
FINAL NOTICE

To: **Media & Entertainment Insurance Services Limited**

Of: **Walnut Tree House
Bickley Park Road
Bromley, Kent
BR1 2AY**

FSA Reference Number: **313675**

Dated: **14 October 2010**

TAKE NOTICE: The Financial Services Authority (the “FSA”) of 25 The North Colonnade, Canary Wharf, London E14 5HS gives you final notice about a decision to cancel the permission granted to Media & Entertainment Insurance Services Limited, to carry on regulated activities

1. ACTION

1.1 Media & Entertainment Insurance Services Limited (“M&E”) is a small insurance broker which specialised in arranging insurance for the entertainment industry, including advertising and television commercials. The FSA gave M&E a Decision Notice on 23 June 2009 (the “Decision Notice”), which notified it that for the reasons given below and pursuant to section 45 of the Financial Services and Markets Act 2000 (the “Act”), the FSA had decided to cancel the permission granted to M&E pursuant to Part IV of the Act (“M&E’s Part IV permission”).

1.2 On 20 July 2009, M&E exercised its statutory right to refer the Decision Notice to the Upper Tribunal (Tax and Chancery Chamber) (the “Tribunal”). On 17 September 2010, M&E withdrew that reference and the Tribunal consented to the withdrawal. Accordingly, the FSA has today cancelled M&E’s Part IV permission.

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2. REASONS FOR ACTION

Summary

- 2.1 The FSA has concluded, on the basis of the facts and matters described below, that M&E is failing to satisfy the Threshold Conditions set out in Schedule 6 to the Act (the "Threshold Conditions") in that the FSA is not satisfied that M&E is a fit and proper person having regard to all the circumstances, including the need to ensure that its business is conducted soundly and prudently.
- 2.2 This is because M&E's founder and only approved person ("Mr Cable") has failed to act with integrity and treat a client fairly. In particular, during the course of arranging two insurance contracts for a client, he significantly inflated the cost of the insurance by £89,060.10 and altered insurance policy documents in an attempt to overcharge the client. Through the actions of Mr Cable M&E has thereby failed to comply with Principles 1 and 6 of the FSA's Principles for Businesses which respectively requires M&E to conduct its business with integrity and pay due regard to the interests of its customers.

Relevant statutory provisions

- 2.3 The FSA's regulatory objectives established in section 2(2) of the Act are market confidence, public awareness, the reduction of financial crime and the protection of consumers.
- 2.4 The FSA is authorised by section 45 of the Act to cancel an authorised person's Part IV permission, where it appears to the FSA that it is failing to satisfy the Threshold Conditions.
- 2.5 Paragraph 5(c) of Schedule 6 to the Act sets out Threshold Condition 5 which provides that:

"The person concerned must satisfy the Authority that he is a fit and proper person having regard to all the circumstances, including the need to ensure that his affairs are conducted soundly and prudently."

Relevant Handbook provisions

- 2.6 In exercising its power to cancel a Part IV permission, the FSA must have regard to guidance published in the FSA's Handbook of Rules and Guidance (the "Handbook"). The relevant main considerations in relation to the action specified above are set out below.

Relevant Principles

- 2.7 Principle 1 (Integrity) states that a firm must conduct its business with integrity.
- 2.8 Principle 6 (Customers' interests) states that a firm must pay due regard to the interests of its customers and treat them fairly.

Relevant rules

- 2.9 The rules and guidance relating to insurance mediation business are located in the Insurance: Conduct of Business (“ICOB”) (effective until 5 January 2008) and the Insurance: New Conduct of Business Sourcebook (“ICOBS”) (effective from 6 January 2008), which both form part of the Handbook.

