
FINAL NOTICE

To: City & Provincial **To:** Mr Zaffar Hassan Tanweer
FRN: 302147 **IRN:** ZHT01000

Address: 21 Halifax Road
Denholme
Bradford
UNITED KINGDOM
BD13 4EN

Dated: 13 March 2014

1. ACTION

1.1. For the reasons given in this notice, the Authority hereby:

- (1) imposes on City & Provincial ("C&P") a financial penalty of £1,100 in respect of its breach of Principle 1 of the Authority's Principles for Businesses. Were it not for C&P's financial position, the Authority would have imposed on C&P a financial penalty of £68,600;
- (2) cancels C&P's Part 4A permission because it is failing to satisfy Threshold Condition 2.5 (Suitability); and

- (3) makes an order prohibiting Mr Tanweer from performing any function in relation to any regulated activities carried on by any authorised or exempt persons, or exempt professional firm. This order takes effect from 13 March 2014.

2. SUMMARY OF REASONS

- 2.1. Mr Tanweer is the sole trader and principal of C&P, a mortgage broker which ceased trading in December 2011. Prior to that date C&P offered non-advised mortgage broking services to retail clients in and around Bradford.
- 2.2. Between 21 September 2009 and 21 June 2011 ("the Relevant Period"), C&P failed to conduct its business with integrity, in breach of Principle 1. Specifically, Mr Tanweer failed recklessly to prevent various client mortgage applications (and supporting documentation), which contained false and misleading information as to the clients' employment details and income, from being submitted to lenders for approval.
- 2.3. The Authority views C&P's conduct as particularly serious because its failings:
 - (1) C&P poses a risk to consumers and to lenders, and therefore to the integrity of the UK financial system. Were it not for C&P's financial position the Authority considers it would have been appropriate and proportionate to impose on C&P a financial penalty of £68,600.
 - (2) The Authority is also taking action against Mr Tanweer in his personal capacity, because he lacks honesty and integrity in that he deliberately provided his own mortgage lender with information about his income which he knew to be false and misleading and he deliberately failed to notify his lender of information which would have had a material impact on its decision to provide him with (or not to withdraw) a further advance on his mortgage.
- 2.4. Accordingly, Mr Tanweer is not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm, and the Authority intends to impose a prohibition order upon him.
- 2.5. The Authority has also concluded that C&P does not satisfy Threshold Condition 2.5 (Suitability) in that Mr Tanweer (who is the principal of C&P) is not a fit and

proper person. It is therefore appropriate and proportionate to seek cancellation of its Part 4A permission.

3. DEFINITIONS

3.1. The definitions below are used in this Final Notice.

"the Act" means the Financial Services and Markets Act 2000

"the Authority" means the body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority...

"C&P" means City & Provincial;

"DEPP" means the Decision Procedures and Penalties Manual;

"HMRC" means Her Majesty's Revenue and Customs;

the "Principles" means the Authority's Principles for Businesses;

the "Relevant Period" means the period between 21 September 2009 and 21 June 2011;

"Threshold Conditions" means the threshold conditions set out in Schedule 6 to the Act; and

"the Tribunal" means the Upper Tribunal (Tax and Chancery Chamber).

4. FACTS AND MATTERS

Background

4.1. Mr Tanweer is the sole trader and principal of C&P, a non-advised mortgage broker to retail clients in Bradford, Yorkshire. C&P was established in March 1985 and authorised to conduct regulated business on 31 October 2004. C&P voluntarily varied its permission to cease conducting regulated activities on 30 November 2011 and has ceased trading.

4.2. Mr Tanweer held the following controlled functions at C&P:

(1) CF7 (Sole Trader) until 31 January 2007; and

- (2) CF8 (Apportionment and Oversight) until 31 March 2009.
- 4.3. Since 14 January 2005 Mr Tanweer has also held responsibility for insurance mediation at C&P.
- 4.4. Mr Tanweer was the sole individual at C&P who dealt with mortgages during the Relevant Period. He does not hold any financial services qualifications and therefore acted only as a non-advised mortgage broker.
- 4.5. The Authority was made aware of concerns about Mr Tanweer and C&P following separate notifications from two lenders that C&P had been removed from their panel of mortgage intermediaries.

C&P's failure to identify false/misleading information in mortgage applications and prevent falsified documentation being submitted to lenders

- 4.6. The Authority has reviewed eleven regulated mortgage applications, which C&P submitted for five different customers (Client A, Client B, Client C, Client D and Client E) between September 2009 and May 2011, to Lender A, Lender B, Lender C and Lender D.

