THE EXECUTIVE COUNSEL TO THE FINANCIAL REPORTING COUNCIL

-and-

RICHARD JONES

EXPLANATORY MEMORANDUM TO THE SETTLEMENT AGREEMENT AND PARTICULARS OF FACT AND MISCONDUCT

The FRC has published the Settlement Agreement and Particulars of Fact and Misconduct agreed between the Executive Counsel to the FRC and Richard Jones ("the Respondent").

The Settlement Agreement reflects the terms of settlement agreed between the Executive Counsel and the Respondent, and has been approved by an independent person. In reaching the Settlement Agreement, it was not necessary for the Executive Counsel to receive or consider any evidence or representations from any parties other than the Respondent.

Accordingly this Settlement Agreement and Particulars of Fact and Misconduct has not made, and should not be taken to have made, any finding against any individual or entity other than the Respondent (including Coats Group plc, any of its subsidiaries, any individual who was a director, member of management or employee at Coats Group plc or any of its subsidiaries, any pension scheme and any person who acted as a trustee of a pension scheme).

It would not be fair to treat any part of this Settlement Agreement and Particulars of Fact and Misconduct as constituting or evidencing findings against anyone other than the Respondent.

The published Settlement Agreement and Particulars of Fact and Misconduct anonymises several third parties, who are instead identified by ciphers. To assist readers with the intelligibility of these documents, and in order to understand the nature of the Misconduct found, the relationship between the cipher and the nature of the third party is set out below.

Cipher	Third party
C (number)	A person who worked for Coats Group plc / Guinness Peat Group plc
Scheme (number)	An occupational pension scheme
Scheme 2 Company	A company that operated Scheme 2
Trustee (number) Scheme (number)	A trustee of a particular Scheme
Adviser (number)	A firm acting as an adviser
Actuary (number) Adviser (number)	An actuary working a particular Adviser
Adviser (number) Partner (number)	A partner at a particular Adviser
Adviser (number) Employee (number)	An employee at a particular Adviser
TP (number)	A third party

IN THE MATTER OF

THE EXECUTIVE COUNSEL TO THE FINANCIAL REPORTING COUNSEL

– and –

RICHARD JONES

SETTLEMENT AGREEMENT

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1. This Settlement Agreement (the "**Agreement**') is made on the 30th day of October 2020 between Jamie Symington as the Deputy Executive Counsel of the Financial Reporting Council (the "**Deputy Executive Counsel"**), and Richard Jones ("**Mr Jones**"). The Deputy Executive Counsel and Mr Jones together are described as "**the Parties**". The Agreement is evidenced by the signatures of the Deputy Executive Counsel on his own behalf and by Mr Jones on his own behalf.

2. The Particulars of Fact and Acts of Misconduct concerning Mr Jones (the "**Particulars**") were agreed by the Parties in accordance with the Actuarial Scheme (the "**Scheme**") and are annexed hereto. The Particulars relate to the conduct of Mr Jones in relation to actuarial advisory services provided to the Coats Group plc (formerly known as Guinness Peat Group plc ("**GPG**")) during the period from September 2005 to March 2012 – in particular, to two directors of GPG that also acted as company-nominated trustees (the "**Director Trustees**"). Mr Jones admits the Acts of Misconduct set out in the Particulars.

3. The Parties recognise that the determination to be made in this case is a matter for the Tribunal member in accordance with paragraph 8(4)(ii) of the Scheme.

4. Terms used in this Agreement shall have the same meaning as set out in the Scheme and the FRC Actuarial Scheme Sanctions Guidance (effective 1 June 2018) (the "**Sanctions Guidance**").

Sanction

5. The Parties have agreed the following terms of settlement:

   (A) Mr Jones receive a Severe Reprimand; and

   (B) Mr Jones pay a Fine of £100,000 (discounted for mitigation and settlement by 35% to £65,000);

6. The Fine shall be paid over a period of 24 months commencing 28 days from the date upon which this Agreement takes effect.

7. In determining the appropriate sanctions, the Deputy Executive Counsel has adopted the approach set out in paragraph 18 of the Sanctions Guidance, as follows:

Nature and Seriousness of the Misconduct

8. The Deputy Executive Counsel considers that the factors relevant to assessing the nature and seriousness of the admitted Misconduct are:

   (A) The Misconduct involved Mr Jones' failure to manage the clear risks involved in advising the Director Trustees as an actuarial advisor to GPG during a seven-year period, despite their conflict of interests in acting as trustees of three defined benefit pension schemes of subsidiary companies within GPG (as described in the Particulars, together, the "**Schemes**").

   (B) The Misconduct involved failing to comply with the requirements of the professional standards that applied to him from time to time during the Relevant seven-year Period, in that Mr Jones' objectivity and impartiality (as defined by paragraph 3 of the Actuaries' Code) can reasonably be seen to have been compromised by his continuing to advise the said executives despite the above risks of their conflict of interests.

   (C) Mr Jones was in a senior position and, first as a Senior Consultant and then as a Principal for 8 years within the Relevant Period, led the actuarial advisory services provided by his firm, [redacted] to the Director Trustees.

   (D) The Schemes were significant and had approximately 30,000 members of the three subsidiary companies. There is no evidence to suggest that the Misconduct caused the members any direct loss but the Misconduct had the potential to increase the risk of loss.

   (E) In all the circumstances, the Misconduct could undermine confidence in the standards of conduct of actuaries and in the profession generally.

   (F) The Misconduct was not dishonest. However, Mr Jones acted deliberately in that he knew as an adviser to GPG he should not be providing advice and assistance to the director trustees in circumstances where he knew that his advice would or might influence their approach as trustees.

   (G) Mr Jones obtained no financial benefit from the Misconduct, did not stand to gain any benefit from the Misconduct nor did he intend to obtain any such benefit.

Identification of Sanction

9. Having assessed the seriousness of the Misconduct and considered the range of available sanctions, the Deputy Executive Counsel considers that the sanctions identified above are appropriate and proportionate sanction for the Misconduct.

10. The Deputy Executive Counsel has then taken into account any aggravating and mitigating factors that exist (to the extent that they have not already been taken into account in relation to the seriousness of the Misconduct). Having considered those additional factors set out below, the Deputy Executive Counsel has determined that a reduction of 10% at this stage, to reflect mitigating factors, is appropriate.

Aggravating Factors

11. The Deputy Executive Counsel considers that there are no aggravating factors

Mitigating Factors

12. The following mitigating factors were identified:

   (A) The Misconduct ended 8 years ago and has not been repeated.

(B) Mr Jones has been the subject of a 4-year investigation that commenced in July 2016.

(C) Mr Jones has co-operated fully with the investigation.

(D) Mr Jones has a good compliance history and disciplinary record.

(E) Mr Jones has expressed contrition for his Misconduct.

Adjustment for Deterrence

13. No adjustment for deterrence is required in this case.

Discount for Admissions and Settlement

14. Having taken into account the full admissions made by Mr Jones and the stage at which those admissions were made (in Stage 2 of the case in accordance with paragraph 70 of the Sanctions Guidance), a reduction of 25% (in addition to the 10% for mitigation) of the Fine as a settlement factor is appropriate such that a Fine of £65,000 is payable.

Other Considerations

15. In accordance with paragraph 35 of the Sanctions Guidance, the Deputy Executive Counsel has taken into account the financial resources of Mr Jones and the effect of a Fine on Mr Jones and his future employment. The Executive Counsel has considered whether there are any arrangements which would result in Mr Jones being indemnified in respect of part or all of the Fine. Mr Jones has confirmed that he does not have the benefit of an indemnity as regards the Fine.

16. If the decision is to approve the Agreement, including the sanctions set out above, then the Agreement shall take effect from the next working day after the date on which the notice of the decision is sent to Mr Jones in accordance with paragraphs 8(4)(iii) and (iv) of the Scheme.

17. The Agreement and annex will remain confidential until publication in accordance with paragraph 8(6) of the Scheme.

[redacted]

[redacted]

Jamie Symington

Deputy Executive Counsel for the

Financial Reporting Council

Richard Jones

Dated 30 October 2020

IN THE MATTER OF:

THE EXECUTIVE COUNSEL TO THE FINANCIAL REPORTING COUNCIL

-and-

RICHARD JONES

PARTICULARS OF FACTS AND

ACTS OF MISCONDUCT

[...]

