
FINAL NOTICE

To: **David James Carter Mullins**

Date of Birth: **3 February 1980**

Date: **25 July 2018**

1. **ACTION**

1.1. For the reasons set out below, the Authority has made an order prohibiting Mr Mullins from performing any function in relation to any regulated activities carried on by an authorised or exempt person, or exempt professional firm. The prohibition order is effective from the date of this Final Notice.

2. **REASONS FOR THE ACTION**

2.1. Mr Mullins was a director and shareholder of Secure My Money Limited, an online credit broker.

2.2. During the Relevant Period, Mr Mullins demonstrated a lack of honesty and integrity in that he caused or permitted the Firm to provide false and misleading information to its customers and treat its customers unfairly, which it did by:

- (1) claiming that the Firm's website searched hundreds of lenders to match customers to the best loan offers when in fact it simply presented all customers with the same standard list of offers (some of which were not even lenders);
- (2) misrepresenting to customers that they had been approved by a lender for a loan when they had not (with some customers unaware they were dealing with a broker);
- (3) failing to make it clear to customers that it would charge them a fee;
- (4) misrepresenting to customers that it was taking card payment details for the purposes of account verification when in fact it was taking card details in order to deduct fees;

- (5) passing customer information to third parties other than lenders without consent, including redirecting customers attempting to access loan offers to a third party for re-sale of those customers' details, thereby creating a risk that the Firm's customers would be redirected to other credit brokers and charged further fees;
 - (6) charging customers monthly "membership fees" without consent; and
 - (7) failing to pay refunds to customers who had requested them in a timely manner (or in some cases at all).
- 2.3. In addition, Mr Mullins permitted a third party, Mr Mark Robert Kennedy, to operate his own fee charging credit brokerage under cover of the Firm's consumer credit licence from the Office of Fair Trading (and from 1 April 2014, under cover of the Firm's interim permission from the Authority). In total, Mr Mullins permitted the Firm to transfer over £3.3 million of fees paid by customers to a company owned by Mr Kennedy.
 - 2.4. Mr Mullins also permitted or caused funds properly owing to the Firm to be diverted to another company to whom the funds were not legitimately payable, in order to benefit himself and the other directors of the Firm; he and the other directors thereby misappropriated those funds.
 - 2.5. Furthermore, in May 2014, Mr Mullins allowed a fellow director to make a false and misleading statement to the Authority that the Firm's websites were closed to new customers when he knew that they were not, and himself made false and misleading statements to the Authority that the Firm did not charge customers any fees other than an up-front fee and only passed customer information on to lenders, when he knew that both statements were untrue.
 - 2.6. The Firm received customer fees totalling over £7.2 million during the Relevant Period in connection with its own and Mr Kennedy's business, of which approximately £1,432,077 was refunded to customers via refunds and chargeback requests. Based on these figures, the Authority estimates that in the region of 124,000 customers were charged a fee by the Firm. Mr Mullins personally received at least £166,181 from the Firm's trading activities before it went into voluntary liquidation on 31 July 2014. Secure My Money was dissolved on 9 March 2017.
 - 2.7. The Authority considers the actions of Mr Mullins to be particularly serious as the Firm's customer base included customers on low incomes least able to afford the Firm's fees and charges.
 - 2.8. The Authority therefore made an order, pursuant to section 56 of the Act, prohibiting Mr Mullins from performing any function in relation to any regulated activities carried on by an authorised or exempt person, or exempt professional firm.
 - 2.9. The Authority considers that this action is necessary and proportionate and that it advances the Authority's operational objective of securing an appropriate degree of protection for consumers.

3. **DEFINITIONS**

3.1. The definitions below are used in this Final Notice:

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

"Affiliate Tree" means Affiliate Tree Limited;

"Authority" means the Financial Conduct Authority;

"Firm" or "Secure My Money" means Secure My Money Limited;

"Leadgen" means Leadgen (UK) Limited;

"Relevant Period" means 15 November 2013 to 31 July 2014;

"Tribunal" means the Upper Tribunal (Tax and Chancery Chamber); and

"the Warning Notice" means the warning notice given to Mr Mullins dated 11 April 2018.

4. **FACTS AND MATTERS**

4.1. The Firm was incorporated on 21 July 2011. It held a consumer credit licence from the Office of Fair Trading from 25 April 2012 until 31 March 2014; from 1 April 2014, when consumer credit regulation was transferred to the Authority, it held an interim permission to conduct credit brokerage and debt counselling activities. The Firm went into voluntary liquidation on 31 July 2014 and was dissolved on 9 March 2017.

4.2. The directors at the Firm during the Relevant Period were as follows:

(1) Mr Edward John Booth was a director between 21 July 2011 and 30 May 2014, before resigning from the Firm on 30 May 2014.

