



Financial Services Authority

FINAL NOTICE

To: David John Purdie

Of: Apartment 24
Merchant Quays
The Close
Newcastle-Upon-Tyne
NE1 3RS

Dated: 26 February 2009

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (the “FSA”) gives you final notice about a prohibition order against you.

1. THE ORDER

- 1.1. The FSA gave you, David Purdie, a Decision Notice on 16 January 2009 which notified you that the FSA has decided, pursuant to section 56 of the Financial Services and Markets Act 2000 (the “Act”), to make an order prohibiting you from performing any function in relation to any regulated activity carried on by any authorised person or exempt person or exempt professional firm (the “Prohibition Order”).
- 1.2. You were informed of your statutory right to make a reference to the Financial Services and Markets Tribunal, but you have not referred the Decision Notice to the 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 person or exempt person or exempt professional firm. The Prohibition Order takes effect on 26 February 2009.

2. REASONS FOR THE ORDER

2.1. The FSA has concluded that you are not fit and proper to perform functions in relation to regulated activities carried on by an authorised person, exempt person or exempt professional firm. In particular, you have demonstrated that you lack honesty and integrity because:

- (1) you knowingly completed application forms for unregulated and regulated mortgage contracts with false information which were submitted through Newcastle Home Loans (“NHL”/the “Firm”) to a mortgage lender to which NHL was tied (the “Lender”); and
- (2) you dishonestly declared on mortgage application forms that you had met the customer face to face and provided mortgage advice when you had not.

Relevant Statutory and Regulatory Provisions

2.2. Under section 2(2) of the Act the protection of consumers and the reduction of financial crime are regulatory objectives for the FSA.

2.3. Section 56 of the Act states that the FSA may make an order prohibiting an individual from performing a specified function, any function falling within a specified description or any function where it appears to the FSA that the individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person.

2.4. In deciding to take the action proposed, the FSA has had regard to guidance published in the FSA Handbook, in particular to Chapter 9 of the FSA's Enforcement Guide. Paragraph 9.17 states that the FSA will consider the severity of the risk posed by the individual and may prohibit that individual where it considers this is appropriate to achieve one or more of its regulatory objectives. It also states that the FSA will take into account all relevant circumstances. The following are most relevant:

- (1) a person's honesty and integrity with reference to Chapter 2.1 of the Fit and Proper Test for Approved Persons;
- (2) the relevance and materiality of any matters indicating unfitness;
- (3) the length of time since the occurrence of any matters indicating unfitness; and
- (4) the severity of the risk which the individual poses to consumers and to confidence in the financial system.

2.5. As this matter relates to events prior to the introduction of DEPP (28 August 2007), the FSA has also had regard to the relevant policies set out in the Enforcement Manual (which preceded DEPP) at ENF 8.8.

Facts and matters relied upon

Background

- 2.6. NHL was incorporated on 29 April 2003, and was set up and run by you, together with a relative. The Firm originally operated as a "branded lender", and as such, it could only arrange mortgage applications exclusively for the Lender.
- 2.7. You are not a director of NHL. Despite not being formally appointed as a director, in practice you have always carried out this role and are, in effect, the Chief Executive Officer ("CEO") of the Firm.
- 2.8. On 31 October 2004, the FSA took regulatory responsibility for certain mortgage activities. NHL applied for authorisation on 31 May 2005 to conduct regulated mortgage activities. It became authorised on 7 October 2005.
- 2.9. NHL arranged both regulated and unregulated mortgage contracts. Prior to November 2005, the mix of business submitted through NHL was approximately 60% regulated and 40% unregulated. During the year up to October 2007, the amount of regulated business dropped to 5%.
- 2.10. In December 2005, the Lender began to review a number of applications for both regulated and unregulated mortgage contracts submitted by NHL. By this date, a total of 1,700 applications had originated from NHL since December 2003. Its initial findings raised concerns over the accuracy of property valuations. It also established differences between statements made on mortgage application forms and information held at the Land Registry. Its subsequent wider review found that mortgage applications were being presented as remortgages when they were actually purchases. The actual purchase price paid for some properties had been concealed from the Lender, and in some cases, the actual purchase price paid was significantly lower than the valuation that had been provided.
- 2.11. The Lender referred 157 cases to the FSA. 20 of these were regulated mortgage applications and the remainder were unregulated applications.
- 2.12. On 17 May 2006 the Lender terminated its relationship with NHL.

