
FINAL NOTICE

To: **S P Bell Limited**

Registered number: **02768778**

Date: **25 July 2008**

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (the “FSA”) gives S P Bell Limited (“SP Bell”) final notice about a decision to publish a statement that SP Bell engaged in market abuse and to cancel the permission granted to SP Bell to carry on regulated activities.

ACTION

1. The FSA gave SP Bell a Decision Notice dated 19 June 2008 (“the Decision Notice”) which notified it, for the reasons listed below and pursuant to section 123 of the Financial Services and Markets Act 2000 (“the Act”), that the FSA had decided to publish a statement that SP Bell had engaged in market abuse and pursuant to section 45(2) of the Act to cancel SP Bell’s Part IV permission.
2. SP Bell has not referred the matter to the Financial Services & Markets Tribunal within 28 days of the date on which the Decision Notice was given to it.
3. Accordingly, for the reasons set out below, the FSA, pursuant to section 123 of the Act, publishes this statement that SP Bell engaged in market abuse and, pursuant to section 45(2) of the Act, cancels its Part IV permission. Such cancellation takes effect from 25 July 2008.

REASONS FOR THE ACTION

Introduction

4. The FSA has decided to take this action as a result of the behaviour of SP Bell as an authorised firm during the period September 2003 to July 2004 (the “relevant period”) for its part in the share ramping scheme which led to the suspension of trading in

shares in Fundamental-E Investments Plc (“FEI”) by the Alternative Investment Market (“AIM”) of the London Stock Exchange (the “LSE”) on 15 July 2004. Shares in FEI were suspended on 15 July 2004 for a week and on further trading the share price fell dramatically and has never recovered. SP Bell’s conduct had the potential to and did cause serious loss to investors and damage to confidence in the AIM market.

5. SP Bell, a stock-broking company, was used as a vehicle for actively pursuing an abusive course of conduct through the actions of its controller and chief executive, Simon Eagle (“Mr Eagle”). SP Bell embarked on a deliberate course of market abuse in relation to FEI through the use of rollovers, delayed rollovers and the manipulation of share prices.
6. SP Bell deliberately:
 - 6.1 executed large numbers of rollovers and thereby avoided paying for FEI shares and thereby misled the market;
 - 6.2 executed delayed rollovers and thereby misled the market;
 - 6.3 positioned the share price of FEI at an artificially high level.
7. SP Bell was the vehicle for a scheme that:
 - 7.1 gave a false or misleading impression to the market as to the demand for shares in FEI and as to their price or value;
 - 7.2 manipulated the share price of FEI;
 - 7.3 distorted the market for FEI shares.
8. It appears to the FSA, on the basis of the facts and matters described in the Schedule to this Notice, that SP Bell’s behaviour amounted to market abuse (contrary to s118 (2)(b) and 118 (2)(c) of the Act, as in force at the relevant period) as follows:
 - 8.1 it occurred in relation to a qualifying investment traded on a prescribed market (i.e. FEI shares traded on AIM);
 - 8.2 it was:
 - 8.2.1 likely to give a regular user of the market a false or misleading impression as to the supply of, demand for, price or value of, FEI shares; and/or
 - 8.2.2 such that a regular user of the market would, or would be likely to, regard the behaviour as that which would, or would be likely to, distort the market in FEI shares; and
 - 8.3 it is likely to be regarded by a regular user of that market who is aware of the behaviour as a failure on the part of SP Bell to observe the standard of

behaviour reasonably expected of a person in SP Bell's position in relation to the market; and

8.4 it occurred in the United Kingdom.

9. On the basis of the facts and matters described below it appears to the FSA that:

9.1 SP Bell fell below the standard reasonably to be expected of it and engaged in market abuse; and

9.2 An aggravating factor is that the offence was committed deliberately by SP Bell; and

9.3 In all the circumstances it would be appropriate to cancel the Part IV permission of SP Bell.

10. No representations have been received by the FSA from SP Bell within the time allowed by the Warning Notice given to it on 18 October 2007. Accordingly, the default procedures in DEPP 2.3.2 of the FSA's Decision Procedure and Penalties Manual permit the facts and matters described in the Warning Notice to be regarded as undisputed. The relevant matters relied on in the Warning Notice are set out in the Schedule to this Final Notice.

11. The FSA has therefore decided to take the action for the reasons described in the Warning Notice and to give this Final Notice accordingly.

