
FINAL NOTICE

To: Adeolu Titus Adeosun

Date of Birth: 1 June 1969

Date: 8 December 2010

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (“the FSA”) gives you, Mr Adeolu Titus Adeosun (“Mr Adeosun”), final notice about the imposition of an order prohibiting you from performing any function in relation to any regulated activity carried on by any authorised person, exempt person, or any exempt professional firm.

1. ACTION

- 1.1 On 4 November 2010 the FSA gave you, Mr Adeosun, a Decision Notice which notified you that, the FSA decided to make an order prohibiting you, Mr Adeosun, 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”).
- 1.2 You have not referred the matter to the Upper Tribunal (Tax and Chancery Chamber) within 28 days of the date on which the Decision Notice was given to you.

1.3 Accordingly, for reasons set out below, the FSA has made a prohibition order against you, which has effect from today.

2. REASONS FOR THE ACTION

2.1 The FSA has concluded, on the basis of the facts and matters described below that you are not fit and proper to carry out any function in relation to regulated activities carried on by authorised persons and you should be prohibited from doing so.

2.2 The FSA considers that you have failed to act with honesty and integrity by:

- (1) knowingly submitting fraudulent mortgage applications in your own name;
and
- (2) intentionally misleading the FSA during interview.

3. RELEVANT STATUTORY PROVISIONS

3.1 The relevant statutory provisions and regulatory requirements are set out at Annex A to this Final Notice.

4. FACTS AND MATTERS RELIED ON

Background

4.1 You worked as a self-employed adviser for a mortgage broker (“the Firm”) from September 1999 and April 2008. You started to provide mortgage advice to the Firm’s customers from December 2003 whilst under supervision by the Firm. You were not qualified to give mortgage advice and were not assessed as a competent advisor by the Firm.

4.2 Unless otherwise stated, the facts and matters set out in paragraphs 4.3 to 5.5 below relate to the period between 31 October 2004 and 10 July 2008 (the “Relevant Period”).

Mortgage applications submitted in your own name

Application 1

4.3 You submitted a residential mortgage application on 7 April 2008. On the mortgage application form, you stated that:

- (1) your occupation was “Mortgage Broker” at the Firm;
- (2) the Firm had been under your personal control for three years; and
- (3) your income as an adviser for the Firm for the years ended 2006 and 2007 was £66,022 and £58,979 respectively.

4.4 The FSA obtained information from Her Majesty’s Revenue and Customs (“HMRC”). This information shows that:

- (1) for the tax year ending 2006, you declared a net profit of £7,826 in respect of your role as an adviser at the Firm; and
- (2) for the tax year ending 2007, you did not actually declare any income or net profit in respect of your role as an adviser at the Firm.

4.5 You have also acknowledged that:

- (1) you did not complete the application form correctly, in that you stated your gross profit rather than your net profit; and that as a consequence
- (2) you misled the lender because they would have been led to believe that your net profit was higher than it actually was.

The income you declared in your application was therefore not correct.

4.6 You have claimed that you included false information regarding your income on Application 1 by mistake.

Application 2

4.7 You submitted a buy to let mortgage application on 9 July 2007. On this application, you stated that your income was £65,000. Again, you have acknowledged that you had completed this application incorrectly by stating your

gross income rather than your net profit, and you have accepted that this information was incorrect. You do not, however, believe that it would have misled the lender because you do not believe that they would have based their lending decision on your income. You believe that they would instead have looked at the rent that the property would have generated.

- 4.8 You claimed that you included false information regarding your income on Application 2 by mistake.

Information provided to the FSA

- 4.9 During interview on 18 August 2008, you informed the FSA that you had worked for a second employer whilst working at the Firm, but that you had stopped working for the second employer in June or July 2006.

- 4.10 The FSA subsequently obtained information from HMRC which shows that you actually worked for the second employer during the tax year ending 5 April 2008. You subsequently acknowledged during an interview on 14 November 2008 that you had not told the FSA the truth during your interview on 18 August 2008 about when you had stopped working for the second employer.

5. REPRESENTATIONS

- 5.1 In the course of the proceedings leading to the Decision Notice, representations were made by means of a letter to the FSA dated 12 January 2010 and 30 July 2010.

- 5.2 You provided some additional documents in support of your representations challenging aspects of the FSA's case against you. You explained the reasons for and circumstances surrounding changes or discrepancies in the documents and represented that the explanations supported your position.

- 5.3 You reiterated your position with regard to your buy to let mortgage, namely that the income included was your estimated gross income plus the rental potential of the property. You argued that the estimated gross income was consistent with your actual receipts from the Firm.

5.4 In relation to the HMRC, you stated that you did submit your tax returns and paid your taxes for the year.

5.5 You informed the FSA that you had attended various compliance courses and did not think you had behaved inappropriately. You also represented that you had cooperated fully with the investigation team and made full disclosure to the FSA as requested.

6. THE FSA'S FINDINGS

6.1 The FSA does not accept your explanation that you submitted false information by mistake, for the following reasons:

- (1) You provided a number of inconsistent explanations throughout the FSA's investigation about the basis for your income declarations;
- (2) The documents you provided to the FSA to support your income declarations are inconsistent with your mortgage applications, information from HMRC and commission statements detailing your earnings from the Firm; and
- (3) You have admitted that you did not tell the FSA the truth when asked about one of your sources of income (see paragraph 4.9 to 4.10 above)..

6.2 In summary, the FSA does not find your explanations credible and has concluded that you deliberately provided false and misleading information regarding your income on Application 1 and 2.

