM process, the suitability of advice given by Park Row and the effectiveness of senior management in assessing the suitability of advice. The cases for review were selected by the FSA and represented a sample of business written between January 2008 and September 2008.

4.13. Skilled Person 2 reported on 6 January 2009, and the findings of their file review are outlined below:

- (1) In 44 (44%) of cases the advice was broadly suitable but the file had failings in terms of documentation. In 12 (12%) of the cases reviewed there was insufficient information on the file to determine if suitable advice had been given to the customer.
- (2) In a further 23 (23%) of the cases reviewed another product may have been more suitable for the customer.
- (3) In 5 (5%) of the cases reviewed the evidence on file did not prove the sale to be suitable and 3 (3%) of the cases were deemed to have a high probability of consumer detriment.

4.14. The results of the skilled person reports demonstrate that there were still regular instances where files did not demonstrate suitability of advice for customers.

Advising when not competent or authorised

4.15. During the Relevant Period, Park Row identified that there were instances when advisers gave advice when they did not have the required FSA permissions to do so or had not been signed off, under Park Row’s internal procedures, as competent to undertake such sales. During the period January 2007 to December 2007 Park Row relied on DBM to detect cases where this may have occurred. Advisers in products such as occupational pension transfers required specific training and qualifications to ensure that they could advise competently. Despite being on notice of this risk by the FSA’s RMP dated 1 August 2008, cases that were not checked by DBM were not subject to further checks to identify where advice may have been given on products in

which the adviser was not authorised. Where Park Row did identify instances when an adviser gave advice without the required permission or competence it did not always conduct a review of other cases written by the adviser to determine whether other instances had occurred. The commission made by the adviser on cases where they were not authorised or not assessed as competent was not always clawed back, which did not send the correct message to advisers regarding the seriousness of the breach.

- 4.16. Even though Park Row knew that there had been instances during 2007 where advice had been given by advisers who were either unauthorised or had not been assessed as competent in relation to particular products, it did not take adequate steps to detect other instances where this may have occurred and assess whether this was a systemic issue. Where Park Row did identify instances of advisers giving advice beyond their competence sign off, it did not take reasonable steps to determine whether that adviser had advised on those products on other occasions or seek to prevent the adviser doing so in the future.

Suitability letters

- 4.17. As part of the implementation of a new IT system Park Row purchased suitability letters from a third party supplier. These were introduced in January 2008 at the same time as the introduction of the new IT system. Park Row also issued guidance to advisers on the requirements of the suitability letter in a compliance department bulletin, in the context of Self Invested Personal Pension (“SIPP”) advice. This guidance stated that the template suitability letter for SIPP advice was not sufficient in isolation to demonstrate suitability and it was necessary for advisers to explain in specific terms in any letter issued to a customer why the product was suitable for the customer. Park Row did not recognise that this raised wider issues. In June 2008 the review by the Consultant identified that the suitability letters used by Park Row advisers did not always demonstrate which products had been discounted and why the product recommended was suitable.
- 4.18. Despite suitability letters being reviewed by Park Row compliance prior to their use by advisers, Park Row did not identify that the template suitability letter was not adequate to demonstrate suitability of advice. Notwithstanding the fact that it was

aware of issues regarding the adequacy of the suitability letter in relation to SIPP advice after implementation in January 2008, Park Row failed to take adequate steps to ensure that the suitability letter was used appropriately. It was only as a result of an FSA required review by the Consultant that issues with the use of the suitability letters were escalated and rectified.

Commission influence

- 4.19. In response to the findings by the Consultant, dated 5 June 2008, Park Row senior management sent an email to advisers dated 25 June 2008, stating there was evidence of advisers seeking higher commission paying pension plans, suggesting commission bias may have occurred. The email made it clear that this was wholly unacceptable and that any adviser found to have done so would be dealt with severely. In addition Park Row removed the option from the sales process to select the product with the highest paying commission. Park Row did not conduct any further work to determine whether advisers may have selected this option inappropriately or whether there may have been other instances of commission influencing a sale. The report by Skilled Person 2, dated 6 January 2009, concluded that in 19 cases (19%) the level of commission may have influenced the sale. Park Row relied solely on the DBM function to identify instances of commission influence and it did not produce any further management information to monitor where this could be occurring in the business.
- 4.20. Despite Park Row being put on notice by Skilled Person 2 that its advisers may have been influenced by commission, it failed to conduct any further work to establish the magnitude of this problem and whether the systems and controls were adequate to detect its occurrence. Park Row did not take adequate steps to ensure it treated customers fairly and that commission influence had not led to unsuitable advice.

