
FINAL NOTICE

To: **Mr Tahir Mahmood**

Of: 37 York Road
Ilford
Essex
IG1 3AD

Reference: TXM01344

Date: 14 February 2008

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (the "FSA") gives you final notice about an order prohibiting you, Tahir Mahmood, 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 a Decision Notice dated 14 February 2008 ("the Decision Notice") which notified you that, for the reasons listed below and pursuant to section 56 of the Financial Services and Markets Act 2000 ("the Act"), the FSA has decided to make an order prohibiting you, Tahir Mahmood, from performing any function in relation to any regulated activities ("the Prohibition Order") carried on by any authorised person, exempt person or exempt professional firm.

- 1.2. You agreed that you will not be referring the matter to the Financial Services and Markets Tribunal.
- 1.3. You agreed to settle at an early stage of the FSA's investigation on the basis of the Prohibition Order.
- 1.4. Accordingly, for the reasons set out below, and having agreed with you the facts and matters relied on, the FSA hereby makes the Prohibition Order against you.

2. REASONS FOR THE ORDER

- 2.1. The FSA has concluded that you are not fit and proper to carry out any functions in relation to regulated activities carried on by authorised person, exempt person, or exempt professional firm, and that you should be prohibited from doing so.
- 2.2. On the basis of the facts and matters summarised below, and set out in more detail in section 4 below, the FSA has concluded that you pose a risk to lenders and therefore to confidence in the financial system, and also that action should be taken against you in support of the FSA's financial crime objective because you have failed to meet minimum regulatory standards in terms of honesty and integrity, which includes an obligation to demonstrate 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.
- 2.3. In summary, you submitted mortgage applications to lenders based on false information and supported by falsified documents. According to the mortgage applications, the mortgage applicants were employed by a firm of which you were a director, called York Financial Services, and that you were the mortgage adviser. The customers' tax records show that they were not employed by York Financial Services. You must therefore have known that false employment and income details were being used in support of these mortgage applications.
- 2.4. You also failed to notify the FSA that Abbaci Associates, of which you are a partner, was removed from the panels of three mortgage lenders.

3. RELEVANT STATUTORY PROVISIONS, RULES AND OTHER REGULATORY PROVISIONS

Statutory provisions

- 3.1. The FSA's statutory objectives, set out in section 2(2) of the Act, include the reduction of financial crime and the maintenance of market confidence.
- 3.2. The FSA has the power, by virtue of section 56 of the Act, to make an order prohibiting you from performing a specified function, any function falling within a specified description or any function, if it appears to the FSA that you are not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person. Such an order may relate to a specified regulated activity, any regulated activity falling within a specified description or all regulated activities.

FSA's policy for exercising its power to make a prohibition order

- 3.3. The FSA's approach to exercising its powers to make prohibition orders is set out at Chapter 9 of the Enforcement Guide ("EG"). EG9.1 states that the FSA's power under section 56 of the Act helps it work towards achieving its regulatory objectives. The FSA may exercise this power where it considers that, to achieve any of those objectives, it is appropriate either to prevent an individual from performing any functions in relation to regulated activities or to restrict the functions which he may perform.
- 3.4. EG9.4 sets out the general scope of the FSA's powers in this respect, which include the power to make a range of prohibition orders depending on the circumstances of each case and the range of regulated activities to which the individual's lack of fitness and propriety is relevant. EG9.5 provides that the scope of a prohibition order will vary according to the range of activities that the individual performs in relation to regulated activities, the reasons why he is not fit or proper and the severity of the risk posed by him to the consumers or the market generally.
- 3.5. In circumstances where the FSA has concerns about the fitness and propriety of an approved person, EG9.8 to 9.14 provides guidance. In particular, EG9.8 states that

the FSA may consider whether it should prohibit that person from performing functions in relation to regulated activities, withdraw that person's approval or both. In deciding whether to withdraw approval and/or make a prohibition order, the FSA will consider whether its regulatory objectives can be achieved adequately by imposing disciplinary sanctions.

3.6. EG9.9 states that the FSA will consider all the relevant circumstances when deciding whether to make a prohibition order against an approved person and/or to withdraw that person's approval. Such circumstances may include, but are not limited to, the following factors:

- (1) the matters set out in section 61(2) of the Act;
- (2) whether the individual is fit and proper to perform functions in relation to regulated activities. (The criteria for assessing the fitness and propriety of an approved person in terms of honesty, integrity and reputation are set out in FIT2.1 (Honesty, integrity and reputation), and include an individual's openness and honesty in dealing with consumers, market participants and regulators and an ability and willingness to comply with requirements placed on him by or under the Act as well as with other legal and professional obligations and ethical standards); and
- (3) whether, and to what extent, the approved person has:
 - (a) failed to comply with the Statements of Principle issued by the FSA with respect to the conduct of approved persons; or
 - (b) been knowingly concerned in a contravention by the relevant firm of a requirement imposed on the firm by or under the Act (including the Principles and other rules);...
- (5) the relevance and materiality of any matters indicating unfitness;

- (6) the length of time since the occurrence of any matters indicating unfitness;
- (7) the particular controlled function the approved person is (or was) performing, the nature and activities of the firm concerned and the markets in which he operates; and
- (8) the severity of the risk posed by the individual to consumers and to confidence in the financial system.