Document references in square brackets are references to document numbers [...]

PART 1 - INTRODUCTION

The Financial Reporting Council

1. The Financial Reporting Council ("**the FRC**") is the independent disciplinary body for the actuarial profession in the UK. The FRC's rules and procedures relating to actuaries are set out in the Actuarial Scheme and Actuarial Regulations, both dated 8 December 2014 ("**the Actuarial Scheme**").

2. On 19 July 2016 the Conduct Committee of the FRC decided to refer for investigation by the Executive Counsel the conduct of the Respondent ("**Mr Jones**"):

> *... in connection with the pension schemes of various companies within the Guinness Peat Group (now renamed Coats Group plc) between* [*2002*][1] *and 2012.*

[1] **2002 substituted for 2004 by the decision of the Conduct Committee of 1 August 2017.**

3. By paragraph 7(10) of the Actuarial Scheme, if, following his investigation, the Executive Counsel considers that:- (a) there is a realistic prospect that a Disciplinary Tribunal will make an Adverse Finding against a Member; and (b) a hearing is desirable in the public interest, the Executive Counsel shall notify the Member concerned of his intention to deliver a Formal Complaint to the Conduct Committee. An Adverse Finding includes a finding by a Disciplinary Tribunal that a Member has committed "Misconduct".

4. By paragraph 2(1) of the Actuarial Scheme, "Misconduct" is defined as "*an act or omission or series of acts or omissions, by a Member in the course of his professional activities (including as a partner, member, director, consultant, agent or employee in or of any organisation or as an individual) or otherwise, which falls significantly short of the standards reasonably to be expected of a Member or Member Firm or has brought, or is likely to bring, discredit to the Member or the Member Firm or to the actuarial profession".*

5. This is the Executive Counsel's paragraph 7(10) Complaint detailing the allegations of Misconduct against the Respondent.

The Role of Mr Jones

6. Mr Jones is an actuary and has been a Fellow of the Institute and Faculty of Actuaries since 2002. Accordingly, he is a Member under the Actuarial Scheme.

7. From in or around late 2002, Mr Jones acted as actuarial adviser to Guinness Peat Group plc (since 26 February 2015 known as Coats Group plc, hereafter **"GPG"**), first as a Senior Consultant and then as Principal at [Adviser 5]. From late 2002, he ran a team of 15 people (including [Adviser 5 Employee 1]) who serviced the GPG corporate account (among others), which involved providing corporate advice, including pensions advice, to GPG and its subsidiaries.

8. In the course of carrying out his duties as actuarial adviser to GPG, Mr Jones liaised with various individuals at GPG, including [C2] and [C1], whose roles are more particularly set out below, and [C4]. This involved him in, amongst other things, interacting with these individuals at times when they also acted as trustees of certain pension schemes (described below) on behalf of GPG.

The Professional Conduct Standards and the Actuaries' Code

9. The standards of conduct reasonably to be expected of Mr Jones during the relevant period included those set out in the Professional Conduct Standards (from 1 July 1999 to 30 September 2009) and the Actuaries' Code (from 1 October 2009) (together "**the Code**") applicable to him at the material times, as issued by the Institute and Faculty of Actuaries (prior to 2010, the Institute of Actuaries). The Fundamental Principles and Statements contained in the Code are made in the public interest and are designed to maintain a high standard of integrity and professional conduct by all members.

10. The Fundamental Principles required Mr Jones (as more particularly set out in the Appendix) *inter alia*:-

    (1) to act with objectivity/ impartiality ("**the Impartiality Principle**") (as set out in paragraph 5 of the Professional Conduct Standards and paragraph 3 of the Actuaries' Code, which are set out in the Appendix);

    (2) to respect confidentiality ("**the Confidentiality Principle**"); and

    (3) to comply with applicable laws and regulations ("**the Compliance Principle**").

Background

11. GPG was a substantial UK listed investment company that held investments in a diverse range of industries and locations worldwide. In the course of its business, it acquired the businesses that had established the following occupational pension schemes **("the Schemes")**:-

    (1) [Scheme 1];

    (2) [Scheme 3]; and

    (3) [Scheme 2].

12. The Schemes are defined benefit pension Schemes. At the time of the acquisition of the businesses, each of the Schemes was well funded. However, by 2012, each of them showed a substantial deficit on the "buy-out basis" as follows:-

    (1) [Scheme 1]: £814.4m;

(2) [Scheme 2]: £196.6m; and

(3) [Scheme 3]: £126.3m.

13. Two principal company nominated or 'director' trustees[2] of the Schemes from time to time were [C1] and [C2]. Set out below are the details of their roles in relation to each Scheme:

[Scheme 1]

14. At all material times [Scheme 1] had a single corporate trustee, [Trustee 1 Scheme 1]. The composition of the board of trustees varied from time to time, including both company-nominated and member-nominated trustees and, at all material times, an independent trustee. [C2] and [C1] acted as GPG appointed trustees between the following dates:

Name	**Date of appointment**	**Date of retirement**
[C2]	15 July 2004	30 June 2013
[C1]	15 July 2004. Appointed Chairman of the Board of Trustees on 15 September 2005.	31 March 2015

[Scheme 3]

15. Between 12 December 2005 and 20 December 2006, [Trustee 2 Scheme 3] was a trustee and from the latter date [Trustee 1 Scheme 3] has been a trustee. [Trustee 3 Scheme 3] was a trustee between 12 December 2005 and 1 October 2010. [Trustee 2 Scheme 3] was a director of [Trustee 1 Scheme 3] between 17 September 2010 and 1 September 2013. [Trustee 3 Scheme 3] was a director of [Trustee 1 Scheme 3] between 16 September 2010 and 12 February 2013. The composition of the board of trustees varied from time to time, including both company-nominated and member-nominated

[2] **References in this Complaint to trustees include director trustees**

trustees and, at all material times, an independent trustee. [C2] and [C1] held the following appointments:

Name	Date of appointment	Date of retirement
[C1]	12 December 2005 (as director of [Trustee 3 Scheme 3] and [Trustee 2 Scheme 3] – appointed as individual trustee 20 March 2008). Appointed Chairman of the Board of Trustees on 25 February 2008.	31 December 2014 (as director of [Trustee 1 Scheme 3]).
[C2]	12 December 2005 (as director of [Trustee 3 Scheme 3] and [Trustee 2 Scheme 3])	30 June 2013 (as director of [Trustee 2 Scheme 3]).

[SCHEME 2]

16. Between 20 December 2006 and 4 September 2007, [Trustee 2 Scheme 3] was a trustee and from the latter date [Trustee 1 Scheme 2] has been sole trustee of [Scheme 2] ([Trustee 2 Scheme 3] was then a director of this company until 1 March 2013). Another company, [Trustee 3 Scheme 3] was a director of [Trustee 1 Scheme 2] between 31 January 2008 and 1 March 2013. The composition of the board of trustees varied from time to time, including both company-nominated and member-nominated trustees and, at all material times, an independent trustee. [C2] and [C1] held the following appointments:

Name	Date of appointment	Date of retirement
[C1]	11 May 1999 (as individual)	4 December 2003 (as individual). Following a 4-year gap, he was then a

		director of Trustee 2 Scheme 3 from 13 December 2007 and during the balance of its term of appointment as director of Trustee 1 Scheme 2 (i.e. until 1 March 2013). Further he was a director of [Trustee 3 Scheme 3] during its entire term of appointment as director of Trustee 1 [Scheme 2] (i.e. 31 January 2008 to 1 March 2013).
[C2]	31January 2005 (as individual)	19 December 2006 as individual. He was then a director of [Trustee 2 Scheme 3] and [Trustee 3 Scheme 3] during their entire term of appointment as either trustee of[Trustee 1 Scheme 2] or director of [Trustee 1 Scheme 2].

17. At the same time as acting as trustees in respect of the Schemes, [C2] and [C1] also had significant roles in GPG. In particular:-

(1) [...]; and

(2) [...].