ICOB (effective at the time of the breach and until 5 January 2008)

- 2.10 ICOB 2.2.3R(1) states that when a firm communicates information to a customer, it must take reasonable steps to communicate in a way that is clear, fair and not misleading.
- 2.11 ICOB 4.2.15R states that an insurance intermediary must provide a customer with details of the amount of any fees (or where an actual fee cannot be given the basis for calculating any fees, enabling the customer to verify them) for an insurance mediation activity before the customer incurs liability to pay the fee, or before conclusion of the contract, whichever is earlier.
- 2.12 ICOB 4.2.17R states that the information in ICOB 4.2.15 R can be provided in any medium before the conclusion of the contract but must be provided in a durable medium immediately after the conclusion of the contract.
- 2.13 ICOB 4.2.18G(2) states that fees do not include premiums, or commissions that are part of premiums.
- 2.14 ICOB 5.4.1R(1) and (3) state that before the conclusion of a non-investment insurance contract, an insurance intermediary must provide a commercial customer with sufficient information to enable the commercial customer to make an informed decision about the contract being proposed, and the premium and any fees relating to the non-investment insurance contract.
- 2.15 ICOB 5.4.4R states that if the information referred to in ICOB 5.4.1R(2) and (3) was not provided in writing before the non-investment insurance contract was concluded, it must be provided in writing immediately afterwards.
- 2.16 ICOB 5.4.5R states that an insurance intermediary must provide a commercial customer with a policy document promptly after the conclusion of the non-investment insurance contract.

ICOBS (effective from 6 January 2008)

- 2.17 ICOBS 2.2.2R states that when a firm communicates information to a customer or other policyholder, it must take reasonable steps to communicate it in a way that is clear, fair and not misleading.

2.18 ICOBS 4.3.1R states that:

- (1) A firm must provide its customer with details of the amount of any fees other than premium monies for an insurance mediation activity.
- (2) The details must be given before the customer incurs liability to pay the fee, or before conclusion of the contract, whichever is earlier.
- (3) To the extent that an actual fee cannot be given, a firm must give the basis for calculation.

Guidance concerning the relevant threshold condition

2.19 Guidance on the Threshold Conditions is set out in the part of the FSA Handbook entitled Threshold Conditions ("COND").

COND 2.5 – Threshold Condition 5: Suitability (paragraph 5, Schedule 6 to the Act)

2.20 COND 2.5.1UK reproduces the relevant statutory provision that the person concerned must satisfy the FSA that he is a fit and proper person having regard to all the circumstances, including, among other things, the need to ensure that his affairs are conducted soundly and prudently.

2.21 COND 2.5.4(2)(a) and (b) require the FSA, when forming its opinion as to whether an authorised person is conducting its affairs soundly and prudently, to have regard to relevant matters, including whether it conducts its business with integrity and in compliance with proper standards and whether it has, or will have, competent and prudent management.

2.22 COND 2.5.4G(3) states that the FSA will only to take into account relevant matters which are significant in the context of the suitability of the firm.

2.23 COND 2.5.6G states that the FSA, when forming its opinion as to whether an authorised person is conducting its business with integrity and in compliance with proper standards, will have regard to relevant matters, including whether:

- "(1) the firm has been open and co-operative in all its dealings with the FSA and is ready and willing to comply with the requirements and standards under the regulatory system";
- "(4) the firm has contravened, among other things, the requirements of the regulatory system, which includes the threshold conditions and the FSA Principles and other rules".

Other relevant regulatory provisions

2.24 The FSA's policy on exercising its main enforcement powers is set out in the Enforcement Guide ("EG") certain provisions of which are summarised below.

2.25 EG 8.1(1) provides that the FSA may use its own initiative power to vary or cancel the permission of an authorised firm under section 45 of the Act, where a firm is failing or is likely to fail to satisfy the Threshold Conditions.

Cancelling a firm's Part IV permission on the FSA's own initiative

- 2.26 EG 8.13(1) states that the FSA will consider cancelling a Part IV permission using its own initiative power contained in section 45 of the Act in circumstances where the FSA has very serious concerns about a firm, or the way its business is or has been conducted.

