
FINAL NOTICE

To: **Reto Moser**

Of: **The Coach House
Underriver
Sevenoaks
Kent
TN15 0SJ**

Date: **6 January 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 pursuant to section 56 of the Financial Services and Markets Act 2000 (“the Act”) prohibiting you from performing any function in relation to any regulated activity carried on by any authorised person.

THE ORDER

The FSA gave you a Decision Notice on 7 November 2002 which notified you that, pursuant to section 56 of the Act, 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 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 person. This order has effect from 7 January 2003.

REASONS FOR THE ORDER

The FSA has concluded on the basis of the facts and matters described below 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.

Facts and Matters Relied On

Background

1. You became an SFA registered representative on 15 October 1996. Principle 1 of the FSA's Statements of Principle states that a firm should observe high standards of integrity and fair dealing. This also applied directly to you as a registered person with SFA.
2. You joined Culross Global Management Limited ("Culross") in September 1996 to establish and manage a global convertible bond fund. The fund was launched in October 1996 as the Eiger Fund, a sub fund of The Ionic Fund Ltd ("Ionic"). Under an agreement with Ionic, Culross acted as the investment advisor of the Eiger fund with full authority to manage the assets of the fund on a discretionary basis. You were the designated investment manager of the Eiger fund.
3. Under a separate agreement with Ionic, Management International (Guernsey) Limited ("MIGL") performed the Eiger fund's administration with responsibility (*inter alia*) for performing valuations and monthly net asset value ("NAV") calculations for the Eiger fund. Under the terms of its agreement with Ionic, Culross agreed (*inter alia*) to provide assistance (as required) in valuing assets and investments held by the Eiger fund.
4. Culross provided assistance with pricing queries by directing MIGL to price sources for securities which MIGL had been unable to value and by annotating the price reports with suggested prices when MIGL's prices were incorrect. Between December 1998 and December 2000 you were the customary point of contact at Culross with MIGL.
5. The Eiger fund's prime broker at the relevant time was UBS AG ("UBS").

Overvaluation of the Eiger fund's investments

6. Between December 1998 and December 2000 when MIGL required assistance in pricing securities you knowingly supplied incorrect prices in an attempt to conceal trading losses of approximately \$4million incurred during December 1998.
7. Between December 1998 and December 2000 a number of securities were consistently overvalued by MIGL and in each such case MIGL relied exclusively on the prices supplied by you. The prices supplied by you were accepted by MIGL without obtaining supporting third party evidence or verifying the prices with independent price sources.

8. As a result of your actions, the investments of the Eiger fund were overvalued between December 1998 and December 2000, causing:
 - 8.1 the NAV of the fund to be substantially overstated throughout that period; and
 - 8.2 all share redemptions to be made at inflated prices during the period.
9. You did not disclose to the senior executive officer of Culross, or otherwise, the frequency and content of communications with MIGL during the period in question.
10. By knowingly providing incorrect prices to MIGL, and by misleading Culross in the manner described above, you failed to observe high standards of integrity and fair dealing.

Other matters of misconduct

11. The Eiger fund's NAV was also overstated by MIGL during the relevant period as a result of your following deliberate actions during January 2001:
 - 11.1 You advised MIGL to include a short position in Omnicom shares and a long position in Omnicom bonds in the Eiger fund's end December 2000 valuation despite knowing that the positions had ceased to exist at that time. You priced the long "position" in the Omnicom bond some way away from the prevailing market prices. As a result the fund's NAV for December 2000 was overstated by some \$4million.
 - 11.2 You advised MIGL that you had undertaken certain trades on behalf of the Eiger fund on 12 December 2000. The trades were therefore included in the Eiger fund's monthly valuation for 29 December 2000. You knew that you actually undertook the trades on 12 January 2001 and you knowingly priced two of the positions in the valuation above the prevailing market prices. You persuaded MIGL to include the trades in the valuation to increase the fund's NAV that was further overstated by approximately \$1.7million as a result.
12. You perpetuated the overvaluation of the Eiger fund's NAV by:
 - 12.1 Creating and forwarding to MIGL a false valuation for two bonds as at December 1998. This valuation was falsified by you on the stationery of Warburg Dillon Read (now UBS) and purportedly supported the overvalued prices that you gave to MIGL for the bonds. You admitted that the valuation was false.
 - 12.2 You falsely informed UBS on a number of occasions between December 1998 and December 2000 that other firms also held assets belonging to the fund. UBS was therefore under the impression that it was a joint prime broker to the fund and did not question the shortfall between the assets it held on behalf of the fund and the monthly net asset values produced by MIGL.
13. By acting in the manner set out above, you failed to observe high standards of integrity and fair dealing.

Fitness and propriety

14. In the light of the matters set out at paragraphs 1 to 13 above the FSA decided 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.
15. You failed to satisfy the criterion of honesty, integrity and reputation. In particular you:
 - 15.1 deliberately provided incorrect prices to MIGL over a two year period in an attempt to conceal trading losses incurred during December 1998, causing the NAV of the fund to be substantially overstated during the period December 1998 to December 2000;
 - 15.2 misled MIGL into including two “positions” in the Eiger fund’s December 2000 valuation when you knew that these had ceased to exist, in an attempt to increase the value of the Eiger fund’s December 2000 valuation;
 - 15.3 misled MIGL during January 2001 by stating that you conducted trades on behalf of the Eiger fund on a different date to the date that they were actually conducted to ensure that the trades were included in and increased the value of the Eiger fund’s December 2000 valuation;
 - 15.4 created a valuation in the name of Warburg Dillon Read in the knowledge that the valuation was false; and
 - 15.5 misled UBS on various occasions by advising them that they were joint-prime brokers to the Eiger fund.
16. The FSA considers that, by your conduct as set out above, you demonstrated a fundamental lack of fitness and propriety and you failed to satisfy the criterion of honesty, integrity and reputation. Your misconduct has operated to the detriment of consumers and to confidence in the financial system.

Conclusion

17. Given the fundamental importance it attaches to the duty owed by discretionary fund managers to customers to act with honesty and integrity, the FSA has very serious concerns about the way you have acted.
18. The FSA has decided that you are not fit and proper to perform any functions in relation to any regulated activity carried on by any authorised person. The FSA has decided that it is necessary to make a prohibition order in the terms proposed as this is a most serious case of lack of fitness and propriety such that you represent a risk to consumers and to confidence in the financial system generally.

Third Party Rights

The FSA gave a copy of the Decision Notice to MIGL and Culross. Accordingly, the FSA must also give a copy of this Notice to these parties.

IMPORTANT

This Final Notice is given to you in accordance with section 390(1) of the Act.

PUBLICATION

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 a 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, you should contact Lize Lombard at the FSA (direct line: 020 7676 1398 /fax: 020 7676 9721).

Martyn Hopper

FSA Enforcement Division