

***THIS DECISION NOTICE HAS BEEN REFERRED TO THE  
UPPER TRIBUNAL IN ORDER TO DETERMINE THE  
APPROPRIATE ACTION FOR THE FSA TO TAKE***

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## **DECISION NOTICE**

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**Mr Sidney Cordle**

**66 Knowle Lane  
Sheffield  
S11 9SH**

**Scott Briscoe Limited**

**66 Knowle Lane  
Sheffield  
S11 9SH**

**Date: 20 January 2012**

**TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London, E14 5HS ("the FSA") has decided to take the following action:**

**1. ACTION**

- 1.1. By an application dated 9 March 2011 ("the Application") Scott Briscoe Limited ("Scott Briscoe") applied under section 60 of the Financial Services and Markets Act 2000 ("the Act") for approval of Mr Sidney Cordle ("Mr Cordle") to perform the controlled functions of CF1 Director, CF10 Compliance oversight, CF11 Money laundering reporting officer, CF30 Customer and as the individual responsible for insurance mediation.
- 1.2. On the basis of the facts and matters described below, the FSA is not satisfied that Mr Cordle is a fit and proper person to perform the controlled functions to which the Application relates. In particular, the FSA has concerns as to Mr Cordle's honesty and integrity arising out of the following matters. Therefore the FSA has decided to refuse the Application for the reasons set out below.

**2. REASONS FOR THE ACTION**

- 2.1. Whilst Scott Briscoe was registered as an appointed representative of a network ("Network A"), Mr Cordle became aware of Network A's concern that an

introducer of business to Scott Briscoe, was advising on mortgage and life protection without authorisation. In particular, Mr Cordle was aware that:

- (a) Network A had conducted an investigation into these activities;
  - (b) Network A had determined that Mr Cordle had been aware that the introducer had been providing advice without authorisation;
  - (c) Network A had issued a letter stating that it was minded to terminate the registration of Scott Briscoe Limited on 28 January 2011; and
  - (d) following an unsuccessful appeal, Network A terminated Scott Briscoe's appointed representative arrangement with effect from 26 April 2011.
- 2.2. Mr Cordle failed to disclose in the FSA's Long Form A any of the above events when the Application was made. Further, Mr Cordle has since admitted that he lied during Network A's investigation. Mr Cordle now admits that at all times during Network A's investigation, he knew that the introducer of business to Scott Briscoe, had advised on mortgage and life protection without authorisation.

### **3. RELEVANT STATUTORY PROVISIONS AND GUIDANCE**

- 3.1. The statutory and regulatory provisions relevant to this Decision Notice are set out in Annex A.

### **4. FACTS AND MATTERS RELIED ON**

#### The investigation carried out by Network A

- 4.1. In 2008, Mr Cordle was the sole Director of Scott Briscoe. Scott Briscoe was at that time an appointed representative of Network A.
- 4.2. Between August 2008 and January 2011, Network A conducted an investigation following an allegation of misconduct against Mr Cordle in relation to the work practices of one of Scott Briscoe's introducers.
- 4.3. It was alleged that Mr Cordle knowingly permitted an introducer to provide mortgage advice without having the necessary qualifications or authority to do so.
- 4.4. Visits to Scott Briscoe's premises were carried out by Network A on 2 June 2009, 19 October 2010 and 24 November 2010.
- 4.5. Network A undertook a review of the business list it maintained in respect of Scott Briscoe, a sample of 10 client files and issued questionnaires to those clients. It also reviewed entries from Scott Briscoe's New Business Register.
- 4.6. On 16 November 2010, Network A informed Mr Cordle of the allegation and Network A's investigation.

- 4.7. Following the investigation, Network A concluded that the introducer had been providing advice to customers with Mr Cordle's knowledge and gave notice of its intent to terminate its business relationship with Scott Briscoe on 28 January 2011.
- 4.8. On 22 February 2011, Mr Cordle wrote to the introducer concerned terminating his arrangement with Scott Briscoe. This letter cited Network A's concern that the introducer was providing advice to customers and referred to an instance where the signatures on the verification of identify documents provided by the introducer were fraudulent.
- 4.9. An appeal by Mr Cordle followed whereby Network A carried out a series of scripted telephone calls to clients on cases involving the introducer. The findings resulted in Mr Cordle's appeal being unsuccessful and a Notice of Member Termination was issued to Scott Briscoe on 26 April 2011.

