



## ASX Circular

Date: 12 August 2009

Key topics

1. Fortis Clearing Sydney Pty Ltd

Reading List

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

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No responsibility is accepted for any inaccuracies contained in the matter published.

## DISCIPLINARY MATTERS

The ASX Disciplinary Tribunal ('the Tribunal') has determined the following:

Fortis Clearing Sydney Pty Ltd ('Fortis') has been fined \$25,000 (plus GST) for contravening ASX Market Rule 13.3.1(a), between 10 August 2007 and 3 June 2008, in that it failed to ensure that its Automated Order Processing ('AOP') system complied with the Operational Requirements, including having appropriate automated filters in relation to AOP.

Fortis agreed not to contest the contravention before the Tribunal.

The circumstances of this matter are detailed as follows:

At the relevant time, Fortis had one Automated Client Order Processing ('ACOP') client, being an entity related to Fortis and based in Singapore ('ACOP Client'). Fortis' ACOP Client in turn had a client in Singapore ('the Singapore Client') which had employees that were Authorised Persons and who had the ability to enter and send electronic orders to Fortis through a terminal based in their office ('Authorised Persons'). These electronic orders were routed through to Fortis' ACOP Real-time Trading Desktop ('RTD') Trading System based in Sydney for entry on ASX's Trading Platform.

On 16 April 2008, during a six minute period in the Pre-Open Session State, an Authorised Person of the Singapore Client entered and subsequently cancelled 7 Trading Messages in respect of shares in Cityview Corporation Equity Securities ('CVI Equity Securities') through the Fortis RTD Trading System's ACOP function. The relevant messages were transmitted to the Integrated Trading System ('ITS'). Prior to the entry of the 7 Trading Messages, the priority Bid price entered by another Market Participant for CVI Equity Securities was \$0.098.

Details of the 7 Trading Messages entered by the Singapore Client are as follows:

1. At 9:54:11 the Authorised Person entered a Buy order for 300,000 CVI Equity Securities at \$0.125. This price was 7 price steps or 28% higher than the previous priority Bid.
2. At 9:54:18 the Authorised Person entered a Buy for 300,000 CVI Equity Securities at \$0.14. This price was 10 price steps or 43% higher than the previous priority Bid.
3. At 9:54:53 the Authorised Person entered a Buy order for 5,000 CVI Equity Securities at \$0.225. This price was 27 price steps or 130% higher than the previous priority Bid.
4. At 9:56:02, the Authorised Person entered a Buy order for 1,000 CVI Equity Securities at \$1.00. This price was 182 price steps or 920% higher than the previous priority Bid.

5. At 9:56:14 the Authorised Person entered a Buy order for 1 CVI Equity Security at \$10.00. This price was 1183 price steps or 10,104% higher than the previous priority.
6. At 9:56:37 the Authorised Person entered a Buy order for 1 CVI Equity Security at \$20.00. This price was 2182 price steps or 20,308% higher than the previous priority Bid.
7. At 9:56:52 the Authorised Person entered a Buy order for 1 CVI Equity Security at \$100.00. This price was 10,182 price steps or 101,941% higher than the previous priority Bid.

Fortis advised that the entry of the 7 Trading Messages by the Authorised Person was part of an attempt by the Singapore Client to check whether, following an update of its computer systems, price-based automated filters under the control of the Singapore Client were still operating correctly. Those price-based filters were not operating correctly. As the relevant messages were transmitted to ITS and cancelled during the Pre-Open Session State, no trades occurred in respect of those messages.

ASX Surveillance raised this issue with Fortis.

In determining penalty the Tribunal took into account a number of matters including the following:

- Fortis has not been the subject of any prior matters before the Disciplinary Tribunal;
- Trading Messages 1-7 were cancelled and no actual trades occurred as the market was in Pre-Open Session State, therefore minimising the impact on the integrity of the market;
- Fortis' remedial actions to ensure future compliance and reduce the risk of a reoccurrence;
- The importance of having appropriate automated filters in relation to AOP in ensuring the prevention of erroneous entries of orders into the Trading Platform and maintaining the integrity of the market;
- Fortis co-operated with ASX Surveillance and ASX Investigations in the investigation of the matter;
- Fortis' acknowledgement of the conduct and its election not to contest the matter;
- No clients or third parties were directly caused financial loss as a result of Fortis' actions; and
- Tribunal precedent matters relating to a breach of ASX Market Rule 13.3.1(a).

#### Disciplinary Tribunal Sanction Guidelines

The Tribunal determined that this Contravention was classified as a Level 2 Serious Contravention, for which the applicable penalty range is \$20,000 - \$100,000 (plus GST). However, given the mitigating circumstances in this matter the Tribunal determined that a fine of \$25,000 was an appropriate sanction. Of considerable weight was Fortis' good disciplinary record as it has had no prior matters before the ASX Disciplinary Tribunal. Importantly, in the Tribunal's view, the damage to the integrity of the market was minimal as no trades occurred as a result of the entry of the Trading Messages. The Tribunal accepted that the conduct was a 'one-off' incident that could be categorized as an aberration, and that Fortis had taken steps to prevent a similar incident recurring. The Tribunal recognizes this as an important consideration since one of the primary purposes of the imposition of sanctions is to deter future contraventions.