
FINAL NOTICE

To: **Mark Anthony Hurst Ainley** **Mark Anthony Financial Management**
 77 High Street **77 High Street**
 Sevenoaks **Sevenoaks**
 Kent **Kent**
 TN13 1LD **TN13 1LD**

FCA
Reference
Number: **MAA00004** **153251**

Date: **18 October 2013**

ACTION

1. For the reasons given in this Final Notice, the Authority hereby takes the following action against Mark Anthony Hurst Ainley (“Mr Ainley”):
 - a. impose a financial penalty of £150,000 on him, pursuant to section 66 of the Act, in respect of his contravention of Statement of Principle 1 in his role as an approved person performing controlled functions at his authorised business, Mark Anthony Financial Management (“MAFM”);

- b. withdraw his approval to perform controlled functions in relation to MAFM pursuant to section 63 of the Act, and to make an order, pursuant to section 56 of the Act, prohibiting him from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm, on the grounds that he lacks honesty and integrity and he is not a fit and proper person. The Prohibition Order takes effect from 18 October 2013.

SUMMARY OF REASONS

2. The financial penalty referred to at paragraph 1.1(1) is considered to be necessary and proportionate because of the seriousness of Mr Ainley's misconduct in respect of his:
 - (1) personal involvement in the completion and submission of regulated mortgage applications (on behalf of himself and on behalf of a customer of MAFM), which contained false and misleading income information; and
 - (2) making false and misleading statements to the Authority to create the impression that he was not directly involved in the completion and submission of his own mortgage application, and also that he had no reason to doubt the veracity of personal and financial information given to him by at least one of his customers in support of their mortgage applications.
3. The withdrawal of Mr Ainley's approval to perform controlled functions in relation to MAFM and the Prohibition Order are also considered to be necessary and proportionate for the reasons set out in paragraph 2.1 above and also because of his:
 - (1) personal involvement in the submission of six applications for unregulated mortgage contracts in his name which contained false and misleading information about his income (there were seven buy-to-let applications in total and all seven applications contained false and misleading information about the true purchase prices of the seven properties), and
 - (2) making false and misleading statements to the Authority about the extent of his involvement in the establishment and use of a short term drawdown

facility to fund purported deposits in respect of the purchase of the seven properties.

4. The Authority gave Mr Ainley a Decision Notice on 5 July 2011, which notified him that the Authority had decided to take the actions referred to at paragraph 1 above.
5. On 1 August 2011, Mr Ainley referred the Decision Notice to the Tribunal.
6. On 13 July 2012 the Tribunal published its written decision http://www.tribunals.gov.uk/financeandtax/Documents/decisions/Mark_Ainley_v_FSA_UT.pdf.
7. The Tribunal concluded that Mr Ainley had failed to act with integrity, in breach of Statement of Principle 1 and that he was not fit and proper. The Tribunal determined that a significant financial penalty should be imposed on Mr Ainley, his individual approval in relation to MAFM should be withdrawn, and the Prohibition Order should be made preventing him from performing any function in relation to any regulated activity carried on by any authorised person.
8. A further Tribunal hearing was held on 22 November 2012 to determine the level of the financial penalty to impose on Mr Ainley. The Tribunal, in a written decision dated 7 December 2012, <http://www.tribunals.gov.uk/financeandtax/Documents/decisions/Mark-Anthony-Ainley-v-FSA-Penalty.pdf>, concluded that it was appropriate to impose a penalty of £150,000 on Mr Ainley.
9. On 14 February 2013, Mr Ainley submitted an application to the Court of Appeal for permission to appeal against the Tribunal's decision. On 4 October 2013, the Court of Appeal refused Mr Ainley's application on the grounds that it was totally without merit, and made an order that Mr Ainley may not request the decision to be reconsidered at an oral hearing.

DEFINITIONS

10. The definitions below are used in this Final Notice.

1. the "Act" means the Financial Services and Markets Act 2000;

2. the “Authority” means the body corporate formerly known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority;
3. the “Decision Notice” means the decision notice dated 5 July 2012 issued by the Authority to MAFM;
4. “MAFM” means Mark Anthony Hurst Ainley trading as Mark Anthony Financial Management;
5. “Mr Ainley” means Mark Anthony Hurst Ainley;
6. the “Prohibition Order” means the prohibition order imposed on Mr Ainley and taking effect on 18 October 2013;
7. “Statement of Principle” and “APER” means the Authority’s Statements of Principle and Code of Practice for Approved Persons; and
8. the “Tribunal” means the Upper Tribunal (Tax and Chancery Chamber).

PROCEDURAL MATTERS

Decision maker

11. The Final Notice is given to Mr Ainley at the direction of the Tribunal and in accordance with section 390(2) of the Act.

Manner of and time for payment

12. The Tribunal has directed that Mr Ainley must:
 - a. pay £50,000 towards the £150,000 penalty within one month of the date of the Final Notice (by 18 November 2013), and
 - b. pay the balance of £100,000 during the 12 months following the date of the Final Notice (by 18 October 2014).

If the financial penalty is not paid

13. If all, or any, of the financial penalty is outstanding on 18 October 2014, the Authority may recover the outstanding amount as a debt owed by Mr Ainley and due to the Authority.

Publicity

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

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

Contacts

16. For more information concerning this matter generally, contact Matthew Hendin at the Financial Conduct Authority (direct line: 020 7066 0236 or by email matthew.hendin@fca.org.uk).

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Tom Spender
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Enforcement and Financial Crime Division