

FINAL NOTICE – SUMMARY OF CONTENTS

Date of issue: 29th November 2004

John Walker trading as Midlothian Mortgages

The FSA has refused an application for Part IV Permission to conduct mortgage business from John Walker trading as Midlothian Mortgages as it was not satisfied that Mr Walker is a fit and proper person to perform the role of sole trader at the firm concerned. Accordingly, the FSA is not satisfied that Midlothian Mortgages meets Threshold Condition 5 (Suitability).

Upon receipt of Mr Walker's current application form, FSA conducted intelligence checks which identified the termination by an authorised firm in December 1997. Mr Walker had not disclosed this on his application form.

Mr Walker worked as a self-employed Associate with the firm until December 1997, when his agency agreement was terminated. Mr Walker initially denied paying any premiums on behalf clients but eventually admitted paying various cash premiums in the interests of the clients and partly for himself regarding his persistency.

In September 1997, another client of Mr Walker's contacted the firm regarding two policies which had lapsed due to premiums not being paid. The client claimed that all payments had been paid for these policies, and alleged that Mr Walker must have received the money as the payments were made to him. On investigation, it was discovered that Mr Walker had given the client unofficial receipts, and there were also discrepancies between how much the receipt was for and how much was recorded in the cash premium log.

Mr Walker admitted providing clients with receipts which did not comply with the cash handling procedure where interim receipts must be given. On 2 December 1997 the firm wrote to Mr Walker advising him that his agency agreement had been terminated with effect from 1st December 1997 following investigations conducted in which he had been found to be non-compliant in the handling of cash premiums from clients.

The FSA believes that both the termination of Mr Walker's employment in 1997 and the failure to disclose this information to the FSA reflects on Mr Walker's fitness and propriety.

In light of the matters set out above, the FSA has concluded that it is unable to satisfy itself that Mr Walker is a fit and proper person to carry out the role of sole trader of Midlothian Mortgages. In turn, this means that the FSA cannot ensure Midlothian Mortgages meets Threshold Condition 5 (Suitability) because of its connection with Mr Walker.

Mr Walker did not refer the matter to the independent Financial Services and Markets Tribunal.