Client A

- 4.7. C&P submitted three mortgage applications on behalf of Client A, two to Lender A and one to Lender B, each of which contained false and misleading information as to income. Specifically, C&P submitted mortgage applications:
- (1) to Lender A in June 2010, stating that Client A was employed as a machinist with "Basic Income" of £18,000 per annum;
 - (2) to Lender A in September 2010, stating that Client A was employed as a machinist with "Basic Income" of £20,000 with £8,000 overtime and £7,000 bonus per annum; and
 - (3) to Lender B in October 2010, stating that Client A was employed as a clothing designer with "Gross Income" of £35,500 per annum (despite the application form requiring basic salary, bonus/commission and overtime to be entered separately).
- 4.8. In October 2010, C&P also submitted to Lender B, on behalf of Client A, falsified wage slips (dated September and October 2010) and a falsified P60 (tax year

2009/2010) in support of the income figures in Client A's October 2010 application.

- 4.9. Contrary to what was stated in the applications, HMRC does not have any records at all for Client A for tax years 2007/2008 to 2010/2011.
- 4.10. At the time C&P submitted the September 2010 application to Lender A and October 2010 application to Lender B, C&P must have been aware of the significant inconsistencies and/or discrepancies in relation to the information submitted and therefore the risk that the income details for Client A were false and/or misleading. Similarly, at the time C&P submitted the wage slips and P60 on behalf of Client A in October 2010, C&P must have been aware of the risk that they were falsified. Nevertheless, C&P submitted the mortgage applications and supporting documentation without taking any steps to verify or challenge the information they contained. This was, in the circumstances, unreasonable. C&P was reckless as to whether the employment and income information stated in the September 2010 application to Lender A and in the October 2010 application to Lender B was false and/or misleading and as to whether Client A's wage slips and P60 submitted to Lender B were falsified.

Client B

- 4.11. C&P submitted three mortgage applications on behalf of Client B, two to Lender A and one to Lender B, each of which contained false and misleading information as to Client B's income. Specifically, C&P submitted mortgage applications:
 - (1) to Lender A in May 2006, stating that Client B was employed as a bus driver with "Basic Income" of £20,000 and with other income of £8,000 per annum;
 - (2) to Lender A in March 2011, stating that Client B was employed as a taxi driver with "Basic Income" of £22,000 and with other income of £8,000 per annum and that he had lived at his current address since 7 July 2006; and
 - (3) to Lender B in May 2011, stating that he was employed as a taxi driver with a "gross annual salary" of £22,000 per annum and that his address, where it was stated he had lived for over 13 years, was different to that stated on the March 2011 application to Lender A.

- 4.12. In March and June 2011, C&P also submitted to Lender A and Lender B, respectively, on behalf of Client B, falsified wage slips (dated February and March 2011) in support of the income figures in the 2011 applications and in June 2011, C&P submitted to Lender B a falsified P60 (tax year 2010/2011). The wage slips did not state any PAYE code and the address on the wage slips and P60 was inconsistent with that on Client B's bank statements for the same period, which C&P provided to Lender B at the same time.
- 4.13. This information conflicts with information provided to the Authority by HMRC from its records for Client B, which state that:
- (1) Client B was employed as a bus driver between 9 May 2006 and 11 February 2007 with a gross income of £7,074.92 on a PAYE basis;
 - (2) Client B has been self-employed as a taxi driver since 19 February 2007 and for the tax year 2010/2011 Client B declared a self-assessed net profit of £5,472, significantly less than the figures declared on his 2011 mortgage applications; and
 - (3) the PAYE reference on the P60 for the tax year to 5 April 2011 does not exist. Client B had not paid tax via the PAYE system since 11 February 2007.
- 4.14. C&P submitted the above mortgage applications on behalf of Client B despite being in possession of a fact find document, apparently completed by C&P on behalf of Client B on 24 May 2006, which stated that Client B was self-employed with an income of £20,000. This conflicts with the information submitted by C&P, on behalf of Client B, in each of the mortgage applications, each of which stated that Client B was employed. Furthermore, the address given for Client B in the fact find matched the address given in the May 2006 and May 2011 mortgage applications, but was different from the address provided in the March 2011 application. This was an obvious chronological inconsistency and conflicted with the statement made in May 2011 that Client B had lived at the same address for over 13 years.
- 4.15. At the time C&P submitted the May 2011 application to Lender B, C&P must have been aware of the significant inconsistencies and/or discrepancies in relation to the information submitted and therefore the risk that the address details for Client B contained in the application were false and/or misleading. Similarly, at the time C&P submitted the wage slips and P60 on behalf of Client B to Lender B

in June 2011, C&P must have been aware of the risk that they were falsified. Nevertheless, C&P submitted the mortgage application and supporting documentation without taking any steps to verify or challenge the information they contained. This was, in the circumstances, unreasonable. C&P was reckless as to whether the employment and income information stated in the May 2011 application to Lender B were false and/or misleading and as to whether Client B's wage slips and P60 submitted to Lender B were falsified.