Pensions Advice

- 4.21. Park Row undertook two compliance audits of pensions advice in October 2007 to review the suitability of SIPP recommendations and personal pension transfer advice. The personal pensions transfer advice report found that in some instances there was potentially unsuitable advice or insufficient documentation on file to demonstrate

suitable advice. The findings of the SIPP recommendations report were that the vast majority of cases did not demonstrate that the customer would use the facilities of the SIPP and that the customer may have been more suited to another product, suggesting unsuitable advice could have been given. As a result Park Row put future pensions advice on 100% post sale DBM review. It was further suggested in the SIPP recommendations report that because recommendations could not be reversed, only future transactions need be placed on pre-approval. There was no wider retrospective review of cases that were not reviewed under the audit. No further work was completed at the time to consider whether unsuitable advice may have occurred elsewhere.

- 4.22. Despite the SIPP recommendations report of October 2007 which suggested that unsuitable advice may have occurred, the board minutes in January 2008 stated in relation to the SIPP review *“there is no evidence of any mis-selling”*. Given the findings of the compliance audit report, the FSA would not have expected the Park Row Board to have been informed that no mis-selling had occurred. Park Row is now conducting a review of a wider sample of pensions advice following the results of another external review which concluded that of a sample of 94 pension cases 24 (26%) were unsuitable. It appears that the actions taken by Park Row, namely the 100% post sale DBM review of all pensions advice, were inadequate, as it did not result in pensions advice meeting the required standard. Park Row did not take reasonable steps to establish the risks posed to their customers by failing to follow up the compliance audit reports.

ADEQUACY OF SYSTEMS AND CONTROLS

Adviser risk ratings

- 4.23. For Park Row's risk based model of case selection to be fully effective, the results of the DBM checks on individual advisers should have fed back into the cases selected for review. Adviser risk ratings were established when a new IT system was launched in January 2008, however they were not updated for 18 months until June 2009. In October 2008 a Royal Liver Internal Audit highlighted to Park Row that adviser risk ratings were not being updated and they therefore did not reflect the risk associated with the current DBM failure rate.
- 4.24. Park Row has stated that updating adviser risk ratings was not a priority because of the ability to place an adviser on enhanced supervision. Enhanced supervision involved increased DBM checks if an adviser's training and competence supervisor deemed it necessary. However, Park Row's process and procedures setting out the circumstances under which an adviser would be placed on enhanced supervision arising from risk issues were inadequate and unclear; this was also noted by Skilled Person 1. Park Row's reliance on enhanced supervision did not adequately mitigate the need to update adviser risk ratings.
- 4.25. Park Row did not adequately respond to the need to update adviser risk ratings, to ensure that its advisers were competent and capable of providing customers with suitable advice. Park Row failed to ensure that DBM was adequately selecting advisers for compliance checks based on results of previous checks. Therefore compliance checks based on adviser risk ratings were not risk based and Park Row was not aware of the true risks to consumers posed by the advice given by its advisers.

Remedial work

- 4.26. The DBM process required that if a DBM checker failed a case because of insufficient or inadequate documentation then the case would be sent back to that adviser for remedial action, which had to be completed before the file was resubmitted for review by DBM. However, the review of files by Skilled Person 2 indicated that the DBM team did not always ensure that remedial work was undertaken by the adviser and

cases were often closed without remedial work having been completed or checked. It is the FSA's understanding that in these circumstances the transaction continued to completion without remedial action, unless the product required pre-sale approval.

- 4.27. Park Row did not have adequate systems and controls in place to ensure that when a case required remedial work by an adviser, the remedial work was completed and reassessed by DBM before being closed. Park Row failed to ensure that its files contained sufficient information to demonstrate suitability of advice and that it was treating its customers fairly.

