
FIRST SUPERVISORY NOTICE

To: Jeffery Flanders (Consulting) Ltd

**Of: 4 Peel House
Barttelot Road
Horsham
West Sussex
RH12 1DE**

FRN: 310852

Date: 23 October 2009

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(1)(a) and (c) of the Financial Services and Markets Act 2000 (“the Act”), the FSA has decided to vary the permission granted to you, Jeffery Flanders Consulting Ltd (“the Firm”), pursuant to Part IV of the Act by removing all regulated activities with immediate effect.
- 1.2. Accordingly the Firm’s Part IV permission no longer includes the following regulated activities:

- (1) advising on investments (except on Pension Transfers and Pension Opt Outs);
- (2) agreeing to carry on a regulated activity;
- (3) arranging (bringing about) deals in investments;
- (4) assisting in the administration and performance of a contract of insurance;
- (5) dealing in investments as agent; and
- (6) making arrangements with a view to transactions in investments.

2. REASONS FOR ACTION

2.1. Pursuant to section 45(1)(a) and (c) of the Act, the FSA has concluded, on the basis of the facts and matters described below, that it is desirable to exercise the power to vary the Firm's permission in the manner set out in paragraph 1.1 in order to protect the interests of consumers or potential consumers and because the Firm is failing, or likely to fail, to satisfy the threshold conditions set out in Part 1 of Schedule 6 to the Act (the "Threshold Conditions").

2.2. It appears to the FSA that the Firm:

- (1) has been failing to incept insurance or provide clients with details of their insurance policies including the name of the insurer;
- (2) has been carrying on regulated activities since 25 January 2009, contrary to the position stated by the Firm in a letter to the FSA dated 16 April 2009; and
- (3) has failed to deal with the FSA in an open and co-operative way since 26 May 2009, despite repeated attempts by the FSA to contact the Firm by email, telephone and letter.

2.3. The FSA also reasonably considers, on the basis of those facts and matters, that it is necessary to protect the interests of consumers, for the variation to take effect immediately. This is because the FSA is concerned that the Firm poses an immediate and ongoing risk to consumers for the reasons set out in paragraph 2.2.

3. RELEVANT STATUTORY AND REGULATORY PROVISIONS

Appendix 1 below sets out the relevant statutory provisions, regulatory provisions and policy relied on.

4. FACTS AND MATTERS RELIED ON

Background

- 4.1. The Firm became authorised on 14 January 2005 to carry on the regulated activities listed in paragraph 1.2 above:
- 4.2. The Firm acts as an insurance intermediary, for non-investment insurance contracts. Andrew Jeffery (“Mr Jeffery”) is, and has been, the only approved person at the Firm. Mr Jeffery and his wife, each own 50% of the shares in the Firm. The Firm’s head office and contact address in the United Kingdom (which was printed on the Firm’s headed notepaper used in correspondence with the FSA), is the Old Barn, Web House, Vicarage Hill, Loxwood, Billingshurst, West Sussex (“Loxwood”).
- 4.3. The FSA commenced an investigation into the Firm in December 2008. On 25 February 2009, the FSA appointed investigators under section 168(5) of the Act as a result of section 168(4)(c) as it appeared to the FSA that the Firm may have breached FSA Principles and Rules.
- 4.4. On the same date the FSA appointed investigators under section 168(5) of the Act as a result of section 168(4)(d), (h) and (i) as it appeared to the FSA that Mr Jeffery may not be fit and proper and/or may be guilty of misconduct.
- 4.5. On 5 March 2009, the FSA hand delivered to the Firm at Loxwood a letter dated 4 March 2009 which contained a requirement to provide to the FSA, by 13 March 2009, documents and information, including 15 client files to be selected by the Firm (the “Information Request”).
- 4.6. On 20 March 2009, the Firm wrote to the FSA providing brief answers to the Information Request. which included a statement that:

“From October 2006 Mr Jeffery's office has been "paperless" so all relevant financial records were stored electronically. The company's computers were kept in the Landes region of South West France, but with two lightning strikes, during the severe storms of the 24th and 25th January this year, the computers suffered irreparable damage. The data contained on them was therefore lost, and as the "backup" was also destroyed at the same time, it is impossible to restore the lost data.”

