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## FINAL NOTICE

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**Aspect Garage Limited**  
**100-106 Hylton Road**  
**Sunderland**  
**Tyne and Wear**  
**SR4 7BB**

11 April 2016

### **ACTION**

1. By an application dated 18 February 2015 Aspect Garage Limited (“Aspect”) applied under section 55A of the Financial Services and Markets Act 2000 for Part 4A permission to carry on the regulated activities of credit broking, debt adjusting and debt counselling.
2. The Application was complete on receipt.
3. For the reasons listed below, the Authority has decided to refuse the Application.
4. As a result of the giving of the Decision Notice, pursuant to article 58(1)(a) of the Transitional Order, Aspect’s interim permission has ceased.

### **SUMMARY OF REASONS**

5. By its Warning Notice dated 22 December 2015 (“the Warning Notice”) the Authority gave notice that it proposed to refuse the Application and that Aspect was entitled to make representations to the Authority about that proposed action.
6. As no representations have been received by the Authority from Aspect within the time allowed by the Warning Notice, the default procedures in paragraph 2.3.2 of the Authority’s Decision Procedure and Penalties Manual apply, permitting the Authority to

treat the matters referred to in its Warning Notice as undisputed and accordingly, to give a Decision Notice.

7. By its Decision Notice dated 5 February 2016 (“the Decision Notice”), the Authority gave Aspect notice that it had decided to take the action described above.
8. Aspect had 28 days from the date the Decision Notice was given to refer the matter to the Upper Tribunal (formerly known as the Financial Services and Markets Tribunal). No referral was made to the Upper Tribunal within this period of time or to date.
9. Under section 390(1) of the Act, the Authority, having decided to refuse the Application and there having been no reference of that decision to the Tribunal, must give Aspect Final Notice of its refusal.
10. For the reasons set out herein the Authority cannot ensure that Aspect will satisfy, and continue to satisfy, the threshold conditions set out in Schedule 6 of the Act.
11. Mr Asa Dobbing (“Mr Dobbing”) is Aspect’s sole director and owns 100% of the shares in the firm. Mr Dobbing disclosed in the Application that he was convicted in 2009 of Assisting in the Management of a Brothel Used for the Practices of Prostitution and was at the date of the Decision Notice due to be tried for the offence of Conspiracy to Supply Class A Drugs.
12. Mr Dobbing failed to disclose in the Application, and in correspondence following submission of the Application with the Authority, that he was also arrested and charged with the offence of Aiding and Abetting Misconduct in Public Office. Mr Dobbing also failed to disclose in the Application, or until challenged in correspondence with the Authority following submitting the Application, that he received a caution for Battery in 2014.
13. Aspect and Mr Dobbing have not been open and co-operative in all their dealings with the Authority.
14. Aspect is not fit and proper as at the date of the Decision Notice Mr Dobbing was subject to ongoing criminal proceedings which were relevant for determination of this Application.
15. The Authority cannot be satisfied that Aspect will satisfy, and will continue to satisfy, the threshold conditions for which the Authority is responsible. In particular, the threshold conditions of Suitability (2E), Appropriate Resources (2D) and Effective Supervision (2C).
16. Mr Dobbing was at the date of the Decision Notice due to be tried for the offences of Conspiracy to Supply Class A Drugs and Aiding and Abetting Misconduct in Public Office on 7 March 2016.<sup>1</sup>
17. The Authority is not satisfied that Mr Dobbing will act with integrity in performing the controlled function for which he has sought approval or managing the business for which he is responsible.

## **DEFINITIONS**

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

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<sup>1</sup> The trial has been re-scheduled to begin in January 2017.

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

"the Application" means the application dated 18 February 2015 made by Aspect under section 55A of the Act for Part 4A permission to carry on the regulated activities of credit broking, debt adjusting and debt counselling.

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

"SUP" means the Supervision chapter within the Authority's Handbook.

"the Transitional Order" means the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2013 (SI 2013/1881).