Client C

4.16. C&P submitted three mortgage applications on behalf of Client C, one to Lender E and two to Lender A, each of which contained false and misleading information as to Client C's employment. Specifically, C&P submitted mortgage applications:

- (1) to Lender E in April 2010, stating that Client C had been employed by a bed retailer ("the first bed retailer") since 22 January 2010 earning £10,500 per annum;
- (2) to Lender A in June 2010, stating that Client C was employed by the first bed retailer earning £15,000 per annum at the time the application was submitted. In addition, it stated that Client C was employed by a completely different bed retailer ("the second bed retailer") between 4 April 2009 and 15 January 2010; and
- (3) to Lender A in July 2010, stating that Client C had been employed by the first bed retailer earning £15,500 per annum since 4 April 2009.

4.17. In July 2010, C&P also submitted to Lender A, on behalf of Client C, falsified wage slips (dated June – July 2010) in support of the income figures in the application. The address on the wage slips was inconsistent with that stated in each of the three applications.

4.18. This information conflicts with information provided to the Authority by HMRC from its records for Client C, which state that:

- (1) Client C's employment ceased on 25 June 2010. Client C was therefore unemployed at the time the two applications were submitted to Lender A;
- (2) Client C was paid a total gross amount of £1,630.38 for the six months that Client C was employed at the first bed retailer (18 January 2010 to 25 June 2010); and

(3) between 12 August 2009 and 8 January 2010 Client C was employed by two different companies unconnected with either the first bed retailer or the second bed retailer.

4.19. C&P submitted the above mortgage applications on behalf of Client C despite being in possession of a fact find document, apparently completed by C&P on behalf of Client C on 2 June 2010, which records that Client C had been employed by the first bed retailer since 4 April 2009 earning £15,500 per annum. This conflicts with the information submitted by C&P, on behalf of Client C, in the April 2010 application to Lender E (in respect of his income) and in the June 2010 application to Lender A (in respect of length of his employment).

4.20. At the time C&P submitted the June 2010 and July 2010 applications to Lender A, C&P must have been aware of significant inconsistencies and/or discrepancies in relation to the information submitted and therefore the risk that the income details for Client C were false and/or misleading. Similarly, at the time C&P submitted the wage slips on behalf of Client C in July 2010, C&P must have been aware of the risk that they were falsified. Nevertheless, C&P submitted the mortgage applications and supporting documentation without taking any steps to verify or challenge the information they contained. This was, in the circumstances, unreasonable. C&P was reckless as to whether the employment and income information stated in the two applications to Lender A were false and/or misleading and as to whether Client A's wage slips submitted to Lender A were falsified.

Client D

4.21. C&P submitted four mortgage applications on behalf of Client D, two to Lender A, dated 19 August and 27 August 2009, respectively, one to Lender C, dated 16 December 2009 and one to Lender D in January 2010, each of which contained false and misleading information as to Client D's income. Specifically, Client D was stated to be self-employed in all four applications with net profit earnings of £41,000 in 2007 and £45,000 in 2008. In addition, the information in the January 2010 application to Lender D regarding Client D's accountant details conflicted with that provided in the previous applications.

4.22. In September 2009, C&P also submitted to Lender A, on behalf of Client D, falsified financial accounts for the years ending 2007 and 2008 in support of the income figures in the 27 August 2009 application. Client D's income was not

plausible in the context of Client D's occupation as a self-employed market trader.

- 4.23. In January 2010 C&P also submitted to Lender D, on behalf of Client D, falsified utility bills and bank statements in support of the income figures in the January 2010 application to Lender D. The address on each of the utility bills and bank statements submitted to Lender D was inconsistent with the address on the application form itself and the address details stated in each of the earlier applications.
- 4.24. Contrary to what was stated in the applications, HMRC does not have any records at all for Client D for tax years 2007/2008, 2009/2010 and 2010/2011 and no record of Client D working as a self-employed market trader. Client D's only taxable income was received in state benefits.
- 4.25. At the time C&P submitted the January 2010 application to Lender D, C&P must have been aware of significant inconsistencies and/or discrepancies in relation to the information submitted and therefore the risk that the income details for Client D were false and/or misleading. Similarly, at the time C&P submitted the financial accounts to Lender A on behalf of Client D in September 2009, and the utility bills and bank statements to Lender D on behalf of Client D, C&P must have been aware of the risk that they were falsified. Nevertheless, C&P submitted the mortgage application and supporting documentation without taking any steps to verify or challenge the information they contained. This was, in the circumstances, unreasonable. C&P was reckless as to whether the income information stated in the January 2010 application to Lender D was false and/or misleading and as to whether Client D's financial accounts, utility bills and bank statements were falsified.

