

12 Endeavour Square  
London  
E20 1JN

Tel: +44 (0)20 7066 1000  
Fax: +44 (0)20 7066 1099  
[www.fca.org.uk](http://www.fca.org.uk)

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## **FINAL NOTICE**

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**To:** **Giovanni Joseph Oliverio**

**Individual  
Reference  
Number:** **GX001231**

**Dated:** **28 AUGUST 2019**

### **ACTION**

1. For the reasons set out in this Final Notice, the Authority hereby takes the following action against Giovanni Oliverio.
2. The Authority gave Giovanni Oliverio the Decision Notice, which notified him that, for the reasons given below and pursuant to section 63 of the Act, the Authority has decided to withdraw the approval granted to Giovanni Oliverio to perform the controlled function CF8 (Apportionment and Oversight) in relation to the Firm.
3. For the reasons listed below and under section 56 of the Act, the Authority has decided to prohibit Giovanni Oliverio from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.

4. Giovanni Oliverio has not referred the matter to the Tribunal within 28 days of the date on which the Decision Notice was given to him.
5. Accordingly, for the reasons set out below, the Authority hereby makes an order pursuant to section 63 of the Act prohibiting withdrawing the approval of Giovanni Oliverio to perform the controlled function CF8 (Apportionment and Oversight) in relation to the Firm.
6. The Authority also makes an order pursuant to section 56 of the Act prohibiting Giovanni Oliverio from performing any regulated activity carried on by an authorised person, exempt person or exempt professional firm. The Prohibition Order takes effect from 28 August 2019.

## **DEFINITIONS**

7. The definitions below are used in this Final Notice (and in the Annex):
  - “the Act” means the Financial Services and Markets Act 2000;
  - “the Authority” means the Financial Conduct Authority;
  - “the Firm” means Tunstall Trade Car Sales Limited, the authorised and regulated firm where Mr Oliverio works;
  - “the Decision Notice” means the Decision Notice given to Mr Oliverio dated 12 June 2019;
  - “EG” means the Enforcement Guide;
  - “FIT” means the Fit and Proper Test for Approved Persons and specified significant-harm functions sourcebook;
  - “the Handbook” means the Authority’s Handbook of rules and guidance;
  - “the Prohibition Order” means the order prohibiting Mr Oliverio, pursuant to section 56 of the Act, from performing any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm;
  - “Giovanni Oliverio” means Giovanni Joseph Oliverio;
  - “the Tribunal” means the Upper Tribunal (Tax and Chancery Chamber); and
  - “the Warning Notice” means the warning notice given to Mr Oliverio dated 23 May 2019.

## **RELEVANT STATUTORY PROVISIONS**

8. The statutory and regulatory provisions relevant to this Final Notice are set out in the Annex.

## **SUMMARY OF REASONS**

9. The Authority has concluded, on the basis of the facts and matters and conclusions described in the Warning Notice, and in the Decision Notice, that Giovanni Oliverio is not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm, as his conduct has demonstrated a serious lack of honesty and integrity. Specifically, Giovanni Oliverio was convicted, upon his own confession, on 25 October 2017 at Stoke on Trent Crown Court, of 1 count of "Conspiracy to Apply False Trade Marks" contrary to section 1(1) of the Criminal Law Act 1977.
10. On 9 January 2018, Giovanni Oliverio was sentenced to a total of 12 months' imprisonment, suspended for 24 months, concurrent on each count and unpaid work of 200 hours. He was also disqualified as a director for a period of 3 years pursuant to section 2 of the Company Directors Disqualification Act 1986.
11. In reaching this decision, the Authority has had regard to all relevant circumstances, including the relevance and materiality of the offences, the severity of the risk posed by Giovanni Oliverio to consumers and financial institutions and to confidence in the market generally. The Authority considers that it is appropriate to impose the prohibition order proposed in paragraph 1 to achieve its consumer protection and integrity objectives (sections 1C and 1D of the Act, respectively).

#### **FACTS AND MATTERS RELIED ON**

12. Giovanni Oliverio was approved by the Authority to perform a controlled function of CF8 Apportionment and Oversight in relation to the Firm on 22 July 2015 and continues to be approved.
13. Giovanni Oliverio was a director of the Firm between 1 December 2017 and 8 January 2018.
14. On 25 October 2017, Giovanni Oliverio was convicted at Stoke on Trent Crown Court of the offences summarised above at paragraph 3(a).
15. On 9 January 2018, Giovanni Oliverio was sentenced at Stoke on Trent Crown Court to a term of 12 months imprisonment suspended for 24 months (concurrent on each count) and unpaid work of 200 hours for each of the offences summarised at paragraph 3(a) above.
16. Giovanni Oliverio is currently an approved person and the offences were committed while he was an approved person.
17. Giovanni Oliverio's father ran a second-hand car sales business through the Firm. The vehicles were advertised in auto trading publications with false service histories. This made the vehicles more attractive to customers and secondly increased their value because they were sold as having full service histories, including vehicles that did not have a service history at all. The vehicles were sold with falsely created and falsely provided documents including stamped documents in which trade marks were used without the consent of the proprietors of the trade marks, with a view to making a gain.

