
FIRST SUPERVISORY NOTICE

To: **Colville, Cody Francis (trading as Cody F Colville)**

Dated: **8 June 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, Cody Francis Colville, trading as Cody F Colville (“CFC”), pursuant to Part IV of the Act (“your permission”) by removing all regulated activities with immediate effect. Accordingly, your Part IV permission no longer includes the following regulated activities:

- (a) advising on investments (except on Pension Transfers and Pension Opt Outs);
- (b) arranging (bringing about) deals in investments;
- (c) assisting in the administration and performance of a contract of insurance;
- (d) dealing in investments as agent;
- (e) making arrangements with a view to transactions in investments;
- (f) advising on regulated mortgage contracts;
- (g) arranging (bringing about) regulated mortgage contracts;
- (h) making arrangements with a view to regulated mortgage contracts; and
- (i) agreeing to carry on a regulated activity.

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, your resources are not adequate in relation to the regulated activities you have permission to carry on.
- 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 variations to take effect immediately if the FSA reasonably considers that it is necessary for the variations to take effect immediately.

Relevant guidance

- 2.6 In exercising its power to vary a Part IV permission, the FSA must have regard to guidance published in the FSA Handbook. The 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

- 2.7 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.
- 2.8 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.
- 2.9 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.

- 2.10 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.

Guidance concerning the relevant threshold condition

COND 2.4 - Threshold Condition 4: Adequate resources (paragraph 4, Schedule 6 to the Act)

- 2.11 COND 2.4.1(1) reproduces the relevant statutory provision that the resources of the person concerned must, in the opinion of the FSA, be adequate in relation to the regulated activities that he seeks to carry on, or carries on.
- 2.12 COND 2.4.1(2) permits the FSA, when forming its opinion as to whether the resources of an authorised person are adequate in relation to the regulated activities that he carries on, to have regard to the provision he makes in respect of liabilities (including contingent and future liabilities).
- 2.13 COND 2.4.4(3) requires the FSA only to take into account relevant matters which are material in relation to the regulated activities for which the authorised person has permission.

Facts and matters relied on

- 2.14 You are a sole trader authorised by the FSA on 31 October 2004 to carry on mortgage advisory business, and permitted from 14 January 2005 to carry on general insurance business.
- 2.15 A Bankruptcy Order was made against you on 1 March 2006 and you are therefore failing to demonstrate compliance with Rule 9.3.20 in the part of the FSA Handbook entitled Integrated Prudential Sourcebook ("PRU"), which requires that:

“A firm must at all times ensure that it is able to meet liabilities as they fall due”.

Conclusions

- 2.16 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 are failing to meet the requirements set out in PRU 9.3.20R, that you must be able to meet your liabilities as they fall due;
 - this failing is material in relation to the regulated activities for which you have permission and you therefore fail to satisfy Threshold Condition 4: Adequate resources;

- the risk of adverse effect on consumers arising from this failing, which is a material breach of requirements imposed upon you by the FSA's rules, causes the FSA to have very serious concerns about you such that the exercise of the FSA's own-initiative power to vary your Permission with immediate effect is an appropriate response to those concerns; and
- specifically, the variation of your Permission should take immediate effect to address the FSA's serious concern that any liabilities incurred by you cannot be met.

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 10 July 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