
FINAL NOTICE

To: David John Bedford

Date of birth: 15 May 1962

Date: 31 October 2011

ACTION

1. For the reasons given in this notice, the FSA hereby:
 - i. imposes on Mr Bedford a financial penalty of £10,000; and
 - ii. makes an order prohibiting Mr Bedford from performing any function in relation to any regulated activity carried on by any authorised or exempt person, or exempt professional firm. This order takes effect from 2 November 2011.

SUMMARY OF REASONS

2. The FSA gave Mr Bedford a Decision Notice on 16 June 2010 which notified him that the FSA had decided to impose a financial penalty on him pursuant to section 66 of the Financial Services and Markets Act 2000 (“the Act”), and make a prohibition order pursuant to section 56 of the Act.
3. On 12 July 2010, Mr Bedford referred this Decision Notice to the Upper Tribunal (Tax and Chancery Chamber) (“the Tribunal”). The written decision of the Tribunal was published on 3 October 2011, and can be found on the Tribunal’s website.

4. The Tribunal determined that the FSA should impose on Mr Bedford a financial penalty of £10,000 (reduced for financial hardship) pursuant to section 66 of the Act, and make a prohibition order, pursuant to section 56 of the Act, prohibiting Mr Bedford from performing any function in relation to any regulated activity carried on by any authorised or exempt person or exempt professional firm on the grounds that he is not a fit and proper person.

DEFINITIONS

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

“the Act” means the Financial Services and Markets Act 2000

“ESR” means ESR Insurance Services Limited

“the FSA” means the Financial Services Authority

“the Tribunal” means the Upper Tribunal (Tax and Chancery Chamber)

“the Relevant Period” means the period between July 2006 and January 2008

FACTS AND MATTERS

6. During the Relevant Period, Mr Bedford was responsible for managing the Financial Risk Division of ESR. Throughout this period Mr Bedford was approved to perform controlled function 1 (Director).
7. As set out more fully in the Tribunal’s decision, during the Relevant Period Mr Bedford placed surety bonds (guarantees to pay a loss sustained as a result of a breach of contractual obligations) and related insurance with an American national named Wendell Clemons.
8. By about July 2006, Mr Bedford should have realised that placing business with Mr Clemons posed unacceptable levels of risk to ESR’s clients. By July 2007 Mr Bedford knew that Mr Clemons was committing a fraud, by accepting premiums for the underwriting of a risk but not actually securing the insurance at all. Mr Bedford nevertheless continued to place business with Mr Clemons. During the Relevant Period, Mr Bedford facilitated the theft by Mr Clemons of £1.43 million, more than £445,000 of which was stolen in the period when Mr Bedford knew Mr Clemons was committing a fraud.
9. In and after September 2006, Mr Bedford issued insurance bonds purporting to provide cover with another insurer, Gramercy Insurance Company, but without obtaining their authority to do so. One such contract purported to provide cover of over US\$13 million. In August 2007, Mr Bedford forged reinsurance documents, in part to conceal Mr Clemons’s fraudulent behaviour.
10. The Tribunal observed that by good fortune no client in fact suffered a loss. However, the discovery of the frauds and the resulting potential claims against ESR led to it being placed into administration in February 2008, followed by insolvent liquidation in February 2009.

FAILINGS

11. The Tribunal found that Mr Bedford's behaviour during the Relevant Period led to the:

"...inescapable conclusion that despite his contrition and his admissions, Mr Bedford is not fit and proper to undertake any regulated activity, and that prohibition and nothing less is necessary".

12. Mr Bedford did not dispute the FSA's finding that his conduct during the Relevant Period breached Statement of Principle 1 (Integrity) of the FSA's Statements of Principle and Code of Practice for Approved Persons.

PROHIBITION

13. The Tribunal directed the FSA to make an order prohibiting Mr Bedford from performing any function in relation to any regulated activity carried on by any authorised or exempt person, or exempt professional firm.

SANCTION

14. The Tribunal stated that it considered this to be a serious case of assisting another to commit fraud, breach of trust and dereliction of duty. Leaving Mr Bedford's personal circumstances out of account, the Tribunal noted that a starting point of £200,000 would have been an appropriate financial penalty in a case of this gravity.
15. However, given Mr Bedford's particular circumstances, the Tribunal stated that it could not see any purpose to imposing on him on a penalty he was unable to pay. The Tribunal therefore directed the FSA to reduce the penalty to £10,000.

PROCEDURAL MATTERS

16. This Final Notice is given to Mr Bedford in accordance with section 390 of the Act.

Manner of and time for payment

17. The financial penalty must be paid by Mr Bedford to the FSA in quarterly instalments each of 1/12 of the penalty. The first payment must be received by the FSA no later than 31 January 2012. Each subsequent payment must be received no later than the last day of the month at the start of each quarter.

If the financial penalty is not paid

18. If all or any of the instalment is outstanding beyond the date payment is due, the FSA may recover the outstanding amount as a debt owed by Mr Bedford and due to the FSA.

Publicity

19. 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 Mr Bedford or prejudicial to the interests of consumers.

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

FSA contacts

21. For more information concerning this matter generally, contact Shakir Anverally (direct line: 020 7066 3724) of the Enforcement and Financial Crime Division of the FSA.

William Amos
Head of Department
FSA Enforcement and Financial Crime Division