
FINAL NOTICE

To: **Jason Andrew Phillips**

Address: **New Laithe Farm
Hollin Hall
Trawden
Colne
Lancashire
BB8 8PY**

Individual Reference Number: **JAP01160**

Dated: **30 April 2010**

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (“the FSA”) gives you, Jason Andrew Phillips, final notice about of an order prohibiting you 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, Jason Andrew Phillips, a Decision Notice dated 30 April 2010 (the “Decision Notice”), which notified you that the FSA had decided, for the reasons listed below and pursuant to section 56 of the Financial Services and Markets Act 2000 (“the Act”), to make a prohibition order preventing you, Jason Andrew Phillips, from performing any function in relation to any regulated activity carried out by any authorised person, exempt person or exempt professional firm (“the Prohibition Order”).
- 1.2. It was also the FSA’s intention, given the substantial potential losses to which lenders have been exposed by your actions, and the financial gains you made or were attempting to make, to propose that a substantial financial penalty be imposed on you

of at least £100,000. However, the FSA has decided not to impose a financial penalty as you were declared bankrupt on 12 February 2010.

2. REASONS FOR THE ORDER

- 2.1. The FSA has concluded, on the basis of the facts and matters described below, that you are not a fit and proper person, as your conduct demonstrates a lack of honesty and integrity, and that it is appropriate to make the Prohibition Order against you. This conclusion is based on the submission by you of at least nine regulated mortgage applications to lenders for yourself that were based on false and misleading information about your income and employment.
- 2.2. By virtue of such conduct, the FSA has concluded that you pose a serious risk to consumers and to confidence in the financial system. It is also appropriate for action to be taken against you in support of the FSA's objective of reducing financial crime.

3. RELEVANT STATUTORY AND REGULATORY PROVISIONS

- 3.1. The relevant statutory provisions and regulatory requirements are set out in the Annex to this Final Notice.

4. FACTS AND MATTERS RELIED ON

Background

- 4.1. From 31 October 2004 to 15 February 2010, you were one of two partners of Lancaster House Mortgages ("LHM").
- 4.2. LHM had been authorised and regulated by the FSA since 31 October 2004 as a mortgage broker, and since 10 January 2005 also as an insurance broker. You were approved by the FSA on 31 October 2004 to perform the controlled function of CF4 (Partner), CF8 (Apportionment and Oversight), and CF13 (Finance). On 14 January 2005, you were also approved to perform insurance mediation functions and, on 1 November 2007, you were approved to perform the controlled function of CF28 (Systems and controls).
- 4.3. On 15 February 2010, you voluntarily applied to withdraw your approval to perform controlled functions. Your approval was withdrawn by the FSA on the same day.

Your mortgage applications

- 4.4. You applied for and obtained nine residential mortgages between July 2006 and November 2008 from eight different lenders, and applied for a further mortgage with another lender in February 2009.
- 4.5. For the following reasons, it is the FSA's view that you obtained or attempted to obtain mortgages by declaring false income and employment information.
- 4.6. You provided differing and inconsistent information relating to your employment in mortgage applications. Specifically, you declared:

- a. in a mortgage application in February 2008 that you were a *self-employed property developer*;
 - b. in two further mortgage applications in May 2008 and June 2008 respectively that you were *self employed* as a *consultant* at LHM;
 - c. in a further mortgage application in July 2008 that you were *employed* as a *commercial manager* at LHM.
- 4.7. Her Majesty's Revenue and Customs' ("HMRC") records for this period show that you were self employed as a partner at LHM and the type of business conducted by the partnership was "financial advisers".
- 4.8. You declared inconsistent income amounts in mortgage applications completed at around the same time:
- i. In 2006, in three separate mortgage applications, you declared your income to be:
 - £238,000 (annual income);
 - £83,000; and
 - £145,000 (latest year).
 - ii. In 2007, in two separate mortgage applications, you declared your income to be:
 - £41,276 (31/08/2006); and
 - £90,000 (per annum, basic income) plus £25,000 (commission).
 - iii. In 2008, in three separate mortgage applications, you declared your income to be:
 - £43,759 (year end 31/08/2007);
 - £43,759 and £31,140 (rental income) (year end 31/08/2007); and
 - £110,000 (per annum).
 - iv. In 2009, in one mortgage application you declared your income to be £110,000 per annum.

For the corresponding years, HMRC records showed your incomes as:

- i. £21,908 for 2005/6;
- ii. £43,663 for 2006/7; and
- iii. £64,338 for 2007/8.

- 4.9. HMRC's records acquired by the FSA do not support your assertions as to the level of your income and indicate that you inflated your income in seven mortgage applications made in your name through LHM. It also appears that you gave false information relating to your employment in four of your mortgage applications as this information is inconsistent between applications, and conflicts with information acquired from HMRC by the FSA.
- 4.10. In addition, in two of your mortgage applications, you provided wage slips stating that you were an employee of "LHG" (Lancaster House Group was a trading name of LHM) and earning a gross monthly salary of £9,166.67 for both March 2009 and August 2009. These figures are not supported by HMRC records for the respective periods. It appears to the FSA that these wage slips have been falsified or fraudulently created to support the respective mortgage applications. You did not respond to or provide information when requested to do so in a letter dated 11 November 2009 from the FSA, in which the FSA specifically requested that you verify with evidence the £110,000 income figure declared in your February 2009 mortgage application, and *"show exactly how the payslip [provided to the lender] came to be created and supplied [to the lender]"*. You did not provide such information or evidence.

