
FINAL NOTICE

To: Graham Lilley T/A Global Car Leasing

FRN: 765421

IRN: GXL01667

Dated: 12 June 2024

ACTION

1. For the reasons set out in this Final Notice, the Authority hereby makes an order, pursuant to section 56 of the Act, prohibiting Mr Lilley from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm. Furthermore, the Authority has also cancelled the Part 4A permissions of Mr Lilley in accordance with section 55J of the Act.
2. The Authority gave Mr Lilley the Decision Notice, which notified Mr Lilley of the Authority's decision to take the action specified above.
3. Mr Lilley has not referred the matter to the Tribunal within 28 days of the date on which the Decision Notice was given to him.
4. Accordingly, the Authority hereby makes the prohibition order set out in paragraph 1 above against Mr Lilley. The prohibition order takes effect from the date of this Final Notice. In addition, the Authority has today cancelled Mr Lilley's Part 4A permissions.

SUMMARY OF REASONS

5. Between 12 January 2019 and 3 August 2019, Mr Lilley engaged in criminal activity whilst being authorised by the Authority as a sole trader.
6. On 22 October 2021, Mr Lilley was convicted by the Crown Court at Newcastle, upon his own confession, of one count of dishonestly making false representation to make gain for self/another or cause loss to other/expose other to risk contrary to Section 2 of the Fraud Act 2006.

7. On 9 May 2022, Mr Lilley was sentenced by the Crown Court at Newcastle to a total term of 12 months imprisonment suspended for 18 months and 100 hours unpaid work. Mr Lilley failed to notify the Authority of his criminal conviction.
8. On the basis of the facts and matters set out below, it appears to the Authority that Mr Lilley is not a fit and proper person to perform any functions in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm. His convictions demonstrate a clear and serious lack of honesty and integrity such that he is not a fit and proper person to perform regulated activities. In reaching this decision, the Authority has had regard to all the relevant circumstances, including the relevance and materiality of the offences, and the severity of the risk posed by Mr Lilley to consumers and financial institutions and confidence in the UK financial system.
9. In addition, on the basis of the facts and matters set out below, it appears to the Authority that Mr Lilley, as an authorised sole trader firm, is failing to satisfy the suitability Threshold Condition by virtue of Mr Lilley's conviction for a fraud and dishonesty related offence and his failure to disclose this to the Authority.
10. The Authority therefore considers that it is appropriate to take the action proposed in paragraph 1 above to advance its consumer protection and integrity objectives (sections 1C and 1D of the Act respectively).

DEFINITIONS

11. 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;

"COND" means the Threshold Conditions part of the Handbook;

"DEPP" means the Authority's Decision Procedure and Penalties manual;

"the Decision Notice" means the decision notice given to Mr Lilley on 25 April 2024;

"EG" means the Enforcement Guide;

"FIT" means the Authority's Fit and Proper Test for Employees and Senior Personnel, forming part of the Handbook;

"the Handbook" means the Authority's Handbook of rules and guidance;

"Mr Lilley" means Graham Lilley (trading as Global Car Leasing Ltd);

"Mr Lilley's Part 4A permissions" means the permissions granted to Mr Lilley under Part 4A of the Act;

"PRIN" means the Authority's Principles for Business;

"the RDC" means the Regulatory Decisions Committee of the Authority (see further under Procedural Matters below);

"the Suitability Threshold Condition" means the threshold condition as set out in Schedule 6 to the Act;

“the Threshold Conditions” means the threshold conditions set out in Schedule 6 of the Act;

“the Tribunal” means the Upper Tribunal (Tax and Chancery Chamber); and

“the Warning Notice” means the warning notice given to Mr Lilley dated 2 April 2024.

RELEVANT STATUTORY AND REGULATORY PROVISIONS

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

FACTS AND MATTERS

13. Mr Lilley has been authorised by the Authority as a sole trader since 17 January 2017 for consumer credit broking related activities.
14. Whilst being an authorised person, Mr Lilley committed the criminal offence of dishonestly making false representations to make gain for self/another or cause loss to other/expose other to risk contrary to Section 2 of the Fraud Act 2006.
15. The offence concerned Mr Lilley making a false representation to a customer in relation to the sale of a vehicle he had undertaken to sell for them. Mr Lilley had agreed to sell the vehicle on the basis that the customer would receive £60,000 from the sale and anything over £60,000 would be Mr Lilley’s commission. At that time, Mr Lilley valued the car at £63,000, so he stood to make about £3,000 if he could sell it for that much. However, within a month of this arrangement, Mr Lilley had without the knowledge and consent of the seller, sold the vehicle for £54,000, considerably less than the stated valued amount of £60,000 he had undertaken to give to the seller.
16. Notwithstanding the fact that Mr Lilley had already disposed of the vehicle, he went on to pretend that he was still attempting to make the sale. Mr Lilley continued to keep up this pretence for several months by falsely asserting to the seller that he was still in possession of and seeking a buyer for the vehicle. Mr Lilley compounded this dishonesty by informing the seller that he had a customer and went to lengths to update him on the progress of a non-existent sale. This included Mr Lilley presenting the seller with a dishonourable cheque for this non-existent sale. He later told the police that the £54,000 he had been paid for the car had been swallowed up in his own business accounts.
17. On 22 October 2021, Mr Lilley pleaded guilty to the above offence and on 9 May 2022, he was sentenced by the Crown Court at Newcastle to 12 months’ imprisonment, suspended for 18 months, and an order to undertake 100 hours of unpaid work.
18. Mr Lilley’s offending was characterised by the sentencing Judge as “...a terrible mistake of judgement which you then compounded over a sustained period of time by telling the most hopeless lies that were always bound to be found out”.
19. By committing this offence, Mr Lilley acted without honesty and integrity.
20. Mr Lilley failed to inform the Authority of his conviction, as he was obliged to under Principle 11 of the Authority’s Principles for businesses, despite corresponding with the Authority around that time in relation to another matter.