Fitness and propriety

12. SP Bell is in liquidation. Its Part IV permission was varied on 19 July 2004 upon the application of SP Bell under section 44 of the Act. It has not subsequently applied to cancel the permission pursuant to section 44(2) of the Act. Its business and certain assets were subsequently sold to another FSA authorised firm.

13. The FSA has decided to exercise its own-initiative power to cancel SP Bell's Part IV permission on the basis that:

13.1 SP Bell is failing to satisfy threshold condition 5 (suitability) in that it is no longer fit and proper by reason of its involvement in these matters and further by reason of its connection with Mr Eagle and Mr Betton; and

13.2 it is desirable to do so in order to protect the interests of consumers or potential consumers.

14. The actions of Mr Eagle and Mr Betton took place during the course of their office/employment by SP Bell. Mr Eagle and Mr Betton constitute the directing mind of SP Bell. Their actions are clearly attributable to SP Bell.

15. This is a case where an authorised firm was a vehicle for actively pursuing an abusive course of conduct. Full use was made of SP Bell's clients and of its ability to trade in

the market. Such wholesale abuse on the part of a firm is highly culpable. This was a planned and deliberate course of conduct exploiting the firm's authorised status.

16. SP Bell engaged in serious and sustained market abuse.
17. Accordingly SP Bell is not fit and proper. The FSA considers that it is appropriate to cancel SP Bell's Part IV permission.

Sanction

18. The Decision procedure and penalties manual ("DEPP"), in DEPP 6.2, sets out a number of factors to be taken into account when the FSA decides to take action for behaviour appearing to be market abuse. They are not exhaustive, but include the nature and seriousness of the suspected behaviour, the conduct of the person concerned after the behaviour was identified, the degree of sophistication of the users of the market in question, the size and liquidity of the market and susceptibility of the market to market abuse. Other factors also include action taken by the FSA in similar cases, the impact that any financial penalty or public statement may have on the financial markets or on the interests of consumers, and the disciplinary record and general compliance history of the person.
19. The FSA has taken all the relevant circumstances into account in deciding that it is appropriate to take action against SP Bell for engaging in market abuse. Pursuant to section 123 of the Act, the FSA publishes this statement that SP Bell has engaged in market abuse.
20. In addition the FSA has decided to cancel SP Bell's Part IV permission pursuant to section 45(2) as the market abuse engaged in is so serious and far reaching that the firm was failing to satisfy threshold conditions; further that the firm is unsuitable by reason of its connection with Mr Eagle and Mr Betton. In addition, such a step is desirable to protect the interests of consumers.
21. The FSA would have imposed a significant financial penalty on SP Bell, including a sum representing its improper profit in the sum of £1.1 million (being commissions earned on the rollover trades), had it not been in liquidation.

DECISION MAKER

22. The decision which gave rise to the obligation to give this notice was made by the Regulatory Decisions Committee.

IMPORTANT

23. This Final Notice is given to SP Bell in accordance of section 390 of the Act.

Publicity

24. Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this Final Notice relates. Under those provisions, the FSA must publish such information about the matter to which this Final 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 SP Bell or prejudicial to the interests of consumers.
25. The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Third party rights

26. There are no third party rights arising under this Final Notice due to the operation of section 393(2) and (6) of the Act.
27. Mr Eagle, Mr Betton, Winterflood Securities Limited, Mr Sotiriou and another trader at Winterflood Securities Limited who are referred to in this Final Notice have made references to the Financial Services and Markets Tribunal which have yet to be determined.

Tracey McDermott
Head of Department, Wholesale Group
FSA Enforcement Division

SCHEDULE – EXTRACT FROM WARNING NOTICE DATED 18 OCTOBER 2007

Market abuse: Relevant Statutory Provisions

8. Section 118 of the Act defines market abuse. References in this Notice to provisions in this part of the Act are to those in force during the period of the behaviour referred to. In particular, section 118(1) of the Act provides as follows:

“For the purposes of this Act, market abuse is behaviour (whether by one person alone or by two or more persons jointly in concert):

- (a) which occurs in relation to qualifying investments traded on a market to which this section applies;*
- (b) which satisfies any one or more of the conditions set out in subsection (2); and*
- (c) which is likely to be regarded by a regular user of that market who is aware of the behaviour as a failure on the part of the person or persons concerned to observe the standard of behaviour reasonably expected of a person in his or their position in relation to the market.”*