Client E

- 4.26. C&P submitted two mortgage applications on behalf of Client E, one to Lender A, dated 16 September 2010, and one to Lender E, dated 24 September 2010, each of which contained false and misleading information as to Client E's income. Specifically:
 - (1) both applications stated that Client E had an income of £19,500 per annum; and

- (2) the first application stated that Client E had been employed as an Assistant Manager at a car breaking firm in Bradford since 2 February 2009 and the second application stated that Client E had been employed as a Manager at the same car breaking firm since 2 February 2009.
- 4.27. In November 2010, C&P also submitted to Lender E, on behalf of Client E, falsified wage slips (dated September, October and November 2010) and a falsified P60 (for the tax year 2009/2010) in support of the income figures in the application. There was no PAYE reference on any of the wage slips and the wage slips and P60 each spelt the name of Client E's employer differently.
- 4.28. This information conflicts with information provided to the Authority by HMRC from its records for Client E, which state that:
- (1) Client E's earnings were significantly less than those stated in the two mortgage applications. In 2009/2010 Client E declared PAYE earnings of £4,992. In 2010/11 Client E declared PAYE earnings of £4,992 and £5,715 net profit in a motor repair partnership;
 - (2) Between 1 July 2009 and 2 August 2009 Client E was employed by an individual in Stockton-on-Tees, not the car breaking firm in Bradford. Otherwise, during the tax years 2009/2010 and 2010/2011 Client E was employed by an individual at an address similar to that given for the car breaking firm in the application to Lender E; and
 - (3) the PAYE reference on the P60 for the tax year to 5 April 2010 does not exist.
- 4.29. C&P submitted the above mortgage applications on behalf of Client E despite being in possession of a fact find document, apparently completed by C&P on behalf of Client E on 16 September 2010, which records that Client E had been employed by a car breaking firm as an Assistant Manager (not a Manager) since 2 February 2009, earning £19,500 per annum. This conflicts with the information submitted by C&P, on behalf of Client E, in the September 2010 application to Lender E (in respect of his employer, employer's address and position held) and in the P60 submitted to Lender E in November 2010 (in respect of his employer's address).
- 4.30. At the time C&P submitted the September 2010 application to Lender E, C&P must have been aware of significant inconsistencies and/or discrepancies in

relation to the information submitted and therefore the risk that the employment details for Client E were false and/or misleading. Similarly, at the time C&P submitted the wage slips and P60 to Lender E on behalf of Client E in November 2010, C&P must have been aware of the risk that they were falsified. Nevertheless, C&P submitted the mortgage application and supporting documentation without taking any steps to verify or challenge the information they contained. This was, in the circumstances, unreasonable. C&P was reckless as to whether the employment information stated in the September 2010 application to Lender E was false and/or misleading and as to whether Client E's wage slips and P60 were falsified.

Mr Tanweer deliberately misleading his own mortgage lender

- 4.31. In April 2008, Mr Tanweer applied for and obtained a further advance on a residential mortgage in his own and his spouse's name with Lender D. Mr Tanweer stated in the application that the purpose of the further advance was to fund the purchase of another property.
- 4.32. The Authority compared the information about Mr Tanweer's income and employment, as stated on his mortgage application to Lender D, with information provided by HMRC.
- 4.33. In Mr Tanweer's mortgage application to Lender D of April 2008, he stated that his total annual income in 2008 was £98,000 with an additional £12,000 in rental income from commercial properties which he owned. Mr Tanweer's spouse, who does not work, did not complete the section relating to employment and income.
- 4.34. HMRC's records show that Mr Tanweer declared net income of £17,556 for the tax year 2007/2008 and a net loss of £58 for the tax year 2008/2009. In addition, he declared to HMRC that the income he received from UK property was £8,286 in the tax year 2007/2008 and £9,920 in the tax year 2008/2009.
- 4.35. Upon enquiry, Mr Tanweer admitted to the Authority that the £98,000 stated in his mortgage application included anticipated rental income of £23,000 from the property Mr Tanweer and his spouse intended to purchase with the further advance.

- 4.36. Mr Tanweer also admitted that the further advance from Lender D was not used for its stated purpose, that is, to purchase another property. Instead, he used £95,000 of the funds to invest in a commercial enterprise.
- 4.37. Lender D has informed the Authority that Mr Tanweer did not disclose that any income figures provided in support of his application included anticipated rental income, nor did he inform it of any change to the purpose for which he applied for the further advance. Lender D has also informed the Authority that had it known the further advance was to be used to invest in a commercial enterprise it would have declined Mr Tanweer's mortgage application.
- 4.38. Accordingly, it is the Authority's view that, given the discrepancy between the income figures Mr Tanweer stated in his mortgage application to Lender D and the (considerably lower) income figure he subsequently declared to HMRC for the same period, Mr Tanweer has obtained a further advance by declaring false income information in order to satisfy the lending criteria. In addition, Mr Tanweer deliberately failed to inform Lender D that the income declared in his application included anticipated rental income and that he had made a decision to use the funds advanced for a purpose other than that stated in the application.

