
FINAL NOTICE

To: **Mr David Lawrence Brown**

Ref: **DLB00018**

Date of birth: **25 July 1949**

Date: **29 January 2008**

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, David Lawrence Brown, from performing any function in relation to any regulated activity carried on by any authorised or exempt person

1. THE ORDER

- 1.1 The FSA gave you a Decision Notice dated 21 December 2007 ("the Decision Notice") which notified you that, for the reasons listed below and pursuant to section 56 of the Financial Services and Markets Act 2000 ("the Act"), the FSA had decided to make an order prohibiting you, David Lawrence Brown, of David Brown Insurance Services Limited, from performing any functions in relation to any regulated activities ("the Prohibition Order").
- 1.2 You have not referred the matter to the Financial Services & Markets Tribunal within 28 days of the date on which the Decision Notice was given to you.
- 1.3 Accordingly, for the reasons set out below, 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 or exempt person. The Prohibition Order takes effect from 31 January 2008.

2 REASONS FOR THE ORDER

- 2.1 On the basis of the facts and matters and conclusions described in the Warning Notice issued to you on 14 November 2007 ("the Warning Notice"), and in the Decision Notice, it appears to the FSA that you are not fit and proper to

perform any function in relation to any regulated activity carried on by any authorised or exempt person.

2.2 In particular, in the opinion of the FSA, you are not fit and proper because:

- (1) you lacked honesty and integrity by misusing a client account and in the way you dealt with your clients and their insurance policies;
- (2) you failed to act with the competence and capability required of an approved person and failed to have in place adequate systems and controls with the consequence that you did not maintain adequate control of client funds or have sufficient knowledge of the status of clients' policies and premiums;
- (3) your actions were directly responsible for David Brown Insurance Services Limited, of which you were a director, breaching its regulatory obligations, which led to it being placed in compulsory liquidation; and
- (4) you failed to deal with the FSA in an open and cooperative way (by failing to provide the FSA's investigators with information which was highly relevant to the investigation and to the protection of consumers) and you failed to disclose appropriately information of which you were aware and of which the FSA would reasonably expect notice (by failing to notify the FSA of the firm's financial resources deficit).

2.3 A copy of the relevant extract of the Warning Notice is attached to and forms part of this Notice.

3. DECISION MAKER

3.1 The decision which gave rise to the obligation to give this Final Notice was made by the Regulatory Decisions Committee.

4. IMPORTANT

4.1 This Final Notice is given to you in accordance with section 390 of the Act.

Publicity

4.2 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 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.

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

FSA contact

- 4.4 For more information concerning this matter generally, you should contact Chris Walmsley (direct line: 020 7066 5894 / fax: 020 7066 5895) of the Enforcement Division of the FSA.

**Jonathan Phelan
Head of Department
FSA Enforcement Division**

EXTRACT FROM WARNING NOTICE DATED 14 NOVEMBER 2007

2. REASONS FOR PROPOSED ACTION

Summary

- 2.1 The FSA has concluded, on the basis of the facts and matters described below, that you are not fit and proper to carry out functions in relation to regulated activities carried on by authorised persons and you should be prohibited from doing so.
- 2.2 In the opinion of the FSA, you are not fit and proper because:
- (1) you lacked honesty and integrity by misusing a client account and in the way you dealt with your clients and their insurance policies;
 - (2) you failed to act with the competence and capability required of an approved person and failed to have in place adequate systems and controls with the consequence that you did not maintain adequate control of client funds or have sufficient knowledge of the status of clients' policies and premiums;
 - (3) your actions were directly responsible for David Brown Insurance Services Limited ("DB Insurance" or "the firm"), of which you were a director, breaching its regulatory obligations, which led to it being placed in compulsory liquidation; and
 - (4) you failed to deal with the FSA in an open and cooperative way (by failing to provide the FSA's investigators with information which was highly relevant to the investigation and to the protection of consumers) and you failed to disclose appropriately information of which you were aware and of which the FSA would reasonably expect notice (by failing to notify the FSA of the firm's financial resources deficit).

