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**FINAL NOTICE**

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To: **Rienzie Albert Joseph Asoka Silva**

Of: **24 Onslow Gardens  
South Croydon  
Surrey  
CR2 9AB**

FSA Reference Number: **RAS00085**

Dated: **16 March 2011**

**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, Rienzie Albert Joseph Asoka Silva, 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. The FSA gave you a Decision Notice on 11 February 2011 (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 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 Division) 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 16 March 2011.

## 2. REASONS FOR THE ORDER

### Introduction

- 2.1. The FSA has concluded, on the basis of the facts and matters and conclusions described in its Warning Notice dated 30 December 2010 (an extract from which is attached to and forms part of this Final Notice), and in the Decision Notice, that you are not a fit and proper person to perform any functions as your conduct demonstrates a lack of honesty and integrity. Specifically, judgment was made against you by the High Court on 22 June 2010 in relation to claims of deceit and dishonest assistance. The High Court found that you had caused the net mortgage advance belonging to two clients (the “claimants”) to be paid into the account of another defendant for your own purposes. The High Court also found that you had assisted in the breaches of fiduciary duty, which the High Court held were committed by the FSA authorised firm in relation to which you were an approved person. On 22 June and 29 July 2010, further to the High Court judgment you and the other defendants were ordered to pay the claimants the sum of £1,459,443 plus interest and £265,000 in costs. To date, only £49,486 has been paid to the claimants.

### Relevant Statutory Provisions

- 2.2. The FSA’s statutory objectives are set out in section 2(2) of the Act and include the protection of consumers, maintaining market confidence and the reduction of financial crime.
- 2.3. 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”)

- 2.4. The FSA’s policy in relation to exercising its power to issue a prohibition order is set out in EG.
- 2.5. EG 9.1 explains the purpose of prohibition orders in relation to the FSA’s regulatory objectives.
- 2.6. 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 enforcement action has been taken against the individual by 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.
- 2.7. EG 9.17 sets out that where the FSA is considering whether to make a prohibition order against someone who 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.
- 2.8. 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 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.

#### Fit and Proper Test for Approved Persons

- 2.9. The FSA has issued guidance on the fitness and propriety of individuals in FIT.
- 2.10. 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.
- 2.11. FIT 1.3.1G(1) states that the most important consideration includes a person's honesty, integrity and reputation.
- 2.12. FIT 2.1.1G states that in determining a person's honesty, integrity and reputation, the FSA will have regard to all relevant matters including, but not limited to, those set out in FIT 2.1.3G which may have arisen either in the United Kingdom or elsewhere.
- 2.13. FIT 2.1.3G(2) states that the matters referred to in FIT 2.1.1G to which the FSA will have regard include, but are not limited to: whether the person has been the subject of any adverse finding or any settlement in civil proceedings, particularly in connection with investment or other financial business, misconduct, fraud or the formation or management of a body corporate.

### **3. DECISION MAKER**

- 3.1. The decision that gave rise to the obligation to give this Final Notice was taken by the Regulatory Decisions Committee.

### **4. IMPORTANT**

- 4.1. This Final Notice is sent 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 Final 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 Wilma Amarteifio (direct line: 020 7066 7452 / fax: 020 7066 7453) of the Enforcement and Financial Crime Division at the FSA.

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**John Kirby**  
**FSA Enforcement and Financial Crime Division**

Attachment: Extract from Warning Notice dated 30 December 2010

**EXTRACT FROM THE WARNING NOTICE DATED 30 DECEMBER 2010 ISSUED BY THE FSA TO RIENZIE ALBERT JOSEPH ASOKA SILVA**

**“2. REASONS FOR PROPOSED ACTION**

**Facts and matters relied on**

- 2.15 You were initially approved by the FSA to perform the controlled function of CF1 (Director) in relation to an appointed representative of an FSA authorised firm, from 1 December 2001 until 31 July 2003.
- 2.16 On 1 August 2003, you were approved by the FSA to perform the controlled function of CF1 (Director) at an appointed representative of a second FSA authorised firm until 17 March 2005.
- 2.17 You were approved by the FSA in relation to Abbey Brokers Limited (the “Firm”) to perform the following controlled functions:
- (1) CF1 (Director), CF10 (Compliance Oversight) and CF11 (Money Laundering) from 5 November 2004 until 10 December 2010;
  - (2) Responsible for Insurance Mediation from 14 January 2005 until 10 December 2010; and
  - (3) CF8 (Apportionment and Oversight) from 5 November 2004 until 31 March 2009. Your approval to perform CF8 ceased in accordance with the changes to Senior Management Arrangements, Systems and Controls (“SYSC”) which came into effect on 1 April 2009.
- 2.18 On 22 June 2010, the High Court found in favour of the claimants who had brought claims of deceit and dishonest assistance against you and others. The court made a specific finding at paragraph 137 of the judgment that you had been dishonest. The High Court held the Firm liable to repay the sums paid into another defendant’s account and that you had assisted in the breaches of fiduciary duty, which the High Court held were committed by the Firm. On 29 July 2010, further to the High Court judgment, you and another defendant were ordered to pay the claimants the sum of £1,459,443 plus interest. You have failed to comply with the judgment and to date have not made any payments to the claimants.
- 2.19 On 22 September 2010, the Firm was placed in compulsory liquidation. On 10 December 2010, the FSA issued a Final Notice to the Firm to cancel its Part IV permission. Your approval lapsed upon the cancellation of the Firm’s Part IV permission.

**Conclusions**

- 2.20 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 reduction of financial crime, to the following conclusions:

- you have acted dishonestly and without integrity whilst being an approved person at an FSA authorised firm, by causing the claimants' net mortgage advance to be paid into another party's account for your own purposes;
- your misconduct goes directly to impugn your honesty, integrity and reputation and therefore demonstrates 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. ”

**END OF EXTRACT**