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## **FINAL NOTICE**

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**To:** **Mohammed Hanif**

**Of:** **The Rock**  
**201-203 Alum Rock Road**  
**Birmingham**  
**B8 1EU**

**Dated:** **5 November 2009**

**TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (“the FSA”) has taken the following action:**

**1. PROHIBITION ORDER**

1.1 The FSA gave you, Mohammed Hanif, a Decision Notice dated 2 October 2009 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 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 (the “Prohibition Order”).

- 1.2 You did not refer 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, 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 an authorised person, exempt person or exempt professional firm.
- 1.6 The Prohibition Order takes effect from 5 November 2009.

## **2. REASONS FOR THE PROHIBITION ORDER**

- 2.1 The FSA concluded, on the basis of the facts and matters described below and as set out in more detail in Section 4 of this Notice, that you lack honesty and integrity and are not fit and proper.
- 2.2 In an authorisation application made on behalf of your daughter-in-law, Mrs Zaneb Sarfraz (“Mrs Sarfraz”), trading as Pak Property Centre (“Pak Property”), you provided false and misleading information to the FSA stating that Mrs Sarfraz had the necessary competence, capability and business experience to be an authorised person, and would be involved in the management and control of Pak Property. In fact, Mrs Sarfraz had very limited involvement with the business and did not have the experience or knowledge necessary to be an authorised person. Instead, you controlled the business.
- 2.3 You also assisted in completing an application for a mortgage for Mrs Sarfraz which contained income information which you must have known to be false, given your role as the individual in charge of the day to day running of Pak Property and your familial relationship with Mrs Sarfraz.

### **3. STATUTORY PROVISIONS, REGULATORY GUIDANCE AND POLICY**

3.1 Relevant statutory provisions, regulatory guidance and policy are set out as an Annex to this Notice.

### **4. FACTS AND MATTERS RELIED ON**

#### **Background**

4.1 Pak Property became authorised on 1 July 2005 to perform the following activities:

- (1) advising on regulated mortgage contracts;
- (2) agreeing to carry on a regulated activity;
- (3) arranging regulated mortgage contracts; and
- (4) making arrangements with a view to regulated home finance.

4.2 With effect from 31 August 2006, Pak Property was also authorised to carry on the additional following activities:

- (1) advising (excluding pension transfers/opt outs) on insurance mediation;
- (2) arranging deals in investments;
- (3) assisting in the administration of insurance;
- (4) dealing in investments as agent; and
- (5) making arrangements with a view to insurance mediation.

4.3 There are no approved persons at Pak Property. You assumed the role of the senior manager in charge of all aspects of the day to day running of Pak Property, and you made all of its business decisions.

4.4 The facts and matters set out below have led the FSA to conclude that you lack honesty and integrity and are not fit and proper.

### **Pak Property's authorisation application**

4.5 On 4 February 2005, the FSA received an authorisation application (the "Application") from Pak Property. It was your idea for Mrs Sarfraz to apply to the FSA for authorisation and you assisted in the completion of the Application. Despite being the authorised person, Mrs Sarfraz was not aware of the purpose of the Application.

4.6 In the Application, it was clearly stated that Mrs Sarfraz would be the director of Pak Property, with a hierarchical structure involving you reporting to a number of individuals who, in turn, would report to Mrs Sarfraz.

4.7 Appended to the Application was a *curriculum vitae* for Mrs Sarfraz in which it was stated that Mrs Sarfraz had significant experience of running Pak Property and was responsible for making key decisions about Pak Property and its business. The FSA has concluded, following an interview with Mrs Sarfraz that, in practice, Mrs Sarfraz had very little involvement in the management and control of Pak Property, and exercised no real influence over its activities. We also concluded that Mrs Sarfraz has no knowledge of the financial services industry or of mortgage contracts.

4.8 It appears to the FSA that the information contained in the Application was false and misleading and you were aware that the information was false and misleading.

### **Mortgage application for Mrs Sarfraz**

4.9 In September 2006, a mortgage application for Mrs Sarfraz was submitted to a mortgage lender by Pak Property. You told the FSA that you assisted in the completion of that application. It appears to the FSA that Mrs Sarfraz had no involvement in the completion of the application, and that she had no knowledge of the income level reported in the application. In the application,

Mrs Sarfraz's net profit figure for 2006 was reported as £100,000, as was the net profit figure for 2005.

- 4.10 According to HM Revenue and Customs ("HMRC") records, however, Mrs Sarfraz made a net profit of £4,740 in the tax year to 5 April 2006, based on income of £19,452.
- 4.11 The income that Mrs Sarfraz declared to the HMRC bears no relation, and is substantially less than, the income figures that were declared on her mortgage application. It appears to the FSA that you, as the individual responsible for the day to day running of Pak Property, must reasonably have known that the net profit figures reported in Mrs Sarfraz's mortgage application were inaccurate. You would also have known as you controlled the £150 per week salary paid to Mrs Sarfraz.