GPG Policies giving rise to Conflicts

18. By reason, in particular, of the policies and objectives of GPG, developed over time but originally articulated in 2002, there was at all material times an actual or, at the very least, a potential conflict of interest between the companies in the GPG group on the one hand and the trustees of the Schemes (who had duties to the members) on the other. These policies and objectives included:

    (1) to persuade the trustees to adopt an approach in particular to scheme funding and investment that would impact favourably on whether and at what level employer contributions to the Schemes might be required;

    (2) an objective to reduce the risk of the wider GPG group being called on to make contributions to the Schemes by seeking to limit the liabilities of each employer company to its own capital;

    (3) to keep the assets of the Schemes employer companies available to the wider GPG group for further investments;

    (4) to sell the trading assets of the businesses associated with the Schemes (such as by selling the [Scheme 2 Company] business and pay out the proceeds of sales to shareholders.

19. This conflict of interest is to be evaluated in light of the legislative and regulatory background from time to time. Until 6 April 2005, the Minimum Funding Requirement ("MFR") was in place pursuant to the Pensions Act 1995, which was considered in practice to be inadequate to secure the benefits of defined benefit pension schemes. From 6 April 2005, this regime was replaced by the Pensions Act 2004, which replaced the Minimum Funding Requirement with a more exacting system of scheme specific funding, a system which envisaged the negotiation of contributions and investment policies between the employer on the one hand and the trustees on the other. The Pensions Act 2004 also created the Pensions Regulator ("tPR") and introduced the moral hazard provisions (which were in fact invoked by tPR in relation to each of the Schemes and GPG). Both regimes required a Scheme to have a statement of investment principles, an area where employers and trustees might well have different views.

20. It was against this background that [C2] and [C1] were appointed as trustees.

21. Executive Counsel will rely upon the following documents as evidence of GPG's policies and objectives, as set out in paragraph 18 above:

(1) a fax from [Actuary 1 Adviser 5], at all material times an actuary […] to [C2] dated 21 January 2002 [7]. This fax, which related to [Scheme 2], referred to the possibility of a "least risk" investment strategy, which reduced the risk that GPG would ever be required to contribute again unless the MFR funding level fell below 100%;

(2) an email from Mr Jones entitled GPG Pensions Issue and dated 25 January 2002 [9]. This email recorded that moving to the "least risk" investment strategy was most attractive to GPG because "*they want to reduce the risk of ever having to contribute to [Trust 1 Scheme 2] ever again*";

(3) a fax from Mr Jones to [C4] relating to [Scheme 3] dated 21 June 2002 [12]. This referred to looking at the composition of the trustee body, and enclosed a paper regarding the risk of further company contributions;

(4) an email from Mr Jones to [Actuary 1 Adviser 5] dated 6 November 2002 [13]. In this email, which is marked as confidential, Mr Jones states that he had explained the "*firewall*" principle in relation to [Scheme 3];

(5) an email dated 20 May 2003, where Mr Jones reported to [Actuary 1 Adviser 5] on "*various pensions issues*" further to a meeting with [C2] and [C7], an employee of GPG Australia [21]. This stated in relation to [Scheme 3] that "*ideally we want to still have MFR > 100% as at April 2004 in order to give weight to our arguments on contributions. Strategy for next year will depend how it looks – if they* [GPG] *can get away with a small amount of contributions (by switching to more equity) then they will go for it – if it is looking monstorous* [sic] *or the Trustees are difficult they will make a judgment and let the pension fund sink ...Discussed GPG Trustees – do not appoint – keep current Trustees"*.;

(6) a letter from Mr Jones regarding Project Potter dated July 2003 [26]. This described a route whereby it was possible to create a "firewall" to protect [Scheme 2 Company] (i.e. the employer responsible for funding the Scheme, not merely GPG)

and ensure that the Scheme remained within the [Scheme 2 Company] group after the sale of the underlying businesses;

(7) a Report prepared by Mr Jones entitled "Guinness Peat Group plc: Adding Value from Pensions Arrangements" dated 18 September 2003 [34]. The report set out "*lots of opportunities for GPG to add value from their pension arrangements*", i.e. "*maximising value for the shareholders of GPG*".;

(8) an email from Mr Jones to [C7] entitled "Article in FT" dated 22 January 2004 [36]. This email warns of the risk that the Government would at some point try prospectively to "*close the "firewall" loophole"*;

(9) a paper prepared by Mr Jones dated May 2004 on the Future Pension Strategy for [Scheme 2 Company] [38]. This recommended a structure for selling the businesses of [Scheme 2 Company], whereby the "firewall" between the GPG group companies and [Scheme 2 Company] would be preserved;

(10) an email from Mr Jones to [C2] and [C4] dated 17 June 2004 entitled "GPG Project" [40]. This email discussed (amongst other things) how GPG could effectively borrow £300 million from their Schemes to pursue further investments. The email also sets out various issues which the trustees would have with the GPG approach and explained that he believed that the issues could be overcome;

(11) minutes of a meeting relating to [Scheme 2 Company] dated 15 February 2005 [51]. These minutes show that [C2] acknowledged that "*the new support structure for [Trustee 1 Scheme 2] shifts the balance of power away from the trustees to GPG*";

(12) an email from Mr Jones to [Adviser 5 Employee 1] dated 13 April 2005 [55]. In relation to [Scheme 1], this email records [C2]'s concern about the lack of control on [Trustee 1 Scheme 1] and that "*they are going to […]install [C1]* [referring to [C1] being promoted from his existing role as a fellow trustee director] *as Chairman of the Trustees"*.

The Complaint against Mr Jones

22. Mr Jones identified the actual or potential conflict of interest between GPG and the Trustees of the Schemes. However, he advised and assisted [C2] and [C1] both in their capacity as senior officers of GPG and in their capacity as trustees of the Schemes over the course of many years.

23. Mr Jones knew that as adviser to GPG he should not be providing advice and assistance to [C1] and [C2] in circumstances where he knew that (i) his advice was being provided to them in their capacity as trustees and (ii) that his advice would or might influence their approach as trustees, in advancing the interests of GPG, potentially at the expense of members of the Schemes.

24. It is this conduct i.e. a failure to act upon actual or potential conflicts that were or ought to have been obvious to Mr Jones that forms the core of this Formal Complaint.

Mr Jones' Knowledge and understanding of Conflicts or the risk of Conflicts

25. That Mr Jones knew that advising GPG on its corporate objectives, including through assisting and advising [C1] and [C2] in their capacity as trustee directors, involved a conflict of interest, or a risk of a conflict of interest is evidenced by the following:-

    (1) During his first interview with the FRC on 6 December 2016, Mr Jones confirmed that "*by the time I was actually in some sort of position of any influence in the matter, so the early 2000s, it was broadly that you could only advise one side and you had to keep everything separate*";

    (2) During his first interview with the FRC, Mr Jones confirmed that the company and the trustees of the Schemes were required to negotiate with each other.

    (3) During his first interview with the FRC, Mr Jones confirmed that [Adviser 5] put in place processes for identifying and managing client conflicts, which, in relation to their work with GPG involved putting in place a Chinese wall "*all the files are locked down, all the files, the paper files, are locked away. All the work is done, in my team, it's done in one specific unit which has its own entry and exit way. Nobody else is allowed into this area"*;

(4) An email from Mr Jones to [Actuary 1 Adviser 5] dated 6 November 2002 referring to a meeting between [C4], [C2] and Mr Jones. The email begins with the words "*Certain aspects of this are confidential or could cause 'conflict of interest' therefore do not circulate...*"[13];

(5) An email from Mr Jones to [C4] of GPG dated 11 July 2003 entitled "[Scheme 2 Company]" making the following point: "*it is most important for all concerned that the Scheme Actuary ([Actuary 1 Adviser 5]) nor none of the team that work on the Scheme Actuary work...are involved in any discussions round this point...I am very concerned that [C1] is involved in this as he is also a Trustee and although there is a mental separation between Employer role and Trustee role this is a fairly dubious defence.*"[24];

(6) An email from Mr Jones dated 11 July 2003 [25] entitled "[Scheme 2 Company]" in which Mr Jones refers to GPG's desire to sell the UK business of [Scheme 2 Company] but to retain the pension Scheme. The first sentence of the email reads: "*This is confidential – should not speak to [Actuary 1 Adviser 5], [Adviser 5 Employee 2] or [TP1] about this useless* [sic] *absolutely required*";

(7) A letter from Mr Jones to [C4] dated July 2003 entitled "B – Project Potter" referring in detail to a proposed reorganisation of the [Scheme 2] in advance of a proposed sale. The letter identifies the potential conflict of [C1] as trustee of [Scheme 2] (albeit the letter was copied to him), and states that the matters discussed in the letter have not been discussed with [Actuary 1 Adviser 5] or his team, and that GPG and [Scheme 2 Company] should refrain from any such discussions. It goes on to say: "*In order to avoid any <u>potential</u> conflict of interest we are referring internal* [sic] *to this project as "Project Potter"*" [26];

