
FINAL NOTICE

To: John Akinduro, trading as Highflyer Business Services

**Of: 123a Plaistow Road
London
E15 3ET**

Dated: 3 July 2008

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

1. THE ORDER

- 1.1. The FSA gave you a Decision Notice dated 3 June 2008 (“the Decision Notice”) which notified you that, for the reasons listed below, and pursuant to section 56 of the Financial Services and Markets Act 2000 (“the Act”), the FSA had decided to make

an order prohibiting you, Mr John Akinduro, trading as Highflyer Business Services, 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 Financial Services & 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 hereby makes an order pursuant to section 56 of the Act 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 takes effect on 3 July 2008.

2. REASONS FOR THE ORDER

- 2.1. On the basis of the facts and matters and conclusions described in the Warning Notice issued to you on 15 April 2008, and the Decision Notice, the FSA concluded that:

- (1) you are not a fit and proper person as your conduct demonstrates a lack of honesty and integrity; and
- (2) having regard to its regulatory objectives (including the protection of consumers, the reduction of financial crime and market confidence) it is necessary for the FSA to exercise its power to make the Prohibition Order against you.

- 2.2. The FSA has reached these conclusions because of:

- (1) your submission of mortgage applications in the names of two individuals without their knowledge or consent;
- (2) your certification of documents as true copies where you admitted that you had not seen the originals, and which were in fact false documents;
- (3) your failure to notify the FSA at any time that you were the subject of bankruptcy proceedings and, subsequently, that two bankruptcy orders had been made against you; and

- (4) your failure to disclose to the FSA at any time the existence of five unsatisfied County Court judgments which had been registered against you.

3. STATUTORY PROVISIONS, GUIDANCE AND REGULATORY REQUIREMENTS

Relevant Statutory Provisions

- 3.1. The FSA's regulatory objectives which are set out in section 2(2) of the Act include the protection of consumers, the reduction of financial crime, and maintaining confidence in the financial system.
- 3.2. The FSA has the power pursuant to 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.
- 3.3. Such an order may relate to a specified regulated activity, any regulated activity falling within a specified description or all regulated activities.

FSA's policy on exercising its power to make a prohibition order

- 3.4. The FSA's approach to exercising its powers to make prohibition orders is set out at Chapter 9 of the Enforcement Guide ("EG"). EG9.1 states that the FSA's power under sections 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.
- 3.5. EG9.4 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. EG9.5 provides that the scope of a prohibition order will vary according to the range of activities that the individual performs in relation to

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

- 3.6. EG9.17 says that where the FSA is considering making a prohibition order against an individual other than 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 statutory objectives.
- 3.7. EG9.18 says that 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. These may include, but are not limited to, where appropriate, the factors set out in paragraph 9.9.
- 3.8. EG9.9 says that when it decides whether to make a prohibition order against approved persons the FSA will consider all the relevant circumstances of the case. These may include, but are not limited to, those set out below.

...

- (2) Whether the individual is fit and proper to perform functions in relation to regulated activities. The criteria for assessing the fitness and propriety of approved persons are set out in FIT 2.1 (Honesty, integrity and reputation)

...

- (5) The relevance and materiality of any matters indicating unfitness

...

- (8) The severity of the risk which the individual poses to consumers and to confidence in the financial system.

- 3.9. EG9.12 gives a number of examples of types of behaviour which have previously resulted in the FSA deciding to issue a prohibition order. The examples include:

- (1) Providing false or misleading information to the FSA; including information relating to ... business arrangements;

- (2) Failure to disclose material considerations on application forms, such as details of County Court Judgments;
- (3) Severe acts of dishonesty, for example those which may have resulted in financial crime.

Regulatory requirements: Fit and Proper Test for Approved Persons

- 3.10. 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 and FIT is also relevant in assessing the continuing fitness and propriety of an approved person.
- 3.11. In this instance, the criteria set out in FIT are relevant in considering whether the FSA may exercise its powers to make a prohibition order against you.
- 3.12. FIT1.3 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.
- 3.13. In determining a person’s honesty, integrity and reputation, FIT2.1 states that the FSA will have regard to matters including, but not limited to, those set out in FIT2.1.3G. This guidance includes:
 - (1) whether the person has contravened any of the requirements and standards of the regulatory system (FIT2.1.3G(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 (FIT2.1.3 G(13)).