9. Section 118(2) of the Act provides (so far as relevant to this Notice) as follows:

“The conditions are that -

- (a) ...*
- (b) the behaviour is likely to give a regular user of the market a false or misleading impression as to the supply of, or demand for, or as to the price or value of, investments of the kind in question;*
- (c) a regular user of the market would, or would be likely to, regard the behaviour as behaviour which would, or would be likely to, distort the market in investments of the kind in question.”*

10. Under The Financial Services and Markets Act 2000 (Prescribed Markets and Qualifying Investments) Order 2001 (made under section 118(3) of the Act):

- 10.1 all markets operated under the rules of a UK recognised investment exchange (which includes the AIM market operated by the London Stock Exchange) are prescribed markets; and
- 10.2 all investments specified for the purposes of defining a regulated activity (including shares traded on AIM) are qualifying investments.

The Code of Market Conduct

11. Section 119 of the Act provides as follows:

- “(1) The Authority must prepare and issue a code containing such provisions as the Authority considers will give appropriate guidance to those determining whether or not behaviour amounts to market abuse.*
- (2) The code may among other things specify-*
- (a) descriptions of behaviour that, in the opinion of the Authority, amount to market abuse;*
 - (b) descriptions of behaviour that, in the opinion of the Authority, do not amount to market abuse;*
 - (c) factors that, in the opinion of the Authority, are to be taken into account in determining whether or not behaviour amounts to market abuse.*
- (3) The code may make different provision in relation to persons, cases or circumstances of different descriptions. ...”*
12. The FSA has issued the Code of Market Conduct (“The Code”) under section 119 and it forms the first section of the Market Conduct Sourcebook (MAR 1) in the FSA’s Handbook of rules and guidance. References in this Notice to provisions of The Code (or MAR 1) are to the provisions in force at the time of the behaviour described in this Notice.
13. Under section 122 of the Act:
- “(1) If a person behaves in a way which is described (in the code in force under section 119 at the time of the behaviour) as behaviour that, in the Authority’s opinion, does not amount to market abuse that behaviour of his is to be taken, for the purposes of this Act, as not amounting to market abuse.*
- (2) Otherwise, the code in force under section 119 at the time when particular behaviour occurs may be relied on so far as it indicates whether or not that behaviour should be taken to amount to market abuse.”*
14. In accordance with section 122(2) of the Act, provisions of the Code identified by the letter ‘E’ may be relied upon so far as they describe behaviour which, in the opinion of the FSA, amounts to market abuse or in accordance with section 119(2)(c) of the Act, describe factors that, in the opinion of the FSA, are to be taken into account in determining whether or not behaviour amounts to market abuse. (MAR 1.1.11G)

False or misleading impression (section 118(2)(b))

15. Behaviour which is likely to give a regular user of the market a false or misleading impression as to the supply of, demand for or price or value of the investments in question is market abuse (section 118(2)(b) of the Act). The relevant parts of the Code are contained in MAR 1.5. In particular, MAR 1.5.3E provides that:

“Prescribed markets provide a mechanism by which the price or value of investments may be determined according to the market forces of supply and demand. When market users trade on prescribed markets they expect the price or value of investments and volumes of trading to reflect the proper operation of market forces rather than the outcome of improper conduct by other market users. Improper conduct which gives market users a false or misleading impression results in market users no longer being able to rely on the prices formed in markets or volumes of trading as a basis for their investment decisions. This will undermine confidence in the integrity of the prescribed market and overall market activity may decrease and transaction costs may rise, or both, to the detriment of market users, including investors.”

16. The Code gives a number of examples of behaviour amounting to market abuse of this type, including artificial transactions. MAR 1.5.8E notes the characteristics of an artificial transaction amounting to market abuse, as follows:
 - (a) the principal effect of the transaction is to, inter alia, inflate or maintain the apparent demand for or the apparent price or value of the share;
 - (b) the person concerned knows or can reasonably be expected to know this principal effect;except when the principal rationale is a legitimate commercial rationale and the transaction is executed in a proper way.
17. A transaction which creates a false or misleading impression will not normally be considered to have a legitimate commercial rationale where the purpose behind the transaction was to induce others to trade in or to position or move the price of a security (MAR 1.5.9E).
18. A transaction will be executed in a proper way where it is executed in a way which takes into account the need for the market as a whole to operate fairly and efficiently (MAR 1.5.10E).
19. Factors that are to be taken into account in determining whether or not behaviour amounts to market abuse, include the following (MAR 1.5.11E):
 - (a) whether the transaction causes or contributes to an increase in the demand for or the price or value of a security and the person responsible for the transaction has an interest in the level of demand for or the price or value of the security;
 - (b) whether the transaction involves the placing of buy and sell orders at prices higher or lower than the market price or the placing of buy and sell orders which increase the volume of trading.
20. A person has an interest in a security where he may directly or indirectly benefit from alterations in its market price (MAR 1.5.13E).