(8) A report prepared by Mr Jones dated 18 September 2003 entitled "Guinness Peat Group plc: Adding Value from Pensions Arrangements, in which Mr Jones acknowledges that "*Whilst there are circumstances where the objectives of the company and the Trustee coincide the Trustees will need to be shown that there is a benefit to the members in making any decision*" [34];

(9) An email from Mr Jones to [Actuary 1 Adviser 5] (then Scheme Actuary for [Scheme 2] dated 14 June 2004, in which he says: "*This is really beginning to touch on*

conflict of interest for you [Actuary 1 Adviser 5] but let me know when you are uncomfortable" [39];

(10) An email dated 12 July 2004 from Mr Jones for the attention of [C1], asking that all actuarial queries on Project Potter be referred to him (although [Actuary 1 Adviser 5] had also been consulted and provided his views in his capacity as Scheme Actuary) and noting that a document dealing with potential conflicts of interest in respect of [Scheme 2] would be circulated shortly. [41];

(11) An email dated 16 July 2004 from Mr Jones to [Adviser 7 Employee 1] of [Adviser 7] saying: *"Just a quick comment (something [C1] keeps missing) there is supposed to be a Chinese wall between the Trustee side (i.e. [Adviser 5 Employee 2] and [Actuary 1 Adviser 5] who work at [Adviser 5] and advise the Trustees) and the company side (I.e. me advising GPG/company)"* [42]. In his first interview with the FRC, Mr Jones admitted the existence of this Chinese wall as is clear from (3) above;

(12) A draft [Adviser 5] Conflict of Interest Policy dated 21 July 2004 (effective 1 August 2004) identifying the potential for conflict by reason of [Adviser 5]'s appointments in relation to [Scheme 3] in the following roles: (i) [Actuary 2 Adviser 5] as Scheme Actuary and (ii) Mr Jones, adviser to GPG on actuarial matters [43]. This document was intended to formalise the internal procedures that had been put in place in [Adviser 5] and would have needed to be approved by the [Adviser 5] Professional Affairs Committee. Although it was not progressed further at the time, it was drafted by Mr Jones and thus records his understanding both as to the potential for internal conflict at GPG and as to the importance of his role being separate from any advice or assistance provided to the trustees of the Schemes. Amongst other things, whilst this Policy permitted continued working notwithstanding the potential conflict of interest internally, it expressly prohibited information sharing between the actuaries "without the express permission of all clients concerned" and set out the primary duties of the Scheme Actuary, including that any projects on which the Scheme Actuary was asked to work on behalf of the company "must first be cleared with the Trustee";

(13) An email from Mr Jones dated 24 June 2005 confirming that he would be returning permanently to the UK from Boston in July 2005 and would continue to work on the GPG account. In particular, Mr Jones makes the point that "*I think some of the liaison*

and discussion with the Trustee teams (where approved by both the Company and the Trustees) will benefit from being able to be conducted in the same time zone". Mr Jones goes on to point out that the Atlantic Ocean has proved a very successful 'Chinese Wall' to date and that "*both [Adviser 5] and GPG will want to maintain the independence and integrity of the advice given to both the Trustees and the employer*". Mr Jones confirms that the Chinese Wall will "*remain firmly in place and be demonstrable to the Trustees of the various Schemes*"[59];

(14) An email from Mr Jones to [C1] dated 18 August 2005 in respect of the Actuarial Valuation on [Scheme 1] as at 31 March 2006, making it clear that "*this note is <u>not</u> addressed to you as Chairman of Trustees of the Plan but in your role with GPG*" [62];

(15) An email dated 25 February 2008 from Mr Jones to [C2] summarising new guidance from the Regulator on conflicts of interest, expressing the view that GPG was currently operating "best practice" with an independent Trustee in place on all three main schemes ([Scheme 3], [Scheme 2] and [Scheme 1]) and conflicts between company and Trustee roles being dealt with as they arise but suggesting it may be necessary going forward to have a formal policy document in place for all the schemes in the future [134];

(16) The [Adviser 5] Internal Conflict Procedures dated 15 October 2008 issued by the Professional Affairs Sub-committee [151]; and

(17) The [Adviser 5] Group Limited Conflict of Interests Policy approved by the board on 8 December 2009 [194].

<u>Mr Jones' inappropriate involvement in providing advice and assistance to trustees notwithstanding his role as GPG's adviser</u>

26. [C1] and [C2] frequently sought advice and assistance from Mr Jones in the preparation of documents intended to be sent by them, in their capacity as trustees, to other members of the trustee boards and trustee advisers, such as the Scheme Actuaries. In carrying out this work, Mr Jones failed to have regard to issues of conflict of interest even though he knew that [C1] and [C2] had been appointed as trustee directors by GPG with a view to advancing the GPG strategy more particularly referred to in paragraphs

18 to 20 above, and they sought his assistance to articulate that strategy in documents which would be presented to the trustee boards.

27. Further, Mr Jones routinely advised on, prepared and/or commented on documents from a GPG perspective which he knew [C1] and [C2] would use in their capacity as trustees, without any acknowledgement of his involvement, and without the agreement or knowledge of the other trustees regarding the extent and specifics of his engagement.

28. In particular:-

(1) On 18 August 2005, Mr Jones sent an email to [C1] regarding the [Scheme 1] actuarial valuation as at 31 March 2006 [61]. In it, he said (amongst other things): "*A slightly devious approach might be to ask [Adviser 4] for their views on the likely future returns as part of their investment duties prior to then asking the Scheme Actuary for his views (investment consultants tend to have a more realistic view of long term returns without artificial caution of actuaries and this makes it hard for the actuary to then say that actually he knows more about investment markets than the people who are employed by his own company to advise on investments)*;

(2) Under cover of an email dated 28 September 2005, Mr Jones sent to [C5] (secretary to [C2]) a draft letter "*updated as discussed*" [72]. The attached letter [73] was saved as "[C1] Letter (Updated).doc" and was intended for onward transmission by [C1] in his role as Chairman of the Trustees of [Scheme 1] to [Actuary 1 Adviser 3]. The letter was sent out in final form to [Actuary 1 Adviser 3] on 17 October 2005 signed by [C1] as "Chairman of the Trustees". [C1] did not acknowledge in the letter that Mr Jones had been involved in its drafting and Mr Jones did not check that he had otherwise done so [74];

(3) On 31 October 2005, under cover of an email to [C2], copied to Mr Jones, [C1] reported on his meeting with [Actuary 1 Adviser 3]. Mr Jones responded in an email of the same date identifying a "*slight problem*" and making the point that "*from the company's viewpoint*" one of the issues raised by [Actuary 1 Adviser 3] "*becomes problematic*" [75]. He finished the email by saying that this could be discussed on [C2]'s return;

(4) Under cover of an email dated 20 December 2005, Mr Jones sent to [C1] (cc to [C5]) "*my draft of the letter to [Actuary 1 Adviser 3] that we discussed*" [85]. The attached letter was saved as "[C1] Letter (Second).doc" [86] and was intended for onward transmission by [C1] in his role as Chairman of the Trustees of [Scheme 1] to [Actuary 1 Adviser 3]. In particular, it made various detailed points about equity market modelling and suggested the production of a cash flow model. Later the same day, [C1] returned the draft to Mr Jones "*with my comments*" [88]. Mr Jones responded at 16:09 that he was happy with [C1]'s changes [88]. The email was then sent to [C2] by [C1] for sending on to [Actuary 1 Adviser 3] on 21 December 2005 [90A].