(2) Mr Christopher Paul Brotherton was a director between 15 June 2012 and 18 March 2014, and then remained with the Firm as an employee until 30 May 2014.

(3) Mr Mullins was a director between 1 April 2013 and 30 May 2014 and was reappointed as a director on 11 June 2014.

(4) Mr Kennedy was a shareholder of the Firm from 6 November 2013 to 16 June 2014 and its sole director between 30 May 2014 and 11 June 2014.

4.3. The Firm operated various websites under different brands including i-Loansdirect and LoanZoo. From 15 November 2013, the Firm also provided administration services and permitted the use of its payment accounts for Mr Kennedy's credit broker business branded The1Loan. Other than in respect of branding, the websites were materially the same.

Secure My Money's websites – the customer journey

4.4. The Firm did not advertise, and only a small minority of customers went direct to the Firm's websites. For these "direct" customers, the customer journey began with the home page and proceeded through a series of pages in which customers were prompted to provide personal information about their circumstances and borrowing requirements

before arriving at the "landing page" described in paragraphs 4.10-4.14 below. These webpages disclosed that the Firm was a credit broker not a lender and contained a statement that *"We search hundreds of lenders"*.

- 4.5. These pages also contained a pre-ticked box (which could be "un-ticked") confirming that the customer had consented to receiving marketing communications from third parties, and a tick box to confirm that the customer had read the Firm's Terms and Conditions.
- 4.6. The significant majority of the Firm's customers were not "direct" customers but had been redirected from third party lead generation websites. The Firm bought customer "leads" in the form of basic information about the customer's personal circumstances and borrowing requirements from the lead generation companies. Customers seeking a loan who entered their details into a loan-finding function on the lead generator's website were redirected by the lead generator to one of Secure My Money's websites. In the Relevant Period the Firm spent approximately £1.8 million on leads for Secure My Money's business. This did not include leads purchased by Mr Kennedy for his business operated through Secure My Money.
- 4.7. Although not visible to the customer, the process by which the Firm acquired the customer lead was fully automated via "pingtree" software, which facilitated the buying and selling of customer leads via an affiliate network. The affiliate network was in effect an online marketplace for buyers and sellers of customer information, with its members including lenders and other third parties such as credit brokers. Secure My Money bought and sold customer information via various affiliate networks. As described further at paragraph 4.38, the Firm bought and sold customer information via various affiliate networks.
- 4.8. A pingtree works by arranging "buyers" of leads into tiers based on the price they are willing to pay for a customer lead. Some buyers within a pingtree are only willing to purchase leads with particular characteristics. The buyers willing to pay the most are offered a lead first. The lead is then automatically offered to others until a buyer purchases the lead or all the buyers in the pingtree are exhausted. From the customers' viewpoint, they were either presented with a page from the website of the entity that had purchased the lead relating to them; or if no-one had bought the lead, they received a message from the lead generator informing them that it had been unable to find a loan for them.
- 4.9. Customers whose "lead" information had been purchased by Secure My Money were redirected to a page known as the "landing page" of the website of one of Secure My Money's brands.

The landing page

- 4.10. The majority of the Firm's customers obtained from lead generators arrived on the Firm's website at the landing page. The landing pages were similar for all the Firm's brands. For example, the landing page for the LoanZoo website was headed: **"Congratulations, [Name of applicant], you've been approved"**.
- 4.11. Below this appeared the following message:

"To access your loan offers, simply complete the form below to verify your account. Once verified you could have your money same day!"

Congratulations Tester, you've been approved

To access your loan offers, simply complete the form below to verify your account.
Once verified you could have your money same day!

Your Sample Loan

Agreement Number: 997320
Username:
Amount Requested: £400
Loan Term: 6 months
Application ID: 997320
Agreement Start Date: 20-05-2014
Total Amount Repayable: £520.00
Our Fees & Charges: £54.99
Estimated Monthly Repayment: £75.27



Please verify your account:

Cardholder Name
Tester Tester

Card Number
[input box]

Card Type
[dropdown menu: Visa]

Expiry (mm/yy)
08/14

CVV (3 digits on back of card)
[input box]

Terms and conditions

These terms and conditions explain our services to you as our client and your obligations to us. You need to read these terms carefully since they apply as soon as you land on our website. Please read these terms carefully and keep them in a safe place - they're really important. Sorry about the long words and the legal speak - if you have any questions or if there's anything you don't understand, please email us at customerservices@loanzoo.co.uk Secure My Money Limited (Company Number 07713650) licensed credit broker, Consumer Credit License Number 647577/1. By using or accessing any of loanzoo.co.uk, you agree to be bound by the following terms and conditions.