5. FAILINGS

The regulatory provisions relevant to this Final Notice are referred to in the Annex.

C&P: Breach of Principle 1

- 5.1 By reason of the facts and matters referred to above, the Authority considers that C&P has breached Statement of Principle 1 and demonstrated a lack of integrity in the conduct of its business by recklessly failing to prevent:
- (1) the submission of eight mortgage applications to five different lenders on behalf of five C&P customers which contained false and misleading information as to the clients' employment details and income; and
 - (2) the submission of eleven falsified wage slips, P60 documents and/or certified accounts to four lenders on behalf of five C&P customers.
- 5.2 As a consequence of C&P's lack of integrity, lenders provided loans to applicants based on inaccurate information and/or falsified documentation and without

being given all the relevant information to enable them to assess the risk of applicants defaulting on mortgage payments.

5.3 The Authority therefore intends to impose a financial penalty on C&P pursuant to section 206 of the Act.

5.4 The Authority also intends to cancel C&P's Part 4A permission pursuant to section 55J of the Act because Mr Tanweer is the sole proprietor of C&P but is not a fit and proper person, for the reasons set out below.

Mr Tanweer: Fitness and Propriety

5.5 In addition, in relation to Mr Tanweer's own mortgage application, the Authority has concluded that Mr Tanweer lacks honesty and integrity and is therefore not a fit and proper person. Specifically, Mr Tanweer:

(1) deliberately provided his own mortgage lender with information about his income which he knew to be false and misleading; and

(2) deliberately failed to notify his lender of information which would have had a material impact on its decision to provide him with (or not to withdraw) a further advance on his mortgage, specifically:

a. that the income information provided in support of his application included anticipated rental income; and

b. that Mr Tanweer did not propose to use the further advance for its stated purpose (to purchase another property) but instead proposed using it to invest in a commercial enterprise.

5.6 Mr Tanweer's conduct fell short of the standards required by the Authority's Fit & Proper Test for Approved Persons in terms of honesty and integrity. He is therefore not a fit and proper person to perform any function in relation to any regulated activity, carried on by any authorised or exempt person, or exempt professional person.

6. SANCTIONS

6.1. Mr Tanweer's conduct has fallen significantly below the required standards of the regulatory system. Each proposed sanction is discussed below.

Financial penalty for breach of Principle 1

- 6.2. The conduct at issue took place both before and after 6 March 2010 when the Authority's new penalties policy (set out in the current version of Chapter 6 of DEPP) came into force. As set out at paragraph 2.7 of the Authority's Policy Statement 10/4, when calculating a financial penalty where the conduct straddles penalty regimes, the Authority must have regard to both the penalty regime which was effective before 6 March 2010 (the "old penalty regime") and the penalty regime which was effective after 6 March 2010 (the "new penalty regime").
- 6.3. The Authority has adopted the following approach in this case:
- (1) calculated the financial penalty for C&P's misconduct from 21 September 2009 to 6 March 2010 by applying the old penalty regime to that misconduct;
 - (2) calculated the financial penalty for C&P's misconduct from 6 March 2010 to 21 June 2011 by applying the new penalty regime to that misconduct; and
 - (3) added the penalties calculated under a) and b) to produce the total penalty.
- 6.4. For the purposes of establishing penalty figures applicable to the misconduct falling within the old and new penalty regimes the Authority has identified the separate incidents of misconduct committed by C&P both before and after 6 March 2010, as follows:
- (1) Between 21 September 2009 and 6 March 2010 C&P committed three separate incidents of misconduct, recklessly submitting one application and, on two separate occasions, documentation in support of that application, on behalf of a single client; and
 - (2) Between 6 March 2010 and 21 June 2011 C&P committed sixteen separate incidents of misconduct, recklessly submitting seven applications and, on nine separate occasions, documentation in support of those applications, on behalf of four clients.

Financial penalty under the old penalty regime

- 6.5. The Authority's policy on the imposition of financial penalties relevant to the misconduct prior to 6 March 2010 is set out in the version of Chapter 6 of DEPP that was in force prior to 6 March 2010.
- 6.6. For the purpose of calculating the penalty under the old regime in respect of C&P's misconduct between 21 September 2009 and 6 March 2010 the Authority has considered the factors set out below.

Deterrence (DEPP 6.5.2G(1))

- 6.7. The Authority considers that the imposition of a financial penalty is appropriate as it supports the Authority's stance on credible deterrence, both in terms of discouraging C&P and others from acting recklessly and encouraging compliance with regulatory standards and requirements.