Distortion (section 118(2)(c))

21. Behaviour which would, or would be likely to, distort the market in the investment in question is market abuse (section 118(2)(c) of the Act). The Code deals with distortion at MAR 1.6. In particular, MAR 1.6.3E states:
- “...A person may not engage in behaviour that interferes with the proper operation of market forces and so with the interplay of proper supply and demand and so has a distorting effect. Distortion undermines confidence in the prescribed markets and damages efficiency to the detriment of market users, including investors.”*
22. The Code at MAR 1.6.4E sets out the FSA’s opinion that behaviour will amount to market abuse if it interferes with the proper operation of market forces with the purpose of positioning prices at a distorted level.
23. MAR 1.6.7E notes that behaviour which falls within the descriptions of distortion in the Code may also fall within the scope of the prohibition of behaviour giving rise to a false or misleading impression.
24. The Code gives examples of behaviour amounting to distortion, including price positioning. MAR 1.6.9E states that behaviour will constitute market abuse where a person enters into a transaction, or a series of transactions with the purpose of positioning the price of a security at a distorted level.
25. Factors to be taken into account in determining whether behaviour amounts to market abuse, include the following (MAR 1.6.11E):
- (a) the extent to which the person concerned had a direct or indirect interest in the price or value of the security;
 - (b) the volume or size of the person’s transaction or transactions in relation to reasonable expectations as the depth and liquidity of the market at the time in question;
 - (c) whether a person has successfully and consistently increased the prices he had paid for a security.

Part IV Permission

Statutory Provisions

26. Section 45 of the Act allows the FSA to vary or cancel a Part IV permission. In particular section 45(1) and (2) provide as follows:
- “45. Variation etc. on the Authority’s own initiative*
- (1) *The Authority may exercise its power under this section in relation to an authorised person if it appears to it that -*

(a) *he is failing, or is likely to fail, to satisfy the threshold conditions;*

...

(c) *it is desirable to exercise that power in order to protect the interests of consumers or potential consumers.*

(2) *The Authority's power under this section is the power to vary a Part IV permission in any of the ways mentioned in section 44(1) or to cancel."*

27. The Enforcement Guide ("EG") describes the FSA's policy for exercising its power to cancel Part IV Permission. EG 8.13 states that the FSA will consider cancelling a firm's Part IV permission (in two main circumstances), one of which is where the FSA has very serious concerns about a firm. This circumstance applies to SP Bell.
28. Schedule 6 of the Act sets out the Threshold Conditions in relation to Part IV Permissions. Threshold Condition 5 deals with suitability and the need for a person to satisfy the Authority that he is a fit and proper person having regard to all the circumstances, including the need to ensure that his affairs are conducted soundly and prudently.

Threshold Conditions

29. Threshold Conditions (COND) discusses the Threshold Conditions.

30. COND 2.5.1 states:

"The person concerned must satisfy the [FSA] that he is a fit and proper person having regard to all the circumstances, including-

(a) his connection with any person;

(b) the nature of any regulated activity that he carries on or seeks to carry on; and

(c) the need to ensure that his affairs are conducted soundly and prudently."

31. COND 2.5.2 states:

"Threshold condition 5 (Suitability), requires the firm to satisfy the FSA that it is 'fit and proper' to have Part IV permission having regard to all the circumstances, including its connections with other persons, the range and nature of its proposed (or current) regulated activities and the overall need to be satisfied that its affairs are and will be conducted soundly and prudently."

Facts and Matters Relied On

- (a) **SP Bell**

32. SP Bell was an agency only stock broking firm which conducted business from nine branch offices located throughout the UK, including Manchester and Bristol. At the relevant time SP Bell had 3,136 clients of which 90% were classified as private

customers. Services were provided to clients on an execution only, advisory and discretionary basis.

