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## FINAL NOTICE

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**To:** **Mohammed Ali Kashmiri**

**IRN:** **MXK00540**

**Firm (interested party):** **Sellthiscar Limited ("the Firm")**

**FRN:** **979817**

**Dated:** **4 October 2024**

### ACTION

1. For the reasons set out in this Final Notice, the Authority has decided to:
  - a) withdraw the approval granted to Mr Kashmiri to perform the SMF29 (Limited Scope) senior management function at the Firm, pursuant to section 63 of the Act; and
  - b) make an order prohibiting Mr Kashmiri from performing any function in relation to any regulated activity carried on by an authorised person, exempt person, or exempt professional firm, pursuant to section 56 of the Act.
2. The Authority gave Mr Kashmiri the Decision Notice, which notified Mr Kashmiri of the Authority's decision to take the action specified above.
3. Mr Kashmiri 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 withdraws the approval granted to Mr Kashmiri and makes the prohibition order as set out in paragraph 1 above against Mr Kashmiri. Both take effect from the date of this Final Notice.

### SUMMARY OF REASONS

5. Mr Kashmiri has been an approved person at the Firm since 11 August 2022 to date.
6. On 7 May 2013, at Manchester Minshull Street Crown Court, Mr Kashmiri was convicted of dishonestly making false representations to make gain for himself, or another, or cause loss to other/expose others to risk contrary to section 1(1) of the Fraud Act 2006.
7. On 13 February 2018, at Manchester Crown Court, Mr Kashmiri was convicted of conspiring with others fraudulently to evade the prohibition on the importation of cannabis, a controlled Class B drug, imposed by section 3(1) of the Misuse of Drugs Act

1971, in contravention of section 170 of the Customs and Excise Management Act 1979. The offending took place between 1 February 2016 and 30 March 2016.

8. Mr Kashmiri, on behalf of the Firm, applied to become an approved person on 27 July 2022. Mr Kashmiri dishonestly declared to the Authority in this application that he had no convictions, despite the application form asking whether he had ever been convicted of a criminal offence.
9. On the basis of the facts and matters set out in this Notice, it appears to the Authority that Mr Kashmiri is not a fit and proper person to perform any function in relation to any regulated activity carried on by an authorised person, exempt person, or exempt professional firm. Mr Kashmiri's criminal convictions, and his dishonest failure to declare these convictions to the Authority, demonstrate a clear and serious lack of honesty and integrity such that he is not fit and proper to perform regulated activities.
10. In concluding that it is appropriate to impose the prohibition order and to withdraw Mr Kashmiri's approval, as described in paragraph 1, the Authority has had regard to all relevant circumstances, including the relevance and materiality of the offences, and the severity of the risk posed by Mr Kashmiri to consumers and to confidence in the UK financial system. The Authority considers that it is appropriate to take this action 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;

"the Decision Notice" means the Decision Notice given to Mr Kashmiri on 12 August 2024;

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

"EG" means the Enforcement Guide;

"the Firm" means Sellthiscar Limited (FRN: 979817);

"FIT" means the '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 Kashmiri" means Mohammed Ali Kashmiri;

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

"the Tribunal" means the Upper Tribunal (Tax and Chancery Chamber).