The nature, seriousness and impact of the breach in question (DEPP 6.5.2G(2))

- 6.8. In determining the appropriate sanction, the Authority has had regard to the seriousness of the breach, including the extent to which the breach revealed serious weaknesses in C&P's internal controls to counter the risk of its mortgage broking business being used to further financial crime, specifically the absence of robust procedures for verifying employment and income information, and the extent to which C&P's failure to conduct its business with integrity created a significant risk that financial crime would be facilitated.

The extent to which the breach was deliberate or reckless (DEPP 6.5.2G(3))

- 6.9. The Authority considers that, between 21 September 2009 and 6 March 2010, C&P acted recklessly in failing to prevent a single mortgage application and supporting documentation, which contained false and misleading information, being submitted to a lender on behalf of a C&P customer. C&P did this despite inconsistencies and discrepancies in the application/documentation which should have alerted Mr Tanweer (as the individual who carried out the actions of C&P) to the significant risk that the customer might have been using C&P to commit mortgage fraud.

Whether the person on whom the penalty is to be imposed is an individual (DEPP 6.5.2G(4))

- 6.10. The Authority recognises that C&P is a sole trader and the authorised person is an individual and that the financial penalty imposed on C&P is likely to have a significant impact on Mr Tanweer. Nevertheless it is considered to be proportionate in relation to the seriousness of the misconduct.

Financial resources (DEPP 6.5.2G(5))

- 6.11. The Authority may take into account whether there is verifiable evidence of serious financial hardship or financial difficulties if the firm or individual were to pay the level of penalty appropriate for the particular breach.
- 6.12. C&P has provided evidence that Mr Tanweer would suffer serious financial hardship were a financial penalty to be imposed on C&P.

Disciplinary record and compliance history (DEPP 6.5.2G(9))

- 6.13. There has been no previous disciplinary action against C&P.

Other action taken by the Authority (DEPP 6.5.2G(10))

- 6.14. In determining the level of financial penalty, the Authority has taken into account penalties imposed by the Authority on other authorised persons for similar misconduct.

Old regime penalty

- 6.15. Applying these factors the Authority has determined that £17,500 is an appropriate financial penalty to be imposed on C&P under the old penalty regime for breach of Principle 1 between 21 September 2009 and 6 March 2010.

Financial penalty under the new penalty regime

- 6.16. Under the new penalty regime, in force after 6 March 2010, the Authority applies a five-step framework to determine the appropriate level of financial penalty. DEPP 6.5A sets out the details of the five-step framework that applies in respect of financial penalties imposed on firms.

Step 1: Disgorgement

- 6.17. Pursuant to DEPP 6.5A.1G, at Step 1 the Authority seeks to deprive a firm of the financial benefit derived directly from the breach where it is practicable to quantify this. Only two of the seven applications submitted after 6 March 2010 were successful (the others were withdrawn or declined) and as a result C&P derived a financial benefit of £1,100 directly from the breach, comprising broker fees.
- 6.18. The Step 1 figure is therefore £1,100.

Step 2: Seriousness of breach

- 6.19. Pursuant to DEPP 6.5A.2G, at Step 2 the Authority determines a figure that reflects the seriousness of the breach. Where the amount of revenue generated by a firm from a particular product line or business area is indicative of the harm or potential harm that its breach may cause, that figure will be based on a percentage of the firm's revenue from the relevant products or business area.
- 6.20. The Authority considers the entire gross revenue generated by C&P during the Relevant Period to be indicative of the potential harm caused by the breach. The Authority has therefore determined a figure based on a percentage of the income C&P declared to HMRC for the period of the breach. The period of C&P's breach was from 6 March 2010 to 21 June 2011. The total revenue for this period is £42,803.
- 6.21. In deciding on the percentage of the relevant revenue that forms the basis of the Step 2 figure, the Authority considers the seriousness of the breach and chooses a percentage between 0% and 20%. This range is divided into five fixed levels which represent, on a sliding scale, the seriousness of the breach; the more serious the breach, the higher the level. For penalties imposed on firms there are the following five levels:
- (1) Level 1 – 0%
 - (2) Level 2 – 5%
 - (3) Level 3 – 10%
 - (4) Level 4 – 15%

