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**FINAL NOTICE**

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**To:** Ashfaq Ahmed trading as Eastside Mortgages

**Address:** 351 Hoe Street  
Walthamstow  
London E17 9AP

**FRN:** 310514

**Individual FSA reference:** AXA01553

**Dated:** 25 March 2009

**TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (“the FSA”) gives you final notice about an order prohibiting you, Ashfaq Ahmed, from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm and about the cancellation of your Part IV permission**

**1. ACTION**

1.1. The FSA gave you a Decision Notice on 25 March 2009 (“the Decision Notice”), which notified you that it had decided to make a prohibition order against you to prevent you from carrying out any function in relation to any regulated activity carried out by any authorised person, exempt person or exempt professional firm (“the

Prohibition Order”) pursuant to section 56 of the Financial Services and Markets Act (the “Act”) and to cancel your Part IV permission pursuant to section 45 of the Act.

- 1.2. You agreed that you would not be referring the matter to the Financial Services and Markets Tribunal.
- 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 functions in relations to any regulated activity carried out by an authorised person, exempt person or exempt professional firm and has cancelled your Part IV permission pursuant to section 45 of the Act. The Prohibition Order and the cancellation of your Part IV permission take effect from 25 March 2009.

## **2. REASONS FOR THE ACTION**

- 2.1. The FSA has concluded, on the basis of the facts and matters summarised below and as set out in more detail in section 4 of this Notice, that you have fallen below minimum regulatory standards in terms of honesty and integrity.
- 2.2. You submitted two mortgage applications to lenders for yourself through Eastside Mortgages that were based on false and misleading information about your income.

## **3. STATUTORY PROVISIONS, REGULATORY GUIDANCE AND POLICY**

### **Statutory provisions**

- 3.1. The relevant statutory provisions, regulatory guidance and policy are set out as an Annex to this notice.

## **4. FACTS AND MATTERS RELIED ON**

### **Background**

- 4.1. You are the authorised person. You were the only mortgage adviser at Eastside Mortgages. Between 31 October 2004 and 10 September 2008, you operated as a sole trader mortgage intermediary in Walthamstow, London. You also traded under the trading name Dockside Mortgages.

4.2. You became authorised on 31 October 2004 to carry on the following regulated activities:

- (1) agreeing to carry on a regulated activity;
- (2) advising on regulated mortgage contracts;
- (3) arranging regulated mortgage contracts; and
- (4) making arrangements with a view to regulated mortgage contracts.

4.3. The facts and matters set out below have led the FSA to conclude that you lack honesty and integrity.

#### **Personal mortgage applications**

4.4. In April 2006, you submitted a mortgage application to Lender A for your dwelling. On your mortgage application form, you declared that your self-employed income (i.e. profit) from Eastside Mortgages was £51,350 for the tax year ended 2005, £49,205 for the tax year ended 2004 and £47,330 for the tax year ended 2003.

4.5. In November 2007, you submitted another mortgage application to Lender B for a second property. On your mortgage application form, you declared your income from Eastside Mortgages was £57,500 for the tax year ended 2007, £55,110 for the tax year ended 2006 and £53,420 for the tax year ended 2005.

4.6. These figures are significantly higher than the income figures that you reported to Her Majesty's Revenue and Customs ("HMRC"). According to HMRC's records, you declared personal income of £1,196.90 and net profit of £4,762 for the tax year ended 2006. HMRC held no records for the tax years ending 2004, 2005 and 2007.

4.7. You provided two lenders with false and misleading information about your income for the purpose of obtaining mortgages for yourself. As a result, lenders agreed to provide you with loans based on false information and, having not been given all the relevant information, were unable to properly assess the risk of you defaulting on mortgage payments.

## 5. CONCLUSIONS

- 5.1. The FSA considered whether you are a fit and proper person to perform any functions in relation to regulated activities. In doing so, the FSA considered its regulatory requirements and regulatory guidance. In assessing your honesty, integrity and reputation for the purpose of considering whether you are a fit and proper person, the FSA highlighted the following:
  - 5.1.1. you knowingly submitted false and misleading information about your income to obtain mortgages for yourself, demonstrating that you failed to comply with the standards of the regulatory system and therefore failed to act with honesty and integrity – FIT 2.1.3G (5);
  - 5.1.2. you acted in a way which was not candid and truthful, demonstrating that you are not ready and willing to comply with regulatory requirements and standards of the regulatory system – FIT 2.1.3G (13).
- 5.2. The FSA considered that you pose a serious risk to lenders, to consumers, and to confidence in the financial system. This action was also taken in support of the FSA's financial crime objective.
- 5.3. The FSA considered it necessary to impose a prohibition order on you and that such action is consistent with the FSA's policy of seeking to prevent individuals who lack honesty and integrity from working in or as authorised firms, in support of the FSA's financial crime, market confidence and consumer protection objectives.
- 5.4. As a sole trader you were the authorised person. You were solely responsible for the regulated activities at Eastside Mortgages and you were the only mortgage adviser there. By submitting false and misleading information, Eastside Mortgages did not conduct its business with integrity and was not in compliance with proper standards (COND 2.5.6G (1)). As such, you, as the authorised person, were failing to satisfy Threshold Condition 5 (Suitability). Accordingly, the FSA considered it appropriate to cancel your Part IV permission.

