
FINAL NOTICE

To: Mr Abdul Karim

**Address: 39 Benets Road
Hornchurch
Essex
RM11 3PT**

IRN: AXK01455

Dated: 1 July 2009

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (the "FSA") gives you final notice about the following action:

1. ACTION

1.1. The FSA gave you, Mr Abdul Karim, a Decision Notice dated 28 May 2009 which notified you that it had decided:

- (1) pursuant to section 63 of the Financial Services and Markets Act 2000 ("FSMA") to withdraw the approval given to you to perform the controlled functions of CF1 (Director) and CF8 (Apportionment and oversight); and

(2) pursuant to section 56 of FSMA to make an order prohibiting you from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm (“the Prohibition Order”),

because you are not a fit and proper person, in that you lack honesty and integrity.

1.2. You did not refer the matter to the Financial Services and Markets Tribunal within 28 days of the date on which the Decision Notice was given to you.

1.3. Accordingly, for the reasons set out below, the FSA has today withdrawn the approval given to you and hereby makes an order, pursuant to section 56 of FSMA, prohibiting you from performing any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm. The Prohibition Order takes effect from 1 July 2009.

2. REASONS FOR THE ACTION

2.1. By the Decision Notice dated 28 May 2009, the FSA concluded that Abdul Karim lacked honesty and integrity because he submitted a mortgage application for £480,000 to Lender A which was supported by false income information.

3. STATUTORY PROVISIONS, REGULATORY GUIDANCE AND POLICY

Statutory provisions

3.1. The FSA’s statutory objectives, set out in section 2(2) of FSMA, include market confidence and the reduction of financial crime.

3.2. The FSA has the power, by virtue of section 56 of the Act, to make an order prohibiting you from performing a specified function, any function falling within a specified description or any function, if it appears to the FSA that you are not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person. Such an order may relate to a specific regulated activity, any regulated activity falling within a specified description or all regulated activities. The power to withdraw your individual approval arises from section 63 of the Act.

Fit and Proper Test for Approved Persons

- 3.3. The part of the FSA Handbook entitled “FIT” sets out the Fit and Proper Test for Approved Persons. The purpose of FIT is to outline the main criteria for assessing the fitness and propriety of a candidate for a controlled function. FIT is also relevant in assessing the continuing fitness and propriety of an approved person.
- 3.4. FIT 1.3.1G provides that the FSA will have regard to a number of factors when assessing a person’s fitness and propriety. One of the most important considerations will be the person’s honesty, integrity and reputation.
- 3.5. In determining a person’s honesty, integrity and reputation, FIT 2.1 provides that the FSA will have regard to matters including, but not limited to, those set out in FIT 2.1.3G. The guidance includes:
- (1) whether the person has contravened any of the requirements and standards of the regulatory system (FIT 2.1.3G(5)); and
 - (2) whether, in the past, the person has been candid and truthful in all his dealings with any regulatory body and whether the person demonstrates a readiness and willingness to comply with the requirements and standards of the regulatory system and with other legal, regulatory and professional requirements and standards (FIT 2.1.3G(13)).

FSA’s policy for exercising its power to make a prohibition order and withdraw a person’s approval

- 3.6. The FSA’s approach to exercising its powers to make prohibition orders and withdraw approvals is set out at Chapter 9 of the Enforcement Guide (“EG”).
- 3.7. EG 9.1 states that the FSA’s power to make prohibition orders under section 56 of the Act helps it work towards achieving its regulatory objectives. The FSA may exercise this power where it considers that, to achieve any of those objectives, it is appropriate either to prevent an individual from performing any functions in relation to regulated activities or to restrict the functions which he may perform.

- 3.8. EG 9.4 sets out the general scope of the FSA's powers in this respect, which include the power to make a range of prohibition orders depending on the circumstances of each case and the range of regulated activities to which the individual's lack of fitness and propriety is relevant. EG 9.5 provides that the scope of a prohibition order will vary according to the range of functions which the individual concerned performs in relation to regulated activities, the reasons why he is not fit and proper and the severity of risk posed by him to consumers or the market generally.
- 3.9. In circumstances where the FSA has concerns about the fitness and propriety of an approved person, EG 9.8 to 9.14 provide guidance. In particular, EG 9.8 states that the FSA may consider whether it should prohibit that person from performing functions in relation to regulated activities, withdraw that person's approval or both. In deciding whether to withdraw approval and/or make a prohibition order, the FSA will consider whether its regulatory objectives can be achieved adequately by imposing disciplinary sanctions.
- 3.10. EG 9.9 states that the FSA will consider all the relevant circumstances when deciding whether to make a prohibition order against an approved person and/or to withdraw that person's approval. Such circumstances may include, but are not limited to, the following factors:
- (1) whether the individual is fit and proper to perform functions in relation to regulated activities. The criteria for assessing the fitness and propriety of an approved person in terms of honesty, integrity and reputation are set out in FIT 2.1 (Honesty, integrity and reputation) and include whether the person has contravened any of the requirements and standards of the regulatory system, their openness and honesty in dealing with regulators, and their readiness and willingness to comply with the requirements and standards of the regulatory system as well as with other legal and professional obligations and ethical standards;
 - (2) whether, and to what extent, the approved person has failed to comply with the Statements of Principle or been knowingly concerned in a contravention by the

relevant firm of a requirement imposed on the firm by or under the Act (including the Principles and other rules);

- (3) the relevance and materiality of any matters indicating unfitness;
- (4) the length of time since the occurrence of any matters indicating unfitness;
- (5) the particular controlled function the approved person is (or was) performing, the nature and activities of the firm concerned and the markets in which he operates;
- (6) the severity of the risk which the individual poses to consumers and to confidence in the financial system; and
- (7) the previous disciplinary record and general compliance history of the individual.

