



Reference: FS/2014/0012  
FS/2014/0013  
FS/2014/0016

**UPPER TRIBUNAL  
TAX AND CHANCERY CHAMBER  
FINANCIAL SERVICES**

**BETWEEN:**

**(1) STEWART OWEN FORD  
(2) MARK JOHN OWEN  
(3) PETER FRANCIS JOHNSON**

**Applicants**

**- and -**

**THE FINANCIAL CONDUCT AUTHORITY**

**Respondent**

**DIRECTIONS**

**TRIBUNAL: JUDGE ROGER BERNER**

**Sitting in chambers at The Royal Courts of Justice, Strand, London WC2 on 30 April 2015**

UPON the determination of the Tribunal following the hearing of the Applicants' applications on 16 April 2015, and having received representations from the parties on the form of directions to be issued

IT IS DIRECTED that

1. In accordance with the decision of the Tribunal on the Appellants' applications ("the Decision") released today:

(1) The dismissal of the Applicants' applications is conditional upon the Authority complying with the following requirements:

(a) Any press release issued by the Authority in connection with the publication of the Decision Notices must state prominently at its beginning that Mr Ford, Mr Johnson and Mr Owen has each referred the matter to the Upper Tribunal where each party will present their respective cases and the Tribunal will then determine, in the case of the decision to impose a penalty, what (if any) is the appropriate action for the Authority to take, and remit the matter to the Authority with such directions as the Tribunal considers appropriate for giving effect to its determination, and in relation to the prohibition order, whether to dismiss the reference or remit it to the Authority with a direction to reconsider and reach a decision in accordance with the findings of the Tribunal.

(b) In referring to the findings made, rather than give any suggestion of finality, those findings must be prefaced with a statement to the effect that they reflect the Authority's belief as to what occurred and how the behaviour in question is to be characterised.

(2) The Decision Notice in relation to each of the Applicants shall be published, and the particulars of the Applicants' references to this Tribunal shall be entered in the register of references and decisions in financial services cases kept by the Tribunal pursuant to paragraph 3 of Schedule 3 to the Tribunal Procedure (Upper Tribunal) Rules 2008 not earlier than 21 days after the date of release of the Decision.

2. The Decision shall be published on the Tribunal's website, but there shall be no such publication until after the Decision Notices shall have been published by the Authority. The Authority shall inform the Tribunal when such publication has taken place.

### **Reasons for Directions**

1. When I issued the Decision in draft, I sought representations from the parties as to the appropriate period from the date of release of the Decision before publication of the Decision Notices. I had suggested a period of 21 days.

2. Each of the parties made representations. The Authority accepted the suggested 21-day period as being consistent with such periods directed in recent Tribunal cases. Mr Ford sought a period of 8 weeks, until the week commencing 15 June 2015, and his representations were supported by Mr Owen and Mr Johnson. Mr Ford put forward the "avalanche of media interest" and the need to prepare for this and his response to it as his reason for seeking a longer period than 21 days. However, he did not explain why a period of 21 days would be inadequate for this purpose.

3. As I said at [64] of the Decision, the presumption in favour of publication of a Decision Notice operates from the time the notice is given. Whilst the Tribunal recognises that there may be cases where a reasonable period of grace should be permitted before publication, that is an exception to the general rule, and will be applied only where there is good reason to do so and where the time allowed is proportionate to those reasons. On the basis of the

representations I have received, I am not persuaded that a period exceeding 21 days should be directed.

4. Finally, for completeness, I have directed that the Decision should be published on the Tribunal's website, but only after the Decision Notices themselves are published. That will ensure that there is no advance publicity through the Tribunal.

**UPPER TRIBUNAL JUDGE ROGER BERNER**

**RELEASE DATE: 2 May 2015**

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