



Financial Services Authority

FINAL NOTICE

To: **Kenneth Robinson**

Of: 7 Seafield Mews
Seaton Sluice
Whitely Bay
NE26 4JZ

Date: 26 February 2009

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (the “FSA”) gives you final notice about a prohibition order against you.

1. THE ORDER

- 1.1. The FSA gave you a Decision Notice dated 4 February 2009 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, Kenneth Robinson, from performing any function in relation to any regulated activity carried on by any authorised person or exempt person or exempt professional firm (the “Prohibition Order”).
- 1.2. You have confirmed that you will not be referring the matter to the Financial Services and Markets Tribunal.
- 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 or exempt person or exempt professional firm. The Prohibition Order takes effect from 26 February 2009.

2. REASONS FOR THE ORDER

- 2.1. The FSA has concluded that, on the basis of the facts and matters below, you are not fit and proper to perform functions in relation to regulated activities carried on by an authorised person, exempt person or exempt professional firm. In particular, you have demonstrated that you lack honesty and integrity because you introduced and submitted five mortgage applications on your own behalf to a mortgage lender (the Lender) which contained false information. You knew the information you had provided was false. As a result, you obtained mortgages which exceeded the sums that the Lender would have advanced had it known the true facts. At least £164,490 was obtained by you in this way.

Relevant Statutory and Regulatory Provisions

- 2.2. Section 56 of the Act states that the FSA may make an order prohibiting an individual from performing a specified function, any function falling within a specified description or any function where it appears to the FSA that the individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person.
- 2.3. In deciding to take the action described above, the FSA has had regard to the relevant provisions of its Enforcement Guide (“EG”). In particular, the FSA has had regard to Chapter 9 of EG. Paragraph 9.17 states that in considering whether to make a prohibition order against an individual, other than an individual referred to in paragraph 9.8 to 9.14 of EG, it will consider the severity of the risk posed by the individual and may prohibit that individual where it considers this is appropriate to achieve one or more of its regulatory objectives.
- 2.4. Paragraph 9.18 states that the FSA will take into account all relevant circumstances, including those set out at paragraph 9.9. The following are most relevant:
- (1) a person's honesty and integrity with reference to the Chapter 2.1 of the Fit and Proper Test for Approved Persons;
 - (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.
- 2.5. As this matter relates to events prior to the introduction of EG (28 August 2007) the FSA has also had regard to the relevant provisions of the FSA's Enforcement manual (which preceded EG).

Facts and matters relied upon in the Warning Notice

Background

- 2.6. You are a sole trader, trading under the name of Ken Robinson Mortgages, through which you introduce mortgage business. Ken Robinson Mortgages has been an appointed representative of an authorised firm since 31 October 2004.

- 2.7. You introduce mortgage business to Newcastle Home Loans (“NHL”/ the “Firm”) a mortgage intermediary, which arranges and packages both regulated and unregulated mortgages. In December 2003 NHL became a "branded lender" for the Lender. This meant it was contracted to arrange and package mortgage applications solely for this particular Lender.
- 2.8. In December 2005, the Lender began to review applications for both regulated and unregulated mortgage contracts submitted by NHL. By this date, a total of 1,700 applications had originated from NHL since December 2003. The Lender’s initial findings raised concerns over the accuracy of property valuations. It also established differences between statements made on mortgage application forms and information held at the Land Registry. Its subsequent wider review found that mortgage applications were being presented as remortgages when they were actually purchases. The actual purchase price paid for some properties had been concealed from the Lender, and in some cases, the actual purchase price paid was significantly lower than the valuation that had been provided. The Lender referred 157 cases to the FSA. 20 of these were regulated mortgage applications and the remainder were unregulated applications.
- 2.9. On 17 May 2006 the Lender terminated its relationship with NHL.

Honesty and Integrity

- 2.10. Between 8 August 2005 and 13 January 2006, you introduced and submitted five buy-to-let mortgage applications, through NHL, to the Lender, in your own name, which contained false information.
- 2.11. These applications were false in that they:
 - (1) mis-stated the purpose of the loan. Your mortgage application forms stated that the loan was required to 'remortgage' a property. In fact, the funds were applied towards the purchase of a property; and
 - (2) mis-stated that you already owned the property to become subject to the mortgage when you did not.
- 2.12. To further the illusion that the applications were remortgages rather than outright purchases, all five applications contained a fictional "original purchase price paid". In each case, this amount exceeded the price you paid, or eventually paid, for each property.
- 2.13. You knew that these applications contained false information. Through them, you were able to obtain mortgages which exceeded the sum the Lender would normally have advanced by £164,490, had it known the true facts.
- 2.14. The Lender's policy was to lend 85% of the purchase price. In one case, the false information in your application resulted in the Lender unknowingly advancing you 113% of the purchase price of the property.

Dishonesty in submitting application forms: an example

- 2.15. In January 2006, you submitted a mortgage application in your name which contained false information. You applied for a loan of £157,250 and stated on the mortgage application form that you sought to 'remortgage' a property that you had bought one month before, in December 2005, for £185,000 with a £137,500 bank loan.
- 2.16. In fact, you did not purchase the property until 21 February 2006 and you paid £148,000 for it. You used funds from the Lender to purchase the property and there was no bank loan involved in the transaction.
- 2.17. The mortgage of £157,250 was received from the Lender on 15 February 2006. The sum of £147,240 was paid to complete the purchase. On 21 February 2006 the balance of the mortgage, £4,862.21, was paid to you.

Conclusion

- 2.18. You knowingly submitted mortgage applications containing false information. As a result, the FSA has concluded that you lack honesty and integrity.
- 2.19. Your lack of honesty and integrity is serious and your actions in submitting mortgage applications which contained false information may have resulted in financial crime. You are therefore not fit and proper to perform any function in relation to regulated activities carried on by an authorised person, exempt person or exempt professional firm.
- 2.20. Your firm traded as an appointed representative of an authorised firm. Therefore your involvement in regulated mortgage business is apparent. You pose a risk to the FSA's regulatory statutory objectives of reducing financial crime, maintaining confidence in the financial system and protecting consumers. Since you are not an approved person, the FSA has no alternative measures open to it to meet its regulatory objectives, other than the imposition of a prohibition order.
- 2.21. The FSA is not aware that there were any genuine customers who suffered loss as a result of your lack of fitness and propriety. The concerns raised in this notice as regards loss caused by the submission of false mortgage applications relate to that suffered by the Lender.

3. DECISION MAKER

- 3.1. 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.

4. IMPORTANT

- 4.1. This Final Notice is given to you in accordance with section 390 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 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.

- 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 Bill Sillett at the FSA (direct line: 020 7066 5880).

**William Amos
Head of Department
Enforcement Division**