
FIRST SUPERVISORY NOTICE

To: **Audley Jackson (trading as Jacksons Just Mortgages)**

Of: **72 Monarch Parade
London Road
Mitcham
Surrey
CR4 3HB**

Dated: **3 March 2006**

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (the "FSA") has taken the following action

1. ACTION

1.1 For the reasons listed below and pursuant to section 45 of the Financial Services and Markets Act 2000 (the "Act"), the FSA has decided to vary the permission granted to you, Audley Jackson, trading as Jacksons Just Mortgages, pursuant to Part IV of the Act ("your Part IV permission") by removing all regulated activities with immediate effect. Accordingly, your Part IV permission no longer includes the following regulated activities:

- (a) advising on regulated mortgage contracts;
- (b) agreeing to carry on a regulated activity;
- (c) arranging (bringing about) regulated mortgage contracts, and
- (d) making arrangements with a view to regulated mortgage contracts.

1.2 The FSA has further decided to vary your Part IV permission by including the following requirements, namely that within 14 days after the specified date you must:

- (i) immediately notify in writing all clients for your regulated activities, that you are no longer permitted by the FSA to carry on any regulated activities; and
- (ii) provide the FSA with a copy of the written notice sent in accordance with (i) above, together with a list of all clients to whom the notice has been sent.

2. REASONS FOR ACTION

Summary

- 2.1 The FSA has concluded, on the basis of the facts and matters described below, that you are failing to satisfy the threshold conditions set out in Part 1 of Schedule 6 to the Act (the "threshold conditions") in that, in the opinion of the FSA, you have failed to pay due regard to the interests of a customer and treat her fairly.
- 2.2 The FSA also considers, on the basis of those facts and matters, that it is necessary, in order to protect the interests of consumers, for the action specified above to take immediate effect.

Relevant Statutory Provisions

- 2.3 The FSA's regulatory objectives, established in section 2(2) of the Act, include the protection of consumers.
- 2.4 By section 45 of the Act, the FSA is authorised:
 - to vary an authorised person's permission, where it appears to the FSA that such person is failing to satisfy the threshold conditions;
 - to vary an authorised person's permission, where it is desirable to exercise that power in order to protect the interests of consumers; and
 - to include any provision in the permission as varied that could be included if a fresh permission were being given in response to an application under Section 40 of the Act, including the imposition pursuant to section 43 of the Act of such requirements as the FSA considers appropriate.
- 2.5 Section 53(3) of the Act allows such a variation to take effect immediately if the FSA reasonably considers that it is necessary for the variations to take effect immediately.

Relevant Principles

- 2.6 Principle 1 of the FSA's Principles for Businesses requires that a firm must conduct its business with integrity.
- 2.7 Principle 6 requires a firm to pay due regard to the interests of its customers and treat them fairly.
- 2.8 Principle 11 requires that a firm must deal with its regulator in an open and cooperative way, and must disclose to the FSA appropriately anything relating to the

firm of which the FSA would reasonably expect notice.

Relevant Handbook Provisions

- 2.9 In exercising its power to vary a Part IV permission, the FSA must have regard to guidance published in the FSA Handbook. The relevant main considerations in relation to the action specified above are set out below.

ENF 3.5 - The FSA's policy for exercising its own-initiative power to vary a Part IV permission

- 2.10 ENF 3.5.2 requires the FSA to have regard to its regulatory objectives and the range of regulatory tools that are available to it.
- 2.11 ENF 3.5.3 provides that the FSA will take formal action affecting the conduct of a firm's commercial business only if that business is being conducted in such a way that the FSA judges it necessary to act in order to address the consequences of non-compliance with the Act and the Principles for Businesses.
- 2.12 ENF 3.5.8 provides that the circumstances in which the FSA will consider exercising its power include where the FSA has serious concerns that the authorised person has breached requirements imposed on it by or under the Act (including Principles and rules) and the breaches are material in number or individual seriousness.
- 2.13 ENF 3.5.13 includes, among the factors which will determine whether the urgent exercise of the FSA's own-initiative power is an appropriate response to serious concerns, the extent of any loss or risk of loss or other adverse effect on consumers and the steps the authorised person has taken or is taking to address the issue.

