
FINAL NOTICE

To:	Universal Salvage PLC	Martin Christopher Hynes
Of:	c/o Messrs CMS Cameron McKenna Solicitors Mitre House 160 Aldersgate Street London EC1A 4DD	c/o Messrs Stephenson Harwood Solicitors One, St Paul's Churchyard London EC4M 8SH

Date: **19 May 2004**

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS ("the FSA") gives Universal Salvage PLC and Martin Christopher Hynes final notice about a requirement to pay a financial penalty:

Summary

1. For the reasons set out below and pursuant to section 91 of the Financial Services and Markets Act 2000 ("the Act") the FSA takes action against Universal Salvage PLC ("UVS") and Martin Christopher Hynes ("Mr Hynes"), who was at the material time Chief Executive Officer of UVS, in respect of a contravention of the Listing Rules made by the FSA under Part VI of the Act ("the Listing Rules") as follows:
 - the FSA imposes a penalty in the amount of £90,000 on UVS in respect of the contravention of Listing Rule specified in paragraph 2; and

- the FSA imposes on Mr Hynes a penalty of £10,000 for being knowingly concerned in that contravention.
2. By 16 April 2002 a major new development had occurred in UVS's sphere of activity which, by virtue of its effect on its financial position or on the general course of its business, was likely to lead to a substantial movement in the price of its listed securities. An obligation therefore arose to notify a Regulatory Information Service without delay of all relevant information which was not public knowledge concerning that change. By not making that notification until 3.45pm on 23 April 2002, UVS contravened Listing Rule 9.1(a).
 3. Mr Hynes was aware of this development and was the director best placed to take the appropriate steps in order to ensure that UVS complied with its obligations under the Listing Rules. By failing to do so, Mr Hynes was knowingly concerned in UVS's contravention.

REASONS FOR ACTIONS

The facts

4. UVS was incorporated in 1979 and admitted to the London Stock Exchange Official List in 1995. It is involved in the vehicle salvage business. Its clients are primarily insurance companies and local authorities.
5. At the material time, the Board had four members. These were Alexander Foster (Chairman, non-executive), Martin Hynes (Chief Executive Officer), Jonathan Cook (Finance Director) and Edmund Bruegger (Director, non-executive).
6. At the material time, UVS retained the professional services of WestLB Panmure ("WestLB") as financial advisers and stockbrokers.
7. One of UVS's contracts was with Direct Line Insurance. This contract had been won in 1998 and, since December 1999, had continued on a rolling basis, with a three-month notice period. Since February 2001, it had been open to tender but UVS had continued to work for Direct Line as before. By March 2002, the Direct Line contract accounted for approximately 40% of the vehicles handled by UVS.
8. On 18 March 2002, at a meeting attended by, among others, Mr Hynes, Direct Line informed UVS that UVS had lost the tender. The Board of UVS was advised of this at a Board Meeting on 20 March. Direct Line wrote to confirm the contract loss in a letter, received by UVS on 25 March, in which the contract termination date was set as 30 June 2002.
9. UVS took the view that the contract termination was a negotiating ploy by Direct Line in an ongoing tender process and accordingly wrote to Direct Line on 25 March 2002, raising a number of arguments as to why they should retain the contract. An

acknowledgment was received on 3 April 2002, in which Direct Line undertook to investigate the issues raised and to reply.