## **5. REPRESENTATIONS**

- 5.1 A response to the Warning Notice on your behalf by letter dated 23 August 2009 (the "Response") indicated that Pak Property was to cease conducting any regulated business.

## **6. CONCLUSIONS**

- 6.1 The FSA concluded that you provided false and misleading information to the FSA for the purpose of obtaining authorisation for Pak Property, and that you provided false and misleading information to a lender about Mrs Sarfraz's earnings from the business for the purpose of obtaining a mortgage for Mrs Sarfraz.
- 6.2 By providing false and misleading information to the FSA, you failed to act with honesty and integrity. As a consequence of your lack of honesty and integrity, the FSA granted Mrs Sarfraz authorisation based on inaccurate representations about her competence, business experience and the nature and extent of her involvement in the operation of Pak Property. This enabled you to operate as a mortgage intermediary in her name in a way which lacked transparency and proper accountability to the FSA. Furthermore, as a result of

the false information you submitted in Mrs Sarfraz's mortgage application form, a lender agreed to provide a loan without being given all the relevant information to assess the risk of Mrs Sarfraz defaulting on mortgage payments (i.e. credit risk). This is another example of your failure to act with honesty and integrity.

6.3 The Response did not adequately address the FSA's concerns about you or alter the FSA's conclusion that you lack honesty and integrity and that you are not fit and proper. Given the lack of transparency in the way that Pak Property was managed and controlled, which in turn meant that the business could be used to commit mortgage fraud, a prohibition order is necessary and proportionate, and is consistent with the FSA's policy of seeking to prevent individuals lacking honesty and integrity from working in or operating as authorised firms, in support of the FSA's financial crime, market confidence and consumer protection objectives.

## **7. DECISION MAKER**

7.1 The decision which have rise to the obligation to give this Final Notice was made by the Chairman of the Regulatory Decisions Committee.

## **8. IMPORTANT**

8.1 This Final Notice is given to you in accordance with section 390 of the Act.

8.2 Sections 391(4), 391(6) and 391(7) of FSMA 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.

8.3 The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

### **FSA contacts**

8.4 For more information concerning this matter generally, you should contact Chris Walmsley of the Enforcement and Financial Crime Division of the FSA (direct line: 020 7066 5894/fax 020 7066 5895).

**Tom Spender  
Head of Department  
Enforcement Division and Financial Crime Division**

## Annex

# STATUTORY PROVISIONS, REGULATORY GUIDANCE AND POLICY

### Statutory provisions

The FSA's statutory objectives, set out in section 2(2) of the Act, include the protection of consumers, maintaining market confidence and the reduction of financial crime.

### Prohibition Orders

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 specific regulated activity, an activity falling within a specified description or all regulated activities.

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

The FSA's approach to exercising its powers to make prohibition orders is set out at Chapter 9 of the Enforcement Guide ("EG").

EG 9.4 sets out the general scope of the FSA's power 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.

EG 9.5 provides that the scope of a prohibition order will vary according to the range of functions which the individual concerned performs in relation to regulated activities, the reasons why he is not fit and proper and the severity of risk which he poses to consumers or the market generally.

EG 9.17 to 9.18 provide guidance on the FSA's exercise of its power to make a prohibition order against an individual who is not an approved person. The FSA will consider the severity of the risk posed by the individual and may prohibit the individual where it considers this is appropriate to achieve one or more of its regulatory objectives. When considering whether to exercise its power to make a prohibition order against such an individual, the FSA will consider all the relevant circumstances of the case, which may include but are not limited to the factors set out in EG 9.9.

EG 9.9 provides that when deciding whether to make a prohibition order the FSA will consider all the relevant circumstances of the case, which may include (but are not limited to):

- whether the individual is fit and proper to perform functions in relation to regulated activities. The criteria for assessing the fitness and propriety are set

out in FIT 2.1 (Honesty, integrity and reputation), FIT 2.2 (Competence and capability) and FIT 2.3 (Financial soundness);

- 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.

EG 9.12 provides a number of examples of types of behaviour which have previously resulted in the FSA deciding to issue a prohibition order. The examples include providing false or misleading information to the FSA, including information relating to business arrangements, and severe acts of dishonesty, for example those which may have resulted in financial crime.

### ***Fit and Proper Test for Approved Persons***

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. FIT is also relevant in assessing the continuing fitness and propriety of an individual who is not an approved person.

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 an individual who is not an approved person in accordance with EG 9.9 and EG 9.18.

FIT 1.3.1G provides that the FSA will have regard to a number of factors when assessing a person’s fitness and propriety. One of the most important considerations will be the person’s honesty, integrity and reputation.

In determining a person’s honesty, integrity and reputation, FIT 2.1 provides that the FSA will have regard to matters including, but not limited to, those set out in FIT 2.1.3G. The guidance includes:

- (1) whether the person has contravened any of the requirements and standards of the regulatory system (FIT 2.1.3G(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 (FIT 2.1.3G(13)).