- (5) Level 5 – 20%
- 6.22. In assessing the seriousness level, the Authority takes into account various factors which reflect the impact and nature of the breach, and whether it was committed deliberately or recklessly.
- 6.23. The Authority has determined the seriousness of C&P's breaches to be Level 4 for the purposes of Step 2, having taken into account the following:
- 6.24. DEPP 6.5A.2G(7) sets out factors relating to the nature of the breach:
- (1) the breach revealed serious weaknesses in C&P's systems and controls to counter the risk of its mortgage broking business being used to further financial crime, specifically the absence of robust procedures for verifying employment and income information about its customers;
 - (2) the breach created a significant risk that financial crime would be facilitated;
 - (3) the frequency of the breach: C&P repeatedly submitted multiple applications and supporting documentation which contained false and/or misleading information, without taking steps to verify or challenge that information/documentation; and
 - (4) C&P failed to conduct its business with integrity.
- 6.25. DEPP 6.5A.2G(8) and (9) set out factors tending to show the breach was either deliberate or reckless. We consider that the breach committed by C&P was reckless. C&P submitted seven separate applications on behalf of four different customers in circumstances where Mr Tanweer appreciated (or closed his mind to the fact) there was a risk that his actions could result in a breach but he failed adequately to mitigate that risk.
- 6.26. Similarly, on nine separate occasions, C&P submitted supporting documentation on behalf of four different customers in circumstances where Mr Tanweer appreciated (or closed his mind to the fact) there was a risk that his actions could result in a breach but he failed adequately to mitigate that risk.
- 6.27. All references in this section to actions carried out by Mr Tanweer were actions carried out by C&P.

6.28. A Level 4 breach equates to 15% of the total revenue. The new regime penalty after Step 2 is therefore £6,420.

Step 3: mitigating and aggravating factors

6.29. In response to a request from the Authority, on 30 November 2011 Mr Tanweer trading as C&P agreed voluntarily to vary its permission to cease conducting regulated activity. However, we do not think this is in itself sufficient for an allowance to be made for a mitigating factor.

6.30. Pursuant to DEPP 6.5.3(3), we have considered the fact that C&P is a sole trader and the authorised person is in fact a single individual. Nevertheless, we consider the Step 2 figure which resulted from using the 15% revenue level to be proportionate.

6.31. The Step 3 figure is therefore £7,520 (£1,100 plus £6,420).

Step 4: adjustment for deterrence

6.32. The investigation team considers the absolute value of the penalty too small in relation to the breach to meet its objective of credible deterrence and pursuant to DEPP 6.5A.4(1)(a) considers it appropriate to increase the penalty to £50,000. This is in line with penalties imposed by the Authority for similar misconduct.

6.33. Taking into account the old regime penalty of £17,500, the total combined penalty equates to £68,600 (comprising disgorgement of £1,100 and a punitive element of £67,500).

6.34. The Authority considers that combining the two separate penalties calculated under the old and new penalty regimes produces a figure which is proportionate and consistent with the Authority's statements that the new penalty regime may lead to increased penalty levels.

6.35. The Step 4 figure is therefore £68,600.

6.36. The Authority would have sought to impose a total financial penalty of £68,600 on C&P for its breach of Principle 1, were it not that C&P has provided verifiable evidence to establish that imposing any financial penalty would cause it, as a sole trader, serious financial hardship. The penalty is therefore reduced to the disgorgement element of £1,100.

Step 5: settlement discount

- 6.37. As the financial penalty proposed has been reduced to the disgorgement element of £1,100 before calculation of any applicable discount for early settlement, no further discount can be applied.
- 6.38. Having considered all the circumstances set out above, the Authority considers that £68,600 would be the appropriate penalty to impose on C&P. However, taking into account C&P's financial position, the Authority proposes to publish a statement that C&P has contravened regulatory requirements, and impose a financial penalty of £1,100, comprising the disgorgement element only.

Prohibition Order

- 6.39. The Authority considers that Mr Tanweer poses a serious risk to consumers, as he has acted in a manner which lacks honesty and integrity whilst in the position of a person authorised by the Authority. A prohibition order is necessary and proportionate, and is consistent with the Authority's policy of seeking to prevent individuals lacking in honesty and integrity from working in authorised firms, which supports the Authority's regulatory objectives of protecting and enhancing the integrity of the UK financial system and securing an appropriate degree of protection for consumers.

Cancellation of C&P's Part 4A permission

- 6.40. As C&P's principal, Mr Tanweer was solely responsible for the regulated activities at C&P and only he dealt with mortgage applications during the Relevant Period. Mr Tanweer is not a fit and proper person and has failed to conduct his business with integrity and in compliance with proper standards and has failed to demonstrate that he is ready, willing and organised to comply with the requirements and standards under the regulatory system. As such, C&P is failing to satisfy Threshold Condition 2.5 (Suitability) and pursuant to section 55J(2)(b) of the Act, its Part 4A permission should be cancelled.

7. PROCEDURAL MATTERS

Decision maker

- 7.1. The decision which gave rise to the obligation to give this Notice was made by the Settlement Decision Makers.

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

Manner of and time for Payment

7.3. The financial penalty must be paid by C&P to the FCA in four equal instalments, the first instalment being paid within three months of the date of the Final Notice (being 13 June 2014), followed by three further payments at three monthly intervals thereafter, with the total amount of the financial penalty to be paid within a year of the Final Notice.

If the financial penalty is not paid

7.4. If all or any of the financial penalty is outstanding on the day after it is due to be paid, the Authority may recover the outstanding amount as a debt owed by C&P and due to the Authority.

