
FINAL NOTICE

To: John Charalambous

**Of: 205 Northumberland Avenue
Welling
Kent
DA16 2QE**

IRN: JXC01890

Dated: 21 May 2010

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (the "FSA") gives you, John Charalambous, final notice about the imposition of a financial penalty on you and 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. ACTION

1.1 The FSA gave you a Decision Notice dated 15 April 2010 ("the Decision Notice") which notified you that, for the reasons listed below, it had decided:

- (1) pursuant to section 66 of the Financial Services and Markets Act 2000 (the "Act"), to impose a financial penalty of £294,500 on you, John Charalambous of The Financial Associate (TFA) Limited, for failing to comply with Statement of Principle 1 of the FSA's Statements of Principle for Approved Persons ("Statements of Principle"); and

- (2) pursuant to section 56 of the Act, to make an order 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”).

1.2 The financial penalty consists of the following elements:

- (1) disgorgement of benefit of £44,500, being the outstanding amount owed by you to Customer A for misappropriating part of his mortgage advance;
- (2) a punitive penalty of £100,000 for your knowing involvement in the submission of an inflated mortgage application for Customer A to enable you to misappropriate part of the advance; and
- (3) an additional punitive penalty of £150,000 for your knowing involvement in the submission of false insurance applications to Insurance Provider B.

1.3 You did not refer the matter to the Upper Tribunal within 28 days of the date on which the Decision Notice was given to you.

1.4 Accordingly, with effect from 21 May 2010, the FSA:

- (1) has imposed a financial penalty on you of £294,500; and
- (2) hereby makes 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.

2. REASONS FOR THE ACTION

2.1 On the basis of the facts and matters described below, and set out in more detail in the Annex to this Notice, the FSA has serious concerns that you:

- (1) knowingly inflated the loan amount on a mortgage application for Customer A, without his consent, and misappropriated part of the mortgage advance for your own personal use;
- (2) sought to re-pay Customer A by writing cheques which bounced, when you must have known that there were insufficient funds for the cheques to clear;
- (3) sought to mislead the FSA by saying that you had entered into a loan agreement with Customer A; and
- (4) submitted false life insurance policies by using customers’ personal details without their knowledge or consent to obtain commission payments from Insurance Provider B.

2.2 As a result of the nature and seriousness of these breaches, the FSA has concluded that you failed to act with integrity while you were an approved person at TFA in contravention of Statement of Principle 1, and that you lack honesty and integrity and are not therefore fit and proper to perform any functions in relation to regulated

activities carried on by authorised persons, exempt persons and exempt professional persons.

2.3 This action supports the FSA's statutory objectives of protecting consumers, maintaining market confidence and reducing financial crime.

2.4 A copy of the relevant extract of the Warning Notice is attached to and forms part of this Final Notice.

3. DECISION MAKER

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

4. IMPORTANT

4.1 This Final Notice is given to you in accordance with section 390(1) of the Act.

Manner of and time of payment.

4.2 The financial penalty must be paid in full by you to the FSA by no later than 4 June 2010, 14 days after the date of this Final Notice. If all or any of the financial penalty is outstanding on 5 June 2010, the FSA may recover the outstanding amount as a debt owed by you and due to the FSA.

Publicity

4.3 Sections 391(4), 392(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 the 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.

4.4 The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

FSA contacts

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

**Tom Spender
Head of Department
FSA Enforcement and Financial Crime Division**

EXTRACT FROM WARNING NOTICE DATED 4 MARCH 2010

Facts and matters relied on

Background

- 4.1 You were a director at TFA, which was an authorised mortgage and general insurance intermediary based in Sidcup in Kent. You were approved to perform the controlled functions of CF1 (Director) and CF8 (Apportionment and oversight) from 31 October 2004 to 20 May 2009 and you were responsible for insurance mediation at TFA. You were the only adviser at TFA.
- 4.2 TFA was authorised by the FSA to carry on regulated mortgage business from 31 October 2004 to 20 May 2009, and general insurance mediation activities from 14 January 2005 to 20 May 2009.
- 4.3 On 20 May 2009, the FSA cancelled the Part IV permission of TFA for failing to submit its Retail Mediation Activities Return (“RMAR”).
- 4.4 In November 2008, the FSA received information from Insurance Provider B which indicated that you had submitted at least 46 suspicious life insurance policy applications, and that you had been paying the first premiums to avoid clawbacks. In February 2009, the FSA received a complaint from Customer A who alleged that he was the victim of mortgage fraud by you.

