

An Addendum was added to this Final Notice on 25 March 2014 to note comments made by the Tribunal in its decision of 10 December 2012

FINAL NOTICE

To: Thomas Wilhelm Reeh

FSA

Reference

Number: TWR01007

**Address: UNIT 2/859 Toorak Road
Hawthorn East
VIC 3123
Australia**

Date: 7 January 2013

ACTION

1. For the reasons given in this notice, the FSA hereby imposes on Mr Reeh a financial penalty of £10,000.

SUMMARY OF REASONS

2. The FSA gave Mr Reeh a Decision Notice on 13 August 2010 which notified him that the FSA had decided to impose a financial penalty of £170,000 (reduced to £50,000 due to Mr Reeh's financial circumstances) on him pursuant to section 66 of the Financial Services and Markets Act 2000 ("the Act") and make a prohibition order pursuant to section 56 of the Act.
3. On 19 September 2010 Mr Reeh referred this Decision Notice to the Upper Tribunal (Tax and Chancery Chamber) ("the Tribunal"). The written decision of the Tribunal was released on 10 December 2012 and can be found on the Tribunal's website.

4. The Tribunal determined that the FSA should impose on Mr Reeh a financial penalty of £10,000 pursuant to section 66 of the Act. The Tribunal considered that Mr Reeh's conduct warranted a penalty of £75,000, but reduced the figure due to Mr Reeh's financial circumstances. The Tribunal did not consider it appropriate to direct the FSA to impose a prohibition order.
5. Mr Reeh's misconduct occurred between September 2006 and November 2007 ("the relevant period") whilst he was CEO at Black and White Group Limited ("Black and White"), a company which specialised in arranging mortgages and associated insurance.
6. In summary, the Tribunal found that during the relevant period Mr Reeh:
 - i. Pressurised Black and White advisers to sell single premium Payment Protection Insurance without due regard to the suitability of the product for individual customers;
 - ii. pressurised advisers to sell products provided by a particular lender, Money Partners Limited, without due regard to their suitability for the customer;
 - iii. failed, but only to some degree, in his duty to take reasonable steps to ensure that Black and White had in place adequate compliance systems to ensure the suitability of advice given to its customers;
 - iv. set a 'tone from the top' at Black and White that focused on profit, cash flow and the increase of sales potentially at the expense of the fair treatment of its customers; and
 - v. failed in his duty promptly to provide the FSA with accurate information regarding Black and White's capital adequacy position and, on one occasion, misled the FSA about these matters.

FAILINGS

7. The regulatory provisions relevant to this Final Notice are referred to in Annex A.
8. The Tribunal found that during the relevant period Mr Reeh's conduct amounted to a breach of Principle 1 and Principle 7 of the FSA's Statement of Principles for Approved Persons ("APER"). The Tribunal also found that during the relevant period Mr Reeh was knowingly concerned in Black and White's breach of Principle 6 of the FSA's Principles for Businesses ("PRIN").

SANCTION

9. The FSA imposes a financial penalty of £10,000 on Mr Reeh.

PROCEDURAL MATTERS

10. This Final Notice is given under, and in accordance with, section 390 of the Act.

Manner of and time for Payment

11. The financial penalty must be paid in full by Mr Reeh to the FSA by no later than 21 January 2013, 14 days from the date of the Final Notice.

If the financial penalty is not paid

12. If all or any of the financial penalty is outstanding on 22 January 2013, the FSA may recover the outstanding amount as a debt owed by Mr Reeh and due to the FSA.

Publicity

13. Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this notice relates. Under those provisions, the FSA must publish such information about the matter to which this notice relates as the FSA considers appropriate. The information may be published in such manner as the FSA considers appropriate. However, the FSA may not publish information if such publication would, in the opinion of the FSA, be unfair to you or prejudicial to the interests of consumers.
14. The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

FSA contacts

15. For more information concerning this matter generally, contact Greg Sachrajda (direct line: 020 7066 3746 /fax: 020 7066 3747) of the Enforcement and Financial Crime Division of the FSA.

Georgina Philippou

Head of Department

FSA Enforcement and Financial Crime Division

ADDENDUM

Paragraph 129 of the Tribunal Decision (referred to in paragraph 3 of this Final Notice) reads as follows:

“We have received further detailed submissions from Mr Reeh in which he addresses not just hardship but comparable penalties in other cases and the treatment of another colleague who did not contest the findings of the Authority. At one point the Authority considered that a penalty of £50,000 would have been appropriate for the company’s former Chief Operating Officer. He also sets out up to date detail about his domestic commitments and very limited resources. While the Authority complains about Mr Reeh’s disclosure, he has met the standard imposed by the Family courts in Australia. He has also spent substantial sums on his legal representation in this case. Further he has provided information about the way in which he has built a promising new career in financial services in Australia working for a large institution and also doing charitable service in his community. While the delays in bringing this case on are regrettable they have given Mr Reeh an opportunity to rehabilitate himself to a degree not common in similar cases before this Tribunal. It would be wrong for us to impose a penalty which would have the effect of bringing this fresh start to an end. Having regard to his circumstances and the potential hardship which a higher penalty would impose on his young family, Mr Reeh will pay the sum of £10,000.”

ANNEX A

1. Relevant Statutory Provisions and Guidance

Statutory Provisions

1.1. The FSA's regulatory objectives are set out in section 2(2) of the Act and include the protection of consumers.

1.2. Section 66 of the Act provides:

(1) "The Authority may take action against a person under this section if –

(a) it appears to the Authority that he is guilty of misconduct; and

(b) the Authority is satisfied that it is appropriate in all the circumstances to take action against him.

(2) A person is guilty of misconduct if, while an approved person –

(a) he has failed to comply with a statement of principle issued under section 64; or

(b) he has been knowingly concerned in a contravention by the relevant authorised person of a requirement imposed on that authorised person by or under this Act.

(3) If the Authority is entitled to take action under this section against a person, it may...impose a penalty on him of such amount as it considers appropriate;"

Statement of Principles and Code of Conduct for Approved Persons

1.3. The Statements of Principles and Code of Conduct for Approved Persons are issued under section 64 of the Act.

1.4. Statement of Principle 1 states "*An approved person must act with integrity in carrying out his controlled function*".

1.5. Statement of Principle 7 states "*An approved person performing a significant influence function must take reasonable steps to ensure that the business of the firm for which he is responsible in his controlled function complies with the relevant requirements and standards of the regulatory system.*"

Principles for Business

1.6. The FSA's Principle's for Businesses ("PRIN") are a general statement of the fundamental obligations of firms under the regulatory system and are set out

in the FSA's Handbook. They derive their authority from the FSA's rule-making powers as set out in the Act and reflect the FSA's regulatory objectives. The relevant Principle in this instance is as follows:

Principle 6 (Customers' interests): "*A firm must pay due regard to the interests of its customers and treat them fairly*"