3.7. EG9.10 provides that the FSA may have regard to the cumulative effect of a number of factors and may take into account the particular controlled function which an approved person is performing for a firm, the nature and activities of the firm concerned and the markets within which it operates.

3.8. EG9.12 provides a number of examples of types of behaviour which have previously resulted in the FSA deciding to issue a prohibition order or withdraw the approval of an approved person. The examples include:

...

- (3) severe acts of dishonesty, for example those which may have resulted in financial crime; and

...

- (5) serious breaches of the Statements of Principle for Approved Persons, such as providing misleading information to clients, consumers or third parties.

Regulatory requirements

Fit and Proper Test for Approved Persons

- 3.9. The part of the FSA Handbook entitled “FIT” sets out the Fit and Proper test for Approved Persons. The purpose of FIT is to outline the main criteria for assessing the fitness and propriety of a candidate for a controlled function and FIT is also relevant in assessing the continuing fitness and propriety of an approved person.
- 3.10. In this instance, the criteria set out in FIT are relevant in considering whether the FSA may exercise its powers to make a prohibition order against you, as an approved person, in accordance with EG9.9.
- 3.11. FIT1.3 provides that the FSA will have regard to a number of factors when assessing a person’s fitness and propriety. Among the most important considerations will be the person’s honesty, integrity and reputation.
- 3.12. In determining a person’s honesty, integrity and reputation, FIT2.1 states that the FSA will have regard to matters including, but not limited to, those set out in FIT2.1.3G. This guidance includes:
- (1) whether the person has contravened any of the requirements and standards of the regulatory system (FIT2.1.3G(5)); and
 - (2) 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 (FIT2.1.3 G(13)).

The Statements of Principle and Code of Practice for Approved Persons

- 3.13. The Statements of Principle and Code of Practice for Approved Persons (“APER”) set out the Statements of Principle in respect of approved persons and conduct which, in the opinion of the FSA, constitutes a failure to comply with them. They also describe factors to be taken into account by the FSA in determining whether an approved person’s conduct complies with a particular Statement of Principle.

- 3.14. APER3.1.3G states that, when establishing compliance with, or breach of, a Statement of Principle, account will be taken of the context in which a course of conduct was undertaken, the precise circumstances of the individual case, the characteristics of the particular controlled function and the behaviour expected in that function. APER3.1.4G states that an approved person will only be in breach of a Statement of Principle if they are personally culpable, that is, in a situation where their conduct was deliberate or where their standard of conduct was below that which would be reasonable in all the circumstances.
- 3.15. In this case, the FSA considers the most relevant Statement of Principle to be Principle 1.

Statement of Principle 1

- 3.16. Statement of Principle 1 requires an approved person to act with integrity in carrying out his controlled function.
- 3.17. APER4.1 sets out a number of examples of behaviour which the FSA considers constitute a failure to comply with Statement of Principle 1. APER4.1.3E states that deliberately misleading (or attempting to mislead) by act or omission either a client or the FSA does not comply with Statement of Principle 1. Specific examples of such conduct are set out in APER4.1.4E and include providing false or inaccurate documentation or information, or deliberately falsifying documents. In considering a person's integrity the FSA may also have regard to whether that person has contravened any of the requirements and standards of the regulatory system (FIT 2.1.3G(5)).

4. FACTS AND MATTERS RELIED ON

Background

- 4.1. You are currently a partner at Abbaci Associates which operates in Ilford as a mortgage broker and which also provides accountancy services. The other partner is Mr Amjad Ali Malik. With effect from 31 October 2004, you were approved to perform the controlled function of CF4 (Partner) at Abbaci Associates. Previously, you were a director of York Financial Services with Mr Malik.

False mortgage applications

- 4.2. A lender confirmed to the FSA that it had removed Abbaci Associates from its panel of mortgage intermediaries because of concerns about the submission of false mortgage applications by Abbaci Associates. You did not notify the FSA of Abbaci Associates' removal from its panel.
- 4.3. The FSA conducted a review of mortgage applications submitted to lenders by you and Mr Malik.
- 4.4. The FSA reviewed three files containing false information supported by false documents in which you had acted as the mortgage adviser. It is highly likely that you saw the completed applications forms and were aware that the customers were claiming to be employees of your business. The findings of the review are summarised below.