10. In the meantime, UVS conducted analysis as to the likely financial impact of the contract being terminated and explored options for cost savings. The intention was to present the outcome of this analysis at the next scheduled Board Meeting on 18 April 2002. Meanwhile, UVS took no steps to obtain advice from WestLB or any other preparatory measures that would enable timely action to be taken in the event of termination.
11. On Tuesday 16 April 2002, UVS received a letter from Direct Line confirming that, having considered the arguments raised by UVS, the contract was still to terminate as specified in its letter of 25 March 2002.
12. Despite the fact that UVS had already been on notice since late March that the contract was in danger of being terminated, it was decided not to bring forward the scheduled Board Meeting or to take any other measures such as obtaining advice, in anticipation of the need to make an announcement.
13. At the Board Meeting on Thursday 18 April, it was agreed to seek advice from WestLB as to whether to make an announcement to the market regarding the loss of the Direct Line contract and also poor trading figures in the final quarter of the then current financial year. Mr Hynes was given the responsibility of consulting with WestLB.
14. Although the Board Meeting ended just before 1.00pm, Mr Hynes did not telephone WestLB until 4.30pm. He telephoned again shortly after 5.00pm but his usual contact at WestLB was not available.
15. Mr Hynes spoke to his usual contact at WestLB the next morning and it was agreed that Mr Hynes would attend a meeting at WestLB's offices on the afternoon of Monday, 22 April 2002.
16. At that meeting WestLB advised that UVS should make an announcement to the market as to the loss of the Direct Line contract and the trading figures for the final quarter of the financial year.
17. After the meeting, UVS instructed its public relations advisers to draft an announcement to be sent to a Regulatory Information Service. They also had not previously been involved in the situation.
18. In the event, the announcement was released through the Regulatory Information Service at 3.45pm on 23 April 2002.
19. Before the announcement the UVS share price was stable and the volumes of shares traded (220,000 between 16 and 22 April, inclusive) were relatively low. On 23 April

2002, the date of the announcement, the share price fell from 468p to 215p, a fall of 55%.

20. The FSA notes that the announcement also reported news of UVS's poorer than expected trading figures. While it is not possible to evaluate precisely to what extent the news of the contract loss caused the fall in share price, the FSA nevertheless considers that it was the major factor.

Relevant Statutory Provisions, Rules and Guidance

21. The Listing Rules set out the requirements for the admission of securities to the Official List and the continuing obligations of companies whose securities are so admitted.¹

22. Listing Rule 9.1 states that:

"A company must notify a Regulatory Information Service without delay of any major new developments in its sphere of activity which are not public knowledge which may:

- (a) *by virtue of the effect of those developments on its assets and liabilities or financial position or on the general course of its business, lead to substantial movement in the price of its listed securities;"*

23. Listing Rule 16.2 states that:

*"A listed company must ensure that its directors accept full responsibility, collectively and individually, for the company's compliance with the Listing Rules."*²

24. The FSA regards the continuing obligation requirements of Chapter 9 of the Listing Rules as a fundamental protection for shareholders.³ These requirements are designed to promote full disclosure to the market of all relevant information on a timely basis to ensure that all users of the market have simultaneous access to the same information. Observance of these continuing obligations is essential to the maintenance of an orderly market in securities and of confidence in the financial system.

25. A listed company has a continuing obligation to consider carefully whether developments in its sphere of activity may be such that, if made public, they would be likely to lead to substantial movement in the price of its listed securities and so require disclosure without delay under the Listing Rules. This is an overriding obligation and listed companies, where appropriate, should make use of their advisers to assist in

¹ Pursuant to Part VI of the Act, the FSA makes the Listing Rules and is responsible for the official listing of securities in the UK.

² The responsibility of directors in this regard is reinforced by Section 91(2): if the FSA considers that a director of the issuer was knowingly concerned in the issuer's contravention, it may impose on him a penalty of such amount as it considers appropriate.

³ The relevant guidance on the disclosure obligations in the Listing Rules is contained in the *UKLA's Guidance on the Dissemination of Price Sensitive Information* in the UKLA Guidance Manual at Appendix 2, in particular at section 3, published in December 2001.

determining whether information is potentially price sensitive when such developments and changes are in prospect. Further, where the board of a company delegates the responsibility for obtaining such advice and making an announcement to a particular individual or individuals, it nevertheless remains the responsibility of the board to ensure that that responsibility is carried out effectively and without delay.

26. In assessing an issuer's compliance with Listing Rule 9.1 with respect to a major new development in its sphere of activity, the primary issue is whether, objectively, there has been such a development. This may take many forms depending on the circumstances but will include the loss of a major contract. The likely price sensitivity of any such change must then be assessed.

