
FINAL NOTICE

To: **Joseph Anthony Masi**

Of: **Knightsbridge House
7 Little London Court
Albert Street
Swindon
SN1 3HY**

**Individual FSA
Reference Number:** **JAM01275**

Date: **4 June 2010**

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London, E14 5HS (the "FSA") gives you, Joseph Anthony Masi, final notice about a decision to make an order prohibiting you from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or any exempt professional firm

1. THE ACTION

1.1. The FSA gave you a Decision Notice on 29 April 2010 (the "Decision Notice"), which notified you that, pursuant to section 56 of the Financial Services and Markets Act 2000 (the "Act"), the FSA had decided to make 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.

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- 1.2. You have not referred 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, for the reasons set out below, 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 on by any authorised person, exempt person or exempt professional firm. This order has effect from 4 June 2010.

2. REASONS FOR THE ACTION

Summary

- 2.1. The FSA has concluded, on the basis of the facts and matters described in its Warning Notice dated 16 March 2010 (an extract from which is attached and forms part of this Final Notice), and in the Decision Notice, that you are not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm. Specifically, you failed to comply with a settlement agreement which you signed with the FSA on 3 August 2007 (the "Agreement") which concluded a previous formal FSA investigation into your firm. You subsequently provided the FSA with false and misleading information with the apparent intention of misleading the FSA into believing that you had not breached the Agreement.
- 2.2. The FSA considers that you are not a fit and proper person as your conduct demonstrates a lack of honesty and integrity, and having regard to its regulatory objectives (including market confidence, the protection of consumers and the reduction of financial crime) it is necessary for the FSA to exercise its power to make a prohibition order against you.

Relevant statutory provisions

- 2.3. The FSA's statutory objectives are set out in section 2(2) of the Act and include the protection of consumers and maintaining market confidence.
- 2.4. 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 58 of the Act.

Relevant Guidance

The Enforcement Guide ("EG")

- 2.5. The FSA's policy in relation to exercising its power to issue a prohibition order is set out in EG.
- 2.6. EG 9.1 explains the purpose of prohibition orders in relation to the FSA's regulatory objectives.
- 2.7. EG 9.3 to 9.5 sets 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 other enforcement action has already been taken by the FSA against that individual, 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: they may be unlimited or they may be limited to specific functions in relation to specific regulated activities, depending on the reasons why the individual is not fit and proper and the severity of risk he poses to consumers or the market generally, 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.
- 2.8. EG 9.17 sets out that where the FSA is considering whether to make a prohibition order against someone who (like you) 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 it is necessary to achieve the FSA's regulatory objectives.
- 2.9. 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; the relevance and materiality of any matters indicating unfitness; the severity of the risk which the individual poses to consumers and to confidence in the financial system and the previous disciplinary record and general compliance history of the individual.

Fit and Proper Test for Approved Persons

- 2.10. The FSA has issued guidance on the fitness and propriety of individuals in FIT.
- 2.11. 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.
- 2.12. FIT 1.3.1G(1) states that the most important considerations include a person's honesty, integrity and reputation.
- 2.13. FIT 2.1 gives specific guidance in determining a person's honesty, integrity and reputation. In particular:
- FIT 2.1.3G(3) states that the FSA will have regard to whether the person has been the subject of any existing or previous investigation or disciplinary proceedings by the FSA;

- 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 or the equivalent standards or requirements of other regulatory authorities (including a previous regulator), clearing houses and exchanges, professional bodies, or government bodies or agencies; and
- FIT 2.1.13G(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 and with other legal, regulatory and professional requirements and standards.

3. DECISION MAKER

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 you 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 you or if publication would be 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 contacts

- 4.4. For more information concerning this matter generally, you should contact Martin Badcock at the FSA (direct line: 020 7066 1560/fax: 020 7066 1561).

John Kirby
FSA Enforcement and Financial Crime Division

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EXTRACT FROM THE WARNING NOTICE DATED 16 MARCH 2010 ISSUED TO JOSEPH ANTHONY MASI

“2. REASONS FOR PROPOSED ACTION

Summary

- 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 to perform any functions as your conduct demonstrates a lack of honesty and integrity. Specifically, you failed to comply with a settlement agreement which you signed with the FSA on 3 August 2007 (the “Agreement”) which concluded a previous Enforcement investigation into your firm. You subsequently provided the FSA with false and misleading information with the apparent intention of misleading the FSA into believing that you had not breached the Agreement.
- 2.2. The FSA considers that you are not a fit and proper person as you have acted without honesty and integrity, and having regard to its regulatory objectives (including the protection of consumers and maintaining market confidence), it is necessary for the FSA to exercise its power to make the Prohibition Order against you.

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Facts and matters relied on

- 2.14. You were granted authorisation as a sole trader, trading as Select Mortgage Services, on 31 October 2004 to carry on mortgage mediation business, and have been permitted from 14 January 2005 also to carry on insurance mediation business.
- 2.15. On 3 August 2007, you signed a settlement agreement (the “Agreement”) with the FSA which concluded of an FSA investigation into your firm. By signing the Agreement, you undertook, amongst other things, to obtain sign-off from an external compliance consultant for all mortgage sales for a period of six months.
- 2.16. On 3 September 2007, the FSA issued a Final Notice to you confirming that you had agreed to the sign-off by an external compliance consultant of all regulated mortgage sales for a period of six months from the date of the Final Notice, that is from 3 September 2007 to 2 March 2008 (the “relevant period”).
- 2.17. You have said in subsequent correspondence between you and the FSA that your interpretation of that requirement was that you should obtain sign-off from an external compliance consultant after a mortgage had completed. The FSA has previously explained to you that it does not consider this to be a correct or reasonable interpretation of the agreement.
- 2.18. Following a visit to your firm in March 2009 as part of the FSA’s Treating Customers Fairly (TCF) initiative, the FSA requested documentary evidence that you had

obtained sign-off by an external compliance consultant for all regulated mortgage sales during the relevant period. You provided the FSA with new business registers covering the relevant period, and informed the FSA that only one regulated mortgage application submitted by your firm had completed during the relevant period. You told the FSA you had not obtained external compliance consultant sign-off for that mortgage sale due to an oversight.

- 2.19. Information obtained by the FSA from mortgage lenders shows that, in fact, 18 regulated mortgage applications submitted by your firm completed during the relevant period. In addition, the information obtained by the FSA shows that at least 48 regulated mortgage applications were submitted by your firm during the relevant period, although a large number did not proceed to completion.
- 2.20. The information which you provided in response to the FSA's requests failed to identify all but one of the regulated mortgage applications which completed during the relevant period, and you have provided no evidence to the FSA that any regulated mortgage sales during the relevant period were signed off by an external compliance consultant.

Conclusions

- 2.21. The facts and matters described above lead the FSA, having regard to its regulatory objectives which include the protection of consumers, to the following conclusions:
- you have failed to obtain sign-off for regulated mortgage sales during the Relevant Period;
 - by virtue of that failing, you are in breach of the Agreement;
 - you have provided the FSA with false and misleading information in an apparent attempt to mislead the FSA into believing that you had not breached the Agreement;
 - your attempts to mislead the FSA go directly to impugn your honesty, integrity and reputation and therefore demonstrate that you are not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised or exempt person;
 - you present a risk to consumers and to other financial institutions as you have failed to be candid and truthful in all your dealings with the FSA; and
 - the severity of the risk you pose to consumers and to confidence in the market generally is such that it is necessary in order to achieve its regulatory objectives for the FSA to make a prohibition order in the terms proposed.”

END OF EXTRACT