## FACTS AND MATTERS

19. Aspect was incorporated on 20 January 2012. Aspect's company registration number with Companies House is 07918262. Aspect held an Interim Permission under Financial Services Register number 654466 which ceased on the giving of the Decision Notice. Mr Dobbing is the sole director listed for Aspect at Companies House.
20. Aspect is a motor dealership in Sunderland that wishes to offer finance options to its customers in order for its customers to be able to purchase the motor vehicles offered for sale. Aspect's business model includes the sale of motor vehicles in part exchange for those owned by Aspect's customers. Aspect wishes to carry out Credit Broking, Debt Adjusting and Debt Counselling.
21. In the Consumer Credit Limited Supplement section of the application form, Aspect projects that it shall have 15 customers at authorisation and, if the Application is granted, 15 customers 12 months following authorisation.
22. Mr Dobbing, as the sole director of Aspect, submitted the Application on behalf of the firm on 17 February 2015. Mr Dobbing was responsible for ensuring that all questions and material information were accurate and complete in the:
  - i. Part 4A application form for Aspect; and
  - ii. application form completed concerning Mr Dobbing seeking approval under Part V of the Act to perform the CF8 (Apportionment and Oversight) controlled function.
23. In the Fitness and Propriety section of the application form for the Part V application Mr Dobbing disclosed that in 2009 he was convicted of assisting in the management of a brothel used for practices of prostitution and that currently there are ongoing criminal proceedings against him for Conspiracy to Supply Class A Drugs. By completing the application form, Mr Dobbing confirmed that "*the information supplied is accurate, complete to the best of (his) knowledge*".
24. On 27 April 2015 the Authority emailed Mr Dobbing requesting a full explanation of the events disclosed in the Application and whether there were any other ongoing proceedings against him. Mr Dobbing was given a deadline of 13 May 2015 to respond.

25. Mr Dobbing did not respond by the deadline set by the Authority. On 4 June 2015 the Authority wrote to Mr Dobbing requesting a response to the information originally requested by 18 June 2015.
26. Mr Dobbing did not respond to the email sent by the Authority on 4 June 2015. On 18 June 2015 the Authority emailed and also sent by recorded delivery a letter requesting Mr Dobbing to provide the information originally requested on 27 April 2015. Mr Dobbing was given until 2 July 2015 to reply.
27. On 19 June 2015 Mr Dobbing left a voicemail message for the Authority stating that he responded to the request for further information by letter.
28. On 23 June 2015 the Authority received Mr Dobbing's written response to the Authority's request dated 19 June 2015. Mr Dobbing disclosed that he had been convicted of running a brothel in 2009 because he "*was renting out an apartment and the girl who was renting it was working as an escort*". At the trial for this offence Mr Dobbing pleaded guilty. At no point has Mr Dobbing shown remorse for this offence or that he has been rehabilitated following the conviction. Mr Dobbing also disclosed that he has been charged with the offence of Conspiracy to Supply Class A Drugs and that he was currently awaiting trial. Mr Dobbing confirmed that these were the only two offences for which "*I've (sic) ever been arrested and charged with*".
29. On 27 July 2015 the Authority sent by Recorded Delivery a letter to Mr Dobbing requesting an update in relation to his trial. In particular, Mr Dobbing was asked to provide details of when the trial was due to begin; if there were any hearing dates due prior to the trial; and as much detail as possible which led to him being charged with this offence. In the letter, the Authority informed Mr Dobbing that it was aware that Mr Dobbing had received a caution for battery and was asked to provide the Authority with more information. Mr Dobbing was given until 4 August 2015 to respond. The caution for battery had not been disclosed by Mr Dobbing in the Application.
30. On 18 August 2015 the Authority spoke to Mr Dobbing via telephone. The Authority explained that Mr Dobbing needed to respond to the questions raised in the Authority's letter dated 27 July 2015. Mr Dobbing confirmed that he had replied on 4 August 2015 to this request but had sent it to an invalid email address ([connet@fca.org.uk](mailto:connet@fca.org.uk)).
31. The Authority asked Mr Dobbing to resend his email dated 4 August 2015 in which he confirmed that:
- i. No trial date had yet been set;
  - ii. He was not aware of any hearing dates prior to the trial;
  - iii. He intended to plead not guilty to this offence;
  - iv. Mr Dobbing asserted that he was charged with this offence because the person who rents one of his properties was "*caught in possession of a class a drug*";
  - v. Mr Dobbing stated that the police suspected him as he "*turns over a vast some (sic) of cash*";