33. During the material time SP Bell was authorised by the FSA to conduct investment business.
34. SP Bell (known as Seymour Pierce Bell Limited until 18 December 2003) had been loss making for a number of years. On 27 May 2003 Mr Eagle acquired SP Bell using his investment vehicle Forum Finance Group Ltd. At all times thereafter Mr Eagle owned and controlled SP Bell. SP Bell had two directors, Mr Eagle and Mr Betton. Mr Betton was based in the Manchester Office of SP Bell. Mr Betton's responsibilities included managing the trading operations and oversight of branch management. He also gave advice and traded on behalf of private and intermediate clients. The actions of each are attributable to SP Bell.
35. At the relevant time SP Bell had 3,136 clients of which 90% were classified as private customers. Services were provided to clients on an "execution only" (that is trading only on instruction from the client), "advisory" (that is providing advice about potential trades) or "discretionary" (that is the firm acting on behalf of the client in deciding about and executing trades) basis.

(b) The Eagle Accounts and unauthorised trading

36. Mr Eagle himself introduced 50 new clients to SP Bell during the period 18 July 2003 to 13 May 2004. Of these, 38 made up a core group of client accounts which traded regularly under Mr Eagle's control and direction (the "Eagle Accounts"). In relation to the Eagle Accounts:
 - 36.1 36 were opened on "execution only" terms (as were the 12 accounts for clients introduced by Mr Eagle which were not Eagle Accounts);
 - 36.2 Mr Eagle has admitted that he opened more than 20 Eagle Accounts in the knowledge that the underlying clients did not have the necessary funds to finance trading. Ultimately, only 2 of the Eagle Account holders ever paid any money into their accounts; and
 - 36.3 all were registered, in SP Bell's records, to Mr Betton as nominated account manager in the Manchester Office.
37. The trades in FEI shares set out below were executed by SP Bell upon instructions from Mr Eagle to SP Bell brokers. The brokers had no direct instructions from the actual clients. Mr Eagle was not approved to perform any controlled functions relating to customers – including advising, dealing, arranging deals or managing investments.
38. SP Bell deliberately acted without the authority of the underlying client in order to further Mr Eagle's share ramping scheme. Of the Eagle Account clients:
 - 38.1 at least four had not heard of FEI;

- 38.2 at least 25 have identified transactions on their accounts for which they did not give instructions;
- 38.3 at least five, having opened an account with SP Bell and received contract notes, were assured by Mr Eagle that there was nothing to worry about; and
- 38.4 at least nine, based on their understanding of the transactions on their account, considered their accounts to be in credit when SP Bell ceased trading.

SP Bell's actions were contrary to the standards reasonably expected of a stockbroking firm.

(c) The initial FEI transaction

- 39. Mr Eagle had been actively seeking to secure control of an AIM shell company as an investment vehicle to acquire electronic technology companies. In May 2003 he agreed with the two majority shareholders of FEI (the "original shareholders") that he would arrange for their shares, 85% of the issued share capital (140 million shares), to be sold.
- 40. Mr Eagle proposed to buy a 10% stake in FEI himself: however, he had to find buyers for the remaining 75%. He proposed to do so, for the most part, by selling shares to clients of SP Bell. Mr Eagle used the market makers Winterflood to intermediate the sale of these shares. The original shareholders sold their shares, via third party brokers, to Winterflood. Winterflood sold them in turn to purchasers sourced by Mr Eagle and SP Bell.
- 41. There was little or no current market demand for FEI shares (it was a company specialising in electronic components but was increasingly out of step with current technology). During May 2003 a total of 109,019 shares were traded. Therefore Mr Eagle had to generate significant demand in order to achieve the share sale.
- 42. Mr Eagle and Mr Betton orchestrated a sales campaign from August 2003 whereby SP Bell brokers sold 35.9 million FEI shares to SP Bell clients. Mr Eagle himself took 16.5 million shares (through an investment vehicle) and marketed FEI shares to other brokers, whose clients purchased 20.3 million shares. Mr Betton caused 30 of his clients to take up 16.1 million shares between 13 August 2003 and 5 December 2003 and strongly encouraged other brokers to recommend FEI shares to their clients. In addition, Winterflood sold some shares as part of its normal market making business. However, there remained a significant rump of shares for which no purchasers had been found.
- 43. In order to procure purchasers for the outstanding rump of FEI shares, Mr Eagle himself introduced 50 new clients to SP Bell during the period 18 July 2003 and 13 May 2004 (see paragraph 36). 27 of these clients bought 60.7 million FEI shares, thus completing the sale of shares by the end of December 2003 and giving Mr Eagle control of FEI. On 19 November 2003 Mr Eagle became a director of FEI. On 5 January 2004 he became executive chairman of FEI. He was actively involved in the management of the company.