LACK OF FITNESS AND PROPRIETY

21. FIT 1.3.1G states that the Authority will have regard to a number of factors when assessing an individual's fitness and propriety. FIT 1.3.1BG(1) states that among the most important considerations when assessing the fitness and propriety of a person is that person's honesty, integrity and reputation.
22. The facts and serious nature of Mr Lilley's offence and conviction, in particular Mr Lilley having been convicted of a dishonesty offence involving fraud, shows he lacks honesty and integrity and is therefore not a fit and proper person to perform regulated activities.

Prohibition

23. EG 9.1.1 provides that the power to prohibit an individual will be exercised by the Authority to achieve its statutory objectives, which include both securing an appropriate degree of protection for consumers and protecting and enhancing the integrity of the UK financial system.
24. Taking into account the nature of Mr Lilley's offence and the conviction arising from the offence, which was committed by Mr Lilley whilst an authorised person, the non-disclosure of his conviction to the Authority and the consequent risk that he poses to consumers, the Authority considers it is appropriate to prohibit Mr Lilley from performing any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm.

Cancellation of Mr Lilley's Part 4A permission

25. In addition, from the facts and matters described above and the Authority's conclusion that Mr Lilley is not a fit and proper person, the Authority considers Mr Lilley is failing to satisfy the suitability Threshold Condition. Accordingly, the Authority considers it is appropriate to cancel Mr Lilley's Part 4A permission.

PROCEDURAL MATTERS

26. This Final Notice is given to Mr Lilley in accordance with section 390(1) of the Act.

Decision Maker

27. The decision which gave rise to the obligation to give this Final Notice was made by the RDC. The RDC is a committee of the Authority which takes certain decisions on behalf of the Authority. The members of the RDC are separate to the Authority staff involved in conducting investigations and recommending action against firms and individuals. Further information about the RDC can be found on the Authority's website:

<https://www.fca.org.uk/about/committees/regulatory-decisions-committee-rdc>

Publicity

28. Section 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this Final Notice relates. Under those provisions, the Authority must publish such information about which this Final Notice relates as the Authority considers appropriate.

29. 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 Mr Lilley or prejudicial to the interest of consumers or detrimental to the stability of the UK financial system.
30. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Authority Contact

31. For more information concerning this matter generally, Mr Lilley should contact Shamma Masud at the Authority (direct line: 020 7066 1653).

Jeremy Parkinson
Enforcement and Market Oversight Division

ANNEX

RELEVANT STATUTORY PROVISIONS

1. The Authority's operational objectives are set out in section 1B(3) of the Act and 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 55J(1) of the Act provides in respect of cancellation on initiative of the Authority:

"[The Authority] may exercise its power under this section in relation to an authorised person with a Part 4A permission ("A") if it appears to the regulator that-

(a) A is failing, or is likely to fail, to satisfy the threshold conditions for which the regulator is responsible, [...]"

3. 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

4. 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 Suitability Threshold Condition

5. COND 2.5.1A repeats the provision set out at Paragraph 2E to Schedule 6 of the Act – the Suitability Threshold Condition. This states that a person ("A") must be a fit and proper person having regard to all the circumstances including:

"(a) A's connection with any person; [...] and

(g) the need to minimise the extent to which it is possible for the business carried on by A, [...] to be used for a purpose connected with financial crime."

The Principles for Business (PRIN)

6. The Authority's Principles for Business are set out in the table at PRIN 2.1.1R. Principle 11 (Relations with regulators) states that:

"A *firm* must deal with its regulators in an open and cooperative way, and must disclose to the *FCA* appropriately anything relating to the *firm* of which that regulator would reasonably expect notice"

The Enforcement Guide

7. EG 8.1.1(1) states that the Authority may, pursuant to section 55J of the Act, cancel or vary an authorised person's Part 4A permission where the person is failing or is likely to fail to satisfy the threshold conditions for which the Authority is responsible.
8. E.G 8.5.1 explains the circumstances in which the Authority will consider cancelling a firm's Part 4A permission using its own initiative powers contained in section 55J of the Act include where the Authority has very serious concerns about a firm or the way its business is or has been conducted.
9. EG 8.5.2(2) states that the grounds on which the Authority may exercise its power to cancel an authorised person's permission under s.55J may include a material non-disclosure by the firm after authorisation or approval has been granted. It also states that the information which is the subject of the non-disclosure may also be grounds for cancellation.
10. The Authority's policy in relation to exercising its power to issue a prohibition order is set out in EG.
11. EG 9.1 explains the purpose of prohibition orders in relation to the Authority's regulatory objectives.
12. 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.
13. 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.
14. 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.

The Fit and Proper test for Employees and Senior Personnel

15. FIT sets out the criteria that the Authority will consider when assessing the fitness and propriety of a candidate for a controlled function, and may consider when assessing the continuing fitness and propriety of approved persons.
16. 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.
17. 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.
18. In relation to convictions for criminal offences, FIT 2.1.1A G states that: If any staff being assessed under FIT has a conviction for a criminal offences, the firm should consider the seriousness of and circumstances surrounding the offence, the explanation offered by that 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.
19. FIT 2.1.3G provides a list of (non-exhaustive) matters to which the Authority will have regard when determining a person's honesty, integrity and reputation. These include:
 - (1) whether the person has been convicted of any criminal offence; this must include, where provided for by the Rehabilitation Exceptions Orders 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;
 - (4) whether the person is or has been the subject of any proceedings of a disciplinary or criminal nature, or has been notified of any potential proceedings or of any investigation which might lead to those proceedings.