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**FINAL NOTICE**

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To: **Mr Isah Attayi Mohammed**

Reference: **IAM01047**

Date of birth: **25 September 1963**

Date: **2 May 2008**

**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, Isah Attayi Mohammed, from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.**

**1. THE ORDER**

1.1. The FSA gave you a Decision Notice dated 2 May 2008 ("the Decision Notice") which notified you that, for the reasons listed below and pursuant to section 56 of the Financial Services and Markets Act 2000 ("the Act"), the FSA had decided to make an order prohibiting you, Isah Attayi Mohammed, from performing any function in relation to any regulated activity ("the Prohibition Order") carried on by any authorised person, exempt person or exempt professional firm.

- 1.2. You agreed that you will not be referring the matter to the Financial Services and Markets Tribunal.
- 1.3. You agreed to settle at an early stage of the FSA's investigation on the basis of the FSA making the Prohibition Order.
- 1.4. Accordingly, for the reasons set out below, and having agreed with you the facts and matters relied on, the FSA hereby makes the Prohibition Order against you. The Prohibition Order takes effect on 2 May 2008.

## **2. REASONS FOR THE ORDER**

- 2.1. The FSA has concluded that you are not fit and proper to carry out any functions in relation to any regulated activities carried on by any authorised person, exempt person or exempt professional firm, and that you should be prohibited from doing so.
- 2.2. On the basis of the facts and matters summarised below, and set out in more detail in section 4 of this notice, the FSA has concluded that you have failed to meet minimum regulatory standards in terms of honesty and integrity, which includes an obligation to demonstrate 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.
- 2.3. You pose a risk to lenders and therefore to confidence in the financial system. Also this action is taken against you in support of the FSA's financial crime objective.
- 2.4. In summary, you knowingly entered false information on mortgage application forms, and submitted mortgage applications to lenders based on information that you knew to be false both in your own mortgage applications and in the mortgage applications of customers of Initial Financial Services (UK) Limited ("IFS"), of which you are the Principal.

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

#### **Statutory Provisions**

- 3.1. The FSA's statutory objectives, set out in section 2(2) of the Act, include the reduction of financial crime, consumer protection and the maintenance of market confidence.
- 3.2. 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 specified regulated activity, any regulated activity falling within a specified description or all regulated activities.

#### **Regulatory requirements**

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

- 3.3. 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 and FIT is also relevant in assessing the continuing fitness and propriety of an approved person.
- 3.4. 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 you, as an approved person, in accordance with EG9.9.
- 3.5. FIT1.3 provides that the FSA will have regard to a number of factors when assessing a person's fitness and propriety. Among the most important considerations will be the person's honesty, integrity and reputation.
- 3.6. In determining a person's honesty, integrity and reputation, FIT2.1 states that the FSA will have regard to matters including, but not limited to, those set out in FIT2.1.3G. This guidance includes:

- (1) whether the person has contravened any of the requirements and standards of the regulatory system (FIT2.1.3G(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 (FIT2.1.3 G(13)).

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

- 3.7. The FSA's approach to exercising its powers to make prohibition orders is set out at Chapter 9 of the Enforcement Guide ("EG").
- 3.8. EG9.1 states that the FSA's power to make prohibition orders under section 56 of the Act helps it work towards achieving its regulatory objectives. The FSA may exercise this power where it considers that, to achieve any of those objectives, it is appropriate either to prevent an individual from performing any functions in relation to regulated activities or to restrict the functions which he may perform.
- 3.9. EG9.4 sets out the general scope of the FSA's powers in these respects, 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. EG9.5 provides that the scope of a prohibition order will vary according to the range of activities that the individual performs in relation to regulated activities, the reasons why he is not fit or proper and the severity of the risk posed by him to the consumers or the market generally.
- 3.10. In circumstances where the FSA has concerns about the fitness and propriety of an approved person, EG9.8 to 9.14 provides guidance. In particular, EG9.8 states that in deciding whether to make a prohibition order, the FSA will consider whether its regulatory objectives can be achieved adequately by imposing disciplinary sanctions.
- 3.11. EG9.9 states that the FSA will consider all the relevant circumstances when deciding whether to make a prohibition order against an approved person. Such circumstances may include, but are not limited to, the following factors:

- (1) the matters set out in section 61(2) of the Act:
- (2) whether the individual is fit and proper to perform functions in relation to regulated activities. The criteria for assessing the fitness and propriety of an approved person in terms of honesty, integrity and reputation are set out in Section 2.1 of the part of the FSA's Handbook entitled the Fit and Proper Test for Approved Persons (Honesty, integrity and reputation), and include an individual's openness and honesty in dealing with consumers, market participants and regulators and an ability and willingness to comply with requirements placed on him by or under the Act as well as with other legal and professional obligations and ethical standards:

...

- (5) the relevance and materiality of any matters indicating unfitness;
- (6) the length of time since the occurrence of any matters indicating unfitness;
- (7) the particular controlled function the approved person is (or was) performing, the nature and activities of the firm concerned and the markets in which he operates; and
- (8) the severity of the risk posed by the individual to consumers and to confidence in the financial system.

3.12. EG9.10 provides that the FSA may have regard to the cumulative effect of a number of factors and may take into account the particular controlled function which an approved person is performing for a firm, the nature and activities of the firm concerned and the markets within which it operates.