- vi. Mr Dobbing asserted that he had hired a Forensic Accountant to look into this further; and
  - vii. The caution for Battery was received in relation to an incident whilst he was socialising where his "*partner was assaulted*".
32. On 24 August 2015 the Authority received confirmation from Teesside Crown Court that Mr Dobbing's trial would start on 7 March 2016.
33. The indictment obtained from the Crown Prosecution Service on 17 September 2015 confirms that Mr Dobbing has been charged and is due to face trial for the offences of Conspiracy to Supply Class A Drugs and "*Aiding and Abetting Misconduct in Public Office*".
34. On 29 September 2015 the Authority sent a letter by Recorded Delivery to Mr Dobbing. In the letter the Authority asked Mr Dobbing to provide any new information regarding the trial date for the Conspiracy to Supply Class A Drugs together with any details relating to the events that led to him being charged with this offence. Mr Dobbing was also asked to provide the Authority with details of any ongoing criminal proceedings which have not been disclosed to the Authority. To date, Mr Dobbing has failed to respond to this request.

#### **IMPACT ON THE THRESHOLD CONDITIONS**

35. The regulatory provisions relevant to this Final Notice are referred to in Annex A.
36. The Authority considers that, having regard to all the circumstances, it cannot be satisfied that Aspect will satisfy, and will continue to satisfy the threshold conditions for which the Authority is responsible (as required by s55B(3) of the Act in order for the Authority to grant authorisation). In particular, the Authority does not consider the threshold in s55B(3) is met in relation to the threshold conditions of Suitability (2E), Appropriate Resources (2D) and Effective Supervision (2C).

#### **Threshold Condition 2E (Suitability)**

37. Threshold Condition 2E (Suitability) provides that an applicant for Part 4A permission must be a fit and proper person having regard to all the circumstances, including the need to ensure that its affairs are conducted in an appropriate manner, and in particular to the interests of consumers and the integrity of the UK financial system. Consideration will be given to whether those who manage the firm's affairs have adequate skills and experience and act with probity; can demonstrate that the business is being, or is to be managed, in such a way to ensure that its affairs will be conducted in a sound and prudent manner. The Authority does not consider that Aspect satisfies Threshold Condition 2E owing to the concerns set out above regarding the offences for which Mr Dobbing was due to be tried on 7 March 2016, until challenged failing to disclose that Mr Dobbing was cautioned in 2014 for Battery and the failure by Mr Dobbing to disclose all of offences for which he had been charged.
38. The Authority may consider that a firm is not suitable because of doubts over the individual or collective suitability of persons connected with the firm.
39. Mr Dobbing is the sole director of, and the only individual which would hold a controlled function at, Aspect.

40. Mr Dobbing was at the date of the Decision Notice due to be tried for the offences of Conspiracy to Supply Class A Drugs and Aiding and Abetting Misconduct in Public Office on 7 March 2016.
41. The Authority therefore considers that the offences Mr Dobbing has been charged with are of direct relevance when determining if Aspect meets Threshold Condition 2E (Suitability) for authorisation.
42. Aspect failed to disclose that on 7 March 2016 Mr Dobbing was due to face trial for the offence of Aiding and Abetting Misconduct in Public Office. Mr Dobbing also failed to disclose, until challenged by the Authority, a caution for Battery which he received in 2014.
43. The Authority does not therefore consider that Aspect will satisfy, and continue to satisfy, Threshold Condition 2E (Suitability) as the firm is not fit and proper as it failed to disclose all information requested by the Authority concerning the outstanding criminal proceedings Mr Dobbing was due to face trial for in March 2016.