Customer A’s mortgage application

- 4.5 In or around September 2008, you advised Customer A to remortgage his property to raise additional money for a new property that he wanted to purchase. You increased the amount of the loan on his mortgage application from £240,000 to £270,000 and arranged to receive the amount payable, after disbursements, of £77,000 into your own bank account without Customer A’s consent or knowledge.
- 4.6 In January 2009, when Customer A attended your office, you wrote him two cheques (one cheque for £30,000 and a second cheque for £51,100) knowing that you did not have sufficient funds available. You eventually paid Customer A £32,500, leaving an

outstanding balance of £44,500 which you still owe to Customer A who is currently servicing the £270,000 mortgage debt.

- 4.7 You told the FSA that the explanation for your action was that Customer A had agreed to loan you the money. Customer A denied this and you could provide no evidence to support your version of events.
- 4.8 The FSA concluded that you deliberately increased the loan amount on Customer A's mortgage application and arranged for the proceeds of the re-mortgage to be diverted to your own account without Customer A's knowledge or consent.
- 4.9 The FSA also determined that you must have known that you did not have sufficient funds to honour the cheques, which subsequently bounced, that you made out to Customer A.
- 4.10 Further, the FSA concluded that you attempted to mislead the FSA by stating that you had entered into a loan agreement with Customer A.

Life insurance policies

- 4.11 You set up life insurance policies in the names of Customer A and his wife without their knowledge and received the commission payments from Insurance Provider B. You arranged for the first three months of premiums to be paid from your own account and then you changed the payments details from an account that you controlled to an account belonging to Customer A and his wife so that all future premiums would be drawn from Customer A's joint account with his wife, all without their knowledge.
- 4.12 You told the FSA that evidence of Customer A's knowledge of these arrangements would be found on the relevant client file in your office. However, you failed to provide the FSA with the client file when compelled to do so.
- 4.13 You applied for other false life insurance policies, for example in connection with customers' genuine mortgage applications, so that you could obtain commission payments. When Insurance Provider B contacted some of these customers to find out why their policies had lapsed, the customers were not aware that life insurance policies had been applied for in their names. For example, Insurance Provider B identified the following matters:
 - (1) You used Customer C's bank details without his knowledge or consent to arrange the premium payments on a life insurance policy. As a result Insurance Provider B took £761.28 from Customer C's account. Customer C did not instruct you to set up this policy. You also set up an insurance policy in Customer C's wife's name, again without her knowledge or consent.
 - (2) You used the details of another customer of TFA to set up life policies in her name and in her partner's name without their knowledge or consent. She only became aware of the matter when she received a letter from Insurance Provider B regarding the lapsed cover.

- 4.14 The FSA has concluded that you submitted life insurance applications for customers without their knowledge or consent to obtain the commission from Insurance Provider B. You arranged for the first three months of life insurance premiums to be paid from your own account and then switched the payment details to your customers' accounts without their knowledge or consent.

5. CONCLUSION

- 5.1. On the basis of the facts and matters set out above, you contravened Statement of Principle 1 and you lack honesty and integrity. You are not therefore a fit and proper person to perform functions in relation to regulated activities.
- 5.2. The FSA considered that you pose a serious and ongoing risk to consumers and to anyone else with whom you have business dealings. Also action should be taken to help prevent you from committing acts of financial crime in support of the FSA's financial crime objective. You should therefore be prohibited from performing any function in relation to any regulated activity carried on by any authorised or exempt person or exempt professional firm.
- 5.3. The FSA also considered it appropriate to impose a large financial penalty on you for the contravention of Statement of Principle 1. In determining an appropriate financial penalty the FSA had regard to the need to punish you as well as deter others from engaging in fraudulent activities. The FSA considered that your behaviour in deliberately submitting an inflated mortgage application so that you could keep the proceeds and in deliberately submitting false insurance applications to Insurance Provider B is particularly serious, and warranted a significant financial penalty.
- 5.4. Accordingly the FSA imposed a financial penalty of £294,500.
- 5.5. Given the seriousness of your misconduct, which included taking part of a customer's mortgage advance and leaving the customer to service a significant mortgage debt without the benefit of the advance from the lender, the FSA's action serves as a further warning to consumers, who should exercise extreme caution in doing business with you.