
FINAL NOTICE

To: **Simon John Graham Kuun**

Reference: **SJK00013**

Of: **16 The Courtyard
Buntsford Drive
B60 3DJ**

Date: **16 December 2009**

TAKE NOTICE: The Financial Services Authority of 25, The North Colonnade, Canary Wharf, London E14 5HS ("the FSA") gives you final notice that it has taken the following action:

1. THE ACTION

1.1 The FSA gave Simon John Graham Kuun ("Mr Kuun") a Decision Notice on 2 October 2008 which notified him that:

- (1) pursuant to section 56 of the Financial Services and Markets Act 2000 ("the Act") the FSA had decided to make an order prohibiting Mr Kuun from performing any function in relation to any regulated activity carried on by an authorised or exempt person or exempt professional firm ("the Prohibition Order");
- (2) pursuant to section 63 of the Act the FSA had decided to withdraw the approval given to Mr Kuun under section 59 of the Act; and

- (3) pursuant to section 66 of the Act the FSA had decided to impose a financial penalty of £50,000 on Mr Kuun.
- 1.2 On 2 October 2008, Mr Kuun referred the decision to the Financial Services and Markets Tribunal (“the Tribunal”). The Tribunal, in a written decision dated 14 December 2009 that can be found on the Tribunal’s website, determined that:
 - (1) a Prohibition Order should be imposed on Mr Kuun;
 - (2) the approval given to Mr Kuun under section 59 of the Act should be withdrawn; and
 - (3) a fine of £75,000 should be substituted for the fine of £50,000 previously imposed.
- 1.3 With effect from 16 December 2009, the FSA hereby withdraws Mr Kuun’s approval, makes an order prohibiting Mr Kuun from performing any function in relation to any regulated activity carried on by an authorised or exempt person or exempt professional firm, and imposes a financial penalty of £75,000 on Mr Kuun.

2. REASONS FOR THE ACTION

- 2.1 Mr Kuun, while acting in his capacity as one of two directors of an authorised firm named MFP Group Plc (“MFP”), failed to disclose relevant information and provided inaccurate and, in some instances, misleading information to the FSA, in particular, concerning the extent of his involvement with a company named Membership Services Limited (“MSL”). He did so in the course of a Supervision visit to MFP, in subsequent correspondence and throughout the course of the FSA’s investigation.
- 2.2 Mr Kuun represented to the FSA (and to the Tribunal) that he did not own or control MSL and that MSL was owned and controlled by an individual called John Graham. “John Graham” are Mr Kuun’s middle names. There is no documentary evidence of John Graham’s existence. The FSA and the Tribunal concluded that Mr Kuun invented John Graham in order to disguise his own close connection with MSL and thus to present a false picture to the FSA of the way in which the business of MFP was conducted.
- 2.3 The Tribunal found that Mr Kuun had demonstrated a lack of honesty and integrity (contrary to the Statement of Principle 1 of the Statement of Principles for Approved Persons (“APER”)), had failed to be open, candid and truthful with the FSA (contrary to APER Statement of Principle 4) and is not a fit and proper person to perform any function in relation to any regulated activity. The tribunal characterised the explanations put forward by Mr Kuun as untrue, absurd and not credible. The Tribunal rejected Mr Kuun’s evidence in its entirety as an effort to mislead both the FSA and the Tribunal. The Tribunal’s conclusions include the following passage:

“... Mr Kuun seriously misled the FSA or failed to cooperate with the FSA so that information had to be dragged out of him by presenting him with documentary evidence which was inconsistent with the information supplied by him at earlier stages of his dealings with the FSA.” Paragraph 79.

2.4 The Tribunal also stated:

“Mr Kuun embarked on a considered course of conduct over a long period intended to mislead the FSA; that conduct included the production of forged documentation including a false share sale agreement and other forged agreements, the establishment of matters such as a post box and telephone number, and an email address in order to give the impression that MSL was unconnected to him. In interview with the FSA, Mr Kuun implied that he had not visited MSL’s London office, knowing full well that the office he was referring to was nothing more than a post box number that he himself had set up. He misled the FSA for a long period of time and continued to maintain that John Graham controlled MSL to the end of the hearing of the references before the Tribunal; he maintained that position in the light of overwhelming evidence that his evidence could not be true. He had many opportunities to be frank with the FSA but instead he adopted a cynical posture of frankness at the same time as actively misleading the FSA. The Tribunal takes into account that there is no allegation of mis selling by MFP by the FSA but considers that the manner and extent to which Mr Kuun misled the FSA was very serious and were others to adopt such behaviour it would be very detrimental to the system of regulation adopted by the FSA. We are not satisfied as to the evidence of Mr Kuun’s alleged lack of means, but means to pay a fine are only one factor amongst a number to which we have had regard.” Paragraph 99.

2.5 In deciding to increase the financial penalty imposed by the FSA from £50,000 to £75,000, the Tribunal stated:

“We consider that the Tribunal can properly exercise its power to direct an increase in a penalty where the Tribunal is satisfied that an applicant has deliberately set out to mislead the FSA and the full extent which he took becomes apparent before the Tribunal.” Paragraph 96.

3. IMPORTANT

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

Manner of and time for payment

3.2 The financial penalty of £75,000 must be paid in full by Mr Kuun to the FSA by no later than 6 January 2010, 21 days from the date of this Final Notice.

If the financial penalty is not paid

3.3 If all or any of the financial penalty is outstanding on 6 January 2010, the FSA may recover the outstanding amount as a debt owed by Mr Kuun and due to the FSA.

Publicity

3.4 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. 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.

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

FSA contacts

- 3.6 For more information concerning this matter generally, you should contact Chris Walmsley at the FSA (Tel: 020 7066 5894 / Fax: 020 7066 5895).

Tom Spender
Head of Department
FSA Enforcement and Financial Crime Division