

*REGULATED ACTIVITIES – Permission – Refusal of application –
Threshold Conditions 4 and 5 – Numerous previous complaints – Failure to
disclose previous warning – Whether Tribunal satisfied as to Applicant’s
suitability – No – Reference dismissed*

FINANCIAL SERVICES AND MARKETS TRIBUNAL

VRAJLAL LAXMIDAS SODHA

Applicant

- and -

FINANCIAL SERVICES AUTHORITY

The Authority

**Tribunal: TERENCE MOWSCHENSON QC
ANDREW J LUND
W RUTHVEN GEMMELL WS**

Sitting in public in London on 16 May 2006

The Applicant in person

Miss Sara George, for the Authority

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DECISION

Introduction

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1. On 4th February 2005 Vrajlal Laxmidas Sodha (“Mr Sodha”) applied under section 40 of the Financial Services and Markets Act 2000 (“the Act”) for Part IV permission as a sole trader to carry on the regulated activities of advising on and/or arranging mortgages and general insurance products (“the Application”).

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2. Mr Sodha completed a Sole Trader Application Pack in which he stated that he wished to apply for permission profile 9 which relates to a retail intermediary advising on and/or arranging mortgage and general insurance products but does not include advising on and/or arranging packaged products nor handling or controlling client money.

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3. On 27 October 2005, the Respondent (“the Authority”) issued a Decision Notice refusing the Application pursuant to section 52(9) of the Act.

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4. The reasons for the refusal of the application, as set out in the Decision Notice, were that the Authority was not of the view that Mr Sodha satisfies, and will continue to satisfy, the threshold conditions set out in Schedule 6 to the Act (“the Threshold Conditions”) as he has not demonstrated to the FSA that he:

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(1) has adequate resources (Threshold Condition 4: adequate resources), having regard to all the circumstances, including that Mr Sodha proposes to carry on business by himself, as there are not appropriate human resources which will effectively oversee the relevant systems and controls at all times; and

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(2) is a fit and proper person (Threshold Condition 5: suitability) having regard to all the circumstances, including that Mr Sodha proposes to carry on business by himself, as he has not shown that he:

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(i) will conduct the business with integrity and in compliance with proper standards; and

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(ii) will have competent and prudent management or will conduct affairs with the exercise of due skill, care and diligence.

The Reference

5. On 28 November 2005 Mr Sodha referred that decision to the Tribunal pursuant to section 55(1) of the Act.

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6. The relevant Threshold Conditions are:

Threshold Condition 4(1) which provides that:

5 "The resources of the person concerned must, in the opinion of the Authority, be adequate in relation to the regulated activities that he seeks to carry on, or carries on." (Paragraph 4, Schedule 6 to the Act).

Threshold Condition 5 which provides that :

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"The person concerned must satisfy the Authority that he is a fit and proper person having regard to all the circumstances, including –

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(a) his connection with any person;

(b) the nature of any regulated activity that he carries on or seeks to carry on; and

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(c) the need to ensure that his affairs are conducted soundly and prudently." (Paragraph 5, Schedule 6 to the Act).

7. The Respondent has issued guidance in its handbook (COND) as to its approach to and application of the Threshold Conditions.

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COND 1.3.2(1)G: The Authority will consider whether a firm satisfies, and will continue to satisfy, the threshold conditions in the context of the size, nature, scale and complexity of the business which the firm will carry on if the application is granted.

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COND 1.3.2(2)G: In relation to threshold condition 4 and 5, the Authority will consider whether a firm is ready, willing and organised to comply, on a continuing basis, with the requirements and standards under the regulatory system which will apply to the firm if it is granted Part IV permission.

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(COND 2.4.2G(2)) The Authority will interpret the term "adequate" as meaning sufficient in terms of quantity, quality and availability, and "resources" as including all financial resources, non financial resources and means of managing its resources.

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(COND 2.4.3G(1)) When assessing threshold condition 4, the Authority may have regard to any person appearing to it to be, or likely to be, in a relevant relationship with the firm,

which might pose a risk to the firm's satisfaction of the threshold conditions. Examples of such a person include a firm's directors or partners.

5 (COND 2.5.3G(1)&(2)) The emphasis of Threshold Condition 5 is on the suitability of the firm itself. The suitability of each person who performs a controlled function will be assessed by the Authority under the approved persons regime. In certain circumstances however, the
10 Authority may consider that the firm is not suitable because of doubts over the individual or collective suitability of persons connected with the firm.