(5) By an email dated 9 January 2006 [93], Mr Jones sent to [C2] his comments on the [Scheme 2] Cashflow Matching Options. Further, "*as discussed at the weekend*", the email attached a note of a model "*that you could send to* [Adviser 1 Partner 1] of [Adviser 1] *that explains the model in more detail*". [C2] sent an expanded version of the Note to [Adviser 1 Partner 1] (who was acting on behalf of the trustees as investment adviser) on 10 January 2006 without informing him that it had been prepared by Mr Jones;

(6) On 16 May 2008, [Actuary 1 Adviser 3] sent to [C1] in his capacity as Chairman of the Trustees of [Scheme 1], a first draft of the paper on assumptions for the June Trustee Board Meeting [142]. [C1] forwarded this email on to [C2], who in turn forwarded it to Mr Jones on 19 May 2008. In an email of the following day to [C2], Mr Jones commented on [Actuary 1 Adviser 3]'s paper saying that he had got himself "*into a bit of a pickle*" and said he would investigate further. On 23 May 2008, [C1] sent a response to [Actuary 1 Adviser 3] noting that he had provided a copy to [C2] and providing his "*initial comments*" [143]. [C1] then forwarded a copy of this email to Mr Jones thanking him for his "*input*" and confirming that the email had been "*sent today*";

(7) On 2 September 2008, Mr Jones sent to [C1] an email entitled "Paper on tPR transfer value guidance" which set out "*A draft email to [Actuary 1 Adviser 3] as discussed*" [149]. The draft was intended to be sent by [C1] as Chairman of the Trustees of [Scheme 1] commenting on a paper provided to him by [Actuary 1 Adviser 3]. The draft challenged a long-held industry view on commutation factors which, if accepted, would have had the effect of reducing the transfer values paid out to members. Mr Jones

did not take any steps to ensure that his role in drafting this email was made clear to [Actuary 1 Adviser 3];

(8) On 5 December 2008, Mr Jones sent to [C1], copied to [C2], an email entitled "Coats – [Actuary 1 Adviser 3]'s Note" saying "*Per our discussion yesterday, I have crafted an email to [Actuary 1 Adviser 3] in your name but if you wish to change the style then please do so*" [153]. [C2] responded on the same day with a very minor comment. [C1] sent the email in almost exactly the form drafted to [Actuary 1 Adviser 3] on 11 December 2008 [154]. When [Actuary 1 Adviser 3] responded by email dated 17 December 2008, [C1] forwarded the email directly to Mr Jones saying that he would "*call him tomorrow on this*". On 19 December 2008 [155], Mr Jones sent an email to [C1] and [C2] setting out his thoughts on [Actuary 1 Adviser 3]'s Note. Mr Jones noted that he would like to put his points to GPG's investment adviser before getting back to [Actuary 1 Adviser 3]. [C1] replied on the same day asking Mr Jones to draft an email for him to send to [Adviser 6], GPG's investment adviser. Mr Jones drafted the email and sent it to [C1] and [C2] in the body of an email of 22 December 2008 [156]. The draft purported to come from [C1] following an away day presentation given to the [Scheme 1] trustees;

(9) By way of an email dated 16 January 2009, Mr Jones sent to [C1], copied to [C2], a draft email to [Actuary 1 Adviser 3] headed "Continuing discussion on assumptions for [Scheme 1]" [158]. By way of an email dated 23 January 2009, Mr Jones sent to [C1], copied to [C2], a revised version of the draft email, saying "*here is the revised version of the note to [Actuary 1 Adviser 3] as discussed*" [159]. The draft was intended to be sent by [C1] as Chairman of the Trustees of [Scheme 1]. [C1] identified one typo in the draft in an email of 26 January 2009 [160] but otherwise told Mr Jones that he was simply awaiting [C2]'s sign off. Later that same day, [C1] forwarded his email to [Actuary 1 Adviser 3] in the form drafted by Mr Jones to [C2], copied to Mr Jones, commenting "*as sent*" [161]. In an email chain dated 2 February 2009, [C1] updated Mr Jones on [Actuary 1 Adviser 3]'s response and asked for his thoughts, which Mr Jones provided later that same day, commenting that it "*sounds like good progress*" but making one point [162]. [C1] responded that he would feed the point back to [Actuary 1 Adviser 3];

(10) On 3 February 2009, [C1] sent to Mr Jones an email from [Actuary 1 Adviser 3] of the same date attaching a proposed letter to [C3] and asking for comments [163]. Mr Jones responded by email later on the same day that he did not have any problems with the proposed mechanism for commenting on the document, in that he assumed *"[C3] is going to pass by me to respond on behalf of the company*" (thereby directly acknowledging a legitimate involvement as GPG adviser at a later time). [C3] did so and Mr Jones subsequently wrote a letter to [C3] setting out GPG's position [164];

(11) On 12 June 2009, [C1] sent to Mr Jones, copied to [C2], an email from [Actuary 1 Adviser 3] entitled "[Scheme 1] actuarial valuation" attaching a draft of a letter and attachment which [Actuary 1 Adviser 3] was proposing to send to [C3] requesting additional funding for the scheme from GPG [167]. [C1]'s email to Mr Jones stated that "*I will give the ok later today* ***on behalf of Trustee*** *but please let me know if you have any comments*" (***emphasis added***). Mr Jones replied by email on 15 June 2009 commenting that the draft letter "*looks fine*" and noting that he looked forward to speaking to [C3] about a response to the request in due course. Under cover of an email sent by [C3] to Mr Jones later the same day [169], [C3] attached the letter from [Actuary 1 Adviser 3] on which Mr Jones had already been asked to comment by [C1] on behalf of the trustees, saying "*Can you review these assumptions and let me have your thoughts and if possible draft a suitable reply*." Mr Jones replied on 16 June 2009 "*I believe that [Actuary 1 Adviser 3] has carried out a study for the Trustees and therefore in order to comment on whether these changes are appropriate without detailed investigation a copy of the report is required. Could you ask [Actuary 1 Adviser 3] whether he could disclose this report on mortality to the company?*";

(12) By email dated 22 June 2009, [Actuary 1 Adviser 3] sent to [C1] a draft paper setting out his latest proposals for changes to the Statement of Funding Principals for [Scheme 1]. By an email dated 30 June 2009 [170], Mr Jones sent to [C1] a "Draft Response for [Actuary 1 Adviser 3]" setting out a first draft of a response to [Actuary 1 Adviser 3] commenting in detail on the Statement of Funding Principles to be sent by [C1] in his capacity as Chairman of Trustees, including raising detailed queries over a proposed new change in

methodology proposed by [Actuary 1 Adviser 3]. In a further email dated 1 July 2009 [171] and copied to [C2], Mr Jones provided [C1] with a further proposed paragraph to be inserted into the letter on re-investment. [C1] returned an updated draft of the letter to Mr Jones on 2 July 2009 [173] and on the same day, Mr Jones confirmed that he was "*happy with this version*", noting that "*the wording changes you have made have made it much more readable and convincing*";

(13) On 30 June 2009, Mr Jones sent to [C1] and [C2] an email advising them of the role of trustees under the Scheme Funding Code;

(14) On 10 July 2008, [Actuary 1 Adviser 3] sent to [C1] (copied to the other trustees) a draft of his presentation for a trustee meeting the following week [176]. [C1] forwarded this to Mr Jones, who, in an email of the same day, identified that "*there are lots of areas of weakness in [Actuary 1 Adviser 3]'s analysis*", said that he had discussed with [C2] that he would point out those weaknesses at the meeting and said "*I am currently working on a crib sheet for [C2] to allow him to do this.*" Mr Jones sent the crib sheet to [C2], copied to [C1], under cover of an email dated 14 July 2009 [178];

(15) On 22 July 2009, after the trustee meeting had taken place, [TP2], of [Trustee 2 Scheme 1], a professional trustee on the Coats trustee board, sent to [C1] an email, amongst other things identifying his concerns as to "*the conflict of interest position*" and pointing out that [C2] and [C1] were conflicted: "We all recognise that [C2] is conflicted and to a lesser extent you are too... However, what is important is that the conflict position is managed, i.e. which hat is being worn – trustee or Employer - when comments are made". [180]. [C1] forwarded this email on to Mr Jones on 23 July 2009 commenting that [TP2]'s comments "*seem a little unsophisticated especially on the conflicts point*". In his reply of 23 July 2009, Mr Jones described this email as "*rather curious*" [181]. [C1] and Mr Jones discussed the email, as is evidenced by an email from [C1] to Mr Jones of later that same day in which [C1] informed Mr Jones that he wanted "*to go through with you what I am going to say*" to [TP2] when they met;

(16) On 14 September 2009, [C2] forwarded the trustee papers which had been sent for the trustee meeting on 23 September 2003 to Mr Jones [183]. Mr Jones provided comments on the slides prepared by the Scheme Actuary;

