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Cameron Farley Action Group



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Re: Cameron Farley Ltd
(In Administration & Liquidation)

Complaints of Failures by the Financial Services Authority

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Below is a summary of complaints the Cameron Farley Action Group and its members hold against the Financial Services Authority. The complaint relates specifically to the FSA's actions and handling of the investigation, and the subsequent liquidation of the above company.

Our complaint has three key elements:-

Element One

We allege that the FSA failed in its roles as regulators to protect consumers by not providing 'relevant and timely' information about Cameron Farley Ltd (the Firm).

The FSA had concerns regarding the company and its director for over three YEARS and had a number of opportunities to provide relevant information regarding these concerns to the consumers whom the FSA is Obligated by Statute Law to protect. This could have been achieved via information published on its website or via any other media yet no attempts appear to have been made to warn anyone of the concerns held by the FSA and its Enforcement Officers.

I believe this is a clear failing against one of the FSA's published "Key Objectives" and evidenced clearly in the interdict obtained and issued on the 16th October 2009 which states:-

"In about June 2005 the petitioner (the FSA) made investigations with the respondents (Cameron Farley Ltd and Stephen Antonia Farley) in respect of possible unregulated activity. In the course of those investigations, the petitioner discovered that the first respondents website included a claim that the second respondent had completed a Securities Institute Certificate in Investment Management whereas the petitioners inquiries revealed that he had failed these exams and did not hold such a certificate".

It further states that:-

"On about the 19th December 2005, the second respondent advised the petitioner that he had become an authorized representative of Personal Touch Financial Services Ltd. Subsequently inquiries revealed that Personal Touch Financial Services Ltd had rejected his two applications for Authorisation".

It continues:-

"At an unannounced site visit on the 4th April 2007, the second respondent initially advised the petitioner's officers that all foreign exchange dealing for clients was organized through a US Company called Gain. The second respondent subsequently admitted the fact that the first respondents carried out some foreign exchange dealings on behalf of their clients. In an application for authorisation submitted to the petitioner (FSA) on behalf of a related company, Cameron Farley Investments Ltd, the second respondent intentionally failed to disclose previous investigations which the petitioner had had into his business activities."

And finally:-

"The petitioner has also become aware that the second respondent has a conviction for theft from 1991 and served a period of imprisonment following a conviction for fraud in 1993".

In addition a document in my possession dated 15th October 2007 addressed to Mr. Stephen Farley of Cameron Farley Limited from Mai Keiller of the FSA Authorizations Department clearly confirms receipt of the "application for authorization and the cheque for £5000" and subsequently confirms to Mr Farley: "your FSA reference number is 473885".

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This reference number was queried by various clients of the company including myself during September 2007 as part of due diligence on the company prior to investing and it was confirmed to be correct, in addition no further comments or statements were made by FSA personnel at that time to express concerns or indeed pass on any information regarding the previous investigations into either Mr. Farley or the company Cameron Farley Ltd. This is despite several members of the Cameron Farley Action Group, some of whom are legal professionals, having asked the FSA at that time whether there was "anything they should be concerned about or should be aware of prior to investing in Cameron Farley". No attempts were made whatsoever to alert any of the various people who made these calls to the FSA of anything untoward or concerning, despite the FSA having stated that it did indeed have concerns of its own about Cameron Farley at that time.

We would like to know whether these calls were recorded and if so whether they can be retrieved for investigation into the misleading comments made about Cameron Farley which one solicitor recalls from notes made at the time as being: "We don't know of any reason for you to be concerned about investing in Cameron Farley".

The Provisional Liquidators Report issued on 19th December 2008 clearly confirms that:-
"On 28th July 2008 the Financial Services Authority (FSA) appointed investigators under section 163(3) of the Financial Services and Market Act 2000 (the Act). The reason for the appointment was that there were circumstances suggesting that the company may have been engaged in activities in breach of section 19 of the Act."