15 (COND 2.5.3G(2)) The Authority may have regard to any person appearing to it be or likely to be in a relevant relationship with the firm as permitted by section 49 of the Act.

20 (COND 2.5.4G) The Authority will have regard to all relevant matters, including whether the firm will conduct its business with integrity and compliance with proper standards, have a competent and prudent management and can demonstrate that it will conduct its affairs with the exercise of due skill, care and diligence.

25 (COND 2.5.6G) In determining whether a firm will satisfy and continue to satisfy, threshold condition 5, in respect of conducting its business with integrity and in compliance with proper standards, the Authority will have regard to relevant matters including whether the firm has been
30 open and co-operative in all its dealings with the Authority ... and is ready willing and organised to comply with the requirements and standards under the regulatory system and other legal, regulatory and professional obligations; the relevant requirements and standards will depend on the circumstances of each
35 case, including the regulated activities which the firm is seeking permission to carry on.

40 8. Section 64 permits the Authority to produce a Code of Practice to assist in determining whether an approved person's conduct complies with a statement of principle. This has been done in APER.

APER: Statement of Principle 4 provides:

45 "An approved person must deal with the FSA and with other regulators in an open and cooperative way and must disclose appropriately any information of which the FSA would reasonably expect notice."

The proceedings before the Tribunal

- 5 9. The Tribunal must be satisfied that the Applicant will satisfy, and continue to satisfy, the Threshold Conditions in relation to the regulated activities for which he would have permission if his application was granted: section 40 (1) and (2) FSMA.
- 10 10. On hearing the reference the Tribunal (i) may consider any evidence relating to the subject matter of the reference whether or not it was available to the Respondent at the time it made its decision: section 133 (3) Financial Services and Markets Act 2000 (“FSMA”) and (ii) must determine what if any is the appropriate action for the Authority to take in relation to the matter referred to it: section 133 (4) FSMA.
- 15 11. The onus is on the Applicant to satisfy the Tribunal that he satisfies the Threshold Conditions¹.
- 20 12. Evidence may be admitted by the Tribunal whether or not it would be admissible in a court of law and whether it was available to the Authority when taking its action: Rule 19 (3) of the Financial Services and Markets Tribunal Rules 2001.
- 25 13. Evidence was given by the Authority to the effect that the Applicant had been the subject of previous complaints from customers certain of which had been upheld by the institutions with which the Applicant had previously been associated namely Barclays Life Assurance Company Limited (“Barclays”) and St James’s Place (“SJP”). Mr Sodha accepted that the complaints had been made; he did not accept that all complaints had been correctly upheld at 30 Barclays but did not seek to adduce any evidence to the effect that they were incorrectly decided. He accepted the complaints upheld whilst he was at SJP (save in relation to one complaint, that relating to Mrs P, which is referred to below). Albeit that complaints had been upheld the Tribunal, in assessing the weight to be attached to the complaints, has taken into account that the 35 substantive decisions in relation to the complaints of Barclays Life and SJP are hearsay, it has not had access to the material available to Barclays Life and SJP or seen fully reasoned determinations as to the reasons for upholding the complaints and the Tribunal has taken into account any matters put forward by Mr Sodha in relation to the complaints.
- 40 14. The Tribunal heard evidence from two witnesses on behalf of the Authority, namely Mr Andrew Cope, a Manager in the Authorisations Department within the Regulatory Transactions Division, and Mr Michael Lord, the head

¹ Ridings GB & Ors v The Financial Services Authority, 8 February 2005 unreported, R (on the application of Olsen) v Maidstone Crown Court, The Times 21 May 1992 distinguishing on its facts David Thomas v FSA, unreported 22 September 2004.

of the Mortgage and Credit Unions Department within the small firms division of the Authority. Mr Sodha did not challenge the evidence of either of these witness albeit he had three questions to put to Mr Cope. In addition, Mr Sodha, who did not serve a witness statement, but did serve a short response to the Authorities' Statement of Case, gave evidence and was cross examined by counsel for the Authority. He did however produce numerous testimonials from various clients expressing their appreciation of the services which he had provided to them. We also heard evidence from Mr Malcolm Starr, the managing director, of the Davies Warren Partnership Ltd ("Davies Warren"), a compliance consultant called on behalf of Mr Sodha.

The Background

15. Between 1982 to 1992 Mr Sodha was a representative of Barclays Life and between 1992 and June 2004 was a tied agent of SJP. According he has over 20 years experience in financial services much of that spent dealing with mortgages and ancillary products.

