
FINAL NOTICE

To: **Richard James Prudence**

Of: **4 Tortoiseshell Way
Braintree
CM7 1WG**

Individual Reference Number: **RJP00022**

Dated: **21 September 2010**

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

1. THE ORDER

- 1.1. For the reasons set out below and having taken account of your written representations dated 28 June 2010, the FSA gave you a Decision Notice on 11 August 2010 (the “Decision Notice”), which notified you that the FSA had decided, pursuant to section 56 of the Financial Services and Markets Act 2000 (the “Act”), to make an order prohibiting you, Richard James Prudence, from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm (the “Prohibition Order”).
- 1.2. You have not referred the matter to the Upper Tribunal (Tax and Chancery Chamber) (the “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 person, exempt person or exempt professional firm. The Prohibition Order takes effect from 21 September 2010.

2. REASONS FOR THE ORDER

Summary

- 2.1. 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 functions as your conduct demonstrates a lack of honesty and integrity. Specifically, by your own admission, you created and issued:

- a letter to a client, purportedly from the Financial Ombudsman Service (the “FOS”), stating that the FOS had made an award to the value of almost £160,000 in that client’s favour, when in fact no such determination had been made by the FOS; and
- a false investment valuation to clients which contained false information as to the value of those clients’ investments and which materially overstated the value of those investments.

- 2.2. The FSA considers that you are not a fit and proper person as you have acted without honesty and integrity and, having regard to its regulatory objectives (including the protection of consumers and maintaining market confidence), it is necessary for the FSA to exercise its power to make the Prohibition Order against you.

Relevant Statutory Provisions

- 2.3. The FSA’s statutory objectives are set out in section 2(2) of the Act and include the protection of consumers and maintaining market confidence.
- 2.4. The FSA’s power to make a prohibition order is set out in section 56 of the Act and the procedure to be followed is set out in section 58 of the Act.

Relevant Guidance

The Enforcement Guide (“EG”)

- 2.5. The FSA’s policy in relation to exercising its power to issue a prohibition order is set out in EG.
- 2.6. EG 9.1 explains the purpose of prohibition orders in relation to the FSA’s regulatory objectives.
- 2.7. EG 9.3 to 9.5 sets out the FSA’s policy on making prohibition orders. In particular:

- (a) EG 9.3 states that the FSA will consider all relevant circumstances, including whether other enforcement action has been taken by the FSA or other enforcement agencies, in deciding whether to make a prohibition order;
 - (b) EG 9.4 states that the FSA has power to make a range of prohibition orders: they may be unlimited or they may be limited to specific functions in relation to specific regulated activities, depending on the reasons why the individual is not fit and proper and the severity of risk he poses to consumers or the market generally, and
 - (c) EG 9.5 states that the scope of a prohibition order will depend on the reasons why the individual is not fit and proper and the severity of risk he poses to consumers or the market generally.
- 2.8. EG 9.17 sets out that where the FSA is considering whether to make a prohibition order against someone who, like you, is not an approved person, the FSA 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.
- 2.9. EG 9.18 states that, when determining the fitness and propriety of such an individual, the FSA will consider a number of factors, including those set out in EG 9.9. These factors include: the criteria for assessing the fitness and propriety of approved persons set out in the Fit and Proper Test for Approved Persons ("FIT") section of the FSA Handbook; the Statements of Principles and Code of Practice for Approved Persons ("APER"), the relevance and materiality of any matters indicating unfitness, and the severity of the risk which the individual poses to consumers and to confidence in the financial system.

Statements of Principles and Code of Practice for Approved Persons

- 2.10. Statement of Principle 1 states that an approved person must act with integrity in carrying out his controlled function.
- 2.11. APER 4.1 sets out the conduct which does not comply with Statement of Principle 1. In particular, APER 4.1.4E states that this includes deliberately falsifying documents (APER 4.1.4E(1)) and deliberately providing false or inaccurate documentation or information (APER 4.1.4E(9)).

Fit and Proper Test for Approved Persons ("FIT")

- 2.12. The FSA has issued guidance on the fitness and propriety of individuals in FIT.
- 2.13. FIT 1.1.2G states that the purpose of FIT is to set out and describe the criteria that the FSA will consider when assessing the fitness and propriety of a candidate for a controlled function. The criteria are also relevant in assessing the continuing fitness and propriety of approved persons.
- 2.14. FIT 1.3.1G(1) states that the most important consideration includes a person's honesty, integrity and reputation.

