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## **FINAL NOTICE**

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**To: Byron Brown**

**Reference: BXB00075**

**Date of birth: 8 September 1964**

**Dated: 21 May 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, Byron Brown, from performing any function in relation to any regulated activity carried on by any authorised or exempt person**

### **1. THE ORDER**

1.1. The FSA gave you a Decision Notice dated 16 April 2008 ("the Decision Notice") which notified you that the FSA had decided:

- (1) to withdraw the approval given to you in relation to each of Millbank Consultancy Limited ("Consultancy") and Millbank Mortgages Limited ("Mortgages"); and
- (2) pursuant to section 56 of the Financial Services and Markets Act 2000 (the "Act"), to make an order prohibiting you, Byron Brown, 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 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 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 or exempt person. The Prohibition Order takes effect from 21 May 2008.

## **2. REASONS FOR THE ACTION**

- 2.1. On the basis of the facts and matters and conclusions described in the Warning Notice issued to you on 30 January 2008 ("the Warning Notice"), and in the Decision Notice, the FSA concluded that you pose a risk to consumers, to lenders and therefore to confidence in the financial system, and also that action should be taken against you in support of the FSA's financial crime objective because you have failed to meet minimum regulatory standards in terms of honesty and integrity, which includes an obligation to demonstrate 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.
- 2.2. In summary, you deliberately entered false salary and employment information on a customer's mortgage application forms without his knowledge (Customer A) and submitted these mortgage applications, which were based on false information, to lenders. Your actions put Customer A in the position, unknowingly, of making false declarations to a mortgage lender and led to him becoming the subject of a disciplinary investigation.
- 2.3. A copy of the relevant extract of the Warning Notice is attached to and forms part of this Notice.

## **3. DECISION MAKER**

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

#### **4. IMPORTANT**

- 4.1 This Final Notice is given to you in accordance with section 390 of the Act.

##### **Publicity**

- 4.2 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. 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.

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

##### **FSA contacts**

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

Jonathan Phelan  
Head of Department  
FSA Enforcement Division

#### **EXTRACT FROM WARNING NOTICE DATED 30 JANUARY 2008**

#### **2. REASONS FOR THE PROPOSED ACTION**

- 2.1 On the basis of the facts and matters summarised below, and set out in more detail in section 4 below, the FSA has concluded that you pose a risk to consumers, to lenders and therefore to confidence in the financial system, and also that action should be taken against you in support of the FSA's financial crime objective because you have

failed to meet minimum regulatory standards in terms of honesty and integrity, which includes an obligation to demonstrate 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.

- 2.2 In summary, you deliberately entered false salary and employment information on a customer's mortgage application forms without his knowledge (Customer A) and submitted these mortgage applications, which were based on false information, to lenders. Your actions put Customer A in the position, unknowingly, of making false declarations to a mortgage lender and led to him becoming the subject of a disciplinary investigation.

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#### **4. FACTS AND MATTERS RELIED UPON**

##### **Background**

- 4.1 You are the principal and the director of Consultancy which operates as a retail mortgage broker from Yukon Court, 6 Yukon Road, London, SW12 9PU. Consultancy became authorised by the FSA on 4 January 2005. You are the only mortgage adviser at Consultancy, and have been given approval for the following controlled functions in relation to Consultancy: director, compliance oversight, money laundering reporting, customer and responsibility for insurance mediation.
- 4.2 You are also the principal and the director of Mortgages which operates from 113 Loampit Vale, London SW13 7TG. Mortgages became authorised by the FSA on 31 October 2004, and was given permission to carry on activities relating to regulated home finance and home insurance. You are the only person who has been given approval for controlled functions in relation to Mortgages, and were given approval for the following controlled functions: director and apportionment and oversight.

##### **Customer A's mortgage applications**

- 4.3 Customer A applied for a re-mortgage of his existing property through you. The application was rejected by the lender on the basis that it contained false income details. The application form stated that Customer A earned £68,000 per annum and

that his income as a police constable was supplemented by additional, part-time work as a security consultant. When the application was rejected, you submitted a second mortgage application stating that Customer A earned £44,000 per annum and, again, that his income as a police constable was supplemented by additional, part-time work as a security consultant.

4.4 In relation to Customer A's mortgage applications:

- (a) As the only mortgage adviser at Consultancy, you dealt with Customer A's mortgage application when he became a customer in 2006.
- (b) In June 2006, after researching mortgage products on behalf of Customer A, you contacted Customer A by telephone to inform him that you had found a suitable product and asked Customer A to send you documents including copies of Customer A's passport, driving licence and annual mortgage statement.
- (c) On 18 June, you sent Customer A an e-mail requesting the same documents and attaching a copy of a mortgage application form. In the e-mail you instructed Customer A to fill in an attached form, but to "leave out the earnings part". You told Customer A that the lender would not require this information.
- (d) In accordance with your e-mail instructions, Customer A completed the mortgage application form and returned it to you, leaving blank the sections relating to earnings.
- (e) You submitted mortgage applications to two lenders on behalf of Customer A. You informed Customer A that his mortgage application had been rejected by both lenders, but provided no reasons.
- (f) Customer A has never undertaken part-time work in addition to his regular employment as a police constable.
- (g) Customer A did not earn £68,000 per annum.

- (h) Customer A saw for the first time, during the course of the police force's internal investigation into the matter, the fully completed mortgage application form. The sections that he had been asked to leave blank had been completed in handwriting which was not his.

## **5 Conclusions**

5.1 The FSA has concluded that the conduct summarised above represents a failure by you to comply with Principle 1 of the Statements of Principle for Approved Persons:

- (1) You knowingly entered false information onto mortgage application forms without customer A's knowledge, having instructed Customer A to leave blank the relevant sections of the mortgage application.
- (2) You submitted those mortgage applications to lenders even though they were based on information which you knew to be false. The FSA has concluded that you were knowingly and dishonestly involved in the submission of false applications, in breach of Statement of Principle 1.

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 persons.

5.3 The severity of the risk you pose to consumers and lenders, and to confidence in the market generally is such that it is necessary, in order to achieve its regulatory objectives, for the FSA to withdraw the approvals given to you and to exercise its power to make the Prohibition Order against you.