16. As noted above, on 4th February 2005 Mr Sodha applied for permission as a sole trader, seeking authorisation to act as a mortgage and general insurance intermediary. He does not intend to recruit any other approved person to work full time in the business albeit he indicated that he intended to retain Davies Warren to advise on compliance. He would be assisted by a personal assistant who had worked for National Westminster Bank PLC until it was taken over by the Royal Bank of Scotland and the personal assistant would be responsible for ensuring that all requisite forms were completed and ensuring that letters were sent off. Originally he indicated that Mr Starr would attend at his offices on quarterly visits to monitor compliance, but in the course of an interview on 19th October 2005 he stated that he would retain Davies Warren to monitor compliance on a weekly basis. As the Tribunal understand it, monitoring could take place either at Mr Sodha's offices or by a remote internet connection to Mr Sodha's computer.

17. The Authority then embarked upon a lengthy enquiry process to determine whether Mr Sodha should be authorised. On 19th August 2005 it issued a warning notice to the effect that it proposed to refuse the application. Mr Sodha indicated that he would send written representations in relation to the Warning Notice but eventually decided to make his representations orally. He did so on 19th October 2005 at a hearing before the Regulatory Decisions Committee.

18. On 17th October 2005 the Authority issued its Decision Notice to the effect that it had decided to refuse the Application. As noted above these concerns related to Threshold Conditions 4 (adequate resources) and Threshold Condition 5 (fit and proper having regard to all circumstances). The key areas of concern to the Authority were as follows:

- 18.1 The level of complaints made against the Applicant during the course of his career;
- 5 18.2 The proportion of those complaints upheld by SJP and Barclays;
- 18.3 The nature of the complaints made, particularly those relating to misselling;
- 10 18.4 The Applicant's disregard for proper procedures designed for the protection of consumers;
- 18.5 The fact that Applicant's involvement with both firms resulted in final written warnings being administered;
- 15 18.6 That the Applicant proposes to become a sole trader; and
- 18.7 The Applicant's failure to mention in his Application the final written warning from St James's Place.

20 Past Complaints.

Barclays

19. Whilst at Barclays Mr Sodha received 22 complaints over a 10 year period, all of which were upheld and 7 of which resulted in compensation being paid. Amongst the complaints relating to Mr Sodha's time at Barclays a client complained that he had requested that his policy be increased but instead was sold a new plan, the terms of policies were misrepresented, Mr Sodha paid clients' monies into his bank account and held onto it for a period of three months, and gave bad advice on a mortgage. It also appears that the rate of complaints increased towards the end of Mr Sodha's time with Barclays, 15 (out of 22) being made in 1990 and 1991. In the end Barclays issued Mr Sodha with a final warning letter; amongst the matters of concern listed were his conduct in relation to mortgage business, lack of attention to pension business resulting in a client losing tax relief, and the leaving of clients' monies in Mr Sodha's own bank account.

20. In the course of his cross examination of Mr Cope Mr Sodha sought to suggest for the first time that he had been unaware that he had been the subject of 22 complaints at Barclays until he saw the terms of the Barclays reference dated 26th February 1992 during the course of his application. We do not accept that Mr Sodha could have been unaware that 22 complaints had been against him whilst at Barclays. We note that a copy of the reference was contained in the papers supplied to Mr Sodha with the Warning Notice. The reference was also referred to in the briefing note to the Regulatory Decisions Committee. Accordingly we find it surprising that Mr Sodha did not indicate to the Authority earlier in the course of the consideration of his Application that he

had been unaware that the number of complaints made against him totalled 22, if such was the case.

SJP

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21. During his 12 year period (ending in June 2004) with SJP Mr Sodha was the subject of 55 complaints of which 17 were upheld. In the majority of the cases where the complaints were upheld compensation was paid. Mr Sodha receive a final written warning from SJP in October 1999 (by which time he had been the subject of 22 complaints) due to the high level of complaints made against him. In a number of instances compensation was paid to clients, the amounts ranging from amount of £75 to £12,000.

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22. Examples of complaints were set out in the Authority's Statement of Case and skeleton. Mr Sodha produced no evidence to suggest that the description of the complaints was wrong albeit we note that in his note commenting on the Statement of Case he comments on certain of them.

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22.1 In 2001, Mr Sodha advised a client to take out two pensions to support her mortgage. However the retirement dates of these policies were written past her mortgage redemption date. Mr Sodha also incorrectly advised the client that the tax-free lump sum from her pension would pay off her mortgage. SJP paid compensation of £11,000 as a result of the complaint.

