
FIRST SUPERVISORY NOTICE

To: **George Gregg & Company**
Of: **21 Manor Road**
 Wrea Green
 Preston
 Lancashire
 PR4 2PB

Dated: **1 April 2003**

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (“the FSA”) has taken the following action

1. ACTION

For the reasons listed below and pursuant to section 45 of the Financial Services and Markets Act 2000 (“the Act”), the FSA has decided to vary the permission granted to George Gregg & Company (“GGC”) pursuant to Part IV of the Act by removing all regulated activities with immediate effect. Accordingly, GGC’s Part IV permission no longer includes the following regulated activities:

- (a) advising (excluding Pension Transfers and Opt-Outs);
- (b) agreeing to carry on a regulated activity;
- (c) arranging deals in investments;
- (d) making arrangements.

2. REASONS FOR ACTION

Summary

The FSA has concluded, on the basis of the facts and matters described below, that GGC is failing to satisfy the threshold conditions set out in Schedule 6 to the Act (“the threshold conditions”) in that the FSA is not satisfied that GGC is a fit and proper person having regard to all the circumstances. That is because, in the opinion of the FSA, GGC has failed to conduct its business with integrity and in compliance with proper standards. Further, GGC has breached the requirements of Principle 6 under which firms must pay due regard to the interests of its customers and treat them fairly.

The FSA also considers, on the basis of those facts and matters, that it is necessary, in order to protect the interests of consumers, for the action specified above to take immediate effect.

Relevant Statutory Provisions

The FSA’s regulatory objectives, established in section 2(2) of the Act, include the protection of consumers.

By section 45 of the Act, the FSA is authorised:

- to vary an authorised person’s permission, where it appears to the FSA that such person is failing to satisfy the threshold conditions;
- to vary such permission by removing a regulated activity from those for which the permission is given.

Section 53(3) of the Act allows such a variation to take effect immediately if the FSA reasonably considers that it is necessary for the variation to take effect immediately.

Relevant Guidance

In exercising its power to vary a Part IV permission, the FSA must have regard to guidance published in the FSA Handbook. The main considerations in relation to the action specified above are set out below.

ENF 3.5 - The FSA’s policy for exercising its own-initiative power to vary Part IV permission

Paragraph 3.5.2 requires the FSA to have regard to its regulatory objectives and the range of regulatory tools that are available to it.

Paragraph 3.5.8 provides that the circumstances in which the FSA will consider exercising its power include where the FSA has serious concerns that the authorised person has breached requirements imposed on it by or under the Act (including Principles and rules) and the breaches are material in number or individual seriousness.

Paragraph 3.5.13 includes, among the factors which will determine whether the urgent exercise of the FSA's own-initiative power is an appropriate response to serious concerns, the extent of any loss or risk of loss or other adverse effect on consumers.

Relevant threshold condition

COND 2.5 - Threshold condition 5: Suitability (paragraph 5, Schedule 6 to the Act)

Paragraph 2.5.1 says:

“The person concerned must satisfy the FSA 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.”

Paragraph 2.5.4(2)(a) requires the FSA, when forming its opinion as to whether an authorised person is conducting its affairs soundly and prudently, to have regard to relevant matters, including whether it conducts its business with integrity and in compliance with proper standards.

Paragraph 2.5.4(3) requires the FSA only to take into account relevant matters which are significant in the context of the suitability of the firm.

Paragraph 2.5.6 permits the FSA, when forming its opinion as to whether an authorised person is conducting its business in compliance with proper standards, to have regard to relevant matters, including whether the authorised person is ready and willing to comply with the requirements and standards under the regulatory system.

Relevant Principle

Principle 6 of the FSA's Principles for Businesses (“Principle 6”) requires that a firm must pay due regard to the interests of its customers and treat them fairly.

Facts and matters relied on

GGC is a sole trader, independent financial adviser whose principal is Mr George Gregg.

In a taped interview conducted on 25 March 2003 Mr Gregg admitted to the FSA that he had withdrawn a total of £54,500 from investors' bonds by forging their signatures on withdrawal application forms, and that sums withdrawn had been paid into GGC's client account and then into Mr Gregg's own account from which they were used by Mr Gregg to meet his personal expenditure.

Conclusions

The facts and matters described above lead the FSA, having regard to its regulatory objectives which include the protection of consumers, to the following conclusions:

- GGC, by making unauthorised withdrawals from investors' bonds and causing the proceeds to be paid into GGC's client account and used for Mr Gregg's own

benefit, breached the requirements of Principle 6 and demonstrated that is not ready and willing to comply with the requirements and standards of the regulatory system;

- that failure is significant in the context of GGC and GGC therefore fails to satisfy the FSA that it is a fit and proper person having regard to all the circumstances;
- GGC is therefore failing to satisfy the threshold conditions in relation to the regulated activities for which GGC has Part IV permission;
- the actual loss to consumers arising from GGC's actions, and the risk of further consumer loss, causes the FSA to have very serious concerns about GGC such that the exercise of the FSA's own-initiative power to vary GGC's Part IV permission with immediate effect is an appropriate response to those concerns.

3. DECISION MAKER

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

4. IMPORTANT

This Supervisory Notice is given to you in accordance with section 53(4) of the Act. The following statutory rights are important.

The Tribunal

You may refer this matter to the Financial Services and Markets Tribunal ("the Tribunal"). Under section 133 of the Act, you have 28 days from the date you were sent this Supervisory Notice to refer the matter to the Tribunal or such other period as specified in the Tribunal Rules or as the Tribunal may allow. A reference to the Tribunal is made by way of a written notice signed by you and filed with a copy of this notice. The Tribunal's address is: 15-19 Bedford Avenue, London WC1B 3AS (telephone 020 7612 9700). The detailed procedures for making a reference to the Tribunal are contained in section 133 of the Act and the Tribunal Rules.

Representations

You have the right to make written and oral representations to the FSA (whether or not you refer this matter to the Tribunal). If you wish to make written representations you must do so within 28 days of receiving this Supervisory Notice or such longer period as may be permitted by the FSA. Written representations should be made to the Regulatory Decisions Committee and sent to Mrs Liane Silvester, Regulatory Decisions Committee Secretariat. The Regulatory Decisions Committee Secretariat's address is: 25 The North Colonnade, Canary Wharf, London E14 5HS. If you wish to make oral representations, you should inform Mrs Silvester not less than 5 business days before the expiry of the 28 day period.

Confidentiality and publicity

You should note that this Supervisory Notice may contain confidential information and should not be disclosed to a third party (except for the purpose of obtaining

advice on its contents). You should also note that section 391 of the Act requires the FSA when this Supervisory Notice takes effect, to publish such information about the matter as it considers appropriate.

FSA contacts

If you have any questions regarding the procedures of the Regulatory Decisions Committee, you should contact either Liane Silvester (direct line: 020 7676 3198/fax: 020 7676 3199) or Brian Whitbread, Head of the Regulatory Decisions Committee Secretariat (direct line: 020 7676 3202/fax: 020 7676 3197).

For more information concerning this matter generally, you should contact Chris Walmsley at the FSA (direct line: 020 7676 5894/fax: 020 7676 5895).

Christopher FitzGerald
Chairman, Regulatory Decisions Committee