Conclusions

- 4.11. The facts and matters described above detail material discrepancies relating to mortgage applications made by you in your name, for which you have provided no explanation. The FSA, having regard to its regulatory objectives, has therefore concluded that you knowingly submitted mortgage applications to lenders, which contained false information relating to your income and employment.
- 4.12. The FSA has considered whether you are a fit and proper person. In assessing your honesty, integrity and reputation, the FSA had regard to your knowing involvement in the submission of false information relating to your income and employment on mortgage application forms to lenders. As such, you have failed to act with honesty and integrity.
- 4.13. The FSA considers that you pose a serious risk to consumers, lenders and to confidence in the financial system, and also that action should be taken against you in support of the FSA's objective of reducing financial crime.
- 4.14. The FSA considers that your conduct falls well below the standards expected of approved persons performing controlled functions. Accordingly, the FSA considers that, as you have not exhibited the honesty and integrity required of an approved person, you are not a fit and proper person to perform the controlled functions for which you were approved, or any controlled function.

5. ANALYSIS OF SANCTIONS

- 5.1. The FSA acknowledges your co-operation in the recent period since the issues arising from your conduct were formally presented to you. However, as the facts and matters in this Final Notice have led the FSA to conclude that you are not a fit and proper person, the FSA considers that it is necessary to make the Prohibition Order, pursuant

to section 56 of the Act, to prevent you from performing any function in relation to any regulated activity carried out by any authorised person, exempt person or exempt professional firm. It was not necessary for the FSA to propose withdrawal of your approval to perform controlled functions as you voluntarily withdrew your approval on 15 February 2010.

- 5.2. It was also the FSA's intention, given the substantial potential losses to which lenders have been exposed by your actions, and the financial gains you made or were attempting to make, to propose that a substantial financial penalty be imposed on you of at least £100,000. However, the FSA has decided not to impose a financial penalty as you were declared bankrupt on 12 February 2010.

6. DECISION MAKERS

- 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. 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 Craig Drury (direct line: 020 7066 8460) of the Enforcement and Financial Crime Division of the FSA.

Tom Spender
Head of Department
FSA Enforcement and Financial Crime Division

Annex – Relevant Rules, guidance and statutory provisions

1. Relevant statutory provisions

- 1.1. The FSA's statutory objectives are set out in section 2(2) of the Act and include the protection of consumers, maintenance of market confidence and the prevention of financial crime.
- 1.2. The FSA's power to make a prohibition order is set out in section 56 of the Act and the procedure to be followed is set out in section 57 of the Act.

2. Relevant guidance

The Enforcement Guide ("EG")

- 2.1. The FSA's policy for exercising its power to issue a prohibition order is set out in EG.
 - 2.2. EG 9.1 explains that the purpose of prohibition orders is to assist the FSA in achieving its regulatory objectives.
 - 2.3. EG 9.3 to 9.5 set out the FSA's policy on making prohibition orders. In particular:
 - (a) EG 9.3 states that the FSA will consider all relevant circumstances, including whether enforcement action has been taken against the individual by other enforcement agencies, in deciding whether to make a prohibition order;
 - (b) EG 9.4 states that the FSA has power to make a range of prohibition orders which may be unlimited or may be limited to specific functions in relation to specific regulated activities; and
 - (c) EG 9.5 states that the scope of a prohibition order will depend on the reasons why the individual is not fit and proper and the severity of risk he poses to consumers or the market generally.
 - 2.4. EG 9.17 sets out that where the FSA is considering whether to make a prohibition order against someone who is not an approved person, the FSA will consider the severity of the risk posed by the individual and may prohibit him where it considers that prohibition is necessary in order to achieve the FSA's regulatory objectives.
 - 2.5. EG 9.18 states that, when determining the fitness and propriety of such an individual, the FSA will consider a number of factors, including those set out in EG 9.9. These factors include: the criteria for assessing the fitness and propriety of approved persons set out in the Fit and Proper Test for Approved Persons ("FIT") section of the FSA Handbook of rules and guidance; the relevance and materiality of any matters indicating unfitness, and the severity of the risk which the individual poses to consumers and to confidence in the financial system.
- #### **FIT**
- 2.6. The FSA has issued guidance on assessing the fitness and propriety of individuals, in FIT.

- 2.7. FIT 1.1.2G states that the purpose of FIT is to set out and describe the criteria that the FSA will consider when assessing the fitness and propriety of a candidate for a controlled function. The criteria are also relevant in assessing the continuing fitness and propriety of approved persons.
- 2.8. FIT 1.3.1G(1) states that one of the most important considerations is a person's honesty, integrity and reputation.
- 2.9. FIT 2.1.3G(5) states that the FSA will have regard to whether the person has contravened any of the requirements and standards of the regulatory system.
- 2.10. FIT 2.1.3G(13) states that the FSA will have regard to 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.