### **Threshold Condition 2C (Effective Supervision)**

44. Threshold Condition 2C (Effective Supervision) includes consideration of whether it is likely that the Authority will receive adequate information from the firm, and those persons with whom the firm has close links, to enable it to determine whether the firm is complying with the requirements and standards under the regulatory system for which the Authority is responsible and to identify and assess the impact on its statutory objectives. This will include consideration of whether the firm is ready, willing and organised to comply with Principle 11 (Relations with regulators and the rules in SUP on the provision of information to the Authority). The Authority does not consider that Aspect satisfies this threshold condition owing to Mr Dobbing's failure to provide all material information required in the Part 4A and Part V application forms and in correspondence with the Authority following submission of the Application. The Authority cannot therefore be confident that it is likely that the Authority will receive adequate information from Aspect or Mr Dobbing if the Application were granted.
45. In assessing Threshold Condition 2C (Effective Supervision) the Authority shall have regard to all the circumstances and consider factors found in COND 2.3.1A which include whether links between the applicant, and those it has close links with, is likely to prevent the Authority from being able to effectively supervise the firm.
46. Aspect and Mr Dobbing have not been open and co-operative in all their dealings with the Authority. Mr Dobbing is the only shareholder, and director, of Aspect. As noted in paragraphs 22 – 34 above, Mr Dobbing has repeatedly failed to comply with the requirements imposed by the Authority to provide information when assessing the Application. The Authority is concerned that, as Mr Dobbing has repeatedly failed to engage with the Authority and failed to disclose all relevant matters, Mr Dobbing does not have the skills and experience to manage Aspect's affairs if the Application were to be granted.
47. The Authority is not satisfied that Mr Dobbing would provide all the information required by the Authority if the Application were to be granted because Mr Dobbing has not demonstrated that he has the integrity to recognise matters about which the Authority would expect to be notified. This is due to the fact that not all relevant matters concerning Mr Dobbing were disclosed to the Authority as part of the Application or in

subsequent correspondence between Mr Dobbing and the Authority. Specifically, Mr Dobbing failed to disclose that he was due to face trial for the offence of Aiding and Abetting Misconduct in Public Office and until challenged by the Authority, that he had been cautioned for Battery in 2014. This non-disclosure suggests that Aspect and Mr Dobbing either misunderstands, or has failed to pay sufficient regard to, the requirements of the regulatory system. The Authority therefore has concerns about whether the firm can be effectively supervised.

48. The Authority is not therefore satisfied that Aspect will satisfy, and continue to satisfy, Threshold Condition 2C (Effective Supervision) as Aspect and Mr Dobbing have not been open and co-operative in all their dealings with the Authority. All relevant matters concerning Mr Dobbing, his caution for Battery and all of his ongoing criminal proceedings have not been disclosed to the Authority.

### **Threshold Condition 2D (Appropriate resources)**

49. Threshold Condition 2D (Appropriate resources) includes consideration of whether the applicant has the appropriate resources including whether the firm has an appropriate level of non-financial resources. Non-financial resources includes human resources available to the firm, the skills and experience of those who manage the firm's affairs and whether the firm's non-financial resources are sufficient to enable it to comply with requirements imposed or likely to be imposed on it by the Authority in the course of the exercise of its functions.

50. Aspect and Mr Dobbing have failed to provide the Authority with the requested information required to determine the Application. Specifically, Aspect and Mr Dobbing have failed to provide all information required in the application forms and in ongoing correspondence with the Authority. The Authority is concerned that Mr Dobbing does not have the integrity that is required to manage Aspect's affairs if the Application were to be granted. The Authority is therefore concerned that Aspect does not have the appropriate non-financial resources required if the Application were to be granted.

51. On the basis of the facts and matters described above, the Authority has concluded that Aspect will not satisfy, and continue to satisfy, the threshold conditions in relation to all of the regulated activities for which Aspect would have permission if the Application were granted.