(d) The rollover scheme

44. In order to avoid the Eagle Accounts being required to pay for their FEI shares, Mr Eagle instituted a scheme whereby FEI positions were rolled from one SP Bell client account to another. The effect of the rollover trades was to defer settlement, potentially indefinitely. The method used was for SP Bell:

- (a) to buy FEI shares for a client on a “T+10” settlement basis (in effect the client buys on credit); and
- (b) to sell those shares (via the market maker) to another client at or before the date of settlement.

A rise in share price which had occurred in the intervening period covered the cost of purchase and left a profit on the first account which could then be used to purchase further FEI shares. The rollover scheme thus required a rising share price in order to succeed in deferring settlement.

- 45. The rollover scheme not only allowed Mr Eagle to complete the sale of the 140 million shares by the original shareholders, it also allowed him to continue to buy shares in the market. Between January and July 2004, SP Bell bought 42,115,450 shares in the market (as described in section (e) below). These shares were not paid for but were simply added into the rollover scheme.
- 46. SP Bell charged commission to its clients on the rollover trades (which were executed for the account of its customers, although in many cases they were not authorised by the underlying customers) and earned at least £1.1 million.
- 47. SP Bell undertook the first rollover trade in FEI shares on 24 September 2003, and continued to execute rollovers until 14 July 2004. The volume rolled over between September 2003 and July 2004 was 1.8 billion FEI shares. This represented 80% of the total volume of FEI trades in this period.
- 48. Rule 3050 of the LSE Rules provides that a member firm may carry out a rollover trade in respect of any position in a relevant security on one occasion only. For this purpose a “rollover trade” is defined as a set of on-exchange transactions, the effect of which is to postpone the final settlement of a position in a security by closing an existing unsettled transaction and entering into a transaction in the same security which creates a new position for settlement at a later date. The purpose of the rule is to ensure that all trades are settled promptly, thus protecting the proper operation and integrity of the market.
- 49. SP Bell breached LSE Rule 3050 in that individual positions were rolled over more than once (on the instructions of Mr Eagle).
- 50. The rollover trades were not proper and genuine trades but were reported to the market as ordinary trades. As such they concealed from the market that a significant amount of FEI shares had not been paid for and gave a false and misleading impression as to the level of demand for FEI shares. The rollover trades were an essential element of the share ramping scheme.

51. As a result of executing the rollover trades, SP Bell deliberately deferred settlement of the trades and deliberately concealed from the market that a significant amount of FEI shares had not been paid for. Had this been known to the market it is highly likely that it would have caused a significant fall in the FEI share price. SP Bell understood and intended the consequences of its actions.

52. By executing the rollover trades SP Bell caused the market to be given the impression that there was substantial and continuous demand for FEI shares. This was not in fact the case. Mr Eagle (and therefore SP Bell) knew and intended that this false and misleading impression was being given to the market.

(e) Constant source of buyers

53. SP Bell ensured that there appeared to be a constant source of buyers in order to support the FEI share price. SP Bell brokers were instructed by Mr Eagle that they should always advise him of any SP Bell client seeking to sell FEI shares and that no FEI shares were to be sold into the market without first advising him. This was to prevent any selling activity exerting downward pressure on the share price.

54. SP Bell brokers were also instructed by Mr Eagle that they should actively purchase FEI stock being offered to the market by the market makers. Again, such selling activity would exert downward pressure on the share price, putting the rollover scheme at risk.

55. SP Bell brokers acted on these instructions in the following ways:

55.1 If SP Bell clients gave instructions to sell FEI stock it was sold predominantly to the Eagle Accounts, and then entered the rollover scheme.

55.2 The SP Bell brokers bought FEI stock offered by the market makers without first ascertaining whether there were any customers who wished to buy the stock.

56. Between January and July 2004, SP Bell bought 42,115,450 shares in the market, and included in the rollover scheme. It bought 25,703,550 of those shares from Winterflood. This trading did not represent genuine market demand for the shares. It was artificial. These trades were undertaken by SP Bell in the knowledge that there was no means of paying for them. These shares were not paid for but were simply added into the rollover scheme. In many cases the trade was unauthorised by the underlying client.

57. SP Bell bought these shares in order to facilitate the positioning of the price at an artificial level. Mr Eagle, and therefore SP Bell, knew that the apparently unlimited demand for FEI shares from clients of SP Bell was not genuine.

