
FINAL NOTICE

To: Lee Bruce Stewart
Date of Birth: 29 March 1963
IRN: LBS01002
Date: 21 July 2015

ACTION

1. For the reasons given in this Final Notice, the Authority hereby makes an order, pursuant to section 56 of the Act, prohibiting Lee Stewart from performing any function in relation to any regulated activity carried on by any authorised or exempt person, or exempt professional firm. This order takes effect from 21 July 2015.

SUMMARY OF REASONS

2. The Authority has taken this action because during his employment as a Trader at Rabobank, which ended in 2009, Mr Stewart committed deliberate misconduct by attempting to manipulate the US Dollar LIBOR rate.
3. On 23 March 2015 Mr Stewart pleaded guilty to an Information pursued by the United States Department of Justice ("DOJ") containing one count of conspiracy to commit wire fraud and bank fraud relating to his attempts to manipulate US Dollar LIBOR. Mr Stewart's guilty plea relates to the period from spring 2007 until he left Rabobank in 2009. A copy of the Information is set out at Annex B to this Notice.
4. In light of his criminal conviction for an offence of dishonesty, the Authority finds that Mr Stewart lacks honesty and integrity and, therefore, is not fit and proper.

DEFINITIONS

5. The definitions below are used in this Notice:

“Act” means the Financial Services and Markets Act 2000;

“Authority” means the body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority;

“BBA” means the British Bankers’ Association, which until 31 January 2014 was the administrator of LIBOR;

“DEPP” means the Authority’s Final Procedure and Penalties Manual;

“EG” means the Authority’s Enforcement Guide;

“ENF” means the Authority’s Enforcement Manual;

“FIT” means the Authority’s Fit and Proper test for Approved Persons;

“LIBOR” means the London Interbank Offered Rate;

“Panel Bank” means a bank with a place on the administrator of LIBOR’s panel (the BBA’s panel during the Relevant Period) for contributing LIBOR submissions in one or more currencies;

“Rabobank” means the Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A.;

“Submitter” means those responsible for determining and making LIBOR submissions on behalf of a Panel Bank;

“Trader” means a person trading interest rate derivatives or trading in the money markets;

“Trading Positions” means trading book positions held either in respect of derivative positions or money market positions; and

“Tribunal” means the Upper Tribunal (Tax and Chancery Chamber).

FACTS AND MATTERS

6. LIBOR is an interest rate benchmark fundamental to the operation of both UK and international financial markets. LIBOR is published daily in a number of currencies and maturities. Until 31 January 2014, LIBOR was administered by the BBA and was set according to a definition published by the BBA.¹ Banks on the LIBOR panels make daily submissions to the BBA to enable LIBOR to be calculated.
7. Rabobank delegated responsibility for determining and making LIBOR submissions to Submitters on its money markets desk.

¹ Since 1 February 2014, LIBOR has been administered by ICE Benchmark Administration Limited (“IBA”) <https://www.theice.com/iba>

8. Mr Stewart was employed by Rabobank as a Trader between 1993 and 2009. Mr Stewart had extensive experience of the market.
9. On 29 October 2013 the Authority gave Rabobank a Final Notice for significant failings in relation to LIBOR.
10. On 23 March 2015 Mr Stewart pleaded guilty to the Information containing the offence in respect of conduct between spring 2007 and the end of his employment at Rabobank in 2009. The criminal charge against Mr Stewart related to his deliberate misconduct in attempting to manipulate the US Dollar LIBOR benchmark.

FAILINGS

11. The regulatory provisions relevant to this Notice are referred to in Annex A. FIT 1.3.1G states that the Authority will have regard to, among other things, a person's honesty and integrity when assessing the fitness and propriety of a person to perform a particular controlled function.
12. On 23 March 2015 Mr Stewart pleaded guilty in the U.S. to an Information containing the offence of conspiracy to commit wire fraud and bank fraud.
13. Mr Stewart's criminal conviction demonstrates a lack of honesty and integrity such that he is not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised person.

SANCTION

14. The Authority considers that Mr Stewart's actions as described in this notice demonstrate that he lacks honesty (and therefore integrity). The seriousness of the misconduct was aggravated by the fact that:
 - a. Mr Stewart was an experienced employee of Rabobank and was an approved person, holding the CF30 (Customer) function.
 - b. Mr Stewart engaged in this improper activity over a prolonged period of time.
 - c. LIBOR is of central importance to the operation of UK and worldwide financial markets. Doubts about the integrity of LIBOR threaten confidence in those markets.
15. The Authority therefore prohibits Mr Stewart from carrying out any function in relation to any regulated activity carried out by any authorised person, exempt person or exempt professional firm.

