

ASX Circular

Date: 21 August 2008

Key topics

1. Burrell Stockbroking Pty Ltd

Reading List

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

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DISCIPLINARY MATTERS

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

Burrell Stockbroking Pty Ltd ("Burrell") has been fined \$40,000 (plus GST) for contravening ASX Market Rules 19.3.3 and 19.3.7 with respect to trading in 25,000 Kingsgate Consolidated Limited shares ("KCN") by a director of Burrell trading on a principal account.

Burrell did not contest the Contraventions before the Tribunal.

The Circumstances of this matter are as follows:

Relevantly, KCN was an Approved Short Sale Product.

On 3 December 2007, a director of Burrell, trading on a principal Burrell account, sold a total of 25,000 KCN.

Between 12:16:52 and 12:17:27 Burrell entered 8 Short Sales of KCN, during Open Session State, for a price lower than the last reported sale price of KCN as follows:

- (i) At 12:16:26, 2,000 KCN was entered into Short Sale at \$4.86 where the last reported sale of KCN at 12:16:21 was \$4.87;
- (ii) At 12:16:26, 2,891 KCN was entered into Short Sale at \$4.85 where the last reported sale of KCN at 12:16:26 was \$4.86;
- (iii) At 12:16:41, 2,081 KCN was entered into Short Sale at \$4.81 where the last reported sale of KCN at 12:16:37 was \$4.85;
- (iv) At 12:16:41, 95 KCN was entered into Short Sale at \$4.80 where the last reported sale of KCN at 12:16:41 was \$4.81;
- (v) At 12:16:52, 1,100 KCN was entered into Short Sale at \$4.78 where the last reported sale of KCN at 12:16:49 was \$4.80;
- (vi) At 12:16:52, 2,900 KCN was entered into Short Sale at \$4.76 where the last reported sale of KCN at 12:16:52 was \$4.78;
- (vii) At 12:17:02, 1,000 KCN was entered into Short Sale at \$4.75 where the last reported sale of KCN at 12:16:57 was \$4.76; and
- (viii) At 12:17:27, 2,000 KCN was entered into Short Sale at \$4.72 where the last reported sale of KCN at 12:17:24 was \$4.73.

On 3 December 2007 Burrell entered consecutive short sales of KCN where it was a party to the last reported sale as follows:

- (i) At 12:26:26, Burrell entered an Ask for 10,000 KCN at \$4.85. This Ask was fulfilled immediately in 4 transactions ("Sale 1"); and
- (ii) At 12:26:37, Burrell entered an Ask for 4,000 KCN at \$4.85. This Ask was fulfilled immediately in 3 transactions ("Sale 2").

Accordingly, the Tribunal found that Burrell contravened ASX Market Rule 19.3.3 in that it made Short Sales of KCN during Open Session State where the price was lower than the price at which the last reported sale of the KCN was made during Open Session.

Burrell also contravened ASX Market Rule 19.3.7 in that as a Trading Participant, Burrell engaged in Short Sales of KCN where Burrell was a party to the last reported sale.

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

- (a) the circumstances and facts of the matter;
- (b) Burrell elected not to contest the Contraventions;
- (c) Burrell assisted and cooperated with the ASX in its investigation; and
- (d) the disciplinary history of Burrell.

However, the following factors aggravated the gravity of the Contraventions:

- (a) the matter was not self-reported and was identified by the ASX; and
- (b) in August 2004 and again in May 2005, ASX Surveillance had put Burrell on notice of short selling concerns in similar circumstances involving the same Director of Burrell.

The Tribunal is satisfied that the imposition of a total fine of \$40,000 (plus GST) in respect of these Contraventions appropriately serves the purposes of protecting the interests of ASX and its Trading Participants and of promoting confidence in the integrity of the ASX markets. And it sends an appropriate educative and regulatory message to Burrell and other ASX Trading Participants.