(17) Under cover of an email dated 16 March 2010, Mr Jones sent to [C1] a detailed Draft Note for Trustees [203]. The Draft Note began "Fellow Trustees" and was intended for onward transmission to the trustees by [C1] in his role as Chairman of the Trustees of [Scheme 1]. There was no indication within the covering email or in the Draft Note itself that the trustees would be informed of Mr Jones' input. The draft commented in detail on the Actuarial Valuation as at 31 March 2009 and on the equity return to be assumed. On 19 March 2010, [C1] sent the draft back to Mr Jones saying that it now incorporated [C2]'s comments, asking for Mr Jones' final thoughts and specifically asking whether Mr Jones was "*happy*" with a specific percentage figure [204]; the Note was emailed to [C2], who commented on it, Mr Jones confirmed he was happy with the changes and it was then sent out by [C1] on 22 March 2010 [204A, 204B, 204C & 204D];

(18) On or around 25 March 2010, Mr Jones assisted [C1] in preparing a note that was required to brief an independent adviser on the review of assumptions for investment returns in the actuarial valuation, a step that the trustees had agreed was necessary at a meeting on 23 March 2010 to resolve a deadlock which had been reach on the trustee body in [Scheme 1] as to the calculation of the best estimate return on equities [205]. [C1] sent the final note to Mr Jones on 25 March 2010 thanking him and [Actuary 1 Adviser 5] for their "*help on this*" [208];

(19) In an email dated 11 June 2010 headed "[Scheme 3] Method and Assumptions paper", from Mr Jones to [C2], Mr Jones set out a "draft response to [Actuary 3 Adviser 5]", the [Scheme 3] Scheme Actuary [214]. [C2] had forwarded to Mr Jones an e-mail dated 20 May 2010 from [Actuary 3 Adviser 5] to [C1];

(20) On 17 June 2010, [Actuary 3 Adviser 5] sent a detailed email to [C2] elaborating on discussions at the trustee meeting on 24 May 2010 and headed "Return on Bonds Assumption" [215]. The email included at its foot the express statement that it was "*addressed to the Trustees of [Scheme 3] and is for their*

exclusive use...This email has been prepared for the benefit of our client only. It may not be shared with any other party without our prior written consent". [C2] forwarded the email to [C1] and [C4] on the same day and [C1] forwarded it to Mr Jones on 21 June 2010 saying "*I think you have seen this note from [Actuary 3 Adviser 5]. I definitely need your help in understanding how to respond*". [C1] asked if he could call Mr Jones to fix up a meeting to "*talk through*" it. On 28 June 2010, [C1] again forwarded the email to Mr Jones whilst at the same time copying in [Actuary 3 Adviser 5] and suggesting that it might be helpful if Mr Jones could explain to [Actuary 3 Adviser 5] how [Scheme 1] has addressed these matters [216]. This email did not acknowledge that Mr Jones had already seen the original email or discussed it with [C1]. On 20 July 2010, [Actuary 3 Adviser 5] emailed [C1] and [C2] confirming he had now received the information sought from Mr Jones and setting out his views [218]. [C1] immediately emailed Mr Jones and said he would call "*to discuss*". [C2] sent his comments on [Actuary 3 Adviser 5]'s email to Mr Jones on 8 August 2010 and by a further email the following day asked "*Do you like*?" [219]. Mr Jones responded that he thought it was perfect;

(21) By email dated 17 August 2010 [220], [C1] asked Mr Jones to prepare for a forthcoming meeting by considering "*the arguments we can use to counter [Adviser 2 Employee 1]'s views* [i.e. [...] of [Adviser 2], formerly of [Adviser 3] ...*We need to be able to demonstrate to [Adviser 2 Employee 1] and then the Trustees why we should now sell bonds/buy equities*." This related to [Scheme 1];

(22) On 22 November 2010 [223], [C2] asked Mr Jones for his comments on a draft email to go to [Actuary 3 Adviser 5] responding to a paper from him on the Matching Period for [Scheme 3]. In an email of the same date Mr Jones replied that he thought it was "*excellent*";

(23) On 6 January 2011, [C4] sent to Mr Jones an email attaching an extract from the Minutes of the last [Scheme 3] meeting "*for comment please*" [224]. Mr Jones replied on the same day with a "marked up version" noting that "*of course I wasn't actually there but I think these adjustments work*";

(24) In an email dated 31 October 2011 [232], Mr Jones commented in detail on slides forwarded to him by [C1] which formed a proposed presentation to be made by [Adviser 2 Employee 1] (of [Adviser 2]) on an investment strategy for [Scheme 1] at the Away Day on [Scheme 1]. [C1] said he would pass these points on to [Adviser 2 Employee 1]; and

(25) On 11 February 2012, [Adviser 3 Partner 1] of [Adviser 3] sent to [C1] a first draft of assumptions slides in advance of a meeting to take place on 8 March 2012. [C1] forwarded these on to Mr Jones [234] saying: "*[Adviser 3 Partner 1]'s draft slides for next Trustee meeting. They are a little bland. On mortality I should get draft of results of update study next week. On 'floor' I need a relatively simple note from you for me to send [Adviser 3 Partner 1]*". On 20 February 2012, [Adviser 3 Partner 1] sent a working draft of the mortality analysis to [C1], which he forwarded on to Mr Jones on 23 February 2012 [235], saying "I had an initial discussion with [Adviser 3 Partner 1] on this. Future improvement is the key, as usual and *we need reasons for the Trustee to tone down the assumption. Also issue of prudence raised by [Adviser 3]. Let's discuss on Friday before you commit to writing*.". Mr Jones provided advice on the assumptions by email to [C1] dated 28 February 2012 and 5 March 2012 [235A].

29. Notwithstanding the evidence identified above, which shows that Mr Jones advised [C1] and [C2], advancing the interests of GPG in the knowledge that they would use that advice in their capacity as trustees (or trustee directors) to influence the remaining trustees, who were unaware of the extent and specifics of his involvement, Mr Jones has maintained in his interviews with the FRC that he was only ever giving GPG advice and that insofar as he was advising [C1] and [C2] he was doing so in the context of their being GPG employees only.

Mr Jones' receipt of confidential documents produced for the trustees

30. In addition to advising [C1] and [C2] in their role as trustees and preparing documents for them to send out in that role, Mr Jones frequently received confidential documents from them which they had obtained, as he knew, by reason of and in connection with their role as trustees. At no time did Mr Jones obtain confirmation from the board of trustees, as he should have done, that he had authority to receive such documents and information and there is no evidence to suggest that the trustees had consented to the disclosure.

31. In addition to the various examples of such conduct referred to at paragraph 25 above (especially sub-paragraphs (3), (6), (8) to (12), (14) to (16), (20), (23) to (25)) Executive Counsel relies on the following:-

(1) An email from [C2] to Mr Jones dated 12 November 2005 [76] forwarding on to him "FYI" a document prepared for [Scheme 1] trustees by [Adviser 2 Employee 1] on behalf of [Adviser 3] headed "*Investment Strategy: Risk Reduction – Amendments to Bond Benchmark*";

(2) An email from [C1] to [C2] dated 15 November 2005 [79], copied to Mr Jones, attaching a draft letter to go to [Actuary 1 Adviser 3] following a meeting at which he and [C1] had discussed the actuarial valuation and the assumptions made. Mr Jones reviewed the draft letter and also said that he was going to put together some slides on valuation. He noted that "*the big issue is that we need to move [Actuary 1 Adviser 3] from prudent in isolation...to prudent in the round (i.e. having a complete strategy that takes into account the employer covenant)*";

(3) In January 2006, Mr Jones was provided with documents relating to the [Scheme 1] valuation and Away Day, as is evidenced by his email to [C1] dated 18 January 2006 [95]. This prompted a detailed commentary on the documents set out in his email;

(4) By an email dated 18 January 2006 from [C1], Mr Jones was provided with [Actuary 1 Adviser 3]'s comments on commutation factors, which Mr Jones said (in a reply email on the same day) that he found "*somewhat perturbing*" [96];

(5) Under cover of an email dated 4 February 2006 [97], [C2] sent to Mr Jones a final draft of a Cashflow Matching paper for [Scheme 3] prepared by [Adviser 1], investment advisers to the trustees, asking for his comments. Mr Jones provided these by email dated 6 February 2006 [98]. Following an email from [C2] to [Adviser 1] dated 6 February 2006, [Adviser 1] replied on 7 February 2006, and [C2] forwarded the email to Mr Jones and asked for his views. [C2] sent a revised draft to Mr Jones again asking for his views. Mr Jones responded that "*the ideal is to get the Trustees to agree that cash flow matching is preferred...*" [100];