- 4.7. On 3 April 2009, the FSA wrote again to the Firm making a further request for information (the “Modified Information Request”). By a letter dated 16 April 2009, the Firm provided very brief responses to the Modified Information Request and referred again to the statements made in the letter dated 20 March 2009, namely, that all records requested by the FSA had been destroyed.
- 4.8. In particular, the Firm responded “none” to requests for:
- (1) a written explanation of the service being provided, at that time, to clients;
 - (2) a written explanation of the activities carried out at Loxwood; and
 - (3) a written explanation of the activities conducted by an employee on behalf of the Firm in the United Kingdom.
- 4.9. The Firm also stated that “no new business register exists post 25th January 2009”.
- 4.10. On 18 May 2009, the FSA sent a further information request asking the Firm to clarify, by 26 May 2009, its recent and current trading position, including the understanding that the Firm had not carried out any business whatsoever since 25 January 2009, following the damage to the Firm’s computers and loss of data.
- 4.11. On 27 May 2009, the FSA received a letter, dated 26 May, from Mr Jeffery stating that his secretary had just received the FSA’s letter dated 18 January 2009 and that he would respond as soon as he could. This is the last contact that the investigation team has had with Mr Jeffery or the Firm.

Clients' Insurance

- 4.12. On 27 July 2009, the FSA received information from a client of the Firm stating that she was unable to contact the Firm to establish whether she had valid household insurance in place and, if so, the identity of the insurer. She had renewed her policy in October 2008. The FSA also had information that four other clients of the Firm had been unable to determine whether they had appropriate insurance in place and/or to contact the Firm. The FSA was concerned that there might be further clients of the Firm who either might not be appropriately insured or might not be aware of the identity of their insurer. This concern was aggravated by the fact that clients appeared to be having difficulty in contacting the Firm and the Firm had failed to respond to communications from the FSA.
- 4.13. Accordingly, for the reasons set out above, and due to the FSA's concerns regarding the Firm's failure to co-operate with the FSA, on 3 August 2009 the FSA issued a consumer alert (the "Consumer Alert").
- 4.14. As a result of the Consumer Alert, a number of the Firm's clients contacted the FSA. The FSA received evidence that:
- (1) four of the Firm's clients had unsuccessfully tried to contact the Firm. Three of these clients were unable to establish whether they had valid household insurance; and
 - (2) two of the Firm's clients took steps with a view to making claims on their household insurance and then discovered that they were not insured by the insurance companies they thought they were insured with.
- 4.15. This evidence leads the FSA to believe that clients of the Firm may have been exposed, and that they and potential clients of the Firm may continue to be exposed, to a number of risks which include:
- (1) not having valid household or motor insurance in place, when they believe that they have, exposing them to significant financial risk;

- (2) not being able to make a claim on their policy, in a timely manner which could leave them at risk of having their insurance provider reject their claim;
- (3) breaching terms of their mortgages, as many mortgage contracts require valid household insurance; and
- (4) committing criminal offences if driving vehicles when un-insured.

Regulated activities

4.16. The information received from the clients following the Consumer Alert also raised the following new and serious concerns about the conduct of the Firm and Mr Jeffery. These relate to the information which the Firm provided to the FSA, as set out at paragraphs 4.8 and 4.9 above, stating that the Firm had not conducted regulated activities since 25 January 2009. In particular, the FSA has obtained:

- (1) evidence from three clients who either renewed or made amendments to their existing household or motor policies through the Firm since January 2009; and
- (2) evidence from one client who continued to make regular direct debit payments to the Firm until July 2009.