3.13. EG9.12 provides a number of examples of types of behaviour which have previously resulted in the FSA deciding to issue a prohibition order or withdraw the approval of an approved person. The examples include:

...

- (3) severe acts of dishonesty, for example those which may have resulted in financial crime; and

...

- (5) serious breaches of the Statements of Principle for Approved Persons, such as providing misleading information to clients, consumers or third parties.

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

##### **Background**

- 4.1. You are the Principal of IFS, which was a mortgage broker operating in the South London area, and the only person at IFS who was approved to perform controlled functions. With effect from 31 October 2004, you were approved to perform the controlled function of CF1 (Director) at IFS. You were IFS' only mortgage adviser. IFS applied on a voluntary basis cancel its Part IV permission on 12 March 2008 and your approved person status was withdrawn on that date.
- 4.2. The FSA conducted a review of nine mortgage applications submitted to lenders by you. The findings of the review are summarised below.

##### **Your personal mortgage applications**

- 4.3. The FSA reviewed seven mortgage applications submitted to three lenders ("Lenders A, B and C") in your name between June 2006 and February 2008.
- 4.4. On 6 June 2006, you submitted a mortgage application to Lender A in which you declared your income to be £49,600 in 2003, £51,305 in 2004 and £52,000 in 2005.
- 4.5. On 3 August 2006, you submitted a further mortgage application to Lender A. In this application, you declared your income to be £52,000 in 2003, £54,900 in 2004 and £56,000 in 2005.
- 4.6. On 23 August 2006, you submitted a third mortgage application to Lender A, in which you stated your income to be £52,000 in 2003, £54,000 in 2004 and £56,000 in 2005.
- 4.7. On 10 November 2006, you submitted a mortgage application to Lender B in which you declared your income to be £126,000 in 2005 and £140,000 in 2006.

- 4.8. On 23 March 2007, you submitted a fourth mortgage application to Lender A, this time stating your basic income as £58,000.
- 4.9. On 5 February 2008, you submitted two mortgage applications to Lender C simultaneously. On the first application, you stated your income for the year ending 2006 as £54,000. On the second application, you declared your income as £56,000.
- 4.10. None of the income figures that you declared on any of the mortgage applications described above were consistent with information held by Her Majesty's Revenue and Customs ("HMRC") and obtained from Companies House. The FSA concluded that you knowingly entered false information on mortgage applications, and submitted mortgage applications to lenders based on information which you knew to be false.

#### **Customer A**

- 4.11. Customer A applied for a mortgage through IFS. You were the only person dealing with this mortgage application.
- 4.12. A fact find completed by you stated that Customer A was employed as a bus operator earning an annual salary of £25,600, and had been so employed for the previous five years. This information was confirmed by an approval in principle form, which was signed and dated by you.
- 4.13. However, another decision in principle form stated that Customer A was self-employed as a software engineer, earning a salary of £42,000.
- 4.14. The online mortgage application submitted to the lender contained different information again, stating that Customer A was self-employed in the information technology field, earning a salary of £54,000. This information is inconsistent with the information held in relation to Customer A by HMRC.
- 4.15. You were the only person at IFS involved in Customer A's mortgage application. The inconsistencies found on Customer A's client file indicate that you knew that the information entered on the application form submitted to the lender was false.

## **Customer B**

- 4.16. The FSA found two separate mortgage application forms on Customer B's file, each one containing different sets of personal and financial information. You were the only person dealing with these applications and both the mortgage application forms were completed within three months of each other.
- 4.17. On the second application, Customer B's residential address, business address, business name and type of business, income, existing rent outgoings and accountant were significantly different from those disclosed on the first application. There were also anomalies and inconsistencies within each application, such as the customer's name being different in the sections of the form relating to bank account details from the rest of the form and the customer's address being inconsistent throughout. The addresses on the mortgage application forms were also inconsistent with utility bills found elsewhere on the file.
- 4.18. None of the income or employment information entered on either application was consistent with that held in relation to this customer by HMRC. As you were the only person at IFS who dealt with this customer, the inconsistencies between these applications and Customer B's file generally indicate that you knew that the information on the mortgage application forms, which you submitted to lenders, was false.
- 4.19. Furthermore, the FSA found a number of property valuation reports on Customer B's file which indicated that you were involved in applications for several mortgages on the same property in the names of different people, one of these being Customer B.

## **5. CONCLUSIONS**

- 5.1. You knowingly entered false information onto mortgage application forms and submitted mortgage applications based on information which you knew to be false to lenders. As such you have failed to act with honesty and integrity.
- 5.2. The FSA has therefore concluded that you are not fit and proper to carry out any functions in relation to any regulated activities carried on by any authorised person, exempt person or exempt professional firm.



5.3. The severity of the risk you pose to lenders, consumer protection and to confidence in the market generally, is such that it is necessary, in order to achieve its regulatory objectives, for the FSA to exercise its powers to make a Prohibition Order against you.

## **6. DECISION MAKERS**

6.1. The decision which gave rise to the obligation to give this Final Notice was made by the 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. 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.

### **FSA contacts**

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

Jonathan Phelan  
Head of Department  
FSA Enforcement Division