PROCEDURAL MATTERS

Decision maker

16. The decision which gave rise to the obligation to give this Notice was made by the Settlement Decision Makers.
17. This Final Notice is given under, and in accordance with section 390 of the Act.

Publicity

18. 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 Authority must publish such information about the matter to which this notice relates as the Authority considers appropriate. The information may be published in such manner as the Authority considers appropriate. However, the Authority may not publish information if such publication would, in the opinion of the Authority, be unfair to you or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.
19. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate

Authority Contacts

20. For more information concerning this matter generally, contact Patrick Meaney (direct line: 020 7066 7420) or Alex Odell (direct line: 020 7066 5158) of the Enforcement and Market Oversight Division of the Authority.

Therese Chambers
Project Sponsor

Financial Conduct Authority, Enforcement and Market Oversight Division

ANNEX A

GUIDANCE AND POLICY TO STATUTORY PROVISIONS AND RULES

RELEVANT STATUTORY PROVISIONS

1. The Authority has the power, pursuant to section 56 of the Act, to make a prohibition order if it appears to the Authority 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, exempt person or exempt professional firm. Pursuant to section 56(2) of the Act, such an order may relate to a specified function, any function falling within a specified description or any function.

The Fit and Proper test for Approved Persons ("FIT")

2. FIT sets out the criteria for assessing a person's fitness and propriety.
3. FIT 1.1.2G states:

"The purpose of FIT is to set out and describe the criteria that the Authority will consider when assessing the fitness and propriety of a candidate for a controlled function (see generally SUP 10 on approved persons). The criteria are also relevant in assessing the continuing fitness and propriety of approved persons. The criteria that the Authority will consider in relation to an authorised person are described in COND."

4. FIT 1.2.3G states:

"Under section 63(1) of the Act (Withdrawal of approval), the Authority may withdraw its approval if it considers that the person in respect of whom the approval was given is not fit and proper to perform the controlled function to which the approval relates."

5. FIT 1.3.1G states that the Authority will have regard to, among other things, a person's honesty and integrity when assessing the fitness and propriety of a person to perform a particular controlled function.

6. FIT 1.3.3G states:

"The criteria listed in FIT 2.1 to FIT 2.3 are guidance and will be applied in general terms where the Authority is determining a person's fitness and propriety. It would be impossible to produce a definitive list of all the matters which would be relevant to a particular determination."

7. FIT 2.1.1 states:

"In determining a person's honesty, integrity and reputation, the Authority will have regard to all relevant matters including, but not limited to, those set out in FIT 2.1.3 G which may have arisen either in the United Kingdom or elsewhere[...]"

Prohibition order

8. The Authority's approach to deciding whether to impose a prohibition order, and the scope of any such prohibition order, is set out in chapter 9 of EG. The

provisions of EG set out below are those which were in force from 28 August 2007.

9. EG 9.1 sets out how the Authority's power to make a prohibition order under section 56 of the Act helps it work towards achieving its regulatory objectives. The Authority may exercise this power where it considers that, to achieve any of its 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.

10. EG 9.3 states:

"In deciding whether to make a prohibition order and/or, in the case of an approved person, to withdraw its approval, the Authority will consider all the relevant circumstances including whether other enforcement action should be taken or has been taken already against that individual by the Authority. ... in some cases the Authority may take other enforcement action against the individual in addition to seeking a prohibition order and/or withdrawing its approval. The Authority will also consider whether enforcement action has been taken against the individual by other enforcement agencies or designated professional bodies."

11. EG 9.5 states:

"The scope of a prohibition order will depend on 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."

12. EG 9.8 to 9.14 set out guidance on the Authority's approach to making prohibition orders against approved persons.

13. EG 9.8 states that, in deciding whether to make a prohibition order, the Authority will consider whether its regulatory objectives can be achieved adequately by imposing disciplinary sanctions.

14. Specifically in relation to approved persons, EG 9.9 states that in deciding whether to make a prohibition order, the Authority will consider all the relevant circumstances of the case. These include, but are not limited to, the following:

(2) Whether the individual is fit and proper to perform functions in relation to regulated activities. The criteria for assessing the fitness and propriety of approved persons are set out in FIT 2.1 (Honesty, integrity and reputation); FIT 2.2 (Competence and capability) and FIT 2.3 (Financial soundness).