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22.2 In 2002, Mr Sodha advised a client to take out an investment bond. The bond was recommended to increase net disposable income but resulted in reducing income. SJP noted that there was no evidence to support an attitude to risk as the client had no experience of equity based investments. SJP paid compensation of £8,000.

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22.3 In 2002, a client requested a review of a pension plan which was set up to support his mortgage. Mr Sodha had advised that the tax free lump sum would pay off the mortgage if the plan reached a speculative growth rate of 12%; the use of that growth rate required prior approval of SJP which Mr Sodha had not obtained. SJP found no evidence of the client risk appetite or that he had any equity based investment experience. Compensation was paid of £12,000 which was credited to his personal pension plan. Mr Sodha commented that an estimated growth rate of 12 per cent was acceptable to certain lenders. That does not meet the point that SJP found no evidence of risk appetite or equity experience.

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22.4 In 2004, Mr Sodha advised clients to borrow against their home in order to invest in a bond. The regular withdrawals from the investment bond were to fund the mortgage. However the advice resulted in

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reducing income. SJP paid compensation to cover the loss incurred when the value of the bond depreciated. Mr Sodha commented that the clients were aware of the type of investment and that in the event of the bond going down the husband had a job and was receiving income

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22.5 In 2004, a client was advised to take out life cover even though the client had no dependants. There were no documented reasons why cover was required and no evidence that alternatives were discussed. Furthermore the plan was not affordable and the premiums were met by withdrawals from an investment bond. Mr Sodha commented that the plan was for the benefit of the client's grandchildren – however that reason was not documented,

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22.6 In 2004, Mr Sodha failed to document the risk appetite of a client. SJP felt that the client did not have any experience in equity based investments and also noted that the client had recently suffered the bereavement of her husband. SJP paid £5000 in compensation.

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22.7 In 2004, a client stated that she was eligible to join a group pension scheme. SJP stated that Mr Sodha did not request a copy of scheme booklet therefore there was no documentary evidence in her file that she had an employer scheme. Mr Sodha had failed to collect relevant details regarding the employer's pension scheme.

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25 23. A common theme in the complaints made against Mr Sodha relates to the state of the file relating to particular clients. The proper maintenance of the "fact file" which records the personal circumstances of a client and the advice given to him serves a number of purposes. First it serves as a discipline in ensuring that correct advice is given; it also assists the adviser in meeting clients' complaints as to the advice given. In many of the complaints it appears that information as to the clients' circumstances and the nature of the advice to the clients was not recorded on the file. That meant that Barclays or SJP was in a difficult position in rebutting the complaint. One example of this was the case of a Mrs P who complained that her application for a mortgage had been inappropriately dealt with by Mr Sodha because he had advised her to apply for a residential mortgage whereas she wished to let the property. Mr Sodha gave evidence by way of a recording of a telephone conversation with a Mr John Burley to the effect that Mrs P had not told him that she wished to "buy to let" but had told him she wished to live in the property. The difficulty was that there was no Product Confirmation on the file which recorded the reasons Mrs P had given to Mr Sodha as to why she wanted the mortgage. In the course of the SJP inquiry into Mrs P's complaint Mr Sodha agreed that the documentation was totally inadequate and that the "fact find" did not explain why two insurance policies were to be taken out and whether they were designed to assist in repayment of the mortgage.

