
FINAL NOTICE

To: Westwood Independent Financial Planners
c/o Mr Charles Moore (Trustee in the sequestrated estate of
Westwood Independent Financial Planners)
Moore & Co
65 Bath Street
Glasgow
G2 2BX

Firm

Reference

Number: 179905

Date: 17 December 2013

ACTION

1. On 31 May 2011 the Authority gave Westwood a Decision Notice which notified it that the Authority had decided to impose a financial penalty of £100,000 for breaches of Principles 7 (Communications with clients) and 9 (Customers: relationships of trust) and related COB rules, in relation to its sale of GTEP plans during the relevant period.

2. On 23 June 2011 Westwood referred this decision to the Tribunal. The Tribunal, in a written decision dated 22 November 2013, <http://www.tribunals.gov.uk/financeandtax/Decisions.htm#fs>, determined that the Authority should impose a financial penalty of £100,000 on Westwood for breaches of Principles 7 and 9 as well as the related COB rules.

SUMMARY OF REASONS

3. Westwood is a Scottish firm that offered independent financial planning and advice to clients. It no longer undertakes any regulated business, having been placed into sequestration.
4. The Tribunal found that Westwood breached Principles 7 and 9 as well as the related COB rules in relation to its sale of GTEP plans during the relevant period.
5. As set out more fully in the Tribunal's decision, in relation to all but one of the clients who gave evidence at the hearing, Westwood failed to pay due regard to the information needs of clients and breached Principle 7 and related COB rules as:
 - (a) its communications about the GTEP plans were neither clear nor fair in that, while they were not misleading, the communications were unbalanced because they emphasised the positive aspects of the GTEP plans without properly considering alternative investments or the risks inherent in the GTEP plans;
 - (b) it failed to communicate the nature of the risks. The risk warnings in Westwood's minutes and suitability reports were stated briefly in general terms and were effectively discounted by Westwood's endorsement of the GTEP plans; and

(c) it did not take reasonable steps to ensure that its clients (many of whom were inexperienced or unsophisticated investors) understood the nature of the risks involved in investing in the GTEP plans.

6. The Tribunal also found that Westwood failed to take reasonable care to ensure the suitability of its advice and breached Principle 9 and related COB rules, given what it knew about those clients who gave evidence at the hearing, in that:

(a) the clients were categorised by it as being either medium or medium/high risk but were advised to invest in GTEP plans which were high risk investments;

(b) even if the GTEP plans were not high risk investments, in relation to two clients a GTEP plan was plainly unsuitable because of the clients' personal circumstances and investment objectives; and

(c) its advice to save monthly drawdowns was not suitable for those clients who did not need them to meet immediate expenditure, as the rate of return obtained on such savings would be less than the rate of interest they were paying on the loan facility taken out under their GTEP plan.

7. The Tribunal's decision includes the following illustrative passage in relation to a married couple who invested in a GTEP plan after being advised by Westwood:

"Our view of Mr and Mrs [X] is that they were unsophisticated investors, with little, if any, understanding of the nature of the risks of the GTEP plan... the information about the Integrity GTEP plan

communicated by Westwood to Mr and Mrs [X] was weighted towards the positive with insufficient emphasis and inadequate explanation of the risks so that, although it was not misleading, it was not clear and fair... In our view, the Integrity GTEP plan was clearly unsuitable for Mr and Mrs [X] for the general reason that, given their attitude and circumstances at the time, [...] they should have been regarded as low or medium risk investors and the GTEP plan was a high risk investment product."

8. The Tribunal noted that Westwood made £509,123 commission from the sale of 50 GTEPs during the relevant period and considered that the amount of the penalty should be set at a level that both punishes Westwood for the breaches and deters others from similar conduct. The Tribunal concluded that a penalty of £100,000 was appropriate in this case and did not consider that there were any mitigating factors that would justify reducing it.

DEFINITIONS

9. The definitions below are used in the Final Notice:
 - (a) the "Act" means the Financial Services and Markets Act 2000;
 - (b) 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) the "COB rules" means the Authority's Conduct of Business Rules;
 - (d) "GTEP" means geared traded endowment policy;
 - (e) the "Principles" means the Authority's Principles for Businesses;

- (f) the "relevant period" means the time between September 2005 and October 2007;
- (g) "Westwood" means Westwood Independent Financial Planners;
and
- (h) the "Tribunal" means the Upper Tribunal (Tax and Chancery Chamber).

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 Westwood to the Authority by no later than 3 January 2014.

If the financial penalty is not paid

12. If all, or any, of the financial penalty is outstanding on 3 January 2014, the Authority may recover the outstanding amount as a debt owed by Westwood and due to the Authority.

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 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 Westwood or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.

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

Authority contacts

15. For more information concerning this matter generally, contact Rachel West (0207 066 0142) at the Enforcement and Financial Crime Division of the Authority.

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Bill Sillett
Head of Department
Enforcement and Financial Crime Division