### **IMPORTANT NOTICES**

52. This Final Notice is given under section 390(1) of the Act.

### **Publication**

53. 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.

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

## **Authority contacts**

55. For more information concerning this matter generally, contact Richard Baker, Manager, Credit Authorisations at the Authority (direct line: 020 7066 1236 / email: [Richard.baker@fca.org.uk](mailto:Richard.baker@fca.org.uk)).

**William Sillett**  
**On behalf of the Regulatory Transactions Committee**



## **ANNEX A – REGULATORY PROVISIONS RELEVANT TO THIS FINAL NOTICE**

### **Relevant Statutory Provisions**

1. Section 55B(3) of the Act provides that, in giving or varying permission, imposing or varying a requirement, or giving consent, under any provision of Part 4A of the Act, each regulator must ensure that the person concerned will satisfy, and continue to satisfy, in relation to all of the regulated activities for which the person has or will have permission, the threshold conditions for which that regulator is responsible.
2. The threshold conditions are set out in schedule 6 of the Act. In brief, the threshold conditions relate to:
  - (1) Threshold condition 2B: Location of offices
  - (2) Threshold condition 2C: Effective supervision
  - (3) Threshold condition 2D: Appropriate resources
  - (4) Threshold condition 2E: Suitability
  - (5) Threshold condition 2F: Business model

### **Relevant provisions of the Authority's Handbook**

3. In exercising its powers in relation to the granting of a Part 4A permission, the Authority must have regard to guidance published in the Authority's Handbook, including the part titled Threshold Conditions ("COND"). The main considerations in relation to the action specified are set out below.
4. COND 1.3.2G(2) states that, in relation to threshold conditions 2D to 2F, 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 4A permission.

#### ***Threshold condition 2C: Effective Supervision***

5. COND 2.3.1A provides that the firm must be capable of being supervised by the Authority having regard to all circumstances including:
  - (a) The nature (including the complexity) of the regulated activities that the firm carries on or seeks to carry on;
  - (b) The complexity of any products that the firm provides or will provide in carrying on those activities;
  - (c) The way in which the firm's business is organised;
  - (d) If the firm is a member of a group, whether membership of the groups is likely to prevent the Authority's effective supervision of the firm;
  - (e) Whether the firm is subject to consolidated supervision required under any of the relevant directives;
  - (f) If the firm has close links with another person ("CL")
    - (i) The nature of the relationship between the firm and CL;

- (ii) Whether those close links are or that relationship is likely to prevent the Authority's effective supervision of the firm;
  - (iii) If CL is subject to the laws, regulations or administrative provisions of a territory which is not an EEA state ("the foreign provisions"), whether those foreign provisions, or any deficiency in their enforcement, would prevent the Authority's effective supervision of the firm.
6. COND 2.3.3G provides that, in assessing the threshold conditions set out in paragraph 2C of Schedule 6 to Act, factors which the Authority will take into consideration include, among other things, whether:
- (1) it is likely that the Authority will receive adequate information from the firm, and those persons with whom the firm has close links, to enable it to determine whether the firm is complying with the requirements and standards under the regulatory system for which the Authority is responsible and to identify and assess the impact on its statutory objectives; this will include consideration of whether the firm is ready, willing and organised to comply with Principle 11 (Relations with regulators and the rules in SUP on the provision of information to the Authority).

