
FINAL NOTICE

To: **Paul David Cable** **Media & Entertainment Insurance Services Limited**

Address: **Walnut Tree Cottage** **Walnut Tree Cottage**
Bickley Park Road **Bickley Road**
Bromley **Bromley**
BR1 2AY **BR1 2AY**

FSA Reference Number: **PDC01098** **313675**

Date: **14 October 2010**

TAKE NOTICE: The Financial Services Authority, of 25 The North Colonnade, Canary Wharf, London E14 5HS (the “FSA”) gives Paul David Cable (“Mr Cable”) and Media & Entertainment Insurance Services Limited (“M&E), final notice that it has taken the following action:

1. ACTION

- 1.1 For the reasons set out below and having taken account of Mr Cable’s representations, including his oral representations on 27 May 2009, the FSA gave Mr Cable and M&E a Decision Notice dated 23 June 2009 (the “Decision Notice”), notifying Mr Cable and M&E that the FSA had decided to:
- (a) withdraw the approval granted to Mr Cable in relation to M&E pursuant to section 63 of the Financial Services and Markets Act 2000 (the “Act”) (the “Withdrawal of Approval”); and

- (b) make an order pursuant to section 56 of the Act prohibiting Mr Cable from performing any function specified as a controlled function under section 59 of the Act, in relation to any regulated activity (the “Prohibition Order”).

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- 1.2 On 20 July 2009, Mr Cable exercised his right to make a reference to the Upper Tribunal (Tax and Chancery Chamber) (the “Tribunal”), about the matters contained in the Decision Notice. On 16 September 2010, Mr Cable withdrew that reference and the Tribunal consented to the withdrawal on the same date. Accordingly, the Withdrawal of Approval and the Prohibition Order take effect on today's date.
- 1.3 The FSA does not rule out the possibility that Mr Cable might satisfy the FSA regarding his fitness and propriety on an application to revoke the Prohibition Order two years from the date of this notice, in the absence of new evidence since the Decision Notice that he is not fit and proper and conditional upon being satisfied as to his rehabilitation.

2. REASONS FOR THE ACTION

Summary

- 2.1 The FSA has concluded, on the basis of the facts and matters described below, that Mr Cable is not a fit and proper person to perform any controlled function as his conduct whilst performing a controlled function demonstrates a lack of integrity. Specifically, whilst arranging two insurance contracts for a client, Mr Cable significantly inflated the true cost of the insurance by £89,060.10 and altered insurance documents in an attempt to overcharge the client. In the opinion of the FSA, he has failed to satisfy the Statements of Principles and Code of Practice for Approved Persons (“APER”) and has failed to meet the criteria for fitness and propriety as set out in the Fit and Proper Test for Approved Persons (“FIT”).
- 2.2 The FSA considers that, having regard to its regulatory objectives (including market confidence, the protection of consumers and the reduction of financial crime) it is necessary for the FSA to exercise its power to effect the Withdrawal of Approval and make the Prohibition Order against Mr Cable.

Relevant statutory provisions

- 2.3 The FSA's statutory objectives are set out in section 2(2) of the Act and include the protection of consumers and the reduction of financial crime.
- 2.4 The FSA's power to make a prohibition order is set out in section 56 of the Act and the procedure to be followed is set out in section 58 of the Act. The FSA's power to withdraw a person's approval and the procedure to be followed are set out in section 63 of the Act.

Relevant Statement of Principle and Code of Practice for Approved Persons

- 2.5 Statement of Principle 1 in APER states that an approved person must act with integrity in carrying out his controlled function.

- 2.6 APER 4.1 sets out the conduct which does not comply with Statement of Principle 1. In particular, this includes deliberately misleading (or attempting to mislead) by act or omission a client (APER 4.1.3E(1)) and falsifying documents (APER 4.1.4 E(1)).

Relevant Handbook provisions

- 2.7 In exercising its power to withdraw the approval of an individual and make a prohibition order, the FSA must have regard to the relevant provisions in the FSA Handbook of rules and guidance. The main provisions relevant to the actions specified above are set out below.

The Enforcement Guide (“EG”)

- 2.8 The FSA's policy in relation to exercising its power to withdraw the approval of an individual and the making of a prohibition order is set out in EG.
- 2.9 EG 9.1 and EG 9.2 explain the purpose of prohibition orders and the withdrawal of approval from an approved person in relation to the FSA's regulatory objectives.
- 2.10 EG 9.3 to 9.5 set out the FSA's policy on making prohibition orders. In particular:
- (a) EG 9.3 states that the FSA will consider all relevant circumstances, including whether other enforcement action has been taken by the FSA or other enforcement agencies, in deciding whether to make a prohibition order;
 - (b) EG 9.4 states that the FSA has power to make a range of prohibition orders: they may be unlimited or they may be limited to specific functions in relation to specific regulated activities, depending on the reasons why the individual is not fit and proper and the severity of risk he poses to consumers or the market generally, and
 - (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.
- 2.11 EG 9.8 states that in deciding whether to withdraw an individual's approval and/or make a prohibition order, the FSA will consider whether its regulatory objectives can be achieved adequately by imposing disciplinary sanctions.
- 2.12 EG 9.9 states that, if the FSA decides to make a prohibition order against an approved person and/or withdraw their approval, the FSA will consider all the relevant circumstances of the case. These circumstances may include, but are not limited to, whether the approved person: is fit and proper to perform functions in relation to regulated activities; has failed to comply with the Statements of Principle issued by the FSA with respect to the conduct of approved persons (“APER”); or has been knowingly concerned in a contravention by the relevant firm of a requirement imposed on the firm. The FSA will also consider the severity of the risk which the individual poses to consumers.
- 2.13 EG 9.10 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.

