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**FINAL NOTICE**

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To: **Mr Raymond Coia**

Of: Knock Castle  
Skelmorlie Road  
Largs  
Ayrshire  
KA30 8SE

13 November 2003

**TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (“the FSA”) gives you final notice about an order prohibiting you from performing any function in relation to any regulated activity carried on by any authorised person.**

**THE ORDER**

By its Warning Notice dated 6 August 2003 (“the Warning Notice”) the FSA gave you notice that it proposed to make a prohibition order and you were given the opportunity to make representations to the FSA about that proposed order. No representations were received by the FSA from you.

The FSA gave you a Decision Notice dated 2 October 2003 which notified you that, pursuant to section 56 of the Financial Services and Markets Act 2000 (“FSMA”) and for the reasons set out in that Notice, the FSA had decided to make an order prohibiting you from performing any function in relation to any regulated activity carried on by any authorised person.

You have not referred the matter to the Financial Services and Markets Tribunal within 28 days of the date on which the Decision Notice was given to you.

**Accordingly, for the reasons set out below, the FSA hereby makes an ORDER pursuant to section 56 of FSMA prohibiting you, Mr Raymond Coia, from performing any function in relation to any regulated activity carried on by any authorised person. This order has effect from 17 November 2003.**

## REASONS FOR THE ORDER

### Introduction

1. It appears to the FSA that you are not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised person because of your conduct since 1996. In particular:
  - 1.1. you carried on or purported to carry on investment business in breach of section 3 of the Financial Services Act 1986; between 1996 and May 2001 investors paid at least £9.6 million into your investment schemes;
  - 1.2. you systematically misled investors and potential investors as to the use to which their invested funds would be put, and as to the profits which were being generated on their invested funds;
  - 1.3. as a result of your conduct in carrying on your unauthorised investment business, investors have suffered losses exceeding £4.6 million; and
  - 1.4. in the course of the investigation into your investment business you made misleading statements in an attempt to cover up the nature and scale of your unlawful activities, you continued to accept new funds from investors after the investigation had started, you failed to provide information and business records in accordance with statutory requests and court disclosure orders, and, after being served with a court order freezing your assets, you attempted to dissipate funds paid into your schemes by investors.
2. By your conduct you have demonstrated such wilful and persistent disregard of the requirements and standards of the regulatory system, and thereby such a lack of fitness and propriety, that the FSA considers it necessary to make the prohibition order against you in order to achieve its regulatory objectives, in particular the objectives of maintaining market confidence in the financial system and protecting consumers.

### Relevant Statutory Provisions

3. The FSA's regulatory objectives are set out in section 2 of FSMA.
4. The FSA's power to make a prohibition order is set out in section 56 of FSMA. Subsections (1) and (2) state:

*“(1) Sub-section (2) applies 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.*

*“(2) The Authority may make an order ('a prohibition order') prohibiting the individual from performing a specified function, any function falling within a specified description or any function.”*

5. The Financial Services Act 1986 ("the 1986 Act") was in force from 1 May 1988 until the commencement of FSMA on 1 December 2001.
6. Section 3 of the 1986 Act stated that no person shall carry on or purport to carry on investment business in the UK unless he is either an authorised person or an exempted person under the 1986 Act.
7. Establishing, operating and winding up collective investment schemes constituted investment business under the 1986 Act by virtue of paragraph 16 of Part II, Schedule 1 to the 1986 Act. Collective investment schemes were defined by section 75 of the 1986 Act.

### **Relevant Guidance**

8. In deciding on the action proposed, the FSA has had regard to the guidance published in the FSA Handbook, and in particular to chapter 8 of the Enforcement manual ("ENF").
  - ENF 8.1 states that the FSA may exercise its power to make a prohibition order, inter alia, where it considers that, to achieve its regulatory objectives, it is necessary to prevent an individual from carrying out any function in relation to regulated activities.
  - Prohibition orders may be unlimited or they may be limited to specific functions in relation to specific regulated activities. ENF 8.4.2(3) states that the scope of a prohibition order will depend on, among other things, the reasons why the individual is not fit and proper and the severity of risk he poses to consumers or the market generally.
  - ENF 8.4.3 states that in deciding whether to make a prohibition order the FSA will consider all relevant circumstances, including whether other enforcement action should be taken or has already been taken against the individual by the FSA or by other enforcement agencies.
  - The guidance at ENF 8.8 applies when the FSA is considering making a prohibition order against an individual who is not an approved person, an exempt person, a person employed by an authorised firm, or a member of a professional firm. ENF 8.8 therefore applies in this case.
  - ENF 8.8.2A recognises that in cases such as this the FSA will not have the option of considering the adequacy of other regulatory action and provides that it will consider the severity of the risk posed by the individual and may prohibit him where it considers that it is necessary to achieve the FSA's regulatory objectives.
  - ENF 8.8.3 states that in determining the fitness and propriety of such an individual the FSA will consider the criteria set out in ENF 8.5.2(1), (3) and (5) including:
    - (1) honesty, integrity and reputation: encompassing an individual's openness and honesty in dealing with consumers, market participants