## 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 Kashmiri has been the sole director and shareholder at the Firm since its incorporation on 13 July 2022.
14. Mr Kashmiri has been approved by the Authority to perform the SMF29 (Limited Scope) function at the Firm since 11 August 2022.
15. On 7 May 2013, prior to becoming an approved person, Mr Kashmiri was convicted at Manchester Minshull Street Crown Court of dishonestly making false representations to make gain for himself or another, or cause loss to other/expose others to risk contrary to section 1(1) of the Fraud Act 2006. Mr Kashmiri had obtained £20,000 from a member of the public by falsely representing that a car was for sale and that he would deliver it, when in fact the car had already been sold.
16. Accordingly, on 14 August 2013, Mr Kashmiri was sentenced to 6 months' imprisonment suspended for 24 months, in addition to a confiscation order for £20,000 to be paid within 28 days, or in default to serve 12 months' imprisonment. He also received a suspended sentence of 300 hours unpaid work and was electronically monitored for 3 months.
17. On 13 February 2018, prior to becoming an approved person, Mr Kashmiri was tried and convicted at Manchester Crown Court of conspiring with others fraudulently to evade the prohibition on the importation of cannabis, a controlled class B drug, contrary to section 170 of the Customs and Excise Management Act 1979. The offending took place between 1 February 2016 and 30 March 2016 and involved the importation on a commercial scale of 406kg of cannabis into the UK from the Netherlands.
18. Accordingly, on 21 March 2018, Mr Kashmiri was sentenced to 8 years' imprisonment and a 5-year travel restriction order under section 33 of the Criminal Justice and Police Act 2001.
19. At the sentencing hearing, the judge made the following remarks regarding Mr Kashmiri's conduct:
  - (i) Mr Kashmiri was "*...someone devious and dishonest as his previous conviction for fraud showed*"; and
  - (ii) Mr Kashmiri played a "*leading role*" in the importation of the cannabis which was "*... a professional and skilful importation achieved with guile...*".
20. On 27 July 2022, whilst still serving his 8-year sentence, Mr Kashmiri, on behalf of the Firm, applied for the Firm to be authorised as a limited scope consumer credit firm and for himself to hold the SMF29 (Limited Scope) senior management function at the Firm. As part of the application Mr Kashmiri was asked questions relevant to his fitness and propriety, including whether he had ever been convicted of any criminal offence (whether spent or not) involving fraud or dishonesty, or any other offences. Mr Kashmiri dishonestly declared that he had no such convictions.

21. Based on the information provided by Mr Kashmiri during the application process and without knowledge of his convictions, the Authority authorised the Firm on 11 August 2022 as a limited scope consumer credit firm and approved Mr Kashmiri to perform the SMF29 role.

#### **LACK OF FITNESS AND PROPRIETY**

22. 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 states that the most important factors include the individual's honesty, integrity, and reputation.
23. The facts and nature of Mr Kashmiri's offences, in particular Mr Kashmiri having been convicted of a fraud offence involving dishonesty and a serious offence of conspiring with others to evade the prohibition on importation of drugs, and his dishonest failure to declare the convictions to the Authority, shows he lacks honesty and integrity. As a result, the Authority considers that Mr Kashmiri is not a fit and proper person to perform regulated activities.

#### **Prohibition**

24. 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.
25. Taking into account the nature of the offences Mr Kashmiri participated in, the convictions arising from his participation, his dishonest declarations with respect to these convictions to the Authority and his lack of fitness and propriety due to his dishonesty and lack of integrity, the Authority considers it is appropriate to prohibit Mr Kashmiri from performing any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm.

#### **Withdrawal of Approval**

26. In light of Mr Kashmiri's lack of integrity and lack of fitness and propriety, the Authority also considers that it is appropriate and proportionate to withdraw Mr Kashmiri's SMF29 (Limited Scope) function at the Firm.

#### **PROCEDURAL MATTERS**

27. This Final Notice is given to Mr Kashmiri under section 390(1) of the Act.

#### **Decision maker**

28. 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>

### **Interested party rights**

29. The Final Notice is also being given to the Firm as an interested party in the withdrawal of Mr Kashmiri's approval.

### **Confidentiality and publicity**

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

### **Authority Contacts**

33. For more information concerning this matter generally, Mr Kashmiri should contact Poonam Pandya at the Authority (direct line: 020 7066 1654).

**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 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."
3. Section 63(1) of the Act provides that the Authority may withdraw an approval under section 59 given by the Authority in relation to the performance by a person of a function if the Authority consider that the person is not fit and proper to perform the function.

