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**FINAL NOTICE**

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**To:** Rukhsana Malik

**Of:** 26 Turton Road  
West Bromwich  
West Midlands  
B70 8LA

**Individual FSA  
Reference Number:** RXM01915

**Date:** 5 November 2008

**TAKE NOTICE:** The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London, E14 5HS (the "FSA") gives you, Rukhsana Malik, final notice about a decision to make an order prohibiting you from performing any function in relation to any regulated activity carried on by any authorised or exempt person

**1. THE ACTION**

- 1.1. The FSA gave you, Rukhsana Malik, a Decision Notice on 25 September 2008 (the "Decision Notice"), which notified you that, 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.
- 1.2. 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.
- 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 person. This order has effect from 5 November 2008.

**2. REASONS FOR THE ACTION**

**Summary**

- 2.1. The FSA has concluded, on the basis of the facts and matters described in its Warning Notice dated 6 August 2008 (an extract from which is attached and forms part of this Final Notice), and in the Decision Notice, that you are not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised or exempt person. Specifically, following authorisation you were knowingly involved in the submission of a large number of false insurance applications to two insurance providers.
- 2.2. The FSA considers that you are not a fit and proper person as your conduct demonstrates a lack of honesty and integrity, and having regard to its regulatory objectives (including market confidence, the protection of consumers and the reduction of financial crime) it is necessary for the FSA to exercise its power to make a 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 the reduction of financial crime.
- 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 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 systems.

#### 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 (9) states that this includes providing false or inaccurate documentation or information.

#### Fit and Proper Test for Approved Persons

- 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:
- FIT 2.1.3G(5) states that the FSA will have regard to whether the person has contravened any of the requirements and standards of the regulatory system or the equivalent standards or requirements of other regulatory authorities (including a previous regulator), clearing houses and exchanges, professional bodies, or government bodies or agencies, and
  - FIT 2.1.13G(13) states that the FSA will have regard to whether, in the past, the person has been candid and truthful in all his dealings with any regulatory body and whether the person demonstrates a readiness and willingness to comply with the requirements and standards of the regulatory system and with other legal, regulatory and professional requirements and standards.

### **3. DECISION MAKER**

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 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 if publication would be 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 Lehong Mac at the FSA (direct line: 020 7066 5742/fax: 020 7066 5743).

**John Kirby**  
**FSA Enforcement Division**

## **EXTRACT FROM THE WARNING NOTICE DATED 6 AUGUST 2008 ISSUED TO** **RUKSHANA MALIK**

### **2. REASONS FOR ACTION**

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, following authorisation you were knowingly involved in the submission of a large number of false insurance applications to two insurance providers.

- 2.2. The FSA considers that you are not a fit and proper person as your conduct demonstrates a lack of honesty and integrity, and having regard to its regulatory objectives (including market confidence, the protection of consumers and the reduction of financial crime) it is necessary for the FSA to exercise its power to make the Prohibition Order against you.

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#### **Facts and matters relied on**

- 2.16. You were granted authorisation as a sole trader on 6 September 2007 to carry on insurance mediation business. Within the seven week period following your authorisation, you submitted a total of 352 false term assurance applications to two insurance providers. The FSA has concluded that you did so in an attempt to obtain £865,146.37 in commission.
- 2.17. Specifically, you submitted:
- 119 online applications to Scottish Equitable Plc (“Scottish Equitable”) between 27 September and 9 October 2007, which would have resulted in you receiving commission payments totalling £344,878.84, and
  - 233 e-business applications to Scottish Provident Limited (“Scottish Provident”) between 28 September and 20 October 2007, which would have resulted in you receiving commission payments totalling £520,267.53.
- 2.18. The following information suggests that the applications you submitted were false and submitted on behalf of individuals who either did not exist or knew nothing about the applications:
- All 119 term assurance applications submitted to Scottish Equitable were for mortgage purposes, with re-mortgage of main residence or home improvement loan cited as the main reason. Land Registry checks were carried out on a sample of 12 cases, which showed that the applicants were not the registered property owners;
  - Scottish Equitable sent a confirmation schedule to each of the 119 named applicants at the addresses specified on the application form. 34 of the schedules were later returned with the notification that the applicant did not reside at the address or was not known, despite the applicant having been stated on the application form to be the owner of the property. Scottish Provident also sent a communication to each of the 233 named applicants at the addresses specified in the application form. However, 115 of the communications were later returned

stating that the applicant was not known at the address;

- You sent 189 declarations, apparently signed by the ‘applicant’ directly to Scottish Provident on 18 October 2007. Some of these declarations related to ‘applicants’ where a declaration had already been returned to Scottish Provident stating that the applicant was not based at that address. At least four of the 189 declarations you sent to Scottish Provident were for applicants whose name and bank account details were identical, but whose signatures on the declarations were markedly different;
- The addresses contained within the majority of the applications submitted to Scottish Equitable and Scottish Provident are very similar. For example, you submitted eight applications (six applications to Scottish Equitable (all on the same day) and two applications to Scottish Provident) for applicants who were all stated to live in A Street, Bradford. You also submitted three applications to Scottish Equitable on 4 October 2007 where the individuals all purportedly lived in B Terrace, Bradford. In particular, two of these applications were on behalf of Mr R K and Mr A M, who were both apparently the owner of the same property in B Terrace;
- On ten occasions you submitted applications to Scottish Provident using exactly the same address but with different applicant names and details. In seven instances, you submitted an application to both Scottish Equitable and Scottish Provident using exactly the same address, but with different applicant names and details;
- In 63 instances you used the same individual’s name more than once in applications submitted to Scottish Equitable and Scottish Provident, albeit each application contained different personal information. For example, you submitted a total of five separate applications to Scottish Equitable and Scottish Provident on behalf of Mr J B which all contained different addresses and personal details;
- All but two of the 352 applicants were stated to hold bank accounts with Lloyds TSB Bank Plc (“Lloyds TSB”), 112 of which were stated to be with the Chelmsford Essex branch, despite the individuals living in West Bromwich, Bradford and Oldbury. An individual at your firm has previously stated that the prevalence of Lloyds TSB accounts was a result of former Lloyds TSB advisers working for your firm and re-broking business. The FSA considers this explanation to be inherently implausible and you have provided no evidence to support it;
- The FSA has contacted Lloyds TSB regarding a sample of 10 cases to verify the authenticity of the bank account details entered by you on the applications to Scottish Equitable and Scottish Provident. Lloyds TSB confirmed that the bank account details contained within the applications do not correspond fully with the information held on their records for the account holders. However, it appears that some of the account details provided do relate to genuine bank accounts;

- Experian checks were conducted on the applicant details in a sample of 23 of the Scottish Equitable applications to verify the applicant's identity. None of the applicant's names, addresses and dates of birth could be verified, despite the fact that the applications stated that these applicants were seeking cover for the re-mortgage of their main residences.

### **Conclusions**

2.19. The facts and matters described above lead the FSA, having regard to its regulatory objectives which include the protection of consumers, to conclude that:

- You have failed to act with honesty and integrity by submitting 352 applications to insurance providers which you knew to contain false and misleading information;
- The volume of false applications you submitted indicates a pattern of dishonesty, a lack of integrity and a blatant disregard for regulatory standards;
- 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 or exempt person;
- You present a risk to consumers and to other financial institutions as well as to the FSA's statutory objective of the reduction of financial crime as you have failed to demonstrate that you conduct your business in compliance with proper standards, 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 in the terms proposed.

**END OF EXTRACT**