
FINAL NOTICE

To: **Dynamic Mortgage Brokers Limited**
Of: **Unit F53, Waterfront Studios, 1 Dock Road, London, E16 1AG**
FRN: **312891**
Dated: **14 January 2009**

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (the “FSA”) gives Dynamic Mortgage Brokers Limited (“Dynamic”) final notice of the cancellation of its Part IV permission:

1 THE ACTION

- 1.1 The FSA gave Dynamic a Decision Notice on 9 December 2008 (“the Decision Notice”), which notified you that, for the reasons listed below, and pursuant to section 45 of the Financial Services and Markets Act 2000 (the “Act”), the FSA had decided to cancel the permission granted to Dynamic, pursuant to Part IV of the Act (“Dynamic’s Part IV permission”).
- 1.2 Dynamic did not refer the matter to the Financial Services and Markets Tribunal. Accordingly, for the reasons set out below, the FSA has cancelled Dynamic’s Part IV permission.

2 REASONS FOR THE ACTION

- 2.1 By a Final Notice dated 14 January 2009, having concluded that Mr Richard Kennedy (“Mr Kennedy”) is not a fit and proper person, pursuant to section 56 of the Act, the FSA made a prohibition order against him to prevent him from performing any function

in relation to any regulated activity carried out by an authorised person, exempt person or exempt professional firm. The cancellation of Dynamic's Part IV permission takes effect from 14 January 2009.

- 2.2 Mr Kennedy was the only approved person at Dynamic. He was approved to perform the controlled functions of Director (CF1) and Apportionment and Oversight (CF8), and is the only qualified adviser at Dynamic.
- 2.3 As Mr Kennedy is not fit and proper, Dynamic is failing to satisfy the threshold conditions set out in Schedule 6 to the Act (the "Threshold Conditions") in that, in the opinion of the FSA, Dynamic will not have adequate resources in relation to the regulated activities it seeks to carry on. Specifically, Dynamic does not have adequate human resources (Threshold Condition 4).
- 2.4 Furthermore, Dynamic is not able to satisfy the FSA that it is fit and proper having regard to all the circumstances, including its connection with Mr Kennedy and the overall need to ensure its affairs are conducted soundly and prudently (Threshold Condition 5).

Statutory and regulatory provisions

The Act

- 2.5 The FSA's statutory objectives, set out in Section 2(2) of the Act, are: market confidence; public awareness; the protection of consumers; and the reduction of financial crime.
- 2.6 Section 41 and Schedule 6 of the Act set out the Threshold Conditions which are conditions that the FSA must ensure a firm will satisfy, and continue to satisfy, in relation to regulated activities for which it has permission.
- 2.7 Paragraph 4 of Schedule 6 to the Act states that the resources of the person concerned must, in the opinion of the FSA, be adequate in relation to the regulated activities that he seeks to carry on or carries on (Threshold Condition 4: Adequate Resources).
- 2.8 Paragraph 5 of Schedule 6 to the Act states that the person concerned must satisfy the FSA that he is a fit and proper person having regard to all the circumstances including (a) his connection with any person; (b) the nature of any regulated activity that he carries on or seeks to carry on; and (c) the need to ensure that his affairs are conducted soundly and prudently (Threshold Condition 5: Suitability).
- 2.9 The FSA is authorised by section 45(2) of the Act to cancel an authorised person's Part IV permission where it appears that an authorised person is failing, or likely to fail, to satisfy the Threshold Conditions or it is desirable to exercise that power in order to protect the interests of consumers or potential consumers.

Principles, Rules and Guidance

FSA's policy for exercising its power to cancel Part IV permission

- 2.10 The FSA's policy for exercising its power to cancel a Part IV permission is set out in the Enforcement Guide ("EG"). (Though the references in this notice are to EG, the FSA has also had regard to the appropriate provisions of the FSA's Enforcement Manual ("ENF") which applied during the period in which your conduct occurred.) The main considerations in relation to the action specified above are set out below.
- 2.11 EG 8.13(1) provides that the FSA will consider cancelling an authorised person's Part IV permission where the FSA has very serious concerns about a firm, or the way its business is or has been conducted.

Threshold Conditions

- 2.12 The part of the FSA handbook entitled Threshold Conditions ("COND") gives guidance on the Threshold Conditions as set out in or under Schedule 6 to the Act.
- 2.13 COND 2.4.1UK states that the resources of the person concerned must, in the opinion of the FSA, be adequate in relation to the regulated activities that he seeks to carry on, or carries on.
- 2.14 COND 2.4.2G(2) provides that the FSA will interpret the term 'adequate' as meaning sufficient in terms of quantity, quality and availability, and 'resources' as including all financial resources, non-financial resources and means of managing its resources such as, for example, human resources and effective means by which to manage risks.
- 2.15 COND 2.5.1UK states that the person concerned must satisfy the FSA that he is a fit and proper person having regard to all the circumstances including (a) his connection with any person; (b) the nature of any regulated activity that he carries on or seeks to carry on; and (c) the need to ensure that his affairs are conducted soundly and prudently.
- 2.16 COND 2.5.6G gives guidance in respect of whether a firm satisfies Threshold Condition 5, in conducting its business with integrity and in compliance with proper standards including whether the firm is ready, willing and organised to comply with the requirements and standards under the regulatory system (COND 2.5.6G(1)); and whether the firm has contravened, or is connected with any person who has contravened any provision of the Act or the regulatory system (COND 2.5.6G(4)).

Facts and matters relied on

Background

- 2.17 Dynamic operated as a small mortgage broker based in East London, and has been regulated by the FSA since 31 October 2004.

Facts and matters relied upon

- 2.18 As Mr Kennedy is the only approved person and is not fit and proper, Dynamic is

failing to satisfy Threshold Condition 4 (Adequate Resources) and Threshold Condition 5 (Suitability). As such, the FSA cancelled Dynamic's Part IV permission.

3 DECISION MAKER

- 3.1 The decision that 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(1) 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 Final 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 contacts

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

Jonathan Phelan
Head of Department
FSA Enforcement Division