(6) On 8 May 2006, [Adviser 2 Employee 1] of [Adviser 3] provided a paper for the trustees of [Scheme 1] setting out a strategy/route map. [C1] copied Mr Jones into this paper on the 9th May 2006 [105] and on 15 May 2006 he asked specifically for his comments on a response to [Adviser 2 Employee 1] [106];

(7) On 5 September 2006, [Adviser 3] emailed to [C1] finalised slides for an Investment Policy Presentation on Cash Flow Modelling to take place the following day to the trustees of [Scheme 1] [107]. [C1] forwarded these slides to Mr Jones on the same day and Mr Jones sent some comments (also under cover of an email of 5 September 2006). [C1]'s reply to these comments was "*Very helpful. Tomorrow I will be questioning rather than dogmatic in my chairman's role*";

(8) Under cover of an email dated 26 September 2007 [119], [C2] sent to Mr Jones "*Trustee Meeting Documents*" asking "*Any comments?*". These related to [Scheme 2], and were also sent to [C4] (who was at that time a trustee of [Scheme 2]). Mr Jones provided a detailed response by email on 29 September 2007;

(9) On 18 May 2008, [C2] forwarded to Mr Jones a draft paper on assumptions which had been prepared by [Actuary 1 Adviser 3] and on 19 May 2008, [C2] forwarded to Mr Jones a "key document Appendix 2 SFP" which he said was guiding [Actuary 1 Adviser 3] [142]. The paper had been prepared by [Actuary 1 Adviser 3] for the June 2008 Trustee Board meeting;

(10) As recorded in an email from [C1] to [C2] dated 19 August 2008 [148], [C1] met Mr Jones and gave him a copy of the draft minutes from the July [Scheme 1] meeting. He told Mr Jones that there was to be a trustees' away day on 12 November (at which Mr Jones would be speaking to the Trustees on behalf of GPG) "*when we should try to achieve Trustee agreement based on the "GPG view"*;

(11) On 17 December 2008 [154], [Actuary 1 Adviser 3] sent to [C1] the Annual Funding update and a draft of a new statement of funding principles [154]. [C1] forwarded this on to Mr Jones for his comment by an email of the same day;

(12) On 10 July 2009 [176], [Actuary 1 Adviser 3] sent to [C1] a draft of his presentation for the meeting the following week. On the same day, [C1] forwarded this to Mr Jones. On 15 July 2009, [Actuary 1 Adviser 3] provided an updated version. [C1] again forwarded it on to Mr Jones under cover of an email of 16 July 2009 [179];

(13) On 23 July 2009, [C1] forwarded to Mr Jones a note from [TP2], an independent trustee on [Scheme 1], commenting on the trustee meeting that had taken place the previous week [180];

(14) On 14 September 2009, [C2] forwarded to Mr Jones an email from [Actuary 1 Adviser 3] attaching "Trustee Papers" and, in particular, a presentation for the Trustee Board meeting to be held on 23 September 2009 [183]. Mr Jones reviewed the presentation and provided his comments;

(15) On 14 January 2010, [C6] provided various trustee papers to the trustees of [Scheme 1] [196]. [C1] copied these to Mr Jones by an email of 18 January 2010 saying he was seeing him that afternoon and wanted to "*firm up on script for tomorrow*", a reference to the trustee Meeting, due to take place on 19 January 2010;

(16) On 9 August 2010, [Adviser 2 Employee 1] of [Adviser 2], investment advisers to the trustees, sent an email to [C1] and [C2] providing a note on Funding Model and Evolution of Asset Allocation in respect of the [Scheme 1] [220]. [C2] forwarded the email to Mr Jones on 15 August 2010;

(17) On 28 October 2010, [Actuary 3 Adviser 5] sent to [C2], copied to [C1], a lengthy email addressing the issue of [Scheme 3] and, in particular, the Matching Period [222]. [C2] forwarded this email to Mr Jones on the same day;

(18) On 31 October 2011, [Adviser 2 Employee 1] sent to [C1] a draft [Adviser 2] pack in preparation for a [Scheme 1] trustees' away day. [C1] forwarded this on to Mr Jones on 31 October 2011 [232];

(19) On 11 February 2012, [Adviser 3 Partner 1] of [Adviser 3] sent to [C1] a first draft of his assumptions slides ahead of a meeting due to take place on 8 March 2012. [C1] forwarded this draft to Mr Jones on 14 February 2012 [234]; and

(20) On 20 February 2012, [Adviser 3 Partner 1] sent to [C1] the working draft of the mortality analysis for the meeting on 8 March 2012. [C1] forwarded this to Mr Jones by email on 23 February 2012 [235].

Involvement of the Pensions Regulator

32. During the discussions of tPR with the trustees and employer of [Scheme 1] about the Scheme's 2012 valuation, tPR became aware that Coats was selling off its investment shareholdings and intended to make significant returns to its shareholders. Around that time, tPR was approached by the trustees of [Scheme 3] about their concerns over future support for their Scheme. tPR began to investigate the potential impact that the Coats' disposal programme would have on the Schemes, in particular the impact on the covenant supporting the Schemes in the context of their underfunded positions. After a thorough investigation, tPR issued warning notices for [Scheme 2] and [Scheme 3] in December 2013, and for [Scheme 1] in December 2014. These documented tPR's intention to issue financial support directions against a number of GPG group entities.

33. In December 2016, agreement was reached in relation to [Scheme 1] and [Scheme 3]. In June 2017, agreement was reached in relation to [Scheme 2]. Details of the agreements are summarised in the Regulatory intervention report of tPR issued under section 89 of the Pensions Act 2004.

The Misconduct

34. As set out below, the allegations of Misconduct arise by reason of Mr Jones' role as adviser to GPG in relation to the Schemes. It is the Executive Counsel's case that Mr Jones acted in breach of the Fundamental Principles and/or his conduct was such as to bring discredit to the actuarial profession.

PART 2 - ALLEGATIONS

ALLEGATION 1

Between September 2005 and March 2012 ("the Relevant Period"), when he was acting as appointed adviser to GPG and its subsidiaries, and despite appreciating at all material times the actual or potential conflict of interest between GPG/its subsidiaries on the one hand and the trustees of the Schemes on the other, Mr Jones failed in breach of the Impartiality Principle and the Compliance Principle properly or at all to address, manage or resolve the actual or potential conflict of interest between his role as adviser to GPG and its subsidiaries on the one hand and his relationship with the trustees or their representatives of the Schemes on the other. In particular, he engaged with individual trustees/trustee directors (namely [C1] and [C2]) in their capacity as such, giving them advice and assistance which he knew was intended to advance the interests of GPG.

PARTICULARS

1. During the Relevant Period Mr Jones acted as advisor to GPG.

2. During the Relevant Period, Mr Jones knew that there was potential for conflict of interest issues to arise in advising both GPG and its trustee directors in relation to the Schemes. Executive Counsel refers to, and relies upon, the evidence set out above at paragraph 23.

3. In 2004, if not before, a Chinese wall had been set up at [Adviser 5] to try to manage these acknowledged conflicts.

4. Nevertheless, throughout the Relevant Period, Mr Jones routinely advised on, prepared and/or commented on documents from a GPG perspective which he knew [C1] and [C2] had received or would use or send in their capacity as trustees without any acknowledgement of, or permission or knowledge on the part of the other trustees regarding, the extent and specifics of his involvement. Mr Jones' said actions gave rise to the potential for inappropriate influence on the part of GPG over the trustee body.

5. At no time during the Relevant Period did Mr Jones advise [C1] and [C2], as he should have done, (i) that they were required to separate their roles as trustees and GPG directors; (ii) that they should not be seeking unauthorised input from a GPG adviser into documents and information (including advice being given to the trustee boards by their advisers) that were confidential to the trustee board; and (iii) that they should not be seeking assistance from him with the drafting of documents designed to challenge confidential advice that was being given to the trustee boards by their own advisers.