GET MY LOAN

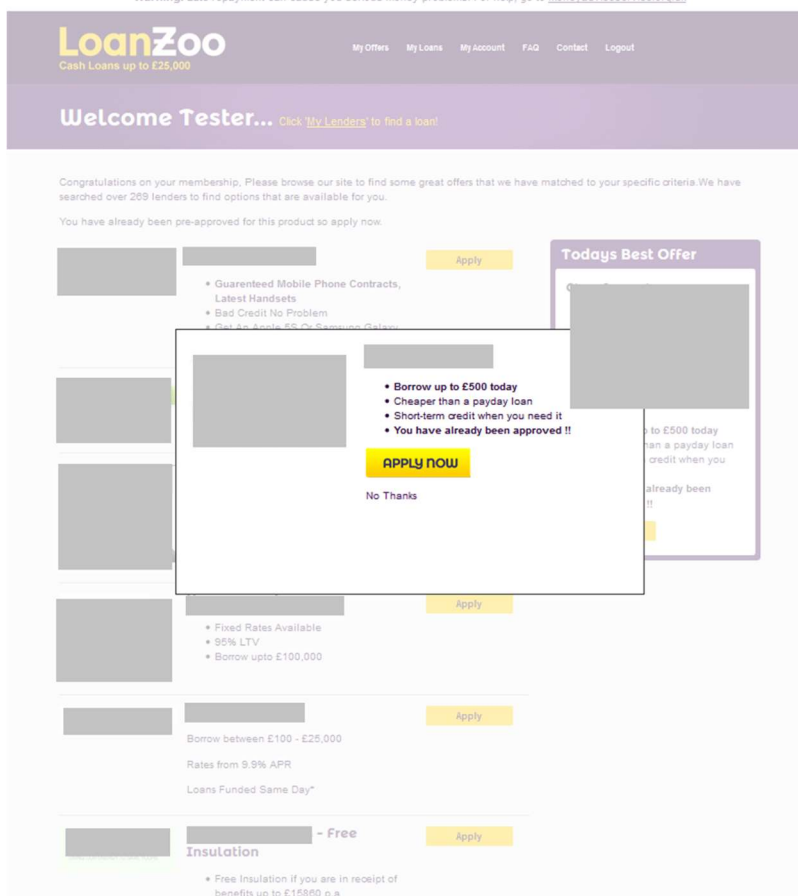
- 4.12. On the left hand side, the landing page included a "sample loan" box setting out details of a loan agreement, including an agreement number, the customer's username, the amount requested, the loan term, an application ID, agreement start date, total amount repayable and estimated monthly repayment. Within the same box were the words "Our Fees & Charges" together with a monetary amount corresponding to the fee charged by the Firm.
- 4.13. On the right hand side, the words "Please verify your account" appeared above input boxes for debit or credit card details. Within a narrow scrollable box were the first few lines of the Firm's terms and conditions, and immediately below that was a prominent yellow button labelled "GET MY LOAN".
- 4.14. The terms and conditions varied slightly across the Firm's brands and over time. The examples the Authority has seen contained disclosures about the Firm's fees and charges and the use it would make of the customer's personal data. However, this information was not visible unless the customer scrolled down within the narrow terms and conditions box. The tick boxes confirming that customers had read the terms and conditions and consented to receive marketing communications only appeared on the application pages preceding the landing page, so most customers did not see them. It appears that the terms and conditions were emailed to customers after the application was completed. However, by this time Secure My Money had already used the customers' card details to charge fees.

The "membership area"

- 4.15. Customers who clicked on the "GET MY LOAN" button were sent to a set of pages known as the "membership area". At the top of the first page were the words:

“Congratulations on your membership. Please browse our site to find some great offers that we have matched to your specific criteria. We have searched over 269 lenders to find options that are available for you.

You have already been pre-approved for this product so apply now”.



4.16. The page displayed a list of icons of various entities. Customers could choose to click on one or more of these icons. They included a few well known payday lenders as well as companies offering non-loan products such as mobile phone contracts and other credit brokers.

How Secure My Money's websites misled customers

The landing page

4.17. As explained at paragraph 4.10-4.12 above, customers searching for loans online were told they had *“been approved”* and shown a *“sample loan”* appearing to match their borrowing requirements. However, the Firm did not contact or send customer information to any lenders. The *“sample loan”* was populated from information about the customers' borrowing needs gathered from customers (either by the Firm or by the lead generator) and had not come from a lender, despite the customer purportedly being given an *“agreement number”* and *“agreement start date”*.

- 4.18. In interview with the Authority Mr Mullins said that *"you've been approved"* meant the customer had been pre-approved, as certain lenders would lend to anyone with a guarantor. Mr Mullins accepted that consumers would not realise from this wording that the only loan they had been approved for was a guarantor loan. Mr Mullins admitted that *"technically, they have not been approved by anyone because they haven't been sent to any lenders"*. Mr Mullins further accepted that a customer seeing the "sample loan" could *"potentially"* interpret it as a loan that was available to them.
- 4.19. One customer who had visited the Firm's website told the Authority that he thought he was dealing with a lender. He said *"I believed I had been approved for the loan I required as the page stated 'you've been approved' and the sample loan agreement showed the loan I wanted."* He added that he thought he was entering his card details so that his debit card could be verified in preparation for the repayment of the loan. This was consistent with his previous experience of payday lenders who typically checked that the customer's debit or payment card was active before releasing funds.
- 4.20. Mr Mullins told the Authority that the wording relating to the Firm's fees on the website was not intended to mislead, but he accepted that the wording *"our fees and charges"* placed within the sample loan box could be read as the lender's fees and charges.