Commission claw back

- 4.28. Park Row proposed the claw back of commission from advisers when remedial work was not undertaken in a timely manner. Park Row agreed to implement this control in June 2007, however the IT system in place at the time did not support the ability to claw back commission automatically. Park Row therefore committed to implement the control with the introduction of a new IT system in January 2008. However, a number of IT issues arose which delayed implementation of the control until September 2008. In some instances the adviser was given 90 days to complete remedial work before commission was clawed back. The FSA considers that this sent the wrong message to advisers regarding the importance of ensuring the evidence on a file supported the advice given to the customer. During the Relevant Period there was no other way to claw back commission to ensure that advisers completed remedial work and that files contained sufficient information to demonstrate suitable advice.
- 4.29. Park Row did not take adequate steps to ensure that the new IT system would enable the claw back of commission where remedial work was not completed and did not ensure that the control was implemented in a reasonable period of time. Park Row informed Skilled Person 1 of the timetable for the implementation of the control, without determining whether it was possible to implement the control at that time. If the control had been implemented when intended, advisers would have been required to complete remedial work or forfeit commission. It could also have allowed the DBM team more time to complete new case checks instead of chasing advisers to complete remedial work.

Review of sales backlog

- 4.30. During 2006 Park Row had a substantial back log of up to 3,200 cases requiring DBM checks. This concern formed part of the FSA's RMP in 2006, and Park Row cleared the backlog by June 2007 by using outsourced case checkers. Park Row then assured the FSA that it had implemented systems and controls to ensure that no similar backlog of case checking would reoccur. In July 2008 a further backlog of cases developed. Park Row attempted to clear the backlog by using internal resource during July 2008 but outsourced again in August 2008 when it became apparent that internal resource was insufficient to address the issue. The backlog was not cleared until November 2008.
- 4.31. Park Row failed to ensure that adequate systems and controls were in place to ensure that a further backlog of DBM checks would not reoccur, despite its assurances to the FSA.

Level of checks reduced

- 4.32. In July 2008 Park Row took the decision to reduce the level of DBM case checks from approximately 35% to 25% of the cases submitted. Part of the reason for this decision was resource constraints in the DBM team, which had also led to the case backlog referred to above. This decision was taken against the background of ongoing issues with DBM compliance checks and the poor results from the suitability reviews, as highlighted by the FSA and skilled person reports.
- 4.33. Park Row failed to ensure that the level of checks undertaken by the DBM team was adequate effectively to monitor the quality and suitability of advice to customers, posing the risk that unsuitable advice was given and not picked up by the DBM process.

5. ANALYSIS OF BREACHES

Principle 3

- 5.1. By reason of the facts and matters set out in paragraphs 4.23 to 4.33 above, Park Row did not take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems, in breach of Principle 3:

- (1) Park Row failed to update adviser risk ratings to ensure that DBM checks were targeted to reflect the results of previous checks and risks posed by specific advisers;
- (2) Park Row failed to ensure that the remedial work required to demonstrate the suitability of advice provided was completed by advisers;
- (3) Park Row failed to implement the commission claw back control in a timely manner;
- (4) Park Row failed to ensure it had adequate systems and controls to prevent the recurrence of a backlog of case-checks; and
- (5) Park Row failed to ensure that it conducted an adequate level of checks to monitor the advice of its advisers.

5.2. By reasons of the facts and matters set out in paragraphs 4.4 to 4.22 above, Park Row did not take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer, in breach of Principle 9:

- (1) the findings by Skilled Person 2 demonstrated there had been insufficient change since the findings of the previous two reviews;
- (2) Park Row failed to take reasonable steps to identify instances of advisers giving advice when they were not authorised to do so. When instances were identified, Park Row did not take any steps to establish whether the adviser may have given other advice without the required permission;
- (3) Park Row failed to take reasonable steps to ensure the new template suitability letters were adequate to demonstrate suitability of advice. When indications arose that the suitability letter was not adequate for SIPP advice, Park Row failed to recognise that this suggested a wider issue with regard to the use of suitability letters;
- (4) despite being on notice Park Row failed to take adequate steps to ensure that advice given to customers was not influenced by commission; and

- (5) Park Row failed to ensure its pensions advice was suitable. Further Park Row failed to review previous sales recommendations despite indications that advice may not have been suitable.