7. CONCLUSIONS

7.1 The facts and matters described above lead the FSA to conclude that you are not fit and proper as your conduct demonstrates a lack of honesty and integrity because you have:

- (1) knowingly misled lenders about information submitted on mortgage applications through the Firm on your own behalf; and
- (2) misled the FSA during a compelled interview.

7.2 The facts and matters described above have led the FSA to conclude that you are not a fit and proper person to perform any function in relation to any regulated activity. The FSA therefore considers that it is necessary to prohibit you, pursuant to section 56 of the Act, from carrying out any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.

7.3 The FSA has concluded that you pose a serious risk to lenders and consumers and to the FSA's regulatory statutory objectives of maintaining confidence in the financial system, protecting consumers and the reduction of financial crime. The FSA has therefore concluded that it is necessary to prohibit you, pursuant to section 56 of the Act.

8. DECISION MAKER

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

9. IMPORTANT

8.1 The Final Notice is given in accordance with section 390 of the Act.

Publicity

8.2 Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this Final Notice relates. Under those provisions, the FSA must publish such information about the matter to which this Notice relates 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.

8.3 The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

FSA contacts

8.4 For more information concerning this matter generally, you should contact Mario Theodosiou at the FSA (direct line: 020 7066 5914/ fax 020 7066 5915) of the Enforcement and Financial Crime Division of the FSA.

Tom Spender

Head of Department

FSA Enforcement and Financial Crime Division

ANNEX A

1. RELEVANT STATUTORY PROVISIONS

Statutory Provisions

Statutory objectives

- 1.1 The FSA's statutory objectives, which are set out in section 2(2) of the Act, include the maintenance of market confidence, the protection of consumers and the reduction of financial crime.

Prohibition

- 1.2 Section 56 of the Act provides that if it appears to the FSA that an individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person, exempt person or exempt professional firm, the FSA may make a prohibition order.

Relevant FSA Policy

Prohibition Orders

- 1.3 The FSA's policy in relation to the exercise of its powers to make a prohibition order and/ or, in the case of an approved person, withdraw their approval is set out in Chapter 9 of The Enforcement Guide (EG).
- 1.4 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/she may perform.
- 1.5 EG 9.4 sets out the general scope of the FSA's powers in this respect. The FSA has 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 that the

individual performs in relation to regulated activities, the reasons why he is not fit and proper and the severity of the risk posed by him to the consumers or the market generally.

- 1.6 When prohibiting someone who does not hold controlled functions the FSA will consider all of the relevant circumstances of the case and where appropriate, the factors set out at EG 9.9.
- 1.7 EG 9.9 provides that when deciding whether to make a prohibition order the FSA will consider all the relevant circumstances of the case, which may include (but are not limited to):
 - (1) the matters set out in section 61(2) of the Act;
 - (2) whether the individual is fit and proper to perform functions in relation to regulated activities. The criteria for assessing fitness and propriety are set out in FIT 2.1 (Honesty, integrity and reputation), FIT 2.2 (Competence and capability) and FIT 2.3 (Financial soundness);
 - (3) whether, and to what extent, the person has 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).
 - (4) the relevance and materiality of any matters indicating unfitness;
 - (5) the length of time since the occurrence of any matters indicating unfitness;
 - (6) the particular function the person is (or was) performing, the nature and activities of the firm concerned and the markets in which it operates; and
 - (7) the severity of the risk which the individual poses to consumers and to confidence in the financial system.
- 1.8 EG 9.10 provides that the FSA may have regard to the cumulative effect of a number of factors.
- 1.9 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:

- (1) providing false or misleading information to the FSA, including information relating to identity, ability to work in the United Kingdom, and business arrangements;
- (2) severe acts of dishonesty, for example those which may have resulted in financial crime;
- (3) serious lack of competence; and
- (4) serious breaches of the Statements of Principle and Code of Practice for Approved Persons, such as providing misleading information to clients, consumers or third parties.

1.10 EG 9.17 to 9.18 provide guidance on the FSA's exercise of its power to make a prohibition order against an individual who is not an approved person. The FSA will consider the severity of the risk posed by the individual and may prohibit the individual where it considers this is appropriate to achieve one or more of its regulatory objectives. When considering whether to exercise its power to make a prohibition order against such an individual, the FSA will consider all the relevant circumstances of the case, which may include but are not limited to the factors set out in EG 9.9.

FIT

- 1.11 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.
- 1.12 In this case, the criteria set out in FIT are relevant in considering whether the FSA should exercise its powers to withdraw your approval and/or make a prohibition order against you in accordance with the guidance set out in EG 9.8 to 9.14.
- 1.13 FIT 1.3 provides that the FSA will have regard to a number of factors when assessing a person's fitness and propriety. Among the most important considerations will be the person's honesty, integrity and reputation and their competence and capability.

1.14 In determining a person's honesty, integrity and reputation, FIT 2.1 states that the FSA will have regard to matters including, but not limited to, those set out in FIT 2.1.3G. This guidance includes:

- (1) whether the person has contravened any of the requirements and standards of the regulatory system (FIT 2.1.3G(5));
- (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)).

1.15 In determining a person's competence and capability FIT 2.2 states that the FSA will have regard to matters including, but not limited to, those set out in FIT 2.2.1 G. This guidance includes:

- (1) whether the person satisfies the relevant FSA training and competence requirements in relation to the controlled function the person performs or is intended to perform (FIT 2.2.1G(1));
- (2) whether the person has demonstrated by experience and training that the person is able, or will be able if approved, to perform the controlled function (FIT 2.2.1G(2)).