
FIRST SUPERVISORY NOTICE

To: **William Faulkner (trading as Policylink & Apsley Homes Estate Agency)**
Of: **227 Donegal Road**
Belfast
County Antrim
BT12 5NE

Dated: **17 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, William Faulkner, trading as Policylink & Apsley Homes Estate Agency (“Policylink”), pursuant to Part IV of the Act (“your Permission”) by removing all regulated activities with immediate effect. Accordingly, your Permission no longer includes the following regulated activities:

- a) Advising on investments (excluding pension transfers and opt-outs);
- b) Arranging deals in investments;
- c) Assisting in administration of insurance;
- d) Dealing in investments as agent;
- e) Making arrangements;
- f) Agreeing to carry on a regulated activity in respect of mortgage contracts;
- g) Making arrangements in respect of regulated mortgage contracts.

- 1.2 The FSA has further decided to vary your Permission by including the following requirements, namely that within 14 days you must:
- (i) notify in writing all clients for your regulated activities that you are no longer permitted by the FSA to carry on regulated activities;
 - (ii) provide the FSA with a copy of the written notification sent to all clients for your regulated activities pursuant to (i) above, together with a list of all clients to whom that notification 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 Schedule 6 to the Act (the “threshold conditions”) in that the FSA is not satisfied that you are a fit and proper person having regard to all the circumstances. That is because, in the opinion of the FSA, you have failed to conduct your business with integrity. Further, your conduct has not met the requirements of Principle 11 under which firms must co-operate with the FSA.
- 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 such permission by removing a regulated activity from those for which the permission is given;
 - to vary an authorised person’s permission, where it is desirable to exercise that power in order to protect the interests of consumers;
 - 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 variation to take effect immediately.

Relevant Handbook Provisions

- 2.6 In exercising its power to vary a Part IV permission, the FSA must have regard to relevant provisions in the FSA Handbook of rules and guidance (the “FSA Handbook”). The main provisions relevant to the FSA’s action are set out below.

Relevant Principles

- 2.7 Principle 1 of the FSA’s Principles for Businesses requires that a firm must conduct its business with integrity.
- 2.8 Principle 11 requires a firm to deal with its regulator in an open and cooperative way, and to disclose to the FSA appropriately anything relating to the firm of which the FSA would reasonably expect notice.

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

- 2.9 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.
- 2.10 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.
- 2.11 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.
- 2.12 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.

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

- 2.13 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.
- 2.14 COND 2.5.4(2) 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:
- (a) whether it conducts its business with integrity and in compliance with proper standards; and

- (b) whether it has, or will have, a competent and prudent management.
- 2.15 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.
- 2.16 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, or any person connected with it, has been convicted of any unspent offence involving, among other things, fraud, theft, false accounting or other dishonesty; where relevant, any spent convictions excepted for this purpose under the Rehabilitation of Offenders Act 1974, will be taken into consideration;
 - 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.
- 2.17 COND 2.5.7(7) permits the FSA, when forming its opinion as to whether an authorised person has competent and prudent management and exercises due skill, care and diligence, to have regard to relevant matters, including whether the firm, or any person connected with it, has gone into insolvency.

Facts and matters relied on

- 2.18 The FSA has become aware of the following material adverse information about you which was not disclosed by you to the FSA in your application for authorisation or at any later stage:
- you were convicted on 11 May 1988 at Omagh Magistrates Court of dishonestly handling stolen goods contrary to section 21(1) of the Theft Act (Northern Ireland) 1969, and sentenced to six months imprisonment suspended for two years;
 - you were convicted on 28 September 1992 at Fermanagh Magistrates Court and sentenced to 3 months imprisonment (which was varied on appeal at Enniskillen County Court on 7 December 1992 to 5 weeks imprisonment) for the following offences:
 - two counts of assault on a police officer in the due execution of his duty, contrary to section 7 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968;

- one count of resisting a constable in the due execution of his duty, contrary to section 7 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968;
- one count of failure to provide a breath specimen, contrary to Article 145(4) of the Road Traffic (Northern Ireland) Order 1981;
- you were convicted on 4 October 1994 at Dumfries Higher Court of one count of possession of a controlled drug with intent to supply it to another or others, contrary to section 5(3) of the Misuse of Drugs Act 1971, and sentenced to seven years imprisonment;
- a Bankruptcy Order was made against you on 29 March 1996 (which has been discharged).

2.19 The FSA is also aware of other adverse information which was not required to be disclosed in your application, and which, therefore, is not relied upon by the FSA in making its decision.

Conclusions

2.20 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:

- you have been convicted of criminal offences involving dishonesty and violence against others;
- those convictions go directly to impugn your integrity and demonstrate that you are not a fit and proper person to be authorised to conduct regulated activities;
- by failing to disclose your convictions and other material adverse information to the FSA you prevented the FSA from making a fully informed assessment of your fitness to be authorised to conduct regulated activities, and you have breached Principles 1 and 11;
- these matters are material in relation to your permitted regulated activities and you therefore fail to satisfy Threshold Condition 5: Suitability;
- the convictions and your failure to disclose them, including the potential effect any non disclosure to your professional indemnity insurers may have on the validity of your insurance, cause 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.

3. DECISION MAKER

The decision which gave rise to the obligation to give this Supervisory Notice was made by the Regulatory Decisions Committee.

4. IMPORTANT

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

The Tribunal

- 4.1 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.
- 4.2 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 John Kirby at the FSA, 9th Floor, 25 The North Colonnade, Canary Wharf, London E14 5HS.

Representations

- 4.3 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 18 April 2006 or such later date as may be permitted by the FSA. Written representations should be made to the Regulatory Decisions Committee and sent to Liane Silvester, Regulatory Decisions Committee Professional Support Services. The Regulatory Decisions Committee Professional Support Services’ address is: 25 The North Colonnade, Canary Wharf, London E14 5HS. If you wish to make oral representations, you should inform Mrs Silvester not less than 5 business days before 18 April 2006.

Access to evidence

- 4.4 Section 394 of the Act does not apply to this Supervisory Notice.

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 Liane Silvester (direct line: 020 7066 3198 /

fax: 020 7066 3199) or Brian Whitbread, Head of RDC Professional Support Services (direct line: 020 7066 3202/fax: 020 7066 3203).

- 4.7 For more information concerning this matter generally, you should contact John Kirby at the FSA (direct line: 020 7066 1458/fax: 020 7066 1459).

Tim Herrington
Chairman, Regulatory Decisions Committee