
FINAL NOTICE

To: Magnus Michael Peterson

Of: Prisoner Number A0089DK
HMP Wandsworth
PO Box 757
Heathfield Road
Wandsworth
London
SW18 3HS

**Individual
Reference
Number:** MMP01009

Dated: 26 October 2015

ACTION

1. For the reasons set out in this Final Notice, the Authority hereby takes the following action against Mr Peterson.
2. The Authority gave Mr Peterson the Decision Notice, which notified Mr Peterson that, for the reasons given below and pursuant to section 56 of the Act, the Authority had decided to make an order prohibiting him from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.
3. Mr Peterson has not referred the matter to the Tribunal within 28 days of the date on which the Decision Notice was given to him.
4. Accordingly, for the reasons set out below, the Authority hereby makes an order pursuant to section 56 of the Act prohibiting Mr Peterson from performing any function in relation to any regulated activity carried on by any authorised person,

/cont...

exempt person or exempt professional firm. The Prohibition Order takes effect from 26 October 2015.

DEFINITIONS

5. The definitions below are used in this Final Notice:

“the Act” means the Financial Services and Markets Act 2000;

“the Authority” means the body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority;

“the Decision Notice” means the Decision Notice given to Mr Peterson dated 3 September 2015;

“EG” means the Enforcement Guide;

“FIT” means the Fit and Proper Test for Approved Persons sourcebook;

“FRAs” means Forward Rate Agreements;

“the Handbook” means the Authority’s Handbook of rules and guidance;

“IRs” means Interest Rate Swaps;

“ISDA” means International Swaps and Derivatives Association;

“Mr Peterson” means Magnus Michael Peterson;

“OTC” means Over The Counter;

“the Prohibition Order” means the order prohibiting Mr Peterson, pursuant to section 56 of the Act, from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm; and

“the Tribunal” means the Upper Tribunal (Tax and Chancery Chamber).

RELEVANT STATUTORY PROVISIONS

6. The statutory and regulatory provisions relevant to this Final Notice are set out in Annex A.

SUMMARY OF REASONS

7. The Authority has concluded, on the basis of the facts and matters and conclusions described in the Warning Notice issued to Mr Peterson on 7 August 2015, and in the Decision Notice, that Mr Peterson is not a fit and proper person to perform any functions as his conduct demonstrates a clear and serious lack of honesty, integrity and reputation. Specifically on 19 January 2015 Mr Peterson was convicted of: furnishing false information relating to accounts; trading with intent to defraud a creditor; obtaining a money transfer by deception; two counts of making a false instrument; fraud by abuse of position; dishonestly making a

false representation to make gain for self/another or cause loss to other/expose other to risk; and carrying on the business of a company with intent to defraud creditors or for other fraudulent purpose, for which he was sentenced on 23 January 2015 to 13 years' imprisonment.

FACTS AND MATTERS RELIED ON

8. Mr Peterson was approved by the Authority in relation to Company D to perform the controlled functions of:
 - (between 1 December 2001 and 3 May 2012) CF1 (Director), CF3 (Chief Executive);
 - (between 1 December 2001 and 31 October 2007) CF8 (Apportionment and Oversight); and CF27 (Investment Management);
 - (between 23 November 2005 and 15 November 2007) CF10 (Compliance Oversight);
 - (between 23 November 2005 and 15 December 2005) CF11 (Money Laundering Reporting); and
 - (between 1 November 2007 and 3 May 2012) CF30 (Customer).
9. On 19 January 2015, Mr Peterson was convicted on indictment at Southwark Crown Court of: furnishing false information relating to accounts; trading with intent to defraud a creditor; obtaining a money transfer by deception; two counts of making a false instrument; fraud by abuse of position; dishonestly making a false representation to make gain for self/another or cause loss to other/expose other to risk; and carrying on the business of a company with intent to defraud creditors or for other fraudulent purpose.
10. On 23 January 2015, Mr Peterson was sentenced at Southwark Crown Court to 13 years' imprisonment for the offences listed in paragraph 9 above.
11. Further, the offences listed at paragraph 9 were committed when Mr Peterson was approved by the Authority to perform various controlled functions, as summarised in Annex B:
 - Mr Peterson:
 - between 31 July 2003 and 30 September 2003, produced or made use of an account, document or record used or required for an accounting purpose, namely documents relating to Options on FRAs between Company A and Company B dated between 28 August and 3 September 2003, which to his knowledge were or may be misleading, false or deceptive in a material particular in that:
 - 1) they purported to show that Company A and Company B had entered into Options on FRAs in respect of which it was intended that premium payments would be paid on about 29 August 2003 and settlement amounts would be paid in cash on about 17 December 2003 but such payments were not made; and

