
FINAL NOTICE

To: **Ben John Kelly**
FRN: **781302**
Dated: **21 February 2019**

ACTION

1. For the reasons set out in this Final Notice, the Authority hereby takes the following action against Mr Kelly.
2. The Authority issued to Mr Kelly the Decision Notice which notified Mr Kelly that for the reasons given below and pursuant to section 55J of the Act, the Authority had decided to cancel Mr Kelly's Part 4A permission.
3. Mr Kelly 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 has today cancelled Mr Kelly's Part 4A permission.

DEFINITIONS

5. The definitions below are used in this Final Notice:

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

“the Authority” means the Financial Conduct Authority;

“the Decision Notice” means the Decision Notice issued by the Authority to Mr Kelly dated 7 November 2018;

“Mr Kelly’s Part 4A permission” means the permission granted by the Authority to Ben John Kelly pursuant to Part 4A of the Act;

“the Overdue Balance” means the outstanding sum of £125.84, owed by Mr Kelly to the Authority for annual fees and levies for the period 1 April 2017 to 31 March 2018, which was due for payment by 23 September 2017;

“the Principles” means the Authority’s Principles for Businesses;

“the suitability Threshold Condition” means the threshold condition set out in paragraph 2E of Schedule 6 to the Act;

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

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

“the Warning Notice” means the Warning Notice issued by the Authority to Mr Kelly dated 10 October 2018.

REASONS FOR THE ACTION

6. On the basis of the facts and matters and conclusions described in the Warning Notice, and in the Decision Notice, it appears to the Authority that Mr Kelly is failing to satisfy the suitability Threshold Condition, in that the Authority is not satisfied that Mr Kelly is a fit and proper person having regard to all the circumstances, including whether Mr Kelly managed his business in such a way as to ensure that his affairs were conducted in a sound and prudent manner.
7. Mr Kelly has failed to pay the Overdue Balance and he has not been open and co-operative in all his dealings with the Authority, in that Mr Kelly has failed to respond to the Authority’s repeated requests for him to pay the Overdue Balance, and has thereby failed to comply with Principle 11 of the Principles and to satisfy the Authority that he is ready, willing and organised to comply with the requirements and standards of the regulatory system.
8. These failures, which are significant in the context of Mr Kelly’s suitability, lead the Authority to conclude that Mr Kelly has failed to manage his business in such a way as to ensure that his affairs are conducted in a sound and prudent manner, that he is not a fit and proper person, and that he is therefore failing to satisfy the Threshold Conditions in relation to the regulated activities for which he was granted a Part 4A permission.

DECISION MAKER

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

IMPORTANT

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

Publicity

11. 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 Mr Kelly or prejudicial to the interest of consumers.
12. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Authority contact

13. For more information concerning this matter generally, please contact Maria Lewis at the Authority (direct line: 020 7066 0897).

Anna Couzens
Enforcement and Market Oversight Division