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24. As Mr Lord said in his witness statement a large number of the complaints against Mr Sodha indicated that he had failed to write to private customers setting out a clear explanation for his advice and, in particular, the basis on which the products recommended were suitable for them. The issuing to clients of “Suitability Letters” is a key customer protection requirement of the FSA rules as set out in COB 5.3. Providing a Suitability Letter gives the investor an opportunity to review the rationale for the recommended transaction to ensure that his investment objectives, priorities and attitude to risk have been accurately understood by the adviser. It also is a useful discipline for the adviser as it is another opportunity to think the matter through.
25. In the course of 1999 as part of his PIA Membership Committee’s approval of his individual membership application in 1999 a condition requiring increased supervision by SJP of his practice was imposed. Despite being placed under increased supervision by SJP the level of complaints remained high.
26. An SJP internal memorandum dated 27th September 1999 records that by 1995 Mr Sodha was the subject of a number of about 13 complaints many of which related to mortgage business. SJP had increased the support to his practice and as a result the rate of complaint reduced. However in 1999 the number of complaints had started to rise again and in an effort to alleviate SJP’s concerns Mr Sodha had offered to cease carrying on mortgage business for a few months and consider improving the administrative support of his practice. He was also told that he would receive a written warning and that if the level of complaints continued SJP would review whether to continue his contract with them. On 25th October 1999 Mr Sodha received a final written warning in relation to his dealings with Mrs P. The letter recorded his agreement not to work in the mortgage market over the following months. After receiving that written warning Mr Sodha was the subject of a further 28 complaints of which 8 were upheld by SJP. Of these 4 related to mortgages.
27. On 9th March 2001 Mr Sodha wrote to SJP agreeing not to accept new mortgage business from a potential client “under any circumstances”. By the time he left SJP he had been the subject of 55 complaints.
28. The Authorities evidence was to the effect that Mr Sodha appeared to be the subject of an unusually high number of complaints. Mr Lord (whose evidence was not challenged) gave evidence to the effect that from his experience as a specialist supervisor of IFAs he would expect a complaint rate of approximately one complaint per individual adviser per year. At SJP Mr Sodha received 55 complaints over a 12 year period. Mr Lord also gave evidence that in his experience the rate at which complaints are upheld is about 1 in 10. In the case of Mr Sodha the uphold rate was nearer 1 in 3. Accordingly during his period at SJP Mr Sodha’s complaints record is unusually high both in regard to the number of complaints made and the number upheld. In relation to his 10 years with Barclays Mr Sodha’s

complaints record (22 in 10 years) and uphold record (7 out of 22) was also high. In giving his evidence Mr Cope took into account the fact that complaints had increased in recent years due to mortgage endowment complaints. Mr Sodha had not sold any endowment mortgages so the extra scrutiny attracted by endowment mortgages cannot explain his higher complaint rates. Mr Cope also gave evidence in response to a question from a member of the Tribunal that he had compared the rate of complaints and upholds between large network, large IFAs and small directly authorised firms and discovered that firms such as SJP would incur complaints at a lower than average rate. We note that on occasion Barclays or SJP might have accepted a complaint out of goodwill but we have no evidence to suggest that other providers adopted a different policy to Barclays or SJP.

29. As we understood Mr Sodha's evidence he did not accept that all the Barclays' complaints which were upheld were his responsibility as opposed to that of Barclays but he did accept the SJP complaints which were upheld but pointed out that in certain cases he had collected the necessary information about a client but not documented it in a "fact find" or suitability letter.

Other matters

Failure to observe regulatory requirements..

30. Certain of the complaints indicated that Mr Sodha is inclined to disregard regulatory requirements. Thus in the case of Mrs P referred to above, Mr Sodha paid client monies into his own account. Albeit the amount of monies was small - £175 – for an adviser to pay client monies into the adviser's own account without being authorised to handle client funds is a serious matter. We note that whilst at Barclays Mr Sodha had paid clients' monies into his own bank account and held it for 3 months. That had been one of the reasons he received a warning letter from Barclays. There is no suggestion of dishonest motives on the part of Mr Sodha. In the case of Mrs P his explanation was that he had paid the monies into his own account as that made it easier to pay for the property valuation and ensure that there was no question of the cheque not being met and the application being rejected. He said in the course of his evidence he had paid client monies into his own bank account for these reasons on a number of occasions. Albeit we accept Mr Sodha's explanation he must have been aware of the requirement not to accept client monies without authorisation due to his experience at Barclays, the gravity with which a breach of the requirement was viewed, and despite that handled client monies.

Complaint handling

31. A comment made by the Applicant before the Regulatory Decisions Committee in respect of complaints handling is also noteworthy. The Applicant said he would offer a "sweetener or compensate for a small amount"

to clients to keep them happy in the event of a mix up. That would not be in keeping with a proper complaints handling process or necessarily consistent with treating customers fairly. In relation to mortgage business the consequences of a mistake might endure over a long period and, in the case of private individuals, be a matter of some considerable importance.

Failure to reveal the final written warning from SJP in the Application form

32. Mr Sodha discussed the completion of the application form with Mr Malcolm Starr. He answered question 1.11 of the application as to whether he had had professional advice to fill in or assist in the application in the affirmative. In completing the application questionnaire Mr Sodha ticked the “yes” box in response to question 2.8 as to whether he had had any material written complaints made against him by his client or former clients within the last 5 years and which he had accepted. In response to question 2.12 which provides as follows:

Are you, or have you ever been, the subject of an investigation into allegations of misconduct or malpractice in connection with any business activity? This question covers internal investigation by an authorised firm in addition to investigations by a regulatory body at any time.

