
FINAL NOTICE

To: Julie Hutcheson

**Of: 8 Elm Court
Elm Park Road
Pinner
HA5 3LG**

Dated: 24 August 2009

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (“the FSA”) gives you, Julie Hutcheson, final notice about an order prohibiting you from performing any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm (“the Prohibition Order”).

1. ACTION

1.1 The FSA gave you, Julie Hutcheson, a Decision Notice on 8 July 2009 (“the Decision Notice”) which notified you that it had decided to make 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, exempt person or exempt professional firm (the “Prohibition Order”), because you lack competence and

capacity. While employed as a mortgage adviser, you did not appropriately scrutinise and challenge the information provided by customers on their mortgage application forms.

1.2 You did not refer the matter to the Financial Services and Markets Tribunal within 28 days of the date on which the Decision Notice was given to you.

1.3 Accordingly 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 out by an authorised person, exempt person or exempt professional firm. The Prohibition Order takes effect from 10 August 2009.

2. REASONS FOR THE ACTION

2.1 By a Decision Notice dated 8 July 2009, the FSA concluded that:

- (1) You declared false and misleading information about the identities and income to lenders to obtain mortgages for your customers, and
- (2) You either failed to identify the anomalies and inconsistencies on file or you did identify them but failed to appreciate their significance as indicators of mortgage fraud, despite being an experienced mortgage adviser; and
- (3) You have failed to meet the minimum regulatory standards in terms of competence and capability and that you are not therefore fit and proper to carry out any functions in relation to any regulated activities carried on by any authorised persons.

3. STATUTORY PROVISIONS, REGULATORY GUIDANCE AND POLICY

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 From October 2005 until September 2007, you worked as a self-employed mortgage adviser at Lifestyle Mortgage Services Limited (“Lifestyle”), a mortgage broker in the Edware area. The function you performed was not a controlled function and you did not need to be an approved person.
- 4.2 In October 2007, the FSA commenced an investigation into Lifestyle after concerns were raised that the firm was submitting fraudulent mortgage business to lenders.
- 4.3 On 11 January 2008, the FSA commenced a separate investigation into your conduct during the period in which you worked at Lifestyle due to circumstances suggesting that you were knowingly involved in the submission of mortgage applications based on false and misleading information to lenders.
- 4.4 During the course of this investigation, you were interviewed by investigators on 20 February 2008.

Lifestyle customers you advised

Customer A

- 4.5 Customer A approached Lifestyle in December 2006 as a first time buyer. You were the mortgage adviser working on the case.
- 4.6 You recorded on the fact find that Customer A is a self-employed IT consultant trading as Company P with a provable income of £135,000 per annum. The notes on the fact find state Customer A obtained a “Decision in Principle”^{*} from Lender X. The “Decision in Principle” stated that the maximum loan that would be available to the customer, in principle, would be £500,000. Customer A was unhappy with this

^{*} A “Decision in Principle” (or an “Acceptance in Principle”) only provides an indication of the amount that a mortgage lender is willing to lend to an individual. It is not a formal offer and mortgage lenders will usually not have conducted a credit check or performed any underwriting checks on the customer.

loan amount and you therefore obtained an “Acceptance in Principle”¹ from Lender Y.

- 4.7 The FSA obtained copies of the Decision in Principle and the Acceptance in Principle. The form for the Decision in Principle states that Customer A is a self employed IT consultant trading as Customer A with a net profit for 2006 and 2005 as £130,000 and £125,000, respectively. These figures have been crossed out by hand and amounts of £135,000, £130,000 and £125,000 for 2006, 2005 and 2004, respectively, have been inserted. From samples taken from other customer files, the writing used to make this alteration is similar to yours, although a handwriting expert has not been commissioned to officially compare the handwriting as the original documents are not available.
- 4.8 The mortgage application form sent to Lender X was supported by an accountant’s certificate. The information on the certificate is inconsistent with that disclosed on the Decision in Principle form. The certificate is in respect of Customer A trading as Company P and shows a net profit of £125,000 for 2005 and £120,000 for 2004. The accountant’s certificate has not been certified as a true copy but a reference number has been handwritten on the top right hand corner in handwriting which appears to be yours. It appears that Customer A inflated his income details in an attempt to secure a higher loan amount than that which Lender X was prepared to lend him.
- 4.9 You then submitted a mortgage application to Lender Y on 13 December 2006. This application states that Customer A is a self employed IT consultant with an income of £135,000.
- 4.10 The FSA could find no record of Company P at Companies House or on the internet. Moreover, Company P was the trading name declared on mortgage application forms submitted to lenders by Customer B (see below), whose applications you were processing simultaneously. At interview, you admitted you had not noticed this at the time you were working on the files.