***Threshold condition 2D: Adequate Resources***

7. COND 2.4.1A(4) states that matters which are relevant in determining whether an applicant has appropriate non-financial resources include:
- (a) the skills and experience of those who manage the firm's affairs; and
  - (b) whether the firm's non-financial resources are sufficient to enable it to comply with:
    - (i) the requirements imposed or likely to be imposed on the firm by the Authority in the course of the exercise of its functions;

***Threshold condition 2E: Suitability***

8. COND 2.5.1A(1) states that the firm must be a fit and proper person having regard to all the circumstances, including:
- (a) A's connection with any person;
  - (c) the need to ensure that the firm'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;
  - (d) whether the firm has complied and is complying with requirements imposed by the Authority in the exercise of its functions, or requests made by the Authority, relating to the provision of information to the Authority and, where the firm has so complied or is so complying, the manner of that compliance;
  - (e) whether those who manage the firm's affairs have adequate skills and experience and act with probity;
  - (f) whether the firm'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

- (g) the need to minimise the extent to which it is possible for the business carried on by the firm, or to be carried on by the firm, to be used for a purpose connected with financial crime.
9. COND 2.5.2G(2) states that the FCA will also take into consideration anything that could influence a firm's continuing ability to satisfy the threshold conditions set out in paragraphs 2E and 3D of Schedule 6 to the Act. Examples include the firm's position within a UK or international group, information provided by overseas regulators about the firm, and the firm's plans to seek to vary its Part 4A permission to carry on additional regulated activities once it has been granted that permission.
10. COND 1.3.3BG provides that, in determining whether the firm will satisfy, and continue to satisfy, the FCA threshold conditions, the FCA will have regard to all relevant matters, whether arising in the United Kingdom or elsewhere.
11. COND 1.3.3CG provides that, when assessing the FCA threshold conditions, the FCA may have regard to any person appearing to be, or likely to be, in a relevant relationship with the firm, in accordance with section 55R of the Act (Persons connected with an applicant). For example, a firm's controllers, its directors or partners, other persons with close links to the firm (see COND 2.3), and other persons that exert influence on the firm which might pose a risk to the firm's satisfaction of the FCA threshold conditions, would be in a relevant relationship with the firm.
12. COND 2.5.3G(1) states that the emphasis of the threshold conditions set out in paragraphs 2E and 3D of Schedule 6 of the Act is on the suitability of the firm itself. The suitability of each person who performs a controlled function will be assessed by the FCA and/or the PRA, as appropriate, under the approved persons regime (see SUP 10 (Approved persons) and FIT). In certain circumstances, however, the FCA may consider that the firm is not suitable because of doubts over the individual or collective suitability of persons connected with the firm.
13. COND 2.5.4G(2)(c) states that examples of the kind of general considerations to which the Authority may have regard when assessing whether a firm will satisfy, and continue to satisfy, threshold condition 2E include, but are not limited to, whether the firm can demonstrate that it conducts, or will conduct, its affairs with the exercise of due skill, care and diligence.
14. COND 2.5.6G provides that examples of the kind of particular considerations to which the FCA may have regard when assessing whether a firm will satisfy, and continue to satisfy, this threshold condition include, but are not limited to, whether:
- (1) The firm has been open and co-operative in all its dealings with the Authority and any other regulatory body (see principle 11 (Relations with regulators)) and is ready, willing and organised to comply with the requirements and standards under the regulatory system (such as the detailed requirements of SYSC and, in relation to a firm not carrying on, or seeking to carry on, a PRA regulated activity only, the Prudential Standards part of the Authority's Handbook) in addition to other legal, regulatory and professional obligations; the relevant requirements and standards will depend on the circumstances of each case, including the regulated activities which the firm has permission, or is seeking permission to carry on;
  - (2) The firm been convicted, or is connected with a person who has been convicted, of any criminal offence; this must include, where provided for the Rehabilitation Exceptions Order to the Rehabilitation of Offenders Act 1974 or the Rehabilitation of Offenders (Northern Ireland) Order 1978 (as applicable), any spent convictions; particular consideration will be given to offences of dishonesty, fraud, financial

crime or an offence under legislation relating to companies, building societies, industrial and provident societies, credit unions, friendly societies, banking, other financial services, insolvency, consumer credit companies, insurance, consumer protection, money laundering, market manipulation and insider dealing, whether or not in the United Kingdom; and

- (15) The firm has developed human resources policies and procedures that are reasonably designed to ensure that it employs only individuals who are honest and committed to high standards of integrity in the conduct of their activities.