
FINAL NOTICE

To: **Andrew Roy Brooke**

Date of Birth: **June 1972**

Dated:
6 APRIL 2022

ACTION

1. For the reasons set out in this Final Notice and pursuant to section 56 of the Act, the Authority has decided to make an order prohibiting him from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.
2. The Authority gave Mr Brooke the Decision Notice, which notified Mr Brooke of the Authority's decision to take the action specified above.
3. Mr Brooke 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 a prohibition order in respect of Mr Brooke. The prohibition order takes effect from the date of this Final Notice.

SUMMARY OF REASONS

5. Whilst a director of two consumer credit firms authorised by the Authority with interim permission to carry on the regulated activities of debt adjusting and debt counselling, Mr Brooke demonstrated by his conduct that he was unfit to be involved in the management of a company. In particular, Mr Brooke enabled the breach by the Firms of requirements imposed by the Authority, as a result of which he was disqualified by the Court from acting as a company director, pursuant to section 6 of the CDDA86, for a period of 13 years with immediate effect on 16 June 2017.

6. On the basis of the Court’s decision and the facts and matters set out below, it appears to the Authority that Mr Brooke 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. His misconduct demonstrates a lack of integrity, such that he is not fit and proper to perform regulated activities. The Authority has had regard to all relevant circumstances, including the relevance and materiality of the misconduct, and the severity of the risk posed by Mr Brooke to consumers and financial institutions and to confidence in the market generally. The Authority considers that it is appropriate to impose the prohibition order set out in paragraph 1 to achieve its consumer protection and integrity objectives (sections 1C and 1D of the Act, respectively).

DEFINITIONS

7. The definitions below are used in this Warning Notice (and in the Annex):

“the Act” means the Financial Services and Markets Act 2000;

“the Authority” means the Financial Conduct Authority;

“Mr Brooke” means Andrew Roy Brooke;

“the CDD86” means the Company Directors Disqualification Act 1986;

“the Court” means the High Court of Justice Chancery Division Manchester District Registry”

“the Decision Notice” means the decision notice given to Mr Brooke on 11 August 2021;

“EG” means the Enforcement Guide;

“the Firms” means GBFS and OTL;

“FIT” means the Fit and Proper Test for Approved Persons and specified significant-harm functions sourcebook;

“GBFS” means Gregson and Brooke Financial Services Ltd (dissolved on 3 August 2017; also trading as ‘Expert Money Solutions’)

“the Handbook” means the Authority’s Handbook of rules and guidance;

“OIREQ” means an own initiative requirement imposed by the Authority;

“OTL” means One Tick Limited (dissolved on 2 February 2017; also trading as ‘Debt Savers Direct’ and ‘1-Tick’);

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

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

“the Warning Notice” means the warning notice given to Mr Brooke date 10 June 2021.

RELEVANT STATUTORY PROVISIONS

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

FACTS AND MATTERS

9. Mr Brooke was a director of OTL between 13 May 2009 and 29 February 2012, and between 20 August 2014 and 1 September 2014. Mr Brooke was also a director of GBFS between 6 August 2010 to 27 August 2010, and between 20 August 2014 to 1 September 2014. The firms were consumer credit firms with interim permissions, from 1 April 2014 until 31 March 2016, to carry on the regulated activities of debt adjusting and debt-counselling.
10. Mr Brooke was not an approved person at the Firms and has never been approved by the Authority to perform any controlled functions in relation to any firm authorised by the Authority.
11. On 16 June 2017, at an uncontested hearing, Mr Brooke was disqualified as a director by the Court, pursuant to section 6 of the CDDA86, for period of 13 years, in particular because, whilst a director of the Firms, he failed to ensure that the Firms adhered to the terms of requirements imposed by the Authority.
12. In reaching its decision, the Court upheld the following allegations against Mr Brooke:
 - a) On 10 July 2014, during a visit to GBFS, the Authority came to the conclusion that there were certain failings, in particular in the manner in which the Firm kept its client accounts. On 29 August 2014, the Authority returned and issued a formal supervisory notice ("OIREQ"). The terms of the OIREQ among other things, strictly prohibited the use of any client account money.
 - b) Despite the OIREQ, Mr Brooke authorised payments of £285,000 to be paid on 1 September 2014 from GBFS's accounts to a company of which he was director. He had not provided, and the Secretary of State for Business, Energy and Industrial Strategy (the Applicant in the disqualification proceedings) had been unable to find, any sufficient explanation for this.
 - c) In relation to OTL, again following the visit from the Authority on 29 August 2014 and the issuance of a similar OIREQ, Mr Brooke removed £157,000 from OTL.
13. The Judge reminded himself, in the absence of Mr Brooke, that proceedings to disqualify company directors were matters of very real seriousness and that the court would not proceed to determine matters simply as if there were a default judgement.
14. The judge was satisfied that Mr Brooke's case fell in the top bracket of seriousness, as "[t]he money that was taken by Mr Brooke was, to all intents and purposes, client money. It was money that was, to all intents and purposes, protected by a trust. Those in debt who used the services of the companies had a right to expect that the money that they paid over would be taken care of and applied appropriately."

15. On that basis, the judge concluded that a period of disqualification for 13 years was appropriate for Mr Brooke and imposed such an order.

FAILINGS

16. The facts and matters set out above lead the Authority to conclude that Mr Brookes 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. His misconduct demonstrates that he lacks integrity, such that he is not fit and proper to perform regulated activities.

SANCTION

17. Given the nature and seriousness of the matters outlined above, and the severity of the risk posed by Mr Brooke to consumers, financial institutions and to confidence in the market generally, the Authority considers that Mr Brooke should be prohibited from performing any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm. Accordingly, the Authority makes this prohibition order.
18. The Authority considers that it is appropriate to make the prohibition order set out in paragraph 1 above to achieve its consumer protection and integrity objectives (section 1C and 1D of the Act, respectively).

PROCEDURAL MATTERS

19. This Final Notice is given to Mr Brooke in accordance with section 390 of the Act.

Decision Maker

20. 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

21. Section 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which the notice relates. Under those provisions, the Authority must publish such information about 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 Mr Brooke or prejudicial to the interest of consumers or detrimental to the stability of the UK financial system.

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

Authority Contact

22. For more information concerning this matter generally, Mr Brooke should contact Stephanie French at the Authority (direct line: 020 7066 6822).

Anna Couzens
Enforcement and Market Oversight Division

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, FIT 2.2 and FIT 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

9. The Authority has issued guidance on the fitness and propriety of individuals in FIT.
10. FIT 1.3.1B G(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(12) states that the matters referred to in FIT 2.1.1G to which the Authority will have regard include, but are not limited to, whether a person has ever been disqualified from acting as a director or disqualified from acting in any managerial capacity.