3.11. EG 9.10 provides that the FSA may have regard to the cumulative effect of a number of factors and may take into account the particular controlled function which an approved person is performing for a firm, the nature and activities of the firm concerned and the markets within which it operates.

3.12. EG 9.12 provides a number of examples of types of behaviour which have previously resulted in the FSA deciding to issue a prohibition order or withdraw the approval of an approved person. The examples include severe acts of dishonesty, for example those which may have resulted in financial crime.

4. FACTS AND MATTERS RELIED ON

4.1. Abdul Karim is the controller and director of Monopoly, which was an authorised firm that operated as a mortgage intermediary in East London. He was the only approved person at Monopoly.

4.2. With effect from 17 December 2004, Abdul Karim was approved to perform the controlled functions of CF1 (Director) and CF8 (Apportionment and Oversight) at Monopoly.

Personal mortgage application

- 4.3. On 31 October 2006, Abdul Karim applied for a mortgage for himself through Broker A. On that application, he declared his annual income to be £114,450 for the year ending 2005 and £125,000 for the year ending 2006.
- 4.4. According to records held by Her Majesty's Revenue and Customs ("HMRC"), however, Abdul Karim declared the following income for tax purposes:
 - (1) £28,078.68 for the tax year 2004/05;
 - (2) £32,244.53 for the tax year 2005/06; and
 - (3) £31,978.52 for the tax year 2006/07.
- 4.5. The income that Abdul Karim declared to HMRC bears no relation to and is substantially less than the income figures that he declared on his mortgage application. The FSA concluded that he obtained a mortgage on a fraudulent basis.
- 4.6. Abdul Karim's mortgage application was not submitted through Monopoly. Instead, he submitted his mortgage application through Broker A. His explanation that Broker A entered incorrect income figures on his mortgage application was not plausible.
- 4.7. On his mortgage application, Abdul Karim signed and dated a declaration to Lender A that the information contained in it was true and accurate. Given that he signed this declaration, we have concluded that he must have known that his income had been inflated on the mortgage application.
- 4.8. Furthermore, the loan that he applied for, of £480,000, was 16 times the level of income that he declared to HMRC so he must have known that a mortgage application based on the income figures that he had declared to HMRC would not meet any lending criteria. It seems highly likely that he knowingly declared a false income of in excess of £100,000 because that was the only way he could obtain a loan of £480,000.

5. CONCLUSIONS

- 5.1. Abdul Karim signed and dated the standard declaration accompanying his mortgage application that the information contained in his application was accurate and true. He must have known that the income figures that he declared to HMRC, of approximately £30,000, would not be sufficient to obtain a loan of £480,000, and he therefore used inflated income figures in excess of £100,000.
- 5.2. In the absence of satisfactory evidence to support his assertion that the income figures that he declared to Lender A were incorrectly stated by his broker, the FSA concluded that he signed his mortgage application to Lender A in the knowledge that it contained false information about his income.
- 5.3. The FSA therefore concluded that he lacks honesty and integrity and that he is not a fit and proper person.
- 5.4. Mortgage fraud has contributed to destabilisation of the lending market and the FSA must therefore continue to deal robustly with this type of misconduct by mortgage intermediaries.
- 5.5. The withdrawal of Abdul Karim's individual approval and the prohibition order are therefore necessary and proportionate. Taking this action against him is consistent with the FSA's policy of seeking to prevent individuals lacking in honesty and integrity from working in authorised firms which in turn supports the FSA's market confidence and financial crime objectives.

6. DECISION MAKER

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

7. IMPORTANT

- 7.1. This Final Notice is given to you in accordance with section 390 of FSMA.

Publicity

- 7.2. Sections 391(4), 391(6) and 391(7) of FSMA apply to the publication of information about the matter to which this notice relates. Under those provisions, the FSA must publish such information about the matter to which this notice relates as the FSA considers appropriate. The information may be published in such manner as the FSA considers appropriate. However, the FSA may not publish information if such publication would, in the opinion of the FSA, be unfair to you or prejudicial to the interests of consumers.
- 7.3. The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

FSA contacts

- 7.4. For more information concerning this matter generally, you should contact Chris Walmsley at the FSA (direct line: 020 7066 5894/fax 020 7066 5895).

Jonathan Phelan
Head of Department
FSA Enforcement Division