

SUMMARY OF CONTENTS OF FINAL NOTICE

Date of Issue: 28 October 2004

Mr Nigel Pett and 365 Finance Ltd

The FSA has refused an application for Part IV Permission to carry on mortgage and general insurance business from 365 Finance Ltd (365) because it does not satisfy Threshold Condition 4 (adequate resources) and Threshold Condition 5 (suitability). The FSA has also refused 365's application for the approval of Mr Pett to perform the controlled function of Director. This is because the FSA was not satisfied that he was a fit and proper person to perform these functions. Mr Pett was the only candidate to perform controlled functions with 365.

Mr Pett was suspended by an insurance company in 2002 for suspected selling practice breaches. The company investigated the business conducted by the candidate and found selling practice breaches relating to 7 out of the 9 customers involved in the review. The candidate attended a hearing on 3 April 2002 and it was held that the candidate's "actions in these cases have shown a complete disregard for, and are in direct contravention of the clear instructions set out in the Guidelines for Representatives Handbook and the Supervisor's User Guide and amounts to gross misconduct."

The company disciplinary hearing upheld complaints relating to 7 customers. Its findings included that Mr Pett had:

- not asked a customer about her state of health – a fact which the candidate agreed was a direct breach of the 'Guidelines for Representatives';
- had increased monthly contributions into a unit trust ISA for a customer, who was completely unaware of the increase in the regular payments. In doing so, the candidate had "transacted the business for personal gain, i.e. merit award points and procurement fees;
- had advised a customer of almost 90 years of age, to invest in a unit trust ISA, a medium to long-term investment, and chose not to inform the customer of the option of investing his money as a lump sum. This advice was found to be totally inappropriate in view of the customer's advanced age.

The outcome of the disciplinary hearing stated that Mr Pett's conduct, in relation to his responsibilities as a supervisor and a company representative fell short of the high standards of integrity, which the company required and expected.

Mr Pett was notified in a letter dated 21 May 2002 that his employment had been terminated. Question 37 of the application form asks candidates if they have been dismissed. Mr Pett marked the "No" box next to this question and did not disclose his dismissal.

Therefore the FSA is not satisfied that Mr Pett is a fit and proper person to perform the Director function with 365. In turn, this refused application means that the FSA cannot ensure

that 365 satisfies Threshold Condition 4 (adequate resources), and because of 365's connection with Mr Pett, the FSA cannot ensure that 365 will satisfy Threshold Condition 5 (suitability).

Mr Pett and 365 Finance Ltd did not refer the matter to the independent Financial Services and Markets Tribunal.