¹ An “Acceptance in Principle” (or a “Decision in Principle”) only provides an indication of the amount that a mortgage lender is willing to lend to an individual. It is not a formal offer and mortgage lenders will usually not have conducted a credit check or performed any underwriting checks on the customer.

4.11 The FSA submitted Customer A's declared income details to Her Majesty's Revenue and Customs ("HMRC") for verification. HMRC has been unable to find any record of Customer A.

Customer B

4.12 In June 2006, you completed a fact find for a mortgage application to purchase a property in Edgware for Customer B. This was submitted to Lender Y together with a mortgage application form.

4.13 The FSA obtained a copy of the mortgage application form from Lender Y. On this document, Customer B declared his occupation as a self-employed IT consultant trading as Customer B. His drawings for the year ended 5 April 2006 were declared to be £224,986.

4.14 On 9 November 2006, you submitted Customer B's application to Lender X for a buy-to-let mortgage on a different property. On 14 December 2006 you submitted another application for buy-to-let mortgages on two properties to Lender Z. None of these mortgage applications was completed and Lender Z notified Lifestyle on 7 February 2007 that the mortgage on one of the properties was being declined due to adverse credit.

4.15 On each of the applications described in paragraph 4.14, Customer B stated that he was a self employed IT consultant trading as Company P with profit in the year ending 31 March 2006 of £297,113.

4.16 As set out above, in relation to Customer A, the FSA has been unable to trace Company P at Companies House or on the internet. It is also the trading name given by Customer A, an apparently unconnected applicant, whose application you submitted in December 2006.

4.17 Customer B acts as the introducer on several cases that you worked on, but not on all. Customer B is also stated to be the contact for access to property on several of these applications.

- 4.18 The FSA submitted Customer B's declared income details to HMRC for verification. HMRC was unable to find any record of Customer B.

Customer C

- 4.19 Customer C submitted an application through you to Lender X on 1 February 2007 for the purchase of a penthouse flat. This customer was introduced to Lifestyle by Customer B.
- 4.20 On his mortgage application, Customer C stated that he was a self employed IT consultant trading under his own name and he disclosed profits of £182,810 for 2006 and £178,650 for 2005.
- 4.21 Customer C's file contains copies of bank statements for the period 1 December 2006 to 1 March 2007. The statements show monthly income of between £5,109 and £8,102. This is less than the net monthly income of £9,141 disclosed on the fact find. These statements are also for a different account to that disclosed on the direct debit mandate and faxed to Lender X by you.
- 4.22 This application was supported by an accountant's certificate provided by Mr P trading as Company P. On 19 April 2007, the FSA's Regulatory Decisions Committee decided to cancel Company P's Part IV permission on the basis that Mr P was knowingly involved in at least one false mortgage application and the production of false accounts.
- 4.23 The direct debit details on Customer C's application are the same as those disclosed on the mortgage application forms of Customers D and E.
- 4.24 The FSA sent the income details of Customer C to HMRC for verification. HMRC was unable to find any record of Customer C.

Customer D

4.25 Customer D submitted a mortgage application through you to Lender X on 8 March 2007 stating that he was a self employed IT consultant earning £173,750. There was no introducer on this case.

4.26 The only documents on the customer's file are copies of a Decision in Principle and a mortgage application form. In a letter to the FSA SFCD, Lifestyle stated:

"[We] have asked Julie whether she recalls actually submitting an application to the lenders and she had told me she cannot remember doing so. The client never returned and nothing more happened.

Julie tells me she did not realise that, even though no business has been written, she should have retained proper records about what happened."

4.27 As stated above, the bank details on Customer D's application are the same details used on the mortgage applications of Customers C and E.

4.28 The mobile phone number disclosed by Customer D on his mortgage application form is the same as that disclosed on the mortgage application form of Customer F.

4.29 The FSA submitted Customer D's income details to HMRC for verification. HMRC was unable to find any record of Customer D.

Customer E

4.30 You submitted Customer E's mortgage application to Lender X on 13 February 2007. You then submitted a second mortgage application on Customer E's behalf, for a different property, to Lender X.