These documents clearly demonstrate that the FSA had significant concerns in relation to the company dating back to June 2005 and continuing through to April 2007, and again in July 2008, and that it had numerous opportunities to provide "timely and relevant" information to consumers yet failed to do so despite having ample opportunity when many investors contacted the FSA before investing funds specifically asking about Cameron Farley's registration status and asking for any further information which would help in conducting due diligence with a view to investing in the company.

In our opinion therefore, no conclusion can be drawn other than the FSA failed comprehensively in its Statutory Obligation to "protect consumers" in the case of Cameron Farley.

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Element Two

We assert with evidence that in 2007 the FSA instructed the firm to stop accepting any client funds and to cease Forex trading until they had met certain conditions "to the satisfaction of the FSA" and its Enforcement Officers. We claim that the FSA did not take any follow up action to ensure that the Firm was complying with its request despite being aware of the company continuing to accept deposits from clients of significant amounts, and despite being aware of Cameron Farley's continued Forex trading business, ignoring all requests of the FSA's Enforcement Team.

A copy of an email in our possession sent to Mr Stephen Farley, dated 10th May 2007 from Rachel Hallett, Enforcement, Financial Services Authority and copied to Dick Donouzjian (presumably also of the FSA) specifically states:-

"Further to our meeting at 1.00pm today, I am writing to confirm what we agreed during our discussions.

You agreed to provide me and my colleague Dick with the following information:-

A log-in and password to grant us access to your online client information system.

A copy of the communication(s) you have already sent to the investors.

Written confirmation of your undertaking to cease accepting or conducting further FOREX business until the matters have been resolved to the satisfaction of the FSA.

Written confirmation of a suggested banking arrangement for holding client monies in a secure environment until the matters have been resolved to the satisfaction of the FSA."

This document CLEARLY defines the requirements required by the FSA Enforcement Team and follows the previous investigations as far back as 2005. I have seen further correspondence between Cameron Farley Ltd and an audit company employed by the Firm to assist in their FSA registration process and replies indicating what the Firm was planning to do with respect to the above. However, it would appear that still no warnings or communications were made to the consumers and even worse no further specific follow up action was taken until July 2008 and then the serving of the first interdict on the 2nd September 2008.

This provides clear and irrefutable evidence that the FSA specifically requested the company to cease accepting client monies or conducting Forex business, yet it was allowed to continue doing exactly those things for a further 16 months before being stopped by way of the interdict.

Furthermore, throughout this period no information was provided to consumers at any point to warn consumers and potential investors of any of these events which would have enabled them to make an informed decision which would certainly have been to cancel their plans to invest in the company. These failures to act thus ensured that consumers were not only left unprotected, but were left to continue injecting funds into the company oblivious to any of the serious concerns and activities taking place at the FSA. Many millions of pounds were invested by such investors during this period and long after the FSA had concerns, funds which were later lost leaving these people in various dire predicaments including but not limited to: Loss of retirement savings, Loss of businesses, Loss of marriage and family stability, Loss of family homes and Loss of health.

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Element Three

We allege that the FSA acted inappropriately following the issue of the injunction to “freeze” the Firm’s assets and prevent further trading, which led to an unexplained loss of approximately \$17.5Million.

The Provisional Liquidators Report issued by Grant Thornton LLP and Dated 19th December 2008 clearly states that :-

“Between February and August 2008 five deposits totaling \$17,269,800 were made from the Company’s NatWest accounts. Currency trading continued throughout the period, with no significant gains or losses. Between the 23rd September and 1st October 2008 \$10,551,375 was lost by trading on the exchange rate between the Euro and the US dollar.”

“Between the 12th August and 6th October 2008 \$6,597,585 was lost by trading on the exchange rate between Sterling and the US Dollar.”

These balances and trades are clarified in the Liquidator’s additional report dated 21st July 2009 where it states:-

“The freezing order, obtained on 2nd September 2008, restrained the company from carrying out investment trades. As at the 22nd September 2008 the balance on the company account was \$17.5 million. On the 23rd September 2008 a £127.5M position on the exchange rate between the Euro and the US Dollar was opened.”

“The trading position was closed on 1st October 2008 at 1 Euro to \$1.40 incurring a \$10.6M loss.”