#### The Application and Mr Cordle's non-disclosure

- 4.10. Question 5.09 of the Approved Person's Form A requires applicants to make disclosure if they have ever been the subject of an investigation into allegations of misconduct or malpractice in connection with any business activity. The guidance notes to the Form A explain that the question covers internal investigation by an authorised firm in addition to investigations by a regulatory body at any time. Mr Cordle answered 'no' to question 5.09.
- 4.11. Question 1.13 of the Disclosure of significant events appendix to the application for Part IV permission, relevant for firms that have previously been trading, asks if the applicant firm has ever been found guilty of carrying on any unauthorised regulated activities or been investigated for the possible carrying on of unauthorised regulated activities. Similarly question 1.14 asks if such investigations have yet to be determined. Mr Cordle, on behalf of Scott Briscoe Limited, answered 'no' to both questions.
- 4.12. The Notice of Member Termination issued to Scott Briscoe was revealed to the FSA through receipt of a regulatory reference. On 13 May 2011, the FSA invited Mr Cordle to explain the circumstances of the termination, and the reasons for not disclosing that information.
- 4.13. Mr Cordle's response, also of 13 May 2011, stated that he had submitted a draft application to his compliance consultant who had altered some of the information that was originally included as part of the application. Mr Cordle stated that he discussed the full details of the investigation, prior to any application being submitted, with the compliance consultant whose view was that Network A would take no action.
- 4.14. Mr Cordle did not accept that he was the subject of an investigation into misconduct or malpractice, stating that "*The allegation against me was one of omission not commission (that I knew but took no action).*"

4.15. However, Mr Cordle also stated that whilst the compliance consultant had sent him a copy of the application to be checked and signed before submission, he “*didn’t pay as much attention as I should have to the detailed questions*”.

4.16. In a subsequent email of 12 August 2011 Mr Cordle states that he:

*“was preparing to run the London Marathon as well as working very hard on my business and other issues. That is why I paid [a compliance consultant] to do this application for me and believed they had completed it correctly and I did not need to examine it before I signed it which I did not.”*

4.17. By email of 22 August 2011, Mr Cordle stated that he thought both questions (5.09 on the *Long Form A* and 1.13 of the *Disclosure of significant events appendix*) referred to an FSA investigation. The Notes to the Form A state “*This question covers internal investigations by an authorised firm in addition to investigations by a regulatory body at any time.*”

4.18. On 26 August 2011, Mr Cordle provided a detailed outline of the dates of meetings and correspondence with the compliance consultant but stated that, “*At no point did anyone tell me that the form was crucial. I was under the impression that my record as a financial adviser was what would be under scrutiny.*”

4.19. Mr Cordle further stated that the absence of the disclosure should have been queried by the compliance consultant when he submitted a draft application for review.

## **5. REPRESENTATIONS, FINDINGS & CONCLUSIONS**

### **Representations**

5.1. Below is a summary of the key representations made by Mr Cordle in this matter and how they have been dealt with. In making the decision which gave rise to the obligation to give this notice, the FSA has taken into account all of Mr Cordle’s representations, whether or not explicitly set out below.

5.2. Mr Cordle asserts that his past financial services experience has not been adequately taken into account by the FSA in its consideration of the Application (and in particular his fitness and propriety).

5.3. Mr Cordle accepts that when the Application was made, he failed to disclose (to the FSA) Network A’s investigation into the allegation of misconduct or malpractice made against him.