Failure to deal with the FSA in an open and co-operative way

4.17. Between 4 March and 11 September 2009, the FSA sent the Firm compelled information and interview requests, under sections 171 and 172 of the Act (including the Information Request and the Modified Information Request) and reminder letters, on twelve separate occasions. These requests were sent to Loxwood by special delivery and normal post and by email to Mr Jeffery's email address, as provided to the FSA.

4.18. A detailed time-line of all attempted contact with the Firm and/or Mr Jeffery is attached at Appendix 2. The Firm has failed to respond adequately, or at all, to these requests.

4.19. Given the FSA's concerns as set out above, on 15 September 2009, the FSA wrote to the Firm, at Loxwood, requesting it to voluntarily vary its permission by agreeing to cease conducting all regulated activities. The FSA explained that the reason for this request was that the FSA had become aware that the Firm was continuing to conduct regulated activities, contrary to the position previously stated to the FSA. The FSA gave the Firm until 21 September 2009 to respond, but has not received a response.

5. CONCLUSIONS

5.1. 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:

- (1) the Firm has exposed its clients to significant risks by failing to incept insurance or failing to inform them of the identity of their insurer which have been aggravated by difficulties in contacting the Firm;
- (2) the Firm has knowingly and seriously misled the FSA by stating that it is no longer carrying out regulated business;
- (3) the Firm has failed to be open and co-operative with the FSA.

5.2. These failures are significant in the context of the regulated activities for which the Firm has permission. As a result, the Firm is failing to meet Threshold Condition 5 (suitability) having regard to all the circumstances including its connection with Mr Jeffery and the need to ensure that its affairs are conducted soundly and prudently. It has failed to conduct its business with integrity and in compliance with proper standards, failed to satisfy the FSA that it has competent and prudent management and has failed to demonstrate that it has conducted its affairs with the exercise of due skill, care and diligence.

5.3. In the circumstances, the FSA considers that its statutory objectives can best be served by removing all regulated activities from the Firm's Part IV permission. In particular, the FSA considers it desirable to take such action in order to protect the interests of consumers or potential consumers of the Firm and necessary and proportionate for such a requirement to be effective immediately.

6. DECISION MAKER

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

7. IMPORTANT

- 7.1. This First Supervisory Notice is given to you in accordance with section 53(4) of the Act and is addressed to you at your registered office. It is being served on you at your registered office and at Loxwood. The following statutory rights are important.

The Tribunal

- 7.2. 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.
- 7.3. 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 Anna Hynes at the FSA, 4th Floor, 25 The North Colonnade, Canary Wharf, London E14 5HS.

Representations

- 7.4. 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 26 November 2009 or such longer period as may be permitted by the FSA. Written representations should be made to the Regulatory Decisions Committee and sent to Husayn Rahman, 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 Husayn Rahman by

9 November 2009. If you do not notify us by this date, you will not, other than in exceptional circumstances, be able to make oral representations.

Confidentiality and publicity

- 7.5. 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

- 7.6. If you have any questions regarding the procedures of the Regulatory Decisions Committee, you should contact Husayn Rahman of RDC Professional Support Services (direct line: 020 7066 3074/fax: 020 7066 3195).
- 7.7. For more information concerning this matter generally, you should contact Anna Hynes of the FSA (direct line: 020 7066 9464).

Tim Herrington
Chairman, Regulatory Decisions Committee

APPENDIX 1

RELEVANT STATUTORY AND REGULATORY PROVISIONS

Statutory provisions

1. The FSA's regulatory objectives set out in section 2(2) of the Act include the protection of consumers, the maintenance of market confidence and the reduction of financial crime.
 - 1.1. By section 45(1) of the Act, the FSA may vary an authorised person's permission in any of the ways mentioned in section 44(1) of the Act, where it appears to the FSA that:
 - (a) he is failing, or likely to fail, to satisfy the threshold conditions (section 45(1)(a) of the Act);
 - (b) it is desirable to exercise that power in order to protect the interests of consumers or potential consumers (section 45(1)(c) of the Act);
 - 1.2. Section 44(1)(b) permits the FSA to vary the permission, for those reasons, by removing a regulated activity from those for which it gives permission..
 - 1.3. 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.