6. In acting in the manner set forth in paragraphs 4 to 5 above, which had the potential (as Mr Jones knew or ought to have known) (i) for inappropriate influence over the trustee board by advancing GPG's corporate agenda; and (ii) to influence or undermine the trustees or their advisers in their management of the Schemes, Mr Jones was in breach of the Impartiality Principle and the Compliance Principle.

7. Executive Counsel refers to, and relies upon, the evidence set out above at paragraphs 24 to 26.

ALLEGATION 2

During the Relevant Period, when he was acting as appointed adviser to GPG and its subsidiaries, and despite appreciating at all material times the actual or potential conflict of interest between GPG/its subsidiaries on the one hand and the trustees of the Schemes on the other, Mr Jones routinely received documents and information confidential to the trustee bodies (including documents prepared by the trustee advisers [Adviser 1], [Adviser 2] and [Adviser 3]) in breach of the Impartiality Principle, the Confidentiality Principle and the Compliance Principle.

PARTICULARS

1. At all material times during the Relevant Period, Mr Jones knew that documents and information he received from [C1] and [C2], obtained by or created by them in their capacity as trustees of the Schemes (as more particularly identified in paragraph 23 above) were confidential to the relevant trustee body.

2. Mr Jones failed to obtain confirmation from the board of trustees, as he should have done, that he had the authority to receive such documents and information and never sought authority from the relevant trustee body.

3. There is no evidence that Mr Jones sought to warn either [C1] or [C2] (as he should have done) that these documents and the information they contained were confidential to the trustee body and that [C1] and [C2] appeared to be acting in breach of that confidentiality in providing them to him.

4. In acting in the manner set forth in paragraphs 1 to 3 above, Mr Jones was in breach of the Impartiality Principle, the Confidentiality Principle and the Compliance Principle.

5. Executive Counsel refers to and relies upon the evidence set out above at paragraphs 27 to 28.

DATED etc.

Appendix

Extracts from the Code

Extracts from Professional Conduct Standards (versions 2.0 to 3.0 effective from 1 June 2002 to September 2009)

Version 2.0

1.2 The PCS gives guidance on professional conduct to which all members of the Institute of Actuaries must conform in both the spirit and the letter.

1.3 The PCS is not comprehensive or exhaustive. Considerable reliance is therefore placed on the conscience of each individual actuary and on the collective conscience of all actuaries to maintain the highest standards of conduct.

Version 3.0 (from 1 August 2007)

1.2: Every member must comply with the standards of behaviour, integrity, competence and professional judgement which other members or the public might reasonably expect of a member. Failure to meet such standards is misconduct, as defined in the disciplinary Schemes.

1.3 The PCS sets out general principles and ethical standards. It is not comprehensive or exhaustive. Other professional standards may impose additional requirements in specific circumstances and are classified either as mandatory or recommended in nature. Some professional standards may contain material falling into more than one category as indicated in the standard. For the avoidance of doubt, professional standards classified as "Practice Standards" have mandatory status, except where indicated otherwise in that standard, and professional standards classified as "Recommended Practices" have recommended status (see paragraphs 4.2 and 4.3 below). The PCS is a mandatory Professional Standard.

1.4 It is the professional responsibility of each member to be conversant with the PCS. In the course of carrying out their professional duties or otherwise all members must comply in both the spirit and the letter. This applies even when a member is also subject to the standards of another professional body.

1.5 Considerable reliance is placed on the conscience of each individual member and on the collective conscience of all members to maintain the highest standards of conduct.

Versions 2.0 and 3.0

...

2.2 A *member* has a duty to the profession and must not act in a manner which denigrates its reputation or impugns its integrity. Responsibility to any client must be consistent with that duty...

2.3 Users of a *member's* services, which may include a *member's firm* and/or colleagues in that firm, are entitled to have absolute confidence in the skill, objectivity and integrity of the *member*. If work which a *member* considers necessary is precluded by cost or time constraints the *member* should normally[3] either decline to act or qualify the advice given.

…

2.5 **Confidentiality**

2.5.1 As a matter of law, information acquired by a *member* in the course of professional work is frequently confidential to the *member's* client or the *member's firm*. As such, it should not normally be disclosed unless consent has been obtained from the *member's* client or the *member's firm*, as the case may be.

2.5.2 There are, however, circumstances in which, despite the normal duty of confidentiality, a *member* might in law be:

- obliged to disclose confidential information, either by virtue of statutory or judicial authority or by virtue of *other guidance*[4] by which the client is bound, or
- free to disclose confidential information if it is in the public interest to do so or, in some circumstances, if it is for the *member's* own protection.

A *member* should consider seeking legal advice before invoking this provision.

…

[3] Amended to "must" by version 3.0 with effect from 2007.

[4] Amended to "external requirements" by version 3.0 with effect from 2007.

3.1 In formulating advice, a member must pay proper regard to any relevant professional guidance or other guidance[5] and, subject to that guidance, is expected to exercise professional judgment.

4.4.1 On becoming aware of any matter which appears to be a material breach by another member of any professional guidance or other guidance, a member must take appropriate action at the earliest opportunity[6].

5 CONFLICT OF INTEREST

5.1 Clients are entitled to assume that advice given by a *member* is unaffected by interests other than those of the client,[7] taking account of any identifiable professional or legal duty of care of the client in respect of a third party.

5.2 If there is or might appear to be a conflict of interest between two or more clients of a *member* or of the *member's firm*, or a conflict between a client and the *member* or the *member's firm*, the *member* must consider the nature and extent of the conflict and whether it is such as to make it improper for the *member* to give advice to one or more of the clients involved in the conflict.

5.3 In the event of any such conflict or apparent[8] conflict of interest, the client or clients involved must be notified at the earliest opportunity and if any advice given to a client is, or will be, influenced by interests other than those of that client or by any constraint other than that imposed by professional guidance[9], this must be disclosed in the advice.

5.4 If there might be a conflict between the interests of different clients or previous clients of the *member* or of the *member's firm,* the *member* must have proper regard to their respective interests and in particular must not communicate information within the *member's firm* which the *member* has reason to believe might harm the interest of any client or

previous client.

[5] Words "external requirements" replaced for "guidance" in version 3.0 with effect from 2007.

[6] From version 2.3, this is replaced with "...by another member...must...refer the matter under the disciplinary schemes at the earliest opportunity".

[7] Words "where the interests of the client include" inserted after this point by version 3.0 with effect from 2007.

[8] Amended to "probable" by version 3.0 with effect from 2007.

[9] Amended to "standards or external requirements" by version 3.0 with effect from 2007.

5.5 Notwithstanding the provisions of paragraph 1.3[10], paragraph 5.3 shall not be construed as extending[11] the obligations of a *member* to ensure compliance with the provisions of that paragraph by the *member's firm*[12] unless:

- the *member* is identified as an adviser to one or more of the clients concerned, or
- the *member's* input to the formulation of advice provided by the *member's firm* is knowingly influenced or constrained by interests other than those of the client.

…

The Actuaries' Code (version 1.0 effective October 2009 until October 2013)

3. **Impartiality: members will not allow bias, conflict of interest, or the undue influence of others to override their professional judgment.**

3.1 Members will ensure that their ability to provide objective advice to their clients is not, and cannot reasonably be seen to be, compromised.

3.2 A conflict of interests arises if a member's duty to act in the best interests of any client conflicts with:

a) the member's own interests; or

b) an interest of the member's firm; or

c) the interests of other clients.

3.3 Members will take reasonable steps to ensure that they are aware of any relevant interest, including income, of their firm.

3.4 Members will disqualify themselves from acting where there is a conflict of interest that cannot be reconciled.

3.5 Members will document the steps they have taken to reconcile a conflict and will agree those steps with their clients if they would be ineffective without agreement.

3.6 Before accepting any assignment, members will consider carefully whether they should consult with any member who previously held such a position with the client,
to establish whether there might be any professional reason why the assignment should be declined.

[10] Amended to "paragraph 1.6" by version 3.0 with effect from 2007.
[11] Amended to "extend" by version 3.0 with effect from 2007.
[12] Amended to "by the member's firm with the provisions of paragraph 5.3" by version 3.0 with effect from 2007.

4. **Compliance: members will comply with all relevant legal, regulatory and professional requirements, take reasonable steps to ensure they are not placed in a position where they are unable to comply, and will challenge non-compliance by others.**

4.1 Members will speak up to their clients or to their employers, or both, if they believe, or reasonably ought to believe, that a course of action is unlawful, unethical or improper.

. . .