33. Mr Sodha ticked both boxes marked “yes” and “no”, crossed out both ticks and wrote in another box which he drew adjacent to the printed boxes on the application form and wrote in the box “No”. He then initialled the box. He omitted to refer to the reprimand and final warning from SJP given on 25th October 1999.

34. Mr Starr’s evidence was that he could not recall seeing the completed Application but that he could recall a discussion as to Mr Sodha’s “difficulty” with Barclays and on that basis his view had been that it should have been answered in the affirmative not the negative. He did say that he was unaware of the “difficulty” with SJP. Mr Sodha gave evidence to the effect that he had not mentioned the SJP warning to Mr Starr but that Mr Starr had told him to attach some supporting material to the Application in relation to the Barclays’ warning. He said he had intended to act in a similar fashion in relation to the SJP warning. His explanation for his failure to do so was that he forgot to do so at the time but that he had not intentionally set out to conceal the SJP warning.

35. Mr Sodha was well aware of the importance of disclosure due to the advice of Mr Starr in relation to the Barclays warning. The importance of completing the Application form accurately was something that Mr Sodha must have been aware of. The failure to disclose the SJP warning suggests a somewhat casual attitude by Mr Sodha to the completion of the Application and gives some cause to doubt whether he would be conscious, if authorised, of the need to

deal with the Authority in an open way as required by the APER Statement of Principle 4.

Mr Sodha's Application

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36. As a sole trader Mr Sodha would be the person responsible for managing his business; he would choose choose the level of compliance support and training which he requires; he would be responsible for dealing with clients' concerns including how to fulfil their requirements and deal with their complaints. Albeit that he was self employed at SJP, he was operating in an environment with greater structure and where he was subject to the supervision and sanction of others although Mr Sodha felt the actual level of compliance support to be provided by Davies Warren would be greater than he had experienced at SJP.

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37. Mr Sodha sought to satisfy the Tribunal that he was fit to be authorised on the basis that he was prepared to retain Davies Warren acting by Mr Starr to ensure that he observed all applicable regulatory requirements. Davies Warren would offer a service under which Mr Sodha's fact file could be monitored remotely via the internet and would provide training facilities to Mr Sodha. However Mr Starr accepted that he would not be able to monitor how complaints were handled unless he was made aware of them. Originally Davies Warren had discussed monitoring by quarterly visits. Mr Sodha in the course of his interview with the Regulatory Decisions Committee had suggested that he could arrange weekly monitoring from Davies Warren. He had not, however, by the hearing actually discussed with Mr Starr whether such close monitoring was possible. Mr Starr indicated that he could supply such monitoring subject to agreeing terms with Mr Sodha during the course of his evidence.

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38. Mr Sodha also had retained the services of a person who had previously been employed by the National Westminster Bank PLC but who was not authorised herself. Her responsibility would be ensure that the forms and letters were all properly written and files were properly maintained.

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39. We note that even after Mr Sodha was placed under constant supervision at SJP the level of complaints remained high due to the use of flawed procedures and advice. Weekly monitoring is less supervision than constant supervision. Monitoring is inherently something which occurs after the event and dependent upon adequate records being maintained. There is no obligation on Mr Sodha to continue a contract with Davies Warren.

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40. The question for the Tribunal is whether Mr Sodha has satisfied the Tribunal that he has satisfied the Threshold Conditions 4 and 5.

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41. Having considered the matters set out above we are not satisfied that Mr Sodha satisfied threshold Conditions 4 and 5. In particular we consider that

5 the matters described above show that Mr Sodha has an insufficient
appreciation of the need, and an insufficient determination to comply with
the requirements and standards of the regulatory system which will apply to
him. The evidence shows that he has manifested a consistent disregard of the
need to comply with requirements to maintain fact files or issue client advice
10 letters, is prepared to disregard a requirement if it is inconvenient such as the
requirement not to handle clients' monies, and will not adhere to a proper
system for handling complaints if it suits him. His failure to disclose the SJP
warning was consistent with a failure to appreciate the importance of the
purpose of regulation set up under FSMA. Accordingly we are not satisfied
15 that he has adequate non financial resources or is a fit and proper person to be
authorised in the light of the matters before the Tribunal.

42. In the circumstances the reference is dismissed. Our decision is unanimous.
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TERENCE MOWSCHENSON QC

**CHAIRMAN
RELEASED:**

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