Publicity

7.5. 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 Authority must publish such information about the matter to which this notice relates as the Authority considers appropriate. The information may be published in such manner as the Authority considers appropriate. However, the Authority may not publish information if such publication would, in the opinion of the Authority, be unfair to you or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.

7.6. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Authority contacts

7.7. For more information concerning this matter generally, contact Paul Howick (direct line: 020 7066 7954 /email: Paul.Howick@fca.org.uk) of the Enforcement and Financial Crime Division of the Authority.

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Bill Sillett

Head of Department
Financial Conduct Authority, Enforcement and Financial Crime Division

ANNEX: RELEVANT STATUTORY AND REGULATORY PROVISIONS

1. RELEVANT STATUTORY PROVISIONS

- 1.1 The Authority's statutory objectives, set out in section 1B(3) of the Act, include the consumer protection objective and the integrity objective.

Prohibition Order

- 1.2 Section 56 of the Act provides that the Authority may make an order prohibiting an individual from performing a specified function, any function falling within a specified description or any function, if it appears to the Authority that that individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person, exempt person or a person to whom, as a result of Part 20, the general prohibition does not apply in relation to that activity. Such an order may relate to a specified regulated activity, any regulated activity falling within a specified description, or all regulated activities.

Imposition of financial penalty

- 1.3 Section 206(1) of the Act provides:

"If the Authority considers that an authorised person has contravened a requirement imposed on him by or under this Act... it may impose on him a penalty, in respect of the contravention, of such amount as it considers appropriate."

Publication of a public censure

- 1.4 Section 205 of the Act provides that the Authority may publish a statement to the effect that the Authority considers that an authorised person has contravened a relevant requirement imposed on it.

Cancellation of Part 4A permission

- 1.5 The Authority has the power, under section 55J of the Act, to cancel an authorised person's Part 4A permission. The Authority may exercise its power under this section in relation to an authorised person with a Part 4A permission if it appears to the Authority that such a person is failing, or is likely to fail, to satisfy the threshold conditions for which the Authority is responsible or it is

desirable to exercise the power in order to advance one or more of the Authority's operational objectives.

1.6 Section 55B and Schedule 6 to the Act set out the threshold conditions ("the Threshold Conditions") which are conditions that the Authority must ensure a firm will satisfy, and continue to satisfy, in relation to regulated activities for which it has permission.

1.7 Paragraph 2E of Schedule 6 to the Act (Threshold Condition 2.5: Suitability) states that the person concerned must satisfy the Authority that he is a fit and proper person having regard to all the circumstances including, amongst other things:

- the need to ensure that the person's affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers and the integrity of the UK financial system;
- whether the person's business is being, or is to be, managed in such a way as to ensure that its affairs will be conducted in a sound and prudent manner; and
- the need to minimise the extent to which it is possible for the business carried on by the person, or to be carried on by the person, to be used for a purpose connected with financial crime.

2. RELEVANT REGULATORY PROVISIONS

Principles for Businesses (the "Principles")

2.1 The Principles are a general statement of the fundamental obligations of firms under the regulatory system and are set out in the Authority's Handbook. They derive their authority from the Authority's rule-making powers set out in the Act. The relevant Principles are as follows. The relevant Principle in this case is **Principle 1** (Integrity), which states that a firm must conduct its business with integrity.

The Fit and Proper Test for Approved Persons ("FIT")

2.2 The part of the Authority's Handbook entitled "The Fit and Proper Test for Approved Persons" ("FIT") sets out the criteria that the Authority will consider when assessing the fitness and propriety of a candidate for a controlled

function. FIT is also relevant in assessing the continuing fitness and propriety of an approved person.

- 2.3 FIT 1.3.1G states that the Authority will have regard to a number of factors when assessing the fitness and propriety of a person. The most important considerations will be the person's honesty, integrity and reputation, competence and capability and financial soundness.

Threshold Conditions

- 2.4 COND 2.5.4G and COND 2.5.6G give guidance in respect of whether an authorised person satisfied Threshold Condition 2.5.

DEPP

- 2.5 Chapter 6 of DEPP, which forms part of the Authority's Handbook, sets out the Authority's statement of policy with respect to the imposition and amount of financial penalties under the Act.

The Enforcement Guide

- 2.6 The Enforcement Guide ("EG") sets out the Authority's approach to exercising its main enforcement powers under the Act.
- 2.7 Chapter 7 of the EG sets out the Authority's approach to exercising its power to impose a financial penalty.
- 2.8 Chapter 9 of EG sets out the Authority's policy in relation to prohibition orders.
- 2.9 EG 9.1 states that the Authority may exercise this power where it considers that, to achieve any of its regulatory objectives, it is appropriate either to prevent an individual from performing any functions in relation to regulated activities or to restrict the functions which he may perform.