



Participant Circular

Date: 7 November 2001

Key topics

1. William Noall Limited

Reading List

Compliance Managers
Client Advisers (Brokers)
DTR Operators.
Managing Directors.
Office Managers
Operations Managers (back office)

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DISCIPLINARY MATTERS

William Noall Limited ("William Noall") has been fined \$66,000 (inclusive of GST) by the National Adjudicatory Tribunal with respect to a breach of ASX Business Rule 13.5.1 in the period from 25 January 2000 to 23 October 2000 and in this regard the National Adjudicatory Tribunal has accepted the compliance undertakings offered by William Noall as set out below. The breach relates to misconduct by two advisers formerly employed by William Noall, a failure by William Noall at the time to follow appropriate procedures with respect to the employment of one of these advisers and a failure by William Noall to put in place and enforce adequate supervision and compliance systems with respect to the activities of the two advisers. William Noall without making any admissions in relation to this breach, elected to refrain from contesting that the breach had occurred.

The circumstances of this matter with respect to the two advisers are as follows:

The First Adviser

- 1 In the period 12 April 2000 to 23 May 2000 this adviser, on 10 occasions entered or amended bids for the quoted securities of Lifecare Health Limited ("LCH") in the last ten minutes of a trading day with the result that the last trade price of LCH was increased. Taking into account the circumstances of the bids, William Noall ought reasonably have suspected that the bids were placed with the intention of creating a false or misleading appearance of active trading in LCH or with respect to the market for or the price of LCH.
- 2 This adviser prepared 38 order records for trades in LCH that incorrectly recorded this adviser as the natural person placing the order.
- 3 This adviser failed to obtain the prior consent in writing of a partner or director or the appointee of a partner or director of William Noall for 15 orders to buy or sell LCH placed by an entity the adviser had an interest in.
- 4 William Noall failed to follow appropriate procedures with respect to the employment of this adviser.
- 5 This adviser was not appropriately supervised by William Noall in circumstances where the adviser was new to the securities industry and in this regard William Noall's supervision and compliance systems did not detect the matters set out in paragraphs 1 to 3 above.

The Second Adviser

- 1 This adviser caused William Noall to execute trades on client accounts contrary to client instructions, on an account in the name of a person that was not alive and on an account in the name of a company that did not exist.

- 2 With respect to the accounts referred to in paragraph 1 above, this adviser completed order records that contained false information so as to create the false appearance that the adviser had received an order from a client.
- 3 This adviser failed to obtain the prior consent in writing of a partner or director or the appointee of a partner or director of William Noall for 6 orders executed on an account in which the adviser had an interest.
- 4 This adviser caused William Noall to execute 40 warrant trades on 10 client accounts in circumstances where a signed Warrant Client Agreement form had not been obtained from the clients.
- 5 William Noall's supervision and compliance systems were inadequate with respect to this adviser for the following reasons:
 - (a) William Noall ought to have been put on inquiry regarding the possibility that this adviser was engaging in misconduct;
 - (b) William Noall's supervision and compliance systems did not detect the matters set out in paragraphs 1 to 4 above;
 - (c) William Noall did not identify and investigate the fact that 11 or more reversals had been made on four client accounts and that three payments had been made into client accounts by entities related to the adviser;
 - (d) advisers at William Noall were responsible for distributing contract notes to clients;
 - (e) during September 2000/October 2000, William Noall did not adequately monitor the level of unsettled trades in the client accounts that this adviser was responsible for;
 - (f) William Noall did not enforce its internal policy with respect to the rebooking of trades;
 - (g) William Noall allowed this adviser to resolve a complaint made by a client with respect to the adviser and did not arrange for an independent representative of William Noall to investigate the complaint; and
 - (h) the adviser's course of conduct was a deliberate and intentional exploitation of the supervision and control systems then in place.

On this occasion the ASX became aware of the issues when William Noall advised it of concerns it had regarding the execution by the adviser of orders contrary to client instructions and trading on the account of a person who was not alive. William Noall had become fully aware of these matters the day before it advised ASX. This arose from advice received from one of its clients and William Noall's subsequent investigations concerning debtor levels. Subsequently William Noall has taken all reasonable action to protect and assist its clients and has initiated independent civil action in an effort to deal with the adviser.

The National Adjudicatory Tribunal noted that following the circumstances referred to above occurring William Noall has established a Risk Management Committee which, in accordance with Australian Standard 4360:1999, reports directly to the Board of Directors via the Audit Committee. The Audit Committee is chaired by the Noall Group Ltd Chairman and comprises one independent director and has as its charter the management of all risk associated with the operation of the Group.

Compliance Undertakings

William Noall irrevocably and unconditionally undertook to ASX that it:

- (1) would certify to ASX by 31 December 2001, that it had implemented policies and procedures to deal with all of the matters referred to in Attachment A; and
- (2) agreed to be bound by the above undertakings and will not challenge any action taken by ASX to enforce any or all of these undertakings.

Attachment A

Compliance Charter & Manual

- 1 A Compliance Charter has been disseminated to all staff and all staff have been required to read, and agree in writing to abide by, its provisions.
- 2 A Compliance Manual has been re-issued to all staff including staff in branch offices and all staff have been required to read, and agree in writing to abide by, its provisions.
- 3 The Compliance Manual reflects all relevant statutory requirements and Business Rules obligations and sets out all internal policies and procedures.

Recruitment

- 1 Reference checks of all new dealing/advisory staff are undertaken by Compliance staff and reviewed by the Compliance Committee prior to employing a new staff member. Where this is not possible a reference check of the last employer is undertaken in a reasonable period of time after employment commences.
- 2 Compliance staff are required to certify in writing to the Compliance Committee from time to time that all new staff have been issued with a copy of the Compliance Manual and such staff have agreed in writing to abide by its provisions.

Back Office Procedures

- 1 Front and back office functions are sufficiently segregated (in particular, are contract notes mailed/distributed to clients by back office staff only). Requests by an adviser to have access to original contract notes are to be reported to compliance staff.
- 2 Client accounts are reviewed from time to time, with special regard being given to clients whose mailing addresses are c/- an adviser, have a Post Office box or have the same address as a staff member.
- 3 Client accounts are reviewed from time to time, to detect features that may be indicative of trading contrary to client instructions (for example where a large number of reversals have occurred on an account or a payment has been made into an account by an entity associated with an adviser).
- 4 Order records are regularly monitored by Compliance staff to ensure they have been correctly completed.
- 5 An independent representative of William Noall contacts clients directly in circumstances where there are a large number of unsettled trades or amounts outstanding on client accounts for which an adviser is responsible.

Staff Trading

- 1 Compliance staff or nominated senior members of management approve the opening of all staff accounts.
- 2 All staff trading orders are reviewed and approved by Compliance staff, or nominated senior members of management, before orders are entered on SEATS.
- 3 Staff accounts are reviewed for compliance with ASX Business Rules and Corporations Law by Compliance staff, or nominated senior member of management, from time to time.

Warrant Trading

- 1 Clients are prevented from placing orders for warrants in circumstances where they have not signed a Warrant Client Agreement form.

Rule 2.2.4

- 1 DTRs ensure that orders that are contrary to ASX Business Rule 2.2.4 are not entered into SEATS and such orders are brought to the attention of Compliance staff or a senior member of William Noall.

Client Complaints

- 1 An independent representative of William Noall investigates any complaint made against an adviser.