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**FIRST SUPERVISORY NOTICE**

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To: Rukhsana Malik (trading as Greenacre)

Date of Birth: 31 July 1958

Date: 20 November 2007

**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, Rukhsana Malik, trading as Greenacre, 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:

- (1) agreeing to carry on a regulated activity;
- (2) advising on non-investment insurance contracts;
- (3) arranging (bringing about) non-investment insurance contracts; and
- (4) making arrangements with a view to non-investment insurance contracts.

**2. REASONS FOR ACTION**

2.1. The FSA has concluded, on the basis of the facts and matters described below, that:

- (1) you have failed to conduct your business with integrity, and have therefore failed to comply with Principle 1 of the FSA's Principles for Businesses;
  - (2) this demonstrates that you are failing, and will continue to fail, 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 (Threshold Condition 5 - Suitability); and
  - (3) it is desirable to exercise the power to vary your permission in order to protect the interests of consumers or potential consumers.
- 2.2. Specifically, since becoming authorised on 6 September 2007, you have submitted around 300 applications for insurance, the vast majority of which were in the names of applicants who either did not exist or who knew nothing about the applications, in order to claim commission to which you are not entitled.
- 2.3. The conduct summarised above raises serious concerns about your integrity and your ability to conduct your business in compliance with proper standards.
- 2.4. The FSA also considers, on the basis of those facts and matters, that it is necessary, in support of the FSA's financial crime and market confidence objective, for the action specified above to take immediate effect.

### **3. RELEVANT STATUTORY PROVISIONS**

- 3.1. The FSA's regulatory objectives, established in section 2(2) of the Act, include market confidence and the reduction of financial crime.
- 3.2. 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 or that it is desirable to vary the permission in order to protect the interests of consumers or potential consumers; and
  - to vary such permission by removing a regulated activity from those for which the permission is given.
- 3.3. 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.
- 3.4. Section 41 of the Act states that "the threshold conditions", in relation to a regulated activity, means the conditions set out in Schedule 6 to the Act. Threshold Condition 5 in Schedule 6 states that you must satisfy the FSA that you are a fit and proper person having regard to all the circumstances, including your connection with any person, the nature of any regulated activity that you carry on or seek to carry on, and the need to ensure that your affairs are conducted soundly and prudently.

### **Threshold Conditions**

- 3.5. The Threshold Conditions part of the FSA Handbook ("COND") contains guidance on the required standards to meet Threshold Condition 5. COND 2.5.4G provides that when determining whether the firm will satisfy and continue to satisfy threshold condition 5, the FSA will have regard to all relevant matters, including whether a firm conducts, or will conduct, its business with integrity and in compliance with proper standards.

### **Principles for Businesses**

- 3.6. Principle 1 of the FSA's Principles for Businesses requires that a firm must conduct its business with integrity.

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

- 3.7. In exercising its power to vary a Part IV permission, the FSA must have regard to the Enforcement Guide ("EG"). The main considerations in relation to the action specified above are set out below.
- 3.8. Paragraph 8.5 of EG states that the FSA will consider varying a firm's Part IV permission in support of its enforcement function in circumstances where it has serious concerns about a firm, or about the way its business is being or has been conducted.
- 3.9. Paragraph 8.5(1)(b) of EG states that an example of such circumstances is where the firm appears to be failing the threshold conditions relating to its regulated activities, because, for instance, the firm appears not to be a fit and proper person to carry on a regulated activity because it has not conducted its business in compliance with high standards. This may include putting itself at risk of being used for the purposes of financial crime or being otherwise involved in such crime.
- 3.10. 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.
- 3.11. Paragraph 8.7 of EG indicates 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
  - (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.
- 3.12. Paragraph 8.8 of EG gives examples of situations that will give rise to the serious concerns mentioned in paragraph 8.7. These include information indicating that a firm's conduct has put it at risk of being used for the purposes of financial crime or of otherwise being involved in crime.

#### **4. FACTS AND MATTERS RELIED ON**

4.1. You, trading under the name of Greenacre, became authorised on 6 September 2007 to carry on the following regulated activities in relation to non-investment insurance contracts:

- (1) agreeing to carry on a regulated activity;
- (2) advising on non-investment insurance contracts;
- (3) arranging (bringing about) non-investment insurance contracts; and
- (4) making arrangements with a view to non-investment insurance contracts.

4.2. Between the date you were authorised and the end of October 2007, you submitted around 300 online applications for single life term assurance cover to two insurers. The applications purported to be on behalf of individuals who had obtained a re-mortgage of their homes. If they had been genuine, these applications would have entitled you to commission payments from one of the insurers of at least £300,000.

4.3. The FSA is satisfied that the vast majority of the applications you submitted were made in the names of people who either did not exist or who knew nothing about the application. Evidence showing that the applicants did not exist includes the following:

- (1) One of the insurers sent out confirmation schedules to the addresses given in the applications, to be completed and returned by them. By 30 October, about 70 schedules relating to the applications had been returned marked "*return to sender – addressee unknown*".
- (2) As a result of its concerns, the insurer reviewed a sample of 23 applications. All applications were for high value secured loans with re-mortgage of main residence or loan for home improvements cited as the reason for the application. However, Experian checks failed to verify the name and address of the applicant or their date of birth.
- (3) In addition, all the sample applications were for single life cover, but many cases showed married status, where a joint application would be expected for a mortgage.
- (4) Three applications gave "barrister" given as the applicant's occupation, and five gave "solicitor". There are no matches for these names in the online Bar Directory or the Law Society website respectively.

4.4. In addition, the FSA has received information that the direct debit details given by you on some of the applications related to genuine bank accounts. When the direct debits were drawn upon and the first premium paid, the owners of the accounts notified the insurer that they knew nothing about the applications.

## **5. CONCLUSIONS**

5.1. The facts and matters described above lead the FSA, having regard to its regulatory objectives, which include market confidence and the prevention of financial crime, to the following conclusions:

- (1) You have attempted to obtain commission payments of at least £300,000 to which you were not entitled, by submitting false applications for insurance. In doing so you have failed to conduct your business with integrity and in compliance with proper standards and have contravened Principle 1 of the FSA's Principles for Businesses.
- (2) This demonstrates that you are not a fit and proper person to be authorised to conduct regulated activities.
- (3) Your actions have led and will lead in the future to consumer detriment, in that consumers' direct debit details may be drawn upon for unauthorised purposes.

5.2. These matters are material in relation to your permitted regulated activities and you therefore fail to satisfy Threshold Condition 5 (Suitability). In addition, it is desirable to vary your permission in order to protect the interests of consumers or potential consumers.

5.3. In support of the FSA's financial crime and market confidence objectives, the exercise of the FSA's own-initiative power to vary your Permission with immediate effect is an appropriate response to these concerns.

## **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. 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 Russell Clifton at the FSA, 9<sup>th</sup> 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 24 December 2007 or such later date as may be permitted by the FSA. Written representations should be made to the Regulatory Decisions Committee and sent to Lynn Cheesman, 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 Cheesman not less than 5 business days before 24 December 2007.

## **Access to evidence**

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

## **Confidentiality and publicity**

- 7.6. 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**

- 7.7. If you have any questions regarding the procedures of the Regulatory Decisions Committee, you should contact Lynn Cheesman (direct line: 020 7066 3192/fax: 020 7066 3193) or Jackie Noonan (direct line: 020 7066 3074/fax: 020 7066 3075).
- 7.8. For more information concerning this matter generally, you should contact Russell Clifton of the FSA (direct line: 020 7066 5304).

**Tim Herrington**  
**Chairman, Regulatory Decisions Committee**