Client A

- (1) On his mortgage application dated 5 June 2006, **Client A** stated his employer as YFS and his income as £40,000 per annum. The application form was supported by three months of pay slips issued by YFS as proof of Client A's income.
- (2) The FSA queried this information with HM Revenue and Customs ("HMRC") which confirmed that Client A is not and has never been an employee of YFS. The income and employment information presented on the application form were false, and the pay slips issued by YFS and submitted to support the application had been falsified.

- (3) This mortgage application was rejected by the lender at the time it was submitted. Despite this, you submitted a further mortgage application on behalf of Client A one year later on 6 June 2007, which also indicated that Client A was an employee of YFS.

Client B

- (4) On her mortgage application dated 4 December 2006, **Client B** stated her employer as YFS and her income as £37,500 per annum. The application form was supported by three months of pay slips issued by YFS as proof of Client B's income.
- (5) The FSA queried this information with HMRC which confirmed that Client B is not and has never been an employee of YFS. The income and employment information presented on the application form were false, and the pay slips issued by YFS and submitted to support the application had been falsified.

Client C

- (6) On her mortgage application dated 27 June 2006, **Client C** stated her employer as S***** and her income as £48,000 per annum. The application was supported by three months of pay slips issued by S***** as proof of Client C's income. The FSA noted that these pay slips were identical in format to the pay slips provided by YFS as proof of the incomes of both Client A and Client B.
 - (7) The FSA queried this information with HMRC which confirmed that Client C is not and has never been an employee of S*****. In fact, she has been unemployed since 1999. The income and employment information presented on the application was false, and the pay slips for S***** submitted to support the application were falsified.
- 4.5. In two of the three mortgage applications the FSA reviewed, the falsified pay slips provided in support of the applications were issued by YFS, of which you were a director.

- 4.6. False information, particularly relating to clients' occupations and incomes, was entered on all three of the mortgage applications reviewed by the FSA in respect of which you were identifiable as the mortgage adviser.
- 4.7. You were identified as the mortgage adviser for all three of the mortgage applications reviewed by the FSA which were supported by falsified pay slips.
- 4.8. Your partner confirmed in a taped interview that the partners had not put in place systems within Abbaci to prevent the occurrence of financial crime. Given your involvement in submitting mortgage applications containing information which it is highly likely you knew to be false, our view is that this failure was deliberate rather than attributable to a lack of competence on your part.

5. CONCLUSIONS

- 5.1. The FSA has concluded that the conduct summarised in section 4 represents a failure by you to comply with Principle 1 of the Statements of Principle for Approved Persons. The reasons for the FSA's conclusions are summarised below.
- 5.2. Mortgage applications submitted by Abbaci Associates which were reviewed by the FSA were found to be based on false information. Your role at Abbaci Associates, as one of its two partners and as one of its two mortgage advisers, and the fact that applications reviewed by the FSA submitted by you contained false information and were supported by falsified documents, has caused the FSA to conclude that you were knowingly and dishonestly involved in the submission of false applications, demonstrating a lack of integrity.
- 5.3. The FSA has therefore concluded that you have failed to meet minimum regulatory standards in respect of honesty and integrity, and you are not therefore fit and proper to carry out any functions in relation to any regulated activities carried on by any authorised person, exempt person or exempt professional firm.

Relevant period of breach

- 5.4. The period of breach is from 31 October 2004 to 11 October 2007 when Abbaci agreed to cease conducting regulated activities at the request of the FSA.

Summary

- 5.5. The failures identified in this Notice are very serious. You submitted knowingly false mortgage applications to a lender, and you have therefore failed to meet the requirements and standards expected of an approved person.
- 5.6. You pose a risk to consumers, to confidence in the financial system and to the FSA's fulfilment of its financial crime objective. The FSA has therefore concluded that it is necessary to make a prohibition order against you in order to fulfil its regulatory objectives.

6. DECISION MAKERS

- 6.1. 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.

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.

Third party rights

- 7.3. A copy of this notice is being given to Mr Amjad Ali Malik of Abbaci Associates as a third party identified in the reasons above and to whom in the opinion of the FSA the

matter is prejudicial. That party has similar rights of representation and access to material in relation to the matter which identifies him.

FSA contacts

- 7.4. For more information concerning this matter generally, you should contact Chris Walmsley (direct line: 020 7066 5894) of the Enforcement Division of the FSA.

Jonathan Phelan
Head of Department
FSA Enforcement Division