
FINAL NOTICE

To: Barry Williams

Individual Ref: BXW01229

Date of Birth: 18 August 1949

Date: 15 December 2010

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (“the FSA”) has decided to take the following action:

1. ACTION

1.1 The FSA gave Barry Williams (“Mr Williams”) a Decision Notice on 26 February 2010 which notified him that it had decided:

- (1) pursuant to section 56 of the Financial Service and Markets Act 2000 (“the Act”), to make an order prohibiting Mr Williams from performing any function in relation to any regulated activity carried out by an authorised person, exempt person or exempt professional firm (“the Prohibition Order”), because he is not a fit and proper person;
- (2) to withdraw the approval given to Mr Williams to perform controlled functions pursuant to section 63 of Act; and
- (3) to impose on Mr Williams a financial penalty of £50,000 for failing to comply with Principle 1 of the FSA’s Statements of Principle and Code of Practice for Approved Persons pursuant to section 66 of the Act.

1.2 Mr Williams referred the decision to the Upper Tribunal (Tax and Chancery Chamber) (“the Tribunal”). The Tribunal, in a written decision dated 30 November 2010, determined that:

- (1) Mr Williams is not fit and proper to carry out any functions in relation to any regulated activity carried out by an authorised person, exempt person or exempt professional firm and that he should be prohibited from doing so;
- (2) the approval given to Mr Williams to perform controlled functions pursuant to section 63 of Act approval should be withdrawn; and
- (3) a reduced financial penalty of £25,000 should be imposed.

The decision can be found on the Upper Tribunal's website.

- 1.3 Accordingly, for the reasons set out below, the FSA imposes a financial penalty on Mr Williams in the amount of £25,000, and makes the Prohibition Order against him and withdraws his approval with effect from 16 December 2010 on the grounds that he is not a fit and proper person.

2. REASONS FOR THE ACTION

- 2.1 Mr Williams was a director of a company called Surety Guarantee Consultants Limited ("SGC"), who issued a form of insurance called surety bonds under two sets of agreements ("the Management Agreements"), the first with Markel International Insurance Company Limited ("Markel") and the second with QBE Insurance (Europe) Limited ("QBE") and Amalfi Underwriting Limited ("Amalfi"). These Management Agreements imposed limits on the surety bonds which SGC could issue.
- 2.2 The FSA's action was based on findings of dishonesty made by Mr Justice Teare against Mr Williams in his judgment of 3 June 2008 in High Court proceedings brought by Markel and QBE/Amalfi against Mr Williams, SGC, and others involved in its business, after they discovered that SGC had regularly issued bonds in excess of the limits imposed under the Management Agreements.
- 2.3 Mr Justice Teare found that three of Mr Williams' co-defendants had conspired to defraud the claimants, and that Mr Williams, while not a conspirator, deliberately closed his eyes to concerns about the business, lied to the claimants on some occasions, and did not act honestly or in the claimants' best interests.
- 2.4 The Tribunal found that Mr Williams' conduct was dishonest in relation to Markel and QBE/Amalfi and that his conduct also exhibited a lack of competence to be expected of a director who held the controlled functions held by him. The Tribunal noted that:

"Mr Williams failed to discharge his responsibilities as a director of SGC justifying his conduct on the basis that his salary of about £60,000 per year was not paid by that company and that he regarded himself as a "sleeping director". Mr Williams' submissions and evidence in the High Court proceedings showed that Mr Williams wholly failed to appreciate the responsibilities and duties attached to the office of director of SGC or his actions pursuant to his approvals to hold the various controlled functions he held".

and concluded that:

“In lending his name and appearance to the board in the manner described above, and his actions described in the judgment of Mr Justice Teare, in simply closing his eyes to the manner in which SGC was acting in relation to the bonds and conducting itself with Markel and QBE/Amalfi Mr Williams showed a consistent course of recklessness in regard to the interests of Markel and QBE/Amalfi. As such he failed to act with integrity as on the evidence he knew or closed his eyes to the fact that the bonds were being written in excess of agreed limits. He misled Markel as to whether a bond had been written in excess of the agreed limits after 31 October 2005, despite signing a bond in late November, and he deliberately failed to inform Markel or QBE/Amalfi what was going on so that they did not appreciate the extent of the liabilities to which they were being exposed and despite his knowing that files had been altered or interfered with prior to audits. He failed to take any steps to prevent conduct which he knew was in breach of the Management Agreements with Markel and/or QBE/Amalfi.”

2.5 On the question of the financial penalty, the Tribunal said:

“In circumstances as serious as this a substantial fine is normally appropriate. However in the light of Mr Williams’ age (61), the serious consequences for him of what had occurred since the matters at SGC were discovered in that he has not worked for four years, and that save for approximately £190,000 of equity in his house and a pension fund worth approximately £220,000 he has no assets, we consider that the fine (which had already been reduced from that originally proposed of £150,000 on the basis of Mr Williams’ means) should further be reduced to £25,000.”

3. IMPORTANT

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

Manner of and time for Payment

3.2. The financial penalty of £25,000 must be paid in full by Mr Williams to the FSA by no later than 12 January 2011, 28 days from the date of this Final Notice.

If the financial penalty is not paid

3.3. If all or any of the financial penalty is outstanding on 13 January 2011, the FSA may recover the outstanding amount as a debt owed by Mr Williams and due to the FSA.

Publicity

3.4. 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 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.

05/01/2011

3.5. The FSA intends to publish this Final Notice and such information about the matter to which this Final Notice relates as it considers appropriate.

FSA contacts

3.6. For more information concerning this matter generally, you should contact Paul Howick (direct line: 020 7066 7954) at the FSA.

William Amos
Head of Department
FSA Enforcement and Financial Crime Division