- 2) they were designed to improve the stated performance of Company A but not its actual performance;
- between 1 January 2005 and 13 January 2007, was knowingly a party to the carrying on of Company A / Company C for a fraudulent purpose, namely to defraud investors and/or potential investors in Company A / Company C by causing Company A / Company C to enter into IRSs with Company B to improve the stated performance of Company A / Company C but not their actual performance;
 - between 1 October 2005 and 31 March 2006 dishonestly obtained from Company Z a money transfer in the sum of \$580,000 by deception, namely by falsely representing that:
 - 1) OTC trades were not widely used by Company A; and/or
 - 2) if Company A did enter into any OTC trades these were settled via a broker and an exchange; and/or
 - 3) there was no or negligible counterparty risk in respect of Company A's use of such OTC trades;
 - between 1 January 2005 and 31 May 2006, made an instrument, namely an ISDA master agreement between Company A and Company B dated 20 January 2005, which was false in the form in which it was made by persons who did not in fact make it, in that it was purported to be signed by certain directors of Company A and Company B on 20 January 2005, with the intention that Mr Peterson or another should use it to induce someone to accept it as genuine and by reason of so accepting it, to do some act or not to do some act to their or another's prejudice;
 - between 7 February 2006 and 28 February 2009, made instruments, namely signed confirmations from Company B to Company A / Company C, which were false in the form in which they were made by a person who did not in fact make them, in that they purported to be signed by individuals as directors of Company B, with the intention that Mr Peterson or another should use them to induce someone, including Company Y / Company X, to accept them as genuine and by reason of so accepting them, to do some act or not to do some act to their or another's prejudice;
 - between 14 January 2007 and 31 March 2009, dishonestly and intending thereby to gain for himself or another or to expose another to a risk of loss, abused Company D's position as investment advisor/investment manager of Company A / Company C in which he was expected to safeguard or not to act against the financial interests of Company A / Company C, its shareholders, investors and potential investors, by causing Company A / Company C to enter into IRSs with Company B which were designed to improve the stated performance of Company A / Company C but not their actual performance;

- on or about 26 February 2009, dishonestly and intending thereby to make gain for himself or another or with intent to cause loss to another or to expose another to the risk of loss, made false representations in a spreadsheet which he emailed to Company X to forward to Company Z, an investor in Company C, which were untrue or misleading, namely that Company C held IRs with or through a broker;
- between 31 January 2009 and 31 March 2009, was knowingly a party to the carrying on of the business of Company B for a fraudulent purpose namely to defraud potential creditors of Company B and/or company E by causing Company B to enter into FRAs with Company E when Company B had insufficient funds to meet its obligations.

DECISION MAKER

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

IMPORTANT

13. This Final Notice is given to Mr Peterson in accordance with section 390(1) of the Act.

PUBLICITY

14. The Authority must publish such information about the matter to which this Final Notice relates as the Authority considers appropriate. The information may be published in such manner as the Authority considers appropriate. However, the Authority may not publish information if such publication would, in the opinion of the Authority, be unfair to Mr Peterson or prejudicial to the interest of consumers.
15. The Authority intends to publish this Final Notice and such information about the matter to which this Final Notice relates as it considers appropriate.

AUTHORITY CONTACT

16. For more information concerning this matter generally, please contact Adam Doe at the Authority (direct line: 020 7066 5522).