(f) Delayed rollovers

58. Between 5 January and 18 March 2004 Winterflood executed 27 delayed rollovers for SP Bell, whereby the two legs of the transaction were executed at different times of the day, although the size and price of the second leg of the transaction were agreed at

the outset. Instructions were given on behalf of SP Bell by Mr Betton, who in turn derived them from Mr Eagle.

59. Such delayed rollovers are highly unusual. Further, they are highly misleading to the market. The time lapse between the execution of the two legs of the trade makes it impossible for market participants to identify the trades as rollovers. Such trades will appear to be genuine and unrelated trades driven by the economic forces of supply and demand.
60. The delayed rollovers involved high volumes of shares: 190.4 million in total, more than the entire issued share capital of the company. Such high volume trading, which represented 40.5% of the market within this short period of time, gave a significantly misleading impression to the market.
61. In addition the delayed rollovers were often transacted at the top end of the touch price, thus giving the impression to market participants that there was sustained buying interest at higher prices.
62. The delayed rollovers were not proper and genuine trades. In many cases they were not authorised by the underlying customers. They were an essential element of the share ramping scheme.
63. Mr Eagle (and therefore SP Bell) intended that the market be given a false and misleading impression by the delayed rollovers as to the level of genuine interest in the stock. SP Bell intended that retail and media interest would be attracted to FEI as a result, causing increases to the share price.
64. By executing delayed rollovers SP Bell caused the market to be given the impression that there was substantial and continuous demand for FEI shares. This was not the case. Mr Eagle, and therefore SP Bell, knew and intended that this false and misleading impression was being given to the market.

(g) Manipulation of the share price

65. By January 2004, in order for the rollover scheme to continue (i.e. to avoid the Eagle Accounts needing to fund purchases of FEI shares), Mr Eagle needed continued increases in the share price of FEI.
66. Mr Eagle also needed to achieve an increase in the share price for the following reasons:
 - 66.1 to generate “profits” on the rollover accounts which could be used to fund further purchases of shares, thereby helping to ensure that any selling into the market would not depress the price;
 - 66.2 to enable FEI to fund acquisitions of other companies using inflated stock as consideration;
 - 66.3 to enable FEI to raise capital in the market to fund further acquisitions;

- 66.4 to attract genuine retail and institutional investors to FEI.
67. Accordingly, in January 2004 SP Bell embarked on a deliberate programme of share price manipulation whereby it sought to position the price of FEI shares at an artificially high level. The aims of this were:
- 67.1 to attract media and investor attention to FEI through a combination of price rises and increased volume; and
- 67.2 to secure an increasing share price in order that the rollover scheme might continue, that corporate acquisitions be funded, and that retail and institutional investors be attracted to the stock.
68. There are, broadly speaking, three phases of the share price manipulation scheme that can be identified:
- 68.1 during January to March 2004:
- FEI undertook two corporate acquisitions, the consideration for which was shares in FEI;
 - Winterflood raised its bid/offer quote 12 times;
 - Winterflood executed 54 rollovers (not including delayed rollovers) with a total volume of 285.1 million shares and 27 delayed rollovers with a total volume of 190.4 million shares for SP Bell; and
 - an article in the Daily Mail on 13 January 2004 reported that a “hefty” 11.7 million shares had been traded and that FEI could be one to watch;
- 68.2 during April 2004:
- the share price manipulation scheme was beginning to have the desired effect:
 - there were a number of favourable articles in the press; and
 - the level of investor interest was growing;
 - Winterflood raised its bid/offer quote 13 times; and
 - Winterflood executed 34 rollovers with a total volume of 261.4 million shares for SP Bell; and
- 68.3 during May to July 2004:
- the level of media and investor interest in FEI had tailed off – it was more difficult to attract media and investor attention to FEI and to secure an increasing share price because of the lack of investor interest in the stock at the higher prices then prevailing;