COND 2.5 - Guidance concerning Threshold Condition 5: Suitability (paragraph 5, Schedule 6 to the Act)

- 2.14 COND 2.5.1 reproduces the relevant statutory provision that the person concerned must satisfy the FSA that he is a fit and proper person having regard to all the circumstances, including, among other things, the need to ensure that his affairs are conducted soundly and prudently.
- 2.15 COND 2.5.4(2)(a) requires the FSA, when forming its opinion as to whether an authorised person is conducting its affairs soundly and prudently, to have regard to relevant matters, including whether it conducts its business with integrity and in compliance with proper standards.
- 2.16 COND 2.5.4(3) requires the FSA only to take into account relevant matters which are significant in the context of the suitability of the firm.
- 2.17 COND 2.5.6 permits the FSA, when forming its opinion as to whether an authorised person is conducting its business with integrity and in compliance with proper standards, to have regard to relevant matters, including whether:
- the firm has been open and co-operative in all its dealings with the FSA and is

ready and willing to comply with the requirements and standards under the regulatory system;

- the firm has contravened, among other things, the requirements of the regulatory system, which includes the threshold conditions and the FSA Principles and other rules.

Facts and matters relied on

- 2.18 You are a sole trader firm that became authorised by the FSA on 31 October 2004 to carry on mortgage advisory business
- 2.19 On 5 January and 9 February 2005, you received a total of £425 from a client for fees. However, you failed to provide the service paid for and vacated your principal place of business.
- 2.20 You produced to the FSA a cheque for the outstanding amount payable to the client, drawn on a third party's bank account. However, the cheque was not honoured.
- 2.21 You have been given a further opportunity to repay the amounts owed to your client, but you have failed to do so despite promises from you that you would do so.

Conclusions

- 2.22 The facts and matters described above lead the FSA, having regard to its regulatory objectives which include the protection of consumers, to the following conclusions:
- that you have failed to satisfy the FSA that you are conducting your business with integrity in breach of Principle 1 of the FSA's Principles for Businesses;
 - that you have failed to comply with Principle 11, and have failed to satisfy the FSA that you are ready and willing and organised to comply with the requirements and standards under the regulatory system;
 - these failures are significant in the context of your suitability, as you are failing to satisfy the threshold conditions in relation to the regulated activities for which you have a Part IV permission, and
 - the adverse effect on the customer, which is a material breach of Principle 6 in that you have not treated the customer fairly, causes the FSA to have very serious concerns about you such that the exercise of the FSA's own-initiative power to vary your Part IV permission with immediate effect is an appropriate response to those concerns.

3. DECISION MAKER

The decision which gave rise to the obligation to give this Supervisory Notice was

made by the Chairman of the Regulatory Decisions Committee.

4. IMPORTANT

- 4.1 This Supervisory Notice is given to you in accordance with section 53(4) of the Act. The following statutory rights are important.

The Tribunal

- 4.2 You may refer this matter to the Financial Services and Markets Tribunal ("the Tribunal"). Under section 133 of the Act, you have 28 days from the date you were sent this Supervisory Notice to refer the matter to the Tribunal or such other period as specified in the Tribunal Rules or as the Tribunal may allow. A reference to the Tribunal is made by way of a written notice signed by you and filed with a copy of this Notice. The Tribunal's address is: 15-19 Bedford Avenue, London WC1B 3AS (telephone 020 7612 9700). The detailed procedures for making a reference to the Tribunal are contained in section 133 of the Act and the Tribunal Rules.
- 4.3 You should note that the Tribunal Rules provide that at the same time as filing a reference notice with the Tribunal, you must send a copy of the notice to the FSA. Any copy notice should be sent to Lehong Mac at the FSA, 9th Floor, 25 The North Colonnade, Canary Wharf, London E14 5HS.

Representations

- 4.4 You have the right to make written and oral representations to the FSA (whether or not you refer this matter to the Tribunal). If you wish to make written representations you must do so by 3 April 2006. Written representations should be made to the Regulatory Decisions Committee and sent to Lynn Cheesman, Regulatory Decisions Committee Professional Support Services, at the above address. If you wish to make oral representations, you should inform Mrs Cheesman, not less than 5 business days before the expiry of the 28 day period.

Confidentiality and publicity

- 4.5 You should note that this Supervisory Notice may contain confidential information and should not be disclosed to a third party (except for the purpose of obtaining advice on its contents). You should also note that section 391 of the Act requires the FSA when the Supervisory Notice takes effect, to publish such information about the matter as it considers appropriate.

FSA contacts

- 4.6 If you have any questions regarding the procedures of the Regulatory Decisions Committee, you should contact either Lynn Cheesman (direct line: 020 7066 3192 / fax: 020 7066 3193), or Brian Whitbread, Head of the Regulatory Decisions Committee Professional Support Services (direct line: 020 7066 3202 / fax: 020 7066 3203).
- 4.7 For more information concerning this matter generally, you should contact Lehong

Mac at the FSA (direct line: 020 7066 5742 / fax: 020 7066 9721).

Tim Herrington
Chairman, Regulatory Decisions Committee