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**FINAL NOTICE**

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To: **Derek William Wright**

Individual Ref. No.: **DWW01072**

Dated: **26 April 2012**

**1. ACTION**

1.1. For the reasons given in this notice, the Financial Services Authority (“the FSA”) hereby makes an order prohibiting Derek Wright from performing any function in relation to any regulated activity carried on by any authorised person, exempt person, or exempt professional firm. This order takes effect from 26 April 2012.

**2. SUMMARY OF REASONS**

2.1. The FSA gave Mr Wright a Decision Notice on 23 February 2011 which notified him that the FSA had decided to make a prohibition order pursuant to section 56 of the Financial Services and Markets Act 2000 (“the Act”).

- 2.2. On 21 March 2011 Mr Wright referred the matter to the Upper Tribunal (Tax and Chancery Chamber) (“the Tribunal”). The written decision of the Tribunal was published on 24 February 2012 and can be found on the Tribunal’s website.
- 2.3. The Tribunal directed the FSA to make a prohibition order pursuant to section 56 of the Act prohibiting Mr Wright 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.

### **3. FACTS AND MATTERS**

- 3.1. Mr Wright worked in the regulated insurance market and in 2001 was disciplined by the Lloyd’s Disciplinary Tribunal (“the LDT”) for conducting insurance business in a discreditable manner while working as a director of a firm of insurance brokers, Broker Firm A. The LDT found as follows:
- (1) While Mr Wright was a director of Broker Firm A he arranged for certain premiums to be paid by cheques drawn to himself personally rather than to Broker Firm A. Mr Wright paid the cheques into his own account and caused Broker Firm A to issue cover notes to pay the premiums to insurers. Mr Wright thereby dishonestly kept more than £60,000 for his own benefit, which should have been accounted for to Broker Firm A.
  - (2) From 1994 to 1996 Mr Wright used Broker Firm A’s client account to pay more than £15,000 of personal expenses without the knowledge or consent of his co-director or the company secretary.
  - (3) In August 1996 Mr Wright approached one of Broker Firm A’s computer operators and dishonestly asked her to erase entries for monies (amounting to more than £8,000) owed by a third party to Broker Firm A. In return for reducing this debt, Mr Wright dishonestly arranged for his own debts to that third party to be reduced by the same amount.

- 3.2. The LDT found that Mr Wright's misconduct had occurred over a long period of time and the fact that no insured party had suffered loss as a result of his misconduct was merely fortuitous.
- 3.3. As a result of his misconduct Mr Wright was:
- (1) permanently suspended from the trading room of Lloyd's and all other parts of the premises of Lloyd's;
  - (2) permanently suspended from transacting or being concerned or interested in the transaction of the business of insurance at Lloyd's or any class or classes of such business; and
  - (3) publicly censured.
- 3.4. From 1997 Mr Wright ran Moorgate Insurance Agencies Limited ("Moorgate"), a small insurance broker based in Romford, Essex. Moorgate was authorised by the FSA in 2004 and from July 2004 to June 2008 ("the relevant period") Mr Wright continued to run Moorgate. Notwithstanding the fact that he was not and never has been an approved person, he acted as if he were a director of Moorgate and purported to perform the activities required of an individual holding a CF1 (Director) role without being approved to do so. Moorgate's only director and approved person was Mr Wright's wife, Mary Dorothy Wright ("Mrs Wright"), but she had little to do with Moorgate and in practice Mr Wright ran the firm and had sole control of it.
- 3.5. Mr Wright was responsible for submitting Moorgate's Retail Mediation Activities Returns ("RMARs") to the FSA. Between 2005 and 2008 Moorgate consistently reported in its RMARs that its capital resources were materially below the level required by the FSA's rules. Mr Wright also submitted RMARs containing inaccuracies over matters such as whether Moorgate operated a non-statutory or statutory trust for its client account and whether it required professional indemnity insurance.
- 3.6. In February 2007 Mr Wright informed the FSA that a deficit in Moorgate's capital resources would be rectified by the issuing of further shares in Moorgate and a further

investment into the firm. A copy of a Companies House Form submitted to the FSA in this regard purported to show an allocation of shares to Mr Wright in June 2007 but the annual returns submitted by Moorgate to Companies House in October 2007 did not show any new shareholdings.

- 3.7. In June 2008 the FSA asked Mr Wright to produce documentary evidence to demonstrate that Moorgate's creditors had been paid and that money had been collected from its debtors. Mr Wright failed to provide all the documentary evidence requested, instead informing the FSA that another broker firm had taken over responsibility for collection and payment of premiums for Moorgate and he had no further information on this matter. The transfer of Moorgate's business to this other firm was instigated by Mr Wright without the knowledge or consent of the FSA.
- 3.8. In June 2009 the FSA contacted Mr Wright and asked him where he was working at that time. He said he was "*not working as such*" and was not working in insurance. Mr Wright was in fact working for an insurance broker as an introducer appointed representative.

#### **4. FAILINGS**

4.1. The Tribunal determined as follows:

- (1) The disciplinary action taken by the LDT was relevant when assessing Mr Wright's attitude to regulation and the evidence considered by the Tribunal strongly suggested that he had learned little from that experience with regard to the importance of acting with integrity;
- (2) Mr Wright was in effect the sole controlling mind of Moorgate and was operating as a de facto or shadow director. He performed controlled functions at Moorgate despite not having been approved by the FSA to do so. Mr Wright (whether alone or with Mrs Wright) was responsible for misleading the FSA as to who was carrying out the functions at Moorgate and Mr Wright had not been open with the FSA and had acted dishonestly and with a lack of integrity;

- (3) Mr Wright's errors with regard to Moorgate's RMARs demonstrated a lack of competence;
- (4) His failure to inform the FSA that Moorgate's capital resources deficit had not been addressed by the issue of shares or raising of capital misled the FSA and demonstrated a lack of honesty in his dealings with the FSA and a cavalier attitude to the FSA and to compliance with regulation;
- (5) Mr Wright's explanation that another firm was dealing with payments on Moorgate's behalf and that he could not provide any further information to the FSA was unacceptable. Mr Wright demonstrated a failure to have regard to the importance of regulation, failed to cooperate with the FSA in dealing with the issue of client accounts and failed to provide an adequate explanation at the time to explain his failure to co-operate.
- (6) Mr Wright deliberately attempted to mislead the FSA with regard to his employment status in 2009, and in doing so he acted dishonestly and again showed his disregard of the importance of being honest with the FSA and the importance of regulation.

4.2. The Tribunal concluded that Mr Wright's conduct in regard to Moorgate and the FSA demonstrated that he "*will act dishonestly and with a lack of integrity if it suits his purpose and that he has a reckless attitude to compliance with regulation*" and that he also demonstrated "*a lack of competence in various aspects of regulatory activity*".

## **5. PROHIBITION**

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

## **6. PROCEDURAL MATTERS**

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

## **Publicity**

- 6.2. 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 Mr Wright or prejudicial to the interests of consumers.
- 6.3. The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

## **FSA contacts**

- 6.4. For more information concerning this matter generally, contact Paul Howick (direct line 020 7066 7954) of the Enforcement and Financial Crime Division of the FSA.

**Tom Spender**

**Head of Department**

**FSA Enforcement and Financial Crime Division**