
FINAL NOTICE

To: **Mr Muhammad Adnan Ashraf**

Of: **555 Barking Road
London
E6 2LW**

Individual ref: **MAA01124**

Date of birth: **15 October 1975**

Date: **13 June 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, Muhammad Adnan Ashraf, 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 13 June 2008 (the “Decision Notice”) which notified you that the FSA had decided to withdraw the approval given to you to perform controlled functions and, pursuant to section 56 of the Financial Services and Markets Act 2000 (the “Act”), to make a prohibition order against you to prevent you from carrying out any function in relation to any regulated activity carried out by an authorised person, exempt person or exempt professional firm (“the Prohibition Order”).
- 1.2. You agreed that you would not be referring the matter to the Financial Services and Markets Tribunal.
- 1.3. Accordingly, for the reasons set out below, the FSA hereby withdraws the approval given to you to perform controlled functions, and makes an order pursuant to section 56 of the Act prohibiting you from performing any function in relation to any regulated activity carried out by an authorised person, exempt person or exempt professional firm. The Prohibition Order takes effect from 13 June 2008.

2. REASONS FOR THE ORDER

- 2.1. The FSA has concluded that you are not fit and proper to carry out any functions in relation to regulated activities carried on by any authorised person, exempt person or exempt professional firm and you should be prohibited from doing so.
- 2.2. On the basis of the facts and matters summarised below, and set out in more detail in section 4 of this notice, the FSA has concluded that you have failed to meet minimum regulatory standards in terms of honesty and integrity, which includes an obligation to comply with the requirements and standards of the regulatory system and to be candid and truthful in all your dealings with any regulatory body.

- 2.3. In summary, you submitted a mortgage application in your own name that contained false income details. You therefore made a false declaration about your income to a lender. Also, your mortgage application was supported by a false driving licence.
- 2.4. You pose a risk to lenders and therefore to confidence in the financial system. Also this action has been taken against you in support of the FSA's financial crime objective.

3. RELEVANT STATUTORY AND REGULATORY PROVISIONS

Statutory provisions

- 3.1. The FSA's statutory objectives, set out in Section 2(2) of the Act, include the reduction of financial crime and maintaining confidence in the financial system.
- 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 specified regulated activity, any regulated activity falling within a specified description or all regulated activities.

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

- 3.3. The FSA's approach to exercising its powers to withdraw approval and 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 and 63 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 necessary either to prevent an individual from performing any functions in relation to regulated activities or to restrict the functions which he may perform.
- 3.4. 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 which he poses to consumers or the market generally.

- 3.5. In circumstances where the FSA has concerns about the fitness and propriety of an approved person, EG 9.8 to 9.14 provides 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.
- 3.6. 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) 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 the fitness and propriety are set out in the module of the FSA Handbook entitled "the Fit and Proper Test for Approved Persons" ("FIT"), in particular in FIT 2.1 (Honesty, integrity and reputation), FIT2.2 (Competence and capability) and FIT 2.3 (Financial soundness);
 - (3) whether, and to what extent, the approved person has:
 - (a) failed to comply with the Statements of Principle issued by the FSA with respect to the conduct of approved persons; or

- (b) 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);

...

- (5) the relevance and materiality of any matters indicating unfitness;
- (6) the length of time since the occurrence of any matters indicating unfitness;
- (7) 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; and
- (8) the severity of the risk which the individual poses to consumers and to confidence in the financial system.

3.7. 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:

...

- (3) severe acts of dishonesty, for example those which may have resulted in financial crime; and

...

- (5) 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.

Regulatory Requirements

Fit and Proper Test for Approved Persons

- 3.8. 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.
- 3.9. 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 an individual in accordance with EG 9.9.
- 3.10. FIT 1.3 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.
- 3.11. 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)).

The Statements of Principle and Code of Practice for Approved Persons

- 3.12. The Statements of Principle and Code of Practice for Approved Persons ("APER") set out the Statements of Principle in respect of approved persons and conduct which, in the opinion of the FSA, constitutes a failure to comply with them. They also describe

factors to be taken into account by the FSA in determining whether an approved person's conduct complies with a particular Statement of Principle.

3.13. APER 3.1.3G states that, when establishing compliance with, or breach of, a Statement of Principle, account will be taken of the context in which a course of conduct was undertaken, the precise circumstances of the individual case, the characteristics of the particular controlled function and the behaviour expected in that function. APER 3.1.4G states that an approved person will only be in breach of a Statement of Principle if they are personally culpable, that is, in a situation where their conduct was deliberate or where their standard of conduct was below that which would be reasonable in all the circumstances.

3.14. In this case, the FSA considers the most relevant Statement of Principle to be Statement of Principle 1.

Statement of Principle 1

3.15. Statement of Principle 1 requires an approved person to act with integrity in carrying out their controlled function.

3.16. APER 4.1 sets out a number of examples of behaviour which the FSA considers constitute a failure to comply with Statement of Principle 1. APER 4.1.3E states that deliberately misleading (or attempting to mislead) by act or omission either a client or the FSA does not comply with Statement of Principle 1. Specific examples of such conduct are set out in APER 4.1.4E and include providing false or inaccurate documentation or information, or deliberately falsifying documents. In considering a person's integrity the FSA may also have regard to whether that person has contravened any of the requirements and standards of the regulatory system (FIT 2.1.3G(5)).

4. FACTS AND MATTERS RELIED ON

4.1. You are an approved person and a director of OCS Property and Financial Services Limited ("OCS"). You became approved by the FSA on 31 May 2005 to perform the controlled function of CF1 (Director). You told the FSA that your role at OCS in relation to giving mortgage advice was limited to administrative tasks.

False mortgage application

4.2. During the course of an investigation into OCS, and with the assistance of the lender, the FSA found that you had made a false declaration on your own mortgage application about your income and that you had used a false driving licence as an identification document.

4.3. The employment and income details on your mortgage application were checked against the information held by Her Majesty's Revenue and Customs ("HMRC"). The income details on your mortgage application did not correspond to the information that you sent to HMRC.

4.4. The DVLA confirmed to the lender that the copy of the driving licence that was submitted with your mortgage application, as proof of your identity was not a copy of a driving licence issued by them.

4.5. As such, we have concluded that you do not meet the standards required of an approved person in terms of honesty and integrity.

5. ANALYSIS OF THE SANCTION

5.1. The FSA has concluded that the conduct summarised above represents a serious failure by you to comply with Statement of Principle 1 of the Statements of Principle for Approved Persons. You made a false declaration about your income on your own mortgage application and you provided a copy of your UK driving licence as evidence of your identity which the DVLA confirmed it had not issued.

5.2. The FSA has therefore concluded that you have failed to meet minimum regulatory standards in respect of honesty and integrity, and you are not therefore fit and proper to carry out any functions in relation to any regulated activities carried on by any authorised person, exempt person, or exempt professional person.

5.3. The severity of the risk posed by you to lenders and therefore to confidence in the financial system, and given the FSA's financial crime objective, it is necessary in order to achieve its regulatory objectives, for the FSA to withdraw your individual approval and to exercise its power to make a Prohibition Order against you.

6. DECISION MAKERS

6.1. The decision which gave rise to the obligation to give this Final Notice was made by Settlement Decision Makers on behalf of the FSA.

7. IMPORTANT

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

FSA contacts

Financial Services Authority



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