
FINAL NOTICE

To: **Monika Tewari**

Date of Birth: **27 August 1974**

Date: **15 June 2010**

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (the "FSA") gives you, Monika Tewari, final notice about the 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

1. ACTION

- 1.1 The FSA gave you a Decision Notice dated 12 May 2010 ("the Decision Notice") which notified you that, for the reasons listed below, it had decided pursuant to section 56 of the Act, to make an order prohibiting you from performing any function in relation to any regulated activity carried out by an authorised person, exempt person or exempt professional firm (the "Prohibition Order").
- 1.2 You did not refer the matter to the Upper Tribunal within 28 days of the date on which the Decision Notice was given to you.
- 1.3 Accordingly, with effect from 15 June 2010, 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 person, exempt person or exempt professional firm.

2. REASONS FOR THE ORDER

- 2.1. On the basis of the facts and matters summarised below, set out in more detail in section 4 of this Notice, the FSA has concluded that you are not a fit and proper

person in terms of honesty and integrity. Consequently, it is appropriate to make a Prohibition Order against you, in support of the FSA's consumer protection, financial crime and market confidence objectives.

- 2.2. In summary, you knowingly allowed false and misleading documentation to be submitted with your mortgage applications to lenders, while you were working as a mortgage consultant for Firm A.

3. RELEVANT STATUTORY PROVISIONS, REGULATORY REQUIREMENTS AND GUIDANCE

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

4. FACTS AND MATTERS RELIED ON

Background

- 4.1. Between November 2002 and September 2008, you were employed at a mortgage intermediary ("Firm A"). You said that you were employed as an administrator. Your duties included processing mortgage applications, contacting lenders and liaising with consumers. You are not currently, nor have you ever been, a holder of a controlled function at Firm A or any other FSA regulated firm.
- 4.2. You attained the Chartered Institute of Bankers' Level 3 Certificate in Mortgage Advice and Practice ("CeMAP 3") on 11 November 2004 and the Certificate of Regulated General Insurance ("CeRGI") on 14 March 2005. You have also passed CeMAP 1 and 2.

Your mortgage applications

- 4.3. During the course of an investigation by the FSA into Firm A, the FSA found that two mortgage applications (the "Applications") had been submitted to lenders in your name through mortgage intermediaries other than Firm A. The FSA reviewed the Application for Property 1 (which was submitted on 30 July 2007) and for Property 2 (which was submitted on 23 October 2007). The Applications state your basic income as £84,000, with additional income of £8,000. The total gross income declared on both Applications was £92,000. The Applications state you are employed as a Senior Financial Consultant at Firm A. Both Applications contain signed declarations stating that the information given in the application is true to the best of the applicant's knowledge.
- 4.4. In interview with the FSA, you were asked to account for your income declared on the Applications. You explained that you had no knowledge of the fraudulent statements of income contained in the Applications. You stated that your basic annual income in 2008 was in the region of £23,000 and that your employer would give you additional income at the end of each month. This would vary between £100 and £900 each month but you said that you would not describe this additional income as a bonus. When questioned, you said that you had never seen the Applications. The only documents you could remember signing in respect of the Applications were a direct debit mandate and perhaps a declaration.

Property 1

- 4.5. The application in respect of Property 1 was for £279,000. You stated that the mortgage questionnaire for Property 1 carries a signature which resembles your signature but you could not remember signing the questionnaire. The mortgage declaration and direct debit authorisation accompanying the mortgage application appear to carry signatures which resemble the signature on the mortgage questionnaire. The mortgage questionnaire states that you are earning a basic income of £84,000 and an additional guaranteed income of £8,000. You admitted that these income figures were not correct.
- 4.6. When questioned about a false payslip in your name dated 31 July 2007 which accompanied the mortgage application for Property 1 you said that you had never seen this payslip. The payslip falsely showed that you were in receipt of a gross monthly income of £7,666.55 and a net monthly income of £4,996.25 from Firm A. This falsely demonstrated that your annual gross income was approximately £92,000.
- 4.7. You admitted to providing your bank statements to the broker for the mortgage application for Property 1. When questioned about the deposits which appeared on your bank account statements showing an account credit in the region of £4,996 you stated that you made these deposits at the behest of your employer. You state you were told that if you deposited the sum mentioned above and similar sums on a monthly basis you would be able to obtain a mortgage offer from a bank. Your employer denied any knowledge of the sums deposited into your bank account on a monthly basis by you.