(3) Whether, and to what extent, the approved person has:

- a. *[.....]*
- b. *been knowingly concerned in a contravention by the relevant firm of a requirement imposed on the firm by or under the Act (including the Principles and other rules) or failed to comply with any directly applicable Community regulation made under MiFID or any directly applicable provision of the auction regulation.*

(8) The severity of the risk which the individual poses to consumers and to confidence in the financial system.

15. One example of a type of behaviour which have previously resulted in the Authority deciding to issue a prohibition order or withdraw the approval of an approved person, set out in EG 9.12, is "*severe acts of dishonesty*".

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA : INFORMATION

v. : 1:14-cr-00272-JSR

LEE STEWART,
Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED MAR 23 2015

COUNT ONE

(Conspiracy to Commit Wire Fraud and Bank Fraud)

The Department of Justice charges:

1. From at least in or about May 2006 through at least in or about early 2011, in the Southern District of New York and elsewhere, LEE STEWART, the defendant, together with Anthony Allen, Paul Thompson, Tetsuya Motomura, Anthony Conti, and others known and unknown, did knowingly combine, conspire, confederate, and agree to commit certain offenses against the United States, that is:

- (A) to devise and intend to devise a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and to transmit and cause to be transmitted certain wire communications in interstate and foreign commerce for the purpose of executing the scheme; to wit, the defendant and others engaged in a scheme to manipulate and attempt to manipulate to their advantage the benchmark interest rates referenced by derivative products throughout the financial industry, by the

dissemination, and submission, of false and fraudulent statements intended to influence and manipulate the benchmark interest rates to which the profitability of interest rate derivative trades was tied, and the conspirators contemplated, foresaw, and caused use of wires in interstate and foreign commerce in carrying out the scheme, in violation of Title 18, United States Code, Section 1343; and (B) to execute and attempt to execute a scheme and artifice to defraud a financial institution, the deposits for which were at the time insured by the Federal Deposit Insurance Corporation; and to obtain and attempt to obtain moneys, funds, credits, assets, and other properties owned by and under the custody and control of a financial institution by means of materially false and fraudulent pretenses, representations, and promises, as well as by omission of material facts in violation of Title 18, United States Code, Section 1344.

2. It was a part and an object of the conspiracy that LEE STEWART, the defendant, and others known and unknown, engaged in a scheme to manipulate and attempt to manipulate a benchmark interest rate known as the London Interbank Offered Rate (LIBOR), to which was tied the profitability of interest rate derivative trades in which the defendant and others had a financial interest. The scheme had an effect on one or more financial institutions, within the meaning of Title 18, United States Code, Sections 20 and 3293(2).

OVERT ACT

3. In furtherance of the conspiracy and to affect the illegal objects thereof, LEE STEWART, the defendant, and others known and unknown, committed the following overt act, among others, in the Southern District of New York and elsewhere:

- a. on or about September 2, 2005, LEE STEWART and Anthony Conti conspired to fix and manipulate the day's LIBOR rate by causing their employer, Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A. (Rabobank), a financial institution and global financial services company headquartered in Utrecht, the Netherlands, to make a LIBOR submission that was calculated to benefit LEE STEWART's trading position. Rabobank and Bank-B, a federally-insured financial institution headquartered in Charlotte, North Carolina, had previously entered into an interest rate swap transaction that had a reset date of September 2, 2005. On or about September 2, 2005, a third party publishing corporation published Rabobank's manipulated LIBOR submission by sending a wire communication from the United Kingdom to recipients in New York, New York.

(Title 18, United States Code, Section 1349)

FORFEITURE ALLEGATION

4. As a result of committing the offense alleged in Count One of this Information, LEE STEWART, the defendant, shall forfeit to the United States pursuant to Title 18, United States Code, Section 982, any property constituting or derived from proceeds obtained directly or indirectly as a result of the wire fraud and bank fraud offense alleged in Count One of this Information, including but not limited to a sum of United States currency to be determined by the Court at sentencing, in that such sum in aggregate is property representing the amount of proceeds obtained as a result of the offenses.

Substitute Asset Provision

5. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

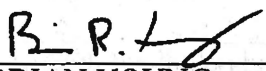
- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third person;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 18 United States Code, Section 982(b), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.

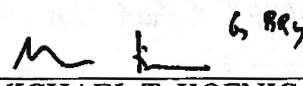
(Title 18, United States Code, Section 982 and Title 18, United States Code, Section 1349).

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