4.31 The first application form you submitted states that, for access to the property, the surveyor should contact an individual with the same first name and mobile telephone number as Customer B.

4.32 Customer E declared to Lender X that he was a self-employed IT consultant trading under his own name. He disclosed profits of £163,500 for 2006 and £161,750 for 2007 on both his mortgage applications, declaring his monthly net income to be £9,946.

- 4.33 Customer E's client file contains copies of bank statements covering the period 2 November 2006 to 2 February 2007 and 2 April to 2 May 2007. You certified the bank statements. Whilst the amount of income received into Customer E's account is consistent with the salary he declared on his mortgage applications, there are several large cash receipts which appear unusual for an IT consultant.
- 4.34 The direct debit details on both of Customer E's applications are the same as those disclosed on the mortgage applications of Customers C and D. On the hard copy version of the first of Customer E's mortgage applications, Customer B is named as the account holder. The bank details have been crossed through and the details of a different account written in. However, on the hard copy of Customer E's second application, the account name for the direct debit is stated to be Customer D.
- 4.35 The FSA submitted Customer E's income details to HMRC for verification. HMRC were unable to find any record of Customer E.

Customer F

- 4.36 Customer F applied, through you, for an interest only mortgage of £350,000 to Lender X on 22 February 2007. The customer was introduced to Lifestyle by Customer B. Customer F has the same surname as Customer E.
- 4.37 Customer F said that she was a self employed event planner and disclosed earnings of £160,700 in 2006 and £158,375 in 2005, equating to a net monthly income of £8,035.
- 4.38 On her application form, Customer F stated that she has lived at her address since May 2003 and that she runs her business from this flat. This address is the same one that Customer C wished to purchase in February 2007.
- 4.39 Customer F's file contains copies of bank statements for an account in her name covering the period 1 December 2006 to 29 December 2006 and 1 to 28 February 2007 which have been certified by you. Although the account is described as a current account and there are a number of significant payments made into the account, there is very little monthly expenditure.

- 4.40 On Customer F's application, her mobile phone number is disclosed and is the same number disclosed by Customer C on his mortgage application.
- 4.41 The FSA submitted Customer F's income details to HMRC for verification. HMRC has been unable to find any record of Customer F.

Representation and findings

- 4.42 At interview, the FSA put all the anomalies, inconsistencies and links between apparently the above customers and their mortgage applications to you. Your response in every instance was that you did not notice the inconsistencies within individual applications or the links and similarities between apparently unconnected applications at the time.

5. CONCLUSIONS

- 5.1 The FSA concluded that the conduct summarised in section 4 above represents a failure by you to meet the minimum regulatory standards in terms of competence and capability and that you are not therefore fit and proper to carry out any functions in relation to any regulated activities carried on by any authorised persons.
- 5.2 The mortgage applications for each of the customers discussed above were based on false identities and information and were therefore fraudulent.
- 5.3 In the FSA's opinion, the anomalies and inconsistencies in the information provided to you by these customers in support of their mortgage applications, and the similarities between apparently unconnected applications, were such that a reasonably competent and capable mortgage adviser would have identified them and questioned the integrity of the information provided, particularly given the very short space of time within which the applications were processed.
- 5.4 You failed to notice these anomalies, inconsistencies and links between apparently unconnected mortgage applications or you did identify them but failed to appreciate their significance as indicators of mortgage fraud. As a result the FSA has concluded that you have failed to meet the minimum regulatory standards in terms of competence and capability.

5.5 Given the facts and matters set out in this Final Notice, it appears to the FSA that you are not a fit and proper person to perform functions in relation to the regulated activity of advising on regulated mortgage contracts and related activities. It is necessary therefore, in order to achieve its regulatory objectives, for the FSA to exercise its power to make a Prohibition Order against you. In particular, taking this action against you is consistent with the FSA's policy of seeking to prevent individuals lacking competence and capability in the functions they are performing from working in authorised firms.

General conclusion

5.6 The FSA is satisfied that you are not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised firm and that her permission should be cancelled.

6. DECISION MAKER

6.1 The decision which have rise to the obligation to give this Final Notice was made by the Regulatory Decisions Committee.

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 Final 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.

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 Paul Howick of the Enforcement Division of the FSA (direct line: 020 7066 7954).

Tom Spender
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.

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.

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)).

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

The FSA's approach to exercising its powers to make prohibition orders and withdraw approvals 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.