Property 2

- 4.8. The application in respect of Property 2 was for £288,000. In relation to the mortgage application for Property 2 you admitted having had concerns as to how you could obtain a mortgage of £288,000 on the basis of your salary, having just applied for a mortgage on Property 1 for the amount of £279,000. You claimed you raised these concerns with the brokers processing the Applications but, when you were told that it would be taken care of, you chose not to think more about how you were able to obtain these mortgages. You also indicated that you did not see any issues in obtaining such a high mortgage on the basis of your actual salary at the time of the Applications.
- 4.9. The mortgage consultant for Property 2 ("Broker A") states that he met with you on 23 October 2007. You represented to Broker A that you were employed at Firm A as a Financial Consultant. Broker A completed the fact find in your presence which you signed on 23 October 2007. The fact find shows your annual gross income to be £92,000. You provided Broker A with three payslips showing a monthly net income in the region of £4,996. You also provided him with three bank statements for the same pay period showing account credits in the region of £4,996.
- 4.10. When the first mortgage application for Property 2 was declined by the lender on 12 December 2007 you instructed Broker A to submit two further mortgage applications to two different lenders. You gave specific instructions regarding the name of the lender, the type of mortgage repayment and the interest rate you were seeking. In turn,

both these applications were declined by the lenders. All three of your submitted mortgage applications for Property 2 state you are a Financial Consultant with a basic salary of £84,000 and additional guaranteed income of £8,000.

- 4.11. Contrary to the information given in the Applications, you are not a Financial Consultant working at Firm A nor do you earn a total gross annual income of £92,000. According to records held by HMRC your declared income for tax purposes was:
- (a) £11,920.36 in the tax year ending 2007; and
 - (b) £17,236.69 in the tax year ending 2008.
- 4.12. You admitted that the income figures in the Applications were incorrect and you stated that you were an administrator earning around £23,000 in 2008. The FSA has therefore concluded that the Applications contained false and misleading information with regard to your earnings and employment status.

Adding a third party to your utility bill

- 4.13. You added a third party to your utility bill, even though the third party was not living with you at the time, apparently to enable that person to open a bank account and to support a mortgage application. The FSA does not accept your assertions that you did not think there was anything wrong with this as you believed that the third party was going to live with you. The e-mails written and received by you at the time demonstrate your knowledge that the utility bill was specifically required to support a mortgage application in the name of the third party. In these circumstances, adding a person's name to your utility bill, at a time when you knew that person was not living with you, is conduct that falls significantly short of required standards of the regulatory system. This conduct demonstrates that you are willing to engage in improper circumvention and deception and that you are not ready and willing to comply with the requirements and standards of the regulatory system.

5. REPRESENTATIONS

- 5.1. You challenged the FSA's evidence with regard to your position at Firm A and your role in submitting mortgage applications on behalf of clients.
- 5.2. In particular you stated that you had never worked as a mortgage consultant at Firm A. You said you were an administrator and that your duties were purely secretarial. Furthermore, you represented that you strictly followed instructions given to you by your employer at Firm A. You trusted your employer to give you proper instructions to deal with Firm A's clients and had no knowledge of any improprieties in the applications.
- 5.3. Even though you obtained qualifications in CeMAP 3 and CeRGI, you argued that you were pushed into doing so by your employer and had no intention of relying on your qualifications to practice as a mortgage adviser in the future. Furthermore, you did not receive any mortgage training from your employer. You relied on your employer and the other mortgage brokers to make any substantive decisions about the mortgage applications as well as to tell you what to do.

- 5.4. With regard to the specific applications referred to in paragraph 4.3 of this Notice, you stated you were unaware of the income and job title being used on the application forms and did not recall signing the declarations on the forms.
- 5.5. You admitted adding the name of the third party to your utility bill but explained that you did so because you were informed by a close friend of the third party that the third party would be living at that address and therefore would be liable to pay the utility bill.