The membership area

- 4.21. Despite the statements on the Firm's websites that it searched *"hundreds of lenders"*, or *"269 lenders"*, Mr Mullins admitted in interview that the same standard list of "offers" was presented to all customers in the membership area.
- 4.22. As Mr Mullins knew, the "offers" included icons of payday lenders who could easily be found free of charge via an internet search engine. Some "offers" were not loan providers; for example, they included offers of free insulation or guaranteed mobile telephone contracts.
- 4.23. The Firm's systems recorded whether or not customers clicked on offers, but did not communicate with lenders to see which (if any) customers had been offered loans.

The Firm's fees and charges

- 4.24. The Firm's fees varied across its brands and increased over time. However, for the majority of the Relevant Period, the Firm charged customers a fee of between £39.99 and £69.99 for its services. From around May 2014, the Firm also began charging customers a recurring monthly fee of £4.99 in addition to the up-front fee.
- 4.25. Under the Firm's terms and conditions, if the fee could not be collected at the first attempt because the customer had insufficient funds, the Firm could make continued attempts to collect the fee on a daily basis for up to the next 60 days. Mr Mullins was aware of this and had asked the Firm's IT consultant to include a similar mechanism when the Firm's new websites were being created in October 2013. As a result, fees could be charged to the customer's account as and when sufficient funds became available, for example when the customer's wages or benefit payments were credited to their account. In total the Firm took in over £7.2 million from customers in fees during the Relevant Period in relation to the Firm's and Mr Kennedy's businesses, incurring card processing fees of approximately £1 million from service providers. Approximately £1,432,077 was refunded to customers via refunds and chargeback requests. The Authority estimates that in the

region of 124,000 customers were charged a fee by the Firm. Mr Mullins personally received at least £166,181 from the Firm's trading activities.

- 4.26. Throughout the Relevant Period, the Firm received complaints from customers claiming to have been unaware that they would be charged a fee. The size of the fee had a significant impact on customers with low incomes. For example, one customer wrote to the Firm stating *"I am a young, vulnerable single mother on basic benefits who also suffers with depression. The fact that you have taken payments from my account without permission has made my financial situation worse and had a negative effect on my mental health and well-being."* Another customer told the Firm that she was unaware that a fee would be charged and had been left with no money to feed her child.
- 4.27. Mr Mullins was aware that the Firm received high numbers of complaints from customers who stated that they were unaware they would be charged. In interview, Mr Mullins estimated that 20% of the Firm's customers requested a refund from the Firm, and a further 5% requested 'chargebacks' via their card issuer. Between January 2014 and late May 2014, the Financial Ombudsman Service received 656 complaints about the Firm. Mr Mullins was aware of the wording on the websites but told the Authority that he had not reviewed the wording in light of the complaints received to see if it needed to be made clearer. In fact, the Firm did revise its wording for its landing page on or around 26 March 2014 at the suggestion of an employee. The new landing page was briefly live, and clearly set out that a payment would be taken and when, but was taken off-line and replaced with the original landing page on 8 April 2014 because its use had led to a fall in the numbers of customers entering their card details and a corresponding drop in revenue for the Firm. Mr Mullins was aware of this.
- 4.28. The serious consequences for some customers of unexpected fees were aggravated by the Firm's delay in paying customer refunds. Under the Firm's cancellation procedures, customers were entitled to a full refund if they requested one within 14 days, and thereafter to a refund less a £5 administration charge. However, customers were obliged to wait for a minimum of 30 days before the refund was paid. A standard email was sent to the customer in the following terms:
- "we can confirm receipt of your cancellation form, we do condition 30 days as our basic time frame as we need to notify the individual lenders we contacted on your behalf to ensure that you have not entered in to any financial agreements with them.....having hundreds of lenders means this process takes time, it is in your interests this happens as this will ensure lenders desist from contacting you with potential solutions and stop working on your behalf to find you a loan".*
- 4.29. Mr Mullins knew that this was misleading as the Firm did not search for or contact lenders and had no means of ascertaining whether the customer had received a loan. In addition, receiving a refund did not affect whether third parties continued to send marketing messages to customers.
- 4.30. Another route to obtain a refund of the fee was for customers to request a "chargeback" or refund from their card provider, most commonly on the grounds that they had not authorised the payment of the fee. Between 1 November 2013 and 31 July 2014, 14,246 customers requested chargebacks. However, as Mr Mullins knew, it was the Firm's policy to defend chargeback requests where customers claimed not to have authorised the payment of the fee by producing copies of the website terms and conditions referring to the fee and the landing page on which the customer had entered their card details. As Mr