2.15. FIT 2.1 gives specific guidance in determining a person's honesty, integrity and reputation. In particular:

- (1) FIT 2.1.3G(5) states that the FSA will have regard to whether a person has contravened any of the requirements and standards of the regulatory system, and
- (2) FIT 2.1.3G(13) states that the FSA will have regard to whether the person demonstrates a readiness and willingness to comply with the requirements and standards of the regulatory system.

Facts and matters relied on

2.16. You were approved by the FSA to carry on the following controlled functions at Unizone Limited (“Unizone”):

- CF1 (Director) between 8 October 2002 and 11 August 2009;
- CF10 (Compliance Oversight) between 8 October 2002 and 31 March 2009;
- CF21 (Investment Adviser) between 8 October 2002 and 31 October 2007 (converted to CF30 on 1 November 2007);
- CF24 (Pension Transfer Specialist) between 8 October 2002 and 31 October 2007 (converted to CF30 on 1 November 2007); and
- CF30 (Customer) between 1 November 2007 and 11 August 2009.

2.17. You are not currently an approved person.

2.18. Whilst you were an approved person at Unizone, you did, by your own admission, create and issue:

- a letter to a client of Unizone, purportedly from the FOS, stating that the FOS had made an award to the value of almost £160,000 in that client's favour, when in fact no such determination had been made by the FOS; and
- a false investment valuation to clients of Unizone which contained false information as to the value of those clients' investments and which materially overstated the value of those investments.

2.19. You kept your actions from Unizone by using the autonomy granted to you by virtue of your senior position at the firm to circumvent the systems and controls in place at Unizone.

Representations

2.20. In the course of the proceedings leading to the Decision Notice, you made written representations by means of a letter to the FSA dated 28 June 2010.

2.21. While you admitted your actions were dishonest, you argued that your motives for your behaviour were not. The behaviour in issue relates to two specific clients and

you represented that the admitted impropriety followed a period of enormous personal pressure. Your actions were the result of your desire to assist the clients although the effect of this was that you acted dishonestly.

- 2.22. You expressed regret at your behaviour and stated that you had learned an important lesson from this process. You also represented that your behaviour was contrary to the business practice you had adopted throughout your career. Furthermore, you confirmed that your actions were not for any financial or personal gain.
- 2.23. You confirmed that you were no longer working in the financial services industry and would not be returning to it at any time in the future.
- 2.24. You acknowledged that in the light of your behaviour, the FSA is bound to take the action set out in this Notice. In making these representations you are not however, seeking to justify your actions but rather to explain them.

Conclusions

- 2.25. The FSA notes the admission of your misconduct and your attitude to the FSA's recommended action. The FSA considers that your approach to this matter reflects positively on you personally and has been of assistance to the FSA in its dealings with you. However, given the seriousness of the dishonest conduct the FSA is satisfied that you are not fit and proper to be an approved person and that the sanction set out in this Notice is appropriate in all the circumstances.
- 2.26. Accordingly, the facts and matters described above lead the FSA, having regard to its regulatory objectives which include the protection of consumers, maintaining market confidence and the prevention of financial crime, to the following conclusions:
 - you have failed to act with honesty and integrity whilst an approved person at Unizone by creating and issuing to customers documentation containing false and misleading information relating to their financial position;
 - your misconduct goes directly to impugn your honesty, integrity and reputation and therefore demonstrate 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, exempt person or exempt professional firm;
 - you present a risk to consumers and to the financial system as you have failed to demonstrate that you are ready and willing to comply with the requirements and standards of the regulatory system, and

- the severity of the risk that you pose to consumers and to confidence in the market generally is such that it is necessary in order to achieve its regulatory objectives for the FSA to make a prohibition order against you in the terms proposed.

3. DECISION MAKER

- 3.1. The decision which gave rise to the obligation to issue this Final Notice was taken 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 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 Martin Badcock at the FSA (direct line: 020 7066 1560/fax: 020 7066 1561).

John Kirby
FSA Enforcement and Financial Crime Division