**6. DECISION MAKER**

- 6.1. The decision which gave rise to the obligation to give this Final Notice was made by Settlement Decision Makers on behalf of the FSA

**7. IMPORTANT**

- 7.1. This Final Notice is given to you in accordance with section 390 of the Act.

**Publicity**

- 7.2. 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. 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 interest of consumers.
- 7.3. The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

**FSA contacts**

- 7.4. For more information concerning this matter generally, you should contact Chris Walmsley of the Enforcement Division of the FSA (direct line: 020 7066 5894/fax: 020 7066 5895).

Jonathan Phelan  
Head of Department  
FSA Enforcement Division



## **Annex**

### **STATUTORY PROVISIONS, REGULATORY GUIDANCE AND POLICY**

#### **Statutory objectives**

FSA's statutory objectives, set out in section 2(2) of the Act, include market confidence, the protection of consumers and the reduction of financial crime.

#### **Prohibition orders**

The FSA has the power, by virtue of section 56 of the Act, to make an order prohibiting you from performing a specified function, any function falling within a specified description or any function, if it appears to the FSA that you are not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person. Such an order may relate to a specific regulated activity, an activity falling within a specified description or all regulated activities.

#### **FSA's policy for exercising its power to make a prohibition order**

The FSA's approach to exercising its powers to make prohibition orders is set out at Chapter 9 of the Enforcement Guide ("EG").

EG 9.4 sets out the general scope of the FSA's power in this respect, which include the power to make a range of prohibition orders depending on the circumstances of each case and the range of regulated activities to which the individual's lack of fitness and propriety is relevant. EG 9.5 provides that the scope of a prohibition order will vary according to the range of functions which the individual concerned performs in relation to regulated activities, the reasons why he is not fit and proper and the severity of risk which he poses to consumers or the market generally.

EG 9.17 to 9.18 provide guidance on the FSA's exercise of its power to make a prohibition order against an individual who is not an approved person. The FSA will consider the severity of the risk posed by the individual and may prohibit the individual where it considers this is appropriate to achieve one or more of its regulatory objectives. When considering whether to exercise its power to make a prohibition order against such an individual, the FSA

will consider all the relevant circumstances of the case, which may include but are not limited to the factors set out in EG 9.9.

EG 9.9 provides that when deciding whether to make a prohibition order the FSA will consider all the relevant circumstances of the case, which may include (but are not limited to):

- (1) whether the individual is fit and proper to perform functions in relation to regulated activities. The criteria for assessing the fitness and propriety are set out in FIT 2.1 (Honesty, integrity and reputation), FIT2.2 (Competence and capability) and FIT 2.3 (Financial soundness);
- (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.

EG 9.12 provides a number of examples of types of behaviour which have previously resulted in the FSA deciding to issue a prohibition order. The examples include severe acts of dishonesty, for example those which may have resulted in financial crime.

### **Fit and Proper Test for Approved Persons**

The part of the FSA Handbook entitled “FIT” sets out the Fit and Proper Test for Approved Persons. The purpose of FIT is to outline the main criteria for assessing the fitness and propriety of a candidate for a controlled function. FIT is also relevant in assessing the continuing fitness and propriety of an individual who is not an approved person.

In this instance, the criteria set out in FIT are relevant in considering whether the FSA may exercise its powers to make a prohibition order against an individual who is not an approved person in accordance with EG 9.9 and EG 9.18. In particular, EG 9.18 provides that when the FSA is considering whether to exercise its power to make a prohibition order against an individual who is not an approved person, the FSA will consider all the relevant circumstances of the case which include, but are not limited to, all the factors in EG 9.9. EG



9.9 (2) provides one such circumstance as whether the individual is fit and proper to perform functions in relation to regulated activities.

FIT 1.3.1G provides that the FSA will have regard to a number of factors when assessing a person's fitness and propriety. One of the most important considerations will be the person's honesty, integrity and reputation.

In determining a person's honesty, integrity and reputation, FIT 2.1 provides that the FSA will have regard to matters including, but not limited to, those set out in FIT 2.1.3G. The guidance includes:

- (1) whether the person has contravened any of the requirements and standards of the regulatory system (FIT 2.1.3G(5)); and
- (2) 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 (FIT 2.1.3G(13)).

### **Cancellation of Part IV permission**

The FSA is authorised by sections 45(1) and (2) of the Act 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.

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

Paragraph 5 of Schedule 6 to the Act states that the person concerned must satisfy the FSA that he is a fit and proper person having regard to all the circumstances including the need to ensure that his affairs are conducted soundly and prudently (Threshold Condition 5: Suitability).

COND 2.5.4G and 2.5.6G provide that, in determining whether a firm satisfies Threshold Condition 5, the FSA will have regard to whether, among other things, the firm is conducting its business with integrity and in compliance with proper standards, including whether the

firm is ready, willing and organised to comply with the requirements and standards under the regulatory system (COND 2.5.6G(1)); and whether the firm has contravened, or is connected with any person who has contravened, any provision of the Act or the regulatory system (COND 2.5.6G(4)).

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

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