Mullins knew, the terms and conditions were not visible to customers unless they had scrolled down through the text box on the landing page, and the request for card details was misleading in that it did not state that a fee would be charged but asked customers to provide card details in order to "verify your account". In the circumstances, whether or not customers received a refund could depend on whether they requested a refund from the Firm or applied to their card provider for a chargeback. The Firm did not tell customers who had been refused a chargeback under the card scheme rules that they could still obtain a refund from the Firm.

- 4.31. A number of customers who requested refunds from the Firm did not get them. For example, Customer A first wrote to the Firm on 2 May 2014 saying that she had never been on the website and asking for a refund. After an interval of 12 days, the Firm sent the standard email set out in paragraph 4.28 above, but did not repay the £58.99 fee. The Firm also took two further £4.99 payments without authority after accepting the cancellation (see paragraph 4.34 below in relation to membership fees). Customer A wrote to the Firm to complain on 4 June 2014, 30 June 2014 and 1 July 2014. She did not receive any response from the Firm to her complaint.
- 4.32. Customer B told the Authority that he emailed the Firm seeking a refund on 3 June 2014, but received an automatic response stating that *"all customer communication for The1Loan is now done by contacting customer services helpline only"*. He said he attempted to call around 25 times on 3 June 2014 and again on 4 June 2014. He said the telephone rang continuously and that *"at no point was I able to speak to anyone at the company"*.
- 4.33. In total approximately £1.4 million was repaid to customers in chargebacks and refunds during the Relevant Period. At the instigation of Secure My Money's bankers and liquidators, not Mr Mullins and his fellow directors, a further £33,564.17 was repaid to customers after the Firm had gone into liquidation.

"Membership" fees

- 4.34. On 10 April 2014, Mr Kennedy made certain proposals to Mr Mullins, Mr Booth and Mr Brotherton for changes to the Firm's services in order to increase revenue. This included a suggestion for charging customers a recurring monthly £4.99 membership fee in addition to the existing fee.
- 4.35. At this time the Firm's customer terms and conditions did not permit the Firm to charge customers any fees other than the initial fee. The terms and conditions were changed in order to provide for charging monthly membership fees on or shortly after 14 May 2014.
- 4.36. On 14 May 2014, Mr Kennedy sent instructions to the Firm's IT consultant to set up monthly payment runs of £4.99 for all existing customers, backdated to 1 March 2014. Mr Mullins received that email. Mr Mullins knew that the Firm had no contractual right to collect monthly fees from existing customers.
- 4.37. In addition, as Mr Mullins knew, just as in the case of the up-front fees, customers would only know that they would be charged recurring fees if they had read through the terms and conditions on the Firm's website.

Misuse of customer information

- 4.38. In addition to purchasing customer leads, the Firm sold on customer information it had collected on its websites or purchased from lead generators to third parties in return for commission payments. The Authority has not been able to determine the amount the Firm earned by selling data, as the proceeds were not always passed through the Firm's books.
- 4.39. Customer A told the Authority that after visiting the The1Loan website he was "bombarded with marketing in the form of text messages, emails and sometimes telephone calls". He said that sometimes he received up to 30 text messages in one day.
- 4.40. Another method by which the Firm passed customer information to others was by inserting a link to a pingtree underneath the icon of a lender in the members' area, in the place of a link to the lender. Customers who clicked on the lender's icon in the expectation of being transferred to the lender's website were instead sent down a pingtree without their knowledge, and redirected to the website of whichever entity had purchased their data in that pingtree. The purchaser could have been another fee charging credit broker rather than a lender, giving rise to the risk that customers could be charged a further fee by another credit broker. Mr Mullins was responsible for this practice.

The1Loan brand and the relationship with Mr Kennedy

- 4.41. The Firm's relationship with Mr Kennedy commenced in September 2013 when it approached him for a short term loan of £100,000 and for access to his technical expertise to help develop a new credit brokerage platform in return for a 25% shareholding in the Firm. Mr Kennedy agreed to these proposals. On 15 November 2013, Mr Kennedy proposed to Mr Mullins, Mr Booth and Mr Brotherton that he should run his brand The1Loan through the Firm's merchant accounts as his own "private white label fee charger" and keep the proceeds for himself. Mr Kennedy wrote:

"Guys,

I'll pump in the cash later this morning.....

To reciprocate I'd like to borrow one [bank] MID [merchant identification account] (unused) from the business and run my own Pingtree traffic down this as a white label, using my tech platform and brand the1loan.