and regulators; and his ability and willingness to comply with requirements placed on him by legal obligations and ethical standards;

- (2) the relevance materiality and length of time since the occurrence of the matters indicating unfitness; and
- (3) the severity of the risk which the individual poses to consumers and to confidence in the financial system.

## **Facts and Matters Relied On**

9. On the basis of the facts and matters described below the FSA considers that you are not a fit and proper person to perform any function in relation to any regulated activities carried on by any authorised person.

## **Background**

10. You worked for a high street bank for 11 years, followed by 3 years at a business information and analysis company. You have never been an authorised, approved or exempt person nor have you been a member of a professional firm.
11. In March 2001 the FSA commenced a formal investigation into your activities. The FSA has considered the material gathered in the course of that investigation. This includes information which you provided to the FSA, documents and information obtained from you and your employees and agents, documents and information obtained from other sources including institutions where you operated bank or broker accounts and information and documents provided to the FSA by investors in your schemes.

### **Issue 1: Unauthorised investment business in breach of section 3 of the 1986 Act**

12. Between 1996 and May 2001 ("the relevant period") you operated an unauthorised investment business in breach of the 1986 Act.
13. Although your business used a number of trading names and entities incorporated outside the UK, the business was at all material times carried on by you from your residential addresses in Scotland, using the generic name 'Scotia'. At least 450 investors participated in the various Scotia schemes between 1996 and 2001.
14. The original basis of the business was that you had created a computer-based algorithm ("the Scotia Algorithm") which could be used as a tool for predicting trends or movements in currency prices. Scotia investors paid money to you, initially for speculative investment in currency contracts (also known as foreign exchange or 'forex' contracts). As your business grew, investors were offered additional schemes involving speculation in a variety of forex, futures and options contracts. In total, investors were offered 6 nominally separate schemes, which will be referred to throughout this Notice as:

#### **The Scotia Forex Scheme**

The Prosperity Forex scheme  
The Dominion Futures Scheme  
The GSI 1 Scheme  
The GSI 2 Scheme  
The Oceanic Scheme

15. Within each separate scheme, investors' money was to be pooled and the pooled funds invested by you in speculative foreign exchange, futures and options contracts in order to generate profits for the particular scheme and its investors. All 6 schemes, as described, amounted to collective investment schemes within the terms of the 1986 Act.
16. By establishing, operating and winding up these schemes (or purporting to do so) you were carrying on investment business. At no time in the relevant period were you authorised to carry on investment business or exempt from the need for authorisation. None of the entities (incorporated or otherwise) through which you operated your business was authorised or exempt. As a result, all of the investment business which was carried on by you in the relevant period was carried on in breach of section 3 the 1986 Act.
17. In the circumstances described in paragraphs 12 to 16 above, the FSA is satisfied that between 1996 and May 2001 you carried on investment business in contravention of the 1986 Act.

#### **Issue 2: Misleading investors**

18. Investors paid at least £9.6 million into your schemes between 1996 and 2001. These investors were led to believe that their funds were being traded by you on various markets or invested in various forex, futures or options contracts. In fact, only a small proportion of the money contributed by investors was ever paid into trading accounts, and little actual trading took place within those accounts. Instead of being traded, investors' capital was used by you to fund business and personal expenditure, and to pay profits to those investors who withdrew their funds.
19. In addition, you systematically misled investors regarding the level of profits or returns which were being generated on their invested funds. In various documents you told investors and potential investors that the funds had grown as follows:

Scotia Forex Scheme	over 240%	(December 1996 to April 2000)
Dominion Futures	over 250%	(April 1998 to April 2001)
GSI 1 Scheme	over 100%	(July 1998 to August 1999)
GSI 2 Scheme	over 1200%	(August 1999 to April 2001)
Prosperity Forex Scheme	over 39%	(June 2000 to April 2001)
Oceanic Scheme	over 8.5%	(February 2000 to April 2001)
20. No such profits were actually made. Of the small amount of trading which did take place, the evidence available shows that you made a trading loss, net, across all the accounts, over these periods.