4. FACTS AND MATTERS RELIED UPON

Background

- 4.1. You are an authorised person and a sole trader. You have no permanent employees acting as advisers but you employ administrative staff.
- 4.2. You became authorised by the FSA on 11 November 2004 to carry on the following regulated activities:
- (1) advising on regulated mortgage contracts;
 - (2) agreeing to carry on a regulated activity;
 - (3) arranging (bringing about) regulated mortgage contracts; and
 - (4) making arrangements with a view to regulated mortgage contracts.
- 4.3. With effect from 14 January 2005, you were additionally granted permission to carry on the following insurance mediation activities:
- (1) advising on (except on pension transfers and pension opt outs);
 - (2) arranging deals with a view to transactions in investments; and
 - (3) making arrangements with a view to transactions in investments.
- 4.4. You advised on 41 completed regulated mortgage contracts between April 2005 and November 2007.

Issue one: Submission of two false mortgage applications

- 4.5. You were knowingly involved in the submission of at least two false mortgage applications to lenders without the knowledge or consent of the two purported “customers”.
- 4.6. Both of the purported customers told the FSA that the mortgage applications submitted by you in their names were false and that they had never heard of or met you. However, they both said that they had been assisted by the same person, Mr Obinduka or “Obi”, of Obi & Associates. Neither of the applications completed.

- 4.7. Initially you said that you had not heard of Obi & Associates. Subsequently you said that Mr Obinduka had worked for your copying business on a casual basis. You failed to reply to a request by the FSA for Mr Obinduka's contact details.
- 4.8. The FSA located Mr Obinduka who said that he worked for you on a casual basis, on the copying side of your business, and that his only involvement in the mortgage business was to introduce two or three friends to you for mortgage advice.

Issue two: Certification of documents

- 4.9. You told the FSA that you, where documents supporting an application were present, such as passports or bank statements, you would sign them and certify them as true copies of the originals. You admitted that, on some occasions, you had certified copy documents without having seen the originals.

Issues three and four: Notification failures

- 4.10. A bankruptcy petition was filed against you in March 2004, before you applied to the FSA to become an authorised person. You failed to disclose to the FSA that the petition had been filed. You subsequently failed to notify the FSA that you were the subject of two bankruptcy orders, dated 7 July 2006 and 1 May 2007.
- 4.11. You also failed to disclose to the FSA that five unsatisfied County Court Judgements have been registered against you: dated 1 November 2001, 1 December 2002, 1 November 2004, 5 May 2005 and 18 June 2007.

5. ANALYSIS OF MISCONDUCT AND SANCTION

- 5.1. Your assertions that you had personally met and advised the two purported customers of your mortgage business and that you had simply relied on information and documents provided by them about their personal and financial circumstances are implausible. This is because your explanation of the circumstances relating to the submission of the two false mortgage applications lacks credibility and is full of inconsistencies. Also, the two customers who as far as the FSA can tell do not know each other both said that they only dealt with Mr Obinduka or Obi, and one of them produced his business card as evidence of meeting him.

- 5.2. At first, you denied any knowledge of Obi & Associates. Later, you said that Mr Obinduka (of Obi & Associates) worked for your copying business. You did not explain to the FSA's satisfaction: why this casual employee, Mr Obinduka, also known in the community as "Obi", helped to complete the two customers' mortgage applications; why two separate mortgage applicants through you said that they had never met you, and how the two false mortgage applications came to be submitted by you to lenders. You also failed, when asked by the FSA, to provide contact details for Mr Obinduka.
- 5.3. One possibility is that Mr Obinduka introduced the business to you, recognised that the customers' earnings were not sufficient to meet lending criteria and produced false supporting information, and you used your authorised business to submit the mortgage applications to lenders. Another possibility is that Mr Obinduka acted on behalf of you to arrange the mortgages. Either way, as you submitted the two false mortgage applications and as you sought to prevent the FSA from making contact with Mr Obinduka, it is likely that you were concerned about the FSA establishing your knowing involvement in the submission of the applications.
- 5.4. The FSA has concluded that you were knowingly involved in the submission of the two false mortgages and that you therefore lack honesty and integrity.
- 5.5. The fact that you falsely certified documents as true copies of the originals is a further indication of your lack of honesty and integrity.
- 5.6. Your failure to disclose the bankruptcy proceedings and orders and the unsatisfied County Court Judgements further demonstrates your lack of honesty and integrity. It is likely that, if you had disclosed these matters in your FSA authorisation application, it would have been rejected for your failure to satisfy Threshold Condition 4 (Adequate resources).
- 5.7. These matters demonstrate that you are not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.

- 5.8. The severity of the risk you pose to consumers and market confidence because of your lack of honesty and integrity, and given the FSA's financial crime objective, it is necessary in order to achieve its regulatory objectives for the FSA to exercise its power to make the Prohibition Order.

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(1) of the Act.

Publicity

- 7.2. 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 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.

Third party rights

- 7.4. A copy of this notice is being given to Mr Obinduka as a third party identified in the reasons above and to whom, in the opinion of the FSA, the matter is prejudicial.

FSA contacts

- 7.5. 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