Loanzoo, ispy, i-loansdirect etc can run as normal dow [sic] the remaining MIDs, (though I suggest we dread the load) and Dave will canvass all the usual suspects for traffic.

In effect the1loan will become thepaydaynetworks, private white label fee charger which it keeps the proceeds of. Proceeds down the other brands from all the other pingtrees are [the Firm's] as normal.

Sure you're all cool with lending the MID, let me know gents. Be around all next week as we're finally live."

- 4.42. Mr Kennedy's proposal was accepted, and the Firm agreed to transfer all the proceeds of The1Loan brand to Leadgen, a company of which Mr Kennedy was both a director and shareholder. The Firm provided administration services for The1Loan brand, including collecting in and transferring fees for The1loan brand to Leadgen daily, and dealing with

customer complaints and refunds on its behalf. The Firm handled refunds by paying them out from its own funds on a daily basis and invoicing them back to Leadgen weekly. The Firm also charged Leadgen 50% of the cost of the Firm's customer services staff salaries and certain other overheads of the Firm. Mr Kennedy alone dealt with purchasing leads for The1loan.

- 4.43. In March 2014, Mr Kennedy agreed to pay Mr Mullins and the other directors personally (not the Firm) the sum of £10,000 per month each for continued use of the Firm's merchant account. However, he did not in fact make any such payments.
- 4.44. Between 21 November 2013 and 12 June 2014 over £3.3 million in customer fees was transferred from the Firm's accounts to an account of Leadgen under the above arrangements.

Misuse of the Firm's funds

- 4.45. Between 6 January 2014 and 19 August 2014, a series of payments made by third parties were received into a bank account in the name of a non-trading company, Affiliate Tree. Mr Booth was the founder and sole shareholder of Affiliate Tree, as well as a director. Mr Brotherton and Mr Mullins were both directors of Affiliate Tree.
- 4.46. Of the payments received into Affiliate Tree's bank account, payments totalling £124,617.09 were received from third parties as payment for customer data (leads) that these parties had received from the Firm. The Firm had purchased these leads from other lead generators.
- 4.47. A further £50,000 was received into Affiliate Tree's bank account from another online credit broker as payment for use of the Firm's IT platform.
- 4.48. These payments, totalling £174,617.09, were split by Mr Mullins, Mr Booth and Mr Brotherton and their respective shares in the payments were transferred from Affiliate Tree's bank account into their personal bank accounts. Mr Mullins received £83,006.68, which included a payment made directly to his real estate agent as rent payments.
- 4.49. In the Authority's view, the monies received by Affiliate Tree belonged to the Firm, since it was the Firm which had acquired the customer data and it was the Firm which had rights to the IT platform. These monies should therefore have been paid to the Firm, but were misappropriated by Mr Mullins, Mr Booth and Mr Brotherton for their own benefit.

Misleading the Authority

- 4.50. On 19 May 2014, having received numerous complaints about the Firm from customers, the Authority contacted the Firm. The Authority's immediate concern was the possibility that customers' card details were being held insecurely, as it had received reports that certain customers who had entered their card details on the Firm's websites had also had been charged fees by other credit brokers without the customers' consent. The Authority also informed the Firm that some customers were claiming not to have been aware that the Firm would charge a fee, or had believed their card details were required for identification purposes only. The Authority asked the Firm to investigate.
- 4.51. On that date Mr Kennedy performed tests on the Firm's website, after which he sent an email to Mr Mullins, Mr Booth and Mr Brotherton as follows:

"I clicked all links in my portal and either got a broken link or another fee charger. I am certain some numpty customer then went on to fill the form in again and paid twice leading to this issue. I have turned it off in the1loan."