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Facts and matters relied on

- 4.1 You were a director of a firm called DB Insurance and an approved person performing the controlled functions of CF1 (Director) and CF8 (Apportionment and Oversight). Although your wife was also an approved person holding the controlled function of CF1, she did not have any day to day involvement in the activities of the firm.
- 4.2 DB Insurance was authorised by the FSA with effect from 1 December 2001, having previously been authorised from 27 January 2000 by the Personal Investment Authority. Under Part IV of the Act, DB Insurance was granted permission to carry on the following regulated activities in relation to non-investment insurance contracts:
- (1) advising on investments (except pension transfers and pension opt-outs);
 - (2) arranging (bringing about) deals in investments;
 - (3) assisting in the administration and performance of a contract of insurance;
 - (4) dealing in investments as agent;

- (5) making arrangements with a view to transactions in investments; and
 - (6) agreeing to carry on a regulated activity.
- 4.3 DB Insurance was granted permission by the FSA to carry on insurance mediation activities from 14 January 2005 and was permitted to hold and control client money but only in respect of non-investment insurance contracts. DB Insurance was required to operate a statutory trust account, that is, the firm held their client's money for the beneficial ownership of the client.
- 4.4 In or around July 2006, DB Insurance ceased trading. It was placed into compulsory liquidation on 6 February 2007 on the ground that it was insolvent. As the approved person performing governing functions at the firm, you were directly responsible for the failures at DB Insurance referred to in this Notice. Accordingly, the FSA considers that your actions directly contributed to factors resulting in the compulsory liquidation of the firm.
- 4.5 You admitted that client funds had been misused in that they had been used for purposes other than for which they had been provided. This resulted in a deficit in DB Insurance's client account. You stated that you had not fully understood how the deficit arose despite the fact that you misused the funds and that you had been made aware of the deficit in or around December 2005. You did not take any steps to remedy the client account irregularities.
- 4.6 The total premiums owed to product providers, which were not passed on to the relevant insurers, amounted to at least £222,200, with one product provider owed approximately £148,000 in respect of 210 clients' premiums.
- 4.7 The FSA found that at least nine clients of DB Insurance were left uninsured as a result of a failure to pass on client premiums received by DB Insurance (where no risk transfer agreement with the relevant insurer was in place).
- 4.8 You had inadequate systems and controls in that you had no system in place to monitor the payment and recording of client premiums. In particular, your systems and controls were unable to identify the extent of premium payments to insurers. Allied to this, you confirmed that you did not perform proper client money reconciliations and in fact stopped doing proper reconciliations around the end of 2005. Accordingly, you could not guarantee that premiums paid by a client for specific insurance cover were used to pay for that insurance.
- 4.9 You failed to be candid and truthful to the FSA and to customers. You told the FSA that you would take steps to reimburse clients from your own funds. Cheques paid by you to some customers were not honoured.
- 4.10 You were directly responsible for the activities of DB Insurance and by your actions caused the firm to breach its regulatory obligations, leading to the firm being placed in compulsory liquidation.
- 4.11 You failed to deal with the FSA in an open and co-operative way by not disclosing information relating to DB Insurance of which the FSA would reasonably expect

notice, namely the fact that its client account was in deficit from at least December 2005.

- 4.12 You also failed to co-operate with the FSA by failing, without reasonable excuse, to comply with a compelled document and information requests aimed at establishing the full extent of consumer detriment, despite repeated extensions of the deadline for doing so.

Conclusions

- 6.1 The FSA has concluded, in accordance with the regulatory requirements and regulatory guidance, 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 or exempt person or exempt professional firm. In reaching this conclusion, the FSA has had regard to your conduct in that:

- (1) you would pose a risk to consumers and insurers by continuing to perform functions in relation to regulated activities;
- (2) you misused client funds resulting in clients being potentially or actually uninsured;
- (3) your actions resulted in financial loss to those clients who were required to repay insurance premiums which had been misused by you;
- (4) you were directly responsible for the activities of DB Insurance, including its failure to maintain adequate systems and controls and caused the firm to breach its regulatory obligations with the effect that it was placed in compulsory liquidation;
- (5) you failed to provide information and documents to the FSA which would have helped to identify all customers who may have been uninsured, and by making false promises to reimburse customers; and
- (6) you failed to satisfy the FSA that you are sufficiently competent and capable to perform controlled functions in relation to regulated activities by not demonstrating that you were able and willing to comply with the requirements and standards of the regulatory system, or with professional obligations and ethical standards

- 6.2 The FSA has further concluded that the severity of the ongoing risk posed by you to consumers and to the market generally is such that it is necessary, in the light of its regulatory objectives, for the FSA to exercise its power to make a prohibition order against you in the terms proposed in this Notice.