Dishonesty in completing application forms

- 2.13. During the period August 2005 to January 2006 you, on behalf of NHL, knowingly arranged eight regulated mortgage applications containing false information. You signed and completed all "Know Your Customer" forms for these mortgage applicants, completed summaries of the transactions for the file, corresponded with the solicitors and completed by hand parts of the customers' application forms.
- 2.14. These applications were false in that they:
 - (1) mis-stated the purchase price to be paid for the property. In four applications the purchase price stated was greater than the purchase price the applicant intended to pay for the property. These applications also stated that the

applicant was paying the deposit from their own resources, or was receiving family assistance towards the deposit, when they were not;

- (2) mis-stated the purpose of the loan. In four applications, the transaction was made to appear to be a remortgage when the applicant was purchasing the property for the first time. This was done by:
 - (a) completing the section entitled "Remortgage of a property already owned" on the application form;
 - (b) inserting a fictional date on which the applicant had supposedly purchased the property; and
 - (c) inserting a fictional price paid. This amount exceeded the price the applicant eventually paid for the property when the transaction completed.
- 2.15. The Lender's policy was to lend 85% of the purchase price. As a result of the false information, the Lender actually advanced from 100% up to 126% of the actual purchase price paid.
- 2.16. You also knowingly arranged five applications in your wife's name which contained false information as follows:
 - (1) all five applications falsely stated that Grace Purdie already owned the properties; and
 - (2) to further the illusion that your wife already owned the properties, the forms stated that she had bought them originally with a bank loan which was false.
- 2.17. In one application form which you completed for your wife, the Lender advanced 142% of the purchase price of the property and Grace Purdie received the balance of the mortgage after costs, a sum of £59,562.78.
- 2.18. The practice of providing false information in relation to both regulated and unregulated mortgage contracts was routine at the Firm and was not limited to the applications reviewed in the course of the FSA's investigation or to those applications detailed above.

Dishonestly declaring you had given mortgage advice
- 2.19. You signed Know Your Customer declarations, declaring the application had been made by the customer face to face in 17 of the 20 regulated mortgage applications reviewed when you did not do customer-facing work at NHL.
- 2.20. You also signed the application form on at least three regulated mortgage applications stating that you had provided mortgage advice to the customer as a consultant for the introducing broker when you did not give mortgage advice to customers.
- 2.21. You knew that it was necessary to state on the application that advice had been given by the introducing broker to ensure the application would be accepted by the Lender.

Representations

- 2.22. You made no representations in respect of the Warning Notice.

Conclusion

- 2.23. You acted without honesty and integrity by knowingly arranging regulated and unregulated mortgage contracts through NHL on the basis of applications containing false information. This was routine practice within the Firm as you were aware. Further, you acted without honesty and integrity by stating on application forms for regulated mortgage contracts that you had given mortgage advice when you had not.
- 2.24. You are therefore not fit and proper to perform any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm. You have demonstrated a serious lack of honesty and integrity. Your actions in knowingly inserting false information into mortgage application forms and submitting these applications through NHL may have resulted in financial crime.
- 2.25. Your involvement in regulated mortgage business and in the affairs of NHL, an authorised firm, is apparent. As such you pose a risk to the FSA's regulatory statutory objectives of reducing financial crime, maintaining confidence in the financial system and protecting consumers. Given that you are not an approved person, it is appropriate for the FSA to prohibit you to ensure it achieves its regulatory objectives.
- 2.26. The FSA is not aware that there were any genuine customers who suffered loss as result of your failings. The concerns raised in this notice as regards loss caused by the submission of false mortgage applications relate to that suffered by the Lender.

3. DECISION MAKER

- 3.1. The decision which gave rise to the obligation to give this 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 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 intend 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 Bill Sillett (direct line: 020 7066 5880) of the Enforcement Division of the FSA.

**William Amos
Head of Department
Enforcement Division**