- 4.52. Mr Mullins was not the author of all communications between the Authority and representatives of the Firm in this period, but responses from others were discussed with or circulated to him in draft prior to sending, and he knew what the Authority was being told.
- 4.53. On 20 May 2014 Mr Booth sent to the Authority screen shots of web pages from what he said were *"both our sites"*; these were webpages for LoanZoo and i-loansdirect but not for the The1loan website, implying that these were the only sites operating at that time. Mr Booth attempted to allay the Authority's concerns about customers who visited the Firm's sites being charged fees by third parties by providing information about the security of the payments area of the sites. No mention was made of the possibility that customers were being charged fees by third parties as a result of Mr Mullins having ensured that customers in the membership area of the website were redirected to other credit brokers' websites without customers' knowledge, despite Mr Kennedy pointing this out at that time as the probable cause of multiple fees being incurred.
- 4.54. Following the Authority's request for the customer websites to be taken down, on 20 May 2014 Mr Kennedy amended the The1loan customer website to add a member log-in box to the home page. This prevented any new customers on The1loan's home page from progressing any further through the website. Mr Kennedy emailed Mr Mullins, Mr Booth and Mr Brotherton to inform them that *"the1loan site looks down with a member login dialog sitting above a grey'd out site"*. Later on the same day Mr Kennedy sent a further email to Mr Mullins, Mr Booth and Mr Brotherton in relation to the other websites operated by the Firm, suggesting that *"we can always 'take them down' for now like the1loan appears taken down but we all know is not"*. Mr Mullins then sent an email to the Firm's external IT consultant asking him to *"change loanzoo and I-loans to mirror the log in only site that is now 1loan ASAP please?"*. This was duly done.
- 4.55. Later on 20 May 2014, Mr Booth informed the Authority that the two websites he had disclosed to the Authority would be closed to new customers by 10am the next day although existing customers would still be able to log in to the sites. Mr Mullins was copied in on Mr Booth's email. As Mr Mullins knew, Mr Booth's statement was false and misleading because most new customers were transferred to the landing pages from third party lead generators' websites and never saw the home pages. There were no log ins or other restrictions for new customers entering the sites on the landing pages, and the Firm continued to trade, collect fees from new customers and purchase leads from lead generators. The Firm received approximately £295,163.93 in customer fees between 20 May 2014 and 25 June 2014 (when the Firm's websites were no longer able to process payments due to the Firm's merchant account being frozen), and spent at least £78,601 on acquiring leads. The Authority recognises that some of these customer fees may relate to customers signing up before 20 May 2014. However, it is clear that the Firm continued to allow new customers to sign-up for services after the Firm's Directors had told the Authority that its websites were closed to new customers.
- 4.56. On 29 May 2014, Mr Mullins personally misled the Authority by describing its fee structure as a *"one-off payment of either £54.99 or £58.99 across all brands to act as a financial broker for 6 months"* when he knew that the Firm had implemented recurring monthly membership fees of £4.99 in addition to the 'one-off' fee. Mr Mullins also certified in

writing that the Firm only passed customer information on to lenders when he knew that this was untrue, and failed to disclose key information relating to the possible cause of certain customers being charged by multiple credit brokerages, simply telling the Authority that it had *“performed numerous full system tests....to try to establish where the problem lies”*.

5. FAILINGS

- 5.1. The statutory and regulatory provisions relevant to this Final Notice are set out in the Annex.

Lack of Honesty and Integrity

Operating an unfair and misleading customer website

- 5.2. As Mr Mullins knew, the Firm’s websites gave customers the misleading impression that the Firm would search for a loan matching their borrowing requirements if they provided personal information about themselves, including their card details. The true purposes of collecting customer information on the Firm’s websites were, first, to populate a ‘sample loan’ agreement in order to deceive the customer into believing a loan offer had been made and providing their card details so that the Firm could charge them a fee and, secondly, to sell on customer data (excepting card details) to third parties.

- 5.3. At all times Mr Mullins knew that:

- (i) The Firm’s website did not search for lenders;
- (ii) The Firm’s website did not “approve” customers for a loan;
- (iii) The “sample loan agreement” was not an offer of a loan;
- (iv) Customers’ card details were not required for the purpose of verifying an account;
- (v) Information about fees in the Firm’s terms and conditions was not visible to customers unless they scrolled through them, so many customers were unaware that they would be charged a fee;
- (vi) Information about the use the Firm would make of customers’ personal data in the Firm’s terms and conditions was also not visible unless customers scrolled through them (in a narrow box), so many customers were unaware that personal information about them would be passed to third parties.

- 5.4. Mr Mullins was aware of the wording on the website, and was aware of customer complaints about unauthorised payment charges. He was also aware that from around 8 April 2014 when clearer disclosure of fees was given, fewer customers were willing to provide card details, and that changes to the Firm’s websites to improve clarity of fee disclosure were reversed as soon as they impacted the Firm’s revenue.

Charging customers monthly “membership fees” without consent

- 5.5. On or around 14 May 2014, the Firm implemented membership fees and updated its terms and conditions. Mr Mullins was aware that Mr Kennedy had arranged for recurring

monthly membership fees of £4.99 to be taken backdated to 1 March 2014, when he was aware that the firm's terms and conditions did not permit it to charge monthly fees until 14 May 2014.

Failing to pay refunds

- 5.6. Mr Mullins knew at all times that customers seeking refunds were being impeded from obtaining them. This was done first by the imposition of a month-long waiting period for paying refunds. Secondly, the Firm's policy was to defend chargeback claims from customers on the grounds that they had voluntarily provided card details and that fees were disclosed in the terms and conditions; this was despite the facts that the Firm's websites contained misleading information about the reasons card details were required, and that customers would not see the fee information unless they scrolled through the terms and conditions.

Misuse of customers' personal information

- 5.7. Mr Mullins knew that the Firm's website did not make it clear to customers that personal information about them could be passed on to third parties for marketing purposes. In particular, he knew that no upfront disclosure of the Firm's data processing policy was provided and information in the terms and conditions was not visible to customers unless they scrolled through the terms and conditions.
- 5.8. Mr Mullins made changes to the Firm's website which resulted in customers clicking on what appeared to be loan offers being sent down a pingtree knowing that this created a risk that other credit brokers would also charge the customers fees.