- the volumes of trading were significantly lower;
 - FEI undertook a placing to raise £2,520,000 and two corporate acquisitions during this period; the consideration for one acquisition was shares in FEI;
 - Winterflood raised its bid/offer quote 10 times; and
 - Winterflood executed 149 rollovers with a total volume of 908 million shares for SP Bell.
69. Mr Eagle wished to see increases in the share price and was actively seeking to position the share price at an artificial level. Through SP Bell, and through Winterflood, Mr Eagle achieved a series of increases in the bid/offer quote which had the effect of positioning the price of FEI at an artificially high level.
70. There was an unusually close relationship between SP Bell, through Mr Eagle, and Winterflood. This is demonstrated by the following:
- 70.1 a high degree of information sharing – in particular Winterflood traders freely discussed their book positions with Mr Eagle and SP Bell;
 - 70.2 SP Bell brokers were instructed by Mr Eagle to deal only with Winterflood when trading FEI shares; and
 - 70.3 obvious pre-arranging of trades – there were frequent instances where Winterflood traders spoke first to Mr Eagle on an untaped line and then conducted the trade with SP Bell on a taped line.
71. Furthermore, there was an unusually high level of communication between SP Bell, through Mr Eagle, and Winterflood on untaped lines during the period 1 January 2004 to July 2004, as demonstrated by the numerous conversations on mobile telephones between Winterflood employees and Mr Eagle – in particular the Winterflood market maker Mr Sotiriou made 41 calls on his mobile to Mr Eagle and sent one text; and Mr Eagle made 71 calls to Mr Sotiriou's mobile. Mr Sotiriou's mobile telephone records do not show a similar level of communication with other brokers. The FSA has concluded that at least some of the calls were undertaken on mobile telephones in order to avoid those conversations being taped.
72. Winterflood's increases to its bid/offer quote at the instigation of SP Bell caused the price of FEI shares to be positioned at an artificially high level. This had the effect of misleading the market as to the price or value of FEI shares and of distorting the market in FEI shares. The market was also misled by the apparent volume of trading, share price and trading pattern.
73. The quote increases and the trading at the higher share prices gave the market a false and misleading impression as to the price or value of FEI shares and caused the price to be positioned at an artificially high level. Such price positioning at an artificial level also amounts to market distortion.

74. As Mr Eagle, and therefore SP Bell, knew, the apparently unlimited demand for FEI shares from clients of SP Bell was not genuine. SP Bell was actively seeking to mislead the market as to the genuine level of demand for FEI shares through the means of rollovers and delayed rollovers.
75. The deliberate conduct of SP Bell gave rise to a false or misleading impression as to the price or value of FEI shares. Such price positioning at an artificial level also amounts to market distortion. SP Bell, through Mr Eagle, understood that this was the case and intended that this should occur.
76. Accordingly, SP Bell achieved a series of increases in the bid/offer quote which had the effect of positioning the price of FEI at an artificially high level. This had the effect of misleading the market as to the price or value of FEI shares and of distorting the market in FEI shares. SP Bell, through Mr Eagle, understood that this was the case and intended that this should occur.
- (h) The suspension of the shares**
77. The suspension of trading in the shares on 15 July 2004 caused the unsettled positions in FEI shares at SP Bell to crystallise. Neither the clients of SP Bell nor SP Bell itself had sufficient funds to settle the resulting debt which was over £9 million.
78. On 19 July 2004 SP Bell applied for a variation of its Part IV permission to inter alia cease conducting all regulated activities. SP Bell ceased trading and was placed into administration on 23 July 2004. Its business and assets were sold to another FSA authorised firm. The firm is now in liquidation. It has not sought subsequently to cancel its permissions.

Market abuse

79. The FSA is therefore satisfied that:
- 79.1 SP Bell entered into numerous unauthorised transactions in FEI shares on behalf of the Eagle Accounts;
- 79.2 SP Bell entered into a rollover scheme in breach of LSE Rule 3050 which gave rise to a false or misleading impression as to the demand for FEI shares;
- 79.3 SP Bell entered into 27 delayed rollovers which gave rise to a false or misleading impression as to the demand for FEI shares; and
- 79.4 SP Bell entered into a share price manipulation scheme whereby it sought to position the price of FEI shares at an artificially high level.
80. The actions of SP Bell were deliberate. They caused:
- 80.1 a false and misleading impression to be given to the market as to the demand for FEI shares;

80.2 a false and misleading impression to be given to the market as to the price or value of FEI shares; and

80.3 the market in FEI shares to be distorted.

81. The trading for SP Bell was the overwhelming majority of the overall market volume in FEI. The volume of FEI shares that were rolled over by SP Bell between September 2003 and July 2004 totalled 1.8 billion shares. This represented 80% of the volume of FEI trades reported by all firms in this period (2.25 billion shares).
82. In these actions SP Bell fell below the standard reasonably to expected of a stockbroking firm dealing in AIM shares. Its behaviour is likely to be regarded by a regular user of that market as a failure on the part of the person or persons concerned to observe the standard of behaviour reasonably expected of a person in his or their position in relation to the market.
83. SP Bell has therefore engaged in market abuse as defined by sections 118(2)(b) and (c) of the Act.