Facts and matters relied on

- 2.27 M&E was founded by Mr Cable in 1999 and became authorised by the FSA on 14 January 2005 to conduct insurance mediation business.
- 2.28 Mr Cable became an approved person in relation to M&E on 14 January 2005. Since that date Mr Cable has been approved to perform the following controlled functions: CF1 Director, CF8 Apportionment and Oversight; he is also responsible for M&E's Insurance Mediation activities and the firm's only approved person.
- 2.28 In January 2007, Mr Cable was asked to arrange two insurance contracts for a client. Mr Cable altered two insurance documents, inflating the cost of the insurance by £89,060.10, in an attempt to overcharge the client. He provided the client with inaccurate and misleading information about the cost of insurance and the client only became aware of the true cost of the insurance after enquiries were made. At no stage prior to such enquiries being made did Mr Cable notify the client of the true cost of the insurance premiums or provide the genuine insurance documents.

Representations

- 2.29 Representations made to the FSA, including oral representations made by Mr Cable on 27 May 2009, included reference to the following factors:
- (a) an admission by Mr Cable that he should not have sought to present the insurance as he did, that what he did was wrong and that he failed to act in the client's best interests;
 - (b) the insurance in question related to an area of business which was outside Mr Cable's usual area of expertise;
 - (c) there are limited service providers in the firm's particular area of expertise and it has a substantial body of clients who depend upon it;
 - (d) there is another stakeholder in the business who was not involved in the misconduct described at paragraph 2.28 above but who is dependant on the income generated by business.
- 2.30 In addition, the following proposals were made regarding the future conduct of the firm's business:
- (a) that the firm's business be conducted through an independent brokerage which would collect the premiums and take responsibility for compliance with the firm retaining control of the placing of business;

- (b) that a different person be installed as the approved person, with the support additional compliance and training from an external service provider;
- (c) that the firm employ a compliance officer to closely monitor the placement of any business.

Findings

2.31 The facts and matters described above lead the FSA, having regard to its regulatory objectives which include market confidence and the protection of consumers, to the following conclusions:

- (a) M&E's client was provided with inaccurate and misleading information about the cost of insurance which could have resulted in the client paying M&E premiums in excess of what was actually due;
- (b) through the actions of Mr Cable, M&E has breached the requirements in ICOB and ICOBS to disclose fee information to the client, and also Principle 1 in that M&E has acted without integrity, and of Principle 6 in that M&E has not treated a customer fairly. These failings relate directly to the regulated activities for which M&E has permission;
- (c) the proposals that have been made regarding the future conduct of the firm's business do not adequately address the FSA's concerns regarding the firm's ability to conduct its business soundly and prudently because:
 - (i) as set out in the Decision Notice issued to Mr Cable, the FSA has decided to withdraw Mr Cable's approval and prohibit him from performing controlled functions due to concerns regarding his fitness and propriety; and
 - (ii) the proposals either involve Mr Cable remaining as an approved person with responsibility for insurance mediation or require an application for the approval of another individual, the outcome of which is uncertain.

2.33 M&E is therefore failing to satisfy Threshold Condition 5 (Suitability), as it has failed to satisfy the FSA that it is a fit and proper person having regard to all the circumstances including the need to ensure that its affairs are conducted soundly and prudently and in compliance with proper standards.

3. DECISION MAKER

The decision that gave rise to the obligation to issue this Final Notice was made by the Regulatory Decisions Committee.

4. IMPORTANT

4.1 This Final Notice is given to M&E in accordance with section 390 of the Act.

Publicity

- 4.2 Section 391 of FSMA provides that the FSA must publish such information about the matter to which a final notice relates as it considers appropriate. .
- 4.3 The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

FSA Contact

- 4.4 For more information concerning this matter generally, you should contact Lehong Mac at the FSA (direct line: 020 7066 5742 / email: lehong.mac@fsa.gov.uk).

John Kirby
FSA Enforcement and Financial Crime Division