
FINAL NOTICE

To: Mark Gregory Thorogood

Address: Townsend House
Westend
Beumaris
Anglesey
LL58 8BH

FRN: 303671

Dated: 12 January 2016

1. ACTION

1.1. For the reasons set out below, the Authority hereby refuses an application by Mark Gregory Thorogood to revoke the Prohibition Order imposed on him on 7 December 2010.

2. REASONS FOR THE ACTION

2.1. On 7 December 2010 the Authority determined that Mr Thorogood was not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised person, exempt person or any exempt professional firm, by reason of a lack of integrity and competence. It therefore made the Prohibition Order.

2.2. On 10 August 2014 Mr Thorogood applied to revoke the Prohibition Order.

2.3. The Authority refuses Mr Thorogood's application, having considered all the relevant circumstances of the case, including the following:

- (1) The behaviour by Mr Thorogood which gave rise to the Prohibition Order was serious;
- (2) Mr Thorogood has not accepted that his behaviour was wrong, nor provided any evidence which suggests he has remedied the lack of fitness and propriety that led to the prohibition being imposed; and

- (3) The Authority considers that Mr Thorogood has not demonstrated that he would not continue to pose a risk to consumers or to confidence in, or the integrity of, the financial system, were the Prohibition Order to be revoked. The Authority is not satisfied that Mr Thorogood is now a fit and proper person to perform the functions to which the Prohibition Order relates.

3. DEFINITIONS

- 3.1. The definitions below are used in this Final Notice:

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

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

“EG” means the Enforcement Guide;

“the Prohibition Order” means the order imposed by the Authority on Mr Thorogood on 7 December 2010 prohibiting him from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or any exempt professional firm;

“Property Park” means Property Park Mortgages;

“the Tribunal” means the Upper Tribunal (Financial Services); and

“the Warning Notice” means the warning notice issued by the Authority dated 7 October 2015.

4. FACTS AND MATTERS

- 4.1. Between October 2004 and May 2008, Mr Thorogood traded as Property Park, a small independent mortgage advisory firm.

- 4.2. Whilst acting in his capacity as a sole trader, Mr Thorogood:

- (1) knowingly submitted fraudulent mortgage applications in his own name and on behalf of another;
- (2) failed to ensure that Property Park retained adequate records in order to demonstrate that the recommendation given to a customer was suitable; and
- (3) failed to implement or take reasonable steps to implement adequate systems and controls to ensure: that mortgage advice given to Property Park customers was suitable; that the supervision of his staff was adequate; and that Property Park was not used as a vehicle for financial crime.

- 4.3. By a Decision Notice dated 25 March 2010, the Authority gave notice that it had decided to make a prohibition order, pursuant to section 56 of the Act, to prevent Mr Thorogood from carrying out any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm. Mr Thorogood was given the opportunity to make representations to the

Authority, prior to the making of the Decision Notice, about the proposed action, and made written representations.

- 4.4. On 23 April 2010 Mr Thorogood exercised his right to refer the matter to the Tribunal. However, on 25 November 2010 the Tribunal informed all parties that the reference was no longer extant.
- 4.5. On 7 December 2010 the Authority made the Prohibition Order against Mr Thorogood and issued a Final Notice to Mr Thorogood notifying him of the Prohibition Order.
- 4.6. On 10 August 2014 Mr Thorogood applied to revoke the Prohibition Order.
- 4.7. The grounds cited by Mr Thorogood in support of his application are as follows:
 - (a) His business has been seriously affected by the prohibition and he is struggling to find other paid employment. Mr Thorogood entered into an Individual Voluntary Arrangement on 28 April 2014 and requires an income to maintain payments into his Individual Voluntary Arrangement;
 - (b) His health, confidence and family life have been negatively affected by the public nature of the prohibition, and the media attention given to it;
 - (c) He immediately closed his office and ceased to trade in May 2008 following the Authority's visit to his office;
 - (d) As the 101st mortgage adviser to be prohibited, he has been subject to unfair media attention;
 - (e) The North Wales police force has decided not to pursue a case alleging mortgage fraud against him. It has found no wrongdoing and he believes all his personal mortgages are legitimate. His only shortfall in the past was the administration of the financial services part of his business, which he left to his staff, although he was responsible for his staff's actions and has learned from his mistakes. Further, the banks providing the products he sold as a mortgage adviser created a toxic environment which facilitated the situation in which he found himself;
 - (f) He does not wish to seek further employment in the financial services sector;
 - (g) As he was self-employed and already fully qualified when prohibited, and has no intention to seek employment within the financial services industry, he does not need to resolve any training issues; and
 - (h) A sufficient period of time has passed since he stopped trading and since the notice was issued.
- 4.8. The Authority, having considered all the relevant circumstances, refuses Mr Thorogood's application for the following reasons:

- (1) The matters giving rise to the Prohibition Order (summarised at paragraph 4.2 above) were serious, including deliberate and dishonest actions (some of them for personal gain) and prejudice to the interests of customers;
 - (2) Mr Thorogood has not accepted the Authority's finding that he engaged in deliberate and dishonest behaviour. He continues to deny that he submitted fraudulent mortgage applications on his own behalf and refers in his correspondence with the Authority to "alleged" dishonesty and lack of integrity. The Authority considers that Mr Thorogood's failure properly to acknowledge his failings gives rise to continuing concerns about his integrity;
 - (3) So far as the Authority's finding of a lack of competence and capability are concerned, while Mr Thorogood accepts responsibility for his failure to supervise his staff, and indicates that he has learned from his mistakes in this regard, he has not taken any substantive steps to remedy his lack of competence and capability. For example, he has denied any need for training on the basis that he was already fully qualified, and said that it would not serve any purpose;
 - (4) Given Mr Thorogood's failure to accept a substantial part of the Authority's findings against him, or to address the lack of fitness and propriety which gave rise to the issue of the Prohibition Order, the passage of time does not provide good reason to lift the Prohibition Order;
 - (5) Any media attention given to Mr Thorogood in relation to the Prohibition Order, and the damage which he considers results from it, is not relevant to whether he continues to lack fitness and propriety;
 - (6) The fact that Mr Thorogood closed his office in May 2008 is not new evidence which was unknown to the Authority at the time the Prohibition Order was made, and the Authority does not consider it provides any basis for considering that he does not lack fitness and propriety; and
 - (7) The Authority considers that Mr Thorogood has not demonstrated that he would not continue to pose a risk to consumers or to confidence in, or the integrity of, the financial system, were the Prohibition Order to be revoked. The Authority is not satisfied that Mr Thorogood is now a fit and proper person to perform the functions to which the Prohibition Order relates.
- 4.9. Through the Warning Notice, the Authority gave notice that it proposed to take the action described above and Mr Thorogood was given the opportunity to make representations to the Authority about that proposed action.
- 4.10. No representations having been received by the Authority from Mr Thorogood within the time allowed by the Warning Notice, the default procedures in DEPP 2.3.2G of the Authority's Decision Procedure and Penalties manual permit the allegations/matters described in the Warning Notice, and repeated in this Notice, to be regarded as undisputed.
- 4.11. The Authority therefore decided to not revoke the Prohibition Order imposed on Mr Thorogood on 7 December 2010.

5. RELEVANT REGULATORY PROVISIONS

- 5.1. The statutory and regulatory provisions relevant to this Notice are referred to in the Annex.

6. PROCEDURAL MATTERS

Decision maker

- 6.1. This Final Notice is given to Mr Thorogood under, and in accordance with, section 390 of the Act.
- 6.2. The decision which gave rise to the obligation to give this Notice was made by the Acting Chairman of the Regulatory Decisions Committee.

Publicity

- 6.3. 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.
- 6.4. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Authority contacts

- 6.5. For more information concerning this matter generally, contact Rachel Bardiger of the Enforcement and Market Oversight Division of the Authority (direct line: 020 7066 1928).

Bill Sillett

Financial Conduct Authority, Enforcement and Market Oversight Division

ANNEX

RELEVANT REGULATORY PROVISIONS

1. The Authority's regulatory objectives are set out in section 1B (3) of the Act and include consumer protection and integrity of the UK financial system.
2. Section 56(7) of the Act states that the Authority may, on the application of the individual named in a prohibition order, vary or revoke it.
3. Section 58 of the Act sets out the procedure for granting or refusing an application for variation or revocation of a prohibition order.
4. In considering whether to grant or refuse an application for the variation or revocation of a prohibition order, the Authority must have regard to relevant provisions in the Authority's Handbook of rules and guidance. The main provisions that the Authority considers relevant to this case are set out below.

Enforcement Guide

5. The Authority's approach to exercising its power to grant or refuse an application for the variation or revocation of a prohibition order is set out in Chapter 9 of EG.
6. EG 9.19 provides that, when considering whether to grant or refuse an application to revoke or vary a prohibition order, the Authority will consider all the relevant circumstances of a case. These may include, but are not limited to, the following:
 - (1) the seriousness of the misconduct or other unfitness that resulted in the order;
 - (2) the amount of time since the original order was made;
 - (3) any steps taken subsequently by the individual to remedy the misconduct or other unfitness;
 - (4) any evidence which, had it been known to the Authority at the time, would have been relevant to the Authority's decision to make the prohibition order;
 - (5) all available information relating to the individual's honesty, integrity or competence since the order was made, including any repetition of the misconduct which resulted in the prohibition order being made;
 - (6) where the Authority's finding of unfitness arose from incompetence rather than from dishonesty or lack of integrity, evidence that this unfitness has been or will be remedied; for example, this may be achieved by the satisfactory completion of relevant training and obtaining relevant qualifications, or by supervision of the individual by his employer;
 - (7) the financial soundness of the individual concerned; and

- (8) whether the individual will continue to pose the level of risk to consumers or confidence in the financial system which resulted in the original prohibition if it is lifted.
- 7. EG 9.22 provides that the Authority will not generally grant an application to vary or revoke a prohibition order unless it is satisfied that: the proposed variation will not result in a reoccurrence of the risk to consumers or confidence in the financial system that resulted in the order being made; and the individual is fit to perform functions in relation to regulated activities generally, or to those specific regulated activities in relation to which the individual has been prohibited.