
FINAL NOTICE

To: Dele MacAulay
Trading as Dele MacAulay Financial Services

Address: Mentmore House
Cray Avenue
Orpington
Kent
BR5 3QF

FRN: 313073

Dated: 26 June 2009

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (the "FSA") gives you, Dele MacAulay trading as Dele MacAulay Financial Services, final notice about the cancellation of your Part IV permission

1. ACTION

- 1.1. The FSA gave you, Dele MacAulay trading as Dele MacAulay Financial Services ("DMFS"), a Decision Notice dated 21 May 2009 (the "Decision Notice") which notified you that, pursuant to section 45 of the Financial Services and Markets Act 2000 ("FSMA"), the FSA had decided to cancel the permission granted to you ("your/DMFS's Part IV permission").

- 1.2. You did not refer the matter to the Financial Services and Markets Tribunal. Accordingly, the FSA has today cancelled your Part IV permission.

2. REASONS FOR THE ACTION

- 2.1. On the basis of the facts, matters and conclusions described in its Warning Notice dated 3 April 2009 (the “Warning Notice”), and in the Decision Notice, Dele MacAulay is not a fit and proper person, pursuant to section 56 of FSMA. The FSA made an order prohibiting Dele MacAulay from performing any function in relation to any regulated activity carried out by any authorised person, exempt person or exempt professional firm.
- 2.2. Dele MacAulay was the only approved person at DMFS. He was approved to perform the controlled function of Apportionment and Oversight (CF8) and had responsibility for insurance mediation.
- 2.3. As Dele MacAulay is not fit and proper, DMFS was failing to satisfy the threshold conditions set out in Schedule 6 of FSMA (the “Threshold Conditions”) in that, in the opinion of the FSA, DMFS had failed to satisfy the FSA that it is fit and proper having regard to all the circumstances, including its connection with Dele MacAulay, and the overall need to ensure that its affairs are conducted soundly, prudently, with integrity and in compliance with proper standards (Threshold Condition 5 (Suitability)).

3. RELEVANT STATUTORY PROVISIONS AND REGULATORY GUIDANCE

- 3.1. The relevant statutory provisions and regulatory requirements are attached at Annex A.

4. FACTS AND MATTERS RELIED ON

- 4.1. DMFS operated as a small mortgage broker based in the Orpington area and was regulated by the FSA since 31 October 2004.
- 4.2. As Mr Dele MacAulay was the only approved person, and is not fit and proper, DMFS was failing to satisfy Threshold condition 5 (Suitability). As such, the FSA cancelled DMFS’s Part IV permission.

5. DECISION MAKER

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

6. IMPORTANT INFORMATION

- 6.1. This Final Notice is given to you in accordance with section 390(1) of FSMA.

Publicity

- 6.2. Sections 391(4), 391(6) and 391(7) of FSMA 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.
- 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, 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

Annex A

Statutory Provisions

The FSA's regulatory objectives, which are set out in section 2(2) of FSMA, include the maintenance of market confidence, the protection of consumers and the reduction of financial crime.

Section 41 and Schedule 6 of FSMA set out the Threshold Conditions which are conditions that the FSA must ensure a firm will satisfy, and continue to satisfy, in relation to all of the regulated activities for which it has permission.

The FSA is authorised by sections 45(1) and (2) of FSMA to cancel an authorised person's Part IV permission where it appears that an authorised person is failing, or likely to fail, to satisfy the Threshold Conditions.

Paragraph 5 of Schedule 6 to FSMA sets out Threshold Condition 5 (Suitability) which provides that the person concerned must satisfy the Authority that he is a fit and proper person having regard to all the circumstances, including his connection with any person, the nature of any regulated activity that he carries on or seeks to carry on, and the need to ensure that his affairs are conducted soundly and prudently.

The FSA's policy for exercising its power to cancel a Part IV permission

The FSA's policy for exercising its power to cancel a Part IV permission is set out in chapter 8 of the Enforcement Guide ("EG"). EG 8.13(1) provides that the FSA will consider cancelling an authorised person's Part IV permission where the FSA has very serious concerns about the person, or the way its business is or has been conducted.

The part of the FSA handbook entitled Threshold Conditions ("COND") gives guidance on the Threshold Conditions as set out in or under Schedule 6 to FSMA.

Guidance concerning Threshold Condition 5: Suitability (Paragraph 5, Schedule 6 to FSMA)

COND 2.5.2G(1) provides that Threshold Condition 5 requires the firm to satisfy the FSA that it is "fit and proper" to have Part IV permission having regard to all the circumstances, including its connection with other persons, the range and nature of its regulated activities

and the overall need to be satisfied that its affairs are and will be conducted soundly and prudently.

COND 2.5.3G(1) provides that the emphasis of this Threshold Condition is on the suitability of the firm itself. The suitability of each person who performs a controlled function will be assessed by the FSA under the approved person's regime. In certain circumstances, however, the FSA may consider that the firm is not suitable because of doubts over the individual or collective suitability of persons connected with the firm.

COND 2.5.3G(2) permits the FSA, when assessing this Threshold Condition in relation to a firm, to have regard to any person appearing to it to be, or likely to be, in a relevant relationship with the firm, as permitted by section 49 of FSMA (Persons connected with the applicant). The guidance in COND 2.5.3G(2) also refers to COND 2.4.3G, which sets out examples of persons in a relevant relationship with the firm.

COND 2.5.4G(1) & (2) provide that when determining whether the firm will satisfy and continue to satisfy Threshold Condition 5, the FSA will have regard to all relevant matters including whether a firm: (a) conducts, or will conduct, its business with integrity and in compliance with proper standards; (b) has or will have a competent and prudent management and (c) can demonstrate that it conducts, or will conduct, its affairs with the exercise of due skill, care and diligence.

COND 2.5.6G(1) provides that in determining whether a firm will satisfy, and continue to satisfy, Threshold Condition 5 in respect of conducting its business with integrity and in compliance with proper standards, relevant matters may include whether the firm has been open and co-operative in all its dealings with the FSA and any other regulatory body and is ready, willing and organised to comply with the requirements and standards under the regulatory system and other legal, regulatory and professional obligations.

COND 2.5.6G(4) provides that in determining whether a firm will satisfy, and continue to satisfy, Threshold Condition 5 in respect of conducting its business with integrity and in compliance with proper standards, relevant matters may include whether the firm is connected with a person who has contravened any provisions of FSMA or the regulatory system.