John Kirby
Enforcement and Market Oversight Division

ANNEX A

RELEVANT STATUTORY PROVISIONS

1. The Authority's operational objectives include: securing an appropriate degree of protection for consumers (section 1C of the Act); and protecting and enhancing the integrity of the UK financial system (section 1D of the Act).
2. Section 56(1) of the Act provides:

"The [Authority] may make a prohibition order if it appears to it that an individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by -

 - (a) an authorised person,
 - (b) a person who is an exempt person in relation to that activity, or
 - (c) a person to whom, as a result of Part 20, the general prohibition does not apply in relation to that activity."

RELEVANT REGULATORY PROVISIONS

3. In exercising its power to make a prohibition order, the Authority must have regard to guidance published in the Handbook. The relevant main considerations in relation to the action specified above are set out below.

The Enforcement Guide

4. The Authority's policy in relation to exercising its power to issue a prohibition order is set out in the EG.
5. EG 9.1 explains the purpose of prohibition orders in relation to the Authority's regulatory objectives.
6. EG 9.3 to 9.5 set out the Authority's general policy on making prohibition orders. In particular:
 - (a) EG 9.3 states that the Authority 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 Authority has power to make a range of prohibition orders depending on the circumstances of each case;
 - (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.
7. EG 9.17 sets out that where the Authority is considering whether to make a prohibition order against someone who is not an approved person, the Authority will consider the severity of the risk posed by the individual and may prohibit him

where it considers that it is appropriate to achieve the Authority's statutory objectives.

8. EG 9.18 provides that, when considering whether to exercise its power to make a prohibition order against such an individual, the Authority will consider all the relevant circumstances of the case. These may include, but are not limited to, the factors set out in EG 9.9. Those factors include: whether the individual is fit and proper to perform functions in relation to regulated activities (noting that criteria are set out in FIT 2.1, 2.2. and 2.3); the relevance and materiality of any matters indicating unfitness; the length of time since the occurrence 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 and Proper Test for Approved Persons

9. The Authority has issued guidance on the fitness and propriety of individuals in FIT.
10. FIT 1.3.1G(1) states that the most important considerations when assessing the fitness and propriety of a person include that person's honesty, integrity and reputation.
11. FIT 2.1.1G sets out that in determining a person's honesty, integrity and reputation, the Authority will have regard to all relevant matters. FIT 2.1.1G notes, amongst other things and by way of example, that:

"... conviction for a criminal offence will not automatically mean an application will be rejected. The [Authority] treats each candidate's application on a case-by-case basis, taking into account the seriousness of, and the circumstances surrounding, the offence, the explanation offered by the convicted person, the relevance of the offence to the proposed role, the passage of time since the offence was committed and evidence of the individual's rehabilitation."
12. FIT 2.1.3G(1) states that the matters referred to in FIT 2.1.1G include, but are not limited to, whether a person has been convicted of any criminal offence, noting that particular consideration will be given to offences including those of dishonesty, fraud, financial crime or an offence under legislation relating to financial services (amongst other things).

ANNEX B

Magnus Michael Peterson – Summary of dates of approval for controlled functions and date of criminal offences

Controlled Functions:	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
CF1 (Director)	01-Dec-01											03-May-12
CF3 (Chief Executive)	01-Dec-01											03-May-12
CF8 (Apportionment and Oversight)	01-Dec-01						31-Oct-07					
CF10 (Compliance Oversight)					23-Nov-05		15-Nov-07					
CF11 (Money Laundering Report)					23-Nov-05 - 15-Dec-05							
CF27 (Investment Management)	01-Dec-01						31-Oct-07					
CF30 (Customer)							01-Nov-07					03-May-12
Offences:												
Furnishing false information relating to accounts (Count 1)			31-Jul-03 - 30-Sep-03									
Trading with intent to defraud a creditor (Count 3)					01-Jan-05		13-Jan-07					
Obtaining a money transfer by deception (Count 4)					01-Oct-05	31-Mar-06						
Making a false instrument (Count 5)					01-Jan-05	31-May-06						
Making a false instrument (Count 6)						07-Feb-06			28-Feb-09			
Fraud by abuse of position (Count 8)							14-Jan-07		31-Mar-09			
Dishonestly making a false representation to make gain for self/another or cause loss to other/expose other to risk (Count 14)									26-Feb-09			
Carrying on the business of a company with intent to defraud creditors or for other fraudulent purpose (Count 16)									31-Jan-09 - 31-Mar-09			