5.4. However, Mr Cordle asserts that he:

1. discussed the full details of Network A’s investigation, prior to the Application being submitted, with his compliance consultant whose view was that Network A would take no action;

2. sent a draft of the Application to his compliance consultant and delegated responsibility to his compliance consultant to complete and submit the Application on his behalf;
  3. signed the completed the Application without paying it much attention, on the basis that when he completed the draft of the Application he did read the questions and it was entirely appropriate for him to rely on his compliance consultant to complete the Application correctly; and
  4. received verbal assurances that his compliance consultant accepted responsibility for the Application.
- 5.5. Mr Cordle submits that the FSA should take the circumstances set out above into account when considering whether he is a fit and proper person in light of his non-disclosure in the Application.
- 5.6. Mr Cordle also submits that since 13 May 2011 (when his non-disclosure came to light), he has corresponded directly with the FSA in relation to the Application and conducted industry training in order to increase his knowledge in matters with which he was not previously familiar.
- 5.7. Finally, during his oral representations meeting, Mr Cordle admitted that he lied during Network A's investigation into the allegation of misconduct or malpractice made against him. In particular, Mr Cordle admitted he knew that the introducer of business to Scott Briscoe, had advised on mortgage and life protection without authorisation but nevertheless he lied to Network A's investigator.

### **Findings**

- 5.8. The FSA considers that it has had adequate regard to Mr Cordle's past financial services experience in its consideration of the Application but notes that Mr Cordle's non-disclosure of Network A's investigation which led to the termination of Scott Briscoe from the network is both highly relevant to and indicative of, his readiness and willingness to comply with regulatory requirements and therefore his fitness and propriety.
- 5.9. The FSA notes Mr Cordle's explanation for his non-disclosure in the Application. However, the FSA finds that the accurate completion of the Application was Mr Cordle's sole responsibility and cannot be delegated. The FSA considers that despite the assistance sought from his compliance consultant in relation to the Application, the onus was on Mr Cordle to ensure that the Application was accurate and complete. In taking all the circumstances into account, the FSA further considers that Mr Cordle's non-disclosure is particularly serious given nature of the matters which are the subject of the non disclosure, namely the Network A investigation and the termination of Scott Briscoe as an appointed representative of Network A.
- 5.10. The FSA finds that Mr Cordle's failure to disclose Network A's investigation into his knowledge that the introducer was advising clients without being authorised to do so is aggravated by the fact that Mr Cordle:

1. knew that the introducer of business to Scott Briscoe was advising on mortgage and life protection without authorisation but nevertheless he lied to Network A's investigator; and
2. has been an appointed representative for a significant period of time and therefore ought to have been aware of the standard of conduct expected of him by the FSA.

### **Conclusions**

- 5.11. In light of the matters set out above, the FSA has concluded that it cannot be satisfied that Mr Cordle is a fit and proper person to perform the controlled functions to which the application relates as he lacks honesty and integrity.
- 5.12. In particular, the FSA is not satisfied as to Mr Cordle's honesty and integrity given:
  1. the serious nature of the matters which are the subject of the non disclosure, namely the Network A investigation and the termination of Scott Briscoe as an appointed representative of Network A; and
  2. his admission that he knew that the introducer of business to Scott Briscoe, was advising on mortgage and life protection without authorisation but nevertheless he lied to Network A's investigator.
- 5.13. For completeness, the FSA considers that Mr Cordle's admission (made in the course of his oral representations) that he lied during Network A's investigation into the allegation of misconduct or malpractice made against him and the fact that he has recently conducted industry training in order to increase his knowledge in matters with which he was not previously familiar are both positive steps towards his rehabilitation.
- 5.14. The FSA notes that the events leading to the investigation occurred in or before 2008 and therefore consideration has been given to the weight that should be given to the passage of time. However, given that Mr Cordle will not be acting under the supervision of third parties and will be responsible for and be able to exercise influence over the adequacy of Scott Briscoe's systems and controls, the FSA does not consider that the passage of time currently outweighs its concerns.

## **6. PROCEDURAL MATTERS**

### **Decision Maker**

- 6.1. The decision which gave rise to the obligation to give this Decision Notice was made by the Regulatory Decisions Committee.
- 6.2. This Decision Notice is given to Mr Cordle and Scott Briscoe under section 62(3) of the Act and in accordance with section 388 of the Act. The following statutory rights are important.

