

To: **Harry Brian Hopkinson** **Western County Consultants Limited**
130 Gloucester Road
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BS34 5BP

Reference

Dated: **9 January 2009**

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London, E14 5HS (the “FSA”) gives Harry Brian Hopkinson (“Mr Hopkinson” and Western County Consultants Limited (“WCCL”) final notice about a decision to withdraw the approval granted to Mr Hopkinson in relation to WCCL

- 1.1 The FSA gave Mr Hopkinson and WCCL a Decision Notice on 28 November 2008 (the “Decision Notice”) which notified them that, pursuant to section 63(1) of the Financial Services and Markets Act 2000 (the “Act”), the FSA had decided to withdraw the approval granted to Mr Hopkinson in relation to WCCL.
- 1.2 Neither Mr Hopkinson nor WCCL has referred the matter to the Financial Services and Markets Tribunal within 28 days of the date on which the Decision Notice was given to them.
- 1.3 Accordingly, for the reasons set out below, the FSA has withdrawn the approval granted to Mr Hopkinson in relation to WCCL.

2. REASONS FOR THE ACTION

2.1 The FSA has concluded, on the basis of the facts and matters described in its Warning Notice dated 17 October 2008 (an extract from which is attached to and forms part of

this Final Notice), and in the Decision Notice that it is not satisfied that Mr Hopkinson is a fit and proper person to perform the functions for which he is approved in relation to WCCL. That is because, in the opinion of the FSA, he has failed to meet the criteria for fitness and propriety contained in the Fit and Proper Test for Approved Persons contained in the High Level Standards block of the FSA Handbook.

- 2.2 Specifically, Mr Hopkinson has failed to comply with an award made by the Financial Ombudsman Service (the "FOS") against him as a sole trader, relating to advice given by him to Mr and Mrs S in 1987 and 1992.

Relevant Statutory Provisions

- 2.3 The FSA's regulatory objectives are set out in section 2(2) of the Act and include the protection of consumers and market confidence.
- 2.4 By section 63(1) of the Act, the FSA is authorised to withdraw the approval of an individual if it considers the person in respect of whom approval was given is not a fit and proper person to perform the function to which the approval relates.

Relevant Handbook Provisions

- 2.5 In exercising its power to withdraw the approval of an individual, the FSA must have regard to relevant provisions in the FSA Handbook of rules and guidance. The main provisions relevant to the action specified above are set out below.

Fit and Proper Test for Approved Persons ("FIT")

- 2.6 In considering whether a person is fit and proper to perform particular controlled functions in relation to regulated activities which a firm seeks to carry on, the FSA will consider that person's honesty, integrity and reputation and also financial soundness.
- 2.7 FIT 2.1.3G(5) provides that the FSA will have regard to whether a person has contravened any of the requirements and standards of the regulatory system or the equivalent standards or requirements of other regulatory authorities (including those of a previous regulator).
- 2.8 FIT 2.1.3G(6) provides that the FSA will have regard to whether a person has been the subject of any justified complaint relating to regulated activities.
- 2.9 FIT 2.1.3G(13) provides that the FSA will have regard to whether a 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.
- 2.10 FIT 2.3.1G(1) provides that the FSA in determining a person's financial soundness will have regard to whether the person has been the subject of any judgement debt or award, in the United Kingdom or elsewhere, that remains outstanding or was not satisfied within a reasonable period.

Other Relevant Regulatory Provisions

- 2.11 In exercising its power to withdraw the approval of an individual, the FSA must also have regard to relevant regulatory provisions and guidance, particularly in the Enforcement Guide.

The Enforcement Guide ("EG")

- 2.12 EG 9.2 states that where the FSA considers it appropriate, the FSA may withdraw the approval of an approved person where the FSA believes that person is not a fit and proper person to perform controlled functions.
- 2.13 EG 9.9(2) states that when the FSA decides whether to exercise its power to withdraw approval the FSA will consider all the relevant circumstances of the case including the criteria for assessing the fitness and propriety of approved persons contained in FIT.
- 2.14 EG 9.9(9) states that the FSA will consider the disciplinary record and general compliance history of the individual including whether the FSA, any previous regulator, designated professional body or other domestic or international regulator has previously imposed a disciplinary sanction on the individual.

3. DECISION MAKER

- 3.1 The decision which gave rise to the obligation to issue this Final Notice was taken by the Regulatory Decisions Committee.

4. IMPORTANT

- 4.1 This Final Notice is given to Mr Hopkinson and WCCL in accordance with section 390(1) 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 Final Notice relates. Under those provisions, the FSA must publish such information about the matter to which this Final 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 Hopkinson or WCCL or prejudicial to the interests of consumers.
- 4.3 The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

FSA Contact

- 4.4 For more information concerning this matter generally, you should contact Isabel Barnes at the FSA (direct line: 020 7066 1426/fax: 020 7066 1427).

John Kirby
FSA Enforcement Division

EXTRACT FROM THE WARNING NOTICE DATED 17 OCTOBER 2008 ISSUED TO HARRY BRIAN HOPKINSON AND WESTERN COUNTY CONSULTANTS LIMITED

“2. REASONS FOR THE PROPOSED ACTION

Facts and matters relied on

- 2.14 WCCL was granted authorisation by the FSA on 31 October 2004 to carry on mortgage business and since 14 January 2005 has also been permitted to carry on insurance mediation business.
- 2.15 Mr Hopkinson is the sole director and controller of WCCL, and was approved by the FSA on 31 October 2004 to perform controlled functions in relation to the regulated activities carried on by WCCL.
- 2.16 Prior to his FSA authorisation via WCCL, Mr Hopkinson traded as a sole trader in the name Western County Consultants (“WCC”). He was initially authorised on 29 April 1988 by the Financial Intermediaries, Managers and Brokers Regulatory Association.
- 2.17 Mr Hopkinson has failed to comply with an award made by the FOS against him, relating to advice given by WCC to [name omitted] in 1987 and 1992 (the “Award”). The Award required that Mr Hopkinson calculate the amount of compensation to be paid to the complainants, and to make payment to them promptly. Despite repeated requests from the FOS and the FSA that he do so, Mr Hopkinson has not complied with the Award, and has stated that he has no intention of doing so.

Conclusions

- 2.18 The facts and matters described above lead the FSA, having regard to its regulatory objectives which include the protection of consumers and market confidence, to conclude that, in having failed to comply with the Award, Mr Hopkinson has failed to satisfy the FSA that he is fit and proper to perform the controlled functions for which he is approved in relation to WCCL and the regulated activities it seeks to carry on, or to be a controller of WCCL.”

END OF EXTRACT