Allowing Mr Kennedy to operate his own credit broker under cover of the Firm's licence/Interim Permission

- 5.9. Mr Mullins permitted Mr Kennedy to run his own credit broker business under cover of the Firm's consumer credit licence and interim permission. He permitted the Firm to misrepresent to the Authority that The1loan was a trading name of the Firm when he knew it was at all times Mr Kennedy's own trading name. In doing so he was complicit in allowing Mr Kennedy to distance himself from the The1loan business, preventing the Authority and others (for example, The1loan customers seeking refunds, including during the period after Secure My Money had entered liquidation) from making a connection between Leadgen and the The1loan brand.

Misappropriating funds from the Firm

- 5.10. Mr Mullins permitted or caused funds properly owing to the Firm to be misappropriated by being diverted to another company to whom the funds were not legitimately payable, for the benefit of himself and the other directors of the Firm, and to the detriment of the creditors of the Firm, who were in large part the Firm's customers seeking refunds.

Misleading the Authority

- 5.11. Mr Mullins was aware that the Firm made false and misleading statements to the Authority with the intention of preventing or delaying the Authority from taking action to prevent the Firm from trading with new customers and himself made false and misleading statements to the Authority.

6. SANCTION

- 6.1. Given the nature and seriousness of the failings outlined above, the Authority considers that Mr Mullins' conduct demonstrates a lack of honesty and integrity such that it appears to the Authority that Mr Mullins is not a fit and proper person, and accordingly that he should be prohibited from performing any function in relation to any regulated activities carried on by an authorised or exempt person, or exempt professional firm.
- 6.2. The Authority considers that this action is necessary and proportionate and that it advances the Authority's operational objective of securing an appropriate degree of protection for consumers.

7. REPRESENTATIONS

- 7.1 Through the Warning Notice, the Authority gave notice that it proposed to take the action described above and Mr Mullins was given the opportunity to make representations to the Authority about that proposed action.
- 7.2 Mr Mullins enquired about the nature and duration of the prohibition and the Authority gave him a detailed explanation. Mr Mullins has not made any further representations.

8. PROCEDURAL MATTERS

- 8.1. This Final Notice is given to Mr Mullins under and in accordance with section 390 of the Act.
- 8.2. The following paragraphs are important.

Decision maker

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

Confidentiality and publicity

- 8.4. 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 Final 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 Mr Mullins or prejudicial to the interest of consumers or detrimental to the stability of the UK financial system. The Authority intends to publish such information about the matters to which this Final Notice relates as it considers appropriate.

Contact

9. For more information concerning this matter generally, contact Paul Smith of the Enforcement and Market Oversight Division of the Authority (direct line: 020 7066 0410).

Bill Sillett,

Head of Department

Financial Conduct Authority, Enforcement and Market Oversight Division

ANNEX

RELEVANT STATUTORY PROVISIONS

1. The Authority's operational objectives include securing an appropriate degree of protection for consumers (section 1C of the Act).
2. Section 56(1) of the Act provides that the Authority may make a prohibition order if it appears to it 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, an exempt person, or designated professional person.

The Enforcement Guide (EG)

3. The Authority's policy in relation to exercising its power to issue a prohibition order is set out in chapter 9 of its Enforcement Guide.
4. **EG 9.5.1** sets out that where the Authority is considering whether to make a prohibition order against someone who is not an approved person, the Authority will consider the severity of the risk posed by the individual and may prohibit him where it considers that it is appropriate to achieve the Authority's statutory objectives.
5. **EG 9.5.2** provides that, when considering whether to exercise its power to make a prohibition order against such an individual, the Authority will consider all the relevant circumstances of the case. These may include, but are not limited to, the factors set out in EG 9.3.2 Those factors include: whether the individual is fit and proper to perform functions in relation to regulated activities (noting that criteria are set out in FIT 2.1, 2.2. and 2.3); the relevance and materiality of any matters indicating unfitness; the length of time since the occurrence of any matters indicating unfitness; and the severity of the risk which the individual poses to consumers and to confidence in the financial system.

Fit and Proper Test for Approved Persons (FIT)

6. The Authority has issued guidance on the fitness and propriety of individuals in FIT.
7. **FIT 1.3.1BG(1)** states that the most important considerations when assessing the fitness and propriety of a person include that person's honesty, integrity and reputation.
8. **FIT 2.1.3G** sets out that in determining a person's honesty, integrity and reputation, the Authority will have regard to all relevant matters including...

(5) whether the person has contravened any of the requirements and standards of the regulatory system or equivalent standards or requirements of other regulatory authorities (including a previous regulator).....

(13) 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.