Contravention - price sensitivity and delay

27. The FSA is satisfied that, if the information known to UVS on 16 April 2002 concerning the loss of the Direct Line contract had been known to the market, it would have been likely to lead to substantial movement in the price of UVS's listed securities.
28. The Direct Line contract accounted for about 40% of the vehicles handled by UVS. Although the percentage of cash turnover was somewhat lower, it remained very significant.
29. The loss of this amount of business meant that, in order to maintain previous levels of turnover and profit, UVS would have had to obtain a large amount of new business. It is likely that the market would have reacted materially and adversely to the information that, in order to maintain its previous turnover, UVS would have to locate and win significant new business, rather than just retaining existing contracts.
30. All relevant information should, therefore, have been made the subject of an announcement without delay. UVS's failure to do so until 23 April 2002 therefore constituted a continuing breach of its obligations under Listing Rule 9.1.

Mr Hynes – knowingly concerned in the contravention

31. The FSA considers that Mr Hynes was knowingly concerned in UVS's contravention for the following reasons:
 - he was at all material times a director of UVS and its Chief Executive Officer;
 - he was personally involved at all stages, from the meeting with Direct Line on 18 March 2002 to the meeting with WestLB on 22 April 2002 and therefore had complete knowledge of all relevant matters;
 - he was the principal point of contact with WestLB;
 - at the Board Meeting on 18 April 2002, he was given personal responsibility for seeking the advice of West LB but did not fulfil that task with appropriate urgency.

SANCTIONS

32. The FSA's policy on the imposition of financial penalties and public censures is set out in Chapter 8 of the UKLA Guidance Manual. The principal purpose of financial penalties is to promote high standards of regulatory conduct by deterring those who have breached regulatory requirements from committing further contraventions and by demonstrating generally the benefits of compliant behaviour. The criteria for determining whether it is appropriate to issue a public censure are similar to those for financial penalties.
33. Factors that have been taken into account in determining the penalties imposed on UVS and Mr Hynes are:
- the contravention of the Listing Rules was serious in view of the length of the delay and the potential impact on the market;
 - the delay could have been avoided entirely by the taking of responsible preparatory measures when the danger to the Direct Line contract emerged;
 - when the announcement was eventually made, the effect on the UVS share price was considerable;
 - although the interests of investors were prejudiced, the volumes of UVS shares traded during the period when the announcement was delayed were small;
 - there was no intention deliberately to mislead the market;
 - there was full co-operation with the FSA's investigation and, following the investigation, both parties engaged in constructive dialogue to resolve this matter expeditiously.
34. With regard to UVS, further factors taken into account are:
- UVS's market capitalisation at the time of the contravention was approximately £130 million. It is now less than £30 million. It has recently reported an expected loss for its 2003-4 financial year;
 - UVS has taken subsequent appropriate steps to prevent a recurrence of the contravention;
 - UVS has not previously been disciplined for any contravention of the Listing Rules.

35. With regard to Mr Hynes, further factors taken into account are:
- his personal involvement was continuous throughout all significant stages leading to the contravention;
 - he is an individual and may not have the resources of a body corporate to pay a financial penalty;
 - no previous disciplinary action has been taken against him.
36. In all the circumstances and having regard to the factors set out in paragraphs 27 to 35 the FSA considers that the imposition of a financial penalty on each of UVS and Mr Hynes is the appropriate sanction and that the amount imposed in each case is proportionate.

IMPORTANT NOTICES

This Final Notice is given to UVS and Mr Hynes in accordance with section 390 of the Act.

Manner of payment

The amounts of £90,000 and £10,000 must be paid to the FSA in full.

Time for payment

The penalty must be paid to the FSA no later than 2 June 2004, being not less than 14 days beginning with the date on which this Notice is given to you.

If the penalty is not paid

If all or any part of the penalty is outstanding on 2 June 2004, the FSA may recover the outstanding amount as a debt owed by you and due to the FSA.

Publicity

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 these 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 a 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 UVS or to Mr Hynes or prejudicial to the interests of consumers.

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

FSA contacts

For more information concerning this matter generally, you should contact James Symington (direct line: 020 7066 1256) of the Enforcement Division of the FSA.

Carlos Conceição
Head of Market Integrity
Enforcement Division