6. CONCLUSIONS

- 6.1. Having regard to the facts and matters set out above and having considered your representations, the FSA finds that your behaviour demonstrates that you lacked honesty and integrity. You therefore are not a fit and proper person to perform any functions in relation to regulated activities.
- 6.2. In reaching this decision, the FSA has had regard to its regulatory requirements and relevant guidance and considers that the matters set out above demonstrate that you lack honesty and integrity, namely that:
- (a) you submitted mortgage applications to lenders, which you knew contained false and misleading information, in your own name, regarding your income and employment status. In particular, you provided Broker A, who made the arrangements for the mortgage application for Property 2 to be submitted to the lender, with false payslips and misleading bank statements. You also provided misleading bank statements to the lender for Property 1. Furthermore, you signed documents which you knew contained false information, including mortgage applications containing declarations that the information given was correct; and
 - (b) you added a third party to your utility bill when you knew that the person was not living with you.
- 6.3. You maintain that you were not employed as a mortgage broker with Firm A and only have minimal knowledge about mortgages. The FSA does not accept this position based on:
- (a) your industry specific qualifications which should have given you a thorough understanding of your role and responsibilities. The qualifications were also part paid for by your employer;
 - (b) the information retrieved from the e-mails recovered from Firm A's computers from you to clients that show you were assisting them with arrangements to obtain a mortgage; and
 - (c) the witness statement made by Broker A in which he explains that in his course of dealings with you, you displayed a good knowledge of mortgage contracts.
- 6.4. In all the circumstances the FSA did not find your representations to be credible. The FSA did not believe there was any coercion or lack of understanding on your part as

to the impropriety of your behaviour. Your role was as a mortgage broker and your educational qualifications would have provided you with a full understanding of your role.

- 6.5. The FSA concluded that you pose a serious risk to lenders and to confidence in the financial system, and also that action should be taken in support of the FSA's consumer protection and financial crime objective.
- 6.6. The FSA therefore concluded that you lack honesty and integrity and it is necessary to prohibit you from performing any functions in relation to any regulated activities carried out by any authorised person, exempt person or exempt professional firm.

7. DECISION MAKERS

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

8. IMPORTANT

- 8.1. This Final Notice is given to you under section 390(1) of the Act.

Publicity

- 8.2. Sections 391(4), 392(6) and 391(7) of the Act apply to the publication of information about the matter to which this Final Notice relates. Under those provisions, the FSA must publish such information about the matter to which the 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

- 8.8. For more information concerning this matter generally you should contact Paul Howick at the FSA (direct line: 020 7066 7954/email: paul.howick@fsa.gov.uk).

Tom Spender
Head of Department
FSA Enforcement and Financial Crime Division

Annex

STATUTORY PROVISIONS, REGULATORY GUIDANCE AND POLICY

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

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 specified regulated activity or any regulated activity falling within a specified description or all regulated activities.

The FSA's approach to exercising its power to make a prohibition order

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

EG 9.1 states that the FSA's power to make prohibition orders under section 56 of the Act helps it work towards achieving its regulatory objectives. The FSA may exercise this power where it considers that, to achieve any of those objectives, it is appropriate either to prevent an individual from performing any functions in relation to regulated activities or to restrict the functions which he may perform.

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 provides 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):

- (1) 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);

- (2) the relevance and materiality of any matters indicating unfitness;
- (3) the length of time since the occurrence of any matters indicating unfitness;
- (4) the severity of the risk which the individual poses to consumers and to confidence in the financial system; and
- (5) the previous disciplinary record and general compliance history of the individual.

Fit and Proper Test (“FIT”)

The section of the FSA Handbook entitled “FIT” sets out the fit and proper test for approved persons. The purpose of FIT is to set out and describe the 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 approved person.

Where an individual is not an approved person, the criteria set out in FIT are relevant in considering whether the FSA may exercise its powers to make a prohibition order 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. Among the most important considerations will be the person’s honesty, integrity and reputation.

FIT 2.1.3G (13) provides that in determining a person’s honesty, integrity and reputation, the FSA will have regard to all relevant matters including 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.