18. In his sentencing remarks (made on 9 January 2018), the sentencing Judge stated that the fraud was carried out with some "significant planning" and "sophistication". The sentencing Judge was very clear that Giovanni Oliverio was "aware of what was going on" and this was reflected in his "behaviour and responsibility for placing advertisements" in the auto trading publication. In respect of culpability, the Judge accepted there were "very clear degrees of responsibility and degrees of control" particularly in the case of the conspiracy offence which was led by Giovanni Oliverio's father. However, the Judge stated that although Giovanni Oliverio may have been influenced by his father in committing the offences, he was not pressurised to do so.
19. Through the Warning Notice, the Authority gave notice that it proposed to take the action described above and Giovanni Oliverio was given the opportunity to make representations to the Authority about that proposed action.
20. No representations have been received by the Authority from Giovanni Oliverio within the time allowed by the Warning Notice, the default procedures in DEPP 2.3.2G of the Authority's Decision Procedure and Penalties manual permit the allegations/matters described in the Warning Notice, and repeated in the Decision Notice, to be regarded as undisputed.
21. The Authority has therefore decided to withdraw the approval granted to Giovanni Oliverio to perform the controlled function CF8 (Apportionment and Oversight) in relation to the Firm. The Authority has also decided to prohibit Giovanni Oliverio from performing any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm for the reasons described above.

### **Decision Maker**

22. The decision which gave rise to the obligation to give this Final Notice was made by the Regulatory Decisions Committee.

### **Important**

23. This Final Notice is given to Giovanni Oliverio in accordance with section 390(1) of the Act.

### **Publicity**

24. The Authority must publish such information about the matter to which this Final 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 Giovanni Oliverio or prejudicial to the interests of consumers.
25. The Authority intends to publish this Final Notice and such information about the matter to which this Final Notice relates as it considers appropriate.

### **Authority Contacts**

Giovanni Joseph Oliverio  
Final Notice

26. For more information concerning this matter generally, Giovanni Oliverio should contact Hema Rachhoya at the Authority (direct line: 020 7066 2770).

**Anna Couzens**

**Enforcement and Market Oversight**

## **ANNEX**

### **RELEVANT STATUTORY PROVISIONS**

1. The Authority's operational objectives include securing an appropriate degree of protection for consumers (section 1C of the Act) and protecting and enhancing the integrity of the UK financial system (section 1D of the Act).
2. Section 56(1) of the Act provides:

"The [Authority] may make a prohibition order if it appears to it that an individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by:

  - (a) an authorised person,
  - (b) a person who is an exempt person in relation to that activity, or
  - (c) a person to whom, as a result of Part 20, the general prohibition does not apply in relation to that activity."

### **RELEVANT REGULATORY PROVISIONS**

3. In exercising its power to make a prohibition order, the Authority must have regard to guidance published in the Handbook and in regulatory guides, such as EG. The relevant main considerations in relation to the action specified above are set out below.

#### **The Enforcement Guide**

4. The Authority's policy in relation to exercising its power to issue a prohibition order is set out in EG.
5. EG 9.1 explains the purpose of prohibition orders in relation to the Authority's regulatory objectives.
6. EG 9.2 sets out the Authority's general policy on making prohibition orders. In particular—
  - (a) EG 9.2.1 states that the Authority will consider all relevant circumstances, including whether enforcement action has been taken against the individual by other enforcement agencies, in deciding whether to make a prohibition order;
  - (b) EG 9.2.2 states that the Authority has the power to make a range of prohibition orders depending on the circumstances of each case; and
  - (c) EG 9.2.3 states that the scope of a prohibition order will depend on, among other things, the reasons why the individual is not fit and proper and the severity of risk he poses to consumers or the market generally.

7. EG 9.5.1 states that where the Authority is considering whether to make a prohibition order against someone who is not an approved person, the Authority will consider the severity of the risk posed by the individual and may prohibit him where it considers that it is appropriate to achieve one or more of the Authority's statutory objectives.
8. EG 9.5.2 provides that, when considering whether to exercise its power to make a prohibition order against someone who is not an approved person, the Authority will consider all the relevant circumstances of the case. These may include, but are not limited to, the factors set out in EG 9.3.2. Those factors include: whether the individual is fit and proper to perform functions in relation to regulated activities (noting the criteria set out in FIT 2.1, 2.2, and 2.3); the relevance and materiality of any matters indicating unfitness; the length of time since the occurrence of any matters indicating unfitness; and the severity of the risk which the individual poses to consumers and to confidence in the financial system.

### **Fit and Proper Test for Employees and Senior Personnel/or Approved Persons?**

9. The Authority has issued guidance on the fitness and propriety of individuals in FIT.
10. FIT 1.3.1BG(1) states that the most important considerations when assessing the fitness and propriety of a person to perform a controlled function include that person's honesty, integrity and reputation.
11. FIT 2.1.1G states that in determining a person's honesty, integrity and reputation, the Authority will have regard to all relevant matters including, but not limited to, those set out in FIT 2.1.3G. It notes, amongst other things and by way of example, that:

"... conviction for a criminal offence will not automatically mean an application will be rejected. The [Authority] treats each candidate's application on a case-by-case basis, taking into account the seriousness of, and circumstances surrounding, the offence, the explanation offered by the convicted person, the relevance of the offence to the proposed role, the passage of time since the offence was committed and evidence of the individual's rehabilitation."
12. FIT 2.1.3G(1) states that the matters referred to in FIT 2.1.1G include, but are not limited to, whether a person has been convicted of any criminal offence, noting that particular consideration will be given to offences including dishonesty, fraud and financial crime (amongst other things).