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

- 1.4. COND 2.5.1 provides that a person must satisfy the FSA that he is a fit and proper person having regard to all the circumstances including his connection with any person and the need to ensure that his affairs are conducted soundly and prudently.
- 1.5. COND 2.5.4G(2)(a) states that the FSA, when forming its opinion as to whether an authorised person is conducting its affairs soundly and prudently, will have regard to relevant matters, including whether that person conducts its business with integrity and in compliance with proper standards, has a competent and prudent management

and can demonstrate that it conducts or will conduct its affairs with the exercise of due skill, care and diligence.

- 1.6. COND 2.5.4G(3) states that the FSA will only to take into account relevant matters which are significant in the context of the suitability of the firm.
- 1.7. Specifically COND 2.5.6G provides that the relevant matters may include whether the firm has been open and co-operative in all its dealings with the FSA and whether it has contravened any provisions of the Act, the regulatory system or the rules, regulations, statements of principle or codes of practices.

The FSA's policy on exercising its own-initiative power to vary Part IV permissions

- 1.8. The FSA's policy on exercising its power to vary an authorised firm's Part IV permission on its own initiative is set out in Chapter 8 of the Enforcement Guide ("EG"). The main considerations in relation to the action specified above are set out below.
- 1.9. Paragraph 8.5 of EG states that the FSA will consider varying a firm's Part IV permission in circumstances where it has serious concerns about a firm, or about the way its business is being or has been conducted. This includes where the firm appears to be failing, or appears likely to fail, to satisfy the Threshold Conditions (EG 8.5(1)).
- 1.10. Paragraph 8.5.2 of EG sets out that the FSA will consider varying a firm's Part IV permission where, in relation to the grounds for exercising the power under section 45(1)(c), it appears that the interests of consumers are at risk because the firm appears to have breached any of Principles 6 to 10 of the FSA's Principles for Businesses to such an extent that it is desirable that limitations, restrictions, or prohibitions are placed on the firm's regulated activity.
- 1.11. Paragraph 8.6 of EG states that the FSA may impose a variation of permission so that it takes effect immediately or on a specified date if it reasonably considers it necessary for the variation to take effect immediately (or on the date specified), having regard to the ground on which it is exercising its own-initiative power.

1.12. Paragraph 8.7 of EG provides that the FSA will consider exercising its own initiative power as a matter of urgency where:

- (1) the information available to it indicates serious concerns about the firm or its business that need to be addressed immediately; and (EG 8.7(1))
- (2) circumstances indicate that it is appropriate to use statutory powers immediately to require and/or prohibit certain actions by the firm in order to ensure the firm addresses these concerns. (EG 8.7(2))

1.13. Paragraph 8.8 of EG gives examples of situations that will give rise to the serious concerns mentioned in paragraph 8.7. These include:

- (1) information indicating significant loss, risk of loss or other adverse effects for consumers, where action is necessary to protect their interests; and (EG 8.8(1))
- (2) circumstances suggesting a serious problem within a firm or with a firm's controllers that calls into question the firm's ability to continue to meet the threshold conditions. (EG 8.8(4))

1.14. Paragraph 8.9 of EG gives examples of factors which the FSA will consider when determining whether an urgent variation of Part IV permission is appropriate. These factors include:

- (1) the extent of any loss, or risk of loss, or other adverse effect on consumers; (EG 8.9(1))
- (2) the nature and extent of any false or inaccurate information provided by the firm and whether the information appeared to have been provided in an attempt knowingly to mislead the FSA, rather than through inadvertence. (EG 8.9(3))
- (3) the seriousness of any suspected breach of the requirements of the legislation or the rules and the steps that need to be taken to correct that breach; (EG 8.9(4))
- (4) the firm's conduct. The FSA will take into account:

- (a) whether the firm identified the issue (and if so whether this was by chance or as a result of the firm's normal controls and monitoring; (EG 8.9(8)(a))
 - (b) whether the firm brought the issue promptly to the FSA's attention; and (EG 8.9(8)(b))
 - (c) steps the firm has taken or is taking to address the issue. (EG 8.9(8)(d))
- (5) the impact that use of the FSA's own initiative powers will have on the firm's business and on its consumers. The FSA will take into account the (sometimes significant) impact that a variation of permission may have on a firm's business and on its customers' interests, including the effect of variation on the firm's reputation and on market confidence. The FSA will need to be satisfied that the impact of any use of the own-initiative power is likely to be proportionate to the concerns being addressed, in the context of the overall aim of achieving its regulatory objectives. (EG 8.9(9))

1.15. The FSA's Principles for Businesses include:

- (1) Principle 1: A firm must conduct its business with integrity.
- (2) Principle 6: A firm must pay due regard to the interests of its customers and treat them fairly.
- (3) Principle 11: A firm must deal with its regulators 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.

APPENDIX 2

Timeline of contact between FSA and Mr Andrew Jeffery/Jeffery Flanders (Consulting) Ltd (together “Jeffery Flanders”)

Date	From	To *	Form of contact and details
04/03/09	FSA	Jeffery Flanders (sent to Loxwood address and Mr Jeffery’s email)	Letter including a request for information dated 4/03/09. Handed to Firm on 05/03/09. Deadline of 13/03/09.
05/03/09	FSA	Jeffery Flanders	Telephone conversation between FSA and Mr Jeffery.
13/03/09	Jeffery Flanders	FSA	Fax informing FSA that the Firm is seeking legal advice (fax dated 12/03/09).
16/03/09	FSA	Jeffery Flanders (sent to Loxwood address and Mr Jeffery’s email)	Letter including a further information request as the Firm failed to respond to the deadline set in 4/03/09 letter. Deadline of 23/03/09.
23/03/09	Jeffery Flanders	FSA	Fax (last three pages illegible), making a data protection request, informing the FSA that its records had been destroyed. The letter did not provide the information requested in letters of 04/03/09 and 16/03/09. (Fax dated 20/09/09)
27/03/09	FSA	Jeffery Flanders (sent to Loxwood address and Mr Jeffery’s email)	Letter acknowledging the fax of 23/03/09.
03/04/09	FSA	Jeffery Flanders (sent to Loxwood address and Mr Jeffery’s email)	Letter containing a modified information request as a result of the information received that records were destroyed. Deadline of 17/04/09.
23/04/09	FSA	Jeffery Flanders (sent to Loxwood address and Mr Jeffery’s email)	Letter setting out that the Firm had failed without reasonable excuse to provide the information requested in the letter of 3/04/09. Repeat of the request given with a deadline of 1/05/09.
01/05/09 (attaching	Jeffery Flanders	FSA	Fax dated 1/05/09 stating that Mr Jeffery had only just received the FSA’s letter of 23/04/09 and