6. ANALYSIS OF SANCTION

- 6.1. The FSA's policy on the issue of public censures and the imposition of financial penalties is set out in Chapter 6 of the Decision Procedures and Penalties Manual ("DEPP"), which forms part of the FSA Handbook and came into force on 28 August 2007. It was previously set out in Chapter 13 of the Enforcement Manual ("ENF"). The FSA has had regard to both DEPP and ENF as both manuals applied at separate times during the Relevant Period. Both manuals set out the factors that may be of particular relevance in determining whether it is appropriate to issue a public censure. The criteria are not exhaustive and all relevant circumstances of the case will be taken into consideration. The principal purpose of a public censure is to promote high standards of regulatory conduct by deterring firms who have committed breaches from committing further breaches and helping to deter other firms from committing similar breaches, as well as demonstrating generally the benefits of a compliant business.

- 6.2. The FSA considers that the following factors are particularly relevant in this case.

Deterrence

- 6.3. The principal purpose of a public censure is to promote high standards of regulatory conduct by deterring firms who have breached regulatory requirements from committing further contraventions, helping to deter other firms from committing contraventions, and demonstrating generally to firms the benefits of compliant behaviour.

The nature, seriousness and impact of the breach

- 6.4. In determining the appropriate sanction, the FSA has had regard to the seriousness of the contraventions, including the nature of the breaches, the number and duration of the breaches, and the number of customers who were exposed to risk of loss. For the

reasons set out at paragraph 2.4 above the FSA considers that the breaches identified in this case are of a serious nature.

The extent to which the breach was deliberate or reckless

- 6.5. The FSA has considered the extent to which Park Row's actions were reckless or deliberate. The FSA has not determined that Park Row deliberately contravened regulatory requirements. However, the FSA considers that Park Row gave insufficient consideration to the consequences of its behaviour and the extent of the risks to customers, particularly with regard to its failures adequately to improve its systems and controls and ensure the suitability of its advice when it had received internal and external reports (including reports from the FSA) highlighting concerns in these areas. In doing so, the firm was reckless.

The size, financial resources and other circumstances of the firm

- 6.6. All of these factors would ordinarily merit the imposition of a substantial financial penalty. However, the FSA considers that in accordance with DEPP 6.4.2(8)G there are exceptional circumstances under which the Firm's inability to pay the level of penalty which its conduct would ordinarily attract could be dealt with by way of a public censure. In this case, there is evidence that Park Row has insufficient resources to pay a financial penalty.
- 6.7. Park Row's breaches are such that the FSA would have imposed a financial penalty of £2.4m, were it not for the fact that the Firm's current resources are insufficient for it to pay such a fine and meet its regulatory requirements. In those circumstances, the FSA has decided to issue a public censure against Park Row.

Conduct following the breach

- 6.8. After Park Row was informed by the FSA of its concerns the Firm co-operated fully with the FSA and indicated its willingness to take all reasonable steps to satisfy the FSA that it will seek to comply with the regulatory requirements on an on-going basis.

Disciplinary record and compliance history

- 6.9. Park Row has not previously been the subject of disciplinary action by the FSA.

Other action taken by the FSA

- 6.10. In determining whether to impose a public censure, the FSA has taken into account action taken by the FSA in relation to other authorised persons for similar behaviour.

7. CONCLUSIONS

- 7.1. In light of the matters set out above, the FSA has concluded that between 1 January 2007 and 14 January 2009 Park Row breached the FSA's Principle 3 for Businesses in relation to its systems and controls relating to the advice given to its customers and Principle 9 for Businesses in relation to ensuring the suitability of advice given. The FSA has therefore decided to issue a public censure in relation to Park Row.

8. DECISION MAKER

- 8.1. The decision which gave rise to the obligation to give this Final Notice was made by Settlement Decision Makers on behalf of the FSA.

9. IMPORTANT

- 9.1. This Final Notice is given to the Firm in accordance with section 390 of the Act.

Publicity

- 9.2. 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.

FSA contacts

- 9.3. For more information concerning this matter generally, you should contact Suzanne Burt of the Enforcement and Financial Crime Division of the FSA (direct line: 020 70661062).

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Georgina Philippou

Enforcement and Financial Crime Division