### **Issue 3: Investor Loss**

21. Despite the fact that no net trading profits were made by your business over the relevant period, any investors who redeemed their investment were repaid their capital, plus profit. This purported profit was in fact drawn from the capital paid into the schemes by other investors. In addition, you spent £3.5 million of the money contributed by investors, of which only £1 million (approximately) was recoverable. Finally, you incurred trading losses equivalent to £350,000.
22. As a result, there are insufficient funds remaining to repay the people who invested in your schemes. In net capital terms, the losses to investors will exceed £4.6 million. Measured against the valuations of their holdings published by you, the losses to investors will be much higher.

### **Issue 4: Misleading the FSA and failing to co-operate**

23. In March 2001 the FSA commenced a formal investigation into the nature and scope of your investment business. From the outset of the FSA investigation, you made false and misleading statements to the FSA in an attempt to conceal the nature and scale of your unauthorised investment business. You wrote to all of the investors misrepresenting the nature of the FSA's investigation which hampered the progress of the investigation and delayed the repayment of funds to investors.
24. Throughout the investigation you failed to comply adequately, in time, or at all with statutory requests and judicial orders for disclosure of documents. The FSA was forced to obtain and execute a search warrant in an attempt to obtain the business records for your schemes.
25. After the FSA's visit to you in March 2001 you continued to accept new funds from investors and continued to make payments out from funds contributed by investors.
26. Despite being served with Court asset freezing orders in May 2001 you tried to transfer over £170,000 to various accounts, including an account controlled by you in Vanuatu.
27. By the conduct described in paragraphs 12 to 26 you have failed fundamentally not only to be candid and truthful in all your dealings with regulatory bodies but also failed to show that you are ready and willing to comply with the requirements and standards of the regulatory system and the law generally.

### **Your response to the FSA's allegations**

28. You do not accept that you carried on investment business within the meaning of the 1986 Act. You deny that investors' money was accepted by your business for the purpose of trading it in order to generate a profit for the investors. Your case appears to be that investors paid their funds to enable you to develop and test computer algorithms. These algorithms, when complete, would be sold to a large trading institution for a substantial sum, and in this way the investors would realise a substantial profit.

29. Your explanation is wholly lacking in credibility, is contradicted by the contents of numerous documents which you issued to investors and is contrary to the understanding of the majority of your investors.

### **Conclusions**

30. On the basis of the facts and matters described above the FSA considers that the severity of the risk you pose to consumers and/or to confidence in the market generally is such that it is necessary for the FSA to exercise its power to make a prohibition order against you in the terms proposed.
31. The FSA considers that you are not fit and proper to perform any function in relation to any regulated activity. In particular you do not satisfy the criterion of honesty, integrity and reputation. You have demonstrated a fundamental lack of openness and honesty in dealing with consumers and regulators and demonstrated that you are not ready and willing to comply with regulatory, legal, professional and ethical standards. You have carried on unauthorised investment business in contravention of section 3 of the 1986 Act and you have been involved in a lengthy and sustained course of misconduct involving misuse of funds paid into your schemes by investors.
32. In considering all relevant circumstances, the FSA is mindful that civil proceedings have been taken against you and that you are currently the subject of a criminal investigation in relation to the same subject matter. The FSA is also mindful of the fact that as you are not an authorised, approved, or exempt person nor a member of a professional body, no other regulatory action is available to deal with the risk which you pose to the FSA's regulatory objectives.
33. The FSA has taken into account the duration and scale of your misconduct which has continued throughout the period from 1996 to 2001, following consistent themes and modes of behaviour and demonstrating a ready willingness to act in breach of the law. The FSA considers that your conduct demonstrates a fundamental lack of fitness and propriety.

### **IMPORTANT**

This Final Notice given to you in accordance with section 390 of FSMA.

### **Publicity**

Sections 391(4), 391(6) and 391(7) of FSMA 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. 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.

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

### **FSA Contacts**

For more information concerning this matter generally, you should contact Mr D Lynch at the FSA (direct line: 020 7066 1206/fax: 020 7066 1207).

Brian Dilley  
FSA Enforcement Division

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