### **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 Enforcement Guide**

5. The Authority's policy in relation to exercising its power to issue a prohibition order is set out in EG.
6. EG 9.1.1 explains that the Authority's power to prohibit individuals who are not fit and proper from carrying out functions in relation to regulated activities helps the FCA to work towards achieving its statutory objectives and the FCA may exercise this power to make a prohibition order where it considers that, to achieve any of those objectives, it is appropriate either to prevent an individual from performing any function in relation to regulated activities, or to restrict the functions which he may perform.
7. EG 9.1.2 explains that the Authority's effective use of the power to withdraw approval from an approved person will also help ensure high standards of regulatory conduct by preventing an approved person from continuing to perform the controlled function to which the approval relates if he is not a fit and proper person to perform that function. Where it considers this is appropriate, the FCA may prohibit an approved person, in addition to withdrawing their approval.
8. 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 or withdraw its approval;
  - (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.
9. EG 9.3 sets out the Authority's policy on making prohibition orders against an approved person. In particular -
- (a) EG 9.3.1 states that when the Authority has concerns about the fitness and propriety of an approved person, it may consider whether it should prohibit that person from performing functions in relation to regulated activities, withdraw its approval, or both.
  - (b) EG 9.3.2 sets out the matters which the Authority may take into account when deciding whether to make a prohibition order against an approved person. These include but are not limited to: whether the individual is fit and proper to perform functions in relation to regulated activities (noting the main assessment criteria set out in FIT 2.1 (EG 9.3.2(2))); the relevance and materiality of any matters indicating unfitness (EG 9.3.2(5)); the length of time since the occurrence of any matters indicating unfitness (EG 9.3.2(6)); the particular controlled function the approved person is (or was) performing, the nature and activities of the firm concerned and the markets in which he operates (EG 9.3.2(7)); and the severity of the risk which the individual poses to consumers and to confidence in the financial system (EG 9.3.2(8)).
  - (c) EG 9.3.3 provides that the Authority may have regard to the cumulative effect of a number of factors which, when considered in isolation, may not be sufficient to show that the individual is not fit and proper to continue to perform a controlled function or other function in relation to regulated activities. The Authority may also take account of the particular controlled function which an approved person is performing for a firm, the nature and activities of the firm concerned and the markets within which it operates.
  - (d) EG 9.3.4 provides that due to the diverse nature of the activities and functions which the Authority regulates, it is not possible to produce a definitive list of matters which the Authority might take into account when considering whether an individual is not a fit and proper person to perform a particular, or any, function in relation to a particular, or any, firm.
  - (e) EG 9.3.5 gives the following examples of types of behaviour which have previously resulted in the Authority deciding to issue a prohibition order or withdraw the approval of an approved person:
    - EG 9.3.5(1) providing false or misleading information to the Authority;

- EG 9.3.5(2) failure to disclose material considerations on application forms, such as criminal convictions and dismissal from employment for regulatory or criminal breaches. The nature of the information not disclosed can also be relevant; and
  - EG 9.3.5(3) severe acts of dishonesty, for example which may have resulted in financial crime.
- (f) EG 9.3.6 sets out that certain matters that do not fit squarely, or at all, within the matters referred to above may also fall to be considered. In these circumstances the Authority will consider whether the conduct or matter in question is relevant to the individual's fitness and propriety.
- (g) Where it considers it is appropriate to withdraw an individual's approval to perform a controlled function within a particular firm, the Authority will also consider, at the very least, whether it should prohibit the individual from performing that function more generally. Depending on the circumstances, the Authority may consider that the individual should also be prohibited from performing other functions.

### **The Fit and Proper test for Employees and Senior Personnel (FIT)**

10. 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.
11. 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.
12. FIT 2.1.1G provides 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 2.1.3 G. The Authority should be informed of these matters but will consider the circumstances only where relevant to the requirements and standards of the regulatory system. Under FIT 2.1.3G(1) 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.
13. FIT 2.1.2G provides that in considering the matters in FIT 2.1.1G, the Authority will look at whether the person's reputation might have an adverse impact upon the firm for which the controlled function is or is to be performed and at the person's responsibilities.
14. 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) Under FIT 2.1.3G(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; and

- (2) Under FIT 2.1.3G(13) whether, in the past, the person has been candid and truthful in all their dealings with any regulatory body and whether the person demonstrates a readiness and willingness to comply with the requirements and standards of the regulatory system and with other legal, regulatory, and professional requirements and standards.