The interdict previously disclosed and dated 16th October 2009 states:

“At an unannounced site visit on the 4th April 2007, the second respondent initially advised the petitioner’s officers that all foreign exchange dealing for clients was organized through a US Company called Gain. The second respondent subsequently admitted the fact that the first respondents carried out some foreign exchange dealings on behalf of their clients”.

In our view this clearly demonstrates that the FSA Enforcement Team was fully aware of the company used by Cameron Farley Ltd to conduct Forex trading; it also clearly demonstrates that the Enforcement Team was aware this company was located in the US.

It is inconceivable to believe that having obtained an injunction on the 2nd September 2008 which reportedly “restrained the company from carrying out investment trades” and being already aware of the location of the FOREX platform used by Cameron Farley Ltd that the FSA would not ensure that any funds held in the company account with this ‘Gain’ platform were also secured appropriately under the same freezing order. One would assume from all the investigations carried out up until the 2nd September 2008 that the first two sensible and indeed obvious courses of action would be to obtain an injunction ensuring that funds held either in the UK bank accounts or any other account belonging to the company were frozen simultaneously and that all companies involved in any business relationship with Cameron Farley Ltd were made fully aware of the injunction and that they would be instructed to ensure that no requests for action / transfer or withdrawal of funds should be allowed. This can not in our view be perceived as anything less than a glaringly incompetent or negligent failure to “Protect Consumers” and to ensure that the Freezing Order achieved its objective as stated in the report issued by Grant Thornton, namely to prevent the company carrying out trades and to prevent the company accepting further deposits.

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This single action, had it been taken, would have ensured that the return of funds to unsecured creditors of the company would have been in excess of 60% based on the court-appointed liquidator's figures. However, due to the fact that this most basic of actions was not taken, the complete balance of funds held on the US Gain Forex platform were lost over 4 weeks after the injunction and/or Freezing Order was obtained. How this can still be termed a "Freezing and Arrestment Order" is something we are yet to comprehend as this is clearly not what the order achieved nor what it ever could have achieved since the Gain platform were able to allow the continuation of Forex trading on the Cameron Farley account.

Further to this, creditors/victims are yet to be informed, despite costs to date in the region of £200,000 paid from their remaining funds to Grant Thornton, of HOW the money was lost or indeed who placed the trades which is something all creditors have a desperate desire to learn and understand, and something we feel they have a right to know from the FSA who we feel should know the answers but so far refrain from offering any.

We believe that not only did the FSA act inappropriately in this instance but they FAILED in their single most important duty and having taken legal action to "prevent the company from carrying out investment trades" they FAILED to take the required simple steps to ensure that it was followed through and therefore presided over the largest single loss of funds in the company's trading history.

This final element of our complaint is extremely difficult for creditors to come to terms with and it is to date lacking any explanation whatsoever from our Financial 'Regulator' which is allegedly in place to protect us all from events such as those which may well have been directly caused by said regulator.

It may also be reasonably asserted that since the huge losing trades were only placed immediately after the FSA intervention, it is highly likely that it was as a direct result of said intervention which actually caused the person who placed these apparently reckless trades to place them at all. In short, until the FSA intervened, client monies were available on account with the company. Only after their involvement were they lost and quite possibly as a direct reaction to the regulator's sudden, unexpected and wholly insufficient intervening actions.

In summary of that last point, we feel that the FSA should either have done nothing at all about the company, or if they felt they must act then those actions should have been sufficient to secure all funds. If the Financial Regulator of the United Kingdom is incapable of freezing some funds in accounts they had prior knowledge of, then we do not believe they are fit for purpose and in this case their incompetence allowed and possibly caused the reaction seen in the sudden spree of losing trades.

We believe the FSA should admit to their incompetence or any other reasons they wish to suggest for such costly failures towards the creditors of the Firm and as a minimum we feel that the FSA should accept responsibility for their numerous errors and/or failings, in doing so offering reimbursement of the funds that were lost after their involvement began. We also feel significant reparations should be offered to recompense the victims in this case for the many financial and personal hardships suffered as a result of the loss of many investor's entire personal savings.

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