## **The Upper Tribunal**

7. Mr Cordle has the right to refer the matter to which this Decision Notice relates to the Upper Tribunal. The Tax and Chancery Chamber is the part of the Upper Tribunal, which, among other things, hears references arising from decisions of the FSA. Under paragraph 2(2) of Schedule 3 of the Tribunal Procedure (Upper Tribunal) Rules 2008, Mr Cordle has 28 days from the date on which this Decision Notice is given to Mr Cordle to refer the matter to the Upper Tribunal.
8. A reference to the Upper Tribunal is made by way of a reference notice (Form FTC3) signed by Mr Cordle (or on Mr Cordle's behalf) and filed with a copy of this Decision Notice. The Upper Tribunal's contact details are The Upper Tribunal, Tax and Chancery Chamber, 45 Bedford Square, London WC1B 3DN (tel: 020 7612 9700; email: [financeandtaxappeals@tribunals.gsi.gov.uk](mailto:financeandtaxappeals@tribunals.gsi.gov.uk)).
9. Further details are contained in "Making a Reference to the UPPER TRIBUNAL (Tax and Chancery Chamber)" which is available from the Upper Tribunal website:

<http://www.tribunals.gov.uk/financeandtax/FormsGuidance.htm>

10. A copy of Form FTC3 must also be sent to Francesca Harte at the FSA, 25 The North Colonnade, Canary Wharf, London E14 5HS at the same time as filing a reference with the Upper Tribunal.

### **Access to evidence**

- 10.1. Section 394 of the Act (access to FSA material) does not apply to this Decision Notice.

### **Confidentiality and publicity**

- 10.2. Mr Cordle and Scott Briscoe should note that this Decision Notice may contain confidential information and should not be disclosed to a third party (except for the purpose of obtaining advice on its contents). Section 391 of the Act provides that neither the FSA, nor a person to whom a Decision Notice is given or copied may publish the notice or any details concerning it unless the FSA has published the notice or those details. The FSA must publish such information about the matter to which matter to which a Decision Notice or Final Notice relates as it considers appropriate. Mr Cordle and Scott Briscoe should be aware, therefore, that the facts and matters contained in this notice may be made public.

### **FSA contacts**

- 10.3. For more information concerning this matter generally, you should contact Francesca Harte, Manager, Permissions at the FSA (direct line 020 7066 1482 / email: [francesca.harte@fsa.gov.uk](mailto:francesca.harte@fsa.gov.uk)).

**Tim Herrington**  
**Chairman of the Regulatory Decisions Committee**



**Relevant statutory provisions**

- 1.1. The FSA may grant an application for approval under section 60 of the Act only if it is satisfied that the person in respect of whom the application is made is a fit and proper person to perform the controlled function to which the application relates (section 61(1) of the Act).
- 1.2. Section 62(3) of the Act requires the FSA, if it decides to refuse the application, to issue a Decision Notice.

**Relevant guidance**

- 1.3. The section of the FSA's Handbook entitled "Fit and Proper test for Approved Persons" ("FIT") sets out the criteria that the FSA will consider when assessing the fitness and propriety of a person to perform a particular controlled function.
- 1.4. FIT 1.3.1G(1) states that the FSA will have regard to a number of factors when assessing the fitness and propriety of a person to perform a particular controlled function. The most important considerations include the person's honesty, integrity and reputation.
- 1.5. FIT 1.3.2G states that, in assessing fitness, the FSA will take account of the activities of the firm for which the controlled function is or is to be performed, the permission held by that firm and the markets within which it operates.
- 1.6. FIT 1.3.4G states that, if a matter comes to the FSA's attention which suggests that the person might not be fit and proper, the FSA will take into account how relevant and how important that matter is.
- 1.7. FIT 2.1.1G provides that, in determining a person's honesty, integrity and reputation, the FSA 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.
- 1.8. FIT 2.1.3G states that the matters referred to in FIT 2.1.1 G to which the FSA will have regard include, but are not limited to:
- 1.9. FIT 2.1.3G(4): whether the person is or has been the subject of any proceedings of a disciplinary or criminal nature, or has been notified of any potential proceedings or of any investigation which might lead to those proceedings.
- 1.10. FIT2.1.3G(13): 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.