
FINAL NOTICE

To: **Nilmini Perera**

Date: **1 June 2007**

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, Nilmini Perera, from performing any function in relation to any regulated activity carried on by any authorised or exempt person.

1. THE ORDER

- 1.1 The FSA gave you a Decision Notice dated 25 April 2007 (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 had decided to make an order prohibiting you, Nilmini Perera, from performing any function in relation to any regulated activity carried on by any authorised or exempt person.
- 1.2 You have not referred 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, for the reasons set out below, 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 any authorised or exempt person. This order has effect from 1 June 2007.

2. REASONS FOR THE ORDER

Introduction

- 2.1 On the basis of the facts and matters and conclusions described in its Warning Notice dated 5 January 2007, and in the Decision Notice (an extract from which is attached to and forms part of this Final Notice), it appears to the FSA that you are not fit and proper to perform any function in relation to any regulated activity carried on by any authorised or exempt person.

Relevant Statutory Provisions

2.2 The FSA is authorised by the Act to exercise the powers contained in section 56 of the Act, which includes the following:

- “(1) Subsection (2) applies if it appears to the FSA that an individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person.*
- (2) The FSA may make an order ("a prohibition order") prohibiting the individual from performing a specified function, any function falling within a specified description or any function.*
- (3) A prohibition order may relate to-*
- (a) a specified regulated activity, any regulated activity falling within a specified description or all regulated activities;*
 - (b) authorised persons generally or any person within a specified class of authorised person”.*

2.3 When exercising its powers, the FSA seeks to act in a way it considers most appropriate for the purpose of meeting its regulatory objectives, which are set out in section 2(2) of the Act. The FSA considers that making a prohibition order against you in the terms indicated meets the following regulatory objectives:

- Reduction of financial crime: that is reducing the extent to which it is possible for a business carried on by a regulated person, or in contravention of the general prohibition, to be used for a purpose connected with financial crime; and
- Protection of consumers: that is securing the appropriate degree of protection for consumers.

Relevant Guidance

Guidance on the FSA's power to withdraw approval and use of Prohibition Orders

2.4 In deciding to take this action, the FSA has had regard to guidance published in the FSA Handbook, in particular the Enforcement Manual ("ENF"), as follows:

- ENF 8.1.2G explains that the purpose of prohibition orders in relation to the FSA's regulatory objectives;
- ENF 8.4.2G concerns the scope of the FSA's power to make 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;
- ENF 8.4.3G states that the FSA will consider all relevant circumstances, including whether other enforcement action has been taken;

- ENF 8.6 gives specific guidance in relation to prohibition orders against individuals employed or formerly employed by firms but who are not approved persons. ENF 8.6.1G states that the FSA may make an order only on the grounds that the individual is not fit and proper to carry out functions in relation to regulated activities carried on by an authorised person;
- ENF 8.6.1AG states that where the individual concerned is not an approved person, the FSA will not have the option of withdrawing approval nor will it generally have the option of exercising its disciplinary powers in relation to the individual concerned and therefore a prohibition order may be the only appropriate action available. In these cases, the FSA will consider the severity of the risk posed by the individual. The FSA may prohibit the individual where it considers it necessary to achieve the FSA's regulatory objectives;
- ENF 8.6.2G states that when considering whether to exercise its power to make a prohibition order against an individual employed or formerly employed by a firm who is not an approved person, the FSA will consider those factors set out in ENF 8.5.2G(1) and ENF 8.5.2G(3);
- ENF 8.5.2G(1) states that when the FSA decides whether to exercise its power to make a prohibition order against an individual employed or formerly employed by a firm who is not an approved person, the FSA will consider whether the individual is fit and proper to perform functions in relation to regulated activities. The criteria for assessing fitness and propriety include: ENF 8.5.2G(1)(a) honesty, integrity and reputation. This includes an individual's openness and honesty in dealing with consumers, market participants and regulators and 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
- ENF 8.5.3G states that the FSA may have regard to the cumulative effect of a number of factors which, when considered on their own, may not be sufficient to show that the individual is fit and proper to continue to carry out the controlled function.

2.5 The FSA is of the view that these matters are all relevant to its assessment of your conduct and that they support the FSA's conclusion that you are not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised or exempt person.

3. IMPORTANT

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

Publicity

3.2 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.

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

FSA Contact

- 3.4 For more information concerning this matter generally, you should contact Pauline Cheng (direct line: 020 7066 5228 / fax: 020 7066 5229) of the Enforcement Division of the FSA.

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John Kirby
FSA Enforcement Division

**EXTRACT FROM THE DECISION NOTICE DATED 25 APRIL 2007 ISSUED TO
NILMINI PERERA**

"2. REASONS FOR ACTION

Summary

2.1 The FSA has concluded, on the basis of the facts and matters described below, that it is satisfied that you are not a fit and proper person to perform any functions. That is because, in the opinion of the FSA, you have provided false information to the FSA and to mortgage lenders.

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Facts and Matters Relied On

2.5 You have been approved by the FSA since 31 October 2004, following the consideration of your application for approval, in which it was stated falsely that you were a British national.

2.6 By providing false information to the FSA, despite the requirement for such matters to be disclosed accurately being clearly stated on the application form, the FSA was not given the opportunity to assess whether there were issues of immigration status relevant to the controlled functions. Accordingly you prevented the FSA from making a fully informed assessment of your fitness to be approved to perform a function in relation to any regulated activity.

2.7 Information supplied to the FSA by lenders, the Home Office and the High Commission for the Democratic Socialist Republic of Sri Lanka, shows that applications made by you to mortgage lenders contained false information, including false information about the validity of a passport, and incorrect information about employment.

2.8 When the FSA approached you regarding these matters, you did not provide any satisfactory explanation or justification for these misrepresentations. You attributed responsibility to third parties whom you stated had completed the FSA application and the mortgage applications on your behalf, using incorrect nationality and employment details without your knowledge. You have not addressed issues raised by the FSA about apparently false employers' references used or salary information declared in the mortgage applications.

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Conclusions

2.23 The facts and matters described above lead the FSA, having regard to its regulatory objectives which include the protection of consumers, to conclude that:

- You deliberately and dishonestly provided false information and false references to mortgage lenders or dishonestly acquiesced in the provision of such false information and references to mortgage lenders;
- You have failed to act with integrity by using false and misleading information to become an approved person at an authorised firm;
- Your attempt to mislead the FSA goes directly to impugn your honesty, integrity and reputation and therefore to demonstrate that you are not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised or exempt person;
- You present a risk to consumers, to mortgage lenders and to other financial institutions as well as to the FSA's statutory objective of the reduction of financial crime; and
- The severity of the risk you pose to consumers and to confidence in the market generally is such that it is necessary in order to achieve its regulatory objective for the FSA to make a prohibition order in the terms proposed."

END OF EXTRACT