a letter purportedly sent on 16/04/09)			attaching a letter dated 16/04/09 which was apparently sent to the FSA. The FSA had not previously seen this letter. The fax dated 16/04/09 stated that the Firm was conducting no regulated activities, amongst other things.
01/05/09	FSA	Jeffery Flanders (sent to Loxwood address and Mr Jeffery's email)	Response to issues raised in the Firm's letter of 23/04/09 and reiterating the obligation to provide answers to the information requests of 3/04/09 and 23/04/09.
18/05/09	FSA	Jeffery Flanders (sent to Loxwood address and Mr Jeffery's email)	Further information request. Deadline of 26/05/09.
26/05/09	Jeffery Flanders	FSA	Fax informing the FSA that Mr Jeffery only received the FSA letter dated 18/05/09 on 26/05/09 and therefore could not meet the deadline of that day. He would respond as soon as he could.
01/06/09	FSA	Jeffery Flanders (sent to Loxwood address and Mr Jeffery's email)	Letter granting a final extension to the deadline for the provision of information to 10/06/09.
15/06/09	FSA	Jeffery Flanders (sent to Loxwood address and Mr Jeffery's email)	Correspondence sent by Special Delivery, by the FSA's FOIA team, to the Firm's address was returned to the FSA un-opened on 17/6/09.
23/06/09	FSA	Jeffery Flanders (sent to Loxwood address and Mr Jeffery's email)	Letter informing Mr Jeffery and the Firm that they have failed to provide the information requested and requesting a response by return.
03/07/09	FSA	Jeffery Flanders (sent to Loxwood address and Mr Jeffery's email)	Letter informing Mr Jeffery and the Firm that they have failed to provide the information requested and requesting a response by 10/07/09. Email received notifying that Mr Jeffery's email address is no longer in use.

07/07/09	FSA	Jeffery Flanders	Attempt to contact the Firm via the telephone number used on the Firm's headed paper and as listed on the FSA website. The telephone call was answered by an unknown female who explained that she is employed by a professional answering service (not the Firm) and could pass messages to Andrew Jeffery.
08/07/09	FSA	Jeffery Flanders (sent to Landes address in France)	Letter attaching all correspondence sent to the Loxwood address between 4/03/09 and 03/07/09.
13/07/09	FSA	Jeffery Flanders	Telephone call to the Firm via the telephone number used on the Firm's headed paper and given on the FSA website. Left a message with the answering service asking Mr Jeffery to contact the FSA.
13/07/09	FSA	Jeffery Flanders	Telephone call to the French landline number believed to be Mr Jeffery's, voice message left asking Mr Jeffery to contact the FSA.
28/07/09	FSA	Jeffery Flanders	Attempt to telephone number for Firm given on FSA website. The number is no longer in use.
28/07/09	FSA	Jeffery Flanders	Telephone call to the French landline number believed to be Mr Jeffery's, voice message left asking Mr Jeffery to contact FSA urgently as a client cannot establish if she is insured.
30/07/09	FSA	Jeffery Flanders	Telephone call to the French landline number believed to be Mr Jeffery's, voice message left asking Mr Jeffery to contact FSA urgently as it is considering issuing a consumer alert in the very near future.
03/08/09	FSA	Jeffery Flanders (sent to address in Landes, France)	Letter to Mr Jeffery requiring him to attend an interview during the fortnight commencing 10/08/09.
14/08/09	FSA	Jeffery Flanders (sent to Loxwood address)	Letter to Mr Jeffery setting out that as he had failed to respond to the letter of 3 August 2009 the

			FSA was now compelling his attendance at an interview on 25/08/09.
11/09/09	FSA	Jeffery Flanders (sent to Loxwood address and address in Landes, France)	Letter setting out that Mr Jeffery had failed to attend the compelled interview on 25/08/09. The letter to the address in France was returned un-opened and marked 'return to sender'.
15/09/09	FSA	Jeffery Flanders (sent to Loxwood address)	Letter asking the Firm to voluntarily vary its permissions and remove all regulated activities by. Deadline of 21/09/09 given.

*** Information regarding contact details**

The FSA registered address for Jeffrey Flanders is The Old Barn, Web House, Vicarage Hill, Loxwood, Billingshurst, West Sussex, RH14 0RH.

On the FSA's Register, Jeffrey Flanders also provided the following email address to the FSA: apjeffery@tiscali.co.uk and the following telephone number: 0870 330 0200.

In July 2009, Surrey Police provided the FSA with the address of the French property in Landes.