- 2.14 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 or withdraw the approval of an approved person. The examples include severe acts of dishonesty which may have resulted in financial crime and serious breaches of APER, such as actively misleading clients about fees and providing misleading information to clients.

Fit and Proper Test for Approved Persons

- 2.15 The FSA has issued guidance on the fitness and propriety of individuals in FIT.
- 2.16 FIT 1.1.2G states that the purpose of FIT is to set out and describe the criteria that the FSA will consider when assessing the fitness and propriety of a candidate for a controlled function. The criteria are also relevant in assessing the continuing fitness and propriety of approved persons.
- 2.17 FIT 1.3.1G(1) states that the most important consideration includes a person's honesty, integrity and reputation.
- 2.18 FIT 2.1 gives specific guidance in determining a person's honesty, integrity and reputation. In particular:
- (a) FIT 2.1.3G(5) states that the FSA will have regard to whether a person has contravened any of the requirements and standards of the regulatory system, and
 - (b) FIT 2.1.3G(13) states that the FSA will have regard to whether 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.

Facts and matters relied on

- 2.19 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 and he is also responsible for Insurance Mediation activities.
- 2.20 During the course of arranging two insurance contracts for a client, whilst acting on behalf of M&E, Mr Cable significantly inflated the cost of the insurance premiums and falsified two insurance documents in an attempt to overcharge the client by £89,060.10. Mr Cable provided the client with inaccurate and misleading information about the cost of insurance which would have resulted in the client paying M&E premiums significantly in excess of what was actually due. The client only became aware of the true cost of insurance and Mr Cable's attempt to overcharge it after the client made its own enquiries. 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

2.21 In the course of the proceedings leading to the Decision Notice, representations were made by means of:

- (a) a letter to the FSA dated 8 August 2008;
- (b) an email to the FSA dated 26 May 2009 attaching a document entitled "Statement to the FSA";
- (c) oral representations made at a meeting on 27 May 2009; and
- (d) an email to the FSA dated 29 May 2009.

2.22 Mr Cable has accepted 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. He has expressed regret and remorse for his actions. However, he has also pointed to the following factors in mitigation:

- (a) the insurance in question related to an area of business which was outside his usual area of expertise and which involved a fee-based method of remuneration which was different from the in-built commission which he was accustomed to receiving;
- (b) the matter involved a great deal of work and was the most complicated project he has been involved in;
- (c) even at the inflated price, his proposal was less than that of a competitor;
- (d) having attempted to overcharge the client, he subsequently offered to reduce his "broker fee" to £10,000 but has never received this amount in full; nor has he received any complaint from the client;
- (e) he wrongly allowed himself to be influenced by another individual;
- (f) this was an isolated lapse in a long career, in support of which Mr Cable pointed to the fact that the FSA investigation revealed no other misconduct and provided a number of reference letters from clients;
- (g) there are limited service providers in his particular area of expertise and he has built up a substantial body of clients who depend upon him;
- (h) his family is reliant on him, including his wife who has a stake in the business and who was unaware of the circumstances of this incident;
- (i) he has fully co-operated with the FSA investigation.

2.23 Mr Cable also made representations regarding alternative ways of managing or structuring his business in an attempt to meet the FSA's concerns.

Findings

2.24 The FSA has concluded that:

- (a) during the course of carrying out his controlled functions and arranging two insurance contracts, Mr Cable failed to treat a customer fairly, by significantly inflating the cost of two insurance contracts;
- (b) Mr Cable's attempt to overcharge a client and the alteration of documents, go directly to impugn his integrity and reputation and therefore demonstrate that he is not a fit and proper person to perform any controlled function in relation to any regulated activity carried on by any authorised or exempt person or exempt professional firm.

2.25 The FSA accepts that this was an isolated instance of Mr Cable succumbing to temptation in an area of business with which he was unfamiliar; conversely he has many years of experience in dealing with his specialist area and he has many clients who depend on his expertise. The FSA also notes that Mr Cable has made a full and frank admission of his misconduct and has co-operated with the FSA.

2.26 In the circumstances, the FSA has decided that Mr Cable should be prohibited from performing controlled functions for at least two years. This prohibition will not prevent him from performing other functions in relation to regulated activities carried on by authorised persons such as advising on non-investment insurance contracts. The FSA does not rule out the possibility of Mr Cable being able to satisfy the FSA that he is fit and proper to perform controlled functions after the prescribed passage of time.

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 Paul David Cable and Media & Entertainment Insurance Services Limited, under 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
Enforcement and Financial Crime Division